



## ***News Release***

**[NOTE: A SUPPLEMENTAL REPORT WAS ISSUED ON FEBRUARY 20, 2009, MODIFYING PORTIONS OF THIS REPORT WHICH PERTAINED TO FORMER ASSISTANT COACH A.]**

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### **INDIANA UNIVERSITY, BLOOMINGTON** **PUBLIC INFRACTIONS REPORT**

#### **A. INTRODUCTION**

On June 13-14, 2008, officials from Indiana University, Bloomington and its outside counsel appeared before the NCAA Division I Committee on Infractions. Also attending the hearing were the institution's former head coach (the "former head coach") and two former assistant coaches ("former assistant coaches A and B") each accompanied by legal counsel, as well as the director of athletics at the current employing institution of former assistant coach A. The hearing was held to address allegations of violations in the men's basketball program. The violations were of NCAA bylaws and also arose out of the failure to adhere to penalties set forth by the committee in Infractions Report No. 250 - University of Oklahoma that were adopted by the institution pursuant to its employment of the former head coach. As in the Oklahoma case, the underlying violations in this case involve prohibited telephone calls. The prohibited calls violated three separate committee penalties imposed in the Oklahoma case as well as basic NCAA recruiting legislation. The circumstances surrounding the phone calls in this case resulted in a failure to monitor finding against the institution. They also resulted in unethical conduct findings against both the former head coach and former assistant coach A, as well as findings against the former head coach of failing to monitor his program and to promote an atmosphere of compliance within it.

The institutional failure to monitor finding was based on an allegation made by the committee subsequent to the June 13-14 hearing that supplemented allegations made by the enforcement staff. The additional allegation was made pursuant to the committee's obligation independently to assess the facts and circumstances of each case and to assure that findings and penalties are commensurate with the scope and magnitude of rules violations. The committee takes seriously its independent role to assure that processes,

findings, and penalties are fair to the institution and individuals who appear before it as well as to those other institutions that rely on the enforcement and infractions processes to keep the playing field level and to underscore rules-compliant behavior. In exercising its independent responsibilities in previous cases, the committee has found violations to be major that were alleged by the enforcement staff to be secondary (and vice versa). It has added allegations against an institution, but declined to make the same findings against an individual; and it has declined to find some, or on rare occasion, all violations alleged by the enforcement staff against an institution or an individual. In past cases, the committee also has added findings of a lack of institutional control, failure to monitor a program by a head coach, unethical conduct, and, as in this case, institutional failure to monitor.

The committee hearing in the Oklahoma case was held on April 21, 2006. The institution hired the former head coach on March 29, 2006, with knowledge of the pending infractions case. Institutional officials attended the hearing in the Oklahoma case, including the director of athletics (the "athletics director") and the then assistant director of athletics for compliance and currently the senior assistant director of athletics for recruiting and enrollment (the "assistant athletics director for compliance"). The Oklahoma report was released on May 25, 2006. The committee found that the former head coach failed to monitor his program and promote an atmosphere of compliance within it (577 prohibited phone calls to 17 prospects made by the coaching staff) and that he himself intentionally made 233 of the prohibited calls. Committee penalties against the former head coach and his program were adopted by the institution. The former head coach signed two compliance agreements with the institution in which he acknowledged his understanding of the penalties imposed on him and his program and affirmed his obligation to comply. (See Appendix One for a recitation of the infractions history and imposition of penalties in this case and in the Oklahoma case, as relevant, as well as the process related to the institutional failure to monitor finding.)

As acknowledged at the hearing by both the institution and the Big 10 Conference, but disputed by the former head coach, his was a "risky" hire necessitating heightened scrutiny to guard against further violations by him or in his program. The committee has previously discussed such hiring decisions:

Any system designed to provide institutional control, no matter how well conceived, organized, and implemented, can be undermined for a period of time by an individual determined to violate NCAA rules. Certainly the best safeguard to assure no such undermining and, therefore, to demonstrate institutional control, is to retain staff members who have

integrity and a commitment to doing things the right way. Staffing decisions, particularly those undertaken with notice of past problems, are relevant to a determination of institutional control. (Infractions Report No. 215 - Chicago State University).

Infractions Report No. 215 - Chicago State University. Indiana University reported that it attempted to "vet" its hire of the former head coach, a claim the committee does not challenge. The record is clear, moreover, that the institution hired him with a firm intention to assure rules compliance by him and in his program and that it made significant effort to put systems in place to facilitate enhanced and focused monitoring. The intention to provide enhanced and focused monitoring was simultaneous with the hire of the former head coach, but implementation of enhanced and focused monitoring was not. The result was that the university was playing catch-up to achieve the heightened monitoring it knew was required. Its monitoring of the former head coach and the men's basketball program proved both untimely in execution and inadequate to fulfill the requirements of heightened scrutiny.

The compliance staff knew that the men's basketball staff was not complying fully and strictly with compliance requirements, including those additional requirements instituted because of the hire of the former head coach. As described more fully in Finding B-3-c, and as the institution reported, logs submitted by the men's basketball staff were "frequently late," with "numerous errors" and "sloppiness throughout." The failure of the compliance staff to assure strict adherence to compliance requirements was attributable to its efforts to maintain good relations with the men's basketball coaching staff. Maintaining such good relations certainly is a worthwhile goal and often facilitates the work of compliance staff. The ultimate institutional responsibility, however, is to assure rules-compliant behavior and the timely discovery and reporting of violations. Rules education; the creation, collection, and review of forms to track activities related to, among other things, recruiting phone calls; and other such compliance measures are not ends in themselves. When maintenance of good relationships with coaches and other staff impedes an institution's monitoring and oversight responsibility, then monitoring and oversight must take priority. That this did not occur is evident from the following exchange that occurred at the hearing between a committee member and the institution's associate director of athletics for student development and compliance ("associate athletics director"):

**ASSOCIATE ATHLETICS DIRECTOR:** To get at the culture of the program, this is a head coach and a staff that never turned in a self-reported violation. Every interaction that we would have to have would be

pulling information out of them. There was constant back and forth to try and get the information that we needed. It was difficult every step of the way.

**COMMITTEE MEMBER:** When people are just lax or on the verge of being sloppy, for the lack of a better word, in turning in these reports, do you have a procedure of documented disciplinary actions that will be taken when, not only basketball, but basketball given the situation . . . ?

**ASSOCIATE ATHLETICS DIRECTOR:** No, we didn't, and in retrospect we should have. We tried to maintain a collaborative relationship. But no, in retrospect we should have done that.

Monitoring often is not popular. It requires a healthy skepticism by compliance staff, follow-through to assure that what is reported is what occurred, and the fortitude to achieve strict adherence by coaches and others to their compliance responsibilities. Certainly the committee appreciates the difficult position in which compliance staff may find themselves when approaching with a skeptical eye inquiries to staff with whom they work and daily interact. Equally, the committee appreciates the difficult position in which compliance staff may find themselves when they require strict staff adherence to compliance obligations, particularly as they relate to what often are perceived as tedious tasks such as the accurate completion and timely submission of logs, reports, and other paperwork. But this is the minimum required under NCAA tenets of monitoring and institutional control even absent the heightened scrutiny demanded in this case by the prior rules violations of the former head coach.

The compliance effort required in this case was made more difficult by attempting to put in place additional monitoring mechanisms "on the fly," as it were. Committee penalties were to be in effect for one year, ending in May 2007. Enhanced and focused monitoring, therefore, had to be in place at the start if compliance with committee penalties was to be fully achieved.

Implementing enhanced and focused monitoring was a large job for the institution's compliance staff, particularly during the first several months after the employment of the former head coach. As the institution explained, it was July or August 2006 before itemized paper phone records were available. Had it engaged in close manual review at that time, the institution should have uncovered the May and June 2006 telephone violations described in Finding B-1-b as well as the May through August 2006 violations described in Findings B-1-a and B-2. Such close manual review also likely would have

prevented subsequent violations. The institution reported that close manual review would have been arduous and time-consuming, and the committee has no doubt that this is true. But such review was necessary if the institution was to fulfill the precise responsibility it undertook when it hired the former head coach – enhanced and focused monitoring from the outset, not several months to more than one year later.

In concluding that the institution failed to monitor the men's basketball program, the committee by no means understates the intentional nature of the violations committed by the former head coach and former assistant coach A nor minimizes the monitoring difficulties faced by the institution. Compliance is a shared responsibility, as is responsibility for the commission of violations. Monitoring responsibility falls first on an institution and its compliance staff but also on the head coach of a program. Responsibility for rules violations falls both on the individual committing the violations as well as on the employing institution.

Telephone violations such as those committed in this case are significant, and understood to be so by coaches. NCAA bylaws imposing recruiting limits are designed both to maintain a level playing field and also to protect student-athlete well-being. The committee has heard repeatedly from coaches and others that recruiting is about building and maintaining relationships with prospective student-athletes. Coaches are uniquely situated to identify violations that produce a significant recruiting advantage. As the committee wrote in the Oklahoma report, the former head coach presided over an ethics summit called by the National Association of Basketball Coaches (NABC) where prohibited phone calls were identified by the college men's basketball coaches themselves as an area of prime concern requiring strict coach compliance and accountability.

Among the prohibited phone calls are three-way calls (Finding B-1-b) initiated or facilitated by former assistant coach A and involving him, the former head coach, and prospective student-athletes or their parents or guardians. Both coaches acknowledged that such phone calls occurred. The former head coach claimed not to know that former assistant coach A initiated and/or facilitated and/or participated in the phone calls, a claim that the committee finds not credible. Former assistant coach A gave conflicting explanations for the phone calls, at one point claiming that he thought they were in a "gray area." The committee finds this last explanation inexcusable, if true, and, in any event, neither this nor any of his explanations credible. Former assistant coach A also violated other committee phone call penalties adopted by the institution (Finding B-1-a) as well as basic NCAA telephone recruiting legislation (Finding B-2).

The former head coach and former assistant coach A intentionally flouted telephone penalties imposed in the Oklahoma case. Their conduct was intended to nullify penalties that were crafted to match the severity of the violations for which the head coach was responsible, to offset any recruiting or other advantage achieved from those violations, and to support and underscore the compliance efforts of institutions not before the committee. The conduct of both coaches undermines an enforcement and infractions process that depends on the cooperation, and rules compliance, of coaches and institutional staff members.

The violations committed by the former head coach and former assistant coach A were committed intentionally, with knowledge that they were violations. Such violations are more serious than the same violations committed inadvertently or with lack of knowledge that they are violations. The violations committed by former assistant coach A violated three separate penalties imposed by the committee in the Oklahoma case as well as general NCAA telephone recruiting legislation. Conduct constituting violations of several different rules or penalties is more serious than equivalent conduct that violates one rule. The former head coach's conduct is unprecedented. He ignored signed compliance agreements with the institution in which he agreed to comply with the penalties imposed on him and his program due to his commission of violations in the Oklahoma case. He ignored telephone penalties imposed on him in that case and committed the same type violations for which he had already been penalized during the same time that those penalties were in effect.

Both coaches violated the principles of ethical conduct not only by their intentional commission of the phone violations but by making false and misleading statements. The intentional violations by the former head coach and his staff also led to findings against him of failure to monitor his program and failure to promote an atmosphere of compliance within it.

Subsequent to issuance of an institutional failure to monitor allegation by the committee, the institution announced the resignation of the athletics director. Issuance of the enforcement staff's notice of allegations earlier had led to the departure of the former head coach. That departure contributed to a decimation of the men's basketball program – the institution reported that it has but two returning student-athletes, only one of whom is on scholarship and even he started as a walk-on. According to the institution, through fall 2007 all basketball student-athletes were making satisfactory academic progress as defined by NCAA bylaws and consistent with academic performance program requirements. Also according to the university, the upheaval attendant to the departure of

the former head coach affected that academic progress. The committee considered these circumstances in assessing penalties.

Until this case, the institution had an almost 50-year record free of major infractions of which the institution was justly proud and for which it deserves commendation.

A member of the Big 10 Conference, the institution has a total enrollment of approximately 40,000 students and sponsors 11 men's and 13 women's intercollegiate sports. This was the institution's third major infractions case. Its prior infractions case were in 1957 (football) and 1960 (football).

## **B. FINDINGS OF VIOLATIONS.**

### **1. VIOLATIONS OF PENALTIES IMPOSED BY THE COMMITTEE AS SET FORTH IN INFRACTIONS REPORT NO. 250 (UNIVERSITY OF OKLAHOMA). [NCAA Bylaw 2.8.1, Penalties III-E, III-F and III-L of Infractions Report No. 250]**

Between May 25, 2006, and July 31, 2007, members of the men's basketball staff violated committee Penalties III-E and III-F set forth in Infractions Report No. 250 that were self-imposed by the institution when it hired the former head coach and adopted by the committee as its own, as well as Penalty III-L of Infractions Report No. 250. The violations are as follows.

