
SPORTS IN SOCIETY

CHAPTER

1

LEARNING OBJECTIVES

By the end of the chapter, the reader will be able to:

1. Appreciate the influence of sports and the role of sports in society
2. Understand the impact of the *commercialization* of sport
3. Comprehend and provide examples of the integration of sport ethics and sports law
4. Analyze the increase of violence in sports at all levels
5. Depict the influence of race in sports
6. Understand how the use of mascots in sports may relate to racial discrimination

RELATED CASES

Case 1.1 *Harjo v. Pro-Football, Inc.*, 1999 TTAB LEXIS 181, 50 U.S.P.Q.2d (BNA) 1705 (Trade-mark Trial & App. Bd. Apr. 2, 1999)

Case 1.2 *McKichan v. St. Louis Hockey Club, L....*, 967 S.W.2d 209, 1998 Mo. App. LEXIS 489 (Mo. Ct. App. 1998)

Case 1.3 *Popov v. Hayashi* 2002 WL 31833731 (Cal. Superior 2002)

Case 1.4 *Bellecourt v. Cleveland* 104 Ohio St.3d (Ohio 2004)

Case 1.5 *Cox v. National Football League* 889 F. Supp. 118 (S.D. N.Y. 1995)

Case 1.6 *Hale V. Antoniou* 2004 WL 1925551 (Me. 2004)

THE INFLUENCE OF SPORTS

Sports have had a stronghold on Americans for over a century. Boys, girls, men, and women have enjoyed participating in and watching a variety of professional and amateur sports for many years. Sports in many ways are a metaphor for life. Young people can learn teamwork, sportsmanship, and perseverance and develop many other admirable qualities when participating in sports. Boys and girls alike dream of hitting a home run in the bottom of the ninth inning and winning the championship while playing for their favorite ball club. Over the years, the sports industry has become one of the largest in the United States eclipsing real estate, health care, banking, and transportation (Coakley, 2007). Arguably the most visible components of the industry are sporting events. According to Higgs and McKinley (2009), sport in the United States parallels what is occurring in the rest of American society. These authors continue that if aliens viewed a sports event for the first time they might very well associate the sport with the business world because of the business signage that appeared in the stadium or on the television. The perception may very well reflect the reality that sport itself is a microcosm of American culture (Higgs & McKinley, 2009).

Maybe that displays a little too much commitment, but many fans take their sports very seriously. Eric James Torpy, for example, was always a big fan of Celtics great Larry Bird. After his lawyer reached a plea agreement for a 30-year prison term, Torpy decided he wanted to spend 33 years in prison instead of 30 to match Larry Bird's jersey number 33. Torpy was accused of robbery and shooting with intent to kill. According to Oklahoma County District Judge Ray Elliott, "He said if he was going to go down, he was going to go down in Larry Bird's jersey. We accommodated his request and he was just as happy as he could be" (Offbeat, 2005, para. 3). Scott Wiese was a dedicated fan of the Chicago Bears—so dedicated that

he signed a pledge at a Chicago bar in front of other fans two days before the 2007 Super Bowl promising to change his name to Peyton Manning if the Bears lost. The score was Colts 29, Bears 17. Wiese started the process of the name change the next week. His lawyer commented, "I never doubted him. He's a man of his word" (Reid, 2007, para. 7).

COMMERCIALIZATION OF SPORTS

Certainly, sports have become more commercialized in the last 20 years. Players and coaches make more money. ESPN's biography program, *Sports-Century*, listed the greatest 100 athletes of the 20th century in January 1999 (MacCambridge, 1999). The most represented sport was baseball, with 23 athletes in the top 100. Interestingly, Jim Thorpe was listed in the baseball, football, and track and field categories. The top 50 are shown in [Table 1-1](#). Do you agree with *Sports Century's* list? Where was Tiger Woods? Fifteen years later Woods was recognized as the second greatest athlete of the first decade of the twenty-first century. Notably, the same athlete, Michael Jordan was listed as the most outstanding athlete in the twentieth century as well as the first decade of the twenty-first century.

