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AN IMPACT ANALYSIS OF THE NCAA’S HANDLING OF THE PENNSYLVANIA STATE UNIVERSITY’S 2011–2012 CASE

By
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A DISSERTATION

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Abstract

This dissertation was a post–operational analysis of the impact of the National Collegiate Athletic Association’s (NCAA) investigation of the alleged violations by the Pennsylvania State University (Penn State) following the criminal trial of Gerald Sandusky on June 22, 2012, and the July 10th release of the Freeh Report (Freeh, Sporkin, & Sullivan, 2012), a self–study commissioned by the Penn State Board of Trustees on November 24, 2011, to get to the bottom of the Sandusky scandal. This dissertation examined the dynamics of the investigation, the synergy surrounding media coverage of the scandal, as it unfolded on November 5, 2011, with the arrest of Sandusky to October 10, 2014, and the changing impact of the NCAA’s decision on the organization as measured by qualitative analysis of media coverage and scholarly studies of the case. This impact study included pre– and post–case study of the NCAA and how the Penn State decision reverberated through the college sports world and changed it and the NCAA.

Keywords: NCAA, Freeh Report, Binding Consent Decree, leadership, qualitative research
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CHAPTER ONE: INTRODUCTION

Background of the Problem

The primary issues examined in this dissertation concerned, directly, the National Collegiate Athletic Association’s (NCAA) investigation of alleged violations by Pennsylvania State University (Penn State) regarding the criminal behavior of retired assistant head coach, Jerry Sandusky from 1998–2011, the impact of the NCAA’s decision on that organization, and the impact of the decision on the NCAA. As spelled out in NCAA President Mark Emmert’s (2011) letter to Penn State on November 17, 2011, Penn State faced an investigation of the following violations based on Emmert’s assessment of Sandusky’s arrest:

- Lack of institutional control, under Articles 2.1, 6.01.1, and 6.4, noting that Penn State’s responsibility included oversight of “the actions of its staff members and for the actions of any individual or organization engaged in activities promoting the athletics interests of the university” (para. 2).
- Under Article 2.4, failure to promote the character development of participants with and in the athletics program.
- Under NCAA Bylaw 10.1, unethical conduct, especially the “principle of honesty” in dealing with others (para. 2).
- Under Bylaw 11.1.2.1 regarding violation of the ethical conduct of athletics personnel.
- Under Bylaw 19.01.2, regarding the responsibility of all individuals associated with the athletics program to conduct themselves well and “avoid improper conduct or questionable acts” (para. 3; Appendix A).
Following, first, Sandusky’s criminal trial, which concluded on June 22, 2012 (Chappell, 2012; Puckett, 2012), and the release of the Freeh Report on July 10, 2014 (Freeh, Sporkin, & Sullivan, 2012), Emmert held a press conference on July 23, 2012 (Glasgreen, 2012; Mandel, 2012; Norlander, 2012; Smith, 2012a; Wolverton, 2012b). He announced that Penn State had accepted the Binding Consent Decree (2012) which affirmed that Penn State accepted the findings and recommendations of the Freeh Report. Penn State waived any right to appeal or to challenge the findings or penalties laid out in the Decree. The Binding Consent Decree (2012) was a plea agreement between the university and the NCAA. The penalties were the price Penn State paid to avoid the “death penalty”, a colloquial term used in sports governance to describe when a program was completely shut down for an indefinite period (Fizel & Brown, 2014; Fleisher, 1992; Flynn, 2011; McFarlane, 2012; McNabb, 2012; Wegenrich, 2012).

The penalties included a $60 million fine, a five year postseason ban, a vacated Penn State win record from 1998–2011 (i.e. 111 wins) in football, the loss of 15 football scholarships for four years, and the agreement to meet all 117 recommendations of Chapter 10 in the Freeh Report (Freeh et al., 2012). Penn State also had to agree to an integrity plan and oversight of their progress in meeting the terms of the Decree by a commissioner who would insure that the university abided by the agreement (Freeh et al., 2012). The Big Ten Conference added additional sanctions and stripped honors and references to Paterno within the Big Ten Conference (O’Toole, 2012).

In the wake of the decision, media coverage of the scandal and the expectation of what might happen to Penn State favored heavy sanctions and the imposition of the death penalty. Because the Board of Trustees accepted the Freeh Report (Blehar, 2013; Sollers,
Jensen, Dial, & Crawford, 2013; Snyder, 2013; Van Natta, 2012), many in the media and sports world accepted the narrative that Penn State was complicit with Sandusky and enabled him to abuse children for over a decade. This was the conclusion of Freeh et al., (2012) in their Report. Similarly, because Freeh et al., (2012) specifically blamed Paterno for Sandusky’s post-1998 crimes, it became conventional wisdom to dismiss mitigating circumstances and to support the NCAA’s penalties. In fact, between late–July 2012 and early November 2012, support for the NCAA penalties was very strong in sports media reporting and, in some circles, it remained a high watermark for dealing with grievous program violations (see Figure 9 and Figure 10).

However, the general perception of the NCAA and its enforcement practices began to change in November 2012 as other cases of violations occurred. Speculation included how the Committee on Infractions (COI), the body charged by the NCAA’s Constitution and Bylaws with investigating and enforcing organizational rules, would handle major rules violations (Barnhart, 2012; Berger, 2013; Bishop, 2013; Dauster, 2013; Dennie & Gurney, 2013; Dodd, 2013; Duffy, 2013; Fish, 2012; Glasgreen, 2012; Hockensmith, 2013; Horne, 2013; Niederberger, 2012a; Petchesky, 2013; Thamel, 2013). These cases included the investigation of Ohio State head coach, Jim Tressel, the 2012 investigation of Bobby Petrino at Arkansas, and, in particular, the violations at the University of Miami which involved financial payments by a booster, Nevin Shapiro, to players (Daughters, 2013; Glasgreen, 2013a; Hayes, 2013; Libit, 2011; Norlander, 2012; Rittenberg, 2012; Schlabach, 2011). Libit (2011) pointed out that the scandal-obsessed media followed scandal–related stories and the Penn State case was particularly enticing to sports media writers looking for something to write about (Libit, 2011). However, for
the NCAA, that latter investigation included enough ethical violations by the COI to lead Emmert to fire the vice President for enforcement, and to launch a self-investigation. As media speculated about each case, and especially Miami, the more inconsistently the NCAA handled violations, the more media criticized the NCAA (Brown, 2013; Duffy, 2012; Kelly, 2012; Logan, 2014; Thamel, 2013). For the NCAA, the problem rested with the use of the Binding Consent Decree as an expedited plea deal with Penn State, while, with habitual offenders, the NCAA used its protracted investigations by the COI. The question by the media was always whether the Penn State methodology and punishment would affect future violators. In this respect, Penn State was always relevant in post-Penn State investigations (Brown, 2013; Dodd, 2013; Duffy, 2012; Elliot, 2013; Folck, 2013; Glasgreen, 2012; Logan, 2014; Manager, 2012; Torre, 2012).

From July–November 2012, there was strong support for the NCAA’s get tough decision on Penn State because the impact had not rippled through the NCAA to touch other programs (Barnhart, 2013; Berube, 2012; Brown, 2013; Erdley, Brown, & Bumsted, 2012; Garoian, 2012; Norlander, 2012; Smith 2012b). Livingston (2012) noted that “the NCAA, a self-important bureaucracy if ever there was one [assumed] vast sweeping, nearly imperial powers by NCAA President Mark Emmert, which he used to hit Penn State hard and make sure the Lions stayed hit … was popular nationwide” (para. 8). His attitude was reflective how value judgments about the NCAA crept into reports on how they handled investigations. Still, as the media began speculating about violations and punishment, writers began reexamining the Penn State case and particularly the operational end of the NCAA in punishing them (see Figure 5). In trying to align the penalties with the violations stated in the Binding Consent Decree (2012),
media questioned the missing NCAA investigation. In his retrospective report, Ford (2014) wrote, “What the NCAA did in 2012. What Emmert and his cronies did was punish those who weren’t guilty by handing down sanctions that he said were ‘punitive and corrective,’ but were, in fact so drastic that their intent was to decimate the program for a decade. And the NCAA did it because it could” (para. 7–8). Ford’s comment was reflective of the shift in how the media began writing about the NCAA and about the Penn State case. It was noteworthy also that various lawsuits, including Governor Tom Corbett’s challenge to the NCAA (Commonwealth, 2013; Rittenberg, 2013) and the Paterno estate’s lawsuit, provided critical challenges to Freeh’s investigation and the NCAA’s “rush to judgment” that circulated into sports reporting, too (Blehar, 2013; Difilippo, 2012; Snyder, 2012; Sollers et al., 2013; Thamel, 2013; Ward, 2012b).

Among coaches and athletic departments, the NCAA was already unpopular. When the commissioners of the major conferences met in late 2012 and the summer of 2013, the Bowl Championship Series (BCS) conferences discussed pulling out of the NCAA and creating their own governing body devoted to football (Daughters, 2013; Dodd, 2013; Elliot, 2013; Glasgreen 2013b, Hayes, 2013; Horne, 2013; Logan, 2014; McGuire, 2013; Navarro, Degnan, & Jackson, 2013; Petchesky, 2013; Schroeder, 2013). For athletic directors and coaches, the problem with the NCAA was how its executive committee and support structure consisted of college Presidents and administrators, but had very little representation from coaches, and athletic directors. Southeastern Conference (SEC) Commissioner Mark Slive and Big Ten Commissioner Jim Delany both favored autonomy (McGuire, 2013; Schroeder, 2013).
Data collected for this study demonstrated that as criticism mounted into 2014, the NCAA had to settle its lawsuit with Pennsylvania State Senator Jake Corman (Felder, 2014; Palmer, 2014), and when Emmert appeared before the U.S. Senate Commerce Committee on July 9, 2014 to answer questions about college athletics, he received blistering criticism from Missouri Senator Claire McCaskill who questioned his excuses about not being involved in enforcement, and from West Virginia Senator Jay Rockefeller who said “I think the system is rigged … I don’t think you have the power” (New, 2014, para. 23). On July 10, 2014, New (2014) reported Senate criticism of how Emmert claimed he “lacks the authority to enact many of the changes he’d like to see” (para. 1), and this must have seemed ironic to Penn State observers. Senator McCaskill responded with “‘I can’t tell if you’re in charge or a minion’” (Lovegrove, 2014, para. 15). She continued, “If you’re merely a monetary pass-through, why should you even exist?” (New, 2014, para. 2). New Jersey Senator Cory Booker noted that the problems today are the same as those 20 years ago (Lovegrove, 2014, para. 15), but added that he thought they needed to talk to the university Presidents whom he called “the real decision makers” in the NCAA (Lovegrove, 2014, para. 20). So if the Senate impression is clear, then was the decision to punish Penn State by Decree (2012) made by the university Presidents on the Executive Committee? Was the Penn State case fair?

On September 8, 2014, the NCAA announced it was ending Penn State’s bowl ban and speeding up restoration of the scholarship reduction (Moyer, 2014; Staples, 2014). The NCAA conceded the $60 million fine, allowing the money to stay in Pennsylvania. George Mitchell, the Commissioner on Integrity, announced that Penn State had met 116 of the 117 recommendations in Chapter 10 of the Freeh Report; as a
consequence of Mitchell’s report, the worst of Emmert’s penalties against Penn State ended. The only penalties still in effect were the vacated Paterno wins and its remaining probation from the Binding Consent Decree (2012) (Moyer, 2014; Staples, 2014).

The direction of the Penn State decision fell in two directions. First, the most egregious of the penalties have been reduced or eliminated (Moyer, 2014; Staples, 2014). Penn State became bowl eligible for the 2014–2015 season and its scholarship limitations will decrease next season and end after 2015 (Juliano, 2014). At the same time, while the penalty raised the level of support for the NCAA initially, that support eroded and second, if the current rules regarding the handling of sexual misconduct were in effect then, Penn State would have been cleared. Paterno would have met the NCAA requirements for reporting Sandusky in 2001 because he notified Athletic Director Tim Curley, George Schultz, and Penn State President Graham Spanier (Wilson, Kirkland, & Leblanc, 2014). That was all that is required under the NCAA guidelines. Similarly, the new rules governing infractions and penalties would have netted Penn State a short bowl ban and maybe player limitations. These were all that is left of the Binding Consent Decree (2012) penalties.

Thus, in examining the impact of the Freeh Report (Freeh et al., 2012) and the Binding Consent Decree (2012), support for Penn State’s punishment waxed strong in the initial months, but declined steadily as the implications of the decision on other programs created a vacuum of negative criticism on the NCAA. The impact on the NCAA has been critical. First, the NCAA was unable to use the Penn State penalty as an effective deterrent against other schools. Post–Penn State era decisions failed to rein in bad behavior or provide the same degree of heavy sanctions. Second, internal scandals within
the NCAA involving Miami and unethical conduct by the COI, inconsistent decisions with other programs, most notably North Carolina and its academic grade scandal in 2012, and lastly, criticism in U. S. Senate committees over Emmert’s inability to enact meaningful reform, weakened the organization (Adelson, 2014; Daughters, 2013; Dwyre, 2014; Glasgreen, 2012, 2013a; Hayes, 2013; Thamel, 2013). As the major football conferences clamored for autonomy and even the formation of a separate, non–NCAA governing body, the legacy of the Penn State decision was significant for the university and the NCAA.

**Statement of the Problem**

The problem examined in this study focused on the impact first of how the NCAA chose to resolve the Penn State scandal, both on the university and the NCAA, and second, how that series of actions affected the NCAA. Penn State admitted culpability by signing the Binding Consent Decree (2012) for Sandusky’s criminal activity up to his arrest even though the university severed ties with him in 2002. The Decree vacated Paterno’s win record from 1998–2011 based on the blanket guilt that the NCAA inferred from the Freeh Report (Erdley, Brown, & Bumsted, 2012; Freeh et al., 2012; Mole, 2012). The Report (Freeh et al., 2012) identified Paterno as part of the scheme to conceal Sandusky’s guilt and Penn State supported the decision to dismiss him as head coach and Spanier as President on November 9, 2011. In Emmert’s (2011) letter to Erickson, part of the theory behind the “lack of institutional control” violation was based on the criminal charges and Spanier’s inability to contain it.

Berger (2013) noted that Freeh’s reputation as an FBI Director and federal judge added weight to the allegations and universal acceptance of his conclusions, despite
problems with his methodology and research (Berger, 2013; Horne, 2013; Dodd, 2013; Sollers, Jensen, Dial, & Crawford, 2013). The criticism that some media found in Freeh’s Report was a pattern in his earlier consulting work where his research and rigor were challenged and dismissed (Blehar, 2013; Dorsey, 2012; Sollers et al., 2013). For example, Dorsey (2012) reported when Freeh’s group represented the Federation International Football Association (FIFA), the court responded by rejecting the following:

a subsequent report by the Freeh Group owned by former FBI director Louis Freeh as consisting of little more than circumstantial evidence. The ruling quoted the Freeh report as saying both “there is compelling evidence … to suggest that the money did originate with Mr. Bin Hammam” and was distributed by Jack Warner, the former boss of North and Central American and Caribbean soccer” [when no evidence existed]. (para. 10)

At the same time, Freeh was leaking information about his investigation both to Emmert and to Delany (Big Ten Commissioner). The gravitas of Freeh et al. (2012) led the NCAA to accept its Report in two respects. First, it became the charging document and, because the Board of Trustees accepted it, it became the investigation itself, one where Penn State effectively pled guilty (Baumbach, 2012; Erdley et al., 2012; Fish, 2012; Hockensmith, 2013). In the confines of an NCAA investigation, the Freeh Report (Freeh et al., 2013) condensed Step 2 and Step 3 into one act and the Binding Consent Decree (2012) became Step 4. Emmert’s November 17, 2011 letter was the charging document that made up Step 1 of the investigatory process.
The central problem with what the NCAA did was one that has plagued any conflict an institution had with the NCAA: due process. When Emmert made the decision to request the authority to act unilaterally against Penn State from the Executive Committee, he stated that he did so because the circumstances were so large and the implications for college athletics so dire, that extraordinary steps had to be taken (Emmert, 2012; Hoffman, 2013). However, as critics have pointed out, Penn State did not violate any NCAA rules and Sandusky was already being handled by the criminal justice system (Berger, 2013; Blehar, 2013; Horne, 2013; Mandel, 2012; Sollers et al., 2013). Certainly, Sandusky’s criminal behavior was excessive, but it was not behavior directed at or to the benefit of the football program or the athletic department (Blehar, 2013; Buckner, 2012a; Horne, 2013; Mandel, 2012; Sollers et al., 2013).

However, within the scope of the negotiation with the NCAA, Penn State chose to accept Emmert’s verdict and the penalties, waiving any right to appeal (Binding Consent Decree, 2012). They did this in lieu of a potential death penalty that Emmert insisted, was supported by the majority of the Executive Committee (i.e., college Presidents). The importance, though, of the due process issues mentioned above was one that became important in the post–decision NCAA. As other programs faced the NCAA and the COI, they began to look at what happened with Penn State, at what powers Emmert assumed to punish Penn State, and criticized those same powers and the process Emmert used, in self–defense (Duffy, 2012; Ford, 2014). Could Emmert do the same thing to Ohio State? To Miami? To any other program? The anxiety that the methodology used to punish Penn State was one reason why the major conferences began looking at autonomy and why support for Emmert and the NCAA enforcement process, which changed in late
2012 as a result, waned in November. What the NCAA was on July 23, 2012, and what they are today, are markedly different.

**Purpose of the Study**

The purpose of this qualitative, descriptive research study was to collect data regarding the degree to which the NCAA followed its policies for investigating and evaluating Penn State University in terms of consistency, fairness, and reliability as evidenced by standards of organizational evaluation and policy and how its decision affected them in the post Penn State decision world. Research collected about the impact of what the NCAA did and the aftermath following the decision was included. Data collected came from primary documents, media coverage, the Freeh Report (Freeh et al., 2012), and other secondary sources.

**Research Questions**

This study examined how the NCAA’s Penn State decision to include the Freeh Report (Freeh et al., 2012), which reported on the university’s liability in Sandusky’s actions, evolved and how it became the NCAA’s investigation of the football program.

How was the NCAA’s decision to substitute the Binding Consent Decree (2012) and use the Freeh Report (Freeh et al., 2012) for its normal COI investigation fair based on NCAA principles and Bylaws for governance in conflicts involving a member school?

What impact did the decision to use a Binding Consent Decree and to substitute an independent, non–NCAA investigation in lieu of the COI process have on the NCAA?

Third, how has the process for investigations evolved and changed since the Penn State decision?
Method Overview

This dissertation was a single case study of the NCAA’s investigation of Penn State. It began when the Centre County district attorney indicted Sandusky on November 5, 2011 to the release of the Freeh Report (Freeh et al., 2012) on July 10. The NCAA decided to substitute the Freeh Report (Freeh et al., 2012), an in–house investigation commissioned by the Board of Trustees to determine the involvement and liability exposure of the university in Sandusky criminal trial, for an NCAA investigation by the COI. Notified by Emmert on November 17, 2011, the investigation would have proceeded according to the rubrics of an NCAA inquiry as outlined in the NCAA 2011–2012 Manual (see Figures 2–5) (National Collegiate, 2012c). Erdley et al., (2012) noted that Emmert “used the scathing report by former FBI director Louis J. Freeh—which was commissioned and accepted by Penn State—as the charging document and the basis for the crippling sanctions revealed Monday” (para. 6).

This study examined primary and secondary sources that were collected, categorized into families, coded, and uploaded into Atlas.ti, a qualitative data reporting software program used to sort and store data, and create reports. The use of Atlas.ti included an analysis of organizational frames, transactional leadership, and process and policy analysis.

Definition of Terms

This research study used key terms and concepts operationally, including references to the Knight Commission, formed by John S. and James L. Knight Foundation in 1989. It was a response to
... more than a decade of highly visible scandals in college sport … [with] the goal … to recommend a reform agenda that emphasized academic values in an arena were commercialization of college sports often overshadowed the underlying goals of higher education. (Knight, 2013, para. 1)

Chief among the recommendations of the Knight Commission was institutional accountability.

Political framing of organizational leadership and decision–making were defined in the context of Bolman and Deal’s (2013) theory of transactional leadership inside action arenas, whereby leaders exercise control through distribution of limited resources and alliances of stakeholders.

Transactional and transformative leadership as defined by Johnson (2012) and Lipman–Blumen (2004) referred to the governing style of leaders who were invested personally or organizationally in their followers. According to Johnson (2012), transactional leaders were “concerned with protecting their interests rather than promoting the interests of the group. They [we]re more likely to be controlling than empowering” (pp. 190–91). In contrast, transformative leaders were concerned with individual and sought to inform and empower them (Johnson, 2012). Johnson (2012) alluded to Lipman–Blumen’s (2004) theories on the toxic leader and his observations about leaders and leadership supported Johnson’s (2012) point about the relationship between leaders and followers. Transactional leaders

... particularly as they slip deeper into paranoia and toxicity, frequently devote the lion’s share of their energies to controlling their followers (despite the evidence that followers often control themselves). Encouraged by the lack of restraint from
the outside, much of their attention is devoted to developing new, more grandiose projects, courting the media and imposing increasing measures of repression. These measures include the shaping of new policies and structures to keep the followers from unseating the toxic leader. (Lipman–Blumen, 2004, p. 187)

Based on Lipman–Blumen (2004) and data collected from Figure 4, Emmert fell into the above–mentioned typology, particularly in using the media during the Penn State ordeal, post–Freeh Report (Dauster, 2013; Powers, 2013). The historic practice in NCAA investigations was never to comment or release details of pending investigations nor to hold a press conference to announce penalties.

