

## Sport and Criminal Behavior

Edited by Jason W. Lee and Jeffrey C. Lee. Published 2009 by Carolina Academic Press, Durham, North Carolina. (292 pp.) ISBN: 978-1-59460-502-4

*Reviewed by Timothy Davis, School of Law, Wake Forest University, Winston-Salem, North Carolina.*

Any serious effort to study sport must begin from the premise that sport interfaces with other important cultural institutions. Consequently, a rigorous examination of sport requires analysis of its interdependency with other cultural institutions. (Mitten, Davis, Smith & Berry, 2009, p. 8).

Scholars have attempted to advance our understanding of sport by studying how it intersects with aspects of society ranging from gender identity to economics. (Mitten, Davis, Smith & Berry, 2009). The study of sport's intersectionality is an outgrowth, in part, of the extent to which sport is a reflection of societal values. In *Sport and Criminal Behavior*, Jason W. Lee and Jeffrey C. Lee have collected writings that examine criminal behavior, which they characterize as one of the "unhealthy and inappropriate associations" related to sport. The editors' stated goal is to "explore the interface between criminal justice and sport management regarding criminal behavior in sport." (p. 13). By doing so, the editors seek to provide a foundation for facilitating cross-disciplinary collaborations between the "academic fields of criminal justice and sport management." (p. 13). In line with these goals, *Sport and Criminal Behavior* examines a broad array of criminal behaviors in sports, including illegal steroid use by athletes, athlete-violence internal and external to competition, and gambling. More than merely attempting to identify criminal behaviors in sport, Professors Lee and Lee have collected a comprehensive set of essays that explore the causes of particular forms of criminality in sport and recommend ways in which these behaviors can be addressed. An important and recurring theme in the book's essays is how sport, as a cultural institution, can reinforce negative societal values, specifically those that are derived from criminality associated with sport.

*Sport and Criminal Behavior* is suitable for use as a text in undergraduate and graduate sport law, sport management, and sociology of sport classes as demonstrated not only by the subject matter but by the case studies and review questions that appear in several chapters and focus discussion of the central themes introduced in each chapter. The opening chapter, which is drafted by the editors, appropriately provides a helpful yet brief overview of the criminal justice system and sports management. The criminal justice overview introduces readers to the fundamental components of the criminal justice system (e.g., courts and corrections), and to criminal law related terminology (e.g., arraignment and plea bargaining) that readers will encounter in subsequent chapters. The level of discussion seems appropriate for undergraduate and graduate students who have no or very limited

familiarity with criminal law concepts. Students, who may have taken criminology or an introduction to the law course, will find the chapter of less value. Similar observations apply to the chapter's attempt to define the characteristics of sport management as a field of study.

*Sport and Criminal Behavior*, which consists of 13 chapters is divided into six Parts, including the introduction. The editors' categorization and grouping of chapters that cover subject areas that intersect is for the most part successful. For example, Part I, which is titled "Drug Issues," appropriately consists of two chapters that discuss steroids and alcohol related crimes in sports. On the other hand, the chapters, which appear in Part III, and which address violence could have been combined with Part V which addresses athletes and criminal actions.

By in large, the essays are well-written, cohesive and adhere to a consistent pattern. In each chapter, the authors describe the criminal behavior and demonstrate, in varying degrees of detail, how it intersects with the criminal justice system. In most instances, this involves a discussion of the relevant legal principles and the regulatory mechanisms that attempt to control the criminal behavior at issue. The authors also, again to varying degrees of specificity, offer recommendations for more effectively addressing the criminal behavior discussed. This consistent approach should assist students in accessing materials that often address criminal behaviors that involve a complex web of regulations, such as in Chapter 8, which tackles the important yet complex subject of trademark infringement.

In exploring the intersection of sport and criminal behavior, the editors include materials that address criminal behaviors that are commonly associated with sport (e.g., steroid enhancement) and some that are not typically associated with sport (e.g., drug abuse in professional wrestling). In this regard, the editors broaden the scope of our understanding of the ways in which sport intersects with criminal behavior. By way of example, Chapter 2 examines a form of criminal behavior commonly associated with sport, steroid performance enhancement. The chapter's author, Professor John Miller, lays the foundation for his discussion with a brief description of the physiological and psychological effects of steroids, including a description of how steroids operate as a gateway drug. From there, he provides a brief historical overview of the use of illegal performance enhancing steroids in Olympic sports, major professional sports in the United States, and intercollegiate sports. The author aptly demonstrates how illegal steroid use intersects with the criminal justice system. In this regard, Professor Miller provides a comprehensive yet concise overview of various levels of regulation of drug use ranging from the World Anti-Doping Agency's drug testing regime to federal anti-steroid legislation passed by the United States Congress.

