



10th Annual Baseball & the Law Seminar

Baseball and Immigration: Our National Pastime Greet the World

Presented by the Cincinnati Bar Association
Tuesday, May 14, 2019





Baseball and Immigration: Our National Pastime Greets the World

4:30 p.m. Registration

5 to 6 p.m. CLE Program

James C. Crowley, IV, Esq.
Crowley Ahlers & Roth Co. LPA

TAB A

John G. Eradi
Sportswriter

TAB B

John C. Greiner, Esq.
Graydon Head & Ritchey LLP

TAB C

Maria T. Schneider, Esq.
Musillo Unkenholt LLC

TAB D

7:10 p.m. Optional Reds vs. Cubs Baseball Game

TAB A





James C. Crowley IV, Esq.

Crowley Ahlers & Roth Co LPA

Mr. Crowley has practiced law in Ohio since 1976. He has devoted most of his 34 years of practice as an attorney to the areas of personal injury law, workers' compensation, and social security disability. Mr. Crowley has tried personal injury and workers' compensation cases in many Ohio counties including Hamilton, Butler, Clermont, and Ross. In addition, he has tried federal diversity matters in the US Southern District of Ohio. His appellate law practice has been primarily devoted to social security appeals to the US District Court and the 6th Circuit Court of Appeals in Cincinnati, OH. He enjoys an AV rating by the Martindale Hubbell rating service.

In addition, Mr. Crowley has developed a probate practice and has extensive experience in the area of sports law, with an emphasis on representation of professional baseball players. He founded the Sports and Entertainment Law Committee of the Cincinnati Bar Association in 1989.

Mr. Crowley serves on the Grievance Committee of the CBA, as well as the Social Security and Workers' Compensation Committees. He is also licensed to practice law in the State of Connecticut.

Trump Ends Deal Between M.L.B. and Cuban Baseball Federation



Los Leneros de las Tunas, a Cuban baseball team, before a Caribbean Series game in Panama City in February. Credit: Arnulfo Franco/Associated Press

By David Waldstein and Michael Tackett

- **April 8, 2019**

President Trump, reversing an agreement negotiated by the Obama administration, abruptly ended a deal between Major League Baseball and the Cuban Baseball Federation that had eased the path for players to compete in the United States without defecting from their country.

The Trump administration said that the deal constituted a violation of trade laws because the Cuban federation was part of the government in Havana — a departure from the previous administration’s stance.

In a letter to M.L.B.’s outside counsel, which was obtained by The New York Times, Nikole Thomas, the acting assistant director for licensing at the Office of Foreign Assets Control, outlined the U.S. government’s opposition to the deal, which stipulated that the

Cuban federation would receive 25 percent of a player's signing bonus for a minor league player and between 15 and 25 percent for a major league player.

The letter said that the O.F.A.C. had "determined that M.L.B.'s payments to the Cuban Baseball Federation are not authorized" because "a payment to the Cuban Baseball Federation is a payment to the Cuban government."

News of the administration's rejection of M.L.B.'s plan was first reported by The Wall Street Journal and ESPN.

Cuban sports entities, including its baseball federation and Olympic committee, have argued they are independent of the central government, but the Trump administration rejected that assessment.

U.S. does not support actions that would institutionalize a system by which a Cuban government entity garnishes the wages of hard-working athletes who simply seek to live and compete in a free society," said Garrett Marquis, a spokesman for the National Security Council. "The administration looks forward to working with M.L.B. to identify ways for Cuban players to have the individual freedom to benefit from their talents, and not as property of the Cuban state."

In a statement, M.L.B. said: "We stand by the goal of the agreement, which is to end the human trafficking of baseball players from Cuba."

One M.L.B. official, who requested anonymity because they were not authorized to speak publicly on the matter, said the league had requested a face-to-face meeting with U.S. government agencies but were not granted one. M.L.B. was prepared to base its argument on the fact that the Obama administration had given it a license in 2016 to do business with the Cuban baseball federation, and that a Trump-era national security presidential memorandum published on June 16, 2017 promised the agreement would be grandfathered in. The memorandum stated that any new regulations "will not affect existing contracts and licenses."

Several U.S. business entities, including travel and telecommunications companies, do business in Cuba. But M.L.B. officials worried that, as a high-profile organization, its deal would be challenged by hard-liners in the government.

John Bolton, the national security adviser, seemed to foreshadow the move on Sunday when he tweeted: "Cuba wants to use baseball players as economic pawns — selling their rights to Major League Baseball. America's national pastime should not enable the Cuban regime's support for Maduro in Venezuela."

Cuba has produced some of the best players currently in the major leagues, including Aroldis Chapman of the Yankees, Yoenis Cespedes of the Mets and Jose Abreu of the Chicago White Sox. They and most other Cuban players in M.L.B. left their country illegally, in some cases smuggled out by disreputable agents and human traffickers on speedboats and rafts over dangerous waters.

“It’s bad in the sense that they can’t come anymore in the formal, legal way that was planned,” Chapman said on Monday.

For some players, the dangers continued after they arrived because they were at the mercy of the smugglers.

“To this date, I am still harassed,” Abreu, who has played for the Chicago White Sox since 2014, said in a statement issued at the time the deal was announced in December.

M.L.B. and its players union sought to eliminate that dangerous process by creating a posting system similar to the one used with players from Japan and South Korea. Under the plan, a major league team seeking to sign a Cuban player would pay a posting fee to the Cuban federation, which would in turn allow the player to leave the country and return home at will. Just days ago, the Cuban federation released the names of 34 players it said were eligible to sign with M.L.B.

“The objective of the agreement, which is the product of years of negotiations with the F.C.B., is to end the dangerous trafficking of Cuban baseball players who desire to play professional baseball in the United States,” M.L.B.’s lawyers said in their petition to the Treasury Department in January.

