

Report to Congress on the Status of the Implementation of World Anti-Doping Agency Governance Reforms

Office of National Drug Control

Policy

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Introduction

The Office of National Drug Control Policy (ONDCP) was directed by Congress to provide a report to the House and Senate Committees on Appropriations on implementation of World Anti-Doping Agency (WADA) governance reforms necessary to enhance the role of athletes in WADA decision-making, increase the independence and transparency of its governance and operations, and restore confidence in clean competition¹. This report provides an update on key matters of concern and provides more context on both the challenging environment of today's doping threats and ONDCP's approach to effectively advocate for practical solutions.

As discussed in ONDCP's 2021 report to Congress², sports face an array of significant doping threats. Although the state-sponsored doping conspiracy organized by the Russian government for the Sochi Winter Olympics in 2014 was part of a longstanding pattern of abuses, it nonetheless stands out as an historic sport crime of the century. That year, the Russian government stole medals from deserving U.S. and other elite athletes. This crime undermined the integrity of sports, and severely damaged the interests of the impacted athletes who were denied a deserved moment of celebration and potential sponsorship opportunities to cover training, competition, and basic living expenses.

A dedicated, properly resourced, and well-organized global doping regulator is necessary to prevent such serious crimes from re-occurring in the future. The United States wants WADA to be a regulator that can effectively, and in a timely fashion, take on the numerous threats posed to integrity in sport. This is a significant operational challenge, considering the scope of the global sports movement, the very high incentive for certain governments and some individual athletes to gain an illicit edge in competition, and the continuing evolution of technology with regard both to testing and other means bad actors may use to electronically manipulate data. WADA, given its role as the single global anti-doping regulator, needs the skills, capacity and proactive approach required to ensure that it is both respected and feared by those who intend to cheat. The United States has been working with other governments around the world, as well as with its domestic partners – the United States Anti-Doping Agency (USADA), the United States Olympic and Paralympic Committee (USOPC), and the United States Olympic and Paralympic Athletes' Advisory Council (USOPC/AAC) – to help WADA move forward towards that goal.

In light of the Sochi doping conspiracy, WADA has embarked on two waves of internal governance reforms to bring the organization's capabilities and processes in better alignment with today's threat environment. The first wave was completed in 2018, and the second wave began in November 2020 with the establishment of the Working Group on the Review of WADA Governance Reforms. This second Working Group was tasked with assessing the impact of the initial wave of governance reforms approved and to propose additional needed

¹ [untitled \(senate.gov\)](#), see pages 33-34

² Available at https://www.usada.org/wp-content/uploads/ONDCP-2021-WADA-Report-to-Congress_Final.pdf

reforms. The Working Group held 36 meetings over the course of 16 months, and presented interim reports in May 2021, September 2021 and November 2021. Its Final Report was presented in May of 2022. The bulk of the report's recommendations, as adjusted via negotiations between senior WADA Executive Committee representatives from the sports movement and governments, were approved at a November 2021 meeting in Paris, France. Several additional recommendations, after intense negotiations between representatives of the Olympic Movement and governments, were ultimately unanimously approved by WADA's Foundation Board in Cairo, Egypt in May 2021. WADA is now in the implementation phase of this second wave of reform.

Broadly speaking, WADA's internal governance reforms are yet to be fully implemented, and it is premature to reach a firm conclusion of their real-world outcomes. There has been a significant level of effort by WADA to improve the organization's operations, and thereby advance global efforts to promote clean sport. It is too early to judge whether these efforts are sufficient to overcome the shortcomings and concerns highlighted in detail in ONDCP's 2021 report to Congress.

The report that follows provides an overview and discussion of reform efforts organized around the key questions ONDCP was asked by Congress to address. More details on the status of reforms are available on WADA's [website](#)³. Where possible, the report provides an assessment of progress made, as well as commentary on areas that require additional focus. After an exploration of WADA's efforts to enhance the role of athletes in WADA decision-making, increase the independence and transparency of its governance and operations, and restore confidence in clean competition, there is a discussion of how the 'Americas' region selects representatives for WADA's decision making boards. The conclusion of the report discusses the continuing need for ONDCP to monitor the implementation of WADA's internal reforms, as well the importance of working more closely with hemispheric partners throughout the Americas on anti-doping and broader sports issues.

Before moving forward to a specific discussion of the key topics highlighted by Congress in the request for this report, ONDCP wishes to reiterate that the structural challenges to WADA discussed in detail in the 2021 report have not been resolved. As noted in that report:

“The core question with regard to WADA reform is not whether or not it is possible for the organization to make necessary reforms; it has already shown a willingness to do so. Those steps are appreciated and recognized. Rather, the fundamental issue is whether, as WADA proceeds forward with incremental reforms, this momentum for reform will grow to the point where it can bring fundamental change to the organization. ...WADA and its stakeholders have substantial challenges they need to take on, most critically the inherent conflict of interest that comes with giving representatives of the Olympic Movement, essentially the industry that WADA is seeking to regulate, such strong decision-making influence within the organization. The individuals appointed by the Olympic Movement to serve within WADA are generally hard working, experienced, and capable, with deep backgrounds in sport. However, by

³ <https://www.wada-ama.org/en/news/wada-foundation-board-unanimously-approves-further-governance-reforms>

embedding within WADA a voting majority from the industry being regulated, the organization's founders (including the United States) built into its governing bodies a conflict of interest. This opens the organization to external skepticism on whether decisions are made solely to promote the integrity of sports. The leaders, staff, and experts and WADA today are not responsible for this organizational decision in the 1990s; however, they are forced to make the organization function well and to manage through this vulnerability and initial error.”

The reforms approved by WADA will, hopefully, make progress towards mitigating the structural challenges inherent within the set-up of the organization. In an ideal world, WADA decision-making is not controlled or heavily influenced by those who have a stake in the economics of sports competition. However, it is clear at this point that there is no consensus within the Olympic Movement, nor among governments, to completely overhaul the basic DNA of the organization as an equal partnership between International Olympic Committee (IOC) affiliated groups and governmental representatives. Such a complete transformation of WADA's governing structure requires a two-thirds majority vote, which is not possible at this time.

Nonetheless, the Olympic Movement and governments have worked together to make some welcome potential improvements in the organization. ONDCP is committed to continued engagement in a good faith dialogue with both governments and the Olympic Movement on additional steps that can be taken to establish a stronger and more independent WADA, and to increase athletes' confidence in the organization. As it continues to keep a focus on additional needed reforms, the United States will concurrently seek to partner with all WADA stakeholders, including WADA management, to make the most of the reforms approved to date. WADA management has also committed to formally assess the impact of reforms, and to make changes as challenges emerge during the implementation process.

ONDCP is very appreciative of Congress's support and continued focus on the important subject of doping in sport. This support for anti-doping institutions, through the annual domestic doping grant funds, the dues payments to WADA, and for ONDCP itself as it seeks to manage an increasingly complex portfolio, is essential for continued progress.

THE ROLE OF ATHLETES IN WADA DECISION-MAKING

Overview

No group of individuals has a stronger stake in effective doping control than the elite athletes who compete, after years of dedicated training, at the highest level of their sport. Athletes are directly impacted, on a daily basis, from the array of reporting and testing requirements set up to prevent doping. The anti-doping rules require not just that athletes submit to both out-of-competition and in-competition drug testing, but also geo-location reporting and tremendous care in any substance, medication or food they consume. Athletes and their coaches must carefully adhere to the rules to ensure that they do not mistakenly take a supplement with a prohibited component, or eat a meal with prohibited additives. Elite athletes commit to these conditions in order to ensure they are cleared for competition. They expect and deserve a fair, consistently applied system of testing, so that they can know that all are subject to the same standards.

