



OFFICE OF THE PRESIDENT  
WITOLD BANKA

10 July 2021

The Honorable Jamie Raskin  
Chair  
Subcommittee on Civil Rights and Civil Liberties  
2157 Rayburn House Office Building  
Washington, DC 20115-6143

The Honorable Alexandria Ocasio-Cortez  
Vice Chair  
Subcommittee on Civil Rights and Civil Liberties  
2157 Rayburn House Office Building  
Washington, DC 20515-6143

Dear Chair Raskin and Vice Chair Ocasio-Cortez,

I write in response to your 2 July 2021 letter regarding the one-month suspension levied by the United States Anti-Doping Agency (USADA) against Ms. Sha'Carri Richardson of the United States Track and Field Team.

The purpose of this letter is to provide context on the process for how, and why, substances, including cannabinoids, are included on the World Anti-Doping Agency's (WADA) [List of Prohibited Substances and Methods](#) (Prohibited List). In addition, this letter describes the steps that will be undertaken by WADA in response to the concerns you have raised.

### **The World Anti-Doping Agency (WADA)**

WADA was established in 1999 as an international independent agency composed of and funded equally by the sport movement and governments of the world. WADA's key activities include scientific research, education, athlete outreach, development of anti-doping capacities, and the monitoring of compliance of Anti-Doping Organizations worldwide with the [World Anti-Doping Code \(Code\)](#) – the document that coordinates anti-doping policies, rules, and regulations in all Olympic sports and among countries around the world. The Code works in conjunction with eight [International Standards](#) (that include the Prohibited List), which foster consistency among anti-doping organizations, sport federations, and public authorities in the fight against doping in sport.

These documents constitute the backbone of the policies, rules and regulations of the anti-doping program worldwide. They are reviewed periodically through wide, international



stakeholder consultation processes to ensure that they take into account the most recent and relevant scientific information and views of anti-doping stakeholders worldwide. Of note, the current version of the Code was approved by WADA's [Foundation Board](#) during the Agency's [World Conference on Doping in Sport](#) held in November 2019, following a two-year consultation with stakeholders worldwide, including the U.S. Government and the U.S. Anti-Doping Agency (USADA). While National Anti-Doping Organizations, International Sports Federations, Major Event Organizers such as the International Olympic Committee (IOC) and the International Paralympic Committee (IPC) are signatories to the Code and have agreed to be bound by its terms, it is worth noting that the principles of the Code are also embedded in the [UNESCO International Convention Against Doping in Sport](#). Since 2007, nearly 200 governments, including the U.S., have ratified the Convention to coordinate the fight against doping in sport and explicitly support WADA's mission for doping-free sport. The Prohibited List is an annex to the Convention.

### **The Prohibited List**

Since 2004, annually, WADA has published the Prohibited List, which identifies the substances prohibited in- and out-of-competition, and in particular sports. Each of the substances on the Prohibited List are classified into different categories (e.g., stimulants, steroids, narcotics, gene doping). As set forth in the Code, to be included on the Prohibited List, a substance must satisfy any two of the following three criteria:

1. It has the potential to enhance or enhances sport performance;
2. It represents an actual or potential health risk to the athlete;
3. It violates the spirit of sport.

The process for developing the Prohibited List is international, comprehensive and has been purposefully devised and refined over two decades by WADA's global stakeholders. The review is guided by preeminent international experts in science and medicine, with input from athletes and other interested stakeholders. The goal is to ensure the Prohibited List reflects current medical and scientific evidence, and doping practices.

WADA's role in this process is to facilitate a global consultation process each year before preparing and publishing the Prohibited List by 1 October to allow for its introduction on 1 January of the following year. WADA relies on a [Prohibited List Expert Advisory Group](#) to provide technical advice and guidance as to which substances meet the above criteria. This Advisory Group is comprised of 12 international experts selected on the basis of their professional background, experience, and knowledge in areas such as pharmacology, toxicology, analytical chemistry, and relevant medical specialties (e.g., sport medicine). Three of the Group's 12 members (or 25%) are from the U.S., including an official with more than two decades experience at the U.S. National Institutes of Health. Other members are from nations as varied as Australia, Ghana, Germany, and the UK.

The Prohibited List Expert Advisory Group provides an initial recommendation as to what substances should be prohibited to WADA's [Health, Medical and Research \(HMR\) Committee](#). The HMR Committee is charged with monitoring scientific and medical developments to safeguard doping free sport *and* to protect the health of athletes. The HMR Committee, per the



Code, makes specific recommendations to the WADA [Executive Committee](#). The U.S. has had greater representation on the HRM Committee than any other nation. It currently includes USADA's Chief Science Officer, Dr. Matthew Fedoruk, as well as experts from nations such as Japan, the United Arab Emirates, South Africa, and Canada. In addition, a former three-time Olympic athlete also is member of this Committee.

The last step in this process is for the Executive Committee to review and approve the Prohibited List in September of each year.

As background, WADA's main governing bodies contain an equal number of representatives from the international sport community and governments. For example, the Executive Committee, consists of 14 members delegated by the Foundation Board, with seven representatives from government and sport respectively. One nation is selected per each of the five geographic regions of the world (Africa, Americas, Asia, Europe and Oceania). Regions are considered as one and are not broken down into sub-regions; such as: East or West Asia; East or West Europe; or, North or South America. While the United States does not currently serve on WADA's Executive Committee, it has represented its 42-nation region more than any other nation in WADA's history (seven years)<sup>1</sup>.

