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SPORTS LAW—STEALING SIGNS WITH BINOCULARS, OR OTHER EQUIPMENT, IN AN NCAA BASEBALL GAME IS NOT ADEQUATELY ADDRESSED IN THE RULES: A CASE FOR EXPANDED PENALTIES IN NCAA BASEBALL FOR UNETHICAL AND UNSPORTSMANLIKE CONDUCT

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SPORTS LAW—STEALING SIGNS WITH BINOCULARS, OR
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UNETHICAL AND UNSPORTSMANLIKE CONDUCT

JAMES T. MASTERALEXIS[†] AND SHARIANNE WALKER^{*}

Stealing signs from the catcher or base coaches in baseball, if done by the naked eye, is not prohibited by the rules of both Major League Baseball (MLB) and National Collegiate Athletic Association (NCAA) Baseball. Recently, the proliferation of electronic devices such as computers, Apple watches, tablet computers, and television cameras throughout MLB and NCAA ballparks have raised concerns about using these devices to steal signs. In February 2019, it was reported that MLB was amending its rules to strengthen prohibitions for electronic sign stealing. The NCAA also has rules prohibiting the use of video and television cameras to steal signs during baseball games. However, on May 17, 2018 during an NCAA regional playoff game the signs of the catcher of one team were stolen and relayed to the batter of the other team in a manner not contemplated or prohibited by the NCAA rules. This unexpected occurrence of sign stealing raised ethical issues and is contrary to NCAA core values, ethics, and philosophy statements. However, there was no rule directly on point, and the umpires and the

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tournament committee, who were administering the contest, had no specific rule that allowed them to address the issue. This article discusses the issue of sign stealing in baseball and NCAA and MLB rules. It also addresses the May 17, 2018 game and the issue that presented itself. This article suggests new rules that the NCAA should adopt to ensure that umpires and other NCAA officials can appropriately officiate NCAA baseball games.

INTRODUCTION: THE “SHOT HEARD ‘ROUND THE WORLD.’” THE MOST FAMOUS INSTANCE OF ILLEGAL SIGN STEALING.

On October 3, 1951, New York Giants third baseman Bobby Thompson hit a three-run home run off of pitcher Ralph Branca to beat the Brooklyn Dodgers and send the Giants to the World Series.¹ It was “the Shot Heard ‘Round the World,” one of the most famous home runs in baseball history.² The home run, in the bottom of the ninth inning, completed the Giants’ comeback and was ranked by *Sports Illustrated* as the second-greatest sports moment of the twentieth century.³

Almost fifty years later, on January 31, 2001, the *Wall Street Journal* published a story revealing, for the first time, that the Giants used a telescope in centerfield and were stealing the Dodgers’ signs from the catcher to the pitcher⁴—the signs indicating which pitch (e.g., fastball, curveball, or change-up) the pitcher was about to throw and relaying this information to the batter. If a batter knows what pitch the pitcher is going to throw, it makes it much easier to hit the ball. The Giants knew stealing the signs created a competitive advantage for their club. Al Gettel, a pitcher on the 1951 Giants club, explained: “Every hitter knew what was coming . . . [Stealing signs] [m]ade a big difference.”⁵

The Giants’ scheme was carried out with a coach sitting in the manager’s office, which was behind centerfield of the Polo Grounds, the Giants’ home park, with a telescope peering into the catcher and stealing the signs.⁶ The Giants had an electrician wire a buzzer from the manager’s

1. 1951 *The Shot Heard ‘Round the World*, THIS GREAT GAME, <http://www.thisgreatgame.com/1951-baseball-history.html> [<https://perma.cc/3F3L-YEL5>].

2. *Id.*

3. Joshua Harris Prager, *Was the ‘51 Giants Comeback a Miracle, or Did They Simply Steal the Pennant?*, WALL ST. J., (Jan. 31, 2001, 11:59 PM), <https://www.wsj.com/articles/SB980896446829227925> [<https://perma.cc/5C9Z-SSN5>].

4. *Id.*

5. *Id.*

6. *Id.*

office to the Giants' bullpen, the place where the relief pitchers warm up, located in fair territory in the outfield.⁷ If the buzzer rang once, the pitch called by the catcher was a fastball; if it rang twice, it was a curve.⁸ A designated player in the bullpen would sit closer to centerfield and signal the pitch to the batter by crossing his legs, tossing a ball in the air, or sitting still.⁹ The batter could easily peer into centerfield quickly to receive the signal, which tipped him off on what pitch was coming.¹⁰ This scheme helped the Giants' hitters and aided in the comeback against the Dodgers on the fateful day that Mr. Thompson hit the "Shot Heard 'Round the World."

The "Shot" may be the most famous instance of sign stealing in baseball, but it is certainly not the last. Recently, with the advent of cameras, computers, Apple Watches, tablets, and other visual enhancements in many areas of ballparks, sign stealing has become a problem in both Major League Baseball (MLB), particularly with the Houston Astros,¹¹ and National Collegiate Athletic Association (NCAA) baseball.¹² This article will review how the NCAA and MLB rules address the use of technology and equipment, such as binoculars, to steal signs. The NCAA Baseball Code of Ethics, NCAA Core Values Statement, and the Division III Philosophy Statement for college student athletes will also be reviewed to determine what rules, if any, apply to this situation. The article will also suggest alternatives and an amendment to the NCAA Baseball Rules.