It is only logical that elite athletes should have a voice in the decision making within WADA. However, for most of WADA's history, they have been under-represented. There has been a good deal of discussion and debate over how athletes can best participate within WADA. A common argument by some is that former athletes who serve in various positions with WADA, including many who represent the International Olympic Committee, reflect the voice of athletes due to their earlier experience as Olympic athletes. However, the United States and other governments believe that once an individual is working, even if serving in an unpaid position, for an institution or organization not run by athletes, they are accountable to the organization they work for, and not to the athletes. The same is true for former athletes hired or appointed by governments who serve within WADA, or staff government officials in their WADA-related work. Such former athletes are not independent, and should not be seen as reflecting the perspective of independent athletes.

The issue at hand is not the number of former athletes that participate in the organization's government bodies and committees; indeed, WADA has a variety of former athletes serving in numerous important roles who make valuable contributions to the anti-doping enterprise. In fact, WADA benefits by having current and former athletes integrated into many parts of its work. However, it is critical that athletes have the opportunity to provide direct input into decision making that is not filtered through any other organization, advocacy group, or entity not managed by athletes. An organization like WADA needs clear and independent voices who are obligated to prioritize an athlete's needs, rights, and welfare.

WADA Athletes Council

WADA has long had an Athletes Committee, a designated Standing Committee of the organization. As part of the recent governance reforms, there was consensus that this committee should be reformed, enlarged and elevated to better represent athletes. The reformation process was subject to extensive negotiations between the IOC and governments that serve on WADA's governing boards. An eventual compromise transformed the 12-member Athletes Committee into a larger Athletes Council consisting of 20 members. Under WADA rules, this group would transition from a 'Standing Committee' to a 'Special Committee', and would be constituted to

reflect the diversity of the entire athlete community. This proposal was approved at the WADA meeting in Paris in November 2021, as part of the package of reforms referenced above.

The United States and some other governments were disappointed to not get everything it asked for under the Athletes Council. In particular, it did not believe it was appropriate for an IOC-affiliated athlete to be eligible to serve as the Chair of the Athletes Council. The election process, as described below, is complex, and in an effort to balance a number of competing views, the process is not as democratic as it could have been. It is unclear at this point how likely or not it is for an IOC-affiliated athlete to be elected as Athlete Council Chair. Although we would note that well short of a majority (5 of 20) athletes will be appointed by the IOC, arguably making the selection of an IOC representative as chair of the group unlikely. This issue of the Athlete Council leadership will be resolved after the group is fully formed, and when it meets in early 2023 to vote for their Chair.

The personal background of the Athlete Council chair is critical because they will not only lead this important new group, but will also serve as an ‘independent’ member of the WADA Executive Committee. This is potentially an important addition, assuming the chair does, in fact, serve effectively as the voice of independent athletes within WADA. The United States supported this addition of the Athlete Council chair, but with the expectation that the chair would not be under any obligation to any non-athlete run entity such as the IOC or national governments.

The United States has been among those national governments pressing WADA to increase the independence of the Executive Committee in order to ensure that no single group could dominate decision making. The Executive Committee will grow from 14 to 16 members with the addition of the Athlete Council chair, and one other independent member who is not affiliated with either the IOC or national governments. When these reforms are implemented in 2023, the new larger Executive Committee will be roughly split in three parts between the Sports Movement (5), national governments (5), and independent members (6, if the Athlete Council Chair is included). Although it will still be quite difficult for major reforms to reach a 2/3 majority based on ONDCP’s understanding of past negotiations over systemic changes proposed for the organization, it appears to be less difficult than in the past.

The United States hopes that when the elected chair of the Athlete Council takes their seat as a full voting member of the Executive Committee, athletes around the world finally will have a clear and independent voice among the decision makers at this most important of WADA’s governing bodies. This outcome depends on the makeup of the new Council members eligible to vote for the chair. One WADA Board seat for athletes cannot fully represent the needs and rights of athletes to participate in decision-making in the anti-doping arena of the Olympic and Paralympic movement. It is important to note that other governing bodies of organizations directly impacting athletes in the United States, such as the USOPC, must be comprised of at least one-third athletes.

The election/appointment/selection process for the Athletes Council was designed to balance the interests of the three different athlete groups the Athlete Council’s members will be drawn from:

- Group 1: IOC's and the International Paralympic Committee's Athlete Commissions — from these organizations *five* athletes will be appointed.
- Group 2: Athletes nominated by the Athlete Commissions of International Federations which are signatories to the World Anti-Doping Code — from these organizations *eight* athletes will be elected. None of these athletes can be a member of the IOC Athlete Commission or International Paralympic Committee.
- Group 3: An additional *seven* athletes will be selected by an 'Appointment Panel' to fill skills and diversity gaps. The panel will consist of an athlete from Group 1, an athlete from Group 2, and a member of the WADA Nominations Committee. The Panel must consult with the WADA President before drawing up its final list of candidates, and will be allowed the opportunity to approve (or disapprove) the choices of the panel for Group 3 athletes. The panel will operate by consensus. Members of the IOC's and International Paralympic Committee's Athlete Commissions are not eligible to serve in Group 3.

The United States is watching this election process unfold, and will not yet make any final judgements whether this process, in the end, will result in an Athletes Council able to reflect the voice of independent athletes. Although more insight into the Athlete Council will be possible once the election and appointment process is complete before the end of the year, a firmer assessment can only be made once the Council is fully formed up, starts meeting, and begins to offer recommendations in 2023.

The initial list of candidates who have been vetted to confirm that they meet the eligibility criteria, and that they have the time and ability to take part in the activities of the council was posted on the WADA [website](#) in August⁴. 'Ability' refers to the candidates having experience, knowledge or expertise in sports-related legal, medical, scientific, education or anti-doping matters. The list of 34 nominees from the Athletes Commissions of the International Sports Federations included five Americans. The intent of the overall approach is that the Athletes Council reflect the full diversity of athletes around the world, including their sport, gender, age, ethnicity, culture, disability, nationality, and background. If after the election of Group 2 the Athletes Council is lacking in these areas, the appointees to Group 3, according to WADA, is expected to remedy these gaps.

On September 6, 2022, WADA announced Group 1 appointed candidates and Group 2 elected candidates to serve on the Athlete Council in 2023. In a positive development, Clare Egan of the United States, who was nominated by the International Biathlon Union, was elected. She represented the United States in multiple events at the 2018 and 2022 Winter Games. Ms. Egan was also subsequently selected to serve as one of the three members of Group 3 (who will select the final seven members of the Athlete Council). The full listing of those appointed and elected are available on the WADA website.

The next steps in the Athlete Council process are as follows:

⁴ <https://www.wada-ama.org/en/news/wada-announces-candidates-2022-athlete-council-election>

- From September 2-30: Public call for Group 3 possible appointees. (Completed).
- Week of September 5-12: Group 1 and Group 2 meet to select members of the Appointment Panel. (Completed).
- Week of September 12 or 19: Appointment Panel meets to determine selection process. (Completed).
- September 30 to December 9: Appointment Panel consults with WADA President.
- Week of December 12: Successful candidates advised of their appointment to Group 3.
- Week of December 19: Plans for first meeting announced and background materials provided to membership of Athletes Council (all three groups).
- Mid-January: First meeting held of newly constituted Athletes Council.

