



RESULTS OF THE INQUIRY BY

THE COMPLIANCE GROUP

FOR

OKLAHOMA STATE UNIVERSITY

October 20, 2014

I. BACKGROUND

A. Retention of The Compliance Group (TCG)

1. Release of Sports Illustrated Articles – In early September 2013, Sports Illustrated (SI) released a series of articles that included alleged violations of NCAA and institutional legislation involving the football program at Oklahoma State University (OSU or University). According to SI, “The series is based off a 10-month investigation that included interviews with more than 60 players who played for the Cowboys between 2001 and 2010, as well as current and former OSU football staffers. The report reveals allegations that Oklahoma State went to extreme measures to build a winning program following 11 losing seasons in 12 years. Since 2002, the Cowboys have posted 10 consecutive winning seasons.”

The series contained five parts. Below is a short synopsis of each part and their release dates:

- Part 1: Money (On SI.com Tuesday, 9/10/13, and in the 9/16/13 SI issue): This part alleged student-athletes were paid by boosters and assistant football coaches in part through a “bonus” system based upon big plays or through provision of excessive wages for employment.
- Part 2: Academics (On SI.com Wednesday, 9/11/13): This part alleged that tutors arranged by the OSU athletic academic services staff or other University academic staff completed coursework for student-athletes and that professors gave grades for little or no work to a few student-athletes.
- Part 3: Drugs (On SI.com Thursday, 9/12/13): This part alleged that widespread drug use existed on the football team and that institutional drug testing policies were applied based upon the athletics ability of the student-athletes.
- Part 4: Sex (On SI.com Friday, 9/13/13): This part alleged that members of a group that assisted in the recruitment of student-athletes (Orange Pride) had sex with recruits.
- Part 5: The Fallout (On SI.com Tuesday, 9/17/13, and in the 9/23/13 SI issue): This part contended that student-athletes who were not useful to the program were “cast aside” and that many of these student-athletes have had criminal, drug, and other mental health issues, with at least the suggestion that these issues were in part due to them being cast aside.

2. Charge – Shortly after the publication of the articles, TCG was retained by the OSU A&M Board of Regents and President Burns Hargis. Chuck Smrt was the primary contact for the institution with TCG and performed the vast majority of the TCG work on the institution’s behalf. Smrt’s primary contact with the institution was Gary Clark, the University’s Vice President and General Counsel. TCG provided updates on a routine basis to Mr. Clark, who informed President Hargis and the Board of Regents.

B. Overview of Inquiry

1. Focus of Inquiry – The SI articles published in September 2013 depicted possible violations of NCAA legislation and institutional policy in four areas. The majority of the information in the articles occurred prior to the fall of 2007.

TCG was retained to determine the general validity of the information in the SI articles by examining several specific situations of possible violations of NCAA legislation or institutional policies.

OSU informed the NCAA of the gist of the allegations when it was informed of them shortly before publication. The NCAA Enforcement Staff became actively involved soon after the articles were published. It requested that the institution not conduct an independent inquiry without the Enforcement Staff but encouraged the institution to accompany the Enforcement Staff on its interviews. As a result, for nearly all of the interviews, TCG and the Enforcement Staff were present.

The NCAA's initial focus was on the current status of the football program, including interviews with former student-athletes who had transferred to other NCAA institutions and student-athletes who were recruited by the University but did not enroll. As the inquiry developed, more interviews were conducted with individuals mentioned in the articles.

The Enforcement Staff made significant document requests of the institution and while those requests focused on areas described in the SI articles, the requested information centered upon more recent years.

2. Nature of Interviews – During interviews conducted by NCAA or institutional representatives, the questions focused upon the general areas discussed in the SI articles, regardless of the relevant time period. For example, under academics, a series of questions was asked concerning the level of academic assistance provided by academic advisors or tutors, including during the current time period.

Interviews with currently enrolled student-athletes at other institutions touched upon these and other areas in order to determine the “current compliance culture” in the football program at OSU.

