EXECUTIVE SUMMARY

For the most part, intercollegiate athletics is a beneficial extracurricular activity for students that also helps build community and alumni affinity on college campuses. Still, both athletics departments and the institutions that house them are facing serious problems related to campus sexual assault. Athletic administrators, coaches, and college presidents must be held accountable when they enable talented athletes to evade discipline for committing acts of violence, create a culture of entitlement that results in athletes believing they can get away with such misconduct or, in some cases, create an unhealthy climate in which misogyny and sexism are rampant and the sexual conquest of women is celebrated.

The Drake Group examined the current issues related to collegiate sport sexual and other violence, concluding that (1) no uniform approach exists at any level of policy making to deal with the issue, (2) athlete sexual and other physical violence is condoned by an


2 The Drake Group is a national organization of faculty and others whose mission is to defend academic integrity in higher education from the corrosive aspects of commercialized college sports. The Drake Group’s goals are to: (1) ensure that universities provide accountability of trustees, administrators, and faculty by publicly disclosing information about the quality of educations college athletes receive; (2) advance proposals that ensure quality education for students who participate in intercollegiate athletics; (3) support faculty and staff whose job security and professional standing are threatened when they defend academic standards in intercollegiate sports; (4) influence public discourse on current issues and controversies in sports and higher education; and (5) coordinate local and national reform efforts with other groups that share its mission and goals. The Drake Group is “In residence” at the University of New Haven. For further information see: http://thedrakegroup.org or contact David Ridpath, President at Ridpath@ohio.edu.

3 The term “violence,” as used throughout this paper, is defined in 18 U.S.C. § 16. That statutory provision states: “The term ‘crime of violence’ means— (a) an offense that has as an element the use, attempted use, or
unacknowledged collegiate athlete subculture that neither educational sport leaders nor college presidents have addressed, and (3) institutions of higher education are frozen by self-interest, hence unlikely to address such violence unless immersed in a media or legal crisis, in which case they act alone. Neither the NCAA nor other national collegiate athletic governance associations have confronted this issue in a way that will deter such violent athlete behavior for the long term. Athletes, especially the most talented prospective and enrolled athletes, must receive the message that violent behavior will not be tolerated. Institutions must impose consistent penalties that will deter such serious misconduct.

Furthermore, too many institutions have knowingly enabled athlete sexual and other violence by providing pro bono legal assistance to alleged perpetrators (assistance not provided to other students, including victims), obstructing investigations or judicial proceedings, encouraging and/or paying for women to sexually engage with recruits, providing public relations assistance, intimidating or blaming victims, imposing weak penalties inconsistent with the treatment of non-athletes and/or using their influence with campus and local police departments to reduce the possibility of formal criminal charges. Institutions have failed to prohibit the recruitment or athletic participation of athletes convicted of serious acts of violence. Only in the face of extraordinary media-fueled public outrage do institutions condemn such behavior, usually by removing selected individual enablers, such as coaches or administrators and by creating policies that begin to address athlete sexual misconduct. Institutions typically act only after transgressions have already occurred and been mishandled. In such cases, usually members of governing boards, advance appropriate policy responses to their respective campus crises, but do not then promote policy change by calling upon the NCAA, state legislatures or other larger groups to do more to prevent a repetition of such behaviors. As a result, decades of documented athlete sexual and other violence remain substantially unaddressed.

Since the 1980s, researchers have identified an athletics subculture that supports athlete sexual and other violence. But athletics and higher education policy makers have virtually ignored this information. The Drake Group gratefully acknowledges Todd Crossett, Michael Messner, Don Sabo, and many other academic researchers who have defined and deconstructed this subculture, and whose work has created a better understanding of the interplay of factors that must be addressed. Their work has enabled The Drake Group to construct a policy blueprint that the NCAA should implement. Specifically, we believe that solutions must address the following six factors:

- the role drinking plays as a justification of male athlete violence or as part of a coercion strategy to engage women in unwanted sex;

threatened use of physical force against the person or property of another, or (b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.”
the relationship of violence to impaired reasoning or impulse control caused by athletics head injuries;
how teaching athletes to be physically dominant in sport supports non-sport sexual violence when coupled with locker room socialization that treats women disrespectfully;
how peer loyalty extended to teammates’ bragging of sexual conquest and abuse socializes all team members to accept or practice violence against women;
why the absence of athletic-governance-association rules, coupled with the tendency of institutions of higher education to become enablers by not holding athletes responsible for their actions, to actively support athletes’ defense and/or to impede campus and police investigations promotes continued athlete violence; and
how star athletes who practice violence against women or engage in other acts of violence and suffer little consequences create a distorted ideal of masculinity that celebrates physical dominance and virility, which others emulate.

Failure to specifically address these factors with rules that reject and deter sexual and other acts of violence will perpetuate the current athletics subculture that condones and enables such athlete behavior.

The litmus test for each recommendation offered by The Drake Group was whether it advances campus safety and the well-being of athletes and students. In developing each recommendation, we asked whether the adoption of the proposed policy or practice would deter an institutionalized practice or individual behavior that contributes to sexual or other violence by athletes. We also asked whether the recommendation would prevent higher education institutions from enabling the current athletics subculture that supports such violence. The recommendations reflect our recognition that participation in extracurricular activities is a privilege, not a constitutional right. Therefore, suspension from competition or athletics ineligibility is an appropriate deterrent to reprehensible behavior. Equally appropriate, absent a constitutional right, is to examine allegations with a level of scrutiny that is less than would apply if athletic participation were constitutionally protected.

The position paper presents detailed recommendations and rationales addressing the following needs:

**Recommendation 1 - Establish Title IX compliance as a condition of NCAA and other national collegiate athletic governance organization membership and require regularized institutional reviews of its athletics related sexual harassment and equal opportunity provisions.**

**Recommendation 2 - Prohibit athletic department employees from involvement in campus or external athlete sexual harassment or assault investigations and adjudication processes and require that athletes be treated like all other students with regard to such processes. Immediately suspend the athletic participation of any athlete accused of sexual or other violence**
until the conclusion of any preliminary hearing, investigation, or adjudication process. If such misconduct is found, the athletes responsible should be permanently ineligible for participation in practice, competition, and receipt of athletics financial aid at that or any other member institution of a national-collegiate-athletic-governance institution.

Recommendation 3- Institutions should not be permitted to recruit any high school students or two- or four-year college transfer students to participate in athletics who have been convicted of a sexually violent or other physically violent act or have been suspended from any educational institution for such an act. High school athletes declared ineligible under this provision should have an avenue of appeal to an independent panel comprised of both youth development and law enforcement experts.

Recommendation 4- The nation’s top gender violence athlete educators should be convened to establish a national program to deliver gender violence programming to member institutions with participation in such programming required of all coaches, athletics staff, and athletes. Institutions must commit to the delivery of “gender transformative” programming, including the appropriate use of restorative-justice and bystander-prevention elements.

Recommendation 5- National collegiate athletic governance organizations should establish an independent athlete ombudsman office to provide confidential assistance to athletes seeking advice on responding to team situations, and to answer questions about organization rules and other issues of concern to athletes. The office should have access to a wide variety of experts specializing in various health, legal, and other issues.

Recommendation 6- Because of the connection between drinking and sexual and other forms of physical violence, member institutions should be prohibited from accepting alcohol advertising and sponsorships and from selling alcohol at athletics contests conducted by member institutions and conferences. National collegiate governance organizations, conferences, and member institutions should initiate a national communications campaign featuring highly visible athletes and coaches addressing the relationship between drinking and sexual violence. Athletes convicted of Driving While Intoxicated (a.k.a. Driving Under the Influence or Operating Under the Influence) should be suspended from athletics participation.

Recommendation 7 - Because of the relationship between violence and impaired reasoning or impulse control caused by a head injury, the NCAA and other
national collegiate sports governing bodies should act to reduce the risk of repeated head trauma including by (a) prohibiting contact practices in high risk sports during the off-season, (b) limiting contact practices in these sports to two times per week during the competition season, and (c) formally reviewing sports rules and practice activities, preparatory to adopting rules that would reduce exposure to the risk of repetitive head trauma.

**Recommendation 8** - National-collegiate-athletic-governance organizations should begin regularized collection of data on athlete violence and the athletics subculture, among other research initiatives. All such research efforts should, by policy, make collected individual level data publicly available to researchers. Research studies should also initiate sampling policies that enable comparisons between the athlete and non-athlete populations and between sports.

**Recommendation 9** - The NCAA should discard or revise its APR metric, which encourages the protection, retention, or transfer of sexual or other physically violent predators.

**Recommendation 10** – Special “escorts” should be prohibited from participating in the entertainment of recruits during on-campus visits in light of the abuse of such practices, which abuse sexualizes the escorts. Only currently enrolled team members or Admissions Office-trained students who regularly conduct campus tours and orientation sessions for visiting high school students should introduce prospective students to the campus.

Last, we note that these recommendations should apply to both male and female athletes. Female athletes recently given sports participation opportunities because of Title IX may be affected by the dysfunctional athletics subculture these recommendations address. Their coaches are predominantly male and even if they are female, many are former highly competitive athletes trained in and replicating the mechanisms of the athletics subculture. Lack of respect for women may not play the same role for female athletes as it does for male athletes, but all other elements of the subculture blueprint are present, and anecdotal evidence exists of top level female athletes participating in domestic and other violence.
A federally funded study in 2007 that has been cited widely revealed that one in five college women (and one in 16 men) is a victim of sexual assault. A 2015 Association of American Universities survey supported that finding, revealing that 23% of female undergraduates reported experiencing sexual assault since enrolling in college. As of July, 2016, 146 private and 139 public institutions of higher education were under U.S. Office of Civil Rights investigation for inadequately handling 309 campus sexual assault complaints. These facts understate the campus sexual assault problem in that “more than 90% of sexual assault victims on college campuses do not report the assault”; the prevalence of false reporting is between 2% and 10%. These data should inform the consideration of issues related to college athletes and sexual assault.

