

*Office of the Commissioner*  
**MAJOR LEAGUE BASEBALL**



**MEMORANDUM**

**TO:** Commissioner Selig  
Bob DuPuy

**FROM:** Sandy Alderson

**DATE:** September 23, 2009

**RE:** Dominican Republic Committee

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In May of this year, I was appointed by Commissioner Selig as chair of a committee to examine Major League Baseball and Club operations in the Dominican Republic. The committee is also comprised of general managers Omar Minaya, Bill Smith and Larry Beinfest, and Dan Halem, Joe Garagiola Jr., Lou Melendez, Dan Mullin and George Hanna from the Office of the Commissioner. Bob DuPuy, Rob Manfred, Jimmie Lee Solomon and Nelson Tejada also participated in committee deliberations.

In light of the complexity of the issues, the committee decided to explore the current problems affecting baseball operations in the Dominican Republic first, and then to consider issues with broader, longer term implications. The purpose of this memorandum is to provide the committee's recommendations on the shorter term issues.

The committee is still actively considering the broader issues facing MLB in the Dominican Republic, including the feasibility of an international draft and the impact of such a draft on the Clubs' current operations in the country. The committee is also considering, possibly in conjunction with an expanded draft, a long-term strategy for developing baseball talent in the country, including the extension of the RBI program and the use of centrally-operated baseball academies. These topics will be the subject of a separate report.

**I. Background.**

In early June, prior to the first meeting of the committee, Dan Halem and I traveled to the DR to interview employees of MLB's Dominican Republic Office ("DRO"), academy directors and international scouts employed by Clubs in the Dominican Republic, officials of the United States Embassy in Santo Domingo, and officials of the Dominican Republic government. The results of those interviews were discussed with the full committee in a meeting in New York City on June 25, 2009.

A serious problem in the Dominican Republic is the use of performance enhancing drugs (“PED”). The Office of the Commissioner began drug testing in the Dominican Summer League (“DSL”) in 2004, but, due to Dominican Republic labor law restrictions, players in the Dominican Republic were not suspended for a positive test until the 2008 season. Although the annual number of tests performed has increased by over 500 since 2004, positive test rates have decreased from 11% in 2004 to 1.7% in 2009 (as of August 25<sup>th</sup>). The Office of the Commissioner has an educational program tailored to the Dominican Republic which is overseen by Raymond Blais, who was hired into the DRO to oversee drug program issues in the country. The program includes providing educational presentations at each academy at least twice during each DSL season and conducting educational counseling sessions with all players who test positive. Despite the progress that has been made, the rate of positive tests in the Dominican Republic still is substantially higher than that in the United States, and the role of buscones facilitating drug use by players remains an impediment to further progress. Several of the recommendations in this memorandum should help to further reduce the use of performance enhancing drugs by Dominican players before and after their signing by Clubs.

A second serious problem facing MLB in the Dominican Republic is age and identity fraud, which has become pervasive in recent years. Despite its investigative efforts (which have saved Clubs tens of millions of dollars), Clubs nevertheless collectively have paid millions of dollars in signing bonuses to players who were later found to have lied about their age or identity. For this reason, many of these players, after receiving their bonuses, have been denied visas to enter the United States, preventing Clubs from recouping any of their investment in the player.

Officials of the U.S. Embassy with whom we spoke were critical of the quality of MLB’s past age and identity investigations. In many cases the consular section of the embassy conducts its own investigations on players prior to issuing them a U.S. visa, and embassy criticism of MLB efforts is based on numerous instances in which consulate investigations revealed age or identity fraud after the same players had been cleared by MLB. While the quality of MLB investigations has significantly improved in the last year (as recognized by the consulate officials themselves), the recommendations discussed in this memorandum should result in further improvement.

The Club academy directors and international scouts with whom we met stated that corrupt buscones were a major problem for Clubs, but that Clubs were hesitant to confront these buscones out of a concern that the Clubs would be denied access to the buscones’ players. They further stated that corruption among Club officials in the Dominican Republic is prevalent. The Club employees expressed the view that the DRO should become more involved in pursuing legal action against corrupt buscones and should impose more stringent penalties on Club personnel who engage in wrongdoing. They also expressed the view that the DRO does not have sufficient resources to address the problems in the country.

Dominican government officials expressed to us a willingness to assist MLB in reforming its operations in the country. We related to these officials that, unless the environment in the Dominican Republic improves for our baseball operations, Clubs, which provide substantial economic benefits and prestige to the country, will begin to leave the country. A senior government prosecutor told us his office would prosecute buscones who are involved in criminal activity such as supplying steroids to players or facilitating age and identity fraud. Felipe Payano, the then sitting Minister of Sports, promised that the president of the Dominican Republic would publicly support our efforts at reform.