- a. Members of the men's basketball coaching staff made 100 or more telephone calls to prospective student-athletes, their parents and legal guardians that exceeded monthly phone limits imposed by the committee (Penalties III-E and III-F of Infractions Report No. 250); former assistant coach A made 94 of these calls; and
- b. The former head coach and former assistant coach A together engaged in 11 prohibited three-way recruiting telephone calls with six prospective student-athletes ("prospects 1, 2, 3, 4, 5, and 7") and the mother of a prospective student-athlete ("prospect 9") (Penalty III-L of Infractions Report No. 250); and
- c. The former head coach and former assistant coach A together engaged in five or more additional prohibited three-way phone calls that occurred

when former assistant coach A placed a phone call and then "handed off" the phone. (i) On at least one occasion, former assistant coach A placed a phone call to a prospective student-athlete ("prospect 6") and then handed off the phone to the former head coach. (ii) At least four more times, former assistant coach A phoned the former head coach and then handed off the phone. These handoffs included prospects 3, 5, and 7 and the mother of a prospect ("prospect 8") (Penalty III-L of Infractions Report No. 250).

### **Committee Rationale**

The enforcement staff and the institution agreed with the facts of this finding and that NCAA violations occurred. Former assistant coach A agreed that he made prohibited telephone calls as per Finding B-1-a, but claimed that there were mitigating factors for some of the calls. He also agreed that he initiated and/or facilitated and/or participated in three-way telephone calls as set forth in Finding B-1-b but denied knowing that these calls violated committee penalties imposed in the Oklahoma case. With regard to Finding B-1-c, former assistant coach A denied handing off the phone to the former head coach (Finding B-1-c(i)). Although he admitted he engaged in three-way phone calls where he handed off the phone, he denied making the handoff phone calls to prospects 5 and 7 and the mother of prospect 8 (Finding B-1-c(ii)) that are set forth above. He also claimed that he did not know such handoff phone calls were prohibited. The former head coach did not contest telephone records showing that he participated in the three-way telephone calls set forth in Finding B-1-b, but he denied knowing that they had involved, or been initiated or facilitated by, former assistant coach A. The former head coach also denied participating in the call set forth in Finding B-1-c(i) and said he did not remember participating in the phone calls listed in Finding B-1-c(ii). The committee finds that the violations occurred.

### **Regarding Finding B-1-a.**

The 100 or more prohibited recruiting telephone calls set forth in this finding violated Penalties III-E and III-F imposed in the Oklahoma case. The vast majority exceeded committee limits of one phone call every other month to prospective student-athletes or their legal guardians after June 15 of the prospects' sophomore year in high school through July 31 of their junior year (Penalty III-E of Infractions Report No. 250). Nine calls exceeded committee limits of one call weekly to prospective student-athletes or their legal guardians on or after August 1 preceding their senior year in high school (Penalty



F); former assistant coach A placed seven of these. Former assistant coach A admitted that he made 94 prohibited telephone calls but claimed mitigation for some of them.

One category of phone calls for which former assistant coach A claimed mitigation involved one- and three-minute long phone calls where he said he left a message. At the hearing, former assistant coach A agreed that once a countable phone call is made (the trigger call), then any subsequent phone call within the countable time period, no matter how short, is a violation. The phone calls contested by former assistant coach A as too short to constitute countable calls, therefore, were those he claimed were misidentified as trigger calls. The committee has previously said that there is no legislative authority for classifying calls as non-countable simply because of their length (Case No. M270 – Texas Christian University). The committee also has said that contemporaneous documentation may offer adequate explanation for a violation but neither negates the violation nor avoids the obligation to report it. The contemporaneous documentation provided by former assistant coach A was insufficient to rebut a conclusion that the calls were countable, even if this was an approach the committee were to endorse and even if the committee had made no findings of his lack of credibility (described here and in Findings B-2 and B-4).

Fourteen of the 94 prohibited calls were made to the mother of twin prospective student-athletes. Former assistant coach A claimed these phone calls were permissible as he was entitled to make a separate recruiting phone call for each twin. As confirmed by NCAA membership services staff, recruiting phone calls count separately only when the subject of the conversation exclusively relates to one twin. In this case, the twins' mother reported that former assistant coach A spoke about both. Nonetheless, where assistant coach A documented a phone call as relating to only one twin, that phone call was not included as prohibited.

Former assistant coach A also claimed that some of the phone calls to a prospective student-athlete's father who also was his high school and Amateur Athletic Union (AAU) coach were inquiries about prospects on these teams, not recruiting calls about his son. The conclusion that these phone calls are prohibited is based on contemporaneous documentation provided by former assistant coach A. Those he specified as related to the prospect are among the 94 prohibited phone calls while those phone calls simply listed as made to the coach/father are not included as prohibited.

Finally, former assistant coach A claimed that eight calls were "logging errors." Notwithstanding this claim, all 94 prohibited phone calls are supported by phone records.

The committee underscores here that even if some of the challenged telephone calls in Finding B-1-a were excluded, the remaining violations still would be major both as to former assistant coach A and the institution, standing alone and also when grouped with the violations in Findings B-1-b, B-1-c, and B-2. The violations in Finding B-1, moreover, constitute a blatant disregard of the committee's penalties coming from the Oklahoma case and applicable to the institution.

Regarding paragraph B-1-b.

Pursuant to penalties imposed on the former head coach in the Oklahoma case, he was prohibited from placing telephone calls to prospective student-athletes or their parents or legal guardians or being present when such calls were made. This prohibition meant that the former head coach could not participate in a telephone call when initiated or facilitated by an assistant men's basketball coach. The former head coach conceded that phone records showed that he participated in 11 such three-way phone calls. Former assistant coach A admitted placing ten of them (he disputed a May 31 phone call to prospect 4). The former head coach denied knowing that the telephone calls were three-way calls placed by former assistant coach A, and former assistant coach A denied knowing that three-way telephone calls violated committee penalties adopted by the institution. As explained in Findings B-3 and B-4, the committee finds neither denial credible.

Institutional phone records show that former assistant coach A placed the following 11 three-way phone calls: two phone calls to prospect 3 (August 22 and October 4, 2006), as well as a May 31, 2006, phone call to his coach and a June 9, 2006, phone call to his grandmother; two phone calls to prospect 5 (January 29, 2007, and April 5, 2007); one phone call each to prospects 4 and 7 (May 31, 2006, and October 4, 2007); one phone call to prospect 2's coach (June 19, 2006); one phone call to prospect 1's father (February 7, 2007); and one phone call to prospect 9's mother (May 1, 2007). There also was a three-way phone call on June 1, 2006, from an "unpublished Detroit cell number."

The former head coach argued that the three phone calls made prior to June 13, 2006, should be excluded from the list of prohibited three-way calls. On May 30, 2006, a meeting was held between the men's basketball coaching staff and senior institution administrators to review the May 25 Oklahoma infractions report and the penalties there imposed. On June 12, 2006, the institution received a committee response to questions posed to it as a result of the May 30 meeting, including committee confirmation that three-way phone calls were prohibited. On June 13, the assistant athletics director for compliance conveyed the committee response to the coaches by e-mail and hard copy.

The former head coach argued that three-way phone calls prior to June 13 were not made with knowledge that they were prohibited. For reasons discussed more fully in Findings B-3 and B-4, the committee finds this argument untenable.

Former assistant coach A denied he initiated the three-way call with prospect 4 set forth above, claiming that the prospect's information was inaccurate, inconsistent, and uncorroborated. In his initial interview, prospect 4 said the phone call occurred in July 2006 during the Speice Indiana basketball tournament. As former assistant coach A correctly noted, that tournament ended on May 6, 2006, and there is no phone record corroborating a three-way phone call made at that time. In a subsequent interview, prospect 4 corrected that information and said that the three-way phone call occurred after his participation in the King James Classic Tournament (which took place April 28-30, 2006,) but prior to his unofficial visit (June 15). He also said that he phoned former assistant coach A and that former assistant coach A connected the former head coach to the call. Institutional phone records corroborate this account as they show a May 31, 2006, three-way call between an unidentified incoming number, former assistant coach A and the former head coach. The committee reviewed all the information concerning this phone call, including the information provided by former assistant coach A and the two interviews with prospect 4, and concludes that the phone call with prospect 4 took place. Finally, the committee emphasizes that, even excluding the three challenged telephone calls, the prohibited B-1-b telephone calls constitute a major violation with regard to the former head coach, former assistant coach A, and the institution both standing alone and when grouped with Finding B-1-c (and, for the institution and former assistant coach A, when grouped with Findings B-1-a and B-2). In addition, their knowing and intentional commission was a blatant disregard of committee penalties coming from the Oklahoma case and applicable to the institution.

Regarding paragraph B-1-c.

Both the former head coach and former assistant coach A denied that former assistant coach A phoned prospect 6 and then handed off the phone to the former head coach (Finding B-1-c (i)). Both prospect 6 and his high school coach reported that on at least two occasions former assistant coach A phoned them and then put the former head coach on the phone. Former assistant coach A also challenged all other handoff calls set forth in this finding, except the call to prospect 3. With regard to prospects 5 and 7, former assistant coach A claimed the phone calls made to the former head coach were placed by the high school coaches of the prospects, not by him. Not only did information about these disputed calls come from two prospects, a high school coach, and a prospect's mother, but former assistant coach A admitted that he placed phone calls such as these to

the former head coach and then handed the phone off to a prospect or parent or guardian. He nonetheless claimed these particular phone calls did not occur and challenged them based on what he claimed was the internal inconsistency of the information provided by the prospects and others and also because of what he argued was the absence of phone records.

Phone record evidence documenting the existence of a telephone call is, no doubt, important corroborative evidence. But the absence of telephone call records clearly pointing to the date and time a call was made is not dispositive. The committee reviewed the primary evidence coming from the prospects themselves, family members and others, and determined that the information is reliable. For the reasons set forth throughout this report, and particularly in Findings B-3 and B-4, the committee questions the credibility of both the former head coach and former assistant coach A. For all these reasons, the committee finds that the handoff phone calls occurred and that they constitute a major violation with regard to the former head coach, former assistant coach A, and the institution both standing alone and when grouped with Finding B-1-b (and, for the institution and former assistant coach A, when grouped with Findings B-1-a and B-2). In addition, their knowing and intentional commission was a blatant disregard of committee penalties coming from the Oklahoma case and applicable to the institution.

## **2. PROHIBITED TELEPHONE CALLS. [NCAA Bylaw 13.1.3.1.2]**

More than 30 times from May 7, 2006, through June 27, 2007, members of the men's basketball staff placed more than the one permitted phone call monthly to prospective student-athletes or their legal guardians after June 15 of the prospects' sophomore year in high school through July 31 of their junior year. Former assistant coach A placed 30 prohibited calls, as follows.

- a. On May 11, 2006, former assistant coach A placed a prohibited phone call to prospect 10 or his parent or legal guardian.
- b. During May 2006, former assistant coach A placed three prohibited phone calls to prospect 4 or his parent or legal guardian.
- c. On June 25, 2006, former assistant coach A placed a prohibited phone call to a prospect ("prospect 11") or his parent or legal guardian.

- d. During July 2006, former assistant coach A placed two prohibited phone calls to prospect 3 or his parent or legal guardian.
- e. From March 1 through June 27, 2007, former assistant coach A placed 20 prohibited phone calls to prospect 8 or his parent or legal guardian.
- f. From March 26 through April 15, 2007, former assistant coach A placed three prohibited phone calls to a then prospective student-athlete ("prospect 12") or his parent or legal guardian.

### **Committee Rationale**

The enforcement staff and the institution agreed with the facts of this finding and that NCAA violations occurred. The institution contended that the violations were secondary. Former assistant coach A agreed that he made all but three of the prohibited phone calls. The committee finds that the violations occurred and that they are major as to both the institution and former assistant coach A.

To constitute secondary violations, conduct, either in itself or grouped with other violations, must be isolated or inadvertent, provide (or be intended to provide) only a minimal recruiting, competitive, or other advantage and not include any significant recruiting inducement or extra benefit. The prohibited phone calls set forth in this finding were violations of generally applicable and fundamental NCAA recruiting telephone limits. In an environment he admitted was one of heightened scrutiny, former assistant coach A not only failed to adhere to the stricter phone call limits in place because of committee penalties imposed in the Oklahoma case (Finding B-1), but 30 times he even failed to adhere to generally applicable NCAA phone call legislation.

The committee finds that a clear majority of the telephone calls made by former assistant coach A were not inadvertent. The committee makes this finding independent of the heightened scrutiny applied to the men's basketball program resulting from the prior infractions history of the former head coach. Applying that heightened scrutiny, the committee finds that none of the telephone calls may be characterized as inadvertent because all of them were made by a coach who knew he needed to be on exceptionally high alert.

The committee also finds that the prohibited phone calls provided more than a minimal recruiting advantage. Successful recruiting depends on establishing positive relationships with prospective student-athletes and their families. Telephone calls with prospects are

pointed to by coaches as an important aspect of building those relationships. A coach who exceeds NCAA bylaw limits on recruiting phone calls, therefore, achieves a recruiting advantage. As the committee noted in the introduction to this report, the former head coach presided over an ethics summit called by the NABC where prohibited phone calls were identified by the coaches themselves as a serious issue and where coaches were admonished to be accountable.

The committee further finds that the phone calls listed in this finding were not isolated. There were more than 30 prohibited phone calls made by two different coaches to eight prospects and those associated with them (and 30 of them were made by former assistant coach A).