M.L.B. and the Cuban baseball federation commenced talks after the United States and Cuba began a thaw in relations under the Obama administration in 2014. Soon after that, baseball’s commissioner’s office secured a license from the Treasury Department to legally begin negotiations with the Cubans.

After announcing its agreement in December, M.L.B. quietly sought to convince administration officials — who immediately criticized the plan publicly — that it fit within the guidelines for an exemption to the trade laws. At the same time, M.L.B. officials were also resigned to the political opposition to the deal and the possibility of returning to the old method of signing Cuban players.

MLB, Cuban Baseball Federation Reach Agreement On Posting System

By **Jeff Todd** | December 19, 2018 at 9:30pm CDT

9:30pm: The league's formal announcement of the system indicates that only players under contract with the FCB are eligible for the posting system. Others are eligible to sign with MLB teams under the same system as other international amateurs. Cuban professionals will be made eligible to MLB clubs each offseason and are free to sign with any MLB team willing to pay a release fee on said player.

A professional player's release fee will be determined based on the same scale as in the NPB and KBO posting systems. That is to say that, on top of the bonus paid to the player, a Major League team will pay a release fee equal to 20 percent of the first \$25MM of a bonus, 17.5 percent of the next \$25MM and 15 percent for anything beyond that point. Notably, today's announcement indicates that Cuban players who've been released into the posting system "will be scouted and signed in Cuba by MLB clubs."

The agreement runs through Oct. 31, 2021, unless there is an agreement of an extension of the system prior to that point. Full details of the arrangement can be seen in the league's announcement.

3:23pm: MLB and the FCB have indeed reached an agreement, as Romero reported last night and as Passan now details in a new column. An announcement could come as soon as today. While the agreement is significant, the newly agreed-upon system could be dashed if the current presidential administration opts to scale back on regulations installed under the previous administration that loosened restrictions on business interactions with Cuba.

As Castillo tweets, however, the new system doesn't require immediate government approval before going into place, as MLB already has a license in place. That does not preclude future legislation from throwing a wrench into the system.

The specifics of the new system aren't yet fully clear, though Passan does detail some of the financial elements of the arrangement. Major League teams signing a Cuban player would pay the FCB a release fee on top of the money promised to that player — a 25 percent tax on amateur players (i.e. players under 25 and/or with fewer than six years of experience) and a 15 to 20 percent fee for professional players (i.e. players 25 or older and with more than six years of pro experience). The exact release fee on a professional player is determined based on a sliding scale — the specifics of which are not yet publicly available but will presumably come to light when the league makes a formal announcement.

Interestingly, Castillo suggests (via Twitter) that players who qualify as professionals (25 years of age, six-plus years of pro experience) will all be “released” by default, allowing them to pursue opportunities with MLB clubs. Presumably, those who do not wish to leave Cuba in pursuit of a big league deal will be able to continue playing on the island.

The new system leaves Cuba with an overwhelming amount of control over its native talent. Players who defect will indeed be subject to the punishment of an additional waiting period, per Passan. Professionals who defect would need to wait until the start of the next free-agent period (i.e. the week after the conclusion of the World Series). Amateur players who defect will be forced to sit out an entire signing period. As Passan spells out, that’d mean a player who defects after July 2 next year would sit out not only for the 2019-20 signing period but also the 2020-21 signing period before becoming eligible to sign in the 2021-22 period. Obviously, then, those regulations were put forth in an effort to severely punish those who wish to defect from the island and circumvent the newly created system.

11:50am: It seems there could soon be a new arrangement to allow Cuban ballplayers to move to MLB organizations, though the timeline for a formal agreement remains unclear. Francys Romero of CiberCuba.com reported on the prospective deal, which Jorge Castillo of the Los Angeles Times says was presented to teams at the Winter Meetings, though Jeff Passan of Yahoo Sports (via Twitter) emphasizes that a deal is not yet completed.

Details are not fully clear, but generally it seems the concept under contemplation is a kind of posting system not unlike those already in operation with professional leagues in Japan and Korea. In this case, the Cuban Baseball Federation (FCB) would evidently recoup the fees paid by MLB teams for the right to acquire talent from the island nation.

The approach would seemingly do away with the current process, in which Cuban players who wish to play with affiliated organization have been forced to defect from their homeland and establish residency elsewhere. Needless to say, it’s far from an ideal system (if that’s even a fair term), and one that has resulted in some highly problematic trafficking situations.

Under the proposal, the reporting of Romero and Castillo suggests, MLB teams would pay a release fee of a varying amount, tied to the value of the bonus. Fees for minor-league signings would be set at 25%, while MLB deals would require 15% or 20% payouts. While the bonuses themselves would presumably continue to count against teams’ international bonus pools, the fees would not.

The new system would seem to open the door to a more open and accessible transfer system. Of course, there are still some concerns and also some hurdles. It seems the Cuban organization would control the pipeline to no small extent. Per Castillo, there’d be no provision to allow for scouting in Cuba. More importantly, any players who defect

would not only face a penalty “waiting period” but would still be subject to the fee requirements.

Obviously, there’ll also need to be some governmental machinations before any deal can be finalized. It seems reasonable to presume that the commissioner’s office has been operating in conjunction with the relevant federal authorities, but broader political forces could presumably still influence the outcome. After all, there’s still ample uncertainty in the broader United States-Cuba relationship.

Immigration is *as* American *as* Apple Pie, Baseball, *and* Pudge Rodriguez

An Essay by Andrew Kaufmann, Digital Editor of *The Catalyst*

Like baseball, immigrants are an important part of the American fabric. Major League Baseball teams embrace this diversity, helping their players make an impact on the field as well as in their communities. What can we learn from baseball and its approach to players born outside the United States?



