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RESTORING FAITH IN AMERICA'S PASTIME: EVALUATING MAJOR LEAGUE BASEBALL'S EFFORTS TO ERADICATE STEROID USE

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

MARCH 17, 2005

Serial No. 109–8

Printed for the use of the Committee on Government Reform

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RESTORING FAITH IN AMERICA'S PASTIME: EVALUATING MAJOR LEAGUE BASEBALL'S EFFORTS TO ERADICATE STEROID USE

THURSDAY, MARCH 17, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room 2154, Rayburn House Office Building, Hon. Tom Davis (chairman of the committee) presiding.

Present: Representatives Tom Davis, Shays, Burton, Ros-Lehtinen, McHugh, Mica, Gutknecht, Souder, Platts, Cannon, Duncan, Miller, Turner, Issa, Brown-Waite, Porter, Marchant, Westmoreland, McHenry, Dent, Foxx, Waxman, Lantos, Owens, Towns, Kanjorski, Sanders, Maloney, Cummings, Kucinich, Davis of Illinois, Clay, Watson, Lynch, Van Hollen, Sanchez, Ruppersberger, Higgins, and Norton.

Also present: Representatives Osborne, Sweeney, and Serrano.

Staff present: Melissa Wojciak, staff director; David Marin, deputy staff director/communications director; Keith Ausbrook, chief counsel; Ellen Brown, legislative director and senior policy counsel; Jennifer Safavian, chief counsel for oversight and investigations; Amy Laudeman, special assistant; Anne Marie Turner, counsel; Robert Borden, counsel/parliamentarian; Rob White, press secretary; Drew Crockett, deputy director of communications; Susie Schulte, Shalley Kim, Brien Beattie, and Howie Denis, professional staff members; Teresa Austin, chief clerk; Sarah D'Orsie, deputy clerk; Corinne Zaccagnini, chief information officer; Phil Schiliro, minority chief of staff; Phil Barnett, minority staff director/chief counsel; Kristin Amerling, minority deputy chief counsel; Karen Lightfoot, minority communications director/senior policy advisor; Molly Gulland, minority communications assistant; Brian Cohen, minority senior investigator and policy advisor; Tony Haywood, minority counsel; Richard Butcher, Anna Laitin, Nancy Scola, Josh Sharfstein, and Andrew Su, minority professional staff members; Earley Green, minority chief clerk; Jean Gosa and Teresa Coufal, minority assistant clerks; and Christopher Davis, minority investigator.

Chairman TOM DAVIS. Good morning. The committee will come to order, and welcome to the Committee on Government Reform's hearing on Major League Baseball and the use of performance enhancing drugs. Fourteen years ago, anabolic steroids were added to the Control Substance Act as a Schedule III drug, making it illegal

to possess or sell them without a valid prescription. Today, however, evidence strongly suggests that steroid use among teenagers, especially aspiring athletes, is a large and growing problem. The Centers for Disease Control and Prevention tells us that more than 500,000 high school students have tried steroids, nearly triple the number just 10 years ago.

A second national survey conducted in 2004 by the National Institute on Drug Abuse and the University of Michigan found that over 40 percent of 12th graders describe steroids as fairly easy or very easy to obtain. And the perception among high school students that steroids are harmful has dropped from 71 percent in 1992 to 56 percent in 2004. This is but a snapshot of the startling data that we face. Today, we take the committee's first steps toward understanding how we got here and how we begin turning those numbers around. Down the road, we need to look at whether and how Congress should exercise its legislative powers to further restrict the use and distribution of these substances.

Our specific purpose today is to consider Major League Baseball's recently negotiated drug policy, how the testing policy will be implemented, how it will effectively address the use of prohibitive drugs by players and most importantly, the larger societal and public health ramifications of steroid use. Yesterday, USA Today reported that 79 percent of Major League players surveyed believed steroids played a role in record-breaking performances by some high profile players.

While our focus is not on the impact of steroids on Major League Baseball records, the survey does underscore the importance of our inquiry. A majority of the 568 players in this survey think steroids are influencing individual achievements. That's exactly our point. We need to recognize the dangerous vicious cycle that perception creates.

Too many college athletes believe they have to consider steroids if they are going to make it to the pros. High school athletes, in turn, think steroids may be the key to getting a scholarship.

It is time to break that cycle and it needs to happen from the top down. You can't do this by just sending people into the high school classrooms talking about it. It hasn't worked. It has to start from the top. When I go to Little League opening games these days, kids aren't just talking about their favorite teams' chances in the pennant race, they're talking about which pro players are on the "juice." After the 1994 Major League Baseball strike, rumors and allegations of steroid use in the league began to surface. Since then, longstanding records were broken. Along with these broken records came allegations of steroid use among Major League Baseball players. Despite the circulating rumors of illegal drug use, Major League Baseball and the Players Association didn't respond to ban the use of steroids, which were illegal until 2002.

The result was an almost decade-long question mark as to not only the validity of the new records, but also the credibility of the game itself. In February of this year, former Major League Baseball all star Jose Canseco released a book that not only alleges steroid use by well-known Major League players, but discusses the prevalence of steroids in baseball during his 17-year career. After hearing Commissioner Bud Selig's public statements that Major

League Baseball would not launch an investigation into his allegations, my ranking member, Henry Waxman, wrote to me asking for a committee hearing to "find out what really happened and to get at the bottom of this growing scandal." I was initially reluctant to hold such an investigation because Major League Baseball assured us they had the problem under control.

However, a cursory investigation raised more questions than it answered and we decided to proceed. Major League Baseball and the Players Association greeted the word of inquiry first as a nuisance, then as a negotiation replete with misstatements about the scope of the documents and information we had sought and inaccurate legalese about the committee's authority and jurisdiction. Fine. I understand their desire to avoid the public's prying eye. I understand this is not their preference. I understand that they just wish it would go away. But I think they misjudged the seriousness of our purpose. I think they misjudged the will of the American public. I think they mistakenly believed we got into this on a whim. We did not. We gave this serious, serious consideration. And we decided it was time to break the code of silence that has enveloped the game.

I'm a baseball fan and always have been. I didn't become a political junkie until the Senators left town and I needed something to replace my near daily routine of memorizing box scores. And I'm not looking forward to being relegated to the nose bleed sections in the next few years. But there is a cloud over the game that I love. Maybe we're late in the game in recognizing it. Maybe we're partly to blame implicitly and wrongly sending the message that baseball's anti-trust exemption is also a public accountability exemption. But the cloud hovers over us nonetheless and our hope is that a public discussion of the issues with witnesses testifying under oath can provide a glimpse of sunlight.

Why? Because more than just the reputation of baseball is at risk. Our primary focus remains on the message being sent to the 500,000 steroid users in America's high schools, children who play baseball, children who idolize and emulate professional baseball players. I still have faith in Major League Baseball and a lot of players, managers, trainers and fans want to join us in helping kids understand this.

Steroids aren't cool. Our responsibility is to help make sure Major League Baseball strategy, particularly its new testing program, gets the job done. We need to know if the policy is adequate in terms of how the tests are done and the punishments and the scope. As Mr. Waxman and I wrote to Major League Baseball and the Players Association yesterday, there are real doubts about this new policy and all that it's cracked up to be. The same USA Today survey I referenced earlier found that 69 percent of players believe the new policy is strict enough. Frankly, I'm surprised the number isn't higher. That's like asking trial lawyers if we need more tort reform. The answer is going to be no.

Over the years, there have been a consistent drip, drip, drip of information about steroids in baseball with not much of a response from Major League Baseball. After all, it was, in large part, due to congressional pressure that the current policy took shape. Now we have not only the BALCO case, but a book by a former big

league star naming names. We don't know if the allegations are accurate, but the truth needs to come out, however ugly the truth might be. Baseball can't simply turn its back on recent history, pronounce that the new testing policy will solve everything and move on. You can't look forward without looking back. I would hope that baseball would see this hearing as an opportunity to talk about the steps it is taking to get a handle on the situation. That's what we are interested in. We're not interested in embarrassing anybody, ruining careers or grandstanding.

This is not a witch hunt. We're not asking for witnesses to name names. Furthermore, today's hearing will not be the end of our inquiry. Far from it. Nor will Major League Baseball be our sole or even primary focus. We are in the first inning of what can be an extra-inning ball game. This is the beginning and not the end. We believe this hearing will give us good information about the prevalence of steroids in professional sports, shine light on the sometimes tragic results of steroid use by high school and college athletes and provide leads as to where our investigation will go next; leads from Senator Bunning about how to restore the integrity of the game; leads from medical experts about how to better educate all Americans about the real dangers of steroid use; leads from parents whose stories today will poignantly illustrate, like it or not, professional athletes are role models and their actions can lead to tragic imitation.

We are grateful to the players who have joined us today to share their perspective on the role and prevalence of performance enhancing drugs in baseball. Some have been vocal about the need for baseball to address its steroid problems, and we applaud them for accepting this calling. Others have an opportunity today to either clear their name, take public responsibility for their actions or perhaps offer cautionary tales to our youth. In total, we think the six current and former players offer a broad perspective on the issue of steroids in baseball, and we are looking forward to hearing from all of them.

