

Time for the MLBPA to Release All the Names from the '03 Survey Test

Written by Maury Brown
Thursday, 30 July 2009 18:31



It's time for Donald Fehr to get proactive and consider releasing all the names from the 2003 Survey Test.

I give. Uncle. I have finally reached my threshold. With today's *New York Times* story regarding Manny Ramirez and David Ortiz being two more players that have reportedly tested positive for performance-enhancing drugs as part of 2003 "Survey Test", it's time for me to re-evaluate a long held stance.

Before we get to that, how we got here influences the whole.

The *Times* reported that they came upon Ramirez and Ortiz' names "according to lawyers with knowledge of the results." The *Times* then went on to say that, "The information about Ramirez and Ortiz emerged through interviews with multiple lawyers and others connected to the pending litigation. The lawyers spoke anonymously because the testing information is under seal by a court order."

As MLBPA Executive Director Donald Fehr said in a tersely worded statement:

Time for the MLBPA to Release All the Names from the '03 Survey Test

Written by Maury Brown
Thursday, 30 July 2009 18:31

“Today The New York Times, once again, reports what it asserts to be information contained in documents under court seal. And precisely for that reason, the Players Association will not, indeed cannot, comment on whether the information is accurate. But there should be no mistake. The leaking of information under a court seal is a crime. The active pursuit of information that may not lawfully be disclosed because

it is under court seal is a crime. That its informants, according to the Times, are lawyers is both shocking and sad. That the Times is pursuing and publishing what it openly declares to be information which may not be legally disclosed is equally sad.”

Fehr went on to say that the PA intends to take the appropriate legal steps to see that the court orders are enforced.

I have to side with Fehr and the MLBPA here, with a caveat that I will get to in a moment, and explains my re-evaluation.

As noted by Fehr, the documents that have the test results from the 2003 “Survey Test” are sealed under court order. The lawyers leaking the names, or any other information within them, should be disbarred. It’s that simple.

But, in terms of keeping the names sealed, the PA should indeed pursue every legal avenue that allows for the lawyers leaking the names to be disbarred, but at this stage, it’s time to consider releasing all the names in the list.

For those that have followed my columns, this will come as a bit of a shocker. As far back as 2007, I wrote extensively on how privacy rights of not just the players, but all Americans were in the balance ([see the *Baseball Prospectus* article, \[The Fourth Amendment, the MLBPA and the BALCO Investigation\]\(#\)](#)). In the article, I detailed how reasonable search and seizure were in play, detailing how the government obtained the joint MLB/MLBPA survey test results that would ultimately lead to mandatory drug testing in baseball. Those results were to remain anonymous, with the MLBPA retaining the right to destroy the results and samples. However, the PA did not destroy the

Time for the MLBPA to Release All the Names from the '03 Survey Test

Written by Maury Brown
Thursday, 30 July 2009 18:31

results. Many believe that the PA dropped the ball in this regard, while [Donald Fehr has gone to great lengths to detail why the results were not destroyed](#)

.

Whether it's the PA's fault, or not, is irrelevant at this stage, names continue to leak. And like the boy and the dyke, it seems a daunting – near impossible – task to plug all the holes; the PED scab will continue to be picked at.

After Thursday's news, it's time for the MLB and the MLBPA to take a new approach: get proactive.

While the PA and others should work to uncover the lawyers leaking the names with every resource available, it's time to release all the names from the 2003 Survey Test. Yes, this will be like a nuclear blast. Yes, it will no doubt come with much consternation from the players that came up positive at the time, but at this stage, getting it all out in the open prevents the protracted and painful parade of leaks, stops reports from the likes of *The New York Times*, and gets the story off the front page and into the history books. At what point do you say, "Uncle?" I know I have. As NBC "Saturday Night Live" personality [Seth Meyers said via Twitter](#), "Good news! At current pace full 2003 PED list out by 2041."



Maury Brown is the Founder and President of the [Business of Sports Network](#), which includes The Biz of Baseball, The Biz of Football, The Biz of Basketball and The Biz of Hockey. He is contributor to Baseball Prospectus, and is available as a freelance writer

.

[Brown's full bio is here.](#)

He looks forward to your comments via email and can be [contacted through the Business of Sports Network \(select his name in the dropdown provided\)](#)

.

Don't forget to register and log in on The Biz of Baseball site to get updates via your

Time for the MLBPA to Release All the Names from the '03 Survey Test

Written by Maury Brown
Thursday, 30 July 2009 18:31

in-box, and see information only logged in members can see.

[Follow Maury Brown and the Business of Sports Network on Twitter](#) 