Foundation Board Changes

In addition to the creation of the large Athletes Council, and the addition of the Athlete Council Chair to the Executive Committee, WADA also agreed to add two athletes to WADA's Foundation Board. The reform of the composition of the Foundation Board was designed to maintain the balance between the Sport Movement and national governments. Four new board members were added:

- Two seats to the Sports Movement's allotment of Foundation Board for representatives of athletes to be elected from and by the WADA AC, with one member (at least) to come from Paralympic Sport.
- Two seats to governments' total allotment for representatives of National Anti-Doping Organizations (NADOs). Regional Anti-Doping Organizations are not eligible, only national organizations – which are generally funded by governments. The two NADO representatives on the Foundation Board are democratically elected by the WADA NADO Expert Group from amongst its members.

The stated intent of these additions was to strengthen the voice of athletes and NADOs within the Foundation Board. The United States supports this goal, and joined with the consensus supporting this change. As with the Athletes Council, the practical impact of these changes will not be clear until these changes are implemented, and the selected representatives take their seats and participate directly in meetings.

Role of Athletes in WADA Decision Making: Conclusion

Until independent athletes can reliably know that their voices are clearly heard within WADA, the organization will not be on a strong foundation. The United States is hopeful that the compromise reforms negotiated by the Sports Movement and national governments brings this goal closer. ONDCP eagerly anticipates when the Athlete Council is formally established in 2023 and begins to share its views on the issues that directly impact the daily lives of athletes.

The United States will not hesitate to propose additional reforms with regard to the representation of independent athletes if this reform is not delivering the promised results.

INCREASE INDEPENDENCE AND TRANSPARENCY OF WADA'S OPERATIONS

Overview

The United States will continue to speak plainly about WADA. When the organization falls short, or misses an opportunity to move anti-doping efforts forward, Congress can count on ONDCP to transparently share what has occurred and what needs to be done. At the same time, the United States is also ready and willing to work with any partner in order to promote clean sport. This includes independent sports and anti-doping organizations, all of those from the Olympic Movement and governments that hold WADA Board seats, as well as WADA leadership and their staff.

When ONDCP's Director, Dr. Gupta, attended the November 2021 WADA Foundation Board meeting held in Paris, he took the opportunity to engage directly with all the key interlocutors. He met privately with International Olympic Committee Members and the WADA President and Director General in order to articulate clearly U.S. priorities and to hear others perspective on how to drive significant reform through to approval. He also spoke privately with governmental representatives from around the world. During the formal meeting the United States proactively advocated for reform and joined with other governmental partners in accepting a compromise agreement on a broad package of changes to WADA. One of the most important reforms, adopted with strong support from the United States, was an overdue modernization of WADA's approach to ethics. This section of the report provides an implementation update of this significant step forward for the organization.

WADA's Ethics Reforms

In November 2021, the WADA Board approved a new Code of Ethics to establish more extensive ethical standards to govern the activities of WADA's officials, in order to enhance transparency in its operations, and to clarify its rules over conflicts of interests. The changes were designed to address concerns raised by sports stakeholders over the ties of WADA's Executive Committee and Foundation Board Members, as well members of WADA's standing committees, to outside organizations and companies. The new Code of Ethics will hopefully enable WADA to better accomplish its mission as the single global regulator of doping in sports.

The key individuals implementing the WADA Code of Ethics are the appointed Independent Ethics Board (IEB) members, and a new Ethics Officer, who will be hired as an independent contractor separate from the WADA management chain of command. The IEB consists of nine members, seven of whom are fully independent members. The eighth and ninth seats are filled by nominees of governments and the Sports Movement. These last two appointees are not 'representatives' of governments or the Sports Movement, but because they are put forward by each group rather than via a more neutral nominations and vetting process, they are considered to meet a somewhat lower independence standard.

WADA issued the call for nominations for the independent members of the IEB on January 7, 2022. WADA also sought nominations for the IEB via advertising on social media and through sports organizations. By the closing date of February 28, 2022, over 70 nominations were received. WADA's Nominations Committee, supported by the WADA legal staff, reviewed the

applications. Four nominations were rejected as not meeting the independence standards required for the new ethics board. The Nominations Committee met twice and identified 27 candidates as satisfying the conflict of interest requirements and minimum job qualifications. The 27 appropriate independent candidates were prioritized, and ultimately 18 candidates were interviewed.

The nominees of the Sports Movement and One Voice (the inter-governmental coordinating group currently led by Australia, which the United States actively participates in) were also interviewed. The vetting process was less extensive for these two nominees, but efforts were nonetheless made to review their backgrounds and to ensure they were fully qualified to serve on the IEB.

Selection of Independent Ethics Board Members

WADA identified the following *preferred competencies* in seeking candidates for the ethics board:

- Has a current professional designation (e.g. practicing lawyer with current certificate; member of professional body with an ethics code);
- Has past experience serving on an international ethics committee;
- Has relevant experience or background overseeing ethics or standards of conduct and integrity through personal work requirement or professional organization;
- Has served on ethics investigation committees in the past;
- Has experience or background in conducting investigations of any; and,
- Has knowledge of WADA regulations and ecosystem.

WADA identified the following additional *core competencies* in seeking candidates for the ethics board:

- Accreditation of some sort in ethics or compliance;
- Relevant international exposure;
- Assertive with the ability to collaborate and solution-oriented;
- Ability to work well with others to accomplish a common purpose in a complex environment;
- Ability to create a value-driven environment and lead by example;
- Good communication skills, both written and verbal, with strong listening and negotiation skills;

- Attention to detail and ability to follow up based on facts developed in the Investigation;
- Analytical and objective thinking;
- Ability to make difficult decisions; and,
- Utmost discretion and ability to maintain confidentiality.

The Nominations Committee recommended to the WADA Foundation Board seven independent candidates to join the two appointed members of the IEB. These recommendations were unanimously approved during the May 2022 Foundation Board meeting in Cairo, Egypt. The new IEB is balanced in terms of gender, ethnic and regional diversity. The majority of appointees have strong legal skills with judicial, litigation, prosecutorial, arbitration and alternative dispute resolution skills. Representation from ethicists, public policy and enforcement practitioners and academics was also incorporated into the new board, as was previous experience as an athlete. Most new members had experience in sports and anti-doping. The recommended IEB members all met the strict standard of independence. The strict standard of independence is defined by WADA as meeting the standards for operational, personal, and organizational independence, defined as follows:

- Operational independence: the official in the exercise of their mandate shall always act in the best interest of WADA and remain free of undue influence.
- Personal independence: the official must exercise their mandate in a personal capacity, and shall not act upon direction or coordinate with any other person or entity outside WADA.
- Organizational independence: the official does not maintain an executive, non-executive, operational or management function with any WADA stakeholder.

Ethics Board Appointees

The list of individuals was appointed to the IEB is below, along with some brief background information and the length of their appointment. The length of terms was staggered to ensure that when terms expired the turnover would be limited to only a portion of the entire board. The first two appointees listed below are the ones nominated by governments and the Olympic Movement.

- Ms. Regina Labelle (USA/Female) was appointed for a three-year term. The Committee assessed Ms. Labelle as bringing significant experience as a former member of the Foundation Board for the United States and past experience as an ethics attorney.
- Mr. Marc Theisen (Luxembourg/Male) was appointed for a three-year term. The Committee assessed Mr Theisen as possessing highly relevant legal skills and a deep knowledge of sports regulations and governance.

