Article | Surveillance, Governance and Professional Sport

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Abstract

The surveillance capacities of professional sports clubs and Leagues are directly related to their modes of governance. This paper identifies how private sports clubs enact surveillance through processes of inclusion and exclusion. Using three examples to demonstrate these processes, we argue that the surveillance mechanisms associated with sports governance at times replicate, at other times contradict, and at other times influence those associated with broader law enforcement and security developments. These examples also suggest potential increases in surveillance activities that emerge in club governance often flow from external concerns regarding allegations of crime, national security breaches and corruption. These context-specific case studies (Flyvbjerg 2001) demonstrate how surveillance and identity authentication are closely tied to the complex, multi-tiered governance structures and practices in three distinct sports. We then explore how these patterns can be interpreted as either connected to or distinct from equivalent developments involving the surveillance surge (Murakami Wood 2009) and concepts of inclusion and exclusion under the criminal law. We conclude by discussing how both internal and external regulatory forces can shape interrelated facets of surveillance, governance and exclusion in elite sports.

Introduction

There is considerable diversity in the legal classification of sports governance arrangements across English-speaking jurisdictions and distinct sports. This means some sports are governed through largely autonomous private structures, while others have been constituted as public entities, in some cases as a direct result of proven allegations of corruption or other forms of criminality associated with the sport's private administration. We provide three cases studies to demonstrate the necessity for understanding particular sports governance arrangements in distinct sports that reveal the various motives for, and practices associated with, surveillance and sport. In other words, as with other forms of rule breaking under the criminal law, examining the surveillance practices in sport draws attention to the processes associated with 'the focused, systematic and routine attention to personal details for purposes of influence, management, protection or direction' (Lyon 2007: 14). These practices commonly diverge from external forms of surveillance due to the specialised arrangements and objectives associated with the governance, organisation, management and conduct of sports activities.

In nations directly influenced by English law, the private sports club evolved as the prevailing method of sports governance (Elias and Dunning 1993). The sports club differs from many governance arrangements that characterise everyday public affairs due to its voluntary nature and 'shared focus of interest' (Bauman and Lyon 2013: 39). Clubs enable involvement in athletic, coaching and administrative functions through membership contracts. This characteristic of sports governance has immense relevance to the processes of surveillance associated with sport, as the voluntary character of club membership is 'intrinsically bound up with issues of inclusion and exclusion' (Crawford 2006: 121; Cornes and Sandler 1986: 347-349).

Club membership mirrors the processes associated with undertaking private corporate activity (Caplan and Torpey eds 2001: 1) through processes of subscription and identity authentication (Lyon 2009). Membership is usually granted after payment of a fee or via a formal contract, which entitles a person to access the services, facilities or benefits provided by the collective entity. Examples of rights associated with sports club membership include the ability to enter and view a contest in reserved seating locations, the ability to compete on behalf of the club, or vote on and participate in formal governance roles, including the acquisition of land (Frost 1998), the construction of training facilities or the development of rules associated with club affairs. While the distinction between private and public club governance structures is also influenced by the particular sport's professional, amateur, national or international status (Manley *et al.* 2012; Hoyer *et al.* 2012), the selective nature of club membership enables highly specialised forms of governance that distinguishes the functions of surveillance in sport from those commonly invoked to regulate rule breaking under the criminal law or through other public governance mechanisms. This is especially important to recognise given the centrality of identity as a criterion associated with club participation.

When considering their voluntary and selective membership base, and the close links between human biology and athletic performance, the norms of surveillance associated with competitive professional or recreational sports demonstrate further elements of specialisation. The extensive literature documenting surveillance practices at sports mega events demonstrates several important sites of interpenetration between private sports governance and public governance with the potential to crossover in highly problematic ways—such as the use of closed circuit television (CCTV) systems to manage order in and around event stadia and in general open street settings. However, that interpenetration is not always neat or consistent. As we argue in this paper, the highly diverse and specialised managerial, protective or directive surveillance functions in sport are sometimes compatible with equivalent governance processes in the public sphere, yet at other times appear completely incompatible. Sites of resistance to contentious surveillance practices in sport might bear little or no relationship to those associated with the public governance of crime, civil disorder, the provision of health services or traffic management. As such, caution needs to be exercised when examining the transference of surveillance practices in sport to the public sphere and vice versa, particularly in light of the discrete governance approaches in each sphere.

Two major areas of surveillance have been examined in the context of sport. The first involves the extensive literature on surveillance practices at sports mega events (see Manley and Silk, Eisenhauer *et al.* and Whelan, all in this volume). This literature reveals how uses of surveillance to promote security at mega events generate legacies that feed into everyday public surveillance in host cities. Such legacies include the installation of elaborate CCTV systems in public space and the introduction of short- and long-term venue bans to combat disorder at localised sports events (Palmer and Warren 2013). This research suggests the sports mega event acts as a catalyst for the introduction and normalisation of contentious order maintenance and surveillance processes that operate outside of the sporting realm. Secondly, the considerable research examining globally sanctioned anti-doping policies documents a range of bodily and spatial forms of surveillance (Thomas 1992; Grace 2013: 309) that aim to detect biological abnormalities considered to breach the ethos of 'fair play' (Hardie 2013). While there is considerable merit to concerns in both cases regarding the potential expansion of these surveillance practices to non-elite sports, or their transference into non-sporting domains, such concern overlooks the rights of privately governed entities to develop context specific rules and procedures designed to preserve the ideals of fair play associated with sports competition. Further, the acceptance of such surveillance practices as a necessary element of sports participation may not be compatible with measures to enhance individual or communal protection outside of the sporting context. While questions continually emerge regarding the growth of surveillance to enhance public security (Solove 2011), these measures are constrained by the rule of law and various legal or procedural rules aimed at protecting bodily, spatial and informational privacy. National public oversight bodies operating under the authority of the World Anti-Doping Authority (WADA) are pertinent exceptions to this rule. Their highly intrusive surveillance powers can be seen as assisting private sports