Neither the institution nor either of the former coaches disputed the fact that the violations set forth in Finding B-1 are major. Those violations, and the ones set forth here, are similar in nature and, in fact, several of the prohibited phone calls set forth in this finding also are violations set forth in Finding B-1. All the violations in both findings are recruiting phone calls; all those in Findings B-1-a and B-2 are calls that exceeded permissible limits. All the phone calls were committed in the men's basketball program over the time that the former head coach was employed by the institution and for almost all of them former assistant coach A was a prime participant. The committee finds, therefore, that not only are the violations in this finding major as to both the institution and former assistant coach A, but that, in any event, they properly may be grouped with the violations set forth in Finding B-1.

**3. UNETHICAL CONDUCT BY FORMER HEAD COACH; FAILURE TO MONITOR HIS PROGRAM AND TO PROMOTE AN ATMOSPHERE OF COMPLIANCE WITHIN IT. [NCAA Bylaws 10.1, 10.1-(d) and 11.1.2.1]**

From May 25, 2006, through May 24, 2007, the former head coach acted contrary to NCAA principles of ethical conduct when he (a) knowingly violated committee penalties set forth in the Oklahoma report (Findings B-1-b and B-1-c) and (b) failed to deport himself in accordance with the generally recognized high standard of honesty normally associated with the conduct and administration of intercollegiate athletics by providing false or misleading information to the institution and the enforcement staff. (c) Over the same period, the former head coach failed to monitor the men's basketball program for rules compliance and to promote an atmosphere of compliance within it.

### **Committee Rationale**

The enforcement staff and the institution agreed with the facts of this finding and that NCAA violations occurred. The former head coach denied that he committed the violations set forth in this finding. The committee finds that the violations occurred.

#### **Regarding Finding B-3-a.**

The former head coach admitted that at least on June 13, 2006, he knew three-way telephone calls were prohibited under the penalties imposed by the committee and adopted by the institution. He acknowledged participating in prohibited three-way telephone calls but argued that he had no knowledge that former assistant coach A initiated them. The former head coach denied participating in one handoff phone call and said he either did not remember or had no knowledge of the others. The committee's findings that the former head coach participated in prohibited three-way and handoff phone calls with former assistant coach A are set forth in Findings B-1-b and B-1-c. What is unequivocally clear from the record, and what the committee finds, is that the former head coach violated NCAA principles of unethical conduct by participating in prohibited three-way and handoff telephone calls, knowing the nature of the calls, and knowing that he was violating committee penalties.

#### **Knowledge of Participation in Three-way and Handoff Recruiting Phone Calls.**

Seven prospects, two parents, and a high school coach described three-way and/or handoff phone calls in which former assistant coach A either made preliminary remarks on the call or engaged in conversations among them, the former head coach, and former assistant coach A. In addition, former assistant coach A admitted that in making three-way phone calls he "didn't doubt" that he "would have" introduced the former head coach and the individual with whom he was connecting the former head coach. The committee notes that there is compelling evidence in the record, described in detail in Finding B-4, that at least on some of the phone calls former assistant coach A participated beyond introductions. For purposes of this finding, however, former assistant coach A's information that he spoke at the beginning of the phone calls by itself refutes the former head coach's claim that he did not know these conversations were three-ways. At the hearing, the following exchange took place.

**COMMITTEE MEMBER:** Well, let's put it the other way. If you are including someone in a three-way call, tell me how you technically do it. What do you do?

**FORMER ASSISTANT COACH A:** Technically, I would have been on the phone.

**COMMITTEE MEMBER:** And what do you say to the person who is on the phone with you?

**FORMER ASSISTANT COACH A:** "I am going to get [the former head coach] on the phone with you."

**COMMITTEE MEMBER:** And then what would happen?

**FORMER ASSISTANT COACH A:** I would dial the number.

**COMMITTEE MEMBER:** Then what happens?

**FORMER ASSISTANT COACH A:** It would ring into [the former head coach]'s phone.

**COMMITTEE MEMBER:** And then?

**FORMER ASSISTANT COACH A:** [The former head coach] would answer.

**COMMITTEE MEMBER:** Then what happened?

**FORMER ASSISTANT COACH A:** Either [the former head coach] would say hello, which probably happened first, and then either the kid would speak or I would introduce the kid and then the kid would speak, or the mother would speak, or whoever it would be.

Former assistant coach A was addressing specifically the three-way phone calls, but his description of his conduct is equally applicable to the handoff phone calls. The committee finds it not credible that former assistant coach A would initiate or facilitate phone calls with the former head coach and yet not speak even to make introductions.



To further support his claim that he did not knowingly participate in prohibited three-way and handoff calls, the former head coach contended that he relied on his coaches to comply with NCAA rules and committee penalties. In finding that the former head coach knowingly participated in prohibited three-way phone calls, the committee necessarily also finds that he was not deceived by former assistant coach A. In any event, and as discussed more fully below, the committee rejects the notion that reliance on the expected rules-compliant behavior of assistant coaches absolves a head coach from his own responsibility to be rules-compliant.

Finally, in defense of his claimed lack of knowledge, the former head coach also argued that he would have committed more prohibited phone calls were he intentionally violating committee penalties. The committee cannot answer why only the phone calls listed in Findings B-1-b and -c occurred or were uncovered by the enforcement staff. The committee notes, however, that the record offers explanation for at least one of them. According to former assistant coach A, prospect 3 had cancelled his official visit to the institution. Former assistant coach A phoned the former head coach so that he could talk directly to the prospect and persuade him to take the visit.

#### Knowledge That Three-Way Recruiting Phone Calls Were Prohibited.

The former head coach claimed that prior to June 13, 2006, "none of the men's basketball staff had knowledge that three-way calling to the former head coach was impermissible." As a result, he argued that the only three-way phone calls that should be treated as violations were those that occurred subsequent to the June 13 compliance staff notification to the men's basketball staff of the committee response to questions posed to it by the institution. The committee notes, first, that eight of the 11 prohibited three-way phone calls (and all of the handoff calls) occurred subsequent to June 13. In any event, and for reasons discussed in detail in Finding B-4, the committee finds the argument untenable.

#### Regarding Finding B-3-b.

In interviews with the institution and the enforcement staff, the former head coach repeatedly denied knowing that former assistant coach A participated in three-way or handoff phone calls with him. These denials are belied by overwhelming evidence to the contrary. As described in Finding B-3-a, more than ten individuals, including former assistant coach A, said that he spoke on the prohibited three-way phone calls, if only to introduce the former head coach and the prospect or his parent or guardian. Several individuals, moreover, described former assistant coach A as participating in these

conversations beyond simply making introductions. The committee therefore finds that the former head coach acted unethically in providing false or misleading information during the investigation.

Regarding Finding B-3-c.

The telephone call violations set forth in Findings B-1 and B-2 were committed by men's basketball coaches during the time that the institution was subject to heightened scrutiny because of its employment of the former head coach and its consequent adoption of penalties imposed by the committee in the Oklahoma case. Not only were there phone call recruiting violations in excess of those permitted under the committee's penalties, but many of them also were in excess of those permitted by NCAA bylaws without regard to the additional restrictions imposed on the men's basketball program. In his participation in prohibited three-way and handoff phone calls, the former head coach intentionally ignored committee penalties in the Oklahoma case that were directed at him for his commission of 233 intentional rules violations, including a failure to monitor the basketball program and to promote rules compliance within it (577 prohibited phone calls made to 17 prospects by him and three assistant basketball coaches). The former head coach committed these violations, moreover, with the connivance of an assistant coach in his program. Such conduct is in direct conflict with the responsibility of a head coach to monitor his program and to set an example of rules compliance and ethical conduct.

At the hearing, the former head coach was asked what monitoring processes and safeguards he put in place additional to, or different from, those in place at his prior institution. He noted that a prime monitoring effort was his leadership regarding rules compliance. He also pointed to his employment of a director of operations for men's basketball (the "former operations director") who was familiar with NCAA rules and had substantial coaching experience. Yet the former head coach could name only two compliance-related duties assigned to the former operations director. First, the former operations director collected coach phone logs and forms related to telephone calls, including monthly signed statements from the coaches pertaining to their use of home phones for recruiting, and then delivered them to the compliance staff. (At his prior institution, compliance staff collected phone logs and related forms.) Second, the former operations director attended weekly compliance meetings as representative of the men's basketball staff and then shared with them any information there acquired. These meetings were one of the institution's corrective actions established in response to the Oklahoma report. As reported by the former operations director, he neither attended, nor was invited to attend, coach meetings dealing with recruiting.

There was information in the record that men's basketball coaches were late in submitting telephone logs, on one occasion as much as seven weeks late. These logs also at times were incomplete or completed inaccurately. During the hearing the following exchange occurred:

**ASSOCIATE ATHLETICS DIRECTOR:** We found that the logs contained numerous errors, and, in fact, with our protocol the first line of defense or the first quality control actually existed in the basketball office, a new position of the director of basketball operations was brought on line. As the former operations director states in his interview, his biggest responsibility was to help the coaches adhere with the sanctions in his first year of employment. He and the assistant men's basketball office manager collected those monthly -- excuse me, those weekly handwritten phone logs. They did their initial cross referencing with phone bills, and the assistant office manager inputted the information into [the compliance office's electronic recruiting monitoring system]. So, there was a quality control before the records were sent to compliance where then the director of compliance had the ultimate responsibility for monitoring those records.

**COMMITTEE MEMBER:** Were you ever able to get the problem corrected to where the phone logs were going to be complete, or is this something that continued all the way up until July?

**ASSOCIATE ATHLETICS DIRECTOR:** There was sloppiness throughout, and there were numerous ways in which the compliance staff felt their job was being made more difficult. Phone logs were frequently late. In fact, one assistant coach had phone logs that were up to seven weeks late at one point. Another had phone logs that were regularly late. We frequently found calls that were not reported on logs that did appear in the phone bills. We have very good markings from the director of compliance cross-checking bills and finding inconsistencies. There were also calls that were logged on the weekly logs that were not in the phone bills, so it was very -- it was another degree of complication in that we were not getting the quality assistance with cross-checking our records.

The former head coach reported that he had no knowledge of these problems. If true, that constitutes a failure to monitor his program. The former operations director reported that he attempted to get the coaches to turn in timely logs and that he alerted the former head coach when an assistant coach was late to complete them. If true, then the former head

coach failed to take effective steps to get the coaches to complete timely and accurate reports. In turn, this also constitutes a failure to monitor his program. The institution required each men's basketball coach monthly to complete and sign a form describing all phones used in recruiting and also monthly to certify in writing that home phones were not used in recruiting. Yet former assistant coach A and at least one other former assistant coach responded, inaccurately, on both forms that they did not use home phones for recruiting. Both also failed to list these home phone calls on handwritten phone logs and to assure their entry in the compliance office's electronic recruiting monitoring system. The former head coach neither made specific inquiry of the coaches to assure they were completing these forms accurately nor underscored their obligation to respond truthfully.

The former head coach reported that he relied on institution compliance staff to monitor his program and to assure rules compliance. He also contended that it was reasonable for him to rely on compliance staff and the rules-compliant behavior of his assistant coaches rather than to take proactive steps to protect himself and his program from any prohibited conduct in which the coaches might engage. The committee agrees that first responsibility for compliance and monitoring rests with the compliance staff. The committee also agrees that all coaches are obliged to be rules-compliant. But NCAA Bylaw 11.1.2.1 places a specific and independent monitoring obligation on head coaches. The former head coach acknowledged that he knew of this legislation and also knew that it was conceived and advanced by the NABC. Moreover, the committee's finding in the Oklahoma case that he failed to monitor his program provided specific and particular notice to him of the responsibilities that fall on a head coach.

A further, and related, obligation of a head coach under NCAA Bylaw 11.1.2.1 is to promote an atmosphere of compliance within his program. At the hearing, former assistant coaches A and B reported that on more than one occasion the former head coach admonished the men's basketball coaches to follow the rules and avoid committing violations. They also reported that the former head coach shared with his staff his perspective as a coach found to have committed violations that they did not want to go through a major infractions case. But promoting an atmosphere of compliance requires more than general comments about compliance responsibilities. A head coach does not promote compliance when he intentionally ignores committee penalties directed at him for intentional rules violations. A head coach also does not promote compliance when he himself commits intentional violations. This is particularly true when he commits these violations with the knowledge and assistance of a coach on his staff.

Implicit in the arguments of the former head coach is a premise the committee rejects – that an individual found culpable for violations and serving out penalties because of them may avoid responsibility for additional violations even if he fails to employ the simplest of safeguards to protect against their commission. The committee notes that the former head coach modified his long-standing telephone practices so as to minimize the detrimental effect on recruiting created by the committee penalties. Among other things, he gave out his home phone number in addition to office and cell; he answered late-night phone calls; and he answered all calls so as not to miss one from a recruit or to have it go to voice mail. By contrast, he made no equivalent adjustments to protect against violations. For example, the former head coach described his home phone system as one where caller ID came up on the second ring, at which point the phone call already would have gone to his voice answering machine. He offered this in partial explanation for a failure to check caller ID before answering the phone. Yet he made no effort to have the home voice mail function adjusted to facilitate his opportunity to review phone calls before answering.