Chapter 2 illustrates the value and the limitations of an edited work of this nature. It provides the reader with an informative and well-written overview of the critical issues raised by the use of and efforts to regulate performance enhancing steroids in sports. At the same time, the depth of discussion is limited. For example, a more detailed examination of the factors that motivate individuals to use performance enhancing drugs and risk the sanctions, both criminal and non-criminal, that are potential consequences of drug use of this nature would have been welcome. Similarly, a discussion of the views of experts who question the need for drug enforcement programs and challenge the implementation of such programs would have provided additional insight into this important issue. This is

not a criticism, but an observation of the limitations of this type of work. Indeed, a detailed analysis of the issues raised in this and other chapters is clearly beyond the scope of a book of this nature. To their credit, each essay appears well researched and chapter-authors provide reference to literature that will enable the curious reader to identify materials that will allow for a more in-depth exploration of the issues raised. These reference materials also provide adequate support for each chapter's central thesis.

Similar observations apply to Chapter 3, which explores alcohol related crime in sports. The essay opens with an informative summary of the historical connection between alcohol consumption and sport by examining it in various contexts, including the Prohibition Era, the emergence of sports bars, and alcohol sponsorship in sports. Turning to the negative effects of alcohol consumption in sport, Professor Andy Gillentine focuses on two issues: athletes' propensity to engage in a higher incidence of alcohol use and related criminal behaviors than non-athletes, and the propensity and consequences of alcohol related abuse and criminal behavior by sport fans. With respect to the frequency at which professional athletes commit alcohol related criminal offenses, Professor Gillentine's ability to draw definitive conclusions is hampered by a paucity of research. Nevertheless, he concludes that the available research suggests that in contrast to the general population, professional athletes consume alcohol at higher rates than non-athletes. In contrast, a great body of literature exists that explores the relationship between college athletes and alcohol consumption. Professor Gillentine's review of the literature leads to his finding that in comparison to non-athlete students, student athletes "demonstrated significantly higher rates of alcohol related consequences such as driving under the influence and/or riding with intoxicated drivers and unsafe sexual practice. . . ." (p. 51).

With respect to alcohol and fan violence, Professor Gillentine discusses the prevalence of fan consumption of alcohol, and its effects, including legal implications. The factors that he identifies as contributing to an environment that nourishes celebratory riots include: "The prevalence of alcohol consumption and the inconsistencies in the enforcement of institutional policies and criminal law. . . ." (p. 56). In particular, he points out that alcohol lowers the inhibitions and cognitive abilities of participants, which enhances the likelihood of celebratory riots. Professor Gillentine briefly describes initiatives undertaken by universities, sports organizations and others to curb fan violence. The chapter concludes with a case study and questions that will facilitate students' ability to focus on the chapter's central themes.

As was true of the Chapter 2, I wanted more, including further elaboration on the consequences of alcohol use by college athletes. For example, only passing reference is made to how alcohol consumption contributes to sexual assault by athletes of women students. In addition, a more in-depth discussion of the underlying causes that contribute to fan violence would have enhanced the overall quality of the chapter. The same is true of the essay's discussion of initiatives undertaken to curb fan violence. But as noted above, limitations inherent in this type of book no doubt precluded the author from doing so. Overall, Professor Gillentine provides an informative overview of the prevalence, causes, and consequences of alcohol consumption by athletes and fans.

What follows is a brief description of the content of chapters four through 13.

Chapter 4: *Violence in Sport: Psychological Considerations and Implications* by Professors John W. Clark and Phil Bridgmon. The authors proceed from two premises which connect well to the overall theme of the book: violence is an inherent part of American sport; and, the violent acts of athletes contribute to shaping societal values. To support these premises, the authors provide examples of well-known cases involving on- and off-the-field violent acts committed by athletes or former athletes. From there, they turn to their theme that athletes' "on and off-the-field violence leaves an impression on individuals in our society." (p. 78). Although, the chapter raises more questions than it answers, particularly as it relates to the larger societal implications of athlete violence, (p. 78), it sets the stage for generating informed discussions of psychological constructs, such as modeling and entitlement, that assist us in understanding the causes and influences, particularly on youth, of violence in sports.