I. SIGN STEALING WITH BINOCULARS IN AN NCAA GAME

A Division III baseball playoff game is a contest on a much smaller scale and generates much less public interest than any Major League Baseball (MLB) playoff game. On October 3, 1951, 34,320 people were at the Polo Grounds to witness Mr. Thompson's home run, and millions

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

11. Meredith Cash, *Resurfaced Video Footage Suggests the Houston Astros Stole Signs During the 2017 World Series*, BUSINESS INSIDER (Nov. 18, 2019, 6:42 PM), <https://www.businessinsider.com/video-astros-appear-to-steal-signs-during-2017-world-series-2019-11>; Matt Snyder, *Astros Sign-Stealing Allegations: Why Use of Technology Crosses line in Long-Standing Practice*, CBS SPORTS (Nov. 13, 2019 12:07 PM), <https://www.cbssports.com/mlb/news/astros-sign-stealing-allegations-why-use-of-technology-crosses-line-in-long-standing-practice/>.

12. Cash, *supra* note 11; *see also infra* Part I.

more watched on television.¹³ In contrast, on May 17, 2018, 137 spectators attended an NCAA regional playoff game between the baseball teams of Western New England University (WNE) of the Commonwealth Coast Conference and Ramapo College (Ramapo) of the New Jersey Athletic Conference.¹⁴ In this slugfest, WNE scored five runs in the first inning to jump out to a five-zero lead, but in the second inning Ramapo scored seven runs, including two home runs. The Ramapo v. WNE baseball game seems unrelated to the “Shot Heard ‘Round the World” game with one notable exception: Ramapo stole signs from its bullpen,¹⁵ located in right-centerfield, with binoculars. Ramapo team members would then relay the type of pitch that was coming to the batter by either standing with their hands on the yellow painted top of the chain-link fence, which signaled a fastball, or sitting below the yellow painted top of the chain-link fence signaling a curve or “breaking ball.”¹⁶ A parent of a WNE baseball player saw a Ramapo coach in the bullpen stealing signs with binoculars and snapped this picture:

13. *This Day in History: October 03*, HISTORY (Nov. 16, 2009), <https://www.history.com/this-day-in-history/the-shot-heard-round-the-world> [<https://perma.cc/YJP4-NXMV>].

14. *Box Score*, WNE GOLDEN BEARS (May 17, 2018), http://www.wnegoldenbears.com/sports/bsb/2017-18/boxscores/20180517_gikx.xml [<https://perma.cc/7UEY-XLM8>] (Ramapo at Western New England University).

15. The Bullpen is defined as:

The area in foul or dead-ball territory, generally between the dugout and outfield fence, where substitute pitchers, catchers and other players warm up. It must contain two regulation pitching rubbers and home plates and should have seating for four to six players. Facilities should be comparable for both home and visiting teams. Pitchers should be warmed up in the designated bullpen area, not in another facility or location out of sight and sound of the playing field.

RANDY BRUNS, NCAA, 2017 AND 2018 NCAA BASEBALL RULES 23 (Ben Brownlee ed. 2016) [hereinafter NCAA BASEBALL RULES], available at <https://www.ncaapublications.com/p-4394-baseball-2017-and-2018-rules-and-interpretations.aspx>.

16. Interview with Dan Gomez, Baseball Head Coach, W. New Eng. Univ., in Springfield, Mass. (May 30, 2018).



Ramapo v. WNE, May 17, 2018.¹⁷ (Photo Credit: James T. Masteralexis's Personal Collection)

When he learned of this scheme, during the top of the fifth inning, Dan Gomez, the WNE Head Baseball Coach, brought this situation to the attention of the game umpires, and he also showed them the picture of the Ramapo coach in the bullpen with the binoculars. The umpire told Ramapo to cease and desist from stealing signs in this manner. The Ramapo acting head coach, when confronted with the photographic evidence, admitted that they were stealing signs.¹⁸ Coach Gomez informed the umpires that the game was being played under protest. The NCAA Baseball Rules allow a protest when “a coach claims that an umpire’s decision is in violation of these rules.”¹⁹ However, Coach Gomez was not challenging an “umpire’s decision;” he was questioning the use of binoculars to steal signs and effecting the game in an unsportsmanlike manner.

Since this game was an NCAA tournament game, there was a Tournament Committee administering the contest and considering any protests.²⁰ WNE’s on-site athletic administrator, Associate Athletic Director Lori Mayhew-Wood, conferred with the on-site NCAA Tournament representative, who then conferred with game umpires.²¹ She

17. It appears that the WNE pitcher will throw a breaking ball because the Ramapo players are sitting below the top of the yellow painted chain link fence.

18. Interview with Dan Gomez, *supra* note 16.

19. NCAA BASEBALL RULES, *supra* note 15, at 54, Rule 5, § 13(a) (rule for a protested game).

20. Interview with Lori Mayhew-Wood, Associate Athletic Director, W. New Eng. Univ., in Springfield, Mass. (Jun. 28, 2018).

21. *Id.*

was assured that the incident, and WNE's protest, would be reported to the full Tournament Committee and the NCAA Baseball Rules Committee. She also notified senior WNE athletic administration and the Commonwealth Coast Conference Commissioner.²²

After deliberating, the Tournament Committee issued Ramapo a reprimand.²³ However, no immediate penalty, such as an ejection of a coach or a forfeit, was issued because there was no NCAA Baseball rule directly on point to address sign stealing with binoculars.²⁴ An NCAA baseball game can only be declared a forfeit "as a last resort in favor of the team not at fault" only in situations specifically articulated in the NCAA Baseball Rules.²⁵ Stealing signs is not a reason for forfeiture under the NCAA Rules.²⁶

However, section 12(g) of Rule 5 also states: "A game shall be forfeited only as a last resort in favor of the team not at fault in the following cases: . . . If, because of the removal of players from the game by the umpire or for any cause, there are fewer than nine players on either team."²⁷ The umpires could have ejected the acting head coach, the bullpen coach who was using the binoculars, every player in the bullpen who participated in the scheme by either standing up or sitting down to signal the pitch to the batter, and each batter who used the stolen sign to better his chances of hitting. Most likely, Ramapo would not have had nine players to play the game. All of these actions, in the authors' opinion, are unsportsmanlike conduct and grounds for ejection.²⁸