The Clery Act referred to 20 U.S.C. SS 1092(f) and the reporting of crimes on campus by the universities to the U.S. Department of Education through annual reports. Failure to report crimes resulted in significant financial penalties per offense (United States Department of Education, 2011). It was significant to the Penn State visit because the Freeh Report (Freeh et al., 2012) uncovered multiple instances of unreported crimes on campus, with resulting fines and penalties estimated to be over $100 million.

The death penalty, or the “repeat violator legislation” (McFarlane, 2012) is a specific term in college sports that refers to the complete shutdown of sport or sports by the NCAA for one year or more (NCAA, 2012a, 2012b). Any program so sanctioned cannot participate in the sport, recruit players, share in conference revenue, practice, or prepare for competition during the term of the penalty. It is called the death penalty because, during the term of the penalty, the institution’s team is effectively dead (McFarlane, 2012). The penalty was indirectly imposed on programs, most notably the University of Kentucky’s basketball program in 1951. The NCAA sanctioned the
university by barring it “from fielding a basketball team for the 1952–53 season, and banned the school’s other sport teams from postseason play” (McFarlane, 2012, para. 3), McFarlane (2012) noted that the NBA responded to the NCAA sanctions by baring the Kentucky players who were in the NBA for life. The most recent occurrence in the modern era was in 1987 at Southern Methodist University (McNabb, 2012). Following an NCAA investigation, the violations were so egregious that the NCAA shut down the football program for three years (McNabb, 2012). The football program was so impacted that it never fully recovered and since that time, the NCAA has been very reluctant to impose the penalty on a major college program. However, in its decision, the COI justified the death penalty as a way to

Eliminate a program that was built on a legacy of wrongdoing, decit [sic] and rule violations., the NCAA Committee on Infractions for the first time barred a school from playing football for an entire season. The committee stopped short of delivering the full death penalty, under which a program can be disbanded for as long as two seasons if found guilty of major violations twice in five years.

In addition to a ban on games, practice and scholarships for the 1987–88 academic year, the National Collegiate Athletic Association restricted SMU to seven games I 1988—none of which may be considered a ‘home’ game—and limited its scholarships, coaching positions and television and post–season appearances through he lengths of the probation, which expires Sept. 1, 1990. (McNabb, 2012, para. 3–4)

The Binding Consent Decree was the document offered by NCAA President Mark Emmert to Dr. Rodney Erickson that spelled out the penalties to be imposed on Penn
State in exchange for not facing the death penalty, or complete shutdown of the Penn State football program (Binding, 2012). The consent decree required Penn State to accept the Freeh Report (Freeh et al., 2012) as the final report on Penn State complicity with Sandusky’s behavior and to accept the penalties as laid out in Section III of the decree. Penn State also had to agree to all recommendations of the Freeh Report (Freeh et al., 2012) and correct problems delineated in the report (Binding, 2012).

COI was the body charged with investigating NCAA member violations (NCAA, 2012a, 2012b). Their role was to launch inquiries, charge programs with violations, investigate, and either find fault or clear accused programs of major and secondary violations. The COI assigned penalties based on the type of violation and the precedents set penalizing specific violations. They could consider and modify penalties too based on mitigating or aggravating circumstances (National Collegiate, 2012a, 2012b, 2012c; NCAA, 2014a).

Assumptions

Because this study relied upon primary and secondary research, data analyses depended upon accurately coding and categorizing data. It included applying rigorous analysis of data points collected from the research, and applying data to test the consistency of results regarding leadership at the NCAA and its adherence to police its members through its application of a fair and consistent investigation of Penn State. For this qualitative dissertation, there were three primary assumptions.

First, there was a wide body of research, especially secondary sources, that dealt with this subject and this researcher made every effort to include a random sample of source material that represented the information about the NCAA–Penn State case. All
secondary source material was collected using Academic Search Premier, ERIC, Google Scholar, and Access World News Research Collection (formerly Newsbank). This study assumed that the articles used represented an accurate reflection of the research synergy surrounding the NCAA and the Penn State case.

Second, although it was difficult to assess the leadership and ethical orientation of Emmert, the methodology selected was to collect articles about his career and decisions, code them with emphasis on adjectives related to his character and temperament, and compare the results based on a collection of adjectives used by Johnson (2012) and Lipman–Blumen (2004) to describe leadership archetypes. Using Atlas.ti, Emmert was identified as a transactional leader within the literature (see Appendix F). In filtering his decisions through the political frame from Bolman and Deal (2013) and coding key terms associated with toxic leadership, it was assumed that the triangulation of leadership and ethics traits from Emmert to Johnson (2012) and Lipman–Blumen (2004) was an accurate method of prescribing Emmert’s disposition as a leader. Research that examined Emmert’s dispositions aligned with the results in Appendix F (Berger, 2013; Barnhart, 2012; Blehar, 2013; Fish, 2013; Glasgreen, 2013b; Horne, 2013; Miller, 2013; Sollers et al., 2013). This analysis was necessary to understand Emmert and his potential motivations for seeking authority to handle the Penn State case differently.

Finally, it was assumed that Ostrom’s (2003, 2005) position on the importance of policy was a reflection of this study’s conclusions about what the NCAA did in breaking its policy to use the Freeh Report (Freeh et al., 2012) as the NCAA’s investigation. As Ostrom (2003) noted, the self–interest of stakeholders who broke the rules ultimately compromised the commons and the entire ecosystem. As a sport ecosystem, breaking the
NCAA’s policy created a similar problem for Division I programs. As pending lawsuits against the Freeh, Sporkin, and Sullivan firm advanced, if the Freeh Report (Freeh et al., 2012) became discredited, the decision(s) involved would undermine the NCAA decision and its authority to govern sports.

**Delimitations and Limitations**

The limitations of this study included the emotional reaction, especially by the media, toward the scandal, the public face of the story, and the groupthink that Penn State was culpable. Examination of media coverage provided extensive reporting on Penn State’s guilt.

For this study, the delimitations referred to three areas that were not included in this study. First, this dissertation did not examine the guilt or innocence of Jerry Sandusky, nor did it evaluate the Sandusky criminal trial. While the Board of Trustees commissioned the Freeh Report (Freeh et al., 2012) to examine Penn State’s culpability (Associated Press, 2012b; Blehar, 2013; Duffy, 2012; Erdley et al., 2012; Sollers et al., 2013), the focus of this dissertation was the procedural processes of the NCAA and afterwards, the impact of the decision on the NCAA since. The criminal trial would be a distraction because neither the Freeh Report (Freeh et al., 2012) nor the consent decree (Binding, 2012) dealt with the criminal trial. Sandusky’s criminal actions were significant only in the context of a cover up by the athletic department and university administration.

Second, this study did not review nor evaluate the literature on criminal sexual abuse, pedophilia, or the criminal trials or investigations of Penn State faculty and staff associated with the Sandusky trial, although this study examined research related to
methodology in child abuse studies. The Freeh Report’s (Freeh et al., 2012) research methodology was analyzed, compared, and contrasted with how investigations into child sexual abuse were typically handled based on best practices (Cage & Pence, 2006; Elis, 2000; Hammond, Lanning, Promisel, Shepherd, & Walsh, 2001; Sollers et al., 2013). When the Centre County district attorney arrested Sandusky in 1998 on a charge of improper conduct with a minor, the district attorney and the Pennsylvania Department of Public Welfare investigated and cleared Sandusky (Associated Press, 2012a; Chappell, 2012; Puckett, 2011). The prosecutor, Ray Gricar, chose not to file charges and the state welfare office closed its investigation (Chappell, 2012; Puckett, 2011). In examining how research reports typically evaluated child abusers, the methodology of the Freeh Report (Freeh et al., 2012) was important in terms of how closely it followed guidelines for such investigations. The pattern for investigations included using multidisciplinary teams (MDT), profiling the type and methodology of the abuser, and caseworker interviews and consultations with public welfare and child advocacy agencies. Freeh, Sporkin, and Sullivan did not investigate the abuse; they only cataloged it and drew non–scientific conclusions from their information (Blehar, 2013; Sollers et al., 2013). The Freeh team lacked members with expertise in child abuse theory and practice during the investigation at Penn State. Sollers et al. (2012) noted that the Freeh Report “ignored decades of expert research and behavioral analyses regarding the appropriate way to understand and investigate a child sexual victimization case” and, citing Jim Clemente, a former FBI profiles of child sex offenders, stated “The [Special Investigative Counsel] SIC failed to properly factor the dynamics of acquaintance child sexual victimization cases into their investigation. Consequently, the SIC misinterpreted evidence and
behavior and reached erroneous conclusions” (para. iii). Citing Bob Costas, Horne (2013) commented on the investigation, noting that

Although the Freeh report talks about the hundreds of people they spoke with, most of those people were quite peripheral to the case. It’s like saying we’re going to do a full report about the New England Patriots and we’re not talking to Belichick, we’re not talking to any of the players, we’re not talking to Robert Kraft, but we did talk to the guy who runs the elevator at the stadium, and we talked to the groundskeeper, and we talked to the guy who drives the team bus. I mean, a lot of it is almost entirely in that category.

What Freeh did, it seems to me, was not only gather facts but he reached a conclusion which is at least debatable from those facts and then he assigned a motivation, not only to Curley and Schultz and Spanier, but he specifically assigned a very dark motivation to Joe Paterno, which seems like it might be quite a leap.

If people are able to go over the response that the Paterno family has marshaled including with Dick Thornburgh, a person with at least the credentials of Louis Freeh, a reasonable person will at least conclude that there is some doubt here and that the other side of the story deserves to be heard. (para. 8–10)

Costa’s sentiments were widely shared by stakeholders within the NCAA, but outside the Executive Council (Horne, 2013). Waldron (2012) noted that the

... only organization to have punished Penn State thus far did not conduct its own investigation and instead relied on a document we now know was used outside its stated purpose. That’s a step that, frankly, does absolutely nothing to dispel the
notion that the NCAA has overstepped its legal bounds to hand down a punishment because it felt it had to do something. (para. 7)

Sollers et al., (2013) added, “Any investigation will read the wrong result by using the wrong approach and by interpreting the facts through the wrong filter” (p. iii).

Examining the Freeh Report was important because the veracity of it and the investigation were part of the media criticism of the NCAA’s methodology. The more flawed or questionable the report was, the more the NCAA’s decision to rely on it impacted criticism of the NCAA and its judgment practices in this case and, by implication, others too.

Part of the criticism for the NCAA’s decision to use the Freeh Report (Freeh et al., 2012) as the basis for the Binding Consent Decree (2012) centered on how “the NCAA circumvented its established enforcement mechanisms and violated its own due process rules” (Blehar, 2013; Sollers et al., 2013, p. v). The NCAA did not verify the equivalency of the Report to an NCAA investigation and subsumed the errors that were part of the Freeh Report (Appendix B; Blehar, 2012; Buckner, 2012a, 2012b; Dodd, 2013; Free et al., 2012; Niederberger, 2012b; Roebuck, 2012; Schackner, 2012b; Sollers et al., 2013; Schuckner, 2012).

Third, although the NCAA investigation of Penn State was evaluated as a qualitative study, this researcher did not study Penn State students, the college community in College Station, Pennsylvania. Only case study research, media accounts of the Penn State events, and artifacts from the NCAA were used. The methodology used by Freeh, Sporkin, and Sullivan did not support or oppose the outcome of the consent
decree, only the departure from the NCAA’s stated policy for investigations based on Emmert’s intervention and resolution of the Penn State case.

**Significance of the Study**

The focus of this study was on the importance of policy and organizational process. This focus included looking at the impact of the decision’s legacy on the NCAA itself. Bishop (2013) noted in Pennsylvania’s lawsuit against Emmert and the NCAA that

The state argued that the N.C.A.A failed to follow that process; that it threatened the death penalty for the football program if the university President, Rodney Erickson, did not waive the university’s rights under the N.C.A.A.’s constitution; and that it did not ‘identify a single rule that P.S.U. violated,’ instead relying upon “a handful of vague principles, such as ethical conduct and institutional control.” (para. 14)

Although the Pennsylvania’s lawsuit was dismissed in federal court, a similar lawsuit by Jake Corman succeeded in challenging the NCAA’s right to pursue the university like it did (Felder, 2014; Palmer, 2014). This failure was central to ethical problems with the method the NCAA used which, in turn, was important to how the NCAA was affected by blow back to the decision and its potential legacy. Although Emmert’s (2011) letter to Erickson identified several suspected violations of NCAA Rules and noted that an inquiry would begin, no NCAA investigation occurred.

The NCAA has a policy and rubrics for how member institutions should be evaluated. The NCAA website spelled out the steps, beginning with the COI who was responsible for initiating and investigating alleged violations. However, because the NCAA ignored its investigatory obligations and compelled the university to accept its
sanctions or face the death penalty, it undercut this practice and damaged the NCAA brand (Bentley, 2013; Olensky, 2012; Petchesky, 2013; Sorrell et al., 2013; Wertheim, 2011; Wolff, 2012). In the ten days between releasing the report on July 12 to Emmert’s press announcement of penalties against Penn State, the NCAA offered Erickson the choice between the death penalty and acceptance of a consent decree, in which Penn State would agree to any penalties Emmert imposed, as well as waiving appeal rights in exchange for avoiding the death penalty.

The effect of the agreement was that the Freeh Report (Freeh et al., 2012) became the NCAA’s investigation (Appendix C; Blehar, 2013, Fish, 2012, Sollers et al., 2013). No questioning of facts would occur, and no mitigating circumstances would be considered. It abridged the NCAA’s investigatory process. The decision itself, one year later, has become a source of tension between BCS Division I college teams and the NCAA leading Nick Saban and Mark Slive, Commissioner of the Southeastern Conference (SEC) to propose scrapping the NCAA in favor of the major conferences governing sport decisions (Dodd, 2013; Duffy, 2013; Sollers et al., 2013; Wieberg, 2013). Moody (2013) lowered the NCAA’s credit rating and reported that:

The outlook change to negative reflects increasing litigation and regulatory risks that could potentially alter the NCAA’s operations. The escalation of risks reflect the growing perceived disconnect between the amateurism of student-athletes, as codified by the NCAA, and the commercial success of high profile college sports. Increased public discourse about the best interest of student athletes combined with highly publicized litigation could destabilize the current intercollegiate athletic system and negatively impact the NCAA and its member universities.
The negative outlook also incorporates the long–term reputational risk arising through alleged improprieties related to enforcement of complex rules. (para. 2)

The importance of this research project was to explore how Penn State was evaluated within the same period, with the same basic issues involving the Freeh Report (Freeh et al., 2012), and with the same principal actors, and yet have two different results, by three different accrediting organizations. However, the real impact is on the NCAA and it changed the organization’s effectiveness and brand as an ethical body governing college sports.

The purpose of this qualitative, descriptive research study was to collect data and analyze the degree to which the NCAA followed its rubrics for investigating and evaluating Penn State University in terms of consistency, fairness, and reliability as evidenced by standards of organizational evaluation and policy. Further, this study also examined how the decision influenced the NCAA and how it changed the organization in terms of the legacy of the decision and methodology. Data collected came from primary documents, media coverage, the Freeh Report (Freeh et al., 2012), and other secondary sources.
CHAPTER TWO: LITERATURE REVIEW

Introduction

Research for this project derived from three sources: primary that consisted of the Freeh Report (Freeh et al., 2012), the NCAA Manual (2011), the Binding Consent Decree (2012), and primary documents associated with the new NCAA rules on sexual exploitation and violence; secondary sources consisting primarily of media accounts of the pre– and post–Freeh Report editorial commentary, and sports accounts; and theoretical texts dealing with ethics (Johnson, 2012; Lipman–Blumen, 2004) and organizational leadership (Bolman & Deal, 2013). These sources were collected from the organizational websites, bibliographic research, and web browser searches. The Freeh Report (Freeh et al., 2012) and primary documents related to the Penn State case study were retrieved from online Penn State archives.

Secondary sources consisted of news and media articles, theoretical studies on policy, ethics, and organizational framing, third–party scholarly research and analyses, and stakeholder articles. They were derived and collected from Academic Search Premier and Google Scholar, bibliographies related to sports law, the Freeh Report (Freeh et al., 2012), Penn State, and sports histories. Microsoft Excel and Atlas.ti were used to collect and disaggregate data from secondary sources for objective analyses and reporting. Data entered into Atlas.ti were categorized by family type, coded, based on key concepts and themes, and processed using Atlas.ti’s data analysis tools. Sources were entered by author or title in Excel and disaggregated by theme in order to permit comparison and link thematic research across the body of secondary research.
Ostrom’s (2003, 2005) analyses of policy, Johnson (2012) and Lipman–Blumen’s (2004) examination of leadership typing and ethics, and Bolman and Deal’s (2013) analysis of organizational framing were central theoretical texts that provided structure for identifying and reporting data. Ostrom was critical to understanding how policy decisions were operational and how their application could be interpreted to understand the organization. Johnson (2012) and Lipman–Blumen (2004) provided insight into functioning leadership and provided an analytical methodology for understanding leaders and their decisions.

Finally, data from source analyses of the NCAA’s decision–making process and history were compiled from primary and secondary source material, and analyzed to determine the history of NCAA decisions in its investigations in Division I sports. A major function of policy was the degree to which behavior could be regulated and controlled by the rules and regulations from the governing organization. It was important to examine the nature and degree to which the NCAA used and followed its rubrics for equal governance. This included examining how the NCAA investigated member institutions and how it reached decisions, as well as the degree to which member behavior was regulated and controlled by those regulations. In this, Ostrom (2007) noted that when an organization changed or otherwise treated one group differently from others within established policy, the system broke down. This theory was helpful in understanding how the post–Freeh Report and Consent Decree (2012) approach by the NCAA resulted in reaction from other stakeholders and then affected the NCAA significantly. In Bolman and Deal (2013), the manipulation of rules as a means of control between a leader and partisan followers was the exercise of control, and this
control was less connected to good governance than it was to the motivations of the leader.

Emmert’s leadership style was analyzed by collecting articles and commentary on his decisions in the private and public sector, coding the key terms, and matching them to Johnson’s (2012) and Lipman–Blumen’s (2004) characteristics of transformational and transactional leaders. Understanding Emmert’s leadership style was critical because much of the appeal associated with the NCAA’s punishment of Penn State centered on how Emmert’s leadership was perceived by the membership. When other schools began studying the potential impact of the NCAA’s new oversight and enforcement powers, particularly filtered by the Penn State experience, stakeholder positions changed toward the NCAA, especially from the major conferences’ leadership. *Atlas.ti* was a useful resource for collecting and coding articles about Emmert to analyze his dispositions as an ethical or toxic leader (Appendix F). Data collected suggested that Emmert’s leadership style was transactional (Berger, 2013; Bishop, 2013; Blehar, 2013; Buckner, 2012a; Dauster, 2013; Duffy, 2013; Elliot, 2013; Fish, 2012; Hayes, 2013; Hockensmith, 2013; Horne, 2013; Mandel, 2012; Navarro et al., 2013; Schrottenboer, 2013; Snyder, 2013; Sorrel et al., 2013), his exercise of power was largely coercive (Barnhart, 2012; Blehar, 2013; Brown, 2013; Dodd, 2013; Duffy, 2013; Folck, 2013; Glasgreen, 2012; Hockensmith, 2013; McGuire, 2013: Manager, 2012; Norlander, 2012; Petchesky, 2013; Sollers et al., 2013; Van Natta, 2012), and adjectives that described Emmert matched those associated with an overarching leader (Lipman–Blumen, 2004). Comparing Johnson’s (2012) taxonomy of servant leader attributes, few terms were linked to or associated with Emmert, except in observing that he lacked those attributes (Blehar,
To help provide an understanding of organizational behavior and framing, theoretical research and grounded theory of organizational leadership were derived from Bolman and Deal (2013), particularly with respect to their research into the political frame, and Johnson’s (2012) ethical framework for transformative and transactional leadership. Decision points about organizational framing and ethical analyses were derived from these two works (Bolman & Deal, 2013; Johnson, 2012). Based on the framing matrices of Bolman and Deal (2013), NCAA governance was identified and leadership typing was completed using Johnson (2012). The result helped in analyzing the impact of the decision process on Penn State as noted by the research.