The institution encouraged the former head coach to attend the weekly men's basketball compliance meetings established as one aspect of the institution's response to the prior infractions history of the former head coach. A total of 53 meetings were held from May 30, 2006, to May 23, 2007. The first meeting was the one referenced earlier that was attended by all senior athletics staff as well as all the then men's basketball coaches. The final meeting was held to note that the end date of the committee penalties had been reached. Of the 53 total meetings, the former head coach attended the first and last and an additional six meetings (about 15 percent). Former assistant coach A also attended eight. The two other then assistant coaches attended 10 (19 percent) and seven (13 percent), respectively. Conversely there were 35 weeks (66 percent – 2/3 of the meetings) when the only one who attended from the basketball staff was the former operations director.

For the above reasons, along with the information provided in the full record of this case and the discussion provided throughout this report, the committee finds that the former head coach failed both to monitor his program and to promote rules compliance within it.

#### **4. UNETHICAL CONDUCT BY FORMER ASSISTANT COACH A. [NCAA Bylaws and 10.1-(d)]**

From May 25, 2006, through May 24, 2007, former assistant coach A acted contrary to NCAA principles of ethical conduct when he (a) knowingly violated

committee penalties set forth in Infractions Report No. 250 and applicable to the institution (Finding B-1) and (b) failed to deport himself in accordance with the generally recognized high standard of honesty normally associated with the conduct and administration of intercollegiate athletics by providing false or misleading information.

### **Committee Rationale**

The enforcement staff and the institution agreed with the facts of this finding and that NCAA violations occurred. As set forth in Finding B-1, former assistant coach A conceded that he made a majority of the prohibited phone calls. With regard to the three-way telephone calls and one hand-off call, former assistant coach A agreed that he initiated the calls but claimed he did not know they were prohibited. He also denied providing false or misleading information. The committee finds the violations occurred.

On May 30, 2006, a meeting was held at the institution to discuss Infractions Report No. 250, to review the telephone call penalties under which the men's basketball program would operate, and to underscore the importance to the institution of full compliance with the penalties. Attending the meeting were the director of athletics, the associate athletics director, the assistant athletics director for compliance, and other senior athletics department staff members. Also present were the former head coach and the then assistant men's basketball coaches, including former assistant coach A. The coaches had questions about the meaning and scope of certain committee penalties, including whether the former head coach was prohibited from participating in three-way phone calls initiated by a member of his staff. On May 31 the institution submitted a series of questions to the committee regarding the telephone penalties. The assistant athletics director for compliance reported that she instructed the coaches not to make three-way calls until she received the committee response. As stated earlier in this report, the committee responded on June 12, 2006, and on June 13 the assistant athletics director for compliance sent an e-mail to the coaches which summarized the committee's response, including a confirmation that three-way phone and hand-off calls were prohibited. A hard copy of the e-mail information was sent to them shortly thereafter.

Despite all this, former assistant coach A nonetheless claimed not to know that three-way and hand-off calls were prohibited. He said that he could not recall what was discussed during the May 30 meeting and that, although he received the June 13 e-mail from the assistant athletics director for compliance, he did not remember reading it. Nor did he recall receiving a follow-up hard copy. He contended that he should not be found to have behaved unethically if ignorant that three-way and hand-off calls were prohibited.

Former assistant coach A acknowledged that compliance with committee penalties was a major concern of the institution. To believe his claim that he did not understand that three-way and hand-off phone calls were prohibited is to believe that he would fail to pay close attention at a meeting attended by all senior administrators in the athletics department on a matter of major concern to all of them and directly related to permissible conduct in the men's basketball program. To believe his claim is also to believe that he would fail to read memos from the compliance staff responding to questions the coaches had about the scope of the penalties. At the hearing, the following exchange occurred:

**COMMITTEE MEMBER:** Do you agree that you signed the statement saying that you understood that there had been the prior infractions case, that Indiana was subject to sanctions and the basketball program would be subject to sanctions, and you understood what they were?

**FORMER ASSISTANT COACH A:** I did sign that, yes.

**COMMITTEE MEMBER:** Okay. Were there any sessions or conversations with someone from compliance explaining the prior infractions case and what the sanctions were that had been imposed?

**FORMER ASSISTANT COACH A:** Not to my recollection.

**COMMITTEE MEMBER:** So, you say that they handed you this piece of paper and said sign it that you understood, with no prior discussion of the case or what the sanctions were?

**FORMER ASSISTANT COACH A:** I think we got a copy of your or the committee's sanctions. I think that we were probably read that no calls by coach and off campus limitations. I think we were read that.

**COMMITTEE MEMBER:** So, they did talk to you about what the case was and what the sanctions were?

**FORMER ASSISTANT COACH A:** I think so, yes.

**COMMITTEE MEMBER:** And that was before you signed that form saying you understood?

**FORMER ASSISTANT COACH A:** I think so, yes.

**COMMITTEE MEMBER:** [former assistant coach B], is that your recollection?

**FORMER ASSISTANT COACH B:** It has been so long ago, I want to say we did have a meeting, and in just looking at our records, the May 30th meeting where we were -- I want to say the compliance staff was very thorough in reviewing the sanctions from the Committee on Infractions.

**COMMITTEE MEMBER:** Okay. [Regarding] the May 30th, 06, compliance staff meeting, one of the agenda items that the assistant director covered was the NCAA self-imposed restrictions. Now, does that jog your memory that there was some lengthy discussion of the report and these sanctions?

**FORMER ASSISTANT COACH A:** Yes, then that must have been when it was.

**COMMITTEE MEMBER:** Okay. And lengthier than just "Here is the report and let me read you the sanctions?"

**FORMER ASSISTANT COACH A:** I guess so, yes. I mean, I don't remember the specifics, but I am saying that it must have been.

**COMMITTEE MEMBER:** Okay. And I have got the June 2006, signatures by you and by [former assistant coach B] that come out of the institution's response here. Now, did you get the sense from that meeting, [former assistant coach B] that compliance with these restrictions from the Committee on Infractions was a big deal for the university?

**FORMER ASSISTANT COACH B:** Yes, I did.

**COMMITTEE MEMBER:** And, [former assistant coach A], did you get the same sense that this is a big deal?

**FORMER ASSISTANT COACH A:** Yes, I did.



**COMMITTEE MEMBER:** Did you think that the university was trying to be sure that you as the coaches in the program were going to be following the restrictions that were placed?

**FORMER ASSISTANT COACH A:** I assume that they did, that they would be, yes.

**COMMITTEE MEMBER:** Was it your understanding that the university thought it would be okay if you were careless about following the restrictions?

**FORMER ASSISTANT COACH A:** No.

**COMMITTEE MEMBER:** And, [former assistant coach B], what would be your understanding? If you weren't sure that something was permitted, was it your understanding that it was okay to go ahead and do it before you were sure?

**FORMER ASSISTANT COACH B:** No, ma'am.

**COMMITTEE MEMBER:** How about you, [former assistant coach A]?

**FORMER ASSISTANT COACH A:** No.

**COMMITTEE MEMBER:** No, meaning you didn't think that what they were telling you was, "If you are not sure, to go ahead and do it anyway?"

**FORMER ASSISTANT COACH A:** The "no" meaning I should check with them....

**COMMITTEE MEMBER:** Now, you both agree, and I was just provided the form about that May 30th compliance meeting where the prior case involving [the former head coach] was reviewed and the restrictions were reviewed, and you were asked to sign that you understood the conditions under which you were going to be coaching. There was at that meeting, as I understand it, some questions from the coaching staff about what the Committee on Infractions meant by some of the restrictions that were being placed. Is that right?

**FORMER ASSISTANT COACH A:** Yes, there were.

**COMMITTEE MEMBER:** All right. And do you recall that (the assistant director of athletics for compliance) said she would check and get in touch with the Committee on Infractions to get answers to some of those questions?

**FORMER ASSISTANT COACH A:** I don't remember that, but I am not saying that it didn't happen if it did happen.

**COMMITTEE MEMBER:** Well, did she tell you these questions that you have, it is okay to go ahead and make these calls, is that your recollection?

**FORMER ASSISTANT COACH A:** I don't recall being told not to.

**COMMITTEE MEMBER:** Well, all right. So, you don't recall being told not to, and you don't recall that she said she was going to check it out. Did you leave the meeting thinking that the questions were answered and the calls were permissible?

**FORMER ASSISTANT COACH A:** I don't have a great recollection of May 30th, that meeting on May 30th, 2006, to give you an accurate answer how I left that meeting.

**COMMITTEE MEMBER:** You are at a meeting with compliance, two associate athletic directors, the entire basketball staff, the athletic director and the senior associate athletic director, and this meeting is one that you can't remember as to what you were told in terms of what you could do, in a case that was a big deal for the university and in which you were signing a paper saying you understood what the restrictions were under which you were operating; is that what you contend?

**FORMER ASSISTANT COACH A:** I didn't sign a paper at that time during that meeting.

**COMMITTEE MEMBER:** All right. Take everything I have said before, but pull out [the part about] the piece of paper you were signing.

**FORMER ASSISTANT COACH A:** Yes, I understand it was a big deal, the meeting, because that was right after [the former head coach] had his sanctions levied on him from the committee.

**COMMITTEE MEMBER:** Is it your understanding from your past experience that if you are not sure about the application of the rule your obligation as a coach at an NCAA school is to go ahead and do it without asking?

**FORMER ASSISTANT COACH A:** No, you should ask first.

The committee notes that, despite the discussions during the May 30, 2006, meeting, on the very next day, May 31, two prohibited three-way calls were made.

Former assistant coach A acknowledged knowing that the men's basketball program was operating under heightened scrutiny and that the institution expected full compliance. The committee finds not credible his claim that he did not hear, or did not remember, being told on May 30 that he should not engage in three-way calls until the institution received a committee response. The committee also finds not credible his claim that he either did not read or did not remember the June 13 e-mail from the assistant athletics director for compliance which confirmed that three-way phone calls were prohibited. Finally, the committee finds not credible his claim that he did not remember receiving the hard copy follow-up. But, taking him at his word, the committee finds it inexcusable that in the situation faced by the institution and the men's basketball program former assistant coach A would believe that three-way telephone calls might be prohibited and yet proceed to make them.

When a coach or staff member believes there is ambiguity regarding whether conduct is permissible, the clear and only proper approach is to ask compliance staff and get clearance before acting. So-called "gray areas" are not calls to action; they are red alerts to stop, look, and listen and not to proceed unless and until the light turns green. Even assuming that there was reasonable ambiguity regarding whether three-way phone calls were prohibited, therefore, the only proper course of action open to former assistant coach A, or any of the coaches, was to avoid making them until the ambiguity was resolved and there was clearance from the compliance staff to proceed. This course of conduct is the only appropriate one even in cases where a institution, coaches and a program are not subject, as here, to enhanced scrutiny. The committee rejects a claim that violations are excusable or penalties should be mitigated because committed by a

coach who admits to being unsure whether conduct is prohibited but who intentionally forges ahead anyway.

In any event, the conduct and explanations of former assistant coach A directly contradict his claim that he did not know three-way and hand-off calls were prohibited. He described his efforts on these calls to avoid speaking and to serve simply as "an operator." He also described three-way telephone calls as in a "gray area in regards to committee sanctions." As the institution's outside counsel observed at the hearing:

The university struggled, however, with [former assistant coach A]'s explanations that he viewed his involvement as a supposedly "silent operator," as a "gray" area given the specific and direct information that the compliance staff had provided to coaches regarding the impermissibility of three-way calls. [Former assistant coach A]'s explanation that this was a gray area is actually evidence of his knowledge that three-way calls were generally impermissible. It is also hard to understand why he did not ask the compliance staff if his approach was permissible. He was not shy about asking for interpretations. It is hard to accept that this was simply a mistake as he claims. Further, as set forth in the university's response [former assistant coach A] shifted from an unequivocal statement that he had never announced the calls or participated in the calls to he "could not recall doing so," but that he would not refute whether it is stated he did. As noted earlier, the statements of approximately ten individuals that he did participate in conversations or introductions with [the former head coach] are hard to ignore and completely refute.

Moreover, even former assistant coach A's ultimate acknowledgment that he would have introduced the prospect or other individual to the former head coach on the three-way calls understated or, more accurately, misstated the extent of his involvement. He still continued to deny that he ever spoke beyond introductions on the telephone calls. There is considerable information to contradict him.

Prospect 3 described a phone conversation that he had with the former head coach and former assistant coach A on the day he decided not to take an official visit:

**ENFORCEMENT STAFF MEMBER:** But in terms of, when I say, so how certain are you that they were both involved at the same time in the phone call whether it be they were together in person together or whether

it be on three-way, how certain are you that they were both involved in the actual call?

**PROSPECT 3:** They both were on the phone, I'm, they both was on the phone talking, we all was on the phone. And it could've been, like I said, it could've been a speakerphone. You know, I don't, I was at my house so I can't say what was, what was going on at Indiana, so.

Prospect 3 also recalled additional conversations during which he, the former head coach and former assistant coach A were on the phone at the same time.

