AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 106–1074

EFFECTS OF PERFORMANCE ENHANCING DRUGS ON THE HEALTH OF ATHLETES AND ATHLETIC COMPETITION

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

OCTOBER 20, 1999

Printed for the use of the Committee on Commerce, Science, and Transportation

U.S. GOVERNMENT PRINTING OFFICE

75–594 PDF WASHINGTON : 2002

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

JOHN McCAIN, Arizona, *Chairman*

TED STEVENS, Alaska
CONRAD BURNS, Montana
SLADE GORTON, Washington
TRENT LOTT, Mississippi
KAY BAILEY HUTCHISON, Texas
OLYMPIA J. SNOWE, Maine
JOHN ASHCROFT, Missouri
BILL FRIST, Tennessee
SPENCER ABRAHAM, Michigan
SAM BROWNBACK, Kansas

ERNEST F. HOLLINGS, South Carolina
DANIEL K. INOUYE, Hawaii
JOHN D. ROCKEFELLER IV, West Virginia
JOHN F. KERRY, Massachusetts
JOHN B. BREAUX, Louisiana
RICHARD H. BRYAN, Nevada
BYRON L. DORGAN, North Dakota
RON WYDEN, Oregon
MAX CLELAND, Georgia

MARK BUSE, *Staff Director*
MARTHA P. ALLBRIGHT, *General Counsel*
IVAN A. SCHLAGER, *Democratic Chief Counsel and Staff Director*
KEVIN D. KAYES, *Democratic General Counsel*

CONTENTS

	Page
Hearing held October 20, 1999	1
Statement of Senator Cleland	4
Statement of Senator McCain	1
Prepared statement	2
Statement of Senator Stevens	7
Statement of Senator Wyden	3

WITNESSES

Campbell Hon., Ben, Nighthorse, U.S. Senator from Colorado	5
Coleman, Doriane, Lambelet, Professor, Duke University, School of Law	85
Prepared statement	88
Hogshead, Nancy, U.S. Olympic Gold Medalist	36
Prepared statement	38
Hybl, William, President, United States Olympic Committee	52
Prepared statement	54
McCaffrey, Barry R., Director, Office of National Drug Control Policy, Executive Office of the President	8
Prepared statement	12
Pound, Richard W., First Vice President, International Olympic Committee	56
Prepared statement	58
Serota, Scott, Executive Vice President and chief operating officer, Blue Cross and Blue Shield Association	31
Prepared statement	33
Shorter, Frank, U.S. Olympic Gold Medalist	43
Prepared statement	47
Wadler, M.D., Gary I., Associate Professor of Clinical Medicine, New York University School of Medicine	77
Prepared statement	79

APPENDIX

Doriane Lambelet Coleman, memorandum dated October 13, 1999, along with a Final Conference Report	108,112
Wadler, Gary I., memorandum to Hon. John McCain dated October 14, 1999	103
Response to written questions by Hon. John McCain to:	
Nancy Hogshead	98
William Hybl	103
Barry R. McCaffrey	94
Richard W. Pound	100
Scott Serota	102
Frank Shorter	93
Gary I. Wadler	97

EFFECTS OF PERFORMANCE ENHANCING DRUGS ON THE HEALTH OF ATHLETES AND ATHLETIC COMPETITION

WEDNESDAY, OCTOBER 20, 1999

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 9:40 a.m., in room SD–106, Dirksen Senate Office Building, Hon. John McCain, chairman of the committee, presiding.

Staff members assigned to this hearing: Robert Taylor, Republican counsel; and Moses Boyd, Democratic counsel.

OPENING STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

The CHAIRMAN. The committee meets today to consider an important matter. We will begin this hearing.

Earlier this year, this Committee conducted a hearing into the bribery and corruption scandal resulting from the Salt Lake City's bid to host the 2002 Winter Olympics. Similar revelations have since emerged regarding the Atlanta bid efforts.

There was, and is, a sense of urgency about these scandals that seem to surpass what we might normally expect from such events. The reason for this extraordinary concern, I believe, is that the corruption scandal threatens something more basic. It threatens the integrity of the Olympic games.

Olympic competition has always been a great leveler, where agendas are left behind in the common pursuit of excellence. However, this ideal is now threatened by something far more destructive than bureaucratic corruption.

The explosion in the use of performance enhancing drugs threatens to debase the integrity of Olympic competition itself. Recent years have seen an ever-accelerating rate of drug use among athletes.

Revelations about the use of performance enhancing drugs have served to both expose the complexity of the challenge of detection and enforcement of drug policies, and the gross shortcomings of the existing United States Olympic Committee and the International Olympic Committee efforts to address the challenge.

What I wish to underscore by this hearing is that there are no simple solutions to this challenge. As our nation has seen in its failed war on drugs, success in curbing drug use of any kind is illu-

sive. However, a consensus on the necessary elements of an approach to curbing the use of performance enhancing drugs exists.

The first step is the establishment of an independent or external agency to perform year-round, out-of-competition testing for banned substances. The governing board of this agency must include significant athlete representation and must have complete control over the administration, analysis, and reporting of drug tests.

Testing must be universal in that all athletes wishing to compete in the Olympic games should be required to submit to the testing regime established by this independent agency. Significant investment should be made in the research and development of advanced technologies and strategies for the detection and verification of the use of banned substances.

Finally, a comprehensive and sustained anti-drug and sports ethics education program should be developed and implemented.

In an effort to achieve these final two objectives, I and others will soon introduce legislation providing for grants to United States universities to conduct research and development programs designed to develop new technologies and strategies for the detecting and verification of drug use among athletes.

This legislation will also include grants to universities for the development and implementation of athlete drug education and ethics programs for university and elite athletes.

Olympic competition has always served as a beacon of hope in an often divided world. Our United States Olympians serve as role models of excellence. However, as will be pointed out here today, performance enhancing drug use among young people is now on par with statistics on the use of other illegal drugs.

We all have a vested interest in reversing this scourge. To fail to act decisively would result in the demise not only of a transcendent athletic event, but of an event that, through pure competition, elevates a set of ideals centered upon discipline, perseverance, excellence, and individual human achievement that are so critical in a world increasingly void of such things.

I want to point out that one of the reasons why we are having this hearing is because a group of Olympic athletes came to my office to see me, and they expressed their deep and profound concern about this problem and this challenge. And that is the major motivating factor for this hearing to be held today.

I appreciate present Olympians and past Olympians who remain committed to making sure that we address this issue from a standpoint that will ensure that the finest athletes can obtain their level of excellence without having any outside substance or any other influence that would in any way demean the credentials that being a true Olympian provides them with.

[The prepared statement of Senator McCain follows:]

PREPARED STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

Earlier this year, this Committee conducted a hearing into the bribery and corruption scandal resulting from Salt Lake City's bid to host the 2002 Winter Olympics. Similar revelations have since emerged regarding the Atlanta bid efforts. There was, and is, a sense of urgency about these scandals that seems to surpass what we might normally expect from such events. The reason for this extraordinary concern, I believe, is that the corruption scandal threats something more basic. It threatens the integrity of the Olympic games.

The Olympics are one of the most significant recurring global events. The Olympics represent a coalescing moment when we set aside our competing economic and nationalistic agendas celebrate the pursuit of simple, graceful human excellence. The triumphs that we have witnessed together through the Olympic games are a common experience. The glory of athletic achievement in one moment both elevates us above those things which divide us, and reduces us to the simple human dignity that is the essence of who we are and what we hold in common. The historic achievements of Jesse Owens both symbolized athletic excellence and spoke eloquently of freedom and equality in the face of a dictator. The grace and elegance of eastern European gymnasts during the 70's and 80's became a silent, yet deafening expression of individualism in the cold world of communist oppression. The stunning victories of today's athletes like Picabo Street define the rugged individualism and freedom that is sweeping the world.

Olympic competition has always been a great leveler, where agendas are left behind in the common pursuit of excellence. However, this ideal is now threatened by something far more destructive than bureaucratic corruption. The explosion in the use of performance enhancing drugs threatens to debase the integrity of Olympic competition itself. Recent years have seen an ever-accelerating rate of drug use among athletes. Revelations about the use of performance enhancing drugs have served to both expose the complexity of the challenge of detection and enforcement of drug policies, and the gross shortcomings of the existing United States Olympic Committee and the International Olympic Committee efforts to address the challenge.

What I wish to underscore by this hearing is that there are no simple solutions to this challenge. As our nation has seen in its failed war on drugs, success in curbing drug use of any kind is illusive. However, a consensus on the necessary elements of an approach to curbing the use of performance enhancing drugs exists.

The first step is the establishment of an independent or external agency to perform year-round, out of competition testing for banned substances. The governing board of this agency must include significant athlete representation and must have complete control over the administration, analysis, and reporting of drug tests. Testing must be universal in that all athletes wishing to compete in the Olympic games should be required to submit to the testing regime established by this independent agency. Significant investment should be made in the research and development of advanced technologies and strategies for the detection and verification of the use of banned substances. Finally, a comprehensive and sustained anti-drug and sports ethics education program should be developed and implemented.

In an effort to achieve these final two objectives, I will soon introduce legislation providing for grants to United States universities to conducted research and development programs designed to develop new technologies and strategies for the detection and verification of drug use among athletes. This legislation will also include grants to universities for the development and implementation of athlete drug education and ethics programs for university and elite athletes.

Olympic competition has always served as a beacon of hope in an often divided world. Our United States Olympians serve as role models of excellence. However, as will be pointed out here today, performance enhancing drug use among young people is now on par with statistics on use of other illegal drugs. We all have a vested interest in reversing this scourge. To fail to act decisively would result in the demise not only of a transcendent athletic event, but of an event that, through pure competition elevates a set of ideals centered upon discipline, perseverance, excellence, and individual human achievement that are so critical in a world increasingly void of such things.

The CHAIRMAN. Senator Wyden.

STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Chairman, I want to commend you for holding this hearing and particularly for following through. It would have been very easy after the first hearing to just drop this whole matter and just let it slide. I commend you for your leadership.

What we learned at our first hearing, Mr. Chairman, and for all those who are following this, is that the International Olympic Committee is not exactly tripping over itself to initiate the needed

reforms. Time and time again, the International Committee has talked about initiating changes in this area. It is fair to say that their approach has been all windup and no pitch.

Each time we have seen a scandal on the doping area, the International Olympic Committee has announced and then failed to actually follow through on concrete plans to curb doping. They have talked, yet again, about initiating changes for the 2000 games, but my sense is that nobody should stay up waiting to see these reforms actually put in place.

The real tragedy, it seems to me, is that it would not take a dramatic set of new steps to make a real difference in curbing performance enhancing drugs. For example, seven countries have already joined together in an international anti-doping arrangement.

This independent and respected group could be expanded, but my understanding is that the International Olympic Committee has not even consulted this group about a new kind of approach, a truly independent approach of this nature.

The International Olympic Committee appears far more interested in spending $150 million to polish up its international image than to try and clean up the tarnished medals that it is awarding.

The reason it is so important that we go forward with this effort, Mr. Chairman, is that we are seeing a public health crisis with respect to these drugs in American youths. It seems that now the same number of kids using some kind of steroid, is the number that are using cocaine.

We know that these kinds of drugs can cause high blood pressure, heart disease, liver damage, cancer, strokes, and blood clots, and to see so many youngsters get caught up in this spiral of dangerous drugs is truly alarming. So I am very pleased that you are following up on this effort, Mr. Chairman.

As you know, Senator Stevens, the Chairman of the Appropriations Committee, has had a long-standing interest in this matter as well. I have talked with him, as well as you. I am very pleased that you are going to be introducing that legislation. I look forward to being one of your cosponsors in this effort and working with you as we have on so many issues of a bipartisan basis.

The CHAIRMAN. Thank you, Senator Wyden.

[The prepared statement of Senator Cleland follows:]

PREPARED STATEMENT OF HON. MAX CLELAND, U.S. SENATOR FRON GEORGIA

Thank you Mr. Chairman for convening this hearing. It is obvious that the increasing use of performance enhancing drugs is having a negative effect on international athletic competition, on the health of the athletes involved and, finally, on the children that aspire to be just like the champions they see on TV.

I would also like to thank General McCaffrey for coming before this Committee to discuss the problems of drug use and doping in sports. No one person has worked harder than General McCaffrey to stop the spread of illegal drug use in this country. I am especially pleased to be a part of his efforts to raise the awareness of youngsters about the dangers of drugs and to encourage parents to play a more active role in helping their children stay drug-free. I have long been a proponent of full funding for the National Youth Anti-Drug Media Campaign, sponsored by his office. What was started as a pilot program in 1997 has expanded into a national media project that reaches as many as 9000 of our young people, four to seven times a week. I suspect this campaign has had an influence in producing the good news reported in the latest National Household Survey on Drug Abuse: this past year saw a 13% drop in overall drug use by our nation's youth!

While this represents substantial progress in getting out the message on the dangers of drug abuse, I am concerned that these efforts will be nullified if our children see professional athletes—who should be role models for America's kids—utilizing performance-enhancing drugs. I have noted that overall drug use among our youth is down, yet statistics show that the use of performance-enhancing drugs among America's children is on the rise. This issue is not new to us, but it is one which we have been slow to address. The use of performance-enhancing drugs by athletes has existed—it seems—as long as the Olympic Games themselves. And now, we are hearing calls from our athletes to put an end to this ancient cycle of corruption. I believe it is high time that we heed this call.

In 1996, my home state hosted the world during the Centennial Olympic Games. Historically these Games have provided a peaceful venue for athletic competition and have resulted in the triumph of hundreds of American athletes. Today, as we address the charges about the illegal use of drugs and steroids, we should remember the spirit behind the Olympic athlete's oath: "In the name of all the competitors I promise that we shall take part in these Olympic Games, respecting and abiding by the rules which govern them, in the spirit of sportsmanship, for the glory of sport and the honor of our teams." Mr. Chairman, I am aware that one of the reasons for discontinuing the ancient Games in Greece was drug use. It is imperative that we not allow history to repeat itself on our watch.

Thank you, Mr. Chairman. I look forward to hearing from our witnesses today.

The CHAIRMAN. We are now honored with the presence of Senator Ben Nighthorse Campbell, a former Olympic competitor himself, and a long time supporter of the Olympics.

I thank you, Senator Campbell, for being here.

STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO

Senator CAMPBELL. Thank you, Mr. Chairman. I apologize for being a little late. My schedule said that you were supposed to start after the vote at 10. I guess the vote was moved and I did not hear that. I apologize for being late.

I do thank you for the opportunity to address the Committee and make a few comments. As you know, I have a particular interest in this matter. You mentioned I was a member of the U.S. Olympic team, and I am very proud of that.

In fact, some years ago, then Senator Bill Bradley and Congressman Tom McMillan and I started a U.S. Congressional Olympic caucus which was basically designed to get the message to our colleagues here in the House and the Senate both about what the Olympic movement is about in the United States; and also to try to have young Olympic athletes visit the Hill, to meet their Congressman, and meet their Senators on a first-hand basis.

But, like most Olympic athletes who have had the opportunity to represent the United States in a very, very glorious and wonderful experience, I am deeply disturbed about this relatively new problem of performance enhancing agents, commonly called doping or drugs.

I cannot remember it being that big of a problem years ago when I was competing or when I was coaching for almost 10 years after I retired in 1964 from competition. But there were some things being done.

I think it is important, as I have mentioned to you before, Mr. Chairman, to remember that the United States Olympic Committee and the International Olympic Committee are two different bodies. Now they are affiliated, but the IOC does not take its orders from the United States Olympic Committee.

Even in those years ago, there were certainly rumors of enhancing performance. One of the most common in those days was called blood doping, which was a method of super charging your body by taking blood out beforehand and then putting more blood back into your system—your own blood, by the way —back into your system just before a competition.

Thereby, enabling the blood stream to carry more oxygen than hemoglobin, and you would literally have much more stamina and endurance, particularly for distance events and cycling, things of that nature. There were rumors of that being done. Certainly, early on, we had heard of the use of steroids, too. But I did not know of it as being wide spread.

It may be much more widely spread now since it seems to be on the media quite a bit more. But it probably is growing. But I would like to repeat, the United States Olympic Committee, as near as I can tell, and having their headquarters in my State of Colorado and paying pretty regular visitor to the Olympic Committee, and knowing the President, Mr. Bill Hybl very well, and many of the members of the Olympic Committee, too, I know that the U.S. Olympic Committee takes very seriously the question of doping and considers that problem a fundamental matter of cheating, as they always have.

I want to commend them for the positive steps they have taken to detect and prevent serious problems of doping in the future. I understand that it is the intent of the USOC to take immediate action in order to detect and prevent doping as soon as the upcoming 2000 Olympics in Australia. That quick and decisive action is attributable to the USOC and the entire Olympic movement.

As a former Olympian, I certainly applaud that aggressive stance. The current rules, in fact, of the USOC are so strict that even things such as antihistamines that are taken for the common cold, or caffeine from too many cups of coffee in a day, or some of the very common over-the-counter asthma medicines, even some of those things can show up in a drug test that the USOC does for athletes. So, it is very, very strict.

I think it is important that Olympic competitors, in fact, not just for America, but for all countries, serve as the role models for today's youths. We certainly need them and we cannot afford to send the message that it is acceptable for any athlete from Little League to Olympian to rely on performance enhancing drugs in order to play a better game.

I prefer to think we ought to do it the old-fashioned way, through hard work, through perseverance, through practice, through confidence, through good coaching, and perhaps improved diets and things of that nature.

But we know that we cannot make a rule to make all other countries abide by it. Even in the years I competed, some of the stories that we were hearing about then, some of the Soviet Olympic Committee or team members, were on many performance enhancing drugs.

We do not condone that, and I am sure that there is every effort being made to try to make sure that the IOC makes tighter and tighter rules for their athletes.

But I would just like to say, I have been very happy working with the U.S. Olympic Committee in this endeavor. I have no doubt that this program will make great strides in the elimination of doping in future Olympic sports.

I just wanted to commend you on doing this hearing. I also will note with interest that General McCaffrey has had an ongoing interest in this, too.

As the Chairman of the Treasury Subcommittee which oversees the budget for the drug Czar as you know, Mr. Chairman, I have worked very closely with the General, and am absolutely confident that his input can be of great use to our international movement for making sure that drug enhancing agents are not used for our athletes.

Thank you for giving me the time, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Campbell.

We are at an unfortunate point where there is a vote on and I think the best thing to do, Senator Wyden, is just to go and vote and come back. Obviously, Senator Campbell, you are welcome to join us here.

Senator CAMPBELL. Thank you, Mr. Chairman. I have to Chair a hearing myself so I will not stay.

The CHAIRMAN. OK.

Mr. McCaffrey, I want to extend an apology to you and the other witnesses. It will take us approximately five to 7 minutes to get over and back. I am a little quicker than Senator Wyden is, so I will probably be back before him. So, we will take a brief break here.

[Recess.]

The CHAIRMAN. General, we will start back again.

The hearing will come back to order and I note the presence of Senator Stevens who was literally the father of all legislative efforts concerning United States involvement in the Olympics.

Senator Stevens, do you have any opening comments before General McCaffrey makes his statement?

STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA

Senator STEVENS. Yes, very briefly. I commend you for holding these hearings.

It is just about 20 months ago that Don D. Broda and I went to Lausanne to talk to Mr. Samaranch about the issue of doping. I think the IOC and the U.S. Olympic Committee had been working very hard on the issue.

I am anxious to hear the testimony of the witnesses, and I do think it is a subject that we have got to work on to ensure that there is a program that is effective and fair to the athletes at all levels.

Thank you very much.

The CHAIRMAN. Thank you, Senator Stevens.

General McCaffrey, welcome.

STATEMENT OF GENERAL BARRY R. MCCAFFREY, DIRECTOR, OFFICE OF NATIONAL DRUG CONTROL POLICY, EXECUTIVE OFFICE OF THE PRESIDENT

General MCCAFFREY. Mr. Chairman, thanks very much for the chance to testify in front of your Committee. I want to thank you, Senator Hollings, and Senator Stevens, in particular, for your leadership on this issue over the years and for crafting the Amateur Sports Act which essentially is our fundamental document in how we approach this in the government.

Now let me also recognize several people in the room that have been either called by you to testify or who helped craft our own thinking on this issue. The Drug Enforcement Administration Acting Administrator, Donnie Marshall is present, Secretary Shalala's team is present, Christine Quinn and Tom Vischi, and from the State Department, Donna Gialotti is present, all have been very much involved in this project from the beginning.

We have also worked very closely in forming our own ideas with Bill Hybl, at the U.S. Olympic Committee, and also Dick Schultz and Dr. Barron Pittenger. Bill will, of course, testify later, and we look forward to continuing our partnership with him.

Possibly, most importantly, I have sought out the advice and counsel of some of our athletes, the people who have helped shape the sport, who stand as symbols to all of us on what we are trying to achieve.

Frank Shorter, I know, will testify in front of this Committee. He joined my delegation to Lausanne, Switzerland, in January, 1999 to talk to the issue. He will join me in Australia in November, 1999 at the 26 Nations Summit, to address the problems of doping in Olympic sports. We appreciate his counsel.

Carl Lewis is not here, the fastest man on earth, but he has been very much involved with us.

I very much appreciate Nancy Hogshead being here, a spectacular, nationally known athlete. She and Donna de Varona, who I have taken to calling the First Lady of American sports, have been instrumental in our own thinking. Donna will come with me to Australia as part of our official delegation.

Finally, Edwin Moses has been a prime architect of our own thinking on the National Drug Control Strategy as it relates to sports.

Dr. Gary Wadler and Professor Doriane Coleman have both been essential to the drug strategy that I will release today.

I would like to point out Mr. Scott Serota is here, representing Blue Cross/Blue Shield. They have recently formed the Healthy Competition Foundation which we expect will assist in one of the greatest shortcomings we have which is the lack of adequate scientific research on this issue.

Finally, Mr. Chairman, let me point out someone who I will use as a prop, Joy Avedesian, one of our own ONDCP interns. She is a UC Irvine student here for a semester with us. She is a Big West scholar athlete, played on a championship team and is also a youth soccer coach.

At the end of the day, she and her efforts are really what we are talking about as well as the 100 athletes on the face of the earth

who may be capable of winning an Olympic gold medal in a given sport.

Mr. Chairman, there are two documents I would like to offer for your consideration. First is our written testimony. We put——

The CHAIRMAN. Without objection, your statement will be made part of the record, General.

General MCCAFFREY. We have done a lot of work on that. It has been cleared by our inter agency process and we have shared our thinking with our own stakeholders.

Secondly, today I am announcing that we are putting into public play, the U.S. and International efforts to combat drug use and doping in sport, for our own ONDCP attempt to carve out some concept to organize our thinking in the coming years. I offer that for your consideration.

It is a work in progress. We do not have a fixed idea. I will, as I will explain, go to Europe in October and try to solicit the thinking of our European partners, and then I will go to Australia in November and talk to more than 26 nations.

Here is the problem. The problem is a wide-spread belief in international competition, as well as national competition, which has now spread down to little league baseball and high school swimming, that if you want to compete and win, chemical engineering of human performance is part of the game.

That is what we are concerned about, not just tarnishing the beauty of the Olympic movement, not just artificially generating standards that can never be achieved through sheer talent, dedication, and good coaching, but instead, we are worried about the snap shots—we only have one good study on it.

We have a 1995 CDC study that notes that we now have a situation where steroid use among young girls ages 9 through 13 in America is greater than young boys. It has hit 3 percent of that age group population.

We have wide-spread use of doping agents throughout the United States among young adolescents. We are talking about 550,000 kids used steroids in 1995, and the number is undoubtably greater now.

We are talking about a situation where you can get on the Internet, order these drugs with the participation, perhaps, of your team doctor or team coach. They can come to you through international mail, and you can be involved in destructive chemical engineering of your own body.

Here are two snap shots that I just put on the table and I will be willing to address them in greater detail.

Joy, next chart.

[Chart.]

General MCCAFFREY. We do have a strategy, and we have outlined our thinking. I very much appreciate the participation in developing ideas, not only of my Cabinet colleagues, but also Thurgood Marshall and Mickey Ibarra in the White House. I asked Mickey to come along with me to Australia, and again, be part of our official delegation.

But here is a broad overview. Here is what we are trying to do. Certainly one essential piece of it is that Congress gave me more than a half billion dollars last year for the National Institute of

Drug Abuse. In the last 4 years, we have increased our funding by 36 percent on basic research, on drug abuse, and its implications. We fund more than 85 percent of the global research on this issue.

We are willing to bring this research capability to bear and support not only the U.S. Olympic Committee and try to address our own national problems, but also in support of the international movement. I have made that offer in Lausanne, an initial offer of $1 million.

We have the Center of Alcohol and Substance Abuse studies at Columbia University. Dr. Herb Kleber, and his colleagues, are going to carry out our initial research efforts.

We also clearly have to have some notion of: How do we sort out the government's role and the oversight of both amateur sports anti-doping programs and our relationship with the international community? What roles should we take?

I very much look forward to hearing the ideas of Congress in the coming year on what you think we ought to focus on. The other thing we have done is we have gone out and told not only the USOC, Bill Hybl, but also Mitt Romney, at the Salt Lake Olympic Committee to consider us servants of ensuring that the United States runs the most drug-free Olympic climate possible when we host the games.

We are going to try to stand behind our leadership efforts. We are very impressed by both those men and what they are trying to achieve.

Finally, it seems to me that a lot of the discussion has been focused around testing. That is essential, but there is a larger issue at stake which is, "How do we talk to and have a dialog among American athletes and international athletes," where we capture the thinking that you will hear from the testimony of Nancy Hogshead and others, which suggests that athletes themselves want a level playing field. They do not wish to compete in an unfair environment.

One of the most articulate spokespersons that I have dealt with, courtesy of Bill Hybl out at the Olympic village, was a weight lifter, Wes Barnett, who said, "Look, I have been doing this 16 years, drug-free, and I never get above a bronze medal because I am competing against people who are artificially generating a capability that the human body cannot achieve otherwise." We have got to do something to support athlete's efforts.

Next chart.

[Chart.]

General McCaffrey. There should be an international component to this. Now, Mr. Chairman, on this chart, we have outlined five principles that we put on the table.

There is not a U.S. demand for an independent doping agency where we outline our views on how it should be structured, the rules it should engage, where it should be located. I think we ought to join a consensus on this.

I would also suggest that those five principles that were widely accepted among our international partners in Lausanne, in which I still think held great credibility throughout the Olympic movement, are what we think are important.

We do want to see an independent drug testing agency not only in the international sports movement, but here in the United States. We do want year round vulnerability to testing.

In the modern era that Senator Campbell talked to, you cannot simply test for steroids with the gold, silver, and bronze medal winners. You are only going to catch the stupid cheaters if you do that.

So we need year round vulnerability because the point of the matter is not to catch cheaters; it is to guarantee the competitors a level playing field. We clearly want no statute of limitations.

We want to say that if we uncover Stasi East German secret police records years later and find out that 10,000 East German girls had been fundamentally damaged by steroid abuse and that many of their records are tarnished, we want no statute of limitations on that. That should run out toward the future. That really gets to the fourth point.

Right now, research is inadequate to identify EPO, GHP, the whole range of artificial testosterone and other drugs that are coming on-line. We ought to freeze samples. We ought to say that down the line, if you are uncovered as having cheated, you will be stripped of your honors.

Then finally, as I mentioned before, we need better research. We have to go after a problem that is not rocket science. There is no way that we cannot address this problem, if we get organized, if we capitalize on the ongoing research that the Brits have on-line, and others.

Now, if I may, let me hold up two documents and talk to them for a second. There has been—and I really will respond to your questions in detail on what our problems are.

These are two documents out of the International Olympic Committee. One is draft five, 9 September 1999, World Anti-Doping Document. It is a marked-up copy. We have not gotten this officially. I do not believe any national government has.

There are bodies that relate to international organizations that have copies of this. The EU Sports Minister has a body which gave her a copy, but we have not been formally notified of this.

The second document out of the IOC, in August 1999, done in Lausanne, the Olympic Anti-Doping Code, the Medical Code. These two documents are unacceptable in responding to those five principles.

You have to read all four corners of the documents, but these are not independent agencies to begin with. Indeed, the Olympic Anti-Doping Code talks to the notion that this independent agency only recommends actions to the IOC.

Secondly, we find that if you strip out all the cover clauses, at the end of the day, a plenary body need only meet once a year. An executive committee will do the work of the body. That executive committee—you know, I have probably been 15 years working with international agencies, I have never seen anything like it.

This does not have the standard protections of transparency, of publication of records, of accountability, of conflict of interest clauses. They are not there and that executive committee, for the first year or so, will set up an agency and have it underway without it being responsive to the needs of the international community. I think it needs further discussion.

It is also, probably, in the wrong place. It is co-located with the IOC. But, again, I do not think the U.S. has a fixed opinion on what the outcome should be, but we would hope that all of us, acting on behalf of athletes, will address those five principles.

The second document is from the U.S. Olympic Committee. It is pretty good work. Again, I do not think it is at the end of its developmental cycle, but the U.S. Olympic Committee has gone for the notion of drug testing externalization. So we have the beginnings of an attempt to form a separate body that has power, not just to form policy or recommendations, but to make decisions, to adjudicate questions, to provide sanctions, to do research, et cetera.

I think this probably needs more work, but I have to tell you, they are moving in the right direction. Hopefully, this document will be found compelling not just by the USOC bodies, by our NGBs, but also by the NCAA and possibly down the line by professional sports. It will say that this looks like a good way to get out of the dilemma we are in. So I have to commend them for where they have gone.

Next.

[Chart.]

General MCCAFFREY. Here is the road ahead, and the end of the trail is problematic. We are grateful for this hearing and for the work of the Congress in identifying the problems of not only doping in sport, but other issues of reform of the IOC.

We intend to take our strategy and in cooperation—this will be an open books process. We are going to make it transparent and involve all of our stakeholders. We will form a task force. We will try and form some more concrete thinking on it.

For example, the USOC Independent Drug Testing Agency, at some point, needs quasi-governmental authority, that Congress needs to define for us. It needs to be an instrumentality of the United States. It needs to be able to join the IADA, which is only open to government bodies.

At the same time, we have to be very respectful of the notion of amateur sports and the independence of amateur sports from Federal intervention. We will form that task force in the coming weeks. We will have a national stakeholders meeting.

Our whole idea is to try to begin implementation of new thinking before the Sydney Summer Olympic games and full implementation before we get to Salt Lake City.

Well, that is about it. That is where we are. Again, Mr. Chairman, I thank you for the chance to come over here and lay some of these concepts in front of you, and we look forward to working with your Committee members in the coming months.

[The prepared statement of General McCaffrey follows:]

PREPARED STATEMENT OF GENERAL BARRY R. MCCAFFREY, DIRECTOR, OFFICE OF NATIONAL DRUG CONTROL POLICY, EXECUTIVE OFFICE OF THE PRESIDENT

Mr. Chairman, Senator Hollings, thank you for the opportunity to testify before you today on combating drug use in sport. We thank this Committee and its members for your long-term commitment to athletics here in the United States and internationally. In particular, thank you Mr. Chairman and Senator Stevens for your individual leadership within the U.S. Olympic movement and your support of our nation's athletes. Senator Stevens, the Amateur Sports Act, which you played the lead

role in creating, has helped the United States and the U.S. Olympic Committee (USOC) develop one of the most outstanding Olympic programs in the world.

INTRODUCTION

Throughout American history athletics have played a significant role in our national culture and identity. Before this nation was born, Native Americans played lacrosse. When World War II struck, Franklin Roosevelt wrote to the first commissioner of baseball asking him not to cancel the season—the President believed the American people needed something to lift their spirits in those dark days, and asked only that the games be extended into the night so the day shift could also turn out. One of the greatest defeats ever handed Hitler and the Nazis was dealt by Jessie Owens. Athletes, like tennis' Althea Gibson, basketball's Wilt Chamberlin and baseball's Jackie Robinson, were among the first to tear down the racial barriers that had so long divided our nation. The USA Hockey "miracle on ice" lifted the Cold War spirits of this country and presaged the end of an era on the ice and off. The recent Women's World Cup soccer tournament struck a blow for "girl power" across this nation and the world.

Sports occupy a special place in the hearts of the American people. On home game weekends, the most heavily populated "city" in Nebraska is Cornhusker Stadium. My alma mater, West Point, defines a successful year largely by how we fared against the other service academies—with all due respect to the Chairman who may have a similar, but "opposing" view on this issue.

Our youth look up to athletes as heroes. Great performances on the fields of play are a source of inspiration. As Americans, we gain from our athletes a common, national pride.

Sadly, drug use in sports now puts all of this at risk. Doping and drug use in sport are so pervasive that they jeopardize the ethics and integrity of athletic competitions—the intangibles that give greater meaning to a game than just "putting points on the board." Most importantly, this drug use puts the lives and health of our athletes at real risk. There is no victory worth the suffering these substances can bring. This threat is no longer confined to a mere handful of Olympic athletes. Today, drug use in sport can be found in the local high school football locker room and on the neighborhood soccer field. Children—some as young as twelve years old—are turning to drugs to gain an upper hand in contests where only a gold-painted plastic trophy is at stake.

Our current efforts—governmental and nongovernmental, national and international—have been inadequate to address this threat. If we fail to act now—the damage to the Olympic movement, the beauty and glory of sport, and the futures of our nation's children and athletes will be serious and lasting.

Today, the Office of National Drug Control Policy is releasing a national strategy to help address the threat of drug use and doping in sport (the Strategy is described further in section III of this testimony). This Strategy builds upon a series of important successes. ONDCP pushed the International Olympic Committee (IOC) to make marijuana a banned substance after an athlete who tested positive for marijuana was awarded the Olympic gold and hoisted up on the medal platform as a hero to all the world's youth. The IOC responded and marijuana is now prohibited. We also worked closely with the National Basketball Association and the NBA players union to close the loophole in the league contract that allowed marijuana use. Last year, we ran the first ever National Coachathon Against Drugs. Major League Soccer ran a clinic at their championship game. Professional coaches, Major League Baseball and National Football League stars, college coaches and others turned out across the nation to help keep our youth drug free. The NFL Vikings' Dennis Green, who served as an honorary chair, and the Patriots' Pete Carroll were particularly generous with their time. These efforts will move into a more coordinated and comprehensive phase with this new Strategy.

Before turning to the substance of this hearing, it is appropriate to recognize the many people and organizations represented here in this room today who helped us develop this Strategy. Allow me to begin with the athletes—they are the heart and soul of this effort.

Frank Shorter won the Olympic gold medal in the marathon at the 1972 games—he took Silver in 1976 finishing behind a competitor that the evidence suggests was doping. Mr. Shorter's determination to fight doping, however, comes primarily from being a father—he doesn't want to see his son faced with the decision to either use drugs or stand no chance of victory. Mr. Shorter has been an important advisor to ONDCP in our anti-doping efforts. He joined me as part of the U.S. delegation to the World Conference on Doping in Lausanne, Switzerland in February 1999. Mr.

Shorter will also serve as a member of our delegation for the 1999 Australian led Summit of Governments to Combat Drug Use in Sport in November of this year. No one knows the uphill struggle that an athlete faces when competing against a competitor who is cheating through chemical engineering better than Carl Lewis. In 1998, the two fastest men on earth faced off at the Seoul Olympics in the men's 100-meter race—Carl Lewis and Ben Johnson. Mr. Johnson crossed the finish line first, but his victory was ill gotten and illusory. Mr. Johnson's drug test revealed that he was using steroids. Mr. Johnson was stripped of his medal and his honor. History—and the record books—show Mr. Lewis as the real champion. Competing cleanly he captured a total of nine gold medals, including tying Jessie Owens' record of four gold in a single games. Mr. Lewis has long been an advocate of ending drug use and doping in sport. Recently, Mr. Lewis saw press accounts of ONDCP's efforts to combat drug use. He immediately called ONDCP and pledged his support. We are grateful that he took the initiative to reach out to us and we have benefited greatly from his support.

Two other athletes who are not here today also deserve special mention. Mr. Edwin Moses is one of the finest athletes ever to grace the world stage. From 1977 to 1987, he won an incredible 107 consecutive 400-meter hurdle races, including the 1984 Olympics—a feat that may never be truly equaled. In addition to being a champion athlete, Mr. Moses deserves a gold medal for civic leadership. Mr. Moses has also served as the head of the USOC's anti-doping committee—a challenge he accepted in an effort to reform the system. In our opinion, he has been one of the world's most outspoken leaders working for the creation of a level drug-free playing field for sport. He is one of the few individuals who has the perspective of both an elite athlete and an anti-doping administrator. Over the last few months, Mr. Moses support and insights have been an important contribution to ONDCP's efforts. It is indeed an honor to work with a sportsman and statesman of his caliber. Mr. Moses will also serve as part of our delegation for the 1999 Australian led Summit of Governments to Combat Drug Use in Sport.

Ms. Donna de Varona, who helped Senator Stevens in developing the Amateur Sports Act has also been a tremendous asset to us. In addition to being a gold medal swimmer, Ms. de Varona is an award winning sports broadcaster. She helped bring the unbelievably successful Women's World Cup to the United States. She is a real champion of "girl power" in sports. And, she has been a leader in the movement against drug use in sport. In short, we have taken to calling her "the First Lady of American sports." In keeping with her tradition of public service, she has been a great help to us.

In addition to the support of the athletes we have also worked closely with the USOC. Americans take great pride in our Olympic teams and the accomplishments of the largely volunteer USOC. Under the leadership of Mr. Bill Hybl, Mr. Dick Schultz and Mr. Baaron Pittenger, the USOC is committed to ending the threat of drug use in sport. ONDCP has been impressed by the USOC's willingness to move forward and address this threat in a considered manner—as opposed to the reaction of others who have sought to adopt public relations not public policy solutions. We look forward to working with the USOC and other stakeholders as we move ahead.

In developing our strategy we have reached out to the experts in the relevant fields. Allow me to recognize the contributions of two such individuals who are here today as witnesses: Dr. Gary Wadler and Professor Doriane Coleman. Dr. Wadler is one of the world's preeminent sports medicine doctors. His medical advice has been vital to us in developing our strategy. We are delighted that he has been a source of advice. Professor Doriane Coleman's work on the legal issues associated with drug use and doping in sport is similarly groundbreaking. In addition, she has defended the rights of athletes in doping cases. She brings an important, practitioner's voice to the table. We thank both of these individuals for their hard work.

The Olympic sponsors are another voice that must be heard if we are to make progress in bringing an end to drug use in sport. Recently, I stood with Mr. Scott Serota and the leadership of Blue Cross/Blue Shield as they launched the Healthy Competition Foundation. This new not-for-profit, public interest foundation is dedicated to educating children and athletes about the dangers of drug use. The Foundation is also charged with working to encourage the IOC to implement real reforms to help end drug use in sport. As both an Olympic sponsor and health care company, Blue Cross/Blue Shield's involvement sends an important message to all those involved that the time has come for a change. ONDCP congratulates the "Blues" for their leadership and we look forward to working with the Healthy Competition Foundation.

As you can tell from this introduction, for over a year now, ONDCP has been hard at work listening to America's athletes, doctors, sports leaders and other stakeholders. Through these efforts it has become abundantly clear that the use of drugs

in sports has become an international crisis of both public health and public confidence. **Section I** of this testimony will set out our conclusions about **the threat of drug use and doping in sport. Section II** of this testimony outlines the **need for a new approach. Section III** briefly lays out the **highlights of the national Strategy** that has been developed by a federal inter-agency working group in close consultation with various stakeholders. A copy of this strategy is provided as appendix A to this testimony and is incorporated by reference. This section highlights our efforts at the **international level,** which we believe are now entering a critical phase. This Committee is about to hear from a representative of the IOC about their efforts on the international level. This section should be of particular interest.

I. THE THREAT OF DRUG USE IN SPORTS

From the "Miracle on Ice" to Dan Jansen's gold medal win dedicated to the memory of his sister, sports inspire us all to try harder and be better. As parents—and as a nation—we rely upon athletics to help us nurture healthy, strong children and to inculcate important values. For example, according to the Department of Health and Human Services, a child who plays sports is 49 percent less likely to get involved with drugs than a peer who does not play sports.[1]

However, these positive aspects of sport are now at risk to drug use and doping. Drug use and doping in sport has reached a level where athletes increasingly believe that they cannot compete honestly and win—chemical engineering is now perceived as a *sine qua non* to success.

Drug use deprives honest athletes of a lifetime of hard work and dedication. Shirley Babashoff won six silver medals behind East German swimmers. When she raised questions about doping by the East German medal winners, the press unfairly denigrated this superb athlete of such enormous integrity. Subsequently, newly opened *Stasi* files made public through a series of lawsuits show that the former East German sports machine doped thousands upon thousands of athletes, many of whom were unwitting children—including Ms. Babashoff's competitors. To date nothing has been done to redress this extreme injustice.

Every great victory is questioned. Track legend Edwin Moses and wrestling hero Bruce Baumgartner—both of whom compete cleanly and are leaders in fighting drug use—have spoken out about the anguish and loss of dignity they feel when total strangers approach them and ask if their honest victories were the product of doping. Even the 1999 Tour de France victory of Lance Armstrong, who came back from cancer, has been doubted. At base, doping has become so widespread that the many athletes who compete and win based solely on talent and determination are still viewed with skepticism.

America's youth are at risk. The threat of doping affects not just a few elite athletes, but millions of American children at all levels who dream of Olympic gold and other sport victories—from little league baseball to youth soccer to high school swimming. This threat occurs not just at the world class level, but in our own neighborhoods and schools.

- In 1998, a survey of Massachusetts youth reported in the well-respected journal *Pediatrics* found that 3 percent of girls ages ***9 to 13*** have used steroids.[2] Use among boys was found to be just under 3 percent. This is the first time that the use of steroids among girls was found to surpass use among boys. For both boys and girls, these levels are on par with use of other drugs of abuse. For example, the 1997 National Household Survey found that lifetime cocaine use by children ages ***12–17*** was 3 percent.
- The Healthy Competition Foundation's 1999 survey found that 1-in-4 young people personally know someone using performance enhancing substances. Knowledge grows substantially with age—9 percent of 12 year olds personally know someone doping, compared with 32 percent of those ages 15–16 and 48 percent of those ages 17 and older.[3]

---

[1] *See* HHS, *Adolescent Time, Risky Behavior, and Outcomes: An Analysis of National Data* (September 1995); *see also* NFHS, *The Case for High School Activities* (undated) (available at *www.nfhs.org*) (discussing Hardiness Center study finding that roughly 92 percent of participants in high school sports were non-drug users, received above average grades and had better chances of attending and succeeding in college); T. Collingwood, *et al., Physical Fitness Effects on Substance Abuse Risk Factors and Use Patterns.* 21 J. Drug Education 73–84 (1991); E. Shields, *Sociodemographic Analysis of Drug-Uce Among Adolescent Athletes: Observations—Perceptions of Athletic Directors-Coaches,* 30 Adolescence 839–861(1995).

