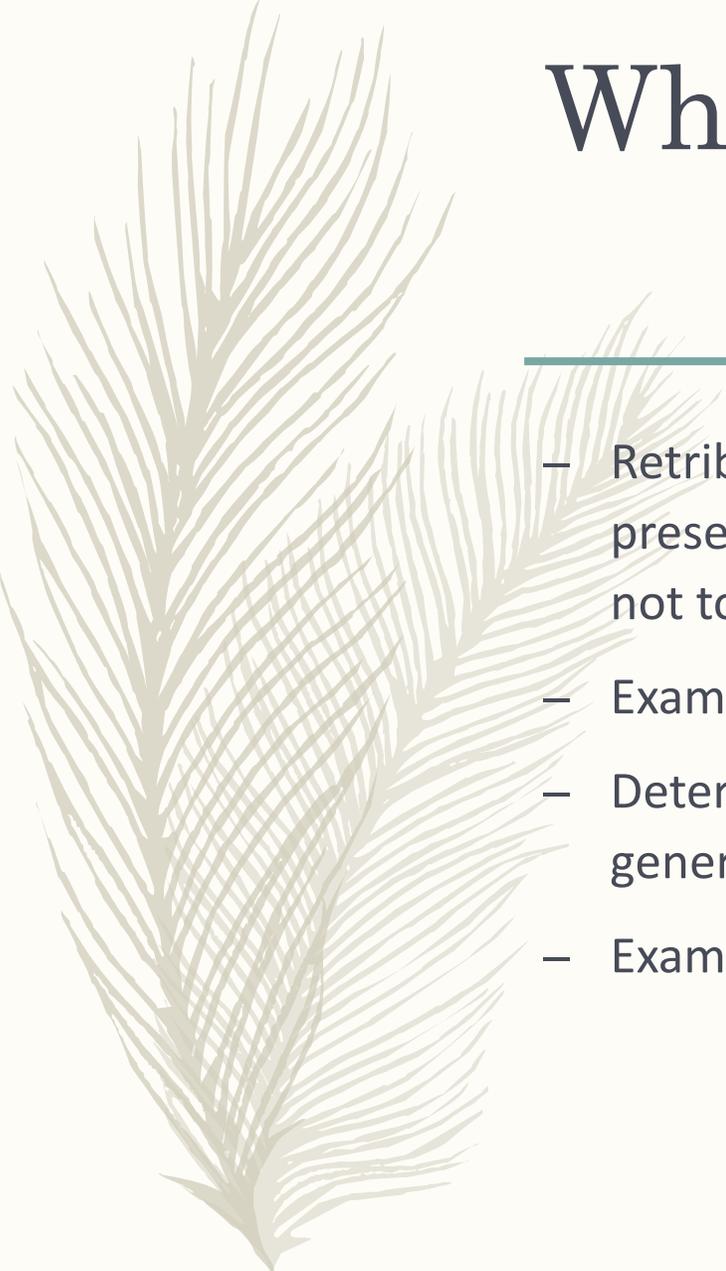


The College Sport Crime and Consequence

Conundrum

Richard L. Bailey





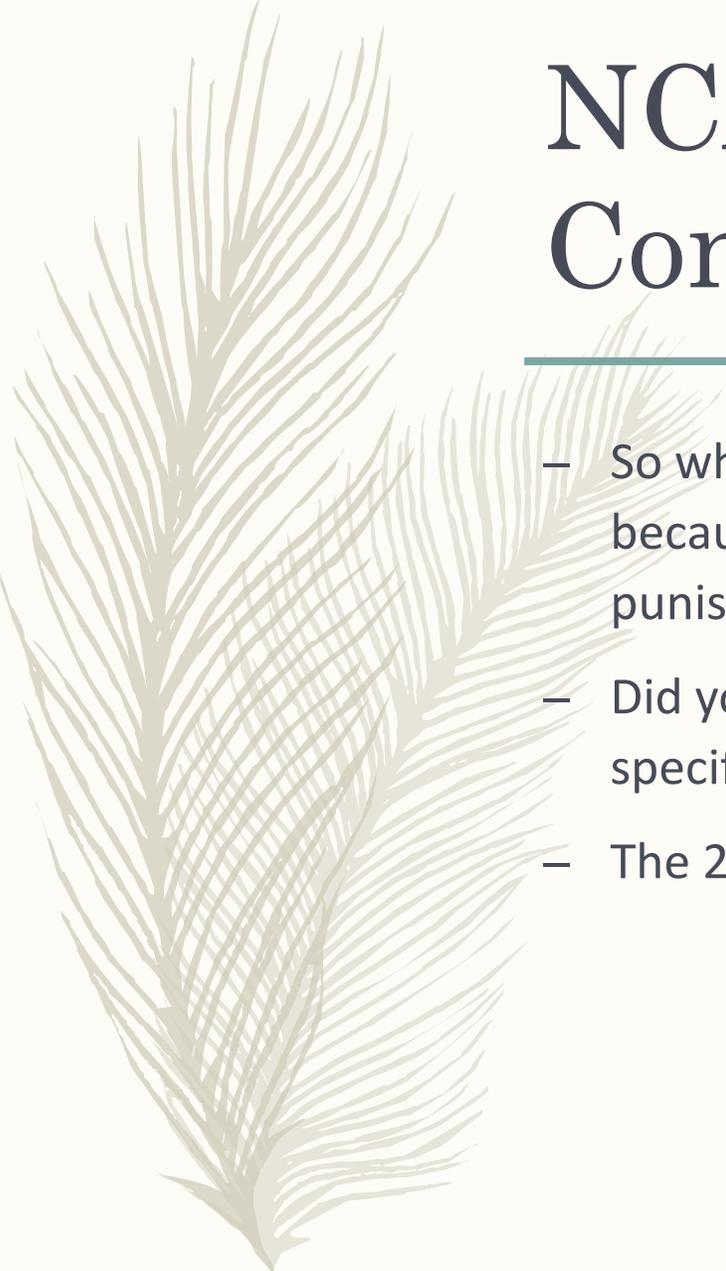
Why do we have rules in sport?

