

Time for change: US sports betting regulation

Kevin Carpenter argues that the US should play a greater role in stamping out match-fixing in sport

Match-fixing has drawn the attention of governments in Europe and Asia in the past two years for several reasons, including the badminton scandal at the London 2012 Olympic Games; the recent Europol announcement that 680 football matches were suspected of being fixed worldwide, implicating 425 match officials, club officials, players and criminals; and the arrest and questioning of some of the most wanted criminals in the field. Yet in the United States, considered to be one of the big closed danger markets for sports betting, it does not appear to be particularly high on the agenda for either government or sports governing bodies (SGBs).

What drives match-fixing?

Match-fixing in its various manifestations can be defined as a dishonest activity by participants, team officials, match officials or other interested parties to ensure a specific outcome in a particular sporting match or event for competitive advantage and/or financial gain that negatively impacts on the integrity of the sport.

The practice can be broken down into two strands: betting-related and sporting-motivated fixing. There has been a greater focus on the former, principally because of the significant associated money flows that are vulnerable to fraud: Interpol suggests that sports betting is now a \$1 trillion-a-year industry. This honeypot has inevitably attracted the involvement of organised crime – an issue and



Charles Arnold 'Chick' Gandil (with bow tie) during the investigation into alleged match-fixing at the 1919 baseball World Series

term that might have a greater impact on key stakeholders, particularly politicians, than match-fixing per se.

Betting-related match-fixing is now driven by high-level and increasingly sophisticated criminals operating and collaborating worldwide. They have been able to take an increasing stranglehold on sports as a direct consequence of globalisation and technology advances that have facilitated growth in the number of betting possibilities (including the advent of in-play and spread betting); new forms such as betting exchange; and new operators based in less-regulated jurisdictions, but available to punters worldwide.

The practice is not a new phenomenon in the US or North American sports generally. One of the most notorious proved cases came from the 1919 baseball World Series. The match-fixing conspiracy was organised by Chicago White Sox player Charles Arnold 'Chick' Gandil, who had longstanding ties to underworld figures. New York gangster Arnold Rothstein financed the crime through his lieutenant, former boxing champion Abe Attell.

Gandil enlisted several of his teammates who were motivated by resentment of their miserly salaries. A year later, a grand jury was convened to investigate the

alleged scandal, which had been rumoured even before the Series started with a sudden betting spike on the Sox's opponents, the Cincinnati Reds. Although the eight players were acquitted in court, the investigation resulted in life bans from the sport for all eight players involved. The delayed payment or non-payment of players is still a significant reason why players agree to fix matches in sports today.

College basketball has also experienced a number of match-fixing scandals, principally for point-shaving, which is the illegal act of purposefully holding down the

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Former NBA referee Tim Donaghy (front) appears in a New York court in 2007 charged with feeding gamblers inside information

score of a sporting event in order to impact who will win bets against a point spread. It is a form of match-fixing similar to 'spot-fixing' or 'micro-manipulation'. Spot-fixing does not involve a team purposefully losing a game – rather it is actions taken to ensure certain events happen during the game, and is exclusively within the realm of betting-related match-fixing.

There is an argument that the ultimate responsibility for keeping sport clean from match-fixing lies with SGBs

In 1951, various schools, including City College, Manhattan College and the University of Kentucky, were implicated in point-shaving scandals, which led to the arrests of 32 players alleged to have assisted in the fixing of a total of 86 games, and suspensions from the National Collegiate Athletic Association (NCAA). The fixers themselves, Cornelius Kelleher and brothers

Benjamin and Irving Schwartzberg, all bookmakers and convicted felons, were also booked on bribery and conspiracy charges. The most high-profile instance of betting fraud by a game official in recent US sports history was that carried out by former National Basketball Association (NBA) referee Tim Donaghy. This was investigated and made public by the Federal Bureau of Investigation's division specifically tasked with investigating gambling and fixing in sports. Donaghy was found to have bet on games in which he had officiated during the 2005/06 and 2006/07 NBA seasons. Donaghy pleaded guilty to two federal charges related to the investigation and was sentenced to 15 months' imprisonment, followed

by three years of supervised release. This led to the NBA revising the behavioural guidelines for its referees, with it having been revealed that almost all admitted to having engaged in some form of gambling – such as betting on golf – despite a ban in their contracts.