Ostrom and Organizational Frameworks as Policy Analysis

One important thread in this dissertation was policy theory and the importance of having and following organizational policies. Ostrom’s (2003) analysis provided a metaphor for how to discuss the application or misapplication of policy and effective governance. The use of a well-ordered policy that effectively regulates the ecosystem of the commons protects those commons. In the same sense, with the NCAA and any other organization, policy governs what member institutions can do, regulating good and bad behavior. In this respect, Ostrom (2003) was aligned with Bolman and Deal (2013). They commented on the political frame and the exercise of power by this frame’s leadership. Bolman and Deal (2013) and Ostrom (2003) analyzed how leaders made decisions and they linked the methods of decisions with transactional leaders. In Ostrom’s metaphorical Tragedy of the Commons, bad decisions affect the topography and
ecosystem of the commons. Similarly, in Bolman and Deal’s political framework, decisions by transactional leaders affect the same type ecosystem in the political frame.

To apply this to the NCAA decision with Penn State, choosing to create a plea agreement with Penn State and bypassing the normal investigatory process affected the dynamics of investigations in Division I football.

The NCAA website stressed the importance of the process, and Brown (2013) laid out the penalties and degree of offenses and potential penalties. Article 23 of the NCAA 2011–2012 Manual (2012c) described both the investigatory process and the legal rubrics by which an investigation can occur, including statutory limitations and the appeals process. In the Binding Consent Decree (2012), which identified the penalties as well as the NCAA’s reliance on the Freeh Report (Freeh et al., 2012) to assign penalties and sanctions (Binding, 2012), analysis of the NCAA’s application of policy and practice was based on a comparison of the rubrics for program evaluation and the methodology used at Penn State. In examining this approach and the evaluation derived from it, this research project compared this decision approach with other infractions the NCAA investigated.

Bolman and Deal (2013) was triangulated with Johnson (2012) and Ostrom (2003, 2005), and the similarities and differences of the Penn State decision were used to assess how the research reported the fairness, consistency, and reliability of the NCAA’s governance practices. Since Penn State accepted the methodology proposed in the Binding Consent Decree (2012) and waived any right to re-try the decision, the Penn State case became an aberration from general practice, and it set a precedent as well. In looking at how Ostrom (2003, 2005) can be applied here, the decision may seem acceptable because both sides agreed; however, from the perspective other Division I schools who might appear before
the NCAA’s COI, using this same methodology and trying to compare penalty metrics in the Penn State case with those of other schools, the push back had to be inevitable. Once program started coming before the NCAA, the media and sports commentators inevitably began comparing a new program’s violations and potential penalties with the get–tough penalties of the Penn State decision (Fizel & Brown, 2014). In the case of the 2012 Miami investigation, were the major violations there enough to trigger a similar plea agreement and the evocation of the death penalty? Ostrom’s point about abusing the ecosystems and in doing so, affecting the landscape is one that applies to the NCAA.

So a primary focus of this study was the investigatory process of the NCAA (NCAA, 2011, 2012b), and Emmert’s Penn State decision, as detailed in the consent decree, which laid out an alternative punishment system (Binding, 2012; Thamel, 2013). In Ostrom (2003), the use of alternative methodologies within an ecosystem was disruptive, and this disruptiveness was reflected in how the final decision was viewed by the research. The problem with what the NCAA did was that the Penn State decision did not lead to a policy change, nor did it lead to any adjustment in how the NCAA investigates or how member institutions atone for violations. For example, in a similar program investigation at the University of Miami where the “lack of institutional control” was alleged, the NCAA so mismanaged the process that it had to investigate itself (Elliott, 2013; Glasgreen, 2013b; Hayes, 2013; Navarro, Degnan, & Jackson, 2013). Miami President, Donna Shalala, stated that “The NCAA has not lived up to its core principles … We have been wronged in this investigation” (Glasgreen, 2013a, para. 13). The COI hired the attorneys that represented Shapiro, the Miami supporter who funneled
money and benefits to Miami players; this gave the NCAA an unfair access to sealed and confidential documents that they would not otherwise have had access too.

**Theoretical Frameworks**

The theoretical point of organizational frameworks was important to this study because, in a discussion of leadership, the context of leadership decisions centered on what kind of organization the leader belonged to and what kind of decision–making was done within that organization. Schein (2004) commented on espoused values as “norms that provide the day–to–day operating principles by which members of the group guide their behavior” (p. 18); for NCAA, its values appear in their mission statements and especially in their Handbook which stressed fairness and included rubrics for organizational behavior and interaction. However, in considering what Schein (2004) argues about the discrepancies between values and behavior, or the difference between what you say and what you do. This is at the heart of the problem with the Penn State decision and the NCAA’s values, as outline in the handbook. Their rubrics were what the members relied up in its interactions within the NCAA, but when an aberration occurred, as it did with Penn State, it disrupted those norms and operating principles noted by Schein (2004).

Bolman and Deal (2013) provided an analysis of organizational frames, and stated that in the political frame, leaders often had to deal with splintering group and competing interest. Research examined the nature of the NCAA’s administrative office, its relationship to its COI, and the hierarchical inter–office interactions (Blehar, 2013; Brown, 2014; Buckner, 2013b; Dauster, 2013; Duffy, 2013; Elliot, 2013; Fish, 2012; Fleisher, 1992; Glasgreen, 2012, 2013a; Hayes, 2013; Mandel, 2012; Navarro et al.,
At the same time, the impact of each of these elements reflected change in the Penn State decision, in the rubrics of the NCAA, which changed as an indirect consequence, and on the NCAA brand as well.

As an evidentiary document, this study examined the Freeh Report (Freeh et al., 2012) in three respects. First, an examination of the Sandusky case was scrutinized for the nature of the report as an outside analysis of the Penn State events. Key questions related to the report included its fairness and accuracy as a report tool, its scope, and its adherence to best practices for organizational research. Since the Freeh Report (Freeh et al., 2012) was an investigation of Sandusky’s criminal child abuse and the university’s liabilities from its relationship with him, this study examined whether Freeh et al. (2012) followed best practices in their research and if the research in it was equivalent to or better than a COI investigation. Because the Freeh Report (Freeh et al., 2012) functioned as the NCAA’s investigation, it was necessary to determine the degree to which it assessed Sandusky, collected and evaluated mostly secondary source material, and determined Penn State’s liability (Penn State, 2011; Synder, 2013).

Second, media coverage and analyses of the Freeh Report (Freeh et al., 2012) and of the aftermath were collected and analyzed partly to assess the impact of coverage of the events on the Penn State brand, but also to measure the impact on Emmert and the NCAA too. Atlas.ti, a qualitative data analysis program, was used to enter data extracted from secondary sources to determine the impact of the report as well as public reaction to it.
Finally, research also looked at the shift in how media and scholarship viewed the Freeh Report (Freeh et al., 2012) once other programs accused of major violations were charged. Comparisons to the Penn State case, to the penalties imposed, and to the disparity of investigations helped engage the media in its reexamination of the Penn State decision and the NCAA’s handling of it. As more schools faced NCAA scrutiny, more media stories began to appear about power and the exercise of it by the COI and by the NCAA. Was the decision to impose penalties by a plea–like agreement fair? Could it happen again?

Organizational Leadership Frame

The research model of this dissertation focused on three major points of data collection and analysis. These were primary sources, secondary sources, and theoretical studies into organizational framing (Bolman & Deal, 2013) and esthetical leadership (Lipman–Blumen, 2004; Johnson, 2012). Because this was a descriptive study based on a historical event and the after–effects on the NCAA, data consisted first of primary sources that formed the basis of the investigation. Secondary sources included media coverage and organizational documents connected to this study. The application of single case study analysis and grounded theory, based on coding and categorization of data sources using Atlas.ti, and analyses of Bolman and Deal’s (2008) organizational framework and Johnson’s (2012) theories of ethical behavior were also used.

In this study, the organizational leadership frame for the NCAA was identified as the political frame as defined by Bolman and Deal (2013). Characteristics of the structural frame included commitment and motivation to succeed, high technical quality, certainty, harmony among team players, shared resources, and top–down leadership; the
political frame stressed alignment of leader goals with the organization, where the leader controlled scarce resources, decision points, and manipulated outcomes (see Table 1).

This determination was based on the framing model outlined in Bolman and Deal (2013).

Table 1

*Organizational Framing Matrix*

<table>
<thead>
<tr>
<th>Question</th>
<th>Frame if answer is Yes</th>
<th>Frame if answer is No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are individual commitment and motivation essential to success?</td>
<td>Human Resource, Structural, Political</td>
<td>Structural, Symbolic</td>
</tr>
<tr>
<td>Is the technical quality of the decision important?</td>
<td>Structural</td>
<td>Human Resource, Political, Symbolic</td>
</tr>
<tr>
<td>Are there high levels of ambiguity and uncertainty?</td>
<td>Political, Symbolic</td>
<td>Structural, Human Resource</td>
</tr>
<tr>
<td>Are conflict and scarce resources significant?</td>
<td>Political, Symbolic</td>
<td>Structural, Human Resource</td>
</tr>
<tr>
<td>Are you working from the bottom up?</td>
<td>Political</td>
<td>Structural, Human Resource, Symbolic</td>
</tr>
</tbody>
</table>

*Note.* Bolman and Deal (2013), p. 311

Table 2

*Effective and Ineffective Leadership Matrix*

<table>
<thead>
<tr>
<th>Frame</th>
<th>Reframing Leadership Leadership is Effective When:</th>
<th>Leadership is Ineffective When:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structural</td>
<td>Leader is: Analyst, architect</td>
<td>Leader is: Petty bureaucrat or tyrant</td>
</tr>
<tr>
<td></td>
<td>Leadership Process is Analysis, design</td>
<td>Management by detail and fiat</td>
</tr>
<tr>
<td>Human Resource</td>
<td>Catalyst, servant Advocate, negotiator</td>
<td>Support, empowerment Advocacy, coalition building</td>
</tr>
<tr>
<td>Political</td>
<td>Support, coalitions Advocacy, coalition building</td>
<td>Weakling, pushover Con artist, thug</td>
</tr>
<tr>
<td>Symbolic</td>
<td>Prophet, poet</td>
<td>Fanatic, charlatan</td>
</tr>
<tr>
<td></td>
<td>Inspiration, Meaning-making</td>
<td>Mirage, smoke and mirrors</td>
</tr>
</tbody>
</table>

*Note.* Bolman and Deal (2013), p. 355
Figure 1 illustrates the legal process of the COI to identify the NCAA as a political frame organization. NCAA leadership functions through its exercise of power over its membership.

Figure 1. NCAA infractions investigation process. (Note: NCAA, 2012c, p. 407).
Article 32, Enforcement Policies and Procedures, provides information regarding the COI, the process for an investigation, and the conduct and behavior of the COI in terms of committee makeup, investigatory practices, data collection, analysis, and decision points across the NCAA process (NCAA, 2012a). The bylaws of the investigatory process include time limitations for an investigation (four years) from the point when the violation occurred and the investigation of the infraction can start, the delineation of responsibilities between the COI and the member institution, and framework for the investigation, including rules of behavior, methods of data collection, analysis, evaluation, and decision points (NCAA, 2012c).

**Policy and Practice Theory**

As noted, the importance of organizational policy and practice was demonstrated in how consistently the NCAA followed its rules and regulations. Schein (2004) believed that leadership is best exemplified if it can reduce anxieties, and in trying to align what Emmert did in the Penn State case, he succeed in settling the question about the NCAA’s ability to handle and control power football programs like Penn State by leveling harsh punishment and gaining popular support. He succeeded on July 23, 2012 with the Binding Consent Decree. However, while relying upon the Freeh Report (Freeh et al., 2012) as its investigation, the NCAA did something that it has never done before, and in breaking the mold of NCAA practice, Emmert needed to consider the impact moving forward, rather than simply looking back.

One of the values considered in Schein (2004), but also Ostrom (2003, 2005) was that both speak of leadership and action. Doing something sets things into motion and
Emmert’s Penn State decision set things into motion. Speaking of an environmental study, Ostrom (2007) stated that

In the complex and changing world to be studied and in theoretical models of that world, interaction effects often occur among variables at one or more tiers. The storage available in the system ... may differ by resources unit so one would need to dig into third– or fourth–tier variables and the horizontal linkages among them for meaningful understand of storage. Thus, one needs to examine both vertical and horizontal relationships of a partial decomposable conceptual map. Further, both the temporal and spatial dimensions of systems are essential to include in analysis. Identify which variables change rapidly or slowly is essential for the development of dynamic theories of system performance. (pp. 8–9)

What Ostrom (2007) suggested in her analysis of an ecosystem was applicable to the ecosystem of the NCAA. Did changes that affected one member reverberate horizontally and vertically to other member institutions? This was the problem the NCAA had following the Penn State decision, as criticism mounted and the NCAA’s control over its membered weakened (Barnhart, 2012; Berlin, 2013; Bishop, 2013; Blehar, 2013; Buckner, 2013b; Dauster, 2013; Dodd, 2013; Duffy, 2013; Norlander, 2012). The impact of the decision was how the public viewed the NCAA and how that view changed the organization as it responded to growing criticism of how it used and viewed its power within rules which it sometimes disregarded.

Ultimately, the Penn State case depended on the accuracy of the Freeh Report (Freeh et al., 2012) in the context of the NCAA’s core values on quality (Berlin, 2013; Berger, 2013; Berube, 2012; Blehar, 2013; Thamel, 2013; Glasgreen, 2012b;
Hockensmith, 2013; Mandel, 2012). The criticism of the Freeh Report (Freeh et al., 2012) and the Decree (2012) increased not so much in the context of lawsuits or appeals by stakeholders at Penn State, but rather in response to its application to other member schools (Bergen, 2013; Berlin, 2013; Bishop, 2013; Buckner, 2012; Dodd, 2013; Duffy, 2013; Erdley et al., 2012; Fish, 2012; Horne, 2013; Mandel, 2012; Niederberger, 2012a; Norlander, 2012; Petchesky; 2013; Schackner, 2012c; Snyder, 2013; Wieberg, 2013; Wolverton, 2012a). There is less anxiety about how Penn State was treated, and more how the treatment might affect other investigations and punishment arising from that treatment.

Critical comments of Emmert, and how the NCAA’s managed the Penn State investigation were referenced by comment tags that were entered into Atlas.ti in order to track and connect public opinion of Emmert (Barnhart, 2012; Berger, 2013; Buckner, 2012a; Dodd, 2013; Erdley et al., 2012; Fish, 2012; Horne, 2013). At the time, only a few critics condemned the NCAA’s penalties or looked forward to see how they might be replicated in future investigations. However, as more programs faced potential sanctions too, reconsideration of the Penn State experience created a backlash against the NCAA. When the NCAA began easing sanctions in 2013 and especially 2014, criticism questioned the fairness of the original penalties (Berlin, 2013; Buckner, 2012a; Dodd, 2013). For Schein (2004) and for Ostrom (2005, 2007), the NCAA’s actions were corrective responses and the leadership’s attempt to reset its position in harmony with the organizations regulations.

The Binding Consent Decree (2012) violated the NCAA’s bylaws for investigating member institutions. It ignored Penn State’s first time offender status,
which usually mitigated a lighter sentence if guilt was established, and it absolved the NCAA and COI from investigating anything further. While the Freeh Report (Freeh et al., 2012) did not investigate any NCAA violations, it did examine leadership and leadership is a tenant of NCAA oversight. This maneuver sidestepped the investigation and this created a problem. It ignored the recommendations of the Knight Commission in 1995, which created the process for investigating and punishing rule breakers (Barnhart, 2012; Bishop 2013; Fleisher, 1992; Petchesky, 2013; Mandel, 2013; Wolverton, 2012a, 2012b). Consistency and fairness of evaluative investigations were violated in the Penn State case because a different process was used from what was normal in an investigation (Barnhart, 2012; Bishop, 2013; Norlander 2012; Waldron, 2013; Wolverton, 2012a, 2012b). In a press release in January 2013, the NCAA released a penalty matrix that defined the types and penalties imposed on member institutions based on a sliding scale that first defines the kind of offense, the penalties, and the range in which a specific penalty was imposed (Brown, 2013). Intending to define the consequences of egregious violations, the penalties provided did not match what Penn State was accused of by Emmert. Table 5 provided a comparative look at Penn State’s alleged first time violation and those of multi–offender Division I institutions (Binding, 2012; Folck, 2013).

Table 3

<table>
<thead>
<tr>
<th>2010–13 Division I NCAA Penalties by Offense and Imposed Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Institutional Violations</strong></td>
</tr>
<tr>
<td><strong>NCAA Penalties</strong></td>
</tr>
<tr>
<td>North Carolina     Academic fraud, pro agent contact and benefits, ineligible players, failure to monitor</td>
</tr>
<tr>
<td>Academic fraud, pro agent contact and benefits, ineligible players, failure to monitor</td>
</tr>
<tr>
<td>Ohio State        Failure to monitor, preferential treatment of players, extra benefits, tattoo–gate involving five</td>
</tr>
<tr>
<td>Failure to monitor, preferential treatment of players, extra benefits, tattoo–gate involving five</td>
</tr>
<tr>
<td>Institution</td>
</tr>
<tr>
<td>-------------</td>
</tr>
</tbody>
</table>
| Boise State | Recruiting violations, impermissible housing, transportation violations | • Three-year probation  
• Nine scholarship reductions (2011–2013) |
| USC | Lack of institutional control, impermissible inducements, extra player benefits, unethical conduct | • Two-year bowl ban;  
• Ten scholarship reductions (2011–2013)  
• Vacation of all victories involved Bush including 2005 BCS title  
• Four-year probation  
• Vacation of all basketball games that features O. J. Majo |
| Penn State | Lack of institutional control | • Forfeiture of all wins from 1998–2011  
• Four-year bowl ban (Big Ten made it five)  
• $60 million fine  
• Fifteen scholarship reductions (2013–2017)  
• Five-year probation  
• Waiver of transfer rule  
• Additional penalties TBA for coaches, assistants, and players |
| Tennessee | Assistant football coach paid recruit Seastrunk for unofficial visit | • Two-year extension of probation period from Aug. 2011  
• Recruiting limitations,  
• Three year “show cause” for ex–assistant coach Garza |
| South Carolina | Players living in local hotel at discounted rate, impermissible involvement of football and basketball recruiters providing extra benefits | • Three-year probation  
• Loss of six football scholarships  
• Track coach suspended for one event |
| North Carolina | Academic fraud, impermissible benefits and participation, unethical conduct, failure to monitor, preferential treatment, failure to cooperate and failure to report outside income | • Three-year probation  
• Vacation of all records of student athletes who competed while ineligible  
• Vacated win record of Coach Butch Davis’ Record (2008–2009)  
• $50,000 penalty |
| Mississippi | Impermissible benefits | • Two-year probation |
State (cash and a car)  
- Loss of four scholarships  
- Reduction in recruiting visits  
- “Show cause” for ex–Assistant Coach Mirando  

Note. Wegenrich (2012), para. 3–10

Among those listed, the USC penalty was regarded as the harshest since the death penalty administered to Southern Methodist University (SMU) (Wegenrich, 2012). Although Penn State was a first time offender before the COI, the sanctions leveled were remarkable because the reforms suggested by the Knight Report was to make the NCAA judicial process consistent across all Division I sports (see Appendix F; Fleisher, 1992; Knight Commission, 2013; Smith, 2000). The charges against Penn State, as articulated in the November 17th letter from Emmert (2011) centered almost entirely on institutional control and character (Appendix A; Appendix E). Ostrom (2007) and Schein (2004) both stress the importance of consistency in the application of policy, so that when an organization departs from practice, it creates problems among the leadership.

What was unique about the Penn State case was the involvement of Emmert in every stage of the investigation. The routine practice was to have the COI initiate contact with a member school that was accused of violations; the NCAA never gave press conferences or released info about violations like it did with Penn State. This was the only time that a NCAA President became involved in an investigation. When Emmert appeared before Congress on July 9, 2014, he testified that he lacked any enforcement authority and was condemned by Senators McCaskill and Booker for the weakness of his office and the powers of the President. Research dealing with Emmert’s behavior reflected Johnson’s (2012) ethnical evaluation of a leader casting shadows, breaking his organization’s rules, and ignoring its rubrics in the exercise of coercive power to punish a
university (Glasgreen, 2012a; Horne, 2013; Mandel, 2012; Norlander, 2012; Petchesky, 2013; Schrotenboer, 2013; Wolverton, 2012b) and thus aggrandizing himself at Penn State’s expense (Blehar, 2013; Hockensmith, 2013; McGuire, 2013; Olenski, 2012; Petchesky, 2013; Smith, 2012b; Sorrel et al., 2013; Thamel, 2013; Waldron, 2013). Johnson (2012), speaking of leadership in terms of evil, stated that evil “inflicts pain and suffering, deprives innocent people of their humanity, and creates feelings of hopelessness and despair. Evil–doers do excessive harm, going well beyond what was needed to achieve their objectives” (p. 118). As the Penn State decision was reexamined in the wake of other programs that faced violations, Emmert came to be demonized. Bergen (2013), Petshesky (2013), and Waldron (2013) made this observation about Emmert and the excessive punishment within the Binding Consent Decree (2012). In some respects, this reflected the impact of Emmert’s intervention into the Penn State investigation. One of the compelling metaphors of the political frame was justice (Appendix F; Bolman & Deal, 2013). Data collected that examined terms and characteristics associated with this type of leadership linked Emmert as a transactional leader (Figure 3; Figure 4; Figure 5). Johnson (2012) stated that justice has two components, in that the “first component is a sense of obligation to the common good. The second element was [sic] treating others as equally and fairly as possible” (p. 90). The ability to thread these two components indicated whether a leader in the political frame was positive or self-serving. Did Emmert punish Penn State out of a sense that he was correcting a wrong committed by Penn State and, doing that, was Emmert treating Penn State “equally and fairly”? Research into Emmert’s motivations suggested the latter (Berger, 2013; Blehar, 2013; McFarlane, 2013; Powers, 2013; Wolverton, 2012b).
Bolman and Deal (2013) and the Political Frame

In the political frame, leaders were characterized as managers trying to deal with a variety of interest groups competing for limited resources. Control was managed by the distribution of limited resources and power consisted of alliances between stakeholders with common goals. Bolman and Deal (2013) emphasized that leaders in this frame functioned by building power through coalitions with stakeholders and in the creation of action arenas in which decisions were made. In the NCAA, power is shared through the membership in various committees that function across the organization. However, much of the leadership at the NCAA derives from university Presidents who serve on the executive committee as well as other functional groups. Early in Emmert presidency, he faced criticism for being unable to control member institutions since becoming President of the organization in 2010 (Bishop, 2013; Buckner, 2012a; Duffy, 2013; Schackner, 2012b, 2012c; Smith 2012b; Van Natta, 2012; Wieberg, 2013; Wolverton, 2012a, 2012b). Various competing organizations ranging from member institutions, officers within the NCAA itself, and the media noted the NCAA's inability to affect ethical change (Fleisher, 1992; Knight Commission, 2013). This is not a problem that is peculiar to Emmert, but it is one that he will be called upon to solve.