[2] *See* A.D. Faigenbaum, et al., *Anabolic Steroid Use by Male and Female Middle Students,* Pediatrics, May 1998 (this survey was conducted in public middle schools in Massachusetts).

[3] *Id*

• The majority of young people report that steroids are easily available through their friends and their coaches.[4]

The threat of drug use in sports is growing. Our National Drug Control Strategy is producing real progress in reducing overall youth drug use. According to the 1998 National Household Survey, overall youth (age 12 to 17) drug use is down 13 percent from the previous year. Among this critical age group cocaine use is down 20 percent and inhalant use is down 45 percent over the same period. However, in sharp contrast, research indicates that today's highly competitive athletic world is causing youth performance enhancing drug use to grow significantly.

• According to the Monitoring the Future survey, the rate of steroid use among twelfth grade girls jumped 100 percent from 1991 to 1996. During this same period, steroid use among 10th grade females jumped 83 percent, and 75 percent among 8th grade females.

• Makers of Androstenedione (Andro) self-report that Andro sales are up roughly five-fold since last year.[5] (Andro, currently classed as a food supplement, is believed by many to improve performance. The DEA is engaged in a scientific process to determine if Andro actually produces muscle growth—and, in turn, whether it should be classed as a steroid).

Drug use in sports is now widely perceived as a public health crisis. The performance enhancing drugs now being used by increasingly younger and younger children put lives and health in real jeopardy. The American people recognize these risks and want them ended.

According to a 1999 survey by the Healthy Competition Foundation, 75 percent of American adults see drug use and doping in sport as a public health problem.[6]

• This survey also found that 83 percent of American teens and pre-teens and 86 percent of adults disapprove of current drug use and doping in sport.[7]

Performance enhancing drugs put the health and safety of those who use these substances at serious risk. These risks are particularly high for young people; the use of exogenous hormones during a child's development can seriously impair and/or alter the normal cycle of development. No victory is worth the damage these substances do to human health.

• The risks of steroid use include: elevated cholesterol levels; increased risks of heart disease; serious liver damage (e.g., blood filled cysts and tumors); androgenizing of females (the irreversible development of male secondary sex characteristics by girls, including clitoral hypertrophy, breast atrophy and amenorrhea); behavioral changes, particularly heightened aggressiveness; and, feminization of males (including shrinking of the testes, low sperm counts, the development of high-pitched voice and breast development).[8] Adolescents are also at risk of permanently stunting their growth.

---

[4] *See* SM. Tanner, *et al., Anabolic Steroid Use by Adolescents: Prevalence, Motives, and Knowledge of Risks.* 5 Clin. J. Sports Med. 108–115(1995). Fifty-five percent of young people report that steroids are easily attainable. *Id.* Friends and coaches were the two most often reported sources for these drugs. *Id.*

[5] *See* Steve Wilstein, *Baseball Unlikely to Rule on Andro,* Associated Press, Feb. 27, 1999 (citing tenfold increase). The industry's own study noted a three-fold increase between the time of the McGwire revelation (August 1998) and December 1998 alone. *See* Steve Wilstein, *McGwire Powers Andro Sales to 100,000 users, Doctors Fear Hazards,* Associated Press, Dec. 8, 1998.

[6] Blue Cross/Blue Shield, Healthy Competition Foundation. Summary of Findings From National Surveys on Performance Enhancing Drugs, August 1999.

[7] *Id.*

[8] *See, e.g.* Werner Franke, Brigitte Berendonk, *A Secret Governmental Program of Hormonal Doping and Androgenization of Athletics: The German Democratic Republic* (unpublished manuscript) (documenting health Impacts on GDR athletes who used performance enhancing drugs); A.B. Middleman, *et al., Anabolic Steroid Use and Associated Health Risks,* 21 Sports Med. 251–255 (April 1996); SM. Tanner, *et al., Anabolic Steroid Use by Adolescents: Prevalence. Motives, and Knowledge of Risks.* 5 Clin. J. Sports Med. 108–115 (1995); MA. Nelson, *Androgenic-Anabolic Steroid Use in Adolescents,* 3 J. Pediatric Health Care 175–180 (Jul-Aug 1989); C.E. Yesalis, *et al., Anabolic Steroid Use Among Adolescents: A Study of Indications of Psychological Dependence,* in C.E. Yesalis, ed., Anabolic Steroids in Sport and Exercise 215–229 (1993); C.E. Yesalis, *et al., Anabolic-Androgenic Steroid Use in the United States,* 270 JAMA 1217–1221 (1993); M. Johnson, *et al.,* Steroid Use in Adolescent Males, 83 Pediatrics 92 1–924 (1989); K.E. Friedl, *Effects of Anabolic Steroids on Physical Health,* in CE. Yesalis, ed., Anabolic Steroids in Sport and Exercise 109–150 (1993); R.H. Durant, *et al. Use of Multiple Drugs Among Adolescents Who Use Anabolic Steroids,* 328 N. Eng. J. Med. 922–926 (1993).

The adverse health impacts of performance enhancing drugs on athletes as documented in the German criminal doping trials have been devastating.[9] The files of the *Stasi* (the German secret police who ran East Germany's national doping program) clearly reflect these health horror stories in frightening detail.[10] *Stasi*-documented health problems include: Androgen-induced amenorrhea, severe ovarian cysts, advanced liver damage, and fetal malformation among pregnant women.[11]

In the worst cases these drugs can even be deadly. The drug erythropoietin (EPO) is widely thought to have contributed to the deaths of 18 Dutch and Belgian cyclists and 12 Scandinavian orienteers in the late 1980s and early 1990s.[12] Documented incidences of deaths related to the use of performance enhancing drugs go back more than a century.[13]

Trafficking in performance enhancing substances is a large and growing criminal industry.

- In the last year, the Drug Enforcement Administration has carried out a number of steroid investigations. In Dallas, authorities broke up a ring that smuggled steroids from Mexico for distribution to local gyms and high schools. In Pittsburgh, DEA agents worked with Thai counterparts to identify an international steroid ring that illicitly sold steroids over the Internet. In New York, the DEA arrested 15 members of a Russian organized crime group that reportedly smuggled more than two tons of anabolic steroids into the United States. The DEA is also conducting ongoing investigations of the importation of products labeled as androstenedione that actually contain steroids.
- According to the DEA, these and other investigations indicate that the international sale of steroids is becoming increasingly sophisticated and entrenched in criminal networks.

II. THE NEED FOR A NEW ANTI-DOPING APPROACH

Current anti-doping systems fail to provide athletes with the assurance that a level playing field exists for those who do not want to cheat. Moreover, many athletes believe that the existing systems are public relations tools, not effective counter-drug programs. Many athletes believe that these systems are run in such a way as to catch unknown athletes—but not stars or potential medallists.

Irregularities abound. The athletes, in general, completely lack confidence in the ability of the international community to prevent, detect and punish drug use in sport. Moreover, the persistent pattern of irregularities in international competition raises serious doubts about the existing commitment of the IOC and the international community to protect the interests of the vast majority of honest athletes, the virtues of sport, and the health and safety of the competitors.

At both the Atlanta and Los Angeles games the IOC Medical Commission failed to act on a series of positive drug test results among medal winners for banned substances. During the Atlanta Games only two positive samples were announced.[14] However, in an interview with the *London Sunday Times,* an internationally recognized expert who helped with the testing in Atlanta stated that

---

[9] *See* Richard Panek, *Tarnished Gold,* Women's Sports and Fitness, May 1, 1999, 124. "Rica Reinisch, winner of three golds in 1980, blamed her ovarian cysts on hormones she'd taken... Shot-putter Heidi Krieger, the 1986 European champion, contended that her unwitting ingestion of male hormones had led to facial hair, an Adam's apple and her eventual decision to undergo a sex change."

[10] Werner Franke, Brigitte Berendonk, *A Secret Governmental Program of Hormonal Doping and Androgenization of Athletics: The German Democratic Republic.* 43 Clinical Chem. 1262–1279 (1997).

[11] *Id.*

[12] *See* Sean Fine, *et al. Canadian Cyclist Watches Dream Die,* The Globe and Mail, Nov. 7, 1998; Dr. Gary Wadler, *Drug Abuse Update,* The Medical Clinics of North America, 439–455 (1994).

[13] *See* G. Wadler and B. Hanline, Introduction, in *Drugs and the Athlete.* 1–17(1989). In 1886, an English cyclist died from an overdose of the stimulant trimethyl. *See* Gary Wadler. *Doping in Sport: From Strychnine to Genetic Enhancement, It's a Moving Target,* presentation before the Duke Conference on Doping, May 7, 1999. In 1904, marathoner Thomas Hicks became the first death in the modern Olympics from the stimulant strychnine. *Id.* In 1960, Danish cyclist Knud Jensen died during the Rome Olympics from amphetamines. In 1967, English cyclist Tom Simpson died during the Tour de France. The autopsy revealed high levels of amphetamines. *See* E.M. Swift. *Drug Pedaling.* Sports Illustrated, June 5, 1999, at 65. Among the most egregious drug use practices reported by Mr. Voet, is the use of the so-called "Belgian cocktail"—a mix of amphetamines, cocaine, caffeine and heroin.

[14] *See* John Hoberman, *SmithKline Beecham and the Atlanta Olympic Games* (unpublished paper on file at ONDCP).

"There were several other steroid positives from around the end of the Games which we [the lab] reported."[15] Lab officials subsequently reported that in each of these instances the samples were passed along to Prince de Merode, the Director of the IOC anti-doping program.[16] Prince de Merode has publicly stated that he discarded the samples for unstated "technical difficulties."[17] Neither the lab reports, nor the names of the athletes in question, nor the purported technical difficulties have ever been disclosed.

Structural flaws undermine existing anti-doping approaches.

- These problems exist not just at the world level, but here domestically. U.S. laws provide inadequate regulation over a range of performance enhancing drugs. Domestic sports, particularly professional sports, do not ban a number of substances that are banned in international competition. These conflicting regimes confuse athletes and the public and cause international concerns about U.S.-based anti-doping programs.
- Existing federal standards also require improvement. For example, a 1995 DOJ/DEA conference determined that "current provisions of the Federal Sentencing Guidelines establish grossly inadequate sentencing standards for steroid traffickers."[18]
- The current USOC drug testing program has been able to achieve less than a 75 percent success rate in testing athletes out-of-competition -- roughly one-quarter of the time, athletes who are selected for out-of-competition tests are not tested for logistical reasons (e.g., the athlete could not be found).[19] Yet, effective no-notice, out-of-competition testing is critical to any successful anti-doping regime.
- Moreover, the potential conflicts of interest that are inherent in our existing self-regulating approach have fueled international skepticism about the commitment of the United States to drug-free competition.

The essence of athletic competition is at risk. Recent drug scandals are without question eroding the ethical foundation of sport and are compromising the public's support for sport. A 1999 survey by the Healthy Competition Foundation found that 71 percent of the American people are less likely to watch the Olympics if they know athletes are using drugs. There is a growing perception that these games are becoming yet another fraud on the public.

III. BUILDING A BETTER APPROACH—HIGHLIGHTS OF THE NATIONAL ANTI-DOPING STRATEGY

A. Development of the Strategy

It is clear to the Office of National Drug Control Policy that a new approach is required. With the health and safety of countless young people at stake and with the fate of one of the world's greatest tributes to the dignity of mankind in the balance, the Federal government has an obligation to play a role in creating such a solution. In the eloquent words of Edwin Moses:

> The problem of drug use by elite athletes must continue to be addressed on the Federal level by General McCaffrey and others who are responsible for children and the public welfare . . . . The United States is unique among Western democracies in not having a ministry of sport, because Americans generally believe that less government is good and that private organizations and the market can be trusted to do work that affects the public trust. Whatever the merits of this perspective in other contexts, the traditional deference to the private organizations that govern sport is not warranted in the case of doping . . . . Notwithstanding the efforts of some well-intentioned individuals, the sports governing bodies in this country and internationally have shown time and time again that they are not structurally equipped for this work, nor are they sufficiently accountable to the larger interests of society that are affected by doping."[20]

---

[15] *Id.;* Steven Downes, Revealed: *Four More Olympic Drug Users,* Sunday Times (London), Nov. 19, 1996.

[16] *See Das Erbe von Atlanta: Vier vertusche Dopingfalle, Suddeutsche Zeitung,* Nov. 19, 1996; Hoberman *supra* n. 25.

[17] *See supra* n. 16

[18] *See* U.S. Department of Justice, Drug Enforcement Administration, Conference on the Impact of National Steroid Control Legislation in the United States, June 1995.

[19] John Powers. *Supplement User Striking Out,* Boston Globe, Sept. 6, 1998.

[20] *See* Edwin Moses, McCaffrey Must Not Stop at Andro. New York Times, May 23, 1999, 13:

Since the infamous Nagano snowboarding incident described above, the Office of National Drug Control Policy has been examining the issue of drug use in sport. The result of these efforts is the Strategy we are releasing today.

This Strategy has been developed in close consultation with America's athletes—the hard work and sound advice of people like Frank Shorter, Edwin Moses, Donna de Varona, Wes Barnett and others have been critical to this effort. These world class athletes have taken time out of their otherwise busy lives simply because they care—they care about the dignity and beauty of athletics, but mostly they care about the futures of the young people who wish to follow in their footsteps. Protecting all our athletes—the elite, the up and coming and the hopefuls—is the central purpose behind this initiative.

In developing our international strategies we have relied heavily upon the advice of the distinguished Dr. Henry Kissinger. It has been a privilege to work with a person of his intellect and stature. Allow me to personally thank him not only for his outstanding contributions to this effort, but also for the selfless efforts he has made with respect to overall reform of the IOC. While the reform of the IOC remains a difficult challenge, we have great confidence in the ability of Dr. Kissinger and other public servants of international reputation to succeed.

In addition, we have relied upon experts from the fields of medicine, scientific research and law. In particular, allow me to recognize the tremendous support we have received from doctors and scientists. Dr. Gary Wadler, one of the world's preeminent sports medicine physicians and a recipient of the IOC's President's Prize, has provided us with the benefits of his years of experience. We look forward to his testimony today. Our efforts have also been aided by the outstanding counsel of doctors Don Catlin and Larry Bowers, who run the two IOC accredited U.S. drug testing laboratories. Through their assistance, we have ensured that our work is grounded in sound science. These doctors, along with ONDCP's own nationally recognized Deputy Director Dr. Don Vereen, have all helped us understand the importance of cutting edge research to this effort.

In addition to relying on leading scientists, we have also worked closely with experts from the legal field who have defended, prosecuted and adjudicated doping cases. At the outset of this testimony ONDCP recognized the contributions of Professor Coleman, who you will hear from later. Let me also thank Mr. Richard Young for his invaluable assistance. Mr. Young serves on the International Court of Arbitration for Sport, he is a legal advisor to the USOC and serves as counsel for USA Swimming. He has been generous with his time and knowledge.

We would be remiss to not flag the particularly important contributions that the USOC and the Salt Lake Organizing Committee have made to this effort. Throughout the development of this Strategy the USOC has worked closely with the ONDCP team to help us understand the challenges they face and to help us better understand the role the federal government can play in supporting their efforts. We are proud to have the leadership and support of President Hybl, Executive Director Schultz, Anti-Doping Committee Chair Baaron Pittenger and the rest of the USOC anti-doping program. Their support for this Strategy clearly underscores the organization's commitment to developing a drug-free playing field for sport domestically and at the international level.

Similarly, ONDCP would like to call the Committee's attention to the tremendous leadership and commitment of Mr. Mitt Romney and the Salt Lake Organizing Committee. Throughout my career in public service I have had the privilege of working with many outstanding public servants. Mr. Romney is among the finest. His outstanding Salt Lake Olympic team has worked with us to ensure that this Strategy addresses the important responsibility we shoulder as a host nation—when the athletes of the world come to the 2000 games we owe them a level drug-free playing field. We have complete confidence that the Salt Lake games will set the standard for the winter Olympics.

ONDCP would also like to recognize the important contributions that our "Federal team" has made to this Strategy. Secretary Donna Shalala, one of our nation's biggest sports fans -- and a superb amateur athlete herself—has been a valued partner in this effort. We also look forward to working with NIDA's brilliant Dr. Alan Leshner, SAMHSA's distinguished Dr. Nelba Chavez and the rest of the Department of Health and Human Services. Additionally, Drug Enforcement Acting Administrator Donnie Marshall and the rest of the DEA have been key players in building this Strategy. Our efforts here build on years of DEA work with the sports community. On the international front, the expertise and support of the Department of State, in particular Undersecretary Tom Pickering and international athletics liaison Donna Giglotti, have helped shape our approach.

In particular, ONDCP wishes to thank Mickey Ibarra and Thurgood Marshall, Jr., the White House Salt Lake Olympic Games Task Force co-vice chairs. They have

been incredibly supportive and have worked closely with us to develop what we feel is a highly effective Strategy to address this problem. We are grateful for their support and good counsel. Mr. Ibarra will be an important member of our U.S. delegation to the Australia Summit. His presence on this delegation underscores the highly coordinated nature of our Strategy.

While the focus of this Strategy is on federal efforts, as you can see from this lineup the Strategy is far more than a "federal strategy." It is based on the views of our nation's athletes, coaches and sports leaders. It is built upon the expertise of leading scientists, doctors, jurists and other experts. It is comprehensive in scope, reaching from the research lab to the local playground to the Olympic medal stand.

B. Key Components of the National Strategy—Recommendations for Building a New Approach

The Strategy begins from the understanding that the United States government has a responsibility to undertake efforts at the national, binational and international levels to strengthen anti-doping regimes. The goals of these initiatives are to protect the health and safety of athletes and young people and to safeguard the legitimacy of sports competition. The Strategy also recognizes that to be effective these substantive initiatives should be augmented by efforts to inform the American public and the international community about the risks of drug use in sport—as well as the nature of our actions and goals.

Our Strategy provides a comprehensive set of national efforts to address this threat. We encourage you to review it in its entirety and welcome your views and leadership as we move forward. To assist you in this review, this section highlights key elements of the Strategy

National Efforts

Among the key initiatives at the national level are:

- **Developing options for targeted governmental oversight of U.S. amateur sports anti-doping programs.** An effective domestic anti-drug use program for sports may likely call for an oversight and reporting mechanism requiring Federal review and certification of amateur athletic anti-doping programs.
- **Working with the USOC and other stakeholders to facilitate the development of an externalized and fully independent domestic anti-doping mechanism or body (including research, testing, and adjudication).** The development of an effective, transparent, accountable and independent U.S. agency is critical to the success of U.S. anti-doping efforts. Over the past year, the USOC has made significant strides toward building a more effective, transparent, independent and externalized anti-doping program. This effort is an important contribution to this Strategy.

In order to be effective, such an agency must be fully independent and must have certain governmental or quasi-governmental powers. (For example, the USOC has long sought membership in the International Anti-Doping Arrangement (IADA). However, it has been precluded from membership because the IADA is a treaty among governments and the USOC is not a governmental body.) With the powers of governmental status, however, must come the responsibilities of public service—most notably the duties of transparency and accountability to the American taxpayer. Further, an independent anti-doping agency would benefit substantially—both at home and abroad—from the added credibility offered by governmental oversight. Limited, but effective, oversight, accountability and transparency would allow the United States to dispel the perceived conflicts of interests and the "fox guarding the hens" reputation that unfortunately now plagues the program.

It is important to underscore that the purpose here is not to build a new government bureaucracy. Rather, the goal is to provide a level drug-free playing field for all of America's athletes, and to ensure that the institutions that police this field are effective, accountable and transparent. We look forward to working closely with the Congress and this Committee as we move forward in developing these institutions and relationships.

- Improving Federal Support for U.S. Anti-Doping Programs. From increasing drug prevention efforts to strengthening law enforcement operations to break up illegal smuggling networks, the Federal government should play a more active role in combating drug use in sport. The Strategy lays out a series of efforts that would support anti-drug and anti-doping efforts in the United States. The interagency task force will be evaluating ways to accomplish this goal.

One area where Federal support can be most valuable is in carrying out advanced research designed to end the "cat and mouse game" of current anti-doping programs by closing the existing scientific loopholes. Federally supported research has put a man on the moon and developed drug detection systems that can find a few ounces of drugs hidden within an entire truckload of produce. It seems nonsensical to suggest that we cannot find a way to determine if an athlete is chemically engineering his body.

- **Assisting the Salt Lake Games.** In 2002, the eyes of the world will turn to Salt Lake and the United States. Over the next two years, we have an important opportunity to set the standard for a drug-free Olympics. As the host nation it is our responsibility to ensure that we provide for the world's athletes a level playing field in Salt Lake. The Salt Lake Organizing Committee (SLOC) is committed to this goal. It is incumbent that we assist them in their efforts.

Binational Efforts—Australia and the United States

Our binational efforts focus upon building a partnership against drugs and doping between the Sydney and Salt Lake games. The anti-doping program being implemented for the Sydney games is impressive. For example, the Australians have also committed roughly $3 million to develop new drug testing and detection methods alone. Our goal in working with the Australians is to assist them as they prepare for the 2000 games and to learn from their efforts as we prepare for the 2002 games. The SLOC has already begun efforts in partnership with ONDCP to build such a team approach to combating doping—which is unheard of among host nations. Through effective teamwork, we have an opportunity to ensure that the last games of this millennium and the first games of the next millennium can begin a new drug-free era for the Olympic movement.

3. *International Efforts* At the international level, our efforts are focused on achieving five commonsense principles within the world of international competition:

- A truly independent and accountable international anti-doping agency;
- Testing on a 365 day-a-year, no notice basis;
- No statute of limitations—whenever evidence becomes available that an athlete cheated by doping they will be stripped of their honors;
- Deterrence through the preservation of samples for at least ten years—while a dishonest athlete may be able to defeat today's drug test, he or she has no way to know what will be detectable through tomorrow's scientific advances; and,
- Advanced research to end the present cat and mouse game of doping by closing the loopholes created by gaps in science.

These principles were first presented by ONDCP on behalf of the United States government to the IOC at the February, 1999 World Conference on Doping in Sport. Since the Lausanne meeting at which these markers were set out, the IOC has held a series of meetings to develop an anti-doping agency and program. The United States and the USOC were not included in these discussions—even though the United States is the largest market for the games, the bulk of the funding for the IOC and the games originates in the U.S. and we consistently field one of the largest teams in both summer and winter games. Nor were we consulted on the resulting text. Similarly, other nations—such as the Australians, the British, the Germans, the French and the Canadians—who are committed to the fight against drugs in sport were also not consulted. Of equal importance, only a few select athletes were part of this process.

As a result the IOC process has produced a proposal that does not meet the requirements we have set out. In general, it is our view that the IOC is rushing forward to build an institution that we cannot support—one which is more public relations ploy than public policy solution. Our central concerns include:

- The IOC's proposal provides the agency no real authority over anti-doping programs. Under the IOC's new Medical Code, anti-doping decisions of the agency would serve as mere recommendations to the IOC. This is not a model for either independence or effectiveness.
- The proposal should have stronger guarantees that the agency will be independent and operate based on basic principles of good governance and democracy, such as transparency and no conflicts of interest.
- The proposal asks national governments to pay half the bill for the agency, but fails to accord these governments a sufficient role in the policy-making process.

• Important decisions, such as the parameters of testing, have not been addressed—instead they have been *de facto* delegated to a small executive board of IOC-related appointees to decide in secret.

With respect to funding, it seems inappropriate to assume that national governments will fund half the cost of an agency that they had no involvement in developing—and which they will have an inadequate role in operating. Further, while the international community should provide support for an adequate anti-doping agency of this sort, the "pay for a say" formula that has been set out fails to recognize that the nations hosting the upcoming games must also have a say in the agency—as is the case with the IOC's present Medical Commission. Additionally, the current IOC proposal fails to recognize the other contributions that many nations, such as the United States, have made and will make to the games—and the fight against drug use in sport.

We have once again consulted with many of our key partners, such as Australia, Canada and Great Britain. They continue to share the concerns that I have outlined. Further, while certain international organizations may have expressed agreement with the general direction of the IOC proposal, these organizations have not "endorsedthe IOC's proposal in the strict sense of the word (e.g., they have not taken it back to their member states for approval). Most importantly, the EU has informed us that during the discussions leading up to the IOC proposal, the EU made it clear that such a proposal could not appropriately move ahead without the involvement of the United States, the Australians, the Canadians and other national governments. These responses seem to refute the view expressed in public by IOC official Mr. Pound that the IOC's proposal has already been adequately endorsed internationally. However, we do have reason to believe that Mr. Samaranch will be open to a reasonable discussion to achieve a rational consensus position.

Given this state of play, it is up to the international community to work with the IOC to ensure that an effective anti-doping regime is put in place. Ultimately, in order for any anti-doping regime to be effective, it must have the involvement of the international community, including the IOC, which is (rightly) a significant stakeholder in this effort.

ONDCP has begun efforts to develop an international consensus approach to rectify this situation. Over the coming months we will work closely with our U.S. stakeholders and international allies (e.g., the Australians, the Canadians, the British, the French, the Germans) and international organizations (e.g., the U.N. Drug Control Programme, and the Council of Europe) to develop such a consensus. This week, I will lead a U.S. interagency team to Europe to meet with our European allies. In November, I will lead a delegation to a Summit of Governments on how to combat drug use in sports, which is being sponsored by the Australian government in Sydney.

Our purpose is to build a consensus sufficiently rational to bring the IOC to the table and require that these shortcomings be fixed. We look forward to helping the IOC work with the community of nations and the other stakeholders—in particular the athletes—to develop a truly independent and fully effective international anti-doping agency. We believe that the Australia Summit affords the IOC an important opportunity to move such a process ahead.

Mr. Chairman, knowing of your interest in this issue, we will keep you informed of developments on this front. If the IOC fails to seize this opportunity to work cooperatively with us and the rest of the international community, we will need your support to force change. In short, your leadership and that of the Committee will be critical to the creation of a truly independent agency and a fully effective international anti-doping regime.

C. Implementation of the National Strategy

The Strategy before you is a living document. Between now and the 2002 games in Salt Lake the world of athletics—and the worlds of science and medicine—are likely to change dramatically. This Strategy provides a framework capable of evolving in parallel. In the near term we will convene the federal task force called for under the Strategy. This task force will be chaired jointly by ONDCP, the White House Olympic Task Force Chairs and HHS. This task force will include representatives from across the involved federal spectrum, including, but not limited to, the Office of Management and Budget, Justice (including DEA), State, the National Institute on Drug Abuse and the Substance Abuse and Mental Health Services Administration. The primary purposes of this task force will be to refine the Strategy, set priorities for implementation and undertake the task of implementing real reforms.

We believe that this should be an open and participatory process. We will reach out to the widest possible range of stakeholders—athletes young and old, coaches, doc-

tors, the leaders of the National Governing Bodies, parents, sports organizations, and others. And, we will continue to work closely with the SLOC, USOC, and the USOC' Athletes Advisory Council—key actors in this effort.

Congressional leadership on sports issues has been strong. We recognize the important role that Congress plays in these matters. To this end, we will also seek out bipartisan Congressional representation on this task force and specifically look forward to working with the Chairman, Senator Hollings and this Committee.

CONCLUSION

Drug use in sports today has reached a level at which it jeopardizes both the integrity and legitimacy of athletics, as well as the health and safety of athletes and our youth. Athletes who want to compete fairly and without doping fear that they stand no chance against competitors who will accept any cost—debilitating injury, illness and even death—to win. Doping undermines the public trust in organized sport and the integrity of the vast majority of participating athletes who do not use drugs or dope. Every great victory is subject to doubt. Drug-using athletes verge on creating records that honest human performance cannot best. We seriously risk the creation of a chemically engineered class of athletic gladiators.

The current messages being sent by illicit, undetected, unreported or unresponded to drug use in sport continue to place our nation's young people at great risk. Each day, growing numbers of young people turn to untested and unproven chemicals to gain an edge. The age at which children—and in turn parents—are being confronted with the decision whether to use drugs or forgo them and face a competitive disadvantage is growing younger each year. Young people are confronted with the use of drugs, ranging from marijuana to steroids, among the ranks of elite athletes and consequently are led to the false belief that they can use drugs and succeed in life. At risk youth are not limited to a few isolated elite athletes; on soccer fields, baseball diamonds and swimming pools all across the nation, hundreds of thousands of American children strive for greatness. Each of these young people are within the at-risk population.

First and foremost, doping control measures must be rooted in sports ethics and values. They must also be founded on respect for personal rights and the fairness of due process. Current doping and drug control programs have proven inadequate to the task. In general, they are limited in their ability to either effectively detect drug use or deter current or future athletes from cheating. Conflicts of interest—both real and apparent—abound. The current approach places honest athletes at risk of false accusations—and fails to ensnare those who actually cheat. Overall, today's systems fail to provide athletes with the assurance and confidence that the playing fields are level and that the clean competitors stand a fair chance at victory.

Absent real reform, we risk not only irreparable damage to the beauty and glory of sports but also to the long-term health of our athletes and young people. Athletes willing to cheat will continue to push the envelope of science to find new ways to steal even the slightest advantage. Increasing numbers of ever younger children will acquiesce to the risks of drugs in order to pursue their athletic dreams. Absent change, the value of sports in our society will diminish and the human spirit will be poorer for its loss.

United States government leadership is critical if we are to succeed in eliminating the threat of drugs in sports. With such leadership, a strategy comprising national, binational and international efforts can help bring about needed reforms. Working with stakeholders (athletes, youth, the USOC (including the USOC Athletes Advisory Council), the NCAA, NGBs, the leagues, coaches, doctors, parents, schools and others), we have an important window of opportunity to preserve the values of athletic competition and to safeguard the futures of our children.

Athletics at all levels play a major role in American society. Aside from their recreational value, we look to sports to help us as parents and as a nation to develop healthy children and instill positive values and mores in our youth. Feats of athletic greatness—the victory of the 1999 U.S. Women's World Cup soccer team, the U.S. hockey team's miracle on ice, Jessie Owens victories in the face of Nazism—inspire us and remind us to strive to be better in all that we do in pursuit of excellence. Athletics shape our culture, heritage and history. In this nation, sports provide us with rallying points around which diverse groups of people can unite and cheer with one voice. By working to safeguard sports we help preserve these important contributions to our nation.

The CHAIRMAN. I thank you very much, General for your involvement and your commitment to this issue. I also want to thank you

for the staff and other members of the executive branch who are here today and who have also been involved in this matter.

Let us talk PR problem here for a second. The International Olympic Committee, in the view of many, falls far from the jurisdiction of the Congress of the United States.

This Committee and the Congress of the United States does have the responsibility to oversee amateur sports in America, including the USOC.

As you pointed out in the beginning of your statement, the IOC and the USOC are not the same, to say the least. They are two separate entities.

Already, the United States has been accused, on this issue and other issues, of big footing around and trying to force the International Olympic Committee into discriminating against smaller nations. And, you know, there even has been criticism directed at this Committee for us exercising our oversight role.

I think it is also worthy to note that, I believe it is around 60 percent of the funding of the Olympic games come directly from sources within the United States of America.

Do you think these problems will make it difficult for the United States to play a constructive role in the process?

General McCAFFREY. To begin with, I cannot imagine why there should be a difference of opinion over the ultimate objective between the IOC, the National Governing Bodies, and this Committee, and this government.

We all ought to be fixed on the same outcome, which is to deter and to prevent doping in sports, not only in the Olympic movement, but in international and national competition. So, it is mystifying to me why there would be a sense of protectionism on the part of the IOC for this concept.

The CHAIRMAN. Do you believe there exists that sense of protectionism?

General McCAFFREY. I absolutely do. I think that is why this draft proposal five was developed without any involvement of national governments, any direct involvement of the international bodies. I think we are going to be able to bridge that gap.

I am sort of optimistic. I have been dealing with Dr. Henry Kissinger, a brilliant man. He is, of course, involved in IOC Reform 2000, but I think using his good offices, we are about to open a dialog with Mr. Samaranch, which I hope can result in some common viewpoint of where we are trying to go.

But the current results, I think, are unacceptable, and were devised without any participation or involvement of U.S. authorities, the Australians, the Canadians, the Brits directly, the French, the Germans, et cetera.

The CHAIRMAN. But do you have some guarded optimism that there will be some, shall I say, more cooperative attitude or serious consideration given on the implementation of your recommendations and those of others?

General McCAFFREY. I would hope so. And to boot, we should recognize, there is a certain leverage there. The Olympics will be held in Australia, and that operation is subject to Australian national law. The Olympics later will be held in Salt Lake City and subject to U.S. national law.

More than $1 billion, somewhere probably greater than $2 billion in TV rights, et cetera, are subject to U.S. Federal legislation. And there is a huge amount of money that comes out of Western Europe.

The athletes, themselves, are really the foundation stone. A good number of the athletes involved are either U.S. or European Union.

The CHAIRMAN. What would you like to see the Congress of the United States do?

General MCCAFFREY. I am not yet sure. I would like to put together a task force and make sure I have widely consulted and listened to the viewpoints, particularly of the people who are in this room, and to come back to you with a recommendation. But, clearly, one thing ——

The CHAIRMAN. When would you be able to do that?

General MCCAFFREY. Soon. Certainly by December, we need to have completed our consultation process of the international community.

The CHAIRMAN. As you know, on the overall issue of the Olympic scandals of the Salt Lake City and now the revelations about Atlanta, the very important commission headed by Senator Mitchell recommended that we wait until the end of the year before we take any actions as a Congress.

Perhaps it would be a smart thing for us to do, Senator Stevens, to combine both—review of their recommendations and implementation and get recommendations from General McCaffrey on this issue at that time as well. So, we will look forward to that, and I thank you.

Senator Stevens.

Senator STEVENS. Well, thank you very much.

General, I commend you on what you are doing. I share that we want to find a way to assure that we reach a process of consensus. I appreciate very much what you stated at the very beginning about looking for a consensus.

It is an area, I think, that is going to try our patience a little bit to work out an acceptable arrangement with the IOC.

Let me ask you about one of your provisions in your five points, and that is the preservation of the tests. I ask that because my state happens to be the repository now of a whole series of items that are preserved for international interests, the potato spat, and other things. I do not know if you know what it costs to store and maintain such specimens for years and years and years.

Have you set up a level of testing? You certainly would not keep every athlete's tests, I assume. Have you talked over what level we would test? Would it be at the national level? Would it be at the international level that we would keep and preserve these tests for future use?

General MCCAFFREY. I think the primary answer to that ought to come from our ongoing work with CASA, with the National Institute of Drug Abuse. You have one of the world's experts here, Dr. Gary Wadler.

I prefer to defer to their judgment on what is achievable in the mid-term and then the long run. I do not think we are going to get very far by January. I do not want to be naive about this, but I do think that we ought to begin a process that will inexorably lead

in the coming 5 years to creating a largely drug-free, international as well as national, competition.

I think something can be done to begin in the Australian games. The Australians are better organized, in my judgment, than we are. There is a lot to be learned from what they will try and achieve for the Sydney competition.

Senator STEVENS. Because I have been down there once and I am going down again, but I am interested in not just the taking of the—requiring the test, but the preservation of that test.

General MCCAFFREY. I understand.

Senator STEVENS. How many years and who has the responsibility? That opens up a vast cost area to me that is not existent in the world of sports now.

I think we have to be very careful about how we mandate that and whether or not it is a government responsibility, or an international responsibility, or a basic sports responsibility. That is something that is going to take a lot of research, and, I think, consideration.

I agree with Mr. Chairman. I do not think we should be expected to do anything on this this year, but I hope we can turn to it fairly early next year and see what Australia is going to require.

You are right. They are out in the lead on this because they have the first games that will be affected by this new anti-doping movement. And I think we should work with them as closely as possible to make sure that what we do is not going to embarrass them and, by definition, that we do not drop the ball and lessen the level of control that they have put into effect. Would you agree with that?

General MCCAFFREY. I certainly would, Senator.

The CHAIRMAN. Very briefly, General. You mentioned 10,000—according to Stasi files, 10,000 young East German women who were harmed by this practice. How were they physically harmed?

General MCCAFFREY. I probably ought to enter my statement that has a pretty good snapshot of it, and my deputy, Dr. Donald Vereen, a nationally recognized authority on doping, has done a considerable amount of effort to bring together research on it, but it really is distressing.

Essentially, boys end up with shrunken testes and breast enlargement, and girls end up with possibly permanent androgynization of female physique, and it is irreversible.

When you end up—some of them are at a dramatic and tragic situation, with sex change operations on a young woman who has been moved so far along that hormone developmental process, and it is irreversible once these adolescent years have passed.

The CHAIRMAN. Are you not concerned—and I know you are concerned, but how concerned are you that every time we seem to get a handle on some of these new performance enhancing drugs, there is another generation that comes along, and another generation that is either undetectable or less detectable? Are we playing kind of a catch-up game here?

General MCCAFFREY. I think so, but we are not very well organized. We do not have a serious research focus on it. I would not think this is huge dollars, to be blunt. The Olympic Sports Movement, we are talking multiple billions of dollars of profits.

Again, I remind all of us, there are not 100 people on the face of the earth who could possibly win a gold medal in any one of these sports. We know their names. We know where they train and compete.

We have 9 million transportation workers in drug testing as well as 1.5 million members of the Armed Forces. This is not heavy lifting. It requires good science and some cooperative international agreement.

The CHAIRMAN. I thank you. I am sure we will work out a way to store some of this in Alaska.

[Laughter.]

The CHAIRMAN. We have a vote on.

The climate indicates that we should be able to do that.

Senator Stevens: We would only have to freeze it for half a year.

The CHAIRMAN. Absolutely.

[Laughter.]

The CHAIRMAN. Unfortunately, there is another vote on.

So, we thank you, General, for being here.

If the other panel would stand by, we will be over to——

General MCCAFFREY. Yes, sir.

The CHAIRMAN. We look forward to working very closely with you.

I will be back in about five or 6 minutes. I thank the patience of the witnesses.

Senator WYDEN [presiding]. Thank you very much for your thoughtfulness, General. I will not keep you but a minute. I will tell you, I am very troubled by the comments that you made about the International Olympic Committee.

I think that there is an extraordinary record of foot-dragging with respect to the International Committee. My understanding is it goes back somewhere in the vicinity of 30-plus years, to the sixties, that we have had one proposal after another.

They have always found a way to duck out of the specifics that you are calling for this morning, which are essentially transparency and accountability.

What is your reaction to the concept we have been talking about in this committee of trying to move forward with legislation to apply the U.S. anti-bribery laws to the IOC? I mean, you specifically mentioned in your testimony their unwillingness to deal with these conflict of interest issues. Clearly, we will have to wrestle with various questions of sovereignty and the like. But it is hard to see how they are going to get the message without a strong step along those lines.

What is your reaction to that?

General MCCAFFREY. I think the IOC has been suddenly thrust onto the world stage. They have been shocked by the scrutiny they have been subjected to. They are literally in denial that people would expect them to act as do other international organizations. It never occurred to them.

As you take a snapshot of the IOC as it existed in January, when I last dealt directly with it, it is a self-selected body with no term limits, with no requirement to report to a constituent body, with no requirements to open its financial books, for public inspection.

It is an astonishingly parochial organization, and in my view its power represents more a fiction than a recognition of its real position in this movement. That is my own thought.

I think before we are done with this, it will be an international body that responds first to athletes, and second, it will take into account the thinking of the European Union, the U.S. Government, and with other actors.

So I am sort of optimistic that they are going to move along that process. We have some spectacular people in the world community, Senator George Mitchell, Dr. Henry Kissinger and others, who are involved in that effort.

Now, my portfolio, Senator, obviously is not IOC reform. I am not too sure that we can get to doping without IOC reform.

But I do believe there will be a growing realization on the part of the IOC members that, first of all, this is inexorably going to happen. The money, the protection of athletes' health and safety, the beauty of the Olympics is not something that responds to an IOC committee, but to all of us who are engaged.

I think that Congress ought to watch this extremely closely. And if legislation is required, we would certainly be willing to respond to your own requirements for information.

Senator WYDEN. So you would be willing consider the anti-bribery legislation. I guess what I find so troubling, and I am so pleased at your persistence at this, is that there have been discussions about draining this swamp, as far as I can tell, since at least 1961. And it has come up every time there is a particular incident.

I mean, even with airtight evidence, as when the secret East German records were opened after the fall of the wall and the athletes and the coaches admitted to doping, even then the IOC refused to go back. I guess I am very pleased that you are willing to hang in there.

My only other question—as I say, I appreciate the extra time—is: How much longer would you give them? I mean, we have been at it almost 40 years now. These people set a land speed record for inertia, as far as I can tell. So how much longer do you think the U.S. Senate and this committee ought to give them?

General MCCAFFREY. Well, Senator, again, one of the sources of information I have learned from is listening to sports reports. It is a very unusual group. Unlike the political reporters, the sports reporters care deeply about the issue. They have the whole picture. They are hopeful that something will be done, but they are sort of discouraged that we can pull this off.

So there is a sense of skepticism. You know, we have been here before. Here comes the latest effort. They will wait you out. I am pretty optimistic.

I was in Lausanne. I listened to the intervention of the British sports minister, who was outraged, of the German sports minister, of Madame Bouffet from France. I listened to the Australians' thinking.

They are not kidding around with this. They are not going to have a system in place that tolerates ruining a bunch of young kids. They have a new national strategy that makes a lot of sense to me.

I think at some point I hope we can go very respectfully to Mr. Samaranch with a consensus view. It does not have to be charted out by the United States, although certainly Dr. Wadler and others have ideas that should be taken into account.

I do believe we will get a response out of the IOC, but that we should not be unmindful of the power of money and the fact that both Australia and the United States, these two Olympic Games, can be run in a drug-free environment.

Senator WYDEN. One last question, if I might. Do you envisage any role for the World Health Organization in these discussions in the days ahead? You can probably gather, I am looking for some other set of forces that can help prod the IOC.

I am glad that you are being persistent. I have my staff trying now to document the specific instances since the early sixties, when we heard the rhetoric about how things were going to change. There never was any follow-through.

I am looking for ways in which the IOC could be prodded. And I wonder if you think there is a role for the World Health Organization.

General MCCAFFREY. There may well be. When we talk about an independent drug testing agency, 5 years from now, 10 years from now, all sorts of things are possible. In the interim, we probably need to take an institution that exists, that is widely respected, that has independence, that has scientific integrity, and embody that with the responsibility of carrying out this test.

The World Health Organization, there are some French institutions, some Austrian, some Brits, all of whom might do this. I, again, do not think we have a fixed view. The World Health Organization might well be useful.