Intercollegiate athletics, within the universities, also continues to grow and operate as a big business enterprise (Duderstadt, 2007; Flowers, 2007; Splitt, 2009). Orszag and Orszag (2005) reported that the share of operating athletic and overall higher education spending has increased over time. Further, they revealed that total athletic spending increased by roughly 20% in nominal terms between 2001 and 2003 while total institutional spending rose by less than 5% during the same period. Wieberg, Upton, Perez, and Berkowitz (2009) discovered that the average public school subsidy for athletics was \$8.8 million which equated to almost 80% more than revenue generated. Four years later, in 2013, there were

TABLE 1-1 Bowl Schedule and Payouts: 2013–2014

Bowl Game	Per Team Pay-Out
BCS National Championship Game	\$18,000,000
Fiesta Bowl	\$17,000,000
Sugar Bowl	\$17,000,000
Orange Bowl	\$17,000,000
Rose Bowl	\$17,000,000
Capital One Bowl	\$4,550,000
Chick-fil-A Bowl	\$3,970,000 (ACC \$2,930,000 (SEC)
Cotton Bowl	\$3,375,000
Gator Bowl	\$3,500,000
Buffalo Wild Wings Bowl	\$3,350,000
Alamo Bowl	\$3,175,000
Outback Bowl	\$2,500,000
Russell Athletic Bowl	\$2,275,000
Holiday Bowl	\$2,075,000
Sun Bowl	\$2,000,000
Music City Bowl	\$1,837,000
Pinstripe Bowl	\$1,800,000
Belk Bowl	\$1,700,000
Texas Bowl	\$1,700,000
Liberty Bowl	\$1,437,500
Independence Bowl	\$1,150,000
Las Vegas Bowl	\$1,100,000
Heart of Dallas Bowl	\$1,100,000
Military Bowl	\$1,000,000
Kraft Fight Hunger Bowl	\$925,000
BBVA Compass Bowl	\$1,000,000 (SEC) \$900,000 (ACC)
GoDaddy.com Bowl	\$750,000
Little Caesars Pizza Bowl	\$750,000
Hawaii Bowl	\$650,000
Armed Forces Bowl	\$600,000
Beef 'O' Brady's	\$537,500
Poinsettia	\$500,000

(continues)

TABLE 1-1 Bowl Schedule and Payouts: 2013–2014 (continued)

Bowl Game	Per Team Pay-Out
New Orleans	\$500,000
New Mexico	\$456,250
Famous Idaho Potato Bowl	\$325,000

Source: Collins (2014).

According to CollegeFootballPoll.com (2016):

"Amounts shown do not necessarily reflect what each school receives. The conferences have different methods by which bowl money is divided among its membership. Some bowl agreements call for higher payouts to one conference than the other, depending on such factors as which is the 'host' conference. Many of the above payouts are reflective of past actual payouts, while others are published estimates of anticipated payouts for the current year (para. 2).

13 intercollegiate athletic departments that exceeded \$100 million dollars in total revenue (Berkowitz, Upton, & Brady, 2013). However, only 10% (23 of 228) of the *National Collegiate Athletic Association (NCAA)* Division I public institutions generated sufficient amounts of money from media rights contracts, ticket sales, donations and other sources (not including subsidies from institutional or government support or student fees) to cover their expenses in 2012 (Berkowitz et al., 2013). LSU, Nebraska, Ohio State, Oklahoma, Penn State, Purdue, and Texas were the only schools to report no subsidy money in 2012 (Berkowitz et al., 2013). Moreover, while the other 16 schools received some type of subsidy, 10 (63%) received more subsidy money in 2012 than they did in 2011 (Berkowitz et al., 2013). Rutgers, for instance, spent \$28 million more than the revenue it generated. This deficit was satisfied by receiving \$18.5 million from the school and \$9.5 million in student fees (Berkowitz et al., 2013).

Successful football and basketball head coaches in Division I-A intercollegiate athletics often sign multi-year, seven figure contracts that usually contain incentive bonuses. The salaries of intercollegiate coaches, particularly in football and men's basketball, have increased dramatically over the past ten years. For example, in 2004, a

head football coach's base salary was \$388,600 (Slywester & Witosky, 2004). In 2009, *USA Today* revealed that at least 25 college head football coaches were making \$2 million or more during the 2009 season which represented an increase of slightly more than double since 2007 (Wieberg et al., 2009). Further, Wieberg et al. (2009) reported that the average pay for a head football coach at a *Football Bowl Subdivision (FBS)* institution was \$1.36 million which represents nearly \$1 million per head coach in five years. Wieberg et al. (2009) also indicated that coaching salaries made up the single greatest percent of athletics' operating budgets in the top-tier FBS schools. Additionally, coaching compensation accounted for more than half of capital projects (Wieberg et al., 2009).

More recently, the average compensation package for major-college coaches has been estimated \$1.81 million, a rise of about \$170,000, or 10%, since the previous season, and more than 90% since 2006 (Brady, Schnaars, & Berkowitz, 2013). The salaries of head football coaches such as Nick Saban at the University of Alabama and head men's basketball coaches such as Mike Krzyzewski have reached astronomical numbers. In 2014, Saban's contract was increased from \$5.4 million dollars annually to nearly \$7 million while Krzyzewski's annual salary was more than \$9 million.

