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Illegal, but not against the rules

Commentary

By Shanin Specter

OK, so Barry Bonds did it. What should we think?

Many believe Bonds used steroids to break Hank Aaron's home run record, but that's only a beginning point for analysis.

Here's the polestar: As legendary manager John McGraw said about baseball, "The main idea is to win. " What circumscribes this creed? Only the rules of baseball.

If a runner stealing second knows the fielder's tag beat his hand to the base, but the umpire calls him safe, should he stay on the base? Yes. If an outfielder traps a fly ball, can he play it as if he caught it? Yes.

The uninitiated might consider this to be fraud or immoral. But some deception is part of the game. This conduct is appropriate simply because it's not forbidden by the rules.

Baseball isn't golf. There's no honor code.

Yankee Alex Rodriguez's foiling a pop-up catch by yelling may have been bush league, but umpires imposed no punishment. Typical retaliation would be a pitch in the ribs in the next at-bat - assault and battery in the eyes of the law, but just part of the game of baseball.

Baseball has a well-oiled response to cheating. Pitchers who scuff the ball are tossed out of that game and maybe the next one, too. Players who cork bats face a similar fate. Anyone thought to be engaged in game-fixing is banned for life. No court of public opinion or law has overturned that sentence.

Baseball's approach to standards of decency and safety has evolved flexively. In 1920, baseball banned the spitball, but a specified list of 17 pitchers whose livelihoods depended on the pitch were exempted. Decades later, baseball decided batters must wear a helmet. But those in the big leagues when the rule changed could opt out, despite the risks.

For decades, some players used "greenies" - amphetamines - to get up for games. They were widely used, written about unabashedly in books such as *Ball Four*. Hank Aaron, the "victim" of Barry Bonds, admitted to trying an amphetamine in the 1960s. It was and is illegal to possess and distribute amphetamines without a prescription. But until 2005, their use didn't violate baseball's rules.

Conversely, it's well-understood that a player may be suspended for consorting with gamblers, even though there's nothing illegal about it. Why? Because that is against the rules of baseball.

The ultimate issue for Bonds and all others is this: Were baseball's rules violated?

Major League Baseball did not ban the use of steroids until 2004. Before then, the effects of performance-enhancing drugs on a player's ability and health were reasonably well-understood. Their possession and distribution without a prescription were illegal, but not against the rules. Ironically, no grandfathered exemptions for steroid or amphetamine use were permitted - to do so would have both admitted and sought to excuse illegal conduct.

In the intervening decade or so since the steroid-era began, public opinion has hardened against their use. And baseball has never generally proscribed the breaking of the law, leaving that topic for legislatures.

Major League Baseball has not raised these facts as a defense, perhaps because to do so spirals into a debate of relative wrongs. But anyone fairly judging the conduct of all concerned must acknowledge shades of gray.

So, too, must it be acknowledged that Barry Bonds is one of the greatest players ever. He was great before he was thought to have taken steroids. For many of the years Bonds is said to have been "juiced," steroid use wasn't against the rules. Six hundred and thirteen of Bonds' home runs were hit before steroids were banned.

For those whose judgment of Bonds is unreservedly negative, consider this: Baseball may well get even with him. He may be the home-run champ, but he may not make the Hall of Fame. Admission isn't judged by what's legal or what's within the rules. It's judged by ability, integrity, sportsmanship, character, and contributions to one's team. Bonds may be found wanting. There's nothing wrong with that; it's just playing by the rules.

Shanin Specter is a baseball fan and lawyer.