**ENFORCEMENT STAFF MEMBER:** Well, and, and without having to recall specifically what they said, tell me what, what you do remember about them both being on the, on the line at the same time?

**PROSPECT 3:** Like, you know if [the former head coach] would say something funny, [former assistant coach A] would laugh; or he would ask a question and [former assistant coach A] would answer; or [former assistant coach A] would ask a question and he would answer about Indiana, they'll talk about Indiana to me.

Prospect 1 described a February 7, 2007, three-way call with him, the former head coach, and former assistant coach A.

**ENFORCEMENT STAFF MEMBER:** Now during, during the time when you were talking to [the former head coach], did [former assistant coach A] say anything?

**PROSPECT 1:** Not really, not too much. He would add in something like if [the former head coach] would say something and ask me, like [the former head coach] would ask me something about my game and I would tell him. And [former assistant coach A] would kind of, uh, cosign on it, like, yeah, he can or I seen it and stuff like that.

**ENFORCEMENT STAFF MEMBER:** So in terms of, of this phone conversation, was, were all three of you, both you, [former assistant coach A] and [the former head coach] having a conversation between the three of you?

**PROSPECT 1:** Yes. . . .

The mother of prospect 8 reported that shortly after her son's 2007 state high school basketball championship game, former assistant coach A approached her at the arena and handed her his cell phone so that she could talk to the former head coach, who was already on the line.

**ENFORCEMENT STAFF MEMBER:** And how long would you say you talked before he called?

**PROSPECT 8's MOTHER:** Two or three minutes 'cause he was on the phone, he was coming up the steps on the phone.

**ENFORCEMENT STAFF MEMBER:** And then, and so tell me then again when you met [former assistant coach A] coming up the steps on the phone, tell me again what he did.

**PROSPECT 8's MOTHER:** "Congratulations. We won, you know, he pulled it out and coach is on the phone. He wants to congratulate you, too." So I got on the phone. He said, "Congratulations, our boy did it. Woohoo," you know.

The mother of prospect 9 described a May 1, 2007, three-way telephone call as follows:

**ENFORCEMENT STAFF MEMBER:** So, uh, during that period of time in the conversation where all of you were talking, uh, tell me what you talked about.

**PROSPECT 9's MOTHER:** Basically you, you know, there was, they talked about how [prospect 9] was doing in school, was he gonna go to summer school or was he gonna be going out on the circuit. Because that time like was around summertime and I, basically I said, no, [prospect 9] was gonna go to summer school. He was only gonna be able to participate in I think like two or three events and then that would be it, then he would be in summer school. And, uh, basically, you know, that was the extent of the conversation, you know, just find out how he was doing academically and what his summer was gonna look like.

**ENFORCEMENT STAFF MEMBER:** So if you could, uh, you know, estimate for me how long it was that the conversation, the portion of the conversation where [former assistant coach A], [the former head coach] and you were all three sort of talking at the same time in an actual three-way conversation?

**PROSPECT 9's MOTHER:** I would have to say it was approximately between maybe five but no more than 10 minutes.

Prospect 4 described a three-way call between him, former assistant coach A, and the former head coach. In his first interview, prospect 4 exhibited some confusion as to who placed the initial phone call; this confusion was resolved in a subsequent interview where prospect 4 clarified that he made the initial call. Phone records show a May 31, 2006, three-way phone call initiated by an unidentified phone number that occurred at around the time prospect 4 said the three-way phone call took place.

**ENFORCEMENT STAFF MEMBER:** And while you were talking to [the former head coach] during that phone call, did [former assistant coach A] say anything?

**PROSPECT 4:** Well, yeah, they, it was like a, like a regular three-way conversation cause, uh, I, they was, was asking about like the types food I like to eat and stuff 'cause I was a little bit bigger in high school so they was asking me the type of food and [the former head coach] said how he, when he used to stay down south how they used to cook and all that so just a regular, normal conversation.

**ENFORCEMENT STAFF MEMBER:** But you're sure all three of you were on the phone at the same time?

**PROSPECT 4:** Yes.

**ENFORCEMENT STAFF MEMBER:** And are you sure that [the former head coach] was talking to [former assistant coach A] while you were on the phone, too?

**PROSPECT 4:** Yes.

**ENFORCEMENT STAFF MEMBER:** Okay. Now when you had, let's go back to the phone call that you talked about, the, the actual three-way conversation that you had.

**ENFORCEMENT STAFF MEMBER:** Did you, did you tell anybody else about it?

**PROSPECT 4:** No. Uh, actually I was, uh, we was, uh, leaving the AAU tournament, the, uh, that coach couldn't, uh, go to and I called coach 'cause I was, uh, riding back from, going home with my AAU coach. So that was the reason why I called him. I decided to call [former assistant coach A] to talk to him. And then he, uh, put, that's when I told you about the barbeque and stuff and he put him on the phone.

**ENFORCEMENT STAFF MEMBER:** And you said you were with your AAU coach when you made that call?

**PROSPECT 4:** I was, yeah, I was in the car in the back seat on our way back home from a tournament.

Not only did former assistant coach A knowingly engage in telephone calls that violated committee penalties (Finding B-1) and general NCAA recruiting legislation (Finding B-2) but he also signed monthly statements reporting, falsely, that in June, July, and September 2006 and February through May 2007 he did not use his home phone to make recruiting phone calls. During these same months he also completed weekly recruiting logs that showed, falsely, that he had not used his home phone to make recruiting phone calls.

Former assistant coach A offered as excuse that the recruiting phone calls he made from his home phone were a very small percentage of the total recruiting phone calls he made, that he "got in the habit of checking no home use without carefully thinking about it," that other coaches also misreported the use of home phones, and that, finally, institution compliance was lax in collecting forms and in reviewing the accuracy of the statements. The committee notes that the other coaches who on occasion misreported use of home phone calls in recruiting did not also commit the number and type of violations committed by former assistant coach A. Further, the committee notes that any institutional failure adequately to monitor phone call records does not absolve former assistant coach A from providing accurate information. Former assistant coach A understood full well that the required signed monthly statements and recruiting log



information were instituted by the institution as part of its effort to assure compliance with the committee penalties arising out of the Oklahoma case. The committee finds his excuses both inadequate and unconvincing.

For the above reasons, along with the information provided in the full record of this case and the discussion provided throughout this report, the committee finds that former assistant coach A acted unethically in that he engaged in prohibited phone calls with knowledge that he was violating committee penalties and in that he failed to submit accurate telephone logs and statements. Finally, the committee finds that his statements were intended both to conceal his commission of violations and to conceal that he acted with knowledge. That his statements were false or misleading is incontrovertible. That he acted unethically is equally incontrovertible.

**5. FAILURE TO MONITOR BY THE INSTITUTION. [NCAA BYLAW 2.8.1].**

From May 25, 2006, to July 10, 2007, the institution failed to monitor the men's basketball program in terms of the heightened monitoring required by the prior infractions history of the former head coach and the required strict adherence to those additional processes it put in place pursuant to its adoption of penalties imposed in the Oklahoma case.

**Committee Rationale**

The institution disagreed that it failed to monitor the men's basketball program in terms of the heightened monitoring required by its employment of the former head coach and the penalties attendant on him and his program. The committee considered the record in the case, including the enforcement staff case summary; the institution's October 3, 2007, report to the committee; responses by the institution, the former head coach, and former assistant coaches A and B to the notice of allegations; information provided during the two days of hearing; and the institution's supplemental written response to the failure to monitor allegation. The committee finds that the violation occurred.

The committee does not doubt that the institution provided adequate rules education regarding the scope of the penalties applicable to the men's basketball staff because of the Oklahoma case. As set forth fully in Findings B-3 and B-4, the committee also does not doubt that the former head coach and former assistant coach A understood those penalties and violated them intentionally. Finally, the committee does not doubt that the institution

intended to achieve enhanced and focused monitoring and worked to make it happen. The record contains memos from the athletics director underscoring his concern that there be effective oversight. Among other things, he added or re-directed four staff members to compliance activities focused on the men's basketball program. In its supplemental response the institution provided a comparison of its compliance measures with those of other Division I FBS programs. There is no question that the steps taken by the institution regarding the oversight of men's basketball well exceeded compliance measures at these other programs. The comparison is inapt, however, as those other programs were not overseeing a head coach subject to committee penalties from violations he committed while a head coach at another institution. And, as it turned out, the steps were insufficient to avoid his commission of further violations and the commission of violations in his program.

In finding that the institution failed in its responsibility to monitor the men's basketball program, the committee does not minimize the difficult task that confronted the compliance staff. As described by the associate athletics director:

It is important to keep in context that we had to develop those enhanced systems in real time, that the [former head coach] was named as our head coach on the same day he started work . . . .

I think we had a strong idea as to how these systems needed to look right off the bat. We took a lot of time and due diligence to think through good strong systems to properly monitor the phone call sanctions. However, we faced a number of challenges in rolling out the system that we had envisioned right off the bat. For the initial month or two we could not even get itemized phone bills from the cell phone carriers. They were just providing phone summaries, phone charges without giving us itemized records. So, the first hurdle we had to overcome was just to get itemized records. It took an additional two months after that to get the electronic records.

So, when you looked at the volume of calls, we knew from the start that it was going to be a very, very laborious task to do by hand, and that is why we kept pushing to get those records electronically and build our system based upon those electronic checks.

The former head coach was hired on March 29, 2006. Even granting the problems faced by the institution, itemized paper phone records were available at least by June 2006 and

electronic records by August. The task of reviewing them may have been laborious, but it was the task undertaken by the institution when it hired the former head coach and accepted responsibility to assure compliance with committee penalties. Former assistant coach A's phone records clearly showed the three-way phone calls. Four prohibited three-way phone calls were made between May 31 and June 19, 2006. The next prohibited three-way phone call was not made until August 22, 2006. Had careful, real-time review of the itemized paper records occurred, these four violations should have been uncovered by August 2006, and the additional seven prohibited three-way phone calls most likely never would have occurred. Even if the institution waited for the electronic records before conducting a close real-time review, the four violations likely would have been uncovered in time to prevent the August 22 violations, and certainly the succeeding ones. The three-way phone calls were not uncovered, however, until July 10, 2007, when an intern in the compliance office was reviewing phone records. The institution described the intern's review as a "redundant check" built into the enhanced monitoring system. The committee commends the institution for ultimately uncovering and reporting the prohibited three-way phone calls. Nonetheless, what was uncovered in a redundant check could, and should, have been uncovered in real time. The committee notes, moreover, that the same careful real-time review of itemized phone records also would have uncovered some of the telephone recruiting violations committed through use of cell phones. These too, were uncovered during the institution's redundant check.

The institution acknowledged that the men's basketball staff did not adhere strictly to its compliance obligations, including the additional processes the institution put in place pursuant to its adoption of Penalties III-E, III-F and III-L set forth in the Oklahoma report and its self-imposed corrective actions set forth in Part II-B of its August 1, 2006, report to the committee. As the institution reported, there was "sloppiness throughout," including "numerous errors" in the written logs and in entry of phone information into the computer tracking system. The institution also acknowledged that it knew during the time it was attempting to exercise enhanced and focused monitoring that the men's basketball staff was not cooperating. Further, the institution acknowledged that it took no disciplinary action for compliance defalcations and that "in retrospect" this failure was a mistake.

Its failure to provide effective follow-through is a significant aspect of the institution's failure to monitor the men's basketball program. In addition, its failure to provide effective follow-through to assure compliance by the men's basketball staff had several additional consequences relevant to the committee's finding that the institution failed to monitor the men's basketball program.

Failure to provide effective follow-through contributed to an atmosphere of non-compliance in the men's basketball program. Consequences for non-compliance likely would have reduced sloppiness, tardiness, and recalcitrance in submitting required forms, logs, and other documents. This, in turn, would have relieved compliance staff of some of the burden of seeking them. Knowledge that there was close review and supervision of their conduct might have restrained the former head coach and former assistant coach A from committing violations. Close oversight does not only uncover violations, it also deters individuals from committing them. As the institution itself pointed out, as its compliance oversight became tighter, the incidence of violations decreased.

One aspect of the institution's enhanced and focused monitoring was the required monthly completion of forms by the men's basketball staff in which they were to list all phones used in recruiting. The institution intended to use the information to assure that it reviewed all relevant phone records to confirm that violations were not committed. For those forms to fulfill their intended function, however, compliance staff needed to review them carefully and in a timely fashion. At best, this did not always occur. On a March 2007 form, the former head coach listed use of a cell phone for recruiting. The information either signaled a violation of committee penalties or was a clear error. There was nothing in the record, however, that showed any follow-through by compliance staff with the former head coach or even showed that the form had been reviewed. On other monthly forms coaches designated that no phones were used in recruiting or that only cell phones were used. Again, there was nothing in the record that showed any follow-through to determine accuracy or to confront coaches with information that the forms contradicted phone logs or bills. Again, there was nothing even to show that the forms had been reviewed. Former assistant coach A claimed in his response, moreover, that forms neither were distributed nor collected before July 2006 and that no forms were distributed in January, June, or July 2007; nothing in the record contradicts this claim.

