



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF NATIONAL DRUG CONTROL POLICY
Washington, D.C. 20503

**Hearing entitled,
“The First Clean Olympics? Rodchenkov Act
Enforcement at Tokyo 2021”**

Commission on Security and Cooperation in Europe
United States Congress

Wednesday, July 21, 2021
2:30 p.m.

Statement of
Richard J. Baum
United States Coordinator, Doping in Sport
Office of National Drug Control Policy

Introduction

Chairman Cardin, Co-Chairman Cohen, Commission Members:

Thank you for inviting the Office of National Drug Control Policy (ONDCP) to testify today on anti-doping matters. As you know, ONDCP manages Federal grant funds that support the World Anti-Doping Agency (WADA) and the United States Anti-Doping Agency (USADA). Doping in sport is a long-standing challenge, but recent advances in technology, and the involvement of elements of foreign governments in facilitating or directly supporting doping conspiracies, has made the task of ensuring integrity in athletic competition more complex and more urgent.

U.S. athletes competing in the upcoming Olympic Games deserve fair competition. Their years of dedicated training and commitment to excellence inspire us all and make us proud. However, doping has always been an issue. Historically, we have conceived of the doping threat as individual athletes consuming prohibited substances, either during training or competitions, to gain an unfair advantage. Though this challenge still exists today, the larger threat is from state-sponsored or facilitated doping schemes, as we saw at the Sochi Olympics in 2014.

To address this threat, we need to ensure that WADA is fulfilling its duties as a global regulator. As was explained in detail in ONDCP's May 17, 2021, Report to Congress on World Anti-Doping Agency Governance ([ONDCP-2021-WADA-Report-to-Congress-Final.pdf](#) ([whitehouse.gov](#))), there are systemic governance challenges at WADA. Every single one of WADA's stakeholders and funders, including the United States, have a responsibility to help transform WADA into a modern, efficient, and capable global regulator.

It is important to highlight that WADA is a globally run organization, even if the United States is the largest single funder. That means that our efforts to make progress and change at WADA will continue to require our close coordination with governmental partners and stakeholders around the world. Major changes to the governance of WADA cannot be made otherwise.

ONDCP is also working closely with domestic sport organizations that have deep knowledge and long experience both in the technical aspects of anti-doping and meeting the needs of athletes. ONDCP is grateful for the expert advice and input received from USADA, the United States Olympic and Paralympic Committee (USOPC), and the Athletes' Advisory Council (AAC).

The Threat to Integrity in Sport

Doping in sport and sports-related corruption are not new threats to American athletes or the United States. While no country, including the United States, is immune to the threat of doping, a system must be in place to effectively deter this fraudulent activity. That system must be able to detect doping and sanction those involved in the activity, and its concealment.

We know that Russia ran a sophisticated, state-sponsored doping program for years.¹ Their long-standing success at defrauding the world, and getting away with it, is deeply troubling. Further, their behavior has not changed since then. Ongoing efforts by Russian officials to minimize the extent of their doping fraud, the lack of Russian government contrition for the large-scale injustice to athletes and the sporting community, and the recent evidence of ongoing doping behavior and interference by the Russian Anti-Doping Agency (RUSADA), suggests that there is much still to be done.²

Russia's state-sponsored doping program, prior to and during the 2014 Winter Olympic and Paralympic Games in Sochi, is a particularly appalling example of a well-orchestrated state-sponsored doping scheme. Russia's offenses—before, during, and after Sochi—send a clear message on the urgent need for international institutions such as WADA to combat this serious threat. Without that commitment from WADA, Sochi will continue to represent a powerful example to other countries that have facilitated or are facilitating doping. It is important that we carefully review what happened in Sochi so that we learn the right lessons.

¹ In 2008, a 16-month investigation conducted by the International Association of Athletics Federations (IAAF) resulted in the doping suspension of seven female Russian track and field athletes, five of whom were Olympians.

² Five Russian Athletics Federation officials were sanctioned by the Athletic Integrity Unit (AIU) with four-year bans. See [AIU sanctions show WADA was correct to sanction Russia - Sports Integrity Initiative](#) (February 19, 2021).