- Mary Ang'awa (Kenya/Female) was appointed for a three-year term. The Hon. Ang'awa brings a fact-based problem solving and communication style developed during her time as a high court judge. She will additionally represent the cultural and ethical perspectives of the African subcontinent.
- Dr. Pascal Borry (Belgium/Male) was appointed for a three-year term. Dr. Borry is an academic ethicist with a deep interest in sports ethics and an extensive, relevant global network of collaborators to the IEB.
- Dr. Mette Hartlev (Denmark/Female) was appointed for a three-year term. Professor Hartlev has relevant experience as a past chair of Denmark's NADO, and is an academic ethicist. She is an experienced member of governance bodies in academic and government fields. Professor Hartlev was appointed IEB Chair.
- Mr. Phil Hutchinson (United Kingdom/Male) was appointed for a one-year term. Mr. Hutchinson is a lawyer with a practice that covers anti-doping, betting and match fixing. He has represented athletes and sports unions.
- Mr. Sal Perna (Australia/Male) was appointed for a two-year term. Mr. Perna has a background in law enforcement and as Racing Commissioner of Victoria (Australia), and further direct experience in sports integrity matters as a member of the Independent Board of the International Tennis Integrity Agency.
- Dr. Rozle Prezlej (Slovenia/Male) was appointed for a two-year term. Dr. Prezlej is a very strong candidate for the IEB, bringing an athlete perspective, extensive practical experience in sports ethics matters, and an engaging approach to the topic.
- Ms. Ana Tuketei (Fiji/Female) was appointed for a one-year term. Ms Tuketei is an international lawyer and arbitrator, and the first Listed Pacific Counsel with the International Criminal Court (Hague). She serves as an Arbitrator at the Court of Arbitration in Sports, and as a judicial officer in world rugby.

Ethics Officer

In the past, ethics reviews were conducted by WADA employees, including the legal staff. As a part of the overhaul of WADA's approach to ethics, it was determined that staff work required by the IEB should not be performed by the WADA legal team. Instead, the decision was made to hire, as a part-time contractor, an Ethics Officer that will help manage ethics cases as they arise. Like the IEB, the Ethics Officer acts independently of WADA. They are not an employee of WADA, and will perform the duties as assigned to them as instructed by the IEB. The appointment and removal of the Ethics Officer is to be determined by the IEB. The Ethics Officer reports directly to the Chair of the IEB.

On August 22, 2022 WADA advertised the position of the Ethics Officer. Applications of interested parties are due before the end of September 2022. The IEB and WADA's Nominations Committee will provide support and advice to the IEB in the review of candidates and in the appointments process. As an independent appointee, the Ethics Officer is not subject

to a vote by WADA's Executive Committee or Foundation Board. More details of the selection process is available on the WADA [website](#)⁵.

Increasing the Independence and Transparency of Operations: Conclusion

The United States commends WADA for developing and adopting significant ethics reform. ONDCP will continue to emphasize the importance of WADA and its appointees throughout the organization maintaining the highest possible ethical standards and avoiding conflicts of interest. The United States will also continue to work within WADA to monitor implementation of this new approach to ethics. As the IEB and their Ethics Officer begin to meet and formally address ethics cases, ONDCP will follow closely the Board's actions. Although this group has yet to formally take any actions, the qualifications and background of the appointees is encouraging. ONDCP recommended its former Acting Director, Regina LaBelle, to its government colleagues within the One Voice governmental anti-doping forum, and was gratified that other governments supported her selection for service on the IEB.

⁵ <https://www.wada-ama.org/en/news/wada-seeks-candidates-new-independent-ethics-officer-position>

RESTORE CONFIDENCE IN CLEAN COMPETITION

Overview

Restoring confidence in clean competition in the Olympics and other elite sports competitions is a multi-faceted challenge. It involves almost everything WADA and national anti-doping organizations do in their home countries year-round. The efforts to maintain the highest quality testing standards, and keeping up on the most advanced testing technology and evolving approaches to cheating is also critical for both WADA and NADOs. However, in today's threat environment addressing state-sponsored cheating, because it often includes the corruption of national anti-doping authorities and other government officials, remains a very challenging threat. Although Russia's cheating is by no means the only source of corruption related to anti-doping, their cheating conspiracy serves as a powerful example of the challenge WADA faces. Until it's clear that such cheating schemes can be deterred, or reliably and quickly detected, clean competition will not be restored. As ONDCP wrote in the 2021 report:

“We know Russia ran a sophisticated state-sponsored doping program for years. Their longstanding success at defrauding the world, and in large part getting away with it, is deeply troubling. The Russian government funded and orchestrated fraud reflects their longstanding approach to sport and it is difficult to conclude that the behavior has truly changed today. Further, the on-going efforts by Russian officials to minimize the extent of their doping fraud, the lack of contrition for the large-scale injustice to athletes and the sporting community, and the recent evidence of ongoing doping behavior and interference with the Russian National Anti-Doping Agency (RUSADA) suggests that there is much still to be done.” (Page 5)

The Court of Arbitration for Sport (CAS) decision⁶ on the Sochi-related penalties for Russia was, from the perspective of the United States, too lenient in terms of sanctions imposed. WADA also expressed its disappointment⁷ with the decision, noting that not all of the sanctions WADA had proposed for Russia were approved for implementation by CAS. Nevertheless, the CAS decision did require WADA to carefully scrutinize RUSADA's anti-doping practices. RUSADA, although briefly reinstated to serve as Russia's NADO, remains suspended because of past doping cover-ups and manipulation of evidence, both with regard to offenses at the Sochi Olympics and subsequent actions. CAS upheld in 2021 WADA's determination to declare RUSADA as, once again, non-compliant with the World Anti-Doping Code. Until WADA formally concludes that RUSADA is consistently and reliably following best anti-doping practices, it will not be authorized to serve again as the NADO for Russia. The requirement is for RUSADA to demonstrate that it acts independently, and that there is no effort by other Russian governmental entities to interfere with any of its operational activities. WADA has good cause to hold back reinstatement of RUSADA and to maintain continued close scrutiny of their anti-doping practices.

⁶ There were more issues included in the CAS decision than those highlighted in this report. For additional information please see the full decision at: https://www.tas-cas.org/fileadmin/user_upload/CAS_Award_6689.pdf

⁷ [WADA statement on Court of Arbitration decision to declare Russian Anti-Doping Agency as non-compliant | World Anti-Doping Agency \(wada-ama.org\)](https://www.wada-ama.org/en/media-centre/press-releases/2021/06/wada-statement-on-court-of-arbitration-decision-to-declare-russian-anti-doping-agency-as-non-compliant)

Review of the Russia Scandal

Russia's comprehensive efforts to assist its elite athletes in utilizing prohibited substances with the intent to improve their performance altered the common understanding of the doping challenge due to the scale and audacity of the Russian Government's actions. In a post-Sochi world, anti-doping authorities must focus not just on testing, geo-tracking, and reliably reporting the results for thousands of athletes, but also upon deterring and detecting interference by state actors in anti-doping operations. Russia's state sponsored doping scheme has forced a reassessment of WADA's and other actors, including governments, approach to anti-doping efforts.

The global anti-doping regime involves not just WADA, but NADOs, national Olympic committees, sports federations, and individual athletes and their coaches. Every actor in this effort to protect the integrity of sport has a role to play. Some changes have occurred since Sochi, but a good deal more can and should be done to ensure clean sport. There are two reasonable questions to ask. First, have those complicit in state sponsored doping been fairly sanctioned for their crimes. Second, have the combined capabilities of WADA and other actors, including national law enforcement agencies, increased their efforts sufficiently so that future state sponsored doping schemes can be, if not deterred, detected and violators brought to justice. These are difficult questions to answer.

