



## IS THE NCAA GUILTY OF PRACTICING *SELECTIVE ENFORCEMENT*? AN ANALYSIS OF DIVISION I MEN'S BASKETBALL RANKINGS, INVESTIGATIONS, INFRACTIONS, AND PENALTIES

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### INTRODUCTION

Selective enforcement has been defined as targeting certain institutions for investigations while turning a blind eye to others who are violation of National Collegiate Athletic Association (NCAA) rules and regulations (Byers, 1995). Critics (Funk, 1991; Gerdy, 1997; Zimbalist, 1999) have purported that the NCAA is guilty of selective enforcement by allowing the most successful programs to get away with breaking the rules. Wetzel (1999) found that institutions such as Louisville, Michigan State, Syracuse, Texas-El Paso, Clemson, and the University of Nevada-Las Vegas all had serious allegations of NCAA violations brought against them by the Committee on Infractions. Louisville, in the midst of serving its first season of probation for NCAA violations, was awarded a “partial reprieve when its post-season ban was suddenly lifted, clearing the way for the team to go to the NCAA tournament” (p. 80). Researchers (Davis, 1999; Goff, 2000) have reported that, in relation to rank, differences do exist in the NCAA's enforcement tendencies. While both agree that equity does not exist in NCAA enforcement, critics' claim that the NCAA protects the most successful programs (oftentimes hypothesized because of their revenue generating capabilities) and picks on the least successful programs. The NCAA, however, states that it is committed to fairness and as a governing organization it acts in an equitable fashion in relation to all of its members (NCAA, 2003, Bylaw 19.01.1).

In order to determine whether there is evidence to support the claim of selective enforcement, this ten-year study (1990-1999) analyzed whether or not differences existed between the ‘most successful’ and ‘least successful’ NCAA Division I men's basketball programs in relation to the number of major violation investigations, the infraction rate, the penalty rate, and the severity rate.

### REVIEW OF LITERATURE

#### THE EVOLUTION OF THE NCAA

Founded in 1910, the NCAA was originally created to curb the violence in football; however, over the years the NCAA expanded its role to the point of dominance over all of intercollegiate athletics (Lapchick & Slaughter, 1994). In its first constitution, the association stated: “Its object shall be the regulation and supervision of college athletics through the United States, in order that the athletic activities...may be maintained on an ethical plane in keeping with the dignity and high purpose of education” (Falla, 1981, p. 21).

By 1912, intercollegiate athletics had become too important to remain a student-run enterprise; a more appropriate level of institutional oversight was necessary (Smith, 2000). From 1911-1918 the NCAA branched out into numerous committees with each

committee representing a different sport; this structure threatened the NCAA's organizational integrity (Sack & Staurowsky, 1998).

In the early 1950's, Walter Byers became the Executive Director of the NCAA and had a profound impact on strengthening its enforcement division (Sack & Staurowsky, 1998). As the scope of NCAA enforcement increased so did member school's violations. "From 1952 to 1985, the NCAA put more than 150 schools on probation for illegal recruiting, payments to athletes, or illegal benefits" (Lapchick & Slaughter, 1994, p. 11). Even though the NCAA had expanded its enforcement capacity in response to the commercialization and marketability of college football and men's basketball, critics alleged that the NCAA enforcement practices were unfair (Smith, 2000). In response to these criticisms, in 1973, the NCAA established the Committee on Infractions – a committee designed to divide the prosecutorial and investigative roles into separate groups (Byers, 1995).

A primary problem with the Committee on Infraction's ability to enforce its rules on member institutions was its inability to punish coaches for wrongdoings. While it was clear that coaches were giving monetary payments to prospective athletes, the Committee could only sanction the institution itself, leaving the coach free to move on to another college, thereby avoiding the sanctions altogether (Lapchick & Slaughter, 1994).

As a governing organization, NCAA rules and regulations have grown substantially in both number and scope over time. As a result of such growth, it has transformed itself from a legislative organization, into an organization that not only creates rules but also administers and resolves disputes in relation to those rules (Porto, 1985). "Critics have charged that flaws exist in the NCAA enforcement process" (Goplerud, 1991, p. 544). Stringency in measures of control imposed by the NCAA has led institutional members, individual athletes, and others to initiate lawsuits against the Association, challenging its rules and authority (Porto, 1985).

#### **NCAA ENFORCEMENT**

The mission statement of the NCAA enforcement program is "to eliminate violations of NCAA rules and impose appropriate penalties should violations occur" (NCAA, 2003, Bylaw 19.01.1, p. 333). The enforcement staff investigates a member institution's athletics program if there is reasonable cause to believe that an institution's program may be in violation of NCAA rules (NCAA, 2003, Bylaw 32.2.1). If the enforcement staff has adequate information concerning the possibility of a major violation occurring at a member institution's program a letter of official inquiry, containing specific allegations against an institution is sent to the institution's C.E.O. (NCAA, 2003, Bylaw 32.5.1). Once the institution has responded to all allegations, a hearing date is established with the Committee on Infractions (NCAA, 2003, Bylaw 32.8.5).

