

## LEADERSHIP FROM THE TRENCHES

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I want to begin with an admission . . . I used performance enhancing substances during my athletic career, ranging from a candy bar my parents gave me prior to a race at age 6, to dextrose tablets in high school (said to give a neighboring high school "an edge"), to bee pollen taken after the Finnish runner Lasse Viren said it had helped him win two gold medals, to a failed attempt to find reindeer milk in central New Jersey after Viren said that it had helped him repeat his Olympic victories.

This "admission" implicates, in part, my topic - "Leadership from the Trenches." Given my background in my sport, I took my job with USA Track & Field (USATF) with my eyes open. USATF has achieved wonderful success athletically, but was challenged financially and in terms of public awareness. And, with USATF constantly in the middle of events we could not control, my job had clear definitions:

I would be charged with working to give my athletes every possible advantage to succeed in our sport and yet simultaneously be expected to pursue and punish those who seek advantages that cross an arbitrary line . . . not always an easy role.

· I would be charged with building the public image of the sport, but simultaneously be expected to attack and "solve" the doping problem . . . not exactly consistent aims.

· I would be expected to be a good partner with the USOC and IAAF, even when their places or actions were inconsistent with existing rules, laws, or fairness toward our athletes . . . once again USATF is stuck in the middle.

Leadership, therefore, is about navigating the shoals of very dangerous waters, trying to be proactive and actually head somewhere rather than be stuck, to mix my metaphors, in the trenches. And, it's not easy.

I'm proud of the role that USATF has played in doping control . . . a leadership role. Due to the efforts of Edwin Moses, Doriane Lambelet Coleman, Jim Coleman, and others, USATF was one of the first sports organizations to institute a comprehensive out-of-competition testing program. Since then, we have tested more athletes, for more substances, more frequently than almost any other sport - and we've caught and taken action against a number of athletes, some of them quite well known.

USATF remains committed to playing a leadership role in the fight against drugs in sport and to creating and maintaining a level playing field for all athletes. To this end we have hired for the first time an in-house attorney to manage our drug testing program, Jill Pilgrim. She has been asked to maintain our leadership role in the area of doping control. But, let me focus for a few seconds on the trenches and what makes

being a leader so difficult.

We at USATF are subject to two organizational frameworks . . . that of the IOC and USOC on the one hand and that of the IAAF on the other. The rules of the two frameworks are frequently in conflict. Plus, we are subject to U.S. law, arbitration precedent, an emerging lex sportiva of international sports law as a result of a body of decisions from the Court of Arbitration for Sport, and IOC Medical/Doping Guidelines that are applied, or not applied, with startling inconsistency.

One rather mundane example is illustrative of these issues. In the past, IAAF Grand Prix and IAAF Permit meets tested for drugs using USOC crew chiefs and protocols. This year, the IAAF insisted that it would only accept drug tests conducted using IAAF protocols. The USOC refused to conduct such tests. This has forced USATF to work with meet organizers to find teams qualified to do IAAF testing and to undertake notification of athletes that they will be subject to different rules, regulations, and dangers as a result of the tests begin conducted under IAAF rules, including the fact that an "A-sample" positive will be announced publicly by the IAAF.

This last point is critical and is related to several other points. And, let me be clear that this is not about IAAF bashing, because they too are in the middle in many ways, and I could be telling you much the same story if I had on a swimming, cycling, or triathlon hat. However, our relationship with the IAAF and the IAAF's role result in several problems:

- The IAAF does not follow the IOC Medical Code, even though adoption of the Code is supposed to be a requirement for international federation "membership" in the IOC family. In addition, the IOC/USOC rules differ in important respects. And, we are subject to both regimes.
- The only documentation the IAAF considers as necessary to sustain their "beyond a reasonable doubt" burden of proof is the initial lab report. The IAAF does not appear to believe that it is necessary to provide USATF or our athlete with lab documentation, information on protocols followed, or rationales behind the rejection of an athlete's explanation.
- The IAAF considers any method used to determine a positive finding as valid, regardless if it has been peer reviewed or scientifically proven.
- The IAAF does not recognize an athlete's fundamental rights or American theories of justice. It suspends U.S. athletes based on an A-sample result, in spite of the fact that U.S. law prohibits such a suspension without a hearing, and in doing so it disregards USATF's confidentiality provisions.
- And, the IAAF has shown a consistent disregard for the reasoned decisions of the USATF Doping Hearing Board.

Think about where this leaves us. An alleged positive test under IAAF rules must be adjudicated by USATF (as the "prosecutor" of the athlete), no matter where the test was taken and what the evidence was - but, the adjudication must comport with USOC rules and U.S. law. And, to complicate matters further, athletes will draw on cases and precedents from other sports and legal settings. If and when the athlete wins before a USATF Hearing Board or Appeals Panel, that result is forwarded to the IAAF, which refers the matter to its Doping Commission. The Doping Commission then reviews the USATF opinion and recommends to the IAAF Council that it accept the finding or refer it to IAAF arbitration. In the latter situation, the USATF becomes the defendant in an action/appeal brought by the IAAF (though USATF is functionally the defender of the athlete. All of these steps result in a non-timely resolution of the case, inconsistencies in the application of the rules, and the destruction of athlete careers and reputation.

As if this "stuck in the middle" status wasn't hard enough, there are similar problems with the USOC and inconsistencies among the IOC accredited laboratories with respect to procedures used in analysis and documentation. In addition, the tiny universe of lab directors are hopelessly conflicted, undertaking the original doping analysis, conducting the required investigations (or not conducting them as the case may be), offering opinions about athlete explanations, setting policy via IAAF or IOC Doping Commissions, ruling on whether to refer matters to IAAF arbitration, working for federations as a consultant versus athletes, and working for athletes as a consultant versus federations.

And, USATF is not alone. Jim Coleman and I had a case in the sport of triathlon, a sport in which the rules specified that a case would be adjudicated in the country where the alleged doping violation occurred. The U.S. triathlon federation was forced to bring a proceeding against a non-American, our client. In this situation, the test at issue had been conducted by an NCAA-trained drug testing crew that had followed USOC protocols while recording key information on UCLA laboratory paperwork. It took months to determine what rules should apply and then we argued about whether the American Amateur Sports Act should apply.

With all of these factors at issue, what is an NGB to do? First, it is critically important that I attend seminars such as this one, in order to gather information and share ideas, all with the aim of improving the system. Second, I need to speak out. I'm proud of what we've done in track and field about doping. Our system is far from perfect, but at least we are trying. We should do better but we need to define our success rather than let others define our failures. Third, we must openly support the externalization of all testing and adjudication activities, with the understanding that any independent group charged with such responsibilities must be committed to fairness and due process. Finally, we must vigorously support the harmonization of all Olympic sport drug testing programs, and we hope that Major League Baseball, the NFL, the NBA, MLS, and NASCAR will join in this commitment and harmonization. We should all work together to engage in legitimate scientific research on the effects of drug use, to establish

the validity of testing regimes, and to agree on standard and serious punishments for breaking the rules.

If we can rid ourselves of the daily concern for testing, we can use the time and money currently expended on doping control activities to focus on the dangers of doping, the inculcation of a superior value system that lets them feel good about doing the right thing, and a continued participation in a fight to create a level playing field so that the simple beauty and majesty of sport can be the story, not doping.