

Political interference alleged in Australian sports doping investigation

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Evidence presented in the Federal Court last week in Melbourne indicates that an investigation launched last year into allegations of doping and criminality in Australian sport was subjected to political interference by the former Labor government headed by Prime Minister Julia Gillard.

On February 7, 2013, a press conference was called in Canberra by Labor's Justice Minister Jason Clare, Sports Minister Kate Lundy and the head of the Australian Crime Commission (ACC), which was also attended by the CEOs of the Australian Football League, the National Rugby League and Cricket Australia. On the basis of a secret, year-long probe, the ACC claimed that it had found evidence of widespread use by athletes of peptide hormones and other supplements that potentially breached international and Australian anti-doping rules.

Without releasing any details, the ACC alleged that Australian sporting codes were "highly vulnerable to organised crime infiltration" which "may have resulted in match fixing and the fraudulent manipulation of betting markets."

Jason Clare dramatically declared: "Don't underestimate how much we know, and if you are involved in this, come forward before you get a knock at the door." Kate Lundy asserted: "We will catch you. We are well on the way to seeking out and hunting down those who will dope and cheat." An investigation by the Australian Sports Anti-Doping Authority (ASADA) was announced, with the possible involvement of police agencies. The Labor government announced its intention to dramatically increase the powers of ASADA, including granting it the ability to compel people to answer questions or hand over documents under threat of criminal sanctions if they refused.

The press conference took place in the context of insinuations that wholesale doping was taking place in both the Australian Football League (AFL) and the National Rugby League (NRL). Having announced the date of an election, Labor seized on the opportunity to try and garner support for the government on the basis of law-and-order promises to "clean up" professional sport.

Following the spectacular allegations by Clare and Lundy, expectations were high that high-profile exposures and prosecutions would soon follow. Instead, what unfolded was a tawdry affair in which no evidence of illegal doping or organised crime in sport emerged and in which just two elite-level sporting clubs, the AFL's Essendon Football Club and the NRL's Cronulla Sharks, became the focus of ASADA's investigation.

In the case of Essendon, an interim ASADA report in August 2013 was not used to instigate prosecutions. Rather the AFL used its contents to assert that the club had brought the "game into disrepute" on the grounds that its internal management "could have" resulted in players being administered banned substances. Essendon was fined \$2 million and barred from competing in the 2013 finals series. Its coach, James Hird, was suspended for 12 months and its chief of football suspended for three months.

Cronulla responded to the February 2013 press conference by sacking several trainers and medical staff and suspended its coach, all of whom were given financial settlements or later reinstated. In December 2013, the NRL fined Cronulla \$1 million and de-registered one its officials. As with Essendon, however, the basis for the fine was an alleged regime inside the club in which players were injected with various substances that might have resulted in violations.

However, ASADA continued to insist that it might sanction 34 former Essendon players, as well as former Cronulla players, for taking unspecified banned substances. This prompted the legal proceedings by Essendon to have ASADA's entire investigation ruled unlawful on the grounds that it had been wrongly conducted as a joint investigation with the AFL, and exploited by the AFL to make the case that Essendon had violated the AFL's code of conduct.

ASADA relied on the presence of AFL officials during interviews with players and club officials to compel them, under their contractual obligations with the AFL, to answer questions. ASADA did not have such powers at the time.

The court case launched by Essendon led to the surfacing of documents that raised embarrassing questions. ASADA, it appears, was not able to produce evidence to substantiate the sweeping claims of criminality made by the Labor ministers. One type of peptide hormone allegedly used at the Essendon club was not on any banned lists in 2012.

The concern of both the Labor government and the AFL quickly became to end the investigation with a face-saving penalty on the Essendon club that did not involve any player being charged with doping offences that could be legally challenged.

The most revealing evidence that emerged in court last week related to meetings that took place in May and June 2013.

At a meeting on May 24 involving Kate Lundy and AFL CEO Andrew Demetriou ASADA head Aurora Andruska was told by Demetriou that it was "completely unacceptable" for the anti-doping body to not deliver a report until late August—on the eve of the AFL final series. The concern of the AFL was the damage to its brand and the potential threat to the hundreds of millions of dollars in revenue generated by the finals.

On June 4, Andruska testified that a government media consultant, David Lording, told her: "Lundy needs something. The minister can't do anything, it's all in ASADA's court. She needs something. She needs a deal with the AFL but she can't do anything without ASADA agreeing."

According to notes of the discussion, Lundy's departmental deputy secretary Glenys Beauchamp said: "Min[ister]—her colleagues at her, or accusing her of

hampering chances for re-election—you need an outcome." Andruska's notes read: "Deal with AFL—support staff sacked, points off, players off."

Andruska denied in court that ASADA acted under political pressure, but the subsequent events raise suspicions that it was involved in a political fix. ASADA provided its interim report to the AFL in early August 2013 despite legal advice that the AFL could not use it to sanction Essendon for unrelated disciplinary reasons. Nevertheless, the AFL appears to have used the report to pressure Essendon and its coach James Hird to accept the fines, suspensions and axing from the finals—an outcome that suited both the Labor government and the AFL.

The suggestion that ASADA was subjected to political pressure has already provoked warnings by former investigators that the World Anti-Doping Agency (WADA) might intervene, out of concerns that the ASADA's independence was under question. WADA has the power to strip Australia of its right to host international sporting events.

In the end, all that has been established by the protracted affair is that at the top levels of professional sport clubs and athletes are engaged in an endless pursuit of anything to gain a competitive edge over their rivals. At stake are vast revenues and lucrative profits in the multi-billion dollar industry so the efforts to enhance performance are pushed by sports scientists to the very limits of legality.

Nevertheless, the Labor government was able to exploit the scandal to push through legislation in August 2013 giving ASADA extensive new powers of investigation, including to coerce witnesses to answer questions.

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