

# **Good Start, The Bad, and Much Better: Three NCAA Intercollegiate Athletic Department Policy Responses to Criminal Behavior by College Athletes**

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## **INTRODUCTION**

For many college sports fans today, following college athletics often seems to involve reading a sports page “police blotter” listing of crimes committed by college athletes, rather than checking out the day’s box scores. Many critics of college athletics derisively describe college coaches as parole officers who spend more time “bailing out” players instead of diagramming plays. Faced with such public perceptions, intercollegiate athletic administrators are challenged to investigate possible causes of criminal behavior by their athletes, practice crisis management in response to such incidents, and attempt to formulate policies, plans, and programs that formally outline departmental responses to such issues.

Research into the process of policy study and development in intercollegiate athletic departments is relevant to sport management professionals, as well as intercollegiate athletic administrators (Chalip, 1990). With this in mind, this article (a) briefly examines the issue of criminal behavior by today’s college athletes, (b) discusses the policy process, and (c) presents the results of a content analysis of policy responses from three Division I-A National Collegiate Athletic Association (NCAA) athletic departments that have faced the issue.

## **THE ISSUE: CRIMINAL BEHAVIOR BY COLLEGE ATHLETES**

Is criminal behavior by college athletes an issue today? Conducting an Internet search on “google.com” using the terms “college athletes and crime” generates between 40-50,000 “hits” (July 1, 2001). While not all of the listings will deal specifically with criminal behavior by college athletes, a significant number will present either factual accounts of such incidents or someone’s posting about the issue. On any given day, the sports section of a daily newspaper and local and national sports newscasts chronicle a growing list of players charged with various counts of murder, manslaughter, rape, and driving under the influence, as a result

of shootings, fights, assaults and car accidents in which people are killed, injured or battered (Lockwood, 1998). Athletes at Division I, II, and even III colleges and universities have been charged and convicted of various offenses resulting from altercations and fights outside local bars (Go, K. & Meisler, N., 1998). The male college athlete, especially in revenue-producing sports, seems to be out of control. While criminal behavior by college football and basketball players may not occur statistically more frequently than for other male college students, or society in general (Benedict, 1998), the public often thinks that these players are criminals. Whether or not a causal relationship exists between athletic participation and criminal behavior, somewhere in the United States an athletic director must deal with a player's criminal behavior once every two days (Wieberg, 1998).

Reports and discussions of lawless behavior by college athletes have occurred since the inception of college sport (Kirshenbaum, 1989). However, as scholarly studies and more recent media attention surrounding college athletes' criminal behavior suggest, this issue is perceived as a significant problem in sport (Benedict, & Klein, 1997; Benedict, 1998; Farrey, 1998; Wieberg, 1998). ESPN and Fox SportsNet criminal-behavior documentaries air frequently. In the public's mind, college football seems to lead the way in the criminal-activity derby. In a 1997 ESPN online survey, 83% of the persons responding thought college athletes were committing more crimes than 25 years earlier (Farrey, 1998).

As a result of increased media attention, several intercollegiate athletic departments have been forced to respond by developing policies and procedures that address the problem. In a survey of 110 Division I-A athletic departments, Wieberg (1998) reported that of 82 respondents, only 30 intercollegiate athletic departments had separate, formal, written policies regarding the criminal behavior of athletes. Of these 30 athletic departments that had written policies, 13 had "strong & specific" policies (p. 18C).

The Wieberg study points out that Northwestern University removes its athletic department from having any say in off-the-field cases involving criminal behavior by an athlete. The Vice President for Student Affairs deals with all such cases. Not surprisingly, universities having a history of criminal behavior by their athletes, such as the University of Oklahoma, Fresno State University and Virginia Tech were found to have formal and specific policies. An additional 17 departments had "separate, formal (but not specific) policies." Five universities were in the process of considering and/or developing separate athletic department policies regarding this issue. Of the remaining 47 departments that

responded to the survey, several (including Boston College, Purdue University and the University of Iowa) were identified as having informal, but not written, policies. The University of Central Florida reportedly suspends athletes for a violent crime conviction. Marshall University stated that its policy was to automatically suspend an athlete charged with a felony.