WADA has been tracking and reporting on the status of more than 800 cases that have emerged from the Russia Sochi doping scandal. Each of these cases involve Russian athletes that potentially engaged in doping activities. As of the beginning of August 2022, out of the 823 cases, 138 athletes have been sanctioned, 93 additional cases have resulted in the assertion of an anti-doping rule violation (ADRV) and are awaiting a decision/sanction, 14 cases in which the hearing body was not satisfied that the burden of proof had been met to establish that an ADRV had been committed (hence no sanction was imposed), 295 cases for which investigations are ongoing, and another 283 have been closed by anti-doping organizations with jurisdiction over the particular case due to insufficient evidence.

For several years, WADA has been actively engaged in tracking these individual cases and reporting to its members and the public on the status of the cases. Many of the cases involve complex, conflicting, and/or incomplete information. Despite this progress, it is unfortunate that years after the 2014 Sochi Olympics, many cases have not been adjudicated. This is due to a variety of factors, including the intransigence of the Russian Government, and its refusal to provide the critical information contained in their laboratory data base for several years. In addition, while WADA has increased its capacity in recent years, it is still to some extent limited in its ability to work through 823 complex cases. Each case requires the establishment of a clear burden of proof that an ADRV occurred.

In fairness, it is important to note that WADA's investigation and legal departments have reviewed each of the 823 cases that arose from the scandal. WADA has made the reasonable decision to prioritize cases involving athletes that were still actively competing and had the potential to compete in the recent Olympic Games. WADA has also assured its members that the agency will continue to process each and every case that remains open and under

investigation to determine whether evidence exists of an ADRV, and to pursue appropriate sanctions.

RUSADA, as of this writing, has still not been reinstated to act as Russia's domestic anti-doping agency. It is still required to take further steps to demonstrate their independence and to pay legal expenses incurred by WADA to investigate and authenticate the data retrieved by WADA from the Moscow Laboratory in January 2019, and the cost of additional reinstatement conditions which are still to be determined. WADA continues to receive quarterly reports from RUSADA in order for WADA to validate that its independence has been fully respected by the Russian authorities. WADA also receives monthly RUSADA program activity reports.

A virtual audit was conducted by WADA on RUSADA's Anti-Doping program between 6 and 9 September 2022 in order to assess all program areas, including consideration of the sanctions imposed on Russia as a result of the invasion of Ukraine. The results of this virtual audit are not available as of this writing. This virtual audit was conducted as an interim measure until an in-person audit can be safely conducted within Russia given the ongoing war. External independent testing agencies cannot enter Russia (as would be typical without the invasion into Ukraine, i.e. when borders are open) to test athletes. Currently, RUSADA reports to WADA that the testing program is continuing and samples are being shipped and analyzed outside of Russia. RUSADA faces several continuing challenges, including sample transportation to the laboratories, payment of invoices, and restoring transparent and effective collaboration with international stakeholders. RUSADA is required to keep WADA up to date on all of these issues.

An update on RUSADA will be provided to the November WADA Executive Committee and Foundation Board meetings. ONDCP will be in a position to brief Congress on the latest information after those gatherings slated for Montreal on November 17-18, 2022. Appendix One of this report, drawing upon and used with permission from a WADA summary, describes key milestones of the Russian scandal.

Implementation of the Rodchenkov Act

The Rodchenkov Anti-Doping Act of 2019 provided the United States with a critical new tool to detect, disrupt, and dismantle those entities working to promote doping at elite sports competitions. The law can result in a criminal penalty of up to 10-years and a fine of up to \$250,000 for individuals 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 Rodchenkov Act does not apply to athletes – rather, it is focused on other actors, including corrupt private individuals, or associations of individuals, whose cheating activities could impact United States athletes. By defining doping as fraud, because such crimes defraud athletes' prize money and sponsor investments, it extends the whistleblower protections embedded in United States law to those who provide helpful information to law enforcement in prosecuting these cases. The Rodchenkov Act, enacted unanimously by Congress, can be applied internationally where money from the United States is invested to broadcast or sponsor the competition and where United States athletes compete.

Earlier this year, the initial use of the Rodchenkov Act was announced by the Justice Department in a January 12, 2022 public statement. The case charged that an individual based in El Paso,

Texas acquired performance enhancing drugs, and distributed them to multiple athletes to aid in cheating in the 2020 Summer Olympic games held in Tokyo, Japan in 2021. This ‘proof of concept’ of the Rodchenkov Act is an indication that doping conspiracies, whether they occur in the United States or abroad, will not be beyond the reach of federal law enforcement agencies. The work of federal prosecutors, supported by the Federal Bureau of Investigations’ (FBI) Integrity in Sport and Gaming Program, brings an urgently needed capability into the global anti-doping fight.

Although WADA opposed aspects of the legislation when the Rodchenkov Act was before Congress, cooperation between WADA and the United States since then has significantly improved. Several meetings between ONDCP’s Director Dr. Rahul Gupta, WADA President Witold Banka, and WADA Director General Olivier Niggli (including one in Washington DC in July 2022) have been held, and have contributed to an improved dialogue. Starting in 2021, ONDCP initiated an effort to promote research exchanges and deeper cooperation on anti-doping matters between WADA and the National Institute of Drug Abuse (NIDA). Building on that growing collaboration between WADA and NIDA, ONDCP has similarly encouraged WADA’s Investigations & Intelligence team to increase their exchanges with the FBI. ONDCP is pleased to report that initial communications have already begun.

ONDCP notes with appreciation the growing efforts by WADA to investigate doping crimes, and to collect and act on leads shared by national anti-doping organizations, individual athletes, or other whistleblowers. Nonetheless, the threat is too large and complex for WADA to address on its own. It is appropriate that the FBI, as well as other experienced national law enforcement agencies around the world to focus on the threat posed by doping and other efforts to cheat in sports competitions. The recently announced partnership between WADA and the European Union to increase awareness and build capacity among law enforcement agencies regarding anti-doping investigations⁸ is also a step in the right direction. Only by working together can the global community hope to ensure integrity in high profile, elite sports competitions and to protect the interests of athletes, sponsors and the hundreds of millions of fans who enjoy watching the very best compete at the highest level.

Are National Anti-Doping Organizations Receiving the Support They Need?

Much of the anti-doping work done around the world is not done by WADA, but by NADOs. These organizations conduct tests, ensure samples are properly handled and that results are preserved in reliable records. They also have a key role in ensuring compliance of anti-doping rules and in educating athletes of their responsibilities. Some NADOs, such as the Colorado Springs-based United States Anti-Doping Agency (USADA) receive a regular grant from their government to finance the bulk of their activities, and have the resources and staffing to do a consistently outstanding job. Other NADOs, however, receive minimal funding from their government and struggle to build adequate capacity.

WADA maintains a funded program to support NADOs and Regional Anti-Doping Organizations (RADOs) that work with WADA’s four Regional Offices around the globe to help

⁸ [WADA wins European Union grant to build investigations capacity | World Anti-Doping Agency \(wada-ama.org\)](https://www.wada-ama.org/en/news/2022/07/wada-wins-european-union-grant-to-build-investigations-capacity)

increase the effectiveness of anti-doping implementation worldwide. The four WADA regional offices are:

- Cape Town, South Africa office, supporting the African region;
- Lausanne, Switzerland office, supporting the European region;
- Tokyo, Japan office, supporting Asia and Oceania; and,
- Montevideo, Uruguay office, supporting the Americas region.

The United States believes that these regional offices which work directly with NADOs, RADOs, public authorities, and regional sports organizations, play a critical role in building a fair and comprehensive global anti-doping system through training, technical assistance and direct liaison with WADA staff and the agency's activities. WADA has, and should continue to grow the staffing of these offices. The United States, as part of the Americas region, is supportive of the ongoing efforts of USADA to provide training and other assistance to NADOs in Latin America and the Caribbean. If, as expected, there would be continued interest by the United States' partners throughout the Western Hemisphere in receiving additional technical assistance and training, the United States is open to, in cooperation with USADA, in increasing this assistance.