In the spring of 2016, the President, Athletic Director, and Head Football Coach at Baylor University resigned in the wake of rapes and sexual assaults of at least six women by football players. In the summer of 2016, the University of Tennessee reached a $2.48 million settlement with eight women regarding sexual assaults by football and basketball players. Baylor and Tennessee are just two high profile examples of the many cases in which universities

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6 The Chronicle of Higher Education. (2016) Title IX Sexual AssaultTracker API Documentation. Retrieved as of July 27, 2016: https://mail-attachment.googleusercontent.com/attachment/?ui=2&ik=b708008cf3&view=att&th=15632e49084c11e1&tattid=0.1&disp:inline&safe=1&zw=saddbat=ANGjdJ96FKvJGP4fG3kLoGCy1p_DTd5HZrFJO78nLpDdjTnP16EZijPG80FwY0_K45rh390iZDxzAo1moQDJDith3LqRddld4d7i5_PCXnsHgjY8AIlkJHeQiq0UR-voE3wfw0AXUXyFDszFtP2Awc5SM2N4UztnoOFEF - QKenR2Md28CpC40GpxuyzgQn6k9K6gwRqRbRdX9CQeAasQzngVmgK59909LpMxmkDqZDOLdV0nt0FiQQp wjag1G2-qqO-yieZrsST-WGpszjmMDDdb7mb--pkMaYzAQclmXuyfUIVvu-fySypQVaClbvcqC9sMLjgRzxmK9kObkPvr-lp17zPzmmpyymX_6ytGdNam6bU0407sraeyEJOqo00P7fHfjUHxl7K Ubw04IwaeVbR3hPmpenzGZyCIsINgX7u12Fy5Sg36IEpesFtO_yz5J4tE9yE1ilvWVU2CYMT-3Y- PHewVW47hCT7Z5SOBocVSEZfDgAZ765r43hGZVYwS6hjil2AS1jmgT3LRHlwTopEzfjwfgayIGXOoxJmKu_ltdV CvxcuxfYqgeOiQfqtVIMfQOS5v2fTRJO5rStLk_9DFux3TK-pg2sErszVrt95nQUnDLZ31QHcMx60r


treated athletes accused of sexual assault or other forms of misconduct differently than non-athlete students. The literature appears to support the contention that Division I athletes in football and basketball are more likely than other athletes to be involved in violent crimes and are more likely to be favorably treated in the case of sexual conduct transgressions than athletes in other sports and non-athletes. These realities suggest five related questions about the conduct of intercollegiate athletic programs that college administrators must answer:

(1) To what extent should institutions use their athletic programs to give past criminal offenders the opportunity to leave adverse environments and pursue more positive life paths?

(2) How does the obligation of institutions to protect their student populations relate to recruiting athletes who have committed criminal offenses?

(3) If some athletes are more likely to be engaged in violent crimes than non-athletes, what risk prevention activities should be undertaken to reduce this probability?

(4) How should sexual assault and other criminal offense allegations against enrolled athletes be handled, with regard to special assistance or the involvement of athletics staff members?

(5) When athletes are accused of sexual assault or other criminal offenses, how should institutions address the issue of continued eligibility to compete in athletics or retention of athletic scholarships?

The Drake Group has examined these issues preparatory to recommending guidelines for national collegiate athletics governance organizations and their members in the handling of these matters.

College Athlete Involvement in Crime

Jeff Benedict, Southern Virginia University Distinguished Professor of English and author of four books on athlete crime, led a national study of 20 Division I institutions with highly successful football and basketball programs. He found that although male college athletes comprised just 3.3 percent of the total male population on campus, they represented 19 percent of sexual assault perpetrators.⁹ In a 2010 *Sports Illustrated* article, Benedict reported that in the eight month period from January to August of that year, 125 college and professional football and basketball players were arrested on “serious” felony or misdemeanor charges involving violence, weapons, or substance abuse, characterizing the rate as “pretty astounding.”¹⁰

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¹⁰ Ibid
In 2011, Benedict teamed up with CBS News chief investigative correspondent Armen Keteyian to produce a *Sports Illustrated* investigative report in which 2,387 criminal background checks were run on players of the pre-season top 25 college football teams. They found that one in 14 players (7%) had arrest records, more than 200 players were arrested or cited by police 277 times in one season and one-fifth of all college sports-related crimes included domestic violence.\(^\text{11}\) Only two (Texas Christian University and the University of Oklahoma) conducted background checks and these were flawed in that only adult records were included.\(^\text{12}\)

ESPN’s Outside the Lines (OTL) program examined the extent to which athletes participating in football and men’s basketball from 2009 through 2014 at 10 top ranked universities were referenced in police reports from 20 campus and city police departments as being accused of crimes.\(^\text{13}\) The institutions and percentages of players found to be accused were Auburn (5%), Florida (24%), Florida State (18%), Michigan State (15%), Missouri (14%), Notre Dame (2%), Oklahoma State (11%), Oregon State (18%), Texas A&M (15%), and Wisconsin (14%).\(^\text{14}\) These percentages were significantly higher than those of non-athlete students.

The literature is not clear about whether these higher rates among college athletes are restricted to more competitive and successful athletic programs or successful football and basketball programs. But because of the extensive media coverage of such incidents, the named institutions must address the issue. We acknowledge that the data necessary to extrapolate to a larger athlete population to determine whether athletes are more likely than non-athletes to be involved in sexual violence are not available. The NCAA could remedy this data deficiency, but to date, has not elected to research this issue. Even if the NCAA were to do so, the data would likely not be available for researchers’ use because the NCAA generally does

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\(^{14}\) Ibid.
not share data with researchers to whom it lacks direct ties. Equally troubling, when the NCAA collects data, it does not include adequate control groups to provide meaningful comparisons (i.e., a sample of students who do not participate in athletics or sufficient sample sizes to allow comparisons between all sports).

Regardless of the dearth of data, the current athlete versus non-athlete debate does not appear to be helpful. The literature on violence against women suggests the need for a more nuanced understanding of causality given the athletics environment. This literature reveals factors that can be more instructive regarding deterrence. In a 1999 seminal review\(^\text{15}\) of studies of male athletes’ violence against women, Crosset points to six factors that should be confronted, none of which should be categorized as directly causal:

- A strong association exists between drinking and sport – “athletes drink, get drunk and drink to get drunk at a higher rate than non-athletes.” Drinking plays a prominent role in some men’s “premeditated strategy to coerce women into unwanted sex or to be violent; it may also be a convenient and socially acceptable means by which men can distance themselves from their violence.”\(^\text{16}\)

- Impaired reasoning or impulse control caused by head injury plays a role in many instances of sexual violence. “Sport related injuries were the third most likely type of head injury, behind car accidents and falls, most occurred before the age of 16.”\(^\text{17}\)

- Training athletes to be violent in sport affects behavior off the field of play. Training athletes to be physically dominant coupled with socialization that treats women disrespectfully may contribute to hostility and violence against women and may support rape attitudes.\(^\text{18}\)

- Research on male athletic teams and fraternities yields similar results; “peer support of abuse and social ties with abusive peers are predictors of violence against women….the more peer support for violence against women, the more likely a member of that group is to commit these crimes.”\(^\text{19}\)

- “Institutional support for alleged perpetrators often blames women and fails to hold athletes responsible for their actions….athletes bring more resources (financial and otherwise) into the judicial process and are better able than non-athletes to escape punishment for their crimes against women. The


\(^{16}\) Id., p. 250


\(^{18}\) Crossett., p. 250-251

\(^{19}\) Id., p. 251
impediments in prosecuting athletes who perpetrate violence against women, real or imagined, may contribute to the likelihood that an athlete will commit this sort of crime.”  

- “Star athletes, whose mediated images represent an idealized masculinity, and lesser male athletes, by association, enjoy elevated status within the masculine status hierarchy... [and] can garner considerable access to resources for demonstrating masculinity. Within some subworlds of sport, crimes against women (both the act and the recounting of it) may be a demonstration of masculinity.”

Crosset also concluded that “[F]actors that increase the likelihood that an athlete will perpetrate a crime against a woman may also vary depending on his class, race, team culture, sport culture and level of sport.”

Sabo, Messner and others similarly assess the athletics subculture being supportive of sexual violence, homophobia, aggression, militarism and the denigration of women, resulting in a dysfunctional masculinity ideal dominated by strength, physical dominance, and impressive virility. Most authors agree that the popularity of sport in every society, its significance as a cultural institution, its dominance by men, and its effect on the perceptions of ideal masculinity, severely limit male athlete choices of acceptable behavior and thought expression, thereby supporting sexual violence. While these phenomena have been studied in depth over the last four decades, educators and sports administrators have not used this information to change sport systems in this regard. This review of the literature supports the need to do so now. Multiple approaches must be used.