Many athletic directors at universities that did not have separate written policies felt that athletes should not be treated any differently than other students. These administrators felt that since all students, including athletes, are bound by university student codes of conduct, separate, formal, written policies for athletes were unnecessary and inappropriate for athletes. At least one athletic director did not want to be "painted into a corner" by a formal, written policy, since each student-athlete's situation is unique (S. Wieberg, personal communication, April 22, 1999).

### POLICY PROCESSES

There have been numerous discussions of the term policy and the policy process. As Thoma and Chalip (1996) note, most definitions of policy refer to choices that decision makers within organizations make about the organization's future. Policies have internal and external consequences or implications (VanderZwaag, 1998). Howlett and Ramesh (1995) recognize the impossibility of separating goals and means, or values and techniques, when studying actions resulting from societal or organizational choices. Anything an organization chooses to do or not to do is a policy decision. Developing a policy involves making a choice to undertake a course of action regarding an issue.

For the policy process to begin, an event or a series of focusing events must frame the issue (Chalip, 1995a). The issue must be seen to be in conflict with the organization's existing paradigm(s). If the issue is not viewed as a threat to the organization, there may be little or no organizational pressure for initiating the policy process.

Initially, a policy reflects a choice to treat the issue as a problem that may affect the organization in the future (a proactive policy process approach), or a problem already affecting the organization (a reactive policy process approach). Chalip (1995b) sees this issue transformation occurring within, and constrained by, the organization's legitimations (defined as a set of existing social relations/beliefs that serve to constrain the behaviors/choices).

The legitimation parameters define the framework within which the organization will address the problem (Chalip, 1995b). Any individual

policy statement involves focusing an organization's paradigm onto a specified social problem. A policy is an organization's solution to a specific problem (Starling, 1979). The policy may be drafted as a set of goals reflecting how the organization intends to resolve the conflict between the problem and its core values (Starling). In order to understand an athletic department's policy statements, its core values, as expressed in its mission statement, should be analyzed (*Id.*).

As discussed earlier, issue identification and problem framing are the initial steps in the policy process. Organizations often have a mission statement that expresses the organization's overall mission and goals. However, in order to move beyond simply having a mission statement, organizations must undertake what Starling (1979) referred to as a course of action – including developing a policy statement, outlining a plan and articulating a program. Each transition in this process, while not necessarily a linear progression, narrows the organization's problem focus.

## METHODOLOGY

The methodology chosen for this study was content analysis. The first step in planning a content analysis is to establish a specific objective to be achieved or hypotheses to be tested (Patton, 1990). The objective of this content analysis, using the policy frameworks discussed earlier, was to evaluate the policies of intercollegiate athletic departments regarding criminal behavior by athletes for coherence and internal consistency.

The policies were critically examined to determine “. . . what [was] portrayed and symbolized . . . and what [was] absent or silenced” (Rossman & Rallis, 1998, p. 146). In examining the documents, various levels of analysis were established. These levels ranged from individual words, to paragraphs, to overall concepts - words grouped in concept clusters – contained in the documents (Strauss & Corbin, 1990).

To accomplish this assessment, the documents' manifest content structures were investigated. In order to study the manifest content structures, the content analysis used a qualitative methodology. Manifest content is the surface structures present in the data (Rossman & Rallis, 1998). In the documents, the various goals, rules, policies and guidelines, and organizational parameters discussed, constituted the manifest structure.

A final technique, allowing for themes to emerge from the documents, involved reading the documents in a critical, yet creative manner. This allowed analysis of the authors' use of manuscript and printing techniques. The use of inset boxes, bold lettering, bullets, numbering, italics,

font, and print size variations was taken into account. Since the documents varied in their format (internal, departmental document; publicly-disseminated hard-copy document; and internet-based handbook) and contained a variety of text and photo layouts, this allowed investigation of the subtle use of modern desktop publishing techniques.

## RESULTS

Few athletic departments have any specific statements or documents that outline measurable behavioral expectations of their athletes (Wieberg, 1998). However, some universities have attempted to deal with the issue of criminal behavior by athletes by developing written policies.

The content analysis results reported in this article were drawn from research of 35 NCAA Division I-A athletic department handbooks and assorted documents (Southall, 2000; Southall 2001). The three athletic department policy responses reported here were selected because of the notoriety of the programs and the varied quality of policy responses by the athletic departments.