After the 2014 Winter Olympics in Sochi, Yulia Stepanova, a former Russian track star, and her husband Vitaly Stepanov, a former doping-control officer for RUSADA, initially exposed the Russian government's vast state-sponsored doping system in a televised German documentary. Grigory Rodchenkov, the former head of Russia's national anti-doping laboratory, fled Russia in fear for his life, taking with him comprehensive digital records. If these three brave whistleblowers did not have the courage to speak the truth, the world might have never known about the Russian scandal.

This remarkable cheating scheme has led to important new authorities being granted to the U.S. Department of Justice by Congress in the *Rodchenkov Anti-Doping Act of 2019* (Rodchenkov Act).³ Dr. Rodchenkov explained clearly that doping in sport should not be thought of as the individual action of athletes, but rather part of a complex conspiracy with many key actors orchestrating events with technical proficiency, careful planning, and state power. The new tools embedded in the Rodchenkov Act include a penalty of up to 10 years and a fine for individuals of up to \$250,000 (\$1,000,000 for entities). It also includes penalties, such as asset forfeiture, for individuals and groups who conspire to influence the results of any major international sports competition through the use of a prohibited substance or method to defraud sport.

The United States is working on addressing doping at home and abroad, as well as the wider criminal threat of sport-related crime. However, because many of the most important and highest visibility sporting competitions are international, it is important that all nations take these obligations seriously. Nations should bring all those who cheat—whether they are athletes, coaches, sport officials, or other sporting criminals who operate within their borders—to justice. When countries are unwilling or unable to prevent and sanction these violations, WADA must take decisive action on specific offenses, as well as support efforts to ensure that national shortcomings are permanently addressed.

³ Public Law 116-206, available at, [congress.gov](https://www.congress.gov) (Dec. 4, 2020).

The American people, today's and tomorrow's athletes, and sponsors investing in sport, deserve clean sport. The U.S. takes our obligations seriously and will continue to partner with those at home and abroad who share this commitment.

The U.S. Department of Justice and its Federal Bureau of Investigation (FBI) have taken steps to address the doping and sports-related crime landscape through increased outreach and partnership with domestic and international sporting organizations, as well as international integrity watchdog organizations. An Integrity in Sport and Gaming program has been developed within the FBI's Transnational Organized Crime-Global Section. This unit collaborates with domestic partners like USADA, and leverages international law enforcement partnerships to disrupt and prosecute the transnational threats and corruption elements that prey on the societal institutions of sport. Further, the U.S. Department of the Treasury retains an array of tools and authorities, including targeted financial sanctions that may be directed against foreign actors involved in a wide range of corrupt international actions, including sports-related corruption and doping. In 2018, for example, Treasury's Office of Foreign Assets Control added two officers in Russia's Main Intelligence Directorate to its designated nationals list for their role in hacking WADA and illegally releasing athlete medical data.⁴ Tools like these can support WADA's vital mission.

A strong, proactive, highly capable and efficiently managed global regulator, working well with domestic partners, can make law enforcement efforts less necessary over time. However, there is still a lot of work to accomplish within WADA, particularly with regard to its management structure.

The Challenges to WADA

It is WADA's job to monitor anti-doping programs, such as drug testing, year-round. WADA must ensure that all anti-doping programs are robust and effective, confirm that anti-doping

⁴ Treasury Targets Russian Operatives over Election Interference, World Anti-Doping Agency Hacking, and Other Malign Activities, U.S. Department of the Treasury, Sept. 19, 2018. <https://home.treasury.gov/news/press-releases/sm577>

laboratories can detect all forms of doping, and monitor the administration of tests around the globe. Considering this critical role, it is vital that WADA take every effort to avoid any real or potential conflicts of interest. WADA has an important responsibility, and the United States is deeply invested in WADA's success. American athletes, and those from around the world who dedicate themselves to years of training to reach an elite level in their sport, are counting on WADA to provide a level playing field at high stakes international competitions.

