"Stewards of Ice Hockey": A Historical Review of Safety Rules in Canadian Amateur Ice Hockey

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Much has been written about the violent nature of ice hockey and the need to make it safer.1 Perhaps the most telling evidence of its violent or unsafe nature were reports of spinal cord injuries in the 1980s and 1990s.2 The medical profession was so concerned about the problem that representation was made in February 1983 to the board of directors of the Canadian Amateur Hockey Association (now the Canadian Hockey Association).3 Changes to the playing rules and an education campaign were undertaken to target this problem. The medical profession was not the only agent of change. Increasingly violent acts leading to severe injury attracted the attention of courts.4 Knowledge of this legal activity has sensitized players, coaches, administrators, and parents of the need to control the more violent acts in the game. Politicians, on occasion, move to the forefront as external agents for change.5

While external agents of change are important as supplementary monitors of how members of society perceive the health and vitality of the sport, internal agents, namely, the executive members of the branches of the Canadian Amateur Hockey Association (CAHA), are the real stewards of safety for the sport. The executive members discuss ideas for change offered by their constituents, and they forward motions for rule changes to the Rules Review Committee of the CAHA, which comprises the chair of the CAHA rules committee, the branch presidents, and the referee-in-chief for the CAHA. This committee grants or denies the motions. Approved motions for rule changes are presented at semiannual meetings of the CAHA's general assembly for approval or rejection. These internal agents

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and this process are key to how safely the game is played. Their collective decisions for rule changes define the character of the game and reflect perceptions and attitudes about the level of violent and potentially unsafe behavior in the sport.

This paper is limited to an examination of selected facility and player behavior rules to gain insight into the historical nature of ice hockey and the quest to make it safer. While player equipment changes are important, they are not covered in this paper. Our work is divided into three sections: Seeds of Safety (pre-1919), Real "Old Time Hockey" (1919–45), and Getting Serious About Safety (1946–96). During the Seeds of Safety period ice hockey was very regionalized, relatively unorganized, and focused on defining the game's objectives along with participation rules. Only embryonic safety rules existed. The dawn the Real "Old-Time Hockey" period saw the game take a national focus, adopting and delineating a standard set of participation and player behavior rules, including the legitimization of body contact. The Getting Serious About Safety period represented an explosion of rules and regulations that more clearly defined safety aspects of the game while at the same time made interpreting and applying rules even more difficult.

**Seeds of Safety (Pre-1919)**

This section of the paper covers the period prior to 1919, when the focus was on defining rules of play and developing and expanding organized competition. Only embryonic attention was given to safety rules. Antecedent to exploring safety rules, it is important to trace briefly the origins of ice hockey rules in general. Determining when the first set was written is the corollary of trying to establish the birthplace and birth date of ice hockey. There are numerous accounts of ball and stick games of various types being played in North America in the eighteenth century. There is also evidence that both the New York Dutch and the New Englanders were playing a game called hockey in the colonial period, and hurley, an Irish game played with sticks, was played in Nova Scotia in the early nineteenth century. Referred to as the "Halifax Rules," as recounted by James Powers of the Halifax Herald in 1937, a list of twelve rules was used in the mid-1800s in Nova Scotia. The ice hockey game played outdoors by the Royal Canadian Rifles in Kingston, Ontario, in 1855 used definite rules fashioned mostly after those of field hockey. However, in mid-1860s Kingston, Ontario, the game—identified as "shinty or shinn(e)y"—was played by throngs of men on the harbor ice, without rules or referee and with only one objective: to knock an object, usually a ball, through a goal or past a boundary, or for an individual to rag the ball or retain possession for as long as possible.

Whatever mayhem prevailed when masses of recreants chased after the "puck" on outdoor surfaces, creating an indoor game for spectators and the formation of organized leagues conceivably led to a greater need
for playing rules. Gruneau and Whitson considered the first indoor hockey game in Montreal in 1875 a combination of shinny, lacrosse, and rugby. Several attempts to publish and refine playing rules for ice hockey occurred within a short period of time after that indoor exhibition game in Montreal. The earliest published report of seven rudimentary hockey rules, located by the authors, appeared in the *Montreal Gazette* in 1877. Within two years these rules, borrowed from English field hockey, were modified to standardize play in the Montreal area. The modifications relied on rugby traditions of physical contact, on-sides, and no forward passes. The number of playing rules remained limited and unstructured until 1886, when sixteen rules were noted—formed by representatives from Ottawa and Quebec as part of the first umbrella hockey organization, the Amateur Hockey Association of Canada (AHAC). The AHAC hockey rules, eighteen of them, were reported in *La Presse* in 1898. In 1890 the Ontario Hockey Association (OHA) was formed. Their rule book, not published until 1910, was adopted by the CAHA in 1919 as the national rules for the game.