The committee acknowledges that careful review and follow-through regarding, among others, errors and omissions in phone logs, computer entries, and reporting forms would not in and of itself have uncovered telephone violations committed through use of home phones. It cannot be known with certainty what the institution would have done had it discovered these problems in real time through enhanced and focused monitoring and effective follow-through. It is at least probable, however, that real-time discovery of errors and omissions would have led compliance staff and senior athletics administrators to exert tight control on the men's basketball program. Had the institution reviewed the errors and omissions with a healthy skepticism, moreover, it might even have spurred the review of home phone records that the institution ultimately undertook when its July 2007 and subsequent phone record review showed telephone violations committed by

former assistant coach A on his cell phone and also uncovered three-way phone calls. What is clear, however, is that any failure of information about what might have been done and what might have been discovered is directly attributable to the institution's failure to exercise enhanced and focused monitoring and follow-through.

In addition to the tediousness of a paper record review, the institution offered as explanation for its failure to require strict adherence to compliance responsibilities by the men's basketball staff the goal of compliance staff to "work collaboratively" with men's basketball. While such a goal might have been appropriate at the outset, it was neither appropriate nor prudent given the recalcitrance or relaxed attitude toward compliance of the men's basketball staff.

The institution's collaborative approach, and lack of healthy skepticism, is evidenced by other information in the record, moreover, including a secondary violation that occurred on the second day of a men's basketball camp involving a prohibited recruiting contact between former assistant coach B and a prospective student-athlete ("prospect 13") and his high school coach. In its secondary self report the institution claimed that prospect 13 did not attend camp on the second day. The assistant athletics director for compliance interviewed the former head coach and former assistant coach A before filing the report but kept no notes of the interviews, their date, or who was present. She could not recall whether she interviewed former assistant coach B or relied on the other coaches regarding what occurred. She interviewed neither prospect 13 nor his high school coach. The high school coach learned of the report and complained it was inaccurate. At that point, and pursuant to her regular practice, the assistant athletics director for compliance sought to have the men's basketball coaches obtain a statement from the high school coach. Ultimately, she interviewed the high school coach herself; again, she took no notes. The assistant athletics director for compliance's description of how she handled inquiries of coaches, and why, underscores the primacy placed by her on maintaining good relations at the potential expense of effective monitoring:

[I]f I think I'm getting the correct information from a coaching staff I don't, uh, I don't record, I don't want to put, put them in a position where they think that, you know, I'm an interrogator. And, so, you know, to my fault in this case, not having better documentation, that they assured me that there, there was no violation that occurred until I found out later that the prospect had indeed come back the second day. They said, originally they said that he had not come back.

She also reported that she queried neither the former head coach nor former assistant coach A about the differences in their account from that of the high school coach because:

I can't be a jerk with the coaches and then turn around and educate them the next day. But I couldn't believe the fact that they had basically done everything but extend a verbal offer to the kid and then not know that he was there the next day. And then, according to [the high school coach] not only know, but they were watching and they spoke to [the high school coach] while he was playing the next day. But I, you know, I can't confront them with that while they're on staff and then educate them and expect them to have a good working relationship.

The institution agreed that the former head coach failed to monitor his program. Yet the institution is responsible for the actions of its coaches. If his was the responsibility to assure that the men's basketball staff timely submitted accurate and complete required forms, then so too was that the institution's responsibility. If he failed to establish an atmosphere of compliance in the men's basketball program, then some of the elements of that failure also are the responsibility of the institution. To the extent that the atmosphere of non-compliance was due to the former head coach's commission of intentional violations and his connivance with former assistant coach A to do so, then here too the institution bears some measure of responsibility in that it hired the former head coach with knowledge of his prior history of violations, including a failure to monitor his program and to create an atmosphere of compliance within it.

Troubling to the committee was a hyper technical interpretation of one of the committee's penalties imposed in the Oklahoma case. As described in Finding B-3, the institution sent the committee 12 questions with multiple subparts regarding the scope and meaning of the penalties. The committee response made clear that penalties were to be construed broadly and that there would be strict liability for any transgression. The committee responded "yes" to the question, "Does it violate the spirit of the penalties if the assistants make a recruiting call and tell the person to call [the former head coach] at some specific time that [the former head coach] has arranged?" The institution interpreted this to mean that it was permissible for an assistant coach to provide a prospect with the phone number of the former head coach and tell him to phone the former head coach so long as no specific time was mentioned. In the context of a committee response that dictated that penalties were to be construed broadly and applied strictly, the compliance staff nonetheless interpreted a negative answer to a question that was asked to mean an affirmative answer to a question that was not asked.

The institution described its monitoring of the former head coach and the men's basketball program as "an evolving process" that was "enhanced through the year," but enhanced and focused monitoring was needed from the day that the former head coach was hired. Failure to uncover violations during the period committee penalties were to be in effect, particularly prohibited three-way phone calls and other violations readily apparent from close scrutiny of phone records, in itself constitutes institutional failure to monitor. Several other elements are relevant to and bolster this finding. A compliance staff focused on avoiding the commission of violations or promptly discovering violations once committed would have placed much less emphasis on collaboration and much more emphasis on requiring strict adherence to compliance requirements. Follow-through with consequences for compliance defalcations would have produced more care in completing logs and other forms as well as their timely submission. Enhanced and focused monitoring might have produced coaches less willing to commit violations. Real-time discovery of violations of phone records likely would have led to additional compliance measures that either would have uncovered additional violations or prevented their commission. All these measures would have contributed to an atmosphere of compliance in the men's basketball program.

An institution, and its athletics department, is the sum of all those authorized to act in its name. Coaches in a program, and particularly a head coach, are prime among those who act in the name of an athletics department and institution. An element of the institution's failure to monitor, therefore, is the failure to monitor by the former head coach.

Failure to monitor occurs, certainly, when violations are the direct result of that failure. This occurred here. Failure to monitor occurs when the monitoring failure has a domino effect in that the first failure means errors and omissions go unnoticed that would have triggered additional monitoring activities and, with them, the prevention or uncovering of further violations. This occurred here. Finally, failure to monitor occurs when the failure produces an absence of information that otherwise would be available from which to determine the full scope of the consequences attendant on the monitoring failure. This, too, occurred here. For all the reasons here described, as well as the discussion provided throughout this report, the committee finds that the institution failed to monitor the men's basketball program.

#### **SECONDARY VIOLATION. [NCAA Bylaws 13.12.1.3 and 13.2.2-(b)]**

On June 30, 2007, the former head coach and former assistant coach B engaged in an impermissible recruiting contact with prospect 13 during his participation in the

institution's two-day sports camp on June 30 and July 1, 2007. On July 1, former assistant coach B provided prospect 13's coach with a gift of clothing and equipment that the coach then gave to prospect 13.

### **C. PENALTIES.**

Prior to the violations in this case the institution had an almost 50-year history free of major infractions. It hired the former head coach with the intent to provide enhanced and focused monitoring of him and the men's basketball program. Its monitoring was impeded by the unethical conduct of the former head coach and former assistant coach A. It uncovered the telephone violations set forth in Findings B-1 and B-2. Its investigation was thorough, meeting its obligation under the cooperative principle. Nonetheless, institutions necessarily are responsible for the conduct of staff, particularly coaches and high level administrators. This is more true when, as here, an institution both employs an individual with notice that he has committed violations and assumes the responsibility to assure his compliance with committee penalties. The institution knew that its enhanced and focused monitoring system was not fully operational on day one of the penalties. There were road signs on the way that pointed to the failure of the coaching staff to take seriously its obligations. The institution permitted delays in providing information and missed information that was clearly inaccurate. The case involved multiple violations of basic telephone recruiting legislation, unethical conduct by two coaches, and failure to monitor the men's basketball program by both the former head coach and the institution. Of critical significance, the violations were committed by a head coach serving penalties imposed on him for similar violations in a prior case, and during the time when the head coach should have been subject to heightened scrutiny because of these prior penalties.

For these and other reasons, set forth in detail throughout the report, the committee imposes the following penalties. [NOTE 1. Many of the penalties in this list were earlier imposed for violations committed by the former head coach while at Oklahoma and extended or expanded by the institution when violations at the institution surfaced. Others were new penalties imposed by the institution because of the violations of the Oklahoma penalties, either when they were first uncovered or in the institution's response to the notice of allegations in this case. To be clear regarding the derivation of penalties, the committee has designated them to show (i) penalties extended by the institution on its discovery of violations of the Oklahoma report penalties (institution-extended post-Oklahoma report penalty), (ii) new penalties imposed by the institution on its discovery of violations of the Oklahoma report penalties (new post-Oklahoma report institution-



imposed penalty), (iii) relaxation of new post-Oklahoma university-imposed penalties made by the institution when it hired the current head coach (relaxed new post-Oklahoma report university-imposed penalty) and (iv) penalties self-imposed by the institution that were set forth in its response to the notice of allegations in this case (institution-imposed Indiana infractions penalty). Penalties (i), (ii) as relaxed by (iii), and (iv) are adopted as committee penalties in this report.] [NOTE 2. The institution reported that it lost two men's basketball grants-in-aid due to the imposition of a contemporaneous APR penalty for team failure to meet the APR. As also reported by the institution, it will not seek a waiver of the contemporaneous penalty.] [NOTE 3. The institution's corrective actions are listed in Appendix Three.]

1. Public reprimand and censure.
2. Three years of probation from November 25, 2008, through November 24, 2011.
3. The number of men's basketball grants-in-aid available to be awarded for the 2008-09 academic year was reduced by one. (New post-Oklahoma report institution-imposed penalty)
4. The number of available July 2008 recruiting days was reduced by two, with one evaluation day reduced in each evaluation segment. None of the men's basketball coaches recruited off campus on those two days. (Institution-imposed Indiana infractions penalty)
5. The number of recruiting opportunities available to the men's basketball staff for prospect 13 was reduced from seven to six during both his junior and senior years in high school; the number of available off-campus contacts during his senior year was reduced from three to two. (Institution-imposed Indiana infractions penalty)
6. The former head coach was limited to four off-campus recruiting contact days during the fall 2007 contact period. (New post-Oklahoma report institution-imposed penalty)
7. From September 17, 2007, through July 31, 2008, the number of men's basketball coaches involved in recruiting was reduced by one. Former assistant coach A was prohibited from any off-campus recruiting activities and from making phone calls that related to recruiting whether or not countable under NCAA bylaws. Another assistant coach completed the sanctions after former assistant coach A resigned. (New post-Oklahoma report institution-imposed penalty)

8. The number of 2007-08 official paid visits available to the men's basketball staff was reduced from 12 to eight. (Relaxed new post-Oklahoma report institution-imposed penalty) [NOTE 1. The institution initially limited official paid visits to six. Because all six were used by the time the current head coach was hired, the institution allocated an additional two official visits.] [NOTE 2. The institution averaged 9.25 official paid visits over the prior four recruiting years.]
9. From the conclusion of the fall contact period (October 5, 2007, through July 31, 2008, the former, interim, and current head coaches were limited to 20 off-campus recruiting days. (Relaxed new post-Oklahoma report institution-imposed penalty) [NOTE 1. The initial post-Oklahoma report penalty limited head-coach off-campus recruiting to 10 days. Because all 10 days were used by the time the current head coach was hired, the institution allocated an additional ten days.] [NOTE 2. NCAA bylaws impose a 130 person-day limit on off-campus recruiting but do not otherwise restrict a head coach.]
10. From September 17, 2007, through the end of the regular National Letter of Intent signing period (May 21, 2008), the number of phone calls that could be made to prospects on or after August 1 prior to their senior year in high school was reduced from two to one call weekly. (Extended post-Oklahoma report institution-imposed penalty) Further, the former, interim, and current head coaches were restricted to making only every other one of these phone calls. (New post-Oklahoma report institution-imposed penalty)
11. From September 17, 2007, through July 31, 2008, the number of phone calls that could be made by the former, interim, and current head coaches to prospects on or after June 15 of their sophomore year in high school through July 31 of their junior year was reduced from one monthly to one every other month (Relaxed new post-Oklahoma report institution-imposed penalty). [NOTE. The institution-imposed penalty adopted by the committee in the Oklahoma case restricted the entire men's basketball coaching staff to making phone calls to junior prospects every other month from March 29, 2006, through June 30, 2007. In its October 3, 2007, report to the committee, the institution extended this penalty so that it applied from September 17, 2007, through July 31, 2008, but limited its application to the program's head coaches.]
12. The former head coach engaged in prohibited three-way telephone calls intentionally and with knowledge that they were violations. (Findings B-1-b, B-

1-c and B-3). Violations so committed are more serious than the same violations committed inadvertently or with lack of knowledge that they are violations. The former head coach committed violations at two NCAA institutions in succession. Repeated rules-violative conduct is more serious than conduct engaged in once. The former head coach committed violations with the connivance of an assistant coach in his program. Such conduct undermines the responsibility of a head coach to set an example of rules compliance and ethical conduct. The former head coach committed the same type violations for which he had already been penalized in a prior case, and during the same time that those penalties were in effect. Such conduct flouts the very foundation of the NCAA enforcement and infractions processes and the member universities that created these processes. In the Oklahoma case, the committee found that the former head coach committed 233 prohibited telephone calls, calls he acknowledged were made with knowledge that they were violations. The committee also found that the former head coach failed to monitor his program and to promote rules compliance within it, with 577 prohibited telephone calls made to 17 prospective student-athletes by him and three assistant men's basketball coaches. In this case, the former head coach again committed intentional telephone call recruiting violations. He acted unethically both in his commission of these violations and by providing false and misleading information to investigators. He also again failed to monitor his program and to promote rules compliance within it. For these and other reasons, more fully set forth throughout this report, the committee imposes a five-year period beginning on November 25, 2008, and ending on November 24, 2013, during which, as set forth in (a) through (g) below, its penalties will restrict the athletically related duties of the former head coach at any employing NCAA institution.

