

The Form and Substance of Independence: An Insider's View

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I would like to thank Duke University for the invitation.

As an administrator of a national governing body, I'm grateful for your interest and attention to the issue of performance enhancing drug use in sports. Imagine standing in my shoes when one of our top athletes comes to me and says, "I have the best equipment, nutrition program, my coach is great, I have money to get to the races and I know I am fast. But, there is no way I can break into the top 15 at Worlds – these other guys are juiced. I want to stay clean – but don't expect me to win."

Doping may be the single greatest threat to the viability and future of sport. Political scandals, business battles and labor disputes in sports are one thing. The complete erosion of fair competition and scandal on the field of play is quite another. The public is sensitive and savvy to the difference, and we are testing their patience. Their tolerance will soon evaporate – we are playing with fire. More importantly, the health of athletes who participate in doping is in danger – a danger that often times goes unnoticed until it is too late.

I am not representing or speaking on behalf of the United States Olympic Committee today, however I do serve on the USOC Anti-Doping Committee and have dealt with the international governing body of cycling on the issues of doping control harmonization and related topics. I am not an attorney and far from a scientific expert.

I serve as Chief Operating Officer of USA Cycling and in this capacity have seen and been served by a national Olympic committee anti-doping effort and structure. I have observed some very good people dedicated to ensure athlete health and fair play. I have also seen unnecessary, destructive court battles among members of a sports community and precious financial resources disappear when athletes remain in need of training support and competition. There are certainly more qualified individuals to address history and complexities of the anti-doping movement, but I hope I can offer some thoughts from the trenches and pragmatic, guiding principles about externalization for your consideration.

My remarks focus primarily on the domestic scene, because

- 1) I believe charity begins at home,
- 2) we should care first about the American athlete and a fair playing field in the United States, and
- 3) pragmatically we have more ability to change the American anti-doping structure than we do the IOC or IF structures.

Furthermore, the U.S. should be setting the best example and operating under the best anti-doping model in the world. One thing to keep in mind, if I'm not mistaken, the United States is one of a few countries whose doping control program is not under a government authority. Therefore, the resources available to combat drug use are limited. The program is true to its mission and is squarely focused on performance enhancing drugs in sports and preserving a level playing field, and not unrelated drug issues for which the USOC has no jurisdiction nor public charge to handle.

A point of information for you is that the annual USOC budget for doping control is \$3M.

The one thing I have been happy about over the past year or two is the willingness of the USOC to address doping with more vigor. After the Atlanta Games, a new quadrennial Anti-Doping Committee was appointed. In June of 1998, the USOC gathered together over 39 "stakeholders": crew chiefs, athletes, labs, NGB's, legal experts, etc. - never been done before. While the composition may seem a little incestuous to you, it was a committed start by people who care, a beginning to get serious about "externalization." That meeting gave birth and momentum to change the structure of USOC doping control. USOC leadership took the issue seriously. And this was before the Tour de France scandal of July 98 and international action by the IOC.

Further evidence of USOC seriousness was the conduct of two audits of the current USOC program. One was conducted by an external organization, and the other was a review by internal auditors. This has appeared to enable the USOC to confirm what works well, and address what needs attention.

Following the Indianapolis meeting, a task force was appointed by USOC President Hybl to better define what externalization means, what are the characteristics of externalization, what is the process, is it feasible from a business perspective? The work from the Indianapolis Summit, the Task Force and the input from many, many others helped shape some direction for externalization.

Everyone does not agree, nor will they ever, on a precise direction. However, given the size of the Olympic family that can rarely be a reasonable expectation. This is start, this is progress and advancement. To varying degrees, the Salt Lake scandal has slowed the process and diverted attention from the subject. I hope we will all get back to focusing on athletes and earning their trust in doping control programs.

Something to consider...The United States Congress designated the USOC as a coordinating body through the Amateur Sports Act (now called The Olympic Act), and as a result has limited ability to impose much on governing bodies. Grant money as a stick is one thing, legal jurisdiction is another. The necessity of building consensus is a necessary evil. This is unfortunately reality in a large public organization like the USOC.

The process and deliberations about U.S. doping control have been open and inclusive. Unfortunately, there is always a perception of conflict of interest in these situations. I have noticed that it is very difficult to reconcile conflicts of interest and the need to involve experts in the process of dealing with a highly complex matter and creating new structures. The answer remains transparency.

Externalization was a term coined to represent a widespread desire to remove doping control operations from the hands of the governing body that is first charged with an advocate position to support and help athletes win. This inherent conflict has existed for some time. Operating a doping control program from within the USOC has given the international community good reason to doubt the U.S. sports community resolve. Those of you that attended the Lausanne conference no doubt observed this “glass houses” conversation.

The characteristics of Externalization in the opinion of many are these...

Nobel Purpose Must be a Characteristic of a New Authority. The standing opinion from those closest to the issue is that a new entity must be developed from the ground up – there does not appear to be an existing entity that understands and is presently equipped to deal with all the intricacies of sports. Simply sub-contracting sample collection to an employment-testing agency is not an acceptable answer.