An analysis of these playing rules revealed that safety was a minor concern, with a predominant focus on participation. The twelve Halifax Rules from the mid-1800s had two safety-related rules: no slashing and no lifting the stick above the shoulders. No evidence would indicate that penalties were provided for breaking these rules. The 1877 or “Montreal Rules” contained one safety rule indicating additional behavior that was not allowed: “Charging from behind, tripping, collaring, kicking or shinning shall not be allowed.” It is reasonable to assume that these types of activities were either creeping into the game or intensifying and thus needed to be controlled. This 1877 rule was modified in 1886 to provide for expulsion from the game after two warnings from the referee about violating any aspect of this rule. Concerns were developing about misbehavior, and the referee was to assist in the stewardship of safety. The rule does not indicate that some of the acts listed therein were more serious than others. It is interesting to note that charging from behind was a concern in 1886, one which reverberated in a spine-tingling fashion nearly one hundred years later.

Research for the period after 1886 produced no formal set of rules until the first rule book of the OHA was published in 1910, which contained the same number of rules as in 1886 and 1898. However, unlike the earlier rules, which were in a list format, these were given headings and expanded explanations. There still was only one rule regarding safety-related player behavior. Except for the number of players being reduced from seven to six in 1916, these rules remained constant until 1919, when they were adopted as the rules of the CAHA. Compared to the previously published rules (1886, 1898), Rule 13 (of the safety rules) changed insofar as charging from behind and shinning disappeared, and kicking and pushing were added. With the removal of the requirement for the referee to give two warnings before penalizing the player, any infraction of these safety rules.
rules would not be tolerated: "The referee must rule off the ice, for any
time in his discretion, a player who in the opinion of the referee, has delib-
erately offended against the above rule."21

Although few safety rules were developed in the seeds of safety years,
the amateur game was not without its vicious side. Illustration of misuse
of the stick can be found in the murder trials of two amateur players, R. v.
Loney (1905) and R. v. Masson (1907) and in R.V. Cleghorn (1912), when
the judge said that "hooligans and ruffians" were to be stamped out of
hockey.22 Frayne's popularized book, The Mad Men of Hockey, profiles the
brutal side of professional hockey.23

Real “Old Time Hockey” (1919–1945)

In this section, we attempt to capture how the rule makers addressed
safety concerns within the context of facility and player behavior rules be-
tween 1919 and 1945. The game had taken on a national perspective, with
the adoption and delineation of a standard set of participation and player
behavior rules, including the legitimization of body contact. The accept-
tance of a common set of rules by the CAHA in 1919 presented a national
forum for expressing concerns about playing rules and safety. Today's safety
stewards have expressed growing concerns about injuries in general and
spinal injury in particular. Data reveal that intentional or accidental body
contact with the boards is the leading cause of injury in ice hockey. The
board factor can be traced to the beginning of the 1919–45 period, when
the rules dictated that a "wall" or "fence" surround the rink.24 While one of
the earliest pictures of an indoor rink shows a board about one-foot high
encircling the ice, no rule book was found that made any mention of the
boards before 1921–22, when Rule 9 indicated that covered ice shall have
"sides and ends properly boarded."25 There was no mention of what con-
stituted proper boards. While the rules are silent in this regard, it is a rea-
sonable assumption that boards higher than one foot would have predated
the 1921–22 rule, certainly before the 1923 body contact rule, which made
reference to no checking within five feet of the boards, and likely they would
have been approximately three feet as indicated in 1920s photographs of
individual players by the boards. It was not until 1932–33 that the rules
identified a specific section, the rink, and indicated that its "side-boards
and end-boards should be three feet or more in height, free from projec-
tions, and light in color."26 In 1936–37 a boards standard was set of a mini-
mum of three and a half, with a maximum of four feet.27

It is reasonable to assume from the existence of rules that prohibited
charging, charging from behind, collaring, kicking, shinning, cross-checking,
and pushing that unsanctioned body contact was occurring in the game
and that it was necessary, perhaps even difficult to control. In 1923, legiti-
mate body contact was introduced to the game: "A fair body check shall be
when a player bodies an opponent with the hip or side of the body when
standing still or skating at a slow rate of speed."28 The most interesting
additional safety caveat in the rule was that there was to "be no body checking within five feet of the boards." This was revisited thirteen years later in 1935–36, when it was restated to include any part of the rink, again in 1936–37 ("a minor or major penalty, at the discretion of the referee, shall be imposed on a player who body-checks in a manner that causes an opponent to be thrown violently into the fence"), and again in 1938–39 ("Referees should be sure that the player was 'thrown violently into the fence' by reason of the body-checking of the player being penalized and not by reason of his own speed and direction, particularly at or near the ends and corners of the rinks").