Institutional Actions and Justifications That Enable Athlete Violence

Media reports corroborate research findings of institutions enabling athlete misconduct. Numerous cases are cited in which athletes with a history of criminal offenses are knowingly recruited to participate in athletics. Or, if the athlete is already enrolled and commits such violence, the institution acts to support the athlete by imposing minimal institutional penalties, blaming the victim, providing extraordinary legal or other assistance, impeding investigations, delaying adjudication to the end of the playing season so athletes can remain eligible to compete, or intimidating victims to drop or not bring charges. The reality of the college athlete recruiting process is that college coaches are under tremendous pressure not to question recruits about past criminal or other misconduct for fear they will lose the recruit to institutions that don’t ask. In other words, the need for outstanding talent trumps any concern about the

Id., p. 252
Id., p. 253

athlete’s moral character and how it may affect the safety of other students. Once athletes are enrolled, the pressure to maintain their eligibility to play results in special treatment.

Seldom do institutions acknowledge these reasons for turning a blind eye to athlete violence. Rather, they express concern for the athlete, not wanting to ruin his life, or alternatively, wanting to provide an opportunity for the athlete to turn his life around. They hope he will use education to steer a course toward future success, and they insist that violent behavior is not consistent with his family or religious upbringing. At times the institution may deny prior knowledge of misconduct. Sometimes, a ‘slip of the tongue’ sends a clear misogynist “boys will be boys” message to college athletes. For example, USA Today reported that Bob Bowlsby, Commissioner of the Big 12 Conference, stated during a July 2016 press conference about the athlete sexual violence issue at Baylor: “It almost goes without saying that when you combine alcohol and drugs and raging hormones and the experiences of 18-22 years old, it’s probably unrealistic to think that these kinds of things are never going to happen.” Statements of concern for the victim or possible future victims are seldom, if ever, voiced.

These institutional excuses are familiar, consistent and regularly documented by the media:

Letter-of-Intent signee Jeffrey Simmons, a highly ranked football prospect recruited by Mississippi State University (MSU), allegedly used physical force in attempting to intervene in a domestic fight between his sister and another woman and was charged with misdemeanor assault for striking a woman. Simmons, a football player, was suspended for the first game of the season, a penalty equal to that imposed if a player commits a targeting foul during a game. MSU’s athletic director made the following statements concerning the incident. "Based on conversations our staff has had with school, community and church leaders in Noxubee County, this incident appears to be uncharacteristic of Jeffery." "It's a highly unique circumstance to administer discipline to a student for an incident that occurred prior to that individual joining our university.” "We expect the structure and discipline Jeffery will be a part of in our football program to benefit him. Jeffery will be held accountable for his actions while at MSU, and there will be consequences for any future incidents." “Five seconds of a really poor choice shouldn’t preclude an individual from going to school.”


Consider the way in which the University of Nebraska handled the case of football player Laurence Phillips who committed suicide in while serving a 31-year prison sentence for convictions that included domestic violence, spousal abuse, false imprisonment and vehicle theft and was awaiting trial for first-degree murder:

“Phillips, who brutally beat an ex-girlfriend (separation assault), was temporarily suspended from play. University officials argued that severing relations with Phillips would be detrimental to the young man in this time of need. The charges against Phillips were dropped and he returned to action in time to play in Nebraska’s bowl game.”

Another example reported by Inside Higher Education in July of 2015:

“Earlier this year, a female University of Oregon student sued the university, alleging that it recruited the basketball player accused of assaulting her, even though it knew he had previously been accused of a separate sexual assault at Providence College. Oregon suspended the player, as well as two others involved in the assault, but the suit also states that the university scrubbed the players' transcripts of any references to sexual misconduct, making it easier for them to transfer to play elsewhere.

The university maintains it was not aware that the player had faced sexual assault allegations at Providence, and the state of Oregon does not require colleges to note such offenses on transcripts.

All three Oregon players have since transferred to play basketball at other colleges, despite the widespread media coverage of their suspension. Last season, Alcorn State University’s football team included two players who had left their previous colleges after being accused of sexual assault. Both were high-profile cases, but neither player had trouble finding a new team to play for.”

Division I institutions commonly arrange legal assistance for accused athletes, and the rules of the NCAA and other national collegiate athletic governance organizations do not prohibit the practice. The University of Tennessee, as part of a $2.48 million athlete-sexual-assault settlement, admitted that “it did prepare a list of six local lawyers for athletes to call. The lawyers, all Tennessee graduates, included two former members of the university’s athletic board, a football color commentator for its television network and a prominent booster. Other students at Tennessee accused of crimes -- and those who file complaints that they have been

25 Crossett, p. 252.
the victims of assaults or other crimes — did not receive the list.”

“For decades, a lawyer in Baton Rouge provided pro bono legal services to more than 100 Louisiana State University athletes until the university asked him to start charging athletes in 2011. Throughout the 1980s, an Orlando attorney and Florida State University booster represented athletes for free... FSU officials and Tallahassee police worked together to help prepare a defense for Jameis Winston, the university’s star quarterback at the time, after he was accused of sexually assaulting a female student.”

**Legal and Public Relations Risks Created by Special Treatment of Athlete Sexual Violence.** Legal authorities recognize the risk that institutions take if they continue to protect college athletes who demonstrate violent behaviors or allow coaches to recruit felons or those with a history of violent misconduct, whether or not they are brought to justice via a criminal conviction. If such individuals commit sexual assault or violent acts on campus or during off-campus school activities and the institution fails to effectively address this hostile environment, it may violate Title IX. The institution may also be at risk of being held liable for “negligent recruiting” in the same way it may be held liable for "negligent hiring" of employees. Other more novel causes of possible legal action have also been raised. For example, a 2016 lawsuit was brought against the University of Kansas by the parents of a freshman female athlete who was sexually assaulted by a football player in her dormitory. According to the parents, the University promised that its dormitories were safe; they accuse the University of false advertising and of violating the Kansas Consumer Protection Act. “Experts say that if successful, the lawsuit could prod universities to do more to stop sexual violence on campus.”

A 2014 survey of 440 institutions commissioned by the office of U.S. Senator Claire McCaskill found that many schools use investigatory and adjudication processes that fail to comply with best practices. For example, experts maintain that students should not

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28 Ibid.


31 Ibid.

participate in adjudication panels in campus sexual assault cases due to privacy concerns for victims or conflicts of interest because they may know peers who are victims or perpetrators. But 27% of institutions in the national sample, 43% among large public institutions and 30% among large private institutions, allow such student participation. Incredibly, many institutions polled in the McCaskill survey reported setting up different investigation and adjudication procedures for their athletes. “More than 20% of institutions in the national sample give the athletic department oversight of sexual violence cases involving student athletes. Approximately 20% of the nation’s largest public institutions and 15% of the largest private institutions allow their athletic departments to oversee cases involving student athletes.” The report concluded:

“Institutions are failing to comply with the law and best practices in handling sexual violence on campus. These failures include failing to have a Title IX coordinator, not knowing the scope of the problem on their campuses because of inadequate outreach, not responding to reports of sexual violence made by students, not training students, faculty, and staff on preventing and responding to sexual violence, and having biased or harmful sexual assault adjudication procedures.”

Under these circumstances, it is not surprising that differential treatment of athletes occurs even when athletic departments are not responsible for handling sexual assault cases. The purpose of the Outside the Lines investigation previously cited was not only to reveal the extent to which athletes were involved in criminal activity, but also to examine how athletes were treated differently than non-athletes with regard to investigation and adjudication of sexual assault allegations. The report concluded:

“...athletes from the 10 schools mainly benefited from the confluence of factors that can be reality at major sports programs: the near-immediate access to high-profile attorneys, the intimidation that is felt by witnesses who accuse athletes and the higher bar some criminal justice officials feel needs to be met in high-profile cases.”

“Athletic department officials inserted themselves into investigations many times. Some tried to control when and where police talked with athletes; others insisted on being present during player interviews, alerted defense attorneys, conducted their own investigations before contacting police, or even, in one case, handled potential crime-scene evidence. Some police officials were torn about proper procedure -- unsure when to seek a coach's or athletic director's assistance when investigating crimes.”

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33 Ibid, p. 11.
34 Ibid.
“Some athletic programs have, in effect, a team lawyer who showed up at a crime scene or jail or police department -- sometimes even before an athlete requested legal counsel. The lawyers, sometimes called by athletic department officials, were often successful in giving athletes an edge in evading prosecution - - from minor offenses to major crimes.”

“The high profiles of the athletic programs and athletes had a chilling effect on whether cases were even brought to police and how they were investigated. Numerous cases never resulted in charges because accusers and witnesses were afraid to detail wrongdoing, feared harassment from fans and the media, or were pressured to drop charges in the interest of the sports programs.”

All of these institutional practices increase the risk of the institution being held liable under Title IX for failing to prevent hostile educational environments created by athlete sexual harassment.

Responding to the apparent sexual assault crisis on college campuses, Congress is currently considering a bipartisan bill, the Campus Safety and Accountability Act (S.590). Included among the provisions is a sport-specific requirement to use a uniform process for campus disciplinary proceedings that would no longer allow athletic departments or other subgroups to handle complaints of sexual violence for members of that subgroup alone.

The NCAA’s Response to the Sexual Violence Issue

The NCAA has responded to the sexual violence issue in three ways. First, the NCAA Executive Committee issued an August, 2014 resolution that urged athletic programs to “assure that student-athletes are neither advantaged nor disadvantaged by special treatment”.

The resolution stated that member institutions’ athletics departments must:

- “Comply with campus authorities and ensure that all athletics staff, coaches, administrators and student-athletes maintain a hostility-free environment for all student-athletes regardless of gender or sexual orientation; know and follow campus protocol for reporting incidents of sexual violence; report immediately any suspected sexual violence to appropriate campus offices for investigation and adjudication;
- Educate all student-athletes, coaches and staff about sexual violence prevention, intervention and response;


• Assure compliance with all federal and applicable state regulations related to sexual violence prevention and response; and
• Cooperate with but not manage, direct, control or interfere with college or university investigations into allegations of sexual violence, ensuring that investigations involving student-athletes and athletics department staff are managed in the same manner as all investigations of students and staff on campus.”