Finally, we are fortunate to have with us a final panel representing Major League Baseball, the Players Association and front office management. This panel is quite frankly where the rubber hits the road. If the players are cogs, this is the machine. If the players have been silent, these are the enforcers and promoters of the code. Ultimately, it's Major League Baseball, the union and team executives that will determine the strength of the game's testing policies. Ultimately, it's Major League Baseball and the union that will or will not determine the accountability or punishment. Ultimately, it's Major League Baseball and the union that can remove the cloud over baseball and maybe save some lives in the process. A famous poem starts, oh, somewhere in this favored land the sun is shining bright the band is playing somewhere and somewhere hearts are light. And somewhere men are laughing and somewhere children shout, but there is no joy in Mudville until the truth comes out. I now recognize the distinguished ranking member, Mr. Waxman.

[The prepared statement of Chairman Tom Davis follows:]

Opening Statement of Chairman Tom Davis
Government Reform Committee Hearing
"Restoring Faith in America's Pastime: Evaluating Major League Baseball's Efforts to Eradicate Steroid Use"
March 17, 2005

Good morning, and welcome to the Committee on Government Reform's hearing on Major League Baseball and the use of performance-enhancing drugs.

Fourteen years ago, anabolic steroids were added to the Controlled Substance Act as a Schedule III drug, making it illegal to possess or sell them without a valid prescription. Today, however, evidence strongly suggests that steroid use among teenagers – especially aspiring athletes – is a large and growing problem.

The Centers for Disease Control and Prevention tells us that more than 500,000 high school students have tried steroids, nearly triple the number just ten years ago. A second national survey, conducted in 2004 by the National Institute on Drug Abuse and the University of Michigan, found that over 40 percent of 12th graders described steroids as "fairly easy" or "very easy" to get, and the perception among high school students that steroids are harmful has dropped from 71 percent in 1992 to 56 percent in 2004.

This is but a snapshot of the startling data we face. Today we take the committee's first steps toward understanding how we got here, and how we begin turning those numbers around. Down the road, we need to look at whether and how Congress should exercise its legislative powers to further restrict the use and distribution of these substances.

Our specific purpose today is to consider MLB's recently negotiated drug policy; how the testing policy will be implemented; how it will effectively address the use of prohibited drugs by players; and, most importantly, the larger societal and public health ramifications of steroid use.

Yesterday, USA Today reported that 79 percent of players surveyed believe steroids played a role in record-breaking performances by some high-profile players. While our focus is not on the impact of steroids on MLB records, the survey does underscore the importance of our inquiry.

A majority of players think steroids are influencing individual achievements – that's exactly our point. We need to recognize the dangerous vicious cycle that perception creates.

Too many college athletes believe they have to consider steroids if they're going to make it to the pros; high school athletes, in turn, think steroids might be the key to getting a scholarship. It's time to break that cycle, and it needs to happen from the top down.

When I go to Little League opening games these days, kids aren't just talking about their favorite teams' chances in the pennant race; they're talking about which pro players are on the juice.

After the 1994 MLB players strike, rumors and allegations of steroid use in the league began to surface. Since then, long standing records were broken. Along with these broken records came allegations of steroid use among MLB's star players. Despite the circulating rumors of illegal drug use, MLB and the Players Association did not respond with a collective bargaining agreement to ban the use of steroids until 2002. The result was an almost decade long question mark as to, not only the validity of the new MLB records, but also the credibility of the game itself.

In February of this year, former MLB All-Star Jose Canseco released a book that not only alleges steroid use by well known MLB players, but also discusses the prevalence of steroids in baseball during his 17-year career. After hearing Commissioner Bud Selig's public statements that MLB would not launch an investigation into Mr. Canseco's allegations, my Ranking Member Henry Waxman wrote me asking for a Committee hearing to, *quote*, "find out what really happened and to get to the bottom of this growing scandal." *End quote.*

I agreed before I'd even finished reading the letter.

MLB and the Players' Association greeted word of our inquiry first as a nuisance, then as a negotiation, replete with misstatements about the scope of the documents and information we've sought, and inaccurate "legalese" about the committee's authority and jurisdiction.

Fine. I understand their desire to avoid the public's prying eye. I understand this is not their preference. I understand they wish we would go away.

But I think they misjudged our seriousness of purpose. I think they misjudged the will of an American public who believes that sunshine is the best disinfectant. I think they mistakenly believed we got into this on a whim.

We did not. We gave this serious – *serious* -- consideration. And we decided it was time to try to break the code of silence.

I'm a baseball fan. I always have been. I didn't become a political junkie until the Senators left town and I needed something to replace the near-daily routine of memorizing box scores. I'm not looking forward to being relegated to the nosebleed seats.

But there's a cloud over the game I love. Maybe we're late to the game in recognizing it; maybe we're partly to blame in implicitly and wrongly sending the message that baseball's antitrust exemption is also a public accountability exemption.

But the cloud hovers nonetheless, and our hope is that a public discussion of the issues, with witnesses testifying under oath, can provide a glimpse of sunlight.

Why? Because more than just the reputation of baseball is at risk. Our primary focus remains on the message being sent to children. Children who play baseball. Children who idolize and emulate professional baseball players.

I still have faith that Major League Baseball and a lot of players, managers, trainers and fans want to join us in helping kids understand that steroids aren't cool. Our responsibility is to help make sure MLB's strategy – particularly its new testing program – gets that job done.

We need to know if the policy is adequate – in terms of how the tests are done, the punishments, the scope. As Mr. Waxman and I wrote to MLB and the Players' Association yesterday, there are real doubts that this new policy is all that it's been cracked up to be.

The same USA Today survey I referenced earlier found that 69 percent of players believe the new policy is strict enough. Frankly, I'm surprised the number isn't higher. That's like asking trial lawyers if we need more tort reform. The answer's going to be "no."

Over the years, there's been a consistent drip, drip, drip of information about steroids in baseball, with not much of a response from Major League Baseball. After all, it was in large part through congressional pressure that the current policy took shape.

Now, we have not only the BALCO case, but a book by a former big league star naming names. We don't know if the allegations in Jose Canseco's book are accurate, or if they are slander, or a little of both.

That's why the truth needs to come out, however ugly the truth might be. Baseball can not simply turn its back on recent history, pronounce that the new testing policy will solve everything, and move on. You can't look forward without looking back.

I would hope that baseball would see this hearing as an opportunity to talk about the steps it's taken to get a handle on the situation. That's what we're interested in. We're not interested in embarrassing anyone, or ruining careers, or grandstanding. This is not a witch hunt, and I'm not looking to have witnesses "name names."

Furthermore, today's hearing will not be the end of our inquiry. Far from it. Nor will Major League Baseball be our sole or even primary focus. We're in the first inning of what could be an extra inning ballgame.

This is the beginning, not the end. We believe this hearing will give us good information about the prevalence of steroids in professional baseball, shine light on the sometimes tragic results of steroid use by high school and college athletes, and provide leads as to where to take our investigation next.

Leads from Senator Bunning about how to restore integrity to the game.

Leads from medical experts about how to better educate all Americans about the very real dangers of steroid use.

Leads from parents whose stories today will poignantly illustrate that, like it or not, professional athletes *are* role models, and their actions can lead to tragic imitation.

We are grateful to the players who have joined us today to share their perspectives on the role and prevalence of performance enhancing drugs in baseball. Some have been vocal about the need for baseball to address its steroid problem; I applaud them for accepting this calling.

Others have an opportunity today to either clear their name or take public responsibility for their actions, and perhaps offer cautionary tales to our youth. In total, we think the six current and former players offer a broad perspective on the issue of steroids and baseball, and we're looking forward to hearing from all of them.

Finally, we are fortunate to have with us a final panel of witnesses representing MLB, the Players' Association, and front office management. This panel is, quite frankly, where the rubber will meet the road. If the players are cogs, this is the machine. If the players have been silent, these are the enforcers and promoters of the code.

Ultimately, it is MLB, the union, and team executives that will determine the strength of the game's testing policy. Ultimately, it is MLB and the union that will or will not determine accountability and punishment. Ultimately, it is MLB and the union that can remove the cloud over baseball, and maybe save some lives in the process.

Oh, somewhere in this favored land the sun is shining bright;
The band is playing somewhere, and somewhere hearts are light;
And somewhere men are laughing, and somewhere children shout;
But there is no joy in Mudville – *until the truth comes out.*

###

Mr. WAXMAN. Thank you very much, Mr. Chairman, for holding this hearing. Today's hearing is about steroid use in professional baseball, its impact on steroid use by teenagers and the implications for Federal policy. These are important questions for baseball, its fans and for this Nation. Major League Baseball and the Players Association say that this is the subject that should be left to the bargaining table. They are wrong. This is an issue that needs debate in Congress and around the dinner table of American families. Steroids are a drug problem that affects not only elite athletes, but also the neighborhood kids who idolize them. And this issue is challenging not just for baseball, but for our whole society. More than 500,000 teenagers across the country have taken illegal steroids, risking serious and sometimes deadly consequences. Together, the Garibaldis and the Hootons will testify about what steroids have done to their sons and their families and I want to commend them for their courage.

There is an absolute correlation between the culture of steroids in high school and the culture of steroids in Major League club houses. Kids get the message when it appears it's OK for professional athletes to use steroids. If the pros do it, college athletes will do it. If it is an edge in college, high school students want that edge, too. There is a pyramid of steroid use in society, and today our investigation starts where it should, with the owners and players at the top of that pyramid. Congress first investigated steroids and drug use in professional sports over 30 years ago. And I think perhaps only two people in this room would have knowledge of that or would remember that and that would be Commissioner Selig and myself. He was an owner in 1970 and I was elected to Congress in 1974.

The year before I ran for Congress, the House Committee on Interstate and Foreign Commerce, which I served all of my time in Congress as a member in addition to this committee concluded a year-long investigation. And they concluded "drug use exists in all sports and in all levels of competition." In some instances, the degree of improper drug use, primarily amphetamines and anabolic steroids can only be described as alarming. The committee's chairman, Harley Staggers, was concerned about making these findings public.