Finally, we interviewed several employees of the DRO and most of them believed that the office could function more effectively. In many respects, the organization and resources of the DRO have not changed as the role of the office in representing MLB in the Dominican Republic has evolved. At the time it was established in 2000, the mission of the DRO, in a broad sense, was to ensure the reputation of MLB and the Clubs. That has not changed. But the primary focus of the office at the time of its inception was substandard living and work conditions in many of the academies operated by Clubs. Today, that problem has largely been resolved and has been supplanted by the more pressing issues of PED use and corruption among buscones and Club employees. For purposes of addressing the second issue, the DRO is understaffed and the division of responsibilities within the office is not well defined. The office also is plagued by significant turnover, with many employees leaving to work for Clubs, which generally offer higher compensation than the DRO. Because former employees of the office work for Clubs, and since current employees of the office desire to work for Clubs, many Clubs are under the impression (even if it is a misimpression) that the office favors certain Clubs over others. The committee's recommendations would require the DRO to be restructured and augmented to include additional staff and other resources (e.g., technology). In addition, until the problems in the Dominican Republic are resolved, the office will require significant oversight from the New York Office.

The recommendations set forth below are the product of substantial discussion among the members of the committee. We caution that the recommendations have not yet been subject to legal review by Dominican Republic and U.S. attorneys, or discussed with Dominican Republic government officials, but we intend to complete both of those steps prior to their implementation.

## **II. Recommendations.**

### **A. Performance Enhancing Drugs.**

In order to address the use of performance enhancing drugs by Dominican players, the committee recommends that the Office of the Commissioner continue to expand its educational programs, and, in addition, actively investigate allegations that buscones are facilitating the use of drugs by players.

With respect to education, the Commissioner's Office is exploring educational initiatives involving buscones, and education that is targeted at younger players prior to the time that they have signed contracts with Clubs. The committee recommends that the Office of the Commissioner explore joint initiatives with the Dominican Republic government to educate younger Dominican players regarding the dangers of performance enhancing drugs, and also to incorporate into its existing educational programs information on health and conditioning programs.

The committee also recommends that the DOI continue its efforts to identify the individuals who distribute steroids to Dominican players. Those efforts include interviewing every player who tests positive in the Dominican Republic to determine the source of the steroids. The committee recommends that, as part of its lobbying/government relations effort, the Office of the Commissioner obtain the government's support to investigate and prosecute individuals who distribute steroids to Dominican youth.

**B. Reform Age and Identify Verification Process.**

**1. Department of Investigations Responsible for Process.**

The committee supports the recent change making the Department of Investigations (DOI) responsible for all age and identity investigations conducted in the Dominican Republic. To satisfy this responsibility, the DOI may need a lead investigator to be assigned in-country nearly full time for coordination and oversight. The DOI should develop written procedures and protocols to govern the investigative process. The committee recommends that the following protocols be included as part of the investigations policy.

- (a) Investigators should be subjected to extensive background and integrity checks, consistent with applicable law.
- (b) The compensation of investigators should be paid by MLB, not individual Clubs, and should be increased to reduce the temptation to engage in corruption.
- (c) Two investigators should be assigned to investigate players who are viewed as the most promising prospects (and likely to receive the highest bonuses) as a safeguard against corruption.
- (d) Neither the name of the investigator nor a copy of the investigation report should be provided to any Club to prevent this information from being leaked to buscones.

## **2. Register Players at Their First Point of Contact with MLB.**

In order to expedite the investigation process, and make it more difficult for players to engage in age or identity fraud, the committee recommends that players be required to register with the DRO at their first point of contact with an MLB Club. The first point of contact for a player for purposes of this recommendation typically will be an invitation to a Club academy for a tryout, but in some cases it may be the negotiation of a contract between the player's agent and the Club. Under this recommendation, a Club would not be permitted to invite a player into its academy for an overnight or multiple-day tryout, or engage in contract negotiations with a player or his agent, until the player has registered with the DRO in accordance with the following procedures.

(a) Prior to entering an academy for a tryout, or engaging in contract negotiations with a Club (whichever occurs first), a player would be required to register with the DRO. Players who are invited for an overnight stay at a Club academy, or for a tryout lasting more than a single day, will be subject to the registration requirement. Players who are invited for a single-day tryout at an academy (such as an "open" tryout) will not be required to register prior to the tryout.

(b) At the time of the registration, biographical information for the player would be obtained and stored in a central database. The player would be required to bring appropriate proof of age and identity. Subject to applicable law, the player would be photographed and fingerprinted.