organisations to promote fair play through the detection and enforcement of anti-doping violations, while at the same directing those organisations to adopt new standards in contemporary sports governance.

Of particular interest in this paper is the relationship between the use of surveillance to assist with the enforcement of principles of inclusion and exclusion associated with sports club governance. Here, the emphasis is on how the process of surveillance is invoked to produce a regulatory outcome of banning or exclusion that either feeds into or contradicts equivalent processes of social exclusion that occur beyond the realm of sport. A growing body of criminological and sociological literature demonstrates how various forms of exclusion or banning are commonly linked to problematic surveillance, identity authentication and pre-emptive law enforcement methods (Palmer and Warren 2013; Bigo 2011; Beckett and Herbert 2010; Amoores 2008). While commonly justified to enhance community protection, ban enforcement is far more complicated in open communities. By examining how policies of exclusion are enforced in closed communities, such as in competitive sport, it is possible to gain insights into the broader synergies, contradictions and deficits in how surveillance is used to enhance ban enforcement more broadly.

Our objective in this paper is exploratory. The three examples we have selected are based on our previous research into the regulatory patterns associated with the sports concerned and their broader criminological significance in the social, cultural and legal contexts of which they are part (see Warren 2009; Palmer and Warren 2013; Palmer and Whelan 2007). These detailed and context-specific case studies (Flyvbjerg 2001) highlight how surveillance and identity authentication are closely tied to the governance practices in three distinct sports. We then explore how these patterns can be interpreted as either connected to or distinct from equivalent developments involving the surveillance surge (Murakami Wood 2009) and concepts of inclusion and exclusion that are emerging in the regulation of public life. The case study method allows each example to provide a detailed illustration of the various regulatory dimensions associated with surveillance, inclusion and exclusion in elite sport. We have consciously resisted wedding our narratives to a particular theoretical perspective relating to the type of sport or the distinct elements of surveillance that emerge in each case. Rather, we hope that 'different readers may be attracted, or repelled, by different things' contained in each narrative (Flyvbjerg 2006: 238) and are encouraged to think critically about each case based on their own understandings of the relationships between surveillance, sport, law enforcement and governance. The case study approach has been deliberately employed in this paper as a to promote further theoretical and empirical development on these interconnected issues (Flyvbjerg 2001; 2006), given the lack of previous research into the relationships between surveillance and distinct modes of governance in elite professional sports.

Example 1: Professional Boxing and the Case of Muhammad Ali

Professional boxing is regulated through a combination of public and privately constituted Boards of Control in the UK, the USA, Australia and New Zealand (Warren 2009). These Boards are corporatised variants of the social club that was historically constituted under a statutory licence or private charter to provide a range of sports, cultural and recreational services for paying members. For example, legislation establishing the Louisiana Olympic Club granted a licence for the organisation to establish 'rooms for literary purposes; for the collection of valuable works of art, books, maps, charts, statuary, coins ... [as well as] to encourage physical culture and development of athletic exercises, such as boxing, wrestling, fencing, and exhibitions of athletic sport' (*State v. Olympic Club* 1894: 190). While these services were principally established for the benefit of paid club members, provision could also be made for non-members to gain temporary access to and use of these facilities upon payment of an appropriate one-off fee. However, as Cornes and Sandler (1986: 347-348) demonstrate, if broader public demand to access or utilise private 'club goods' prevents members from preferred access to these specialist services, the rules of inclusion and exclusion can readily be modified to protect their membership rights.

Similarly, private or publicly constituted boxing clubs have the power to develop and enforce their own internal rules to determine the criteria for membership. English and United States (US) law reports contain

numerous legal challenges against the power of boxing clubs to revoke membership rights to athletes, coaches or administrators. Prominent examples include cases involving athletes who have used violence or verbal threats against sports officials (*Stininato v. New Zealand Boxing Association* 1978), or are deemed unsuitable to compete due to their age or a previous history of physical or mental infirmity (*Fitzsimmons v. New York State Athletic Commission et al.* #2 1914; *Ippolito v. Boxing Authority of NSW* 2002). Protective bans have also been invoked against women due to the perceived risk of reproductive harm associated with the sport (*Ferneley v. The Boxing Authority of New South Wales* 2001), as well as fight managers allegedly involved in corruption, match fixing, anti-competitive conduct or organised crime. Courts are generally reluctant to overturn internal club rulings unless there is evidence to indicate the decision was ‘clearly arbitrary’. This is because of the general view that sports governing bodies are in the best position to develop rules, procedures and appropriate surveillance measures ‘for the maintenance of fair dealing, honesty, and clean sport’, even in circumstances where club membership has traditionally ‘been infested with undesirable elements’ (*London Sporting Club and Stephen v. Helfand and Christenberry* 1956: 824).