Senator WYDEN. Well, I will tell you, I remain very, very skeptical. I think the IOC is obviously feeling the heat now. We have the 2000 games coming up. I think their effort is to do as much as they possibly can to kind of blunt and dilute the kind of real reform efforts that would bring about transparency and accountability the way you are talking about. And once the 2000 games are over, they go back and sit in those opulent Swiss offices and do business as usual.

So God speed to you, and do everything you can to keep the heat on them. You have a variety of us up here on a bipartisan basis who will do everything we can to back you up.

General MCCAFFREY. Senator, I think the other thing we need to do is focus on the U.S. national problem. It has been interesting to me that the IOC—one aspect of denial has been to suggest the U.S. is a broadly based, drug riddled society.

We made no effort to clean up our own professional or amateur sports. Why do we not get off their back and focus on our own problems?

Now to some extent, that is true. We ought to focus on the U.S. national drug problem. I am more concerned about 56 million American school children by far than I am the Olymic competition. But the Olympic competition is important to us because i is the beauty and the symbolism of sports. We cannot get there in Little League competition unless we can also act responsibly with our world-class athletes.

I do believe that our own support of the U.S. Olympic Committee and keepingan eye on the NBA—and thankfully we got their contract modified, as you remember. We now have "no pot" written into their contract. We do need to get steroid testing in American baseball. We do need to complete our analysis of Andro. It is a steroid, yes or no? I have the DEA doing the scientific analysis.

There is a body of work there in the United States to be done. But at the same time, it is silly for the IOC, or anyone else, to point at European cycling, European soccer, American football—and by the way, the NFL is doing pretty well in all this—and say, go solve those problems. When you are done with it, we will then address Sydney and Salt Lake.

I think they are just going to have to recognize before we are done with this, we are going to do the right thing.

Senator WYDEN. Well, as the parent of a 15-year-old lacrosse player and a 10-year-old basketball player, I can tell you that I very much share your feelings about those kids. I would just hope that we not look at these mutually exclusive.

You have one strategy to go as aggressively and comprehensively as you possibly can at this issue of drugs in this country. Andro is a very serious problem. I mean, I think that practically every kid who plays baseball knows about Mark McGwire and the situation there. And that is why I touched on it in my opening statement.

But I would hope that we not see these as mutually exclusive kinds of problems. The fact is that the IOC still remains the most visible international kind of forum. To think that for 30 years plus, they would just drag their feet and stonewall, do everything they can to duck on the questions you outline yet again today, the questions of accountability and transparency, leaves me concerned, concerned about them.

Glad you are out there making the case. As you heard this morning, you will have bipartisan support in the Senate for it.

General MCCAFFREY. Senator, one question you might want to ask, because in my mind you learn through anecdotes in some ways. The anecdote that grabbed my attention was the Atlanta games, which I hope the FBI aggressively pursues its investigation.

At the Atlanta games we ended up with Prince Demarod, the IOC doping expert, losing some unknown number of alleged dirty samples out of a safe in his hotel room. The explanation was given at the time, as I understand, that the lost was due to some technical difficulties, which he has never explained to anyone's satisfaction since then.

Mitt Romney has this superb team at Salt Lake City -- I walked through their drug testing laboratory. They are going to do it right. But at the end of the day that sample is going to go to an IOC body for a decision. We cannot have the integrity of the games decided by a body that currently lacks any transparency, accountability or credibility.

That is the challenge all of us face.

Senator WYDEN. Well, you are being logical. Heaven forbid that all of that should just break out with respect to the IOC and the reform. Just know that we are going to hang in there and glad that you are making this fight.

Unless you have anything further, I think the chairman wants to excuse you at this time.

General MCCAFFREY. Thanks, Senator.

Senator WYDEN. The chairman will be returning very briefly.

But let us bring forward our next panel: Mr. Scott Serota, Executive Vice President and Chief Operating Officer of Blue Cross and Blue Shield; Mr. Frank Shorter, U.S. Olympic gold medalist; and Ms. Nancy Hogshead, U.S. Olympic gold medalist. If you all would come forward.

[Pause.]

Senator WYDEN. All right. We thank you all for your patience this morning, apologize for the fact that we have a hectic floor schedule. My understanding is the chairman would like to ask you to try to keep it in the vicinity of 5 minutes or thereabouts. And we will not adhere brutally to that kind of requirement.

Why do we not begin with you, Mr. Serota?

STATEMENT OF SCOTT SEROTA, EXECUTIVE VICE PRESIDENT AND CHIEF OPERATING OFFICER, BLUE CROSS AND BLUE SHIELD ASSOCIATION

Mr. SEROTA. Thank you, Senator. Good morning. I am Scott Serota, the Executive Vice President and Chief Operating Officer of the Blue Cross and Blue Shield Association. Thank you for the opportunity to testify today about our major new public health campaign to reduce the use of performance-enhancing drugs.

I would like to ask if my written statements can be introduced into the record.

Senator WYDEN. Without objection, so ordered.

Mr. SEROTA. Thank you.

I am honored to appear today on behalf of the thousands of physicians, nurses and insurance professionals who work in the nation's 51 independent Blue Cross and Blue Shield companies. I would also like to thank this committee for their statement of support for our anti-doping program, which is formerly known as the Healthy Competition Campaign.

Both Senator McCain and Congressman Jim Ryun of Kansas are leaders in shedding light on this growing problem of athletic doping. We welcome lawmakers' interest in this critical public health issue and look forward to working with you toward eradicating drug use in sports.

I can assure you that today's hearing is both timely and relevant to the American people. In a public opinion survey we recently commissioned, 76 percent of American adults said Congress should take steps to ensure that athletes who compete in the 2002 Salt Lake Games are drug free.

Along with these poll results, many media outlets have extensively written about the need for drug testing to preserve the Olympic Games' fairness and integrity.

But Blue Cross and Blue Shield believes the Olympic problem is just the tip of the iceberg. The much larger issue is the proliferation of performance-enhancing drugs at all levels of competition, especially among America's youth.

That is precisely the reason why the Blue organization recently launched our Healthy Competition Campaign. Our campaign will

use research, a website, and grassroots activism to eliminate the use of performance-enhancing drugs at all levels of athletic competition.

We have submitted for the record a packet of our educational material. This packet is also available to the public on our website, www.healthycompetition.org. Throughout the coming year, we will sponsor a series of school- and community-based events, urging young people to sign the Healthy Competition Pledge and to wear the symbol of drug-free athletics.

We are reaching out to parents, teachers, doctors, coaches and other community leaders who can make a difference in the lives our nation's youth. To oversee this campaign, Blue Cross and Blue Shield has endowed a new nonprofit foundation known as the Healthy Competition Foundation. This foundation will serve as a permanent watchdog on doping issues.

Along with Blue executives, the foundation's board of directors include six Olympic medalists: Frank Shorter, the world-class marathoner, who is joining me on this panel; Edwin Moses, the legendary hurdler; swimming stars Donna de Varona and John Naber; basketball gold medalist and current Cleveland Rockers guard Suzy McConnell-Serio; and the wrestling hero Bruce Baumgartner.

Let me briefly describe the reasons why Blue Cross and Blue Shield and our Olympian partners have decided to tackle the problem of doping in sports. We believe this growing epidemic is one of the greatest challenges facing young people today. The use of performance-enhancing drugs has reached crisis proportions, threatening the health and safety of thousands of athletes.

Furthermore, doping is not limited to elite levels of athletic competition. In fact, performance-enhancing drugs are widespread at the community and interscholastic level. Steroids and other dangerous substances, including peptide hormones, stimulants, diuretics and various dietary supplements are increasingly available to athletes at ever-younger ages.

As you heard earlier, there are estimates that in excess of a half a million children have used steroids during the past year. That is in excess of 175,000 teenage girls and 325,000 teenage boys.

In a recent survey we commissioned, one in four young people said they personally know of someone who uses these drugs. Further, while two-thirds of the kids said their parents are aware of performance-enhancing drug use by young people, less than one-third said their parents have actually talked to them about the dangers of these drugs. Parents are simply not talking to their children about the problems that these drugs can cause.

Performance-enhancing substances pose tremendous risks to the long-term health of the young people who use them. Many of these complications are difficult to predict, and often they do not become evident until years after substance abuse has occurred.

Moreover, the available research on the health effects of these drugs is quite limited because the young people taking them are using unusually high doses and hiding their usage from their parents and physicians.

The limited information that we do have about the long-term complications of these drugs is extremely frightening. These drugs can cause a host of immediate health problems, including ele-

vations in blood pressure and cholesterol, fluid retention, menstrual irregularities or enlargement of the prostate gland. Over the longer term, these drugs can cause liver cancer and contribute to serious behavioral and psychiatric disorders.

Here is how we propose to help. Our Healthy Competition Foundation will fund further research among athletes who admit to drug use. We will work to better understand the long-term health challenges they face and help their doctors determine how best to treat them.

Along with this research and our educational activities, we have called upon the International Olympic Committee to take stronger action to ensure that the Olympics are drug free and fair to all. We urge the IOC to establish an independent anti-doping agency and to unify drug testing standards around the world.

Further, we urge you to expand existing athletic oversight programs, not only to test for banned substances, but also, and perhaps more importantly, to help educate athletes and coaches about the health risks these substances pose. As your committee explores these issues further, we encourage you to focus not only on the questions of fairness and integrity, but also on the public health consequences of an athletic culture in which drug use is quietly tolerated or, worse yet, ignored.

We are most concerned about trying to work on the demand side of this equation. When we focus our efforts on testing, in many instances the battle is already lost.

We are very interested in reaching out to our young people and, through their role models, setting good examples for them on how to compete fairly and how to compete effectively. That is the critical public health issue that we are concerned about.

I am sure you share our outrage about the growing epidemic of performance-enhancing drug use. As parents, many of us are shocked to learn that our children can be exposed to harmful substances while competing in sports activities that should be both healthy and educational. As a former competitive athlete and the father of children each of whom compete, I am personally concerned about young people who, in the pursuit of a few extra inches in their vertical leap or a few extra pounds in the bench press, will risk their lives.

Competitive sports should support the ideals which have long been the cornerstone of success in any endeavor: hard work, dedication, teamwork and desire. A win-at-all-cost approach cannot and should not the cheating which is occurring today.

Thank you for the opportunity to testify today and for your ongoing attention to this crucial public health issue. I will be more than happy to answer any questions you might have.

[The prepared statement of Mr. Serota follows:]

PREPARED STATEMENT OF SCOTT SEROTA, EXECUTIVE VICE PRESIDENT AND CHIEF OPERATING OFFICER, BLUE CROSS AND BLUE SHIELD ASSOCIATION

Good morning. Mr. Chairman and Members of the Subcommittee, I am Scott Serota, executive vice president and chief operating officer of the Blue Cross and Blue Shield Association. Thank you for the opportunity to testify today about our major new public health campaign to reduce the use of performance-enhancing drugs. I would also like to thank the Chairman for his recent statement of support for our program, formally known as the Healthy Competition Campaign. Both Senator

McCain and Congressman Jim Ryun of Kansas are leaders in shedding light on the growing problem of athletic doping. We welcome lawmakers' interest in this critical public health issue, and we look forward to working with you toward eradicating drug use in sports.

The witnesses appearing today are not alone in our eagerness to see congressional action to help reduce drug use in the Olympic movement. In a public opinion survey recently commissioned by Blue Cross and Blue Shield, 76 percent of American adults said Congress should take steps to ensure that athletes who compete in the 2002 Salt Lake Games are drug-free. Clearly, the American public supports your efforts to address this crucial issue.

Much has been written about the need for drug testing to preserve the Olympic Games' fairness and integrity. But Blue Cross and Blue Shield believes the Olympic problem is just the tip of the iceberg. The much larger issue is the proliferation of performance-enhancing drugs at all levels of competition — especially among America's youth. I speak today on behalf of the hundreds of thousands of physicians, nurses, and insurance professionals who work in the 51 independent Blue Cross and Blue Shield companies throughout the United States. My colleagues and I believe that athletic doping is much more than a regulatory issue or a sports issue. It is also a silent — but deadly — *health* issue. Make no mistake: The abuse of these drugs is profoundly dangerous, and the long-term health effects are devastating.

That's why the Blue organization recently launched our Healthy Competition Campaign. This campaign uses research, a Web site, and grassroots activism to eliminate the use of performance-enhancing drugs at all levels of athletic competition — from the neighborhood to the schoolyard to the Olympic Games. We have submitted for the record a packet of our educational materials. This packet also is available to the public at www.healthycompetition.org. Throughout the coming year, we will sponsor a series of school- and community-based events urging young people to sign the Healthy Competition Pledge and to wear the symbol of drug-free athletics. We also are reaching out to parents, teachers, coaches, and community leaders who can make a difference in the lives of our nation's youth.

To oversee this campaign, Blue Cross and Blue Shield has endowed a new, nonprofit foundation known as the Healthy Competition Foundation. This foundation will serve as a permanent watchdog on doping issues. Along with Blue executives, the foundation's Board of Directors includes six Olympic medallists: Edwin Moses, the legendary hurdler; Frank Shorter, the world-class marathoner who is joining me on this panel; swimming stars Donna de Varona and John Naber; basketball gold medallist and current Cleveland Rockers guard Suzy McConnell-Serio; and wrestling hero Bruce Baumgartner. We believe the active participation of these internationally renowned, elite athletes provides a positive role model for young people. We are honored to have them join us in communicating the drug-free pledge to children who seek success on the field or on the court.

Let me briefly describe the reasons why Blue Cross and Blue Shield decided to tackle the problem of doping in sports. We believe the growing epidemic of steroids and other performance-enhancing drugs is one of the greatest challenges facing young people today. The use of these drugs has reached crisis proportions — threatening the health and safety of thousands of athletes. Furthermore, doping is *not* limited to elite levels of athletic competition. In fact, performance-enhancing drugs are widespread at the community and inter-scholastic levels. Steroids and other dangerous substances — including peptide hormones, stimulants, diuretics, and various dietary supplements — are increasingly available to athletes of ever-younger ages. The rapid proliferation of these drugs poses a serious threat to the long-term health of America's next generation.

The National Institute of Drug Abuse estimates that more than 500,000 children — 175,000 teen-age girls and 325,000 teen-age boys — have used steroids during the past year. In a recent survey we commissioned, one in four young people said they personally know someone who uses these drugs. Further, while two-thirds of kids said their parents are aware of performance-enhancing drug use by young people, fewer than one-third said their parents have actually talked to them about the dangers of these drugs.

Performance-enhancing substances pose tremendous risks to the long-term health of the young people who use them. Many of these complications are difficult to predict; often, they do not become evident until years after the substance abuse has occurred. Moreover, the available research on the health effects of these drugs is quite limited — because young people are taking them in unusually high doses and hiding their usage from their parents and physicians.

It is important to note that most of these drugs have legitimate medical uses. For example, certain steroids are commonly prescribed to treat disorders of the pituitary or adrenal gland. Steroids may also be used to reduce inflammation resulting from

a medical problem. Similarly, many drugs used to control cold and flu symptoms include small doses of stimulants.

Each of the drugs I've just described has been extensively tested for safety and efficacy when used appropriately. But athletes are obtaining these legal substances in illegal ways — and then taking them in much greater doses than intended. Little is known about the long-term health effects of this drug abuse, because the compounds involved have never been tested at such excessive doses. Even less is known about the long-term effects of over-the-counter dietary supplements, such as "andro" and amino acids.

The limited information that we *do* have about the long-term complications of these drugs is frightening. For example, anabolic steroids can have adverse effects on virtually every organ of the body. Steroids cause elevations in blood pressure and cholesterol, increasing the athlete's risk of heart disease and stroke. These drugs also cause fluid retention and produce menstrual irregularities in women, along with enlargement of the prostate gland in men. Additionally, steroids can contribute to serious behavioral and psychiatric disorders, as well as a host of liver diseases.

These complications may barely scratch the surface of the medical problems caused by performance-enhancing drugs. New problems are becoming increasingly evident as more and more athletes admit to doping and seek help. Clearly, doctors need more information about the long-term consequences of abusing these drugs and how those complications can be treated. Here's how we can help. The Healthy Competition Foundation will fund further research among athletes who admit to drug use. We will work to better understand the long-term health challenges they face. By demonstrating the courage to come forward and admit their problems, these athletes will help us turn the tide on the epidemic of performance-enhancing drug use.

Along with our research and educational activities, we have called upon the International Olympic Committee to take stronger action to ensure that the Olympics are drug-free and fair to all. We urge the I-O-C to establish an independent anti-doping agency and to unify drug testing standards around the world. We believe action by the I-O-C is critical, because internationally elite athletes have tremendous visibility and serve as role models for millions of young people spanning the globe.

Furthermore — as health professionals who serve America's athletes — we believe we have earned a place at the table in any international debate about doping. We believe Blue Cross and Blue Shield should be represented on any new anti-doping oversight agency. We urge you to expand existing athletics oversight programs to not only test for banned substances, but also help educate athletes and coaches around the world about the risks these substances pose for athletes' long-term health. As your Subcommittee explores these issues further, I urge you to focus not only on questions of fairness or integrity, but also on the public health consequences of an athletic culture in which drug use is quietly tolerated — or, worse yet, ignored.

I'm sure you share our outrage about the growing epidemic of performance-enhancing drug use, and I look forward to your continued participation in spotlighting the problem. This issue really hits home for many of us at Blue Cross and Blue Shield — because many of us are competitive athletes, or the parents of children who play organized sports. Like you, we are deeply troubled by the notion that some young people will risk their lives to gain a few extra pounds on the bench press or a few extra inches in their vertical leap. Blue Cross and Blue Shield believes sports should represent the ideals we hold most dear: Hard work, dedication, and the desire to succeed. We must not let the scourge of drug abuse undermine these important lifelong lessons. And we must not let a minor athletic payoff today produce tremendous medical problems tomorrow.

Thank you again for the opportunity to testify today about the Healthy Competition campaign, and for your ongoing attention to this crucial public health issues. I would be happy to answer any questions.

Senator WYDEN. Thank you very much, and we apologize to you. I hope you realize in these last days it is hard to keep a schedule let alone know where you are going to be next.

Mr. SEROTA. I do understand.

The CHAIRMAN [presiding]. But we do appreciate your comments. After the others have commented, I have a question for you. But I think we should proceed to the other witnesses.

Who is next? On our list, Nancy and Mr. Shorter.

STATEMENT OF NANCY HOGSHEAD,
U.S. OLYMPIC GOLD MEDALIST

Ms. HOGSHEAD. Mr. Chairman and members of the Committee, Mr. Stevens, it is an honor to be here. And as a member of the group of athletes that urged the Committee to hold the hearing, I am greatly appreciative that you are doing so today.

My name is Nancy Hogshead. I represented the United States swim team in the 1984 Los Angeles Olympics and became a three-time Olympic champion and four-time medalist. I am an honorary board member of the Olympic Advocates Together Honorably, also known as OATH, the world's leading independent athlete-centered organization whose mission is to restore and maintain the values underlying the fundamental principles of the Olympic Charter.

I am also the former president of the Women's Sports Foundation, and I am currently practicing law for the firm of Holland and Knight.

Athletes are at the heart of the Olympics. Without them, we would have no games. It is their dreams, their will, their spirit and their performance that make the games a success and which give the Olympic Movement its sole. It is their experiences with the Olympic Movement that provide a credible point of view, not only for the cleanup of dope in sports, but the overall reform of the Olympic Movement.

Today the Olympic Movement faces two moral crises, the crisis of corruption and the crisis of doping, both of which have the power to destroy it. Corruption in the Olympic Movement became front-page news when allegations surfaced about bribes and awarding the Winter Olympic Games to Salt Lake City.

Since then, we have seen resignations, recriminations and finger pointing. The IOC's response to the corruption crisis has been late, inadequate and inconsequential. A crucial question that should now be asked is whether the IOC can, in fact, reform itself and thereby restore the public's trust in Olympic competition. To date, the evidence is lacking the IOC has the will or ability to do what needs to be done.

Senator Stevens, I know this is reminiscent of the status of the USOC back in the early seventies, when you put together the 1978 Amateur Sports Act. At that time, I know we had unelected, unrepresented, predominantly white males making decisions for the benefit and to the detriment of the athletes.

As a result of that major restructuring that you did, we now have a much stronger USOC. And we have a much better United States Olympic team.

The IOC right now is naturally in tension with itself. On the one hand, the IOC represents ethics and values that make it a player on a stage for world peace and world cooperation.

On the other hand, it manages a sports empire with hundreds of millions of dollars, billions of dollars. Every 2 years it presides over a vast international sporting festival which brings tens of thousands of the world's athletes and media together, which in turn generates billions in revenue for cities, media sponsors and outlets.

At times, the values that make the IOC so noble conflict with the organization's money-generating efforts. The doping issue clearly

demonstrates this natural tension. As somebody who has experienced the Olympic competition first hand and seen the power of the Olympic movement, I am concerned about the doping crisis facing the Olympic family. And I know that athletes around the world share my concern. I know that Frank is going to concur on that point.

There is a question of moral corruption when it comes to doping. Doping is a scourge that afflicts all athletes, those who are clean and those who are not, those who are on the podium and those who dream of greatness on the fields and arenas around the world. It ruins the lives, reputations and health of thousands of athletes worldwide, and it erodes the public trust in the Olympic Movement.

All Olympic medals end up being tarnished by the sad and desperate acts of a few. Great Olympic performances, like that of Florence Griffith Joyner, are undermined by whispers of the use of performance-enhancing drugs. In the seventies and eighties, there were repeated accusations by swimming experts that the East German team was using anabolic steroids. However, the IOC did nothing to prevent them from taking home Olympic gold medals. Few athletes spoke out because it was classified as poor sportsmanship.

At the height of my career, I was changing in a dressing room, and I heard men come in and enter the locker room. They chatted away. I quickly finished dressing and, you know, went around. I rounded the bend there, I saw that who had come in were female East German swimmers, athletes that I had just assumed were men coming into the locker room. These were obvious, flagrant, blatant abuses. We later got absolute confirmation on this. And nothing was done to take away those gold medals.

As previously mentioned, the doping crisis has been prevalent since the seventies and eighties. The IOC's response to it, again, has been late, inadequate and inconsequential. Now is the time for the stakeholders in this public trust to take the leadership role in establishing an anti-doping agency to ensure that the agency is accountable and open to public scrutiny.

New doping control measures must be rooted in sport ethics and values. They must flow from athlete agreement and must respect athletes' rights to privacy. All efforts are in vain unless anti-doping measures are independent, accountable and fairly administered. OATH supports a concept of out of competition, year-round, unannounced random drug testing.

As guardians of the public trust in the Olympic Movement, the IOC must be answerable to their public. The IOC's proven lack of leadership with corruption scandals and the ongoing doping scandals indicates that it is time to put the doping crisis in the hands of those experts who care about preserving the Olympic Movement and the athletes who will be asked to abide by the measures taken to remedy these problems.

International models for a structure, composition and mandate of such an anti-doping agency already exist. These organizations have sought athlete input and consent into the process. As a result, the process respects the right of athletes. They have bought the best experts. The IOC must be prepared to relinquish control of the new

agency in order to secure independence and a genuine international partnership.

In order for there to overall reform of the IOC, athletes must be allowed to elect their own representatives and participate in the decisionmaking process. Currently, no athletes from the Athletes Commission sit on the IOC's executive board.

It is essential that athletes be formally represented on the executive board, a recent athlete, somebody who has ground zero, first-hand experience and knows what is going on today, and a lifetime athlete, somebody with sort of 20,000 feet experience, somebody who has been around for a long time and has the institutional memory that is so important.

The athletes and the all the stakeholders in this public trust have to work together to build a brighter future for the Olympic movement and for tomorrow's young Olympic champions. As an athlete-led group, OATH members want an Olympic movement which they can be proud of and which they are happy to leave their children and their neighbors.

It is time for an anti-doping agency that is accountable, transparent and independent. It is time to conduct out-of-competition, random, unannounced, year-round drug testing of athletes. It is time for the IOC to work with experts and stakeholders in setting up such an agency. It is time for a new beginning.

My efforts here today with OATH are to ensure the Olympic movement as a public trust continues to thrive and inspire young athletes for generations to come. Thank you.

[The prepared statement of Ms. Hogshead follows:]

PREPARED STATEMENT OF NANCY HOGSHEAD, U.S. OLYMPIC GOLD MEDALIST

Dear Mr. Chairman and Members of the Committee;

I am honored to have the opportunity to testify before this Committee today. My name is Nancy Hogshead, and I represented the United States Swim Team at the 1984 Los Angeles Summer Olympics where I became a three-time Olympic Champion and four-time medalist. I am an Honorary Board Member of OATH (Olympic Advocates Together Honorably), the world's leading independent athlete-centered movement which brings together stakeholders of the Olympic Movement creating an open debate and forum for discussion. Its mission is also to restore and maintain the values underlying the Fundamental Principles of the Olympic Charter and to promote ethical guardianship, responsible governance and effective management of the Olympic Movement. I am also the former President of The Women's Sports Foundation and am currently. practicing law for the firm of Holland & Knight LLP. As someone who has experienced Olympic competition first-hand, I am keenly aware of the athletes are especially concerned about the doping crises facing the Olympic Movement. Through the many years of preparation and training for the Olympics, and ultimately winning three gold medals, I realized the incredible power of the Olympics. Now, I want to ensure that as a public trust it continues to thrive for generations of aspiring young athletes to come.

Athletes are the heart of the Olympics. It is their dreams, their will, their spirit and their performances that make the Games the spectacle they are and which give the Movement its soul. It is the athletes' honest blood, sweat and tears that has sustained and hopefully will continue to sustain the Olympic movement. Athletes live the Olympic dream and our voice provides a credible point-of-view not only in the clean up of doping in sport but in the clean up of the Olympic Movement.

A crucial question at this time is whether the International Olympic Committee (IOC) can reform itself. To date the evidence is lacking that it has the will or the ability to do what needs to be done.

The IOC has enormous potential. The Olympic Movement, however, faces two morale crises: the crisis of corruption, and the crisis of doping, either which have the potential to destroy it.

Corruption in the Olympic Movement became public knowledge when information was made available to the media about bribes, which were sought and paid in awarding the 2002 Winter Olympic Games to Salt Lake City. A handful of IOC members have resigned rather that face expulsion, but the IOC's response to the corruption crisis has been late,inadequate and inconsequential. It has now come to light that similar events occurred with the Atlanta Bid.

The IOC is naturally in tension with itself. On one hand, the IOC represents ethics and values that make it a player on the stage for peace and world cooperation. On the other hand, it manages a sports empire worth hundreds of millions of dollars. Every two years, it presides over a vast international sporting festival which brings tens of thousands of the world's athletes and media together and which in turn generates tens of billions of dollars in revenue for cities, media outlets and sponsors. At times, thevalues that make the IOC so noble conflict with the organization's money generating efforts. The doping issue clearly demonstrates this natural tension.

For the purposes of this testimony I will focus on the doping crisis and the need for a meaningful role for athletes on this issue.

Doping is first and foremost an athletes' issue. It is a scourge that afflicts all athletes—those who are clean and those who are not—those on the podium and those who dream of greatness on the fields and arenas around the world. All Olympic medals end up being tarnished by the sad acts of a few. Great Olympic performances like that of Florence Griffith Joyner's feat are undermined by whispers, whispers of use of performance-enhancing drugs. It ruins the lives, reputations and health of thousands of athletes worldwide, and it erodes the public trust in the Olympic Movement.

Doping could destroy the Olympic Movement. Public support for the Olympic Games and the Olympic Movement rests in large measure on the belief that Olympic sport embodies the highest set of values.

From the early 1970's to the late 1980's there were repeated accusations by swimming experts that the East German swim team was using steroids, however the IOC did nothing to prevent them from taking home Olympic Gold Medals and setting new world records. Few athletes spoke out because in the public's naive eye it was classified as "poor sportsmanship". By example, Shirley Babashoff who competed for the United States Swim Team at the 1976 Montreal Olympic Games won 4 silver medals and watched the East German swimmers walk away with the gold medals. Babashoff did speak out and was brandished a sore loser, "Surly Shirley" the press dubbed her.

While the East Germans had a systematic doping program fortheir swimmers and for virtually all of their world-class athletes, the IOC turned a blind eye for decades. They allowed steroid assisted athletes to gohome with Olympic medals. It was only thanks to an independent, outside voice that the steroid use was investigated at all. *Swimming World Magazine* obtained and published Stasi Files in 1993 which indicated that the T/E ratio of four of the top East German swimmers, including 1988 six-time Olympic Gold Medalist and hero Kristine Otto, were all above the acceptable 6/1 level during an internal, pre-competition doping check-up, clearly indicating that they used illegal steroids to enhance their performance. East German doctors utilized clearance curves for each swimmer to discern when the athlete's T/E level dropped back to normal, thus enabling the athletes to take drugs during training, discontinue the drugs prior to competitions and turn in clean drug tests administered at competitions.

After the East German situation was exposed by *Swimming World Magazine,* the problem moved to China and the same pattern repeated itself. Again, the IOC took no action against this flagrant cheating.

As evidenced in the above, the doping crisis has been prevalent since the 1970's. The IOC's response to it has been terribly late, inadequate and inconsequential. Now is time for the stakeholders of this public trust to take the leadership role in establishing an anti-doping agency. Now is the time to ensure that not only is a new agency fully independent, but that it is accountable and open to public scrutiny. The IOC has already wasted decades on this massive problem, and now it is time to put doping in the hands of an independent body of experts whose only motive is to clean up Olympic competition for future generations of athletes. Now is the time to ensure the public trust in the Olympic Movement is restored.

Doping is not a crisis of medicine or science, but rather a crisis of sport ethics and values. First, the judgement that a particular substance or activity is "doping" is an ethical judgement. New doping control measures must be rooted in sport ethics and values; they must flow from athlete agreement; they must respect athletes' rights to privacy; and all efforts are in vain unless and until anti-doping measures

are independently, accountably and fairly administered and testing is performed out-of-competition, year-round, unannounced and random.

The IOC could have been leaders in a vigorous, concerted and world-wide effort to eliminate doping. It has not. The IOC could have led the world in creating a credible, ethics-based, independent, accountable organization to lead the fight against doping. It did not. Instead, it originally proposed an agency, based in Lausanne and to be headed by the IOC President Juan Antonio Samaranch. That idea was rejected by the delegates to the World Conference on Doping in Sport in Lausanne in February of 1999. The IOC has since created a "Medical Commission" without a medical expert as its leader and once again was accountable and answerable to no one. The IOC has failed to reach agreement and the current proposal, based on early discussions and still very much in its infancy stage, is for an agency based in Lausanne, with as yet to be determined partnerships and relations with other agencies or national governments. The IOC has not responded with a proposal for a world agency that would bring together the requisite anti-doping partners; the experts, the governmental liaisons, the International Sports Federations, and the athletes. In the meantime, the lives, reputations and health of countless athletes around the world have been suffered.

Throughout this internal dialogue the IOC is having with itself, the IOC has not reached out to the effected athletes nor to the expert anti-doping agencies who currently conduct successful out-of-competition, random, unannounced, drug-testing. Seven countries (Australia, Canada, Great Britain, Sweden, Norway, the Netherlands, and New Zealand) have worked together to create common standards and protocols. They have experience running effective, open, and accountable testing programs. Has the IOC tapped into their collective wisdom? No.

Until now, the conceptual structure of anti-doping efforts has been the creation of rules based on ill-defined criteria, which are then imposed on athletes from above. Unless the IOC seeks active and informed athlete agreement and consensus, the fight against doping is doomed to the same fate as the IOC's war in the defense of amateurism. The IOC recently published the Olympic Movement Anti-Doping Code, which we find inadequate in key areas:

- Doping control can only be accomplished by effective out-of-competition, year-round, random and no-notice testing. The IOC code refers to such testing but offers no indication of how that testing would be carried out to ensure fairness, effectiveness and respect for the privacy anddignity of athletes.
- The proposed anti-doping agency needs to be independent, open to public scrutiny and accountable in order to be credible. For this credibility, the IOC must be prepared to relinquish control of the new agency in order to secure its independence. The natural tension between doping detection and profit-making must be removed from within IOC's.

Athletes around the world who compete in summer and winter Olympic sports are in favor of anti-doping measures. They want a level playing field. Members of the 10C's Athletes' Commission are proposing a "Doping Passport" which would be. an accessible and public indication of an athlete's availability for and history of doping tests. While the details of the "Doping Passport" have yet to be worked out, the creation of an athlete agreement to end doping and accept the testing required to enforce a level and clean playing field are critical in eliminating doping.

OATH, as the world's leading independent, international athlete-centered organization of stakeholders and experts, can facilitate such undertakings. OATH started as a gathering of advocates who believed in or had lived that Olympic dream. OATH members want to pass on something better than the current corruption—something grand and noble; OATH members want an Olympic Movement which they can be proud of and into which they are happy to lead their children and their neighbors. OATH members felt that the IOC-created reform process would not hear their voices, that they would again be marginalized and excluded. That is the genesis of The OATH Report. The Report was written in consultation with athletes and experts. It is a call to all those who believe in the Olympic Movement, those who watch the games and encourage their children to strive for excellence, those who drive their kids to swimming practice at 6am every morning. It is a call to those who profit from the Games, to sponsors and the media, to care for their investment. It is a call to governments that invest public funds in sport, the Gaines and bids for Games and to those who support the Movement through favorable tax arrangements. The Report is a call to partners to help the Olympic Movement be the best it can be. Together we want to make the world a better place through sport.

Outlined below are OATH's specific recommendations with respect to an anti-doping agency in which the IOC is one of many stakeholders in a new, independent, accountable, transparent, international, anti-doping agency:

1. The agency be rooted in sport ethics and values and will be driven by athlete agreement. Athletes, scientists, medical and ethical experts must be involved in drafting the anti-doping Code and developing the structure of the new agency. Athletes must formally approve theanti-doping code.
2. Athletes be represented at all levels of the agency.
3. The agency be independent and accountable. The agency must have an independent governing council, scientific, medical, ethical, educational, legal and athletes' commissions.
4. The agency conduct doping control measures to the highest international, independent standards. The Agency adopt the International Anti-Doping Arrangement, International Standard for Doping Control International Organization for Standardization, Publicly Available Specification.
5. The agency conduct all doping control activities with due respect for the athlete, personal rights and the fairness of due process.
6. The agency conduct on-going, independent, legal and ethical reviews of its operations and make the results publicly available.
7. The agency lead in the development of educational and consensus-building programs to pursue ethics and integrity in sport.
8. The agency conduct and sponsor doping and doping detection research to the highest standards of medical and research ethics. In particular, research should not be conducted without the express, written, informed and non-coerced consent of the athletes whose bodies or samples are being studied.

The doping crises and corruption crises are symptomatic of the overall need to clean up the IOC by creating an organization which is more accountable, transparent, inclusive and democratic.
Now, lets consider the clean up of the IOC. The issues confronting the IOC are not new to the Senate. Similar issues arose in the United States in the early 1970s, which ultimately led to the adoption of the Amateur Sports Act of 1978. Thank you, Senator Stevens. The USOC suffered from the same problems; an unelected, unaccountable body of white males without a constituency were not acting in the best interest of the USOC or the athletes. Sweeping reforms have given the United States a more democratic and representational organization. As a result of these dramatic reforms, we have a much stronger and healthier United States Olympic Team.
OATH believes the new IOC should be ethics and values-based and athlete-centered, accountable as the Olympic Movement is a public trust and it stewards that movement on behalf of its stakeholders; democratic so as to make room for democratically elected members drawn from key stakeholder constituencies; and transparent so that it opens its books and its decision-making to public scrutiny and criticism.
The Olympic Games are not just a multi-sport world championships. Olympism is a set of values embodied in the Olympic Movement, which is a movement for social change. When asked, the world public identifies Olympic values of excellence, dedication, fair play and international peace as key ingredients of the Olympic Games. Olympic rings connote a higher set of ethics and values and this is what the public support is-based on. If the Olympic Movement loses support, if the public comes to see Olympic values mocked by the practices of the IOC, then the sponsorship value of the Olympic Games will diminish. Preservation of Olympic ideals is therefore not just the right thing to do, but it is also the best way of preserving the success of the Games.
The IOC stands in a management role to the Olympic Games and the Olympic rings, but the IOC is much more; they are stewards of the Olympic Movement. Currently, the IOC members are unelected and unaccountable—ambassadors of the IOC to their home countries rather than representatives of constituencies. Of the one hundred and five current members, all but eleven are men, and they hold office until they are eighty years old. They answer to no one.
The purpose of the Olympic Movement and the Olympic Gaines is to further "sport development", and to use sport to effect both personal and cultural change. That is Olympism. Formal mechanisms for openness and scrutiny and the development of several key constituencies, so that they can play a role in decision-making, are required.
Although there is an Athletes' Commission it needs to be strengthened to legitimately have the voices of athletes represented.
Working members of the IOC Athletes' Commission are still too few in number and they exercise relatively little direct power within the organization. The IOC Athletes' Commission needs to be strengthened by becoming an independent, even more democratically-based, grass-roots association of athletes.

The IOC athlete members and the athletes that sit on other committees and commissions should be the visible tip of an organization that has an on-going and close connection with athletes around the world. There should also be Paralympic athlete representation on the IOC Athletes' Commission.

Given the size of the full IOC session and the complexity of the IOC, much of the decision-making necessarily falls to a smaller group, the IOC Executive Board. Currently no athletes from the Athletes' Commission sit on the IOC Executive Board. It is essential that athletes be formally represented on the Executive Board, one recent athlete (competed within the last eight years) and one lifetime athlete (or World Olympian).

Outlined below are some other points to consider about the IOC's Athletes' Commission:

1. The Chairman (Peter Tallberg) and Vice-Chairman (HSH Prince Albert of Monaco) are appointed members of the Athletes' Commission and are the only two members who sit in the full IOC session.
2. The "elections" are not fully democratic in that there are varying methods by which NOCs putforward candidates.
3. The athletes who are elected are still in competition and in many instances are unable to fully represent their peers because of their own training and competition schedule.
4. The athletes who are now outside the 8 year rule for being "active" have no voice to represent them and their continuing commitment to the Movement.
5. It is not an independent voice, it reports to the IOC President. It does not ask the IOC to be accountable to wider constituencies.
6. Comprises of 19 members of which 10 members have been elected some way or another in a modified democratic approach.

The World Olympians' Association, which represents the Olympic athlete alumni, needs to be far more active than it has been since its creation and its mission needs to be much more dynamic than social. It should also be the source of a great deal of practical wisdom. Olympians should be encouraged and provided the tools with which to be ambassadors of Olympism. The Olympians' Association needs to be developed into an independent and democratically-structured organization.

This centrality of the athlete means that sport administrators and leaders need to think from the point-of-view of the athlete and evaluate proposals on the basis of how well they promote the growth of athletes as athletes and as people. Sport systems must be designed to promote growth and to ensure fairness, accountability and the protection of athletes' rights.

The Olympic Movement requires a culture of accountability: accountability to athletes, to governments, to NOCs, to IFs, to sponsors, to the press and to the public at large.

The culture of accountability requires openness. The Olympic Movement is a public trust and belongs to the people of the world. We, the people, are its owners. As stakeholders in this social movement, people can know their interests are being handled well only if they can scrutinise the activities of its stewards. As guardians of the Olympic Movement, the IOC must be answerable to their public. The IOC is accountable, when its decisions are demonstrably in the best interests of the Olympic Movement.

If all of this were the private property of a private club perhaps this would not matter. But the Olympic Games and the Olympic Movement are not the private preserve of a set of unelected, unaccountable officials presiding in Lausanne. The Olympic Games and the Olympic Movement were created for the world as a beacon of hope and peace and excellence. The founder of the Games and the Movement, Pierre de Coubertin believed that sport could be a force for good, that it could serve in the cause of peace and in the moral and physical development of youth. It is that vision that gives the Games and the Movement its power. The Olympic Games and the Olympic Movement are a public trust and its guardians are the IOC.

But they have lost their way. The response to IOC corruption comes too little and too late. There have been reports of unethical practices by IOC members dating back to the early nineties. But nothing was done. Finally, when the facts began to emerge about Salt Lake City the IOC created an ethics panel and encouraged some members to resign. But the rules were always there—what was lacking was the will to enforce them. The IOC could have signaled a new beginning. The leader of the IOC could have agreed, as requested, to testify before members of the US Congress, he declined. The IOC could have created a reform process that actively sought input and that embraced its critics. It did not, instead it hand-picked the members of Reform 2000 and structured a process without public hearings and without formal methods of input and consultation.

The IOC's proven lack of leadership with the corruption scandals and the on-going doping scandals indicates it is time to put the doping crises in the hands of those experts who care about preserving the Olympic Movement. Decisive action needs to be taken now on the doping front. We cannot afford to loose the public confidence in the Olympic Movement. Athletes care too much about the doping crises and athletes want something done about it immediately. Too much time has passed and too little has been done to address the issues. The 10C has had the benefit of 20 years and now doping is a massive crises threatening the on-going credibility of the Olympic Games.

The IOC has been gravely remiss in its endeavors. And, given the unaccountable, un-transparent, un-inclusive and undemocratic structure of the IOC this is not surprising. However, as a public trust the Olympic Movement deserves better. It behooves the stakeholders of this public trust notto work together and build a brighter future for the Olympic Movement and for tomorrow's young and aspiring Olympic Champions. It is time for an anti-doping agency that is accountable, transparent and independent. It is time to conduct out-of-competition, random, unannounced and year-round testing of athletes.

It is time for the IOC to work with the experts and stakeholders in setting up such an agency. It is time for a new beginning. It is time to set in motion the anti-doping agency which will provide a clean start to the 21st century.

The CHAIRMAN. Ms. Hogshead, you and Mr. Shorter have inspired not only athletes but a lot of public servants and a lot of Americans at—before I go to Mr. Shorter, I just want to ask you one question.

When you saw these athletes, you mentioned the anecdote concerning being in the dressing room, did that ever tempt you to take these drugs?

Ms. HOGSHEAD. Well, I think—Shirley Babashov was probably the fall person. She got dubbed as being Surly Shirley for being upset about the fact that she was getting silver medals next to people who now have been proven that they in fact were using anabolic steroids.

So at the time, the Olympic women's swimming team had felt like we had the moral high ground. You know, many times we got the gold medals. Sometimes we did not. But we knew that we were not taking drugs. I never had anybody offer me steroids. I never had them come up even as a possibility.

I was glad that there was never part of Olympic experience or part of my—but at the same time, I do have to say that I resented it when somebody would suggest that maybe I did take them, just because, well, you won a gold medal in the Olympics, and is that not what it takes? And I deeply resented that.

