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THE ETHICS OF SIGN STEALING IN COLLEGE FOOTBALL

JOSHUA D. WINNEKER & IAN SILFIES*

INTRODUCTION

Sign stealing in sports is the act of decoding an opponent's signs that are used to communicate that opponent's upcoming plays.¹ This practice is not novel and actually has its roots dating back to the 1800s.² These types of activities³ are prevalent in professional sports, where a lot of money⁴ and players' livelihoods are in the balance, but what about college sports? College sports is also a multibillion-dollar industry⁵ with much at stake for the coaches

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1. David Shoenfield, *Everything You Need to Know About Sign-Stealing*, ESPN (Sept. 5, 2017), https://www.espn.com/blog/sweetspot/post/_/id/82491/everything-you-need-to-know-about-sign-stealing.

2. Cliff Corcoran, *Everybody Tries to Cheat a Little: The Weird and Wild History of MLB Sign-Stealing*, ATHLETIC, (Oct. 18, 2018) <https://theathletic.com/598405/2018/10/18/everybody-tries-to-cheat-a-little-the-weird-and-wild-history-of-mlb-sign-stealing/>. Signal stealing first became prevalent in baseball during the 1870's when pitchers began throwing curveballs. *Id.* One of the oldest documented instances of sign stealing in baseball occurred during the 1876 season when the Hartford Dark Blues had a man sit in a small shack on a telegraph pole past the outfield fence to alert batters when a curveball was coming. *Id.*

3. See *infra* Sections III. B. and C.

4. The National Football League (NFL) had a total revenue of \$12 billion in 2020, down from a pre-pandemic revenue of \$16 billion in 2019. Mike Florio, *NFL Revenue Drops from \$16 Billion in 2019 to \$12 Billion in 2020*, NBC SPORTS: PRO FOOTBALL TALK (Mar. 11, 2021), <https://profootballtalk.nbcsports.com/2021/03/11/nfl-revenue-drops-from-16-billion-to-12-billion-in-2020/>. Similarly, Major League Baseball (MLB) collected \$4 billion in total revenue during the 2020 season compared to the \$10.5 billion they received from the 2019 season. See Mike Ozanian, *MLB Teams Lost \$1 Billion In 2020 On \$2.5 Billion Profit Swing*, FORBES (Dec. 22, 2020), <https://www.forbes.com/sites/mikeozanian/2020/12/22/mlb-teams-lost-1-billion-in-2020/?sh=8dbda5a17d71>.

5. The total revenue that the National Collegiate Athletic Association (NCAA) athletics' departments reported in 2019 was \$10.6 billion. John Branch, *In the N.F.L., It's Not Cheating Until You Start Videotaping*, N.Y. TIMES (Feb. 17, 2008), <https://www.nytimes.com/2008/02/17/sports/football/17nfl.html>.

and their respective universities. Of those sports, major college football programs produce some of the largest revenues.⁶

Because the big business of major college football has similarities to professional sports, it should not come as a surprise that these college programs would seek every conceivable advantage, including sign stealing.⁷ Former Ohio State University (OSU) quarterback Justin Fields summed it up best when asked about his team's communication strategy during their recent January 1, 2021 playoff game against Clemson University (Clemson) when he stated: "[y]eah, we just didn't want them stealing our signs."⁸ It is an open secret that Clemson has mastered the art of sign stealing.⁹

Fortunately for Clemson, and other college football programs, it is not illegal under NCAA rules to steal an opponent's signs unless the team uses in-game, electronic equipment.¹⁰ Illegal sign stealing is not as common in college football, as those programs are technologically limited in comparison to their professional counterparts.¹¹ In college football then, if your team can simply observe and decipher the other team's signs without using electronic equipment to do so in-game, it is considered a legal part of playing the game.¹²

But setting legality or stated rules aside, is sign stealing ethical? Is this the type of behavior, especially in college sports, that should be condoned or instilled in young athletes? Taking into consideration the majority of college football coaches' reported positions on the issue, the NFL and MLB's stance on sign stealing, the NCAA Football Rules Book and corresponding Football Code,

6. In 2019, the 65 universities with Power 5 football programs generated more than \$4 billion. See Rey Mashayekhi, *The Financial Fallout of a Canceled College Football Season*, FORTUNE (Aug. 10, 2020), <https://fortune.com/2020/08/10/college-football-cancelled-2020-ncaa-financial-impact-revenue-schools-big-ten-sec-acc-big-12-pac-12/>.

7. See *infra* Section I.

8. Jenna West, *Justin Fields Says Ohio State Huddled More in Sugar Bowl to Prevent Clemson Sign Stealing*, SPORTS ILLUSTRATED (Jan. 4, 2021), <https://www.si.com/college/2021/01/04/justin-fields-ohio-state-huddle-prevent-clemson-sign-stealing>.

9. See *infra* Section I. A.

10. *Football 2020 Rules Book*, NCAA 26 (2020), <https://www.ncaapublications.com/productdownloads/FR20.pdf>. Rule 1, section 4 under Prohibited Field Equipment Subsection F of the official 2020 NCAA football rules book states: "[a]ny attempt to record, either through audio or video means, any signals given by an opposing player, coach or other team personnel is prohibited." *Id.*

11. Mike Berardino, *What's Keeping College Football From MLB-Style Tech Scandal*, FORBES (Mar. 6, 2020), <https://www.forbes.com/sites/mikeberardino/2020/03/06/whats-keeping-college-football-from-mlb-style-tech-scandal/?sh=662f14d93ffl> (College football teams are prohibited from having electronic equipment on their sidelines such as computers, radios, and live video feeds that professional sports leagues like the NFL and MLB allow).

12. The term "sign stealing" going forward will be referencing legal, acceptable sign stealing unless indicated otherwise.

and various applicable ethical theories, the practice of sign stealing should be deemed ethical.

Part I of this paper will explore the many allegations and incidents of sign stealing in college football. Part II will discuss college football coaches' publicized positions on sign stealing. Part III will detail how sign stealing is regulated in the NCAA, the NFL and MLB. Part IV will argue that sign stealing is ethical and can be justified under both the NCAA rules and various ethical theories. The final Part will provide a conclusion.

