

State investigators struggle to catch cheaters in horse racing

EMILIE MUNSON Feb. 13, 2022



Paul Buckowski/Times Union

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In February 2020, federal agents stormed the barns and offices of a racehorse training facility in Middletown.

They had intercepted communications suggesting an employee of the Mt. Hope Training Center was the source of drugs used to dope horses on behalf of the facility’s owner, Richard Banca, according to a federal criminal complaint. The evidence recovered by investigators at the Orange County training facility that day helped the U.S. Department of Justice build one of the biggest doping cases in the history of horse racing — allegations that continue to reverberate through the sport two years later.

The case, which would lead to 29 arrests and the dismantling of an expansive racehorse doping ring, marked an extraordinary moment in the history of a sport that has long been policed by commissions or bodies that regulate racing at the state level. It also raised questions about why it took a federal agency to clean up an industry where cheating has endured, in part, because of languid state investigations that rarely involve law enforcement authorities.

Inside Banca's personal office on the barn's second floor, agents found a handwritten ledger with a list of horses' names. There was a syringe on top, along with a note offering instructions on how to administer a custom drug concoction through a tube inserted down a horse's nose and throat, according to the federal complaint.

They found a substance labeled "bleeder" — believed to have performance-enhancing effects — next to another syringe. A second bottle in the office contained adrenaline. Another medication they found was from a company that wasn't authorized to make animal drugs.

Federal agents arrested Banca and his assistant trainer Conor Flynn a few weeks later on charges of obtaining misbranded or adulterated drugs through interstate commerce. They have pleaded not guilty; Banca's attorney said he would vigorously fight the allegations against him in the appropriate forum. Other attorneys either declined to comment or did not respond to the Times Union's queries.

The 27 other people charged include top thoroughbred and standardbred trainers, veterinarians and their partners who allegedly supplied illegal performance-enhancing substances.

The Times Union spent more than six months examining the horse racing industry in New York and beyond, conducting dozens of interviews with key stakeholders, from trainers, owners, scientists, investigators, track operators and lawmakers to advocates who believe the sport is cruel and should be shut down. The newspaper also sifted through court records and reviewed data sets on testing, injuries, equine deaths, taxpayer subsidies, enforcement and more.

While the reputations of many of those arrested made the case high-profile, what seemed to shock many racing insiders was the mere fact that law enforcement agencies were involved. Similar probes into the doping of racehorses have rarely been handled as criminal cases — more often triggering administrative and disciplinary proceedings for those accused.

Trainers, investigators and other sources in the industry told the Times Union that lack-luster state investigations in New York, combined with [underfunded drug testing](#), have for decades contributed to a proliferation of doping in standardbred and thoroughbred racing.

“The drugs these guys are using to cheat with have become so sophisticated, unless you can detect them within hours, if not minutes,” they'll disappear, said Barry Irwin, an owner whose horse Animal Kingdom won the Kentucky Derby in 2011.

Irwin contends there is too much focus on the never-ending [cat-and-mouse game of testing](#), which can only detect a fraction of the performance-enhancing drugs in circulation.

"The important thing is the police work, and the investigation," he said. "You need the boots-on-the-ground people to catch them in the act ... with the syringe — and you test that, and then you've got them."

Most drug violations, caught through administrative investigations and routine testing, generate scant public attention. The consequences that trainers face are far less severe than those doled out in criminal cases: Violators may have to forfeit race winnings, but often pay only modest fines; if they're barred from competition, it's typically for a matter of days or weeks — and usually only in the state where they were caught.

In New York, pursuing cheaters at race tracks is primarily the job of the state Gaming Commission, which employs investigators, administrative judges and attorneys to handle drug use and other rules violations. The operators of some tracks, including the New York Racing Association and Vernon Downs and Tioga Downs, augment the state's investigative efforts by employing their own investigators.

The Gaming Commission refused to make its head of investigations available for an interview for this story, and declined to answer all questions from the Times Union on this topic.

Across the country, horse racing investigative forces haven't seen much improvement over the past 30 years, said Mike Kilpack, a security and integrity consultant for the National Thoroughbred Racing Association and a former supervising investigator for the California Horse Racing Board.

“I'd like to say there is more security and boots on the ground, but they don't (have it)," Kilpack said. "That's the problem.”

The Gaming Commission would not say how many investigators it employs, but sources told the Times Union there are currently about a dozen investigators statewide. The agency generally employs one investigator for each of the state's 11 tracks and a few others who move among them.



Steam comes off a horse after exercise on the main track on a cool morning Thursday June 8, 2017 at Belmont Park in Elmont, N.Y. Current and former horse racing investigators said the state struggles to police horse racing with its limited investigative personnel and rare law enforcement assistance. (Skip Dickstein/Times Union)

SKIP DICKSTEIN/Albany Times Union

“Don’t make any waves”

When New York has performed proactive, hard-charging investigations, they have at times uncovered evidence of significant drug use.

On Dec. 9, 1997, Gaming Commission investigators locked down every harness racing track in New York for a comprehensive sweep — the first and only time they undertook such a massive enforcement effort.