This new authority should advocate and sustain the highest ethical and moral standards in sport – it should be the nucleus of a national anti-doping strategy for all sport not just the USOC or NCAA. We would probably all agree that there is no national strategy to deal with doping. For instance, are sanctions imposed by the NCAA not recognized by the USOC or NGB’s?

Governance. This new entity or Authority should be governed by a blend of stakeholders and external, unconnected experts with a science and law background. Once initially appointed or elected, the governance structure can be self-determining and should operate under a clear governance policy complete with ethics procedures.

A sterling administration would be necessary to ensure success and credibility among athletes and client governing bodies,

ISO Certified Collection Process. The USOC is just now completing an ISO 9000 certification process, and this would be the standard expected of a new body.

Lab Partnerships. Labs need to be treated like partners not just vendors. They offer a wealth of experience and need to be an integral part of the externalization process and coordination with any new Authority. Keep in mind, IOC accredited labs in the U.S. are

affiliated with universities and have other interests besides sports testing. We must be mindful and respectful of this situation.

Independent Review Process. A medical review process does not exist within the USOC today. I have noticed that the ATP has a decent model and review process, and others may have systems as well. One needs to be created and it needs to be rapid and quality – it can be created today with or without externalization. A scientific commission needs to review lab results and positive findings. If a test is confirmed as positive as a result of the medical review process, then it should be forwarded to adjudication. The commission would also serve in a quality control capacity and be ISO certified.

Adjudication Process. The process should be fast, fair, and cost effective for everyone involved. It is evident that NGB's and clients lack resources and experts to effectively deal with cases. This element of externalization will require significant development, and will need to be consistent with current public law such as The Olympic Act.

Various people have or are developing ideas about alternative models. Some are proposing direct delivery of a case to CAS, some have proposed a JAG model that is based on a fixed legal cost structure vs. a variable cost model, other NOC's have different models that utilize CAS to varying degrees. The AAC has not weighed in on any new adjudication ideas to date, and may be reluctant to give up the AAA opportunity presently in the Olympic Act.

Often times NGB or AAA decisions are not recognized by IF's. It is not uncommon for IF's to begin their own hearing process. This is where you can begin to hear the sucking sound of money disappearing. The Foschi case involved a series of hearing and appeals that spanned August 1995 to October 1997. Is that fair, expedient, and reasonably affordable for either party? Worst of all the athlete was placed in a position of double jeopardy between two different systems.

Sanction Process. Sanctions and penalties would remain with the NGB per The Olympic Act.

Research. This is critical. An infrastructure and international strategy is vitally needed. Research should not only deal with detection of new drugs, but also research into ethics, education, epidemiology, legal, and other related areas. We all know that the gurus are far more advanced than the detection methods used today, and tests for popular drugs of choice like EPO remain unchecked. What good is a doping control program if it is chasing the wrong animal?

A significant pool of money needs to be created to effectively tackle research, and a good portion would need to come from the IOC. The USOC has proposed to the IOC an international consortium for research activities. No single, one country should have to bare the burden of research costs.

Intelligence. Information on new doping methods, substance trafficking, and monitoring of these areas is necessary. This Authority must be recognized and have data access as well as access to other agencies with investigative power.

Education. This is fundamental element that has been proposed as remaining within the governing bodies because of the direct connection they have to athletes and coaches. The Authority should also liaison with high school federations, government and the media.

Transition from a current system to a new one is key. Experience and knowledge from current systems must not be lost in the transition to a new structure.

There exists a strong temptation to deal with each of these pieces separately and distinctly, and on different timetables. Time after time, good reasons surface why this is not practical and will lead us all to failure. Doping control, review process, related adjudication research and sanctions are so interwoven and interrelated, it is virtually impossible to try to fix one piece and expect all pieces to be corrected or improved overnight. We must look at a new doping strategy as a whole universe with a significant causes and effects. This is a 3-D puzzle that needs to be made whole before we say the program is externalized and working.

What are the next steps?

I know the USOC hopes to see some discussion and development of a few new legal models for consideration.

Second, what good is a testing program without the ability to detect the most meaningful banned drugs, e.g. EPO and the need to resolve TE determinations – research has to stay on the table as a priority. The USOC and IOC need to act. The U.S. scientific community needs to participate.

Third, establishment of a medical review process – something that can begin now with or without externalization. How many cases could have been handled better for both athletes and prosecutors if an initial review process was available to determine lab irregularities, review sample collection procedures, etc..

Work on a governance structure will need to start – the ultimate goal is for governing bodies to transparently distance themselves from the management of doping control, therefore we will only achieve externalization to the extent that the governance is reasonably independent and autonomous.

There is a lot that is right, a lot that works, and a lot that is to be proud of with the American doping control program. However, some significant pieces are not operating in harmony; legal and science in particular.

If you are wondering what this conference can achieve, why are we here, and how can you have some influence, I would be happy to serve as a depository for comments, ideas, suggestions, recommendations, advice, etc. I know the USOC will be having further action meetings this summer.

Thank you. I look forward to hearing remarks from other panelists, and listening to new ideas today and tomorrow.