I. COLLEGE FOOTBALL ALLEGATIONS AND INCIDENTS OF SIGN STEALING

Trying to decode opponents' signals to gain a competitive advantage has been occurring in college football for almost sixty years.¹³ While the methods modern college football powerhouses use to steal signs has evolved since the 1960s, the common theme tying past and present sign stealing is the teams' desire to win football games.

Since the mid-2000s, college football programs have continued to gain access to better cameras and video sharing equipment, such as the popular DragonFly website.¹⁴ Combining these tools allows coaching staffs to share and review old game footage – not during a live contest – where they can spot play calling patterns and increase the odds that sign stealing could be used effectively.¹⁵ Although sign stealing occurs throughout collegiate football, below are some of the recent, well-known allegations and incidents.

13. Billy Dale, *The Art of Stealing Signals*, TEXASLSN.ORG (May 7, 2021), <https://www.texaslsn.org/the-art-of-stealing-signals>. Leading up to the 1964 Cotton Bowl, an unnamed football coach, who disliked Navy's head coach, Wayne Hardin, told University of Texas (Texas) football head coach, Darrell Royal, and assistant coach, Bill Ellington, what each one of Navy's signals meant. *Id.* Not only did the Texas coaching staff work with their players on Navy's disclosed signals during the weeks leading up to the game, they also placed a coaching staff member in the press box with binoculars to try and further decode Navy's signals. *Id.*

14. DRAGONFLY, <https://www.dragonflymax.com/DragonFly> (last visited Apr. 1, 2022). allows college football coaching staffs to store video and send MP4 files online to review after the completion of the game. Pat Forde, *Follow the Signs: How Clemson Football Mastered the (Totally Legal) Art of Sign Stealing*, SPORTS ILLUSTRATED (Nov. 6, 2020), <https://www.si.com/college/2020/11/06/clemson-signal-stealing-dabo-swinney-daily-cover>; Zac Ellis, *Technology in College Football: The Evolution of Video and Film Study*, SPORTS ILLUSTRATED (June 23, 2015), <https://www.si.com/college/2015/06/23/college-football-technology-video-film-room>. Using DragonFly to look for patterns in signal calling is not considered *illegal* sign stealing as coaches and assistants simply use the software to review existing game tape that they would otherwise be studying to get a better understanding of how a team plays on offense, defense, or special teams.

15. *See id.*

A. *Clemson v. OSU*

Going into the 2020 Sugar Bowl, OSU both acknowledged and prepared for Clemson's sign stealing. OSU head coach, Ryan Day, stated that: "[h]e [Clemson defensive coordinator, Brent Venables] seems to always know exactly what the other team is doing."¹⁶ Additionally, OSU opted to utilize the huddle instead of their usually up-tempo offense in order to limit the potential for sign stealing.¹⁷ OSU went on to win the game in resounding fashion.¹⁸

Though Clemson's matchup against OSU is just the latest instance of potential sign stealing, Clemson has been engaging in this practice for years. As University of Miami (Miami) offensive coordinator, Rnett Lashlee, noted: "Clemson is known well for [sign stealing]."¹⁹ Heading into their November 7, 2020 contest against Clemson, the University of Notre Dame's head coach, Brian Kelly, explained that he and his staff were directly preparing for Clemson's sign stealing by thinking about a "counter program" to combat the practice.²⁰ Finally, Sports Illustrated writer Pat Forde reported that many unnamed personnel in college football acknowledged that: "Clemson is the best in the country at stealing signs" and has "an elite signal-swiping program."²¹

B. *Arizona State University v. University of Washington*

Former Arizona State University (ASU) head coach, Todd Graham, is considered to be an elite sign stealer.²² On November 14, 2015, the University of Washington (Washington) came into the game against ASU intent on

16. Jenna West, *Justin Fields Says Ohio State Huddled More in Sugar Bowl to Prevent Clemson Sign Stealing*, SPORTS ILLUSTRATED (Jan. 4, 2021), <https://www.si.com/college/2021/01/04/justin-fields-ohio-state-huddle-prevent-clemson-sign-stealing>.

17. *Id.*

18. Erick Smith, *Ohio State Turns Tables on Clemson with Big Win in Sugar Bowl*, USA TODAY, <https://www.usatoday.com/story/sports/ncaaf/2021/01/02/ohio-state-handles-clemson-college-football-semifinal-sugar-bowl/4108913001/>.

19. Forde, *supra* note 14.

20. *Id.*

21. *Id.*

22. Stefanie Loh, *Pac-12 Football Debate over Stealing Signals Rages on, Comes to WSU Saturday*, SEATTLE TIMES, <https://www.seattletimes.com/sports/wsu-cougar-football/pac-12-football-debate-over-stealing-signals-rages-on-comes-to-wsu-saturday/>. Former UCLA head coach Jim Mora stated: "Arizona State is very good at — I don't want to use the words 'stealing signals' because that is inaccurate. They are very good at taking advantage of teams that don't try to hide their intentions or their signals." *Id.*

protecting their signals.²³ Similar to the University of Oregon (Oregon) a few weeks prior, Washington utilized purple sheets to limit ASU's potential instances of sign stealing.²⁴ The sheets were meant to reduce ASU's visibility to Washington's sideline when Washington was calling their offensive plays.²⁵ ASU, though, still went on to win the game.²⁶

While Graham was known for sign stealing at ASU, he also had a track record of sign stealing dating back to his time as head coach of the University of Pittsburgh in 2011.²⁷

C. ASU v. University of Utah

During an October 17, 2015 game in which the University of Utah (Utah) was victorious, current Utah head coach, Kyle Whittingham, accused ASU of stealing his team's offensive signals.²⁸ Specifically, Whittingham stated that he observed ASU's Graham mimicking a throwing motion before an attempted Utah pass play.²⁹ In response, Utah employed a huddle offense during the fourth quarter to limit ASU's attempts at stealing their signs.³⁰ Heading into the fourth quarter ASU was up by three points, but after Utah's adjustments, the Utah offense then scored twenty unanswered points to secure the victory.³¹

D. Auburn University v. Kansas State University

On September 18, 2014, a season after Auburn University (Auburn) was accused of stealing Florida State University's (FSU) signals in the Bowl Championship Series (BCS) Championship game, former Kansas State University (KSU) head coach, Bill Snyder, remarked at halftime during the

23. Charles Rahrig V, *Washington Brings Curtains to Prevent Arizona State from Stealing Signs*, FANSIDED.COM (Nov. 14, 2015), <https://fansided.com/2015/11/14/washington-curtains-prevent-arizona-state-stealing-signs/>.