C. Factors that Influenced the Inquiry

1. Time Period of the Violations – The vast majority of the information concerning potential violations in the SI articles allegedly occurred prior to 2007, with a significant portion of that information occurring approximately in the mid 2000s – almost 10 years ago.
2. Recollections – As expected, due to the dated nature of some of the information, the recollections of individuals interviewed in regards to the information in the SI articles were much less specific than those who were recruited recently.
3. Availability of Documentation – The availability of documentation also varied by the time period. For example, one area in the articles related to drug testing and whether the institution was following its policies. The available information concerning positive drug tests currently available at the institution dates back to the 2007-08 academic year. No records currently exist prior to that time, so no opportunity existed to determine whether the institution's policies were followed prior to the 2007-08 academic year. This retention period is similar to most institutions which retain NCAA compliance monitoring documentation for five to seven years.
4. Lack of Cooperation – It is common for individuals to decline to talk to an institution or the Enforcement Staff after information publicly is reported that identifies them as a source of information about potential violations. This appears to have occurred in this inquiry since a few people who spoke to SI refused interview requests from the NCAA or institution. However, due to social media, individuals quoted in articles had an opportunity for immediate comment regarding information in the articles. Many of the individuals quoted in the articles publicly commented in social media

that the information was incorrect or taken out of context. Some of those individuals eventually were interviewed by the institution and the NCAA.

Some individuals who talked with SI were not located, and a few who were quoted extensively in the articles refused to be interviewed. Nevertheless, the institution and Enforcement Staff made numerous calls to these and other individuals who were quoted.

Since many of the individuals publicly refuted the information attributed to them in the articles, the institution believed it was important to listen to some of the tapes. University General Counsel Gary Clark contacted SI to request the opportunity to review the tapes of the interviews with individuals quoted in the articles. Sports Illustrated denied the University's request. This denial hindered the ability in establishing the credibility of some of the student-athletes quoted in the articles.

- D. Number of Interviews – The thoroughness of the inquiry can be illustrated by the number and types of interviews. Approximately 82 individuals were interviewed (including many individuals on more than one occasion, totaling over 100 interviews).

Further, interviews were conducted with former student-athletes who left the University and with several who were recruited but did not enroll.

II. OVERVIEW OF RESULTS OF REVIEW IN FOUR AREAS OF SI ARTICLES

- A. Basis for Determination – The positions in this summary are based upon: (i) information reported during the interviews; (ii) University or other documentation; and (iii) discussions with the Enforcement Staff. The most reliable source of information was the interviews conducted by NCAA and institutional representatives. University and other documents were available on a few occasions, although, due to the time period of some of the information, little documentation generally was available. Statements in social media were examined, although little significance was placed on those comments.

Of concern was the number of former student-athletes who disputed the information attributed to them in the articles. While it is not uncommon for an individual to dispute information reported publicly, the number of student-athletes who disputed the information seemed significant. Overall, several interviewees indicated that they reported to SI general

information or incidents about college football but that the SI reporter indicated that the incident occurred at OSU.

- B. Payments/Extra Benefits – The article alleged that student-athletes received payments, primarily after enrollment from either coaching staff members or boosters. The impermissible booster payments allegedly were based upon athletic abilities or excessive wages for employment. Coaching staff payments allegedly were made to student-athletes as a bonus for certain “big hits” or plays or employment.

Regarding coaching staff members, no current student-athletes reported receiving impermissible payments from coaching staff members. One former student-athlete who competed for the institution approximately 12 years ago indicated he received approximately \$20 on one occasion from a coaching staff member to buy food for his young son. This information was not pursued further by the Enforcement Staff. Two coaching staff members reported that they employed student-athletes, and the coaches or student-athletes who were interviewed denied any impropriety. (The institution currently prohibits this type of employment).

Regarding boosters and payments, no student-athletes quoted in the article reported that they received any payments from boosters. Regarding employment, numerous student-athletes reported that they worked for the money they received. The article focused extensively on the employment of student-athletes by a Stillwater resident. All interviewed student-athletes disputed that the Stillwater resident provided any excessive wages, and in fact, all commented that it was some of the hardest work they had ever done.

Two student-athletes reported receiving wages for work not performed, and in both situations, the amounts were not significant (\leq \$100), and both were not corroborated.

- C. Academics – The article primarily focused on student-athletes receiving impermissible (i.e. too much) assistance from athletics department tutors or advisors. The difficulty in assessing this information was the terminology used in the articles. Athletics department advisors and tutors can assist a student-athlete in his academic endeavors, and this occurs in the University’s academic assistance area. Some level of assistance on papers or projects is permissible. Several individuals who were quoted in the SI article reported in their interviews that they did not believe the help they described in the SI articles was contrary to NCAA legislation, although it was depicted in the SI articles as excessive assistance. One

student-athlete quoted in the article reported similar information as in the article regarding a level of improper assistance. This information also was not corroborated.

