



Today, MLB announced that the parameters are in place to allow **Jason Giambi** to speak to former **Senator George Mitchell**

about comments he made to USA Today – comments that vaguely reference prior steroid use when he said, "I was wrong for doing that stuff." (

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to see statements by Commissioner Selig and Jason Giambi on the agreement

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Depending on how those parameters are set, Giambi's decision might be viewed as coercion based on comments from **Commissioner Selig** last week as it's fair to say he's not walking through the front door willingly.

"Any admission regarding the use of illegal performance-enhancing substances, no matter how casual, must be taken seriously," said Commissioner Selig at the time. "It is in the best interests of baseball for everyone, including players, to cooperate with Senator Mitchell in his investigation so that Senator Mitchell can provide me with a complete, thorough report. Discipline for wrongdoing is important, but it is also important to create an environment so players can feel free to honestly and completely cooperate with this important investigation."

He then went on to say that any discipline would be determined after Giambi had completed his activities with the Mitchell investigation. Whether those comments create an "environment so players can feel free to honestly and completely cooperate with this important investigation" seems highly dubious. Maybe it's me, but having a gun held to your head isn't exactly going willingly.

With Giambi Chosing to Speak, One Asks, "Why?"

Written by Maury Brown

Thursday, 21 June 2007 07:59

As I will get into, however, MLB's case for discipline or suspension is wafer thin. The "gun" in this case is loaded with blanks. With that, one can ask why Giambi is going through with this given the negativity that will greet him with his fellow players and the MLBPA.

The dance that revolves around this deal where Giambi will speak to Mitchell, can be viewed with some history behind it. There's also the repercussions that would have occurred should he have decided to back out of any agreement to meet with Mitchell – would any fines or suspensions levied by Selig stick when brought before an arbitor? And, there is certainly an atmosphere that has come out of Giambi's situation in the overall. Maybe "friction" would be the optimal word.

To start, let's look at what would have happened if Giambi told MLB, "Thanks, but no thanks."

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You have to ask yourself, "Why would Giambi want to speak to Mitchell in the first place?" After all, he's got history on his side in the form of **Ferguson Jenkins** and **Bowie Kuhn's** 20-game suspension and \$10,000 fine against him in 1980.

Jenkins was found to have cocaine and marijuana in his luggage when customs inspected it at the Toronto airport in 1980. Jenkins then refused to answer Kuhn's questions around the drug bust, and shortly thereafter, Kuhn laid down the suspension and fines.

The key for Giambi is that there's a correlation between his dilemma and Jenkins. Kuhn's fines and suspension were overturned upon a grievance filed by the MLBPA on Jenkins behalf.

Arbitrator **Raymond Goetz** declared that based on the CBA, Kuhn did not have "just cause" to levy the penalties against Jenkins. Jenkins would have been incriminating himself and as Goetz wrote in his decision, "the commissioner was compelling Jenkins to jeopardize his defense in court."

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Giambi is still part of the BALCO investigation, which is being heard by the grand jury. Giambi could say that he cannot talk to Mitchell as he is still part of that investigation and in talking to Mitchell might be incriminating himself. Selig could fine or suspend at that point, but as was the case with Jenkins, a grievance would be filed, and there's a very good chance the suspensions and fines would be overturned by an arbitrator.

All this aside, for whatever reason, Giambi has decided to speak to Mitchell. What might he say? And, does this impact his standing with the Yankees?

The parameters of what Giambi will be saying to Mitchell seem pretty clear: "Ask about me. Forget asking about other players." These parameters were surely worked into place by the MLBPA who has legal counsel working with Giambi. Questions might include his comments before the grand jury during the BALCO investigation.

These issues seem to be the biggest ground rule in any conversation that would take place – ground rules, by the way, that reportedly the Players Association have not signed off on.

The bigger questions surround whether Giambi would have to specify whether he was actually talking about PEDs when quoted in USA Today, and if so, what was the timeframe he used them.

MLB did not have a mandatory steroid policy in place until 2004. 2003 saw the "survey tests" conducted that were used to determine if mandatory testing would occur the following year. If Giambi said that he did in fact use steroids or other performance-enhancing drugs, but it was before MLB had a steroid policy in place, fines and/or suspensions would once again have a very good chance of being overturned upon grievance.

Could the Yankees decide to void Giambi's contract, should he say that he did indeed use PEDs during the time he was in a Yankees uniform? Possibly, but [Newsday is reporting](#) that as part of the parameters of the deal where he would speak to Mitchell, wording would be in place guaranteeing that his contract standing with the Yankees would not be in jeopardy for speaking to Mitchell – he would not hang himself by being forced to speak to Mitchell.

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In the end, there are numerous questions on how Giambi's comments play out in terms of labor relations; Giambi's standing with the players, and the public.