Science and medical experts of the HMR Committee, as well as the Executive Committee, and thus not WADA management, determine which substances are to be included on the Prohibited List each year. An important fact for the U.S. Congress to know about this process is that there are more representatives from the United States advising WADA on these scientific issues than from any other nation in the world. These decisions are not reached in a vacuum. Neither do they tend to be modified on the basis of specific suspensions of athletes. This would go against the purpose of having a consistent approach regarding the implementation of the rules and ensuring that all athletes follow the same rules.

Additionally, it is important to mention that each iteration of the Prohibited List evolves with advances in science and research. Each year, stakeholders are invited to provide input and recommendations to the Prohibited List Expert Advisory Group and the HMR Committee. Each submission is considered by these experts. Once again the U.S. authorities can, and usually do participate in this annual process.

## **Cannabinoids**

Cannabinoids have been on the Prohibited List since before WADA took it over from the IOC in 2004; and, based on the above consultative process, it has been on the Prohibited List every year since. The science and medical experts have determined that the drug satisfies at least two of the three criteria set forth in the Code. It is important to note that cannabinoids are prohibited "in-competition" only, meaning athletes are only tested for cannabinoids while they are competing, which is defined in the Code as "the period commencing at 11:59 pm on the day before a competition in which the athlete is scheduled to compete through the end of

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<sup>1</sup> As it relates to the Foundation Board, senior government officials from Columbia, Honduras, Paraguay and the U.S. currently serve from the Americas region. A goal of the Board is to ensure a wide range of perspectives and priorities. As a result, per WADA statute, seats are allocated from around the world including four Asian, three African, and three South/Central American government representatives.



such competition and the sample collection process related to such competition”. Therefore, the Prohibited List has no impact on whether an athlete chooses to use cannabis at any other time of the year for recreational or other purposes. Also, the decision limit for triggering a positive test for cannabis is 180ng/mL. According to the current science, an athlete who occasionally uses cannabis, even days before a competition, would be extremely unlikely to test positive with this decision limit. Thus, athletes’ civil liberties are not burdened by cannabinoids being included on the Prohibited List for in-competition testing only.

You note that there are a number of countries around the world where cannabis has been legalized to varying degrees. This is a particularly important point in that it highlights that the Prohibited List is a global document that, like the Code and other International Standards, needs to consider the enormous variety in government policies and be cognizant of international narcotics treaties. As a result, some governments have advised WADA to draw a distinction between recreational use of cannabinoids [and other substances of abuse, such as methylenedioxymethamphetamine (MDMA) and heroin] and competing in international athletic competitions under the influence of these drugs, including cannabinoids.

I should point out that the Prohibited List currently in force was unanimously recommended by the HMR Committee and unanimously approved by WADA’s Executive Committee in September 2020. Further, at no time since the first Prohibited List was published in 2004 has WADA received any objection from U.S. stakeholders concerning the inclusion of cannabinoids on the Prohibited List. On the contrary, as has been reported by some media, the U.S. has been one of the most vocal and strong advocates for including cannabinoids on the Prohibited List. The meeting minutes and written submissions received from the U.S. over nearly two decades, in particular from USADA, have consistently advocated for cannabinoids to be included on the Prohibited List.

Thus, the argument that some have advanced indicating that U.S. anti-doping stakeholders are bound by antiquated thinking regarding the Prohibited List is not supported by the facts. The consultative process in place allows for modifications to the Prohibited List and the Code, annually. In fact, over time, as your letter recognizes, several such changes have occurred, and there is nothing preventing additional changes consistent with the process I have described.

Your correspondence requests that WADA reconsider its suspension of Ms. Richardson. While we sympathize with the circumstances of this case and applaud Ms. Richardson’s accountability for accepting that the rules are in place for athletes worldwide, WADA simply plays a coordinating role in the development and publication of the Prohibited List. As you correctly noted in your letter, the testing of Ms. Richardson and her resulting suspension were administered and adjudicated by USADA. WADA is not a party to that particular matter and, therefore, simply is not in position to vacate the results of Ms. Richardson’s test in Oregon, the 30-day suspension imposed by USADA, nor the decisions of USA Track and Field regarding her participation at the Tokyo Olympics.

Because the issues raised in your letter directly impact the deliberations of the scientific and medical community that advise WADA, I will take the liberty of transmitting your letter to the chairs of the Prohibited List Expert Advisory Group and the HMR Committee; and, the entire Executive Committee membership for consideration in their upcoming deliberations. I have



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requested that your concerns be specifically examined during their ongoing review of the Prohibited List.

Thank you again for your interest in this matter and for sharing your concerns. As described above, the Prohibited List is renewed and published every year and your views will most certainly be considered. I also appreciate your interest in anti-doping policy; and, would be very keen to work with Congress to strengthen anti-doping in the U.S.; where today, approximately 90% of athletes do not compete under the terms of the Code, with the main professional leagues and college sports operating outside of that protection. As a former international-level athlete myself, I am committed to ensuring that WADA promotes and protects clean sport and protects the health and safety of all athletes around the globe.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Witold Banka', written in a cursive style.

**Witold Banka**