Surveillance operates at two levels in a club environment. The first involves authentication of the identity of a current club member (Lyon 2009). Historically, membership verification involved the distribution of a medallion or card that was either inspected or stamped before admission into club premises. Today, membership screening in many professional sports is fully automated through the use of electronic cards with personalised barcodes or magnetic strips. The second involves the use of internal bureaucratic controls targeting the physical wellbeing of athletes or behaviour of club members appointed as officials, match referees and other governance roles. Concern over the risks of physical injury or death in boxing and other elite sports have led to calls for the introduction of a biological passport system to increase the level of protective surveillance for athletes (Anderson 2010: 181; Hardie 2013). As will be demonstrated below, it is much more difficult to implement meaningful surveillance measures to monitor the behaviour of sports officials, partly due to their administrative power as ‘watchers’ and partly due to their potential exposure to multiple sources of surveillance by external law enforcement agencies, even within a largely self-regulating context.

Within this milieu, club decisions to grant or deny membership must conform to general principles of ‘natural justice’. Judicial scrutiny of decisions to grant, deny or revoke club membership offers a pertinent form of surveillance over the processes of private or public club governance. Commonly, claims that natural justice has been denied in membership decisions relate to the failure of club officials to provide adequate reasons to exclude an individual, preventing an aspiring member from stating their case for membership, or lack of internal review of a decision to ban. The case of former world heavyweight boxing champion Muhammad Ali offers a significant example of how multiple forms of selective administrative governance that invoke principles of membership can intersect with various internal and external surveillance processes that impact both on sports and public regulatory bureaucracies.

After being declared suitable for military service by a Louisville draft board in 1962, Ali, then known as Cassius Clay, failed a second physical examination and intelligence test in 1964. This led to his reclassification as ineligible for military service by the same board. Ali won his first professional heavyweight title against Sonny Liston in the same year. By 1966, he received a 1A classification determining he was eligible for military induction. Ali then filed for conscientious objector status, citing his profession as a Minister (of Religion) of the Lost Found Nation of Islam (Bingham and Wallace 2001). The public law equivalent of the rules of natural justice applicable to private clubs provided the basis for the courts to review the 1966 decision of the Louisville draft board. Despite evidence that demonstrated the board’s composition was racially biased, the validity of the decision and accompanying conviction and five-year imprisonment term for breaching the state’s classification order was upheld by the US Supreme Court (*Cassius Marsellus Clay Jr. v. The United States of America* 1968). A \$5,000 fine was paid in lieu of this gaol term.

Each state boxing authority in the US then revoked Ali's licences to compete professionally when he failed to be inducted into the US military. These decisions were also unsuccessfully challenged under the laws of natural justice. However, the discrete forms of military and boxing governance, and the various bans that ensued, coalesced around extensive federal law enforcement surveillance targeting Ali's political affiliations with Nation of Islam leader Malcolm X, Dr Martin Luther King and the Black Panther Party. A multitude of internal regulatory and surveillance measures associated with enforcing the boxing bans against Ali, and discrete public law enforcement networks were activated to monitor the connections between Ali the prohibited athlete and Ali the political activist. The public law enforcement surveillance networks were extremely common throughout the US during the civil rights era and into the mid-1970s (Brame and Shriver 2013). To support renewal of his 'fight-club' membership, Ali commenced several legal claims seeking to access US intelligence files. These claims were also rejected because his vocal public and political stance was considered to undermine domestic security at a 'time of serious international insecurity and peril' (*United States of America v. Cassius Marsellus Clay Jr* 1970: 172).

The use of state surveillance in this case intersected with internal regulatory surveillance through the licencing bans to ensure Ali, as world heavyweight titleholder, was effectively locked out of sports participation. The broader motive of public protection during a time of immense domestic political conflict over the Vietnam War and the civil rights movement provided the catalyst for enabling state surveillance to protect national security, and the corollary of Ali's exclusion from his chosen sport. Initially, the corrective surveillance capacities of the judicial process had limited impact in granting the disclosure of Ali's surveillance records to support claims for the renewal of his professional fight licences. By 1970, the courts reversed their position by declaring the New York State Athletic Commission (NYSAC) bans no longer conformed to the principles of natural justice. Of particular note is that a prior criminal conviction, which is often a barrier to many citizenship rights, is technically no bar to membership in the professional boxing community.

In 1970 the Commission granted a boxing license to a parolee who had been convicted of three felonies, attempted robbery in the second degree in 1960, attempted robbery in the third degree in 1955, and robbery in the third degree in 1953. Also in 1970, the Commission granted a license to an individual convicted of simple assault on a police officer, a misdemeanor, in 1969. A number of licenses were granted to convicted felons and misdemeanants in 1969, but it does not appear whether the Commission so acted before or after the denial of Ali's application. In any event, 35 licenses were granted to felons and misdemeanants in 1968 and 1969, subsequent to the suspension of plaintiff's license by the Commission in 1967, which was similarly based on his refusing induction (*Muhammad Ali v. Division of State Athletic Commission of the State of New York* 1970: 1248; Warren 2009: 171-181).