- Retributive justice- the idea that teams who break rules should be penalized to preserve competitive balance and restore equity. These penalties are designed not to interrupt the balance of competition (Brickman, 1977)
- Examples: 12 men on the field, Personal fouls in basketball
- Deterrence- to punish certain types of abhorrent conduct and to notify the general public that this behavior is unacceptable
- Examples: Sexual Assault, Domestic Violence, Drug and Alcohol abuse



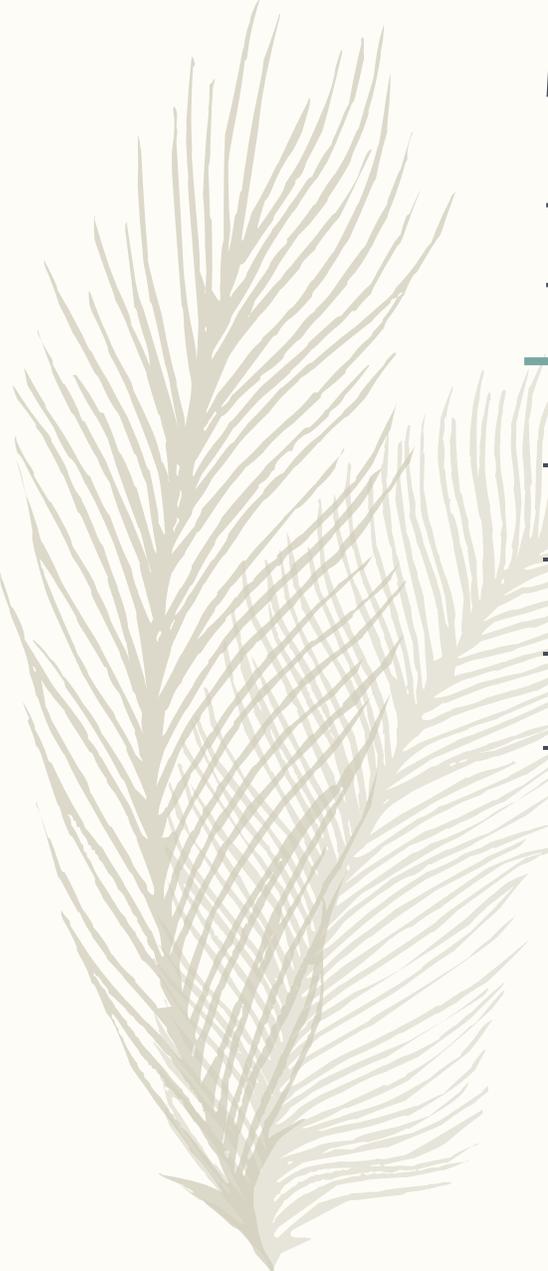
What are punishments attempting to accomplish?

- In most fields, infractions punished with a deterrent motivation are harsher than the retributive issues
- Societal notions and deviant behavior should be more harshly punished than infractions stemming from rules based on fairness and competitive equity.
- Compare a personal foul penalty for a helmet to helmet hit to a penalty for sideline interference. Which is retributive and which is deterrent?



NCAA Legislation on Criminal Conduct

- So why has this become a problem? The reality is enforcement is difficult because there are so few guidelines, merely precedent, that sets standards for punishment. As a result the process can appear ad hoc and inconsistent.
- Did you know there is no specific language in the NCAA handbook referring to specific penalties for criminal conduct committed by student-athletes?
- The 2015-16 NCAA Handbook is over 400 pages.



