An Assessment of Consistency in the NCAA Infractions Process

Bradley Baker, Temple University
Jeremy Jordan (Advisor), Temple University
Daniel Funk (Advisor), Temple University

Governance
Friday, June 5, 2015
20-minute oral presentation (including questions) (Capitale)

Abstract 2015-137
2:35 PM (Capitale)

Researchers working within the organizational justice literature typically subdivide the topic into three categories: (i) distributive justice, whether outcomes deriving from an activity correspond to inputs; (ii) procedural justice, whether a decision process is consistent, accurate, unbiased, and open to voice; and (iii) interactional justice, focusing on how people are treated and the information about how and why outcomes are determined (Colquitt et al., 2001; Colquitt et al., 2013). When rules infractions are committed (or laws broken), fairness necessitates penalties be applied to restore equity and deter future infractions (Brickman, 1977). Distributive justice requires balance be restored through a system penalizing infractions, while procedural justice requires any such system be consistently applied and offer opportunity for input by affected parties.

The National Collegiate Athletic Association (NCAA) operates an enforcement program tasked with upholding integrity and fair play among the NCAA membership by prescribing appropriate penalties when violations to the rules governing intercollegiate competition, student-athlete recruitment, eligibility, and amateurism occur (NCAA, 2014). In 2011, the NCAA and President Mark Emmert appointed a working group charged with recommending revisions to the enforcement program. This step came amid wide-spread public distrust and concerns raised by member institutions around the fairness of existing processes and the ability of the NCAA to police itself and its members (NCAA, 2012). In conducting their work, ultimately leading to a complete overhaul of the penalty structure, the working group found a “widespread perception that the [then] current penalty model leads to inconsistent and insufficient penalties” (NCAA, 2012, p. 15). Yet, independent researchers found no such perceptions of differential procedures or treatment in the enforcement process (Clifton, 2009; Dixon et al., 2003).

Consistent with the mission of the NCAA infractions program, appropriate and fair penalties must be applied to violators of NCAA rules (NCAA, 2014). Brickman (1977) draws a distinction between equity-based penalties, designed to restore fairness after a violation provides an advantage, and deterrent-based penalties, designed to prevent future deviance. Following Brickman’s perspective, equity-based penalties are those which are approximately proportionate to the advantage gained from the infraction. Deterrent penalties are designed to be disproportionate to the offense with the goal of preventing similar acts. The letter of the mission of the NCAA infractions program implies an equity-based approach, calling for avoidance of disadvantage to rule-abiding institutions and student-athletes. In contrast, NCAA sanctions are more typically considered in retributive or deterrent terms (e.g., Greenberg et al., 1985; Mahony et al., 2010). Under either the distributive or procedural justice lens, assessing punishment fairness requires sanctions be evaluated in terms of parity, or non-differential treatment, in similar cases, as justice requires absence of such disparity (Barry & Greer, 1981). Outcomes (sanctions) ought to correspond to inputs (violations committed) and the enforcement process ought to be consistent and unbiased. The purpose of the current research is to identify: (i) to what extent sanctions imposed by the NCAA Committee on Infractions (CoI) have been consistent or inconsistent; and, (ii) sources of variance in sanctions imposed for substantially similar offenses.

Variance in sanctions imposed by the CoI is not inherently undesirable. Following the ethical and legal aphorism “let the punishment fit the crime,” indeed requires variation in imposed sanctions commensurate with the variation in infractions committed. To the extent that disparity in sanctions arises from factors deemed relevant to each case, such disparity is warranted. In contrast, unwarranted disparity can be defined as sanctioning variation not attributable to legally relevant factors (Stolzenberg & D'Alessio, 1994).

Using data from the NCAA’s Legislative Services Database (LSDBi), we intend to compare all major infractions
cases at the Division I level, since the advent of the current regulatory structure in 1953 (N=577). Following Stolzenberg and D’Alessio (1994), we will use ordinary least squares regression to measure unwarranted disparity as that portion of sanction variation unexplained by case-relevant factors. Such case-relevant factors include the type and magnitude of infraction, a history of repeated violations, whether or not an institution was on probation at the time of the infraction, whether the institution self-reported or self-discovered the violation, and cooperation with or hindrance of the investigation. Perhaps less obviously case-relevant, is when the infraction took place. We argue era ought appropriately to be considered a source of warranted disparity. Recognizing the potentially controversial nature of this position, we intend to enter era in a second stage of the regression to separate the contribution obtained from factors more universally-accepted as case-relevant.

In support of time as a source of warranted disparity are two main arguments. The first is grounded in acknowledgment that political and social climate varies over time. As perceptions of infractions and appropriate types and levels of sanctions evolve, it is important to treat time as an explanatory variable (Thomson & Zingraff, 1981). The second argument rests on Becker’s (1974) economic perspective of crime and punishment. If the gains obtained from violations increase, either the probability of detection or the severity of punishment must also increase to maintain equilibrium. As noted by Depken and Wilson (2006), given the increasing popularity of collegiate athletics and concomitant increases in financial returns possible from on-field success, potential gains from infractions that offer on-field performance improvements have likely increased.

In support of the second purpose of the study, after controlling for warranted disparity from acceptable case-relevant factors, we intend to introduce additional factors in a third stage of the regression. Such potential explanatory variables, drawn from previous research (e.g., Cox & Davis, 2011; Eckard, 1998), include conference affiliation, sport, on-field performance, and geographic region of the violating institution. To the extent that any hypothesized non-case-relevant factors explain a significant amount of marginal variance, we will be able to identify indications of systematic bias in the sanctioning process. Additional remaining variance represents continued unwarranted disparity, but could be attributable to either unobserved factors or non-systematic inconsistencies.

The current research offers both practical and theoretical implications. Assessing historical consistency of CoI actions responds to wide-spread criticism of the NCAA and offers a measure of the degree to which complaints are warranted. This information can also help the NCAA identify any potential sources of unwarranted systemic bias, leading to future remediation. Examination of NCAA infractions cases offers real-world examples to test and refine understanding of organizational justice models. Initial establishment of the context in the current research supports such future efforts.