Gomez argued that the WNE starting pitcher for the game had to be taken out of the game after only two innings because he had given up eight runs and ten hits and that a contributing factor to his pitcher being pounded

22. *Id.*

23. Ramapo is a member of the New Jersey Athletic Conference, and WNE is a member of the Commonwealth Coast Conference. "Decisions on a protest involving nonconference teams shall be resolved by the secretary-rules editor of the [NCAA Baseball] rules committee." NCAA BASEBALL RULES, *supra* note 15, at 54, Rule 5, § 13(b). However, the Secretary-Rules Editor, Randy Bruns, was not notified of WNE's protest. Telephone interview with Randy Bruns, Secretary-Rules Editor, NCAA Baseball (Aug. 28, 2018).

24. The supervising umpire was of the opinion that the Ramapo coach should be ejected from the game and a forfeit, declaring WNE the winner of the contest, be issued. However, there was no rule supporting this outcome. Interview with Dan Gomez, *supra* note 16.

25. NCAA BASEBALL RULES, *supra* note 15, at 54, Rule 5, § 12, (rule for a forfeited game).

26. *Id.*

27. NCAA BASEBALL RULES, *supra* note 15, at 54, Rule 5, § 12 (g).

28. *See id.* at 55, Rule 5, § 15(a) (rule for unsportsmanlike conduct).

into submission may have very well been that the Ramapo players were stealing signs with binoculars and relaying this information to the batter. In fact, when the WNE pitching coach visited the mound during the game the WNE starting pitcher said: “I’ve never been hit like this before. It’s like they know what’s coming.”²⁹

Gomez later argued that the “bell could not be un-rung” as the playing of the game was irreversibly tainted.³⁰ “Once they know a pitcher’s mannerisms, behaviors, and physical cues and can tie that to a particular pitch, even if they are no longer stealing signs, they have valuable information about that pitcher that provides an unfair advantage and makes him easier to hit,” said Gomez.³¹ He continued: “Of course, the batter still has to execute and hit the ball squarely but it’s easier when they know what’s coming. At that point, you don’t have much choice, other than to pull the pitcher from the game.”³² Ramapo went on to win the game 19-15.

While the outcome of this particular game was important to the players, coaches, families, alumni, and many others directly involved in the contest, there is a much broader consequence of this incident in that it has revealed a significant loophole in the current rules that undermines the fundamental notion of fair play in NCAA Baseball. The NCAA Baseball Rules need to be amended to address the perversion of fairness caused by the use of binoculars and other devices to steal signs.

II. REVIEW AND DISCUSSION OF RELEVANT MLB RULES AND SELF-ENFORCEMENT

Stealing signs does occur in Major League Baseball (MLB), and if it is done with the naked eye, it is part of the game. On almost every play of a game, the third base coach or the catcher relays signs to a player on their team. For example, the third base coach signals a batter to bunt, or a player to steal a base. As mentioned previously, the catcher may signal to the pitcher a suggestion of what pitch to throw to the batter. If an opposing player can decipher the signs with the naked eye and then tip his team off the opposing team will have an advantage. This is accepted in

29. Interview with Paul Wetmore, Starting Pitcher, W. New Eng. Univ., in Springfield, Mass. (Sept. 7, 2018).

30. Interview with Dan Gomez, *supra* note 16.

31. *Id.*

32. *Id.*

the game. As MLB Commissioner Rob Manfred said, “[s]ign-stealing is not an uncommon practice and there in fact is not a rule against it.”³³

Sign stealing is part of the game of baseball and it is something of an art form that players work to master.³⁴ “I’ve been in the game for 40 years. I’ve known of it [sign stealing] for 40 years,” said Red Sox president of baseball operations Dave Dombrowski.³⁵ “People I’ve talked to that played back in the ‘50s talk to me about sign-stealing. So, I do think sign-stealing has been taking place for a long time. I will acknowledge that.”³⁶

However, there are limits to the art and practice of sign stealing. In 2017, the MLB fined the Boston Red Sox an undisclosed amount because of the team’s sign-stealing activities.³⁷ The Red Sox used television broadcasts from the centerfield vantage point to learn the catcher’s signs, relayed that information to the team bench using an Apple Watch, and communicated the intelligence to the Red Sox batter.³⁸ As Commissioner Manfred stated, there is no rule against sign stealing.³⁹ However, the conduct of the Red Sox violated a pre-season bulletin clarifying the use of electronic devices in the dugout. The relevant portion of the bulletin stated:

The use of *electronic equipment* during a game is restricted. No Club shall use electronic equipment, including but not limited to walkie-talkies, cellular telephones, laptop computers or tablets, to

33. Alex Speier, *Everything You Need to Know About Sign-Stealing*, BOS. GLOBE (Sept. 5, 2017, 11:03 PM), <https://www.bostonglobe.com/sports/redsox/2017/09/05/everything-you-need-know-about-sign-stealing/gvXZ0hPKVzZtKzt2AQb25H/story.html> [https://perma.cc/N77B-KECL].

34. A great video explaining sign stealing by former major league players Al Leiter and Billy Ripken demonstrates the skill used to steal signs, communicate information to the batter, and also methods used to keep secret the signs between the pitcher and the catcher. *The Art of Stealing Signs*, MLB (Sept. 11, 2013, 8:05 AM), <https://www.mlb.com/video/the-art-of-stealing-signs/c-30516401>.