All nations, including the United States, have a responsibility to not just fulfill its own domestic anti-doping responsibilities, but also, when feasible, to provide support and participate in exchanges with other countries. Only by working together will it be possible to create a global system that holds all participants to the highest possible standards.

Russia's Invasion of Ukraine

Well before its unprovoked invasion of Ukraine, Russia stood out for their illegal practices with regard to doping. However, the invasion of Ukraine has directly resulted in multiple sanctions being taken by a number of national governments and by the Sport Movement against Russia. These sanctions have significantly impacted Russian athletes, but have not completely stopped their participation in some sports as neutral athletes. Those Russian athletes that continue to compete are subject to rigorous testing by non-Russian organizations, and the samples are tested by non-Russian laboratories since the Moscow lab remains suspended. The United States looks forward to Russia taking full responsibility for its doping crimes, and demonstrating a rigorous and enduring commitment to anti-doping rules and protocols. Until that happens, WADA is encouraged to continue to closely monitor RUSADA's ongoing activities, even while it seeks to resolve the open cases remaining concerning the Sochi Olympics and other elite sporting events from the past decade.

After the Russian invasion of Ukraine, Ukrainian athletes, like so many of their fellow citizens, had to leave home for their own safety and temporarily settle in other countries. Fortunately, the sports and anti-doping community welcomed these athletes. In fact, a group of 19 NADOs have banded together to finance and/or conduct the continued drug testing of elite Ukrainian athletes, wherever they reside. USADA is part of this group, and is assisting by testing several athletes

from Ukraine (at their request) who were in the United States. The Polish Anti-Doping Agency (POLADA) should in particular be commended for its work with the Ukrainian NADO for its willingness to host and support Ukrainian anti-doping staff in Warsaw. Through these generous efforts, the anti-doping community is ensuring that even though Ukraine is at war, its dedicated athletes still have the opportunity to inspire their citizens by pursuing excellence in sport.

WADA President Banka, a former Polish Sports Minister, has also been clear and consistent in his condemnation of Russia's tragic war against Ukraine, and noted that the aggression is inconsistent with the ideals of sport. In response to the situation, WADA published a new *Testing Guidance for Anti-Doping Organizations*⁹ with specific instructions and advice when it comes to anti-doping matters in Ukraine, Russia, and Belarus. The United States supports these efforts to ensure that the invasion of Ukraine neither deprives deserving athletes the chance to compete, nor provides excuses for any athletes to ignore their responsibilities to follow anti-doping requirements.

Restore Confidence in Clean Competition: Conclusion

WADA and the rest of the anti-doping community is better prepared now than it was before the Sochi Olympics to detect and respond to state-sponsored doping conspiracies. This improvement is a result of WADA's investment in building up its Investigations & Intelligence team, its close monitoring of RUSADA, its steps to reduce conflicts of interests among WADA appointees, and its reforms (however imperfect and incomplete), to bring the voices of more stakeholders inside the organization. It is also partly the result of simply witnessing Russia's unprecedented use of the combined capabilities of anti-doping officials, law enforcement and intelligence agencies to cheat at the Olympics. This knowledge of the threat posed by some governments to stealing Olympic medals now informs all anti-doping work, and has added a much-needed intensified focus on state-sponsored doping conspiracies.

This journey to create a stronger and more effective global anti-doping regulator has started, but is not yet complete. It will be important for WADA's leaders to hold the organization to the highest possible standards of excellence, to continue to improve, and to implement the approved reforms in a transparent and effective matter. As in other issues discussed in this report, ONDCP will not pass judgement yet on reforms that are approved, but not fully implemented. However, the United States will continue to closely monitor WADA's work, while looking for opportunities to be supportive.

WADA's willingness to extend the impact of their limited scientific research funds (about \$4 million a year) through a partnership with NIDA (with a \$1.8 billion budget) and other governmental research organizations around the world is a positive sign of progress. The United States hopes WADA will continue to expand this partnership approach, building on the annual budget of its Intelligence & Investigations work (funded at about \$2 million a year) to partner with governmental law enforcement agencies around the globe. Many of these national agencies have the knowledge, investigatory and financial tools, legitimacy, and budgetary resources to proactively address anti-doping conspiracies against doping criminals, including when governments are involved. It is incumbent on WADA to seek these partnerships, just as it is

⁹ [Ukraine situation - Update to ADO community_Final \(clean\)8 March 2022.pdf \(wada-ama.org\)](#)

incumbent on governmental officials working on anti-doping to encourage their domestic law enforcement agencies to combat doping and sports related crime.

AMERICAN REPRESENTATION WITHIN WADA

Overview

As was referenced in last year's report, the United States believes it is critical that as WADA's largest donor, it maintain an ongoing presence on one or both of WADA's governing boards. Unfortunately, since the start of 2022, the United States no longer holds a seat on either WADA's Executive Committee or Foundation Board. ONDCP has sought both to mitigate this absence through alternative means of participating in WADA-related activities and has developed, in consultation with numerous stakeholders and its domestic partners, a near-term viable path back on to a WADA board.

Americas WADA Region Seat Distribution

WADA Board seats held by governments are distributed by region, with the globe split into five parts: Europe, Asia, Oceania, Africa, and the Americas. Each region has their own process to select how the board seats are distributed, and when or if seats are rotated within their region. Although one might argue that WADA Management has some modest informal influence on how these decisions are made, there is no formal mechanisms for WADA to direct regional governments to distribute their WADA Board seats in a particular manner, or to link them directly to a particular factor, such as level of dues payment or the size of the athlete population falling under the umbrella of a country's Olympic and Paralympic movement. This decision is firmly in control of each of the five WADA regions.

For the Americas, the five WADA Board seats—four Foundation Board seats and one Executive Committee seat—are distributed by the American Sports Council (CADE). There are 42 members of CADE, which itself is split into three regions: Central America and the Caribbean; South America; and North America. Each of the regions currently occupies one Foundation Board seat and the President of CADE (currently Colombia) serves on both the Executive Committee and the Foundation Board, essentially holding two of the five seats in order to serve as the spokesperson at WADA meetings for the Western Hemisphere. This current status quo developed over time as a result of multiple decisions made by CADE at their annual assembly.

From the establishment of WADA in 2000 until 2012, the United States and Canada alternated on the Executive Committee, while the four Foundation Board seats were held by the United States, Canada, a South American country and a Central American/Caribbean country. In 2012, the United States and Canada agreed to the concept of a more equitable rotation of the Executive Committee seat, and CADE voted to start rotating which country held that position. Peru served on the Executive Committee for 2 years (2013 and 2014) and United States, on behalf of North America, for 2015. In 2015, CADE voted, over the opposition of the United States and Canada, that beginning from 2016, the Executive Committee seat would exclusively be held by the CADE President. No change was made in the distribution of the Foundation Board seat allocation in 2012, so the United States served continuously on the Foundation Board, as did Canada. This allowed the two largest Olympic powers and WADA dues payers in the Hemisphere to continue to participate actively in key WADA formal and informal meetings, and to receive all relevant WADA documents disseminated to each Board Member. However, in 2017 CADE voted to appoint the CADE President to serve on the Foundation Board as well as

the Executive Committee, thus requiring the United States and Canada to share a single North American seat.