Within this environment and at the nadir of criticism that began with the Sandusky arrest in 2011, media attention looked at NCAA reform and the need to act on violator programs. By the time the Freeh Report (Freeh et al., 2012) was released, Emmert was criticized for inaction and failed leadership (Barnhart, 2012; Bishop, 2012; Blehar, 2013; Buckner, 2012a; Duffy, 2013; Torre, 2012). Bolman and Deal (2013) used the term, “coercive,” to describe the exercise of power that compels decisions based on
consequences. Within their framework, Emmert’s demand that Penn State agree to the Binding Consent Decree was supported by the potential imposition of the death penalty (Binding, 2012). Dodd (2013) added that:

In short, are NCAA schools consolidating power on their own? The five power conferences (Pac–12, Big 12, ACC, SEC, Big Ten) certainly have the means. Alabama coach Nick Saban has talked openly about those five leagues playing among themselves. Bowlsby didn't exactly shoot down the idea this week.

In an unofficial, unscientific straw poll that started the day the sanctions were announced (July 23, 2012), the overwhelming majority agrees — the NCAA went too far on that hot July morning in Indianapolis a year ago.

I'm injecting myself into the story because those results were amazing: Almost every college source I've spoken to in the last year — they usually raised the issue — said the NCAA overstepped its boundaries with Penn State. (para. 17–19)

Bolman and Deal (2013) outlined the key elements and demonstrated how power works and the concepts reflect Emmert’s decision points.

Table 4 identified elements reflected in NCAA’s governance over its members.

Table 4

*Political Frame Overview*

<table>
<thead>
<tr>
<th>Primary Metaphor for Organization</th>
<th>Central concepts</th>
<th>Managerial and Leadership Image</th>
<th>Fundamental Challenge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jungle</td>
<td>• Self–interest</td>
<td>• Advocate</td>
<td>• Develop agenda</td>
</tr>
<tr>
<td></td>
<td>• Power</td>
<td>• Referee</td>
<td>• Form coalitions and build power base</td>
</tr>
<tr>
<td></td>
<td>• Conflicts</td>
<td>• Mediator</td>
<td>• Acquire good intelligence</td>
</tr>
<tr>
<td></td>
<td>• Competition</td>
<td></td>
<td>• Dispense information wisely</td>
</tr>
<tr>
<td></td>
<td>• Politics</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Intrigue</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Note.* Bolman and Deal (2013), p. 19
Given the media atmosphere surrounding the public reaction to the Freeh Report (Freeh et al., 2012), the ecosystem within the NCAA represented the central concepts identified by Bolman and Deal (2013). It included terms of self-interest, the exercise of intervention-centered power, internal conflicts within the organization, competition for power among key stakeholders within the NCAA, and the perceived political intrigue of Emmert’s actions (Berger, 2013; Blehar, 2013; Petchesky, 2013; Smith, 2012b; Sorrel et al., 2013; Waldron, 2012). None of these concepts was evident among BOE Team members from MSCHE or NCATE. The key distinctions that Bolman and Deal (2013) made about the political frame was not whether the politics of the organization are ethically good or bad, but rather how leadership determined what kind of politics would function in it. These political decisions formed the beliefs, assumptions, and values of the organization. Decisions derived from three principles:

- Leaders must understand the nature of conflict and how to manage it.
- Leaders must deal with conflict by mobilizing allies with shared goals and objections.
- Leaders must create and claim value as Emmert did in his sanctions, which he claimed had solved Penn State’s broken system. (Bolman & Deal, 2008, p. 333; Thamel, 2013)

For Penn State, one outcome was the protracted, high profile partisan battles that were fought in the public arena. They were covered extensively by the national media, with alumni, especially former Penn State athletes, championing Penn State’s cause in the ensuing conflicts. These high profile conflicts were expressed as metaphors in Bolman and Deal’s political frame (street fights) and these were in echoed multiple references to
Emmert’s approach to Penn State (See Appendix F; Blehar, 2013; Buckner, 2012a; Dodd, 2012; Sorrel et al., 2013; Waldron, 2012). Of course, these criticisms began after the decision was made and after the next cycle of violations began from other universities. There is a correlation between what happened at Penn State and what could potentially occur to another member program.

As an organization, the NCAA fit Bolman and Deal’s (2013) political frame. Part of Emmert’s decision–making was to accuse or charge Penn State, and then act, bypassing the NCAA’s own rules for investigating violations (Barnhart, 2012; NCAA, 2012a; Norlander, 2012; Wolverton, 2012a, 2012b). Barnhart’s (2012) analysis further linked Emmert’s decisions as partly influenced by the NCAA’s history of inaction on high profile sports scandals and his need to make an example of someone. In dealing with Penn State, Emmert balanced the negative publicity of the Sandusky trial earlier in 2012 with Penn State’s vulnerability from the Freeh Report (Freeh et al., 2012) which, based on limited interviews and contacts with the key stakeholders, found fault with Penn State’s leadership and the Athletic Department (Norlander, 2012; Wolverton, 2012a, 2012b). Although the Report was an internal investigation with recommendations for reform, Emmert used it as the pretext for making a high profile sanction against a prominent NCAA Division I member (Berger, 2013; Blehar, 2013; Norlander, 2012; Sollers et al., 2013; Wolverton, 2012a, 2012b).

Part of the pattern of political frame organizations was the tendency of leaders to make self–serving judgments, using organizational resources to support and promote those who agree with its leadership decisions, while minimizing critics or opponents. Duffy (2012) noted that the “scandal was outside and beyond the NCAA’s purview.
With executive committee members’ approval, Emmert broke precedent. He dispensed with the organization’s exhaustive, legalistic process entirely and meted out summary judgment” (para. 2). Duffy’s (2012) point was that what the NCAA did was a “disturbing precedent” because “disavowing its own rules” for one case, leads to the potential for other cases and creates an uncertain environment. In an analysis of Emmert’s letters and statements in interviews about the Penn State decision, focus was entirely upon Emmert himself rather than Penn State, its coaching staff, or the administration at Penn State (Barnhart, 2012; Bishop 2103; Mandel, 2012).

Emmert’s handling of Penn State involved the exercise of his judgment in punishing the university and then using the surrounding media frenzy to promote himself as a decisive leader, and initial media cover supported Emmert who made numerous press conferences and public appearances. Yet, while the NCAA bypassed its formal investigation process as articulated in its own charter for handling infractions (NCAA, 2012b), Penn State accepted the plea agreement within the Binding Consent Decree. As the data demonstrated, by not trusting their own process, the NCAA issued what the data revealed was an unfair decision that its own process might have supported and Penn State’s decision to surrender its rights for a hearing before the COI created the precedent (Berger, 2013; Blehar, 2013; Norlander, 2012; Sollers et al., 2013). Under the new NCAA system that defines offense within a four-tier level and using the matrix of punishments that are linked to specific offenses, the NCAA could fairly determine the offenses, establish the tier level, and, after considering mitigating circumstances, impose appropriate penalties that align with the new system.
CHAPTER THREE: METHODOLOGY

Introduction

The purpose of this study was to examine the impact of the NCAA decision to substitute its normal investigatory procedure with the Binding Consent Decree (2012) in lieu of a regular COI investigation. This qualitative, descriptive research study collected data regarding the degree to which the NCAA followed its policies for investigating and evaluating Penn State in terms of consistency, fairness, and reliability as evidenced by standards of organizational evaluation and policy and how its decision affected them in the post-Penn State decision world. Research collected centered on the impact of the NCAA event and the aftermath following the NCAA decision which came from primary documents, media coverage, the Freeh Report (Freeh et al., 2012), and secondary sources. These secondary sources were media reports, sports analyses, and news coverage of the NCAA’s actions in the Penn State case. These were collected from research using Academic Search Premier.

Because this is not a study of a population or a replicable event and the data collected did not involve interaction with or collection of information that identified human subjects, Institutional Review Board (IRB) review or approval was not required. This dissertation used an historical method of inquiry to examine issues related to the NCAA’s Penn State investigation and the imposed penalties with the framework of the NCAA’s rubrics and standard practices for member institutions. The focus of this study was on the impact of the decision on the NCAA during and after the announcement of the Binding Consent Decree (2012).
Gay (1987) defined the historical method as “the systematic collection and objective evaluation of data related to past occurrences in order to best test hypotheses concerning causes, effects, or trends of those events that may help to explain present events and anticipate future events” (p. 179). This, in essence, was how this study was constructed. Consequently, the data collection derived from extant articles and artifacts related to the topic, and the analyses focused on comparing data findings for degrees of agreement or difference. The literature review reflected the data collection process and the collected data were used to draw conclusions and validate the findings of this dissertation.

**Research Questions**

This study examined three main questions regarding the NCAA investigation of Penn State in 2011–2012 and each guided this qualitative study:

First, what was the impact of the NCAA’s decision to substitute the Binding Consent Decree (2012) and the Freeh Report (Freeh et al., 2012) for its normal COI investigation on the NCAA?

Second, how did the Penn State decision’s impact on other member programs that faced investigation affect the NCAA?

Third, based upon research into member expectations of the NCAA as a governing organization, what impact did the Penn State decision have in changing the perception of how the NCAA could treat member institutions in its investigatory process?

These questions were fundamental to the full examination of the Penn State decision and how it helped change the NCAA by affecting the culture that directly arose from the decision. The NCAA evolved into a different organization in which the imperial
presidency that seemed to arise on July 23, 2012 when the Binding Consent Decree was announced changed to a much less involved office, one characterized by Emmert’s July 9, 2014 senate appearance as largely powerless and, according to Senator Booker and Senator Rockefeller, unnecessary (New, 2014).

**Method**

The research method used in this study was an analytic case study of the NCAA’s 2012 investigation of Penn State following the conviction of former coach, Jerry Sandusky. As an historical study, the research methodology involved collecting and analyzing primary and secondary data sources that were related to the rules and regulations of the NCAA as set forth in the 2012 NCAA Manual (2012c) and the organization’s Constitution. Both of these sources identified the mission, goals, and objectives of the organization as a governing body for Division I athletic programs and athletes in postsecondary institutions. These primary sources were used to establish what the NCAA policy was supposed to be in terms of the COI, the rules and regulations for investigations, and the roles played by COI members, affected institutions and athletes, and the athletic community.

Secondary sources consisted of scholarly research and media coverage of the Sandusky verdict, the impact on Penn State, and analyses of the NCAA decision, including additional coverage of the case as it affected other programs and the NCAA itself. Sources included media accounts and reports that examined the ethical issues at Penn State, including theories that Penn State colluded with Sandusky to conceal his alleged crimes, sources critical and supportive of the Freeh Report (Freeh et al., 2012) as a research document, and sources critical of the NCAA; both in how it evaluated and
punished programs, and how it deviated from its normal practice with Penn State. Additional secondary research cross-referenced concerns about the Penn State case as a precedent. It was a potential variable in the investigations of other programs with major violations. In those reports, research focused on how the application of the NCAA’s Penn State methodology could affect and disrupt other program investigations. In these secondary articles, data showed that concern centered on the issue of fairness and the exercise of power by the office of the President (Figure 5).

The qualitative software program *Atlas.ti* was used to create a database to upload and code primary and secondary sources obtained from the document library. The coding process included marking key terms, concepts, and themes across all sources from which reports were generated when analyzing the results of the NCAA’s decision. *Atlas.ti* made it easier to view shared ideas and themes about all aspects of the Penn State decision across the sources used.

**Instrumentation**

Because data were collected exclusively from primary and secondary source material, secondary sources were the data used in this study. They were collected using Academic Search Premier to locate scholarly documents and articles dealing with the NCAA investigation of Penn State. Access World News Research Collection was used to collect newspaper articles and editorials about the NCAA investigation of Penn State. These sources provided factual accounts of various milestones in the Penn State investigation, including post-conviction analysis in the months and year following Emmert’s imposition of penalties. They not only provided real time snapshots of how the public perception of the Penn State case affected the university, but also the NCAA. The
convergence of opinions driven by a strong desire to move beyond the event by the Penn State leadership, media, the public, and the NCAA, was tracked to demonstrate strong support for the sanctions and the perception of justice in the case. In secondary sources after the decision, and especially after other school programs were being investigated by the NCAA, opinion and analyses shifted. New articles that reported violations at other programs such as the University of Miami (Miami), University of Southern California (USC), or the University of North Carolina (UNC), specifically cited the Penn State case and those linkages appeared in many news stories that deal with NCAA violations. 

*Atlas.ti* was selected to store and analyze data because of ease of use in uploading, coding, and categorizing sources for analysis. It made handling the large body of narrative stories and news reports easier to manage and to analyze since variables could be tagged, disaggregated, and compared. *Atlas.ti* provided access to key ideas, terms and concept linkages.

**The Researcher’s Role**

This study was limited to policy decisions by the NCAA and the application or lack of application of policy in NCAA decision points during its investigation of Penn State in 2012. This included collecting data on the post–Penn State decision with respect to the effects of the decision on the NCAA. Hence, once the Binding Consent Decree (2012) ended the Penn State case, collection of secondary sources after the decision were collected as well and entered into the *Atlas.ti* database. This was completed to collect data on how the Penn State decision affected the NCAA as sports media began re–analysis of the decision and the methods of reaching it. This project was part of a study of the impact of policy and leadership within organizations, but also the impact of
decisions, including the NCAA’s deviation from the normal investigatory process, on that organization. This researcher did not have any relationship with Penn State and its stakeholders.

Data Collection Procedures

As a case study of a historical event, data collection involved selecting a qualitative data analysis program to store primary and secondary sources, categorize, and code these sources, and to create a searchable database from which useful report data could be extracted. Using Johnson’s (2012) theories on transactional leadership and Bolman and Deal’s (2013) theories of organizational framing for the political frame, it was possible to apply data analyses to leadership ethics and style, and draw conclusions and recommendations for the NCAA based on outcomes and lessons derived from the Penn State case. In understanding how organizational frames work, the use of a plea agreement as a strategy for the NCAA was an example of transactional leadership in that Emmert negotiated the end of the investigation on behalf of the NCAA. This type of deal making is characterized by a transactional leader (Bolman & Deal, 2013; Johnson, 2012). At the same time, in a post mortem collection of data that was based on the response to and about how the Penn State case was examined in the context of other NCAA investigations for major violations, articles about these subjects were collected and entered into the Atlas.ti database for detailed analyses.

Research began with the collection of primary sources that included the Freeh Report (Freeh et al., 2012), the 2012 NCAA Manual (2012c), and NCAA website documents governing the COI, the history of institutional investigations and penalties by the COI, and documents from key stakeholders from the NCAA and Penn State
Additional primary research included court cases involving challenges to the Penn State case and it standing as a precedent, federal testimony, and committee reports about the NCAA and Emmert from U. S. Senate sources, and correspondence, including addresses and interviews, by Emmert on NCAA leadership, change, and evolution of the organization.

Secondary sources were collected from bibliographic searches from Academic Search Premier, Access World News Research Collection, organizational websites, and scholarly studies that focused on the Penn State case from 2012. These sources were collected as PDF files and uploaded into Atlas.ti, categorized based on type, themes or focus, key terminology, and subject matter. As a data management tool, Atlas.ti stored the articles and, after coding each article, generated reports that linked articles together based on typologies coded into the database (Appendix F: Atlas.ti and NCAA Data Analysis).

Research on this study began in January 2013 with the collection of primary and secondary sources and concluded in October 2014. The process of categorizing and coding data followed as research articles were collected and entered into the Atlas.ti database. It may be noted that public media released of official documents are still taking place and that subsequent studies may build on new information that may ultimately lead to different interpretations and conclusions.

Finally, to study trend data, targeted research and data collection were completed using Academic Search Premier to search for key search terms with the specific time frame of 2010–2014. All databases were selected in order to draw the most related articles and duplicate articles (titles and content) were deleted as an EBSCO function.
Articles collected were sorted by theme and concepts, and then cross-referenced to capture statistical data regarding trending based on periodic reports. Articles collected from Academic Search Premier and World News Research Collection compromised the source material used to generate charts about the attitudes and impact of the Penn State case on the NCAA, the enforcement process in particular, and Penn State.

**Data Analysis Plan**

Table 5 Data Source Type and Analysis provided an overview of data collected and how they were analyzed in this research study. As noted, data came almost entirely from documentary evidence, and analysis was completed primarily from uploading the data in *Atlas.ti* and coding each document by type and theme.

Table 5

*Data Source Type and Analysis*

<table>
<thead>
<tr>
<th>Data Source</th>
<th>Type of Data</th>
<th>Utility of Data</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary Source Material</td>
<td>Textual data from:</td>
<td>Data extracted from primary sources provided contexts for how organizational governance was conducted, how investigations were conducted, and how conclusions (penalties) were resolved. Primary sources established context for analyzing the organizational frame and the ethical behavior of leadership.</td>
<td>Data was used to establish the framework for how the NCAA managed memberships. The case study focused on three points: (1) What the NCAA was supposed to do; (2) What the NCAA actually did and how it evolved; and (3) What the impact of the decision was on the organization.</td>
</tr>
<tr>
<td></td>
<td>• Organizational handbooks with regulatory data, rules, and frameworks</td>
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<tr>
<td></td>
<td>• Historical and chronological data</td>
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<td></td>
<td>• Letters, memoranda, and communications between key stakeholders</td>
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<tr>
<td></td>
<td>• Freeh Report (Freh et al., 2012)</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>• Government documents, including testimony before U.S. District courts and the U.</td>
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</tr>
</tbody>
</table>
### IMPACT ANALYSIS

<table>
<thead>
<tr>
<th>Secondary Research Source Material</th>
<th>Textual data from:</th>
<th>The secondary sources established the outcomes of the method of investigation, its effectiveness, and the outcomes that arose from it. Data extracted included affirmed observational analyses of Emmert’s leadership style, the effectiveness of it, and the impact on Penn State and the NCAA.</th>
<th>Secondary sources provided the bulk of raw data on the actions of the NCAA and the impact on Penn State and the member institutions of the NCAA. The growing analysis of articles focused on the exercise of power and ethics, the importance of having and following rules (or policy), and the importance of ethical leadership and accountability in and from the NCAA leadership.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secondary Newspaper Source Material</td>
<td>Textual data from:</td>
<td>Data extracted from newspaper source material included raw data that included timelines, auxiliary information about the principal stakeholders (Emmert, Freeh, Spanier, Erickson, Sandusky, Paterno, and Penn State)</td>
<td>Newspaper accounts were used primarily to confirm chronological data and the sequence of events, the range of outcomes, and the response to various milestones in the NCAA and Penn State case.</td>
</tr>
<tr>
<td>Theoretical Constructs</td>
<td>Textual data from:</td>
<td>Bolman and Deal (2013) provided the framework for analyzing the NCAA as a political frame organization and for identifying Emmert’s leadership</td>
<td>Both theoretical constructs were used to provide a context for understanding the NCAA as a political–framed organization and the leadership in it as a transactional source of power within the</td>
</tr>
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<table>
<thead>
<tr>
<th>Miscellaneous</th>
<th>Textual data from:</th>
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<tbody>
<tr>
<td></td>
<td>Relevant organizational websites</td>
</tr>
<tr>
<td></td>
<td>Information drawn from organizational website provided concise information about the NCAA’s policy and practice, especially on infractions, as evidenced by Figures 2–5.</td>
</tr>
<tr>
<td></td>
<td>Information from websites also confirmed basic information about the Penn State case including problems and inconsistencies of information and facts as described in the Freeh Report (Freeh et al., 2012).</td>
</tr>
</tbody>
</table>

**Quality and Verification**

One of the fundamental problems in dealing with case study analysis was the management of data, namely numerous research articles that had to be categorized by
type and coded based on key concepts, themes, and conclusions. *Atlas.ti* simplified the process, as once all the articles were uploaded into the database and categorized; coding all of the articles provided important links across the database that simplified data management and the generation of useful reports.