35. Speier, *supra* note 33.

36. *Id.*

37. Jason Mastrodonato, *MLB Punishes Red Sox with Only a Fine for Apple Watch Scandal*, BOS. HERALD (Sept. 15, 2017, 8:45 PM), <https://www.bostonherald.com/2017/09/15/mlb-punishes-red-sox-with-only-a-fine-for-apple-watch-scandal/> [https://perma.cc/Z6S4-9LYW].

38. Michael S. Schmidt, *Boston Red Sox Used Apple Watches to Steal Signs Against Yankees*, N.Y. TIMES (Sept. 5, 2017), <https://www.nytimes.com/2017/09/05/sports/baseball/boston-red-sox-stealing-signs-yankees.html> [https://perma.cc/ZD26-D5ZT]; see also Joe Ward et al., *How Red Sox Used Tech, Step by Step, to Steal Signs from Yankees*, N.Y. TIMES (Sept. 6, 2017), <https://www.nytimes.com/interactive/2017/09/06/sports/baseball/red-sox-steal-signs-yankees.html> [https://perma.cc/V2YZ-7FFX].

39. Speier, *supra* note 33.

communicate to or with any on-field personnel, including those in the dugout, bullpen, field and, during the game, the clubhouse.

No equipment may be used for the purpose of stealing signs or conveying information designed to give a Club an advantage. Laptop computers and hand-held devices are not permitted on the bench or in the dugout.

The only exceptions to this prohibition are the use of a mobile phone for communication between the dugout and the bullpen, and the use of tablets in the dugout or bullpen running uniform programs, so long as such devices and programs have been approved by the Office of the Commissioner.⁴⁰

MLB has tolerated sign stealing if it is done by the naked eye. However, if electronic devices or other equipment (e.g., binoculars) are used by players to steal signs, umpires and MLB officials will confront the thief, as evidenced by the fine levied against the Red Sox.⁴¹

In the MLB, the players police themselves with regard to sign stealing. They engage in self-enforcement to ensure the game is fairly played when it comes to sign stealing with the naked eye.⁴² This form of player justice could include a “brushback pitch,” which is a pitch uncomfortably close to, but narrowly missing, the batter with the intent to intimidate him,⁴³ a “bean ball,” which is when a pitcher throws the ball and hits a batter, perhaps even in the head,⁴⁴ and even “physical confrontations.”⁴⁵ Pitchers who throw these pitches at batters are sending a message that the batters’ team should stop stealing signs or they will be struck by the ball. Pitchers who intentionally throw at batters⁴⁶ for any reason and players who fight

40. *Id.* (quoting the pre-season bulletin which is not a public document); see also PAUL DICKSON, *THE HIDDEN LANGUAGE OF BASEBALL: HOW SIGNS AND SIGN-STEALING HAVE INFLUENCED THE COURSE OF OUR NATIONAL PASTIME* 112 (2d ed. 2019).

41. Speier, *supra* note 33.

42. *Id.*

43. *Brushback Pitch*, BASEBALL REFERENCE (May 21, 2011), https://www.baseball-reference.com/bullpen/Brushback_pitch.

44. *Bean Ball*, BASEBALL REFERENCE (Apr. 17, 2009), https://www.baseball-reference.com/bullpen/Bean_ball [<https://perma.cc/J58Z-LGG4>].

45. In 2017, Dodgers’ manager Dave Roberts pushed Padres’ manager, Andy Green because he thought the Padres were stealing signs. Mike Axisa, *WATCH: Manager Scuffle Breaks Out Between Dodgers’ Dave Roberts, Padres’ Andy Green*, CBS SPORTS (June 30, 2017, 11:25 PM), <https://www.cbssports.com/mlb/news/watch-manager-fight-breaks-out-between-dodgers-dave-roberts-padres-andy-green/> [<https://perma.cc/2D4K-MTYH>].

46. Rule 6.02(c)(9) of MLB’s baseball rules makes it illegal for a pitcher to intentionally pitch at the batter. MLB, *OFFICIAL BASEBALL RULES* 76 (Tom Lepperd ed., 2018),

during games are subject to discipline, which can include suspensions from games and fines.⁴⁷ A long-time MLB manager, Dusty Baker, stated the unwritten rule regarding sign stealing: “Stealing signs is part of the game—that’s not the problem. The problem is, if you get caught, quit. That’s the deal. If you get caught you have to stop.”⁴⁸

When MLB games are televised today, several television cameras are used for the broadcast. In fact, in the 2017 World Series, Fox utilized an unbelievable 41 cameras and 121 microphones to chronicle the action for their viewers.⁴⁹ This, coupled with the explosion of technology in our society, such as laptop computers, Apple Watches, and computer tablets, has made sign stealing easier. In that World Series, the Los Angeles Dodgers accused the Houston Astros of stealing their signs by using cameras. In the fall of 2018 during the American League playoffs, the Houston Astros were accused of stealing signs by every team—the Oakland A’s, the Cleveland Indians, and the Boston Red Sox.⁵⁰

The MLB Commissioner then investigated the Astros during the American League Championship series against the Red Sox to determine if they were stealing signs by use of cameras or other electronic devices.⁵¹ The Astros defended this charge by stating that they were only observing

http://mlb.mlb.com/documents/0/8/0/268272080/2018_Official_Baseball_Rules.pdf. The offending pitcher is subject to being expelled, or thrown out of, the game. *Id.* at 77.

47. Although the MLB has many specific rules that govern the game, there is no specific rule against fighting. In contrast, the National Basketball Association has rules that prohibit fighting in the game. Baseball players can be suspended and fined for fighting, and the commissioner determines if discipline is warranted on a case by case basis. Murray Chass, *Baseball; A Game of Many Rules Has None on Fighting*, N.Y. TIMES (May 21, 1998), <https://www.nytimes.com/1998/05/21/sports/baseball-a-game-of-many-rules-has-none-on-fighting.html> [https://perma.cc/MZF3-USYQ].