How MLB fares is entirely different. At the very least, they will get an active player on-record for the Mitchell report, and Selig looks the part of the "proactive" commissioner.

The union cannot be happy with any of this. The moves by Selig and the background history laid out here shows that any harsh discipline would most likely be overturned. The move by Commissioner Selig reeks of public relations. By going the heavy-handed route, there is bound to be some pulling back from the cozy relations that management and the union have had recently.

The active players are probably not keen on the notion of Giambi talking to Mitchell, as well. They've held the ranks together on this issue, and by Giambi speaking to Mitchell, there is the appearance of a breaking of the ranks. The actions by MLB also will create an atmosphere in which any player that might have considered going public will now pull back and keep it zipped.

As for the public, America has always been forgiving for transgressions that were met with contriteness. It's refreshing to see a player say, "What I did was wrong." What MLB might be the most upset with was when Giambi said, "What we should have done a long time ago was stand up -- players, ownership, everybody -- and say 'We made a mistake.'" From that point, it moved from being "Giambi on Giambi", to "Giambi on MLB being culpable" in how steroids have permeated the game.

All of this comes back to the "war on steroids." While the Mitchell investigation drags out, Giambi makes his comments, and fans show up to Giants games displaying signs with an "*" on them, the use of performance enhancing drugs at some levels of the game appear the same. When Phillies minor leaguer, [Matt Childers was suspended 50 games](#) for violation on the Minor League Drug Policy this last week it brought the total of minor league [drug violations](#) to fifteen so far this season. By comparison, that total was not reached until July 20th of last season. The total for all minor league violations last season was twenty four.

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Attendance has not been impacted (MLB is on-pace to have the fourth consecutive year where the attendance record has been broken), and television ratings are exceptionally high on the national level. Giambi's case may show MLB is "serious" about steroids, but in the end, what the case may really be about is window dressing.

It's time to ask ourselves if this flogging of the steroid issue has run its course. What is being accomplished? We can all agree that PEDs should be eradicated from the game of baseball, but is the blunt force methods being applied really necessary?

Mitchell and Selig will get their active player to speak on the record.

Fine.

Publish the report already.

Until then, this issue will continue to fester which does no one any good, especially those in control at the Commissioners Office — those that seem hell bent on killing off what little goodwill has been fostered between the players and management recently.

The notion that a high-profile player was willing to come forth and say that he was wrong for using steroids — and by the way, MLB was wrong as well — is what the game needs. Shoving the voice of reason into a corner will only perpetuate MLB's image as a league full of uncontrite Juicers.

UPDATE:

MLB has made the announcement regarding Giambi and his meeting scheduled directly with former senator Mitchell. Below are statements by Commissioner Selig and Jason Giambi.

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Statement by Commissioner Selig:

“Following certain statements reported in USA Today on May 18, I directed Jason Giambi to meet with members of my staff. Mr. Giambi did so and, in the opinion of my representatives, was fully cooperative and candid in explaining his personal involvement with performance-enhancing substances.

“Two weeks ago I asked Mr. Giambi to submit to an interview with Senator Mitchell and I am pleased that Mr. Giambi has agreed to do so. Mr. Giambi has informed me in a phone conversation that he is willing to discuss with Senator Mitchell his personal involvement with performance-enhancing substances. His willingness to do this is an important step forward in Senator Mitchell’s continued efforts to provide me with a comprehensive report.

“Senator Mitchell has assured me that Mr. Giambi’s interview will be scheduled promptly. Once the interview process has concluded, I will take Mr. Giambi’s level of cooperation into account in determining appropriate further action. I will have no further comment until this procedure is completed. ”

Statement by Jason Giambi by way of the MLBPA:

“Today, I have agreed to Commissioner Selig’s request that I meet with Senator George Mitchell. In a direct conversation the Commissioner impressed upon me the idea that the game of baseball would be best served by such a meeting. I will continue to do what I think is right and be candid about my past history regarding steroids. I have never blamed anyone nor intended to deflect blame for my conduct. I alone am responsible for my actions and I apologize to the Commissioner, the owners and the players for any suggestion that they were responsible for my behavior.

“I’ve come to this decision for a number of reasons. I did not want to put my family through a lengthy legal challenge in support of my position. In addition, the uncertainty of my playing status could detract from the efforts of our team to win the American League East. My focus at this time needs to be on rehabbing my injury, getting back on the field, and contributing to the goals of my team. To be embroiled in a legal battle could undermine all of this and I would never put my family, my teammates, or the Yankees in that position.

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“Accordingly, I have agreed to this meeting. As I have always done, I will address my own personal history regarding steroids. I will not discuss in any fashion any other individual. My hope is that this meeting will serve as a positive step, as all parties involved seek the best approach in dealing with the issue of “drugs in sport.” That has always been the intent behind all of the comments I have made on the subject and it remains so to this day.”

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