Texas Rangers shortstop Elvis Andrus shares a moment with a young fan at Texas Rangers Fan Fest, January 20, 2018. (via Twitter @TexasRangers)

Baseball courses through the veins of America and her history. U.S. Presidents throw out first pitches to celebrate times of prosperity and to galvanize a nation during trying times. Its players are icons of Americana, from the slugging Hank Aaron to the tough-as-nails-Texan Nolan Ryan. And the issues it faces are the same challenges we face as Americans: from race relations in the Jackie Robinson era to cultural diversity debates today.

The heated debate we are having over Immigration policy is no exception. While immigrants no longer funnel through New York Harbor past the Statue of Liberty, there are citizens who would beg to differ with Lady Liberty: Do we *really* want your tired, your poor, your huddled masses?

Economic and security concerns are generally cited as the top reasons for strict limitations on immigration: We're told that immigrants take our jobs, burden our infrastructure, and threaten our safety. But cultural uneasiness simmers below the surface. A study from the Public Religion Research Institute reports that 41 percent of Americans feel that things have changed so much *they feel like a stranger in their own country*, while 55 percent of Americans believe that our way of life needs to be protected from foreign influence.

But Major League Baseball (MLB) teams haven't shied away from cultural diversity. Rather, they've embraced it.

A Major League Baseball clubhouse is the epitome of a melting pot (or stew pot, if you prefer that analogy). In fact, a MLB clubhouse is more diverse than the U.S. population at large. Thirty percent of major leaguers on 2017 opening day rosters were born outside of the 50 United States. Those 259 players are mostly immigrants, with the exception of the 17 players from the U.S. territories of Puerto Rico and the U.S. Virgin Islands.

If you played on the Texas Rangers in 2017, you could have enjoyed a conversation in English, Spanish, Korean, Japanese, Dutch, or even Papiamentu.

With such diversity, how do teams stay a cohesive unit? How do they help the foreign-born players thrive in their new environments?

A Major League Baseball clubhouse is the epitome of a melting pot (or stew pot, if you prefer that analogy). In fact, a MLB clubhouse is more diverse than the U.S. population at large.

Ivan Rodriguez: catcher, Latino, community member, Hall of Famer

I had a chance to sit down with former Texas Ranger catcher and Baseball Hall of Famer Ivan "Pudge" Rodriguez, who shared his experiences as a Latin baseball

player. Since he was born in Puerto Rico, a U.S. territory, Rodriguez enjoyed the benefits of being a U.S. citizen and could travel to and from the mainland without a passport. Culturally, however, he was a Latino who faced the same challenges of acclimating to a foreign land that an immigrant would.



Ivan Rodriguez with his Baseball Hall of Fame plaque, July 30, 2017. (via Texas Rangers Facebook)

“I came from Puerto Rico, and obviously we are part of the U.S.,” Rodriguez said.

“We have a mandatory English class at school. But even with that, we still have some difficulties speaking the language and we come to a country that we don’t know much about. I didn’t know much about it.”

As a club, the Rangers clearly felt that learning the English language was an important step in a player’s development.

“At the time there were a lot of Latin players on the big league club and in the minor leagues. We had coaches who spoke Spanish and they taught us to speak English really quick. We had a coach named Orlando Gomez, and his wife Nilsa gave us classes every day in the hotel for an hour. Mandatory.

“You know you have to be a team, and you have to communicate with your teammates. As the catcher I have to communicate with every single guy, no matter where they come from.”

But Rodriguez also realized that the opportunity before him was about more than winning pennants – it was about being an influential part of the American culture and a Texas icon, even as a Latino.

“We have an opportunity to come to America and become a big league baseball player, and if you ask me, or if you ask anybody else, that was everybody’s dream. Just to be here and play baseball. To try to be the best person, the best guy that you can to help in the community,” Rodriguez said.

*“We have an opportunity to come to America and become a big league baseball player, and if you ask me, or if you ask anybody else, that was everybody’s dream. Just to be here and play baseball. To try to be the best person, the best guy that you can to help in the community.”
-- Ivan Rodriguez*

The Hall of Famer believes strongly in the American dream. As a Latino, he recognizes the good fortune he’s had.



Ivan Rodriguez signs an autograph at Texas Rangers Fan Fast, January 20, 2017. (via Texas Rangers Facebook)

“I think there’s nothing better than being here [in the U.S.], to be honest with you. Everything that we have, the life that we live here, and all these opportunities that we have here. Just being here... everything that this country did for me and my family, I really appreciate.

“It’s an honor knowing that I came from a very small island, and I came here and established my life here. I have three kids born here in America, and I mean, it’s just great.”

How we can learn from baseball

Most elite baseball players don’t face the same challenges in entering the U.S. that most immigrants face. Fair or not, their athletic skills open doors that most immigrants must kick down. But once they are here, like other cultural outsiders, they have to adjust to a new world.

Fair or not, [professional baseball players'] athletic skills open doors that most immigrants must kick down. But once they are here, like other cultural outsiders, they have to adjust to a new world.

Cliques famously exist within baseball clubhouses, often drawn along cultural lines. These cultural lines disappear on the field, however. The Houston Astros won the 2017 World Series with a star second baseman who honed his game playing in the street in Venezuela and a star pitcher from rural Virginia.



Justin Verlander and Jose Altuve of the Houston Astros with the Commissioner's Trophy after winning the World Series, November 1, 2017. (Ezra Shaw/Getty Images)

On the field, players find a common language: baseball. They find a common purpose: winning championships. Off the field, teams educate players and train them for success.

Baseball teams today evaluate their players based on their ability to help the team — no matter where they are from. Every time a new player joins a roster, he brings a little bit of a new flavor into the mix. Successful teams embrace that new flavor, and make it a part of the family.