48. Jason Turbow, *Did the Dodgers Take Advantage of Stolen Signs in Game 2? It Sure Seems Like It*, BASEBALL CODES: SIGN STEALING (Oct. 26, 2018), <https://thebaseballcodes.com/2018/10/26/did-the-dodgers-take-advantage-of-stolen-signs-in-game-2-it-sure-seems-like-it/> [https://perma.cc/8GMA-KWY8].

49. Maury Brown, *For World Series, Fox’s Tech Arsenal Includes 41 Cameras and 121 Microphones*, FORBES (Oct. 25, 2017, 2:58 PM), <https://www.forbes.com/sites/maurybrown/2017/10/25/for-world-series-fox-using-tech-arsenal-that-includes-41-cameras-and-121-microphones/#1c874844af01> [https://perma.cc/8WFS-V254].

50. Jason Turbow, *MLB Clears Astros Spy of Wrongdoing, Because Whose Interests is it Really in to Call Out that Kind of Thing at This Time of Year?*, BASEBALL CODES: SIGN STEALING (Oct. 18, 2018), <https://thebaseballcodes.com/2018/10/18/mlb-clears-astros-spy-of-wrongdoing-because-whose-interests-is-it-really-in-to-call-out-that-kind-of-thing-at-this-time-of-year/> [https://perma.cc/R5TH-ZK2L].

51. *Id.*

the Red Sox, who had a history of using Apple Watches to steal signs, to ensure that they were not cheating.⁵²

The Commissioner eventually exonerated the Astros,⁵³ but because this issue had been raised so frequently and publicly, it was clear that it had become a distraction for the game of professional baseball. In addition, in November 2019, video evidence emerged catching the Astros stealing signs during the 2017 World Series by using video cameras to obtain the signs and then signaling what the next pitch was going to be to the batter by banging on a garbage can.⁵⁴

On February 21, 2019, *Sports Illustrated* reported that the MLB Commissioner was issuing new rules for the 2019 season addressing sign stealing by electronic device or cameras “because high-tech sign stealing grew more prevalent and slowed the pace of play because of the paranoia it engendered.”⁵⁵

Sports Illustrated summarized the new rules as follows:

[A]ll in-house cameras from foul pole to foul pole [are banned].

- The only live feed of a broadcast will be the one provided to each team’s designated replay official.
- Provide that a specially trained monitor will be assigned to each designated replay official to make sure that person has no communication with team personnel regarding signs, either in person, by phone or any other device.
- All other bullpen and clubhouse television monitors will receive game broadcasts on an eight-second delay.
- No television monitors are permitted in the tunnels or auxiliary rooms between the dugout and the clubhouse.
- Each club must provide to MLB an audit of every in-house camera, detailing its purpose, its wiring and where its signal can be viewed.⁵⁶

Moreover, ESPN reported that “[p]enalties for violation of the rules would include the forfeiting of draft picks and/or international spending money” allocated to be used on international free agents.⁵⁷ The

52. *Id.*

53. *Id.*

54. Cash, *supra* note 11; Snyder, *supra* note 11.

55. Tom Verducci, *Exclusive: MLB Set to Pass New Rules Designed to Crack Down on Sign Stealing*, *SPORTS ILLUSTRATED* (Feb. 19, 2019), <https://www.si.com/mlb/2019/02/19/major-league-baseball-sign-stealing-rule-change> [<https://perma.cc/WWS2-5TGU>].

56. *Id.*

57. *MLB Putting New Rules in Place to Curtail Sign Stealing, Source Says*, *ESPN* (Feb. 19, 2019), https://www.espn.com/mlb/story/_/id/26034573/mlb-putting-new-rules-place-curtail-sign-stealing [<https://perma.cc/P5ZS-KKQZ>].

implementation of significant penalties is a key step in sending a message to the clubs that electronic sign stealing will not be tolerated. MLB has now specifically addressed the sign stealing issue, although binoculars and other vision enhancing tools are not mentioned in the new rules. However, after reviewing the history of sign stealing, the MLB bulletin prohibiting sign stealing by electronic device or equipment, the new 2019 rules, and the industry custom of player self-enforcement, the authors are of the opinion that if a Major League team was stealing signs from a bullpen with binoculars, in the same manner as the Ramapo coach, it is likely the game umpires or the MLB Commissioner would initiate disciplinary action.⁵⁸ In addition, players would engage in self-enforcement and most likely initiate a physical confrontation, brush back pitches, and bean balls to stop the stealing of signs with binoculars.

III. RELEVANT NCAA COLLEGE BASEBALL RULES AND NCAA POLICY STATEMENTS

There is no rule regarding stealing signs in the NCAA Baseball Rules.⁵⁹ The NCAA Baseball Rules do allow videotaping of games from behind the home plate area, but not from the outfield or the team's dugout, and prohibit the live viewing of that video during the game.⁶⁰ All of these rules would make sign stealing more difficult. The NCAA Baseball Rules, Rule 5, section 2(f), provides that:

Nonuniformed team personnel may sit in the stands for the purpose of charting pitches, using radar guns or videotaping a contest. Games and individuals *shall not be videotaped from the team's dugout. Any scouting information shall not be transmitted to the playing field or to team personnel.* A team may film or videotape its own game but not games involving other teams.

The use of manned video cameras is *restricted to the area behind home plate*—defined as that area from the outfield cutout behind first base to the outfield cutout behind third base. *Filming from beyond this area toward the outfield or any point beyond the outfield fence or wall is not permitted*—with the exception of television cameras for the broadcast of a game, including internet broadcasts and video boards.