Types of Penalties related to Retributive Justice

- Improper agent contact (Cris Carter lost his senior year of eligibility at OSU)
- Improper benefits (Ohio State and “Tatgate” and the case of Terrelle Pryor)
- Often these penalties end college careers or consist of lengthy suspensions.
- But the conduct, while specifically proscribed by NCAA rules, can be looked at as a victimless crime in many situations.



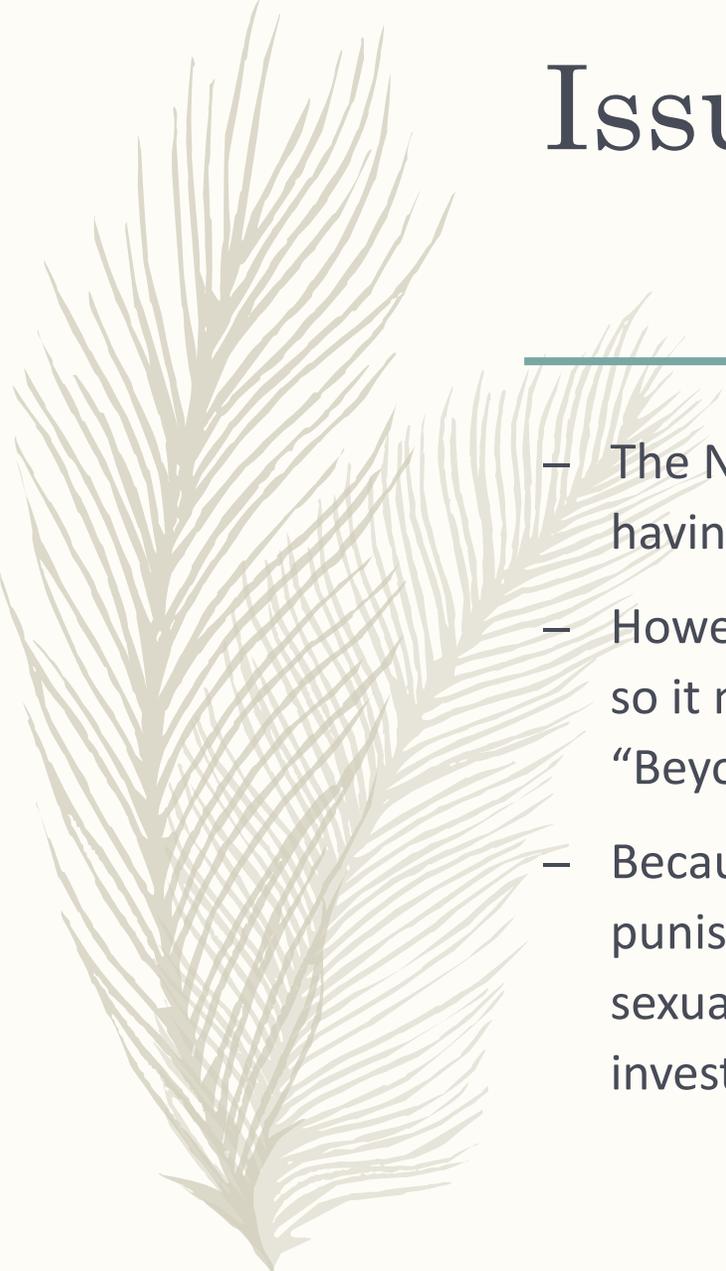
Types of Penalties for Criminal Violations

- Driving Under the Influence
 - J.T. Barrett- one game suspension by OSU, no additional punishment by NCAA.
 - Jonathan Ledbetter-two game suspension by Georgia, no additional punishment by NCAA.
- Violent Crimes
 - Lawrence Phillips-A star running back at Nebraska in the mid 1990s was suspended for six games for beating up his girlfriend. There were other offenses that had also occurred prior to this (including potential improper benefits). He was allowed to return for the Fiesta Bowl and helped Nebraska win a national championship. He was later sentenced to 31 years for assaulting his girlfriend, driving a car into teenagers, and was facing charges for killing his cellmate before his death in January of 2016.



The impact of Sports and Punishment

- Sport is a window into real life, implementing rules and procedures that punish deviant and illegal conduct makes a statement.
- Is there any NCAA violation that should be punished more harshly than a criminal offense?
- Is it better for the individual universities to make decisions on punishment for criminal or other abhorrent conduct? Or do they have implicit bias that may influence their decision making?



Issues and Limitations

- The NCAA does have to make punishment decisions without the legal process having run its course
- However, the NCAA is a private organization (as defined by NCAA v. Tarkanian) so it may punish its members as it sees fit and use a different standard than “Beyond a Reasonable Doubt”
- Because the NCAA is so large and powerful, it can make a statement by punishing abhorrent conduct severely. Given the nature of recent trends in sexual assaults on campus and some universities perceived unwillingness to investigate completely, a statement should be made.