# Doping PIC

## PIC

#### Doping punishments centered around the health of the action not criminal punishment empirically fail. Absent criminalization the risk is worth the reward.

Claire Sumner, UK Lawyer and senior lecturer at Leicester De Montfort Law School, The spirit of sport: the case for criminalisation of doping in the UK, pub in The International Sports Law Journal April 2017, Volume 16, Issue 3–4, pp 217–227, <https://link.springer.com/content/pdf/10.1007%2Fs40318-016-0103-2.pdf> ///AHS PB BRACKETES IN ORIGINAL CARD

The extraordinary psychology of athletes is cited by Savulescu et al. as justification for permitting the use of PEDs;9 however, it will be argued that current anti-doping policy does not do enough to alter this psychology and deter athletes from doping. It is submitted that the psy- chology of athletes combined with the financial rewards for success guarantee that doping will always be a chosen path for some and that new methods and substances will always be sought out to achieve success. The results of Goldman’s infamous Death in the Locker room survey revealed that over half of interviewed athletes would be prepared to die after five years if taking a banned substance would ensure success.10 These results were tested with biannual surveys over a 10-year period and the results were the same.11 The 2007 WADA commissioned literature review on attitudes to drugs in sport reports that this psychology prevails in, for example, college athletes, where 34% of all male hockey players admitted that they would take anabolic steroids if it would help them to play in the National Hockey League.12 Backhouse et al. report that amongst elite athletes, reasons for doping include desire to win and financial gain, and admit that, as long as testing fails to be 100% effective in identifying drug users, the rewards for sporting success are such that this deficiency in testing will be exploited. Haugen goes even further in his game theoretic model, predicting that unless the likelihood of athletes being caught doping is raised to unrealistically high levels, or the payoffs for winning are reduced to unrealistically low levels, all athletes could be predicted to cheat.13 This is a view echoed by professional athletes. Matthew Pinsent, the former Olympic rower has said ‘there is a simple reason why rowers don’t cheat and that is that the rewards for winning simply aren’t that great’.14 Anderson extends this idea by linking the doping pres- sures felt by athletes to the inclusion of sport in the entertainment industry. He points out that the public want ‘world record times...or...unprecedented acts of endur- ance’ and concludes that ‘athletes are vulnerable to these (our) demands’.15 Such demands lead to the use of new performance enhancements which may be undetectable. The Cycling Independent Reform Commission (CIRC) report on the use of drugs in professional cycling revealed that despite the use of blood passports, new methods of micro-dosing of EPO are suspected,16 and this is managed in a sophisticated way by those outside the cycling team itself.17 Athletes continue to use performance enhancing substances some of which are highly experimental until they too are banned.18 Meldonium was added to the WADA prohibited list on 1st January 2016 as it was deemed to have performance enhancing capacities. Athletes were seemingly very aware of this as a 2015 study revealed that 17% of Russian ath- letes tested positive for meldonium, with a global study finding positive readings for 2.2% of athletes.19 It will be argued that the current system of penalties imposed by International Federations, based on the WADA Code, do not do enough to deter athletes from doping and the potential rewards outweigh the penalties imposed if caught. There is little that can be done to alter the size of financial rewards available to successful athletes without changing the entire economics of sport, but it will be argued that criminalisation of doping could act as a better deterrent by raising the ‘price’ of doping if caught, and help combat the prevalent athlete psychology.

#### Thus the counterplan: The illegal use of drugs ought to be treated as a matter of public health, not of criminal justice except in the case of doping by professional athletes.

#### Criminalization solves drug use in sports and spills over to broader society which helps solve the root cause of the aff.