(c) The player also would be requested to complete a form in which he: (i) attests to his age and identity in a sworn statement; (ii) consents to an investigation by the DOI regarding his age and identity, and agrees to cooperate with the investigation; (iii) acknowledges that he may be subject to sanctions if he lies about his age or identity, including a suspension for one year; and (iv) agrees to arbitrate any disputes before the Commissioner. We will obtain a legal opinion regarding whether the Office of the Commissioner can bar Clubs from inviting players for tryouts who refuse to execute this form. At a minimum, if a player refuses to execute the form, the Office of the Commissioner would disclose to inquiring Clubs that the player has refused to cooperate with an investigation of his age or identity.

The committee recognizes that registering all players presents logistical and administrative issues that may impact the budgetary and space requirements of the DRO.

### **3. Perform Investigations Before A Player Is Signed.**

Currently, most investigations are performed after a Club enters a contract with a player, with the contract contingent on verification of the player's age and identity. However, to prevent a Club and MLB from suffering the public embarrassment of signing a player who has engaged in fraud, it is preferable to conduct as many investigations as possible prior to the annual July 2 signing date. Accordingly, the committee recommends that the following procedures be implemented.

- (a) On or after January 1 of any year, Clubs may request that the DOI conduct an investigation on a prospect eligible to sign on July 2 of that year. Club requests for investigations should be kept confidential. The DOI, in its discretion, may commence an investigation of a prospect even in the absence of a specific request by a Club.
- (b) If the investigation verifies the prospect's age and identity, the requesting Club should be informed of the verification. All other Clubs that inquire about the prospect also should be informed of this verification.
- (c) If the investigation reveals that the prospect has falsified his age or identity, or if the investigation is inconclusive, the DOI should provide the investigative report and any other relevant information to the MLB Baseball Operations Department. Baseball Operations should then determine whether the prospect should be suspended in accordance with the Major League Rules. Whether or not the prospect is suspended, all Clubs should be notified of the results of an investigation that reveals fraud or is inconclusive on the matter.

### **4. Prohibit Players on the Suspended List from Engaging in Tryouts at MLB Academies.**

Presently, players who are suspended may still attend tryouts at MLB academies. The committee recommends that a player who is suspended for falsifying his age or identity be prohibited from engaging in tryouts during the period of his suspension.

### **5. Require Players and Buscones to Execute a Declaration Attesting To the Player's Age and Identity.**

As part of a contract signing or as part of the process described in II.B.2 above, and in order to assist Dominican authorities in the prosecution of age or identity fraud or other forms of corruption, the committee recommends that all players (and, for a minor, his legal guardian) and their buscones be required to sign a declaration verifying the player's age and identity and verifying that nothing of value has been paid to any individual or organization in connection with the registration or signing.

**6. Defer the Payment of Signing Bonuses to Players.**

Under existing Major League Rules, the signing bonus must be fully paid to an international player before the conclusion of the calendar year following the date of the contract. If fraud is discovered after the bonus is paid, it is very difficult for the Club to recover any of the bonus. As a result, the committee recommends that the Major League Rules be amended to allow first-year contracts for Minor League players who are not subject to the First-Year Player Draft to contain the following special covenants.

- (a) A covenant making some or all of each signing bonus contingent on the player obtaining a visa to enter the United States.
- (b) As part of a larger review of the existing Rule 4 draft and signing procedures, consider a covenant allowing signing bonuses for any first year player to be paid over three years. (The possible adverse tax consequences of this change on signed players, domestic and international, will also have to be considered.)

**C. Revise Academy Tryout Process.**

The current policy for tryouts of unsigned players at Club academies was adopted in 2006. Under this policy, unsigned players may enter a Club academy for up to 30-days by completing a registration card. This card is completed at the academy and forwarded to the DRO. The player is required to present a birth certificate at the academy as part of the registration process, but no means exists to verify the player's age and identity at this stage. In order to improve this process, the committee recommends the following changes:

- (a) No player should be permitted to engage in a tryout at an MLB Club academy requiring an overnight stay, or a tryout lasting more than a single day, until he completes the initial registration process with the DRO described in Section II.B.2 above.
- (b) The DRO should maintain computerized records of each player's entry into and exit from an MLB academy. To accomplish this, the Commissioner's Office should explore connecting Club academies and the DRO by a computer network, and require Clubs to record the entry and exit of a player in the computer database.
- (c) The DRO should conduct weekly random inspections of Club academies to ensure that only those players under contract or properly registered are playing or living at an academy, and that the academies are properly recording the entry and exit of players.