At the same time, that new player learns the traditions of the team he has joined. During their American League Championship runs, for example, the Texas Rangers celebrated with "claw and antler" hand signals to symbolize strength and speed; Venezuelan Elvis Andrus and Mississippian Mitch Moreland are as culturally diverse as possible, but both happily celebrated using the common team language and tradition.

As Americans, we too are historically stronger when we embrace the multitude of cultures in our midst. We learn lessons from each other while our music, art, and food pick up flavors from each other. America's culture is influential worldwide — strengthened, not weakened, by its hodgepodge nature.

Andrew Kaufmann *Deputy Director External Affairs, George W. Bush Presidential Center*

TAB B



John Erardi

John Erardi is a two-time Ohio Sportswriter of the Year, and author of eight Reds books, including "Tony Perez: From Cuba to Cooperstown," which was one of 10 finalists for "Baseball Book of the Year" by Spitball literary magazine. John visited Cuba in 2015, including visiting Perez's hometown of Central Violeta in Camaguey province, for research into his subject. John covered sports for 30 years at the Enquirer, much of it involving the Reds, including the end of Tony's playing career in 1985 and 1986, and Tony's all-too-brief time as manager in 1993.

TAB C





John C. Greiner

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EDUCATION

Miami University, B.A., cum laude, Political
Science/Economics, 1980

LAW SCHOOL

University of Notre Dame, J.D., cum laude,
1983 - Law Review

BAR ADMISSIONS

State of Ohio

AREAS OF PRACTICE

Appeals
Business Litigation
Cyber Security & Data Privacy
Intellectual Property
Intellectual Property Disputes
Litigation
Media & Marketing
Public Records

COMMUNITY OUTREACH

University of Cincinnati Law School - Adjunct
Instructor
ProKids Resource Team Leader
CBA Communications Committee - Chair
CBA Judicial Evaluations Research
Committee - Member
Ohio State Supreme Court Lawyers to
Lawyers Mentoring Program - Mentor
Ohio News Media Association Government
Relations Committee - Member
Beyond Civility Board - Member
Public Media Connect - CET/Think TV - Board
Member

AFFILIATIONS

Cincinnati Bar Association - Member -
Communications Committee - Chair

Jack is a commercial litigator with an emphasis on communications and media law. He is one of the region's leading advocates for governmental transparency, having argued numerous cases in the Supreme Courts of Ohio and Kentucky and in appellate courts in the tri-state area. His clients have included The Cincinnati Enquirer, ESPN, Vogue Magazine, Courthouse News Service, and television stations in 16 markets.

Jack recently obtained summary judgment on behalf of an author of a novel in a "libel in fiction" case. His work on behalf of a national law firm led to a ruling from the Ohio Supreme Court ordering the Ohio Department of Rehabilitation and Corrections to release records related to the purchase of lethal injection drugs. Jack was privileged to advise The Cincinnati Enquirer team on the "Seven Days of Heroin" report that won a Pulitzer Prize in 2018. Jack is currently the president emeritus of the Defense Counsel Section of the Media Law Resource Center -- a national organization of media lawyers.

Jack serves on the firm's Appellate Practice Group. Jack successfully argued a case before the United States Sixth Circuit Court of Appeals that prevented a title insurance company from denying coverage to a mortgage lender. Jack also argued a case in Ohio's Eighth Appellate District that protected the rights of mortgage lenders in foreclosure actions. Both cases are leading precedents in the field.

Jack is recognized with an AV Rating, the highest rating given to lawyers by Martindale-Hubbell. Jack has also been selected by his peers for inclusion in The Best Lawyers in America for his work in Commercial Litigation, Litigation-Banking and Finance, Litigation-First Amendment, and Litigation-Intellectual Property from 2005 to 2018. Jack has also been selected as The Best Lawyers in America "Lawyer of the Year" for his work in Litigation-Banking and Finance in 2012 and 2016; and The Best Lawyers in America "Lawyer of the Year" for his work in Litigation-First Amendment in 2015. In addition, from 2007 to present, Jack has been named an Ohio Super Lawyer for his work in Commercial Litigation and First

Ohio State Bar Association - Member
Media Law Resources Center - Internet Law
Committee Chair
Ohio Coalition of Open Government -
Member
American Advertising Federation - Cincinnati
Chamber - Member

Amendment Law. He was awarded the Ohio Society of Professional
Journalist Award for Best Defense of the First Amendment for his
contribution to "Lead's Dangerous Legacy."

Jack is a talented writer and in addition to having created the
firm's e-newsletter, InfoLaw News, and his own blog - Jack Out of
the Box. The blog received first place in the 2018 Ohio SPJ Awards
for Best Blog in Ohio. He is the author of "Imagine When You're
Feeling Better," a children's book written to benefit Josh Cares, a
Cincinnati charity. He also enjoys Notre Dame football, Cincinnati
Reds baseball and XU basketball. He has donated about eleven
gallons of blood through Hoxworth, although not all at once. Guilty
pleasures include LaRosa's pizza, Graeter's ice cream and Skyline
Chili. (Did we mention Jack is a Native Cincinnati?) His real
passion, however, is his family - his wife, Kathy, and four children,
Katie, Joe, Ben, Ellie, granddaughters Lucy and Evelyn and
grandsons Jack and Joseph - to whom he refers as his "greatest
achievement."

Asian-American Baseball Timeline

Jack Greiner, Esq.

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1

1872 Baseball introduced in Japan by American school teacher Horace Wilson. By the end of the century, it becomes Japan's most popular team sport.



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2



1903 The First Japanese American baseball team on the mainland is founded by Chiura Obata – the Fuji Athletic Club in San Francisco.


