

THE SPYGATE TO DEFLATEGATE STORY IS AN ILLOGICAL TALE

ESPN has a breaking story claiming that the reason the NFL – the implication is, Roger Goodell – went overboard with the DeflateGate investigation is because Goodell lost credibility when he went easy on his buddy Robert Kraft during the SpyGate investigation and so overcompensated on DeflateGate.

Even the two paragraphs that make that case don't make sense.

From the beginning, though, Goodell managed Deflategate in the opposite way he tried to dispose of Spygate. He announced a lengthy investigation and, in solidarity with many owners, outsourced it to Wells, whose law firm had defended the NFL during the mammoth concussions litigation. In an inquiry lasting four months and costing at least \$5 million, according to sources, Ted Wells and his team conducted 66 interviews with Patriots staffers and league officials. Wells, who declined to comment, also plumbed cellphone records and text messages.

A 243-page report was made public that applied the league's evidentiary standards – relaxed after Spygate – against Brady, while Belichick, who had professed no knowledge of the air pressure of his team's footballs and said this past January that the Patriots "try to do everything right," was absolved of any wrongdoing. Finally, Goodell and Troy Vincent, executive vice president of football operations, waited until the conclusion of the investigation before awarding punishment, rather than the other way

around. Another legacy of Spygate – consequences for failing to cooperate with a league investigation – was used against the Patriots and, ultimately, Brady. Goodell upheld Brady’s four-game suspension because the quarterback had asked an assistant to dispose of his cellphone before his March interview with Wells. That, in fact, was the only notable similarity between the two investigations: the order to destroy evidence.

The NFL drew its conclusions – in uncorrected leaked claims that the Pats’ balls were underinflated and the Colts’ balls weren’t – instantaneously. From that point on they were stuck, and that may be why they doubled down on stupid when their evidence proved shoddy. Goodell didn’t outsource his investigation, because NFL VP Jeff Pash had a role in it and Wells was also being retained as NFL’s counsel (remember that folks in New England believe Pash was one of the sources for the inaccurate claims about the Pats and Colts’ inflation rates to Chris Mortenson). While Wells had reviewed the Pats’ cell phone records in this case, the NFL had withheld their own in the Ray Rice case. The failure to cooperate was used more in Goodell upholding the punishment than in the original punishment (though the NFL couldn’t actually explain to Judge Richard Berman which was which). And given that Wells had told Brady he didn’t need to turn over his phone, his decision to destroy his own phone shouldn’t be considered central to anything but the PR.

But the latter part of this passage – included, but not probed – is one of the biggest reasons why this explanation makes no sense. If Goodell wanted to prove he was being tough on the Patriots with DeflateGate – including the mastermind, purported cheater Bill Belichick – then why didn’t he invent evidence that BillBel was “generally aware” of the alleged-but-never-proven deflation scheme, and punish the hell out

of him? Why focus on Brady, when the lack of evidence actually implicating Brady seemed to impose no limitations on Goodell's punishment? Indeed, why use a management standard on integrity of the game against Brady, who is only subject to the players' standards, rather than using it against BillBel, who *is* legally subject to its terms??

Those who believe BillBel is a cheat ought to be asking why the NFL came up with a substance-free accusation against Brady but chose not to launch a substance-free accusation against BillBel, against whom (the rest of the story lays out) there was a slew of evidence of breaking the rules.

Moreover, the entire premise of the article is that Goodell was proving he learned his lesson on SpyGate. Yet one of Goodell's key favors to the Pats in SpyGate was punishing the Pats for an individual violation, the taping of the Jets game, while covering up evidence of more systematic violations, the tapes of other games, which Goodell had destroyed back in 2007. Yet one of the reasons Judge Berman thumped the NFL so hard is that the NFL claimed DeflateGate was only about the AFC playoff game, for which there was zero evidence of Brady involvement, rather than earlier discussions of deflating footballs (albeit to NFL code), in which Brady was involved. That is, Goodell and the NFL did precisely the same thing again, which is one thing that got them in trouble with the court, punishing the Pats for the specific infraction and not a more general pattern (which is not to say there was evidence for a more general pattern, but the evidence implicating Brady was only tied to a more general pattern).

So what has this blockbuster and curiously timed story proven?

First, that the stories about Matt Walsh, the guy to whom claims about watching – but not filming – the Rams pre-Super Bowl practice walk through are sourced, remain inconsistent. The story shows that Walsh told the NFL one thing,

then told Arlen Specter more. And Mike Martz (whose subsequent less than stellar career the story blames the Rams loss for ruining, which is clearly false, take it from a Detroit Kitties fan) claims his statement about the game, which was key in deferring further investigation, was embellished.

Martz says he still had more questions, but he agreed that a congressional investigation "could kill the league." So in the end, Martz got in line. Hewrote the statement that evening, and it was released the next day, reading in part that he was "very confident there was no impropriety" and that it was "time to put this behind us."

Shown a copy of his statement this past July, Martz was stunned to read several sentences about Walsh that he says he's certain he did not write. "It shocked me," he says. "It appears embellished quite a bit – some lines I know I didn't write. Who changed it? I don't know."

Notably, Walsh did not cooperate with this ESPN story, and ESPN has, of course, made some recent (and therefore probably during the vetting of this article) middle-of-the-night apologies for claiming the walk through was taped.

Did ESPN think they had proven that but ended up not claiming it? Have the Pats been making some legal pushes about this issue in recent days, one which might explain this language?