The CHAIRMAN. Thank you.

Mr. Shorter, welcome and thank you. I want to again thank both of you for being the motivating factor, you and several others brought the attention of this Committee and the Congress onto this issue. I thank you very much.

STATEMENT OF FRANK SHORTER, U.S. OLYMPIC GOLD MEDALIST

Mr. SHORTER. Carpe diem, seize the day. I truly believe that this is for the future of the Olympic Games and for the future of our children who will participate in them.

Mr. Chairman, Senator Stevens, Senator Wyden in absentia because I truly enjoyed his remarks. I realize you are not allowed to clap and cheer in here, so I did not. Senator Hollings, who has also been instrumental here, and other distinguished members of the Committee in abstentia on both sides of the aisle.

My name is Frank Shorter. I was a member of the 1972 and 1976 United States Olympic teams. I think the point to bring up is, Nancy and I have won medals, but a huge and maybe even the bigger part of this is actually participating in the Olympic Games themselves.

But I was fortunate enough to win a gold medal in the men's Olympic marathon in 1972 and a silver medal in the same event in 1976. It is an honor and a privilege to be here today before you to present as strongly as I can my carefully considered opinion with regard to illegal performance-enhancing drugs and state as strongly as I can that these drugs, based on my 30 years of experience as a self-coached athlete and commentator, are a true threat.

Now 2 years ago, I never would have dreamed that you would be hearing testimony from General McCaffrey, a member of President Clinton's cabinet, who knows not only how pervasive and serious the problem truly is, but also, like you, has the power to implement change. This is a bona fide plea on behalf of the world's athletes for help from the American government.

There have been questions here as to just how that might happen. But I think it is possible, and I certainly do hope that it happens. Because without major changes in the system that detects these drugs and imposes the penalty, they will continue, and I emphasize continue, to be the price of advancement for every young athlete who aspires to emulate a sports hero and pursue his or her own athletic career to the highest level.

There will continue to be no choice but to put yourself at risk, even if you are aware of the potential dangers and care about your health after your career is over. I think again what has not been brought here is a young athlete is a very athlete in one sense, but a very unaware and innocent and impressionable human being in another, more aware than their parents, but in that sense more vulnerable.

Two years ago I might have sounded extreme, but I do not think I sound extreme now. I would just like to give a brief outline of what I perceive to be the recent confluence of events that created this unique and historic opportunity. Because I think General McCaffrey alluded indirectly to the opportunity that is here.

During the 1978 Tour de France, drugs were seized by French customs officials from a car belonging to one of the participating teams. Included were human growth hormone, hGH, and erythropoietin, EPO, two drugs with which you are or will undoubtedly become familiar in the media buildup to the 2000 Games.

There were also news reports, and I think this is more significant in terms of children, there were also news reports that perfluorocarbon, PFC, which is an experimental, artificial blood, only legally available to medical research institutions, was discovered, virtually unattainable, experimental, artificial blood, possibly found in Tour de France team car on its way to the next stage of the tour.

Those of us close to international sport were not surprised. The elite athlete's grapevine—and I am certain you all familiar with grapevines here in Washington. The elite athlete's grapevine is very extensive and very thorough, as is the grapevine of teenage athletes. I think, again, that is a point that is not emphasized here.

Fortunately, we were very surprised and very pleased to see the level of public outrage amongst the French people. Finally, the parents of a nation were beginning to understand what was going on. Since then, the French government has given serious consideration to nationalizing all drug testing within its borders. Such an obvious threat to control prompted the International Olympic Committee to call for a worldwide drug summit to take place in Lausanne, Switzerland, in February 1999.

But between the time of this announcement and the summit, the Salt Lake City bid scandal broke, and suddenly it was more than a public relations problem for the IOC. This is because, as you saw with General McCaffrey being here, the United States, Canada, Australia, New Zealand and many members of the European Union sent cabinet-level delegations to the summit.

General McCaffrey more than ably represented the athletes. I had the privilege to advise him beforehand, to brief him and to work with him once we were there.

As an athlete and father, I was very pleased that we shared several views. But we both arrived in Lausanne having decided—and I think this is what is important with regard to parents—independently and unequivocally that our nation's children, as athletes, are currently at serious health risk.

I think we are all finally getting through the denial to which he alluded and that the level playing field of the Olympic Games has now been chemically skewed. And taking illegal drugs is now the price of entry into the competition.

Teenage athletes of the world, as I said, they have their grapevine, and they know this. And so they also know that they have no choice as to whether or not to take these drugs to ultimately reach the top.

At this conference, unfortunately—again, I keep alluding back to General McCaffrey because we are so independently in parallel in our evolution of thought here. The IOC unfortunately attempted to maintain the status quo and proposed a worldwide drug testing agency be established with Juan Antonio Samaranch as its head.

Here I would like to make an aside. Again, the general alluded to the process of the IOC, which is basically to do things by executive committee and then to present them to a body that is handpicked by the president of the IOC to simply approve what is there. Well, that was the process that was going to take place in Lausanne, but the governmental entities in attendance decided that that was not for them and for the citizens of their country.

In his address at the conference, General McCaffrey articulated a position, which is now 6 months old, and, as Senator Wyden alluded, really perhaps has not really been addressed yet by the IOC. Perhaps we will have negotiations go on for several more years in that regard.

But as Nancy said, a truly independent, transparent, worldwide drug testing agency has to be established to oversee the testing. And so common sense tells you for this reason it cannot be based in Switzerland, and the IOC cannot be in control of the findings that are reported.

The testing has to be year-round, random and involve blood, as well as urine, which has not been brought up yet, but will be later,

because many performance-enhancing drugs produce long-term effects but will test positive for only a matter of days or weeks.

Currently only urine testing is used. The drugs of choice, human-growth hormone and EPO, are only detectable through blood testing.

Three, samples have to be saved for at least 10 years. I will get into that a little later. The disincentive to take illegal drugs has to be maximized, rather than minimized. And the point is right now the disincentive is not there. There should be no statute of limitations, and there should be ongoing advanced research funded and technically supported by both sports federations and government.

Now for my personal views. It is not just about catching cheaters. It is also about creating as strong an overall deterrent system as is humanly possible. That is what I believe the clean athletes of the world truly want, as well as most and many of those—and I would say most—who currently feel compelled to take these drugs and are indeed taking them.

So I want you to consider what I am going to say as an all-of-the-above approach, because that is what has to happen here. Yes, part of the program has to be physical and immediate. This is the testing and penalty side. But the athletes will tell you it also has to be mental.

This means making the process an ongoing, constantly evolving, psychological competition in which the cheater never feels secure in his achievement and always a bit behind whose mission it is to catch them.

You cannot simply be reactive. That is the history to which Senator Wyden was alluding. You have to be retroactive with regard to no statute of limitations. You have to be proactive.

With regard to the independent drug testing agency, everything possible should be done to avoid even the hint of a conflict of interest. This means no absolute IOC control. The current system is a textbook example of a conflict of interest.

Along with that goes an inherent disincentive to catch cheaters. It is not individuals who have the disincentive. It is that system as it exists that has a built-in disincentive to catch the cheaters.

This is where the IOC, I think, has not really be aware. The athletes are well aware of this disincentive. It is that much more motivation for them to find ways to stay ahead of the testing. In other words, the IOC is in a competition with the athletes who are cheating. But the IOC was not formed to compete with the athletes and try to detect these cheaters. So in a sense, the procedures they developed historically, and perhaps it is even in their genes as an organization, was to put on the Olympic Games. They did not evolve to catch cheaters.

With regard to any statute of limitations, it is intuitively obvious to me as an athlete that to be constantly in fear that even your grandchildren might have to give back your Olympic medals would be a huge deterrent. But believe it or not, those who cheated with drugs in the Atlanta Olympics are now home free under the 3-year statute of limitations just adopted by the IOC between their drug summit and now.

With regard to year-round testing and the saving of samples, cheaters should always live in fear. The United States Government's experience in drug testing would be invaluable to the new agency, so that procedures could be standardized and made less vulnerable to technical legal challenge.

I view the taking of performance-enhancing drugs as a fraud. And under international law there should be no statute of limitations on fraud.

With regard to ongoing research, it adds a sense of forever. Again, it is a competition. The pursuit should be methodical and relentless. The cheaters have to know that testers are committed morally and intellectually to catching them. And that the monetary and laboratory resources available to the agency, this independent agency, will be worldwide.

Now, all this having been said, I am very optimistic. Again, carpe diem. I think the time is right. My emersion and love for my sport tells me the time for a drastic change in Olympic drug policy has arrived. As the parent of a young runner with talent, I am optimistic that perhaps in 5 years he will not be faced with the option of having to take drugs.

This past summer he was an intern on a ship in the Bay of Fundi putting tracking collars on gray whales. I am much happier that he was there this summer than on the European track circuit.

Finally, I have no doubt the true Olympians present and future will be cheering the drug-free, level playing field louder than anyone. Thank you. And I would like this submitted for the record.

[The prepared statement of Mr. Shorter follows:]

PREPARED STATEMENT OF FRANK SHORTER, U.S. OLYMPIC GOLD MEDALIST

Carpe Diem-Seize the Day-For the Future of the Olympic Games and Our Children Who Are The Olympians of the Future

Mister Chairman and other distinguished members of the committee on both sides of the aisle. My name is Frank Shorter. I was a member of the 1972 and 1976 United States Olympic teams. In addition I was fortunate enough to win a Gold Medal in the men's Olympic marathon in 1972 and a silver medal in the same event in 1976. It is an honor and privilege to be able to appear before you today to state as strongly as I can my carefully considered opinion with regard to illegal performance enhancing drugs in sport. It is an opinion based on thirty years of experience as a self-coached athlete and commentator.

Two years ago, I would have never dreamed you would be hearing testimony from General McCaffrey, a member of President Clinton's Cabinet who not only knows how pervasive and serious the problem truly is, but also, like you, actually has the resources and power to implement change. This is a *bone fide* plea on behalf of the world's athletes for help from the American government.

Without major changes in the system that detects these drugs and imposes penalties, they will continue to be the price of advancement for every young athlete who aspires to emulate a sports hero and pursue his or her career to the highest possible level. There will continue to be no choice but to put yourself at risk, even if you aware of the potential dangers and care about your health after your career is over.

Two years ago I might have sounded extreme. I do not think I sound extreme now, and, would like to outline what I perceive to be the recent confluence of events that created this unique and historic opportunity for you to act.

During the 1998 Tour De France, drugs were seized by French customs officials from a car belonging to one of the participating teams. Included were human growth hormone (HGH) and erythropoetin (EPO) two drugs with which you are, or will undoubtedly become, very familiar during the media buildup to the 2000 Olympic

Games in Sydney. There were even news reports that perflourocarbon (PFC), an experimental, artificial blood only legally available to medical research institutions was discovered. Virtually unattainable, experimental, artificial blood possibly found in a Tour De France team car on its way to the next stage of the Tour.

Those of us close to international sport were not surprised. The elite athletes' grapevine is very extensive, as is the grapevine of young athletes who are emulating their heroes and heroines. Fortunately, we were very surprised and very pleased to see the level of public outrage amongst the French people. Finally, the parents were starting to understand.

Since then, the French Government has given serious consideration to nationalizing all drug testing within its boarders. Such an obvious threat to its control prompted the International Olympic Committee to call for a world wide Drug Summit to take place in Lausanne, Switzerland in February of 1999. Between the time of this announcement and the summit, the Salt Lake City Bid Scandal broke. Suddenly, it was more than a public relations problem for the IOC.

This was because the United States, Canada, Australia, New Zealand and many members of the European Union sent cabinet level delegations to the summit. We were more than ably represented by General McCaffrey, Director of the White House Office Of National Drug Policy And Control, whom I had the privilege to brief beforehand, accompany to the summit and advise once there.

As an athlete and father, I was very pleased several of my views were shared by the General, but, we both arrived in Lausanne having decided independently and unequivocally, that our nation's children, as athletes, are currently at serious health risk. The level playing field of the Olympic Games has been chemically skewed. Taking illegal drugs is now the price of entry into the competition, and, the teenage athletes of the world know this. They no longer have a choice of whether or not to take these drugs in order to ultimately reach the top.

The IOC, unfortunately, attempted to maintain the status quo and proposed that a world wide drug testing agency be established with Juan Antonio Samaranch at its head. This was viewed as unacceptable by the governmental ministries in attendance, because it would not be truly independent and transparent.

In his address to the conference General McCaffrey articulated a position with which I, as an athlete, totally concur:

1. A truly independent, transparent world wide drug testing agency has to be established to oversee all testing for illegal performance enhancing drugs and enforce the penalties imposed for their use. For this reason, it can not be based in Switzerland and the IOC can not be in control of the findings or the way in which these findings are reported.
2. The testing has to be year round, random and involve blood as well as urine tests. Many performance enhancing drugs produce long term effects but will test positive for only a matter of days or weeks. Currently, only urine testing is used and the drugs of choice are only detectable through blood testing.
3. Samples have to be saved for at least ten years. The disincentive to take illegal drugs has to be maximized not minimized.
4. There should be no statute of limitations.
5. There should be ongoing, advanced research funded and technically supported by both sports federations and governments.

Now for my personal views—It is not just about catching cheaters. It is also about creating as strong an overall deterrent system as humanly possible. I believe this is what the clean athletes of the world truly want, as well as most of those who currently feel compelled to take these drugs. Consider it an "all of the above" approach.

Yes, part of the program has to be physical and immediate This is the testing and penalty side. But, the athletes will tell you it also has to be mental. This means making the process an ongoing, constantly evolving, psychological competition in which the cheater never feels secure in his achievement and always a bit behind those whose mission it is to catch him.

With regard to the independent drug testing agency: everything possible should be done to avoid even the hint of a conflict of interest. This obviously means no IOC control. The current system is a textbook example of a conflict of interest with an inherent disincentive to catch cheaters. The athletes are well aware of this disincentive, and, are that much more motivated to find ways to stay ahead of the testing technology.

With regard to year round testing and the saving of samples: the cheaters should always live in fear. United States governmental experience in drug testing would be invaluable to the new agency so that procedures could be standardized and made less vulnerable to technical, legal challenges.

With regard to any statute of limitations: it is intuitively obvious to me, as an athlete, that to be constantly be in fear that even your grandchildren might have to give back your Olympic medals would be a huge deterrent. Believe it or not, those who cheated with drugs in the Atlanta Olympics are now "home free" under the three year statute of limitations just adopted by the IOC.

I view the taking of performance enhancing drugs as perpetrating a fraud, and under international law, there is and should never be a statute of limitations for fraud. Medals, honors and money should be returned whenever it might be determined illegal performance enhancing drugs were used.

With regard to ongoing research: it adds a sense of "forever". The pursuit should be methodical and relentless. The cheaters have to know the testers are committed morally and intellectually to catching them and that the monetary and laboratory resources available to the agency will be world wide.

All this having been said, I am very optimistic. My immersion in and love for my sport tells me the time for a drastic change in Olympic drug policy has indeed arrived. As the parent of a young runner with talent, I am optimistic that perhaps in three years he will not be faced with the option of taking drugs because all our young athletes will be emulating drug free Olympians. Finally, Ihave no doubt the true Olympians, present and future, will be cheering the drug free level playing field louder than anyone.

So, I urge you: ***Carpe Diem-Seize the Day***

The CHAIRMAN. Thank you. Without objection, your statement will be made part of the record.

I want to thank all three witnesses.

Ms. Hogshead, do you share Mr. Shorter's optimism that the time is right and that we can act and that the IOC is going to act in a manner which will resolve these problems?

Ms. HOGSHEAD. Do I think the IOC will act in a manner? I think that they need outside groups like OATH to get them to act, if they are going to. When I was swimming, I think that the United States Olympic Committee did an excellent job of testing us. We were tested year-round. And I am grateful that we had all those tests that went on.

I have talked to people who have taken—who told me at the time that they were taking steroids. They were not swimmers. They told me they were taking steroids. And to them steroids was like spinach. It was the same thing. It was one more thing that they did to help them do better.

It was like getting enough rest. It was like eating right. It was like training. Their attitude was, if I do not work hard when I take these steroids, they do not anything. So it is not the steroids. It is the fact that I am working so hard while I am doing all these other things.

That is what we need to attack. When Frank was talking about the—you know, what can we do to undermine or to change our attitude about—to help the young children today.

The CHAIRMAN. Mr. Shorter, General McCaffrey and others have commented on the positive influence of Dr. Kissinger in this process. Have you gotten the same impression?

Mr. SHORTER. I was just made aware of Dr. Kissinger's involvement the other day, but I took it as a very, very significant happening. Because I have been in my sport for 30 years, and I understand that I think there is probably no one better suited to approach the IOC than a true diplomat and someone with the capability to present another side and perhaps a bit of the reality of the situation.

Because you still have to think of the International Olympic Committee as an entity that has total discretion. And so you are

dealing with a body. At least the athletes' perception always was that they had total discretion.

Then I think what has been more important over the last 2 years is that it truly has come to the point where the world is starting to understand that the IOC does, as Nancy said, hold the Olympics in trust for the rest of the world and for the athletes of the world and the citizens. And that always means the children.

I think this obligation, they, as trustee, if you want to think of it this way, should take all the other help that they can possibly get. And perhaps Mr. Kissinger can convince Juan Antonio Samaranch that, as General McCaffrey said, we are all in this together. The only enemy is the drugs.

The CHAIRMAN. There is so much at stake here, which is the credibility of the transcendent event in sports in the world.

Senator Stevens.

Senator STEVENS. No, I do not have any questions. I have some problems, and I think we all ought to address them. Because I am reminded of the skating incident and the problem of how an organization that is putting on these games can protect itself from liability, if there is an error. We have some real extensive legislation to pursue here, if we are going to have this kind of—develop this kind of regime at the pace you want to go.

I am not disagreeing with the goal, but it is whether or not we have the framework that will permit these judgments to be made. Human beings are not perfect. And we are talking about testers that are going to make mistakes. And that is going to lead some real intensive litigation.

Nancy, you will be very busy.

But when you look at this, I think that it will be very timely for us to address this early next year and see if we cannot find some way to achieve some of the limitations on liability that are going to be required, if we are to go as fast as you want to go, Mr. Shorter.

Yes, Nancy?

Ms. HOGSHEAD. Yes. I just want to say that that is why I think it is key to involve the athletes in whatever drug testing process goes on and is ultimately adopted, that the athletes, through their representatives, agree that this is the best way, you know, obviously with input from experts, but the best way to do it.

My feeling is, in talking with the athletes—and Frank can talk about this as well—is that we would welcome blood testing. It is much more accurate. You know, whenever you have humans involved, there is always going to be some mistakes. But it is the most accurate way to go right now. And they simply will not adopt it without consulting the athletes.

What is your read on that, Frank?

Senator STEVENS. Well, that was the question I was going to ask Mr. Shorter. That would be my only question. I remember too well a time when I was in a rural part of my state, and I ate some seafood, shellfish. And I ended up with enormous balls on my feet and my hands, had to be Medivac'd.

When I got into the hospital, they gave me a substance that made them disappear. I later discovered that it was a steroid. Now

I am told that if I had a blood test today, that will show up. And I did not voluntarily take it even.

Now you have some areas here, in fairness to athletes, that we have to pursue to make sure that there is not a snap judgment made about the use of these substances. And that is I agree with you. We have to keep them for a period of time. There has to be a baseline to show what is in the athlete's system at the time we start testing.

It is going to be—it is a very difficult area of the law, as you know, for us to perfect a system that will use a test, blood test in particular, to disqualify an athlete who has spent a lifetime to participate. So it is not something that—in my mind, it is not something you make a snap judgment on.

But I think we ought to all work toward establishing a system that will be fair all around. That is going to be very difficult.

Mr. SHORTER. Senator, I think if you take the athlete's point of view, an athlete who starts out clean literally and figuratively, when faced with reality, I believe, in having to give a blood test, will not be worried. Because he or she as an athlete, they have a goal.

I feel those athletes will have no problem with that as the price of entry into the Olympic Games. Your concern is well justified. But from the perspective of the clean athletes of the world, I do believe they have no problem with this.

There is a move afoot amongst many athletes in conjunction with the Healthy Competition concept that Blue Cross and Blue Shield has come up with to perhaps have some symbol that they would wear at the games next year to say, I am a drug-free athlete. And not only that, test me with anything, all of the above. Do it.

I do not think you are going to have a problem from the athletes' perspective. I think it is more a reason, amongst a litany of reasons perhaps, that a federation might use not to have a certain type of test. But from the athletes' perspective, the athletes deal with what is there. That is why I made allusion again to it really is a competition between the IOC and the athletes.

Whatever the rules of that competition, whatever level of playing field the athletes perceive, they will then train and prepare physically and mentally for that field. And so I think if that process of truly testing is set up, most of the athletes, if not all, will have no problem with it, because that is not the way they think. They are only thinking about their competition.

Senator STEVENS. I do not disagree. I just still say there is a line there somewhere. People coming from parts of the Third World who get some medicines are going to suddenly discover that those medicines had a steroid in them. There has to be some level of fairness here in dealing with how that is treated when it shows up. But that is part of the whole system we will have to evolve.

Mr. SHORTER. I think the difference, Senator, is that you are talking about perhaps committing resources to make sure that that does not happen, rather than saying: For that reason, we cannot do it. I think that is the difference.

Senator STEVENS [presiding]. I am saying commit resources so that person knows in advance and does not get stopped at the edge of the final competition with some statement saying that that per-

son cannot participate because of the presence of something in their blood. This is a long-term concept to deal with. And I hope we can evolve on this all the way through.

We thank you all very much.

We are both supposed to be at a conference. I am going to stay. Senator McCain is gone, and I want to ask the next panel to present their statements. I apologize to you for the circumstances that there are not 15 of us up here.

Mr. Hybl, Mr. Pound, Dr. Wadler and Ms. Coleman.

[Pause.]

Senator STEVENS. I—I know you have all come a long way to present the testimony and there is nothing that I can do to change the circumstance that this committee has two conferences going on in the House right now, and we just cannot have other members here.

I—I would suggest to you that if you all have prepared statements, that we put—place them in the record in full as though you presented them and have you highlight for us what you want us to know. —and we will see if we can have a dialog after that.

My first one on the list is President of the United States Olympic Committee, Mr. Hybl. Bill.

STATEMENT OF WILLIAM HYBL, PRESIDENT, UNITED STATES OLYMPIC COMMITTEE

Mr. HYBL. Mr. Chairman, I would like to thank you and the committee for the opportunity to address you today, and would point out that I am accompanied by Rich Young, our Counsel on drug matters, who has probably prosecuted, defended and tried more drug cases than any individual in the world; Dr. David Joiner, the chair of our Sports Medicine Committee; Baaron Pittenger, who chairs our Anti-Doping Committee; and Frank Marshall, who was the chair of the USOC Drug Externalization Task Force, which I would like to discuss today.

We have talked about the Olympic scandal at some lengths today. But one of the greatest problems facing Olympic Movement throughout the world is drug abuse. And our interest lies, Mr. Chairman, with creating a level playing field for our athletes.

At present the USOC provides drug testing for United States athletes except during international competitions. An alternative concept would involve externalizing all of our drug testing and making it an autonomous activity of an independent organization completely separate from the United States Olympic Committee.

In June of this year, we created the USOC Task Force on Drug Externalization and charged it to take into consideration all of these concerns.

This committee reported back on September 30th and provided your staff and the members of this committee with a report, which we will be taking to the Executive Committee of the United States Olympic Committee and the USOC Board of Directors this coming Friday and Saturday.

We think the recommendations of the task force are very important. I would like to briefly highlight just a few of the recommendations in that report.

This independent organization should be created to conduct a comprehensive anti-doping program in the United States on behalf of the USOC.

This would alleviate the perception inherent in any system of self-regulation that the USOC is not doing everything within its power to eliminate doping by U.S. athletes.

Its responsibilities would include: testing for prohibited use of performance enhancing drugs; interfacing with all appropriate national and international sports bodies and anti-doping organizations; conducting research in the areas of doping, doping methods, and testing procedures and methods; the development of ethical principles in the area of drug use; the development and promotion of informational drug education for U.S. athletes; and the establishment of a fair, timely and impartial adjudication system.

Adjudication is one of the areas where we feel we are going to have to work very hard. Just as you alluded to, Mr. Chairman, it is important that we have standards. But these standards have to be fair and deal effectively with the athletes.

As we look at this independent organization, we have tried to address the very question that has been raised today: Would it be a non-profit, non-member organization? Would it be independent?

We are suggesting that the board of directors would be comprised of nine individuals: two athlete members under the current definition of the USOC; two national governing body members; and five members who have no association with the United States Olympic Committee to be drawn from the medical, the ethical and the sports communities to operate the organization, that does not report and respond automatically to anyone.

As proposed, the USOC would provide an initial capital contribution of $24 million in a four-year period. This would be 2000 through 2004. This amount would nearly double the current funding of $12.6 million.

Each year, $2 million of the $6 million would be earmarked for drug research. You have heard the evidence today of the necessity for that.

That would be an increase from the quarter of a million dollars a year, or $1 million in the four-year period, that the U.S. Olympic Committee currently spends.

While this is a significant amount for research, we do not believe it will provide all the funds that are needed. As a result, the independent organization, in cooperation with the United States Olympic Committee, would pursue support from the Federal Government and sponsorship from the private sector/business community for funding.

The USOC would maintain a broadened, value-based drug education program. This is a program we have briefed the U.S. Government and General McCaffrey on. One that would be implemented, first, in cities where our Olympic development programs are operating.

The independent organization, in cooperation with the USOC, would make athletes aware of the resources that can assist them in dealing with the short and long term ill effects of doping or in overcoming any drug dependence.

There would be significant increases in no-advance-notice out-of-competition drug testing.

Currently, the United States Olympic Committee conducts nearly 5,000 of these tests annually.

The goal would be to increase this number to 7,000 with one half of these tests, being no-advance-notice.

The independent organization would conduct this testing program and the in-competition testing program. It would also have the authority to conduct tests in addition to those agreed upon by the USOC and each National Governing Body.

Our goal is to have the new independent organization in place and operating early enough in 2000 to provide independent drug testing at our Olympic Team Trials. Our goal is March 1, Mr. Chairman.

The report of the Select Task Force on Drug Externalization will be presented, as indicated, to the USOC's executive committee and the board this week. The officers have already approved the report, and we believe that the approval of the executive committee and the board of directors will be forthcoming.

I would note, however, this is like the Congress. It is a two step process. First, you have the authorization legislation, and then we have to go through the budgeting process. We anticipate that we will be able to substantially achieve all of these objectives.

We agree that a new anti-doping system should be implemented. To this end, the USOC is prepared, as indicated, to commit significant financial resources.

However, at the same time, the USOC needs your help. In order for a new independent organization to participate and contribute to international anti-doping activities, it will need an appropriate designation that can be granted only by the U.S. Government.

This is necessary so we are able to participate with other nations as the representative group from the United States.

Senator STEVENS. What are you going to call that organization?

The nine-person board, what—what—what is the name of that entity?

Mr. HYBL. The proposed name of the entity will be the Independent Drug Organization of the United States Olympic Committee, although we have not completely decided as of yet. This is one of the issues to come before the executive committee this Friday.

Senator STEVENS. Thank you.

Mr. HYBL. Thank you, Mr. Chairman.

Senator STEVENS. Thank you very much.

[The prepared statement of Mr. Hybl follows:]

PREPARED STATEMENT OF WILLIAM HYBL, PRESIDENT, UNITED STATES OLYMPIC COMMITTEE

Good morning, I am Bill Hybl, President of the United States Olympic Committee. I appreciate the opportunity to address you today.

I. Background

While the Olympic bid city scandal has captured the majority of recent public and media attention, it is drugs in sport that is one of the greatest problems affecting the Olympic Movement today. For the past 18 months, the United States Olympic Committee has been evaluating whether, and how, it should radically alter the

structure of its anti-doping program as one means to better addressing the many issues and complexities associated with ensuring drug-free competition and a fair and level playing field for our athletes. At present, the USOC provides drug testing for United States athletes, except during international competitions. An alternative concept involves "externalizing" all of our drug testing and making it an autonomous activity of an independent organization, completely separate from the USOC. At the outset, I would like to point out that a principal reason for considering changes to the USOC's drug testing and education program is the international view that drug testing of athletes should be done by independent and autonomous agencies. Some have argued that having the USOC test its "own" athletes compromises the entire anti-doping process. While the USOC does not hold completely with this view, we also appreciate that the impact of such a perception must be taken seriously.

Initially, good progress was made in defining key elements of what such an independent organization should look like, but legitimate concerns surrounding some very complicated issues, including governance, athletes' rights, testing protocols, adjudication and sanctions required the process to move slowly. In June of this year, I created the USOC Select Task Force on Drug Externalization and charged it to take all of these concerns into account and to make a recommendation with respect to externalization.

Members of the Select Task Force include: Frank Marshall, Chair and USOC Public Sector Board Member; Baaron Pittenger, Vice Chair and Chair of the USOC Anti-Doping Committee; Brian Derwin, President, USA Weightlifting; James M. Betts, M.D., Children's Hospital Oakland; Thomas H. Murray, Ph.D., President, The Hastings Center; Rachel Mayer Godino, USOC AAC Athlete Representative/Figure Skating; Mary McCagg, USOC AAC Representative/ Rowing; and Herman Frazier, USOC Vice President, and Evie Dennis, Ph.D., USOC Special Assistant to the President, both serving as liaisons to the USOC Executive Committee and the USOC President.

The Select Task Force met numerous times and reviewed information provided by the USOC staff, representatives of the two International Olympic Committee-approved United States drug testing labs, United States National Governing Bodies (NGBs), athletes, and United States government representatives. On September 30, 1999, the Task Force submitted its report on Drug Externalization, which has been provided to your staff. On October 4th, the Officers of the USOC approved the report for presentation to the Executive Committee and the Board of Directors of the USOC.

Completing this very complicated work within such a compressed time period was not easy, and I want to complement all the members of the Select Task Force on Drug Externalization for their conscientious approach to developing a program that, if adopted, can certainly have very positive and far-reaching effects on drug testing and education for this country's athletes.

II. Recommendations of the Select Task Force on Drug Externalization

I would like to briefly highlight some of the key recommendations of the report.

- An Independent Organization should be created to conduct a comprehensive anti-doping program in the United States on behalf of the USOC. This would alleviate the perception, inherent in any system of self-regulation, that the USOC is not doing everything within its power to eliminate doping by U.S. athletes.
- Responsibilities would include: testing for prohibited use of performance enhancing drugs; interfacing with all appropriate national and international sports bodies and anti-doping organizations; conducting research in the area of doping, doping methods, and testing procedures and methods; development of ethical principles in the area of drug use; development and promotion of informational drug education programs for U.S. athletes; establishment of a fair, timely and impartial adjudication system; imposition and communication of sanctions when warranted (of note: this would eliminate the current practice of NGBs prosecuting doping infraction cases, an unsatisfactory arrangement that puts NGBs in an adversarial role against their own athletes); and establishment of bilateral and multilateral agreements with other anti-doping agencies.
- The Independent Organization would be a non-profit, non-member corporation. Its Board of Directors would be comprised of nine individuals; two athlete members, two NGB members and five members who have no association with the USOC.
- As proposed, the USOC would provide an initial capital contribution of $24 million ($6 million per year for four years). This amount, if approved by the

USOC's Board of Directors, would nearly double the current $12.6 million in funding. Each year, $2 million of the $6 million would be earmarked for drug research. While this is a significant amount for research, we do not believe it will provide all the funds needed. As a result, the Independent Organization, in cooperation with the USOC, would pursue federal and sponsorship funding to conduct additional research.

- The USOC would maintain a broadened, value-based Drug Education program aimed at elementary, junior high and high school age groups as a part of the USOC's general education programs. This effort would include general information on the dangers of drug use for performance enhancement, but would also have a strong ethical message emphasizing fair play and sportsmanship consistent with the ideals of the Olympic Movement.
- The Independent Organization, in cooperation with the USOC, would make athletes aware of resources that can assist them in dealing with the short and long term ill effects of doping or in overcoming any drug dependence.
- There would be significant increases in no-advanced notice out-of-competition testing. Currently, 5,000 tests are conducted annually. The goal would be to increase this number to 7,000; half with no-advance notice. The Independent Organization would conduct this testing program and the in-competition testing program. It would also have the authority to conduct tests in addition to those agreed upon by the USOC and each NGB.

III. Implementation

Our goal is to have the new Independent Organization in place and operating early enough in 2000 to provide independent drug testing at our Olympic Team Trials. The Report of the Select Task Force on Drug Externalization will be presented to the Executive Committee two days from now, and to the USOC's Board of Directors in three days. Assuming approval by both bodies, implementation will begin immediately. The USOC will, however, fall back to the use of its existing anti-doping system if we cannot guarantee a seamless transition to the new Independent Organization in time to support our responsibilities for the 2000 Sydney Olympic Games.

Conclusion

I agree with the Select Task Force's finding that a new system needs to be implemented in order to enhance the credibility of United States efforts in the area of anti-doping and to resolve some inherent problems within existing programs. The USOC has committed significant financial and other resources to reach this point, and I believe this proposal goes a long way in providing solutions to the concerns expressed by those involved with the anti-doping effort, worldwide.

At the same time, however, the USOC needs your help. In order for the new Independent Organization to productively participate and contribute to international anti-doping activities, it will need an appropriate designation that can only be granted by the United States government. This would provide the Independent Organization with the legitimacy and identity necessary to interact as an equal with other sanctioned national and international organizations.

Senator STEVENS. Mr. Pound, we welcome you, my southern neighbor. Always glad to have a Canadian here.

STATEMENT OF RICHARD W. POUND, FIRST VICE PRESIDENT, INTERNATIONAL OLYMPIC COMMITTEE

Mr. POUND. It—is nice to be here—It reminds me of Winston Churchill when he was here saying that—if only his mother had been British, and his father American, he might have got here on his own.

[Laughter.]

With me, it is my wife and myself, but—well, thank you for the opportunity, Senator, to be here today.

I—hope that I can help provide some information that will be helpful to you and your colleagues as you consider a very important problem in—sports today.

My name is Richard Pound. I am a lawyer in Montreal and the chancellor at McGill University.

Within the Olympic context, I am one of two Canadian members of the international Olympic Committee, having been co-oped in 1978.

I was secretary and then president of the Canadian Olympic Association between 1968 and 1982. The Canadian Olympic Association is—the counterpart to my friend Bill Hybl's organization, the USOC.

I have been elected on four separate occasions to 4-year terms on the IOC executive board, and I am presently the first vice president of the IOC.

As you pointed out, in accordance with the rules of the—commission, I have prepared and deposited written testimony, which I understand you will make part of the—record of the hearing.

Senator STEVENS. Yes.

Mr. POUND. Thank you. The—nature of the problem that we are here addressing is—quite simple and I think we are all agreed on it. There are, we believe, too many athletes using doping methods to improve their sport performance. In my books, one athlete doing it is too many.

It is a problem in sport, because it contravenes the fundamental ethical principles, upon which sport as a consensual activity is based. Because there is a genuine risk to the health of the athletes involved.

Our first efforts to fight against doping in sport were undertaken by the International Olympic Committee when its medical commission was established in 1967.

These included development of a list of prohibited substances and procedures, and testing for such substances and procedures on the occasion of the Olympic Games, the—event for which the IOC is responsible.

We have persuaded most, if not all, of the international Olympic sport federation to adopt the IOC medical code or at least an analogous provision within their own rules. And while this has been successful to some degree, it is quite clear from what we have heard today and elsewhere that the effort has not been sufficient to eradicate drug use in sport.

Most recently and—I should say that in the past 30 years, no initiative in the fight against drug use in sport has been taken by any other organization than the IOC or in which the IOC was a central participant.

But at the World Conference of Doping and Sport convened by the IOC in February of this year and to which we invited representatives of governments in order to—help them understand what we were doing and what the nature of the problem was, we agreed that the anti-doping code of the Olympic movement would form the basis of the fight against doping in sport.

In addition, it was agreed that we would establish what is now being called the World Anti-Doping Agency, the WADA, with a governance structure that would ensure that no constituency within the Olympic movement or outside the Olympic movement, would be in a position to control the WADA.

It is our plan to have the WADA in operation by the end of 1999. And in order to give the governmental authorities an opportunity to organize the financing because the—thought is that they will

contribute equally to this, we will carry all of the financial burden of the WADA for the first 2 years.

Following the world conference, there were several meetings of a working group consisting of officials as opposed to ministers, within the public authorities, mostly international governmental authorities, the identities of which are in my prepared testimony, and within the Olympic movement to work out what that governance structure ought to be and how the agency should operate.

Consensus was reached on a very broad basis as to how that should occur and what the mission statement of the—WADA ought to be.

A good deal of the discussion I—might say, Senator, because it is—of concern here in the United States in particular, was how best to—accommodate the interest of national governments in this international problem.

We did not invite any national governments to the—working group, because if we had invited one, we would have had to invite 199. That would have added to the—time delays in the problem.

But it is an issue that we do want to address, and there are many possible variations on the theme that we could—envision, such as, for example, having the—host countries of the next two or three Olympic games automatically included in the governance structure and perhaps the—host country of the—previous games.

There was some concern that I have—heard expressed as to whether the Olympic movement is concerned about the interest of—governmental authorities in this problem.

The answer to that, Senator, is a resounding no. We are delighted that the governmental authorities both and—if I use today's occasion as an example, both the Congress of the United States and the Administration of this government are interested, because in our respectful view, the—international solution to doping in sport is going to require the cooperation and the very close cooperation between the public authorities in all of the countries involved and the Olympic sports authorities.

I think that will do perhaps as—my initial statement. I would be happy to try and answer any questions that you have.

Senator STEVENS. Thank you very much.

[The prepared statement of Mr. Pound follows:]

PREPARED STATEMENT OF RICHARD W. POUND, FIRST VICE PRESIDENT, INTERNATIONAL OLYMPIC COMMITTEE

Introduction

Sport is a consensual activity, entered into by individuals of their own free will, governed by agreed-upon rules. These rules relate to all aspects of the sporting activity, including the definition of the sport, its rules of play, the field of play, the nature of the equipment used, age and weight limits for certain sports and, generally all matters germane to the practice of the sport. Of particular interest to the Committee today is the sub-set of these rule that relate to doping in sport.

The focus of my testimony is the involvement of the International Olympic Committee ("IOC") in the evolution of these "anti-doping" rules and the procedures for their enforcement and the resolution of disputes arising out of their interpretation.

Sport occurs within society as a whole. In that respect, the laws of the land pertaining to certain substances or procedures that are regulated, civilly or criminally, necessarily have primacy over the privately agreed-upon rules of sport. No one would disagree with this characterization.

In the tradition of this and most other democratic countries, however, to the extent that there are no applicable public laws restricting the actions of individuals,

those individuals are free to act as they wish. They may also associate with others and agree to their respective conduct as between themselves, including the applicable sanctions in the event that the agreed-upon conduct is breached. They may form associations to organize their sport relationships, locally, nationally and internationally. That is how sport has been organized on a worldwide basis.

Doping in sport has become a serious problem. Sport, within the Olympic Movement, has recognized this and has taken steps to identify the problem, to define it and to fight against it. Because sport is now practiced on a worldwide basis, the fight against doping is an international problem and the solution to it must necessarily be international or the level playing field, which is fundamental to sport, cannot exist. There must be national building blocks in arriving at the solution, but, unless there is an international and coordinated approach to the question of doping in sport, however well-intentioned the disparate efforts may be, they will inevitably end in failure.

The International Olympic Committee

I am here today to represent the International Olympic Committee ("IOC") and to provide whatever assistance I can to your Committee in its appreciation of the issues involved in doping in sport, from the perspective of the Olympic Movement.

The IOC was established more than a century ago, in 1894, to renovate the Olympic Games conceived in ancient Greece. It has coordinated and supervised the Olympic Movement ever since and has stimulated the development of sport on an international basis, with the result that some 200 countries now participate in the Olympic Games. It has been a remarkable achievement and the Olympic Games have become the most important sports event in the world today.

The IOC itself is an organization consisting of approximately 100 members who act as trustees of the Olympic Movement on a voluntary basis. It is organized as an association having legal personality under Swiss law and is headquartered in Lausanne, Switzerland. It co-opts members selected for their personal qualities and their ability to help promote the Olympic Movement. Its activities and relationships are governed by the terms of the *Olympic Charter*. It has a permanent staff of slightly more than 100 employees. It acts as a non-governmental organization ("NGO").

It operates, in a manner akin to governments, by "recognition" of international sports federations ("IFs") that govern particular sports and of national Olympic committees ("NOCs") that agree to subscribe to and be bound by the provisions of the *Olympic Charter*. The responsibilities of NOCs are, *inter alia,* to promote the Olympic Movement within their respective territories and to select the athletes from those territories who will participate in the Olympic Games. The NOC recognized by the IOC in the United States is the United States Olympic Committee ("USOC"), to which the Congress has assigned additional responsibilities and in respect of which the Congress has assumed an oversight role, governed, as I understand it, by the 1978 *Amateur Sports Act*.

In addition to the matters for which it has direct responsibility (including the granting of recognition referred to above, the choice of Olympic sports on the Olympic program, choosing the sites of Olympic Games), the IOC exercises a coordinating role within the Olympic Movement. In that role, it deals regularly with IFs, NOCs and the Organizing Committees of each edition of the Olympic Games ("OCOGs"). Other than matters for which it has a clear constitutional responsibility, the IOC has no power to impose its will on any of the autonomous organizations within the Olympic Movement. There is a widespread misconception that the IOC is in a position to control organizations such as IFs and NOCs. It is not in such a position. The IOC depends on developing a consensus amongst them and using its moral suasion to bring about courses of conduct which it considers beneficial to the Olympic Movement and the development of sport.

Role of the IOC in Matters of Doping

There has, unfortunately, always been some element of cheating in sport. In that respect, sport is no different from other social activities in which rules of conduct or of law have been established. As in other elements of society, sport has adopted a combination of education and sanctions to promote compliance with its rules. There are penalties, suspensions, forfeitures of games and events and all the other sanctions with which we are familiar. In society at large, similar sanctions have been adopted for behaviour that does not comply with social norms. These sanctions, as is the case in sport, are graduated, depending upon the severity of the breach and the nature of the particular social rule.

Over the last few decades, concern for the health of athletes and the erosion of sporting ethical values has led the IOC into the field of doping in sport. The first

indications of systematic use of performance-enhancing drugs appeared in the late 1950s, when testosterone was discovered to assist in building bulk and strength for weight and field events and stimulants were used to increase performance in certain events, such as cycling. In 1960, a Danish cyclist in the Olympic Games collapsed and died following the use of stimulants.