In November 2020, WADA established a Governance Reform Working Group to build on initial governance reform efforts that emerged in the aftermath of the Russian state-sponsored doping scandal. This group of appointees has been meeting and consulting with a variety of stakeholders, including governments, athletes, and sports organizations. A critical part of this consultation was the development of a detailed survey for all stakeholders on priorities for reform.⁵ The U.S. Government, provided a coordinated response to the WADA governance survey.

ONDCP is hopeful that major reforms will emerge from the current round of governance reform discussions. The United States will work constructively to add its voice to others who also want to strengthen WADA. We intend to consult in good faith with the Olympic Movement, athletes, sponsors, and other stakeholders both inside and outside the confines of formal WADA meetings. It is important to note that structural reforms within WADA require a two-thirds consensus vote from its key institutions.

ONDCP appreciates that some of the challenges described in its Report to Congress, and the U.S. proposals to address them described below, represent significant change to the current structure of WADA. Nonetheless, we believe these changes—a roadmap to a new WADA—are needed to address structural flaws within the organization. The proposals below represent the beginning of a reform roadmap on how WADA can accomplish its important tasks as a modern, global regulator.

⁵ The governance survey did not include questions on ethics or the Court of Arbitration for Sport. Public authorities had the opportunity to respond to an ethics specific survey. However, stakeholders, including the U.S., also referenced ethics and the need to reform of the Court of Arbitration for Sport in the governance survey.

Just as the sports and doping worlds have changed a great deal since WADA was initially established in 1999, so too must WADA change. For example, the need for high ethical standards, avoidance of conflicts of interests, management efficiency, as well as diversity, equity, and inclusion, are critical management principles that should be incorporated by WADA. A fit-for-purpose WADA would adapt and address issues that hamper the organization's effectiveness, as well as perceptions of that effectiveness, as the global-regulator of doping in sport.

With the objective of advancing reform, combined with the understanding that such reform should be supported in the spirit of collaboration and partnership among all stakeholders, the United States wants to highlight the following areas – the “Ten Challenges” – which must be taken on not just by WADA's appointees, but by the entire stakeholder community. These challenges, described in the Report to Congress, include:

1. Utilize the opportunity for governance review to foster major reforms.
2. Ensure WADA appointees are fully Independent and free of real or apparent conflicts of interest.
3. Include more Independent Athletes inside the organization.
4. Increase participation of National Anti-Doping Organizations within WADA's governance structure.
5. Expand stakeholder engagement and ensure that such engagement is channeled in to concrete reforms.
6. Closely consider reforms to WADA's Executive Committee structure, as concerns are raised that it may not be sufficiently independent, is duplicative of the Foundation Board, and is subject to the appearance, or the reality, of conflicts of interest.
7. Include Independent Athletes and national anti-doping organizations on the Foundation Board, and make reforms related to the potential undue influence by the Olympic Movement.
8. Identify a diversity, equity, and inclusion policy for WADA, along with an implementation plan.

9. The Court of Arbitration for Sport lacks transparency and independence and has failed to adequately sanction state-sponsored doping – WADA’s voice is needed to help address this.
10. WADA should consider ways to provide additional support for struggling WADA signatories.

Next Steps in WADA Governance Reform

While ONDCP has been concerned by the pace of systemic reform within WADA, we also understand that the United States must be an active and constructive partner in the search for consensus on significant reforms. Towards this end, at the May 21, 2021, WADA Foundation Board meeting, ONDCP Acting Director Regina LaBelle asked the WADA Governance Reform Working Group to develop detailed proposals, to be voted on, which would:

- Add four more independent members of the WADA Executive Committee, two each in 2022 and 2023;
- Allow all Executive Committee Members to operate under stronger independence criteria and serve under a clear duty to make decisions that are in the best interests of WADA itself; and
- Add independent athletes and National Anti-Doping Organizations as voting members of the WADA Foundation Board.

Ideally, the Executive Committee would be fully independent and made up of experts skilled in managing the day-to-day work of WADA. The United States will explore opportunities to push for that ideal, while at the same time taking incremental steps to advance the independence of the Executive Committee.