(d) MLB should implement an annual closed period from June 15 to July 2 during which no unsigned players may stay in or visit a Club academy.

**D. Regulation of Buscones.**

There is no system currently in place to regulate the conduct of buscones. Although the Dominican Republic government has passed legislation that purports to regulate buscones, that legislation has not been enforced, and also contains provisions regulating other aspects of Club affairs that are not in MLB's interest.

The committee recommends that MLB develop and implement a strategy for lobbying the appropriate Dominican Republic officials to enact and enforce legislation that regulates buscones, including creating significant penalties for buscones who provide performance enhancing drugs to players or participate in the falsification of a player's age or identity. The Office of the Commissioner should consider retaining the services of a lobbyist in the Dominican Republic to assist in both the preparation of the legislation and the discussions with government officials regarding it. The Office of the Commissioner also should reach out to the U.S. Embassy in the Dominican Republic to determine what assistance the U.S. government can provide in this effort.

In addition, the Committee recommends that the DOI establish a voluntary registration system for buscones in which biographical/business information will be maintained electronically for each buscon, including the players he represents, and affiliations with other buscones or U.S.-based agents. Buscones should be provided with information regarding Major League rules and Drug Programs when they register.

**E. Implement Policies to Curtail Corruption By Club Employees.**

Corruption by Club employees working in the Dominican Republic and Venezuela is a major issue. Five Clubs have terminated employees for accepting kickbacks from buscones and the DOI is actively investigating other cases. In order to address this issue, the committee recommends that the following policies be implemented.

(a) All Club employees with responsibilities in the Dominican Republic or Venezuela should be subjected to a background check.

(b) All Club personnel involved in international scouting or player development should be required to execute an annual acknowledgement that they have not received anything of value from any player or his representatives.

(c) Any Club employee who is found to have engaged in corruption of any sort should be barred from MLB or Club employment for a significant



period of time and should be considered for criminal prosecution in the appropriate jurisdiction.

**F. Development of an MLB Scouting Function in Latin America.**

In connection with a potential international draft, the committee recommends that MLB expand its scouting function to the Dominican Republic and, if possible, to Venezuela and other Latin American countries. The committee recommends that scouts familiar with the country be retained to track players from an early age and maintain a comprehensive database of amateur players. Tracking players from an early age, including registering players at youth leagues, will reduce the incidence of age and identity fraud and will help long term in the administration of a possible draft in the Dominican Republic. This scouting function might be overseen by the Major League Scouting Bureau.

**G. Increased Focus on Social Initiatives.**

While both the Commissioner's Office and individual Clubs have engaged in community initiatives in the Dominican Republic, these efforts have not been well-coordinated or publicized. Some organizations, such as USAID, offer matching grants for projects in the Dominican Republic and some non-governmental medical organizations have shown a willingness to offer health care there in partnership with MLB. MLB must position itself to partner in these kinds of initiatives.

The committee recommends that an experienced person be retained in the DRO to focus full-time on public relations and community initiatives. This person should work in conjunction with the Public Relations and Community Affairs departments in New York to plan and coordinate activities in the Dominican Republic.

**H. Performance Enhancing Drugs.**

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#### **I. Structure of Dominican Republic Office.**

The committee believes that the DRO must be expanded and restructured. The office was originally established when the level of Club activity in the country was lower and the amount spent on signing bonuses for Dominican players was much smaller. Despite the increase in activity and bonus amounts, the proliferation of buscones, and the prevalence of age and identity fraud in recent years, the staffing level and budget of the office has only modestly increased. Today, the existing complement of staff is inadequately organized and insufficient to protect the interests of MLB and the Clubs.

The committee believes that the DRO should be reorganized into functional departments that mirror the functional organization of the New York Office. In the committee's view, the head of the DRO should be an experienced and skilled leader who is capable of coordinating the activities of the functional groups and of serving as the "face" of MLB in the country. An analogous structure is that of a United States embassy, where an ambassador represents the United States in a particular country but functional departments within the embassy have lines of communication with departments of the federal government outside the embassy.

Additionally, the committee believes that departments in the New York Office should discharge greater responsibility in the oversight of their areas of authority in the Dominican Republic. Addressing the issues faced by baseball in the Dominican Republic will clearly require significant coordination and cooperation within and between the DRO and the New York Office.

While it will defer to the judgment of the Commissioner's Office on specific staffing decisions for the DRO (including compensation, benefits, etc.), the committee believes that the following functional areas of the DRO should be established or augmented.