He thought it would bring too much attention to them, might even encourage kids to use these drugs. So what he did was he agreed with Baseball Commissioner Bowie Kuhn to consider instituting tough penalties in testing and he trusted Commissioner Kuhn to do that. And in a press release in 1973, Chairman Staggers said, "based on the constructive responses and assurances I have received from these gentlemen, I think self-regulation will be intensified and will be effective." But now we know from 30 years of history, baseball failed to regulate itself. Well, let's fast forward to 1988. Jose Canseco was widely suspected of using steroids. Fans on opposing teams at the park even chanted the phrase steroids when he came to bat. But according to Mr. Canseco, no one in Major League Baseball talked with him or asked him questions about steroids. He was never asked to submit to a drug test.

Instead, he was voted the American League's most valuable player. In 1991, Faye Vincent, then baseball's commissioner, finally

took unilateral action and released a commissioner's policy that said, "the possession, sale or use of any illegal drug or controlled substance by Major League players and personnel is strictly prohibited. This prohibition applies to all illegal drugs and controlled substances, including steroids."

Well, this policy didn't give Major League Baseball the right to demand that players take mandatory drug tests, but it was a step in the right direction and demonstrated the League's authority to act on its own to respond to allegations of steroid use.

In 1992, Bud Selig was appointed commissioner and replaced Mr. Vincent. One year later in 1993, the Centers for Disease Control reported that 1 in 45 teenagers had used illegal steroids. That was 1992. 1995, the first of a series of detailed investigative reports appeared. The L.A. Times quoted one Major League manager who said "we all know there is steroid use and it has definitely become more prevalent, I think, 10 to 20 percent." Another general manager estimated that steroid use was closer to 30 percent. In response to that story, Commissioner Selig said, if baseball has a problem, I must say candidly we are not aware of it. But should we concern ourselves as an industry? I don't know.

In 1996, Ken Camaniti was using steroids, won the most valuable player award. That same year, Pat Courtney a Major League spokesman, commented on steroids and said, I don't think the concern is there that it is being used. In 1997, the Denver Post investigated the issue reporting as many as 20 percent of big league players using illegal steroids. In 1998, baseball hit the height of its post strike resurgence as Sammy Sosa and Mark McGwire both shattered Roger Maris' home run record. In 1999, the Centers for Disease Control reported 1 in 27 teenagers now using illegal steroids. In July 2000, a Boston Red Sox infielder had steroids seized from his car. Three months later, the New York Times published a front page story on the rampant use of steroids by professional baseball players, and here is what a Major League spokesman said the very same year, "steroids have never been much of an issue."

In June 2002, Sports Illustrated put steroids on its cover and it reported that baseball had become a pharmacological trade show. One Major League player estimated that 40 to 50 percent of Major League players use steroids. After that Sports Illustrated article, Major League Baseball and the players' union agreed to a steroid testing regimen. Independent experts however, strongly criticized the program as weak and limited in scope. But in 2003, when the first results were disclosed, Rob Manfred, baseball's vice president for labor relations said, "a positive rate of 5 percent is hardly a sign that you have rampant use of anything."

The same year, CDC reported to us that 1 in 16 high school students had used illegal steroids. The allegations and revelations about steroid use in baseball have only intensified in recent months. We have learned that Jason Giambi, a former most valuable player, Gary Sheffield and Barry Bonds, who was one of the most valuable player awards seven times, testified before a Federal grand jury in San Francisco about their steroid use.

And just last month, Jose Canseco released a book alleging that steroid use in baseball was widespread in the 1990's and it in-

volved some of baseball's biggest stars and that he personally injected other players with steroids. In response to these unproven but serious accusations, Sandy Alderson a senior Major League official said, "I would be surprised if there is any serious followup." And Bud Selig was quoted as saying, as a sport, we have done everything that we could. Well, that brings us to today. For 30 years, Major League Baseball has told us to trust them, but the league hasn't honored that trust. And it hasn't acted to protect the integrity of baseball or send the right message to millions of teenagers who idolize ball players.

Major League Baseball isn't the only reason 1 in 16 kids are using illegal steroids, but it's part of the reason. Baseball had the responsibility to do the right thing and it didn't do it. I don't see any other way to read the history of the past 30 years. Major League Baseball is actually right that it couldn't impose mandatory testing on the players. It needed the union's agreement to do that. But there were many other steps they could have taken. And I don't see that they had taken in the 1980's and the 1990's.

Baseball's constitution says that the commissioner can "investigate any act alleged or suspected to be not in the best interest of the national game of baseball." The collective bargaining agreement expressly recognizes that the baseball commissioner retains inherent authority to take actions necessary for again, "the preservation of the integrity of or the maintenance of public confidence in the game of baseball."

But Major League Baseball never exercised its authority to investigate steroid use. It boils down to this. We don't know what happened. We don't know who did it. We don't know what they did or how they did it, but we fixed it. Trust us. Well, we wrote the commissioner yesterday because we already see significant differences between what Major League Baseball says its new drug policy will accomplish and what is actually in the policy and we will ask a lot of questions about that today. Over the past century, baseball has been part of our social fabric. It helped restore normalcy after World War II, provided a playing field for black athletes like Jackie Robinson who broke the color barrier and inspired civic pride in communities across the country.

Now America is asking baseball for integrity, an unequivocal statement against cheating, an unimpeachable policy and a reason for all of us to have faith in that sport again. At the end of the day, the most important thing Congress can do is find as many of the facts as we can and do our part to change the culture of steroids that has become part of baseball and too many other sports.

That's why I am intrigued with the idea of one Federal policy that applies to all sports and all levels of competition from high school to the pros and that provides a strong disincentive to using steroids. If we are going to do something for our Nation's kids, it seems we are long past the point where we can rely on Major League Baseball to fix its own problems. Thank you, Mr. Chairman and thanks to our witnesses for helping us fulfill our responsibility in Congress.

[The prepared statement of Hon. Henry A. Waxman follows:]

Opening Statement of
Rep. Henry A. Waxman, Ranking Minority Member
Committee on Government Reform
"Restoring Faith in America's Pastime: Evaluating Major League Baseball's Efforts to Eradicate Steroid Use."

March 17, 2005

Mr. Chairman, thank you for holding this hearing.

Today's hearing is about steroid use in professional baseball, its impact on steroid use by teenagers, and the implications for federal policy. These are important questions for baseball, its fans, and the nation.

Major League Baseball and the Players'Association say that this subject should be left to the bargaining table. They're wrong. This is an issue that needs debate in Congress — and discussion around the family dinner table.

Steroids are a drug problem that affects not only elite athletes, but also the neighborhood kids who idolize them.

And this issue is a challenge not just for baseball, but for our whole society.

More than 500,000 teenagers across the country have taken illegal steroids, risking serious and sometimes deadly consequences. Today, the Garibaldis and Hootens will testify about what steroids have done to their sons and their families. And I commend them for their courage.

There is an absolute correlation between the culture of steroids in high schools and the culture of steroids in major league clubhouses. Kids get the message when it appears that it's okay for professional athletes to use steroids. If the pros do it, college athletes will, too. And if it's an edge in college, high school students will want the edge, too.

There is a pyramid of steroid use in society. And today, our investigation starts where it should: with the owners and players at the top of the pyramid.

Congress first investigated drugs and professional sports, including steroids over 30 years ago. I think perhaps the only two people in the room who will remember this are me and Commissioner Selig, because I believe he became an owner in 1970.

In 1973, the year I first ran for Congress, the House Committee on Interstate and Foreign Commerce concluded a year-long investigation that found — and I quote — "drug use exists … in all sports and levels

of competition … In some instances, the degree of improper drug use — primarily amphetamines and anabolic steroids — can only be described as alarming."

The Committee's chairman — Harley Staggers — was concerned that making those findings public in a hearing would garner excessive attention and might actually encourage teenagers to use steroids. Instead, he quietly met with the commissioners of the major sports, and they assured him the problem would be taken care of.

Chairman Staggers urged Baseball Commissioner Bowie Kuhn to consider instituting tough penalties and testing. And he trusted Commissioner Kuhn to do that. In fact, in a press release in May 1973, Chairman Staggers said — and again I quote — "Based on the constructive responses and assurances I have received from these gentlemen, I think self-regulation will be intensified, and will be effective."

But as we now know from 30 years of history, baseball failed to regulate itself.

Let's fast forward to 1988. Jose Canseco was widely suspected of using steroids. Fans in opposing parks even chanted the phrase

"steroids" when he came to bat. But according to Mr. Canseco, no one in major league baseball talked with him or asked him any questions about steroids. He was never asked to submit to a drug test. Instead, he was voted the American League's Most Valuable Player.

In 1991, Fay Vincent, then baseball's commissioner, finally took unilateral action and released a Commissioner's Policy that said "the possession, sale, or use of any illegal drug or controlled substance by Major League players and personnel is strictly prohibited … This prohibition applies to all illegal drugs and controlled substances, including steroids." This policy didn't give Major League Baseball the right to demand that players take mandatory drug tests, but it was a step in the right direction and demonstrated the league's authority to act on its own to respond to allegations of steroid use.

In 1992, Bud Selig was appointed commissioner and replaced Mr. Vincent. One year later, in 1993, the Centers for Disease Control reported that 1 in 45 teenagers had used illegal steroids.