SPORTS ETHICS

Most would argue that cheating in sports is unethical and unsportsmanlike. How should sports treat cheating? Should participants be fined, suspended, or both? What are the appropriate penalties for a player who bends the rules a little? Does it matter whether a player intentionally cheats or just unknowingly breaks the rules of the game? Do some sports tolerate cheating more than other sports? Situations exist in which the pursuit of sport excellence becomes so obsessive that a competitor loses sight of what might be fair. To be sure, this is not a new concept as nearly seventy years ago the pursuit of breaking records as well as the desire to please a demanding public was becoming more important to athletes of the day than their own health (Boje, 1939). Because of this desire to achieve excellence or success, athletes have looked for avenues to gain an advantage or edge for many years.

Hughes and Coakley (1991) identified the following four norms as constituting the sport ethic:

1. Athletes are dedicated to “the game” above all else and demonstrate dedication through unwavering commitment, making sacrifices to play, and meeting the expectations of fellow athletes.
2. Athletes strive for distinction by relentlessly seeking to improve and achieve perfection; winning becomes important as a marker of achievement and one’s willingness to push limits.
3. Athletes accept risks and play through pain to prove to teammates and coaches that they will not succumb to pressure or fear in any situation in which the game and teammates depend on their participation.
4. Athletes accept no obstacles in the pursuit of possibilities in their sport, even when the odds are against them.

The identity implications of conforming to sport ethic norms is often the foundation of sport cultures to the point that athletes accept them without question or qualification as they seek to have their identity claims acknowledged, accepted, and continuously reaffirmed over time (Coakley, 2007). As a result, pervasive patterns of dangerous normative over-conformity, such as taking performance enhancing drugs or reducing weight, in which athletes put the health and well-being of their bodies on the line (Coakley, 2007).

Sports and sports law involve ethical decision making. Sports lawyers and managers are faced with *ethical dilemmas* in everyday practice. *Sports ethics* is a burgeoning field, and much has been written recently in this area. For many who compete in sports, pursuing success or excellence is an ideal to be admired. On a regular basis the media depicts a present (Tiger Woods) or former (Michael Jordan) athlete as being a “winner” because they are great competitors. Winning, which is the ultimate form of success, is the most visible and therefore may be considered the most important goal in sports. As the old saying goes winning isn’t a sometime thing, it is the only thing. While this quote was directed to professional athletes it has permeated through other levels of sport competition including interscholastic sports.

How many people would do what professional golfer Brian Davis did in 2010? He disqualified himself after he ticked a loose reed during his backswing on the first playoff hole. By calling a two-stroke penalty on himself, Jim Furyk emerged with the victory at the 2010 Verizon Heritage (Associated Press, 2010). Davis’s error, a violation of rule 13.4 against moving a loose impediment during a takeaway, was indiscernible but for slow motion replays.

However, Davis immediately asked for PGA Tour tournament director to help determine what happened. The tournament director conferred with officials who reviewed TV replays. These officials verified that the violation cost him a

chance at his first PGA Tour victory (Associated Press, 2010). Furyk earned \$1,026,000 million for the victory while Davis earned \$615,000 for his fourth second-place finish on the PGA Tour. How much integrity does it take to have someone confirm something that only slow motion replay could detect and leave more than \$400,000 on the table?

In a 1991 football game between the University of Colorado and the University of Missouri, Colorado was given five downs and scored a touchdown on the fifth, winning the game 33–31. Colorado won the National Championship in 1991 with an 11–1–1 record. No concessions were made after the game. Should there have been? What action should have been taken by the university? The coach? Alumni? What repercussions would have resulted from a Colorado concession? Colorado coach Bill McCartney later founded Promise keepers, a Christian men's group, in 1990. He later admitted he was "truly remorseful" about the fifth-down play and the result (Associated Press, 1990). He retired as the Colorado coach in 1994.

Performance-Enhancing Drugs

Professional sports has seen its' share of cheating by those who took performance enhancing drugs. In 1963 Alvin Roy, the first strength coach employed by a professional football team, allegedly provided some San Diego Chargers with Dianabol (Gilbert, 1969). The prevalence of *anabolic steroids* apparently increased in the 1970s and 1980s as several notable players such as National Football League (NFL) Hall of Fame member, Howie Long, once estimated that at least 50% of NFL linemen in the late 1980s used steroids (Zimmerman, 1986). This estimation was substantiated by the NFL drug advisor who reported that the use of steroids was unbridled during the 1970s and 1980s (Miller, 1996). Ultimately, the death of Lyle Alzado due to complications brought on by steroid use throughout his career spotlighted the dangers of such abuse (Watson, 2009).