The documents of California State University – Fresno (Fresno State), the University of Nebraska, and Virginia Polytechnic Institute and State University (Virginia Tech), illustrate varying degrees of success in dealing with this issue by intercollegiate athletic departments. Fresno State's *Code of Conduct* (California State University, 1999) typifies a well meaning but incomplete attempt by an organization to tackle an issue. Nebraska's *Student-Athlete Handbook* (The University of Nebraska, 2000) is an excellent example of how the language of an official document can sabotage the "official" position of an athletic department by sending mixed messages. Lastly, Virginia Tech's *Comprehensive Action Plan* (Braine, 1997) is an example of a document that reflects a policy process that, in the opinion of the author, should be emulated by intercollegiate athletic department administrators. With apologies to Clint Eastwood fans, these documents could be labeled: *The Good Start*, *The Bad*, and *The Much Better*.

### The Good Start: California State University-Fresno

After a series of well-publicized incidents involving its men's basketball program, Fresno State formulated a comprehensive athletes' Code of Conduct. The athletic department developed and publicized the Code of Conduct as a reaction to the negative publicity generated. According to Irene Harris, Fresno State's Assistant Athletic Director, immediately following the development and implementation of the actual program

that underpins the Code of Conduct, both the number and severity of incidents decreased dramatically (personal communication, April 26, 1999).

The Code of Conduct contains a statement of philosophy and describes as one of the primary responsibilities of the university the obligation to educate athletes to be responsible citizens. Similar to many other athletic department codes, the initial paragraph of Fresno State's *Code of Conduct* contains language explicitly outlining the elevated stature of athletes on the Fresno State campus:

Because of America's fascination with sports, and those who play, a unique platform exists to be a role model, mentor, and spokesperson. . . . However, this platform brings with it a set of privileges and responsibilities. Personal deportment of student-athletes, both on and off campus, becomes public knowledge (California State University, 1999).

The department takes as its primary assumption that all Fresno State athletes are aware of, and have knowledge and understanding of "right and wrong." A central term of the document is "Character." Character is defined as ". . . knowing what is right (awareness), committing to what is right (attitude) and doing what is right (behavior)" (p. 1).

After its initial philosophical section, the rest of Fresno's Code of Conduct contains sections outlining athletes' responsibilities in the areas of citizenship, academics, athletics, health and medical care, and NCAA compliance. The items in the sections covering citizen, academic, or athletic responsibilities amplify the statement of philosophy in the document's initial paragraph. Each item is an example of a policy statement as defined by Parsons (1995). However, none of the items represent the accomplishment of a plan to address the issue. That is, none of the items outline a series of measurable objectives designed to attain the goals set forth in the policy statements (Starling, 1979). This is a major failing of the document and points out the difficult process of a department fully responding to an issue. Unless all members of the athletic department, athletes and coaches, share the same ethical system, the Code of Conduct will have no relevance to them in dealing with specific examples of criminal behavior.

The next section of the Code of Conduct does move beyond policy statements and highlights Fresno State's attempts at implementation – actually doing something about criminal behavior by athletes. The section entitled "Procedures for Dealing with Criminal Violations of Local, State and Federal Laws" reads like a sports rulebook. Interestingly, the document skips the planning stage of policy development and goes di-

rectly to a programmatic delineation of sanctions for being charged with and/or convicted of misdemeanors or felonies.

Procedures for the head coaches' handling of violations of the Code of Conduct by are specifically discussed:

The Head Coach, subject to review and approval of the Director of Athletics, may bar a student athlete from participating in team activities for a prescribed period of time for violations of the Student-Athlete Code of Conduct. The sanction shall be imposed as soon as the head Coach notifies the student-athlete of the violation, gives the student-athlete a chance to explain what happened, and determines that a sanction is justified after consideration of the student-athlete's statement. The level of progressive discipline is at the discretion of the head coach (California State University, 1999, p. 5).