The wording of the rule clarifications indicates that concerns developed over the degree of force used, the possibility that the offended player might be at fault, and that the referee should be more vigilant in applying the rule deep in the defensive zone. Given the official sanctioning of and limitations placed on body-checking in the 1920s and 1930s, there is a curious Message to All Hockey Players section in the 1934–35 and 1936–37 rule books, in which Point 5 advises: "Play the puck, and not the man." From the 1936–37 season onward, there is never mention of what constitutes a fair body check, nor is there reference to the imaginary five-foot line from the boards that encircled the ice wherein body-checking was prohibited. Contact near the boards was allowed starting in 1939–40, provided the opponent was not "thrown violently into the fence surrounding the rink," in which case a minor or major penalty could be assessed. Body contact near the boards will be revisited in the Getting Serious About Safety section.

From the mid-1800s until 1933–34, the published rules are silent on fighting. If almost a hundred years of recreational and organized competitive hockey passed before rule makers addressed fighting, surely it was a part of the game! The next sixty years tell a different story. We can reasonably assume that fighting was perceived to be a problem in the 1930s. In 1933–34 a first fighting infraction required a five-minute penalty, ten minutes for a second offence, and for a third infraction the player was expelled from the game. The rule differentiated between the "adversary" and the offender by sending the former to the penalty box for less time. To go beyond a single blow in response to the attack, the adversary would receive a major five-minute penalty.

Deliberately maiming an opponent, first identified as a minimum ten-minute penalty in the Instructions to Referees (1930–31), remained as such until 1936–37, when Rule 35 specifically identified the deliberate injury of an opponent requiring immediate expulsion with no substitution for twenty minutes and Rule 36 for deliberate attempt to injure an opponent, official, or spectator required immediate expulsion from the game.

Getting Serious About Safety (1945–1996)

The 1945–96 period represented an explosion of rules and regulations that more clearly defined safety aspects of the game but also made interpreting and applying the rules even more difficult. The most salient feature
of the contrast between a present-day and late-1940s hockey player standing in the arena would be the differences in equipment. The arenas would appear similar, with perhaps the exception of plexi-glass replacing wire screen around the rink. Only minor changes were made to the rink rules from 1938, when the recommended size was 200 × 85 feet. That recommendation has not changed for six decades, despite the fact that players have grown larger and their speed presumably increased. A 1987 memorandum from Thomas and Robert Pashby to the OHA expressed concern about rink sizes and recommended that all arenas built after 1987 should be 200 × 100 feet. They contended that this twenty percent increase in area would result in a twenty percent reduction in spinal injuries. Despite this and other representations from the medical profession, ideal rink size has remained constant for the CAHA. In 1968–69 and 1969–70 two safety-related changes for rink construction were that the corners “shall be rounded in the arc of a circle with a radius of twenty-eight feet” (1968-69) and that the boards could be made of “wood or plastic or any other material approved by the Rules Committee.” (1969–70). A proposed safety solution for the problem of smaller ice surfaces was to ensure that the corners be modified to form a continuous curve. Such a design is used with the construction of highways to maximize turning speed and safety. Although arena construction from the 1970s included plexi-glass as a protective barrier around the rink, it was not recommended in the CAHA rules until 1993–94. Board height has remained at a minimum of three-and-a-half feet and a maximum of four feet since 1936–37, despite the growth in average height of at least four inches over six decades. One would expect that specifications for the boards in arena construction have changed in recent years, but the rules remain silent on any of these relevant safety features.