Professional baseball, while most recently in the news due to alleged use of steroids by notable players, has also had a history of players taking *performance-enhancing drugs (PEDs)*. For example, in 1998 a front office executive stated that use of anabolic steroids was rampant and thereby changing the nature of the game (Yesalis, Courson, & Wright, 2000). Kevin Towers, longtime general manager of the San Diego Padres, perceived that steroids were more common in major league clubhouses than alcohol, tobacco, or any other substance (Yesalis et al., 2000).

The *steroids era* refers to a period of time in Major League Baseball (MLB) when the increase of scoring was attributed to a perception that a large number of players used performance-enhancing drugs (ESPN-MLB, 2012). For example, In 1998, Mark McGwire of the St. Louis Cardinals and Sammy Sosa of the Chicago Cubs waged a two person contest for the National League home run title. Both McGwire (70 home runs) and Sosa (66 home runs) were more than the previous record holder, Roger Maris set 37 years earlier. However, a mere three years later Barry Bonds slugged 73 home runs, thereby surpassing McGwire's record. Although both Bonds and Sosa have not admitted using PEDs, McGwire admitted to performance-enhancing drug use (ESPN-MLB, 2012). Ken Caminiti admitted to taking steroids during his 1999 MVP season with the San Diego Padres. Should MLB rescind the MVP award because of his admission?

Falsifying Information

Ron McKelvey had a great college football career—about eight years long, to be exact. By using fake Social Security numbers, he was able to play football at several schools, including the University of Texas. Once his fraud was revealed, he was immediately dismissed from the university. Tim Johnson was the manager of the Toronto Blue Jays in 1998 and led them to a third-place finish. He was

fired because he lied about serving in Vietnam as a Marine. George O'Leary resigned as head coach at the University of Notre Dame after discrepancies were found in his academic background. How should these acts be viewed? What action should be taken?

SPORTS VIOLENCE

Unfortunately, *violence* has become a major issue in both amateur and professional sports, and violence by both fans and players has increased in the last few years. Professional leagues and owners have attempted to take steps to ensure that violence does not threaten fan safety. Owners do not want fans afraid to attend games for fear of violent acts.

There are too many incidents to name here, but a few are instructive. One of the more famous events that took place in the National Basketball Association (NBA) game was a fight between the Detroit Pistons and the Indiana Pacers. This brawl eventually spilled over into the stands, and fans and players began to fight each other. The NBA levied heavy fines and suspensions to all players involved. Latrell Sprewell was suspended by the NBA and fined for his alleged choking of his coach, P.J. Carlesimo. The event garnered national attention.

In an infamous incident in baseball in 1966, San Francisco Giants pitcher Juan Marichal hit Dodgers catcher John Roseboro in the head with a bat. Marichal was subsequently suspended. Roseboro sued Marichal but eventually dropped the lawsuit. Marichal was fined \$1750 and suspended for a week. Years later Marichal expressed remorse for the incident. In one of the darker days of boxing, Mike Tyson bit off part of the ear of boxer Evander Holyfield during a boxing match.

Tennis great Monica Seles was stabbed by a Steffi Graf fan, Gunter Parche, in Hamburg, Germany, while playing in a match in 1993. Before that she had won 30 single titles in just five years. Player and fan violence took a turn for the worse

on May 16, 2000, when Dodgers catcher Chad Krueter was punched in the back of the head by a fan who took the cap off his head (Greenstein, 2000). Krueter and several teammates rushed into the crowd, and a major brawl broke out between fans and players. Several Dodgers players and coaches were suspended as a result. An injured spectator was arrested for disorderly conduct (Greenstein, 2000). Several lawsuits were filed against the players, the Dodgers, and the Cubs as a result.

Hockey has always had a reputation for fighting. In fact, hockey is one of the few sports that employs the services of a penalty box, which suspends a player's participation privileges for a short period of time for breaking the rules of the game. Most other sports will merely toss a player out of the game for misconduct. How much violence should professional hockey tolerate?

Two hockey incidents garnered significant attention because of the excessive violence involved. In 2000, Donald Brashear was assaulted on the ice during a game by noted enforcer Marty McSorley. McSorley was convicted of assault with a deadly weapon. He received an 18-month conditional discharge sentence and no jail time. Brashear suffered injuries as the result of the attack. In 2004, Steve Moore was struck across the head with a stick in a vicious attack by Todd Bertuzzi of the Vancouver Canucks. Bertuzzi was suspended by the league and lost over \$500,000 in pay as a result of the suspension. Moore sued Bertuzzi in a civil lawsuit seeking millions of dollars in damages. National Hockey League (NHL) commissioner Gary Bettman stated, "This is not a part of our game, it has no place in our game, and it will not be tolerated in our game." Bertuzzi was suspended and was eventually reinstated 17 months later. He pled guilty to criminal charges, received a year probated sentence, and was forced to do 80 hours of community service.