**Sumner 2**

It is accepted that any criminalisation of doping would run in parallel to sanctions imposed by the WADA Code. Since any period of incapacitation imposed by a criminal sanc- tion is unlikely to exceed any period of suspension by the Code, it could be argued that criminalisation will not act as a greater deterrent than the current system of sanctions. However, the stigma attached to a criminal record is greater than that attached to any regulatory offence and may act as a more powerful deterrent to the athlete. A criminal record in the United Kingdom carries with it an obligation of disclosure to employers for 7 years after imprisonment of up to 6 months and for 5 years for non- custodial sentences such as a fine.74 Whilst an athlete may be high profile and such disclosure may therefore be moot initially, the period of disclosure may last beyond any sporting career and notoriety and may therefore impinge upon ordinary employment prospects later. For more seri- ous fraud offences, incarceration is a real possibility, providing a greater deterrent than a bar from competition imposed by International Federations, and any consequent loss of sponsorship. It can also be argued that punishment can have a sub- conscious effect on society and provide an educative deterrent. Bottoms states that ‘the facts of the prohibition, and citizens’ evolving response to it, can influence the development of a new strand of positive morality’ and goes on to give the example of the offence of drink driving about which there is now ‘substantially greater moral disap- proval.....than was the case thirty years ago when it was first made a criminal offence.’75 Criminalising doping could create such an educative deterrent over time.

#### Two Impacts:

#### [1] Doping hurts sports and causes economic harms

Jeff Cisyk, Why it is necessary to regulate doping in sports, 14 July 2015, <https://voxeu.org/article/why-it-necessary-regulate-doping-sports> ///AHS PB

Evidence of how doping harms a sport There is much survey evidence that the public feels drug use is a threat to sports and that it damages a sport's reputation (Solberg et al. 2010, Engelberg et al. 2012) and some evidence on TV audience responses (Van Reeth 2013). The view that doping harms a sport is also shared by many sports professionals, lawmakers, and the media. Finally, there is circumstantial evidence from the Tour de France that live broadcasters are less willing to cover an event, and sponsors [are] less likely to endorse it, after doping has been revealed (Buechel et al. 2014). Our recent work offers the first definitive evidence that the demand for a sports event is negatively affected by news about drug use (Cisyk and Courty 2015). The evidence is based on ticket sales (rather than random respondents interviewed in surveys) and measures actual demand responses instead of consumer opinions. We leverage the 2005 introduction by Major League baseball of a new set of random tests for drug use. Under this new policy, a positive test is immediately announced publicly and the player is removed from the team. This policy yields unique data for investigating the impact of drugs violations on attendance. Using these data, we identify 29 drug suspensions given to 27 different players. For the same set of players, we look at injury events that were also publicly announced. Figure 1a compares game attendance before and after a home-team player is suspended because he fails a test. The right panel (Figure 1b) uses injury events to control for the possible change in the quality of the gameplay when a player is removed from the team. If the public cares about drug use, we would expect a decrease in attendance following a suspension, which is, in fact, clearly illustrated. Interestingly, there is no decline in attendance for injury announcements. As foreshadowed by the figure, we find that suspensions decrease attendance at baseball games by as much as 8% after controlling for the gameplay effect associated with the loss of the player. The loss of attendance associated with a suspension wanes within the next 12 days. The 8% figure is likely to be a lower bound for the true effect, since season ticket holders and fans who purchased tickets in advance of any drugs suspension announcement are simply unable to illicit any response using paid attendance. Rough economic estimates suggest that a performance-enhancing drug violation costs the violating team 1.1% of annual revenue, or $451,000, after accounting for the savings from not having to pay the suspended player. We also show that violations by any player in the league have an impact on the league’s demand. While this additional effect is small, it is economically important because the league includes 30 teams. This demonstrates that violations impose negative externalities across teams in a league. Although drug use may lead to alleged exceptional gameplay, the potential for consumer backlash is a cause for concern. The lack of enforcement of performance-enhancing drug use regulations could be a source of market failure.

#### [2] Allowing athletes to get away with doping causes young people to follow their example, increasing youth drug use and turning case.