3



1905 New York Giants manager John McGraw invites Japanese outfielder Shumza Sugimoto to try out for the team in Hot Springs, AR. The press acknowledges “the color line” potentially drawn against Sugimoto, so he chooses to play for the semi-pro New Orleans Creoles in LA.




4



1927 On a barnstorming tour following their World Series victory, Babe Ruth and Lou Gehrig play an exhibition game in Fresno including Nisei all-stars, Johnny Nakagawa, Kenichi Zenimura, Fred Yoshikawa, and Harvey Iwata.


5




1932 Kenso Nushida becomes the first Japanese American to play professional baseball in the U.S. above the "D" level when he signs with the Pacific Coast League Sacramento Solons (Senators).



6



1934 Matsutaro Shoriki forms Japan's first pro team the Yomiuri Shimbun Professional Baseball Team. Babe Ruth arrives in Japan for an eighteen-game barnstorming tour.



7



1935 Shoriki renames his professional team the Tokyo Giants at a suggestion from Lefty O'Doul and the Tokyo Giants make their first tour to the United States to play semipro and professional teams.

8

1965 Masanori Murakami becomes the first Japanese national to play in the major leagues by signing with the San Francisco Giants.



9


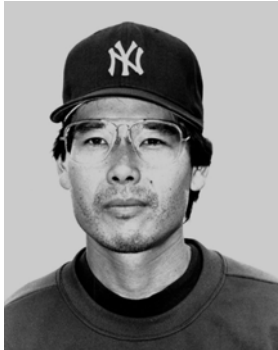
1975 Sansei Ryan Kurosaki signs with the St. Louis Cardinals and becomes the first Japanese American to play in the major leagues.



10



1977 Lenn Sakata is called up to play with the Milwaukee Brewers.

1983 Sakata is the first Japanese American to participate in a World Series Game.



11

1995 Hideo Nomo from Osaka is named National League Rookie of the Year with the Los Angeles Dodgers.



12




2001 The Ichio-era begins


13




2008 Don Wakamatsu is named the skipper of the Seattle Mariners, and in doing so becomes the first Asian-American manager in MLB history.




14




2010 Travis Ishikawa of the San Francisco Giants joins Lenn Sakata as just one of the two Japanese American ballplayers to play in, and win, a World Series. Ishikawa played in a total of 10 games during the 2010 postseason, including one start at first base during Game 4 of the World Series.



15



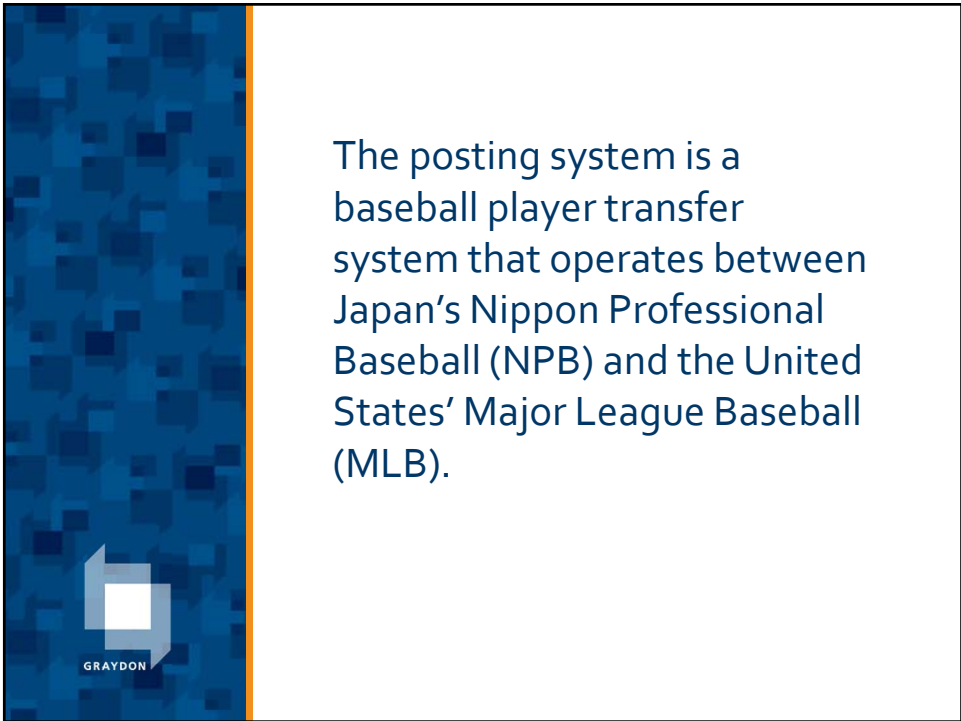
2011 Darwin Barney (Japanese/Korean ancestry) earns a spot on the Chicago Cubs opening day roster as the starting second baseman. After hitting .326 with 14 RBIs in his first month, he was named the National League Rookie of the Month for April.




16



17




18




Under this system, when an NPB player is “posted”, his NPB team notifies the MLB Commissioner, with the posting fee based on the type of contract a player signs and its value. The fee is a flat 25% of the value of a minor-league contract; for MLB contracts, the fee is based on the value of the contract that the posted player eventually signs.

19




The player is then given 30 days to negotiate with any MLB team willing to pay the NPB team’s posting fee. If the player agrees on contract terms with a team before the 30-day period has expired, the NPB team receives the posting fee from the signing MLB team as a transfer fee, and the player is free to play in MLB.

20




If no MLB team comes to a contract agreement with the posted player, then no fee is paid, and the player's rights revert to his NPB team.

21




The current posting agreement was reached after the 2017 MLB and NPB seasons. The agreement runs through October 31, 2021, the expiration date of MLB's current collective bargaining agreement.