One of the more violent acts in the history of sports was committed by Kermit Washington of

the Los Angeles Lakers against NBA All-Star and head coach Rudy Tomjanovich of the Houston Rockets. Washington violently attacked Tomjanovich, punching him in the face and destroying his face beyond recognition. Tomjanovich later sued the Lakers and won a large verdict, primarily due to his attorney's skilled representation. Attorney Nick Nichols handled the case for Tomjanovich and was able to persuade a jury to return a large verdict in his client's favor. The case was later settled before a hearing on the appeal.

Football is by its nature a violent sport. In 2006, Albert Haynesworth stepped on the head of Dallas Cowboys center Andre Gurode with his cleats while Gurode was helmetless. He later apologized to Gurode but was suspended by the NFL. More recently, in 2014, the Minnesota Vikings removed star running back, Adrian Peterson, from the active roster after he was charged with a felony child-abuse charge. In that same year, Ray Rice, formerly of the Baltimore Ravens, was indefinitely suspended by the National Football League yet the NFL Players Association filed an appeal to lift the suspension. How much on-field violence should be tolerated by a professional football league? How should off-the-field violence be treated? What role should a players union have in ensuring a player receives fair discipline from the team, league, or commissioner for acts of violence?

Violence in youth sports has also increased. What can be done to curb the violence in youth sports? Is there too much parental supervision in sports for children? Are there too many organized sports for youth? What about instituting a parent-free zone at the youth sports events where only kids and referees are allowed to participate? Should there be sportsmanship rules for parents and coaches when they participate in youth sports? On July 5, 2000, in Boston, Massachusetts, a fight took place in a youth hockey game between a player's father and his coach. The coach died the day after the fight. The parent was convicted of involuntary manslaughter and sentenced to six to ten years in prison (Butterfield, 2002).

RACE AND SPORTS

It is unquestionable that sports have a substantial influence on the American landscape. They have influenced our culture, politics, and moral outlook over the past 200 years. Sports are replete with examples of how athletes have influenced our culture. *Jesse Owens* put to rest the myth of Aryan supremacy in the 1936 Olympics before a cast of Nazi soldiers and Adolf Hitler himself by winning four Olympic gold medals. However, upon his return to the United States, Owens remarked, "When I came back home, I couldn't live where I wanted. I wasn't invited to shake hands with Hitler, but I wasn't invited to the White House to shake hands with the president, either" (Simmons & Robotham, 2016, p. 40). The upset victory of Texas Western (now the University of Texas–El Paso), with the first all-African American lineup in college basketball, over the perennial college basketball power Kentucky was a major landmark for *race* and sports. Jackie Robinson, an All-American football player at UCLA, was the first to break baseball's color barrier in 1947 and endured racial hatred while doing so.

Sports and race have been the subject of much discussion for many years. In baseball the color barrier was broken in 1947 by Jackie Robinson of the Brooklyn Dodgers. The Dodgers general manager, Branch Rickey, specifically chose Robinson because of his character as well as athletic skill because he knew Robinson would face harassment and discrimination when he came to the major leagues. Black players played in the Negro Leagues for many years before the color barrier was broken in baseball. Today MLB has players from many different countries and different races.

Early Lloyd was the first black player in the NBA in 1952, playing with the Boston Celtics. Bill Russell won 11 championships as a player with the Boston Celtics in 13 seasons and was also named player manager of the Celtics in 1966. Russell experienced racism early in his life and was outspoken on civil rights issues. Above all else, Bill

Russell was a winner, and isn't that the essence of sports—to win?

A number of African-American female athletes have emerged as trailblazers in their particular sports over the years, from track and field and tennis to figure skating and basketball. The labor and toil of pioneers such as Alice Coachman, Althea Gibson, Wilma Rudolph and Lynette Woodard helped clear the paths for generations of female sports greats that followed like Jackie Joyner-Kersey, Sheryl Swoopes and Venus and Serena Williams (History Channel, n.d.). Hurdles continued to be conquered as Gibson was the first African-American woman to be voted as the Female Athlete of the Year in both 1957 and 1958. In 1964, Gibson began another pioneering effort when she became the first black woman to join the Ladies Professional Golf Association (History Channel, n.d.).

Consider the following statements made by athletes and executives in sports. Are the statements racist? Are they inappropriate? Are they to be considered free speech? How should they be viewed? When an athlete, coach, or sports executive makes a comment that could be considered racist or disparaging, what discipline measures should be taken?

In 2004 Larry Bird said that he thought the NBA lacked enough white superstars. "You know, when I played, you had me and Kevin [McHale] and some others throughout the league. I think it's good for a fan base because, as we all know, the majority of the fans are white America. And if you just had a couple of white guys in there, you might get them a little excited" (Martzke, 2004). What do you think of Bird's remarks? Would it have been different if Bird were an active player? The NBA took no action against Bird for his remarks. Did "Larry the Legend" get a break because of his stature and contributions to the league?