Chapter 5: *Violent Acts within the Context of the Game: On-Field Occurrences and Prosecution* by Professor Barbara Osborne. Professor Osborne addresses the increase in on-the-field violence committed by athletes against other participants. Before she discusses the legal concepts that govern the potential liability of athletes for on-field violence, she raises many questions that should provoke thought on the part of readers. For example, are the penalties assessed on the field or sanctions imposed by a sport governing body sufficient to regulate and deter such behaviors? This and other questions ultimately ask the reader to consider the appropriate role, if any, of legal institutions, particularly the criminal justice system, in regulating athlete on-the-field violence. Thereafter Professor Osborne provides a concise and well written discussion of pertinent legal concepts as an introduction to her equally fine discussion of the current state of the law regarding athlete criminal culpability for violent acts committed against co-participants. In this regard, Professor Osborne discusses pertinent legal theories on which criminal responsibilities might be based as well as the defenses athletes would likely assert. More generally, Professor Osborne does a fine job in articulating the rationales which underlie the judiciary's historical reluctance to hold athletes liable for on-the-field violent acts committed against co-participants, but notes a recent shift in this paradigm and the reasons that might contribute to it. Concluding with a discussion of the relevant public policies that support criminal prosecution in general, Professor Osborne challenges readers to consider whether those policies support criminal prosecutions of athletes for on-the-field violence.

Chapter 6: *Gambling and Organized Crime* by Stephen L. Mallory. In his excellent chapter, Professor Mallory examines the intersection of gambling, organized crime and sport. He begins by offering an historical account of one of organized crime's major activities, gambling, including sports betting. He notes that gambling is an attractive activity for organized crime due to the lack of priority given to it by law enforcement agencies to enforce laws, advances in technology, and globalization. (p. 107). Professor Mallory also provides an overview of the structure of organized crime and its increasingly transnational nature. This is followed by one of the chapter's major contributions, a particularly helpful description of the procedures used by organized crime to conduct sports betting. Being someone who is unfamiliar with the processes involved in sports betting, I found this discussion particularly informative. Professor Mallory offers an equally insightful discussion of the impact of illegal sports betting, which includes infiltration of sports programs

and the resulting loss of integrity, and the social and economic impact on those who engage in sports gambling. He concludes with a discussion of the efforts of sports organizations and law enforcement agencies to curb illegal sports betting. This discussion demonstrates that whether these efforts will derive a modicum of success may depend on coordinating the layers of regulatory mechanisms of private and public entities.

Chapter 7: *Fraud in Non-profit Sports: A Case Study of the Sport Sun State Soccer Association* by Professors Jeffrey E. Michelman, Jason W. Lee & Bobby E. Waldrup. The authors of Chapter 7 seek to increase the awareness of criminal fraud in non-profit sport entities. Their vehicle for doing so is a case study that examines fraud that occurred in non-profit amateur soccer association. In this regard, the essay examines the organizational structures, "financial safeguards and effective governance controls" (p. 134) that failed to incorporate the proper safeguards that might have prevented an employee from misappropriating thousands of dollars. At first glance, the relevance of this chapter to sport and criminal behavior is not obvious. Nevertheless, the considerable number of sports-affiliated non-profit organizations (the authors report in 2006, "56,778 recreation, sports, leisure, and athletics organizations" had gross receipts in excess of \$11 billion and total assets exceeding \$21 billion) (p.135), which while non-profit, generate considerable revenue and thereby highlight the relevance of the chapter to sport. Moreover, the number of and income generated by non-profit sport related organizations also demonstrate the need to increase awareness of the potential for financial improprieties that can severely cripple such organizations. The authors' case study achieves both of these objectives. The case study approach interspersed with review questions should assist students in successfully engaging the material.

Chapter 8: *Trademark Counterfeiting of Sport Merchandise and Criminal Law* by Professors John Grady, Annie Clement & Jeff Woishnis. This chapter examines the increasingly important issue of the violation of intellectual property rights. Specifically, it focuses on trademark infringement, which involves the illegal copying of sports products such as memorabilia, apparel and equipment. After outlining the scope of the problems, and their implications – loss revenues for individuals who create authentic products, tax revenues, and loss jobs – which amount to billions of dollars in counterfeit sports products, the chapter examines efforts to control the problem. Collaborative activities between law enforcement agencies and trade association groups rely on a web of civil and criminal laws to justify enforcement activities. Given the complexity of trademark law, the authors provide a particularly accessible and informative overview of this area of law.

Chapter 9: *Clearing the Haze: The Definition, Scope, and Legal Issues Related to Hazing in Athletics* by Professor Brian Crow. This very brief chapter explores the history, causes and proliferation of sports-related hazing. The author succeeds in accomplishing two of his more important goals: familiarizing readers with the current state of hazing, its causes, and potential legal ramifications. According to the author, the key reasons that underlie why people haze, as well as why they allow themselves to be subjected to hazing, include: power dynamics, acceptance, and exploitation. The chapter concludes with a very brief overview of the criminal implications of hazing, including criminal sanctions.