The relationship of player behavior near the boards was a feature of the 1923 rules, when any contact near the boards was prohibited, until 1939–40, when it was allowed as long as the player being checked was not thrown violently into the boards. Charging from behind, although not connected specifically to play near the boards, was reinstated in the rules in 1942–43 and remained until deleted in 1988. The rule makers did not revisit play near the boards until 1985, when under pressure to respond to the increase in frequency of spinal injury, a “checking-from-behind” rule stated “a minor penalty for checking from behind shall be assessed any player who intentionally pushes, body-checks, or hits an opposing player, in any manner, from behind into the boards. If injury results, a major penalty shall be assessed.” In 1989 this rule was expanded to include checking from behind anywhere on the ice; additionally, if the player could not protect himself then a major penalty (five minutes) plus a game misconduct was to be assessed. Also, the referees were instructed to strictly enforce this rule and
not substitute other penalties for this type of act. Research has shown that the referees overwhelmingly assessed the lesser penalty of two minutes despite instructions to do otherwise.

The CAHA changed the checking-from-behind rule again in 1993 to allow for assessment of a minor penalty and a game misconduct. This meant that an offense against this cardinal safety rule included a sanction more proportionate to the potential seriousness of the consequences and meant that the player was expelled but the team would be less a player for only two minutes and therefore game outcome would less likely be affected. The focus shifted toward the offending individual and away from the team. Referee discretion still applied with regard to assessing more serious penalties for injury or the “degree of violence of the impact.” The “legal stewards” of ice hockey demonstrated the depth of concern about serious spinal injuries in two court decisions. Appellate courts in Saskatchewan and Ontario decided that checking from behind in close proximity to the boards was so inherently dangerous that immunity from criminal liability based on the implied consent defense is precluded.

All of the rule changes associated with checking from behind appear more confusing than necessary in that they introduced several factors that a referee should instantaneously consider to determine the penalty; intent, degree of violence of the impact, resultant injury, inability of player to protect himself, and different types of acts, like high-sticking, cross-checking, body-checking, pushing, or hitting. The one phrase embedded in the rule that appears to cover all considerations is “propelled in any manner from behind into the boards.” Given the potentially serious consequences, the current “ice hockey safety stewards” would be wise to take a page from an earlier era (1923–24), when no body checking was allowed near the boards. Any contact from behind that propels a player into the boards must be, and is in the eyes of the law, the responsibility of the checker. The only necessary factor in all of this is that if a player propels another into the boards from behind, the checker is expelled from the game. The referee, and the court on occasion, have the difficult task of determining if the check occurred from behind. If the referee has any doubt, the appropriate penalty should be called.

In all of the work by the CAHA Rules Committee in 1946–96, fighting, attempt to injure, and boarding occupied the most attention, in that order. Fighting had drawn the attention of the rule makers on a very limited number of occasions before 1946. Over the next fifty years the organization would address fighting rules eighteen times or once every three years. The rule changes reflected several things. In 1947 referees were given the discretion to assess a minor penalty for the initiator of fisticuffs. This was a departure from the rule initiated in 1937, which required a five-minute, ten-minute, and full-game expulsion
for the initiator of each successive fisticuffs infraction. Referees were given more discretion in 1963, when they had the option of a double minor. Multiple fighting infractions in the same game were treated as single events, with no escalating sanctions.

It was not until 1973 that the CAHA expelled a player for a second major penalty for fighting. However, the referee’s discretion for a minor, double minor, or major prevailed until the 1975–76 season, when fighting was treated more seriously and clearly. The minimum penalty required was a five-minute major. The instigator, if identified by the referee, received a game misconduct. In 1977 the “unnecessary roughness” rule was combined with the “fighting rule,” with a minor penalty for violating the former. The possibility of a major penalty for roughing, at the referee’s discretion, was added in 1979. In hindsight, the inclusion of roughing under fighting was perhaps a mistake, because the referee could and did substitute roughing penalties in circumstances where blows were struck but seen as inconsequential and therefore deemed a roughing penalty as appropriate. The note included in the 1985 rule book is evidence of this substitution problem, where the rule makers indicated that “The major penalty for roughing is not to be confused with and utilized in lieu of the major penalty and game misconduct penalty for fighting.” In 1981–82 the CAHA decided that fighting was not to be a part of the game and anyone who fought was to be expelled. If the retaliator continued with a response, a similar sanction applied.