Some media outlets – including ESPN – have inadvertently repeated it as fact. According to Patriots spokesman Stacey James, "The New England Patriots have never filmed or recorded another team's practice of walkthrough. ... Clearly the damage has been irreparable. ... It is disappointing that some choose to believe in myths, conjecture and rumors rather than give credit to coach

Belichick, his staff and the players.”

This story is, in part, about the continued claims about the Super Bowl that for whatever reason ESPN couldn’t or didn’t confirm.

But the other thing the story does is dodge who is actually responsible for Goodell’s serious fuck-ups on discipline. The story notes that Kraft, among others, blames Goodell’s flunkies, including Pash by name, for these failures.

Kraft was also furious at the league’s executives, from Pash to its public relations staff, and said they had failed to help Goodell. “Roger’s people don’t have a f–ing clue as to what they are doing,” Kraft told his friend.

I find that particularly interesting given how central a role Pash is in this story, including to the outcome of SpyGate. For example, a judgment sourced to a Specter aide claimed that Pash was squirming during the interview with the Senator.

During the 1-hour, 40-minute interview, the new details of which are revealed in Specter’s papers and in interviews with key aides, Goodell was supremely confident, “cool as a cucumber,” stuck to his talking points and apologized for nothing, recalls a senior aide to Specter. Pash, who according to a source later that spring would offer to resign over how the Spygate investigation was handled, spent the interview “sweating, squirming.”

Just as curiously, ESPN reports – without describing their source – that Pash offered to resign. Why would he be responsible? Who within NFL (which claims not to have cooperated here) told ESPN that?

Especially given this passage, which is they key

reveal of Goodell ordering Pash and another NFL flunkie destroy the tapes that would have been far more damning to Belichick and Kraft.

The next day, the league announced its historic punishment against the Patriots, including an NFL maximum fine of Belichick. Goodell and league executives hoped Spygate would be over.

But instead it became an obsession around the league and with many fans. When Estrella's confiscated tape was leaked to Fox's Jay Glazer a week after Estrella was caught, the blowback was so great that the league dispatched three of its executives – general counsel Jeff Pash, Anderson and VP of football operations Ron Hill – to Foxborough on Sept. 18.

What happened next has never been made public: The league officials interviewed Belichick, Adams and Dee, says [Kraft Group VP Robyn] Glaser, the Patriots' club counsel. Once again, nobody asked how many games had been recorded or attempted to determine whether a game was ever swayed by the spying, sources say. The Patriots staffers insisted that the spying had a limited impact on games. Then the Patriots told the league officials they possessed eight tapes containing game footage along with a half-inch-thick stack of notes of signals and other scouting information belonging to Adams, Glaser says. The league officials watched portions of the tapes. Goodell was contacted, and he ordered the tapes and notes to be destroyed, but the Patriots didn't want any of it to leave the building, arguing that some of it was obtained legally and thus was proprietary. So in a stadium conference room, Pash and the other NFL executives stomped the videotapes into small pieces and fed Adams' notes into a

shredder, Glaser says.

First, in a story of this sort, I find it curious that ESPN shows no curiosity, much less reporting, on who leaked key details to the press, both the tape of the Jets game to Fox in 2007 and the completely erroneous details about inflation rates to ESPN for the Pats' footballs in 2015. Someone within the NFL was leaking, and we're led to understand the first leak exposed Goodell downplaying SpyGate whereas the second implicated the Pats unfairly (though real Pats haters should wonder whether that leak was correct and the entire Wells Report was a coverup).

But I also find it interesting this passage is explicitly sourced to Pats' attorney Robyn Glaser, even while, in a key detail – whether anyone asked how many games had been recorded – it relies on (again, completely undescribed) “sources.” I'm also amused that the most important part of the passage – Goodell's order to destroy the evidence – is in the passive voice: “Goodell was contacted, and he ordered the tapes and notes to be destroyed.” Who contacted him? Was it on conference call, and if not, who is the sole witness to the claim that Goodell gave the order?

And if Goodell gave the order why did Pash offer to resign?

All of which brings me to a key detail in this story: that after protecting Goodell for years, Kraft was allegedly (according to a single source friend and another undescribed source) ready to review his tenure in the months before DeflateGate rolled out. Again, a key sentence – who asked Kraft when owners would review Goodell's performance – remains agentless (another owner, someone like Mara, would be a possible source).

Shortly before this past Thanksgiving, as the league awaited a former federal judge's decision on the appropriateness

of the indefinite suspension Goodell had given to Rice, Kraft attended a fundraising dinner and, reflecting a sense among some owners, confided to a friend, "Roger is on very thin ice." At the same time, according to another source, Kraft was still rallying support for the commissioner despite his increasing disappointments. Asked when the owners would likely discuss Goodell's performance, Kraft replied, "We're going to wait until after the Super Bowl."

And then, on the eve of the AFC Championship Game, as Kraft hosted Goodell at a dinner party at his Brookline, Massachusetts, estate, a league official got a tip from the Colts about the Patriots' use of deflated footballs.

So here's another narrative, which is at least as interesting as the obviously false one that Goodell went so hard after Tom Brady as penance for fluffing the SpyGate investigation. In the months before Goodell and the NFL (including Pash) went overboard on the DeflateGate investigation, Kraft was openly talking about reviewing Goodell's role, even while he was perceived as one of the Commissioner's last protectors.

Did Goodell know that? Did that come up in that dinner the night before the AFC Championship? Did Pash know that?

Goodell – and, potentially, Pash – were on the verge of losing their job when they doubled down on Goodell's biggest supporter. People are, even today, calling for Pash to resign. Now they're just talking about restructuring the discipline process.

That's at least as interesting a part of this story, even if ESPN isn't all that self-aware of how this story serves the interests of those

who'd like to keep their jobs.