As coding was done within *Atlas.ti*, and as the program permitted users to manipulate variables when comparing results, quality was assured by the application and its system of data management. However, data were tested by replicating a new *Atlas.ti* project and recoding a sample of the original source library to determine how consistently data were uploaded, categorized, and coded. The same steps were used to ensure that the same results occurred. Results were identical in terms of analyzing data about Emmert’s leadership style based on secondary sources that were coded based on key terms linked to transformational and transactional leadership. This was also true in tracking the impact of the Penn State case on evolution and change at the NCAA.

**Ethical Considerations**

Assuring thoroughness, fairness, and accuracy are critical in this case study. To assure thoroughness, fairness, and accuracy, all data generated by the program were included, even those that might have been viewed as contradictory to the trends and inferences of the researcher. Gay (1986) noted that:

> Historical sources exist independently of your study; they were not written or developed for use in a research project. Thus, while they may very well serve the purpose of which they were created, they may not serve your purpose … All sources of historical data must be subjected to rigorous scientific analysis to determine both their authenticity (external criticism) and their accuracy (internal
criticism) ... too often statements are uncritically accepted as factual statements if they are made by well–known persons. (pp. 183–184)

In analyzing the veracity of sources, Gay (1986) suggested four factors that were relevant:

1. Knowledge and competency of the author(s). In the present case, most of the secondary sources come from research articles and reflective writing from sports–centered authorities, legal experts, and leadership and policy researchers. This included stakeholders from the NCAA and Penn State.

2. Time and the degree to which time has passed between the event and the source itself. As all of the primary and secondary sources came from research derived within a year of the event, this problem, as identified by Gay (1986), was not an issue. However, future research into changing perceptions of the case are warranted because new research discoveries into the case, including the outcomes of various lawsuits against Freeh and his associates may alter how the public views the Freeh Report and the NCAA’s decision on Penn State because it is dependent on it.

3. The bias, if any, of the author was measured by motives and personal gain. This was an important issue for this historical event because much of the research was affected by the related moral outrage behind the initial charges in the Freeh Report (Freeh et al., 2012), and the victimization of children as a motivation for protecting the football program and shielding a sex offender in the Penn State case.

4. Consistency of data across research articles. (p. 184)
Summary

Data collection was primarily conducted in two steps. Primary sources were collected and uploaded into an *Atlas.ti* database, categorized as families, and coded based on content and key concepts. These sources consisted of organizational artifacts, letters, memorandums, handbooks, manuals, speeches, interviews, legal documents, recorded interviews, and support documents. *Atlas.ti* was useful in organizing and retrieving data, particularly as it permitted analyses of content by key ideas and concepts and data generated from *Atlas.ti* aligned to the evidence uploaded into the database by key themes.

Similarly, secondary sources were uploaded, linked to a family, and coded based on content connections to key strands in this research project. Uploaded into *Atlas.ti*, articles and the data they contained were rendered using search terms such as *ethics*, *reliability*, *leadership*, *transactional*, and *consistency*. *Atlas.ti* linked articles and made it easier to analyze key structural points and the comparative analysis of the sources.

The methodology was relatively simple. Relying on a hybrid grounded theory approach, and based on organizational leadership in Bolman and Deal (2013), this project was a single case study analysis. Collected research was manipulated using *Atlas.ti* and provided supportive data and concepts to examine the origins and ecosystem of Penn State and the NCAA. The evolution of Emmert’s decision to substitute the Freeh Report (Freeh et al., 2012) for the traditional investigation by the COI was evident from the literature. Ethical considerations looked at the use of software applications in the design of this project.
CHAPTER FOUR: FINDINGS

Introduction

This study was an analysis of the impact of the NCAA’s investigation of the Penn State scandal in 2011–2012 surrounding Sandusky’s criminal trial, the release of the internal investigation of the university’s culpability in his crimes (i.e., the Freeh Report), and the resolution of the alleged charges against the football program by the NCAA through the controversial Binding Consent Decree (2012). First, the heart of this study was an examination of the NCAA’s proposed investigation (Appendix A; Emmert, 2011) and use of the Binding Consent Decree (2012) to punish Penn State. Under authority from the NCAA’s Executive Committee, the Binding Consent Decree (2012) required Penn State to accept guilt as defined in the Freeh Report, agree to meet the 117 recommendations outlined in the Freeh Report, and meet specific sanctions against the football program including $60 million, roughly what the Penn State football program generates in revenue for the university in one year, a five year bowl ban, loss of bowl revenue sharing, forfeiture of all wins from 1998–2011, and other sanctions as determined by the Big Ten Athletic Conference. Penn State had to agree to oversight surrounding the 117 recommendations from Freeh et al., (2012). This oversight included reports regarding Penn State’s progress in meeting the 117 recommendations which Senator George Mitchell eventually led.

In the ten days preceding the Binding Consent Decree (2012) and the months following, public support and the politics of sports shifted as the context of the Penn State case shifted and affected enforcement within the larger college sports world. This study examined this changing landscape and the resulting reshaping of the NCAA, its policies,
and the power and influence on and within the organization. This study examined three research questions related to the changing sports topography. First, was the decision by the Executive Committee and the NCAA President to insert themselves into the investigation process, as described in Emmert’s (2011) letter to acting Penn State President Erickson fair? Was it consistent with NCAA principles and Bylaws for governance in conflicts involving a member school? Second, what impact did the decision to use the Binding Consent Decree have on NCAA leadership? Third, how did the process for investigations evolve and change the NCAA and enforcement since the Penn State decision?

It was important to clarify that regarding the Binding Consent Decree (2012), considerable research noted that using it was a controversial method for Emmert and the NCAA to use as a change agent and punishment instrument for the Penn State case. While the university accepted and abided by the terms of the agreement, there was resistance to the Decree (2012) from Penn State stakeholders, and the conclusions too based on collected data. However, the legitimacy of the Decree (2012) evolved since Pennsylvania Governor Corbett’s unsuccessful anti–trust challenge to the NCAA’s action was dismissed by U. S. Middle District Court Judge Yvette Kane (Rittenberg, 2013). In the lawsuit filed by state representative, Jake Corman, Commonwealth Court Judge Anne Corvey criticized the legitimacy of the decree, first by noting its “dubious authority” (Thompson, 2014, para 9) with respect to a criminal action by a non–university person (Sandusky) and children who were non–university student athletes (Felder, 2014; Palmer, 2014). Logan (2014) reported that the court noted that the “NCAA involved itself” in an action that was criminal, and added “with Covey’s decision, the NCAA finds itself facing
another legal battle that arose out of nowhere. It is fighting to prove that the organization was within its power to levy sanctions upon the Nittany Lions program” (para. 6). In presenting these two court cases, one siding with the NCAA in dismissing the governor’s lawsuit in 2013 and the other supporting the lawsuit against the NCAA in 2014, data supported a shifting position on the impact and legitimacy of the Decree (2012). Data collected about the Binding Consent Decree (2012) and reactions to it were included in this study.

All data were collected and extracted from primary and secondary sources related to the Penn State case or references to it. PDF versions of all sources were coded and uploaded into Atlas.ti. This permitted comparison of key themes, trend data, and concepts. Comments and research were coded and analyzed to collect trends. The data addressed the issue of whether the intervention by the NCAA President and Executive Committee into the investigation aligned with NCAA benchmarks for fairness as measured in part by analysis of the Bylaws, regulations, and history of NCAA investigations. Data collected included surveying newspaper reports from July 2012 to October 2014 in order to track public comment regarding the Penn State case, and by extracting data from articles collected from directed searches using Academic Search Premier. This created a data point that identified how opinion of the NCAA’s Penn State investigation shifted from largely positive to very critical (see Figure 5; Figure 11).

Research pointed to the historic nature of the NCAA’s action to intervene, and the range of critical reaction was measured in terms of the analysis of response data from secondary sources. Further, research included articles that appeared during and immediately after the resolution of the case with the signing of the Binding Consent
Decree, and then afterwards as media reaction reconsidered and responded to the Penn State case in the context of other programs which faced similar penalties (Figure 5; Figure 8; Figure 11).

The definition of fairness that was used came from primary documents collected from the NCAA and from court documents that reference them in connection with the NCAA and Penn State. It referred specifically to two required elements: consistency of action when dealing with others and responding, reliably, to similar situations. In its revision of the enforcement policy in 2014, the NCAA addressed problems of inconsistency in handling member violations, by creating matrices that govern penalties, aggravating circumstances, and mitigating circumstances by which all violations can be evaluated. The NCAA (2014a) linked “Fairness and Integrity” together and defined fairness as a product of their matrices by which “the rules and the consequences to apply to everyone. No exception” (para. 3). This was further stressed in NCAA (2014b) in which “the core consequences in the new structure are familiar … but are customizable according to the severity of the violation” (para. 4). This study analyzed the degree to which the NCAA applied consistent procedures and achieved consistent results in its investigation of other programs with major violations. Secondary sources that analyzed the decision and addressed the issue of fairness were also collected and analyzed using Atlas.ti.

The impact of the Binding Consent Decree (2012) can be seen in the analysis of secondary source coverage of the post-Decree tracked responses and the shift in attitudes toward the NCAA’s methodology, particularly in news about other major NCAA investigations.
Figure 2. Attitudes from articles about the NCAA–Miami Case (2011–2014).

The terms, “misconduct,” “missteps,” “unethical,” and “severe violations” were selected based on the frequency of use in the articles collected for the Miami analysis. Analysis demonstrated that critical reaction changed from October 2012 as news reporting on Penn State and on the impact of the decision was compared with other investigations, most notably the scandal at the University of Miami which the NCAA mishandled. Although the Miami scandal began in 2010 with the indictment of Miami booster, Nevin Shapiro over a $900 million Ponzi scheme, the NCAA began its inquiry in 2011 and hired Maria Elena Perez, Shapiro’s attorney, as a counsel for the COI investigation. Perez then gave confidential information that they were not entitled to about Shapiro’s dealings with Miami coaches and players, which the NCAA used. The NCAA covered up the connection with Perez until 2013, at which point several key COI officials were fired or resigned as a consequence (Daughters, 2013). As Miami, which had imposed its own bowl bans to help mediate the eventual penalty, responded to the allegations, the issue of
ethical behavior and the NCAA enforcement process started and connections were made to Penn State and how that case ended. This is the pattern for violations from other programs.

![Shift in PSU Case Articles](image)

**Figure 3.** Attitude tracking by key term analysis in secondary source reports.

Figure 2 and Figure 3 were generated from *Atlas.ti* and triangulated with coded data that identified supportive, critical and neutral secondary sources collected into the database. Newspaper articles were identified using World News Research Collection to identify and collect sports articles about the Penn State decision and its impact on other NCAA investigations or news. The determination of the code was based on the following criteria:

- If a source stated support for the Penn State case penalties, it was coded as supportive.
- If a source expressed opposition to the penalties, or challenged elements of the Freeh Report (2012) or the use of the Binding Consent Decree (2012), it was labelled critical.
• If a source discussed elements of the Penn State case, but took no position supporting or criticizing the penalties, it was coded as neutral.

• The body of sources studied in this table came entirely from newspaper and sports media articles that cross-referenced the Penn State case. In tracking newspaper reports from month to month, Access World News Research Collection was used to locate articles by month and an average of 55–60 articles were examined and coded using Atlas.ti.

These sources were collected and cross-referenced by month and showed trend data regarding the shift from reception of the Penn State decision from July 2012–late October 2012 which was very supportive. Key words associated with newspaper articles from this period include “change”, “positive”, and “justified”. The shift was not related to concern for Penn State, but rather in connection with discussion of other programs that were accused of major NCAA violations. Data shifted in late October 2012 as newspaper reports reflected increasing critical response data to the NCAA and its investigations of other programs. Key terms associated with these articles included “unfair”, “ethical” “unwarranted”, “punitive”, and “wrong”. In a survey of articles that feature the terms “NCAA”, “Penn State”, and. Individually, “unfair”, “unwarranted, “power grab”, and “worst”, the following data emerged:
The primary issues of concern, identified from key word searches from *Atlas.ti* as due process, the appeals process, and the linkage of penalties to punishments forced media to link Penn State’s violations with the penalties it received as a method of projecting how other schools might fair before the COI. These sentiments were reflected in the news reports included in this study. However, articles were collected and compared based on three themes: (1) articles solely about Penn State and the NCAA penalty imposed on the football program; (2) articles about violations from other schools (excluding Penn State); and (3) articles about other schools that included references to Penn State’s historic NCAA penalty.

*Figure 4. Terminology associated with Penn State and NCAA.*
Articles were collected using Academic Search Premier and the advanced functions to select key dates (July–October 2012; October 2012–December 2013; and January 2014–October 2014) from which articles were extracted and identified, thematically, based on limited, subject matter content. While dialogue about the Penn State scandal appeared even in the first date group (July–October 2012), the narrative media coverage about the decision was consistent after the October 2012 date and media coverage not only included interest in Penn State, but also the linkages between Penn State and violations by other university programs. For sports writers who wanted to weigh potential penalties for other programs, Penn State became a measuring stick to speculate about potential penalties.

Finally, in the post–Penn State case reform era (2012–2014), the number of reported major violations shifted from 2007–2013. Prior to 2011, when Penn State received a notification letter from Emmert (2011), 12–15 football and basketball programs would typically come before the COI. Table 7 identifies reported major violations.
violations within this time period (Appendix A). Since the new regulations began in 2013, the number of reported major violations tapered off considerably.

Figure 6. Report of major violations, NCAA Division I.

Violations dropped after 2012 and, so far, no major violations were reported in 2014, thought the UNC case is working its way through the process. Under the new NCAA guidelines for penalties as developed in 2013, no major violations were reported at the time of Solomon’s (2014) article; however, allegations of academic cheating and fraud at UNC has prompted an initial inquiry. The COI has not sent a list of allegations to UNC. However, media coverage of the UNC scandal, which originated in 2012, compared it to Penn State in terms of the expected depth of the penalty. A search of articles linked to UNC, academic fraud, Penn State penalty, and NCAA yield over 25,000 hits. Data demonstrated that Penn State was a variable in articles involving major violations in 2012 and 2013.
Review of Methodology

The methodology used in this study consisted of identifying primary source material related first to NCAA regulations and Bylaws with regards to how infractions and violations were identified, investigated, and adjudicated by the organization. These sources constituted primary research material related to how NCAA governance defined and handled such violations. They were posted on the NCAA web site and in media outlets.

This study consisted of three primary steps in collecting, analyzing, and reporting data regarding the NCAA’s investigation of Penn State. First, primary source data were collected and categorized based on their source content, focus on regulations, policy, or practice, and relevance to process. The qualitative software program, *Atlas.ti* (v. 7) was used to collect, categorize, and code primary sources to ease data tracking and to link core ideas and concepts based upon key terms, concepts, and organizational relevance. Documents were uploaded into *Atlas.ti* and key sections relevant to regulations were coded and marked within *Atlas.ti*.

Second, articles and scholarly research related to the NCAA and Penn State case were collected, coded, and entered into the *Atlas.ti* database. Sources were categorized first into families based on organizational relevance with letter and number codes linked to theme and concepts applied to articles as file titles.

The coding process used *Atlas.ti*’s Coding manager to link quotations within documents to codes. Data runs by family or code names produced links to concepts and permitted disaggregation of data based on family type, codes, and relational networks.
Key terms were identified. The literature was marked to run data comparisons for themes, key concepts, and references to NCAA regulations, actions, and outcomes. Data linked key concepts regarding the Penn State brand, the impact of the criminal trial, and the Freeh Report on Penn State, and the NCAA, its leadership, and the consistency with which it exercised decisions in its deliberations on violations.

Finally, based upon the organizational framing theories by Bolman and Deal (2013) and the identification of ethnical practices from Johnson (2012), evaluative analyses were made based upon the degree to which the NCAA followed its own policy and practices and its leadership exercised consistent evaluative decisions based upon historical practice from 2008–2012 involving Division I institutions.

**Data Analysis Procedures**

Data analysis was initiated when primary and secondary documentary sources were collected and uploaded in a database linked to a qualitative data analysis program. Sources were uploaded first into categories organized by subjects and then coded by key terms related to NCAA and evaluative strands connected to the issues of policy and organizational practice. The process for uploading and coding documents for analysis was completed using these steps.

1. Within *Atlas.ti*, the new project was created and a database was added into which all documents were uploaded, saved, and coded using a coding system that identified the subject first, the type of source second, and the key descriptor third.

2. Saved documents were uploaded into the project database.
3. Entering the documents library, files added to the project were opened and using *Atlas.ti*, documents were identified as family groups, scanned into the documents database, and coded using the Code Manager by key terms and quotations that were highlighted and added into the hermeneutic database. This step was important because cataloging key terms and quotations was critical in running a data analysis of sources that shared key concepts, ideas, and approaches. *Atlas.ti* could generate lists of shared ideas across the database and sources.

4. Analysis was based on shared strands between research articles based on thematic similarities and conclusions.

![Figure 7. Atlas.ti overview.](image)

Once data were entered, categorized, and coded, *Atlas.ti*’s Query Tool was used to retrieve and link key concepts and source material. From these linkages, data were analyzed and the results posted in scatter plot Figures for interpretation.
For the first research question, data analysis consisted of looking at references to and uses of ethical leadership with the concept of “fair, reliable, and consistent” use of organizational practice within the research. Sources on ethical leadership pointed to the exercise of power by Emmert and the NCAA. Noting the change in the investigatory process from the COI to the use of the Freeh Report and the Binding Consent Decree (2012), they criticized the change in the normal process as an unfair shift in policy (Barnhart, 2012; Berger, 2013; Bishop, 2013; Dodd, 2013; Hockensmith, 2013; Mandel, 2012; Petchesky, 2013; Schrottenboer, 2013; Wolverton, 2012a, 2012b).

Secondly, Atlas.ti was used to search and analyze primary material for data on each organization’s investigatory practices as they relate to issues of compliance within each respective organization. From data, it was possible to compare the structural organization of all three bodies and compare how the policy for investigation functions. Secondary source material was then analyzed for data related to results regarding consistency in the application of policy. The historical data of NCAA investigations at other institutions from 2008–2012 were compared with similar data from the last two years to determine consistency in how the NCAA handled major violations and investigations (Brown, 2014; Knight Commission, 2013; McFarlane, 2012; McNabb, 2012; Miller, 2012; Norlander, 2012; Smith, 2000; Wegenrich, 2012). Penalties across institutions did not clearly align with alleged offenses (Miller, 2012; Norlander, 2012). The 2012 Penn State investigation was an outlier from other investigations because it did not involve the COI (Fish, 2012; Horne, 2013; Waldron, 2012). More importantly, reaction to the Penn State case shifted in November 2012 as more schools were investigated by the COI; media coverage of those investigations included comparisons
with Penn State and the speculation that all investigations could include a similar methodology and result. This created a climate in which the media examined more closely the impact of the Penn State case and the question of whether the result was fair.

Finally, data related to the third research question explored the degree of consistency within which member institutions were treated and the data related to the NCAA returned significant problems with fairness and reliability. Although the NCAA has stated policies for how it investigates member institutions, and it has a historic record for how penalties should be imposed based on the gravity of the offense and the number of offenses committed by an institution (NCAA, 2012a, 2012b), these were not applied evenly and were ignored in the Penn State case (Berger, 2013; Fish, 2012; Horne, 2013; Waldron, 2012).

Results

The study encompassed a broad analysis of data regarding the NCAA’s historic Penn State case that began with the Binding Consent Decree (2012) which Penn State accepted and signed on July 23, 2012. From that event, questions regarding the fairness of the NCAA’s method of investigation and the impact of the decision on the NCAA itself dominated the data collected for this dissertation. Primary and secondary sources were collected and entered into Atlas.ti for analysis. Data for this study, then, covered the three research questions identified in this dissertation.

Results of the First Research Question Concerning Consistency and Fairness

Before presenting the results of the first research question, the concepts of consistency and fairness were defined by the NCAA in terms of how evenly the NCAA treated all members of the organization. Under “Fairness and Integrity,” the NCAA
(2014a) defined fairness in terms of equal treatment and the application of fairness was the degree to which the NCAA applied the rules and imposed penalties and punishment. In addressing the issue in its 2013 reform of the enforcement practices, the NCAA created a four–tier system of violations and a matrix that included mitigating and aggravating circumstances that would be used to determine the final punishment for a convicted member school charged with violations. The goal was to eliminate arbitrary judgments and align punishment with violations in a fair and consistent process.

Figure 8 provided a snapshot of the perception of how fair the NCAA was from 2010–2014. There was a demarcation point on August 1, 2013, when the NCAA announced its new enforcement methodology that included a new method for defining violations, defining mitigating and aggravating circumstances, and determining punishment.

