

# Collegiate Athletics Reform: What Now?

## a College Athletics Clips Guest Commentary

*Our guest author points out that despite the current media blitz concerning the negative impact of highly commercialized collegiate athletics on America's colleges and universities, there is still a lack of appropriate regulation and oversight of the NCAA and its member institutions by the federal government.*

By Frank G. Splitt, 9-17-11

**BACKGROUND** – At the height of the acrimonious debt-ceiling debate, Gerald Seib began his *Wall Street Journal* column stating, “The spectacle of a dysfunctional Washington, unable to tend to even its most basic task of protecting the nation's financial standing, may be appalling, it should not, however, be a surprise.”<sup>1</sup>

Seib's statement certainly came as no surprise to those advocating serious collegiate athletics reform. All have witnessed the continuing degradation of our nation's higher education system as many of its frontline colleges and universities have been prostituted in an often times fruitless effort to make money—held hostage by their big-time football and men's basketball businesses, athletics directors, coaches, and wealthy benefactors. Simply put, academics have become adrift in a sea of corrupt sports programs that tend to corrupt their sponsoring schools.<sup>2</sup> Some schools even seem willing to lower their standards a bit to stay competitive with the corrupt schools while hoping to limit the damage to a previously established image of integrity.<sup>3</sup>

One would think that stories keyed to the devastating impact of collateral damage to our nation's education system and its students would cause public outrage and thus go viral—not so in a culture that apparently values sports and entertainment above academics and learning. So what's up with collegiate athletics reform?

**WHAT'S GOING ON?** -- More than eight year's worth of comprehensive documentation has painted an ugly, if not galling, portrait of an unfettered industry that has run amok—effectively operating without transparency, accountability, or oversight. Documentation in the form of TV Specials, books, essays, video documentaries, as well as newspaper and magazine stories have revealed pervasive and deep-rooted corruption in the collegiate college sports entertainment industry, as well as sports-related collateral damage.<sup>4</sup> Although telling the truth about college sports related collateral damage can have painful consequences, the press has responded with notable exceptions to the general rule of going along to get along.

It was thought that widespread attention to the totality of sports-related collateral damage could very well be generated if the story is amplified by the print media. To this end a media campaign was launched with the aim of expanding the American public's awareness of the negative impact of professionalized collegiate athletics on our nation's colleges and universities, as well as the pernicious exploitation of college athletes by the NCAA and its member institutions. Furthermore, it was thought that increased public awareness via a media blitz would enhance the likelihood of government intervention by either the U. S. Department of Education or the U. S. Congress.

**DEPARTMENT OF EDUCATION** – An endorsement of the awareness campaign by Education Secretary Arne Duncan was solicited with the hope his endorsement would stimulate further interest in the campaign and so enhance the likelihood of its success to the ultimate benefit of college athletes and the institutions they serve, as well as America's future well being. It could even prompt a demand for corrective action. What it did provide was a lesson learned.

Unfortunately, Department of Education officials have given every indication they prefer to look the other way—apparently unwilling to endorse such a media campaign. Ironically, Secretary Duncan was quick to applaud the unanimous vote by the NCAA presidents to raise the minimum Academic Progress Rate (APR) to 930 (from 900) and ban teams in all sports from participating in post-season tournaments and bowl games if their four-year APRs fall below 930.

The Secretary is seemingly unaware of the fact that NCAA's highly-touted APR is not a realistic measure of academic progress.<sup>5</sup> In light of the intrinsic defects of the APR and the historic failure of the APR process to promote academic reforms, as well as the lack of reform-leadership abilities of school presidents, it is almost beyond comprehension that Secretary Duncan was duped into saying: “College presidents have acted courageously.” The New York firemen who ascended the stairs of the melting World Trade Center acted courageously. There is absolutely nothing courageous about clustering college athletes in soft courses with easy graders, and granting diploma-mill-like degrees to meet APR and Graduation Rate requirements, especially when such chicanery continues to be hidden from public scrutiny by FERPA, the Family Educational Rights and Privacy Act.<sup>6,7</sup> Also, the Secretary overlooked the fact that the presidents did not address

the vexing financial issues outlined in the June 17, 2010, Knight Commission report, "Restoring the Balance: Dollars, Values and the Future of College Sports."