22




Since the end of the 2018 NPB and MLB seasons, posting fees have been based on the type of contract a player signs and the deal's value. For players signed to MLB contracts, the posting fee is based on the amount of guaranteed money in the initial contract:

23




- 20% of the first \$25 million
- 17.5% of the next \$25 million
- 15% of any amount above \$50 million

24




The system only applies to players currently under contract with a Japanese team, although players who have nine or more years of playing service with NPB are exempt. It does not apply to free agents or to amateur players who have never played in NPB.

25



Mac Suzuki, Michael Nakamura, Kazuhito Tadano, and Junichi Tazawa are the only Japanese players to have debuted in MLB without having played in NPB. The system does not work in reverse; it does not regulate MLB players, such as Alex Cabrera, who moved to NPB.

26



Masahiro Tanaka


Tanaka was repeatedly scouted by MLB representatives during the 2013 season. Through the revised posting system, Rakuten posted Tanaka to MLB during the 2013-14 offseason at a fee of \$20 million.

27



During the month-long period following Tanaka's posting, teams reported to be serious suitors included the New York Yankees, Los Angeles Dodgers, Chicago Cubs, Chicago White Sox, Arizona Diamondbacks, and Houston Astros. On January 22, 2014, Tanaka signed a seven-year contract worth \$155 million with the Yankees.


28



Shohei Ohtani
Posted November 21, 2017

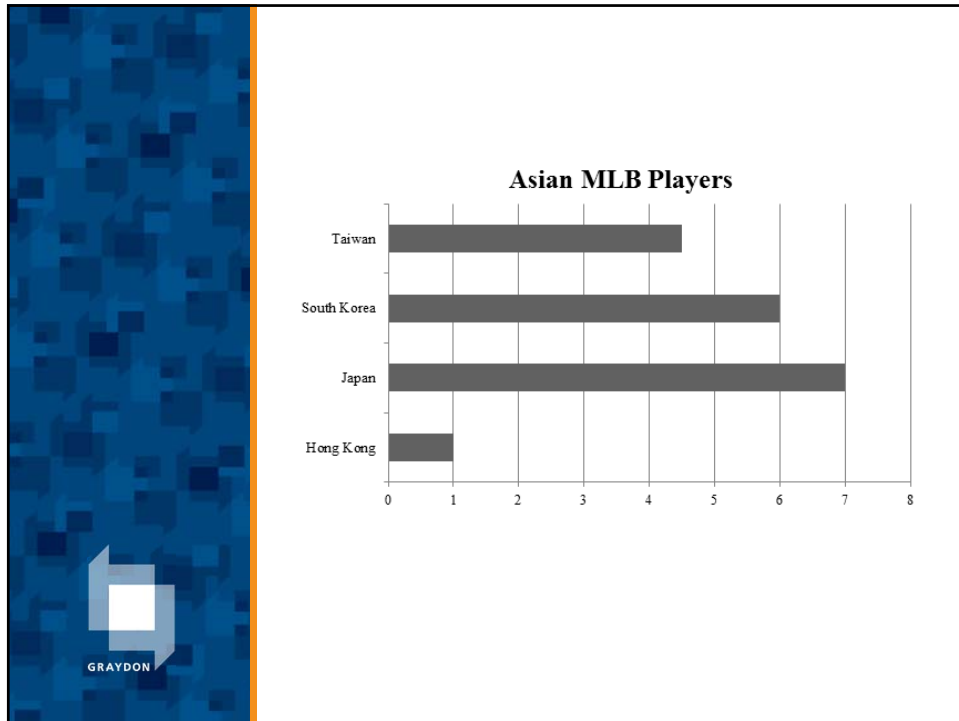
Because he was under 25 years old at that time, Ohtani was subject to international signing rules. This capped his bonus at \$3.557 million and limited him to a rookie salary scale, while the signing team also had to pay a \$20 million posting fee to the Fighters.

29



That essentially meant all 30 teams could afford to go after Ohtani; if he'd waited until he was 25 to be posted, he would have commanded a \$200 million contract. Ohtani narrowed his finalists to the Angels, Dodgers, Giants, Padres, Mariners, Rangers and Cubs, signing with the Angels for a \$2.315 million bonus.

30

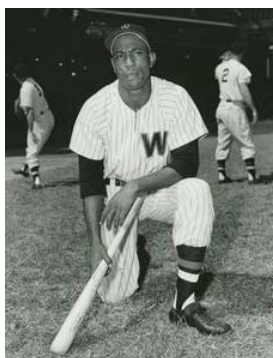


31



32

Joe Cambria, became a special Latin American scout for the American League Washington Senators in the early 1930s.



GRAYDON

33



During WWII Cambria increased the number of Latins he signed, all in an attempt to win a pennant for the Senators with Cuban players who were, of course, not subject to the US military draft.



GRAYDON

34


The Senators almost won the pennant in 1945 with a roster that included Cubans Gilberto Torres, Guerra, José Antonio Zardón, and pitchers Santiago Ulrich and Armando Roche. Cambria also signed the first Venequelan to play in the majors, pitcher Alejandro ("Patón") Carrasquel.



GRAYDON

35

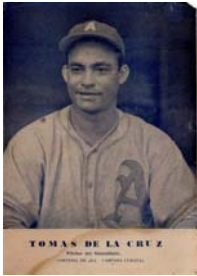
Through the late 1940s and 50s, the Senators were the only MLB team to feature Latin American players prominently on the roster.



GRAYDON

36


Other teams followed the Senators' example of trying to find men to fill the positions vacated by Americans in military service. Cuban right-hander Tomás de la Cruz pitched 18 games for the Reds in 1944, winning 9 and losing 9. Napoleón Reyes, an infielder, began his four-year career with the New York Giants in 1943.