The Committee on Infractions has the sole authority to make findings and impose appropriate penalties; whereas, the enforcement staff actually does the investigating (NCAA, 2003, Bylaw 19.1.3). The Committee on Infractions makes decisions based on the findings of the NCAA enforcement staff (NCAA, 2003, Bylaw 19.1). Goplerud (1991) noted that, "on a broad scale, the relationship between the enforcement staff and the

Committee on Infractions may be too close to ensure fairness in the enforcement process” (p. 550).

The Committee on Infractions receives complaints, determines facts, finds violations, and imposes penalties (NCAA, 2003, Bylaw 19.1.3). According to Robert Minnix, former NCAA enforcement investigator and current Associate Athletic Director at Florida State University, “The Committee does not have many hard and fast rules, but rather each institution’s case is reviewed individually based on past precedents” (personal communication, November 3, 1999). As a result of the NCAA’s inconsistency in its rulings, it is difficult to assess whether or not the NCAA acts equitably in its enforcement of the rules (Brody, 1982).

### **MAJOR VIOLATIONS**

The types of violations are two-fold; secondary and major. Penalties for secondary violations range from forfeiture of contests, fines, public reprimand, reduction in the number of financial aid packages awarded, and the suspension of the head coach or other staff members or competitions (NCAA, 2003, Bylaw 19.5.1). A major violation may bring a minimum penalty of: two years’ probation, one-year ban on television appearances, and postseason play, one-year prohibition on recruiting and a one-year suspension without pay for involved coaches and staff (NCAA, 2003, Bylaw 19.5.2). Violations (termed, infractions) include, but are not limited to: unethical conduct, lack of institutional control, improper recruiting, extra benefits, and academic fraud (NCAA, 2003, Bylaw 19).

### **THE FINANCIAL FACTOR**

Currently, the NCAA is in the midst of an 11-year, six billion dollar television contract with Central Broadcasting System (CBS) for exclusive rights to air the NCAA Division I Men’s Basketball Tournament (Hiestand, 1999). The NCAA’s multi-billion dollar contract with CBS is proof that college sports are an “entertainment Goliath” (Gerdy, 1997, p. 51). The most notable revenue source for member institutions is postseason competition which produces millions of dollars in television contracts, concessions, and ticket sales (Ponticello, 1991). “If a university’s athletic program is prevented from participating in championship events because of a sanction imposed by the NCAA...the school stands to lose considerable money and exposure” (Goplerud, 1991, p. 543).

### **THE PRESSURE TO WIN**

With millions of dollars to be had by institutions, the rewards for winning have multiplied and so have breaking the rules (Byers, 1995). Coaches are under pressure from the administration and alumni to produce victories. This pressure, along with the monetary rewards available for successful Division I coaches, are motivation enough to cause some to use any means necessary to recruit the skilled athlete (Funk, 1991). In 1984, Byers (1995) estimated, “as many as 30% of major sports schools were cheating—15% simply to win, the other 15% because they felt they must fight fire with fire” (p. 11).

### **INSTITUTIONS FOUND GUILTY**

A report showing institutions placed on NCAA probation between July 18, 1997 and October 2, 1998, provides support for the proposition that the problems of college athletics are not restricted to big-time sports and programs. At least 50% of the

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sanctioned schools listed do not run what would be considered big-time intercollegiate athletic programs (Davis, 1999). In addition, the nature of the violations for which these schools were sanctioned was widely distributed among both revenue and non-revenue producing sports. Furthermore, in a recent study Goff (2000) found that “negative exposure due to NCAA sanctions may offset the gains made by past athletic success, but the evidence to date does not show that such negative exposure does more than negate the positive influence of past success” (p. 101).

Using data from 35 Division I-A institutions researchers found that the net income and total revenues of, “athletic programs that [got caught] violating NCAA rules during the 1980’s are consistently higher than the programs that have not violated the rules” (Baumer & Padilla, 1994, p. 133). In a study of 85 big-time schools from 1953-1983, researchers found that the likelihood of being investigated correlated positively with the variability of a school’s performance (Fleisher, Goff, & Tollison, 1992).

**METHODOLOGY****SAMPLE**

The sample ( $n=80$ ) consisted of NCAA men’s basketball programs (40 most successful and 40 least successful) from the 20 (ten most successful and ten least successful) conferences who were charged with a major violation from 1990-1999. Programs were selected on the basis of their overall conference ranking and their individual ranking determined by the Sagarin Ratings.