Golfer Fuzzy Zoeller said of Tiger Woods after he won the Masters Golf Tournament, "That little boy is driving well and he's putting well. He's doing everything it takes to win. So, you know what you guys do when he gets in here? You pat him on the

back and say congratulations and enjoy it and tell him not to serve fried chicken next year. Got it? ... [O]r collard greens or whatever the hell they serve" (Porter, 2013, para. 7). Zoeller lost several endorsement contracts as a result of his remarks. Do you consider his remarks racist? Should the PGA have taken steps to discipline Zoeller? Is this a different situation because golf is an individual sport? How do you compare these remarks to those of Bird? Should any of these remarks be considered free speech?

Consider some of the outrageous statements made by Marge Schott, former owner of the Cincinnati Reds, such as saying that "Hitler was good in the beginning, but he went too far" (Berkow, 1992). Why she was discussing Adolf Hitler at all is still a mystery, but she must have felt compelled to comment on the most hated person in the history of the world for some reason. She was also said to have used racial remarks in describing players. She was suspended from baseball on February 3, 1993, for one year and fined \$25,000 for language the executive council stated was "racially and ethnically offensive." Should she have been treated differently because she was the owner of a team instead of a player? What disciplinary power does a commissioner of a league have over an owner for conduct detrimental to the league?

On ESPN's *Sunday NFL Countdown*, Rush Limbaugh commented on Philadelphia Eagles quarterback Donovan McNabb, stating:

Sorry to say this, I don't think he's been that good from the get-go. I think what we've had here is a little social concern in the NFL. The media has been very desirous that a black quarterback do well. There is a little hope invested in McNabb, and he got a lot of credit for the performance of his team that he didn't deserve. The defense carried this team. (Limbaugh's comments touch off controversy, 2003, para. 4)

Do you believe Limbaugh should have been fired for his comments? Do you consider them racist?

Well-respected professor Kenneth Shropshire (2000) discussed sports and their role in society as a whole:

In the past, I've written that sports is a microcosm of society. I have concluded recently that this is an overstatement. Among other differences, the absence of inter-gender relationships reduces the value of sports as the ideal model. Further, the basketball model is Black and White, quite different from the real America. Baseball, with its increasing Latino component, is potentially a better model, but it is not as entrenched in urban culture as is basketball. Taking a hard look at the racial realities in basketball, a business perceived to be a bastion of equal opportunity for African Americans, provides a view of where we are in broader American society. For greater progress in the legislatures, our courts, and other sectors of society, more of those who have not directly felt or seen racism and other forms of discrimination need to believe it still exists. (p. 13)

Considering Shropshire's statement's do you believe that racism exists in sports? How have sports promoted progress against racism in society recently?

Use of Mascots in Sports

A number of universities have changed their logos as a result of the appropriateness of using a minority population when depicting a *mascot*. For example, Marquette University changed its name from the Warriors (using a Native American profile) to the Golden Eagles; St. John's University in New York changed their nickname from the Redmen to the Red Storm; and Stanford University changed their nickname from the Indians to the Cardinal. Some universities have appealed the NCAA's ruling and received waivers for the use of their mascots. Catawba College (Catawba

Indians), Central Michigan University (Chippewas), Florida State University (Seminoles), Mississippi College (Choctaws), and the University of Utah (Utes) won their appeals against the NCAA after each showed it had the approval of local tribes to use the nicknames.

The NCAA has taken a position in this matter, banning the use of Native American mascots by sports teams during postseason play. In 2005, he NCAA distributed a self evaluation to 31 colleges to analyze the use of potentially offensive imagery of Native Americans with their mascot choice (Brutlag Hosick, 2005). As a result of the self evaluation, nineteen intercollegiate teams were cited as having potentially "hostile or abusive" names, mascots, or images, that would be banned from displaying them during post-season play, and prohibited from hosting tournaments (Brand, 2005).