![Figure 8](image)

**Figure 8.** Fairness overview based on Academic Search Premier research.

The data in Figure 8 was collected from articles and reports from 2010–2014 based on the key terms of “NCAA,” “enforcement,” and “fair*.” Articles were limited to
“text available” and reflected sources available from the EBSCO database options. The data supported the shifting viewpoint regarding perceived fairness and unfairness by year. It was clear from 2010–2011 that the NCAA was identified as more fair than unfair by two to one reporting. However from 2012–2013, there were more critical articles about the NCAA and perceptions that the NCAA was unfair. NCAA data related to fairness increased in 2014 as the new enforcement policy took over. Figure 6 reported that as of early October 2014, no major violations were reported by the NCAA (Solomon, 2014).

An additional data search was conducted, month to month, using Academic Search Premier under similar terms to collect data regarding favorable or critical coverage of the NCAA by month and year. In analyzing the collected data on the subject of fairness, three specific data points were established:

1. Media coverage of the Penn State case from July 2012 to October 2014 shifted into three cycles. First, from July 10, 2012 to October 31, 2012, the majority of independent articles and news reports supported the outcomes of the Binding Consent Decree, either approving the sanctions or accepting them.

![Figure 9. July–December 2012 breakdown of articles on Penn State case.](image-url)
In the period between July and August 2012, support for the penalties in the Binding Consent Decree (2012), including articles that supported harsher penalties, increased and criticism of it declined. However, from late October 2012 to December 31, 2013, support was tepid, but there were a shifting number of critical articles about the sanctions as being too harsh. There was, however, a correlation between the shifting support for the Decree and news report realignment surrounding program violations from other schools. Finally, from January 1 to October 15, 2014, media reports and article began to criticize the Decree as unfair. In this period, court challenges to the NCAA and the Decree were successful with a notable decision on Jake Corman’s lawsuit regarding where the $60 million fine would be spent. The Pennsylvania court not only ruled that the money had to stay in Pennsylvania, but openly questioned the legality of the Decree.

2. In the reform efforts in 2012 and 2013, the NCAA corrected the issues from the pre 2012 COI process by better categorizing violations into four types, and creating a matrix that navigates penalties and how mitigating circumstances affects it. Research into the reform provided clear data about the lack of fairness by the NCAA based on complaints that penalties were harsher among non–BCS programs (i.e., Division I programs in the five major conferences: ACC, Big Ten, Big 12, SEC, and Pac-12). The new enforcement matrix simplifies the process once the violations were defined and mitigating and aggravating circumstances were factored into the aligned penalties.
3. The challenges to the Binding Consent Decree (2012) in the courts led to a separate, independent analysis of the NCAA's enforcement practice as defined by the Bylaws and Constitution, and practiced by the NCAA and the COI. Initial support for how the NCAA governed membership was supported in *Tarkanian v. NCAA* (1988) in which the U. S. Supreme Court ruled in favor of the NCAA stating

The NCAA's participation in the events that led to Tarkanian's suspension did not constitute "state action" prohibited by the Fourteenth Amendment, and was not performed under color of state law within the meaning of § 1983. The NCAA cannot be deemed to be a state actor on the theory that it misused power it possessed by virtue of state law, since UNLV's decision to suspend Tarkanian, while in compliance with the NCAA's rules and recommendations, did not turn the NCAA's conduct into action under color of Nevada law. Although it must be assumed that UNLV, as an NCAA member and a participant in the promulgation of the Association's rules, had some minor impact on the NCAA's policy determinations, the source of the rules adopted by the NCAA is not Nevada, but the collective membership, the vast majority of which was located in other States. (para. 2)

This Supreme Court case was cited by the NCAA with regard to how it defended against due process claims, a point cited by court cases involved in the Penn State case appeals. However, there were six separate actions that touch on the Binding Consent Decree (2012) and the Freeh Report (Freeh et al., 2012): (1) the failed lawsuit by
Pennsylvania Governor Tom Corbett; (2) the Paterno estate lawsuit against Freeh et al.,
(2012); (3) State Senator Jake Corman’s successful lawsuit against the NCAA; (4)
Graham Spanier’s defamation lawsuit against Freeh; (5) the U. S. Department of
Education’s investigation of Clery Act violations at Penn State; and (6) the letter to
Emmert to rescind the penalties in the Binding Consent Decree (2012) by Mike Doyle
(D–Forest), Charlie Dent (R–Lehigh), Mike Kelly (R–Butler), Glenn Howard (R–
Howard), and Jim Gerlach (R–Chester). An additional critical report by the Senate
Commerce Committee by U.S. Senators Claire McCaskill, Jay Rockefeller, and Cory
Booker noted that Emmert exercised poor leadership or was effectively insignificant in
later reform efforts.

Results of the Second Research Question Regarding the Impact of the
Penn State Case on the NCAA

The second question regarding the impact of how the Penn State case was handled
related to trend data from *Atlas.ti*. In the early stages, post–decision support was very
strong and a great deal of this had to do with the lack of major investigations that rose to
the same level as Penn State, though some were definitely brewing in the works. The
infractions at the Ohio State University under head coach Jim Tressel, and then looming
investigations involving rape at Florida State University and the booster violations at the
University of Miami (FL) brought the synergy of NCAA practice into speculative
dialogues about how Ohio State, Florida State, and Miami would be handled by the
NCAA in the post–Penn State world.

Data collected regarding the impact of the Penn State case on the NCAA,
including Emmert showed that positive articles about the NCAA and Penn State shifted
from 2010 and 2011 just before the scandal broke and, as other program scandals were
discovered, positive reporting seemed to decline.

*Figure 10.* Positive articles about NCAA, Emmert, and Penn State (2011–2014).

The data included in Figure 10 consisted of research and newspaper articles that
included the following key terms: Penn State scandal, Penn State, and NCAA. Articles
were scanned for references to positive evaluations and reports on the NCAA and
Emmert’s work in enforcement. The bulk of articles were newspaper articles and the data
was skewed by cross-reporting and reprinted or shared stories about the NCAA, Emmert,
or Penn State. However, the impact of the Penn State case after July 10, 2012, initially as
a positive indicator, but then also as a drag on the NCAA and Penn State were visible as
well based on Figure 11 below. Data throughout this study were consistent in showing a
downward slide regarding public viewpoints of the NCAA and Emmert.
Negative stories from the same pool of articles and newspaper stories reflected the same trend between late November 2011, when the Penn State case first began with Emmert’s (2011) letter to Erickson regarding the allegations and the Binding Consent decree in July 2012. Negative articles about Penn State began declining in 2012 to 2014 while articles about the NCAA and Emmert increased too, though, in 2014, the trend started to decline. As of October 2014, no major infractions were reported and that might account for the decline in reporting on Penn State, the NCAA and Emmert.

**Results of the Third Research Question Regarding Changes in the NCAA Process**

What was peculiar about Emmert’s offer in the Binding Consent Decree (2012) was that it did not adjudicate the fair penalty for what the NCAA suspected Penn State did, but altered the process. The NCAA accepted the Freeh Report (Freeh et al., 2012) as a source of evidence because the Penn State Board of Trustees accepted it; however, the Penn State body did so without scrutinizing or even reading the report (Buckner, 2012b; Sollers et al., 2013). The Freeh Report became a source of truth even though, as outside
research demonstrated, it had errors and was later found to have flaws with its research methodology (Appendix B; Sollers et al., 2013).

**Figure 12.** Attitudes toward the new NCAA enforcement rubric

Probably the greatest change that has occurred since the announcement of the Binding Consent Decree (2012) on July 23 has been the evolution of the investigatory process with the specific intent to provide harmony and consistency between penalties and punishment. The new rubric, adopted in January 2013, provided for a similar delineation into major and minor infractions. It established a rubric for penalties and sanctions that were decided by a matrix for how mitigating circumstances impacted a penalty regarding fines, lengths of probationary penalties, and impacts on program metrics such as fines, show-cause penalties, or other financial impacts on guilty programs.
The system also included representation by coaches and athletic directors. The impact of the O’Bannon case as well as the problems and scandal from the Miami investigation, affected the perception of the NCAA President and Executive Committee. The NCAA’s *Handbook on Sexual Harassment Policy* provided directives for how sexual harassment cases are handled and, ironically, based on the new directives, the actions taken by Paterno in 2001 would be compliant with NCAA regulations (Wilson, Kirkland & Leblanc, 2014). Paterno reported the matter to his athletic director and President, and he participated in deliberations over what to do. This was all that the new directive required.

**Summary**

The data collected and presented in this chapter illustrated the impact of the Binding Consent Decree (2012) on the NCAA both in practical and in operational terms.
While the decision was intended to resolve the Penn State case, and Emmert on multiple occasions insisted that the Penn State case was an unusual situation that would be unlikely to occur again or that another event of this magnitude was likely to occur that would require a similar intervention, it reverberated throughout Division I football, and became a critical benchmark for analysis whenever a later major violation occurred. Any analysis of a major violation after July 23, 2012, included triangulation back to the Penn State verdict and with that triangulation came a reconsideration of and criticism about how and why the NCAA chose to break with its stated policy for investigating a major infraction and to punish a member school so harshly.
CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS

Introduction

The primary focus of this study was to examine the impact of the NCAA’s investigation of and penalties imposed on Penn State in the summer of 2012 by the NCAA. This study contributes to the body of knowledge as it demonstrates the importance of a membership-governing organization adhering to established policy and prudently exercising a fair and consistent enforcement practice for all members. By examining the impact of the decision not only on Penn State, but also across all college football, it demonstrates that the decision to divert from normal practices just to ensure a conviction and harsh punishment of a member school creates protracted, complex problems for the organization and the members.

Trending data collected from primary and secondary sources mapped reactions from the media. As public and media reactions evolved, the media began to speculate about whether the methodology used in the Penn State case might affect other consequential NCAA investigations. The notoriety of the 2012 NCAA-Penn State case ultimately negatively affected the power and influence the NCAA had on other member programs, the five major conferences, and the general public.

The intense media attention and close public scrutiny contributed to the NCAA’s efforts to reform with regard to investigations and enforcement and resulted in the enactment of its policies for management enforcement decisions. For Penn State, the investigation deeply damaged the university’s brand. Paterno, notably one of the most highly esteemed college football coaches for decades (Blehar, 2013; Dodd, 2013; Flynn, 2011; Horne.2013; Libit, 2011; Livingston, 2012; Miller 2012; Sollers et al., 2013), was
fired from his job after nearly 60 years as its head coach, and the release of the Freeh Report linked his name and reputation to Sandusky’s criminal conduct, presumable for the foreseeable future and likely beyond. Penn State’s reputation in the Big Ten as one of the top conference members for producing scholar athletes, championships in multiple sports, and an unblemished disciplinary record, was damaged by the scandal (Bentley, 2013; Olenski, 2012). Penn State became the unfortunate target of uncountable jokes in the media and fans still respond to Penn State stories with references to Sandusky’s behavior (Lucas & Fyke, 2014).

However, as early as October 2012, only six months after the NCAA disciplinary decision, the NCAA faced serious media counter-reaction to the decision, particularly in light of other unfolding scandals involving violations by member schools. For example, the 2012 investigation of the University of Miami, which included unethical behavior by the COI, ended with the NCAA’s self–investigation. This case further damaged the NCAA reputation in the public media. Miami President Donna Shalala called the decision reckless and demanded an apology from Emmert. In the context of this and other investigation problems, the commissioner of the Big Ten and SEC posed the question whether the five major Bowl Championship Series conferences—ACC, Big Ten, Big 12, Pac-12, and the SEC—should scrap NCAA membership, form their own governing body, and build an organization that was football–centric (Schroeder, 2013; Wolken, 2013). Among the most serious allegations of the conference athletic directors was the lack of representation by coaches and athletic directors on the NCAA’s Executive Committee. The Penn State agreement was decided by college presidents
serving on the Executive Committee who approved the use of the Freeh Report and the direct interference from the Office of the President.

Finally, this study examined the importance of following the established rubrics for evaluating program compliance or violation. Three main recommendations that came out of this study were the following:

1. In program evaluation, the governing body, in this case, the COI, must adhere to the stated practices and policies outlined in the NCAA Manual (National Collegiate, 2012c). The media and public drama around the Penn State case was one of self-correction. The decision to depart from the usual practice resulted in a reaction to the change and then pressure to reverse the onerous parts of it.

2. Leadership, particularly in the form of the actions of the Executive Committee and the Office of the President, should not become involved in or interfere with the process. The COI was the designated committee that was trained to manage and handle the investigation of Penn State and any other programs. When Emmert and the Executive Committee inserted themselves into the Sandusky scandal at Penn State, it used a process within an organization to punish a member school for criminal behavior that occurred outside college sports and the NCAA’s jurisdiction.

3. In revising its enforcement process, the NCAA needs to apply its new rules and regulations for governing program violations. The new process defines four levels of violations. It provides a template for assigning punishment based on the established rubric that include defined allowances for mitigating or aggravating circumstances as factors in the penalty or penalties.
The NCAA justified its actions by invoking the Sandusky crisis at Penn State. Penn State accepted the Binding Consent Decree. It had the option to participate in a full-scale NCAA investigation, but ended that by signing the decree. However, the question was not whether the NCAA could do whatever it wanted, and so disciplined Penn State with the Decree, but whether the process and actions on the part of the NCAA were prudent, fair, and ultimately, wise. The preponderance of the evidence suggests that the truncated actions by the NCAA, and Penn State itself, were not. The questions explored in this case study were not solely concerned with fairness, but also with whether such a breach from its own process established a due process was prudent, fair, and wise.

**Summary of the Study**

This study had a two-fold purpose. First, it examined the methodology and impact of the NCAA 2012 investigation of Penn State, particularly with regard to its use of a different method of investigation in handling the Penn State affair. It disregarded the use of the COI to charge, investigate, and punish the school in favor of a plea agreement-type device in which Penn State admitted fault and received punishment immediately. The agreement stipulated substituting the internal investigation of the Freeh Report in lieu of the traditional investigation, and based on that Report, the NCAA articulated punishment that Penn State accepted.

Second, this study traced the trending of the media reports and public perceptions of the decision on the NCAA in terms of how it initially raised public praise and support, but eventually evolved toward criticism and an ultimate backlash from the media, athletic departments at other member and non-member universities, and various division conferences. The Penn State case resulted in intensive scrutiny of NCAA leadership and
fair treatment of member programs by the media and the public. Emmert became the subject of intense scrutiny by Congress in 2014, partly as a result of the perception that he cultivated an image of himself as a strong, decisive leader. Under oath before Congress, Emmert had to deny that he had any real, transformative power, that he could not initiate change, and that the changes in the NCAA derived from the university Presidents who dictated policy, not him (Lovegrove, 2014; New, 2014).

The findings demonstrated that while public support for the NCAAs decision grew from its announcement on July 23, 2012 to about October 2012, media attention shifted as missteps by the NCAA’s investigations led to criticism of the process under Emmert, and his most public decision, the Penn State case. As Penn State quietly complied with the 117 recommendations by Freeh et al., (2012), media questioned motivations and fairness in not doing a separate, independent investigation. Lawsuits from the Paterno estate and Corman challenged the NCAA’s ability to punish member schools outside the Bylaws of the organization. The major conferences, pointing to the Miami and Penn State investigations, similarly questioned the NCAA’s ability to govern college football fairly, pushing for autonomy from the NCAA, and in congressional hearings in July 2014, senators openly questioned Emmert’s role and whether the NCAA even needed a President (Lovegrove, 2014; New, 2014).

In 2013, the NCAA reformed its methodologies for investigating violators even further by creating a multi–tiered penalty system that prescribed definition of violations, penalties, and the application of mitigating circumstances, the result of which eliminated the vehicle of the binding consent decree or special intervention by the Executive Committee and Office the President. A final revision was the inclusion of athletic
department personnel to the Executive Committee which previously consisted only of
college and university Presidents or chancellors. The point was to give the point of view
of the athletic departments of member schools a voice. Under this evolution, the Penn
State decision could never occur again.

**Summary of the Findings**

When the NCAA began its inquiry into the Penn State case on November 17, 2011 following the arrest of Sandusky, Emmert’s (2011) notification letter referred to the disturbing and ground breaking violations he saw from the Sandusky scandal. While Emmert may or may not be right about the Sandusky scandal or Penn State’s role in it, the case continued to impact Penn State and the university. First, the case affected and led to significant change at the NCAA in terms of revisions to the enforcement practice in 2013. The new system includes rubrics for assessing penalties and factoring in mitigating and contributing factors that affect what the imposed penalty would be. This addressed the long–standing issue of fairness and consistency in COI decisions.

Second, the power structure within the NCAA was defined and resolved. The Office of the President was redefined to exclude extraordinary powers or jurisdiction over the enforcement process. The college and university Presidents and chief executive officers have the final say on changes within the organization. With respect to enforcement, the process was revised to include representation from a student athlete, an athletic director, and a women’s athletic director in addition to university Presidents or CEOs. The inclusion of athletic department stakeholders provided new representation and a voice to a process that has largely been controlled by members who lacked actual experience competing in NCAA sports.
The creation of the NCAA’s new matrices for handling major and secondary violations provided another level of protection from outside interference from the Office of the President or the Executive Directors. The matrices clearly identified all major and secondary violations, the proscribed penalties, and a matrix of mitigating and aggravating circumstances to govern penalties. Under this system, the Binding Consent Decree (2012) would be impractical and not useful in resolving rule violations.

Finally, the decision to give the five major conferences—ACC, Big Ten, Big 12, Pac 12, and SEC—autonomy in the governance of football further separated teams like Penn State from direct NCAA control. Under the new rules for the major, Division I conferences, each conference can enact and enforce its own investigations and operate its own oversight. While the NCAA can step in for egregious violations, autonomy provided better insulation from interference by the NCAA enforcement committee.

**Recommendations for Further Research**

The events that were the subject of this study deserve further scholarly inquiries. Research still needs to be done on the nature of NCAA enforcement and how well, as an organization, it regulates and punishes violators. In the period of investigation when Penn State was first accused on November 17, 2011, the NCAA had never investigated criminal behavior of a retired and separated employee. In this case, the NCAA went back to 1998 and used that date as a metric for sanctioning Coach Paterno; however, the NCAA Manual specifically limits how far back an investigation and punishment can go, which is four years (National Collegiate, 2012c). Under its current directive, Sandusky’s relationship with Penn State shifted in 2001 when Spanier, Curley, and Schultz became uncomfortable with Sandusky’s behavior. This led to the decision that barred Sandusky
from bringing children to campus (Chappell, 2012; Puckett, 2011). Based on the new enforcement policy, Sandusky would lack standing at Penn State and the university, most likely would not have received any sanction. Under Wilson, Kirkland, and Leblanc (2014), Penn State would not have been sanctioned either under the terms of on campus sexual abuse.

At some point, the motivation behind the NCAA’s decision should be explored. Why did Freeh’s group choose to exclude some evidence and focus on what Blehar (2013) and Sollers et al. (2013) referred to as Penn State’s presumed guilt (Appendix B)? Why did the Board of Trustees accept the Report (Freeh et al., 2012) without reading it (Snyder, 2013)? Why did the NCAA accept the report without questioning it or, in the Binding Consent Decree (2012) insist that Penn State waive any right to appeal? Was the Freeh group ethical in sending reports to the NCAA during its investigation? Freeh has been a controversial figure since his days in the 1990s as FBI director and his involvement in other investigations was subject to scrutiny (Blehar, 2013; Dorsey, 2012). In his involvement in the 2009 FIFA scandal, his report on the bribery case against Mohammad bin Hammam and Jack Warner was dismissed by the Court of Arbitration on Sports (Dorsey, 2012).

Finally, given that most of the penalties against Penn State were lifted or dropped, what is the final message and legacy of the Penn State case. Given that the NCAA typically takes a year or more to conclude an investigation, would Penn State’s actions in meeting Freeh’s et al. (2012) 116 of 117 recommendations, and in cleaning house in its administration, have mitigated a lesser sentence or even led to acquittal? Given the mistakes the NCAA made in its 2011 Miami investigation and the 2013 conclusion of
that case, how did the current changes in the enforcement policy ensure that Penn State
and Miami investigations would not happen again?

Summary

In this chapter, the data collected in Chapter 4 regarding the impact of the
NCAA’s Penn State case was explored. Data demonstrated that the decision to use the
Binding Consent Decree (2012) affected the NCAA in two ways. First, it damaged and
undermined the NCAA’s brand and its authority over the membership. The brand was
damaged from the post–decision analyses that followed the decision on July 23, 2012 as
media coverage of post–Penn State violations reconsidered the Penn State decision.
Emmert faced withering criticism at the major conferences annual meetings, in 2013 and
2014 court cases which questioned, among other things, the legality of the Binding
Consent Decree (2012), and the U.S. Senate Commerce Committee which directly
criticized the NCAA’s governing practices. Media coverage shifted from November
2012 to August 2013 mostly due to comparison of the Penn State process with what other
programs feared might happen to them. The fallout from the Miami investigation, which
cast serious doubts about the NCAA’s own ethical behavior and led to a self–
investigation, weakened the organization further. When the NCAA rolled out its new
enforcement plan on August 1, 2013, it implemented a categorization of penalties with a
matrix that defined each offense and the penalties attached to them. A separate matrix of
mitigating and aggravating circumstances defined the limits of what the enforcement
committees of the NCAA and the COI, could do.