Deliberate injury or deliberate attempt to injure has been treated consistently as a serious infraction requiring a match penalty. The difficulty presented by the rule is the necessity for the referee to determine what is deliberate or intentional. In most instances the aggressor’s act is deliberate, but it is difficult to ascertain that the aggressor had an intent to injure where in fact an injury occurred, or where an injury did not occur but the act was such that intent is inferred, like swinging a stick at a player but missing. It is the behavior—the intent to commit the act—that is important. Neither intended nor actual consequences should be relevant. If the referee determines that the act was intentional then a penalty should be assessed. If this perspective was taken—that certain acts are not allowed because they are fraught with potentially serious consequences—there would be no need to delineate a complex series of rules loaded with referee’s discretion. Safety, and not advantage or disadvantage, should be the principle focus. In fact, this is the case with several types of acts that are included under the deliberate injury or deliberate attempt to injure rule: using the stick as a weapon (1962), kicking (1966), head butting or hair pulling, or the “wearing of ring(s), tape or any other material on his hands” in a fight (1975–76), spearing, butt-ending, slashing, or high sticking (1977), cross-checking (1979), and grabbing the facemask, helmet, or chin strap (1981). A court has made it clear that the helmet is a piece of safety equipment and that a player will be found criminally liable for assault causing bodily harm if he removes an opposing player’s helmet to facilitate an attack on that person.
The specific aspect of the 1975 fighting rule (#59a, iv) relating to fighting with rings or material on the hands clearly shows the advantage consideration. The initial penalty was a match for breaking this rule. The referee's discretion was not needed. In 1981 the rule was changed in such a way that the referee had to quickly determine if the rings or material were used to "gain an advantage" or "inflict punishment and/or injury." If it was decided that no advantage was intended then the major plus the game misconduct applied. The main distinction in the change was that the offending player's action did not require missing further games until the president determined if the incident merited further sanctions. A once-clear rule now belonged on the list of penalties for referee's discretion.

In summary, a retrospective look at selected safety rules revealed several themes. In the very formative years, pre-1919, the focus was on establishing how to play a much more organized game than the mass rituals of the 1800s. Participation rules were essential. Without records, it is difficult to assess the level of violence in the game prior to 1919; however, the few safety rules that did exist reflected the possibility that either the "stewards of safety" had foresight to prohibit unsafe behavior (e.g., charging from behind, kicking, shinning, or carrying the stick above the shoulders) or, more likely, that these behaviors needed to be controlled. The 1919–45 period was somewhat contradictory. The rule makers sanctioned controlled body contact while simultaneously encouraging players to play the puck. They recognized the potential dangers inherent in play near the boards by prohibiting contact within five feet of the boards, only to allow it in the latter years. The fact that severe sanctions were developed for those who intentionally harmed an opponent suggested that intentional harm was a problem that needed addressing. One positive focus was that fighting in the game became unacceptable and was penalized with increasing severity for repeated offences. The most recent fifty years (1946–96) can be characterized as a period in which the rules of the game became more complex, the role of referee's discretion increased, and the fortification of the boards surrounding the rink increased, which, with the increased speed and size of players, dictated more safety concerns about play near the boards, controlling the fighting (particularly the brawling), and use of the stick or other implements to inflict harm. In final analysis the safety of the players would be best served if the "stewards of safety" relinquished the advantage/disadvantage mindset, simplified the rules, and drastically reduced the discretion required of the referee.

Endnotes


3Presentation made by Charles Tator to the board of directors of the CAHA at the semiannual meeting in February 1983.


8Ibid.


12Gruneau and Whitson, 38.


14Rickwood, 16.

15Guay, 65.

16Gruneau and Whitson, 39.

17Guay, 91.


19Vaughan, 55.

20Guay, 42.


The highest percentage of all injuries, approximately 50%, is related to accidental or intentional body contact and contact with the boards accounts for 30% as reported in Pat Clayton, *Injury Report System* (Calgary, AB: Hockey Canada, 1995–96), 4, 8.

Quebec skating in 1893 shown in Guay 64; Ontario Hockey Association, *Rules of the Game* (1921–22), 56, adopted as the official rules of the CAHA in 1919.


Ibid., (1936), 6.


Canadian Amateur Hockey Association, *Rules of the Game* (1932), 47; idem, (1937), 16; (1938); 22, emphasis added.

Ibid., (1934), 29, emphasis added.

Ibid., (1940).

Ibid., (1934), 63; (1937), 16.


Stan Fischler and Shirley Walton Fischler, *The Hockey Encyclopedia: The Complete Record of Professional Hockey* (New York: MacMillan, 1983). The average height of the first ten hockey players selected because their surnames started with B or C and each played in a season beginning a decade from 1940–41 to 1980–81 inclusive. A player who played in two decade-beginning years (e.g., 1940–41 and 1950–51) was used only in the first decade. A was excluded for lack of ten names.


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