Under this current arrangement, Canada and the United States rotate every three years on the Foundation Board. The United States was scheduled to rotate off the Foundation Board during 2021. However, since the Biden Administration was deeply involved in the WADA reform discussions, Canada agreed to delay the rotation of the single North American WADA Board seat from the United States to Canada until the start of 2022. Although the United States remains in close touch with Canada and other governments, and has been participating in various ways in many WADA meetings and activities, the current status quo creates challenges for the United States.

A Path Forward

Dropping off the WADA Foundation Board was a frustrating turn of events for ONDCP, since WADA remains in the midst of a critical period of governance reform implementation. The United States explored multiple paths to address this difficult situation. After numerous consultations and discussions, ONDCP determined that the best option to allow the United States to serve on a WADA Board is through running for and winning the Presidency of CADE in 2023. This opportunity emerged when the Colombian President of CADE formally communicated during a plenary session of their annual meeting in the Dominican Republic that the CADE Presidency should be held by a North American country starting in 2023 based upon the previously agreed upon regional rotation.

The Presidency will be decided by majority vote in April of 2023 at the annual meeting of the organization in Asunción, Paraguay. By custom, the United States, if elected CADE president, would be responsible for hosting the April 2024 annual CADE conference and related activities in Washington, D.C. ONDCP would be pleased to consult further on this subject with Congress as events unfold.

CADE and its member countries throughout the Americas clearly are critically important decision makers on a variety of sports matters, including issues related to anti-doping. For too many years, ONDCP has not engaged with sports ministry colleagues in the Americas beyond purely WADA matters. However, under the current arrangement where CADE determines which governments serve on WADA boards, the United States can no longer afford not to prioritize more robust engagement with its Americas sports partners. Understandably, the CADE Sports Ministers want to know that whomever they vote to represent them at WADA understands the challenges related to sports faced by their countries. That understanding can only be developed through regular engagement by the United States at CADE and at other regional forums. Over the past year, ONDCP has already significantly enhanced its engagement with Western Hemisphere partners. Although CADE addresses a much wider area of sports issues than just anti-doping, clean sports falls within its jurisdiction and is addressed each year during a dedicated session of its annual meeting.

ONDCP's increased engagement with CADE has already both deepened ONDCP's appreciation of doping related concerns of the hemisphere, and directly resulted in the United States' ability to participate in the recent WADA Foundation Board meeting in Cairo, Egypt on May 19, 2022.

ONDCP is grateful to Colombian government for their partnership and support to the United States government, which allowed ONDCP to take an active role in WADA's formal and informal discussions. ONDCP is also appreciative of Canada's collaboration with the United States in working within CADE.

Additional WADA Committees

Although as outlined above, the United States is not formally serving on either of WADA's key leadership boards, Americans do play a significant role within a variety of WADA standing committees and expert advisory groups. These groups provide technical advice to WADA leadership on a wide range of policy and program matters. In 2022, 17 different American individuals are voluntarily serving in advisory capacities, including two former US Olympians (Lauryn Williams and Jim Scherr), a senior executive from USADA (Dr. Matthew Fedoruk who serves in multiple roles), and several prominent scientists and researchers. The United States and Canada hold the most committee and expert advisory positions within WADA.

The strong presence of Americans on WADA committees and advisory groups is a positive for the United States. The full membership of these WADA groups is accessible on the web¹⁰. ONDCP will continue to support the appointment of more Americans to such roles as opportunities emerge. However, the strong presence of U.S. citizens on WADA's committees and advisory groups does not take away from the necessity for the United States to have a seat at the leadership table on WADA's Executive Committee or Foundation Board.

American Representation within WADA: Conclusion

ONDCP's intent is to continue to increase engagement with CADE and with all Western Hemisphere partners, in order to support both the anti-doping interests of the United States within WADA, and to help ensure that the entire Americas region is working well together on important shared sports priorities. This presents a difficulty for ONDCP, since to date Congress has not supported dedicated staffing or financial resources to support this increasingly demanding portfolio. Nonetheless, ONDCP will endeavor to move forward to continue to advance the United States' interest to have a strong presence within WADA, which cannot be accomplished without a sustained and serious partnership with sports ministers from throughout the Western Hemisphere.

¹⁰ [Standing Committees | World Anti-Doping Agency \(wada-ama.org\)](#); [Expert Advisory Groups | World Anti-Doping Agency \(wada-ama.org\)](#); [Working Groups | World Anti-Doping Agency \(wada-ama.org\)](#);

CONCLUSION

As this and previous ONDCP reports have highlighted, the global community faces two anti-doping challenges. First, there is an ongoing need to identify through rigorous state-of-the-art testing and investigations those athletes who seek out ways to evade tests for performance enhancing prohibited substances, utilizing hard to detect formulations and carefully timed consumption patterns in an unethical effort to gain an unfair advantage at elite sports competitions. This challenge remains, but today anti-doping authorities also have to contend with a particularly pernicious threat – the use of state power, as attempted by Russia, to corrupt anti-doping authorities and athletes in order to bring unearned Olympic success to their governments. There are many actors in the effort to combat these challenges, but at the center of the battle is WADA, the single global regulator for anti-doping.

WADA, created and jointly funded by the Olympic Movement and governments as a private foundation under Swiss law, and headquartered in Montreal, was launched in a different, earlier era. Over the past two decades, much has changed. As a result of the Russian doping conspiracy, and in light of an understanding of today's best management practices, WADA is seeking to improve its internal governance, and to enhance its capacity across multiple fronts. At the same time, WADA needs to build firmly in to its operations deeper two-way relationships with key stakeholders, especially with independent athletes.

Reforming governance, developing new capabilities, and building trusted partnerships are tasks that cannot be accomplished overnight, but rather require sustained effort and a long-term commitment to change. WADA, through its two waves of reform, has demonstrated its understanding that the old ways must be replaced with new approaches. WADA has begun that journey, but has not yet completed it. It needs to press on to diligently and thoughtfully implement approved reforms, while listening and responding to the concerns of stakeholders, and standing ready to launch new reforms as necessary.

National governments also have important work to do on multiple fronts with regard to anti-doping. This includes not just ensuring that one's own country's anti-doping organization has the resources it requires to fulfill its responsibilities, but also helping to make sure those governments that are under-resourced receive the training and technical assistance they need. Countries that have expertise in key anti-doping issue areas, whether it is related to anti-doping research, training, law enforcement, or education, should partner with WADA or provide direct assistance to others. Although the United States has supported recent increases in WADA's annual budget, it is not feasible for WADA to grow large enough to solve every anti-doping problem around the world. The United States will continue to look for opportunities to be helpful to domestic stakeholders, international partners and to WADA. ONDCP is appreciative and proud of the generous work already done by USADA and USOPC to aid international counterparts when requested.

Turning to the specific anti-doping priorities of the United States, ONDCP itself has three critical challenges which must be addressed in 2023. First, it must continue to closely monitor WADA reform implementation to ensure the United States understands the real-world impact of the reforms. The United States will not hesitate to point out where reforms are falling short, nor to step forward with ideas on what changes need to be made. Second, the United States must

successfully find a path back on to one of WADA's leadership boards. Third, ONDCP will have to manage serious internal staffing constraints in fully monitoring and supporting efforts to reform WADA.

For many years it was taken for granted that as WADA's largest dues payer and such a large Olympic power, the United States would naturally receive at least one of WADA's soon to be 58 board seats. For many years its leadership role, which began when the then ONDCP Director, Barry McCaffrey, was instrumental in establishing WADA, seemed assured. However, under current circumstances the United States no longer holds a permanent leadership seat at WADA. As outlined in this report, the selection of WADA board representation is determined by regions. In the case of the Americas region, the previous arrangement that provided a continuing presence of the United States on at least one WADA board has been replaced by a different arrangement.