A prominent bookmaker has suggested that referees had to be the prime suspects in this case because the

players make too much money to risk losing their careers over match-fixing. I have heard this argument raised a number of times in the US. However, the Bountygate integrity scandal, in which some New Orleans Saints players intentionally broke the National Football League's rules for as little as \$1,000 – when they were earning millions each season – challenges this view.

Canada has recently experienced problems with match-fixing. In September 2012, the Canadian Broadcasting Corporation (CBC) alleged that at least one game in the semi-professional Canadian Soccer League (CSL) had been compromised by the practice. This was discovered after CBC obtained the wire-tap evidence from the Bochum trial, the biggest match-fixing case ever to come to court, which centred on a Europe-based crime syndicate that made a reported \$9.8 million profit from corrupting players, referees, coaches and federation officials. Many of those involved were given severe prison sentences by the German court. These revelations led the Canadian Soccer Association to sever its ties with the CSL.

The gravity of the threat

It often seems to me that US sport is as much about entertainment as it is about the eventual outcome, which is of course much of its attraction. Consequently the integrity of sport is conveniently put to the back of the minds of SGBs and fans alike. Take doping in baseball, for example, and the huge Balco scandal, which involved sprinters and baseball stars. If a contest is more intense and entertaining, why worry about integrity issues?

One response would be that the illegal gains from match-fixing represent up to \$9.3 billion, which is six times more than the global trade in illegal small arms; another, that in South Korea in 2011 a soccer player was found dead in a hotel room accompanied by a suicide note referencing a match-fixing ring. Or one might point to the possibility that footballers are being trafficked from Africa to play in minor professional soccer leagues (perhaps in the US), told to match-fix and then abandoned. Ronald K Noble of Interpol points out: "Organised criminals frequently engage in loan-sharking and use intimidation and violence to collect debts, forcing their desperate, indebted victims into drug smuggling and their family members into prostitution." In the modern world of match-fixing, sport is not only dealing with vast sums of money and organised crime, but also related problems such as threats of violence, human trafficking and money laundering.

Taking all these issues into account, what steps should SGBs in the US take to ensure their sports are not beset by match-fixing and its associated evils?

US governing bodies' current approach

There is an argument that the ultimate responsibility for keeping sport clean from match-fixing lies with SGBs. In a report published for the UK Government in February 2010 by the Sports Betting Integrity Panel (SBIP), the Panel formulated a uniform code of conduct on integrity which it recommended should be implemented across

all sports. As part of its report, the SBIP examined how 12 major SGBs dealt with the following seven threats:

1. Placing a bet.
2. Soliciting a bet.
3. Offering a bribe.
4. Receiving a bribe.
5. Misuse of privileged/inside information.
6. Failing to perform to one's merits.
7. Reporting obligations.

Worryingly, in 38 per cent of instances, the SGBs made no provision for at least one or more of the threats; indeed the IAAF (athletics) and Royal & Ancient/PGA (golf) made no provision in their rules for any of the seven.

The major US sports all have rules in place for direct participants – be they players, officials, coaches or similar – in relation to betting. In fact, the NCAA takes the hardest stance on this issue. However, I doubt that even it caters for all seven of the threats. Misuse of privileged/inside information is becoming an increasing problem in the match-fixing field, particularly with the advent of social media, as players can reveal information sensitive to betting, such as injuries on the roster and team selections.

Many deficiencies in the rules and policies of US SGBs could be remedied by developing closer relationships with legitimate betting operators, be this via specific anti-corruption units, early warning systems or memoranda of understanding. Major League Soccer (MLS) is to be applauded, as this body uses Sportradar's Fraud Detection System, which monitors betting data and patterns from across the world. MLS also bans mobile phones and other electronic devices from locker rooms at certain times to prevent players from communicating with match-fixers (see Scaife, p84). So why won't US SGBs in general engage with betting operators?