Due process protections for athletes are briefly discussed in the Code of Conduct. Progressive levels of review of programmatic decisions on the part of a head coach, the athletic director, sports supervisor and NCAA compliance coordinator are also outlined. Any permanent dismissal from an athletic team is to be promptly reviewed by the athletic director. Athletes are directed to the Student-Athlete Handbook for a more complete discussion of the process by which such disciplinary procedures will be administered (California State University).

### The Bad: The University of Nebraska

The criminal behavior of some University of Nebraska athletes has been widely chronicled. In response to the negative publicity of such athletes as Christian Peter and Lawrence Phillips, the University of Nebraska athletic department developed a handbook for its athletes. (The University of Nebraska, 2000) This handbook deals with specific behaviors and offers advice and counsel for Nebraska athletes.

By 1999, Nebraska's athletic department seemed to have addressed criminal behavior by its athletes. Apparently, strong and specific plans and programs had been implemented. However, in analyzing the handbook, it became obvious that there were inconsistencies in the messages and in the policies themselves. A stark example of this inconsistency was found in the first paragraph, addressed specifically to Nebraska athletes:

You are a representative of your team, of the Athletics Department, and of the University of Nebraska. Your position is enviable in that you receive a great deal of interest and attention from the public and the media. That also means that you have a responsibility to make your *representation* positive. Familiarize yourself with the code of conduct, and conduct yourself in a man-

ner that will make you proud (The University of Nebraska, pg.1) (emphasis added).

Athletes utilizing the low-level morality system discussed by Bredemeier, Shields, and Horn (1985) could easily interpret this paragraph as instructing them to represent themselves in a positive manner to the general public, even if their core beliefs are not in alignment with such actions. The connotation is that they are celebrities "your position is enviable" who must have a wholesome public persona, even if such a persona does not match their private personality. The underlying message may, in fact, be "Don't get caught!"

The paragraph dealing with rape appeared to not so subtly place blame on the potential victim:

Be careful, especially if you have been drinking, (sic) that you do not misread signals. Trouble has often occurred when a woman has remained alone with several men after a drinking party. While some may feel that this shows poor judgment on the woman's part, it certainly does not justify rape (The University of Nebraska, 2000, pg.2).

What message was being conveyed in the first two sentences of this paragraph? Was drinking being tacitly endorsed? Was it assumed that women, contrary to what they might say, send men secret signals? Was the reference to one woman with several athletes at a drinking party a tacit endorsement of the validity of the *Jock-Groupie Dyad* as discussed in Benedict and Klein (1997) and utilized effectively by defense attorneys for athletes charged with sexual assault (Crosset, Benedict and McDonald, 1995). The handbook author may not have officially intended to endorse drinking and blame the woman who might be raped, but athletes may see this paragraph as containing a hidden message. This message reflects the process of objectification of groupies as deceivers who deserve the rape. In addition, an athlete, in rationalizing his behavior, may feel unfairly persecuted by individuals outside the athletic culture.

Overall, the University of Nebraska handbook reflected a cursory attempt to include something about criminal behavior in order to say, "Look, we have addressed the situation." The University of Nebraska Student-Athlete Handbook offers little evidence that the complete policy process has ever been attempted. In short, this handbook is a stark example of bad policy.



Much Better: Virginia Polytechnic Institute & State University  
(Virginia Tech)

Today, Virginia Tech is widely recognized as a leader in policy development regarding the problem of criminal behavior by college athletes. As Susan McClosky, assistant athletic director commented, “[u]nfortunately, we’ve gotten very good at this” (personal communication, April 23, 1999). Virginia Tech’s policy process, reflected in its Comprehensive Action Plan, overcame the calls for maintenance of the status quo and even the overt hostility of the football-crazy culture of the Virginia Tech campus and the Blacksburg, Virginia area. Forced to react to enormous media attention and the lawsuit brought against the university by Christy Brzonkala – a former Virginia Tech student, the university finally addressed the problem of criminal behavior by its athletes.

In 1994, Brzonkala accused two Virginia Tech football players of rape. She reported the rape to campus authorities and was told her charges would get a fair hearing within the University judicial system. As a result of testimony offered by his roommate during the hearing, the charges against one of the players, James Crawford, were dropped. The other player, Tony Morrison, was found guilty of sexual assault after admitting to having “non-consensual sex” with Ms. Brzonkala.