Professional sports have team names such as Braves, Indians, Chiefs, Warriors, and Blackhawks. Should sports teams use Native American tribes as names for teams and as mascots? What arguments can you make that Native American mascots are insulting and demeaning to Native Americans? The U.S. Commission on Civil Rights (2001) weighed in on the mascot issue:

The U.S. Commission on Civil Rights calls for an end to the use of Native American images and team names by non-Native schools. The Commission deeply respects the rights of all Americans to freedom of expression under the First Amendment and in no way would attempt to prescribe how people can express themselves. However, the Commission believes that the use of Native American images and nicknames in school is insensitive and should be avoided. In addition, some Native American and civil rights advocates maintain that these mascots may violate antidiscrimination laws. (para. 1)

Recently, the *United States Patent and Trademark Office (USPTO)* indicated that the

Washington Redskins nickname is “disparaging of Native Americans” and that the team’s federal trademarks for the name must be cancelled (White, 2014). The decision means that the team can continue to use the Redskins name, but it would lose a significant portion of its ability to protect the financial interests connected to its use (Associated Press, 2014). If others printed the name on sweatshirts, apparel, or other team material, it becomes more difficult to go after groups who use it without permission. The decision by the *Trademark Trial and Appeal Board* is similar to one it issued in 1999. That ruling was overturned in 2003 in large part on a technicality after the courts decided that the plaintiffs were too old and should have filed their complaint soon after the Redskins registered their nickname in 1967 (Associated Press, 2014).

Team owners strongly dispute any racism behind the mascot and won’t change it, saying the Redskins name honors the team’s history, legacy, and tradition (Jackson, 2013). Yet, Ray Halbritter, CEO of Oneida Nation Enterprises, stated:

Lets be clear. The name, the R word, is defined in the dictionary as an offensive term. It’s a racial epithet. Its a racial slur. I think there is a broader discussion to be had about using mascots generally and the damage it does to people and their self-identity. But certainly there’s no gray area on this issue. (as quoted in Martinez, 2013, para. 20)

Should there be a distinction between college and professional teams regarding the use of mascot imagery?

PROFESSIONAL SPORTS

Professional sports leagues dominate the landscape in the United States, where there are what most consider four major sports: baseball, football, basketball, and hockey. Millions of fans attend professional sports events in the United

States every year. The Super Bowl is one of the most watched television events every year, and commercial advertisers pay millions of dollars to advertise to people watching the game. The World Series is a staple of American life in October. Professional sports players have seen huge increases in salary in the recent past, and players unions have led the charge in securing higher salaries and better benefits for players. Athletes have always been celebrities in the United States, but with the ever-increasing popularity of sports and the increase in television exposure, many professional athletes have become household names.

Leagues, unions, players, and commissioners are the major players in the governance of professional sports. There are many legal and business issues in professional sports, which are addressed in later chapters. For example, since the mid-1960s professional sports have seen a rapid increase in the number of teams in each of the four major sports leagues. Franchise movement has been a major issue in recent years. Teams have moved from one city to another at a steady pace. Numerous new stadiums have been built. Many teams have been lured away to a new city because of a promise to build a new stadium or arena. Professional sports can garner major television revenue as well. Networks continue to pay large amounts of money to telecast a variety of professional sports in the United States. The PGA Tour displays the talents of the top golfers in the world, including Tiger Woods. In addition to the four major sports, U.S. sports leagues exist for lacrosse, soccer, bowling, tennis, stock car racing (NASCAR), and a few other sports. Minor league baseball is also extremely popular in America.

AMATEUR SPORTS

Amateur sports exist at many levels in the United States. Millions of people participate in individual and team sports. Adults and children play a variety of sports in recreational, YMCA, or adult sports

leagues. Millions of others participate just for the enjoyment of playing individual or team sports. This section functions as a short introduction to the issues involved in amateur sports. Chapters 10 and 11 deal specifically with the NCAA and eligibility in amateur sports. The concept of amateurism is discussed fully in those chapters.

High school and college sports are very popular, with millions of fans attending games at both levels, and both are highly regulated in the United States. Each has bodies that address a variety of legal issues relating to eligibility, drug testing, and amateur status. Millions of students play college sports, ranging from the junior college level to big-time college athletics. An NCAA final or Bowl Championship Series (BCS) game will be watched by millions, with large payouts to the winning schools. The following quote from *United States ex rel. Sollazzo v. Esperdy* (1961) discusses the positives and negatives of amateur sports:

Indeed, corruption of an amateur athlete is peculiarly distasteful. The athlete generally performs before the child in him wholly turns to man and thus is still unformed in character. Since at least as long ago as the founding of the republic, we have thought that participation in amateur sports is a valuable training for our youth, for their responsibilities in the armed services, in their civilian occupations and generally as citizens. Indeed few quotations are better known and more approved than the remark attributed to the Duke of Wellington that the Battle of Waterloo was won on the playing fields of Eton. We have believed that participation in athletics is not only healthful exercise but that it also inculcates and nourishes such desirable qualities as steadfastness, spirit, loyalty and team play. Violation of 382(1) can only tend to subvert the basic principles of amateur sport. Virtue there is in striving with one's whole spirit,

but only evil can come from lack of effort that is bought. (pp. 3–4)