In 1995, the first of a series of detailed investigative reports about steroid use in baseball was published. The Los Angeles Times quoted one major league general manager who said: "We all know there's steroid use, and it's definitely become more prevalent … I think 10% to

20%." Another general manager estimated that steroid use was closer to 30%.

In response to that story, Commissioner Selig said, "If baseball has a problem, I must say candidly that we were not aware of it. But should we concern ourselves as an industry? I don't know."

In 1996, Ken Caminiti, who was using steroids, won the Most Valuable Player Award. That same year, Pat Courtney, a major league spokesman, commented on steroids and said, "I don't think the concern is there that it's being used."

In 1997, the Denver Post investigated the issue, reporting that as many as 20% of big-league ballplayers used illegal steroids.

In 1998, baseball hit the height of its post-baseball strike resurgence, as Sammy Sosa and Mark McGwire both shattered Roger Maris's home run record.

In 1999, the Centers for Disease Control reported that 1 in 27 teenagers had used illegal steroids.

In July 2000, a Boston Red Sox infielder had steroids seized from his car. Three months later, the New York Times published a front-page story on the rampant use of steroids by professional baseball players.

And here's what a major league spokesman said the very same year: "steroids have never been much of an issue."

In June 2002, Sports Illustrated put steroids on its cover and reported that baseball "had become a pharmacological trade show." One major league player estimated that 40% to 50% of major league players used steroids.

After that Sports Illustrated article, Major League Baseball and the players' union finally agreed to a steroid testing regimen. Independent experts strongly criticized the program as weak and limited in scope. But in 2003, when the first results were disclosed, Rob Manfred, baseball's Vice President for labor relations, said, "A positive rate of 5% is hardly a sign that you have rampant use of anything."

The same year, the Centers for Disease Control reported that 1 in 16 high school students had used illegal steroids.

The allegations and revelations about steroid use in baseball have only intensified in recent months. We have learned that Jason Giambi, a former most valuable player, Gary Sheffield, and Barry Bonds, who has won the most valuable player award seven times, testified before a federal grand jury in San Francisco about their steroid use.

And just last month, Jose Canseco released a book alleging that steroid use in baseball was widespread in the 1990s, that it involved some of baseball's biggest stars, and that he had personally injected other players with steroids.

In response to these unproven but serious accusations, Sandy Alderson, a senior major league official, said, "I'd be surprised if there were any serious follow-up." And Bud Selig was quoted as saying: "As a sport, we have done everything that we could."

That brings us to today.

For thirty years, Major League Baseball has told us to trust them. But the league hasn't honored that trust. And it hasn't acted to protect the integrity of baseball or sent the right messages to the millions of teenagers who idolize ballplayers.

Major League Baseball isn't the only reason 1 in 16 teenagers are using illegal steroids. But it is part of the reason. Baseball had a responsibility to do the right thing, and it didn't do it. I don't see any other way to read the thirty-year history.

Major league baseball is absolutely right that it couldn't impose mandatory testing on the players. It needed the union's agreement to that. But there were many other steps that Major League Baseball could have taken — but didn't — in the 1980s and the 1990s.

Baseball's constitution says that the commissioner can — and I quote — "investigate … any act … alleged or suspected to be not in the best interests of the national game of Baseball." The collective bargaining agreement expressly recognizes that the baseball commissioner retains inherent authority to take actions necessary for — and again I quote — "the preservation of the integrity of, or the maintenance of public confidence in, the game of baseball."

But Major League Baseball never exercised this authority to investigate steroid use. Its position boils down to this: We don't know what happened, we don't know who did it, and we don't know what they did or how they did it.

But we fixed it. Trust us again.

We wrote the Commissioner yesterday because we already see significant differences between what Major League Baseball says its new drug policy will accomplish and what is actually in the policy. And we will ask questions about that today.

Over the past century, baseball has been part of our social fabric. It helped restore normalcy after war, provided the playing field where black athletes like Jackie Robinson broke the color barrier, and inspired civic pride in communities across the country.

Now America is asking baseball for integrity. An unequivocal statement against cheating. An unimpeachable policy. And a reason for all of us to have faith in the sport again.

At the end of the day, the most important things Congress can do are to find as many of the facts as we can and to do our part to change the culture of steroids that has become part of baseball and too many other sports.

That's why I'm intrigued with the idea of one federal policy that applies to all sports and to all levels of competition — from high school

to the pros — and that provides a strong disincentive to using steroids. If we are going to do something for our nation's kids, it seems we are long past the point where we can rely on Major League Baseball to fix its own problems.

Thank you, Mr. Chairman, and thank you to the witnesses, for helping us fulfill our responsibility in Congress.

Mr. Chairman, my staff has prepared a background memo that provides additional detail about some of the points I have discussed this morning. I ask unanimous consent to make this part of the hearing record.

Mr. WAXMAN. Mr. Chairman, my staff has prepared a background memo that provides additional details about some of the points I discussed this morning. I have taken a long period of time, but I wanted to lay out this history and this chronology as baseball did nothing over the years. The increase in steroid use by kids increased. Now it is 1 in 16. It used to be 1 in 45. We are going in the wrong direction. I ask unanimous consent to make part of the hearing record the memo that we would like to submit.

Chairman TOM DAVIS. Without objection, so ordered.

[The information referred to follows:]

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BERNARD SANDERS, VERMONT,
INDEPENDENT

MEMORANDUM

March 16, 2005

To: **Democratic Members of the Committee on Government Reform**

Fr: **Democratic Staff**

Re: **Full Committee Hearing on Steroid Use in Baseball**

On Thursday, March 14, at 10:00 am, 2154 Rayburn House Office Building, the Government Reform Committee will hold a hearing to examine the use of anabolic steroids in Major League Baseball. This memo provides background information to assist members and staff in preparing for the hearing.

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I. OVERVIEW

Major League Baseball is a multi-billion dollar industry that enjoys extensive public subsidies, tax breaks, and an exemption from antitrust laws. Over the last decade, credible allegations of widespread use of anabolic steroids by ballplayers have cast a cloud over the sport. The Committee's investigation aims to shed light on what happened and how it happened in order to assess the adequacy of federal laws on controlled substances, educate the public about the dangers to youth who may be tempted to use anabolic steroids, and ensure that adequate safeguards for the future are in place.

Anabolic steroids are testosterone-like substances that can increase strength at the cost of serious physical and psychiatric harm. Since 1991, many anabolic steroids have been illegal to possess or distribute in the United States without a valid medical prescription. Nonetheless, over the last decade, the number of high school students reporting illegal anabolic steroid use has nearly tripled to more than 500,000.

The rise of anabolic steroid use as a public health problem has coincided with numerous credible allegations of use in Major League Baseball. The evidence of steroid use in baseball dates back at least 30 years. Lengthy reports detailing widespread use of steroids in baseball have proliferated over the last decade. For example:

- In 1995, the *Los Angeles Times* reported that "[a]nabolic steroids . . . apparently have become the performance drugs of the '90s in major league baseball." The paper quoted San Diego Padres general manager Randy Smith as stating that "We all know there's steroid use, and it's definitely become more prevalent...I think 10% to 20%."

- In July 1997, the *Denver Post* reported that "some players are clearly willing to cross the line to gain a competitive edge." The paper quoted a player for the Colorado Rockies as estimating that 20% of big-league ballplayers use steroids.

- In 2000, the *New York Times* quoted Brad Andress, the strength coach for the Colorado Rockies, as estimating that 30% of major league baseball players had used steroids at some point in their careers. One veteran all-star outfielder said he believed that "two-thirds of the top players in the National League are using some kind of steroid."

- In 2002, *Sports Illustrated* reported that "the game has become a pharmacological trade show." Outfielder Chad Curtis estimated that 40% to 50% of major league players use steroids.

In recent months, new evidence of significant anabolic steroid use in baseball has emerged. In December 2004, leaked testimony from a federal prosecution of a San Francisco laboratory implicated several baseball stars in anabolic steroid use. In February 2005, former star Jose Canseco published a book alleging that he personally injected numerous major leaguers with illegal steroids. And in the past week, a

California man has claimed he sold illegal steroids to several players in the 1990s, and another former major leaguer (and brother to a current star) admitted using illegal steroids to seek a competitive advantage.

Reports of steroid use, however, were never investigated by Major League Baseball. In fact, for many years, the league denied having any steroid problem. For example:

- In 1995, Commissioner Bud Selig stated, "If baseball has a problem, I must say candidly that we were not aware of it."
- In 1996, a league spokesman stated, "I don't think the concern is there that it's being used."
- In 2000, after steroids were discovered in the car of a Red Sox infielder, the league responded that "in baseball, steroids have never been much of an issue."

Baseball's reluctance to address anabolic steroid use is also evident in its handling of androstenedione, a dietary supplement commonly known as "andro." After a reporter discovered andro in the locker of baseball star Mark McGwire during the 1998 season, Major League Baseball defended Mr. McGwire, who set the single-season home run record that season. The league continued to condone use of andro until 2004, even in the face of mounting evidence of the substance's harm. In contrast, the International Olympic Committee, the NBA, and federal agencies all took or recommended action against andro years before baseball.

Major League Baseball has justified its inaction on steroids by saying its hands were tied by the collective bargaining agreement with the players' union. This claim is misleading. There is an important distinction between requiring across-the-board drug testing of all players and investigating allegations or evidence that specific players use steroids. While the league does appear to need the consent of the union in the collective bargaining agreement to institute random testing, baseball does not need union agreement to investigate specific evidence of illegal drug use. Yet baseball never conducted a thorough investigation of allegations of illegal steroid use, and according to Major League Baseball, throughout the 1990s, not a single player was apparently ever tested for anabolic steroids.