Principles of self-regulation determine that sports clubs have 'wide freedom' to introduce 'expert technical controls' or 'even "mid-Victorian" judgments of moral, quasi-aesthetic value' (*Muhammad Ali v. The Division of State Athletic Commission of the Department of State of the State of New York* 1969: 16) when developing criteria for inclusion and exclusion. Hence, a prior criminal conviction for assaulting a police officer might be of limited relevance when deciding whether a skilled athlete should be licenced, in contrast to the failure of a professional manager to testify at an external investigation into corruption, match fixing or antitrust violations (*Christensen v. Helfand* 1955). In each case, a value judgement helps to inform the enforcement of the rules of inclusion and exclusion. The value judgement in Ali's case was based principally on covert external surveillance practices identifying his political stance and high public profile as a risk to national security. Any internal surveillance of Ali's conduct was ultimately superfluous given his prominence within the sport. Therefore, while several athletes with violent criminal histories were deemed worthy of inclusion in the sport while Ali was suspended, the broader links between his political views and the national security and surveillance apparatus were sufficient to ensure his outright

ban from professional boxing, even though he had technically violated no internal rules to support the bans. Only time and a more sympathetic judicial attitude that led to the revocation of the licencing bans were sufficient to restore Ali's right to compete.

Example 2: Patron Bans, Surveillance and Event Tickets

Concerns over crowd misbehaviour in some Australian elite sports has led to the gradual tightening of banning provisions for disruptive, anti-social or violent behaviour. In the case of Australian soccer (Warren and Hay 2009), pitch invasions, destruction of venue seating and other property, the lighting of flares in enclosed spaces and the racial vilification of elite footballers by sports fans (Pierik and Gough 2013), have generated calls to implement membership and ticketing bans for up to five years against detected offenders (Willingham 2013; Palmer and Warren 2013; Palmer and Whelan 2007). Criminal provisions in major event legislation in the Australian state of Victoria allow for extended bans that apply to entry and egress zones in the vicinity of many closed or open event venues (Palmer and Warren 2013). The practice of banning conflates the idea of implementing a punishment once a public order infraction has been detected with a preventative and pre-emptive focus designed to limit the offender's ability to commit similar offences in future (Zedner 2007). The pre-emptive impact involves prohibiting banned persons from entering a sports venue or any surrounding public spaces before, during and immediately after a major fixture. In addition, a person banned for any proven criminal or summary offence is also subject to a sports club membership ban. The intention behind these combined public law enforcement and club membership prohibitions is to promote order in certain sports considered to be plagued by a history of law enforcement and surveillance deficits (Warren and Hay 2009).

It is potentially easier to deny a person access to a large sports venue through a membership ban rather than preventing the ability to purchase general admission tickets. Here, the connection between specific club goods for the benefit of members and broader public interests in accessing club services re-emerges (Cornes and Sandler 1986: 347-348), as the viability of most elite spectator sports is contingent on reserving a certain proportion of venue space for general admission patrons. However, as the processes of inclusion and exclusion are embedded facets of club membership, a person who is banned by police or the criminal courts for disorderly conduct can be more readily listed as a prohibited member within the club's electronic or paper records. When a banned person has no membership affiliation, and gains access only through regular general admission tickets, proof of identity is not normally required. A credit card may be used as a form identity authentication, but only to guarantee electronic payment via a relevant bank or credit company. General admission tickets are also transferrable, meaning a person's identity is not recorded on a ticket sold at the gate. However, a distinct form of identity authentication is currently invoked through online ticket sales. In the global virtual domain, where data sharing between public and private organisations is harder to limit, the logic of pre-emptive banning can be more efficiently enforced through online ticket sales (Rule 2007).

Authorised third party ticket providers manage online purchasing arrangements on behalf of sports Leagues, clubs and venue operators. A person requiring a pre-booked ticket must enter their name, address, land and mobile telephone numbers, a valid email address, credit card details and a current membership number. If any of these entries are deemed invalid the transaction is automatically terminated before a sale is completed. The circulation of a list of banned persons by police, venue managers or security personnel to a ticket company is one possible automated surveillance method that can specifically prevent club members or non-members from purchasing event tickets online. While there is no suggestion this is currently occurring, the technology exists subject to constraints on data sharing through information privacy law. In Australia, it remains unclear whether such data sharing processes are construed as a legitimate 'law enforcement' exception to constraints under privacy law designed to prevent information sharing. In principle, this method offers a more efficient method of enforcing venue bans than the current process of manually circulating a list of the names and accompanying photographs of banned persons to each ticket seller or monitoring those attempting to enter a venue through CCTV cameras.