College sports in America are extremely popular and can also be very lucrative. Student-athletes participate at a variety of collegiate levels in a myriad of difficult sports ranging from football to rodeo. Bowl games for college football teams can provide a large payday to the university, especially if the game is designated as a BCS game. Additionally, each of the Power 5 conferences (ACC, Big 10, Big 12, PAC-12, SEC) receive approximately \$50 million, whether or not it qualifies a team for the playoffs (CollegeFootballPoll.com, 2016). Furthermore, an anticipated \$6 million bonus will be paid for each team a conference sends to the semifinals, \$4 million for participating in one of the primary bowl games (Rose Bowl, Fiesta Bowl, Sugar Bowl, Orange Bowl). However, for teams that reach the championship game only expenses, estimated at \$2 million, will be allotted (CollegFootballPoll, 2016). Table 1-1 provides an example of how lucrative it can be to have one's school appear in a bowl game. How do bowl payouts for universities affect the salary and bonuses of coaches? How do they affect the university as a whole? How do they affect a university's football schedule or the conference in which the university plays?

CONCLUSION

As one reads through this chapter it becomes clear that the integration of sport and society is significantly intertwined. From issues such as race in the cases of Jackie Robinson and Althea Gibson to the commercialization of intercollegiate sports to the ethical manner in which parents, coaches, and athletes perform to the violence depicted on and off the field by athletes, society is reflected as microcosm within the sports arena. Additionally, these influences often lead to increased litigation.

One only has to read the paper or peruse the Internet to see how someone affiliated to sports is suing another due to discrimination, contract issues, negligence, assault, assault and battery, drug testing, due process, sexual harassment, or premises liability. All of these areas as well as several others will be discussed in this book. In

the age of litigation, it is important for those in the management of sport at all levels to have an understanding of these issues. However, it is painfully apparent that, without at least a rudimentary introduction, a comprehension of legal aspects of sport cannot be fully appreciated without an understanding of the relationship to society.

NOTES AND DISCUSSION QUESTIONS

The Influence of Sports

1. How have sports changed society? How have sports changed over the past 50 years? How have sports changed America over the last 100 years? How have sports influenced politics? Religion?
2. Americans participate in a variety of sports and attend both professional and amateur sports activities at increasing rates. NASCAR and professional wrestling are both popular among Americans and are also “big business.”
3. There are very few professional athletes in the United States when compared with the population. The chances of a person becoming a professional athlete are very slim. There has been much debate about whether athletes should be role models for children. Are they? Should they be?

Sports Ethics

1. Define sports ethics. What other ethical considerations do sports present? How should ethical decisions be applied in professional sports? Amateur sports?

Sports Violence

1. What can be done to stem the tide of violence in sports? How should violence against spectators be dealt with on the professional level? Should fans be banned from further events? How would a league or team enforce such a ruling?
2. What rules and procedures should be in place to prevent violent acts from occurring in amateur sports? What can be done to curtail the “win at all costs” attitude in youth sports? How can a balance be achieved between being competitive and allowing the kids to have fun?

(continues)

NOTES AND DISCUSSION QUESTIONS (CONTINUED)

Race and Sports

1. Should professional teams take action against the use of Native American mascots such as that taken by the NCAA? How would the league or commissioner enforce such a ban?
2. For an interesting case exploring the relationship between sports law, religion, free speech, and race, see *Williams v. Eaton* (1971). Fourteen football players sued after they were suspended from the team for a protest. They wore black arm bands in protest of the university's and conference's use of student monies and facilities to play host to Brigham Young University, alleging racist policies on the part of the Mormon Church.

Professional Sports

1. The ball hit by Mark McGwire to break Roger Maris's long-standing single-season home run record of 61 sold for \$3.2 million (Schoenfield, 2007). How does the reputation of the player who hit the ball affect its selling price? Eddie Murray's 500th home run ball was auctioned for \$500,000 (Schoenfield, 2007). Why do baseball fans value such items to such a large extent?

Amateur Sports

1. The recruiting practices of high school basketball are examined in the movie *Hoop Dreams*. The film can be viewed as a documentary and a comment on winning at all costs at the high school level. After viewing the film, consider what affects recruiting practices have on student-athletes. What ethical considerations are present for coaches in such situations? William Gates, one of the high school basketball players who was depicted in the movie aptly stated: "People always say to me, 'When you get to the NBA, don't forget about me.' Well, I should've said back, 'If I don't make it to the NBA, don't forget about me'" (*Hoop Dreams*, 1994).

KEY TERMS

Anabolic steroids

Commercialization

Ethical dilemma

Falsifying information

Football Bowl Subdivision (FBS)

Jesse Owens

Mascot

National Collegiate Athletic Association (NCAA)

Performance-enhancing drugs (PEDs)

Race

Sports ethics

Steroids era

Trademark Trial and Appeal Board

United States Patent and Trademark Office
(USPTO)

Violence

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