Morrison was suspended from school for a year, but was granted a new hearing after threatening to sue because the university had not yet published the policies under which he was punished. “The school deemed as having merit Morrison’s *ex post facto* challenge that he was [disadvantaged by being] charged under the Sexual Assault Policy, not yet included in the Student Handbook” (*Brzonkala v. Virginia Polytechnic & State Univ.*, 1996a, p. 774).

While the second hearing resulted in the same conclusion and the same punishment, the charge was reduced to “using abusive language” (*Brzonkala v. Virginia Polytechnic & State Univ.*, 1996b, p. 782). Appealing again, Morrison was granted another hearing through the university’s administrative system. (*United States v. Morrison*, 2000, p. 69). This third hearing resulted in Virginia tech’s senior vice president and provost setting aside Morrison’s suspension until after his graduation and ordering him to attend a one-hour education session (*Morrison*, 2000). Morrison left school before graduation (*Morrison*).

Ms. Brzonkala filed suit in U. S. District Court on May 7, 1996, against Morrison, Crawford and Virginia Tech, alleging a pattern of university disregard of criminal behavior by athletes. In her lawsuit, Brzonkala claimed violations of Title IX, as well as the Violence Against Women Act (VAWA). The district judge dismissed the Title IX claims

and ruled the VAWA unconstitutional. (*Brzonkala v. Virginia Polytechnic*, 1996a). In 1997, a divided panel of the Court of Appeals reversed the District Court and reinstated Brzonkala's Title IX hostile environment claim (*Brzonkala v. Virginia Polytechnic*, 1997). The entire 4th U.S. Circuit Court of Appeals eventually upheld the District Court's conclusion that Congress lacked constitutional authority to enact Title IX's civil remedy (*Brzonkala v. Virginia Polytechnic*, 1997 & 1999). Eventually in 2000, The Supreme Court, in a 5-4 decision, struck the VAWA down as an unconstitutional exercise of congressional power under the commerce clause (*United States v. Morrison*, 2000).

As a result of this and other incidents involving athletes, Virginia Tech, undertaking a lengthy process involving numerous meetings with students, faculty members, community members, athletic department representatives, and university administrators, developed a document entitled *Comprehensive Action Plan: Action Plan to Address Student-Athlete Behavior*. Throughout the document's various drafts, the athletic department's policy process can be seen. The final document reflected revisions and compromises, all part of the policy process. Each of the various sections of the plan (introduction, the recruiting process, encouraging appropriate behavior, sanctions, and conclusion) contained elements of the policy process as previously outlined in this paper: policy statement, plan, program, implementation, and evaluation. In the opinion of the author, Virginia Tech's Comprehensive Action Plan was a thoughtful policy process and should be a model for other athletic departments.

The introduction section had a fairly blunt recognition of the effect of criminal behavior by athletes on the university. "University officials, coaches, faculty, alumni, and players are embarrassed and upset by arrests of Virginia Tech student-athletes. . . It is utterly incompatible with the character of our university community and completely unacceptable" (Braine, 1997, p.3). In addition to including the Virginia Tech athletic department mission statement in the appendix of the plan, two departmental obligations were listed in the introduction:

The mission statement of the Virginia Tech Athletic Department. . . states, in part, that its mission is to (1) attract the most promising students to our campus and (2) to help instill teamwork, fair play, social development, and a sense of responsibility in those student-athletes under its charge (Braine, p.4).

The remainder of the document reflected attempts by the department to follow up general philosophical statements with specific plans and programs, and steps for implementing and evaluating progress.

The section on the recruiting process contained a discussion of the ideal recruiting process, but was followed up with specific recommendations that could be implemented and evaluated by an independent agency. Specific and measurable events, such as conducting orientation meetings and providing official university documents that express the values of the university to athletes and parents during recruiting trips, were outlined in the recommendation section. Additional measurable objectives listed were: (a) establishing a freshman course dealing with alcohol and drug awareness, study and life skills; (b) hiring a director to oversee such a program; (c) creating a mentor program that involves social, personal, and academic guidance for athletes; and (d) developing a mandatory program of evaluation and diagnostic assessment of academic skills of incoming freshmen and transfer students. These specific recommendations, many of which were not found in initial drafts of the document, highlighted the importance of the department and the entire university community continually reviewing the policy process.