This led to the formation of the IOC Medical Commission and the creation and publication of a list of substances that were prohibited on the occasion of the Olympic Games. There is little question that, in the initial years, the primary focus of the IOC Medical Commission was the health of the athletes, since it was unclear what all of the damaging side-effects of the substances used might be. The reliable scientific data available to researchers at the time were very limited. This lack of data has been a complicating factor in the work of the IOC Medical Commission ever since its inception, since, once the particular substances were declared prohibited, the use of them went "underground" and further data became even scarcer. The work of the IOC Medical Commission has been dominated by its focus on the scientific aspects of doping control. The sports-ethics aspect has been secondary.

Over time, the IOC developed the IOC Medical Code, which, in its earlier iterations, was a combination of prohibitions and of indications of what was allowable. It was, essentially, a medical document, rather than a legal document. Its application was, on the occasion of the Olympic Games, very much a matter of decision by the IOC Medical Commission, ratified almost as a matter of course by the IOC Executive Board, from whose decision there was no effective appeal.

During this same period, there were growing concerns that the sport system, especially the international sport system, did not have adequate safeguards to protect the rights of those affected by the decisions of sports organizations. This is referred to, as I understand it, in the United States as "due process" and in many other jurisdictions as the rules of "natural justice." Many national organizations built into their internal rules an appeal process to deal with cases in which the applicable rules (with which everyone agreed) were improperly applied and an injustice resulted. Prior to such developments, the only recourse of a person affected by such decisions was to the ordinary courts.

The IOC moved in the same direction. In 1983, it established the Court of Arbitration for Sport ("CAS") to deal with sports-related disputes. The CAS was organized and funded by the IOC and had arbitrators of international experience and reputation available for selection by the parties to any dispute. The roster of arbitrators was originally made up from nominations from the IOC, IFs and NOCs. It functioned in this manner and, in 1993, was judged by the Swiss Federal Tribunal (the country's supreme jurisdiction) to be a real arbitral tribunal offering sufficient guarantees of independence and objectivity for its awards to be final and enforceable. The same Tribunal suggested that the role of the CAS could be made even stronger, were it not seen to be an organization controlled by the IOC.

This led to the establishment on June 22, 1994 of the International Council of Arbitration for Sport ("ICAS"), a governance structure for the CAS consisting of an equal number or representatives of the IOC, the IFs, the NOCs and (particularly important) Olympic athletes.[1] Thus, no particular constituency is in a position to control the ICAS or the CAS and the independence of both has become a well-accepted matter of record. This is an important feature in relation to the problem of doping in sport, since the basic structure proposed for the World Anti-Doping Agency [see below] is modeled upon the structure developed for the ICAS. There has been no question of the complete independence and freedom of the ICAS and the CAS from the "control" of the IOC or any other constituent element. Even decisions of the IOC are capable of being arbitrated in the CAS.[2]

The only event that the IOC actually controls is the Olympic Games. All other sport events are organized under the auspices and control of the IFs (such as world championships or world cups), national federations ("NFs") (such as national championships) or NOCs (such as Olympic trials). Depending upon the particular sport system in a country, there might also be other sport organizations with authority over sport competitions, such as universities (e.g., the NCAA) or professional associations (e.g., NBA, NFL, NHL and MLB). The IOC has no power to impose its own views or rules on any such events.

---

[1] Concurrent with this development, athletes also became entitled to nominate arbitrators to the CAS roster. I have acted as an arbitrator in a dispute before the CAS in which one of the arbitrators was one nominated by athletes and found the ability and conduct of the particular individual to have been completely professional and impartial.

[2] This was demonstrated during the Olympic Games in Atlanta in 1996, when decisions of the IOC to disqualify certain athletes for the use of the drug Bromantan were overruled by the CAS and the athletes and their results reinstated.

Despite its limited jurisdiction, what the IOC has tried to do, in addition to testing for prohibited substances and prohibited methods at its own event,[3] is to persuade the other elements within the Olympic Movement to adopt its rules in respect thereof, or, at the very least, analogous rules. The politics of organizational autonomy, however, make simple adoption of an IOC rule unattractive to such organizations. Attached as Exhibit "A" to this statement is a chronology of the actions initiated by the IOC to develop consensus on the matter of doping in sport.

There have been long periods of time during which the IOC has led the fight against doping in sport virtually alone. There are many reasons for the lack of what might appear to have been sufficiently aggressive initiatives on the part of the sport community as a whole, some of which include:

- Lack of specific knowledge of what substances and procedures were being used.
- Insufficient connection between the international organizations governing sport on a worldwide basis and the grassroots level of sport where the doping was actually occurring.
- Lack of financial resources necessary to conduct research and testing, especially out-of-competition testing.
- Possible desire for continued "progress" in the sport.
- "Underground" and clandestine use of drugs and methods.
- Participation by certain national governments and organizations in doping.
- Perceptions that any positive result in a test constituted a "failure" or an embarrassment to the sport or country involved, rather than a success for having helped to level the playing field.
- Difficulty in developing tests that could withstand expensive legal, scientific and procedural challenge.

As is the case with any scenario of "perpetrator" and "police," the perpetrators take the initiative and are always ahead of the police. The inevitable result is a constant situation of trying to catch-up, first by finding out what is happening and then devising a means of detecting the effects of the doping, so that sanctions can be applied with the confidence that the science is reliable.

The Overall Nature of the Doping Problem

The conclusion of the working group established to prepare for the World Conference on Doping in Sport, held in February, 1999, was that doping in sport is fundamentally an ethical problem, with important possible health risks, rather than a medical or scientific problem. It must be approached primarily from the perspective of ethics, while recognizing that, at the same time, there must be an ancillary function of testing and detecting.

In that respect, the model is not unlike society in general, in which there is an implicit understanding that the laws of the society reflect the shared values of that society. There must, nevertheless, be some element of policing such laws and values against those who might seek to gain some unfair advantage in relation to those who follow the rules. The IFs and NOCs are in the best position to promote the ethical principles involved and, at the same time, to identify those athletes who are at the highest risk (generally the best athletes) and who should be tested, particularly in the periods of preparation for sports competitions.

It is clear, however, that there is also a health concern involved and that this concern should not be minimized. Interestingly enough, there has been some criticism of the IOC in that regard, the suggestion being that such an approach is paternalistic and not within its mandate. The IOC has continued to reflect this concern despite such criticism, since the anecdotal, if not fully scientific, evidence is that there can be very serious side effects from the use of certain of the substances which are prohibited and other medical risks arising from some of the procedures. The IOC considers, notwithstanding the criticism (which is not universal), that it does have a role to be concerned about the health of athletes within the Olympic Movement.

Scientific research is expensive. The best researchers (and this is not a criticism of any career choices) follow the funding derived from granting agencies or go into the pharmaceutical industry where they may, some day, benefit from discoveries they make in the course of their research. There is not a great deal of funding available for research designed to detect the use of drugs amongst otherwise healthy ath-

[3] There are many, and obvious, frustrations implicit in such testing. While it is clear that so-called "race day" drugs will be detected during the competitions, others, which are used in the period of preparation for the Games, might no longer be present in the systems of the athletes at the time of the Games, but the athletes may nevertheless have benefited from having used them during the period of training.

letes, nor any particular glory, academic or otherwise, from devising tests for such purpose.

One of the challenges of the Olympic Movement will be to obtain access to more and better research if it is to have any realistic chance of keeping up with the development of new and increasingly sophisticated substances. The research is that much more complicated because it first has to be determined that a particular substance or method is being used and that it is either performance-enhancing or dangerous to the health of the athletes. Then a test must be developed to be able to identify the substance or method in the body of the athlete.

This leads to yet another problem, that is more complicated for the Olympic Movement than it is, for example, in normal medical practice. In the latter, physicians can operate on the basis of probabilities for purposes of practicing the art of healing. Within the Olympic Movement, however, the standards are much higher, because the results of a positive test for a prohibited substance or prohibited method mean disqualification and/or suspension of the athlete. Instead of tests that are reliable on a balance of probabilities, we need tests that are reliable virtually beyond a reasonable doubt. This is an additional burden that must be met. The legal exposure to sports organizations that act without such certainty is enormous, as many have found to their detriment.[4] Even an entirely frivolous challenge can be ruinously expensive.

Already touched upon above is the lack of reliable data with which to work, both for purposes of assessing the health risks and for the development of more reliable tests. Data may vary, for example, by gender, by age, by the length of time during which the substance or method is used and, possibly, by race or continent. The clandestine use of prohibited substances impedes access to such data for control group purposes in the scientific process.

It is physically impossible for international sports organizations to have a "hands-on" involvement in the practice of sport in each country and in the implementation of out-of-competition tests. They are not, and can never be, equipped to do so. It is the sports organizations "on the ground" that have the ability to undertake the general supervisory and educational activities necessary to bring the phenomenon under control. Even they, however, need assistance to do so. Several countries have developed independent agencies that carry out testing procedures and this model has enjoyed a certain amount of success. Such models have been the genesis of the idea to create an independent international anti-doping agency that emerged from the World Conference on Doping in Sport.

Doping in sport is a domestic, but also international, issue. If any campaign against doping in sport is to be successful, it must be accepted by every country and the standards must be consistent: as to the prohibited substances and methods, the testing protocols, the exposure to out-of-competition testing, the laboratory analysis, the privacy concerns and the rights to appeal against findings. The matter of doping in sport cannot be resolved on the basis of inconsistent national programs, nor by *ad hoc* bilateral agreements. It is too pervasive a problem to be dealt with in such a manner.

One final aspect of the problem relates to the athletes affected by the anti-doping rules. I think it is fair to say that there has been no real "buy-in" from many athletes. Athletes perceive the system, rightly or wrongly, as one that is imposed upon them by the "suits" who administer sport organizations, that is wildly inconsistent and in which many of the major drug-users have access to products for which no reliable tests have yet been developed. They have also seen national governments involved in some of the worst excesses of doping in sport, implementing sophisticated doping programs, insisting upon drug use by their athletes as a condition of participation and routinely covering up such doping activities. Many athletes, in consequence, appear to have become convinced that they, too, must resort to drug use if they are to be competitive.

One of the reasons for insisting that athletes be involved in the new international agency is to provide them with input into the policies and their methods of implementation. If they can see a system that works and in which their interests have been protected, then they will develop confidence in it. If they know that drug users will be caught and sanctioned, they will know that it will no longer be necessary for them to sink to the lowest common denominator. The Olympic Movement has to win back the confidence of the athletes. But, at the same time, athletes must ac-

[4] The IOC is prepared, for example, to rely upon the results obtained from blood samples, but must be certain that the scientific results of such analysis can meet the standards of reliability required for purposes of imposing sanctions in the event of "positive" cases. There may be circumstances, or substances, in respect of which the traditional method of analyzing urine samples could be the most reliable technology.

cept their share of the responsibility, not only for the problem, but also for its solution.

Development of International Consensus

The solution to the problem of doping in sport must be international. It is not enough for some countries to have successful domestic programs, although such domestic programs are necessary components of the overall solution.

I believe that the events of the past couple of years have finally driven home to all sports organizations that there is a real threat to their continued existence if the solution is not found. The sight of police taking athletes and officials from competition sites or their hotels for investigation and/or prosecution has made it clear that there is a real possibility of sport becoming criminalized. This would lead to a state of affairs that strikes at the very foundation of what sport should represent as a humanistic social activity. The particular autonomies of sport organizations must perforce be subordinated to concerted action in the interests of sport in general.

It is this approach that has governed the efforts of the IOC to coordinate this struggle against doping in sport. It is in the common interest of all sport to put the collective house in order and to seek the assistance of the public authorities in those aspects in which the public authorities have jurisdiction. It brings to mind the famous words of your Benjamin Franklin at the signing of the Declaration of Independence on July 4, 1776, "We must all hang together, or assuredly we shall all hang separately." If sport is to remain independent, it must hang together. Our solution must be inclusionary, not exclusionary and not accusatory. No country is immune from doping in sport. We must convince, not force. A sanction of excluding a sport from the Olympic Movement must be the last, the final, resort and be recognized as the ultimate failure, not a victory, in the struggle.

World Anti-Doping Agency

In February of this year, the IOC convened a World Conference on Doping in Sport. Recognizing that the solution to the problem of doping in sport may not be solely within the control of the sports authorities, it invited representatives of governments (including the United States of America) and certain intergovernmental organizations to participate in the Conference, in addition to the so-called Olympic Family. The final conclusions of the Conference were contained in what is now referred to as the Lausanne Declaration, dated February 4, 1999.

The Lausanne Declaration consists of the following:

> Considering that doping practices contravene sport and medical ethics, and that they constitute violations of the rules established by the Olympic Movement, and concerned by the threat that doping poses to the health of athletes and youth in general;
>
> Recognizing that the fight against doping in sport is the concern of all: the Olympic Movement and other sports organizations, governments, inter-governmental and non-governmental organizations, sportsmen and sportswomen throughout the world, and their entourage;
>
> The World Conference on Doping in Sport, with the participation of representatives of governments, of inter-governmental and non-governmental organizations, of the International Olympic Committee (IOC), the International sports Federations (IFs), the National Olympic Committees (NOCs), and of the athletes, declares:
>
> **1. Education, prevention and athletes' rights**
>
> The Olympic oath shall be extended to coaches and other officials, and shall include the respect of integrity, ethics and fair play in sport. Educational and preventive campaigns will be intensified, focusing principally on youth, and athletes and their entourage. Complete transparency shall be assured in all activities to fight doping, except for preserving the confidentiality necessary to protect the fundamental rights of athletes. Partnership with the media shall be sought in anti-doping campaigns.
>
> **2. Olympic Movement Anti-Doping Code**
>
> The Olympic Movement Anti-Doping Code is accepted as the basis for the fight against doping, which is defined as the use of an artifice, whether substance or method, potentially dangerous to athletes' health and/or capable of enhancing their performances, or the presence in the athlete's body of a substance, or the ascertainment of the use of a method on the list annexed to the Olympic Movement Anti-Doping Code. The Olympic Movement Anti-Doping Code applies to

all athletes, coaches, instructors, officials, and to all medical and paramedical staff working with athletes or treating athletes participating in or training for sports competitions organized within the framework of the Olympic Movement.

3. Sanctions

The sanctions which apply to doping violations will be imposed in the framework of controls both during and out of competition. In accordance with the wishes of the athletes, the NOCs and a large majority of the IFs, the minimum required sanction for major doping substances or prohibited methods shall be a suspension of the athlete from all competition for a period of two years, for a first offence. However, based on specific, exceptional circumstances to be evaluated in the first instance by the competent IF bodies, there may be a provision for a possible modification of the two-year sanction. Additional sanctions or measures may be applied. More severe sanctions shall apply to coaches and officials guilty of violations of the Olympic Movement Anti-Doping Code.

4. International Anti-Doping Agency

An independent International Anti-Doping Agency shall be established so as to be fully operational for the Games of the XXVII Olympiad in Sydney in 2000. This institution will have as its mandate, notably, to coordinate the various programmes necessary to realize the objectives that shall be defined jointly by all the parties concerned. Among these programmes, consideration should be given in particular to expanding out-of-competition testing, coordinating research, promoting preventive and educational actions and harmonizing scientific and technical standards and procedures for analyses and equipment. A working group representing the Olympic Movement, including the athletes, as well as the governments and inter-governmental organizations concerned, will meet, on the initiative of the IOC, within three months, to define the structure, mission and financing of the Agency. The Olympic Movement commits to allocate a capital of US $25 million to the Agency.

5. Responsibilities of the IOC, the IFs, the NOCs and the CAS

The IOC, the IFs and the NOCs will maintain their respective competence and responsibility to apply doping rules in accordance with their own procedures, and in cooperation with the International Anti-Doping Agency. Consequently, decisions handed down in the first instance will be under the exclusive responsibility of the IFs, the NOCs or, during the Olympic Games, the IOC. With regard to last instance appeals, the IOC, the IFs and the NOCs recognize the authority of the Court of Arbitration for Sport (CAS), after their own procedures have been exhausted.

In order to protect athletes and their rights in the area of disciplinary procedure, the general principles of law, such as the right to a hearing, the right to legal assistance, and the right to present evidence and call witnesses, will be confirmed and incorporated into all applicable procedures.

6. Collaboration between the Olympic Movement and public authorities

The collaboration in the fight against doping between sports organizations and public authorities shall be reinforced according to the responsibilities of each party. Together, they will also take action in the areas of education, scientific research, social and health measures to protect athletes, and coordination of legislation relative to doping.

In pursuance of the Lausanne Declaration, and the timetable it contained, the IOC convened the meetings of a working group that has achieved a significant degree of consensus amongst the sports organizations and public authorities, particularly intergovernmental and international agencies.[5]

This work has led to the announcement of the formation of the World Anti-Doping Agency ("WADA"), which will come into existence effective as of the end of this month. I have attached, as Exhibit "B", for the information of the Committee, some of the related documents, including the draft constating document and proposed Mission Statement.

---

[5] The participants of the working group included the Arabic Confederation of Sports, the Association of the International Winter Sports Federations, the Association of National Olympic Committees, the Association of Summer Olympic International Federations, the Council of Europe and the Monitoring Group of the Anti-Doping Convention, the European Union, the International Criminal Police Organization, the International Olympic Committee, the IOC Athletes Commission, the United Nations International Drug Control Program and the World Health Organization.

The mandate of the WADA is quite clear. The fundamental changes in approach that are reflected in the establishment of the WADA include the following:

- No single organization (including the IOC) will be in a position to control the WADA.
- There will be, once the WADA is fully established, an equal representation of the Olympic Movement and the public authorities.
- Athletes will be equally represented in the governance of the WADA, along with the other constituent organizations.
- The approach to the problem of doping in sport will be international in scope and be designed to achieve uniformity both in the rules and their implementation.
- Its activities will include research,[6] as well as education and prevention.

I should also mention the establishment of the Olympic Movement Anti-Doping Code. This is a Code that was accepted in the Lausanne Declaration as the basis for the fight against doping in sport. It will come into force as of January 1, 2000, applicable to the entire Olympic Movement. In its present format, the Code is essentially a generic version of the IOC Anti-Doping Code, written in language that seeks to make it applicable for the entire Olympic Movement. It is the starting point from which the WADA can work.

As you will note from paragraph 2 of the Lausanne Declaration, this Code applies, *inter alia,* to "all athletes ... participating in or training for sports competitions organized within the framework of the Olympic Movement." This is a big step forward, since it renders any athlete who may wish to participate in the Olympic Games liable, in addition to in-Games testing, to out-of-competition testing under the Code, even if such individual may normally be participating within an organization that does not have the same anti-doping rules as those applicable within the Olympic Movement. The mechanics of how and when such individuals may indicate that they wish to be considered for selection on Olympic teams, and thereby fall within the Olympic "system" will have to be determined. These could well vary from sport to sport and organization to organization. A significant portion of the WADA budget will be devoted to funding additional tests, some of which could be dedicated to such hybrid situations.

The Code is by no means perfect and I hope that when all the parties forming the WADA come together, we can develop significant improvements to it. The likelihood of success in that respect will be greatly improved by having everyone at the same table at the same time, so that, in the desire to have a comprehensive and integrated solution, the issues can be resolved by consensus.

The IOC, alone, cannot provide the solution to doping in sport. It does not assert any particular claim to control the process by which eventual success will be achieved. Nor has it ever acted in such a manner. The IOC can and does seek to lead by example and has encouraged a comprehensive effort by all the constituent elements of the Olympic Movement in the overall struggle. It will continue to do so, out of its conviction that the fundamental ethical values inherent in sport and the health of athletes must be protected.

The Role of Legislators

I do not presume to come before this Committee to lecture it on what should be the substance of any legislation or other action that you may consider. That is a mandate for which you have a sovereign responsibility. There are, however, some general considerations arising out of the testimony before you to which you may wish to direct your thoughts as you reflect upon the proper course to follow.

- What is the proper role of government in the practice of sport? Should sport generally be free to regulate itself or should sport only be possible by virtue of and pursuant to legislation?
- To what extent should government move in the direction of applying criminal sanctions to sport activities?
- Should government be legislating the ethical principles inherent in sport, or is that a social issue best left to sport?
- If a drug or a procedure, which may be prohibited within a sport system, presents no overriding danger within society as a whole, should government intervene with legislation or other regulatory actions?

[6] US$2 million has already been earmarked for second phase research designed to develop controls for two elusive and potentially dangerous substances, erythropoietin (EPO) and human growth hormone (hGH).

- What, if any, is the philosophical difference to be applied in the consideration of doping in sport within the Olympic Movement and in sport outside the Olympic Movement, such as in the professional sport organizations or leagues?
- Can government assist sport organizations in their efforts to fight against doping by providing that disputes in such matters be definitively settled in accordance with the appeals processes properly applied by such organizations?
- Should government assist the fight against doping in sport by directing resources to research for the development of reliable scientific methods for detection of drug use and for educational programs?
- What is the best method for government to act in the interests of achieving international consensus between governments on the harmonization of the approach to such questions as trafficking, access to athletes for purposes of out-of-competition testing, protection of appropriate rights of privacy of athletes and the general approach to supporting sports organizations in their desire to achieve drug-free sport?

This, clearly, is not an exhaustive list of issues, but it may be helpful in the development of any matrix against which you might approach the subject matter.

Conclusion

As you already know, the questions that are raised in any consideration of doping in sport are complex and interrelated. They cannot be solved easily or in isolation. But I believe that they can be solved, if the sport and public authorities, together with the athletes, work together toward a common objective, each recognizing the value contributed to the overall solution by the others. If we can do this, and I pledge the continuing commitment of the IOC in this regard, then, in the words of Winston Churchill, while this may not be the end, nor even the beginning of the end, it will at least be the end of the beginning in this particular struggle.

Exhibit "A"

Brief history of the IOC's fight against doping

1960: IOC Session in San Francisco
President Brundage called the attention of the IOC members to the use being made of amphetamines in some sports.

1961: IOC Session in Athens
Creation of the Medical Commission

1963: Publication of a list of banned substances by the Council of Europe's Committee on Out-of-School Education.

1965: In the light of experiences at the Tokyo Games in 1964, Prince Alexandre de Merode presented a report which provided the starting point for future anti-doping efforts.

9th May 1967: The approach of the Mexico City Games brought the problem of doping into particularly sharp focus and prompted further debate at the highest level within the IOC. At the 66th IOC Session in Tehran, from 6th to 9th May 1967, the problems associated with drug testing, the list of products and methods used for doping and sex testing for the 1968 Games were expounded by the retiring Sir Arthur Porritt. Prince Alexandre de Merode (Belgium) was appointed Chairman of the IOC Medical Commission. The basic principles of the commission were set out by the chairman.

These are:

- protection of athletes' health
- defence of sports ethics
  equality for all participants at the moment of competition.

1968: The first tests were performed by the IOC at the Winter Games in Grenoble. At that time, the list of banned substances was revised and extended.

1968: Wide-ranging anti-doping tests were performed at the Games of the Olympiad in Mexico City, under the leadership of the IOC Medical Commission.

1981: Creation of the "Doping and Biochemistry of Sport" sub-commission within the IOC Medical Commission. At that time, the sub-commission's role was to prepare the list of banned substances and define the procedures to be applied when tests were performed. Outside sources from all parts of the sports world were asked

to make proposals regarding the list of banned substances. Careful study of which substances should be added to or withdrawn from the list allows it to cover substances which, when misused or abused, represent either a danger to the health of an athlete or an artificial increase in performance, or both. This list is published annually and is recognized by the whole of the sports world.

1981: The IAAF introduced a laboratory accreditation process. This procedure was deemed necessary to ensure a high level of testing and avoid any uncertainty concerning the results obtained.

After this procedure was put in place, the following laboratories were accredited during the next two years:

— Cologne, Germany
— Kreischa, ex GDR
— Leningrad, USSR
— London, United Kingdom
— Magglingen, Switzerland
— Montreal, Canada

The IOC "anti-doping" sub-commission recognized the laboratories accredited by the IAAF at the joint IAAF/IOC meeting on 23rd May 1981, and they were granted IOC accreditation.
This accreditation process is conducted by the "Doping and Biochemistry" sub-commission of the IOC Medical Commission. The Commission ratifies the decisions, and submits them to the IOC Executive Board for approval. Its secretariat is in Barcelona, and is run by Prof. Jordi SEGURA.
A reaccreditation procedure takes place every year, with aptitude checks every four months. This system of accreditation and permanent checks allows the IOC to guarantee athletes reliability of testing meaning that the same results should be obtained in any of the accredited laboratories.
This reliability is achieved through strict monitoring of the equipment and staff of these laboratories. Any change in staff, particularly among the senior staff in any laboratory must be reported to the IOC straightaway, whereupon a new accreditation procedure will be started.

There are two temporary suspension phases.

The growth in the number of laboratories is shown below:

1986	18
1987	21
1988	20
1989	20
1990	21
1991	21
1992	23
1993	23
1994	24
1995	24
1996	25

At present, there are 27 accredited laboratories across the five continents.The number of samples analysed by these laboratories in 1997 was 106,561.

1988: The idea and purpose of an International Charter Against Doping in Sport was mooted for the first time by Canada at the 5th Conference of European Ministers Responsible for Sport in September 1986. Subsequently, a working group co-chaired by Canada and the IOC, and including representatives of the Council of Europe, the European Sport Conference and the United States Olympic Committee (USOC), met several times to establish the framework and text of the initial Charter.
The International Olympic Charter Against Doping in Sport, prepared by the IOC, the Canadian government, Council of Europe, European Sports Conference and the USOC, was adopted by the IOC in September 1988 at the Olympic Games in Seoul.

26th—29th June 1988: First Permanent World Conference on Anti-doping in Sport co-chaired by the Canadian government and the IOC.

April 1989: Barcelona agreement between the IOC and ASOIF aimed at stepping up the fight against doping by increasing action in terms of prevention and education.

1989: Second Permanent World Conference on Anti-doping in Sport on the theme of *out-of-competition testing.*

November 1989: Presentation by the Prince de Merode to the IOC Executive Board of plans for an Olympic Movement anti-doping agency involving the IFs, NOCs and IOC. Governments and outside experts would also be included.

1991: Third Permanent World Conference on Anti-doping in Sport in Bergen, Norway, on the theme of *education and information for athletes.*

December 1991: Creation of the working group on out-of-competition testing by the IOC Medical Commission. The Commission members realized that the doping tests currently in place were not sufficient to detect the misuse of anabolic steroids, peptide hormones and related substances during training. To be truly effective, doping measures had to be employed during training periods. The out-of-competition tests should be performed without warning athletes beforehand and sufficiently often, in order to be effective.
Controls of this kind have been developed in recent years both nationally (USA, CAN, GER, GBR, FRA, URS, AUS, SUI, NOR, SWE, etc.) and through bilateral and multilateral agreements (RUS-USA, RUS-FIN, AUS-GBR-CAN, Nordic League, etc.). Some International Federations have set up their own programmes (IAAF, FISA, IWF). However, these isolated efforts are clearly inadequate. Effective coordination and harmonization between the various authorities responsible for these activities are indispensable; this should be undertaken by an ad hoc committee under the moral authority and guidance of the IOC.

June 1993: Lausanne agreement between the IOC and ASOIF on closer harmoniztion of rules and procedures for out-of-competition tests.

1993: Fourth Permanent World Conference on Anti-doping in Sport in London, on the theme *why do athletes dope?*

January 1994: Lausanne Declaration "Preventing and fighting against doping in sport" signed by the IOC, ASOIF, AIWF, ANOC and the athletes. was agreed that the first stage in the fight against doping would be for the "voluntary" bodies to reach an agreement to enable them to negotiate with the governmental bodies, with a view to eliminating the existing contradictions between national legislation and the rules of the sports movement.

1994, 1995 and 1996: Meetings of the working group to follow up on the agreement of 13th January 1994, defining the harmonization of:

— sampling equipment
— out-of-competition testing procedures
— qualification of the officials responsible for sampling

June 1995: The IOC adopted the IOC Medical Code, drafted by the IOC's lawyers, which replaced the International Olympic Charter Against Doping in Sport.

1996: Signature of the Gh2000 agreement between the European Union and the IOC for a 1,800,000 ECU project over three years for research into detecting growth hormone.

1997: The Lausanne scientific days brought together international experts on detecting testosterone, EPO and human growth hormone. The purpose of this meeting was to provide an overview of what research was being carried out on detecting these three substances.

1998: Signature of an agreement between the IOC and the European Union (DG XII) on the harmonization of anti-doping methods and measures. The agreement included funding for a preliminary study.

The final project is scheduled to be presented in November 1999 to the European Union in Brussels.

1999: World Conference on Doping in Sport—Lausanne 2nd, 3rd, 4th February 1999.

After the events which shook the world of cycling in the summer of 1998, the IOC decided to convene a World Conference on Doping, bringing together everyone directly or indirectly involved in the fight against doping.

Exhibit "B"

Draft Mission Statement and Constating Document

for

World Anti-Doping Agency

1.Draft Mission Statement

4.1 **General Mission**

The mission of the Agency shall be to promote and coordinate at international level the fight against doping in sport in all its forms; to this end, the Agency will cooperate with intergovernmental organisations, governments, public authorities and other public and private bodies fighting against doping in sport, inter alia, the International Olympic Committee (IOC), International Sports Federations (IF), National Olympic Committees (NOC) and the athletes;

The Agency's principal task will be to coordinate a comprehensive anti-doping programme at international level, laying down common, effective, minimum standards, compatible with those in internationally recognized quality standards for doping controls, particularly with regard to out-of-competition controls, and seeking equity for all athletes in all sports (including professional sports) and in all countries. Whereas priority will be given to high-level international competitive sport, the Agency will also take account of anti-doping programmes at all other levels of sport. For these purposes, the International Federations, while preserving their autonomy and their own authority, agree to cooperate with the Agency and coordinate their respective anti-doping programmes with it in order to ensure that duplication is avoided and that the same application is achieved worldwide. The Agency will encourage and support the IFs in this endeavour.

The tasks of the Agency will also have consequences for anti-doping work at national level. The Agency shall cooperate with, and have recourse to the capacities of, competent national anti-doping agencies and other organisations (such as national Olympic committees or national confederations of sport) in charge of and conducting national anti-doping work. The Agency will help countries or federations who at present do not have effective anti-doping programmes or agencies to develop them, or, following agreement, to act on their behalf with regard to the Objects of the Agency.

In order to carry out these tasks the Agency may execute agreements between itself, the international federations and the national anti-doping agencies or bodies, taking account of relevant international and national regulations and texts. On those occasions where there is a conflict of jurisdiction in anti-doping matters between an international and national body (or vice-versa), the Agency will use its good offices to seek a satisfactory solution.

The Agency will be entitled to make proposals to the Olympic Movement and to international sports organisations and to the public authorities on measures that could be taken to ensure further harmonisation and equity in anti-doping questions. The Agency will be entitled to give an opinion to the International Olympic Committee on the implementation by international federations of the Olympic Movement's Anti-Doping Code.The Agency shall monitor the application of the Agency's principles and work.

4.2 **Reinforcement of ethical principles and protection of the health of athletes**

The mission of the Agency shall be to reinforce at international level the ethical principles for the practice of doping-free sport and to help protect the health of athletes;

The Agency shall prepare materials, aimed at athletes, coaches and others in the athlete's entourage, for strengthening the ethical principles for the practice of doping-free sport. In order to help protect the health of athletes, the Agency shall prepare similar materials for doctors working with athletes, taking account also of medical ethics.

4.3 **Lists of prohibited substances and methods**

The mission of the Agency shall be to establish, adapt, modify and update for all the public and private bodies concerned, inter alia the IOC, the IFs

and NOCs, the list of substances and methods prohibited in the practice of sport; the Agency will publish such a list at least once a year, to come into force on 1st January each year; or at any other date fixed by the Agency if the list is modified during the course of the year;

The Agency will draw up a common list of prohibited classes of substances and prohibited methods for adoption by all sports and by all national anti-doping agencies. This list will be updated periodically, at least once a year, for entry into force as stipulated in the Statutes.
The Agency will establish a procedure for including a new prohibited substance or method when circumstances require outside the usual annual cycle (urgent procedure).
The list will be initially based on that prepared by the IOC's Medical Commission. This Commission will be entitled to provide inputs into the updating of the list, and for the identification of new doping practices and forms of use.
In order to facilitate its approval and application by national anti-doping agencies and other interested bodies, the list will be updated in consultation with appropriate international bodies including those responsible for the regulation of medicines.
The Agency will pay attention to the need to define clearly the legitimate use for genuine therapeutic purposes of substances or methods which could be in conflict with the list, and draw up guidelines for their use.
The Agency will disseminate the list as widely as possible by all available means.

4.4 **Unannounced out-of-competition controls**

The mission of the Agency shall be to encourage, support, coordinate, and when necessary undertake, in full agreement with the public and private bodies concerned, the organisation of unannounced out-of-competition testing;

The Agency will develop, on the basis of existing texts, common operating procedures with minimum, high quality standards for the conduct of unannounced out-of-competition controls.
The Agency, from the point of view of uniformity and equity in all sports and in all countries, will:

- determine annually the number of unannounced out-of-competition controls which it will finance;
- organise and conduct unannounced out-of-competition controls with the approval of and in liaison with International Federations, concentrating in the first instance on countries and sports where such controls are not at present carried out;
- coordinate and ensure harmony between such controls carried out internationally and those carried out nationally.

The focus of the controls, in the first instance, will be on those athletes eligible for, or striving to be eligible for, competition at international level.

The Agency may execute agreements (cf 4.1) for the performance of unannounced out-of-competition controls on a regular basis or for an ad hoc purpose. Such controls may be performed by the IFs themselves, by national federations, National Olympic Committees and/or national agencies or other specialized public or private entities.

4.5 ***Harmonisation and unification of the scientific, sampling and technical standards, development of a reference laboratory***

The mission of the Agency shall be to develop, harmonise and unify scientific sampling and technical standards and procedures with regard to analyses and equipment, and to develop a reference laboratory;

These standards will include standards for doping control officers (sampling officers) carrying out these controls. The Agency will develop a sad certification procedure for such doping control officers, applicable to those working at international level, and, via the national agencies, to those conducting such controls at national level. To this end, the Agency may develop training programmes, validation procedures and standards, and re-training programmes.
The Agency will develop standards for sample collection and for sampling equipment.
The Agency will develop, on the basis of the existing systems approved by the IOC Medical Commission:

- a procedure, to be prepared in consultation with the appropriate international bodies, for the accreditation and the regular re-accreditation of anti-doping laboratories; this procedure will be based on the relevant international standards;

• protocols for the analysis of prohibited substances and methods; standards for laboratory equipment, techniques, methods and staff recruitment and training.

With regard to the reference laboratory, the Agency will develop the standards for and appoint in due course an independent reference laboratory, which should no longer be concerned with routine anti-doping analytical work, with the task of overseeing the above-mentioned protocols and standards, verifying new laboratory methods and techniques, developing common reference samples and substances, validating and certificating analytical work, and ensuring quality control and good laboratory practice. The reference laboratory will help and advise anti-doping laboratories seeking accreditation. It will act as a source of neutral expertise with regard to laboratory questions.
The Agency will produce annual statistics on the number of tests performed worldwide and their results.

The Agency will develop standards for the protection of privacy and personal data in anti-doping questions.

4.6 **Harmonisation of rules, disciplinary procedures, sanctions and other means of combating doping in sport**

> *The mission of the Agency shall be to promote harmonised rules, disciplinary procedures, sanctions and other means of combating doping in sport, and contribute to the unification thereof taking into account the rights of athletes;*

The Agency, respecting the autonomy and authority of the International Federations, will:

• promote the development by international federations of harmonised disciplinary procedures, incorporating measures to protect the rights of athletes, in particular:

- the reporting and disciplinary bodies to be distinct from one another
- the rights to a fair hearing and to be assisted or represented
- clear and enforceable provisions for appealing against any judgement made.[7]

• make proposals for a range (both in kind and in time) of adequate sporting sanctions, common to all sports, and appropriate to the offence. These sanctions, for implementation by the federations and by national anti-doping agencies or bodies will, in the case of the latter, bear in mind any specific relevant national legislation.
The Agency will monitor compliance with this Article by international and national bodies and make recommendations as appropriate.
The Agency will also develop means of bringing those responsible for anti-doping offences in the athlete's entourage within the scope of sporting anti-doping sanctions.
The Agency can make proposals to intergovernmental organisations for measures that could be taken to improve the fight against international trafficking and supply of doping substances in sport.

4.7 **Anti-doping education and prevention programmes**

> *The mission of the Agency shall be to devise and develop anti-doping education and prevention programmes at international level, aimed at promoting the practice of doping-free sport according to ethical principles.*

The Agency will develop all appropriate measures to improve anti-doping information and education programmes and other preventative anti-doping work and campaigns. It will support exchange network, advise, and provide tools for international sports organisations and national anti-doping agencies and the various "health professionals" linked to sport on measures that could be taken in this field. The Agency will exploit the possibilities offered by existing dissemination channels as well as modern communication techniques and media. This part of the Agency's work should also take particular account of the positive role played by the mass-media and cooperate with them in informing the public of the nature of anti-doping work in international sport.
The Agency should also contribute to the dissemination of information on anti-doping questions generally. To this end, it may organise conferences, seminars or workshops.

4.8 **Promotion and coordination of research in the fight against doping in sport**

---

[7] Article 7.2.d of the Anti-doping Convention of 16th November 1998.

The mission of the Agency shall be to promote and coordinate research in the fight against doping in sport;

The Agency will establish an inventory of anti-doping research carried out around the world. It will endeavour to coordinate such research, in order to avoid duplication and to promote complementary research, particularly with regard to research carried out by accredited laboratories. It will seek complementarity with relevant research programmes.
The Agency may undertake research itself within its scope and budget.
The Agency will stimulate, foster and seek proposals for new research into:

- (new) substances and methods being used (or thought to be so) by sports people and devising appropriate analytical techniques and reasons for adding or excluding them from the list of prohibited substances and methods;
- the pyschological and sociological aspects of doping, with a view, inter alia, of helping to develop more effective anti-doping strategies.

The Agency will stimulate research into scientific training programmes respecting the integrity of the human body.
The Agency may create a Research Fund, to which the private sector would be encouraged to contribute. The Board will pay attention to any possible conflict of interest in this respect.
The Agency will be entitled to draw up plans and proposals for its conversion, as the need may arise, into a different structure, possibly one based on international public law.
The Agency will seek to build upon existing and relevant competences, structures and networks, only creating new ones when necessary. The Agency may however set up working parties, commissions, or working groups, on a permanent or ad hoc basis, for the accomplishment of its tasks. It may hold consultations with other interested public or private organisations, whether involved in sport or not.

2. Draft Constating Document

FOUNDATION

WORLD ANTI-DOPING AGENCY

- Statutes -

Article 1

Designation

Under the name World Anti-doping Agency hereinafter referred to as "the Foundation", a foundation governed by articles ... and by the present provisions is hereby constituted.

Article 2

Seat

The legal and statutory seat of the Foundation is in ....The Foundation Board is entitled to transfer the seat of the Foundation to another place, in ..... (country) ..... or abroad.

Article 3

Duration

The duration of the Foundation is unlimited.

Article 4

Object

The object of the Foundation is:

4.1 to promote and coordinate at international level the fight against doping in sport in all its forms; to this end, the Agency will cooperate with intergovernmental organisations, governments, public authorities and other public and private bodies fighting against doping in sport, inter alia, the International Olympic Committee

(IOC), International Sports Federations (IF), National Olympic Committees (NOC) and the athletes;

4.2 to reinforce at international level the ethical principles for the practice of doping-free sport and to help protect the health of athletes;

4.3 to establish, adapt, modify and update for all the public and private bodies concerned, inter alia the IOC, the IFs and NOCs, the list of substances and methods prohibited in the practice of sport; the Agency will publish such a list at least once a year, to come into force on 1st January each year; or at any other date fixed by the Agency if the list is modified during the course of the year;

4.4 to encourage, support, coordinate, and when necessary undertake, in full agreement with the public and private bodies concerned, the organisation of unannounced out-of-competition testing;

4.5 The mission of the Agency shall be to develop, harmonise and unify scientific, sampling, and technical standards and procedures with regard to analyses and equipment, and to develop a reference laboratory;

4.6 to promote harmonised rules, disciplinary procedures, sanctions and other means of combating doping in sport, and contribute to the unification thereof taking into account the rights of athletes;

4.7 to devise and develop anti-doping education and prevention programmes at international level, aimed at promoting the practice of doping-free sport according to ethical principles;

4.8 to promote and coordinate research in the fight against doping in sport;

The Agency will be entitled to draw up plans and proposals for its conversion, as the need may arise, into a different structure, possibly one based on international public law.
The Agency will seek to build upon existing and relevant competences, structures and networks, only creating new ones when necessary. The Agency may however set up working parties, commissions, or working groups, on a permanent or ad hoc basis, for the accomplishment of its tasks. It may hold consultations with other interested public or private organisations, whether involved in sport or not.
In order to achieve its object, the Foundation has the right to conclude any contract, to acquire and transfer, free or against payment, all rights, all movables and any real estate of whatever nature, in any country. It may entrust the performance of all or part of its activities to third parties.

Article 5

Capital and Resources

The founders allocate to the Foundation an initial capital of ....
The other resources of the Foundation shall consist of any other contributions, donations, legacies and other forms of allowance or subsidy from all natural or legal persons and all intergovernmental organizations, governments, public authorities and other public and private bodies.

Article 6

Foundation Board

The Foundation Board shall initially be composed of not less than ..... members; this number may be increased to a total of no more than 35 members. The members of the Foundation Board are personalities designated for a period of three years. They may be re-elected for two additional periods of three years. The first members of the Foundation Board shall be designated as follows:
6.1 ..... members designated by the Olympic Movement, in accordance with the following distribution:

3 members designated by the IOC;
3 members designated by the IFs, of whom 2 members will be designated by the Association of Summer Olympic International Federations (ASOIF) and one by the Association of International Winter Sports Federations (AIWF);
1 member designated by the General Association of International Sports Federations (GAISF);

3 members designated by the Association of National Olympic Committees (ANOC);
3 athletes designated by the IOC Athletes' Commission.

6.2- ... members designated by the intergovernmental organizations, governments, public authorities or by other public bodies active in the fight against doping in sport (hereinafter "public authorities") in accordance with the following distribution:

- .....

-.....

-.....