The resolution does not have the force of NCAA rules, which carry penalties for non-compliance. Neither does the resolution address athletic department practices such as arranging for athletes to receive early legal advice or representation in the event of allegations of criminal conduct or interfering with criminal investigations or adjudication. Last, the resolution ignores violent behavior other than sexual violence.

Historically, the NCAA has not been inclined to act in a rule-making capacity on the tough issues (i.e., concussion and medical policies, academic integrity, etc.), choosing instead to defer to individual institutional responsibility. The NCAA has the same authority to enact a bylaw requiring all member institutions to conduct criminal background checks as a condition of an athlete’s participation in athletics as it has to do so on the issue of drug testing. Potrafke recommends, and The Drake Group concurs, that “instead of having universities respond to violence by student-athletes, the NCAA should encourage universities to take preemptive measures to combat the violence. Criminal background checks offer such a preemptive measure that the NCAA should consider when evaluating its role in helping decrease student-athlete violence.”

Surely, prevention of college athlete sexual violence is important enough to warrant the NCAA requiring criminal background checks. Further, institutions should not demonstrate a disregard for their Title IX obligations by waiving their normal academic admissions standards to recruit students with serious misconduct records a practice that places them at legal risk.

Common sense says the only way to remove this continuing recruiting temptation and reduce this legal risk is with a rule applicable to all NCAA member institutions. Athletes who engage in violent conduct need such a clear statement of consequences as part of a package of strategies to discourage sexual and other violent conduct. The cost of such a bylaw would not be prohibitive. Criminal background checks are routinely performed for youth sport coaches and school employees at the cost of approximately $100-$150 per request. By aggregating all of its members, the NCAA should be able to obtain a significantly lower rate. Instead of criminal background checks, disclosure statements could be required of athletes as a condition of eligibility for athletic participation.

38 Ibid.
In September 2014, the NCAA issued an education publication titled *Addressing Sexual Assault and Interpersonal Violence: Athletics’ Role in Support of Healthy and Safe Campuses*.

The stated purposes of the publication are to assist member institutions “in developing their own approaches to preventing or reducing the incidents of sexual assault and other acts of interpersonal violence on their campuses” and to “provide information on responding appropriately to acts of violence and other matters relevant to complying with federal law”. Notably the publication does not acknowledge the high rates of athlete involvement in sexual violence that appear to exist in Division I football and basketball, appearing to deny or mitigate its existence among aggregated data:

"The research does not show significant differences between student-athletes and their non-athlete peers on probabilities of perpetrating acts of violence. It appears there may be more differences among student-athletes than between student-athletes and non-athletes."

Neither does the publication mention specific concerns about recruiting athletes with criminal records, specific ways in which athletic departments have acted inappropriately in investigating and adjudicating sexual offenses, or other issues discussed in this paper. No NCAA rule requires mandatory distribution of such important educational material. Moreover, even if such a rule existed, it would not end athlete violence because although education is an important intervention, it is not sufficient to solve the problem.

On August 5, 2016, the NCAA Board of Governors announced that it was asking the leaders of all three competitive divisions to “consider legislation to deal with athletes accused of sexual violence” and suggested that its August, 2014 resolution “could serve as the basis for new rules that would address topics such as compliance with campus authorities as well as state and federal laws, proper reporting protocols and more education within the athletic department about prevention and intervention.”

We hope that legislation applicable to all NCAA members will emerge from this call for action and that the legislation will deal with athlete violence broadly, not just sexual violence.

### Conference Responses to the Athlete Sexual Violence Issue

In 2015 the Southeastern Athletic Conference (SEC) became the first conference to ban the recruiting of transfer athletes previously disciplined for misconduct. The SEC adopted a rule that prohibited member institutions from recruiting any athlete dismissed from an institution.

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41 Ibid, p. 5.

42 Ibid, p. 11.

for sexual assault, domestic violence, or other forms of sexual violence.\textsuperscript{44} This rule was revised in 2016 to expand the definition of serious misconduct to include "dating violence or stalking, or conduct of a nature that creates serious concerns about the safety of others" and to require members to "conduct appropriate inquiry into a transfer student-athlete's background prior to providing athletically related aid or allowing him/her to practice or compete."\textsuperscript{45} Apparently, both recruiting needs and moral considerations precipitated the SEC actions. The University of Georgia, an SEC member, had dismissed a football player from its team after his arrest on a domestic violence charge. The University of Alabama, another SEC member, recruited him after a year spent in junior college. Georgia proposed the rule change. If moral considerations had been the root cause of the rule, it likely would have applied to all athletes – prospective and currently enrolled, not just transfers.

In February of 2016, prompted by the athlete rape scandal at Baylor University, the Big 12 conference passed a similar rule affecting prospective freshmen or transfer student athletes but not enrolled student-athletes. The rule declares freshmen and transfers who previously committed serious misconduct (defined as “sexual assault, domestic violence, and other similar crimes involving moral turpitude”) as ineligible for financial aid, practice or competition.\textsuperscript{46} Serious misconduct by enrolled student-athletes is subject to unspecified “applicable institutional procedures.”\textsuperscript{47}

In March of 2016, the Pac-12 “approved a policy prohibiting a transfer from receiving athletic aid or participating in athletics if the transfer student-athlete is unable to re-enroll at a previous institution due to student misconduct...issues such as assault, harassment, academic fraud, and other violations of campus behavior conduct policies.”\textsuperscript{48} Formal criminal background checks are not required but Pac-12 members are required to ask transfers to disclose whether they are eligible to reenroll at their previous institutions.\textsuperscript{49}

To date, it appears that only the Big 12 prohibits recruiting freshmen with criminal records or who have otherwise engaged in serious misconduct. No conferences have rules


\textsuperscript{45} Dopirak, Dustin (2016) SEC Debates Punishment System for Incoming Freshmen. Knoxville News Sentinel Retrieve at: \url{http://www.knoxnews.com/sports/vols/football/sec-debates-punishment-system-for-incoming-freshmen--3454e026-a07a-3f2c-e053-0100007f63b4-381823301.html}

\textsuperscript{46} Big12 Conference. (2016) Big 12 Announces Misconduct Policy. Press Release dated February 5, 2016. The full text will be available to the public as part of the contents of the 2016-17 Big 12 Handbook, available online at \url{http://www.big12sports.com/}

\textsuperscript{47} Ibid.


\textsuperscript{49} Ibid.
In this section, we undertake a limited examination of the types of policy actions by one state and several representative institutions that specifically address sexual or other acts of violence by athletes. Generally, state legislatures delegate authority for all matters concerning the operation of public institutions of higher education to a governing board (e.g., Board of Trustees, Board of Regents, etc.) and, in turn, these Boards transfer authority over athletics to the President or chief executive officer of the institution. Private colleges and universities are incorporated as non-profit organizations with fiduciary responsibility vested in a similar Board of Directors that also typically transfers authority to the chief operating officer. Thus, state and governing board policies are general in nature and seldom refer to specific programs and activities within the institution. Exceptions to this general lack of policies specific to individual programs within institutions may be precipitated by institutional crisis.

For instance, to our knowledge, only Idaho has initiated state legislation applicable to all state institutions of higher education regarding violent athlete misconduct. In 1995, seven athletes attending two different Idaho state universities who were accused of rape and assault. Within days of the seventh arrest, the legislature created the following student-athlete code of conduct:

“1. Each public college and university shall have a written policy governing the conduct of student athletes. At a minimum, those policies shall include:

   a. A disclosure statement completed and signed by the student athlete prior to participation in any intercollegiate athletic endeavor, which shall include a description of (1) all prior criminal convictions, (2) all prior juvenile dispositions wherein the student was found to have committed an act that would constitute a misdemeanor or felony if committed by an adult, and (3) all pending criminal

charges, including juvenile proceedings alleging any act which would constitute a misdemeanor or felony if committed by an adult.

b. This statement will be kept in the office of the athletic director. Failure to accurately disclose all incidents may result in immediate suspension from the team.

2. Institutions shall not knowingly recruit any person as a player for an intercollegiate athletic team who has been convicted of a felony or, in the case of a juvenile, who has been found to have committed an act which would constitute a felony if committed by an adult. Exemptions to this restriction shall be granted only by the President of the college or university upon recommendation of the athletic director and faculty athletics representative. Such decisions shall be reported in writing to the Executive Director of the State Board of Education at the time the exception is granted.

3. A student athlete convicted of a felony after enrollment, including a plea of nolo contendere on a felony charge, shall be removed from the team and shall not be allowed to participate again in intercollegiate athletics at any Idaho public college or university. Further, an institution may cancel any athletic financial aid received by a student who is convicted of a felony while the student is receiving athletic financial aid subject to NCAA regulations and the institution’s applicable student judicial procedure. Nothing herein shall be construed to limit an institution from exercising disciplinary actions or from implementing student athletic policies or rules that go beyond the minimum requirements stated herein.”

Institutional governing boards react similarly. Following the infamous Sandusky affair at Pennsylvania State University, the NCAA mandated and the University’s Board of Trustees adopted a student-athlete code of conduct and acknowledged its oversight responsibility over the integrity of the athletic department. Similarly, the Board of Trustees of Michigan State University adopted the following policy following a 1993 incident in which an athlete was not suspended from the football team after pleading guilty to assault, battery and entering a premises without permission:

“Any student-athlete who, while a member of an MSU intercollegiate athletic team, is convicted of a felony will be suspended from the MSU intercollegiate athletic team of which he or she is a member and thereby precluded from participation in games and all other benefits related to team membership. The student-athlete may request an exception to this rule. The President, upon recommendation of the

coach and after consultation with the Director of Intercollegiate Athletics may grant such an exception."  