24. See *id.* (when playing ASU to start their season, Oregon chose to bring curtains onto their sideline to limit ASU's sightlines).

25. *Id.*

26. Associated Press, *Arizona State Beats Washington 27-17 After Trailing by 17*, ESPN (Nov. 14, 2015), <https://www.espn.com/college-football/recap?gameId=400757075>.

27. Loh, *supra* note 22.

28. Si Wire, *Mike Leach: Arizona State Should Be Investigated for Stealing Signals*, SPORTS ILLUSTRATED (Nov. 3, 2015), <https://www.si.com/college/2015/11/03/arizona-state-signal-stealing-vs-utah-oregon-washington-state-mike-leach>.

29. *Id.*

30. *Id.*

31. *Id.*

game that Auburn was stealing KSU's offensive signals.³² Though former Auburn head coach, Gus Malzahn, denied the allegations, Snyder and his staff changed their team's offensive signs before entering the second half.³³ In the end, Auburn still prevailed in a close match-up.³⁴

E. Auburn v. FSU – BCS title game

During the first half of the 2014 BCS championship game on January 6, 2014, undefeated FSU could not get any momentum going on offense, scoring only ten points.³⁵ Then-FSU head coach Jimbo Fisher believed that the lack of offense could have been due to Auburn's defense knowing FSU's plays in advance.³⁶ Fisher came out in the second half and immediately had assistant coaches shielding him with towels to try and limit the alleged sign stealing.³⁷ After this reaction, the FSU offense went on to score seventeen points and win the game.³⁸

F. University of Alabama v. University of Mississippi

On September 28, 2013, University of Alabama (Alabama) director of player personnel, Tyler Siskey, was seen in the coaches' booth using binoculars directed at the playing field during a shutout victory over conference opponent, University of Mississippi (Ole Miss).³⁹ While Alabama head coach, Nick Saban, denied that Siskey was stealing signs, the incident garnered national media coverage for two main reasons.⁴⁰ The first reason was that Siskey coordinated Ole Miss's recruiting in 2012, which likely gave him additional

32. Chip Patterson, *Auburn Accused of Stealing Signs in First Half of Win at Kansas State*, CBS SPORTS (Sept. 18, 2014), <https://www.cbssports.com/college-football/news/auburn-accused-of-stealing-signs-in-first-half-of-win-at-kansas-state/>.

33. *Id.*

34. Associated Press, *Nick Marshall-led Auburn Fends off Jake Waters, Kansas State*, ESPN (Sept. 18, 2014), <https://www.espn.com/college-football/recap?gameId=400547856>.

35. *BCS Championship - Florida State vs. Auburn Box Score*, SPORTS REFERENCE (Jan. 6, 2014), <https://www.sports-reference.com/cfb/boxscores/2014-01-06-auburn.html>.

36. Tom Fornelli, *Florida State: Auburn Knew Signals in BCS Title Game*, CBS SPORTS (Jan. 9, 2014), <https://www.cbssports.com/college-football/news/florida-state-auburn-knew-signals-in-bcs-title-game/>.

37. *Id.*

38. *Id.*

39. Alex Scarborough, *Nick Saban: Staffer Was Not Coaching*, ESPN (Sept. 30, 2013), https://www.espn.com/college-football/story/_/id/9750042/alabama-crimson-tide-coach-nick-saban-denies-tyler-siskey-was-coaching-vs-ole-miss-rebels.

40. *Id.*

insights into Ole Miss's offensive signals.⁴¹ The second reason was that Ole Miss previously averaged 490 yards and thirty-eight points per game before being held to only 205 yards of total offense by the Alabama defense that day.⁴²

II. COLLEGE FOOTBALL COACHES' DISCLOSED POSITIONS ON SIGN STEALING

With 254 Division I college football teams,⁴³ it is understandable that not every coach has been asked their opinion on sign stealing. However, the majority that have weighed in on this topic believe that sign stealing is an acceptable part of the game.⁴⁴ Below are some of the most prominent college football coaches' comments on sign stealing.

A. Coaches Who Believe Sign Stealing is Acceptable

College football coaches who have been questioned about sign stealing have answered with responses ranging from a simple acknowledgement of the practice to coaches actually blaming the team whose signals were stolen.

Fisher, FSU's previous coach, and Alabama's Nick Saban are two head coaches of well-known college football teams that have both stated that sign stealing is expected and simply a part of the game.⁴⁵ Specifically, after the first half of the 2014 BCS championship game noted above where Fisher believed that Auburn deciphered some of FSU's signals, he said:

[t]hey had a couple of our signals a couple times and were getting to them. That happens, people do it, and that's our fault. You've got to change them, constantly rotate them, being able to get them in different ways. That's part of the game. I don't have a problem with that.⁴⁶

Similarly, Saban remarked after an October 10, 2020 victory over Ole Miss where Ole Miss was able to score forty-eight points on over 600 yards of total

41. *Id.*

42. *Id.*

43. *Full List of Division I Football Teams: Find the Right Team for Your Athletic and Academic Goals*, NCSA (May 10, 2021), <https://www.ncsasports.org/football/division-1-colleges>.

44. *See* Forde, *supra* note 14.

45. Fornelli, *supra* note 36; Matt Hladik, *Lane Kiffin Fires Back at Nick Saban's Sign Stealing Comment*, SPUN (Oct. 11, 2020, 2:28 PM), <https://thespun.com/sec/alabama-crimson-tide/lane-kiffin-nick-saban-sign-stealing-response-ole-miss-alabama>.