**INSTRUMENTATION****SAGARIN RATINGS**

The Sagarin Ratings provide power and player ratings for numerous professional and collegiate sports. Sagarin ratings use difficulty of schedule and win-loss results to establish the rankings (Sagarin, 2000). Sagarin’s college basketball rankings have proven their value to the NCAA (Sagarin, 1995).

Ratings, Win-loss records, and schedule strengths are based solely on games between Division I teams. The schedule ratings represent the average schedule difficulty faced by each team in the games that it has played so far. The schedule difficulty of a given game takes into account the rating of the opponent and the location of the game (Sagarin, 2000).

For the first few weeks of the season, the starting ratings have weight in the process ‘Bayesian,’ but once the teams are all connected, then the starting ratings are no longer used and all teams are started equal and the ratings are then done in an unbiased manner from that point on. (Sagarin, 2000, p. 1)

The Sagarin Ratings were utilized by taking the season end rating for each program and recording it on a spreadsheet for the designated ten-year period. The average rating was computed by dividing the ten-year total by ten to obtain the overall average. The Sagarin Ratings was determined to be valid and reliable by performing a Levene’s Test for Equality of Variances.

### NCAA INFRACTION REPORTS

NCAA Infraction Reports are official written reports filed by the Committee on Infractions regarding the specifics of each case. Two main identifiers were examined. First, the nature of the infraction. Infractions were divided into four categories: 1. improper recruiting; 2. extra benefits; 3. unethical conduct; and 4. lack of institutional control. The second identifier was the penalties imposed by the NCAA. The following 17 penalties were examined: death penalty, firing the head coach, letter of reprimand, required compliance seminar, compliance review, rules education program, number of years probation, reductions of permissible visits, monitor recruiting, repeat violator provisions, public reprimand and censure, prohibition from postseason competition, reduction in financial aid, forfeiture of contests, show-cause requirement, recertification of policies and practices, and prohibition from televising games.

### EXPERT PENALTY PANEL RANKINGS

A group of experts were selected to determine the severity of NCAA penalties. The panel was composed of eight experts in the field of NCAA enforcement. Each expert ranked the NCAA penalties and the level of severity of each penalty. In ranking the level of severity, panel members rated each of the 17 penalties by using a 5-point numerical rating scale which ranged from 5-most severe, 3-moderately severe, to 1-least severe (Ary, Jacobs, and Razavieh, 1996). The ratings were totaled and averaged in order to determine the level of severity of each penalty; the range was also reported. The researcher confirmed the validity and reliability of the panel's assessments by performing a Cronbach's Alpha test.

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### RESEARCH DESIGN

For this descriptive study, the researcher utilized the Equality of Means and Independent-Samples *t*-Test ( $p < .05$ ). The researcher tested the null hypothesis regarding whether differences would be found between the most successful and the least successful Division I men's basketball programs in relation to the following: 1. number of investigations; 2. the infraction rate; 3. the penalty rate; and, 4. the severity rate. The following research questions were assessed: 1. Is there a difference in the number of times most successful programs versus least successful programs have been investigated by the NCAA? 2. Is there a difference in the infraction rate between the most successful programs and the least successful programs? 3. Is there a difference in the penalty rate between the most successful programs and the least successful programs? 4. Of the programs that the NCAA imposed penalties on, is there a difference in the severity rate between the most successful and the least successful?

### DATA COLLECTION

Data collection transpired in three stages. The first stage consisted of distributing the NCAA Penalty Rank questionnaire to the panel of experts. Stage two included gathering necessary rankings from the Sagarin Ratings. The final stage consisted of collecting the official NCAA reports.

## DATA ANALYSIS

Mean and standard deviation scores were calculated for the expert panel ranking questionnaire and Sagarin Ratings. A *t*-test was used to test the differences between the most successful and least successful programs in relation to the number of investigations, infractions, penalties, and severity of penalties.

## RESULTS

### SARARIN RATINGS

The Levene's Test of Equality of Variances for the Sagarin Ratings instruments yielded low probabilities of error in relation to the four variables tested; number of investigations ( $F = 19.99$ ,  $\text{Sig.} = .000$ ), the infraction rate ( $F = 6.816$ ,  $\text{Sig.} = .011$ ), the penalty rate ( $F = 9.526$ ,  $\text{Sig.} = .003$ ), and the severity rate ( $F = 6.399$ ,  $\text{Sig.} = .013$ ).

### EXPERT PENALTY PANEL RANKINGS

The severities of the NCAA's penalties were ranked based on the expert's responses by computing the total scores for each penalty and dividing each by eight. A Cronbach's Alpha was performed to test the inter-rater reliability of the expert panel's responses (.836).