Similarly, at the CEO institutional level, the code of conduct and disciplinary processes applicable to all students may or may not include athlete-specific provisions. They are more likely to do so after a highly visible sexual assault or other acts of violence by athletes have occurred. The same is true at the athletic-department-policy level, where policies related to athlete sexual assault or other serious athlete misconduct vary greatly in detail and complexity based on the extent to which the athletic program has suffered from athlete transgressions. For example, Fresno State University Athletic Department’s policies specify that athlete discipline matters are the responsibility of a Conduct Review Committee. It consists of the Deputy Director of Athletics, two coaches, up to three Director of Athletics’ designees, a Faculty Athletics Representative (FAR), a faculty member approved by the Athletics Advisory Committee and 2 student-athletes. Coaches and student-athletes on the committee are excused from deliberating on cases involving their sport. Hearings may be conducted when a quorum (majority) of the committee members are [sic] present.” The athletic department categorizes athlete sexual violence as a “Category II violation,” which is handled as follows:

**“Category II Sanctions:** When there is reasonable and credible evidence that a student-athlete has committed a Category II violation, the Conduct Review Committee will consult appropriate University officials before imposing at least one of the following: suspension from practice, suspension from competition, prohibiting the student-athlete from using any Athletics Department facilities or services, reduction and/or termination of athletic aid, and/or permanent dismissal from the team. If athletic aid is reduced or terminated, it will occur in accordance with procedures outlined in the Student-Athlete Handbook.

- If reasonable and credible evidence exists that a student-athlete may have engaged in Category II misconduct, the Director of Athletics or his/her designee may temporarily suspend a student-athlete from practice, competition, or all athletics activities and services until a formal review is conducted.

- Charge of Felony: If charged with a felony, a student-athlete will be automatically suspended from athletics participation by the Director of Athletics pending the Athletics Department’s investigation. After the internal review, appropriate disciplinary action will be taken, which may include suspension from competition and suspension or continued suspension from the team.

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• Conviction of Felony: If convicted of a felony, a student-athlete will be immediately removed from his or her athletic team.

• Note: Penalties will be greater if any of the following are involved in the violation:
  1. Failure to disclose the alleged violation to the Head Coach, an Athletics administrator or the FAR as soon as possible
  2. Alcohol and/or drugs or a history of a violation(s) of the Athletic Department’s Substance Program
  3. Repeated misconduct including academic dishonesty
  4. Multiple violations within a single act of misconduct
  5. Repeated association with acts of misconduct in which guilt may be implied

All sanctions will be commensurate with the severity of the violation as determined by the Conduct Review Committee. The Director of Athletics is the sole appeal body for the assigned sanctions."

The problems with policies such as the above are multiple: (1) most committee members are athletic department staff, so the committee has an inherent conflict of interest, (2) best practices dictate that students not be involved in the adjudication of sexual-assault claims, (3) the list of possible penalties lacks a strong deterrent, and (4) the athlete is not treated like other students.

Conclusions

This review of the current issues related to college athlete sexual and other violence concludes that no uniform approach exists at any level of policy making to address these issues. Furthermore, no concerted and coordinated effort by the NCAA and other national-collegiate-athletic-governance organizations, conferences, or member institutions confronts athlete violence in a way that will deter such violence. The lack of a nationally uniform policy, coupled with the pressure at the institutional level to win at any cost, results in huge disparities across institutions in the way athlete misconduct is treated. Thus, athletes do not hear a clear message indicating that violent behavior is unacceptable. In other words, no consistent deterrent for such behavior is available. Worse yet, institutions often enable misconduct by supporting athletes who engage in such behavior or by continuing to recruit them, enroll them, and allow them to participate in athletics.

Only in the face of extraordinary media-fueled public outrage do institutions condemn violent athlete behavior by removing selected enablers such as coaches or administrators and enacting policies that properly address such behavior. That is, proper actions occur only after

violence has already taken place and been mishandled. Moreover, the institutional leaders who advance appropriate policy responses to crises, usually members of institutional governing boards, do not then call upon the NCAA and other national-collegiate-athletic-governance organizations, state legislatures or other groups who could require uniform and effective solutions, to do more to prevent repeated bad behavior. As a result, the causes of athlete sexual violence remain substantially unaddressed. No coordinated effort is launched to understand and counter the multivariate causes of athlete violence.

To fill this void, the Drake Group offers the following recommendations. We emphasize that their purpose is not to ensure a level playing field in recruiting or to protect institutional reputations. The litmus test for each recommendation should be whether it advances the well-being and safety of the athlete who is at-risk because of membership in a complex athletics subculture that supports sexual violence. We asked whether the adoption of the recommendation would deter a practice or behavior that contributes to athlete sexual violence. And, most importantly, we asked whether the recommendation would end current institutional practices that enable sexual and other violence by athletes.

The Drake Group gratefully acknowledges the contributions of Todd Crosset, Michael Messner, Don Sabo and many other academic researchers who have defined and deconstructed this dysfunctional athletics subculture. In so doing, they have facilitated a better understanding of the interplay of factors that need to be addressed: (1) the role drinking plays as a justification of male athlete violence or as part of a coercion strategy to engage women in unwanted sex, (2) the relationship of violence to impaired reasoning or impulse control caused by athletics head injuries, (3) how teaching athletes to be physically dominant in sport supports non-sport sexual violence when coupled with locker room socialization that treats women disrespectfully, (4) how peer loyalty extended to teammates bragging about sexual conquest and abuse affects the socialization of all team members to accept or practice violence against women, (5) why the absence of athletic-governance-association rules, coupled with the failure of institutions to hold athletes responsible for their actions and institutions’ tendency to defend athletes or impede campus and police actions supports continued athlete violence, and (6) how star athletes who behave violently toward women and suffer little or no penalty fosters a distorted ideal of masculinity that others emulate. Crosset et al. have created the blueprint that The Drake Group believes should be followed in constructing policy solutions. Failure to address these factors with national-governance-association rules that reject and deter sexual and other violence will perpetuate an athletics subculture that condones and enables such behavior.

We recognize that many of these recommendations are complex because (a) precision is necessary to afford fair process to accused students, (b) a racial bias in the law enforcement system must be acknowledged, and (c) the rules must target sexual violence and other physically violent behavior that harms others on or off campus. Precision is also required to clarify behavioral expectations, eliminate self-interested institutional responses to athlete violence, and make athletes aware that special treatment will not be forthcoming.
The Drake Group notes that the recommendations advanced below apply to both male and female athletes. Female athletes recently given sports participation opportunities because of Title IX may be affected by the dysfunctional athletics subculture described here. Their coaches are predominantly male and, even if they are female, many are former highly competitive athletes trained in the mechanisms of this subculture. The system teaches physical dominance and aggression. Lack of respect for women may not play the same role for female athletes as it does for male athletes, but all other elements of the subculture blueprint are present, including anecdotal evidence of top level female athletes being involved in domestic and other violence.55

RECOMMENDATIONS

Recommendation 1. Title IX Compliance as a Condition of Membership

The NCAA and other national collegiate athletics governance organizations should establish, as a condition of membership, that institutions demonstrate, through a once-in-every-four-years assessment, compliance with the athletics and sexual harassment provisions of Title IX of the Education Amendments of 1972. Government regulations address Title IX athletics requirements. With regard to Title IX’s sexual harassment regulations and guidelines applicable to all students, the assessment should examine the investigation or judicial process of any athlete alleged to have committed an act prohibited by Title IX to determine whether (a) the athlete has been treated like any non-athlete student (except for NCAA and other national-collegiate-athletic-governance-organization eligibility rules designed to deter such conduct by withdrawing athletics-participation privileges) and (b) athletic-department employees have complied with their reporting responsibilities related to such conduct.

Rationale

• An NCAA principle currently exists addressing this issue:
  “2.3.1 Compliance with Federal and State Legislation. It is the responsibility of each member institution to comply with federal and state laws regarding gender equity.”56 However, no enforceable regulation exists that implements the principle. Previously, NCAA Division I imposed a once every ten years peer-certification requirement that included a Title IX athletics assessment but no assessment of compliance with the law’s sexual harassment provisions. This certification program was eliminated in 2011.

56 2015-16 NCAA Division I Manual, p. 3
• NCAA and other national collegiate athletic governance organization members should comply with state and federal laws as a condition of membership and should have rules that require such compliance.

• When institutions fail to give female athletes equal treatment and equal opportunities to participate, which is still true forty-four years after the passage of Title IX, they inadvertently support an athletics subculture that devalues women.

• Twenty percent of the nation’s largest public institutions and fifteen percent of the largest private institutions allow their athletic departments to oversee Title IX sexual harassment cases involving student athletes, a conflict of interest that contributes to athletes being treated differently than non-athletes. Such practices would not pass muster if compliance with Title IX was a membership requirement of the NCAA and other national-collegiate-athletic-governance organizations.57

• The NCAA currently requires independent assessment of the rules compliance systems of members on a regularized basis. The assessment requirement recommended here is no different.