Chapter 10: *Criminal Jocks: Professional and Collegiate Incidents . . . And Beyond* by Professor Kadence A. Otto. This chapter describes several of the more

prominent instances in which professional and collegiate athletes (e.g., Ray Carruth, Chris Henry) have been convicted of criminal offenses (e.g., Ray Carruth – first-degree murder; Michael Vick – conspiracy related to dog fighting; and, Tonya Harding – conspiracy to hinder an investigation). As for the motivating causes of criminal behavior by athletes, the author identifies the winning-at-all-cost mentality, a culture of male dominance and entitlement that seem to inure in sport, and athletes' celebrity status. The chapter concludes with a discussion of preventative and intervention programs aimed at reducing athlete criminal behavior particularly sex related crimes. The essay raises several provocative questions including: whether the sentences imposed on athletes are appropriate given the severity of the crimes committed and whether African American athletes are misrepresented as criminals.

*Sport and Criminal Behavior* concludes with a discussion of three forms of criminal behavior that are not included among those that many would associate with sport. Chapters 11 through 13 address, securing sports venues from terrorist activity and other types of disasters; ticket scalping; and, criminal activity in professional wrestling, respectively.

Chapter 11: *Homeland Security/Disaster Preparedness in Sport Facilities* by Professor Christina Merckx. After attempting to define the elusive concept of terrorism, this essay surveys terrorist acts in sports. It focuses principally on the 1972 Munich and 1998 Atlanta Olympics and the changes in preparedness wrought by those attacks for both the Olympics and other sporting events. The chapter then examines the legal liability of venue operators and producers for injuries to athletes, staff and fans that might result from a terrorist attack. Apart from potential liability exposure and the fear that are likely consequences of a terrorist act at a sports venues, the chapter examines financial implications such as insurance and other costs such as those associated with moving or canceling an event due to the threat of attack. The chapter concludes with a discussion of preparedness strategies. Professor Merckx's essay provides a basic primer for those who study sport management particularly as it relates to facilities operations and risk management.

Chapter 12: *Ticket Scalping: Methods, Issues, and Conclusions* by Beth A. Cianfrone & Michael S. Carroll. Chapter 12 explores the intersection of ticket scalping and the criminal law. After noting the prevalence of this activity, the chapter describes the forms in which ticket scalping occurs, including new methods that are a consequence of technology such as online ticket sells. Noting the absence of federal legislation to address ticket scalping, the article provides examples of state legislation that limits ticket scalping and criminalizes behavior that fails to adhere to those limitations. It also discusses case law in which courts have addressed the constitutionality and legality of anti-scalping legislation. It concludes with a discussion of the impact of scalping and suggests the direction that future anti-scalping legislation should take in order effectively to combat illegal scalping and counterfeit ticketing.

Chapter 13: *Professional Wrestling: Pseudo Sport, Real Death* by Jason W. Lee and Jeffrey C. Lee. In attempting to connect their discussion of drug use in professional wrestling to the theme of the book, the authors state that even though professional wrestling is not a true sport, it is "riddled with common sport-associated problems." (p. 245). Drug abuse illustrates one way in which problems within professional wrestling mirror those in other sports. After describing professional wrestling and its history, the authors turn to the chapter's central focus—a description of drug

use and abuse in professional wrestling and deaths linked to inappropriate drug use. As a predicate to their discussion of drug abuse, the authors discuss how the key features of professional wrestling, such as wrestlers' need to manage pain, create fertile ground for drug abuse to occur. Thereafter, the chapter describes incidents, particularly the drug-related deaths of popular wrestlers, which have exposed the depth of drug-related problems in the industry. It also discusses the implications of the drug related deaths, including a congressional investigation and a loss of credibility for the activity. It concludes where it began by noting that problems extant in professional wrestling are a reflection of the problems in other sports and offers recommendations for cleaning up professional wrestling.

The essays in *Sport and Criminal Behavior* "succeed in demonstrating the intersection of criminal behavior in sport and the criminal justice system. The chapters are well written, the authors clearly articulate their goals, and largely succeed in meeting them. Even though depth of analysis is at times lacking, the essays nevertheless raise the pertinent issues in the subject areas covered and thereby present a comprehensive treatment of the intersection of criminal behaviors in sport and the legal system. It is a welcome addition to other efforts that have examined sport and its intersectionalities.

## References

- Mitten, M. J., Davis, T., Smith, R.K. & Berry, R.C. (2009) Sports law and regulation: cases, materials, and problems. (Aspen Publishers).