As with other surveillance technologies adopted by public police, the efficiencies associated with electronic data and identity authentication technologies and their presumed benefits in improving public safety are likely to offset concerns over the sharing of personal information between public and private organisations (Warren *et al.* 2013). Information privacy law (Greenleaf, Waters and Bygrave 2007) and various internal and external law enforcement audit principles aim to curtail the extent of data sharing between disparate law enforcement agencies and private corporations (CLEDS 2007). However, extensive reforms to Australia's national privacy regime have been proposed to streamline electronic data flows and improve the ability of law enforcement agencies to access information from various private organisations to assist with criminal investigations (Parliament of the Commonwealth of Australia 2012: 58). Perhaps more troubling are the online identity authentication and information sharing practices currently invoked by private businesses to enhance convenience in e-commerce (Rule 2007). One example involves the same commercial provider that has the exclusive contractual right to sell ticket online for Australian Football League matches in Australia, and Major League Baseball in Canada. An Australian customer using this service in Canada does not have to re-enter their name, address, phone number, valid email address, credit card number or any accompanying sports membership details when seeking to purchase sports tickets offshore. The ability to recognise a consumer's personal details and online identity in a transnational context is as global as the business activities of this specialist ticket provider. This does not contravene established privacy laws and data management standards in either country, as the data is only shared 'within' the various divisions of this global corporation's virtual structure. Additional technological enhancements to sports tickets include the use of personalised digital tracking chips to prevent counterfeiting and promote safety for fans travelling to mega events such as the Olympic Games (Coaffee, Fussey and Moore 2011: 3321) and various mobile phone apps that can be linked to social software platforms using Quick Response Code readers to validate a pre-event purchase. Such multipurpose apps also use GPS and photographic technologies incorporated into social networking platforms to disseminate a person's identity and location within the venue to their 'friends' who might also be at the same event.

As the private sector offers lower cost enforcement and security services at major sporting events (Palmer and Whelan 2007), the pre-emptive ideals of inclusion and exclusion have the potential to streamline ban enforcement through the sharing of data through technologies that are currently used to sell tickets. While club membership already normalises identity verification through digital swipe cards and bar codes, general admission ticketing and cash purchasing currently subvert the extension of these processes to assist with the enforcement of patron bans, while providing banned club members an alternative method for gaining entry. Police already have significant identity authentication powers in public urban spaces. Nevertheless, there is currently minimal legislative guidance on the appropriate mode of ban enforcement or how existing and novel digital tracking technologies could be invoked for a legitimate law enforcement purpose. Private ticket providers already have the virtual infrastructure in place to enable online identity authentication or fraud. Given concerns over public security differ from conventional due process constraints on law enforcement activity, information sharing that currently occurs between private organisations is likely to be more liberal than in the public sphere (Greenleaf, Waters and Bygrave 2007) and can potentially transcend national borders through a single service provider operating transnationally. However, whether police can access such data or should be able to share equivalent enforcement information data with the private sector to assist with ban enforcement remains as debatable as the idea that banning unruly patrons for up to five years can reduce current levels of violence or disorder in and around major sports venues (Palmer and Warren 2013). While there is evidence police in some jurisdictions cooperate with venue owners to develop methods of reducing disorder through the sale of season tickets (Hamilton-Smith and Hopkins 2012), the broader surveillance implications of private and public data flows to enforce venue bans remain to be empirically examined (see for example Stott and Pearson 2006).

Example 3: Integrity, Sport and Organised Crime

On 7 February 2013, the Australian Crime Commission (ACC), Australia's principal criminal intelligence agency, released a 43-page report documenting various organised crime threats with the potential to compromise the integrity of professional Australian sport (ACC 2013). The report is part of the ACC's ongoing mandate to combat domestic and international organised crime syndicates by coordinating investigations and intelligence sharing between Australia's seven state and territory policing agencies, the Australian Federal Police, the Australian Customs and Border Protection Service (James and Warren 2010) and relevant international enforcement agencies including EUROPOL and INTERPOL. The report was launched soon after former champion cyclist Lance Armstrong confessed to US talk show host Oprah Winfrey about his systematic doping activities (BBC Sport 2013). Two days after this interview, EUROPOL announced a lengthy investigation had uncovered 'an extensive criminal network' involving up to '425 match officials, club officials, players, and serious criminals from more than 15 countries' alleged to have fixed the outcomes of up to 380 professional soccer matches throughout Europe. The result fixing involved clandestine payments to players and sports officials to produce pre-determined results and maximise winnings from bets placed with online gambling services operating outside Europe (EUROPOL 2013; AFP 2013). Within this backdrop, the ACC Director launched the organisation's most publicised investigation since its inception in 2003, flanked by the Chief Executive Officers of Australia's major elite sporting codes and the Federal Minister for Home Affairs and Justice. The report emphasises several vulnerabilities in Australian professional sports governance that provide scope for organised crime groups to undertake various 'enabler activities', such as identity theft, money laundering and targeted violence between rival syndicates, as well as more systematic market activities such as the supply of illicit drugs or performance and image enhancing substances (the latter known in Australia as PIEDS). The financial impact on professional Australian sport remains unknown, but is linked to broader estimates suggesting organised crime costs the Australian community between \$A10 and \$A15 billion annually (ACC 2011: 3).

The ACC's primary role is to identify 'risks posed by people, groups, markets and other matters affecting the strategic crime environment in Australia' (ACC 2011: 94). Most concern has focused on the suspected clandestine use of peptides and hormone supplements by professional AFL and National Rugby League (NRL) footballers. Many PIEDS are yet to be banned by the Australian Sport Anti-Doping Authority (ASADA) or WADA. Nevertheless, ACC intelligence suggests their apparent pervasiveness leads to four interrelated deficits in elite sports governance:

- the organised criminal infiltration of unregulated markets;
- their infiltration through legitimate businesses, contractors and consultants;
- illicit drug use and criminal associations; and
- differing levels of integrity oversight in professional sport in Australia (ACC 2013: 31).