Recommendation 2. Rules to Address Enrolled Athlete Violent Conduct

Regarding currently enrolled athletes alleged to have committed violent sexual (e.g. nonconsensual, coerced or forced sex or sexual advances, etc.) or other physically violent conduct (e.g., battery, assault, domestic violence, etc.), the NCAA and other national-collegiate-athletics-governance organizations should require the following:58

a. athletic department employees should be prohibited from involvement (except for their Title IX reporting obligations) in campus or external investigation and adjudication processes, including the provision of attorneys to assist athletes, unless the institution provides all students with the same legal assistance. Athletic department staff should also be prohibited from communicating with victims, campus or local law enforcement, district attorney’s offices and potential or listed witnesses;

b. athletes should be treated like all other students accused of such misconduct with regard to institutional investigative and adjudication processes except that NCAA and other national-collegiate-athletic-governance-organization rules governing athletics eligibility in the case of alleged or found misconduct shall apply;

c. while allegations are pending, the accused athlete should be suspended from participation in athletics practice and competition, but should remain eligible for athletics financial aid and academic services until the completion of the campus adjudication and/or criminal processes applicable to all students;


58 This paper assumes throughout that the persons who allege violent misconduct are victims or mandatory reporters.
(1) If the school has a preliminary hearing process conducted by an independent body to determine the plausibility of allegations (which we favor for all students), that process must apply equally to athletes and non-athletes;

(2) If, subsequent to the completion of all processes, the institution is found to have wrongly influenced the initial plausibility decision or investigatory or adjudication procedures, the NCAA and other national collegiate athletic governance organizations should automatically suspend or expel the member institution (see requirements in last paragraph of this recommendation);

(3) In the case of a victim going straight to law enforcement with no report to the institution:
   (a) suspension of athletic eligibility should occur when the institution learns of the allegation. If an arrest or indictment follows, suspension should continue until the case is resolved.
   (b) Title IX requires that the school’s obligation, even in the event of an off-campus incident, is to determine whether the effects of the misconduct created a hostile environment on campus or in an off-campus school program or activity; 59
   (c) if the allegation or arrest violates the institution’s conduct rules applicable to all students, the provisions of (c)(1)-(2)) (above) should apply;

d. Each returning enrolled athlete should be required to complete and sign, as a condition of eligibility to participate in athletics, a disclosure statement covering the previous twelve months. It should describe any criminal conviction involving sexual or physical violence, all pending criminal charges alleging any act of sexual or physical violence, and any campus sexual or physical violence allegations, pending investigation or judicial proceeding, and the outcome of such proceeding, if complete. The athletic department should maintain the disclosure statement as a confidential document and it should submit a copy to the NCAA Eligibility Center to facilitate NCAA research on athlete violence;

e. If the accused student-athlete is found guilty of such misconduct pursuant to a campus Title IX or student judicial proceeding, liable in a civil proceeding, or is convicted or pleas nolo contendere to a felony charge, the athlete should be permanently ineligible to practice, compete, and receive athletics financial aid at any member institution of the NCAA or of any other national-collegiate-athletic-governance organization. This penalty should be in addition to any penalty imposed by the institution in which the athlete is enrolled at the time of the misconduct.

59 Consider the athlete who rapes a student at the victim’s apartment or the athlete who beats his student girlfriend at home or sexually assaults a female student at a bar and similar cases in which the victim must interact with the perpetrator in the classroom the next day.
Institutions that violate sections “a,” “b,” or “c” of this provision should serve a one year suspension of membership (no distribution of national collegiate athletic governance organization or member conference revenues or eligibility for post-season play) for the initial offense, a two-year suspension for a second offense, and permanent revocation of membership for a third offense. Additional sanctions (such as “show cause” orders, vacating wins or championships earned with athletes who should have been declared ineligible) should be commensurate with the circumstances to which they apply.

Rationale

- **Athletics participation is a privilege, not a right.** Thus, suspension from and prohibition of student participation in athletics do not demand the due process required when constitutional rights are threatened. Suspension of athletic eligibility pending the outcome of an investigation or an adjudication process is reasonable because of the need for the strongest possible response to the risks of sexual and other violence posed by the athletics subculture. No Constitutional right to play must be protected.
- **Creating a clear and strong deterrent to sexual and other violence is more important than allowing an accused athlete to continue playing.** Concerns about false allegations resulting in unfairness to the accused should not supersede protecting the larger campus community. Research indicates the prevalence of false allegations is between two and ten percent and that more than ninety percent of sexual assaults are not reported.\(^{60}\) Thus, overwhelming evidence supports the need to prioritize protecting others from a potentially hostile environment, rather than protecting the accused individual.
- **These provisions are necessarily complex.** Precision is necessary to afford a fair process to accused students and to emphasize that the target of the rule is sexual violence and other physically violent behavior causing harm to others on or off campus. Both sexual and physical violence are unacceptable characteristics of the existing athletics subculture. Precision is also required to clarify behavioral expectations, eliminate the institutional determination of athletics eligibility, and send a clear message to athletes that special treatment will not be forthcoming.
- **Suspension prior to the completion of investigation and adjudication does not prejudice the “rights” of athletes which remain protected (i.e., due process).** Besides, the suspended athlete retains athletics financial aid, which supports continuation as a student until a determination of guilt.
- **Allowing the continued participation of accused would place the institution at risk for knowingly enabling a hostile or dangerous campus environment to exist.** Preventing the accused from interacting with large number of students and the general public reduces this risk.
- **Such clear, unambiguous, and uniform requirements, applicable to all members of the NCAA and other national-collegiate-athletic-governance organizations will deter**

institutions from supporting alleged athlete perpetrators, blaming the victim, failing to hold athletes responsible for their actions, and impeding the investigation or adjudication of such misconduct.

- Required returning-athlete disclosure statements of recent allegations or findings of sexual or other violent acts will reveal disqualifying violent behaviors, whenever or wherever they have occurred. The submission of disclosure updates to a central repository will ensure that data applicable to athletes’ entire college careers are available for research.

**Recommendation 3. National Collegiate Governing Organization Rules to Address Sexual or other Violent Conduct of Recruited Prospective or Transfer Student Athletes**

The NCAA and other national athletic governance organizations should require each high school or two- or four-year college transfer student seeking to participate in athletics at their member institutions to complete and sign a disclosure statement prior to participation in athletics or consideration for athletics financial aid. The disclosure statement should include a description of:

a. all prior criminal convictions involving sexual or physical violence;

b. all prior juvenile dispositions wherein the student was found to have committed an act of sexual or physical violence that would constitute a felony if committed by an adult;

c. all pending criminal charges, including juvenile proceedings, alleging any act of sexual or physical violence that would constitute a felony if committed by an adult, and

d. any sexual or physical violence in high school or at a previous institution of higher education that resulted in a past or pending investigation or judicial proceeding and the outcome of such proceeding, if complete;

The NCAA Eligibility Center should maintain such disclosure statements as confidential documents. Doing so would enable the NCAA to produce valuable research on athlete violence. Other national-collegiate-athletic-governance organizations should establish similar non-institutional repositories. Some of this information should be used to disqualify prospects from eligibility for intercollegiate athletics in the following manner:

Based on a review of each prospect’s disclosure statement, as determined by the NCAA Eligibility Center (or similar structure of other national collegiate athletic governing organizations), institutions should be prohibited from recruiting any individual to participate in intercollegiate athletics (e.g., practice, compete or receive athletics financial aid) who has been:
a. convicted of a sexually violent (e.g., nonconsensual, coerced or forced sex or sexual advances, etc.) or other physically violent act (e.g., battery, assault, domestic violence, etc.) or has pled nolo contendere to such an act;

b. in the case of a juvenile, has been found to have committed such an act;

c. suspended or expelled from any educational institution for such an act.

Athletes who have not yet enrolled in an institution of higher education and have been declared ineligible under this provision should have an avenue of appeal to an independent panel comprised of both youth-development and law-enforcement experts not employed by any member institution.61 “Independent” means an individual who has not held a paid or unpaid position within the college or university and its systems, nor has provided support to the university as a booster, alumnus, consultant, or person of influence.

Rationale

- Creating a clear and strong deterrent to sexual violence is important because the previous educational institutions that aspiring young athletes attended may have practiced the same kind of special treatment and enablement that has failed to address athlete sexual violence in college.

- Waiving normal admissions standards or admitting talented athletes who are academically underprepared, even when the institution knows they have previously committed felonies or serious misconduct, suggests that violent behavior is acceptable and does not result in negative consequences. And allowing a known felon or student who has previously endangered the safety of classmates places the institution at risk for knowingly fostering an unsafe campus environment.

- Clear, unambiguous and uniform requirements applicable to all member institutions of the NCAA or other national-collegiate-athletic-governance organizations will deter admissions decisions based solely on the potential contributions of a prospective student.

61 U.S. Department of Education. (2016) Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals. (May 9, 2016) Retrieve at: http://www.ed.gov/beyondthebox. The Drake Group acknowledges the wisdom of the May 9, 2016 Secretary of Education letter and guide provided to college and university leaders, cautioning them about “the chilling effect of inquiring early in the application process whether prospective students have ever been arrested. The guide also encourages alternatives to inquiring about criminal histories during college admissions and provides recommendations to support a holistic review of applicants.” The Drake Group is not suggesting that college admission be denied to convicted juvenile felons. Rather, we argue for a careful system specific to intercollegiate athletics that explores deterrents to non-sport violence. We believe that the system proposed is justified because it (a) restricts the submission of disclosure statements to an objective and expert entity outside the institution, (b) opposes the release of such disclosures to member institutions’ admissions offices, (c) incorporates an appeal process that is directly responsive to the Secretary of Education’s call for a holistic review, (d) is limited to past violent behavior, as opposed to all crimes, and (e) only considers such behavior in relation to the privilege of participating in athletics, the specific subculture to be affected.
to winning college sports teams even when that student’s attendance puts the safety of the general student body at risk.

