

Olympic anti-doping efforts shouldn't start from a position of guilt

July 20 2021, by Catherine Ordway and Michele Verroken



Shelby Houlihan racing at US track and field in 2018

<https://www.flickr.com/photos/37695693@N05/28106923287/> Credit: CC2.0 by jenaragon94

It's been a tough year for doping control officers trying to access athletes before the COVID-disrupted Tokyo Olympics. Testing numbers dropped [dramatically](#) due to COVID restrictions, although the testing organizations claim to be operating at normal levels now.

Thrown into this mix are a number of suspected doping cases arising from increasingly sophisticated laboratory analysis methods that are detecting lower and lower levels of prohibited substances.

Rather than being evidence an athlete intentionally used a performance-enhancing substance to cheat, however, these results are more likely to be the result of contaminated foods, supplements or medicines.

Even more concerning is the evidence presented this week by German journalist Hajo Seppelt and the ARD documentary team in [Doping Top Secret: GUILTY](#), which showed how athletes can potentially be sabotaged through casual contact.

All of this begs the question whether anti-doping bodies could achieve a better balance using an ["ethics of care" approach](#), which seeks to support "clean" athletes rather than automatically assuming guilt.

One suggestion we advocate is referring extremely low-level positive cases, which likely result from contamination, to an independent body. This body could then determine whether there had been an attempt to cheat, rather than placing the onus on athletes to prove their innocence.

'Eating pork can lead to a false positive'

Last month, Shelby Houlihan, the American record holder in both the 1,500 and 5,000 metre track events, announced on [Instagram](#) that the Court of Arbitration (CAS) had upheld a four-year suspension for testing positive for the anabolic steroid nandrolone.

The court rejected her assertion that the positive test in December could have been caused by eating a pork burrito hours before providing her urine sample. The finding denied her a chance to qualify for the Tokyo Games.

In [February](#), Kenyan long distance runner James Kibet was also banned by the Athletics Integrity Unit for four years after testing positive for nandrolone and anabolic steroids. He [claimed](#) he had ingested pork fat from a Kenyan farmer who admitted feeding his animals supplements.

In contrast, the American long jumper, Jarrion Lawson, had his four-year ban for ingesting the banned anabolic steroid trenbolone [overturned](#) last March when he argued his positive test was probably caused by eating tainted beef at a restaurant.

Similarly, the Badminton World Federation doping hearing panel accepted it was highly likely that contaminated meat in Thailand was the cause of [Ratchanok Intanon](#)'s positive drug test in 2019.

While it is important to take the facts of each case on their merits, the application of the rules and athlete punishments in these circumstances can appear to be frustratingly inconsistent.

Burden on athletes to prove innocence

Although farming with steroids and hormones is illegal in most countries, the World Anti-Doping Agency (WADA) has been [warning](#) athletes about the risk of contaminated meat, especially from China and Mexico, for more than a decade.

A [2015 WADA study](#) also highlighted the risks of steroids found in pork.

At the same time, [WADA laboratories](#) are increasingly detecting minuscule traces of prohibited substances. What a laboratory cannot tell from a sample is whether a positive result is from inadvertent contamination (from meat, for example) or is evidence of the tail end of a sophisticated micro-dosing regimen designed to cheat the system.

Much like a police alcohol breathalyser, athletes returning a "positive" test begin from a position of strict liability. The burden falls to them to prove the source of the prohibited substance.

Even when the amount of the substance could have had no performance benefit, athletes must salvage their reputation and careers through a proverbial "hunt for the needle in the haystack" to determine the origin of the contamination.

This can be extremely challenging for athletes to prove. As the case of Australian swimmer Shayna Jack demonstrates, the appeals processes, media hype and social media trolling take their toll. Jack [warned](#) anti-doping authorities that "one day someone's not going to get through it."

Still awaiting appeal results from [#CAS](#), banned swimmer Shayna Jack tells documentary 'someone's not going to get through' the fallout from a positive test <https://t.co/rjo2EXIpp1>

— Tracey Holmes (@TraceyLeeHolmes) [July 16, 2021](#)

New reforms don't fix all the problems

Cases like these raise questions about the effectiveness of current anti-doping policies.

Recognising the challenge, the [latest WADA Code](#) still leaves the burden on the athlete to prove their innocence, but allows for the standard four-

year ban to be reduced to a reprimand.

WADA has raised the [reporting threshold](#) used by laboratories to determine a potential breach of the WADA Code. This would presumably reduce the number of cases from non-intentional contamination from meats or medicines.

From the start of June, WADA also [requires](#) laboratories to conduct additional investigations for positive tests resulting from a limited range of prohibited substances. What is not clear is whether all laboratories have the capacity to conduct these investigations, hence our call for an independent investigative body to assist.

However, former WADA Director-General [David Howman](#) says these changes do not go far enough. He supports forensic testing methods, such as hair and saliva testing, being used in anti-doping cases. (These might also provide additional evidence of long-term drug use instead of contamination.)

There are numerous heartbreaking examples of athletes who do not have the financial means, access to independent legal advice or sophisticated scientific knowledge to prove their innocence. Most are still suspended after a positive test, leaving them vulnerable to media speculation as they fight their corner.

Thailand's former world champion Ratchanok Intanon has been cleared of doping after it was found she ate contaminated meat.

In full: <https://t.co/vzSOa9VBRX> pic.twitter.com/X8PyH6z5F1

— BBC Sport (@BBCSport) [October 10, 2019](#)

A new 'ethics of care' approach

While the first rule of cheating is deny, deny, deny, the vast majority of athletes are not cheats. Nonetheless, they can easily and inadvertently be tripped up by the rigidity of the anti-doping rules.

It is not by accident that many of the athletes who have fallen foul of the system also come from the most [disadvantaged countries](#).

Rather than starting from a position of "guilt," is it time for an athlete-centric, "ethics of care" approach?

Cases of extremely low levels of prohibited substances could be referred to an independent third party for investigation, rather than putting that financial burden and inevitable stress onto the athlete.

International sports federations already fund arms-length testing programs through bodies such as the [International Testing Agency \(ITA\)](#). If all low-level positive cases were automatically referred to an independent review body, the focus could be on determining whether actual cheating took place—not a mere breach of the rules and arbitrary thresholds.

Would this give greater comfort to the arm-chair sport viewer AND restore athletes' trust in the anti-doping system? Quite possibly.

Athletes are not the enemy. It is timely to recognize the central role of the [athlete](#) within the anti-doping system.

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