

# **LEGAL ISSUES IN SPORT**

## **Tools and Techniques for the Sport Manager**

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# Preface

Over the past decade, sport management has grown into a well-defined profession, and the handling of legal issues has become an important and demanding part of the sport manager's responsibilities. To a certain extent, the law provides an underlying framework for most activities within all sport organizations, whether non-profit or commercial in nature. The majority of sport managers are not lawyers; nonetheless, to be effective in their jobs, they need a solid understanding of the legal principles that underlie many aspects of their day-to-day activities.

Existing textbooks, for the most part, provide information and knowledge on legal principles, but they do not demonstrate to the prospective or manager how to apply these principles to the situations they will encounter working in a sport milieu. Through this book we attempt to bridge the gap between legal theory and its practical applications. We provide the theoretical background but also show how legal principles are applied and, where possible, include samples of relevant documents.

*Issues in Sport Law* has 11 chapters. Chapter 1 introduces the Canadian legal system, its tools of legal interpretation, and the significant issue of jurisdiction—which laws apply in particular circumstances. The areas of law that are of particular interest to the sport manager are then highlighted. This introduction lays the groundwork for the remaining chapters of the book.

Chapter 2 focuses on tort law with an emphasis on the common law principles of negligence and liability. Chapter 3 discusses violence in sport. It addresses both the criminal and the civil aspects of violence, and also examines violence from an organization's policy and internal regulatory perspective.

Chapter 4 deals with the principles of administrative law. Beginning with the basis of the authority of the private tribunal to make decisions that affect its members, the chapter reviews the fundamental principles of procedural fairness and their application in the sport context. Chapter 5 deals with the specific application of the principles of fairness in the area of doping from both the national and international perspective. Chapter 6 looks at what constitutes discrimination and how discriminatory practices are legislated against in Canada.

Chapter 7 deals with the creation and termination of “working relationships.” It looks at how the relationship of employer/employee is differentiated from that of

employer/independent contractor, and the management implications of this distinction.

Chapters 8 and 9 focus on commercial interests for the sport manager. Chapter 8 identifies five categories of intellectual property (copyright, trade-marks, patents, trade secrets, and personality rights), discusses methods of protecting each kind of property, and the use of licensing agreements to maximize the economic value of the property. Chapter 9 focuses on contracts—the characteristics of a contract, special issues affecting contracts in the sport context, and the use of specific contracts in the sport industry.

Chapter 10 addresses systems of dispute resolution from a national and international perspective. The final chapter, chapter 11, takes a broad look at risk management by building on the principles addressed throughout the book, and offers various techniques for avoiding, deflecting, and transferring liability. We suggest that risk management is evolving into a comprehensive management tool that can help sport managers plan, organize, lead, and govern their organizations more effectively.

We hope you finish this book with an understanding that the law is not always complicated, with the knowledge that fundamental principles inform almost all legal issues and, finally, with the confidence to analyze and logically tackle the myriad legal issues that will arise in a sport manager's professional life. Our modest wish is that this book will become a useful resource for you.

# Acknowledgments

Fifteen years ago we had the idea that sport managers needed to have a broader understanding of the legal issues that affected sport. We also believed that the law needed to be portrayed in a more accessible and relevant way to sport managers. At the time, we did not expect that our idea would become the Centre for Sport and Law, and that this little organization would grow to encompass four professionals living in three cities providing a range of legal services to local, provincial, and national sport bodies throughout Canada.

The idea for this book grew out of our awareness that there was no single Canadian resource on legal issues for either the sport manager or the student seeking to pursue a career in sport management or sport administration. We believed we could put together a single resource that could serve both groups. This book is the result.

We wish to thank Michael Thompson of Emond Montgomery Publications for suggesting that we could fill this void with this book. We also wish to thank all those we met over the Internet (Paula Pike and Jim Lyons) and behind the scenes, for helping to bring the idea for this book to life.

This book is dedicated to the many people and organizations in the Canadian sport community who have invited us through their doors to make presentations, solve problems, and facilitate change and improvement. We also thank the students in the Department of Sport Management at Brock University who have kept us on our toes in lectures and in “Sport Court.”

This book consolidates our body of writing over the past 15 years as well as compiles new material for our readers. The Centre for Sport and Law celebrates its 15th anniversary this year, and we think this book is an excellent way to recognize and share this milestone.

With few exceptions, sport provides individuals, families, and communities with positive experiences that provide a wide range of social, economic, and health benefits. We hope that this book will help all leaders in sport, and sport’s future leaders, to be more effective as they deliver quality experiences to their members and their communities.

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