A black and white portrait of Tomás de la Cruz, a Cuban right-handed pitcher. He is wearing a light-colored baseball uniform with a dark cap. Below the portrait, the name "TOMÁS DE LA CRUZ" is printed in capital letters, with smaller text underneath.


37

In 1942 Hiram Bithorn pitching for the Cubs, became the first Puerto Rican to play in the majors, and the Brooklyn Dodgers fielded the second in 1943, outfielder Luis ("el Jibarito" ["the Little Hick"]) Rodríguez Olmo.




A black and white action photograph of Hiram Bithorn, a Puerto Rican pitcher, in the middle of a pitching motion on a baseball field. He is wearing a light-colored uniform with "CUBS" visible on the sleeve. The background shows a grassy field and some trees.

38





During the 1940s the Negro leagues enjoyed a resurgence that included many black Latin players. One such team was the New York Cubans (a team of black Latins, and not just Cubans). The Cubans played in the Negro leagues from 1935 to the early 1950s and won the championship in that pivotal year of 1947, when Jackie Robinson broke the color barrier.

39



Players included future Hall of Famer Martín Dihigo, Ramón Bragana, Rodolfo Fernández, José María Fernández, Luis ("Lefty") Tiant (Sr.), Heberto Blanco, Silvio García, Rafael ("Sam") Noble, Orestes ("Minnie") Minoso, and Edmundo ("Sandy") Amorós.

40



A significant breakthrough for Latin players came in 1949 when the Cleveland Indians signed the renowned black Cuban player Minnie Minoso. He was the first unquestionably black Latin American in the majors.



41



The Giants were aided in signing Latin American players by Alejandro Pompez, the owner of the Negro league New York Cubans, who had strong connections in Caribbean baseball. As the Negro leagues waned, Pompez, whose Cubans played at the Polo Grounds when the Giants were on the road, became a special Caribbean scout for the Giants.


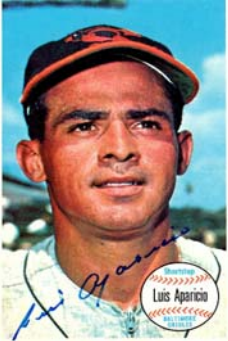

42

Some of the talent recruited by Pompey included Puerto Rican pitching ace Rubén Gómez, who joined the Giants in 1953. Eventually the Giants signed Puerto Rican infielders José Pagán and Julio Gotay, and in Orlando Cepeda they found a true star who reached the Hall of Fame.




43

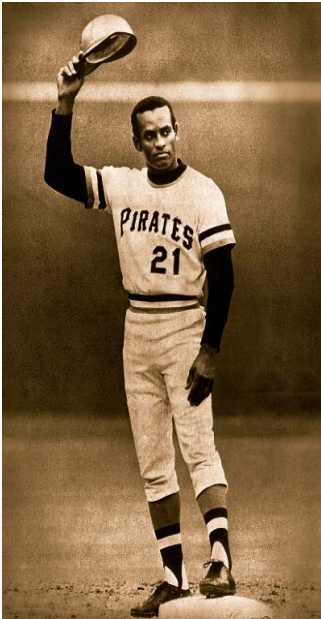
The White Sox's Alfonso ("Chico") Carrasquel became the team's permanent shortstop until 1956, when his countryman and future Hall of Famer Luis Aparicio replaced him. Other Latin shortstops in the 1950s were Cubans Guillermo Miranda, José Valdivielso, and Humberto ("Chico") Fernández.




44




The player who would be the first Latin in the Hall of Fame, Roberto Clemente, was signed by the Dodgers while he was still in Puerto Rico. Clemente ended up playing for the Pirates beginning in 1955.



45



During the 1960s the number of Puerto Rican players increased, and preeminent players such as Clemente and Cepeda were reaching their peak. A Panamanian second baseman, Rod Carew, began his Hall of Fame career in 1967. In the 1960s and '70s Carew won seven batting titles in the American League and wound up with a lifetime batting average of .328.




46



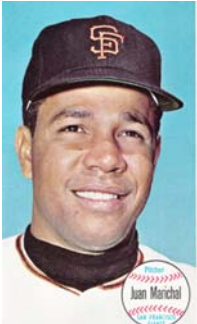
A new development was the arrival of players from the Dominican Republic in increasing numbers. Osvaldo Virgil, an infielder with the Giants, was the first Dominican in the majors (1956), and Felipe Alou (1958), with the same team, was the second.




47



The first Dominican star, pitcher Juan Marichal, made his debut in 1960, also with the Giants (by now in San Francisco). With Marichal, Alou and his two brothers Mateo and Jesús, and Puerto Ricans Cepeda and Pagán, the Giants of the early 1960s were a team that, like the 1945 Senators, was loaded with Latins.




48




Other teams, mostly in the National League, followed suit. The Pirates – with Panamanian catcher Manny Sanguillén, Dominicans Manny Mota and Manny Jiménez, Puerto Rican José Pagán, and Mateo Alou – became another heavily Latin team, led by the incomparable Clemente.