58. The Philadelphia Phillies were accused of stealing sign with binoculars in 2010. Although, the allegation was not proven, MLB issued a reprimand and told the Phillies to stop their bullpen coach from using binoculars to peer into the catching area. *Manuel: Phils Not Trying to Steal Signs*, ESPN (May 12, 2010), <http://www.espn.com/mlb/news/story?id=5183621> [<https://perma.cc/FGT4-8H98>].

59. See generally NCAA BASEBALL RULES, *supra* note 15.

60. *Id.* at 46, Rule 5, § 2(f) (rule for positions of the offensive team).

Monitors for viewing live or taped video during a game are *prohibited from the dugout or bench area*, and all adjacent areas (i.e., athletic training rooms, locker rooms, etc.).

....

PENALTY—The umpire first should warn the violator(s). If the violator(s) does not immediately comply with the rule, the individual(s) shall be removed from the stands or shall receive a post-participation ejection.⁶¹

The NCAA Baseball Rules do a good job of limiting the use of video cameras which could be used to steal signs during a game. There is, however, no specific prohibition from using other equipment, such as binoculars, to steal signs. However, the NCAA Baseball Rules do have rules against unsportsmanlike conduct, misconduct, and a Code of Ethics that, in the author's opinion, could have been enforced during the controversy that arose during the Ramapo v. WNE baseball game. In addition, the NCAA's Division III Philosophy Statement and a statement on "core values" are also relevant.⁶² Each of these rules, philosophies, and statements could have and should have been applied in the Ramapo v. WNE baseball game in order to carry out the mission of Division III sports, as discussed below.

The NCAA Baseball Rules were voted on and approved by the "NCAA Baseball Rules Committee" ("Committee"), which is comprised of eight university and college employees who are baseball coaches, an

61. *Id.* (emphasis added). The provision also sets out four notes. They are as follows:

Note 1 Video and communication equipment used to transmit information between coaches, coaches and players, scouts or other team personnel shall not be allowed for intercollegiate competition. Video for scouting, training or teaching purposes may be recorded from any unmanned camera location. No video from manned or unmanned sources may be transmitted for scouting, training or coaching purposes during the contest.

Note 2 The use of telephones, cellular phones, walkie-talkies, etc., is permitted for two-way communication between a team's dugout or bench and bullpen.

Note 3 Televisions and any live broadcast (e.g., Internet streaming) shall be turned off in the dugout and clubhouse during a game.

Note 4 In-stadium pitch-speed monitors may be used in all games.

Id.

62. *Division III Philosophy Statement*, NCAA.ORG, <http://www.ncaa.org/governance/division-iii-philosophy-statement> [<https://perma.cc/N8PU-WJJ5>]. See also *Respect, It's the Name of the Game*, NCAA.ORG, <http://www.ncaa.org/about/what-we-do/fairness-and-integrity/sportsmanship> [<https://perma.cc/H9LP-VFEQ>] for a statement on "core values."

athletic director, and a sports information director.⁶³ The Committee, in the NCAA Baseball Rules, states that it is concerned about “unsportsmanlike conduct,” as it has been in the past, and that it remains an “area of concern” for the game of NCAA Baseball.⁶⁴ “Prolonged and continued arguments, offensive and vulgar language or excessive expressions directed at umpires, or any disrespectful conduct by coaches or umpires must not be tolerated.”⁶⁵ The Committee, in a section of the NCAA Baseball Rules entitled “Points of Emphasis,” vows to “continue to monitor unsportsmanlike situations closely and will consider more restrictive rules changes in the future if warranted.”⁶⁶

The Code of Ethics⁶⁷ in the NCAA Baseball Rules reads in relevant part as follows:

Baseball as a game has been played at the colleges and universities of this country for more than 140 years. Only the *highest standards of sportsmanship* and *conduct* are expected of players, coaches and others associated with the game.

Coaching/Players’ Ethics

1. It is the coaches’ *duty* to be in control of their players at all times in order to prevent any unsportsmanlike act toward opponents, officials, or spectators.
2. Coaches are expected to comply wholeheartedly with the *intent* and *spirit* of the rules. The deliberate teaching of players to violate the rules is indefensible.
3. Coaches must teach their players to respect the *dignity* of the *game*, officials, *opponents* and the institutions that they represent.
-
6. Coaches must refrain from any personal action that might arouse players or spectators to unsportsmanlike behavior.⁶⁸

The Ramapo coach, who was using binoculars in the bullpen to peer into the home plate area to steal the WNE catcher’s signs, violated the Code of Ethics by not acting in a manner demonstrating the “highest standards of sportsmanship” as required by the preamble to the Code of

63. NCAA BASEBALL RULES, *supra* note 15, at 5 (NCAA Baseball Rules Committee).

64. *Id.* at 8.

65. *Id.*

66. *Id.*

67. *Id.* at 9 (Code of Ethics).

68. *Id.* (emphasis added).

Ethics. The coaches should have prevented this situation in order to prevent any “unsportsmanlike act” as required by subsection 1. It is clear that the coach who was using the binoculars was not complying “wholeheartedly with the intent and spirit of the rules” as set out in subsection 2 of the Code of Ethics. Furthermore, the coach may have been “deliberately teaching” players to violate the Rules by committing an unsportsmanlike act of stealing signs with binoculars, which is called “indefensible” in subsection 2. Finally, by using binoculars to steal signs in a Division III playoff game the coach was not teaching his “players to respect the dignity of the game . . . [and] opponents” as required by subsection 3. The use of binoculars by Ramapo to steal signs clearly violated the NCAA Baseball Rules Code of Ethics and is sufficient grounds, in the authors’ opinions, for ejecting from the game the coaches and players who participated in the scheme.