Baseball finally reached an agreement with the players union to initiate anonymous testing during the 2003 season. Under this policy, the testing did not occur during the off-season, when most steroid use is believed to occur, and did not include all anabolic steroids. According to information provided by Major League Baseball, 5% to 7% of players tested positive in 2003. In 2004, a similar testing program was administered confidentially, with the positive rate falling to 1-2%.

In January 2005, Commissioner Bud Selig announced a new testing policy that he claimed would "eradicate" steroid use. The effectiveness of this new initiative will be a significant focus of the hearing.

II. BACKGROUND

A. Major League Baseball

Since its creation in 1903, Major League Baseball has grown from a small collection of teams and players to one of the most prestigious sports organizations in the world. The league now includes 30 teams in U.S. cities and Toronto, Canada, and employs an estimated 900 players.

Each baseball season lasts from spring to fall. The regular season includes 162 games and is followed by a postseason culminating in the World Series. In 2004, 73 million baseball fans attended major league games.[1]

Major League Baseball is a significant industry. Team franchises are worth an average of $295 milllion, and total annual revenues are estimated at $3.9 billion. Collectively, major league players earn an estimated $2 billion each year.[2]

In addition to ticket sales, sales of licensed equipment, vending sales, and the broadcasting of games, Major League Baseball has received significant direct subsidies from the public. Since 1990, almost $3 billion in public money has been spent to build or renovate 16 different baseball stadiums, with at least another $700 million worth of taxpayer-funded construction on the books.[3]

Congress has also provided significant benefits to Major League Baseball. In 2004, Congress changed an obscure tax law governing how sports franchises could depreciate salaries of players. This change is worth an estimated $200 million in total for the 30 owners of Major League Baseball teams.[4]

In 1922, the Supreme Court ruled that baseball was not subject to antitrust laws.[5] The most important part of that exemption, which permits local monopolies for each major league team in its area, remains intact today. Recent decisions by the Supreme

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[1] Major League Baseball, *MLBAM Announces Agreement to Acquire Tickets.com* (Feb. 15, 2005).

[2] *The Business of Baseball*, Forbes (Apr. 2004).

[3] Munsey and Suppes, *Ballparks* (2005) (online at www.ballparks.com).

[4] *Tax Bill Worth Millions to Pro Teams is Approved*, New York Times (Oct. 12, 2004).

[5] *Federal Baseball Club v. National League* (1922)

Court have indicated that Congress has the authority to revoke baseball's antitrust exemption.[6]

B. Anabolic Steroids

Anabolic steroids are drugs related to male sex hormones, such as testosterone. These drugs can be taken orally, injected, or rubbed into the skin as a gel or cream. Acting like testosterone in the body, anabolic steroids increase protein synthesis, decrease muscle breakdown, and enhance the development of male sexual characteristics.

While patients can be prescribed anabolic steroids for legitimate medical purposes, including hormone replacement, recreational steroid users consume many times more than natural amounts of these drugs.

To build muscle mass, some take several different steroids together, a practice known as "stacking." Others take high doses for several weeks, followed by a period without drugs, a practice known as "cycling." When users gradually escalate the dose over a period of days and then gradually reduce the dose, this is called "pyramiding."

When used for performance enhancement, anabolic steroids have their desired effect well in advance of competition. As a result, according to a leading textbook in addiction medicine, steroid use "usually occurs during training periods, which typically can begin week and even months before a competitive event or season."[7]

Anabolic steroids cause serious health consequences.[8] The adverse effects of steroids include:

- **Early cardiovascular disease**. Anabolic steroids alter blood lipids and can lead to heart attacks before age 40.
- **Liver damage**. Anabolic steroids cause liver tumors and a rare hepatitis involving cysts in the liver that are filled with blood.
- **Infection**. Users who share needles when injecting can contract AIDS, Hepatitis B, Hepatitis C and other infections.
- **Changes to sexual characteristics**. Males can experience acne, breast development, shrinking testicles, and infertility. Females can experience acne and excessive body hair.

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[6] *Flood v. Kuhn* (1972).

[7] Scott E. Lukas, *Chapter 12: The Pharmacology of Steroids*, Principles of Addiction Medicine (2003).

[8] National Institute on Drug Abuse, *Anabolic Steroid Abuse* (Apr. 2000).

- **Psychiatric side effects**. Anabolic steroids can cause violent "Roid Rage," and rapid withdrawal can lead to a devastating depression, which has been linked to suicide.[9]

C. Use of Anabolic Steroids by Youth

Public health and medical experts are alarmed by rising rates of anabolic steroid use among teenagers.

According to a national survey sponsored by the Centers for Disease Control and Prevention, in 1993, 2.2% of high school students – or 1 in 45 – reported ever using illegal steroids. In 1999, 3.7% of high school students – or 1 in 27 – reported ever using illegal steroids. By 2003, 6.1% of high school students – or 1 in 16 – reported ever using illegal steroids.[10]

This is a nearly three-fold increase from 1993 to 2003. In total, experts believe that more than 500,000 high school students in the United States have used anabolic steroids.

Among specific groups, steroid use can be especially popular. A 2002 Minnesota study found increased steroid use among participants in sports that emphasize weight and shape.[11] Even young teens, including young girls, appear to using steroids. For example, a 1998 Massachusetts study found that 9% of gymnasts in the 5th grade, 6th grade, and 7th grade had used illegal steroids.[12]

Many youth report that anabolic steroids are easy to obtain. In a 2004 survey, the National Institutes on Drug Abuse found that 19.7% of eighth graders, 29.6% of tenth graders, and 42.6% of twelfth graders surveyed reported that steroids were "fairly easy" or "very easy" to obtain.[13]

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[9] Scott E. Lukas, *Chapter 12: The Pharmacology of Steroids*, Principles of Addiction Medicine (2003).

[10] Centers for Disease Control and Prevention, *National Youth Risk Behavior Survey 1991-2003: Trends in the Prevalence of Marijuana, Cocaine, and Other Illegal Drug Use* (2004).

[11] L. Irving, et. al., *Steroid Use Among Adolescents: Findings from Project EAT*, Journal of Adolescent Health, 243-52 (Apr. 2002).

[12] A. Faigenbaum, et. al, *Anabolic Steroid Use by Male and Female Middle School Students*, Pediatrics, e6 (1998).

[13] National Institute on Drug Abuse and University of Michigan, *Monitoring the Future 2004 Data from In-School Surveys of 8th-, 10th-, and 12th-Grade Students* (Dec. 2004).

Anabolic steroids pose special medical risks to youth. By interrupting normal hormone levels, these drugs can send a signal to the bones to stop growing, stunting growth, and lead to serious psychiatric disorders. Steroid use among teenagers is also associated with a range of other potentially dangerous behaviors, including risky sexual activities, carrying a weapon, and driving under the influence of alcohol.[14]

Anabolic steroids have allegedly led to suicides among teenagers. These cases include:

- Rob Garibaldi, who began to use anabolic steroids as an 18-years-old standout baseball player at Casa Grade High School in California. He later received a baseball scholarship to the University of Southern California and played in the College World Series. Steroid use, however, led to serious psychiatric problems, including personality changes, violent behavior, and deep depression. He eventually was kicked off of the baseball team and lost his college scholarship. When confronted about steroid use by his father, Rob responded: "I'm on steroids, what do you think? Who do you think I am? I'm a baseball player, baseball players take steroids. How do you think Bonds hits all his home runs? How do you think all these guys do all this stuff? You think they do it from just working out normal?" Several months later, Rob Garibaldi committed suicide.[15]

- Taylor Hooton, who began using steroids after a junior varsity baseball coach suggested that he "get bigger." The drugs led to serious behavioral disturbances, including violent outbursts and stealing. Once popular and happy with many friends, Taylor's life started to crumble. Taylor committed suicide in July 2003. On autopsy, the coroner found two anabolic steroids in his body. Dr. Larry W. Gibbons, president and medical director of the Cooper Aerobics Center, said: "It's a pretty strong case that he was withdrawing from steroids and his suicide was directly related to that .... This is a kid who was well liked, had a lot good friends, no serious emotional problems. He had a bright future."[16]

D. Federal Law and Anabolic Steroids

Federal law and policy permit the use of certain anabolic steroids for legitimate medical purposes. However, the federal government has taken a series of steps to block the dangerous and illegitimate use of these drugs.

In 1990, Congress passed the Anabolic Steroid Enforcement Act, which added certain anabolic steroids to the list of Schedule III drugs. Individuals possessing

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[14] See, e.g., A. Middleman, R. DuRant, *Anabolic Steroid Use and Associated Health Risk Behaviors*, Sports Medicine, 251-5 (Apr. 1996).

[15] *Dreams, Steroids, Death—A Ballplayer's Downfall*, San Francisco Chronicle (Dec. 19, 2004).

[16] *An Athlete's Dangerous Experiment*, New York Times (Nov. 26, 2003).

Schedule III drugs without a valid prescription are subject to a misdemeanor charge. Persons convicted of distributing, dispensing, or selling these drugs are subject to a five-year felony for the first offense.

In addition to listing certain anabolic steroids, the Anabolic Steroid Enforcement Act also gave the Drug Enforcement Agency (DEA) the authority to schedule additional substances. To classify a drug as an anabolic steroid, DEA had to find that a drug was both (1) related to testosterone and (2) promoted muscle growth. This latter requirement led DEA to conduct lengthy tests to determine whether or not a particular substance did, in fact, promote muscle growth.