US attitudes to sports betting

A great deal has been written on sports betting in the US in the past 12 months, given the high profile litigation currently taking place between the State of New Jersey on one side and the NFL, NBA, National Hockey League, Major League Baseball, NCAA and the Department of Justice on the other. The case concerns the constitutionality of the Professional and Amateur Sports Protection Act (PASPA), which restricts all but a few states from legalising sports gambling. I will not be going into the details of the case, but it does highlight some important historical and political issues that can be seen to impact the fight against match-fixing in the US.

Sports betting has always been present, and indeed prevalent, in US society, despite restrictions. To give an indication of the scale of sports betting in the country, the National Gambling Impact Study Commission estimates that in 2008 \$2.8 billion was wagered legally in Nevada, compared with \$380 billion wagered illegally across the country. Historically, there has never been effective regulation by either state or federal government. This came to a head in 1992, when the professional and college sports convinced Congress to make PASPA law, making

betting on sports a federal offence in all but four states (a notable exception was Nevada, for Las Vegas). They convinced Congress to do this on the following grounds:

1. Stopping the spread of sports gambling.
2. Maintaining sport's integrity.
3. Reducing the promotion of sports gambling among America's youth.

However, the message PASPA really sends out is as follows: we know that sports betting is happening (and on a grand scale), but owing to the perception across the US that gambling is an evil in society, we will drive it further underground into the black market and ignore it! This reasoning is counter-intuitive at best, especially in the context of protecting the integrity of sport.

US SGBs are also accused of hypocrisy and the selective application of integrity where sports betting is concerned. In the 2012 NFL season, the referee lockout

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during the early weeks of the season, and the blatant errors made by the replacement referees, led to howls of derision that the replacements, and especially the League, had seriously compromised the game's integrity. Darren Heitner in *Forbes* magazine even went as far as to say that NFL Commissioner Roger Goodell's stance on sports betting "has become almost disingenuous [as a result]". When one looks at Great Britain, considered one of the most liberal jurisdictions for sports betting, but also one of the best regulated by the Gambling Commission (GC), the stance taken by US SGBs appears even more irrational. The GC was set up under the Gambling Act 2005 to regulate commercial gambling in England, Wales and, to a lesser extent, Scotland. It is an independent non-departmental public body sponsored by the Department for Culture, Media and Sport (no such equivalent department exists within the US government). Ever since its establishment, the GC's remit has covered sports betting and betting integrity issues. It also has an intelligence unit specifically for betting integrity.

Despite all this, what the GC – and other national regulators around the world – freely admit is that they only have jurisdiction for their own territories. They do talk to other regulators, share their experiences with them and provide intelligence to other countries when asked to do so, but they are not in a position to force other countries to take action where necessary. This is where the US, and other illegal gambling markets, must begin to engage and amend their regulatory frameworks. After all, match-fixing is a problem that can only be effectively tackled by concerted action on a global scale.

European political institutions have taken it upon themselves to lead a coordinated and (hopefully) coherent fight against match-fixing. The European Union (EU) is approaching this in several ways. One is by working with the Council of Europe (COE) towards a possible international legal instrument against the manipulation of sports results, notably match-fixing. The latest draft of the Convention covers (among other things): betting monitoring systems; judicial cooperation; exchange of information; and uniform sanctions.

Convention against match-fixing

Once the Convention is finalised in 2014, the COE hopes to convince countries outside of Europe, including the US, to sign up. It is worth stressing at this point that the COE is an entirely separate and distinct body from the EU. It covers almost the entirety of Europe with its 47 member countries, while the EU has only 28 Member States. The role of the COE is to develop common and democratic principles based on the European Convention on Human Rights.