- a. From November 25, 2008, through November 24, 2011, the former head coach is prohibited from engaging in any on or off-campus recruiting activities or interactions with prospective student-athletes (or their parents or legal guardians) prior to their first full-time enrollment at any employing institution and whether or not they have signed a National Letter of Intent, accepted an offer of financial aid, or are recruited by the institution as these are or may be defined in NCAA Bylaws. Prohibited activities include, but are not limited to, phone calls and phone conversations; contacts and evaluations as they are or may be defined in NCAA bylaws; electronic transmissions, general correspondence and other recruiting material as they are or may be defined in NCAA Bylaws; official and unofficial visit activities; and activities or interactions with prospective student-athletes that are prohibited to a representative of the

employing institution's athletics interests. Further, the former head coach must provide contemporaneous and detailed records of any telephone call made to or received from a scholastic or non-scholastic organization in which prospective student-athletes participate or are members, including, but not limited to, coaches or staff members of high school, club, or non-scholastic basketball teams. These records must document the purpose of, and parties to, each telephone call and that its content neither involved discussion of prospective student-athletes nor was of a recruiting nature. The former head coach is prohibited from using any phone to make such calls except his office phone and any additional phone assigned to him by his employing institution. He must submit his telephone logs for each of these phones to the compliance office on at least a monthly basis. The compliance office must institute strict monitoring of records. This monitoring must include at least monthly reconciling of telephone logs with phone records and spot checking records to determine that they accurately reflect conduct. Further, at least twice annually the employing institution must review records of at least one month's home phone calls and any personal cell phone calls of the former head coach to assure that no prohibited phone calls were made.

- b. During the complete months of June, July and August, the former head coach is prohibited from any on- or off-campus recruiting activities or interactions with prospective student-athletes, or their parents or legal guardians, in the same way that he is prohibited under (a) above.
- c. From November 25, 2011, to November 24, 2012, the former head coach is restricted to one-half the permissible recruiting contacts and evaluations that may be made with regard to any applicable daily, weekly, or monthly limits. (For example. Under current bylaws, a men's basketball coach may visit a prospect's high school once weekly during a contact period. The former head coach is restricted to making visits once every other week.) During the same period, the former head coach is restricted to one-half the maximum number of daily, weekly, or monthly permissible telephone calls that may be made to (i) prospective student-athletes (or their parents or legal guardians) on or after June 15 of their sophomore year in high school through July 31 of their junior year and to (ii) prospective student-athletes (or their parents or legal guardians) on or after August 1 of their junior year of high school. (For example. The current applicable weekly limit in the sport of men's basketball is two phone calls

weekly to a prospect in his senior year in high school. The former head coach is restricted to making no more than one call weekly.) The only exceptions to these telephone penalties are those set forth in NCAA Bylaws 13.1.3.3.1 (official visit); 13.1.3.3.2 (National Letter of Intent); and 13.1.3.3.3 (telephone calls subsequent to National Letter of Intent signing or other written commitment). The former head coach is prohibited from using any phone in recruiting except his office phone and any additional phones assigned to him by the employing institution. He must submit his telephone logs for each of these phones to the compliance office on at least a monthly basis. The compliance office must institute strict monitoring of records. This monitoring must include at least monthly reconciling of telephone logs with phone records and spot checking records to determine that they accurately reflect conduct. Further, at least twice annually the employing institution must review records of at least one month's home phone calls and any personal cell phone calls of the former head coach to assure that no prohibited phone calls were made.

- d. From November 25, 2012, to November 24, 2013, the former head coach must continue to comply with the telephone penalties and documentation set forth in (c) above and the compliance office must continue to reconcile telephone logs with records as set forth in (c) above.
- e. If the former head coach is employed at a member institution at the times of the 2009 through 2013 NCAA Regional Rules seminars, then he must attend the seminar (five total possible regional seminars) and, within one month of each seminar, provide to the Director - Committees on Infractions a list of those sessions attended, together with his certification of attendance.
- f. An institution that employs the former head coach during the time that any of the above-listed penalties are in effect shall submit a report to the Director - Committees on Infractions no later than 30 days after its first employment of the former head coach (or, if the former head coach is employed on November 25, 2008, then no later than December 23, 2008). The report shall set forth the employing institution's understanding of the above-listed penalties that are in effect at the time of initial employment and its responsibilities to monitor compliance. The report also shall set forth how the employing institution will monitor his conduct and that of

the other coaches in the men's basketball program to assure compliance with these penalties. Thereafter every six months until November 24, 2013, an employing institution will submit a supplemental report that continues to document its monitoring of the former head coach and the other coaches in the men's basketball program. At the end of the show-cause period imposed on the former head coach or upon termination of employment while the show-cause order is in effect, the president of the employing institution shall provide a letter to the committee affirming that the penalties were complied with during the time of employment at the employing institution. If the president is unable to so affirm, he shall so inform the committee.

- g. The former head coach and any institution that employs him during the time that any of the above-listed penalties are in effect are admonished that these penalties shall be construed broadly and adhered to strictly and that the institution must institute safeguards against inadvertent violations or departures from these penalties. (For example, during the period in which the former head coach is prohibited from recruiting, prospects should not be provided his telephone number.) Any violation or departure from these penalties, even if believed to be inadvertent and/or de minimus must be reported immediately to the Director - Committees on Infractions for review and possible action by the committee. Should an inadvertent violation or departure from these penalties occur, the former head coach is admonished that he must immediately cease the conduct, document its occurrence, and report it to the compliance office at his employing institution for immediate submission to the Director - Committees on Infractions. (For example, if the former head coach answers the phone of an assistant coach and a prospect is on the line, the former head coach must immediately hang up. He may neither take a message nor list the name and phone number of the prospect. The only permissible conversation is for the former head coach to tell the prospect, "I must hang up as the NCAA has prohibited me from talking to prospects or taking a message. Please phone assistant coach [here insert name]." The former head coach also must immediately document the circumstances of the telephone call and report it to the compliance office for transmission to the Director - Committees on Infractions.)

Should an employing institution choose to challenge the imposition of the above-listed penalties restricting the athletically related duties of the former head coach

then, pursuant to NCAA Bylaw 19.5.2.2-(l), it must do so by scheduling an appearance before the Committee on Infractions to show cause why it should not be penalized for failure to comply with the penalties.

13. Former assistant coach A committed telephone violations that both were prohibited under fundamental and basic NCAA telephone recruiting legislation as well as violations of three separate committee penalties set forth in the Oklahoma report. Conduct constituting violations of several different rules or penalties is more serious than equivalent conduct that violates one rule. Former assistant coach A committed these violations intentionally and with knowledge that they were violations. Violations so committed are more serious than the same violations committed inadvertently or with lack of knowledge that they are violations. Former assistant coach A committed the violations with full knowledge that the men's basketball program was under heightened scrutiny, particularly with regard to violations involving telephone calls. His explanations for the telephone calls, particularly the three-way and handoff calls, were both inconsistent and unbelievable. In an atmosphere requiring heightened scrutiny to compliance matters, former assistant coach A routinely signed forms attesting that he did not use home phones in recruiting while at the same time he was making home recruiting telephone calls. For these and other reasons, more fully set forth throughout this report, the committee imposes a three-year period beginning on November 24, 2008, and ending on November 24, 2011, during which, as set forth in (c) through (i) below, it restricts the athletically related duties of former assistant coach A at an employing institution.

On April 14, 2008, an NCAA member institution (the "current employing institution") employed former assistant coach A with knowledge of the allegations against him in the pending Indiana University infractions case. The current employing institution self-imposed penalties and corrective measures on former assistant coach A (corrective measures are set forth in Appendix Three). In assessing the penalties to be imposed against him, the committee considered those penalties and corrective measures imposed by the current employing institution (those penalties adopted by the committee are so noted).

- a. Penalty E as set forth in the Oklahoma report (former assistant coach A's phone calls to each high school junior are limited to one every other month). This penalty was self-imposed by the current employing institution. The committee adopts the penalty as its own from April 14, 2008, to November 25, 2008. The penalty was intended to be in effect

until April 13, 2009. The remaining duration of the penalty is subsumed under subparagraph (c) below.

- b. Penalty F as set forth in the Oklahoma Report (former assistant coach A's phone calls to each senior are limited to one per week). This penalty was self-imposed by the current employing institution. The committee adopts the penalty as its own from April 14, 2008, to November 25, 2008. The penalty was intended to be in effect until April 13, 2009. The remaining duration of the penalty is subsumed under penalty (c) below. [Note: Penalties (c) through (i) below are penalties imposed by the committee and were not self-imposed by the new employing institution.]
  
- c. From November 25, 2008, to November 24, 2009, former assistant coach A is prohibited from engaging in any on- or off-campus recruiting activities or interactions with prospective student-athletes (or their parents or legal guardians) prior to their first full-time enrollment at any employing institution and whether or not they have signed a National Letter of Intent, accepted an offer of financial aid, or are recruited by the institution as these are or may be defined in NCAA Bylaws. Prohibited activities include, but are not limited to, phone calls and phone conversations; contacts and evaluations as they are or may be defined in NCAA bylaws; electronic transmissions, general correspondence and other recruiting material as they are or may be defined in NCAA Bylaws; official and unofficial visit activities; and activities or interactions with prospective student-athletes prohibited to a representative of the employing institution's athletics interests. Further, former assistant coach A must provide contemporaneous and detailed records of any telephone call made to or received from a scholastic or non-scholastic organization in which prospective student-athletes participate or are members, including, but not limited to, coaches or staff members of high school, club, or non-scholastic basketball teams. These records must document the purpose of, and parties to, the telephone call and that its content neither involved discussion of prospective student-athletes nor was of a recruiting nature. Former assistant coach A is prohibited from using any phone for these purposes except his office phone and any additional phones assigned to him by the employing institution. He must submit his telephone logs for each of these phones to the compliance office on at least a monthly basis. The compliance office must institute strict



monitoring of records. This monitoring must include at least monthly reconciling of telephone logs with phone records and spot checking of records to determine that they accurately reflect conduct. Further, at least twice annually the employing institution must review records of at least one month's home phone calls and any personal cell phone calls of the former assistant coach A to assure that no prohibited phone calls were made.

- d. During the complete months of June, July and August of 2010, former assistant coach A is prohibited from any on- or off-campus recruiting activities or interactions with prospective student-athletes (or their parents or legal guardians) in the same way that he is prohibited under penalty (c) above. He must continue to comply with the documentation set forth in penalty (c) above, and the compliance office must continue to monitor logs and records as set forth in (c) above.
- e. From November 25, 2009, to November 24, 2010, former assistant coach A is restricted to one-half the permissible recruiting contacts and evaluations that may be made with regard to any applicable daily, weekly, or monthly limits. (For example, under current bylaws, a men's basketball coach may visit a prospect's high school once weekly during a contact period. Former assistant coach A is restricted to making visits once every other week.) During the same period, former assistant coach A is restricted to one-half the maximum number of daily, weekly, or monthly permissible telephone calls that may be made to (i) prospective student-athletes (or their parents or legal guardians) on or after June 15 of their sophomore year in high school through July 31 of their junior year and to (ii) prospective student-athletes (or their parents or legal guardians) in their junior year of high school. (For example, under current bylaws, a men's basketball coach may make two phone calls weekly to a prospect after August 1 following his junior year in high school. Former assistant coach A is restricted to making no more than one phone call weekly.) The only exceptions to these telephone penalties are those set forth in NCAA Bylaws 13.1.3.3.1 (official visit); 13.1.3.3.2 (National Letter of Intent); and 13.1.3.3.3 (telephone calls subsequent to National Letter of Intent signing or other written commitment). Former assistant coach A must keep detailed records of all recruiting activity, including telephone logs. He is prohibited from using any phone for recruiting except his office phone and any additional phones assigned to him by the employing

institution. He must submit his recruiting records, including telephone logs for each phone, to the compliance office on at least a monthly basis. The compliance office must institute strict monitoring of records. This monitoring must include at least monthly reconciling of telephone logs with phone records and spot checking of records to determine that they accurately reflect conduct. Further, at least twice annually the employing institution must review records of at least one month's home phone calls and any personal cell phone calls of former assistant coach A to assure that no prohibited phone calls were made.