- The proposed avenue of appeal available to high school students recognizes that the conduct of a juvenile is more prone to error than that of an adult and may be subject to a racial bias in the law enforcement system. Both factors warrant the possibility of an appeal. An appeals process conducted by independent experts removes institutional conflicts of interest and, in the case of sexual or other violence, may include a psychological evaluation as a condition for consideration.

**Recommendation 4. Require Athlete and Staff Violence Education**

The NCAA and other national collegiate athletic governance organizations should convene the nation’s top athlete gender violence educators to develop a comprehensive curriculum and establish a national program to deliver gender violence programming to member institutions. They should examine programs that have already demonstrated success with fraternities and the military, two groups facing similar dysfunctional subcultures. Key to success is a commitment to the delivery of “gender transformative” programming. Such programming includes restorative justice practices and bystander prevention education. It requires understanding important racial subtexts and confronting cultural beliefs about manhood, not only how they affect male athletes, but also how female athletes trained with similar expectations of physical dominance over others may fall into the same behavioral traps.

Athlete interactive programming must address the underlying gender, sexual, and social norms that underlie the dysfunctional athletics subculture. Sufficient time allocations and small group settings are required for such transformative work with athletes. No one-hour quick fix solution or educational short-cut exists in this area. Institutions must make annual multiple day time commitments for such programming.

Education of athletic-program leaders, especially coaches and athletic administrators, is imperative. These groups must be held accountable for creating an athletic program and team climate that rejects the dysfunctional athletics subculture. Again, the time commitment for such transformational programming must be sufficient. For example, athletic administrators and coaches, team captains and co-captains, and athletes’-advisory-council-members should have a minimum of one full day of training annually. Leadership programming to be framed with athletics as a major partner in a coordinated campus response to sexual-assault and relationship-abuse issues.

The NCAA or other national-collegiate-governance-organizations should fully fund program development and delivery. In the case of the NCAA, the FBS conferences that are the sole beneficiaries of significant College Football Playoff revenues (the NCAA does not own the College Football Playoff) should fund the cost of delivery. National-collegiate-athletic-governance organizations that lack the financial resources enjoyed by the NCAA should seek grant support to develop and deliver this training.
Rationale

- To shift the underlying social norms that support the described athletics subculture will require the enforcement of rules and policies that create deterrents to violent conduct. That shift will also require violence-prevention education that examines gender and sexual norms and how these norms sometimes intersect with race or ethnicity.

- A growing, if not established, consensus among those working in gender-violence prevention and other health-related behaviors teaches that for programs to be effective, they must be "gender transformative." In other words, men, and young men in particular, must discuss and think through, often in same-sex group settings, how cultural beliefs about manhood affect behavior. This is serious work that cannot be accomplished by participating in an online educational program or by putting 300 to 600 student-athletes in a room to hear a one-hour speech or theatrical performance about consent or "healthy relationships."

- Coaches spend an extraordinary number of hours training athletes to be aggressive and physically dominant and have done little to shift player attitudes and bragging about sexual conquest. We must spend the time needed to address violence in non-sport settings and to confront the “group think” surrounding lack of respect for women.

- A program that teaches athletes how to deal with violence only when they observe it – a “bystander intervention” approach – is insufficient. Such programming may prevent or interrupt an assault, but it does not challenge underlying norms. Similarly, educational programming should include sessions for mixed groups of males and females, presentations by victims of violence, and discussions of restorative justice.

Recommendation 5. Establish a National Collegiate Athletic Governance Organization Athlete Ombudsman Office

The NCAA and other national collegiate athletic governance organizations respectively should establish independent athlete ombudsman offices (modeled after the USOC athlete ombudsman operation). Those offices will provide confidential assistance to athletes seeking advice on responding to team situations, questions and answers about national athletic governance organization rules and other issues of concern to athletes. The office should have access to a wide variety of expert resources specializing in various health, legal, and other issues. Consideration should be given to making available a 1-800 number, live online counseling and/or resources that athletes may access at any time. The office should maintain data about such contacts to use for research purposes. Member institutions should be required to annually distribute contact instructions and information on the services of the Ombudsman Office to every athlete. Although the national collegiate athletic governance organization should pay the salaries of employees staffing the office and its operating expenses, the selection and annual evaluation of its staff and services should be delegated to a special committee of distinguished former coaches.

See [http://www.teamusa.org/Athlete-Resources/Athlete-Ombudsman](http://www.teamusa.org/Athlete-Resources/Athlete-Ombudsman) for a description of the USOC Ombudsman program.
athletes who have completed their eligibility and who are not employed by any member institution.

Rationale

- The power imbalance between athletes and their coaches, who control their scholarships and many aspects of their lives, may discourage athletes from raising important health, treatment, and other concerns for fear that coaches will (a) think they are challenging the coach’s authority, (b) believe they not tough enough to handle their own problems, or (c) label them as complainers. Similar concerns prevent athletes from consulting others in the athletic department or school officials. They fear the other person will side with a coach or place the interest of the institution above that of the athlete. Athletes need access to advice from a trusted and confidential expert not bound by institutional affiliation.
- Making the health and well-being of athletes primary should be the mission of a collegiate-athletics-governance-organization. After all, athletes generate significant revenues for the organizations and their member institutions.
- Many institutions provide their students with access to professional counselors. Still, assembling a staff and others who are expert in issues specific to the college athlete experience is necessary. An ombudsman service may be as simple as letting athletes know that campus student health centers provide confidential counseling.

Recommendation 6. Directly Acknowledge and Address the Drinking Connection

The NCAA and other national-collegiate-athletic-governance associations should take the following actions:

a. Current NCAA policies prohibiting the advertising, sponsorship and sale of alcohol at NCAA championships should be applied to all athletics contests conducted by member institutions and conferences of all national collegiate athletic governance organizations. These prohibitions should apply to areas adjacent to athletic event sites and within the control of institutions that are used for “tailgating” prior to or after athletic events.

b. National collegiate athletic governance organizations, conferences, and member institutions should become proactive, using social media, television, game programs, press conferences, and highly visible and respected coaches and athletes as spokespersons, in a long-term campaign to educate the public and their campus communities about:

(1) the role of drinking in coercing females to engage in unwanted sex and sexual violence;

(2) the unacceptable statistic of one in five college women being victims of sexual assault;
(3) the importance of all men encouraging each other to respect women and speaking out against all forms of violence against women; and

(4) the invalidity of consent to engage in sex if either party is incapacitated by alcohol or others drugs or an affirmative “yes” is not received in response to a clear request for permission.

Athletic departments should be encouraged to be part of the solution rather than being part of the problem. The NCAA and other national-collegiate-athletic-governance organizations should engage the services of a communications agency to design the campaign and create print and electronic templates that can be easily customized by members to enable the use of locally recognizable athlete and coach spokespersons.

c. The NCAA and other such athletic-governance organizations should adopt a rule specifying that any athlete found guilty of or pleading nolo contendere for driving while intoxicated (a.k.a. driving under the influence or operating under the influence) should be suspended from athletic competition for one year (but continue to be eligible for practice and financial aid). The penalty for a second offense should be loss of two years of competition, and a third offense should result in permanent loss of athletic eligibility.

d. The NCAA and other national collegiate athletic governance organizations should mandate that all member institutions implement a “safe harbor” exception policy applicable to team or athletic department rules related to the prohibition of drinking or drugs. This rule would ensure that any athlete who asks for assistance to be removed from an unsafe or hostile environment will not be punished for violation of team rules.

Rationale

- NCAA rules currently restrict advertising and sponsorship activities related to alcohol (also tobacco and gambling) and specifically prohibit the sale of alcoholic beverages in conjunction with NCAA championship events only, using the justifications that such policies are “in the best interests of higher education.”63 The NCAA championship alcohol sales policy specifies, “Alcoholic beverages shall not be sold or otherwise made available for public consumption at any championship event sponsored by or administered by the Association, nor shall any such beverages be brought to the site during the championship (during the period from the time access to the site is available to spectators until all patrons have left the facility or area used for competition).”64

64 Ibid.
The safe harbor rules make clear to all athletes that personal safety comes first. Even though team rules prohibit drinking, the athlete should be assured that such rules will be forgiven if an athlete is concerned about her safety and confronted with the possibility of unsafe activity. Thus, in situations in which the athlete may be confronted with the possibility of sexual violence, the safe harbor rule would remove a significant barrier to asking for help.

Recommendation 7. Addressing the Role and Dangers of Head Trauma

Given the relationship of violence to impaired reasoning or impulse control caused by head injury, the NCAA and other national collegiate athletics governing organizations should take the following actions to reduce the risk of repeated head trauma:

a. National collegiate athletic governance organization rules should prohibit contact practices in football, ice hockey, lacrosse, and rugby during the off-season or during “voluntary” practices scheduled by athletes themselves without the involvement of coaches. During the competition season, contact practices in these sports should be limited to two times per week.

b. Considering the evidence related to concussion risk in numerous sports (i.e., football, lacrosse, ice hockey, soccer, wrestling, and rugby, basketball, softball and field hockey), the NCAA and other national scholastic and collegiate athletic-governing organizations that promulgate sports rules should call for all sport rules committees in sports with high concussion rates to initiate and study the impact of experimental rules revisions designed to minimize the risk of head injuries. The basis for the adoption of such rules must be that the health and well-being of the athlete is more important than game excitement, marketability, or tradition.

c. Committees consisting of coaches, athletic trainers, and sports medicine physicians should be asked to review common practice activities in their respective sports for the purpose of recommending means of reducing exposure to the risk of repetitive head trauma.