### NCAA INFRACTION REPORTS

The number of major violation investigations by the NCAA from 1990-1999, regardless of sport, was 125 (12.5/year); sixty-three (50.4%) involved men's basketball programs (nearly 2 investigations/year). The number of investigations into most successful programs was 20 (31.7%); whereas, just 8 (12.7%) implicated least successful programs.

### RESEARCH QUESTIONS

The Equality of Means and Independent-Samples *t*-Test yielded significant differences amongst the four variables tested. The following are the results for each research question examined:

1. Is there a difference in the number of times most successful programs and least successful programs have been investigated by the NCAA?  
Yes, ( $t = 2.76$ ,  $p = .007$ ). Most successful  $M = .50$ ; least successful  $M = .20$ .
2. Is there a difference in the infraction rate between the most successful programs and the least successful programs?  
Yes, ( $t = 2.21$ ,  $p = .030$ ). Most successful  $M = 1.51$ ; least successful  $M = .70$ .
3. Is there a difference in the penalty rate between the most successful programs and the least successful programs?  
Yes, ( $t = 2.52$ ,  $p = .014$ ). Most successful  $M = 1.01$ ; least successful  $M = .40$ .



4. Of the programs that the NCAA imposed penalties on, is there a difference in the severity rate between the most successful and the least successful?

Yes, ( $t = 2.19$ ,  $p = .031$ ). Most successful  $M = 1.23$ ; least successful  $M = .60$ .

#### DISCUSSION

Scholars (Gerdy, 1997; Goplerud, 1991; James, 1993; Ponticello, 1991; Raab, 1993) agree that justice and fairness in the governing process is not only important, but necessary, in running the most powerful governing body in intercollegiate athletics. Others (Byers, 1995; Funk, 1991; Zimbalist, 1999) have questioned the NCAA's system of justice; suggesting that the NCAA has strayed from its commitment to fairness (NCAA, 2003, Bylaw 19.01.1).

It is important to note that the most successful and least successful programs accounted for less than half (44.4%) of the total number of investigations in men's basketball during the ten year time period. Fifty-five percent of investigations implicated programs who were not categorized as most or least successful; the majority of investigations were found amongst the programs ranked in the middle.

Granted, it is not possible to ascertain which programs are committing the greatest number of major violations, rather only those who are caught. Further, it must be assumed that the NCAA enforcement staff is probing for major violations in men's basketball programs at the same rate, regardless of rank. Since, the enforcement staff investigates a program only if there is reasonable cause to believe that the program may be in violation of NCAA rules (NCAA, 2003, Bylaw 32.2.1) it is, at best, doubtful that each program is being examined equally across the board. Therefore, in order to properly consider the question—Is the NCAA guilty of practicing selective enforcement?—one would have to assume each program is committing major violations at the same rate. It is only under this assumption then, that the results of this study would support the assertion that the NCAA has not acted equitably in the enforcement of its rules. However, the inequity uncovered in this study does not support the critics (Byers, 1995; Funk, 1991; James, 1993; Zimbalist, 1999) notions of selective enforcement either (i.e. the most successful programs are protected and the least successful programs are sought out). Rather, these findings show that the number of investigations, the infraction rate, the penalty rate, and the severity rate is higher amongst the most successful programs. Within the time frame of this study, the most successful programs were investigated more often (2.5:1), charged with a greater number of infractions (2:1), and received, not only more penalties (2.5:1), but a greater severity of penalties (2:1) than the least successful programs.

In analyzing the results of this study, it is important to note that the NCAA enforcement staff investigates a program only if there is reasonable cause to believe that the program may be in violation of NCAA rules (Bylaw 32.2.1). Accordingly, these findings do not necessarily substantiate that the NCAA is guilty of practicing selective enforcement. Rather, there may be a number of other variables at work that would explain why the investigation, infraction, penalty and severity of penalties were greater amongst the most successful programs. Possible considerations are: (1) Data regarding programs who commit major violations and do not get caught are not available; therefore, one might

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conclude that all programs regardless of rank are committing an equal number of major violations, however only the basketball programs with a Sagarin ranking toward number one are being caught. (2) Programs with a top Sagarin ranking assume a high level of national visibility and media attention and therefore are more closely scrutinized. (3) It takes the best players to attain a top Sagarin ranking. In order to acquire such talent, programs commit major violations of NCAA rules. (4) Anonymous "tips" received by the NCAA regarding a potential major violation by a program may be reported by rival fans or coaches.

Future researchers should seek to uncover additional variables that may have an effect on explaining why the most successful Division I men's basketball programs are investigated more often, charged with a greater number of infractions, and receive not only more penalties, but a greater severity of penalties than the least successful programs.

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