46. Fornelli, *supra* note 36.

offense: “I don’t know if they had our signals or what. I’m not — that’s not anything unusual.”⁴⁷

Former University of Memphis head coach, Justin Fuente, former OSU offensive coordinator, Tom Herman, and Miami’s Lashlee, took this position a step further by stating that because there are no rules against the tactic, you cannot blame teams for trying to gain a competitive advantage.⁴⁸ Not only did Fuente believe that, “[i]f your signals are out there and people want to look at them, it’s hard to fault them,” but he also could not define what he would consider unethical sign stealing, citing the landmark case, *Jacobellis v. Ohio*, to make his point.⁴⁹ Using Justice Stewart’s famous statement from the case of “I know it when I see it”, Fuente said that he would be able to identify unethical sign stealing if he saw it.⁵⁰

While Herman commented that his team did not have a designated person to decode opponents’ signals, he believed that sign stealing happens all the time and noted: “I don’t have a problem with it.”⁵¹ Lashlee further stated that sign stealing “happens everywhere,” and that “it’s just part of the game.”⁵² Lashlee also said “[t]here’s nothing in the rules against stealing signals. Just like in baseball—if you can catch on to a signal that a guy is stealing second, you might as well throw him out.”⁵³

There are also a group of coaches who have acknowledged that they have personally participated in the practice. As noted above, Graham, has been at the center of many sign stealing controversies, but Graham has also stated that he not only expects other teams to steal his signals but that his team actively attempts to interpret opponents’ signals.⁵⁴ Former UCLA head coach, Jim Mora, defended Graham’s sign stealing saying that: “I don’t think Arizona State

47. Hladik, *supra* note 45.

48. Thayer Evans & Pete Thamel, *Inside Read: High Stakes of Stealing Signals, Devonte Fields Resurfaces*, SPORTS ILLUSTRATED (Sept. 29, 2014), <https://www.si.com/college/2014/09/29/auburn-stealing-signals-michigan-brady-hoke-devonte-fields>; Forde, *supra* note 14.

49. Evans & Thamel, *supra* note 48; *Jacobellis v. Ohio*, 378 U.S. 184 (1964). In *Jacobellis*, the manager of a motion picture theater was convicted under a state obscenity law of possessing and exhibiting an allegedly obscene film. *Id.* While the Supreme Court of Ohio upheld the conviction, the United States Supreme Court reversed this judgment. *Id.* In his concurring opinion, United States Supreme Court Justice Potter Stewart coined the famous saying: “I know it when I see it” to describe that while he could not clearly define what “obscenity” covers, he would be able to tell if something was obscene if he saw it. *Id.* at 197.

50. *Jacobellis*, 378 U.S. at 197; Evans & Thamel, *supra* note 48; Forde, *supra* note 14.

51. Evans & Thamel, *supra* note 48.

52. Forde, *supra* note 14.

53. *Id.*

54. Loh, *supra* note 22.

steals signals. They just play the game. I think they look across the field and if they can read something, they do. It's a tactical clue."⁵⁵

Similarly, former Indiana University, Vanderbilt University, and Louisiana State University head coach, Gerry DiNardo, recalled that he would routinely hire a graduate assistant whose sole purpose was to steal opposing teams' signals.⁵⁶ Mike McIntyre, the former head coach at the University of Colorado, went as far as saying that "[i]f you get your signals stolen, it's your fault, not the other team's fault."⁵⁷

B. Coaches Who Believe Sign Stealing is Unacceptable

While there are a few coaches who believe that sign stealing is unacceptable, they are in the minority.⁵⁸ Two of the most well-known football coaches who are against sign stealing include Mike Leach and David Cutcliffe.

While coaching at Washington State University, Mike Leach viewed sign stealing as an unsavory practice and went as far as saying that he believed ASU used cameras and microphones to steal their opponents signals.⁵⁹ Duke University head coach, David Cutcliffe, believes that stealing signs poses a big integrity issue when he declared: "[w]hat message are you sending to your players if that's what you're trying to do to win the game?"⁶⁰

III. HOW SIGN STEALING IS REGULATED IN THE NCAA, NFL AND MLB

College football is not the only major American sport to ban in-game, electronic sign stealing. The NFL and MLB also have league rules explicitly describing what constitutes illegal sign stealing.

55. *Id.*

56. Evans & Thamel, *supra* note 48.

57. Loh, *supra* note 22.

58. Ron Morris, *In College Football, Stealing Signs is Part of the Game*, CHARLOTTE OBSERVER (Nov. 22, 2016, 5:41 PM), <https://www.charlotteobserver.com/sports/college/article116414578.html>.

59. Leach specifically said: "I've heard a lot of rumors of microphones to pick up extra sound, to sift and sort for sound, perhaps what the quarterback is saying." Doug Haller, *ASU football signal stealing? Looks Like It's Curtains for Oregon's Sideline Curtains*, AZCENTRAL (Sept. 18, 2017, 8:54 PM), <https://www.azcentral.com/story/sports/ncaaf/asu/2017/09/18/arizona-state-signal-stealing-looks-like-its-curtains-oregons-sideline-curtains/679435001/>. He continued accusing ASU saying: "[c]lose-up cameras, stuff like that. I don't know if they (video tape) coaches on the sideline." *Id.* There was not sufficient evidence showing that ASU used any electronics to steal signals. *Id.* As such, the PAC-12 decided to fine Leach \$10,000 for his false comments. *Id.*

60. Morris, *supra* note 58.

A. NCAA Football Rules

The 2020 NCAA Football Rules Book directly addresses what constitutes illegal sign stealing. Specifically, under Rule 1, section 4 under Prohibited Field Equipment Subsection F, it states that during a live game: “[a]ny attempt to record, either through audio or video means, any signals given by an opposing player, coach or other team personnel is prohibited.”⁶¹

In addition to directly banning teams from recording opposing team’s signs through audio or video means during live games, the NCAA further discusses prohibited sideline devices that may be used to decipher signals. Under Rule 1, section 4 under Prohibited Field Equipment Subsection A, it states:

[t]elelevision replay or monitor equipment is prohibited at the sidelines, press box, or other locations within the playing enclosure for coaching purposes during the game. Motion pictures, any type of film, facsimile machines, videotapes, photographs, writing-transmission machines and computers may not be used by coaches or for coaching purposes any time during the game or between periods, Computers, tablets, etc. are not allowed in the coaching booth.⁶²

While most Division I football conferences have a specific bylaw that binds the conference to all NCAA football-playing rules, the Big Sky Conference also has conference bylaw 6.1.2 called: “Commissioner’s Authority Regarding Misconduct” that focuses on misconduct and unprofessional behavior.⁶³ This bylaw gives the Big Sky Conference commissioner the authority to reprimand any institutional personnel or student-athletes if they have partaken in any form of dishonesty, unsportsmanlike conduct, or unprofessional behavior.⁶⁴ Even though sign stealing is a broad practice that occurs across college football,⁶⁵ the Big Sky Conference commissioner has never utilized this rule to combat or punish teams engaging in sign stealing.⁶⁶

61. *See Football 2020 Rules Book*, *supra* note 10.

62. *Id.* at 28.

63. Email from Ty Singletary, Director of Compliance for the Big Sky Conference, to Ian Silfies, (Feb. 16, 2021) (on file with author).

64. *Id.*

65. Evans & Thamel, *supra* note 48.

66. *Id.*

B. National Football League Rules

Similar to the NCAA, the NFL delineates illegal sign stealing in its rules. Article IX, section C, number 14 of the Constitution and Bylaws of the NFL focuses on prohibited actions and provides:

Use at any time, from the start to the finish of any game in which a club is a participant, any communications or information gathering equipment, other than Polaroid-type cameras or field telephones, including without limitation videotape machines, telephone tapping or bugging devices, or any other form of electronic device that might aid a team during the paying of a game.⁶⁷

The NFL does allow teams to utilize coaches—both on the field and in press boxes—to try and interpret opposing teams’ signals non-electronically.⁶⁸ Current NFL Commissioner, Roger Goodell, has gone as far as saying that sign stealing itself is not an issue and “is done quite widely.”⁶⁹ Further, Goodell also believes that every coach in the league expects their signals to be intercepted by opponents.⁷⁰

C. Major League Baseball Rules

Sign stealing is more widely known and used in baseball.⁷¹ There have been numerous recent scandals involving sign stealing in MLB.⁷² In the 2019 – 2020

67. *Constitution and Bylaws of the National Football League*, ON LABOR (2006), https://www.onlabor.org/wp-content/uploads/2017/04/co_.pdf.

68. Similar to college football, the NFL permits teams to try and interpret their opponents’ signals as long as there is no electronic equipment involved. John Branch, *In the N.F.L., It’s Not Cheating Until You Start Videotaping*, N.Y. TIMES (Feb. 17, 2008), <https://www.nytimes.com/2008/02/17/sports/football/17nfl.html>.

69. *Id.*

70. *Id.*

71. See Tom Verducci, *Exclusive: MLB Set to Pass New Rules Designed to Crack Down on Sign Stealing*, SPORTS ILLUSTRATED (Feb. 19, 2019), <https://www.si.com/mlb/2019/02/19/major-league-baseball-sign-stealing-rule-change>.

72. The two most significant recent examples of illegal sign stealing in the MLB include the Houston Astros and the Boston Red Sox. The Astros placed a camera behind the center field fence to steal the opposing catcher’s signals. Neil Vigdor, *The Houston Astros’ Cheating Scandal: Sign-Stealing, Buzzer Intrigue and Tainted Pennants*, N.Y. TIMES (July 16, 2020),

season, MLB added new rules aimed at curtailing electronic sign stealing.⁷³ These rules were created in response to six teams during the 2018 – 2019 season being suspected of installing cameras in centerfield with the purpose of stealing the opposing catchers' signals.⁷⁴ In addition to banning all in-house cameras from foul pole to foul pole, the rules explain that:

- The only live feed of a broadcast will be the one provided to each team's designated replay official.
- A specially trained monitor, not a Resident Security Expect, will be assigned to each designated replay official to make sure that person has no communication with team personnel regarding signs, either in person, by phone or any other device.
- All other bullpen and clubhouse television monitors will receive game broadcasts on an eight-second delay.
- No television monitors are permitted in the tunnels or auxiliary rooms between the dugout and the clubhouse.
- Each club must provide to MLB an audit of every in-house camera, detailing its purpose, its wiring and where its signal can be viewed.⁷⁵

Major League Baseball does allow teams to try and decode opponents' signals to gain a competitive advantage provided that no electronics, binoculars,

Signaling. But Is There Any Benefit?, THE RINGER (Nov. 22, 2019, 8:41 PM), <https://www.theringer.com/mlb/2019/11/22/20977542/astros-sign-stealing-benefit-wins-advantage#:~:text=For%20what%20it's%20worth%2C%20Astros,for%20non%2DAstros%20home%20teams>. A staff member would then relay what pitch was coming to the Astros' hitter. *Id.* The most common example of how a staff member relayed what type of pitch was coming was by banging on a metal trashcan or the roof of the dugout. *Id.* This sign stealing significantly helped the Astros, as during the 2017 regular season, the team had significantly better hitting statistics at home compared to on the road. *Id.* Similarly, the Red Sox put cameras behind their centerfield fence and the video coordinator at the time, J.T. Watkins, would sit in the dugout and watch the opposing catcher call pitches in real time. Tom Verducci, *MLB Reveals Red Sox' Cheating Scandal, Tainting Yet Another Championship Team*, SPORTS ILLUSTRATED (Apr. 22, 2020), <https://www.si.com/mlb/2020/04/22/red-sox-sign-stealing-scandal>. Further, when the Red Sox had a runner on second base, Watkins would use hand signals to tell the runner what pitch was coming, and the runner would then tell the batter what pitch was coming.