In Rule 2, section 54, “[m]isconduct” is defined as “any act of dishonesty, unsportsmanlike conduct, or unprofessional behavior that discredits the contest, the institutions, or intercollegiate athletics.”⁶⁹ A penalty for unsportsmanlike conduct can be found at rule 2, section 26(f) which states, in relevant part:

When an assistant coach, a player (other than a pitcher) or team personnel other than the head coach is ejected for . . . unsportsmanlike conduct . . . , he will receive a one-game suspension in addition to the present game ejection. There will be a three-game suspension for subsequent ejections in the same season.⁷⁰

A rule against coaches’ misconduct can be found in Rule 5, section 15(b) which reads, in relevant part: “Misconduct is any act of unsportsmanlike conduct or unprofessional behavior that discredits intercollegiate athletics or the game.”⁷¹ This rule has a specific penalty of suspension from the game and from the next two scheduled games.

The NCAA publishes a chart entitled “NCAA Misconduct Penalties,” which lists the types of offenses and consequences in the NCAA Baseball Rules, such as game suspensions, for a first, second, or third offense.⁷² In this chart, there is no mention of penalty for the use of binoculars, other equipment, or electronics to steal signs. Thus, there was simply no rule in

69. *Id.* at 32, Rule 2, § 54.

70. *Id.* at 25, Rule 2, § 26(f).

71. *Id.* at 55, Rule 5, § 15(b).

72. NCAA MISCONDUCT PENALTIES, 2018 NCAA BASEBALL GUIDE, https://ncaabaseball.arbitersports.com/Groups/105039/Library/files/NCAA_BS_Misconduct_Chart_20181.pdf.

the NCAA Baseball Rules that directly addressed the situation that occurred in the Ramapo v. WNE Baseball game.

In May of 2018, when the Ramapo v. WNE baseball game was played, the NCAA had detailed language in their rules discussing the “core value[s]” of the collegiate sports programs that they supervise. The pursuit of the “the highest levels of integrity and sportsmanship is a core value of the NCAA.”⁷³ “Values such as respect, caring, fairness, civility, honesty, integrity and responsibility are key to creating a positive competitive environment for student-athletes across the country.”⁷⁴ The NCAA, in 1997, established the Committee on Sportsmanship and Ethical Conduct and it defined sportsmanship as a set of behaviors “based on values, especially integrity and respect.”⁷⁵ In NCAA Bylaw 2.4, the Principles of Sportsmanship and Ethical Conduct, institutions are required to promote “the character development” of the students-athletes and “coaches...should adhere to such fundamental values as respect, fairness, civility, honesty and responsibility.”⁷⁶

The NCAA publishes a “Division III Philosophy Statement,” which contains eighteen points that seek to “establish and maintain an environment in which a student-athlete’s athletics activities are conducted as an integral part of the student-athlete’s educational experience.”⁷⁷ The Division III Philosophy Statement states: “The purpose of the NCAA is to assist its members in developing the basis for consistent, equitable competition while minimizing infringement on the freedom of individual institutions to determine their own special objectives and programs.”⁷⁸

IV. DISCUSSION AND PROPOSED SOLUTION

The actions of the Ramapo baseball team, during this Division III baseball game, run counter to the NCAA “core values” and Philosophy Statement. Ramapo’s baseball team did not display integrity and sportsmanship, were not in the pursuit of excellence in athletics, weakened any sense of community towards a fellow Division III team, and failed to

73. *Respect, It's the Name of the Game*, *supra* note 62.

74. *Id.*

75. *Committee on Sportsmanship and Ethical Conduct*, NCAA. ORG, <http://www.ncaa.org/governance/committees/committee-sportsmanship-and-ethical-conduct> [<https://perma.cc/4G67-AHGL>].

76. *Id.*

77. *Division III Philosophy Statement*, *supra* note 62.

78. *Id.*

maintain an environment where the athlete's activities were a positive aspect of the educational experience. This situation certainly did not contribute toward equitable competition.

As discussed above, new rules will soon be implemented by the MLB, and the professional players, in many instances, police the game themselves. Stealing signs in a manner that “goes too far” could lead to bean balls, brushback pitches, and fights.⁷⁹ However, it would be wrong and contrary to the goals of NCAA sports generally and NCAA Baseball specifically to expect amateur players to police themselves when an issue of sign stealing that has gone too far arises. It is important to note that the approach taken to redress infractions such as sign stealing on the professional level—the players self-policing by using beanballs and physical confrontation—are expressly and patently inconsistent with the mission and core values of the NCAA and indeed, amateur athletics in an educational setting. Clearly, NCAA member institutions would reject standards or cultural norms that encourage such aggressive and dangerous behavior.

The NCAA Baseball Rules should be amended so that administrators will be able to efficiently and systematically address such situations in the future. Additionally, it is likely that such a clarification and rule revision will serve as a deterrent to those who might be considering technology or equipment aided sign stealing in the future. As discussed above, there is no mention in the NCAA Baseball Rules concerning stealing signs with equipment, such as binoculars. In addition, stealing signs with binoculars is not categorized in the NCAA Baseball Rules as unsportsmanlike conduct. It is the opinion of the authors that the NCAA Baseball Rules should be amended to protect the integrity of the game and assist umpires, and NCAA Tournament officials so they can more effectively do their jobs.