The concept of integrity has remained undefined by the ACC and in subsequent coverage relating to this landmark report. Integrity has an implied association with 'fair play' and the idea that sporting outcomes are subject to the 'vagaries of chance' (Mewett and Perry 1997: 139) or are free from internal or external manipulation. However, it also implies open and transparent processes associated with conducting investigations through existing sports governance mechanisms. It appears the major threat to sports integrity identified by both the ACC and EUROPOL is the potential for global online gaming services to lead to match fixing and related corruption. This is facilitated by the routine online disclosure of an athlete's performance statistics, along with 'insider trading' that generates questionable 'betting plunges' on certain matches. While this emphasis involves a problematic convergence of criminal, recreational and law enforcement surveillance of athletic performance in a digital age, it also tends to support a definition of 'integrity' focusing on *outcomes* of sports events, rather than the more intricate *processes* associated with sports governance.

The ACC report triggered lengthy investigations by tASADA and various professional sports leagues into the use of unregulated PIEDS. Throughout 2013, ASADA officials interviewed up to 150 registered AFL and NRL athletes, administrators and staff (Benson and Jones 2013), while 50,000 documents had been examined by 31 May 2013 (Aston 2013). The investigation is likely to span several years and may even exceed the two to three year investigations into Lance Armstrong's activities by the US Anti-Doping Agency. Suspected athletes could face lengthy bans from competition imposed by ASADA, deregistration by their club or League, as well as criminal charges for drug related offences or providing false testimony to federal investigators (Prosenko 2013). The widespread controversy associated with this scandal (Lull and Hinerman 1997) has not only generated a raft of information sorting as part of the investigative process, but also led to various contentious forms of information dissemination by the Australian sports media in an attempt to identify suspect athletes and clubs before any formal internal or external investigations had concluded (McKenzie and Baker 2013a).

Sports Leagues can investigate 'all correspondence', including email communications, computer files, financial records and other electronic data associated with business activities of their affiliated member clubs (Gullan 2013; Andon and Free 2012; NRL 2011). However, the publication of seemingly confidential communications between athletes, coaches and a leading sport scientist considered by many to have engineered this scandal generated minimal public scrutiny. One report provided excerpts from 'confidential emails' documenting attempts by a former AFL player subsequently employed as a sales manager for a Melbourne health clinic to sell prohibited or unclassified PIEDS to several AFL clubs, horse racing stables and an A-League professional soccer club (McKenzie and Baker 2013b). A doctor employed by another AFL club was charged for 'bringing the game into disrepute', which had potential to affect his medical licence, after allegedly misleading investigators about his relationship with the sports scientist who devised the 'irregular' supplements programmes for several athletes and coaches at up to four AFL clubs since 2003 (Wilson and Lane 2013; AAP 2013). The League eventually dropped the charges after the doctor commenced legal proceedings in the Supreme Court of Victoria. A further series of text messages between the sports scientist alleged to have devised the illicit supplements programme, at least one current AFL player (Wilson 2013) and two current senior coaches (Pierik 2013) was also published in Melbourne newspapers. While coaches are technically exempt from the anti-doping rules governed by ASADA, the publication of such correspondence as both internal and external investigations were still being conducted had significant potential to prejudice the outcome of any final ruling. Invariably, the quest for 'truth' and the immense public interest in this scandal negated any critical discussion of the moral and legal dimensions of this form of media reporting. Ironically, as the sports scientist at the centre of these allegations was no longer employed by any Australian sports organisation at the time news of the scandal emerged, he was not legally bound to testify or provide documents to ASADA (Niall 2013).

The publication of such information raises several questions about the uses of surveillance in elite sport, as well as the public's 'right to know' the progress of investigations that are mandated to remain confidential until their completion. These examples reveal a series of deficits in the management of information that appear to replicate the vulnerabilities considered by the ACC to expose elite Australian sport to organised criminal activity. While the NRL has formed a specialist integrity unit chaired by a former Australian Federal Court judge (Walter 2013) and all AFL clubs will be required to appoint integrity officers in future (Pierik 2013), their impact in promoting enhanced surveillance within elite sports clubs is unclear. One club Chief Executive Officer (CEO) resigned in mid-2013 after an internal review found the PIEDS programme occurred because 'a number of management processes broke down, failed or were short-circuited' by high-performance coaches with no direct role in club governance (Switskowski 2013). Inadequate transparency in communication flows between coaches and club administrators was considered to compromise athlete welfare in this case. Such deficits in information flow also apply outside of athlete competition, and are evident in other contentious examples of club or League governance, including the use of recreational drugs by athletes, the posting of contentious statements or photographs on social media

sites, rowdy or violent behaviour in nightclubs or financial dealings with the potential to violate established audit requirements (Andon and Free 2012). Such violations are commonly deterred through the threat of internal club or League deregistration, bans and contract revocations for behaviour that could also lead to the instigation of criminal prosecutions by external regulatory authorities. However, rather than promoting more transparent dealings as part of the club ethos, this example, and numerous others involving allegations of systematic sports rule breaking, tend to move the other way and generate more clandestine forms of club, League and media surveillance designed to ‘exogenise the causes of ... [any sports] crisis to a narrow set of “cheats”’ (Andon and Free 2012: 149) through the power of exclusion that is an entrenched facet of club governance.