At Yonkers Raceway, investigators filled two 55-gallon buckets with discarded needles and medications found in the barns and other track property, said Joel Leveson, the Gaming Commission's former top investigator, who led the search.

In one night, they stopped 10 trainers or grooms who were attempting to enter the track with syringes; many of them also carried written instructions from veterinarians on how to administer performance-enhancing substances. The Yonkers sweep prompted 60 administrative drug violation cases against various trainers, Leveson said.

At Saratoga Race Course and other thoroughbred tracks, they inspected the vehicles of veterinarians and confiscated bottles of mislabeled or unlabeled drugs for testing, he said.

Prior to that sweep, the investigative division generally moved slowly and was ineffective, Leveson said.

"I inherited patronage policeman who were given (the jobs) by the governor for a donation," he said. "They weren't bad people, but they didn't know horses and they didn't want to particularly learn about them. ... It was about a 50 percentile or less workforce."

After the crackdown in late 1997, the atmosphere changed – at least for a while: Leveson was invited to speak to horse racing investigators around the country, and was empowered to hire new investigators to shake the dust off what he described as a sleepy unit.

Diligent investigations require intense amounts of work, according to current and former investigators in multiple states. Investigators inspect barns, search vehicles, develop informants, conduct surveillance and visit stables and properties away from the tracks. They need to understand law enforcement techniques like maintaining a chain of custody for evidence, but also must have intimate knowledge of the sport of horse racing — something many new investigators lack when they join up.

Good investigators can turn up evidence of drug use that's undetectable by testing, or use their information to ensure out-of-competition testing is conducted at just the right time to catch cheating.

Leveson began as an investigator for the Gaming Commission in 1995, corresponding with the arrival in office of Gov. George E. Pataki, who the investigator said encouraged him to hunt down dopers in racing. But Leveson said that during the subsequent tenures of former governors Eliot Spitzer, David Paterson and Andrew M. Cuomo, he was pushed to go "back to the old way of 'Don't make any waves.'"

Administrative judges, who ruled on the evidence that Leveson produced, "had been given the edict to keep the lid on things," he said. As budgets tightened — particularly under Cuomo — each hire of a new investigator became more difficult unless they had political backing, Leveson recalled.

He left his post with the commission in 2014.

Kilpack, who worked security for the New York Racing Association for multiple years while monitoring the high-profile Belmont Stakes and Travers Stakes races, called investigations the perennial "whipping child."

"It doesn't make money for the organization," he said. "When there are cutbacks, you always cut back security. ... It's like that at every race track."

Kilpack agreed that politics can influence the quality of state's investigative efforts. "Do they want a big scandal?" he said. "Nobody wants a big scandal."



Current and former horse racing investigators said their probes of drug use in horse racing have depended on the will of the governor to crack down. In this photo, a horse and exercise rider train prior to the 151st running of the Belmont Stakes at Belmont Park at Belmont Park on June 06, 2019 in Elmont, New York. (Photo by Al Bello/Getty Images)

Al Bello/Getty

One trainer, 1700 drug administrations, zero positives

About a decade ago, Lou Pena was temporarily banned from Yonkers Raceway in New York. A leading trainer in harness racing, Pena had a remarkable win record. But suspicions had grown that his success might be fueled by doping.

Pena allegedly sidestepped the ban by transferring his horses to other trainers to keep them racing and bringing in winnings, a practice known in the industry as using a "beard." State regulators began receiving complaints that Pena was using beards, recalled Rick Goodell, who was associate counsel to the New York Gaming Commission — and its predecessor, the Racing and Wagering Board — from 1999 to 2021.

The state subpoenaed veterinary records and other business documents from trainers and owners working with Pena, according to Goodell, who represented the state in the case. The veterinary documents revealed more than 1,710 instances between 2010 and 2012 when various drugs were recorded as having been given to Pena's horses too close to race days.

But there wasn't a single horse that tested positive for the drugs when samples were collected after races as part of routine checks for drug violations.

The episode highlights some of the limitations of drug testing. And it wasn't an isolated case: Goodell said those situations turn up "every once in a while."

While Goodell called New York's drug lab an "industry leader," their attorneys and investigators would still sometimes pinpoint other equine drug violations that went undetected by the testing process when probing drug use identified by a positive test, he said.

While some drugs are detectable in post-race tests, some have a very short window of detectability, despite long-lasting effects. That means diligent state investigators, tasked with rooting out illicit activity at tracks, are critical to ensuring the right horses are being tested at the right times when drugs are detectable in their system.

"Routine foot patrols and inspections and equine drug testing cannot detect all illegal activity," Goodell said. "Even a vastly more expensive approach, such as confining all horses to the grounds and limiting access to horses and drug treatments to third-party veterinarians (themselves subject to constant visual and electronic surveillance), would not be infallible."



Investigating drug use in horse racing is primarily the responsibility of the state, which stations one investigator at each track in New York. In this photo, standardbreds are taken out for morning work at the Saratoga Harness Racing at Saratoga Casino facility on Friday, Aug. 28, 2020, in Saratoga Springs, N.Y. (Will Waldron/Times Union)

Will Waldron/Albany Times Union

What the tracks do

The New York Racing Association, which operates Saratoga Race Course, Aqueduct Racetrack and Belmont Stakes, employs four full-time investigators who share relevant findings with the Gaming Commission and law enforcement, said Patrick McKenna, a spokesman for NYRA.