In 2004 amendments to the Controlled Substances Act, Congress eliminated the requirement that a drug had to promote muscle growth in order to be listed as a controlled substance. Now DEA only has to find that a drug is related to testosterone. In 2004, Congress also directly added additional drugs, including androstenedione and the novel steroid THG, to the list of scheduled steroids.

The Federal Food, Drug and Cosmetic Act (FDCA) also covers anabolic steroids. Under the FDCA, unapproved drugs -- including novel steroids that may not yet be scheduled -- may not be distributed in the United States. Possession of an unapproved drug for personal consumption is not a crime under the FDCA.

State laws on controlled substances may also apply to anabolic steroid use and distribution.

III. ILLEGAL STEROID USE IN MAJOR LEAGUE BASEBALL

There have been reports linking steroid use in baseball for over 30 years ago. In 1973, Congressman Harley O. Staggers, the Chairman of the House Committee on Interstate and Foreign Commerce, conducted an investigation into the use of illegal and dangerous drugs in sports. He found that "in some instances, the degree of improper drug use — primarily amphetamines and steroids — can only be described as alarming."[17] Staggers called for Major League Baseball to implement more stringent penalties for drug use and to consider random testing of players throughout the season.[18]

Major League Baseball responded, by claiming that Staggers had "misled" fans, and that baseball's drug program had "incorporated substantially all the measures you suggested,' and that "there is no alarming problem in baseball . . . and our program has succeeded in its objectives."[19]

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[17] Office of Congressman Harley O. Staggers, Press Release (May 11, 1973).

[18] Letter from Rep. Staggers to Baseball Commissioner Bowie Kuhn (May 14, 1973.

[19] Memo from Bowie Kuhn to Major League Baseball General Managers (May 18, 1973); Telegram from Major League Baseball Commissioner Bowie Kuhn to Rep. Staggers (May 17, 1973).

Over the last decade, a series of reports have described significant use of illegal anabolic steroids among Major League ballplayers.

In July 1995, the *Los Angeles Times* published an investigative report on steroid use in baseball titled "Steroids Become an Issue." The newspaper reported that "Anabolic steroids . . . apparently have become the performance drugs of the '90s in major league baseball." The report quoted Randy Smith, the general manager of the San Diego Padres, as stating: "We all know there's steroid use, and it's definitely become more prevalent .... I think 10% to 20%." An American League general manager added: "I wouldn't be surprised if it's closer to 30% .... We had one team in our league a few years ago that the entire lineup may have been on it."[20]

In July 1997, the Denver Post reported that "some players are clearly willing to cross the line to gain a competitive edge." The paper quoted one player for the Colorado Rockies as estimating that 20% of big-league ballplayers use illegal anabolic steroids.[21]

In July 2000, the police seized illegal steroids in the glove compartment of a car licensed to Manny Alexander, Boston Red Sox infielder.[22] In the wake of the discovery, Rick Reilly of *Sports Illustrated* estimated that up to 30% of players are on "illegal substances," up to eight players per big league team are on steroids, and 20% to 25% of minor league players are on steroids.[23]

On October 6, 2000, the *South Florida Sun-Sentinel* published a major investigation entitled "Homer Binge a Really Juicy Subject." The newspaper reported that the "whispers of steroid use in baseball surge in pace with the home-run binge on the field of play." One major league scout stated, "I wish our industry would start testing for steroids .... It has really become a joke. It's such a standing, laughable joke."[24]

On October 11, 2000, the *New York Times* published a front-page article titled "Guessing the Score." The article stated that "[i]nterviews with more than 25 major league strength coaches, general managers, league officials and players indicated a general view that steroid abuse has become a problem in baseball, perhaps even widespread, and that the sport must address it." Brad Andress, the strength coach for the

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[20] *Steroids Become an Issue; Baseball: Many Fear Performance-Enhancing Drug is Becoming Prevalent and Believe Something Must Be Done*, Los Angeles Times (July 15, 1005).

[21] *Get a Load of This!* Denver Post (July 28, 1997).

[22] *Steroids Linked to Alexander*, Hartford Courant (July 26, 2000).

[23] *The 'Roid' to Ruin, Sports Illustrated* (Aug. 21, 2000).

[24] *Homer Binge a Really Juicy Subject: Whispers of Steroid Use in Baseball Surge in Pace with the Home-Run Binge of Play*, The South Florida Sun- Sentinel (Oct. 6, 2001).

Colorado Rockies, estimated that 30% of major league baseball players had used steroids at some point in their careers. One veteran all-star outfielder said he believed that "two-thirds of the top players in the National League are using some kind of steroid."[25]

On June 3, 2002, when *Sports Illustrated* published "Totally Juiced," a cover story on performance-enhancing drugs in baseball." The magazine reported that "the game has become a pharmacological trade show." Former San Diego Padre Ken Caminiti admitted to using illegal steroids during the 1996 season, when he was voted the National League's most valuable player. Outfielder Chad Curtis estimated that 40% to 50% of major league players use steroids.[26] Mr. Caminiti died on October 10, 2004 of a heart attack caused by cardiac hypertrophy, a dangerous condition linked to steroid use.

On November 13, 2003, Major League Baseball reported that 5% to 7% of players had tested positive for anabolic steroids in the league's first year of testing.[27] This result almost certainly underestimated steroid use in baseball. As noted by *Sports Illustrated*: "Baseball did not test during the off season ... and it did not test for designer steroids."[28]

Because the 2003 testing program was anonymous, these results did not disclose which baseball players had used steroids. In December 2004, the *San Francisco Chronicle* published excerpts of leaked grand jury testimony related to the investigation of the Bay Area Laboratory Co-Operative (BALCO).[29] BALCO was a San Francisco-based company that sold a novel steroid known as THG.

According to these excerpts, some of baseball's most famous players were illegal steroid users. Former Most Valuable Player Jason Giambi reportedly testified he had used anabolic steroids since 2001, and New York Yankees slugger Gary Sheffield reportedly testified he had used illegal steroids for a limited period of time. San Francisco Giants star Barry Bonds reportedly testified that he used a clear substance and a cream supplied by BALCO, but never thought they were steroids.[30] The clear

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[25] *Guessing the Score: Open Secret; Steroid Suspicions Abound In Major League Dugouts*, New York Times (Oct. 11, 2000).

[26] *Totally Juiced; With the Use of Steroids and Other Performance Enhancers Rampant, According to a Former MVP and Other Sources, Baseball Players and Their Reliance on Drugs Have Grown to Alarming Proportions*, Sports Illustrated (June 3, 2003).

[27] *Baseball Set for Automatic Steroid Tests*, Washington Post (Nov. 14, 2003).

[28] *Five Strikes and You're Out,* Sports Illustrated. (Nov. 24, 2003).

[29] *Giambi Admitted Taking Steroids*, San Francisco Chronicle (Dec. 2, 2004); *What Bonds Told the BALCO Grand Jury*, San Francisco Chronicle (Dec. 3, 2004); *Sheffield's Side*, San Francisco Chronicle (Dec. 3, 2004).

[30] *What Bonds Told the BALCO Grand Jury*, San Francisco Chronicle (Dec. 3, 2004).

substance was apparently THG, and the cream included other anabolic steroids that on DEA's schedule III.

In February 2005, former baseball star Jose Canseco, who played for the Oakland Athletics and Texas Rangers (among other teams), released a book entitled *Wild Times, Rampant 'Roids, Smash Hits and How Baseball Got Big*. In the book, Mr. Canseco alleges that on numerous occasions in the 1990s, he personally injected other players with illegal steroids. He named numerous other baseball stars he believed take steroids.

Over the last month, there have been several additional reports of steroid use in baseball:

- On February 15, 2005, the *New York Daily News* reported that the Federal Bureau of Investigation had warned Major League Baseball that some of its stars were implicated in illegal steroid use, an account denied by the league.[31]

- On March 5, 2005, Commssioner Selig announced that less than 2% of players tested positive for illegal anabolic steroids in 2004.[32] However, the 2004 testing did not include the off-season, did not include androstenedione, and did not include designer steroids.

- On March 13, 2005, the *Daily News* reported that a California man had claimed to have provided illegal steroids to Mark McGwire in the 1990s,[33] and the *Kansas City Star* reported that former major league ballplayer Jeremy Giambi, brother of Jason Giambi, has admitted to using illegal steroids.[34]

IV. BASEBALL'S RESPONSE TO ILLEGAL STEROID USE

When reports reached baseball in 1989 that Pete Rose was suspected of gambling on baseball, Major League Baseball initiated its own investigation within a month, and within eight months, Mr. Rose was banned from baseball for life. This quick and decisive response contrasts sharply with Major League Baseball's slow reaction to repeated and credible allegations of widespread illegal steroid use.

For years, the league denied that any problem existed and refused to investigate reports of widespread steroid use. In 1994 the league proposed a drug testing program for numerous drugs, including steroids, but this proposal was dropped during negotiations with the union.[35] Only recently has any testing policy on steroids been put into place.

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[31] *FBI Agent Hits MLB on 'Roids*, New York Daily News (Feb. 15, 2005).

[32] *Selig Vows to Purge Steroids from Baseball*, Chicago Tribune (Mar. 6, 2005).

[33] *Exclusive: FBI Sources Say McGwire Was Juiced*, New York Daily News (Mar. 13, 2005).

[34] *Ex-Royal: Using Steroids a Mistake*, Kansas City Star (Mar. 13, 2005).

[35] Major Leage Baseball, Prevention of Drug Use and Distribution (1994).