6.3 The other members shall be designated, as the case may be, by the Foundation Board upon joint proposal by the Olympic Movement and the Public Authorities.
6.4 As a general rule, when it is renewed and added to, the Foundation Board will ensure that a balance is struck and maintained between, on one side, the members of the Foundation Board representing the Olympic Movement (viz. the IOC, ASOIF, AIWF, ANOC and the IOC Athletes' Commission), and, on the other side, those representing the public authorities. The provisions of paragraph 6.6 below are reserved.
6.5 The Board may also invite a limited number of intergovernmental or other international organizations to act in an advisory capacity to the Foundation. Such organizations, which will be invited on the basis of their legitimate interest in the work of the Foundation and their expertise in relevant fields, may participate in the discussions of the Board but may not vote on Foundation Board decisions.
6.6 To the extent that the annual allocations or contributions to the budgetof the Foundation paid pursuant to article 13, paragraph 1 below, by the Olympic Movement on one side, and by the public authorities on the other side are equivalent, each of the two parties, namely the Olympic Movement on one side, and the public authorities on the other side, shall be entitled to designate an equal number of Foundation Board members.
Failing such equivalent annual allocations by each of the two above-mentioned parties, the party whose allocation actually paid is lower will be entitled to designate a number of members of the Board which shall be inferior by at least one to the number of members designated by the other party; this system will apply for as long as the annual allocations or contributions to the Foundation budget paid by the two above-mentioned parties are not equivalent.
6.7 The Foundation Board may depart from the provisions of paragraphs 6.1 to 6.6 above by a unanimous decision on the part of its members.

Article 7

Organization of the Foundation Board

The Foundation Board is self-organized. It designate a chairman, a vice-chairman and a secretary; the secretary may be chosen from outside the Foundation Board.

Article 8

Meetings and Decisions of the Foundation Board

The Foundation Board meets as often as is necessary, but at least once a year. The meetings of the Foundation Board are convened by the Chairman or by the secretary upon delegation of the Chairman. The Chairman is bound to convene a meeting at the written request of at least five members.
A set of minutes, signed by the Chairman and by the minute-taker, records the deliberations and decisions of the Foundation Board.
At meetings, the members of the Foundation Board have the right to ask the persons entrusted with running and representing the Foundation for information on the conduct of the activities of the Foundation and on specified questions.
The Foundation Board takes its decisions by an absolute majority of the votes of the members present, subject to the provisions of article 17, paragraph 2 of the present statutes. In the event of a tie, the Chairman has the casting vote.
The decisions of the Foundation Board may be taken on the approval given in writing to a proposal, unless discussion thereof is required by any of the members; decisions shall be recorded in the minutes.

Article 9

Attributions of the Foundation Board

The powers of the Foundation Board are determined, with regard to the Foundation, by the law, the present statutes and all other regulations and decisions of the Foundation Board.
The Foundation Board has the inalienable right to:

9.1 Propose amendments to the present statutes.
9.2 Designate the auditing body of the Foundation.
9.3 Designate the Executive Committee provided for in the present statutes.

9.4 Designate if it deems it necessary to do so, other ad hoc or standing committees, *inter alia* a scientific committee, with the task of providing opinions or advising the Foundation on specific issues or in specific fields.
9.5 Take all decisions relating to the acquisition, against payment, or transfer, free or against payment, of all real estate.

Article 10

Obligations of the Foundation Board

The Foundation Board is obliged, in particular:

10.1 to ensure the independence of the Foundation and transparency in all its activities;
10.2 to supervise the committees or persons entrusted with the running and representation of the Foundation, in order to ensure that the activity of the Foundation is in accordance with the law, the present statutes and the regulations, and to keep itself informed about the conduct of the activities of the Foundation;
10.3 to designate the members of the Executive Committee and other committees as provided for in the present statutes;
10.4 to promulgate the regulations relating to the Foundation Board itself, the Executive Committee and other committees, together with all other regulations indispensable to the operation of the Foundation;
10.5 to see to it that the minutes of the Foundation Board and the necessary books are duly kept and that the management report, profit and loss account and balance sheet are established in conformity with the provisions of the law.
10.6 to publish each year in French and English a report on all its activities, its profit and loss account and statement in accordance with the applicable legal requirements.

Article 11

Executive Committee

The Foundation Board delegates to an Executive Committee of at least 5 members and a maximum of 9 members, the majority chosen from amongst the Board members, the actual management and running of the Foundation, the performance of all its activities and the actual administration of its assets.
11.2 The members of the Executive Committee are designated by the Foundation Board for periods of one year at a time. They may be re-elected.
11.3 Furthermore, in case of incapacity or death of a member of the Executive Committee, he will be replaced immediately, either by the Foundation Board or temporarily by the Executive Committee; such temporary appointment shall become final upon its ratification by the Foundation Board no later than during its next meeting.
11.4 The Chairman of the Executive Committee is disignated by the Foundation Board; furthermore, the Executive Committee appoints, if necessary, a vice-chairman chosen from amongst its members. The Committee may also designate a secretary, who may be chosen from outside the Committee.
11.5 The Executive Committee is competent to take all decisions which are not reserved by the law or by the present statutes for the Foundation Board; its mission and organization will be specified in one or more sets of regulations which the Foundation Board will promulgate to this end.

Article 12

Representation of the Foundation

The Foundation is duly represented and bound vis-a-vis third parties by the collective signature of two of the persons designated by the Foundation Board as follows:
(a) at least two members of the Executive Committee.
(b) at least two members of the Foundation Board, one of whom must be one of the members designated by the Olympic Movement, and another must be one of the members designated by the public authorities.

Article 13

Annual management report, balance sheet

and profit and loss account

No later than November 30 of each year, the Foundation Board shall approve the budget for the following financial year; failing such approval, the budget of the current year shall apply to the next year. The annual allocations and other contributions shall be paid no later than December 31 of each year for the following year. Each year, the Foundation Board submits to the supervisory authority the management report, balance sheet and profit and loss account as approved by the Board. The financial year corresponds to the calendar year. The first financial year will thus end on 31 December 2000.

Article 14

Auditing Body

Each year, the Foundation Board designates a qualified and independent auditing body. Each year, the auditing body submits to the Foundation Board a report on the accounts of the Foundation; such report will be submitted to the supervisory authority.

Article 15

Indemnities

The members of the Foundation Board are not entitled to any indemnity for the performance of their functions; they are however entitled to reimbursement of their expenses subject to the conditions fixed by the Foundation Board.
For the performance of their functions, the members of the Executive Committee are entitled to an annual indemnity fixed by the Foundation Board, and to the reimbursement of their expenses.
The auditing body is entitled to fees in accordance with professional practice.
The staff employed by the Foundation is entitled to the remuneration fixed by the Executive Board which also decides on the other conditions of employment.

Article 16

Modification of the statutes

The Foundation Board may propose amendments to the present statutes to the supervisory authority.
Any proposed amendment must be approved by an absolute majority of all the members of the Foundation Board. In the event of a tie, the Chairman has the casting vote.

Article 17

Dissolution

The Foundation may be dissolved in the cases provided for by the law.
The Foundation Board may designate one or more liquidators.

No winding up measure may be performed without the express agreement of the supervisory authority.
Any surplus from winding up is given, with the agreement of the ....., to an institution pursuing the same or a similar object.

Article 18

Entry in the Trade Register

The Foundation will be entered in the ... Trade Register.

Article 19

Supervisory Authority

The Foundation will be placed under the supervisory authority of the ..... , the competence whereof is hereby reserved.

Senator STEVENS. Dr. Wadler, Associate Professor of Clinical Medicine, New York University School of Medicine. Thank you.

STATEMENT OF GARY I. WADLER, M.D., ASSOCIATE PROFESSOR OF CLINICAL MEDICINE, NEW YORK UNIVERSITY SCHOOL OF MEDICINE

Dr. WADLER. Senator Stevens, members of the committee, it is indeed an honor for me to be here today.

I am a physician, a sports medicine physician. During the past 15 years, I have attempted to focus attention on the cascading problem of drugs in sports.

Drug testing is at a crossroads, the point where everyone agrees at last that something must be done. There are four elements to consider in your deliberations.

The first one is the why. With so many major public health crises, why should we care if a few elite athletes abuse their bodies? The answer is that the real abuse we are witnessing is that of the public trust.

At a time when role models are crumbling, the Olympics should be, can be, and must be one of the purest examples of human achievement. We cannot allow performance enhancing drugs to cloud this event. We cannot allow another generation of young people to approach adulthood believing in the power of chemical manipulation over the power of character.

The second element is the how. Since the 1950's, when anabolic steroids first appeared, the manipulators have consistently stayed a step ahead of the monitors.

In 1956, Olga Fikatova Connolly bemoaned the fact that, "These awful drugs, anabolic steroids, have changed the complexion of track and field." Nearly, a half century later, that refrain is still accurate and still poignant.

There are two broad ways to deal with doping. The first is cultural. The second is methodological.

We must work to create a climate where the critical mass of public opinion turns against doping. We need that great movement of the national hinge, the way it swung in the cases of tobacco, drunk driving and seat belts.

We need consumers to put pressure on sponsors to assure that events are credibly drug tested. And only then will we witness a sea-change.

We need to ratchet up in a dramatic fashion our commitment to recognizing abuse.

New drugs create new demands. For example, the use of endogenous substances, that is substances that occur naturally in our bodies, such as testosterone, growth hormone and erythropoietin, better known as EPO, creates the need for a higher ground of independent, peer-reviewed science coupled with credible year-round, out-of-competition testing.

Case in point, in 1997, the United States Olympic Committee executive director Dick Schultz admitted the test to detect testosterone abuse, the so-called T/E ratio, had not been validated in women. Yet it continues to be used by both the IOC and the USOC. Bad science, bad policy.

Let me assure you, whiz-bang new machines are not the answer either. Prior to the Atlanta Games, the IOC extolled the virtues of their expensive, new high resolution equipment. But after the games, the positive results were discarded because of "technical difficulties."

About this, Dr. Donald Catlin, director of the IOC accredited laboratory at UCLA, and a director at the Atlanta Laboratory stated, "There were several other steroid positives from around the end of the Games, which we reported. I can think of no reason why they have not been announced."

What is needed is a Federal commitment to research, whether in the form of grants or tax credits with tight oversight controls.

The third element is the who. We must place the responsibility for drug testing and enforcement of standards in the hands of a structure with unquestioned probity. The public trust in the IOC has been shaken by conflicts of interest and by a dangerous opacity, where transparency and accountability are required.

We must call upon the IOC to replace semantics with science, fine print with fine judgment, and waffling with wisdom.

Now, is the time for an independent and accountable anti-doping agency, nationally and internationally, built on a best practices model with top notch due process protections and broad stakeholder input, especially from athletes.

OATH, the recently created international organization, spearheaded by athletes, has made valuable contributions toward defining this independent body.

The final essential element is the when. The simple answer is yesterday.

When a celebrated athlete like Mark McGwire admits using androstenedione—and make no mistake, androstenedione is a steroid—and millions of kids witness the presumed power of these drugs, we are clearly on the slippery slope to disaster. And we cannot wait any longer to act.

Congress must revisit the DSHEA Act of 1994. Substances like androstenedione were never contemplated by this legislation, and—and if it requires the reclassification of steroid supplements as prescriptive drugs, then let the process begin.

In closing, I want to remind you that the current approach simply has not worked. Today's half-hearted drug testing and limited enforcement matrix are inadequate and porous. High profile drug

cases underscore the work that needs to be done to restore public confidence.

Some assert the IOC deserves a gold medal for stonewalling and inaction. Clearly, much work needs to be done to restore public confidence.

We need to use drug-free athletes as role models and to marshall the force of parents and the media. We need to encourage the USOC and the IOC to pursue truly independent and accountable drug testing.

We need to recognize that genetic engineering will create further opportunities for abuse and will require a greater need for intelligence than ever before.

When it comes to eliminating doping in sports, there can be no compromise, no middle ground, no rhetorical acrobatics. We must go for the gold.

Senator STEVENS. Thank you, Doctor.

[The prepared statement of Dr. Wadler follows:]

PREPARED STATEMENT OF GARY I. WADLER, M.D., ASSOCIATE PROFESSOR OF CLINICAL MEDICINE, NEW YORK UNIVERSITY SCHOOL OF MEDICINE

Dear Mr. Chairman and Members of the Committee;

I am honored to be here today and appreciate the opportunity to testify. My name is Dr. Gary I. Wadler and I am an Associate Professor of Clinical Medicine at New York University School of Medicine, a Trustee and Vice-President of The Women's Sports Foundation and a Board Member of OATH. Additionally, I am a former Trustee of the American College of Sports Medicine, the largest sports medicine and exercise science organization in the world, and currently I serve as Chairman of its Health and Science Policy Committee. I am also a member of the Technical Advisory Group of the CASA National Commission on Sports and Substance Abuse. At the local level, I serve as Chairman of the Nassau County Sports Commission in Nassau County, New York. Thus, I am in a unique position to address the subject of performance enhancing drugs from many perspectives—the health perspective, the science perspective, the community perspective and the public policy perspective. As a Board Member of OATH (Olympic Advocates Together Honorably), I have also had the opportunity to address the subject from the athlete's perspective. OATH is the world's leading athlete-centered movement committed to restoring and maintaining the values underlying the Fundamental Principles of the Olympic Charter by promoting ethical guardianship, responsible governance and effective management of the Olympic Movement. I have no vested interest in testifying today other than to share my views with the Committee about the complex and pervasive subject of performance enhancing drugs in society.

For the past 15 years, I have attempted to focus attention on the cascading problem of drugs in sports.

Drug testing is at a crossroads...the point where everyone agrees—at last that something must be done.

There are four elements to consider in your deliberations.

The first is the WHY:

With so many major public health crises, why should we care if a few elite athletes abuse their bodies?

The answer is that the real abuse we are witnessing is that of the public trust. At a time when role models are crumbling, the Olympics should be one of the purest examples of human achievement.

Athletes commit tremendous time and energy in the pursuit of the Olympic dream. For most athletes that commitment and dedication is motivated, not by the desire for external rewards or pay, but simply by a love of sport for its own sake. Athletes pursue excellence. They push themselves beyond their limits; they try, and when they fail, they try again. It is this kind of heroic dedication and the suspense of seeing who prevails in the Olympic contests that draws and holds the spectators. The world watches as its greatest athletes push the human body and spirit in the pursuit of human excellence. People are drawn to this great Olympic Movement because of the athletes and the Olympic values they live and embody. Olympic athletes affirm an oath at the start of every Olympic Games. The Oath says:

> "I promise that we shall take part in these Olympic Games, respecting and abiding by the rules which govern them, in the true spirit of sportsmanship, for the glory of sport and the honor of our teams."

The athletes' pledge is to go beyond merely following the rules of sport, to strive for something higher—true "sportsmanship"— for in this lies honor.

Doping is a matter of ethics, which affects not only Olympic athletes but also youth, high school, college and professional athletes. The fact is doping threatens to undermine the ethical and physical well being of children.

There is no doubt that Olympic athletes are role models for younger athletes and alarmingly these young athletes are increasing their usage of steroids. Statistics in the United States indicate that the use of steroids in boys and girls has increased since 1991 and with teenage girls it has increased 100%. What is also alarming is that 3% of girls and just under 3% of boys at the very young ages of 9–13 have used steroids. This is on par with the use of other drugs of abuse as reported by the findings of the 1997 National Household Survey, which found that lifetime cocaine use by children ages 12–17 was 3%. The National Institute on Drug Abuse estimates that 500,000 high school students have tried steroids. These facts highlight the serious nature of the steroid problem and the impact it is having on our youth.

Clearly most athletes, especially Olympic athletes, serve as positive role models, shaping the behavior of our youth. Regrettably, there is a negative ripple effect from those who resort to doping.

The Olympic Movement is a public trust. It is a trust established to promote the ideals of Olympism. How well the guardians of the Olympic Movement discharge their responsibility to the public they serve will be measured by how well they live up to Olympic ideals. The Congress as well as the guardians of the Olympic Movement need to take this matter seriously.

The Olympic Games are not just multi-sport world championships. When asked, the world public identifies Olympic values of excellence, dedication, fair play and international peace as key ingredients of the Olympic Games. The Olympic Games command the sponsorship they do because the public supports the Games. The Olympic rings connote a higher set of ethics and values and this is what public support is based on. Furthermore, it contributes to physical and moral development of young people.

We cannot allow performance-enhancing drugs to undermine the Olympic Movement. We cannot allow another generation of young people to approach adulthood with a pervading sense of cynicism, and a belief in the power of chemical manipulation rather than the power of character.

The second factor is the HOW?

How do we deal with the crisis, given the clandestine nature of doping and its growing sophistication?

The year was 1886, a period characterized by the genesis of new industries and the creation of great wealth. A period when we believed anything was possible. A period, in short, much like today.

1886 is a significant year because it marked the first recorded fatality from a performance enhancing drug.

An English cyclist died of an overdose of what is only known as "trimethyl", during a race between Bordeaux and Paris.

Of course, in the more than 100 intervening years, doping in sports, like the rest of technology, has grown in scientific and ethical complexity.

A new inflection point of abuse appeared in the 1950s with anabolic, androgenic steroids. Since then the manipulators have consistently stayed a step ahead of the monitors.

In 1956, Olga Fikatova Connolly bemoaned the fact that "These awful drugs, anabolic steroids, have changed the complexion of track and field."

Nearly half a century later that refrain is still accurate, still poignant.

There are two broad ways to deal with doping.

The first is cultural, the second, methodological.

We must work to create a climate where the critical mass of public opinion turns against doping. We need that great Movement of the national hinge, the way it swung in the cases of tobacco, drunk driving, seatbelts and most recently, in the use of off-shore child labor in manufacturing.

We need consumers to put pressure on sponsors to assure that events are credibly drug tested. Only then will we witness a sea-change.

We need to ratchet up, in a dramatic fashion, our commitment to recognizing abuse. New drugs create new demands. For example, the use of endogenous substances—that is, substances that occur naturally in our bodies, such as testosterone, human Growth Hormone (hGH) and Erythropoietin (EPO)—creates the need for a higher

ground of independent, peer-reviewed science coupled with credible year round out-of-competition, random and unannounced testing.

Recombinant hGH means normal height for children otherwise destined to be dwarfs, but for the drug abusing athlete it means bigger, albeit not stronger, muscles. EPO means renewed vitality for those with anemia, but for the drug abusing athlete, it means greater endurance. Derivatives of testosterone mean normal sexuality for those deficient by means of disease or surgery and genetic engineering can only mean new and more complex challenges in the future.

Given the complexities of the drugs and related substances legitimately available, determining whether an athlete has or has not doped requires both good science and good policy.

In 1997, USOC Executive Director Dick Schultz admitted the test to detect testosterone abuse, the so-called T/E ratio, had not been validated in women. Yet it continues to be used by both the IOC and USOC. Bad science. Bad policy.

And let me assure you, whiz-bang new machines aren't the answer, either.

Prior to the Atlanta Games, the IOC extolled the virtues of their expensive new high resolution equipment. But after the games, the positive results were discarded because of "technical difficulties".

About this, Dr. Donald Catlin, Director of the IOC accredited laboratory at UCLA, and a director at the Atlanta Laboratory stated: "There were several other steroid positives from around the end of the Games which we reported. I can think of no reason why they have not been announced."

The Atlanta Games were further clouded by the presence in the urine of the "new" stimulant drug, Bromantan, and why political machinations resulted in five athletes being cleared of a doping offense by the on-site Court of Arbitration in Sport.

In part what is needed is a federal commitment to research, whether in the form of grants or tax credits with tight oversight controls.

Banned drug lists must be based on a generally recognized body of science, and where one does not exist, it must be based on some clearly reasoned rationale, including issues related to laboratory science.

Because advances in biotechnology have outpaced advances in laboratory science, the detection of certain drugs or biologicals is today either impractical or impossible. To wit, hGH, EPO and most recently, IGF–1.

IGF–1 is a polypeptide that is indirectly responsible for most of the growth-promoting effects of hGH. It is associated with a plethora of physiologic functions many of which are shared with hGH. These include increased protein synthesis, decreased protein breakdown and increased fat metabolism—all attractive to athletes.

Its approved uses in the United States are for a certain form of dwarfism and a rare form of insulin resistant diabetes. Like hGH, IGF–1 is not detectable with current screening methods and like hGH it needs to be administered intramuscularly. One of the newer performance enhancing drugs, relatively little is known about its abuse patterns, cost, availability and long term side effects. The cost of IGF–1 is about $3 thousand per month and counterfeit products are problematic.

Sadly, it seems, we define international sports competitions and events, not by the city or country in which they were held, but by the drug that made the headlines—the Clenbuterol Olympics, the Bromantan Olympics, the Growth Hormone Games, the Steroid Pan Am Games, or the EPO Tour de France, or as some have suggested the Tour des Drugs.

There is good reason for this. If we look at the number and kind of new drugs that have come to market since the introduction of doping control in the Olympic movement in 1960s, the number is staggering.

That's today. But what about tomorrow? What is around the corner—brake drugs, blood substitutes, genetic manipulation? It is not a matter of a brave new world, but of brave new worlds.

And just as researchers are closing in on a method to detect the abuse of EPO, a potentially dangerous new EPO replacement, which is likely to increase endurance, has surfaced.

The substance is perfluorocarbon, or PFC, a substance with enormous oxygen-carrying capacity. It has been suggested that the abuse of this synthetic blood—like substance first surfaced in Nagano where it had been allegedly abused by cross-country skiers and speed skaters.

The International Cycling Federation has issued warnings about PFC to its national federations.

Although not officially on the market in the United States, there is active research into PFCs for legitimate medical use. PFC can significantly increase endurance by delivering more oxygen to working muscles.

With the global market for blood substitutes probably exceeding $2 billion, the number of new products will undoubtedly continue to grow. For example, active research

is continuing using purified bovine hemoglobin rather than products of human origin or the use of PFCs to carry oxygen, and work continues on genetically engineered blood substitutes.

The injection of this gene limits the effect of IGF–1 to the skeletal muscles into which the gene is directly injected obviating any adverse effects of IGF–1 on the rest of the body.

With this technique young mice experienced a 15% increase in muscle strength, and old mice a 27% increase. Accordingly, the gene has been dubbed the "fountain of youth" for skeletal muscles.

But in the world of doping, milestones become millstones.

The author of the original study has already expressed concern that this technology may be sought out by athletes who are seeking a competitive edge. Interestingly, muscle strength increased without any exercise and there was no way to detect the use of gene therapy from analyzing the blood.

Trials are to begin in monkeys and, in the not too distant future, the first human study may be done in people with a form of muscular dystrophy.

And in another study, IGF–1 producing genes have been successfully introduced into mouse embryos. Is it a stretch that with the new technologies of genetic engineering that we are arming parents with the tools to create designer offspring whether inside the uterus or out of it?

Of course, the ethical, moral and biological debate transcends sports. Indeed, it touches on the transcendent as George Wald, the Nobel Prize-winning biologist and Harvard professor, opined: "Recombinant DNA technology (genetic engineering) faces our society with problems unprecedented not only in the history of science, but of life on earth. It places in human hands the capacity to redesign living organisms, the products of some three billion years of evolution".

We stand at the brink of an uncertain future. But I personally believe that the unpredictability and the velocity of change are not an excuse for reserving judgment about some profound distinctions that should fundamentally govern our perspective on the role of sports in our social fabric.

With that in mind, the columnist George Will has reminded us: "A society's recreation is charged with moral significance. Sport—and a society that takes it seriously—would be debased if it did not strictly forbid things that blur the distinction between the triumph of character and the triumph of the chemistry."

In order that we not blur the distinctions George Will speaks of, what we must do in this complex and challenging environment, is confront the issues related to doping from the broadest possible perspective.

The third element is the WHO:

The athletes' confidence in the public trust has been shaken. We must place the responsibility for drug testing and enforcement of standards in the hands of a structure with unquestioned probity.

The public trust in the IOC has been shaken by conflicts of interest and by a dangerous opacity, where transparency and accountability are required.

We must call upon the IOC to replace semantics with science, fine print with fine judgment, waffling with wisdom.

Now is the time for an independent and accountable anti-doping agency, nationally and internationally, built on a best-practices model with topnotch due process protections and broad stakeholder input, especially from athletes.

OATH (Olympic Advocates Together Honorably), the world's leading independent athlete-centered movement, has made valuable contributions toward defining this independent body. The OATH Report underscores a credible anti-doping agency needs to be independent, open to public scrutiny and accountable.

New doping control measures must be rooted in sport ethics and values; they must flow from athlete agreement; they must respect athletes' rights to privacy; and they must be independently, accountably and fairly administered.

Moving forward in the fight against doping the IOC's progress is painfully slow and its commitment questionable. By example in 1999 the IOC has undertaken marketing efforts valued at $150 million in a campaign to bolster its waffling public image and $25 million to the fight against doping, unquestionably a moral crises of enormous magnitude and the single largest threat to the continued integrity of the Olympic Movement. The priority of image over substance seems clear.

Furthermore, efforts by the IOC this year at their Conference on Doping in Lausanne in February finished far short of expectations. Any ground being made at the conference was seemingly lost in the newly published Olympic Movement Anti-doping Code, which is inadequate in key areas.

The anti-doping code defines doping as:

1. The use of an expedient (substance or method) which is potentially harmful to athletes' health and/or capable of enhancing their performance, or
2. The presence in an athlete's body of a Prohibited Substance or evidence of the use thereof or evidence of the use of a Prohibited Method.

The first part of the definition, taken literally (as it needs to be in a document that will form the basis of legally enforceable rule) would have the effect of banning training. Any method of training is a method of enhancing performance, which, under the definition, is doping and therefore prohibited. Clearly this meaning cannot be what is intended, but the point is illustrative. Unless we know what the enemy is, our battles will be doomed to failure.

The choice of whether to permit or prohibit a substance or practice is a decision about the rules and values of sport. These decisions are similar to decisions about the permissibility of any technological development in sport. They are decisions, but the decisions are not arbitrary. The crucial question concerns, who will be empowered to make the decision and on what grounds the decisions will be made.

The anti-doping code is also deficient in other crucial areas. Doping control can only be accomplished by effective out-of-competition, year round, no notice testing conducted by an independent and accountable agency open to public scrutiny. Research into substances per se without this is essentially pointless. The Anti-doping code refers to such testing but offers no indication of how that testing would be carried out to ensure fairness, effectiveness and respect for the privacy and dignity of athletes. Interestingly most athletes favor anti-doping regulations. The importance of out-of-competition testing which is unannounced and random is due to the fact that many drugs such as hGH, EPO and anabolic steroids are training drugs and are not taken during competition thus enabling drug tests administered during competition to show no signs of doping. Furthermore, when the test is out-of-competition, unannounced and random, athletes are unable to put someone else's urine in their bladder, a practice not unheard of. However, if these out-of-competition, unannounced and random tests are to be properly administered, athletes consent is required so not to violate their rights.

A credible anti-doping agency needs to be independent, open to public scrutiny, and accountable. The IOC retains control of the new anti-doping code and hence of the new agency, by insisting that all modifications to the code be made by the IOC Executive Board and also by insisting that inclusion or exclusion in the Code is not a matter subject to appeal. The IOC must be prepared to relinquish control of the new agency in order to secure independence and a genuine international partnership. It appears the IOC seems more interested in control than credibility.

The fight against doping is international, requiring cooperation and partnerships. In particular, national governments and international sports' federations are necessary partners. The current Anti-Doping Code is silent on the commitments required from International Federations and the structure of partnerships with national governments. It is estimated national governments fund 90% of current drug testing, or globally that amounts to $43.5 million annually.

The IOC's announcement of a new World Anti-Doping Agency suggests that the IOC plans to 'go it alone". For example, it has failed to recognize throughout the world that much has already been done in establishing anti-doping agencies from which the IOC could learn, such as in Canada and Australia. Why the reluctance to learn from those with experience and expertise?

There are international models for the structure, composition and mandate of such a body. The International Anti-Doping Arrangement is a working agreement between the national anti-doping agencies in Australia, Canada, Great Britain, Sweden, the Netherlands, New Zealand and Norway. Between them, they have many years of experience of in and out-of-competition testing and disappointingly none of them have been consulted by the IOC to assist in setting up their new World Anti-Doping Agency.

Their recommendations are clear. The new agency must be independent and accountable. This independence must include the independence both to determine the content of the Anti-Doping Code and also the methods of testing, adjudication and enforcement. The new agency must also set consistent minimum standards that would apply to all anti-doping efforts whether those efforts are conducted by the Agency itself, other national testing agencies or the International Federations. These minimum standards would include quality control of doping procedures, a minimum percentage for unannounced testing, consistent sanctions and a fair appeal process.

Athletes are leading the fight against doping. The "Doping Passport" proposed by members of the Athletes' Commission, would be an accessible, and public, indication of an athlete's availability for, and history of doping tests. While the details for the

"Doping Passport" have yet to be worked out, the creation of an athlete agreement to end doping and accept the testing required to enforce a level and clean playing field are central elements in The OATH Report's proposal to eliminate doping.

The IOC must go to independent experts to create a new anti-doping agency. It must go to those who have the experience to design and to operate an effective, open and accountable testing program. It must go to medical and scientific experts to determine the effects of new methods of doping and to find safe, effective means of detection. It must go to ethical experts for judgment on the permissibility or otherwise of drugs and practices and the means of enforcement. It must go to legal experts to create a system of adjudication and punishment that is fair and consistently enforceable. It must go to educational experts to develop strategies for encouraging ethical change. And, it must go to athletes to ask them about their bodies and their sports and to seek their wholehearted cooperation and agreement in combating the scourge of doping.

The final essential element is the WHEN:

The simple answer is yesterday.

When a celebrated athlete like Mark McGwire admits using androstenedione—and make no mistake, androstenedione is a steroid—and million of kids witness the presumed power of these drugs—we are clearly on a slippery slope to disaster.

Manufacturers of androstenedione have reported that their sales are up five-fold in the past year. We are living in a culture where young people are particularly comfortable using the internet and the number of web sites which sell androstenedione is staggering not to mention other related steroid supplements. Not surprisingly the Healthy Competition Foundation 1999 survey found that 1 in 4 American teens and pre-teens personally know someone who has used performance-enhancing drugs.

And we cannot wait any longer to act.

Congress must revisit the DSHEA Act of 1994. Substances like androstenedione were never contemplated by this legislation, and if it requires the reclassification of steroid supplements as prescriptive drugs, then let the process begin.

I want to remind you that the current approach simply hasn't worked. Today's half-hearted drug testing and limited enforcement matrix is inadequate and porous. High profile drug cases underscore the work that needs to be done to restore public confidence.

Some assert the IOC deserves a gold medal for stonewalling and inaction. Clearly much work needs to be done to restore public confidence.

We need to use drug-free athletes as role models and to marshal the force of parents and the media. We need to encourage the USOC and the IOC to pursue truly independent and accountable drug testing.

We need to recognize that genetic engineering will create further opportunities for abuse, and will require a greater need for intelligence than ever before.

When it comes to eliminating doping in sports, there can be no compromise, no middle ground, not rhetorical acrobatics. We must go for the gold. Our athletes and the public deserve no less.

Senator STEVENS. Ms. Coleman.

Ms. COLEMAN. Senator Stevens, good morning. My name is Doriane Coleman, and I teach at the Duke Law School.

Senator STEVENS. Ms. Coleman, could — could I interrupt you just a minute?

I see that a lot of people are leaving. I — I — I would like to inform those that are here that I — I have already started working on a draft of a bill to deal with these issues, and I — I would invite anyone who wants to submit suggestions to send me suggestions.

I will be working, of course, in conjunction with the chairman in -- in terms of this bill, and my hope is that we will be able to introduce it very soon after the — the Senate convenes in January, with the hopes that we would have some hearings by — by February or early March.

Thank you.

Ms. Coleman.

STATEMENT OF PROFESSOR DORIANE LAMBELET COLEMAN, DUKE UNIVERSITY SCHOOL OF LAW

Ms. COLEMAN. Thank you, Mr. Stevens — Senator Stevens.

I appreciate the opportunity to testify today concerning the problem of doping in Olympic sport.

It is a subject that I have observed from perhaps more vantage points than anyone else. I was an elite athletes subject to drug testing.

I was the lawyer for the predecessor to USA Track and Field and was instrumental in establishing its out-of-competition drug testing program, which was the first in the United States. I prosecuted doping cases. I defended an athlete against doping charges.

Currently as an academic, I study and teach about the structure of international sport. Most recently, I was the director of the Duke Conference on Doping, which sought to develop a model for a fair and effective drug testing strategy.

My remarks today are based on this experience. They concern the progress that the IOC and USOC have made toward such a model, and the role that the U.S. Government might properly play in encouraging its further development.

As a threshold matter, it is useful to understand that the calls for reform of the IOC's and USOC's anti-doping strategy were very specific. To restore integrity to Olympic sport, their drug testing operations should be externalized from and made independent of these organizations.

This means that the IOC and the USOC should create a new body or bodies that they do not control and that have the authority those organizations now have to conduct relevant research, do drug testing, prosecute positive cases, et cetera.

I have included in my written testimony a memorandum that contains a detailed evaluation of both organizations' proposals for reform and how they should be modified to satisfy these requirements. I confine my oral remarks to a summary of that evaluation.

The IOC's proposal can be characterized simply as a false start. What it suggests is the creation of a new entity, which it calls "The Foundation" that is not formally tied to the IOC, but it does not give that Foundation any real authority.

While the Foundation could recommend to the IOC rule changes, it would not be responsible for relevant research. It would not develop a new drug testing program. It would not do drug testing. It would not be responsible for sample analysis. It would not evaluate suspicious samples. Indeed, it would not even know about those samples. It would not prosecute athletes with positive drug tests.

In sum, this proposal would not externalize anything. The same is true with respect to independence.

The proposal suggests a governing structure for the Foundation that leaves control in the hands of the IOC and the Olympic Movement, so long as it is willing to pay for that control, quite literally.

In stark contrast to the IOC proposal, it is clear that the USOC, through its Task Force on Drug Externalization is committed to the principle of externalization.

Indeed, with respect to this, its response to the public calls for reform is complete. The proposal contemplates that the new anti-doping agency would take over all aspects of the USOC's anti-

doping effort, everything from the development of its rules to the collection of samples and the prosecution of cases.

On the other hand, however, like the IOC's proposal, the USOC's proposal also fails on the question of independence. All of the agency's board members would either come out of the USOC or be selected, at least initially, by individuals within the USOC.

In essence, the proposal suggests the creation of a wholly owned subsidiary.

While there are other important areas that are of concern in the USOC's proposal, all of which I have described in my memorandum, to the extent that the USOC is willing to revise its view toward independence, it is likely that these remaining issues also could be resolved.

The IOC and USOC will tell you that the calls for externalization and independence, particularly independence, are inherently unfair, that the so-called stakeholders have every right to continue to control the Olympic anti-doping program, either because they view the Olympic enterprise as a private club or because they and their constituencies are most directly affected by drug testing.

While this argument has superficial appeal, it is precisely because these organizations are insular and have the most to lose in the drug testing process that they should not be in control of that process.

Indeed, the reason it is so critical that the IOC and USOC both externalize and make independent their drug testing operations is that they are neither willing nor capable, as a structural matter, of conceiving and administering a fair and effective drug testing program.

Both organizations have demonstrated this fact repeatedly over the years. The particular deficiencies in their current proposals for reform are consistent with their historical reluctance to do the right thing with respect to drug testing.

In the view of many observers, what lies behind this reluctance is concern about the impact of an independent drug testing program on the ability of these organizations to market the Olympics and to raise the enormous amounts of money they need to do this successfully.

I note that this fund-raising mission is not only self-imposed. The Olympic and Amateur Sports Act also acknowledged—acknowledges that this is, in principal part, what they exist to do.

But because the success of their fund-raising effort depends uniquely on positive public relations, it is fundamentally at odds with fair and effective drug testing, which at times would require the IOC and USOC publicly to punish the very stars they rely upon in that effort.

The result is that the IOC and USOC sometimes act arbitrarily with respect to individual doping cases, in order to protect their larger economic interests.

The historical record is relatively clear that this conflict of interest is real and that the public's image of the IOC and USOC in any given circumstance has driven their anti-doping policy and decisions, which brings me to my final point.

The U.S. Government not only has the right, but the obligation, to intervene in the affairs of these organizations to address the drug testing problem in Olympic sport.

The right resides in the government's—government's commerce power. The fact that this government also subsidizes the IOC and USOC through special trademark protections and their tax-exempt status merely reinforces this right.

The obligation of the United States to intervene resides in the fact that through the Olympic and Amateur Sports Act, the government is responsible for giving the IOC and USOC the scope of authority those organizations currently are abusing.

The deference that this government has historically given to these organizations is simply not merited in circumstances where their economic interests are in conflict with the interests of athletes.

The obligation of the government to intervene also arises because the IOC and USOC are selling to the product—to the public a product that, in some instances, they misrepresent, because they permit athletes who use drugs to steal opportunities and dreams from those who follow the rules; and most importantly, because their failure to stop the use of drugs affects the health and welfare, including especially the ethical development, of American children.

Thank you.

Senator STEVENS. Thank you very much.

[The prepared statement of Ms. Coleman follows:]

PREPARED STATEMENT OF DORIANE LAMBELET COLEMAN,
DUKE UNIVERSITY SCHOOL OF LAW

Mr. Chairman, Senators, I appreciate the opportunity to testify today concerning the problem of doping in Olympic sport, a subject that I have observed from perhaps more vantage points than anyone else: I was an elite athlete subject to drug testing; I was the lawyer for the predecessor to USA Track & Field and was instrumental in establishing its out-of-competition drug testing program, which was the first in the United States; I prosecuted doping cases; I defended an athlete against doping charges; currently, as an academic, I study and teach about the structure of international sport; and most recently, I was the Director of the Duke Conference on Doping, which sought to develop a model for a fair and effective drug testing strategy. My remarks today are based on this experience. They concern the progress that the IOC and USOC have made toward such a model, and the role that the U.S. government might properly play in encouraging its further development.

As a threshold matter, it is useful to understand that the calls for reform of the IOC's and USOC's anti-doping strategy were very specific: To restore integrity to Olympic sport, their drug testing operations should be "externalized" from *and* made "independent" of these organizations. This means that the IOC and the USOC should create a new body or bodies that they do not control, and that have the authority those organizations now have to conduct relevant research, do drug testing, prosecute positive cases, etcetera. I have included in my written testimony a memorandum that contains a detailed evaluation of both organizations proposals for reform and how they should be modified to satisfy these requirements, and so I confine my oral remarks to a summary of that evaluation.

The IOC's proposal can be characterized simply as a false start. What it suggests is the creation of a new entity which it calls the Foundation, that is not formally tied to the IOC, but it does not give that Foundation any real authority: While the Foundation could "recommend" to the IOC rule changes, it would not be responsible for relevant research; it would not develop a new drug testing program; it would not do drug testing; it would not be responsible for sample analysis; it would not evaluate suspicious samples, indeed it would not even know about such samples; and it would not prosecute athletes with positive drug tests. In sum, this proposal would not externalize anything. The same is true with respect to independence. The proposal suggests a governing structure for the Foundation that leaves control in

the hands of the IOC and the Olympic Movement so long as it is willing to pay for that control (quite literally).

In stark contrast to the IOC proposal, it is clear that the USOC, through its Task Force on Drug Externalization, is committed to the principle of externalization. Indeed, with respect to this, its response to the public's calls for reform is complete: The proposal contemplates that the new anti-doping agency would take over all aspects of the USOC's anti-doping effort, everything from the development of its rules to the collection of samples and the prosecution of cases. On the other hand, however, like the IOC proposal, the USOC proposal also fails on the issue of independence: All of the agency's board members would either come out of the USOC or be selected (at least initially) by individuals within the USOC. In essence, the proposal suggests the creation of a wholly-owned subsidiary. While there are other important areas that are of concern in this proposal, all of which I have described in my memorandum, to the extent that the USOC is willing to revise its view toward the independence of the proposed agency, it is likely that these remaining issues also will be resolved. The IOC and USOC will tell you that the calls for externalization and independence are inherently unfair, that the so-called "stakeholders" have every right (either because they view the Olympic enterprise as a "private club" or because they and their constituencies are most directly affected) to continue to control the Olympic anti-doping program. While this argument has superficial appeal, it is precisely because these organizations are insular and have the most to lose in the drug testing process that they should *not* be in control of that process. Indeed, the reason it is so critical that the IOC and USOC *both* externalize *and* make independent their drug testing operations is that they are neither willing nor capable (as a structural matter) of conceiving and administering a fair and effective drug testing program. Both organizations have demonstrated this fact repeatedly over the years; the particular deficiencies in their current proposals for reform are consistent with their historical reluctance to "do the right thing" with respect to drug testing.

In the view of many observers, what lies behind this reluctance is concern about the impact of an independent drug testing program on the ability of these organizations to market the Olympics, and to raise the enormous amounts of money they need to do this successfully. I note that this fund-raising mission is not only self-imposed; the Olympic and Amateur Sports Act also acknowledges that this is in principal part what they exist to do. But because the success of their fund-raising effort depends uniquely on positive public relations, it is fundamentally at odds with fair and effective drug testing, which at times would require the IOC and USOC publicly to punish the very stars they rely upon in that effort. The result is that the IOC and USOC sometimes act arbitrarily with respect to individual doping cases, in order to protect their larger economic interests.

The historical record is relatively clear that this conflict-of-interest is real, and that the public's *image* of the IOC and USOC in any given circumstance has driven their anti-doping policy and decisions. I will provide just two brief examples here: First, while the IOC has long asserted *publicly* its dedication to drug-free sport, there is evidence that it suppressed positive drug tests at least at the 1984 and 1996 Summer Games in Los Angeles and Atlanta. Second, while the USOC also has long professed *publicly* to be committed to fair and effective drug testing, I know personally that it went kicking-and-screaming into the era of out-of-competition drug testing; and, in a case with which I also am personally familiar, it has professed *publicly* to support an athlete it believed was treated unfairly by international doping authorities, while it has confessed *privately* that, "even if she is innocent, how can the USOC help [her] without *looking* like [it']s soft on drugs." Where image and "the right thing" are in conflict, it is the latter that is sacrificed.

Which brings me to my final point: The United States government not only has the right but also the obligation to intervene in the affairs of these organizations to address the drug testing problem in Olympic sport. The right resides in the government's commerce power. The fact that this government also subsidizes the IOC and USOC, through special trademark protections and their tax-exempt status, merely reinforces this right. The obligation of the United States to intervene resides in the fact that through the Olympic and Amateur Sports Act, the government is responsible for giving the IOC and USOC the scope of authority those organizations currently are abusing. The deference that this government has historically given to these organizations is simply not merited in circumstances where their economic interests are in conflict with the interests of athletes. The obligation of the government to intervene also arises because the IOC and USOC are selling to the public a product that in some cases they misrepresent; because they permit athletes who use drugs to steal opportunities and dreams from those who follow the rules; and most importantly, because their failure to stop the use of drugs affects the health and welfare, including the ethical development, of American children.