1. DRO Head – The head of the DRO should be an individual with strong leadership skills who can effectively coordinate the activities of its functional departments. This person will need to develop the trust and respect of all involved in baseball in the country and would serve as the primary MLB contact for both Dominican and U.S. government officials. The committee also believes that a New York-based employee should spend a significant amount of time in-country and serve as the "liaison"

between the DRO staff and officials in the New York office responsible for the various functions of the DRO.

2. Department of Investigations – The DOI should be vested with responsibility for investigating possible age and identity fraud, drug-related issues, and any other issues affecting the integrity of the game. With respect to age and identity investigations, the DOI should work in close coordination with the Baseball Operations Department. As previously recommended, once an investigation is concluded, the investigative report should be provided to Baseball Operations personnel for a determination regarding (a) the status of the player under the Major League Rules and (b) any notification of such status to the Clubs.

3. Baseball Operations – Baseball Operations in the DRO should be responsible for the enforcement of Major League Rules and the administration of Minor League Contracts, and should work in close coordination with the New York Office. In addition, a separate scouting function should be established and overseen by the Major League Scouting Bureau.

4. Community Affairs/Public Relations – The DRO does not have anyone on staff who coordinates community and social initiatives or handles public relations. This work is now coordinated by a consultant. The committee recommends that an individual be retained full time in the DRO to perform these functions and that this person be overseen by the community affairs and public relations departments in the New York Office.

5. Legal – Although the DRO employs two individuals trained as Dominican attorneys, neither of those employees functions as an in-house counsel. The committee recommends that a counsel position be created to coordinate all legal issues in the country and that this counsel work under the supervision and guidance of the appropriate attorney in the New York Office, depending on the issue. In addition, outside counsel in the Dominican Republic should be retained to work with and advise the in-house attorney.

6. Security – The MLB Security Department should, as it has in the past, have a presence in the DRO. The department should be responsible for protecting the safety of MLB and Club personnel and infrastructure in the country.

7. Major League Baseball International – MLBI engages in various business initiatives in the Dominican Republic. The committee recommends that the DRO be used as a base for those activities, when appropriate, and that MLBI activities in the country be more closely coordinated with the DRO.

8. Labor – The Labor Department should continue to oversee the various drug programs and drug testing in the Dominican Republic.

The committee recommends that sufficient office space be retained to allow the office to perform the functions recommended by the committee, including registering buscones and players. In addition, appropriate technology must be deployed in the office to allow it to perform the data gathering and other administrative functions recommended by the committee.

The committee recognizes that these recommendations will require a significant increase in the budget of the DRO. However, in light of the expansion of Club operations in the country and the substantial increase in the level of signing bonuses paid to Dominican players in recent years, both of which have led to the use of PEDs and an increase in fraud and corruption, the committee believes that the additional funds required to implement the recommendations is necessary to protect the interests of MLB and the Clubs.

### **III. Proposed Action Plan.**

If the committee's short-term recommendations are adopted by the Commissioner, the committee suggests the following action plan to ensure that the recommendations are implemented sufficiently in advance of the July 2, 2010 signing date.

1. The Commissioner's office staff should make a recommendation to the Commissioner regarding a proposed restructuring of the DRO to enable the office to better perform its functions. A recommendation also should be made regarding the individual(s) who will oversee MLB's lobbying and government relations efforts. After those personnel and organizational decisions are made, the Commissioner's staff should make a recommendation regarding a potential expansion or relocation of the office.
2. All recommendations that raise potential legal issues should be reviewed by both Dominican Republic and U.S. counsel prior to their implementation.
3. For each new or revised policy, the Commissioner's office staff should prepare a written document that fully explains the policy and the protocols that will be followed for its implementation. For example, DOI should prepare written protocols for hiring investigators, conducting investigations, etc.
4. Recommendations that require a change in the Major League Rules should be handled in the off-season in accordance with normal procedures for such changes.
5. The appropriate Commissioner's Office staff should meet with officials of the Dominican Republic government to outline the changes that MLB will implement, and obtain the necessary support. Some government officials already have pledged to publicly support our reform efforts.

6. At the appropriate time, the Commissioner or his designee should prepare a memorandum to all Clubs that outlines the recommendations of the committee and the timetable for their implementation.

#### **IV. Conclusion.**

Major League Baseball and its Clubs face significant issues, short term and long term, in the Dominican Republic. This committee has taken an important first step toward reforming operations in that country by identifying the critical short term issues and recommending policy changes to address them. But, the most difficult step in this process, assuming the committee's recommendations are adopted, may be the ability of MLB to actually implement and sustain the changes over time. This will require greater cooperation among departments within the DRO and greater coordination between the Dominican Republic and New York Offices.