With knowledge of ONDCP’s efforts to pursue governance reform within WADA, Congress granted ONDCP the authority to manage the U.S. dues payment to WADA, including making a partial dues payment or withholding it entirely, in the *Consolidated Appropriations Act, 2021*, Pub. L. 116-260. On June 23, Acting Director LaBelle sent a letter notifying Congress of her

decision to pay only a portion of the U.S. dues obligation at this time. Congress appropriated up to \$2.932 million in Fiscal Year 2021 for ONDCP to fulfill a negotiated commitment to fund annual U.S. dues to WADA for 2021. ONDCP intends to transmit just over half of this amount (\$1.6 million) later this month.

Although ONDCP is encouraged by the comprehensive presentation of the Governance Reform Working Group and the constructive dialogue by all parties at the May WADA Foundation Board meeting, we still recognize that there are many additional steps required this year and beyond. ONDCP views the partial dues payment as a sign of good faith and as an indication of our commitment to continue to work with WADA and its key stakeholders on governance reform. We note that even this partial payment by itself makes the United States the single largest dues payer to WADA.

Ongoing efforts to reform WADA are promising. We expect WADA, with the support of the United States and other public authorities, to find consensus on important reforms prior to or during the upcoming November 24-25 Executive Committee and Foundation Board meetings. ONDCP hopes to be in position to provide the remainder of the dues after the successful completion of these important meetings.

The United States recognizes that the lack of a full payment has the potential to affect WADA administration. However, based on the substantial savings achieved by WADA due to its prudent decision to hold its meetings virtually during the COVID-19 pandemic, the organization is carrying a surplus. WADA, according to reporting by its internal Finance Committee, has sufficient funds to fulfill its obligations at the Tokyo Olympics and meet all its other expenses, even before the United States provided any payment. Our intent, as stated above, is to wait until the Fall before considering WADA funding issues further. Nonetheless if WADA, due to efforts to implement major organizational reforms or to meet new anti-doping testing responsibilities, faces a sudden fiscal crisis, the U.S. would be willing to reconsider the timing of when the remainder of the U.S. dues are provided.

Conclusion

It is important to acknowledge that WADA has a challenging mission. WADA takes its mission seriously, has many talented appointees and staff, and has a two-decade track record as an institution that has given it time to develop, learn from each new doping challenge, and to improve. WADA has launched a positive and well-intended process to further enhance its governance. It has made some useful governance reforms already and seems to be on track to make more this year. In particular, WADA's plan to approve a detailed Ethics Code and establish an Ethics Board at their Executive Committee and Foundation Board meetings this Fall is encouraging. We are also looking forward to additional proposals for systemic reform emerging from the comprehensive report of the Expert Working Group on WADA Governance Reforms, which summarized the responses to the governance stakeholder survey during the May WADA meetings.

Although the United States understands that systemic reform of WADA may take several years to advance, we believe it is important to keep focus on what a truly reformed WADA would look like. From the point of view of the United States and other public authorities that fund WADA, decision-makers at WADA should be free of conflicts of interest and should apply their talents and knowledge as truly independent appointees and experts. These changes are significant and require negotiation by all parties, especially between governments and the Olympic Movement, which works closely with the International Olympic Committee.

Ideally, the international community will be able to establish a modern global anti-doping regulator without serious built-in conflicts of interest, but it will be no simple endeavor to reach consensus with key stakeholders on what this modern global anti-doping regulator should look like. It will require intensive consultation, planning, and coordination and will involve input from a number of diverse interests. Keeping in mind these challenges, we look forward to working in good faith with willing partners in helping to reform WADA.

For all those who care about sport, these are weighty issues. No decision will be made lightly, and no action will be taken without speaking with and listening to the key actors and experts on

this subject, and understanding the consequences of decisions. The U.S. Government will continue to engage with all relevant interlocutors to support the continued strengthening of WADA, working both within the organization and with actors outside the organization. Together, we hope to find a way to make sure every athlete can rest assured that the one and only consideration of the global regulator for doping in sport is maintaining and supporting the integrity of sport.

###