Some observers have even alleged that baseball's failure to crack down on steroid use can be explained by the profits that resulted from steroid-fueled home runs.

In response to the 1995 *Los Angeles Times* report of widespread illegal steroid use, Commissioner Bud Selig stated: "If baseball has a problem, I must say candidly that we were not aware of it. But should we concern ourselves as an industry? I don't know."[36] In November 1996, Pat Courtney, a spokesperson for Major League Baseball, was asked about illegal steroids. He responded, "I don't think the concern is there that it's being used."[37]

As evidence mounted, Major League Baseball still denied that a problem could exist. In July 2000, after illegal anabolic steroids were discovered in the car of a Boston Red Sox player, Major League Baseball Spokesman Richard Levin stated he could not recall an instance when a player was tested for steroids. He said, "In baseball, steroids have never been much of an issue."[38]

In October 2000, after the *New York Times* published its exhaustive report revealing extensive steroid use in the game, baseball still failed to admit that a problem existed. Sandy Alderson, vice-president for baseball operation for Major League Baseball stated, "I think at this point it is safe to say Major League Baseball and the players' association are reviewing this situation."[39]

The league's public position began to change in 2002, after *Sports Illustrated* cover story revealing former Most Valuable Player Ken Caminiti's use of steroids. In August of that year, the league and the players' union agreed for the first time to a steroid testing regimen. The policy stated that if more than 5% of anonymously tested players test positive during the 2003 regular season, testing would expand. If fewer than 5% test positive, testing would be discontinued.[40]

Drug-testing experts considered the new policy to be very weak. One loophole was the absence of any testing in the off-season, when many players are believed to use steroids to prepare for the season. The initiative also ignored androstenedione, a known anabolic steroid marketed as a dietary supplement. Dr. Gary Wadler, an associate professor of medicine at New York University and a member of the health, medical and

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[36] *Steroids Become an Issue; Baseball: Many Fear Performance-Enhancing Drug is Becoming Prevalent and Believe Something Must Be Done*, Los Angeles Times (July 15, 1005).

[37] *Radically Pumped: How Widespread a Problem is Steroid Use Among Professional Athletes?* Toronto Star (Nov. 3, 1996).

[38] *Alexander Reserves Comment on Discovery*, Boston Globe (July 26, 2000).

[39] *Guessing the Score: Open Secret; Steroid Suspicions Abound In Major League Dugouts*, New York Times (Oct. 11, 2000).

[40] *Steroids Could Be a Key Issue*, Los Angeles Times (Aug. 24, 2002)

research committee of the World Anti-Doping Agency, called the new policy "beyond outrageous" because, "5 percent failed tests should be perceived more as a disaster than a threshold."[41]

A year later, after the results of initial testing revealed that the 5% to 7% of players tested positive for illegal anabolic steroids, Major League Baseball declared the results to be good news. Rob Manfred, baseball's vice president for labor relations, stated, "A positive rate of 5 percent is hardly a sign that you have rampant use of anything."[42]

Under the 2002 contract, the positive steroid rate triggered additional testing for 2004. In 2004, all players were tested once each season, but the penalties for positive tests were weak. The first positive test resulted only in treatment, with violations kept confidential. A second positive test resulted in a fifteen game suspension. Penalties increased with each successive positive test, resulting in a one-year suspension for a fifth positive. *Sports Illustrated* called the program "Five Strikes and You're Out."[43]

Baseball's failure to investigate allegations of steroid use has continued into 2005. When asked about the allegations made by Jose Canseco, Sandy Alderson, the executive vice president of baseball operations, stated, "I'd be surprised if there was any significant follow-up."[44]

Instead, baseball has declared the steroid problem largely resolved. In reporting the results of 2004 testing, Commissioner Selig stated, "We have a program that's working. It's no longer rampant at any level."[45] This claim, however, ignored what critics have called significant loopholes in the testing, including that Major League Baseball did not assess for all anabolic steroids and did not test during the off-season.[46]

Baseball's slow response to repeated, credible allegations of widespread steroid has been attributed by some observers to the profit motive. In 2001, Dr. Charles Yersalis, an expert on anabolic steroids in sports, asked "What pulled baseball out of its financial slump? More guys hitting home runs .... You could argue these drugs have benefited the

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[41] *Sports of the Times; Players' Steroid Proposal is Lacking Muscle*, New York Times (Aug. 11, 2002)

[42] *Baseball Set for Automatic Steroid Tests*, Washington Post (Nov.14, 2003).

[43] *Five Strikes and You're Out,* Sports Illustrated (Nov. 24, 2003).

[44] *Commissioner's Office Likely Will Not Pursue Canseco Allegations*, Associated Press (Feb. 11, 2005).

[45] *Positive Steroid Tests Decline*, Houston Chronicle (Mar. 6, 2005).

[46] *See, e.g.*, Selena Roberts, *And So Begins Selig's Long Trip to the Woodshed*, New York Times (Mar. 6, 2005).

game financially."[47] When *Sports Illustrated* asked a minor league player why baseball doesn't crack down on steroid users, he replied, "I've got an easy answer for that. I'd say, You've set up a reward system where you're paying people $1 million to put the ball into the seats."[48] And *New York Times* columnist Harvey Araton has written "the owners ... have been complicit, content to watch balls fly out of the ballparks and make the cash registers ring."[49]

V. BASEBALL'S AUTHORITY AND THE COLLECTIVE BARGAINING AGREEMENT

Major League Baseball has responded to allegations that it could have done more to combat illegal steroid use by citing its collective bargaining agreement. According to baseball, it would have cracked down on illegal steroid use years ago, but could not negotiate a collective bargaining agreement with the players.

To evaluate baseball's position and to understand the authorities the league possessed, it is important to distinguish between across-the-board testing of major league players and investigating allegations of specific abuses. Baseball appears to be largely correct that it could not initiate random drug testing of all players without the consent of the union. When some teams tried to initiate drug testing in the early 1980s, the union brought a grievance against the league for doing so.[50] The arbitrator in the case ruled that requiring "random testing" is a term and condition of employment that baseball management cannot unilaterally impose.[51]

The situation is quite different, however, with respect to investigating specific allegations of steroid use or conducting for-cause testing. The Major League Baseball Constitution provides the Commissioner with the authority to "investigate, either upon complaint or upon the Commissioner's own initiative, any act . . . . alleged or suspected to be not in the best interests of the national game of Baseball," and "to determine, after

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[47] *Homer Binge a Really Juicy Subject: Whispers of Steroid Use in Baseball Surge in Pace with the Home-Run Binge of Play*, The South Florida Sun- Sentinel (Oct. 6, 2001).

[48] *Totally Juiced; With the Use of Steroids and Other Performance Enhancers Rampant, According to a Former MVP and Other Sources, Baseball Players and Their Reliance on Drugs Have Grown to Alarming Proportions*, Sports Illustrated (June 3, 2003).

[49] Harvey Araton, *Players' Steroid Proposal is Lacking in Muscle*, New York Times (Aug. 11, 2002).

[50] Major League Baseball Arbitration Panel, *In the Matter of Arbitration Between Major League Baseball Player Relations Committee and Major League Baseball Players Association* (July 1986).

[51] *Id.*

investigation, what preventative, remedial, or punitive action is appropriate . . . and to take such action."[52]

Baseball's collective bargaining agreements have also recognized this authority, stating that the commissioner of baseball has authority to take actions "involving the preservation of the integrity of, or the maintenance of public confidence in the game of baseball"[53]

This authority would appear to encompass investigating allegations of illegal steroid use, requiring testing if required thresholds are met, and taking appropriate disciplinary action.

In fact, the league asserted this authority when the Commissioner unilaterally established a steroids policy in 1991. This policy banned the use, sale, or distribution of any illegal drug, controlled substance, or prescription drug for which the player did not have a valid prescription. It also provided that the league would conduct testing for steroids if a player has admitted to or been "detected" using steroids.[54]

Nothing in the collective bargaining agreement prevented the Commissioner from investigating general or specific reports of players using steroids or from strengthening the 1991 policy. The Commissioner, however, never took these steps. As a result, it appears that, there was never an investigation of steroid use in baseball, and that no "for cause" testing for anabolic steroids was ever conducted. In 2000, a league spokesman stated he could not recall an instance when a player was tested for steroids.[55] During this time, baseball apparently never disciplined any player for anabolic steroid use.[56]

The collective bargaining agreement between Major League Baseball and the players union first addressed steroid use in 2002. This policy states that if there is "reasonable cause to believe that a player has, in the previous 12-month period, engaged in the use, possession, sale, or distribution of a prohibited substance ... the player will be subject to immediate testing."[57]

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[52] Major League Baseball, *Major League Baseball Constitution*, 2003

[53] Major League Baseball, 1997-2000 Basic Agreement (1996).

[54] Major League Baseball, *Commisioners' Memo on Baseball's Drug Policy and Prevention Programs* (1991)

[55] *Alexander Reserves Comment on Discovery*, Boston Globe (July 26, 2000).

[56] Major League Baseball, *Players Suspended by Major League Baseball for Drug-Related Offenses*, 1990-Present (2005).

[57] 2002 Collective Bargaining Agreement, *Major League Baseball's Joint Drug Prevention and Treatment Program* (2002).