Anthony Patricola, the association's lead equine safety investigator and a former police officer, described his duties in testimony during a NYRA suspension hearing as inspecting offices, barns and tack rooms at the tracks, as well as investigating incidents at race tracks with riding personnel or trainers that affect the welfare of horses.

The association also has at various times up to 40 staff trained by the Organization of Racing Investigators and the Racing Officials Accreditation Program working on "horse watch detail" to monitor the activities of people on the backstretch.

"NYRA has a strong investigative staff," said Don Ahrens, director of security and parking at the Sam Houston Race Park in Houston, Texas, who has also worked security at the Belmont and Travers Stakes races. "When something gets to the stewards' level, I believe it gets dealt with effectively."

Jeffrey Gural, a New York horse owner, breeder and operator of the Vernon Downs and Tioga Downs harness racing tracks in New York as well as the Meadowlands in New Jersey, said he employs one investigator for all three tracks.

John Matarazzo, director of racing operations at the Saratoga harness track at the Saratoga Casino Hotel, said it's the prerogative of the Gaming Commission to police for drug use at his track.

"They're in charge of that," he said. "They have investigators on properties; they do blood samples every race. The program they have in place is the program that we use right now, and it is up to them to really enforce the policies and the directives that they've stated. ... If we find that there is something ... that needs to be investigated that gets brought to our attention, we immediately bring it to the Gaming Commission's attention."



Joel Leveson, former director of investigations for the New York State Gaming Commission, at the Waldorf Farm annex on Monday, Dec. 13, 2021, in North Chatham, N.Y. Paul Buckowski/Times Union

Collaboration with police

New York does not deploy state troopers at tracks on race days, although they often provide traffic assistance at those locations, said Beau Duffy, a spokesman for the State Police. State Police are assigned at most casinos in the state.

Other states, including Iowa, have State Police units devoted to horse racing, but that's a rarity now, according to Ahrens.

“You have cops at malls. Here you have betting, and you have no police here,” said an active racetrack investigator, who asked not to be identified because of the sensitive nature of his work. “You have nobody investigating a \$2 billion industry.”

Several current and former track investigators told the Times Union that their collaboration with law enforcement is typically piecemeal and dependent on relationships with individual police officers, prosecutors or federal officials.

“If you make a cold phone call (to an unfamiliar law enforcement office) ... they’re going to look at you like you have three heads,” Ahrens said. “You have to educate them on what these things all mean.”

In his 22 years involved in investigations in New York, Leveson said that police or prosecutors only took cases from him less than five times, despite many more referrals. He said he was told directly they didn't have the time or expertise in horse racing to pursue the cases.

“If it was a slam dunk, they would think about it,” he said. “Otherwise, it was very hard to coerce any of them to step out of their comfort zone.”

Sue McDonough, a former New York State Police trooper and investigator with a career spanning 1978 to 2004, specialized in animal abuse cases. She now gives training seminars for law enforcement and others on animal abuse law. Sometimes New York horse racing investigators attend her courses, she said. “A lot of them don’t even know what the laws are,” McDonough said. “How many times have you heard that happen — that any trainer or owner or jockey has been arrested?”



Fed up with drug use in horse racing, Jeff Gural, owner of the Meadowlands, Tioga Downs and Vernon Downs race tracks, decided to take matters into his own hands and hire with the Jockey Club private investigators to look into it. Here Gural is shown in 2012 at Winner's in Bayonne beside the Meadowlands Pace Trophy during a news conference. KEVIN R. WEXLER/STAFF PHOTOGRAPHER

KEVIN R. WEXLER/KEVIN R. WEXLER/ STAFF PHOTOGRAP

Private investigators

Until two years ago, arrests in horse racing doping cases were rare.

About three years ago, the Jockey Club, the premier U.S. organization devoted to thoroughbred breeding and racing, was eager to crack down on drug use in racing. The Jockey Club, with Gural, [decided to take matters](#) into their own hands.

They hired 5 Stones Intelligence, a private investigations firm staffed by former employees from the Central Intelligence Agency, Drug Enforcement Administration and the FBI. They fed the group tips about individuals suspected of serious doping.

“Every six months, I would call them and say ‘What’s happening? I’m paying you a lot of money,’” said Gural, who supported the Jockey Club's efforts. “Then, finally one day, we

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had pretty much run out of money; I had spent at least \$500,000. ... I was paying it out of pocket. They said, 'Don't worry, you're going to be very happy.'"

The February 2020 raid on the Mt. Hope Training Center and the alleged scheme it helped to uncover — involving defendants who raced, trained or treated horses in New York — stemmed in part from the work of 5 Stones, he said.

Gural said he and the Jockey Club are still paying 5 Stones to continue its investigations. The U.S. Department of Justice is also continuing its efforts.

"It wouldn't surprise me if undetectable, illegal medications are still being used in New York, since there is very little vigilance rooting out the trainers," Gural said.