Second, the Penn State case affected the organization’s control over and
management of the membership in terms of recognized autonomy of the five major
conferences (ACC, Big Ten, Big 12, Pac-12 and SEC) in football. This gave these programs greater control over how violators would be handled and it authorized each conference to set up its own system of governance under the conference commissioner.

The focus of this case study was on how Penn State case interacted with the NCAA and the consequential impact of the perceptions and functions of the NCAA and member organizations. Academic Search Premier was the primary search tool for locating articles and news reports about the Penn State case, the NCAA and Emmert, and the stakeholders involved with the Penn State case. This included the conferences, the Senate, and judicial system as they connected with the NCAA, the history of program violations in the NCAA with their outcomes, and the trajectory of the NCAA after the Binding Consent Decree (2012). Articles and news reports were categorized, coded based on key concepts, themes, and quotations, and entered into an Atlas.ti database. Linkages were then drawn based on Boolean searches. Scatterplot charts and bar graphs were created to display data results and conclusions were drawn based on the statistical analyses of the results.

For each graph and chart, data results came from collected articles from targeted searches using Academic Search Premier and its databases. This provided uniformity of sources and permitted disaggregation of sources by themes, and time periods. To avoid duplicate counting, Academic Search Premier also excluded duplicate sources based on authorships, verbiage, and themes. Sources where subsequently entered in Atlas.ti to link articles and facilitate coding.

The result of this study demonstrated the importance of policy and of following the rubrics and practices of the organization (Ostrom 2003, 2005). The NCAA injured its
effectiveness and influence with member schools by taking a short cut from its established procedure. The consequences of that short cut created lasting problems for the NCAA and its leadership. It created an atmosphere of fear and mistrust by member schools. It generated negative press coverage of the NCAA’s decision-making, particularly by opening up criticism. Despite the NCAA’s attempt to make an example of Penn State and the enforcement process, the impact resulted in a changed enforcement methodology. Future studies should look at the impact that the new process has on future major violations and whether there is alignment between penalties and punishment. If the NCAA can keep these two things consistent, then it may have a successful formula for handling violations. Problems arose from inconsistency in practice. If the new system works, then the outcome of Penn State may not be the problems with the case, but rather the improved enforcement practice that followed it.
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Appendix A: Notification of NCAA Investigation (11/17/2011)

Mark A. Emmert  
President

PO Box 322  
Indianapolis, Indiana 46206  
317/986-4122

President Rodney Erickson  
Pennsylvania State University  
201 Old Main  
University Park, Pennsylvania 16802

Dear President Erickson:

As we have discussed, on November 5, 2011, the NCAA first learned about allegations of sexual abuse of young boys occurring in the athletic facilities of Pennsylvania State University, perpetrated by a former assistant head football coach. Further, at the same time the NCAA learned that these alleged acts occurred over two decades and that individuals with present or former administrative or coaching responsibilities may have been aware of this behavior. The recurrance of these tragic events in the Grand Jury Report is deeply troubling, and if true, individuals who were in a position to monitor and act upon learning of potential abuses appear to have been acting starkly contrary to the values of higher education, as well as the NCAA. I am writing to notify you that the NCAA will examine Penn State’s exercise of institutional control over its intercollegiate athletics program, as well as the actions, and inactions, of relevant responsible personnel. I also have notified the NCAA Division I Board of Directors of the NCAA approach. We recognize that there are ongoing federal and state investigations and the NCAA does not intend to interfere with those probes. Moreover, we respect that under our criminal justice system there is a defined process to ascertain the facts, as well as determine criminal guilt or innocence. We will utilize any information gained from the criminal justice process in our review and have posed additional questions below to gather information that we believe relevant to this review.

As you undoubtedly are aware, the NCAA Constitution contains principles regarding institutional control and responsibility, as well as ethical conduct. Specifically, under Article 2.1, “it is the responsibility of each member institution to control its intercollegiate athletics program in compliance with the rules and regulations of the Association. The institution’s president or chancellor is responsible for the administration of all aspects of the athletics program . . . .” Further, that “includes responsibility for the actions of its staff members and for the actions of any other individual or organization engaged in activities promoting the athletics interests of the institution.” These principles of institutional control are further elaborated on in Articles 6.01.1 and 6.4 of the Constitution, and universities are often held accountable in our infractions process for failure to meet them. Under Articles 2.4, the NCAA Constitution requires that “for intercollegiate athletics to promote the character development of participants, to
President Rodney Erickson  
November 17, 2011  
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enhance the integrity of higher education and to promote civility in society, student-athletes, coaches, and all others associated with these athletics programs and events should adhere to such fundamental values as respect, fairness, civility, honesty and responsibility. These values should be manifest not only in athletics participation, but also in the broad spectrum of activities affecting the athletics program.” These principles are bedrock to the foundation of intercollegiate athletics; and the membership of the Association has made clear through the enactment of relevant bylaws that they are expected to be respected and followed.

Indeed, NCAA Bylaw 10.1 identifies 10 types of unethical conduct, but specifically makes clear that the list of 10 is not limited to those delineated. Among other things, that list captures the general principle of honesty embedded in Bylaw 10.01.1, which requires individuals to “act with honesty and sportsmanship at all times so that intercollegiate athletics as a whole, their institutions and they, as individuals, shall represent the honor and dignity of fair play and the generally recognized high standards associated with wholesome competitive sports.” While admittedly, the actions alleged to have occurred in this instance are not specifically listed in the bylaw, it is clear that deceitful and dishonest behavior can be found to be unethical conduct. Surely, the spirit of this bylaw also constrains behavior that endangers young people. To be clear, the requirement is so important that the language is repeated verbatim in Bylaw 11.1.1, governing the conduct of athletics personnel. Bylaw 11.1.2.1 goes on to state that “it shall be the responsibility of an institution’s head coach to promote an atmosphere for compliance within the program supervised by the coach and to monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to the coach.” Under this same bylaw governing the conduct and employment of athletics personnel, it makes clear that “institutional staff members found in violation of NCAA regulations shall be subject to disciplinary or corrective action . . . . whether such violations occurred at the certifying institution or during the individual’s previous employment . . . .”

Lastly, it is important to bring to your attention that Bylaw 19.01.2 affirmatively states that “individuals employed by or associated with member institutions for the administration, the conduct or the coaching of intercollegiate athletics are, in the final analysis, teachers of young people. Their responsibility is an affirmative one, and they must do more than avoid improper conduct or questionable acts. Their own moral values must be so certain and positive that those younger and more pliable will be influenced by a fine example. Much more is expected of them than of the less critically placed citizen.” This provision has been cited by enforcement in at least a half dozen major infractions cases in the past. Those who exhibit this behavior are meeting the ethical expectations of the NCAA membership. Those who do not, fail us all.

With this as a backdrop and to prepare for potential inquiry, the university should provide relevant information and data in response to the following questions:

1. How has Penn State and/or its employees complied with the Articles of the Constitution and bylaws that are cited in this letter?
President Rodney Erickson  
November 17, 2011  
Page No. 3

2. How has Penn State exercised institutional control over the issues identified in and related to the Grand Jury Report? Were there procedures in place that were or were not followed? What are the institution’s expectations and policies to address the conduct that has been alleged in this matter upon discovery by any party?

3. Have each of the alleged persons to have been involved or have notice of the issues identified in and related to the Grand Jury Report behaved consistent with principles and requirements governing ethical conduct and honesty? If so, how? If not, how?

4. What policies and procedures does Penn State have in place to monitor, prevent and detect the issues identified in and related to the Grand Jury Report or to take disciplinary or corrective action if such behaviors are found?

The behaviors and failures described in the allegations set forth by the grand jury try not only the integrity of the university, but that of intercollegiate athletics as a whole and the NCAA member institutions that conduct college sports. It is critical that each campus and the NCAA as an Association re-examine how we constrain or encourage behaviors that lift up young people rather than making them victims. As you and I have discussed, it is essential that Penn State respond to the questions I have posed so that any failures in the management of athletics programs – both real and perceived – can be rectified. Unless you provide reason for a different timeline, your responses should be submitted by December 16 in order for the NCAA to determine next steps.

I look forward to the complete cooperation of Penn State in our review and any future action that we may take.

Sincerely,

[Signature]

Mark Emmert  
President

ME:dy

cc: Division I Board of Directors  
Selected NCAA Staff Members

Retrieved December 17, 2013 from NCAA website.
Appendix B: Undisputed Errors in Freeh Report (2012)

Codex of errors in the Freeh Report (2012)

The Freeh Report:

1. Omitted federal and state laws regarding the confidentiality of child abuse reports.
2. Incorrectly found that Paterno, Curley, and Spanier knew the details of the 1998 investigation (none of the e-mails used as evidence contain any details about the investigation).
3. Incorrectly found that Spanier failed in his duties by not informing the Board of Trustees about 1998 (based on the Standing Orders of the BOT, the e-mail evidence, Spanier’s travel schedule, and his statement – Exhibit 2J – he did not know of the investigation).
4. Incorrectly found that Paterno, Curley, Spanier, and Schultz were kept informed of the 1998 investigation of Sandusky (e-mail evidence shows they were not kept informed).
5. Incorrectly found that Paterno and Curley provided Sandusky with access to facilities for conducting programs for youth (access was granted by PSU’s Outreach Office).
6. Constructed an incomplete timeline of Sandusky’s crimes.
7. Did not investigate the claims by Gary Schultz and Wendell Courtney regarding contacting Centre County Children and Youth Services (CYS) about the 2001 incident.
8. Did not address the changing testimony and non-specific information reported by Mike McQueary regarding the 2001 shower incident.
9. Omitted the testimony of Dr. Jonathon Dranov regarding the 2001 incident.
10. Incorrectly characterized e-mails as “cryptic” and “unique” to the 2001 shower incident.
11. Incorrectly concluded that Schultz, Spanier, and Curley had agreed to report the incident to DPW, but Paterno changed the plan.
12. Incorrectly concluded that PSU failed to report Sandusky in 2001 to avoid the consequences of bad publicity.
13. Did not investigate the potential conflict of interest issue between DPW and The Second Mile that was mentioned by police chief Thomas Harmon during the 1998 investigation.
14. Incorrectly stated Paterno, Curley, and McQueary should have reported the 2001 incident to comply with the Clery Act.
15. Incorrectly found that Paterno did not report the 2001 incident immediately because he didn’t want to interrupt anyone’s weekend (Paterno informed PSU officials on the weekend. In addition, Paterno’s schedule reveals that his out of town travel delayed his report by a day).
16. Incorrectly recounted the trial testimony regarding the Fall 2000/Victim 8 incident.
17. Did not critically analyze testimony in the Fall 2000/Victim 8 incident.
18. Incorrectly stated that Victim 6 was assaulted (Sandusky was acquitted of that charge).
19. Incorrectly stated that Victim 7 was assaulted (Sandusky was not charged with assault).

20. Incorrectly stated that Victim 5 was assaulted (Sandusky was acquitted of that charge).

Note: Blehar (2013), p. 5.
Appendix C: Binding Consent Decree

BINDING CONSENT DECREES IMPOSED BY THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION AND ACCEPTED BY THE PENNSYLVANIA STATE UNIVERSITY

I. BASIS FOR CONSENT DEGREE

On November 5, 2011, the National Collegiate Athletic Association ("NCAA" or the "Association") learned of allegations of child sexual abuse occurring in the athletic facilities of The Pennsylvania State University ("University" or "Penn State"), perpetrated by former assistant football coach Gerald A. Sandusky ("Sandusky"). The University commissioned Frech Sporkin & Sullivan, LLP ("FSS"), led by former FBI Director Louis Freeh, to investigate the alleged failure of University personnel to respond to and report Sandusky’s misconduct, and "[t]he circumstances under which such abuse could occur in University facilities or under the auspices of University programs for youth."1 On June 22, 2012, a Criminal Jury convicted Sandusky on 45 criminal counts related to 10 victims, including a 2001 incident that occurred in the University athletic showers and was witnessed by a then-graduate assistant. On July 12, 2012, FSS released its investigative report (the "Freeh Report"). The Freeh Report’s findings depict an environment shaped by the actions and inactions of members of the leadership and board of Penn State that allowed Sandusky’s serial child sexual abuse.

The NCAA recognizes that the circumstances involved in the Penn State matter are, in many respects, unlike any matter encountered by the NCAA in the past; it is doubtful, hopefully, that a similar circumstance would arise on any other campus in the future. In particular, the egregiousness of the predicate conduct is unprecedented, amounting to a failure of institutional and individual integrity far exceeding a lack of institutional control or individual unethical conduct. The University has undertaken a commendable process by commissioning the independent FSS investigation. FSS has established an exhaustive factual record compiled from, inter alia, more than 430 interviews and analysis of more than 3.5 million pieces of electronic data and documents.2

In light of this record and the University’s willingness, for purposes of this resolution, to accept the Freeh Report, which the University itself commissioned, traditional investigative and administrative proceedings would be duplicative and unnecessary. Rather, the existing record permits fashioning an appropriate remedy for the violations on an expedited timetable, which benefits current and future University students, faculty and staff.
II. FINDINGS AND CONCLUSIONS

In a November 17, 2011 letter from NCAA President Mark Emmert to University President Rodney Erickson, Dr. Emmert noted that the membership of the Association has made clear in its Constitution and Bylaws what is expected of member institutions, administrators and coaches. Penn State was asked to describe how the University and relevant personnel have met their obligations to the Association. Penn State has communicated to the NCAA that it accepts the findings of the Freh Report for purposes of this resolution and acknowledges that those facts constitute violations of the Constitutional and Bylaw principles described in the letter. Penn State expressly agrees not to challenge the consent decree and waives any claim to further process, including, without limitation, any right to a determination of violations by the NCAA Committee on Infractions, any appeal under NCAA rules, and any judicial process related to the subject matter of this Consent Decree.

Therefore, without further investigation or response, the findings of the Criminal Jury and the Freh Report establish a factual basis from which the NCAA concludes that Penn State breached the standards expected by and articulated in the NCAA Constitution and Bylaws.

1. A failure to value and uphold institutional integrity demonstrated by inadequate, and in some instances non-existent, controls and oversight surrounding the athletics program of the University, such as those controls prescribed by Articles 2.1, 6.01.1, and 6.4 of the NCAA Constitution.

2. A failure to maintain minimal standards of appropriate and responsible conduct. The NCAA seeks to foster an environment and culture of honesty, as exemplified by NCAA Bylaws 10.01.1 and 11.1.1, and by Bylaw 10.1 on ethical conduct. Indeed, NCAA Bylaw 10.1 enumerates a non-exhaustive list of examples of inappropriate conduct. In addition, Article 2.4 of the NCAA Constitution requires athletic programs to adhere to fundamental values of respect, fairness, civility, honesty and responsibility.

3. A lack of adherence to fundamental notions of individual integrity. An institution's head coach should promote an atmosphere for compliance and monitor the activities of all assistant coaches and other administrators involved with the program who report directly or indirectly to the coach. Further, NCAA Bylaw 19.01.2, consistent with Article 2.4 of the NCAA Constitution, demands the employees associated with intercollegiate athletics to serve as positive moral models for students in order “for intercollegiate athletics to promote the character development of participants, to enhance the integrity of higher education and to promote civility in society.”
The entirety of the factual findings in the Freeh Report supports these conclusions. A detailed recitation of the Freeh Report is not necessary, but these conclusions rely on the following key factual findings with respect to the University’s oversight of its football program:

- [University] President Graham B. Spanier, Senior Vice President-Finance and Business Gary C. Shultz, Athletic Director Timothy M. Curley and Head Football Coach Joseph V. Paterno [] failed to protect against a child sexual predator harming children for over a decade. These men concealed Sandusky’s activities from the Board of Trustees, the University community and authorities. . . .

- These individuals, unchecked by the Board of Trustees that did not perform its oversight duties, empowered Sandusky to attract potential victims to the campus and football events by allowing him to have continued, unrestricted and unsupervised access to the University’s facilities and affiliation with the University’s prominent football program. Indeed, that continued access provided Sandusky with the very currency that enabled him to attract his victims. Some coaches, administrators and football program staff members ignored the red flags of Sandusky’s behaviors and no one warned the public about him.

- By not promptly and fully advising the Board of Trustees about the 1998 and 2001 child sexual abuse allegations against Sandusky and the subsequent Grand Jury investigation of him, Spanier failed in his duties as President. The Board also failed in its duties to oversee the President and senior University officials in 1998 and 2001 by not inquiring about important University matters and by not creating an environment where senior University officials felt accountable.3

FSS recognized that Spanier, Schultz, Paterno and Curley provided various explanations for their deficient conduct, but FSS found that it was

- more reasonable to conclude that, in order to avoid the consequences of bad publicity, the most powerful leaders at the University – Spanier, Schultz, Paterno and Curley – repeatedly concealed critical facts relating to Sandusky’s child abuse from the authorities, the University’s Board of Trustees, the Penn State community and the public at large.4

Although FSS concluded that avoiding the consequences of bad publicity was the most significant cause for the University’s failure to protect child victims and report to authorities, FSS further concluded it was not the only cause. FSS also noted, among other causes, that

3  Id. at 14-15.
4  Id. at 15-16.
III. SANCTIONS

The NCAA concludes that this evidence presents an unprecedented failure of institutional integrity leading to a culture in which a football program was held in higher esteem than the values of the institution, the values of the NCAA, the values of higher education, and most disturbingly the values of human decency. The sexual abuse of children on a university campus by a former university official — and even the active concealment of that abuse — while despicable, ordinarily would not be actionable by the NCAA. Yet, in this instance, it was the fear of or deference to the omnipotent football program that enabled a sexual predator to attract and abuse his victims. Indeed, the reverence for Penn State football permeated every level of the University community. That imbalance of power and its result are antithetical to the model of intercollegiate athletics embedded in higher education. Indeed, the culture exhibited at Penn State is an extraordinary affront to the values all members of the Association have pledged to uphold and calls for extraordinary action.

As a result, the NCAA has determined that the University’s sanctions be designed to not only penalize the University for contravention of the NCAA Constitution and Bylaws, but also to change the culture that allowed this activity to occur and realign it in a sustainable fashion with the expected norms and values of intercollegiate athletics. Moreover, the NCAA recognizes that in this instance no student-athlete is responsible for these events and, therefore, the NCAA has fashioned its sanctions in consideration of the potential impact on all student-athletes. To wit, after serious consideration and significant discussion, the NCAA has determined not to impose the so-called “death penalty.” While these circumstances certainly are severe, the suspension of competition is most warranted when the institution is a repeat violator and has failed to cooperate or take corrective action. The University has never before had NCAA major violations, accepted these penalties and corrective actions, has removed all of the individual offenders identified by FSS from their past senior leadership roles, has itself commissioned the FSS investigation and provided unprecedented access and openness, in some instances, even agreed to waive attorney-client privilege, and already has implemented many corrective actions. Acknowledging these and other factors, the NCAA does not deem the so-called “death penalty” to be appropriate.

\[\text{Id. at 16-17.}\]
In light of the foregoing, the NCAA imposes the following sanctions on the University:

A. **Punitive Component**

- **$60 million fine.** The NCAA imposes a $60 million fine, equivalent to the approximate average of one year’s gross revenue from the Penn State football program, to be paid over a five-year period beginning in 2012 into an endowment for programs preventing child sexual abuse and/or assisting the victims of child sexual abuse. The minimum annual payment will be $12 million until the $60 million is paid. The proceeds of this fine may not be used to fund programs at the University. No current sponsored athletic team may be reduced or eliminated in order to fund this fine.

- **Four-year postseason ban.** The NCAA imposes a four-year ban on participation in postseason play in the sport of football, beginning with the 2012-2013 academic year and expiring at the conclusion of the 2015-2016 academic year. Therefore, the University’s football team shall end its 2012 season and each season through 2015 with the playing of its last regularly scheduled, in-season contest and shall not be eligible to participate in any postseason competition, including a conference championship, any bowl game, or any post-season playoff competition.

- **Four-year reduction of grants-in-aid.** For a period of four years commencing with the 2013-2014 academic year and expiring at the conclusion of the 2016-2017 academic year, the NCAA imposes a limit of 15 initial grants-in-aid (from a maximum of twenty-five allowed) and for a period of four years commencing with the 2014-2015 academic year and expiring at the conclusion of the 2017-2018 academic year a limit of 65 total grants-in-aid (from a maximum of 85 allowed) for football during each of those specified years. In the event the number of total grants-in-aid drops below 65, the University may award grants-in-aid to non-scholarship student-athletes who have been members of the football program as allowed under Bylaw 15.5.6.3.6.

- **Five years of probation.** The NCAA imposes this period of probation, which will include the appointment of an on-campus, independent Integrity Monitor and periodic reporting as detailed in the Corrective Component of this Consent Decree. Failure to comply with the Consent Decree during this probationary period may result in additional, more severe sanctions.