73. Jacob Bogage, *MLB Aims to Crack Down on the Game's Tradition of Sign Stealing*, WASH. POST (Feb. 20, 2019, 2:53 PM), <https://www.washingtonpost.com/sports/2019/02/20/mlb-aims-crack-down-games-tradition-sign-stealing/>.

74. Verducci, *supra* note 71.

75. *Id.*

or other objects foreign to the game are used.⁷⁶ Sign stealing traditionally occurs when runners on second base try to interpret the opposing catcher's signals and relay this information back to the batter.⁷⁷ With the constant exchanging of signals between the dugout to players or players to players, there are many opportunities for teams to take advantage of their opponents' careless signal relays.⁷⁸ Though there are hundreds of signals exchanged in a single game, these signals are usually repetitive, meaning that even figuring out one of your opponent's signals during the game could greatly increase your chance of victory.⁷⁹

IV. SIGN STEALING IN COLLEGE FOOTBALL IS ETHICAL

Sign stealing in college football is ethical and merely another aspect of preparing for and the playing the game. Being completely prepared for a game involves practice, reviewing film, and creating a comprehensive game plan. In addition to the pre-game planning, coaches also have to adapt to circumstances that occur during a game. If a coach or coaching staff is simply better prepared or more reactive than their opponents, this does not make their actions unethical. On the contrary, it means they worked harder for a competitive edge, which is exactly what sign stealing provides. Moreover, this competitive edge, as noted above, is considered acceptable by the majority of college football coaches' expressed opinions⁸⁰ and is a well-known, allowable part of both the NFL and MLB.⁸¹

Furthermore, the NCAA Football Rules Book, along with several ethical theories, support the argument that sign stealing in college football is ethical.

76. Bogage, *supra* note 73.

77. *Id.*

78. *Id.*

79. The number of different pitches a catcher may call or the different actions a third base coach may want the batter to take are inherently limited. Bill Komissaroff, *Baseball Signs: The Game's Secret Underbelly*, HOWTHEYPLAY (Apr. 7, 2020), <https://howtheyplay.com/team-sports/Baseball-Signs-The-Games-Secret-Underbelly>. For example, a major league pitcher may only have four different pitches in their arsenal and a third base coach could only ask the batter to swing, bunt, or watch the next pitch. *Id.* Thus, the majority of signals given within an MLB game are simply dummy signals meant to distract opposing teams from the actual substantive "real signals." *Id.* Since there are only a few "real signals" given within a game, if one team can figure out the opposing teams signals, they would be at a great advantage.

80. *See supra* Section II.

81. *See supra* Sections III.B, III.C.

A. *NCAA Football Rules Book on Unethical Behavior*

The NCAA Football Rules Book addresses ethics in college football coaching in the “Football Code.”⁸² Moreover, this code explains that: “[t]he Football Code shall be an integral part of this code of ethics and should be carefully read and observed.”⁸³ The Football Code specifically provides seven different examples of what is considered unethical behavior because these actions break down, rather than aid in, the building of the character of the players.⁸⁴ Tellingly, sign stealing is *not* listed in the examples of unethical behavior. The specific examples are:

- A. Changing numbers during the game to deceive the opponent.
- B. Using the football helmet as a weapon. The helmet is for the protection of the player.
- C. Targeting and making forcible contact. Players, coaches and officials should emphasize the elimination of targeting and making forcible contact against a defenseless opponent and/or with the crown of the helmet.
- D. Using nontherapeutic drugs in the game of football. This is not in keeping with the aims and purposes of amateur athletics and is prohibited.
- E. “Beating the ball” by an unfair use of a starting signal. This is nothing less than deliberately stealing an advantage from the opponent. An honest starting signal is needed, but a signal that has for its purpose starting the team a fraction of a second before the ball is put in play, in the hope that it will not be detected by the officials, is illegal. It is the same as if a sprinter in a 100-meter dash had a secret arrangement with the starter to give him a tenth-of-a-second warning before firing the pistol.
- F. Shifting in a way that simulates the start of a play or employing any other unfair tactic for the purpose of drawing one’s opponent offside. This can be construed only as a deliberate attempt to gain an unmerited advantage.
- G. Feigning an injury for any reason is unethical. An injured player must be given full protection under the rules, but

82. *Football 2020 Rules Book*, *supra* note 10, at 11-12

83. *Id.* at 11.

84. *Id.* at 11-12.

feigning injury is dishonest, unsportsmanlike and contrary to the spirit of the rules. Such tactics cannot be tolerated among sportsmen of integrity.⁸⁵

As seen from the examples above, the NCAA clearly expresses what it believes to be unethical conduct. Given the chance to explicitly condemn and call out sign stealing as unethical behavior, the NCAA chose not to include it, and its absence further proves that sign stealing is viewed as ethical in college football.⁸⁶

B. Ethical Theories Support that Sign Stealing is Ethical

Beyond the majority of college football coaches' reported opinions on the matter, the NFL, MLB, and the NCAA seemingly all approving that sign stealing is ethical, there are also several ethical theories that support this position.

(1) Deontology

Deontology is an ethical theory “that says actions are good or bad according to a clear set of rules.”⁸⁷ Deontology stems from the Greek word *deon*, meaning duty.⁸⁸ “Actions that align with these rules are ethical, while actions that don't aren't.”⁸⁹ German philosopher Immanuel Kant is associated with this ethical theory.⁹⁰ As established above, sign stealing is not in violation of any NCAA rule and is also specifically excluded from the list of examples of unethical

85. *Id.*

86. As the governing body for college athletics, the NCAA's failure to address or even acknowledge the practice in their examples of unethical behavior proves that sign stealing is ethical. This reasoning is the same for laws created by a legislature. *See, e.g., JPMorgan Chase Bank, Nat'l Ass'n v. Essaghof*, 336 Conn. 633, 644 (2020) (“Where the legislature has taken action in an area, [this court] generally interpret[s] the legislature's failure to take similar action in a closely related area as indicative of a decision not to do so.”) (quoting *Bell Atl. Nynex Mobile, Inc. v. Comm'r of Revenue Servs.*, 869 A.2d 611, 621 (Conn. 2005)) (citing *Carmel Hollow Assocs. Ltd. P'ship v. Town of Bethlehem*, 848 A.2d 451 (Conn. 2004) (arguing legislature's failure to grant municipality or town assessors discretionary authority concerning classification of property as forest land, as it did with classification of property as farmland and open space land, indicative that it did not intend to grant authority with respect to forest land)).