The next section, detailing appropriate behavior, contained a philosophical statement and specific recommendations and feedback on the status of the recommendations since the initial draft of the report. This is a significant element of the document because it showed the department's intent that the plan be a dynamic document that would undergo continual revision.

While Virginia Tech's document contains guidelines similar to Fresno State's Code of Conduct regarding suspensions of athletes for being charged with an offense, it also contains provisions that outline the appeals process and provide documentation to that effect. This section also addresses the possible due process concerns readily apparent in Fresno State's Code of Conduct.

The final section of the *Comprehensive Action Plan* was a statement of basic expectations and rights and responsibilities of Virginia Tech student-athletes, as well as clear sanctions and due process guidelines for athletes. This section provided athletes, parents, coaches, and administrators with clear procedures that would be followed in dealing with inappropriate or criminal behavior by athletes. The department specifically aligned the procedures for appeals in its plan with the university's policies on appeals and the Virginia Tech Code of Student Conduct.

## CONCLUSIONS

These cases are presented as representative examples of the variety of responses by athletic departments forced to grapple with this complex

issue. Some of the responses are better than others. NCAA athletic department policy makers must care enough to exercise extreme caution in policy development to insure that language utilized in drafting policies, plans and programs is as precise as possible, while recognizing the complex nuances of such language. Every effort must be made to insure that the unofficial or culturally imbedded messages being sent are not undermining the official values and paradigms of the organization.

If an organization is reluctant to perform this linguistic analysis on its documents, this may be indicative of a systemic inconsistency and raise several questions. For instance, do all individuals within an organization believe in and support the official policy of the organization? If not, are the members of the organization who actually create the documents couching the official messages in language that conveys to other members of the culture other, more powerful, and hidden, messages? Is the implementation and process sufficiently rigorous to discover the truth and provide appropriate sanctions? Does the process protect the rights of the University, athlete, and alleged victim? Is the process sufficiently open to the public to establish confidence in the ultimate result?

Based upon the analysis of the three athletic department policy processes discussed in this paper, the following suggestions are offered for intercollegiate athletic department administrators needing to develop policies:

- 1) Involve individuals from outside the organization when looking for solutions. Specifically recruit people who might be highly critical of the organization. By going outside the organization new perspectives present themselves.
- 2) Move beyond general mission statements, but do not get bogged down in minutiae. Sometimes, starting with the implementation of an imperfect program is preferable to waiting for the creation of perfection. However, be aware of the tendency for organization members to want to stop after creating a general policy statement.
- 3) Publish and distribute organizational policies to everyone possible. A copy of the policies should be readily and easily available for public inspection. If policies are not published, they are not public policy. If intercollegiate athletic departments and universities are often public entities their policies need to be public. (See *Brzonkala v. Virginia Polytechnic and State University*, 1996a, for a further discussion).
- 4) Utilize legal counsel. Involve the university counsel in all policy processes. While legal advice is a constraint on timely policy development, litigation is an even greater constraint. Poorly drafted ath-

letic department policies may eventually keep the university counsel busy, but they will probably be ineffective in solving the problems they are supposed to address.

5) Make sure that plans and programs involve measurable actions. While mission statements and policies sound nice, programs and plans must involve measurable objectives. If a program does not contain measurable objectives, it can never be evaluated. If agreement cannot be reached on how a program is to be evaluated, it may, in fact, not be a program.

6) The product of a policy process (the document) should not sit on a shelf, but rather must be lived by the organization. It must become part of the organization's culture. If members of the organization do not really believe in the policy, plan, and program developed, any document developed will simply gather dust.

7) The most daunting challenge in any policy process is taking all possible steps to insure that the policies actually become the way things are done. Unless policies become part of the athletic department's culture, very little will actually get done.

Even in the uncertain world of NCAA athletics, Virginia Tech's *Comprehensive Action Plan* offers a concrete example of what a University can accomplish. NCCA athletic departments should follow Virginia Tech's lead in dealing with this issue. If NCAA athletic departments follow Virginia Tech's lead, the issue of criminal behavior by college athletes may not be solved, but at least it can be meaningfully addressed.

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