- f. From November 25, 2010, to November 24, 2011, former assistant coach A must continue to comply with the telephone penalties and documentation set forth in (e) above and the compliance office must continue to reconcile telephone logs with records as set forth in (e) above.
- g. Former assistant coach A must attend the 2009 through 2011 NCAA Regional Rules seminars if employed at a member institution at the times of these seminars (three total possible regional seminars). Within one month of the 2009 through 2011 seminars, he must provide to the Director - Committees on Infractions a list of those sessions attended, together with his certification of attendance. [Note. The current employing institution required that former assistant coach A attend the 2008 NCAA Regional Rules seminar along with the institution's director of compliance.]
- h. The current employing institution, or another institution that employs former assistant coach A during the time that any of the above-listed penalties are in effect, shall submit a report to the Director - Committees on Infractions no later than December 23, 2008, (or, if former assistant coach A is employed subsequent to November 25, 2008, then no later than 30 days after the first employment of him). The report shall set forth the employing institution's understanding of the above-listed penalties that are in effect at the time of initial employment and its responsibilities to monitor compliance. The report also shall set forth how the employing institution will monitor his conduct and that of the other coaches in the men's basketball program to assure compliance with these penalties. Thereafter every six months until [last report in show cause time frame] an employing institution will submit a supplemental report that continues to document its monitoring of former assistant coach A and the other coaches in the men's basketball program. At the end of the show-cause period

imposed on former assistant coach A or upon termination of employment while the show-cause order is in effect, the president of the employing institution shall provide a letter to the committee affirming that the penalties were complied with during the time of employment at the employing institution.

- i. Former assistant coach A, the current employing institution and any other institution that employs former assistant coach A during the time that any of the above-listed penalties are in effect, are admonished that these penalties shall be construed broadly and adhered to strictly and that the institution must institute safeguards against inadvertent violations or departures from these penalties. (For example, during the period in which former assistant coach A is prohibited from recruiting, prospects should not be provided his telephone number.) Any violation or departure from these penalties, even if believed to be inadvertent and/or de minimus must be reported immediately to the Director - Committees on Infractions for review and possible action by the committee. Should a violation or departure from these penalties occur, former assistant coach A is admonished that he must immediately cease the conduct, document its occurrence, and report it to the compliance office at his employing institution for immediate submission to the Director - Committees on Infractions. (For example, if former assistant coach A answers the phone of another assistant coach and a prospect is on the line, former assistant coach A must immediately hang up. He may neither take a message nor list the name and phone number of the prospect. The only permissible conversation is for former assistant coach A to tell the prospect, "I must hang up as the NCAA has prohibited me from talking to prospects or taking a message. Please phone assistant coach [here insert name] or head coach [here insert name]." Former assistant coach A also must immediately document the circumstances of the telephone call and report it to the compliance office for transmission to the Director - Committees on Infractions.)

Should the current employing institution, or an institution that subsequently employs former assistant coach A while these penalties are in effect, choose to challenge the imposition of the above-listed penalties restricting the athletically related duties of the former assistant coach A then, pursuant to NCAA Bylaw 19.5.2.2-(l), it must do so by scheduling an appearance before the Committee on

Infractions to show cause why it should not be penalized for failure to comply with the penalties.

14. All Committee penalties are independent of and supplemental to any action that has been or will be taken by the Committee on Academic Performance through its assessment of contemporaneous, historical or other penalties.
15. During the period of probation, the institution shall:
  - a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
  - b. Submit a preliminary report to the office of the Committees on Infractions by February 1, 2009, setting forth a schedule for establishing this compliance and educational program; and
  - c. File with the office of the Committees on Infractions annual compliance reports demonstrating the progress made with the compliance and educational program by November 30 of each year during the probationary period. Particular emphasis should be placed on adherence to recruiting legislation, focusing on recruiting contact rules and telephone calls.
16. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

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As required by NCAA legislation for any institution involved in a major infractions case, Indiana University, Bloomington shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, November 25, 2008.

Should Indiana University or any involved individual appeal either the findings of violations or penalties in this case to the NCAA Infractions Appeals Committee, the Com-

mittee on Infractions will submit a response to the members of the appeals committee.

The Committee on Infractions cautions any institution that employs the former head coach or former assistant coach A during the time in which a show-cause order is in effect that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period or imposing more severe sanctions, and also may result in additional allegations and findings of violations. Any institution that employs either coach while a show-cause order is in effect must adhere to the penalties imposed or be subject to additional allegations and findings of violations.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Should any actions by NCAA legislative bodies directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

NCAA COMMITTEE ON INFRACTIONS

Eileen K. Jennings

Alfred J. Lechner, Jr.

Edward (Ted) Leland

Gene A. Marsh

Andrea (Andi) Myers

James Park, Jr.

Josephine (Jo) R. Potuto, chair

Dennis E. Thomas

## **APPENDIX ONE**

### **INFRACTIONS HISTORY BEGINNING WITH OKLAHOMA CASE THROUGH FINDING OF INSTITUTIONAL FAILURE TO MONITOR**

The hearing in the Oklahoma case was held on April 21, 2006. The institution hired the former head coach on March 29, 2006, with knowledge of the pending case. Four institutional officials attended the hearing – the director of athletics, the assistant athletics director for compliance, a professor of business economics and public policy and the faculty athletics representative and the senior associate director of athletics and senior women's administrator and currently the director of athletics administrative services. Also attending the hearing was the Big 10 Conference director of compliance. The University of Oklahoma had self-imposed penalties on the former head coach and his program that already were in effect at the time of the prior hearing. The institution adopted those penalties when it hired the former head coach.

On May 25, 2006, the committee issued the Oklahoma report. The committee adopted the institution's self-imposed penalties as its own and also imposed additional penalties. On June 9, 2006, the institution adopted these additional penalties.

On August 1, 2006, and pursuant to its obligation as a new employing institution of the former head coach, the institution submitted its required first report to the committee describing its implementation of self-imposed penalties and corrective actions. Its second report was due on August 31, 2007. By that time, the institution had discovered violations of committee penalties as well as additional telephone violations. The committee afforded the institution additional time to submit its report. It submitted that report on October 3, 2007, and there described violations of committee penalties as well as additional telephone violations. The institution also extended earlier self-imposed penalties and added new ones. It also alerted the committee that it would be filing with the enforcement staff a self-report of these violations.

The committee elected not to act on the violations of the penalties imposed in the Oklahoma case, but instead to consider them after the enforcement staff had evaluated them and determined whether to conduct an independent investigation and/or whether to issue a notice of allegations.

On October 25, 2007, the institution filed a self-report with the enforcement staff, describing the violations as secondary violations. On January 17, 2008, the institution filed an additional self report with the enforcement staff, identifying additional violations of committee penalties and telephone violations.

The enforcement staff issued a notice of allegations on February 8, 2008. There was an

allegation against the former head coach of failure to monitor the men's basketball program but no allegation of failure to monitor against the institution.

The former head coach resigned from the institution on February 22, 2008. When it hired the current head coach, the institution relaxed some of its self-imposed penalties.

On May 8, 2008, the institution, the former head coach, and former assistant coaches A and B submitted their responses to the notice of allegations. Information relevant to the question of monitoring by the institution was contained in the institution's response as well as in the other responses, and particularly in that of the former head coach and former assistant coach A.

The infractions hearing was held on June 13 and June 14, 2008. At the start of the hearing the chair notified all parties that the committee has the authority under NCAA Bylaw 19.4.3 to make additional findings should the information warrant it. During the hearing, in a discussion of procedural issues, the chair again noted the committee's authority to make additional findings. Later in the hearing committee members discussed on the record the possibility of a failure to monitor allegation being made against the institution. The committee also explored the monitoring of his program by the former head coach and the extent to which the institution monitored him and the men's basketball program.

At deliberations subsequent to the June hearing the committee decided that there was sufficient information in the record to warrant consideration of an institutional failure to monitor allegation. On June 16, 2008, the committee notified the institution that an institutional failure to monitor additional allegation was being prepared. On June 19, 2008, the committee sent the allegation by letter to the institution. The committee informed the institution that it could rest on its written submission and presentation at the June hearing, provide a supplemental written response, or provide a supplemental written response and also appear at a continuation hearing. The institution elected to submit a supplemental written response but not to request a continuation hearing. The institution submitted its supplemental response on September 26, 2008.

On June 27, 2008, the committee notified both the former head coach and former assistant coach A by letter that it had prepared an institutional failure to monitor allegation but that they were not at risk in this allegation, and that, pursuant to committee procedures and NCAA policy governing infractions hearings, they would neither be present at a continuation hearing should one be held nor be invited to submit responses. They also were informed that any findings and penalties against them would be finalized prior to receipt of a supplemental response from the institution and be made independent of any such written response or presentation at a continuation hearing. The committee finalized findings and penalties against the former head coach and former

assistant coach A on September 25, 2008.

On October 18, 2008, the committee deliberated regarding the institutional failure to monitor allegation and found a failure to monitor.



## **APPENDIX TWO**

### **CASE CHRONOLOGY.**

#### **2006**

March 29 – The institution hired the former head coach.

April 19 – The former head coach and the institution executed a compliance agreement adopting the University of Oklahoma's self-imposed penalties regarding the former head coach.

May 25 – The NCAA Division I Committee on Infractions issued Infractions Report No. 250 – University of Oklahoma.

June 9 – The former head coach and the institution executed a revised compliance agreement adopting further recruiting restrictions imposed by the committee.

#### **2007**

July – The institution conducted an annual compliance review for all sports and discovered three-way calls contrary to the committee's penalties.

August 22 – The institution requested and was granted an extension of the August 31, 2007, deadline for filing a report with the committee detailing the institution's implementation and fulfillment of the penalties adopted by the institution or imposed upon it as set forth in the Oklahoma Report.

October 3– The institution filed with the committee its report originally due on August 31, 2007. The report identified telephone calls that were contrary to the assessed penalties and/or to NCAA Bylaw 13.1.3.1.2.

October 25 – The institution filed a self-report of secondary violations with the enforcement staff identifying the violations of Bylaw 13.1.3.1.2 reported to the committee in the institution's October 3 report.

October 26 – The institution filed a self-report of a secondary violation of Bylaw 13.12.1.3 and a student-athlete reinstatement request for prospect 13.

## **2008**

January 17 – The institution notified the enforcement staff that it had identified additional telephone calls that were contrary to assessed penalties and/or Bylaw 13.1.3.1.2.

February 6 – The enforcement staff sent a notice of inquiry to the institution.

February 8 – The enforcement staff sent a notice of allegations to the president of the institution, the former head coach and former assistant coaches A and B.

May 8 – The institution, the former head coach and former assistant coaches A and B submitted their responses to the notice of allegations.

May 13 – The enforcement staff conducted a prehearing conference with former assistant coach B.

May 15 – The enforcement staff conducted separate prehearing conferences with the former head coach and former assistant coach A.

May 16 – The enforcement staff conducted a prehearing conference with the institution.

June 13-14 – The institution, the former head coach and former assistant coaches A and B appeared before the committee.

June 19 – The committee sent an institutional failure to monitor allegation to the institution.

September 25 – The committee finalized those portions of Infractions Report No. 287 pertaining to the former head coach and former assistant coach A.

September 26 – The institution submitted its response to the institutional failure to monitor allegation.

October 18 - The committee deliberated regarding the institutional failure to monitor allegation and found a failure to monitor.

November 25 – Infractions Report No. 287 was released.

### **APPENDIX THREE**

#### **CORRECTIVE ACTIONS AS LISTED IN THE INSTITUTION'S May 8, 2008, RESPONSE TO THE NOTICE OF ALLEGATIONS.**

1. The compliance office conducted mandatory compliance meetings every other week for the full men's basketball coaching staff (i.e., head coach, assistant coaches, and director of basketball operations) for one year beginning September 17, 2007.
2. The institution ceased the recruitment of prospect 5, the subject of many of the NCAA violations.
3. In response to impermissible contact with prospect 13, the institution discussed the relevant legislation with former assistant coach B in September 2007 and with the former head coach in October 2007. The legislation was also reviewed with all of the then men's basketball staff on October 23, 2007.
4. The former head coach agreed to forfeit his 2007-08 \$500,000 scheduled raise and did forfeit that portion of the raise that would have been paid for the period through to his resignation.
5. Former assistant coaches A and B did not receive bonuses for the 2007-08 academic year and would not have received salary increases for the 2008-09 academic year had they remained employed by the institution.
6. The former head coach and former assistant coach B were issued letters of reprimand.

#### **APPENDIX FOUR**

##### **CORRECTIVE MEASURES AS REPORTED BY FORMER ASSISTANT COACH A'S CURRENT EMPLOYING INSTITUTION AS OF APRIL 18, 2008.**

For a period of one year from April 14, 2008, to April 13, 2009, former assistant coach A will:

1. Attend monthly staff meetings that include compliance and rules education sessions prepared by current employing institution's compliance staff. In the event the men's basketball team is traveling to an away contest, he will be expected to meet with our compliance staff to review the compliance material covered during his absence.
2. When requested, submit weekly phone logs for all recruited student-athletes and family members to the current employing institution compliance staff. [NOTE. This corrective measure was in effect until November 25, 2008, and is subsumed in committee Penalty 13-(c)];
4. Submit weekly phone logs for all recruited student-athletes and family members to the current employing institution's compliance staff. [NOTE. This corrective measure was in effect until November 25, 2008, and is subsumed in committee Penalty 13-(c)].