87. *Ethics Explainer: Deontology*, THE ETHICS CENTRE (Feb. 18, 2016), <https://ethics.org.au/ethics-explainer-deontology/#:~:text=Deontology%20is%20a%20theory%20that,with%20German%20philosopher%2C%20Immanuel%20Kant.>

88. *Id.*

89. *Id.*

90. *Id.*

behavior in the Football Code. Thus, a coach or coaching staff that who engages in sign stealing is obeying a clear set of rules and, under deontological principles, is acting in an ethical manner.

There are three subcategories of deontology: agent-centered theories, patient-centered theories, and contraction theories, each of which further demonstrates that sign stealing is ethical.⁹¹

(a) Agent-Centered Deontological Theories

Agent-centered deontology states that humans have permissions and obligations, which give us agent-relative reasons for actions.⁹² Agent-relative obligations are defined as: “an obligation for a particular agent to take or refrain from taking some action.”⁹³ Under this subcategory, head or assistant football coaches would not have to refrain from stealing opposing teams’ signals, as there are no rules prohibiting this practice.⁹⁴ Further, coaches actually should steal signs, as one example of an agent-centered obligation is providing for your family.⁹⁵ Given how quickly Division I football coaches are replaced,⁹⁶ by not using every legal advantage possible, these coaches would be ignoring their obligation to provide for their family.⁹⁷

(b) Patient-Centered Deontological Theories

Patient-centered deontology focuses on the rights of individuals in given situations.⁹⁸ This theory concentrates on both the rights of individuals as stated by laws and also their given rights.⁹⁹ As the NCAA Football Rules Book only prohibits electronic sign stealing,¹⁰⁰ head and assistant coaches not engaging in

91. Alexander Moore et al., *Deontological Ethics*, STAN. ENCYCLOPEDIA OF PHIL. (Oct.30, 2020), <https://plato.stanford.edu/entries/ethics-deontological/>.

92. *Id.*

93. *Id.*

94. *See id.*

95. *See id.* Agent-centered deontology states that individuals have certain obligations and agent-relative reasons that give them permission to act in a certain way. *Id.* For example, a parent is obligated to look after their children. *Id.*

96. *See infra* note 109.

97. *See Moore, supra* note 91, at 4.

98. *Id.* at 8.

99. *Id.* “Given rights” under patient-centered deontology are essentially basic human rights that everyone is entitled to no matter where or what government they live under. *Id.*

100. *See supra* Section III. A; *Football 2020 Rules Book, supra* note 10.

that particular practice are then free to decode opponents' signals as they see fit.¹⁰¹

(c) *Contraction Deontological Theories*

Finally, the contraction deontological subcategory centers on the acts that would be forbidden by principles that people in a suitably described social position would accept.¹⁰² As explained above, the NCAA Football Rules Book forbids only electronic sign stealing, and the majority of college football coaches questioned on the issue agree that sign stealing is acceptable.¹⁰³ Therefore, as neither the rulebook nor other coaches' moral positions forbid sign stealing, this action would be considered ethical using contraction deontology.

(2) Hedonism

Ethical or evaluative hedonism claims that only pleasure has worth or value, and only pain or displeasure has disvalue or the opposite of worth.¹⁰⁴ Under ethical hedonism, it follows that pleasure is good whenever it is had, even in matters that may be questionable by others.¹⁰⁵

According to this theory, a coach stealing signs allows that coach to experience the joys of winning and the monetary and social benefits that are associated with winning. All coaches are judged by winning and losing but the pressure to win is much greater in major college football.¹⁰⁶ Major college football coaches earn very high salaries if they are a winning coach.¹⁰⁷ But, one

101. Moore, *supra* note 91, at 4.

102. *Id.*

103. See *Football 2020 Rules Book*, *supra* note 10; see also *supra* Section II. A.

104. Moore, *supra* note 91, at 4.

105. *Id.*

106. Bud Poliquin, *Do College Football's Head Coaches Get Fired Too Quickly and Too Easily?* (Chat with Bud Poliquin), SYRACUSE (Mar. 22, 2019, 12:00 PM), https://www.syracuse.com/poliquin/2014/12/do_college_footballs_head_coaches_get_fired_too_quickly_and_too_easily_chat_with.html.

107. Dabo Sweeny, head coach of Clemson University football, makes \$9.3 million per year while Nick Saban, the head coach of the University of Alabama football makes \$8.9 million per year. Charlotte Gibson, *Who's Highest-Paid In Your State?*, ESPN (2019), https://www.espn.com/espn/feature/story/_/id/28261213/dabo-swinney-ed-orgeron-highest-paid-state-employees. However, these salaries are results-driven as Clemson and Alabama have both been in the College Football Playoff six times since the new bracket system began in 2014. *College Football Playoff History*, COLLEGE FOOTBALL PLAYOFF (2014), <https://collegefootballplayoff.com/sports/2019/5/22/history.aspx>. Further, Clemson and Alabama are both tied for first with ten total appearances in the College Football Playoffs, twice as many as Ohio State, the team with the third most appearances. *Id.* Though Dabo Sweeny and Nick Saban are the highest paid coaches in college football, there are forty states where the state university head football coach is the highest paid state

poor season can result in a college football coach losing their job.¹⁰⁸ Therefore, the coaches' livelihood, as well as their families, are greatly affected by whether the team wins or loses. If the coach wins, they keep their job, their family remains stable, and the university benefits because that can attract more students along with the financial security of a highly enrolled university.¹⁰⁹ Stealing signs can result in winning games, which brings a great amount of pleasure to the coaches, the families, and the universities under ethical hedonism.