Another approach by the EU is via its review of online gambling within the Community. 'Safeguarding the integrity of sports and preventing match-fixing' is one of five priority areas

in the *Towards a comprehensive European framework for online gambling* communication published by the European Commission (the executive arm of the EU) on 23 October 2012. Member States themselves are urged to take the following steps:

1. Set up national contact points that bring together all relevant actors within each Member State that are involved in preventing match-fixing.
2. Equip national legal and administrative systems with the tools, expertise and resources to combat match-fixing.
3. Consider sustainable ways to finance measures taken to safeguard sports integrity.

The European Commission has subsequently made an announcement that it will be adopting a Recommendation on the best practices in the prevention and combating of betting-related match-fixing in 2014.

The third step above is rarely given enough importance in the debate about match-fixing. It is laudable having grand plans for transnational policies and cooperation, but who is going to pay for them to be implemented? In the age of worldwide economic austerity, a major obstacle to progress in this area will be governments setting aside the necessary funds. Governments increasingly have to lead as SGBs themselves are often reticent to do so. The betting operators make up one set of stakeholders that has shown the means and will to spend on this issue, which in the US draws a sharp intake of breath. Policymakers need to have a more cordial attitude towards betting operators for them to continue, and even enhance, this investment.



Ralf Mutschke, FIFA's Director of Security, calls for governments to address match-fixing at a 2013 Interpol conference in Kuala Lumpur, Malaysia

Stanley Chow/Getty

The US should also look at a wholesale review of its legal framework for sports gambling (both online and offline) and match-fixing, as there is at this time a patchwork plethora of relevant federal legislation, as well as State statutes. This includes the: Wire Act; Travel Act; Racketeer Influenced and Corrupt Organizations Act; Illegal Gambling Business Act; Unlawful Internet Gambling Enforcement Act; Bribery in Sporting Contests Act; and PASPA

This creates great legal uncertainty and opportunities for unscrupulous individuals, including match-fixers and illegal operators, to fall through the cracks. FIFA's Director of Security Ralf Mutschke said at the recent jointly hosted Asian Football Confederation and Interpol conference on match-fixing in Kuala Lumpur, Malaysia: "We have to bring in the governments because they have to change legislation and laws, because a lot of countries do not have proper laws fighting match manipulation and corruption."

What action does the US need to take?

Research and understanding of match-fixing is still really in its infancy, particularly when compared with other threats to the integrity of sport, such as doping. Of the two forms, betting-related match-fixing should remain the primary focus in this field for all stakeholders in sport because transnational criminal organisations take advantage of changes and disparity in regulations, flaws in legal and judicial systems, the opening-up of borders and the growth of free trade. Governments and the world of sport, particularly in the US, are not as familiar as they should be with the risks to which they are exposed because they do not always fully understand betting and gambling. Increased awareness and transparency would be two significant benefits should the US, and other unlicensed jurisdictions, move from a model of outright

prohibition to one in which sports betting is legalised, regulated and taxed. The licensed gambling industry contributes \$4.5 billion to the EU sports sector alone, so the potential benefits to other jurisdictions are clear.

Some people will always look to make a quick buck from illegal sports betting. However, the size and growth of this black/grey market can be lessened if concerted action is taken. Indeed, national and global economies will provide the biggest challenge in finding the necessary resources that all actors need to tackle the problem effectively. In my opinion, this is undoubtedly the principal issue yet to be resolved or even properly addressed. Needless to say, resources from US, Chinese and Indian governments, for example, would go a long way in plugging the shortfall.

John Abbott, Chair of Interpol's Integrity in Sport unit, said at a conference in Brazil in November 2012 that the five key elements for a successful strategy against match-fixing are: partnerships, information exchange, coordination, prevention strategies and proactivity. Outright prohibition of betting achieves none of these.

Although sport is partly about entertainment, the thrill of physical competition is ultimately generated and maintained by upholding the integrity of sport. The unique emotions felt through sport, which are like no other in life, stem from sport's natural unpredictability, which is without doubt its most important commodity. Match-fixing in any form seeks to destroy this for unadulterated and selfish greed. This is why all countries and sports need to stand united and fight match-fixing together. ■

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