Thank you.

Senator STEVENS. I am sure my colleagues might have some questions for you.

My basic problem that has been running through my mind, if we accept this very high standard, which I agree with, for those who participate in Olympic sports, what do we do with those who participate in our college and -- and other type of sports? Have you all addressed that issue?

Ms. COLEMAN. I would be happy to, Senator.

Senator STEVENS. Yes.

Ms. COLEMAN. I—I—I would not include only the Olympic committees in this effort. I think that they are particularly symbolic of purity in sport and—and—and the high status in which the society holds sport, but I believe that other sports and sports enterprises also affect children especially, both health and ethical development of children.

While I think that it is important that we work with the IOC and the USOC toward the end that I think we all at least state that we are seeking, it is also important that we seek to include the NCAA and the professional leagues in our effort.

Dr. WADLER. I—I would agree with that. I—I certainly think it was in the professional arena of Mark McGwire that really has escalated the awareness of the pervasiveness of the use of drugs in sport.

Whether a drug is legal or illegal, it becomes a matter of some definition. I think Andro has been a major deflection.

I know the United States has been accused of not getting its own house in order over the issue of Andro. I do think the Congress has a role to play to reclassify that. And the reasons should be clearly articulated.

But clearly, this is not just a matter of the Olympics. To view it only as a matter of the Olympics is really to miss—miss the ball completely. They are the pinnacle, but clearly there is much below the surface at every level of—of sports participation and fitness.

Senator STEVENS. Is there an agreement on what the—what are the substances that comprise the generic term "drugs" here?

Dr. WADLER. That is a subject of—it is sort of a moving target, and I think earlier somebody commented that the future only indicates that these substances are going to get more complicated and the laboratory and the forensic laboratory analysis of these drugs are going to get more and more complicated. However, that cannot keep us from our mark.

There—there really has been great differences in organizations as to what constitutes so-called doping lists, what should be on that list.

If you pick up today's paper, you will read about the NBA, which only 6 months ago only had heroin and cocaine on its list. It has now expanded it to marijuana, anabolic steroids, and some other drugs.

But I think clearly it is not as simple as enumerating a drug on a list and, unfortunately, that has—in many ways, the IOC has found itself in the position of articulating doping and defining doping as really a drug listing—drug listed on a banned list, which in fact, is an arbitrary definition of—of doping, so——

Senator STEVENS. We cannot legislate for the world. How are we going to get an agreement of what—what—what is a substance that should be tested for before an Olympics that would be held in this country that—in which the world participates?

Dr. WADLER. I—I—I do not think there is any question that most people in this field would probably come down with four or five drugs that would cover 99 percent of the issues of doping in sports.

Senator STEVENS. Do you agree with that, Mr. Hybl?

Mr. HYBL. I think that is very close. Senator, you raise a very good point. It is not only the drugs that are used but also the harmonization among the 45 or so international federations throughout the world, who really set the standard in each of the sports, the National Olympic Committees, and the IOC that is vitally important.

It is my understanding that the IOC, is in fact, moving in that direction.

Senator STEVENS. Mr. Pound, does WADA have a list?

Mr. POUND. We are—starting, Senator, with the—list that was part of the IOC medical code. That—is ground zero. I—think it is a list that can be continually improved.

I think—once we get the mechanics of—making sure we—involve everybody in the development of that list, I do not think, as—the other panelists think, I do not think we are going to have a problem getting there.

Senator STEVENS. Well, am I wrong? I thought we were really just talking about substances, not—not—not—not the kind of drugs that we are talking about that requires prescriptions in this country. Are not some of these non-prescription items?

Dr. WADLER. Well, certainly androstenedione, the one that everybody is talking about in this country as a result of the Act of Congress in 1994 is an over-the-counter substance, which you can buy like you buy apples and pears and bananas. It does not belong there.

Controlled—the Controlled Substances Act in 1990 made steroids a controlled substance in this United States.

There is a middle ground. That middle ground is to make it a prescriptive drug, which does two things. Besides having individuals see a physician, they guarantee safety, purity and ethicacy.

What we have now is youngsters buying Andro and having their body converted into a controlled substance. You know, as I—I often say that the human body is a lot smarter than the body politic.

So we have arbitrarily said Andro is sort of safe. You do not need your parents' consent. You can buy it on the Internet. You can buy it in a food store.

The thing it becomes in the body is a controlled substance with the most severe penalties under the Controlled Substances Act, and there is a middle ground.

I think if the Congress would step forward on that point and send the message to lots of young people about what they are consuming—they are assuming it is safe. I have heard it said by countless kids that, "Well, if the government said it is OK, then it must be OK. If I can get Andro without a prescription, without seeing a doctor, without anything else, then it must be OK." And it is not OK.

Why is it not OK? Because Andro becomes a substance in the body, which ultimately converts, for example, in women to estrogen. We all know the concern women have about estrogen and breast cancer. We have now enabled them to get this over-the-counter.

It is a metaphor for how we deal, as a country, with these kinds of substances; and the sport part of it is—is really the focal point of attention. I think we ought to seize the moment.

I—I must tell you, with all the negativism, I am encouraged by, as I said at the outset of my remarks, that everybody seems to be on the same page now, that something must be done.

I think we should not lose that moment to—and—and we should, as Frank Shorter said, "Carpe diem." We should seize that moment right now.

We may disagree exactly what it is—what needs—how it is to be done, but I think we now all agree it needs to be done, and I—I think we cannot let this moment pass.

Senator STEVENS. I hope you are right and we are all on the same page. It would be my hope maybe we will have a sort of a consensus meeting before we introduce this bill next year prior to—prior to Senate coming into session.

I think we will just have—have one of our open session kind of meetings like we had before the USOC bill passed and—and—and have a little general discussion rather than a hearing, if—if—if that meets with the approval of everybody concerned.

All right. We do thank you all for responding. It is a very timely subject with the—with our friends in Australia with their—their coming games, and we are right behind them with Salt Lake City.

It is—it is obvious that we—we should take the steps that are necessary. And I particularly would—would urge you to send us your suggestions on what you think should be in legislation that we consider next year, as we will have to move rather quickly as I understand it in—in the spring in order to get that out of the way of—of the election.

We do not want it to become a partisan issue at all, so I would urge you to—to get—get us your suggestions as quickly as possible.

We—again, we thank you all for coming. It is nice to see you again, Mr. Pound. We thank you all very much for your participation.

Do you want to keep the record open for some time? All right. We would like to keep the record open for 2 weeks for anything you might want to add to this record. That is not—I am not thinking about putting in this record the suggestions that you all may give us concerning the bill we may introduce next year.

Senator STEVENS. Thank you very much.

Dr. WADLER. Thank you, Senator.

Mr. POUND. Thank you, Mr. Chairman.

[Thereupon, at 12:16 p.m., the hearing was adjourned.]

APPENDIX

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO FRANK SHORTER

Question (1). What sanctions do you believe should be imposed on olympic athletes who are found to be taking performance enhancing drugs?

Answer: Athletes found to be taking performance enhancing drugs should be banned from any sanctioned competition, world wide, for at least 4 years.

Question (2). How pervasive do you believe is the use of steroids by olympic athletes?

Answer: There are other, just as effective drugs that can be used that could be detected but the IOC has, until now, shown a reluctance to. The use of steroids by Olympic athletes, male and female, has been unnecessary since 1983. Human growth hormone produces the same performance enhancement and is detectable only through blood testing. I believe, today, every performance in strength or endurance event has to be suspect for the use of human growth hormone or erythropoetin (in use since 1988), because the JOC has not developed blood testing for these drugs. Only athlete who can not afford these drugs would be using steroids.

Question (3). In your view, how effective are our testing technologies?

Answer: The testing technologies are on the verge of staying ahead of performance enhancing drug use. I think that, in the past, sports federations have had a disincentive to stay ahead of the cheaters. A truly independent agency is absolutely essential, and, the involvement of governments around the world is essential because of the empirical expertise and enforcement expertise available to the independent agency.

Question (4). Do you believe it is relatively easy for an olympic athlete abusing steroids to evade detection?

Answer: See 2 above. All an athlete has to do to avoid detection is to take erythropoeitin and/or human growth hormone. The IOC has had over a decade to develop a blood test and has yet to, all the while holding out to the world that their increased urine testing, represents all that can and is being done.

Question (5). What effect do you believe these performance enhancing drugs have on the sport for those athletes who chose to stay clean and not use drugs?

Answer: I hate to say this, but, as an athlete who has competed against others suspected and even known to be taking performance enhancing drugs, I honestly believe that it is impossible to be an elite endurance or strength athlete today and not be taking performance enhancing drugs. The logic is simple: everyone knows what drugs work and are currently not tested for. As an athlete, to assume that most of your competition will not be on these drugs is beyond silly. Even if an athlete does not want to take the drugs, the psychological realization that no matter how hard you train, your opposition will have an illegal edge is an incredible, if not impossible obstacle to overcome. Again, there is no choice.

Question (6). You are well respected athletes and have won the admiration of millions of Americans, including children. What effects do you believe the continued use of illegal drugs in sports will have on young athletes?

Answer: Today, the 14 year old kids emulating their heroes know what the drugs are, know they will not get caught and most tragically, know they have no choice.

Answers to 2 questions dated 11/1/99:

Question (1). Several of the witnesses testified about the need to educate young people about thie perils of performance enhancing drugs. Do you think an educational program would be beneficial? If yes, at what level should athletes be targeted and when should it begin?

Answer: I believe it is vital to educate young children about the perils of performance enhancing drugs. Youngsters always emulate their sports heroes and, more critically, know very well what drugs are being used to enhance performance. In

this regard, at this moment in time, they most certainly have much more knowledge of elite level drug taking than their parents. I believe the education should start at as young an age as possible. As for targeting for actual testing, I think this should be delayed until college age and believe it is possible if, and only if a true, transparent, independent, worldwide system that actually tries to catch illegal users is put into place. I believe the deterrent for younger children should be the example of heroes actually, finally perceiving that they will most likely be caught by a system that is actually committed to catch them.

Question (2). During the hearing some members expressed concern about ensuring the proposed IOC and USOC drug testing proposals protect the rights of athletes. Do you feel the current proposals will provide athletes with sufficient protections to ensure the testing process is both accurate and fair?

Answer: Participation in athletics, all the way up through the Olympic Games, is a privilege, I repeat, a privilege, not a right. I view being tested as the means to gain the privilege of participation. I therefore believe no athlete has the right to refuse to take a test that has been determined to be safe and shown to detect illegal performance enhancing drug use. I believe that up until now, there has been a disincentive for federations to catch stars. Therefore the tests are nowhere near as accurate or challenge proof as they could be. This problem can be solved by making all testing independent of the conflict of interest both endemic to and inherent in sports federation control.

For example:

Currently, the performance enhancing drugs of choice are human growth hormone (used by athletes since approximately 1982) and erythropoeitin (used by athletes since approximately l988). They are only detectable through blood testing. The IOC has yet to develop blood testing for these drugs. Their response in the 1980's was to expand and tell the world about their increased urine testing. This leads me to believe the IOC has historically viewed the drug epidemic as primarily a public relations problem. After the IOC drug summit in Lausanne, Switzerland last February (99) the IOC unbelievably withheld funding from their own research aimed at perfecting a blood test for these drugs. The IOC then held a press conference announcing that they did not believe blood tests would be perfected by the Sydney Olympics in 2000.

RESPONSE TO WRITTEN QUESTIONS BY HON. JOHN MCCAIN TO GENERAL BARRY R. MCCAFFREY

Question 1. What statistics does ONDCP have on the number of kids using performance enhancing drugs?

Question 2. Is steroid use by young people on the rise? If so, to what do you attribute the increase to?

Answer: The 1999 Monitoring the Future Study found that steroid use among 8th and 10th graders has increased dramatically over the past year.

- Among 8th graders, past month steroid use increased 40 percent (from .5 percent to .7 percent), and past year steroid use increased 42 percent (from 1.2 percent to 1.7 percent.
- Among 10th graders, past month steroid use increased 50 percent (from .6 percent to .9 percent) and past year steroid use increased 42 percent (from 1.2 percent to 1.7 percent).
- Among 8th and 10th grade boys, on average, steroid use has increased 50 percent.

While the base percentages remain low, these rates of increase are grounds for serious concern.

Other studies suggest similar reasons for concern:

- In 1998, a survey of Massachusetts' youth reported by the *Pediatrics* journal found that **2.6** percent of **boys ages 9 to 13** have used steroids; the rate for **girls ages 9 to 13** was **2.8 percent.** Use among boys was 2.6 percent. This is the first time that the use of steroids among girls surpassed use among boys. For both boys and girls, these levels are on par with use of other drugs of abuse (for example, the 1997 National Household Survey found that lifetime cocaine use by children ages **12-17** was 3 percent).
- Similarly, the Centers for Disease Control's Youth Risk Behavior Surveillance System found that 550,000 high school age children have tried steroids in 1995 alone—not to mention the full panoply of other performance enhancing drugs

• The Healthy Competition Foundation's 1999 survey found that 1-in-4 American teens and pre-teens personally know someone who uses performance enhancing drugs. Knowledge grows substantially with age — 9 percent of 12 year olds personally know someone doping, compared with 32 percent of those ages 15-16 and 48 percent of those ages 17 and older.

In great measure, increases in youth doping are driven by the belief among young people striving to succeed in sports that it is necessary to dope not just to gain an advantage, but merely to be competitive.[1] Similarly, this perception that doping is a *sine qua non* for athletic success is, in large measure, derived from perceptions that large numbers of elite athletes are using performance enhancing drugs.

While it is difficult to isolate the exact causes of this shift in attitudes and behaviors it is clear that this perception has been, in some significant measure, fueled by a series of high profile doping incidents involving elite athletes:

• Over the last two months, three National Football League players have tested positive for performance enhancing drugs and have been penalized under the League's drug program.

• A 1998 investigation by the French police found that large numbers of the Tour de France cycling teams were doping — eight teams were forced to drop out of the race.[2]

• Over the past decade, over twenty-nine Chinese swimmers tested positive for performance enhancing drugs.[3] In the nineteen-month period ending June 1999, 10 Chinese swimmers and coaches have been banned from competing or coaching as a result of drug use.[4]

• The German courts have held that many of the athletic successes of the former East Germany were won through a government-run doping system, which drugged tens of thousands of young children, some younger than 14 years old, many without any form of consent.[5] (From its inception in 1979 through the early 1990s, the program involved over 2,000 athletes per year.)

The use of performance enhancing drugs is also driven by the desire of young people to improve their appearances through drug use as a replacement for healthy physical activity. In addition to those taking these drugs for sports, increasing numbers of young people are turning to performance enhancing drugs to improve their appearance.[6] The emergence of a "drug buffed chic" dramatically expands the circle of individuals, in particular youth, who are at risk of performance enhancing drug use.

Question 3. Your successful National Youth Anti-Drug Media Campaign sends a powerful message to children that it's both dumb and dangerous to use drugs. How influential do you think is the message sent by athletes who take steroids?

Answer: The evidence clearly suggests that young people look up to athletes and emulate their behaviors. For example:

• A 1994 Children's Defense Fund national survey found that when African-American youth were asked to name two or three individuals they most admire, Michael Jordan tied with God.

• A 1998 survey by the US Olympic Committee found that athletes and coaches were the most effective individuals (surpassing parents, teachers, peers and TV personalities) at delivering citizenship-related messages.

It should be emphasized that the impact of athletes as role models works for both better—in the case of the vast majority of clean and ethical athletes—and for worse—in the case of those athletes who use drugs.

---

[1] 1999 Healthy Competition Survey, Blue Cross/Blue Shield; S.M. Tanner, *et al., Anabolic Steroid Use by Adolescents: Prevalence, Motives, and Knowledge of Risks,* 15 Clin. J. Sports Med. 108-115 (1995). Among youth athletes who report taking anabolic steroids, the majority indicates this use was done to improve their performance and ability to compete successfully. *Id.* at 110. Among youth who were *not athletes* who reported steroid use 45 percent indicated it was to improve appearance, 18 percent said it was to enhance performance, 12 percent reported it was due to peer pressure, the remainder reported no reason. *Id.*

[2] *See* E.M. Swift, *Drug Pedaling, Sports Illustrated, June 5, 1999, at 65.*

[3] *See* Richard Panek, *Tarnished Gold,* Women's Sports and Fitness, May 1, 1999, 124; Associated Press, *Swimmers Fail Drug Tests,* Jun. 8, 1999.

[4] *See,* Associated Press, *Swimmers Fail Drug Tests,* Jun. 8, 1999.

[5] *See, e.g.,* John Powers, *Blood Sport; F. Germans Admit Doping, So US Wants Medals,* Boston Globe, Dec. 11, 1998, Cl.

[6] *See* Tanner, *supra* n. 1. However, rates of use are significantly higher among athletes than non-athletes. *See* 1999 Healthy Competition Foundation Survey, *supra* n. 1.

• Makers of Androstenedione (Andro) self-report that Andro sales are tip roughly five-fold since the revelation that baseball home run king Mark McGwire was using this substance.[7] To his credit, Mr. McGwire has since declared that he no longer uses the substance because he does not want to influence youth toward using Andro. (Andro is currently classified as a food supplement. However, the human body naturally metabolizes Andro into testosterone, a regulated steroid.)
• During focus groups with youth for ONDCP's National Youth Anti-Drug Media Campaign, a number of participants emphasized that if pro athletes could use drugs and succeed, they doubted that drugs could hurt them — often times these comments actually named individual athletes that had been implicated in drug use.

While incidences of drug use in sport send young people the wrong message about drugs, it should be underscored that sports can play an important role in preventing drug use. Youth involved in sports tend to use less drugs than their peers who do not. Additionally, a significant number of sports figures and organizations have undertaken counter-drug programs. For example:

• Coach Dennis Green of the Minnesota Vikings and Coach Pete Carroll of the New England Patriots, along with other players and coaches from across the sports spectrum, teamed up with ONDCP for the 1998 National Coachathon Against Drugs. (Coach Green and Coach Carroll served as honorary spokesmen for the Coachathon.)
• The Jacksonville Jaguars run a youth outreach program that focuses on drug prevention.
• The NY Mets run a youth-to-youth counter-drug mentoring program that mobilizes student-athlete leaders—who are, themselves, role models for younger children and their peers.
• The San Antonio Spurs run an annual youth anti-drug basketball tournament.

Given the ability of athletes to reach children, ONDCP has partnered with a number of athletes who became spokespeople for our Media Campaign. In these instances — and with all spokespeople highlighted in the campaign -- we have exercised great care in screening potential campaign participants to ensure that the message sent to our youth will be unequivocal: "If you use you lose. Be a winner."

Question 4. The goals and strategy you have laid out in your testimony are ambitious and call for the United States to take the lead in ending this problem. What do you think would be the result if the United States did not take the lead and simply let the IOC continue their reforms without pressure from our country and other concerned nations?

Answer: It is our view that absent the leadership of the United States and other concerned nations that the reforms needed to end the use of drugs in sport will not be forthcoming. Experience to date shows that the involvement of the United States and other concerned nations has already played a critical role in moving such reforms ahead.

For example, in December, 1999 the United States participated along with 25 other nations in an Australian-led Summit on the Use of Drugs in Sport. The Summit produced a communique that endorsed the views that already had been advanced by the United States to the IOC concerning improvements needed to the JOC's newly created World Anti-Doping Agency (attached). Subsequently, ONDCP met with representatives of the IOC, including President Juan Antonio Samaranch and Vice President Richard Pound, to seek agreement on the improvements set out in the communique. During these meetings with the IOC we were able to secure the JOC's endorsement of 17 specific agreements implementing the Sydney Communique's terms. It is our view that the efforts of the United States and these other nations working together were responsible for this progress. Therefore, we view U.S. leadership as critical to the fight against doping in sport.

Question 5. That role do you think the Congress should play in helping you achieve these goals? Should there be a strengthening of the laws and guidelines when it comes to trafficking of these drugs, especially to children?

Answer: It is our view that Congress has an important role to play in the fight against drug use and doping in sport. We believe the importance of Congressional support for such efforts has already been demonstrated by the Congress in the 2000 budget. The 2000 budget includes $3 million in new money to support the efforts of the USOC to strengthen and externalize their anti-doping program, and to form

[7] *See* Steve Wilstein, *Baseball Unlikely to Rule on Andro,* Associated Press, Feb. 27, 1999 (citing tenfold increase). The industry's own study noted a three-fold increase between the time of the McGwire revelation (August 1998) and December 1998 alone. *See* Steve Wilstein, *McGwire Powers Andro Sales to 100,000 users, Doctors Fear Hazards,* Associated Press, Dec. 8, 1998.

a new independent anti-doping agency. We view this support as a critical step forward in the fight against drug use in sport.

In early 2000, we will stand up the White House Task Force on Drug Use in Sport called for in our newly released national strategy on combating the use of drugs in sport. We look forward to keeping the Congress informed of the task force's efforts to achieve the goals and objectives articulated in this strategy.

We expect this task force to identify a number of areas where specific Congressional action may be necessary and/or appropriate. For example, it is ONDCP's view that Congressional action will be required for the independent drug-testing agency now being developed by the USOC to have the quasi-governmental authorities needed to be fully effective.

Other areas we expect the task force to review will include: current sentencing guidelines for steroids, the appropriateness of treating certain performance enhancing substances as unregulated food supplements, and the growing criminal involvement in steroid trafficking. Each of these areas, as well as others, may result in recommendations for Congressional action.

ONDCP appreciates the support Congress has already provided to our efforts. We look forward to continued support and collaborating with this Committee and the Congress as this effort moves forward.

RESPONSE TO WRITTEN QUESTIONS BY HON. JOHN MCCAIN TO GARY I. WADLER, M.D.

Question 1. When we compare drug testing technology to the performance-enhancing drugs themselves, which are even designed to mask their identity, how far behind the curve are we?

Answer. From a drug testing technology perspective, there are a number of endogenous (naturally occurring) substances which remain particularly problematic in the ongoing battle between those determined to use performance-enhancing drugs and the forensic detectives of the laboratory. Most notable amongst these are injectable testosterone, human growth hormone and the related substance, IGF-1, and erythropoietin (EPO).

With respect to these hormones, three elements are necessary before testing can be employed to detect their abuse. The first is the development of a methodology. The second is the validation of the methodology. This validation needs to incorporate such variables as gender, race, age and physical activity. The third element requires that the methodology be able to withstand legal scrutiny.

Currently, both Australian and British scientists have independently claimed that they have developed blood tests that will enable the detection of hGH abuse. However, these investigators claim that an additional $5 million are needed to validate the methodology.

Similarly, Australian sports medicine physicians have developed a methodology using blood to detect the abuse of EPO. As with hGH, funds are needed to validate the methodology.

The method traditionally used to detect the abuse of injectable testosterone esters is the so-called T/E ratio, where T stands for Testosterone and E stands for Epitestosterone. The body normally produces both of these hormones in a ratio of less than 6:1, although there are biologic outliers approximating one in 2,000 individuals. This test is used as an indirect measure of testosterone abuse. It has been challenged on a number of grounds including the fact that it has never been validated in women by a body of peer-reviewed science.

Currently, scientists are working on a so-called carbon isotope test, a method which would distinguish between natural testosterone from synthetic testosterone. This, too, is at the stage of requiring scientific validation.

What about the future? Synthetic hormones like hGH and EPO were the products of tremendous pharmaceutical advances. New drugs continued to be developed. Inevitably and unfortunately, they also will be abused by those determined to win at any cost and the scientific community will once again be challenged to detect such abuse. With genetic engineering now a reality, it is inevitable that the challenges to detect such abuse will be even greater than they are today.

Question 2. Can we accurately test for performance-enhancing drugs other than caffeine and amphetamines?

Answer. There is an array of performance-enhancing drugs that can be detected using current technology. For example, there are numerous synthetic anabolic steroids that are readily detectable in urine and have been for many years. Beta-blockers and masking agents such as diuretics and probenecid can be tested for, as can the over the counter stimulants and caffeine. With respect to over-the-counter stimulants, when the Controlled Substances Act of 1970 markedly limited the avail-

ability of the amphetamines, substances widely abused by athletes during the 1960s, athletes attempted to achieve an amphetamine-like stimulant effect by combining caffeine, ephedrine (or pseudoephedrine) and the popular diet pill, phenylpropanolamine. While federal law limited the combining of these substances into a single formulation, their ubiquity certainly continues to enable the mixing of these substances. The wide availability of the OTC stimulants and the large number of positive drug tests associated with their therapeutic use caused the NCAA to cease testing for these substances.

Question 3. Would you say it is the trainers or the athletes who are perpetuating this problem of performance-enhancing drug use?

Answer. There have been many self-reporting surveys that have tried to address the very important question: "What is the source of performance-enhancing drugs?" However, the question is more complicated than it would appear to be on first blush. For example, many of the drugs used by young people today are not used to enhance athletic performance but rather are used to enhance physical appearance.

Multiple sources of performance-enhancing drugs have been identified. Historically, sources have included friends, teammates, trainers, coaches and physicians. However, in recent years, the sources have increasingly become illicit. In the United States, most anabolic steroids in the illicit market are smuggled from other countries with little diversion of domestically produced anabolic steroids. Testosterone, primarily of foreign origin, is the anabolic steroid most frequently identified in the illicit market.

Federal legislation has also impacted on how individuals use drugs for enhancement purposes. For example, in 1988, federal law made it a crime, punishable by long prison terms, to dispense anabolic steroids outside a bona fide doctor patient relationship and for purposes other than for the legitimate treatment of a disease. Subsequently, the Controlled Substances Act of 1990 categorized anabolic steroids as Schedule III controlled substances.

However, the notoriety associated with Mark McGwire's use of androstenedione raised new issues. Androstenedione, a naturally occurring steroid hormone, is converted by the human body into the male hormone, testosterone. This simply biologic fact underscored the question: What is a drug?

Stated differently, the federal Dietary Supplement Health and Education Act (DSHEA) of 1994 resulted in the classification of androstenedione and related substances as dietary supplements, not as drugs. However, as previously noted, the Controlled Substances Act of 1990 had previously classified testosterone as a controlled substance. The net result, DSHEA enabled the circumventing of the Controlled Substances Act with respect to testosterone, a fact not lost on the manufacturers of androstenedione. Ingest a supplement, manufacture a controlled substance! The net result is that fact that androstenedione and related substances, such as 19-nor androstenedione have been promoted extensively on the web and elsewhere suggesting that one can get around the Controlled Substance Act with respect to testosterone by ingesting androstenedione. The result has been at least a quintupling of sales of androstenedione. It certainly might be argued this is an example of the law of unintended consequences and that unwittingly, federal law has facilitated the use of performance enhancing "drugs."

The reclassification of androstenedione and related substances at least as prescriptive drugs, if not as controlled substances, would send a clear message that these substances should not be taken without the advice, consent and prescription of a physician and further, such a reclassification would shift the burdens of proof of safety, efficacy and purity to the manufacturer. Data is readily available indicating that products sold as androstenedione has been shown to contain controlled anabolic steroids.

The November 16, 1999 Federal Trade Commission settlement with two marketers of androstenedione and related substances requiring them to place safety warnings on androgen supplement labeling and advertising is a step in the right direction.

RESPONSE TO WRITTEN QUESTIONS BY HON. JOHN MCCAIN TO NANCY HOGSHEAD

Question 1. Several of the witnesses testified about the need to educate young people about the perils of performance enhancing drugs. Do you think an educational program would be beneficial? If yes, at what level should athletes be targeted and when should it begin?

Answer: An educational program would be very beneficial. While testing (doping control) is absolutely essential, it alone cannot solve the problem. What's needed is a comprehensive approach that involves research, education, prevention, detection,

deterrence and international collaboration. Any one of these elements alone will not succeed.

Canadian research (National School Survey 1993) suggests that, on average, kids are making decisions about drug-use in sports at around 14, and as early as 11. (There is similar research in the USA.) The good news is that the research also shows that kids can be highly influenced toward drug-free sport based on the promotion of positive attitudes and beliefs concerning drug-free sport.

Question 2. During the hearing, some members expressed concern about ensuring the proposed IOC and USOC drug testing proposals protect the rights of athletes. Do you feel the current proposals will provide athletes with sufficient protections to ensure the testing process is both accurate and fair?

Answer: In order to ensure the rights of the athletes, there must be an independent agency that is publicly accountable. This means being open to athletes' and public scrutiny. The current IOC/USOC proposals are unclear in this regard.

The best way to protect athletes' rights is to develop programs based on athlete consent.

The IOC proposals do not approach the issue that way; the WADA seems primarily designed to provide services to international sport federations, which have their own interests (and conflicts of interest), and they do not approach athletes' rights in the same way. For example, many do not allow their athletes access to the International Court of Arbitration—the federation has to agree first. Rights of appeal and reinstatement are inconsistent. The criteria for appeals and reinstatements are also inconsistent, vague and not readily available to athletes. Processes (e.g.. hearings) for appeals and so on are often not independent of the original decision-makers.

As an asthmatic, I am very sensitive to this issue. There are certain medications that allow me to participate on the same playing field as my competitors, and other medications that I could take that may give me an unfair advantage by having a speed-like side effect. Some rules seem painfully harsh at first blush—Senator Stevens talked about receiving medication while he was unconscious that would have disqualified him from Olympic competition. (Of course, this might not be Alaska's loss.) While harsh, they may only be considered patently unfair when the rule is imposed from above, rather than by consent. Remember: Athletes suffer the effects of doping, of cheating. And it is athletes who are asking for tougher doping control.

There is also the question of athletes' privacy. For example, once you get past the scientific and ethical requirements to carry out blood testing, who are athletes going to trust to take and analyze blood samples? How will athletes be protected against these samples being used for purposes other than doping control?

There are generally two existing models in doping control: the European and North American. The European model is a very administrative, regulated approach, and does not necessarily protect the rights of the athletes in a way that we would find acceptable in North America. The European approach tends to work under the assumption that all athletes are cheating and that its the job of sport administrators to catch them. Doping control programs tend to run in a somewhat clandestine "spy versus spy" manner in order to "catch the cheats." New research and detection methods are kept relatively secret and are not published in peer-reviewed scientific journals. While this is slowly changing (very slowly), it is still the prevailing philosophy among international sport federations.

The North American model works on the assumption that all athletes are drug free unless there is a clear and convincing evidence to the contrary. Doping control programs are designed to help athletes remain drug-free, monitor for doping, provide general deterrence based on an "anyone, anytime, anywhere" approach, and protect athletes' rights to natural justice/due process. The North American model tends to rely on outside expertise, debating the issued publicly and trying to develop a collective agreement within the sport community on how best to deal with doping.

In terms of accuracy of tests, the doping control detection science is quite rigorous and sound. The problem lies in the accreditation of laboratories (currently handled by the JOC, involving directors of laboratories who obviously have conflicts of interest). A group of countries have successfully developed International Standards for Doping Control recognized by the International Standards Organization which has issued a "Publicly Accessible Specification" status to these standards. Among other things, these standards are specifically designed to protect athletes' rights, including measures to ensure that procedures and processes are accurate, fair, well recorded and open to scrutiny. While the IOC initially suggested the WADA would adopt these standards, that is no longer the case.

Please do not hesitate to contact me if I need to clarify any of these answers. Thank you for your patience!

RESPONSE TO WRITTEN QUESTIONS BY HON. JOHN MCCAIN TO RICHARD W. POUND

Question 1. I have seen a recent survey that suggests 71% of Americans are less likely to watch the Olympics if the athletes are using performance-enhancing drugs. What effect would such a reduction in American viewers have on the IOC monetarily?

Answer. I am not familiar with the survey to which you refer.

I can say, however, that the research conducted on behalf of the IOC shows that the public in the United States and the other ten countries included in our surveys overwhelmingly supports the ethical approach to sport that the IOC exemplifies. People respect the efforts of the Olympic Movement to differentiate itself from professional and other unregulated sport that do not reflect the same commitment and effort.

I believe that American viewers are, in essence, no different from others around the world that want Olympic sport to be drug-free and that they both recognize and support efforts to make this dream a reality. I believe they will support the cooperative efforts of governmental and sport authorities to further this goal, through education and prevention.

The monetary effect on the IOC, were the scenario to which you refer actually to occur, is difficult to gauge. In the first place, the survey appears to reflect only a reduced likelihood to watch the Games, not a decision to refuse to watch. I presume that the survey was conducted during the recent period of adverse publicity regarding doping in sport. I would hope that, once the new arrangements we contemplate for the fight against doping in sport are in place and operating, there would be a much higher level of public confidence that the Olympic ideals are being observed.

Many of the existing contracts apply to the Games as far away as 2008, so they are already in place. I cannot predict whether contracting parties might seek to abrogate such contracts, nor on what legal basis they might seek to do so. The IOC itself receives only a small portion of the revenues derived from such contracts, since it acts, essentially as a granting agency to Organizing Committees, national Olympic committees (including the United States Olympic Committee) and international sports federations.

Question 2. The IOC has been criticized for its policy of self-governance and lack of external oversight. Is the IOC willing to risk losing American sponsors in order to continue on the current path?

Answer: It is certainly true that the IOC has been criticized for its policy of self-governance and lack of external oversight. Some of this criticism has been helpful and constructive; some has been based on a lack of understanding of the role of the IOC and the need for its independence and has not been helpful.

The IOC has acted quickly to institute significant reform, especially in matters of governance, and many of these reforms are already in place, including an externally-dominated Ethics Commission and a Code of Ethics applicable, *inter alia,* to IOC members. Others will be adopted by the special Session of the IOC that will take place on December 11 and 12, 1999. These reforms have been widely publicized, but, should you not have the contents of them available, I would be pleased to provide copies of the documentation for your review and consideration.

The IOC does not wish to lose any sponsors, American or otherwise, as a result of improper conduct and is determined to make the changes necessary to demonstrate that it is the appropriate body to direct the Olympic Movement for the future. I believe that the reforms we have instituted and that we expect to adopt will demonstrate this commitment to sponsors and the public-at-large.

Question 3. I understand that in the case of drug violations reported during the Atlanta Games, the Organization did not seek to pursue the matter because the testing technology used, a high resolution mass spectrometer, was not convincing. Does the IOC lack confidence in this testing method because of its technical inaccuracy, or because the standards for the Court of Arbitration in Sport are more demanding?

Answer. The operations of the laboratory used during the Atlanta Games were, as I understand it, deficient in certain respects. The IOC was advised, in writing, by the IOC accredited laboratory in Cologne, Germany that the procedures used in respect of certain samples were unreliable. Given possession of this information, it was the judgment of the IOC Executive Board that, as (in effect) prosecutors, it would have been morally reprehensible to proceed with efforts to disqualify athletes without disclosing to the athletes involved our possession of such advice. In addition, any disqualification that might have been pronounced in such circumstances would almost certainly have been overturned by the Court of Arbitration for Sport. This led to the IOC's decision, in those particular circumstances, not to proceed.

The technology, generally, has proven to be quite reliable and, unless some technology, demonstrably more reliable is developed in the future, I believe that mass spectrometry of urine sample will continue to be used. This technology does not purport to apply to all substances and new tests are being conducted to allow detection of other substances at a level that provides the necessary standards for due process and the protection of athletes' rights.

Question 4. How does this testing technology compare to other methods used in the past?

Answer. It is the same basic technology, with some refinements to provide for more accuracy in respect of certain substances.

Question 5. The Savannah International Training Facility in Georgia provides Olympic-caliber athletes the opportunity to train and become the best athletes they can be. Currently there are athletes from across the globe training at this facility. What role does this Center play in the training of athletes to compete in future Olympic Games? What are the current contractual agreements with the Center so far as reimbursement for the training and housing of athletes from the IOC? What has been the cause for the recent disputes concerning [these] reimbursements?

Answer. I am not personally familiar with the Savannah International Training Facility in Georgia nor with its particular mandate, funding model, objectives and expectations.

I do know that the IOC, through its Olympic Solidarity Programme, provides scholarships to aspiring athletes in many countries throughout the world. These may contemplate training in countries other than their own and reimbursement of certain types of expenses within the limits contemplated by the terms of each scholarship.

I have, for purposes of responding to your question, made inquiries of the IOC secretariat responsible for the implementation of the Olympic Solidarity program. In the case of those athletes receiving Olympic Solidarity scholarships and who may be attending at the Savannah Facility, the IOC agreed to pay a fixed amount per month in respect of services rendered at the Savannah Facility for each such scholarship athlete. This is similar to the agreements that Olympic Solidarity has with other high level training centers. I am not aware of any failure of the IOC or Olympic Solidarity to comply fully with any such obligations.

I understand that the Savannah Facility intends to close in November 1999 and have had sight of some correspondence in that regard. It appears there has been some misunderstanding on the part of the Savannah Facility as to the role of Olympic Solidarity and the extent of its involvement therein. The IOC is not and has not been a partner in any facility of this nature. The agreement with the Savannah Facility was unequivocal in providing that the Facility was not entitled to designate or refer to itself as an official "Olympic" training center or derivation thereof. Olympic Solidarity is prepared to fund certain scholarship athletes for a portion of their training and living costs and has done so on many occasions, but that is the extent of its financial commitments.

If this subject, as it relates to the IOC, is a matter of further concern to your Committee, I would be pleased to pursue any additional line of inquiry that you may suggest.

Question 6. Please tell me which of the World Anti-Doping Agency's functions will be completely independent from the IOC? For example:

Answer. Please bear in mind that the Agency, although legally constituted at the time of this response, has not yet met, so my answers should be taken against that background.

- **Will the new Agency collect specimens?**

Answer: I should think that, initially, the Agency will rely upon existing national agencies (e.g., in Norway, Australia, Canada, Sweden, France, Italy) to collect the specimens. Once the Agency is fully developed, it may well be that it will have its own capacity to collect specimens, but this will have to await the development and staffing of the Agency, which should occur by early in the year 2000.

- **Will it conduct the testing?**

If, by this question, you mean that the Agency will do the analysis (as opposed to collection of specimens), I should think that the analysis of specimens will be conducted in accredited laboratories, the accreditation of which is presently granted by the IOC, but which will be granted in future by the Agency. If you mean who will determine which athletes are to be tested, that will be a matter to be worked out with the international federations, who will be in a position to identify the "high

risk" athletes for purposes of out-of-competition testing. In-competition testing will be conducted according to the rules of each international federation or other governing authority of the competition (e.g., the IOC in the case of the Olympic Games or the IAAF in the case of the World Athletics Championships). In the case of most professional sports, as you know, the Olympic Movement has no jurisdiction over such organizations (e.g., the NFL, NHL, MLB or NBA).

- **Will it prosecute the athletes that have been charged?**

Answer: The "prosecution" of athletes will be done by the responsible organization, on the basis of the results of the tests. Thus, if a track and field athlete has tested positive, the international federation (IAAF) has the jurisdiction to impose the sanction. At the Olympic Games, the IOC will impose its sanction of disqualification and withdrawal of the medal, if any.

- **Will it sanction athletes who are found guilty of using performance-enhancing drugs?**

Answer: The sanction will be imposed by the responsible international federation or by the IOC at the Olympic Games. In cases of a positive test at the Olympic Games, there will be two sanctions: one by the IOC (disqualification and withdrawal of medal) and by the IF (suspension for two years, etc.). In general, this model would apply with other Games, such as, for example, the Pan American Games, except that it would be a combination of PASO, as the governing authority of the Pan American Games, and the relevant IF.

Question 7. General McCaffrey called into question the level of international support for the IOC's proposal. Do you believe you have the support of international governments and if you do not, what is the IOC doing to develop support?

Answer. I believe there is widespread support for the IOC's proposal of the WADA as an independent agency in the fight against doping in sport and the demonstrated fact that the Agency will not be under the control of any party involved.

The remaining element of government participation is how best to integrate the national governments into the governance structure of the WADA. Clearly, it will not be possible to involve all 200 national governments on a daily basis. We will work diligently to find an appropriate formula, which may be, for example, on a continental basis or to involve the host countries of past, present and future Olympic host countries. I do not want to suggest that a definitive solution has yet been found, but we will work with governments to find the most appropriate mechanism for the purpose and will propose it to the WADA at the earliest opportunity. I understand that a working group has been established among national governments to seek ways to provide the essential input to the process and I have been in direct contact with General McCaffrey and the Canadian sports minister for precisely that purpose. I hope we can reach a mutually agreeable solution prior to the first meeting of the WADA. I believe there is an understanding that no single party has all of the answers or a cure-all solution, but there seems to be a common purpose and commitment to finding a solution that works for everyone.

I should add that, for the first time, I believe all the parties necessary to finding a solution to the problem of doping in sport are ready and committed to doing whatever is required to bring about that solution. This could be a pivotal moment for sport and we must be ready to seize the opportunity that this confluence represents. The Olympic Movement pledges its full and complete support in this regard and I am sure that governments are of like mind.

I hope these are responsive to your questions, but if there is anything that I may have omitted or misunderstood, please do not hesitate to contact me and I will do my best to complete the answers.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN MCCAIN TO SCOTT SEROTA

Question: In the Healthy Competition Foundation's Survey on Performance Enhancing Drugs, done in cooperation with Blue Cross/Blue Shield, there are some alarming statistics that surface: 1-in-4 kids in this country know of other children using performance enhancing drugs. Does your survey draw any correlation between the use of these drugs by children and what they have seen done by some international stars in the Olympics and other athletic competition?

Answer. Speaking on behalf of the Blue Cross and Blue Shield Association (BCBSA) and the Healthy Competition Foundation, Mr. Serota pointed out that research commissioned by BCBSA revealed alarming statistics that one in four teenagers in this country know of other teens who use performance-enhancing drugs.

While our research did not draw any direct correlation between the use of these drugs by teens and what they have seen done by international Olympic athletes or other highly visible athletic competitors, our research found that the respondents favorably perceive Olympic athletes. Respondents also noted that athletic celebrities like Michael Jordan, Ken Griffey, Jr. and Mark McGwire top the list of favorite athletes. These findings lead us to believe that Olympic athletes and celebrity athletes serve as role models for America's youth.

RESPONSE TO WRITTEN QUESTIONS BY HON. JOHN MCCAIN TO WILLIAM HYBL

Question 1. The USOC's proposed Independent Organization has been criticized for lack of independence. Some people are concerned that the selection process is not independent because the members of the USOC family select the members of the organization. Do you plan to change the selection process to address this criticism?
Answer: The criticism is not warranted. The six Public Sector Members of the Board of Directors of the United States Olympic Committee, who will be selecting five of the nine Board Members of the new drug externalized agency, serve as trustees of the "public interest." These six independent directors will seek broad public input and will encourage outside entities and individuals to make nominations for the new agency's board. General Barry R. McCaffrey, Director of the Office of National Drug Control Policy, has been invited to make nominations. As to the role of the other four board members, the Task Force recommended that the selections by the NGB Council and the Athletes' Advisory Council not be limited to current members of those two Councils, but consideration should be given to all nominees of the highest caliber. Any criticism of this process should be reserved until after the Board of the new agency is selected. This will be the real test on the issue of independence.