- **Vacation of wins since 1998.** The NCAA vacates all wins of the Penn State football team from 1998 to 2011. The career record of Coach “Joe” Paterno will reflect the vacated records.
• **Waiver of transfer rules and grant-in-aid retention.** Any entering or returning football student-athlete will be allowed to immediately transfer and will be eligible to immediately compete at the transfer institution, provided he is otherwise eligible. Any football student-athlete who wants to remain at the University may retain his athletic grant-in-aid, as long as he meets and maintains applicable academic requirements, regardless of whether he competes on the football team.

• **Individual penalties to be determined.** The NCAA reserves the right to initiate a formal investigatory and disciplinary process and impose sanctions on individuals after the conclusion of any criminal proceedings related to any individual involved.

**B. Corrective Component**

• **Adoption of all recommendations presented in Chapter 10 of the Freeh Report.** The NCAA requires the University to adopt all recommendations for reform delineated in Chapter 10 of the Freeh Report. The University shall take all reasonable steps to implement the recommendations in spirit and substance by December 31, 2013.

• **Implementation of Athletics Integrity Agreement.** The Freeh Report includes a number of recommendations related to the University’s Athletic Department. Specifically, in Chapter 10, Section 5.0, the Report addresses the integration of the Athletic Department into the greater University community. Within 10 days of this Consent Decree, the University will be required to enter into an “Athletics Integrity Agreement” (“AIA”) with the NCAA and the Big Ten Conference, which obligates the University to adopt all of the recommendations in Section 5.0 of the Freeh Report as described in the above paragraph and, at a minimum, the following additional actions:
  
  o **Compliance Officer for Athletics.** Establish and select an individual for a position of a compliance officer or equivalent who is, at a minimum, responsible for the ethical and compliance obligations of the Athletic Department.

  o **Compliance Council.** Create a Compliance Council (or Council Subcommittee) composed of faculty, senior University administrators, and the compliance officer for athletics, which shall be responsible for review and oversight of matters related to ethical, legal and compliance obligations of the Athletic Department.
respond, but the final determination rests with the NCAA.

- **Appointment of an independent Athletics Integrity Monitor for a five-year period.** The NCAA requires that the University appoint an independent Athletics Integrity Monitor (the “Monitor”) for a five-year period, at the University’s expense. The Monitor will prepare a quarterly report to the University’s Board of Trustees, the Big Ten Conference, and the NCAA regarding the University’s execution and maintenance of the provisions of the AIA. The Monitor will make recommendations to the University to take any steps he or she reasonably believes are necessary to comply with the terms of the AIA and to enhance compliance with NCAA rules and regulations. The Monitor will operate under the following conditions:

  o He or she will be selected by the NCAA, in consultation with the University and the Big Ten Conference.

  o He or she will have access to any University facilities, personnel and non-privileged documents and records as are reasonably necessary to assist in the execution of his or her duties. The University shall preserve all such records as directed by the Monitor.

  o He or she will have the authority to employ counsel, consultants, investigators, experts and other personnel reasonably necessary to assist in the proper discharge of his or her duties. His or her expenses will be paid by the University, and the University shall indemnify and hold harmless the Monitor and his or her professional advisors from any claim by any third party except for conduct: a) outside the scope of the Monitor’s duties; b) undertaken in bad faith; or c) constituting gross negligence or willful misconduct.

This Consent Decree may be modified or clarified by mutual written consent of the parties.
By signature of its President below, the University represents (i) that it has taken all actions necessary, to execute and perform this Consent Decree and the AIA and will take all actions necessary to perform all actions specified under this Consent Decree and the AIA in accordance with the terms hereof and thereof; (ii) its entry into this Consent Decree and the AIA is consistent with, and allowed by, the laws of Pennsylvania and any other applicable law.

IN WITNESS WHEREOF, this Consent Decree has been signed by or on behalf of each of the parties as of July 23, 2012.

Rodney A. Erickson, President
The Pennsylvania State University

Mark A. Emmert, President
National Collegiate Athletic Association

Note: Binding Consent Decree (2012)
Appendix D: Sandusky Trial Outcome (Verdict by Victim, 1–10)

- **Victim 1:** Sandusky was accused of fondling him and performing oral sex on him multiple times, in his home and State College hotels. The boy was 11–15 years old at the time. Sandusky was barred from his central Pennsylvania high school in 2009 after the boy's mother alerted school officials, triggering the investigation that produced charges.

  Guilty of involuntary deviate sexual intercourse (two counts), indecent assault, unlawful contact with minor, corruption of minors, endangering a child's welfare.

- **Victim 2:** A boy of about 10 that a graduate assistant, Mike McQueary, has said he saw being attacked by Sandusky in the team showers in February 2001. Investigators have not been able to determine the boy's identity. McQueary reported what he saw to head coach Joe Paterno, and Paterno's handling of it contributed to the university's decision to fire him shortly after Sandusky was arrested in November.

  Guilty of indecent assault, unlawful contact with minor, corruption of minors, endangering a child's welfare.
  Acquitted of involuntary deviate sexual intercourse.

- **Victim 3:** Sandusky was accused of hugging him in the shower and fondling him between July 1999 and December 2001 at Sandusky's home and in team showers. The boy was 12–14.

  Guilty of indecent assault, unlawful contact with minor, corruption of minors, endangering a child's welfare.

- **Victim 4:** Prosecutors said more than 50 incidents occurred between 1996 and 2000, at the Sandusky home, hotels and university facilities while the boy was 12–17. He also traveled with the Sandusky family to bowl games in Texas and Florida.

  Guilty of involuntary deviate sexual intercourse, indecent assault, unlawful contact with minor, corruption of minors, endangering a child's welfare.

- **Victim 5:** Sandusky put his hand on the boy's leg while in a car, they showered together and he placed the boy's hand on his genitals, according to his testimony in court. The alleged incident occurred in August 2001, while the boy was 12 or 13.

  Guilty of unlawful contact with minor, corruption of a minor, endangering a child's welfare.
  Acquitted of indecent assault.
• Victim 6: While showering together in May 1998, he testified that Sandusky grabbed him and said, "I'm going to squeeze your guts out" and that the ex–coach said he was the "tickle monster." The boy's mother complained when he came home with wet hair, prompting a police investigation at the time that did not result in charges. The boy was 11.

Guilty of unlawful contact with minor, corruption of minors, endangering a child's welfare.
Acquitted of indecent assault.

• Victim 7: They showered together and Sandusky bear hugged him in 1995–96, and more than once he put his hands down the waistband of the boy's pants, according to the grand jury. Sandusky did not touch his genitals, the jury said. The boy was 9–11.

Guilty of attempted indecent assault, corruption of minors, endangering a child's welfare.

• Victim 8: Boy of about 11 to 13, seen in late November 2000 by a university janitor allegedly being subjected to sexual abuse by Sandusky in the team showers. The janitor now has dementia and is not available to testify, but a co–worker testified to what the janitor told him. The boy has not been identified by investigators.

Guilty of involuntary deviate sexual intercourse, indecent assault, unlawful contact with minor, corruption of minors, endangering a child's welfare.

• Victim 9: Now 18, he testified that he was sexually abused by Sandusky at the Sandusky home where he spent more than a hundred nights in a room in the basement that had a waterbed. He testified he was subject to oral then anal sex and screamed for help. He was also abused in a State College hotel and other locations between July 2005 and December 2008, according to prosecutors. He was 12–15 at the time.

Guilty of involuntary deviate sexual intercourse (two counts), indecent assault, unlawful contact with a minor, corruption of minors, endangering a child's welfare.

• Victim 10: Boy was subjected to sexual abuse between September 1997 and July 1999 at the Sandusky home and car and at an area pool. He testified Sandusky said he'd never see his family again if he said anything. The boy was 11.

Guilty of involuntary deviate sexual intercourse (two counts), indecent assault, unlawful contact with minor, corruption of minors, endangering a child's welfare.

Note: Associated Press (2012a).
Appendix E: NCAA Principles of Institutional Control

PRINCIPLES OF INSTITUTIONAL CONTROL AS PREPARED BY THE NCAA COMMITTEE ON INFRACTIONS

A. "CONTROL" IS DEFINED IN COMMON-SENSE TERMS.

In determining whether there has been a lack of institutional control when a violation of NCAA rules has been found it is necessary to ascertain what formal institutional policies and procedures were in place at the time the violation of NCAA rules occurred and whether those policies and procedures, if adequate, were being monitored and enforced. It is important that policies and procedures be established so as to deter violations and not merely to discover their existence after they have taken place. In a case where proper procedures exist and are appropriately enforced, especially when they result in the prompt detection, investigation and reporting of the violations in question, there may be no lack of institutional control although the individual or individuals directly involved may be held responsible.

In a situation in which adequate institutional procedures exist, at least on paper, a practical, common-sense approach is appropriate in determining whether they are adequately monitored and enforced by a person in "control." Obviously, general institutional control is exercised by the chief executive officer of a member institution. However, it is rare that the chief executive officer will make decisions specifically affecting the operations of the institution's athletics program. Instead, the day-to-day duties of operation, including compliance with NCAA rules, will have been delegated to subordinates either by specific action or by the creation of appropriate job descriptions. Moreover, it is usually left to senior subordinates, such as the director of athletics, further to delegate various duties regarding compliance with NCAA rules.

In most institutions, especially those with large and varied athletics programs, such delegations are made to a number of individuals who are expected to exercise control over compliance with regard to specific aspects of the program. The specific obligations of such individuals should be in writing, and not merely an understanding among the senior officials of the university and the athletics department. Not only the director of athletics, but other officials in the athletics department, the faculty athletics representative, the head coaches and the other institutional administrators outside of the athletics department responsible for such matters as the certification of athletes for financial aid, practice and competition, are expected to assume a primary role in ensuring compliance. Even though specific action has been taken to place responsibility elsewhere, these individuals will be assumed to be operating on behalf of the institution with respect to those responsibilities that are logically within the scope of their positions. Their failure to control those matters so as to prevent violations of NCAA rules will be considered the result of a lack of institutional control.
B. VIOLATIONS THAT DO NOT RESULT FROM A LACK OF INSTITUTIONAL CONTROL.

An institution cannot be expected to control the actions of every individual who is in some way connected with its athletics program. The deliberate or inadvertent violation of a rule by an individual who is not in charge of compliance with rules that are violated will not be considered to be due to a lack of institutional control:

- if adequate compliance measures exist;
- if they are appropriately conveyed to those who need to be aware of them;
- if they are monitored to ensure that such measures are being followed; and
- if, on learning that a violation has occurred, the institution takes swift action.

C. ACTS THAT ARE LIKELY TO DEMONSTRATE A LACK OF INSTITUTIONAL CONTROL.

The following examples of a lack of institutional control are not exclusive, but they should provide important guidance to institutions as to the proper control of their NCAA compliance affairs.

1. **A person with compliance responsibilities fails to establish a proper system for compliance or fails to monitor the operations of a compliance system appropriately.**

   When an individual is responsible for ensuring that a particular rule or set of rules is not violated, that person will be considered to be exercising institutional control. That individual must not only ensure that the rules are known by all who need to know them but must also make proper checks to ensure that the rules are being followed.

   It is important for institutions to understand that the mere compilation and distribution of rules and regulations, along with written compliance procedures, is not sufficient if no one regularly checks on the actual operations of the system.

2. **A person with compliance responsibilities does not take steps to alter the system of compliance when there are indications the system is not working.**

   If a system of control is in place, a single deviation by a member of the athletics staff or a representative of the institution's athletics interests will not be considered a lack of institutional control. However, if there are a number of violations, even if they all are minor, indicating that the compliance system is not operating effectively, the person(s) responsible cannot ignore the situation, but must take steps to correct the compliance system.
3. A supervisor with overall responsibility for compliance, in assigning duties to subordinates, so divides responsibilities that, as a practical matter, no one is, or appears to be, directly in charge.

The failure to designate who is responsible for ensuring compliance with NCAA rules is a serious breach of the obligations of a university athletics administrator. Individuals are unable to operate appropriately if they are uncertain of their duties and obligations. Moreover, those subordinates who are not in charge must know who is. They need to know the person or persons to whom they can turn for advice before taking an action that may be questionable. They also need to know to whom and how to report violations that come to their attention.

4. Compliance duties are assigned to a subordinate who lacks sufficient authority to have the confidence or respect of others.

A supervisor may be acting in good faith when assigning responsibility for compliance to an athletics department secretary, or a student intern, or to someone who does not have stature in the organization. Nevertheless, that very action often makes it appear that the institution is not serious about compliance. If coaches, alumni, boosters and others do not respect the person responsible, they may well ignore that individual. Violations that occur may then be considered the result of a lack of institutional control.

5. The institution fails to make clear, by its words and its actions, that those personnel who willfully violate NCAA rules, or who are grossly negligent in applying those rules, will be disciplined and made subject to discharge.

Any operating compliance system may be thwarted by an individual who acts secretly in violation of the rules or who fails to ascertain whether a questionable action is or is not permissible. If an institution does not make clear that individual violations of NCAA rules will result in disciplinary action against the involved individual, and if it does not actually discipline those who are found to have violated such rules, it has opened the door to permitting further violations. In such a case, future violations of an individual nature will constitute failures of institutional control.

6. The institution fails to make clear that any individual involved in its intercollegiate athletics program has a duty to report any perceived violations of NCAA rules and can do so without fear of reprisals of any kind.

Compliance is everyone's obligation. Loyalty to one's coworkers, student–athletes, or athletics boosters cannot take precedence over loyalty to the institution and its commitment to comply with NCAA rules. There is a lack of institutional control if individuals are afraid to report violations because they have reason to fear that if they make such a report there will be negative consequences.
7. A director of athletics or any other individual with compliance responsibilities fails to investigate or direct an investigation of a possible significant violation of NCAA rules or fails to report a violation properly.

When a director of athletics or any other individual with compliance responsibilities has been informed of, or learns that there exists a possible significant violation of NCAA rules, and then fails to ensure that the matter is properly investigated, there is a lack of institutional control. Similarly, if an actual violation of NCAA rules comes to the attention of the director of athletics or a person with compliance responsibilities and there is a failure to report the violation through appropriate institutional channels to a conference to which the institution belongs and to the NCAA, such failure constitutes a lack of institutional control.

8. A head coach fails to create and maintain an atmosphere for compliance within the program the coach supervises or fails to monitor the activities of assistant coaches regarding compliance.

A head coach has special obligation to establish a spirit of compliance among the entire team, including assistant coaches, other staff and student–athletes. The head coach must generally observe the activities of assistant coaches and staff to determine if they are acting in compliance with NCAA rules. Too often, when assistant coaches are involved in a web of serious violations, head coaches profess ignorance, saying that they were too busy to know what was occurring and that they trusted their assistants. Such a failure by head coaches to control their teams, alone or with the assistance of a staff member with compliance responsibilities, is a lack of institutional control.

This is not to imply that every violation by an assistant coach involves a lack of institutional control. If the head coach sets a proper tone of compliance and monitors the activities of all assistant coaches in the sport, the head coach cannot be charged with the secretive activities of an assistant bent on violating NCAA rules.

D. COMPLIANCE MEASURES IN PLACE AT THE TIME OF VIOLATION AS A FACTOR IN DETERMINING WHETHER OR NOT THERE HAS BEEN A LACK OF INSTITUTIONAL CONTROL.

Institutions are eager to learn what measures can be taken to reduce the likelihood that in the event a violation does occur, it will result in a finding of a lack of institutional control. The following are some of the steps that assist an institution in avoiding such a finding. It must be emphasized, however, that the presence of such measures are not a guarantee against such a finding. The way in which the measures are carried out and the attitude toward compliance within the institution are vital factors.
1. **The NCAA rules applicable to each operation are readily available to those persons involved in that operation.**

Those individuals involved in recruiting activities should have ready access to the recruiting rules, and those university staff members engaged in determining eligibility for financial aid, practice and competition should have ready access to the NCAA rules governing those matters.

2. **Appropriate forms are provided to persons involved in specific operations to ensure that they will properly follow NCAA rules.**

With respect to certain operations, specific forms or checklists can be of great help in assuring compliance with NCAA rules. Clerical employees may find the rules themselves daunting. But if they can follow a form, many problems can be obviated. This is certainly true with regard to such matters as ensuring that student–athletes do not receive excessive financial aid individually or by sport, that initial eligibility standards are met, and that continuing eligibility standards are properly enforced.

3. **A procedure is established for timely communication among various university offices regarding determinations that affect compliance with NCAA rules.**

For example, there should be a method of direct communication between the registrar and the department of athletics so that the latter learns at once if an enrolled student–athlete drops a course that brings that student–athlete below the required number of units for eligibility to participate.

4. **Meaningful compliance education programs are provided for personnel engaged in athletically related operations.**

It is important that new personnel, both coaches and administrative staff members, receive training regarding NCAA rules that are relevant to their positions shortly after beginning employment. The institution should also continue to educate its staff by conducting compliance sessions on a regular basis for all involved personnel as refresher courses, with an emphasis on changes in NCAA rules. Not infrequently, persons who have been involved in intercollegiate athletics for many years and who violate long–standing rules attempt to excuse their actions on the grounds that they were unaware that their activities constituted a violation. On occasion such personnel rely on long outdated interpretations of legislation that have been eliminated or dramatically altered for a number of years.

Obviously the nature and strength of the compliance education program is of significance. Educational programs run by the NCAA and by various conference
offices may, because of the expertise of those involved, be superior to training by in–house personnel.

5. **Informational and educational programs are established to inform athletics boosters of the limitations on their activities under NCAA rules and of the penalties that can arise if they are responsible for rule violations.**

Distribution of rules education materials (e.g. brochures and articles) to season ticket holders is significant as are special programs for booster organizations.

6. **Informational and educational programs are established for student–athletes regarding the rules that they must follow.**

All institutions conduct information sessions for student–athletes and obtain the required signed statements from each. However, the extent to which these are truly informative and are taken seriously varies. The extent to which these sessions are made important by the institution is a significant factor.

7. **An internal monitoring system is in place to ensure compliance with NCAA rules.**

It is of significance if, on a regular basis, a person (or persons) charged with monitoring compliance frequently checks operations throughout the athletics department and related departments of the university. Such a person should make certain that required forms are being utilized and utilized properly. A compliance person should speak with all coaches frequently and regularly to find out if they have any concerns or questions about what they can or cannot do or what they have already done. A compliance person should be aware of what actions have been taken with regard to a variety of areas, including recruitment, awarding of financial aid, practice requirements and travel arrangements. From time to time the compliance person should meet with student–athletes in the various sports to see if any problems exist. All potential violations must be reported and an investigation must ensue in accordance with appropriate institutional procedures.

Other internal monitoring measures are also of significance, including one–on–one meetings between coaches and the athletics director, and meetings of university committees on athletics in which student–athletes and others are involved.

8. **An external audit of athletics compliance is undertaken at reasonable intervals.**

An important control exists if an independent university or outside unit undertakes audits of the athletics enterprise to determine if there have been violations of NCAA rules and to suggest changes in operating methods and
procedures wherever such action could eliminate the danger of future violations.

9. The chief executive officer and other senior administrators make clear that they demand compliance with NCAA rules and that they will not tolerate those who deliberately violate the rules or do so through gross negligence.

It is an important factor when the senior administrators in an institution by word and, when necessary, by action make clear that compliance is vital. The pressure to run a winning program must not overcome the dedication of the institution to ethical conduct in all aspects of its athletics program and to compliance with NCAA regulations.

10. The institution and its staff members have a long history of self–detecting, self–reporting and self–investigating all potential violations.
Appendix F: Atlas.ti and NCAA Data Analysis

Figure. Atlas.ti Analyses of Secondary Sources by Transactional and Transactional Leadership Traits (Johnson, 2012; Lipman–Blumen, 2004)

Based upon an Atlas.ti analysis of secondary source material and references to the NCAA and Emmert and key words associated to transformational leadership (decisive, fair, best, ethical, and strong) and key words associated with transactional leadership (coercive, negative, punitive, unfair, wrong, worst, and unethical) from Johnson (2012) and Lipman–Blumen (2004), tracking demonstrated the following:

- Preceding the arrest of Sandusky in November 2011 to October 2012, references to Emmert and the NCAA and key terms linked to transformational leadership begin to register in April 2012, rose, but sharply declined in the Fall 2012.

- In contrast, references to transactional leadership spiked after October 2012 and into November 2013. During this time period, media interest in Penn State and the NCAA penalties were heightened and more analyses of the process played out. Criticism focused on the unfairness of the process and the NCAA’s decision to reduce some of the sanctions (Berger, 2013; Buckner, 2012a; Dodd, 2013; Duffy, 2013; Hockensmith, 2013; Wieberg, 2013).

- References and articles on the Penn State case study demonstrated strong linkages of Emmert and the NCAA to words associated with transactional and toxic leadership as defined by Johnson (2012) and Lipman–Blumen (2004) (Barnhart, 2012; Berger, 2013; Blehar, 2013; Buckner, 2012a; Dodd, 2013; Duffy, 2013;

Table

*Atlas.ti  Key Term Frequency References From Secondary Sources Linked to Emmert and NCAA Leadership Typologies*

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Data collected above was extracted from secondary sources used in this dissertation that referenced Mark Emmert, Penn State, and the NCAA.