Secretary Duncan's "applause" of the college president's practically meaningless action and his unwillingness to endorse a media campaign that would expose the inherent hypocrisy in big-time collegiate athletics were not only disappointing, but also good examples of an out-of-touch, dysfunctional Washington. This does not bode well for the future well being of America in an ever more competitive global economy driven by highly educated citizens. One is led to ask: How can the U. S. Department of Education stand idle in the midst of a raging storm in intercollegiate athletics as evidenced by unprecedented news coverage?<sup>8</sup>

Department of Education officials have displayed a familiar blindness—one regularly demonstrated by politicians—that does not allow them to see the depth and breadth of the problems associated with professionalized collegiate athletics nor realize their significance. A lesson learned: *Reformers cannot take refuge in the illusion that the Department of Education will help resolve these problems.*

**THE MEDIA BLITZ GOES ON** – Subsequent to the above initiative at the Department of Education, newspaper stories<sup>9-14</sup>—prompted for the most part by the scandal at the University of Miami—have added to the unprecedented media coverage of the serious problems besetting the sports entertainment businesses at America's colleges and universities..

Hard-hitting stories were not all buried in the sports pages but have also appeared as editorials in the *Chicago Tribune*<sup>15</sup> and *Chicago Sun-Times*<sup>16</sup> and a *National Public Radio* program.<sup>17</sup> Not only that, but *The Atlantic Monthly* is publishing a veritable white paper "The Shame of College Sports"<sup>18</sup> by Taylor Branch, that was the subject of another *National Public Radio* program.<sup>19</sup>

When coupled with all of the above these stories should really pay off in terms of serious reform, however, one cannot bet on it. Exposing widespread corruption and misdeeds is one thing, but taking meaningful corrective action is quite another. As was pointed out in the *Chicago Tribune* editorial, former NCAA investigator J. Brent Clark has said, "The game is too popular and the money is too big." Here it is apropos to reiterate the concluding lines from an earlier commentary.<sup>20</sup>

Lest the reform-minded become overly excited by the advent of signs of hope and over confident by the rash of troubles besetting the NCAA as well as in the logic of their arguments, they must be realistic. What the higher education establishment seems to do best is resist change. The new NCAA president has not only surrounded his office with competent tax and antitrust attorneys to defend the status quo, but has the resources—both financial and political—to wage long and costly court battles to stifle legislative reform initiatives and to exhaustively appeal court rulings. However, the most difficult impediments to reform are deemed to be the American public's cultural propensity to value college sports entertainment no matter what the cost and the extraordinary amount of money lubricating the business at multiple levels. Why wake up and face reality? Given this circumstance, moving forward—while keeping reform alive and well—will require the utmost in patience and perseverance.

**The U. S. CONGRESS** -- Still it was hoped that all of the media coverage would lead to significant and enduring change in collegiate athletics and not be wasted as a mere chimera—a foolish fancy of what ought to happen. Put another way, it was hoped this coverage would not be the end all, i. e. as good as it gets.

This would certainly not be the end all if Senator Chuck Grassley (R-Iowa) would be able to renew his follow-up on the efforts of retired Congressman Bill Thomas, former chair of the House Committee on Ways & Means as he did when he was chair of the Senate Finance Committee.<sup>21</sup> Thomas' October 2, 2006, letter to the late Myles Brand, then president of the NCAA, challenged the justification of the NCAA's tax-exempt status that helps fuel the out-of-control college sports entertainment industry.<sup>22</sup>

*As long as there are large financial stakes involved, college presidents will put dollars before academic values, and continue to demonstrate that the term "higher education" increasingly is an oxymoron—there is less and less "higher" or "education" about it. These big scandals will never stop, partly because of the financial gains possible through cheating, but more understandably because of the inherent unfairness in the present rules.*  
— Richard Vedder<sup>23</sup>

*Is there a death penalty for coaches, school presidents, athletic directors, fans who don't care, where they all have to quit or stay away from the game for a year? And if not, why not?— Rick Telander<sup>24</sup>*

Many of us in the faculty-driven college-sports-reform movement had hoped Senator Grassley would have received sought-after bipartisan support to continue his follow up. Political circumstances have thus far not permitted this follow up. This effort by Senator Grassley required a good deal of political courage. It could very well have led to the elimination of the prostitution of America's colleges and universities by the sports entertainment industry as well as a significant reduction in related corruption.