Question 2. It is my understanding that the USOC's out-of-competition testing program has less than a 75% success rate in actually testing athletes. How will the new program ensure that out-of-competition testing will actually take place?
Answer: The No Advanced Notice ("NAN") testing program is a year-round program in which the testing collectors show up at the athlete's doorstep, training facility, etc. to conduct unannounced tests. The 75% figure refers to first attempts to test the athletes. When not contacted the first time, the athlete remains in the NAN pool and is subsequently tested regardless of the number of attempts required. USOC rules require all athletes to notify their respective NGB of any changes of address within 72 hours. It is understandable that an athlete may not be at the designated address when the collector comes to test. For example, an American Track and Field athlete training and competing abroad is very difficult to contact on a first attempt. The new agency will continue the NAN testing program, with the number of tests significantly increased.

Question 3. The adjudication process envisioned in the USOC Select Task Force Report does not specify who will represent the athlete in the process. Will the USOC provide the athletes with representation and will that representation include expert witnesses?
Answer: Athletes are free to select their own counsel. This is the current practice and the Task Force felt there was no need for a change. Also, the athletes made it clear that it was imperative that an individual accused of a doping offense be entitled to select his or her own attorney. However, the USOC does have a fund through which athletes who are successful in defending themselves in doping cases may seek reimbursement of reasonable defense costs.

October 14, 1999

MEMORANDUM FROM GARY I. WADLER TO HON. JOHN MCCAIN,

Doping in Sport: From Strychnine to Genetic Enhancement, It's a Moving Target

I want to begin today by taking a moment to recount an event that took place more than 100 years ago.
The year was 1886, a period characterized by the genesis of new industries and the creation of great wealth. A period when we believed anything was possible. A period, in short, much like today.
1886 is a significant year for our conference because it marked the first recorded fatality from a performance enhancing drug.
An English cyclist died of an overdose of what is only known as "trimethyl," during a race between Bordeaux and Paris.

Of course, in the more than 100 intervening years, doping in sports, like the rest of technology, has grown in scientific and ethical complexity.

Indeed, so complex is this issue that we will see later in my remarks how we cannot even agree on precisely what constitutes doping—and these dueling definitions point to the heart of the problem.

The multi-stranded nature of the subject of doping is also reflected in the diversity of backgrounds of the participants here today.

In fact, looking over the list of this conference's attendees, I noted that only four participants in this conference are physicians. That's not as surprising as it might seem on the surface. It reflects the longstanding traditional orientation of the medical establishment.

Back when I was in medical school, our focus was on how drugs benefitted patients. After all, by statute, physicians are the ones who write prescriptions. Physicians are the conduit for new drug development with the scientific community.

Our principle concern, as physicians, was, and is the proper use of drugs, not their abuse.

Doping in sports was a subject that only a handful of physicians cared about. I suspect we barely spent 30 seconds on the subject in pharmacology. However, the same as with other forms of drug abuse, that is, sadly, no longer sufficient.

As my opening story suggests, the use, misuse and abuse of drugs have long shaken the foundations of both amateur and professional sports.

Competition, at its most basic level, appears to drive athletes to do whatever it takes to win. Perhaps the need to win at all costs is a Darwinian response, an adaptive mechanism, but we will leave that thought for another day.

We've seen that the problem is not new. History demonstrates that since recorded history began, athletes sought a competitive advantage by using various substances we call ergogenic aids.

Even as long ago as the 3rd century B.C., the Greeks, inventors of democracy and the Socratic method, were known to ingest hallucinogenic mushrooms to improve athletic performance. In the Roman era, gladiators used stimulants in the famed Circus Maximus (circa 600 B.C.) to overcome fatigue and injury, while other athletes experimented with caffeine, alcohol, nitroglycerine, opium and even the potent stimulant, strychnine.

Fast forward.

A new inflection point of abuse appeared in the 1950s with anabolic, androgenic steroids.

How prophetic were the words of Olga Fikatova Connolly, when in 1956, she proclaimed: "these awful drugs (anabolic steroids) have changed the complexion of track and field."

So did amphetamines change sports.

In the 1960s, the Danish cyclist, Knud Jensen and the English cyclist, Tommy Simpson died when their search for one kind of speed brought them fatally to another.

Remarkably, though the testing of horses for performance enhancing drugs dates back to 1910, the testing of humans for drug use in sports is a phenomenon of only the past quarter century.

It was as recent as 1965 that Arnold Beckett first applied sensitive gas chromatographic techniques to monitor drug abuse at an athletic event, the Tour of Britain cycle races.

And it was only in 1968 that the IOC medical commission actually published a banned list of drugs for the 1968 winter Olympics.

The introduction of the banned list was coincident with the development of new technologies in the laboratory and this confluence set the stage for a 35-year contest between those determined to gain an unfair athletic advantage by using drugs and the forensic detectives of the laboratory.

It's a struggle between the manipulators versus the investigators and each side's armaments grow more advanced each day.

Since the 1960s, an explosion of science and technology have brought countless new drugs to market, black and otherwise.

In what seems to be a variation of Newton's third law, which states that "For every action there is an equal and opposite reaction," it appears as if for every new drug that is developed, some athlete, determined to gain athletic advantage, will misuse or abuse that drug. This should come as no surprise. We live in a culture where individuals seek to maximize performance by what ever means available.

Let's examine steroids as an example of Newton's third law meeting sports.

First isolated, structurally identified, and synthesized in the 1930s, anabolic steroids were used to promote a positive nitrogen balance in starvation victims and

as a means of hormone replacement for those deficient in testosterone by means of disease or trauma.

New, positive applications of steroids continue to emerge. As recently as April 1999, two articles were published in J.A.M.A. exploring the therapeutic uses of anabolic steroids in the management of aids, and in dialysis patients.

Unfortunately, since its initial isolation in the 1930s, it didn't take long for anabolic steroids to become widely misused and abused by athletes—a problem that continues to plague sports to this very day.

And as science marches on, abuse is not far behind.

Some twenty years have passed since the first recombinant DNA molecules were constructed at Stanford University. Since then, the applications of genetic engineering, that is the artificial manipulation of the genetic code, have been numerous.

The techniques of altering the DNA of cells in order to change or produce biologicals has given rise to human growth hormone and to erythropoietin, to name but a few. Recombinant human growth hormone means normal height for children otherwise destined to be dwarfs, but for the drug abusing athlete it means bigger, albeit not stronger, muscles. Erythropoietin means renewed vitality for those with anemia, but for the drug abusing athlete, it means greater endurance.

The dramatic abuse of the latest biotechnology breakthroughs crystalizes the need for an accepted working definition of the word doping.

This definition sits at the heart of any doping control program. Doping, a term that derives from the Dutch word "doop" referring to a viscous opium juice that was the drug of choice of the ancient Greeks.

In 1963, the Council of Europe established a definition of doping which the IOC slightly modified and adopted. It defined doping as "The administration of or use by a competing athlete of any substance foreign to the body or any physiologic substance taken in abnormal quantity or taken by an abnormal route of entry into the body with the *sole intention* of increasing in an artificial and unfair manner his/her performance in competition. When necessity demands medical treatment with any substance which, because of its nature, dosage, or application is able to boost the athlete's performance in competition in an artificial and unfair manner, this too is regarded as doping."

It is a definition that I happen to like, but a definition that has been abandoned. According to the *IOC Medical Code* currently posted on the IOC web site, doping is presently defined as "the use of certain substances and methods *intended* to enhance and/or having the effect of enhancing athletic performance, such practices being contrary to medical ethics." However, like the banned drug list itself, the definition of doping is a moving target.

And speaking of lists, the banned drug list must be based on a generally recognized body of science, and where one does not exist, it must be based on some clearly reasoned rationale, including issues related to laboratory science. I am sure we would all agree that the current IOC list falls short in this regard.

Most recently, *the Olympic Movement Anti-doping Code,* as articulated in February of this year in The *World Conference on Doping* defined doping "as the use of an *artifice,* whether substance or method, potentially dangerous to athletes' health and/or capable of enhancing their performances, or the presence in the athletes' body of a substance, or the ascertainment of the use of a method on the list annexed to the Olympic movement anti-doping code."

It is a good thing we are holding this conference in a law school!

Although I personally prefer the first definition of doping that speaks of sole intent, it is still problematic. The linchpin of that definition is the notion that we can actually assess one's intent, both qualitatively and quantitatively.

About intent, Peter Marc Latham in the early 1800s wrote: "Poisons and medicines are the same substance given with different intent."

Since there is no way to measure an athlete's intent, a surrogate measure, the testing of bodily fluids, especially urine, has become a marker for assessing intent.

However, the neuro-chemical-biological pathways from what is on an athlete's mind, call it intent or call it artifice, to what comes out in his or her urine is tortuous and replete with physiologic treachery.

It has led to expensive and explosive litigation centered around the concept of strict liability, a subject I am sure we will hear much more about at this conference.

Creatine underscores a second problem when defining doping.

All would agree, that in recent years, the physiologic substance creatine has been taken in large amounts by an extraordinary large number of athletes, a process called creatine loading.

All would agree that at least in certain high intensity, short duration exercises, it enhances performance.

But, to date, there is no practical way to ban the practice and many would argue that beyond pragmatism, there is no definitional basis to ban it. Not only is creatine naturally produced by the body, it is widely found in a variety of food stuffs, such as meat and fish, thus raising the question: when is a physiologic substance considered to have been taken in abnormal quantity with the intent of gaining an unfair athletic advantage?

Employing urinary cut-off levels to eliminate its abuse remains a possibility. However, because creatine is so ubiquitous, the use of urinary cut-off levels probably would devolve into little more than an attorney's field day.

Inherent in any definition of doping is the notion that the technology exists that permits the definitive detection of substances foreign to the body or physiologic substances taken in abnormal quantity. Good luck!

Because advances in biotechnology have outpaced advances in laboratory science, the detection of certain drugs or biologicals is today either impractical or impossible. To wit, human growth hormone, erythropoietin and most recently, IGF-1.

IGF-1 is a polypeptide that is indirectly responsible for most of the growth-promoting effects of hGH. It is associated with a plethora of physiologic functions many of which are shared with hGH. These include increased protein synthesis, decreased protein breakdown and increased fat metabolism—all attractive to athletes.

Its approved uses in the United States are for a certain form of dwarfism and a rare form of insulin resistant diabetes. Like hGH, IGF-1 is not detectable with current screening methods and like hGH it needs to be administered intramuscularly. One of the newer performance enhancing drugs, relatively little is known about its abuse patterns, cost, availability and long term side effects. The cost of IGF-1 is about $3 thousand per month and counterfeit products are problematic.

It is noteworthy that phase ii trials are currently underway utilizing a novel complex of IGF-l and its major binding protein BP-3 to treat the degradation of muscles in a variety of medical conditions.

Those are some of the drugs we know but what about those we don't know? New drugs that are not listed. Hem Verbruggen, head of International Cycling Federation has suggested that "undetectable drugs are 90 percent of estimated doping cases."

We were told that in Atlanta, performance enhancing drugs would meet their match in high resolution mass spectrometry. And yes, it is an effective technique—but when investigators introduce something so new, it often takes a number of years for the technology to withstand legal challenges. To wit, O.J. And DNA. That's why the Atlanta games were clouded by the presence in the urine of the "new" stimulant drug, bromantan, and why political machinations resulted in five athletes being cleared of a doping offense by the on-site court of arbitration in sport.

Too often, it seems, we define international sports competitions and events, not by the city or country in which they were held, but by the drug that made the headlines—the Clenbuterol Olympics, the Bromantan Olympics, the Growth Hormone Games, the Steroid Pan Am Games, or the EPO Tour de France, or as some have suggested the Tour des Drugs.

There is good reason for this. If we look at the number and kind of new drugs that have come to market since the introduction of doping control in the Olympic movement in 1960s, the number is staggering.

This complicates life for every athlete who is faced with taking a drug or a biological substance for any reason whatsoever. He or she must first ask a series of questions: Is it banned? Will it adversely affect my performance and is it safe?

Those determined to gain an unfair advantage will ask the additional questions: Does it work? How does it work? Can it be detected during competition or out of competition, and perhaps, he or she might even be concerned about its long and short term safety?

That's today. But what about tomorrow? What is around the corner—brake drugs, blood substitutes, genetic manipulation? It is not a matter of a brave new world, but of brave new worlds.

Cyproterone acetate, also known as a Cyprostat and Androcur, is a synthetic steroidal antiandrogen and contraceptive hormone used in the treatment of prostate cancer in men, hair loss in women and precocious puberty in children.

Not available in the United States, this so-called "brake drug" which has been associated with the development of liver tumors has allegedly become popular amongst female gymnasts because it puts the brakes on sexual development keeping the hips narrow and the breasts small.

And just as researchers are closing in on a method to detect the abuse of EPO, a potentially dangerous new EPO replacement, which is likely to increase endurance, has surfaced.

The substance is perfluorocarbon, or PFC, a substance with enormous oxygen-carrying capacity. It has been suggested that the abuse of this synthetic blood—like substance first surfaced in Nagano where it had been allegedly abused by cross-country skiers and speed skaters.

The International Cycling Federation has issued warnings about PFC to its national federations.

Although not officially on the market in the United States, there is active research into PFCs for legitimate medical use. PFC can significantly increase endurance by delivering more oxygen to working muscles.

With the global market for blood substitutes probably exceeding $2 billion, the number of new products will undoubtedly continue to grow. For example, active research is continuing using purified bovine hemoglobin rather than products of human origin or the use of PFCs to carry oxygen, and work continues on genetically engineered blood substitutes.

As we move into the next millennium, we are at the cusp of gene therapy for the correction of defective human genes that cause or promote certain genetic diseases, and designer genes cannot be far behind. Human skin has already been genetically engineered.

Combining cloning with genetic engineering, so called germ line therapy, will make possible the passage of genetic changes from one generation to the next.

It was only six months ago that scientists achieved one of the most coveted goals in biology, isolating from human embryos, a primitive cell, called a pluripotent stem cell, that can grow into every kind of human tissue, including muscle, bone and even brain.

Already stem cells have been used to grow human heart muscle cells which beat in unison in a petri dish, as well as nerve cells, bone, cartilage and skeletal muscle.

To insure that stem cell research is conducted in an ethically sound manner, just last month, an NIH special working group was formed by the director of the NIH to develop research guidelines.

If this sounds like the twilight zone, think twice. Only five months ago, researchers at the University of Pennsylvania discovered a form of gene therapy to counter muscle degeneration associated with aging.

The injection of this gene limits the effect of IGF-1 to the skeletal muscles into which the gene is directly injected obviating any adverse effects of IGF-1 on the rest of the body.

With this technique young mice experienced a 15% increase in muscle strength, and old mice a 27% increase. Accordingly, the gene has been dubbed the "fountain of youth" for skeletal muscles.

But in the world of doping, milestones become millstones.

The author of the original study has already expressed concern that this technology may be sought out by athletes who are seeking a competitive edge. Interestingly, muscle strength increased without any exercise and there was no way to detect the use of gene therapy from analyzing the blood.

Trials are to begin in monkeys and, in the not too distant future, the first human study may be done in people with a form of muscular dystrophy.

And in another study, IGF-1 producing genes have been successfully introduced into mouse embryos. Is it a stretch that with the new technologies of genetic engineering that we are arming parents with the tools to create designer offspring whether inside the uterus or out of it?

Of course, the ethical, moral and biological debate transcends sports. Indeed, it touches on the transcendent as George Wald, the Nobel Prize-winning biologist and Harvard professor, opined: "Recombinant DNA technology (genetic engineering) faces our society with problems unprecedented not only in the history of science, but of life on earth. It places in human hands the capacity to redesign living organisms, the products of some three billion years of evolution."

We stand at the brink of an uncertain future. But I personally believe that the unpredictability and the velocity of change are not an excuse for reserving judgment about some profound distinctions that should fundamentally govern our perspective on the role of sports in our social fabric.

With that in mind, I would like to conclude by quoting the columnist George Will who reminds us: "A society's recreation is charged with moral significance. Sport—and a society that takes it seriously—would be debased if it did not strictly forbid things that blur the distinction between the triumph of character and the triumph of the chemistry."

And finally, in order that we not blur the distinctions George Will speaks of, what we must do in this complex and challenging environment, is confront the issues related to doping from the broadest possible perspective.

Tempting as it is to get consumed by the intricacies of anabolic steroids, EPO or hGH, I urge you to think expansively and inclusively, to keep the big picture in mind, and to maintain an aerial view, for these drugs are only specific examples that stretch along the continuum from strychnine to genetic engineering.
Only in that way can we hope to forge a consensus, a unified, expert-wide point of view that will help us put the details and the subtleties in proportion.
Stay tuned.

October 13, 1999

MEMORANDUM FROM DORIANE LAMBELET COLEMAN

Re: Evaluation of Proposals by IOC and USOC to Reform their Doping Control Programs

In preparation for my testimony on October 20, 1999, before the United States Senate Committee on Commerce, Science, and Transportation, I have reviewed the IOC and USOC proposals to reform their doping control programs. The evaluation which follows is based on the proposals contained in the following documents of the IOC and USOC, which were the most recent that I was able to obtain:

- With respect to the IOC, I have reviewed the document designated as "Draft 5—9th September 1999, Foundation: World Anti-Doping Agency—Statutes," and the document designated as the "Olympic Movement Anti-Doping Code 1999" with an effective date of January 1, 2000.
- With respect to the USOC, I have reviewed the *Special President's Newsletter Number Six,* dated September 28, 1999, and the *Report of the USOC Select Task Force on Drug Externalization,* dated September 30, 1999.

1. SUMMARY EVALUATION OF THE IOC'S PROPOSAL

The IOC's proposal can be easily characterized as yet another false start. It is primarily show over substance, and does not seriously respond to the public's call for the Olympic Movement's anti-doping program to be made independent of and externalized from the IOC and the subsidiary organizations within that Movement.

The proposal suggests the creation of a new entity that is not formally tied to the Olympic Movement, which it calls the "Foundation," but it does not give that Foundation any real authority whatever in connection with the Olympic Movement's anti-doping program. Thus, for example, the Foundation would not do or cause to be done scientific research relevant to the anti-doping effort; it would not develop a new drug testing program, even one based on the existing program; it would not do drug testing; it would not do sample analysis (or cause laboratories that it would accredit pursuant to standards that it would establish); it would not evaluate suspicious samples; and it would not prosecute athletes charged with positive tests. It would not even know about the existence either of suspicious samples or positive tests. In sum, the proposal suggests nothing more than the creation of a blue ribbon advisory board controlled by the IOC and its subsidiary organizations.

As I will detail below, the proposal suggests that the Foundation would have a hand in "supporting," "promoting," or "coordinating" aspects of the Olympic Movement's anti-doping efforts, but the responsibility actually to make decisions and to undertake the efforts would continue to reside exactly where they are today, namely with the IOC and the Olympic Movement generally. Put another way, the IOC's proposal would neither externalize nor make independent of that organization any significant anti-doping responsibilities.

When one considers the additional fact that the proposal suggests a governing structure for the Foundation that leaves the balance of power in the hands of the Olympic Movement so long as it is willing to pay for that power (quite literally), the illusory nature of the proposal as a whole becomes crystal clear.

A. *The Principal Merits of the Proposal*

Having said this, the IOC's proposal does contain one positive aspect: It reflects that, for the first time, the IOC is willing to consider some truly independent observation of and participation in some aspects of the Olympic Movement's anti-doping program. It does this by allowing for individuals on the Foundation's Board to be "designated by the intergovernmental organizations, governments, public authorities or other public bodies involved in the fight against doping."

B. *The Principal Defects of the Proposal*

As I suggested above, the principal and overriding defect of the IOC's proposal is that it neither externalizes nor makes independent of the IOC or the Olympic Movement any significant aspect of the anti-doping program. As I will detail below, the Foundation would neither have the independent authority to do anything—apart from "promoting" anti-doping efforts, and "recommending" measures to the IOC, for example—nor would its governing Board be independent of the IOC or the Olympic Movement, as it is explicitly contemplated that the balance of power would remain with the IOC so long as that organization was willing to pay for it. Needless to say, given that the calls for reform uniformly required both externalization and independence of the anti-doping program, this proposal is a non-starter. Given this, it is my view that the proposal is not even a good-faith effort to respond to those calls for reform, and cannot legitimately be the basis for an honest negotiation between the IOC and those in and out of government who seek that reform.

The Foundation would be located in Switzerland, the seat of the IOC. To the extent that the appearance of independence matters, this is not an appropriate situs for the new agency.

- The Foundation would not assume the doping control responsibilities of the Olympic Movement. Indeed, it appears that all the Foundation would be authorized to do would be to "promote," "coordinate," and "reinforce," "encourage," and "support" the anti-doping efforts of others, and to "organize" persons and entities interested in the fight against doping. Reading the Foundation document together with the proposed Anti-Doping Code, it becomes clear that any real authority the Foundation might have is illusory, as the Code repeatedly refers to the Foundation's ability only to "recommend" anti-doping measures to the IOC's Executive Committee, including updates to the list of prohibited substances and standards for laboratories. Ultimately, the significance of this lack of authority is that the IOC's proposal does not contemplate the externalization of any significant aspect of its anti-doping program.
- The Foundation Board would be comprised of at least thirteen individuals from the Olympic Movement, including six designated by the IOC itself (three presumably by its Executive Committee or President, and three by its Athletes' Commission), three from the International Federations, and three from the Association of National Olympic Committees. The document specifically provides that there will be an equal allocation of power on the Board between those members who are from the Olympic Movement and the public authorities who would comprise the remaining members. Again, to the extent that the reform effort is intended to result in independence from the stakeholders, this is not accomplished in the IOC's proposal.
- The Foundation document also specifically provides that members from the Olympic Movement would out-number the public authority members by at least one so long as the Olympic Movement contributes more of the operating budget of the Foundation relative to the contributions of the public authorities or others. The Foundation Board also would be authorized to select its own "chairman," etc. Because Mr. Samaranch has already announced that in exchange for a seat on the Board, he intends to contribute $25 million from the IOC's coffers to start the Foundation, unless the public authorities or others are willing to ante up $25 million plus $1, the Olympic Movement and perhaps even Mr. Samaranch himself will control the Foundation. This result would bring the matter of the Olympic Movement's anti-doping program back to ground zero, and nothing will have been accomplished.
- The Foundation Board is required to meet only once a year. Given the complexity and multitude of problems that need to be addressed, this is clearly insufficient. Moreover, when considered in conjunction with the provisions that would establish an Executive Committee of the Board, which would actually run the Foundation, it is at best unclear that the Board is intended to do anything of real substance.
- The Foundation would be entitled but not required to act in consultation with legal and scientific advisors. Given that the issues that plague the Olympic Movement's anti-doping program lie squarely at the intersection of law and science, it must be required to act in consultation with such experts.
- The Foundation would be required to publish reports of its activities only once each year. Given that transparency is a real concern, this proposal is certainly deficient.
- The proposal contemplates that "the actual management and running of the foundation" would be done by an Executive Committee of the Board, comprised of five-to-nine members selected by the Board itself. Assuming that the majority

of the Board is comprised of individuals from the Olympic Movement, it is entirely possible, if not probable, that the entire composition of the Executive Committee would be individuals from the Olympic Movement. Again, this is back to ground zero; nothing will have been accomplished.

2. *SUMMARY EVALUATION OF THE USOC'S PROPOSAL*

In stark contrast to the IOC proposal, it is clear from the text of the USOC's proposal that at least its Task Force on Drug Externalization is seriously committed to effective drug testing, and to the principle of externalization. In this latter regard especially, the USOC's proposal is strong: It contemplates the externalization of *all* aspects of the USOC's anti-doping efforts. Thus, the Task Force has suggested that the new agency would have all the authority that the USOC itself now has, in conjunction with the NGBs, to undertake or commission relevant research; to conceive an effective drug testing program; to do drug testing; to investigate suspicious samples; and to prosecute athletes whose samples are positive. It is evident that the Task Force has done a thorough and thoughtful job in proposing its version of a new anti-doping program to the Executives and the Board of the USOC. Thus, while this proposal is defective in certain respects which are important and which I detail below, it is in general a very good beginning, and the Task Force ought to be commended on its effort.

A. *The Principal Merits of the Proposal*

1 The domestic anti-doping program would be completely externalized (with the exception of laboratory analysis).

- The NGBs also would be out of the business of drug testing and particularly of prosecuting their own athletes.
- Substantial monies would be devoted to the effort, including money for peer-reviewed research, especially relating to the endogenous substances, EPO, hGH, and testosterone.
- All sample collection and testing would be conducted in accordance with the relevant International Standards Organization (ISO) Standards.
- There would be a substantial increase in no-notice testing of athletes who are subject to the anti-doping program.
- The adjudications process would be developed independently of the Olympic Movement, namely by AAA in conjunction with CAS.
- All drug testing results should be screened by experts for probable cause before a prosecution is commenced; and that the work of the new agency should be transparent.
- That positive and prophylactic educational measures are essential to reinforce the ethical culture of young athletes in particular.
- That a partnership with Olympic sponsors and the Federal Government is appropriate in this area.

B. *The Principal Defects of the Proposal*

The principal defect of the proposal is actually its Achilles Heel; if it is not remedied, all other reform *risks* being illusory: While the Task Force, with the apparent support of President Hybl, has proposed *externalization* of all drug testing operations, it has failed simultaneously to provide for *independence* for the new agency that would administer them. Specifically, by proposing that all members of the board of the new agency are to be selected from among members of the USOC or by members of the USOC, the Task Force in essence has proposed the creation by the USOC of a wholly-owed (and controlled) subsidiary. This formula would guarantee that the stakeholders in the enterprise will continue to govern the new agency. Stakeholder control of Olympic drug testing has in principal part caused the drug crisis with which we are faced with today; to permit continued stakeholder control of the new agency would be to perpetuate the status quo.

The proposal's other principal defects include:

- Its failure to provide an opportunity for the public, including government officials and others, to comment on the details of the new agency's proposed structure, responsibilities, and procedures, including its adjudications procedures, as the proposal is being developed and before it is implemented. While the Task Force is certainly comprised of qualified and thoughtful individuals, they do not represent the spectrum of interests and experience that is necessary to assure the best program possible. And the USOC itself is similarly handicapped.

- Its failure to detail how the new agency would be staffed; again, the significance of complete independence from the Olympic Movement in this regard is critical to the success of the effort.
- Its failure to detail how the "highly-qualified [scientific] experts" who will advise the new agency in several respects are to be selected. This has been a problem for the USOC in the past, as it has tended to use only experts who were part of the Olympic Movement or at least not in conflict with the larger (economic) interests of the Movement. The new agency must be required to develop a list of experts who are unassailably independent, specialized in the appropriate respects, and otherwise highly-regarded in the larger scientific community.
- Its inclusion of the current IOC laboratories in its proposed distribution of research monies. These laboratories are fraught with conflicts-of-interest which have been largely responsible for the current system's failures: they make their money developing tests for prohibited substances for the Olympic Movement, processing urine samples, and defending both their tests and the sample processing as part of any subsequent prosecution. Moreover, because they are heavily invested in their existing scientific positions, many of which have been subject to legitimate challenge, it is likely that they would expend at least part of any research monies given to them under this new program to shore up those positions, rather than to work toward an independent view of their merits or flaws. Finally, these laboratories have, with some exceptions, typically refused to have their research and conclusions peer-reviewed.
- Its failure to address squarely the problem of endogenous substances. The USOC has acknowledged that its procedures (handed down by the IOC and the IF's) for detecting the use of testosterone, EPO, and hGH are either flawed or non-existent. Nevertheless, it continues to list these as prohibited substances and, in the case of testosterone and possibly EPO, it continues to subject athletes to prosecution under the current flawed procedures.

While including these substances on the prohibited substances list may be justified for its *in terrorem* effect, there is no justification for prosecuting or allowing the prosecution of athletes based on flawed scientific theories. To do so in circumstances where it knows that the theories are defective is not only reckless, but also in flagrant disregard for its statutory authority to protect the rights of athletes to compete.

Additionally, such prosecutions do (in the case of testosterone) and will (in the case of EPO and hGH) to burden both the system and the athletes with fatally defective allegations, and ultimately tarnish the integrity of the entire system. (It is no justification that these flawed procedures are all that exist.)

On the other hand, because the endogenous substances appear to be the drugs-of-choice among some elite athletes, it is critical that the initial research efforts be concentrated in these areas, so that, if possible, iron-clad tests for the detection of the use of these substances are developed.

Alternatively, until such a test is developed, some other less punitive sanction should be conceived for a suspicious sample that does not include the unfair stigma of a public charge of doping.

- Its failure to provide defense counsel and related expertise for athletes who cannot afford their own. Athletes who are well-known and who have money have a significant advantage in drug testing proceedings, principally because those proceedings often require expert testimony to counter the prosecution's own expert witnesses. The system will not be fair unless all athletes are afforded at least a competent defense.
- Its failure to assure that all athletes similarly-situated are treated similarly in the adjudications process. It is essential to the fairness of the new system that all athletes are treated consistently. The proposal also fails to ensure that, in developing the new adjudications process, AAA and CAS will be required to develop a system of precedents. Incredibly, the proposal also affirmatively proposes that arbitrators *in individual cases* be permitted to set the burden and standard of proof. *The standard and burden of proof must be uniform across all cases; the burden must be on the prosecutor; and at least until we are confident that the science, collections, transport, and analysis that are involved in drug testing cases are strong enough to reduce to almost zero the possibility of false positives, the burden must remain as it is in the existing rules, "beyond reasonable doubt."* The Olympic Movement is plagued by the legitimate criticism that it is arbitrary in the manner in which it handles drug testing cases, favoring some athletes in some circumstances, disfavoring others athletes in other circumstances. The principal cure for this is the establishment of a fair adjudica-

tions process, based on precedents and a uniformly-applied standard and burden of proof "beyond reasonable doubt."

• Its continued reliance on the "standard documentation package" for purposes of evaluating probable cause, etc., that an athlete has engaged in doping. This "standard documentation package" is referred to in various existing documents having to do with the obligations of the Olympic Laboratories and the USOC to provide information about the analysis of a sample to the NGB and the athlete at issue. (I do not know whether it is an IOC term or one devised by the USOC.) This package is almost always materially deficient, as it generally contains only the bare minimum of information. Athletes subject to doping charges routinely and reasonably demand all of the documentation relevant to their sample. The inherent unfairness of denying an athlete access to *all* such information (some of which might be exculpatory) currently results in an almost routine determination (by the relevant hearing panel or the NGB, for example) that the laboratories should provide that additional information. This document production is typically done piecemeal, thereby delaying the resolution of doping cases. Thus, while there is nothing wrong with the term "standard documentation process," its meaning must be understood to include all documents that are relevant to the testing and investigation of a suspicious sample.

REPORT FROM THE DULCE CONFERENCE ON DOPING

FINAL CONFERENCE REPORT

The Necessary Components of an Anti-Doping Program and Related Documents

On May 7 and 8, 1999, the Duke Center for Sports Law and Policy hosted the Duke Conference on Doping in Sport. The objectives of the conference included the gathering together of experts and leaders from the world of sport to discuss the principal problems implicated by doping, and to develop a summary of the necessary components of a proper anti-doping agency or program. The group met both in plenary and break-out sessions. The break-out sessions were specifically designed to facilitate discussion of such an agency or program's structural, scientific, and legal components. What follows is a summary description of those components.

I. The Necessary Structural Components of an Anti-Doping Agency or Program

A. Externalization is necessary and should be put into effect immediately. Functions to externalize include:

1. selection of athletes to be tested
2. sample collection
3. sample analysis
4. reporting of analytical results
5. screening of results and referral (or not) to adjudication
6. adjudication
7. possibility of externalization of sanctions should be studied. Sanctions should remain with the NGB, but a potential conflict of interest involves NGBs sanctioning their star athletes too lightly, in which case rectification by an independent agency might become necessary.

B. The Canadian Model looks very good in the current international context and is a model to which future programs can aspire.

C. Educational activities should remain with the USOC and the NGBs.

D. Public health concerns should be a top priority, and all governments should do a better job in this area. Effective doping control requires public health education about doping in order to attract public support and funding.

E. The USOC should recognize that it has an image and credibility problem in the international community and must make strenuous efforts to rectify the situation, by means of externalization, for the sake of the anti-doping effort and the integrity of Olympic and amateurs sports as a whole.

F. The Court of Arbitration for Sport is still too entangled with the IOC and should be located somewhere other than Lausanne.

1. It should be supported by truly independent funding.
2. It should have a Charter of Principles to guides its adjudications.
3. It should provide access to counsel for athletes.
4. It should include people possessing relevant scientific expertise.
5. All of its panels should adopt regularized procedures and report out both judgments and the reasons for those judgments.

G. The independent international anti-doping agency or program should make research, standards, and models a top priority.

1. It should develop minimum standards that are expressed in a protocol for determining which substances are placed on the banned substances list and for revising testing procedures.
2. It should recognize different physiological standards for males and females.
3. It should include a government liaison with an intelligence-gathering capacity for collecting information about doping practices, drug trafficking, and the behavior of coaches and others who have access to high-performance athletes.

II. The Necessary Scientific Policy Components of an Anti-Doping Agency or Program

A. The objective of any anti-doping program should be to eradicate the use of drugs in sport.
1. The use of drugs in sport is unethical.
2. The use of drugs in sport in some instances is detrimental to the health and well being of the athlete.

B. This objective must be approached from two perspectives.

1. The society must subscribe to a program of prevention through values and health-based education.
2. The society must subscribe to a program of deterrence and punishment through a strong drug testing program.

C. The following are essential with respect to the program of prevention through values and health-based education.
1. It should focus on the public health aspects of drug use, including both psychological/ethical and physical health.
2. It should be built into the sports system at its origins. Understanding the importance of training and competing with integrity, and of long-term physical and ethical health cannot be accomplished with rhetoric and billboards directed at mature athletes.
3. It should be designed to counteract the negative commercial messages that encourage athletes to do drugs. For example, it must counteract the message that sport supplements are not only acceptable but desirable; and the message that the only place that counts is first place.
4. It is the responsibility of every adult who is involved with athletes, including parents, teachers, coaches, sports governing bodies, commercial enterprises that sponsor sporting events, and local and national government.

D. The following are essential with respect to the drug testing program:

1. It must be comprehensive and national/international. Harmonized drug testing in all sports is essential. Children and athletes must not get mixed messages depending upon the sport about whether drugs are or are not acceptable.
2. It must be scientifically sound. Peer-reviewed research must exist to back-up the tests that are conducted. The tests must be designed to achieve a low-to-nonexistent rate of false positives.
3. Prosecutions must be brought only on strong evidence of guilt. They must be backed-up by peer-reviewed research, the sample's chain of custody must be intact and thoroughly documented, and the athlete must be presented with a complete packet of forensic information on the sample.
4. The laboratories/scientists that conduct the relevant research and the sample analyses must be independent of the sports governing bodies. The existing IOC laboratories are a good beginning, and the group supports their evolution toward independence; however, the following additional measures must be implemented:

a. The laboratories must become completely independent.
b. They must permit outside audits of all of their operations, including of the development of the underlying science, their relationships, and forensic toxicology.
c. All of their procedures must meet the standard established by the International Standards Organization (ISO), and with respect to the analytical work, the ISO standards should be forensic rather than clinical.

d. They must allow their research to be peer-reviewed, and because they continue to lack certain critical expertise, this research must be complemented by that of independent scientists in relevant fields.

5. There must be an independent oversight board charged with the supervision of the drug testing program, including of the laboratories and research, that is comprised of outside qualified experts in the fields of science, law, and public policy.
6. The list of banned substances must be compiled based upon the reasons for doping control, i.e., protecting the public health and preventing unethical competition. The list should include endogenous substances that are proven in accordance with accepted procedures and protocols to be ergogenic aids and/or detrimental to the public health. However, cases must not be brought based on an endogenous substance unless there is a test for that substance that is scientifically sound and validated in accordance with accepted procedures and protocols.

III. The Necessary Legal Components of an Anti-Doping Agency or Program

A. The adjudication process should be entirely independent of the governing bodies.

1. The governing bodies should have an educational role, informing athletes of the dangers of doping and of the ethical foundation of sports.
2. National governing bodies should not be placed in an adversarial role vis a vis their athletes in doping cases.

B. The adjudicatory process must include the following safeguards:

1. Prosecutions will be based on scientifically determined violations.
2. All prohibited substances must detectable in the athlete's urine or body fluids through a method that is scientifically valid.
3. All prohibited substances must be banned on the basis of research that takes into consideration such relevant factors as ethnicity, age, gender, and medical history.

C. The adjudicatory process should proceed in three distinct stages.

1. *Stage 1.* There should be a preliminary review by a panel composed of relevant experts, including physicians, other scientists, and lawyers.

a. The purpose of this review is to determine if all procedures were followed for the collection, storage, transportation, and testing of the athlete's sample *and* if, based on the laboratory report, the results of the analysis are sufficiently strong evidence of the athlete's guilt.
b. During this preliminary stage of the proceedings, the identity of the athlete is held strictly confidential.
c. If the review panel finds that the published mandatory procedures for the collection, storage, transportation, and testing of the sample were not strictly followed, it must declare the sample invalid and end the process.
d. If the review panel determines that the collection, storage, transportation, and testing of the sample complied fully with the rules, and that the analysis provides sufficiently strong evidence of the athlete's guilt, it will forward the case for prosecution. At that point, there may be a rebuttable presumption of the athlete's guilt.
e. The independent anti-doping agency or program will be responsible for the prosecution of all doping cases.
f. The review panel will make periodic public reports of the number of cases dismissed in this manner, and the basis for each dismissal. The names of the athletes involved will not be disclosed.

2. *Stage 2.* The determination of whether a doping violation took place must be decided by qualified decision makers.

• There currently are two possible models, neither of which in its present form would satisfy the requirements for inclusion in the new process. Each model has advantages and disadvantages.

(1) The first is the American Arbitration Association (AAA).

• One of the advantages of AAA is its familiarity and suitability for emergency disputes.

(2) The second is the International Court of Arbitration for Sport (CAS).

• One of the advantages of CAS is its potential international acceptance, and thus potential for finality.

b. One of the most important criterion for the body ultimately selected to decide the merits of cases is the employment of adjudicators with experience deciding contested scientific disputes.

c. There must be regularized procedures for all hearing panels.

(1) Panels must publish all decisions, and the bases for the decisions.

(2) If CAS is used, it would have to establish regional panels to streamline the process.

d. There must be a process for providing counsel to athletes accused of a doping violation.

(1) This might be accomplished through a Judge Advocate General-type structure, which would provide both the prosecutors and the defense counsel, under the direction of an independent overseer.

(2) Another possibility is the reliance on pro bono counsel.

(3) A third possibility is the use of an approved list of counsel.

(4) In the end, some combination of these three might be employed.

e. One issue left unresolved was at what point an athlete should be suspended.

(1) There was agreement that liability should not attach before a suspicious sample was confirmed by a second analysis of the sample.

(2) There was some support for this confirming analysis being done by a different laboratory than the one that performed the initial analysis.

(3) There also was support for the athlete's early involvement in the preliminary stage of the process, to raise limited compliance issues before the review panel. There was not agreement about whether this would constitute a hearing for purposes of the Amateur Sports Act, which bars a suspension prior to a hearing.

f. There was agreement that an athlete's certification of the sample collection procedures could be used against him or her in a contested hearing, although the athlete still could challenge the collection.

(1) For this reason, one of the important functions of the national governing body would be the education of its athletes in the process and their rights under the program.

3. *Stage 3.* The final stage of the process involves proceedings in the athlete's national courts or before international federations.

a. There was agreement that a credible and bona fide arbitration process as outlined above would result in minimizing the role of civil courts.

(1) Either party court seek confirmation of the administrative decision, and thus largely protect the arbitration decision and the underlying dispute from further court scrutiny.

b. There was agreement on the need for harmonization among the rules of the various federations to which an athlete might be subject.

(2) Any obligation that a national governing body had for doping disputes under the rules of its international federation would have to be delegated to the independent doping agency.

• Thus, a sample tested outside the United States would be subject to the same preliminary compliance review that a sample generated in the United States would receive.

• And the failure to follow the requirements for the collection, storage, transportation, and testing of the sample by the foreign entity would result in the sample being declared invalid

CONFERENCE CONCEPT

There is growing and substantial evidence that individuals across the spectrum of athletic competition—including children, collegians, Olympic performers and traditional professionals—are using drugs to enhance their training potential and ultimately, their chance of achieving competitive and financial success. The recent, highly-publicized drug busts at the Tour de France, the suspensions of Olympians Michelle Smith de Bruin, Randy Barnes and Dennis Mitchell, Mark McGwire's use of androstenedione and reports that sales of that substance surged as a result of his achievements are but the prominent tip of the iceberg.

The issue of drug use by athletes thus transcends the relatively narrow interests of single organizations. For example, the IOC and its constituent organizations, including the USOC, primarily are concerned with defining what constitutes illegal drug use in Olympic competition, funding the programs necessary to implement their elite drug control programs, and the impact of their efforts on the image of the Olympic Movement and its fund-raising capabilities. On the other hand, the larger domestic and international society is concerned with the impact of drug use among elite athletes on its ability to protect the health, ethics and expectations of children, on the social significance and value of sport that is drug-ridden, and on assuring the protection of individual rights including the right to work, the right to due process of law, and the right to privacy.

The Duke University School of Law, in conjunction with its Center for Sports Law and Policy, will host a working conference in two parts, beginning on January 16, 1999, and reconvening on May 7-8, 1999, to address in an independent and comprehensive matter these broader societal concerns, and to provide an agenda for organizations that wish effectively to tackle the issue of drugs in sport. The conference will be include individuals spanning a spectrum of society, including persons and groups interested by the issue of drugs in sport. Specifically, Duke will invite both independent experts in the relevant fields of law, ethics, sociology, education, medicine, and athletics, and members of the affected sports organizations, including athletes and officials, and their corporate sponsors, to participate in a focused discussion of the problem of doping in sport. Special emphasis will be placed on (1) independence and the structure that independent governance of drug testing programs might take; (2) the science of doping and doping control; and (3) the legal concerns of accused athletes and governing organizations in maintaining effective doping control. In the course of the deliberations, current proposals for action pending before the United States and International Olympic Committees will be discussed. Although the conference will be by invitation only, the complete work of the participants will be open to the press, and all reports and papers presented or developed at the conference will be available to the public.

○