The ACC report also generated several legislative proposals aimed at strengthening ASADA’s external surveillance and investigatory powers. These measures are validated by statistics documenting substantial increases in the number of PIEDs seized by Australian Customs and Border Protection officials in recent years. The ACC report documents a 106 per cent increase in the number of PIEDS and a 255 per cent increase in illegal hormone-related products detected since July 2009 (ACC 2013: 12). These figures are part of ongoing annual increases in the detection of PIEDS entering Australia since July 2003 (James and Warren 2010). Such figures suggest increased demand for untested sports supplements is prompted by the ease of global online purchasing and supply networks. However, they are also indicative of the increased surveillance of questionable imported items by Australian border control officials. Proposed reforms to ASADA’s legislation reiterate how deficits in the governance or regulation of certain activities associated with sports governance by either internal or external authorities lead to a predictable legitimisation of further surveillance to enhance ‘information sharing arrangements with other government agencies’ for law enforcement purposes (Parliament of the Commonwealth of Australia 2013: 2). As a result of the ACC report, ASADA’s CEO may now to compel athletes and other sporting officials to provide oral testimony and produce ‘information, documents, materials or things’ associated with any major anti-doping investigation (Parliament of the Commonwealth of Australia 2013: 6). These powers replicate the current internal surveillance and investigative powers held by major sports Leagues to review the email correspondence and text messages associated with club business. Any right not to testify for fear of self-incrimination is also revoked (Parliament of the Commonwealth of Australia 2013: 8-9), even though evidence requested by ASADA that might be sufficient to generate a penalty by the sports governing body remains protected from further disclosure in subsequent criminal or civil proceedings to protect the identity of the athlete. Thus, the power for clubs and Leagues to ban athletes or coaches suspected of involvement in doping remains the main penalty for any proven violations, while the surveillance capacities of external investigative bodies such as ASADA are strengthened.

ASADA also has increased capacity to share relevant intelligence with the Australian Customs and Border Protection Service regarding the actual or suspected importation of prohibited substances into Australia. Such information flows have potential to involve professional sports governing bodies throughout Australia in the face of more transparent governance alternatives. As a result, club and League integrity officers are likely to undertake expanded internal surveillance and disciplinary functions, and share this information with relevant state and federal criminal law enforcement agencies, medical registration authorities in Australia and overseas (*Australian Sports Anti-Doping Authority Act 2006*: ss. 67-71) or offshore investigative agencies. In addition, ASADA is now empowered to establish confidential investigative and intelligence sharing arrangements with Australia’s governmental postal service.

Australia Post will assist ASADA’s intelligence and investigations through the provision of up-to-date information regarding persons residing at addresses which could be helpful in identifying athletes who are receiving prohibited substances through the post. Australia Post is also the only agency able to provide information relating to post office box registrations. ASADA will not be able to intercept or examine the contents of any mail items (Parliament of the Commonwealth of Australia 2013: 3).

Proposed amendments to Australia's federal privacy laws promise to enhance such confidential information sharing for any law enforcement purposes. This could extend to the solicitation or sharing of personal information held by private companies with police to enhance the enforcement of patron bans and prohibitions on club membership for violent and disorderly conduct at major sports events. It could also extend to the transfer of private communications obtained by club and League officials to intelligence agencies including ASADA, the ACC or various specialist sports integrity units established by state and federal police with the power to investigate organised crime and integrity in professional sport in line with the concerns expressed in the ACC's landmark report (Staff Writers with AP, AFP 2013). Such enhanced surveillance powers enable the personal information of any registered athlete, coach or administrator to be gathered without their consent if it is considered 'reasonably necessary' to 'promote the Government's service delivery, taxation, law enforcement and national security objectives' or where the 'life, health or safety of an individual' or the general public is considered to be at risk (Parliament of the Commonwealth of Australia 2012: 46). This has the potential to generate tighter surveillance within professional sports clubs and Leagues to avoid any scandals that have the potential to generate external law 'enforcement related activity'. Claims these proposals comply with current Australian state and federal human rights requirements are offset by the scale and reach of these external 'surveillance ... intelligence gathering ... and other monitoring activities' that are designed to protect the integrity of sports competition (Parliament of the Commonwealth of Australia 2012: 58). Interestingly, such internal surveillance powers are already possible within the self-governing environments of professional sports clubs and Leagues, yet have been poorly enforced according to the ACC's investigations.

Finally, the media's willingness to report confidential communications while both internal and external investigations into the PIEDS scandal were continuing adds a further dimension to this multifaceted surveillance milieu. Ironically, these 'leaks' appear to reveal the same deficits in sports governance identified by the ACC that appear to make Australian professional sport vulnerable to the influence of organised crime syndicates. However, if such vulnerabilities involve robust investigative journalism that seeks to report the truth about sport, they appear acceptable in the public interest.