Notwithstanding, the intense media coverage, re-election considerations seem to outweigh all other issues, especially 'third-rail' issues that could be resolved by the courts, e.g., the Edward O'Bannon and Joseph Agnew cases.<sup>18</sup>

**WHAT NOW?** – Today, despite the obvious lack of appropriate regulation and oversight of the NCAA cartel by the federal government, the U.S. Congress and the U.S. Department of Education have avoided taking meaningful action. Members of Congress and officials at the Education Department appear to be ignoring the unprecedented amount of revelatory stories about the long-term negative impact of highly commercialized collegiate athletics on America's colleges and universities.

However, there is a glimmer of hope in the House of Representative's Congressman. Bobby Rush (D-Illinois) who told the *Wall Street Journal* he believes the system is in need of "serious reform" and that he plans to convene a series of panels of current and former athletes, parents, journalists, coaches and compliance officials in October to discuss the situation. "Paying student athletes over and above the value they receive from athletic scholarships could be part of the remedy," Rush said in a statement.<sup>25</sup>

It is what it is. If Senator Grassley's and Congressman Bobby Rush's congressional colleagues continue to avoid the issues surrounding collegiate athletics, then the argument for reform and the need to look beyond Washington for solutions becomes ever more compelling.

#### **AFTERWORD** (Not included in the September 18, 2011, *CLIPS* posting)

Subsequent to the *CLIPS* posting, the *PBS NewsHour* aired related segments on September 19 and 20. In the first of these segments, civil-rights historian Taylor Branch spoke with Hari Sreenivasan about his cover story in *The Atlantic* which calls for a complete overhaul of the way NCAA athletics works.<sup>26</sup> The second segment was in response to the interview with Taylor Branch about the idea of college students who play sports being paid.<sup>27</sup> The NCAA made available Joe Crowley, a historian, former member of NCAA committees and former president of the University of Nevada at Reno. He also spoke with Hari Sreenivasan.

The American public does not seem to care about the lack of government intervention so long as it is entertained 24/7. For the most part, the public has developed a belief system and notions about collegiate athletics that do not square with the facts. The *Atlantic Monthly* essay by Taylor Branch<sup>17</sup> and the Frank Deford's remarks<sup>18</sup> go a long way toward laying out the facts that will hopefully precipitate corrective action that goes well beyond that covered Congressman Bobby Rush's series of panels.

No doubt, Taylor Branch's *Atlantic Monthly* essay as well as the transcripts of the *NPR* and *PBS* programs will be part of the staff briefing package for Congressman Rush's October panels. Also, Joe Crowley's remarks as to why college athletes should not be paid will likely be of interest to Senator Grassley from the point of view that the NCAA's claim that their athletes are not being paid—scholarships and expense payments notwithstanding—is simply an argument to protect the NCAA's tenuous tax-exempt status.

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A complete listing of links to his essays and commentaries on college sports reform can be found at <http://thedrakegroup.org/splittessays.html>

#### **NOTES**

1. Seib, Gerald, "The Twin Forces Leading to Washington Gridlock," *The Wall Street Journal*, July 26, 2011.

2. Splitt, Frank G., "'Academically Adrift' in a Sea of Sports," *The Chronicle of Higher Education*, Letters, March 8, 2011, <http://chronicle.com/article/article-content/126643>

3. Morrissey, Rick, "Looser academic, disciplinary standards show Notre Dame ready to play ball," *Chicago Tribune*, Aug. 7, 2011, <http://www.suntimes.com/sports/morrissey/6891705-452/looser-academic-disciplinary-standards-show-notre-dame-ready-to-playball.html>.