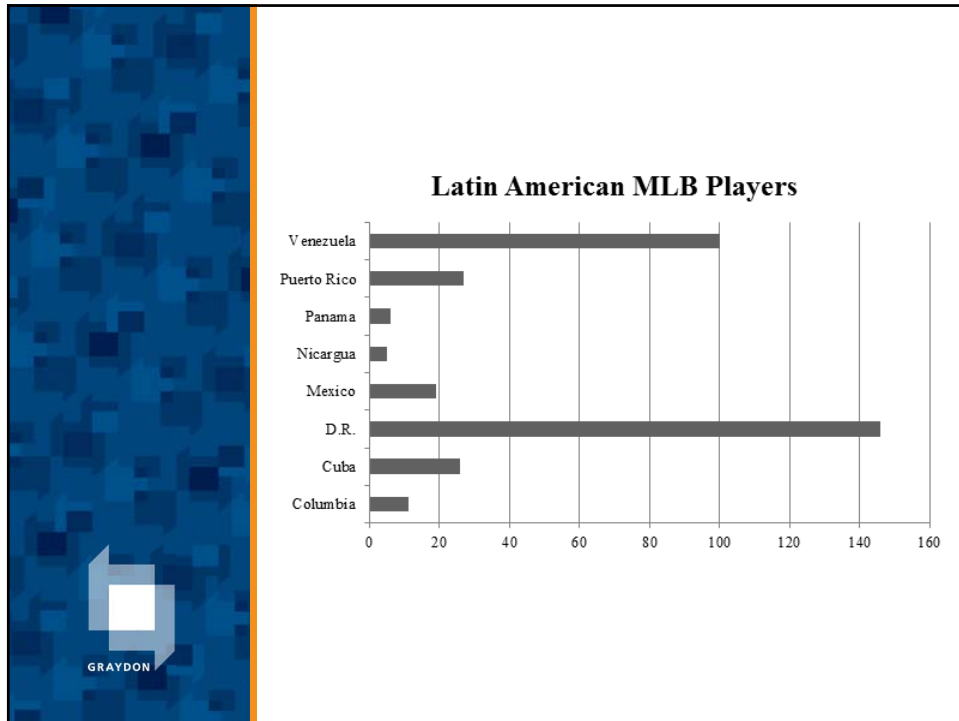
49



Rico Carty, a slugging outfielder with the Braves, became the first Dominican power hitter in the majors. By the 1970s Dominicans were nearly as numerous in the majors as Puerto Ricans, and Cubans had dwindled to a very few because Cuba remained closed.



50



51



52

TAB D



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Maria T. Schneider is a Partner Attorney with Musillo Unkenholt (MU). Maria's practice includes both business and family-based immigration. Maria is a member of the American Immigration Lawyers Association and the Cincinnati Bar Association (CBA). She founded and is now the vice-chair of the CBA's Immigration Law Practice Group and co-chair of Voice, a women lawyer's mentoring group at the CBA. Maria is also an adjunct professor at the University of Cincinnati College of Law where she teaches immigration law.

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America's Pastime meets America's Immigration System:

Immigration Law and Major League Baseball

Maria T. Schneider
Musillo Unkenholt

1

Immigration Terms

- US Citizens
- Legal Permanent Residents a/k/a "Green Card Holders"
- Non-Immigrant Visas
- Undocumented
or Overstay



2

MLB Players

According to National Foundation for American Policy (NFAP):

- 234/877 players foreign-born players*
 - 750 active 25-man rosters
 - 127 disabled, suspended, restricted, or on leave

- Countries include:
 - Dominican Republic – 84
 - Venezuela – 74
 - Cuba – 17
 - Mexico – 11
 - Japan - 8



*Cited in www.Forbes.com article, "27% of Major League Baseball Players Are Foreign-Born", by Stuart Anderson.

3

O-1 Visas for Athletes

- O-1 visas are granted to individuals who have demonstrated "extraordinary ability in the sciences, arts, education, business or athletics"
 - Difficult to obtain because must show individual has demonstrated extraordinary ability
 - Usually issued for one to three years, can be extended.



4

P-1 Visas for Athletes



- P-1 visas are issued to athletes who do not meet the rigorous standards of an O-1 athlete, but are still coming to the U.S. to participate in an event that is “distinguished and requires the participation of athletic teams of international recognition”
 - P-1 visas may be issued to those
 - coming to participate in an individual event
 - join an established U.S. team, or
 - to a foreign team that is internationally recognized in the sport.
 - Valid for as long as is needed for the athlete to complete the event or competition, up to one year. Renewable for individuals for up to five years and for teams in increments of one year.

5

Supporting Documentation Required for O-1 and P-1 Visas Petitions

- Petitions for O-1 and P-1 visas can be filed by either the sponsoring employer or an agent for the athlete. The applicant must provide:
 - A written consultation from a peer group, such as a labor organization, or an expert in the beneficiary’s area of ability;
 - A contract between the petitioning party and the beneficiary;
 - Itinerary of events and activities the athlete will participate in, including dates and an explanation of the nature of each event; and
 - Evidence of the athlete’s ability in the sport.



6

U.S. and Cuban Relations in Baseball



- Traditional Route for Cuban Players to Join MLB:
 - Defect from Cuba to a third-party country and establish residency there,
 - Become an international free agent with the MLB,
 - Join a MLB team and obtain an O-1 or P-1 visa through the team while in the country to which they defected.
- This traditional route was often dangerous for the players.
- Defecting meant that the player would be banned from playing in Cuba in the future, and that the player would have to wait eight years before they would be allowed to return to Cuba to see family and friends.

7

U.S. and Cuban Relations in Baseball



• 2018 MLB/Cuban Baseball Federation Agreement

- Will allow professional baseball players in Cuba to sign with MLB teams without leaving Cuba or defecting.
 - Similar to existing agreements with the Nippon Professional Baseball Organization, Korean Baseball Organization, and Chinese Professional Baseball League.
- All Cuban players who are at least 25 years old and have played in the Cuban professional league for at least 6 years will be eligible to be released by the Cuban Baseball Federation which will allow them to sign as “Foreign Professionals” under MLB rules
 - Younger players may also be released and sign under MLB Amateur rules.
 - The agreement requires the MLB team to pay a “release fee” to the Cuban Baseball Federation, which has prompted the Trump administration to criticize the deal.
- Cuban players will still have to obtain an O-1 or P-1 visa in a third country, but this is because the US Embassy in Cuba is not scheduling visa interviews.



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