Making Sense of Surveillance and Professional Sport

These examples demonstrate how discrete elements of surveillance and sports governance are legacies of a complex interplay with external law enforcement, security and political authorities. As Cornes and Sandler (1986) aptly demonstrate, the nature of club goods is not solely confined to providing subscribers with certain benefits associated with valid membership. Rather, these processes and their inclusionary or exclusionary character are tempered by how the internal cultural practices of surveillance associated with the enforcement of internal rules governing fair play and the processes of sports administration are viewed by external law enforcement and governance authorities.

The Ali case exemplifies how a perceived threat to civil order can influence sports governance decisions relating to in- and exclusion. Ali's success as an athlete during the 1960s became a platform for his quest to publicise the civil rights struggles in the US. Through systematic external surveillance by military draft authorities and national security agencies monitoring his political and religious activities as well as those of other activists, Ali's exclusion from professional boxing personified the connections between surveillance and sport as a natural legacy of the structure of club governance. The external security concerns that directly influenced the decision to ban Ali from professional boxing extended on many previous examples involving allegations of corruption, organised criminal activity and anti-competitive sports management practices (Warren 2009). They also replicate a broader 'drift to criminalisation' identified in other sports, such as junior ice hockey in Canada, where the internal controls are considered insufficient to prevent violence by young athletes, then generate an increased willingness by police to commence criminal prosecutions for such behaviour (Young 2012). In each case, the enhanced use of external surveillance and

regulatory intervention help to trigger more intensive internal governance through the power to ban or revoke the membership of suspected law-breakers.

Similarly, the perceived failure of Australian sports clubs and Leagues to develop appropriate self-governance methods to avert organised crime risks has led to a marked surveillance surge (Murakami Wood 2009) to enhance the investigative and information sharing capacities of ASADA and related criminal law enforcement agencies. The ACC report provided the catalyst for expanded external and internal surveillance powers over sports activity and governance. While such surveillance might be deemed necessary to scrutinise the activities of suspect athletes, coaches and officials in formal governance positions, whether its reach is appropriate both within and beyond sport remains open for further scrutiny.

These developments move in another trajectory in the realm of patron disorder. Here, sports authorities and private corporations increasingly have the technological capacity to ensure the efficient enforcement of patron bans through current identity authentication methods. The potential global enforcement of such bans through the use of online identity authentication processes that enable ticket sales to be undertaken with speed and convenience also raises questions regarding the transnational flows of personal information. Data sharing that enables rapid ticket purchasing within distinct branches of the same transnational corporation (Rule 2007) is yet to be considered a legitimate law enforcement exception to Australian privacy requirements. Given the difficulties in developing efficient methods of identity authentication to enforce patron bans, these issues are likely to generate considerable discussion amongst privacy advocates and surveillance scholars in future, particularly in light of the political willingness to embrace short- or long-term venue bans, rather than more vigilant security checks, as a viable order maintenance strategy (Palmer and Warren 2013).

These discrete case studies are linked by the power of clubs to determine their own rules and membership criteria based on principles of inclusion and exclusion, and the commensurate overriding power of the state to influence those rules in the interests of justice or national security. While courts can undertake an important surveillance function with the potential to correct any arbitrary membership decisions that are influenced by external law enforcement imperatives, such as in Ali's case, their willingness to overturn questionable internal administrative rulings remains limited. However, the expanded power of external criminal investigative agencies to access and share information about internal sports governance arrangements demonstrates how public enforcement, surveillance and legal consideration often work to reshape pre-existing self-regulatory processes in response to an actual or perceived crisis in sports administration. The legacy of the ACC report is various public authorities have been granted equivalent or enhanced surveillance powers as those already held by sports governing bodies to rectify perceived governance deficits that contribute to these scandals (see Shearing and Wood 2003). Athletes, coaches and club officials are therefore subject to more extensive internal and external surveillance of their activities to promote the ill-defined notions of sports integrity through the beneficial objective of protecting athlete welfare. The expansion of external surveillance power to rectify internal governance deficits in professional sports is a particularly salient area of future inquiry, given their immense public appeal, the rather nebulous conception of privacy associated with sports participation and the relative lack of critical scrutiny of the implications of the related surveillance surge in contemporary law enforcement.

The key question raised by these examples involves determining the level of responsible or appropriate internal and external surveillance, both in these discrete contexts and in light of the distinct character of sport more generally. The internal governance practices identified in each case study presented here offer a pertinent starting point for further inquiry into the intersections between internal and external regulatory, integrity management, investigative and surveillance measures. As with the limited previous research into surveillance and sport, this paper demonstrates 'the notion of the panopticon becomes multiplied and employed not just in one site but many' (Manley, Palmer and Roderick 2012: 315). This is a direct legacy

of the multiple modes of governance that impact on sports fans, athletes, coaches and administrative staff, and how sports controversies are identified, overlooked or interrogated through discrete internal and external governance and accountability processes. As banning is a normalised dimension of club membership, 'who has the power to ban' and 'what accountability mechanisms are in place' emerge as critical questions resulting from this discussion. These issues warrant close attention in the surveillance field, given the idea of self-regulation and all encompassing surveillance within sport does not eliminate rule breaking or the processes of external regulatory oversight.

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