4. Splitt, Frank G., "Collegiate Athletics Reform: A Lesson Learned," Sept. 6, 2011, [http://www.thedrakegroup.org/Splitt\\_A\\_Lesson\\_Learned.pdf](http://www.thedrakegroup.org/Splitt_A_Lesson_Learned.pdf). See pages 2-3. This commentary is an update of the narratives in the PROLOGUE and AFTERWORD that stemmed from the author's comments on Doug Lederman's, *Inside Higher Ed* report, "New Wave of NCAA Reform?" [http://www.insidehighered.com/news/2011/08/11/ncaa\\_presidents\\_to\\_propose\\_increased\\_academic\\_standards\\_tougher\\_penalties\\_more\\_athletic\\_aid](http://www.insidehighered.com/news/2011/08/11/ncaa_presidents_to_propose_increased_academic_standards_tougher_penalties_more_athletic_aid).

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6. Byers, Walter, *Unsportsmanlike Conduct: Exploiting College Athletes*, Chapter 11, Rules Are Not for Enforcing and Chapter 16, Academic Standards and Athletes, University of Michigan Press, 1995.

7. Salzwedel, Matthew and Ericson, Jon, "Cleaning Up Buckley: How The Family Educational Rights and Privacy Act Shields Academic Corruption In College Athletics," *WISCONSIN LAW REVIEW*, Volume 2003, Number 6, 2004, [http://thedorakegroup.org/Salzwedel-Ericson\\_Buckley.pdf](http://thedorakegroup.org/Salzwedel-Ericson_Buckley.pdf).

8. Perhaps the lack of attention by the Department of Education is a reflection of willful ignorance. That is to say, if serious situations and issues are not acknowledged, there is no need to take corrective action. Put another way, the willfully ignorant would certainly see no need to endorse a media campaign aimed at spreading the word about sports-related collateral damage and the exploitation of college athletes by the NCAA and its member institutions. Why help reform-minded individuals and organizations make the American public aware of serious issues that Department of Education administrators choose to overlook?

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11. Everson, Darren, "The 2011 College Football Grid of Shame," *The Wall Street Journal*, September 2, 2011, <http://online.wsj.com/article/SB1000142405311904716604576544751757934620.html>

12. Finkelmeyer, Todd, "'A HUGE CONCERN:' As college football kicks off a new season, scandals overshadow the sport," *The Capital Times*, August 31-September 6, 2011, <http://msn.foxsports.com/collegefootball/story/A-HUGE-CONCERNAS-COLLEGE-FOOTBALL-KICKS-OFF-A-NEW-SEASON-SCANDALS-OVERSHADOW-THE-SPORT-17874370>

13. Cornwell, Rupert, "American Football: Parties, payments and Prostitutes: lurid scandal of US college football University of Miami Debacle has exposed the sham of amateurism in sport that generates billions," *The Independent (UK)*, September 9, 2011, <http://www.independent.co.uk/sport/general/others/american-football-parties-payments-and-prostitutes-lurid-scandal-of-us-college-football-2351406.html>. This piece concludes by saying, "For all the greenbacks, the grime and the graft, college football cherishes above all else its myths, and no myth is more central than the spirit of amateurism. The sham must go on. And it will."

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16. Editorial, "College sports needs reform on its roster," *Chicago Sun-Times*, September 15, 2011, <http://www.suntimes.com/opinions/7655849-474/editorial-college-sports-needs-reform-on-its-roster.html>

17. Goldman, Tom, "After Scandal, Ohio State To Hit Football Field," *National Public Radio*, September 2, 2011, <http://www.npr.org/2011/09/02/140150080/after-scandal-ohio-state-to-hit-football-field>. This program featuring extended remarks on collegiate athletics reform by Dave Ridpath.

18. Branch, Taylor, "The Shame of College Sports," *The Atlantic Monthly*, October 2011, <http://www.theatlantic.com/magazine/...sports/8643/2/>.

19. Deford, Frank, "The NCAA And The So-Called Student Athlete," *National Public Radio*, Sept. 14, 2011, <http://www.npr.org/2011/09/14/140433661/the-ncaa-and-the-so-called-student-athlete>. Deford tells how college athletes are being used and abused by the NCAA, a view supported by Taylor Branch.

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