



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

August 7, 2012

The Honorable F. James Sensenbrenner, Jr.
United States House of Representatives
2449 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Sensenbrenner:

Thank you for your letter to the Office of National Drug Control Policy (ONDCP) regarding the United States Anti-Doping Agency (USADA). I appreciate your bringing your concerns to my attention and for providing me this opportunity to address your concerns and the questions that you have posed.

I. Background

A. The Statutory Provisions regarding Anti-doping Activities and Funding

As background regarding ONDCP's relationship with the USADA, Congress has provided in law that the USADA, "shall –

"(1) serve as the independent anti-doping organization for the amateur athletic competitions recognized by the United States Olympic Committee;

"(2) ensure that athletes participating in amateur athletic activities recognized by the United States Olympic Committee are prevented from using performance-enhancing drugs, or performance-enhancing genetic modifications accomplished through gene-doping;

"(3) implement anti-doping education, research, testing, and adjudication programs to prevent United States Amateur Athletes participating in any activity recognized by the United States Olympic Committee from using performance-enhancing drugs, or performance-enhancing genetic modifications accomplished through gene-doping;

"(4) serve as the United States representative responsible for coordination with other anti-doping organizations coordinating amateur athletic competitions recognized by the United States Olympic Committee to ensure the integrity of athletic competition, the health of the athletes and the prevention of use of performance-enhancing drugs, or performance-enhancing genetic modifications accomplished through gene-doping by United States amateur athletes; and

"(5) permanently include "gene doping" among any list of prohibited substances adopted by the Agency."

These provisions were enacted in Section 701 of Office of the National Drug Control Policy Reauthorization Act of 2006 (P.L. 109-469) and are found at 21 U.S.C. § 2001(b).

In addition, Congress in the annual appropriations acts has included – in ONDCP’s account for “Other Federal Drug Control Programs” – funding “for anti-doping activities” and “for the United States membership dues to the World Anti-Doping Agency.” For fiscal year 2011 and prior years, the funding “for anti-doping activities” was statutorily specified as being “for the United States Anti-Doping Agency.” In the appropriation for fiscal year 2012, Congress included \$9,000,000 “for anti-doping activities,” without statutorily specifying the recipient of the funding.

Congress has also addressed anti-doping in the government-wide general provisions for the annual appropriations acts. For fiscal year 2010 and prior years, the provision stated that: “The Congress of the United States recognizes the United States Anti-Doping Agency (USADA) as the official antidoping agency for Olympic, Pan American, and Paralympic sport in the United States.” In the appropriations act for FY 2012 (at Section 728), the provision states that: “The United States is committed to ensuring the health of its Olympic, Pan American, and Paralympic athletes, and supports the strict adherence to anti-doping in sport through testing, adjudication, education, and research as performed by nationally recognized oversight authorities.”

B. ONDCP’s General Responsibilities in Overseeing its Grant Awards

In overseeing their grant awards, Federal agencies must follow applicable laws and regulations, including Federal court decisions, as well as grant requirements issued by the Office of Management and Budget (OMB). OMB has promulgated long-standing and government-wide uniform administrative requirements for the Government’s oversight of its grants to non-profit organizations. As do other Federal agencies in administering their grant programs, ONDCP follows these OMB requirements in overseeing the grant awards that ONDCP has made to USADA, which is the entity that Congress has designated as “the independent anti-doping organization” having the unique experience and ability to carry out anti-doping activities.

Consistent with the OMB requirements, ONDCP is responsible – in its oversight of the agency’s grant awards to USADA – for ensuring that USADA’s expenditure of appropriated funds are spent for a proper purpose (i.e., for anti-doping activities) and are reasonable, allowable, and allocable to the program. In carrying out this obligation, and prior to the grant funds being drawn-down by USADA, ONDCP reviews the summary of expenditures via documents provided by USADA. Moreover, in accordance with the Single Audit Act, an independent auditor each year conducts a review of USADA expenditures, and the auditor submits an annual report to ONDCP. It is through these grant-administration activities that ONDCP, in its oversight of its grant awards to USADA, ensures that Federal funds are spent for anti-doping activities and that the expenditures are reasonable, allowable, and allocable.

II. The Concerns Raised in Your Letter

You indicate USADA recently opened a case against Lance Armstrong for his alleged violation of anti-doping rules, and inquire about our oversight of such matters.

As a general proposition, it would be both extraordinary and inappropriate for ONDCP, or any Federal agency, to inject itself into the dispute resolution processes entered into by agreement between private parties. USADA's protocol provides its jurisdiction over organizations and athletes through contract and agreement. It is not in the purview of ONDCP to regulate dispute resolution remedies arranged by contract or agreement of private parties. ONDCP does not oversee the application of that process in individual cases. Therefore, it would be inappropriate for ONDCP to render an opinion regarding USADA's conduct of a particular individual's case.

Regarding your last two questions, ONDCP was not briefed by the Department of Justice (DOJ) regarding DOJ's investigation of Lance Armstrong. A private process of adjudication involving sports sanctions conducted by USADA is entirely separate, in terms of procedures and proof, from a criminal investigation conducted by DOJ.

Thank you again for your letter.

Respectfully,

A handwritten signature in cursive script, appearing to read "R. Gil Kerlikowske".

R. Gil Kerlikowske
Director