(3) Ethical Relativism

Ethical relativism states that morality and ethics are relative to the norms of one's particular culture.¹¹⁰ Thus, one's actions must be compared to acceptable practices within their own society to determine whether those actions are

employee. John Duffley, *In 40 States, Sports Coaches are the Highest Paid Public Employees*, FANBUZZ (Dec. 31, 2014, 11:04 AM), <https://fanbuzz.com/national/highest-paid-state-employees/>.

108. . Every year, almost ten percent of all Division I football teams fire their head coach. Amy Daughters, *Quantifying the Coaching Carousel: How Many CFB Coaches Lose Their Job Yearly*, BLEACHER REPORT (Nov. 1, 2013), <https://bleacherreport.com/articles/1860037-quantifying-the-coaching-carousel-how-many-cfb-coaches-lose-their-job-yearly>. Further, the average Division I football coach only lasts 3.8 seasons. Cork Gaines & Mike Nudelman, *Most College Football Players Will Be Forced to Change Head Coaches At Least Once In Their Career*, BUSINESS INSIDER (Dec. 6, 2017, 11:03 AM), <https://www.businessinsider.com/college-football-players-coaches-recruiting-2017-12#:~:text=The%20average%20tenure%20for%20NCAA,that%20form%20an%20X>'. Not only are Division I college football head coaches fired quicker than in every other Division I men's sport, but many coaches are fired if they have one bad season, even if they have a track record of winning. Zach Barnett, *FBS Football Has an Equal or Higher Rate of Coaching Changes Than Every Other Sport-Except One*, FOOTBALLSCOOP (Feb. 20, 2018), <https://footballscoop.com/news/fbs-football-higher-rate-coaching-changes-every-sport-except-one/> (Division I college football coaches are fired quicker than in every other Division I men's sport); see Poliquin, *supra* note 106 (Many coaches are fired if they have one bad season, even if they have a track record of winning).

109. A winning athletic program is not guaranteed to lead to an influx of applicants for any one college or university. However, many schools have stated that after a year in which the basketball or football team has competed in the league playoff format, applications have increased by as much as twenty-seven percent the following year. See Brittany Renee Mayes & Emily Giambalvo, *Does Sports Glory Create a Spike in College Applications? It's Not a Slam Dunk.*, WASHINGTON POST (Dec. 6, 2018), <https://www.washingtonpost.com/graphics/2018/sports/ncaa-applicants/>. Though there are multiple factors at play when assessing what causes an influx of applications to a college or university, Clemson sent out a study to admitted students asking how influential the school's recent athletic success was in their decision to apply. *Id.* Fifty-five percent of the survey respondents said that the school's athletic success was slightly, moderately, or extremely influential in their decision to apply. *Id.* Additionally, former dean of enrollment at Auburn, Velda Rooker, said that the football team's national championship victory definitely played a part in the school's sixteen percent application increase the following year. *Id.*

110. Manuel Velasquez, et al., *Ethical Relativism*, MARKKULA CENTER FOR APPLIED ETHICS AT SANTA CLARA UNIV. (Aug. 1, 1992), <https://www.scu.edu/ethics/ethics-resources/ethical-decision-making/ethical-relativism/#:~:text=Ethical%20relativism%20is%20the%20theory,be%20morally%20wrong%20in%20another>.

ethical.¹¹¹ This type of evaluation is also utilized to make decisions in our judicial system.¹¹²

Applying ethical relativism to the instant situation, there are macro and micro cultural moral standards to support the argument that sign stealing is ethical. On a macro-level, as explained earlier, legislatures in our country must specifically discuss a topic for it to be considered a part of a law.¹¹³ Similarly, as sign stealing was notably excluded from the NCAA's list of unethical behavior in the Football Code, college football coaches engaged in the practice are not acting in contravention of the moral standard present within the United States. On a micro-level, because sign stealing is considered part of the game by many coaches,¹¹⁴ the custom is therefore in-line with the moral code within the college football coaching culture.

CONCLUSION

Stealing signs in college football has become commonplace. Some may view it as gaining an unfair advantage, but the NCAA rulebook has only prohibited sign stealing when it is done live in electronic form. Sign stealing otherwise is considered acceptable behavior that is simply a part of the game. While some coaches may object to its use, the majority of college football coaches opining on the issue condone it, the NFL and MLB accept it in their respective leagues, the NCAA allows it, it has not been listed as unethical behavior under the Football Code, and several ethical theories support its practice. In today's college football, where winning results in keeping your job and bringing in revenue for your school, a coach engaging in sign stealing is not

111. *Id.*

112. In order to determine the duty a professional owes to their client in a malpractice action, courts look at specific standards within the particular profession. *See, e.g.,* Pinnock v. Mercy Med. Ctr., 180 A.D.3d 1088, 1090 (N.Y. App. Div. 2020) (“To prevail on a motion for summary judgment in a medical malpractice action, a defendant must make a prima facie showing . . . that there was no departure from the accepted community standards of medical care. . . .”); Singh v. Krueger, 183 P.3d 1, 3 (Kan. Ct. App. 2008) (citing Storm v. Golden, 538 A.2d 61, 64 (Pa. Super. Ct. 1988) (opining that the “[s]tandard of care in a legal-malpractice case is whether the attorney has exercised ordinary skill and knowledge related to common professional practice.”); Pace v. Jakus, 291 A.D.2d 436, 436 (N.Y. App. Div. 2002) (explaining that to establish a prima facie case in a medical malpractice action, a “plaintiff must prove the standard of care in the locality where the treatment occurred”). Ethical relativism is built on the same principle as malpractice, as both theories compare the actions of an individual to those operating or living within the same community or group.

113. *See Ethics Explainer, supra* note 87 (implying that a set of rules will either make sign stealing good or bad).

114. *See supra* Section II. A; Steve Godfrey, *Trying to Steal Signals is Just Part of Being a Football Coach*, SBINATION (Sept. 4, 2014, 1:09 PM), <https://www.sbnation.com/college-football/2014/9/4/6104425/football-coaches-stealing-signals-signs-play-calls>.

just involved in an ethical practice, but it is a recommended best practice to keep up with their competitors.