DAVID A BARON, DAVID M MARTIN, and SAMIR ABOL MAGD Et Al, Doping in sports and its spread to at-risk populations: an international review, 2007 Jun; 6(2): 118–123, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2219897/

Modern sports and the media's misplaced fixation on fame, fortune and winning at all costs have unintentionally created a growing market for doping substances. These substances, once only abused by elite athletes, are clearly spreading into our schools and health clubs worldwide. They are being accepted by a whole new generation of young customers who see reports daily in the newspapers of sports icons accused of abusing drugs only to continue playing, breaking records and claiming fortunes. These same performance-enhancing drugs are also abused by adolescents and weekend athletes and non-athletes who have wider behavioral and health risk problems. In addition, these drugs are now being abused by male and female adolescents for cosmetic purposes in an attempt to achieve the "cut" and sexy look promoted by the media. Continuing educational programs developed for these at-risk populations by national olympic organizations and athletic federations are important first steps to curb these dangerous behaviors (23-25). Testing for performance-enhancing drugs in high schools as a means of early detection, intervention and prevention is now being launched in New Jersey, with other states following their lead. Medical professionals, teachers, coaches and sports organizations must all be made aware of this continuing problem in our adolescent and at-risk populations and contribute to its solution by open, honest discussion. Most importantly, professional athletes must serve as role models and spokesmen for drug-free sport and lifestyle. This position must be actively supported by the media, owners of teams and international sports federations by providing consistent leadership and advocacy of anti-doping programs in sport, regardless of costs and consequences. Accepting the magnitude of doping in at-risk populations and developing education, prevention and treatment programs is the only way we can prevent the continuing spread of the abuse of doping in sport and its spread into the most fragile groups in our society, our youth and at-risk populations.

## 2NR

#### And doping is an impact: it causes international crime, fraud, and state conflict. Criminalization is the only solution.

Rebecca R. Ruiz, Domestic correspondent covering the Justice Department in Washington for the New York Times. In 2016, she exposed Russia's elaborate cheating at the Olympic Games, detailing a state-sponsored doping program that had relied on the nation's Federal Security Service, the successor to the K.G.B., and corrupted the standings of major global sports competitions going back years. Hundreds of Russian athletes were barred from the 2016 Rio Games as a result, and dozens of Olympians were stripped of medals. She won a George Polk award for her reporting, U.S. Lawmakers Seek to Criminalize Doping in Global Competitions, June 12, 2018, <https://www.nytimes.com/2018/06/12/sports/american-doping-criminal-law.html> ///AHS PB

“Doping fraud is a crime in which big money, state assets and transnational criminals gain advantage and honest athletes and companies are defrauded,” said Sheila Jackson Lee, Democrat of Texas, who introduced the legislation on Tuesday. “This practice, some of it state-sanctioned, has the ability to undermine international relations, and is often connected to more nefarious actions by state actors.” Along with Ms. Jackson Lee, the bill was sponsored by two other congressional representatives, Michael C. Burgess, Republican of Texas, and Gwen Moore, Democrat of Wisconsin. It was put forward just as Russia prepares to host soccer’s World Cup, which starts Thursday. That sporting event will be the nation’s biggest since the 2014 Sochi Olympics, where one of the most elaborate doping ploys in history took place. The bill, the Rodchenkov Anti-Doping Act, takes its name from Dr. Grigory Rodchenkov, the chemist who ran Russia’s antidoping laboratory for 10 years before he spoke out about the state-sponsored cheating he had helped carry out — most notoriously in Sochi. At those Games, Dr. Rodchenkov said, he concealed widespread drug use among Russia’s top Olympians by tampering with more than 100 urine samples with the help of Russia’s Federal Security Service. Investigations commissioned by international sports regulators confirmed his account and concluded that Russia had cheated across competitions and years, tainting the performance of more than 1,000 athletes. In early 2017, American intelligence officials concluded that Russia’s meddling in the 2016 American election had been, in part, a form of retribution for the Olympic doping scandal, whose disclosures Russian officials blamed on the United States. Nations including Germany, France, Italy, Kenya and Spain have established criminal penalties for sports doping perpetrated within their borders. Russia, too, passed a law in 2017 that made it a crime to assist or coerce doping, though no known charges have been brought under that law to date. Under the proposed American law, criminal penalties for offenders would include a prison term of up to five years as well as fines that could stretch to $250,000 for individuals and $1 million for organizations. “We could have real change if people think they could actually go to jail for this,” said Jim Walden, a lawyer for Dr. Rodchenkov, who met with the lawmakers as they considered the issue in recent months. “I think it will have a meaningful impact on coaches and athletes if they realize they might not be able to travel outside of their country for fear of being arrested.”