As described in the previous section, one Foundation Board seat is reserved for each Americas region (the Caribbean, Latin America, and North America). The President of CADE holds both the WADA Executive Committee and Foundation Board seats. Because the Presidency of CADE rotates by region, the United States has the opportunity to seek the Presidency this spring. If elected to serve as CADE President in April 2023 the United States would begin immediately to represent the Americas region on the WADA Executive Committee and Foundation Board. While this would give the United States representation and the ability to monitor and support WADA reform efforts, it would come at a considerable cost to ONDCP in terms of staffing and resources.

The United States is working to earn the trust of its colleagues throughout the hemisphere, so that we can lead CADE effectively. We recognize that in the first decade of WADA's existence, ONDCP focused primarily on technical, budget and legal matters and did not fully consult with its hemispheric partners. Through informal dialogue on the margins of CADE and WADA meetings the United States is already in the process of deepening these important hemispheric relationships. The United States is seeking a better understanding of the anti-doping needs and other sport priorities of its partners throughout the Western Hemisphere. ONDCP appreciates that whomever holds CADE's WADA seats must speak for the whole hemisphere, and seek and utilize input and advice of CADE Member States. USADA and USOPC are already collaborating closely with ONDCP to ensure that, if elected, the United States is well-prepared to be an effective advocate for the Americas on both anti-doping and other sports matters.

When ONDCP, at the start of the Biden-Harris Administration, learned that in the midst of such an important time in WADA's reform efforts, the United States would rotate off of the WADA Foundation Board, it was surprised and concerned. Although the United States has other ways to weigh in on WADA decision making, working through governmental partners and holding direct discussions with WADA staff, it is clearly more difficult to be effective in fostering reforms when not formally at the decision-making table. However, now that the search for a way forward has led to deeper involvement in the Western Hemisphere's anti-doping and broader sports matters, the United States is on the right course. This approach serves the long-term interests of both the United States and the entire Americas region.

Although ONDCP, with regard to sports matters, has long focused solely on anti-doping, the Biden-Harris administration recognizes that anti-doping is embedded in a diverse array of sports

issues, and cannot not be fully understood in isolation. As the United States has listened to the concerns of other sports ministers in the hemisphere, it has learned more about the unique challenges some countries face with regard to anti-doping as well as about the role sports play in the culture within specific countries in the Americas. The United States cannot represent the Americas region well without knowing it better. The Americas region is large and diverse, representing one billion persons. Throughout the region there is a passion for sports not just at the elite level, but among youth of all ages.

If the United States receives the opportunity next year to serve as CADE President, it will be dedicated to representing every country in the region. With regard to anti-doping, learning first-hand the challenges and needs of hemispheric partners in administrating anti-doping programs, policies and requirements will make the United States a much better informed and more impactful actor within WADA. Enhanced understanding of broader hemispheric sports issues will provide the United States a deeper appreciation of how anti-doping fits into the wider sports context throughout the Western Hemisphere.

ONDCP will continue to focus on this important portfolio to address the full range of anti-doping matters, strengthen WADA, and promote integrity in sport. It is challenging, but important work that ONDCP is committed to focus on. We can and intend to make progress in reforming WADA, with the support from Congress, in the months and years ahead.

APPENDIX ONE – RUSSIAN SOCHI SCANDAL MILESTONES

- On December 3, 2014, the German broadcaster ARD aired a documentary, using whistleblower evidence to expose systemic doping practices in Russian athletics.
- On November 9, 2015, the report of the Independent Commission (*Pound Commission*) established by WADA to investigate these allegations identified systemic corruption and flagrant ADRVs by athletes, officials, and coaches of the Russian Athletics Federation, by the Russian Anti-Doping Agency (RUSADA), by the Moscow Anti-Doping Center (Moscow Laboratory) and the Russian Ministry of Sport.
- On November 18, 2015, WADA declared RUSADA non-compliant with the World Anti-Doping Code (Code) and suspended the accreditation of the Moscow Laboratory.
- In May 2016, WADA established an *Independent Person Commission* to investigate allegations by former Moscow Laboratory Director, Doctor Grigory Rodchenkov, that the Russian Ministry of Sport actively guided a doping program in Russian sport. The findings of this Commission were published on July 16, 2016 and December 9, 2016, confirming an institutionalized conspiracy of systemic doping and cover-up in Russian sport between 2012-15 (McLaren Reports)⁵.
- On October 30, 2017, WADA Intelligence and Investigations Committee (I&I) received from a whistleblower a copy of the LIMS database maintained by the Moscow Laboratory, storing the results of its analysis of samples in the period from January 2012 to August 2015 (2015 Database). This database included analytical results of 63,277 samples of which 9,453 samples were classified as having a Presumptive Adverse Analytical Findings (PAAFs) that were apparently falsely reported as negative or not subjected to required Confirmation Procedure testing. The investigation that followed was code-named *Operation LIMS*.
- On September 20, 2018, the Executive Committee, upon recommendation of the WADA Compliance Review Committee (CRC), decided to reinstate RUSADA with two critical post-reinstatement conditions, namely that Russian authorities must:
 - (1) Provide an authentic copy of the LIMS database and the associated data (Moscow Data) underlying all sample analyses conducted from 2012-2015 (Post Reinstatement Data Requirement), and
 - (2) Procure the re-analysis of samples as required by WADA following review of the Moscow Data.
- In January 2019, a WADA delegation visited the premises of the Moscow laboratory and obtained a copy of the LIMS data (2019 Database) and Moscow Data.
- On November 21, 2019, based on a report provided by WADA I&I, the CRC concluded that the Moscow Data and 2019 LIMS Database provided by the Russian authorities had been materially altered after the reinstatement of RUSADA on September 20, 2018, and issued a recommendation that:

- (1) WADA send RUSADA a formal notice asserting non-compliance with the Post-Reinstatement Data Requirement,
 - (2) proposed consequences for the non-compliance, and
 - (3) proposed reinstatement conditions.
- On December 9, 2019, the CRC Recommendation was adopted by unanimous decision of the Executive Committee, which was subject of an appeal proceeding to the Court of Arbitration for Sport (CAS).
 - On December 17, 2020, CAS determined RUSADA to be non-compliant with the Code in connection with its “failure to procure the delivery of the authentic LIMS data and underlying analytical data of the former Moscow Laboratory” to WADA. Consequently, the Panel issued several orders which came into effect on December 17, 2020 for a period of two years.
 - RUSADA has still not been reinstated and it still is required to pay legal expenses incurred by WADA to investigate and authenticate the data retrieved by WADA from the Moscow Laboratory in January 2019, and the cost of additional reinstatement conditions which are still to be determined by WADA.
 - WADA continues to receive quarterly reports from RUSADA confirming that its independence has been fully respected by the Russian authorities as well as monthly program activity reports.
 - A virtual audit was conducted on RUSADA’s Anti-Doping program between September 6 and 9, 2022. All program areas will be assessed, including consideration of the sanctions imposed on Russia by the international community as a result of the invasion of Ukraine. This virtual audit was done as an interim measure until an in-person audit can be conducted.
 - Currently, their testing program is continuing as required and samples are being shipped and analyzed outside of Russia. RUSADA faces several challenges, including sample transportation to the laboratories, payment of invoices and collaboration with international stakeholders. RUSADA is required to keep WADA up to date on these issues.
 - An update on RUSADA will be provided at the November WADA Executive Committee and Foundation Board meetings in Montreal.