The NCAA Division I College Baseball Championship is enjoying increased television audiences as more and more viewers tune in, in large part, because the games are fantastic and entertaining.⁸⁰ Increasingly, NCAA Division I baseball games are broadcast over the internet and can be watched on electronic devices, smart phones, computers or with

79. See discussion *supra* Part III.

80. Amanda Brooks, *2018 NCAA Division I Baseball Championship Leads the Way in Viewership with Multi-Year Highs in Every Round*, ESPN PRESS ROOM (June 29, 2018), <https://espnpressroom.com/us/press-releases/2018/06/2018-ncaa-division-i-baseball-championship-leads-the-way-in-viewership-with-multi-year-highs-in-every-round/> [<https://perma.cc/VUW9-CD28>].

services like Hulu and Sling TV.⁸¹ This popularity has led to more and more cameras and electronic equipment being around the game of NCAA Baseball. Currently, many Division III teams live broadcast their games, and broadcast feeds are provided for most Conference and NCAA tournament games. Television broadcasts often innocently zoom in on the catcher and the batter from centerfield to give the viewers a closer look at the action around home plate. Unfortunately, these views can be used to steal signs. This is an unfair and an unsportsmanlike use of technology. If signs are stolen by the naked eye, the team that is cracking the opposition's code is just cleverer than their opponent, and this is an accepted part of the game.

Baseball has been a sport that has both traditionally embraced the notion of pushing the envelope for a competitive advantage and quickly sought to adopt emerging technology and equipment to enhance all aspects of the game.⁸² The challenge for NCAA baseball is to create clear rules related to when, where, and how technology and equipment can be used to create a competitive advantage and to set appropriate penalties that dissuade rule infraction.

The NCAA Baseball Rules must be amended to protect the game from unsportsmanlike use of binoculars, telescopes, and electronic equipment to steal signs. The authors, in the document entitled "Proposed Amendments to the NCAA Baseball Rules," are suggesting that Rule 5, sections 12 and 15, be amended to specifically prohibit the use of equipment and electronic devices *to steal signs* in an NCAA Baseball game in all divisions. The proposed rule changes would make it clear that such improper use of technology to steal signs is unsportsmanlike conduct and could subject the offending team to ejections of players and coaches and to possibly forfeiting the game.

81. Tim Keeney, *College World Series 2018 Live Stream: How to Watch Every Game Online*, HEAVY.COM: SPORTS (June 16, 2018, 11:00 AM), <https://heavy.com/sports/2018/06/watch-college-world-series-online-stream/> [<https://perma.cc/K8P3-XT77>].

82. Barry Svrluga, *Stealing Signs? Savvy Baseball. Using High Tech to Do It? The Red Sox Cheated!*, WASH. POST (Sept. 6, 2017), https://www.washingtonpost.com/sports/stealing-signs-savvy-baseball-using-high-tech-to-do-it-the-red-sox-cheated/2017/09/06/47876ab6-9334-11e7-8754-d478688d23b4_story.html [<https://perma.cc/EF37-Z76Y>].

CONCLUSION

As stated in the NCAA Baseball Rules, the game of college baseball has been played for more than 140 years.⁸³ In that time the NCAA has developed a baseball rule book that has guided the game with clarity. However, technology and circumstances, as described in this article, necessitate amending the rules to ensure that the game is protected from unsportsmanlike conduct by the use of equipment and electronic devices to steal the signs used by the participants. A reasonable amendment to the NCAA Baseball Rules, as suggested by the authors in the below Appendix, will be an appropriate guide to all stakeholders of the game of NCAA Baseball. We hope the NCAA Baseball Rules Committee adopts the amendments for the good of the game.

83. NCAA BASEBALL RULES, *supra* note 15, at 9. The first college baseball game, which predates these rules, was between Williams College and Amherst College, held in Pittsfield, Massachusetts, on July 1, 1859, or 161 years ago. In a game played under the Massachusetts Rules, which were very different from today's modern game, Amherst won 73-32. Jim Overmyer, *July 1, 1859: Baseball Goes to College*, SOC'Y FOR AM. BASEBALL RESEARCH, <https://sabr.org/gamesproj/game/july-1-1859-baseball-goes-college> [https://perma.cc/H7ZG-XWES].

APPENDIX

PROPOSED AMENDMENTS TO THE NCAA BASEBALL RULES

PROPOSED AMENDMENT 1

Rule 5, *Game Misconduct*, section 15(a) Unsportsmanlike-Conduct Rule, shall be amended by adding a new paragraph 6 which will read:

6) No coach, player, team or persons employed, assisting or volunteering with the team shall use cameras, television broadcasts, electronic equipment, computers, hand held devices, or other equipment, including telescopes, binoculars or other such devices for the purpose of stealing signs or conveying information designed to give a team an advantage. Such conduct is unsportsmanlike conduct and may, in the umpire-in-chief's judgement, be cause for penalties including ejection, as defined in Rule 2, Section 26, and forfeiting the game pursuant to Rule 5, Section 12.

The only exception to the use of the above listed equipment is the use of a mobile phone, or two-way radio, for communication between the dugout and the bullpen, or to emergency and medical personnel. The use of tablets in the dugout or bullpen running uniform programs is allowed, so long as such devices and programs have been approved by the NCAA.

Penalty for paragraph 6. The offender(s) shall be ejected from the contest. After ejection, an additional two-game suspension will be added.

PROPOSED AMENDMENT 2

Rule 5, *Forfeited Game*, section 12, shall be amended by adding a new subsection i, which shall read:

SECTION 12. A game shall be forfeited only as a last resort in favor of the team not at fault in the following cases:

i. If a coach, player team or persons employed, assisting or volunteering with the team use cameras, equipment, binoculars, telescopes, computers, or other items set out in Rule 5, Section 15, subsection 6, to steal signs and, in the judgment of the umpire-in-chief, it would be unfair to the team that is not at fault to continue the contest.