Rationale

- Research supports the contention that impaired reasoning or impulse control caused by head injury plays a role in sexual violence. “Sport related injuries were the third most likely type of head injury, behind car accidents and falls, most occurred before the age of 16”.

- The incidence of concussion and past lack of recognition and appropriate treatment of concussion in youth and school-based sport is a continuing national concern.

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Crowell and Burgess reviewed substantial evidence that brain abnormalities caused by head injury are associated with aggression.\textsuperscript{66}

The injury rate per 1000 exposures in spring football is double that of the regular season.\textsuperscript{67}

Results from an eight-year study confirm that young people who have sustained a head injury are more likely to engage in violent behavior.\textsuperscript{68}

Repetitive hits over time, rather than single incidents of violent trauma, are the greatest cause of concern regarding sports-related head injury.\textsuperscript{69}

In July 2016, the Ivy League announced that it would institute an experimental rule to “move kick-offs to the 40-yard line and touch backs to the 20 yard line in an effort to reduce concussions and further promote the safety and welfare of its student-athletes. The goal of the experimental rule is to limit kickoff returns, which account for 23.4 percent of concussions during games despite representing only 5.8 percent of overall plays.”\textsuperscript{70}

Recommendation 8. Transparency and Public Access to Research Data

National-collegiate-athletic-governance organizations should begin regularized collection of data on athlete sexual and other violent behavior. The data should include questions about the athletics subculture as part of regularized college athlete research initiatives (such as the once-every-five-years NCAA GOALS surveys). All national collegiate athletic organizations should also adopt a policy that makes collected individual-level data publicly available to researchers. Research studies should include random samples of athletes and non-athletes within the same survey. In particular, future surveys should also explicitly oversample college athletes from multiple sports to assess the unique differences across different types of student-athletes, when compared to the general student body.

Rationale

- The NCAA regularly collects data on Finances, Academics, Student-Athlete Well-Being, Participation Demographics, and Personnel (visit the following link; http://www.ncaa.org/about/resources/research). Although the NCAA is committed to


\textsuperscript{69} Committee on Sports-Related Concussions in Youth; Board on Children, Youth, and Families; Institute of Medicine; National Research Council; Graham R, Rivara FP, Ford MA, et al., editors. Washington (DC): National Academies Press (US); 2014 Feb 4.

collecting data on student-athletes at both the institutional and individual levels, the organization has been much slower to share data with researchers who lack direct ties to the NCAA (i.e., making individual-level data publically available for researchers to freely use). Despite the effort by the NCAA and the Inter-University Consortium for Political and Social Research (ICPSR) effort to share data with the public (visit the following link; http://www.icpsr.umich.edu/icpsrweb/NCAA/), no current individual-level data are publically available for researchers to download.

- More troubling is that NCAA individual-level surveys of student-athletes regarding issues like substance use or academic experiences do not have adequate control groups to provide meaningful comparisons (i.e., a sample of students who do not participate in athletics). A greater effort is necessary to collect random samples of athletes and non-athletes within the same survey to address major public-health issues like substance use, sexual violence, and mental health. These surveys must explicitly oversample athletes from multiple sports to assess the unique differences across different types of student-athletes (e.g., football versus track) when compared to the general student body.

**Recommendation 9 -** The NCAA’s Academic Progress Rate (APR) metric should be discarded or revised because it encourages the protection of violent athletes and the retention or transfer of sexual or other physically violent predators.

The APR should be discarded because it encourages institutions to bury or ignore violent conduct, or at least, deters them from addressing conduct that could result in the suspension or expulsion of an athlete offender. Instead, institutions try to keep the athlete eligible until the end of the semester, so they will only suffer a one-point loss, or they arrange for a transfer to another institution so they will lose no APR points at all. The APR index, therefore, acts as a disincentive to athletic-department staff to respond swiftly and appropriately to a sexual-assault complaint involving an athlete.

But this is not the only reason to discard the APR whose original purpose was to be a real-time predictor of Graduation Success Rate (GSR). The APR is a flawed metric because (1) GSR does not compare the academic performances of athletes and non-athletes, (2) it is easily manipulated by affluent institutions that are more likely to be able to provide summer school scholarships, an army of tutors to assist the athlete, and lawyers to craft exception appeals, (3) it unfairly penalizes less-affluent institutions that cannot afford such assistance, and (4) it unfairly penalizes current athletes who are not responsible for their institutions’ failure to recruit academically prepared athletes.

At the very least, if the NCAA refuses to acknowledge the serious problems associated with the APR, it should approve an exemption in the calculation (removal from the numerator and denominator) of the APR index for teams that expel or suspend athletes who have committed sexual assault, domestic violence, or other violent or hostile acts against women. This change will enable athletic departments to join with other campus
authorities to create a safe educational environment instead of covering up sexual assaults or facilitating the transfer of a perpetrator.

Rationale

- Currently, if a member institution decides that a student-athlete represents a threat to women on campus (hostile environment) and expels him from school at mid semester, an athletic program’s APR rating is adversely affected. Low APR rankings can have significant consequences for a team, including loss of post season competition.
- Here is how the APR works as an incentive for institutions to avoid their Title IX responsibilities. A school receives two points for every athlete who returns to campus in good academic standing. If an athlete drops out of school at mid-semester, the school loses those points. However, if an athlete is dismissed from a team and the department works to get the athlete to the end of the semester in “good academic standing,” it loses only one point. If the institution facilitates or encourages a successful transfer to another institution, the team loses no APR points.
- As the APR is currently structured, athletic departments may slow the university/college adjudication process down so that it occurs between semesters. The departments will support the athlete academically for the rest of the semester despite removing the athlete from the team. These tactics give the appearance of protecting perpetrators or denying victims access to timely adjudication and expose institutions to Title IX lawsuits.
- The facilitation of transfers in such situations churns “bad actors” through the college-sport system, a common and risky practice. In January of 2014, accused rapist Brandon Austin easily transferred from Providence College in good academic standing and began taking classes and practicing with the University Oregon Ducks basketball team. A few months after arriving at Oregon, he took part in a sexual assault with two of his teammates. More recently, Baylor recruited transfers accused of sexual assault with similar outcomes.
- Because of the current concerns regarding institutional responses to campus rape and because of athletics-department practices that compromise those responses, the NCAA should eliminate the APR mechanism that protects perpetrators and enables them to transfer to other schools.
- Title IX sexual-assault lawsuits against universities and colleges for failing to prosecute perpetrators, respond swiftly, or protect complainants from harassment have increased over the last decade. Removing an impediment to swift action against violence is simply good practice.
- As long as the APR lacks an exemption and schools adopt a no transfer policy for sexual assailants (as this position statement recommends), coaches and athletic administrators will hide their rationale for encouraging an athlete to transfer. With an APR exemption, coaches and athletic administrators are more likely to be honest about their decisions to “indefinitely suspend” and expel an athlete.
- The Drake Group has made extensive recommendations on how to preserve the purpose and positive impact of the APR while removing its negative aspects. See “Why the NCAA Academic Progress Rate (APR) and the Graduation Success Rate (GSR) should be
Recommendation 10 — Prohibit the use of special “escorts” for visiting prospective college athletes.

The use of non-student or other special “escorts” or “hostesses” for entertaining prospective athletes during campus visits should be prohibited because this practice is subject to abuse, namely, sexualizing the on-campus visits of athletics recruits. Only currently enrolled team members or Admissions Office-trained students who regularly conduct campus tours and orientation sessions for high-school students should introduce prospective athletes to the campus.

Rationale

• The use of attractive female hostesses to entertain visiting high school or junior college recruits should cease. Abuses have been well documented.71 The University of Tennessee disbanded its “Orange Pride” hostess program after an NCAA finding of “failure to monitor.” Other institutions have similar groups consisting of predominantly attractive females, with the activities of such groups having been similarly questioned at the University of Colorado at Boulder, University of Oregon, and Vanderbilt University, among others.72 This issue is not only the sexualizing of recruit entertainment but the safety of the women involved in such practices.

• ESPN revealed a four year stripper scandal at the University of Louisville involving of paying escorts to entertain and have sex with recruits, including in a campus dormitory where athletes were housed.73 The same practices occurred at the University of Colorado.74

• The NCAA has prohibited the use of non-students or those not trained by the institution to provide campus tours as “hosts” who may be paid for entertaining visiting prospects – see Division I NCAA Manual for instance:

13.6.7.5 Student Host. The student host must be either a current student-athlete or a student designated in a manner consistent with the institution’s policy for providing campus visits or tours to prospective students in general.


The institution may provide the following to a student host entertaining a prospective student-athlete: (a) A maximum of $40 for each day (24-hour period) of the visit (maximum of $80 for two 24-hour periods) to cover all actual costs of entertaining the student host(s) and the prospective student-athlete (and the prospective student-athlete’s parents, legal guardians or spouse), excluding the cost of meals and admission to campus athletics events. .... It is permissible to provide the student host with an additional $20 per day for each additional prospective student-athlete the host entertains;

But the following NCAA rule, which allows groups of attractive students to participate in entertaining recruits on visits as long as they are not "official hosts," still exists:

13.6.7.6 Student Support Group Assisting in Recruiting. An institution may not provide a free meal or entertainment to a member of an institutional student support group that assists in the recruitment of a prospective student-athlete during an official visit unless the student is designated as the one student host for that prospective student-athlete. Any additional arrangement between the institution and members of such a support group (e.g., compensation, providing a uniform) is left to the discretion of the institution.