

## ANADO Legal Note 12: Why Detain Athletes in the Doping Control Station?

When can an athlete leave the doping control station before completing the procedure? Can they leave the doping control station to watch the competition or to support their team or teammates? Should they be allowed to do so?

In-competition doping control should be done as efficiently as possible, with a minimum of inconvenience to the athlete. Without compromising the integrity of sample collection and security, the goal should be to get the athlete in and out of the doping control station as quickly as possible. This is because the competition exists so that the athlete can practice his or her sport, and not to create an opportunity to conduct doping control. In other words, the doping control “footprint” at the competition and on the individual athlete should be as small as possible.

I believe that in one small but important way, Doping Control Officers (DCOs) often interpret the *International Standard for Testing* (IST) contrary to that goal. I am talking about granting permission – or not – for an athlete to leave the doping control station after reporting, particularly when they are not able to provide a sample right away.

The 2009 IST lists seven clear circumstances in which the DCO “may” grant permission for the athlete to leave the doping control station before completing doping control.<sup>1</sup> From a legal point of view, the intention of the IST is to give the DCO authority over the athlete and to favour keeping the athlete in the doping control station. A literal reading

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<sup>1</sup> 5.4.4 The DCO/Chaperone may at their discretion consider any reasonable third party requirement or any request by the *Athlete* for permission to delay reporting to the Doping Control Station following acknowledgement and acceptance of notification, and/or to leave the Doping Control Station temporarily after arrival, and may grant such permission if the *Athlete* can be continuously chaperoned and kept under direct observation during the delay and if the request relates to the following activities:

For *In-Competition Testing*:

- a) Participation in a victory ceremony;
- b) Fulfilment of media commitments;
- c) Competing in further *Competitions*;
- d) Performing a warm down;
- e) Obtaining necessary medical treatment;
- f) Locating a representative and/or interpreter;
- g) Obtaining photo identification; or
- h) Any other exceptional circumstances which may be justified, and which shall be documented.

...

5.4.6 A DCO/Chaperone shall reject a request for delay from an *Athlete* if it will not be possible for the *Athlete* to be continuously chaperoned.

of the IST gives the DCO has an unqualified authority to direct the athlete not do his or her warm down, not seek medical treatment, not attend media commitments, not attend victory ceremonies, and even not participate in further competitions.

There is also a general authority to permit an athlete to leave the doping control station for “any other exceptional circumstances which may be justified, and which shall be documented.” “Exceptional circumstances” are not defined. But if one draws on the Comment to Articles 10.5.1 and 10.5.2 of the *World Anti-Doping Code*, a working definition might be “only in cases where the circumstances are truly exceptional and not in the vast majority of cases.” Even if they exist, there is the additional IST requirement that the reason for departure from the doping control station must “be justified.”

This reinforces the clear presumption that athletes are not to leave the doping control station once they have reported for doping control.

These being the rules, it is understandable that some DCOs are reluctant and even unwilling to authorize an athlete to leave the doping control station, under escort, for perfectly legitimate reasons. On more than one occasion, I have observed DCOs refuse to authorize an athlete to leave the doping control station to watch the ongoing competition, including to support teammates, or to consult team coaches or trainers about their just-finished or upcoming round of competition. This even when an escort is available. Particularly where DCOs are freshly certified and lack in-competition experience, they seem to feel more comfortable strictly interpreting and applying the rules than granting exceptions when given little guidance for doing so.

But the result is that a dehydrated athlete is directed to remain in a sterile and cheerless doping control station for hours when they could be in the stands or with their teammates under the supervision of an escort. Instead of being able to enjoy the competition, they are required under our rules to suffer through their inability to complete the doping control process. This is especially unfortunate when there is no television, no doping control or other materials, no company of a team doctor or trainer (who have other responsibilities) and no other diversions (aside from the games on the athlete’s mobile phone if they have it with them).

Doping control should be something we do for athletes, and not something we do to them. So long as observation of the athlete is not compromised, and completing the day’s testing is not unduly prolonged, DCOs should be generous in permitting athletes to leave the doping control station. This is especially so when the athlete cannot immediately provide a sample, or where there is a lengthy queue for the processing room.

It is of course hard to imagine the circumstances in which the DCO would not authorize the athlete to leave the doping control station for any of the seven listed reasons. Every possible effort would be made to provide an escort. In fact, there would be outrage in

the sporting community (and the media) if the DCO refused the athlete permission to leave where escorting were possible.

It is just as hard to imagine that any anti-doping tribunal would find an anti-doping rule violation if an athlete left the doping control station for any of the seven enumerated reasons but contrary to the a DCO's direction. In this spirit, the "exceptional circumstances" for other reasons for leaving the doping control station under escort should be interpreted broadly to maximize the athlete's legitimate wishes.

The IST should be adjusted to reflect such realities. Until that time, DCOs should exercise their authority in a way that is liberal and sensitive to the interests of the athlete, even if that appears contrary to a strict reading of the rules.

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