The Enforcement Staff requested the e-mail of approximately 150 athletics department personnel and with approximately 60 search terms, resulting in the University forwarding over 50,000 e-mails to the Enforcement Staff. One of the primary focuses of this e-mail search was to determine whether academic impropriety occurred. As a result of the e-mails, several interviews were conducted regarding situations referenced in e-mails. Due to the specific circumstances of one of these situations, it was determined that a football non-coaching staff member possibly provided too much assistance to a then student-athlete, resulting in a possible Level III violation.

- D. Drugs – The article alleged widespread marijuana use and implied that the University's drug testing policy favored those student-athletes who received more playing time.

The institution has been drug testing student-athletes for over 15 years. Various drug testing policies existed throughout those years, including sanctions for a certain number of positive tests. The institution had documentation on the drug testing of football student-athletes beginning in the fall of 2007. As a result, the NCAA and TCG focused on the institution's policies from that point forward.

Regarding the drug testing policy, a change in the policy occurred in the spring of 2007 and became effective for the 2007-08 academic year. The policy was changed again for the 2011-12 academic year and remains in effect. During the period of fall 2007 through the spring of 2013, approximately 1,572 drug tests occurred of football players. There were 94 positives involving approximately 60 student-athletes per the policy. (According to the company used by the University to conduct its drug testing program, this positive rate per total number of tests is slightly less than the national average). The institution examined the application of the policy in those 94 situations and believes that on four occasions, the applicable penalty per the policy was not applied and reported this information to the Enforcement Staff. No pattern was demonstrated that the policy was not followed because of the athletic abilities of the involved student-athletes. The four student-athletes were not multi-year starters, and two of the four left the University soon after the last positive test, and the other two never tested positive again. They were not named in the SI article. Also, an issue exists whether one student-athlete in 2008 received a counseling session, as mandated by the policy after his first positive test.

TCG believes that no substantial information exists indicating widespread drug abuse or that an intentional non-application of the policy due to a student-athlete's athletics abilities existed.

- E. Orange Pride and Sexual Activities – The article identified two student-athletes who reported sexual activities with women during their official visit to campus, of which one woman was allegedly a member of Orange Pride, a student hostess program on the University's campus that assisted the football team. Approximately four other student-athletes were quoted in the article that they heard about sexual activity between Orange Pride members and recruits. None of those individuals had direct knowledge of a coaching staff member instructing an Orange Pride hostess to have sex with a recruit.

One of the two who mentioned sexual activity in the SI article was interviewed, and he confirmed a sexual encounter. He indicated this was a consensual activity, that the young woman was not a member of Orange Pride, and that no coaching staff member arranged it.

Another student-athlete who was enrolled at another institution and was not named in the SI article reported that he had sexual activity with a woman on his official visit. The young lady was not a member of Orange Pride, although the prospect assumed that a coaching staff member arranged it. This information was denied by all involved individuals.

All other current or former student-athletes that were interviewed reported that they had no sexual activity with any Orange Pride member on their official visit or at any point. As a result, no information was reported that indicated a member of Orange Pride was involved in providing sexual favors.

During the review of information regarding the Orange Pride hostess group, the Enforcement Staff reviewed the organizational structure of the group. A recent legislative interpretation from the NCAA Academic and Membership Affairs Staff was sought. It eventually was determined that the organization was not sufficiently aligned with the Admissions Office, resulting in violations of NCAA legislation when members of Orange Pride were involved in campus hosting duties (i.e., attending meals in which prospects were present and talking with them, accompanying coaching staff members and prospects on tours of campus, etc.).

- F. Conclusion – Nearly all of the primary contentions in the SI articles were not corroborated. Regarding Article #1, information was not substantiated that coaching staff members or boosters provided cash to student-athletes for "big hits" or for work not performed.

Regarding Article #2, information was not substantiated that members of the institution's athletics department's academic services unit provided excessive academic assistance. Regarding Article #3, the available records did not support the contention that the University's drug testing policy for football student-athletes was applied in a manner that favored more talented student-athletes. The policy was not followed on a few occasions, but TCG believes the student-athletes' athletics abilities were not the reason for this failure. Regarding Article #4, no information was reported that Orange Pride members were involved in sexual activities with prospects to encourage their enrollment at the University. Based upon the inquiry, it was determined that the Orange Pride program was not sufficiently aligned with the Admissions Office, resulting in certain recruiting activities (i.e., accompanying coaching staff members on campus tours with prospects) being contrary to NCAA legislation.

TCG appreciates the opportunity to assist the University in this project.