It also, for the first time, began a program under which all Major League players were tested for steroids. Under the agreement, which was implemented in 2003, test results were anonymous and thus there were no penalties in place if a player tested positive. The agreement dictated that if more than 5% of players tested positive for steroids in 2003, a stricter regimen would begin in 2004. [58]

In 2003, approximately 5%-7% of major league players tested positive for steroids. As a result, in 2004, a new steroid policy automatically took effect.[59] All players were tested once each season, and the program called for penalties for players with positive test results. These penalties, however were extremely weak. The first positive test resulted only in treatment, with violations kept confidential. A second positive test resulted in a fifteen-game suspension. Penalties increased with each successive positive test, resulting in a one-year suspension for a fifth positive. Under the new program 1% to 2% of players tested positive for steroids in 2004. Because of the confidential nature of the program, it is unclear how penalties were assessed.

VI. THE NEW BASEBALL POLICY ON STEROIDS

In January 2005, Major League Baseball and the players union announced a new policy on performance-enhancing drugs. The Committee obtained a copy of the new policy on Monday, March 14, and Committee staff is still analyzing its implications.

The strengths and weaknesses of the new policy are expected to be a major focus of the hearing. A subsequent staff memo will provide additional details about the new policy.

VII. ANDROSTENEDIONE

In addition to the illegal use of anabolic steroids, Major League Baseball has also confronted allegations in recent years of widespread legal use of an anabolic steroid, androstenedione. Commonly known as "andro," androstenedione was sold as a dietary supplement in the United States until 2004. In August 1998, an *Associated Press* reporter discovered a bottle of andro in the locker of baseball star Mark McGwire.[60] Mr. McGwire stated, "Everything I've done is natural. Everybody that I know in the game of baseball uses the same stuff I use."[61]

At the time, rather than aggressively investigate andro's use and dangers, Major League Baseball defended Mr. McGwire, who set the single-season home run record that

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[58] *Id.*

[59] *Id.*

[60] *'Andro' Pill OK in Baseball, Not in Other Sports*, Associated Press (Aug. 21, 1998).

[61] *McGwire Admits to Steroid Use: Substance Legal in Baseball, But Banned in Some Other Sports*, Ottawa Citizen (Aug. 22, 1998).

season. The league continued for years to condone widespread use of andro even in the face of mounting evidence of the substance's harm.

Soon after andro was found in Mr. McGwire's locker, Major League Baseball and the players' union announced that they would seek additional medical information about the substance. After the season, the medical advisor to the Commissioner's office, Dr. Robert Millman stated: "I don't think he was doing anything that was wrong, or that he knew was wrong, or that other people weren't doing."[62] Commissioner Selig stated, "I feel very comfortable with where we are in baseball with andro."[63]

It soon became clear, however, that Major League Baseball's comfort with andro was not shared by other sports organizations and medical experts:

- **International Olympic Committee**. In September 1998, the International Olympic Committee asked Major League Baseball to adopt the IOC's list of banned substances, which included andro.[64]

- **White House Drug Czar**. In May 1999, the White House drug czar Gen. Barry McCaffrey called for andro to be reclassified and banned as a steroid.[65]

- **Federal Trade Commission**. In November 1999, two large sports nutrition companies, MET-Rx and AST Nutritional Concepts & Research Inc., agreed with the Federal Trade Commission to include safety warnings in their ads and on their labels for products that contain andro. The warning would state that these products contain "steroid hormones that may cause breast enlargement, testicle shrinkage, and infertility in males."[66]

- **Harvard Medical School.** In February 2000, Harvard researchers sponsored by Major League Baseball found that andro can raise testosterone by an average of 34% above normal levels, proving that it acts as an anabolic steroid.[67] One of the researchers stated, "I would caution against taking andro because we don't know what the long-term effects are."[68]

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[62] *Baseball Players, Owners Delve Into Andro*, St. Louis Post-Dispatch. (Dec. 9, 1998).

[63] *Ibid.*

[64] *IOC to Ask Baseball to Join Ban on Andro*, Charlotte Observer (Sept. 15, 1998).

[65] *Baseball Whiffs on Andro Issue*, Daily News (Aug. 20, 1999).

[66] *'Andro' Makers Agree to Add Warnings*, Washington Post (Nov. 17, 1999).

[67] *Oral Androstenedione Administration and Serum Testosterone Concentrations in Young Men*, Journal of the American Medical Association (Feb. 9, 2000).

[68] *Baseball Will Allow Andro Supplement,* USA Today (Feb. 9, 2000).

- **National Basketball Association.** In March 2000, the National Basketball Association announced it is adding androstenedione and eight other performance-enhancing substances to its list of banned substances.[69]

None of these developments significantly altered Major League Baseball's position. In December 2000, Commisioner Selig stated: "we are trying to find out how we can solve that problem, if it's a problem."[70]

Major League Baseball did not prohibit andro use until 2004, when the Food and Drug Administration banned andro-containing dietary supplements, and Congress was already moving to add andro to the DEA's Schedule III.

VIII. WITNESSES

Panel One

- The Honorable Jim Bunning, U.S. Senator

Panel Two

- Dr. Nora Volkow, Director, Naitonal Institute on Drug Abuse, National Institutes of Health
- Dr. Gary I. Wadler, Associate Professor of Clinical Medicine, New York University School of Medicine
- Dr. Kirk Bower, Associate Professor of Psychiatry, University of Michigan Medical School
- Mr. Donald Hooton, Sr., Director, Chairman, and President of Taylor Hooton Foundation, father of high school baseball player Taylor Hooton, who committee suicide after steroid abuse
- Mr. Ray and Mrs. Denise Garibaldi, parents of former U.S.C. baseball player Rob Garibaldi, who committed suicide after steroid abuse

Panel Three

- Mr. Jose Canseco, former Major League baseball player
- Mr. Mark McGwire,
- Mr. Rafael Palmeiro, Baltimore Orioles
- Mr. Curt Schilling, Boston Red Sox
- Mr. Sammy Sosa, Baltimore Orioles
- Mr. Frank Thomas, Chicago Cubs

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[69] *NBA Says Andro Will be Banned*, Washington Post (Mar. 31, 2000).

[70] *Selig Digs in, Takes a Swing at a Variety of Uncertainties on Baseball's Horizon*, The Dallas Morning News (Dec. 10, 2000).

Panel Four

- Mr. Allan H. Selig, Commissioner of Baseball
- Mr. Donald M. Fehr, Executive Director and General Counsel, Major League Baseball Players Association
- Mr. Robert D. Manfred, Jr., Executive Vice President, Major League Baseball
- Mr. Sandy Alderson, Executive Vice President of Baseball Operations, Major League Baseball
- Mr. Kevin Towers, General Manager, San Diego Padres

Staff contacts: Brian Cohen and Josh Sharfstein (225-5051)

Chairman TOM DAVIS. Because we have four panels and many witnesses to hear from today, I am limiting further opening statements to the chairman and the ranking minority member of the Subcommittee on Criminal Justice, Drug Policy and Human Resources. All Members will have 7 days to submit written statements for the record. And of course on the cross-examination and the examination of witnesses, members will be under the 5-minute rule.

Mr. Souder.

Mr. SOUDER. Thank you very much, Mr. Chairman. Some have questioned why we are focusing on steroids. As chairman of the Drug Policy Subcommittee of the Committee on Government Reform, along with ranking Democrat Elijah Cummings, we have held 29 narcotics hearings in the last 24 months, hearings on how to prevent, control, interdict, eradicate and treat cocaine, crystal meth, marijuana, heroin, Ecstasy and over the counter drug abuse. This committee has been tackling the overall narcotics issues. What has been missing is this type of media coverage. If there is a question to be asked, it is why we held 29 hearings on drug abuse and all the focus on this hearing by the media. The answer in itself proves the importance of this hearing.

Like so many Americans growing up, baseball players were my heroes. Nellie Fox was my personal favorite. I tried to bat left-handed. I saved my money for months to try to get a Nellie Fox baseball glove. I had Nellie Fox box. I traded once a whole box of cards including some Mickey Mantle's to get one Nellie Fox card. Not the wisest business decision.

Today, we will hear from some parents of young baseball players who wanted to grow up to be professional athletes, only they took steroids. They are now dead. Years ago, when the integrity of baseball was at stake, Judge Kenesaw Mountain Landis put an end to the infamous White Sox scandal when allegedly eight Chicago White Sox players were involved. Even shoeless Joe Jackson who was illiterate and hit 380 in the World Series is still banned from the Hall of Fame because Judge Landis not only said, "no player who throws a game" will ever play professional baseball again, but he said "no player who sits in a conference where people are with crooked players" discussing where "ways and means of throwing a game" will be discussed shall ever play the game.

If there was that much of a baseball reaction to players who allegedly may have let a ball go through their legs or deliberately walked a batter, what about when key players systematically cheat through steroids and performance enhancing drugs to alter game after game. Pete Rose was banned for life from baseball and the Hall of Fame by commissioner Bart Giamatti because he eroded the integrity of the game of baseball. It's not even clear he bet on a game that he played in.

Yet we have today people who are admitting that they are altering the games and cheating. How low has the integrity of baseball sunk? Their example is sad. Now millionaire baseball players and owners depended upon the public protection of anti-trust legislation to achieve their enhanced money through their licenses and everything else and could not have the salaries and income that they

have without the protection of the taxpayers—didn't even want to come without subpoenas to be questioned today.

Even worse, it appears they have told us less than the whole truth about what policies they do have. They have changed their answers so many times in the media the last few days, that really the only question of this hearing is what exactly are they trying to cover up? With drastically rising drug abuse among youth in America, baseball needs to come clean. If anyone takes the fifth amendment today saying they would incriminate themselves, it would be a terrible additional tragedy. The scourge of all illegal drug abuse tears at the fabric of our Nation. Baseball was once America's pastime and it needs to start today to regain its former glory.

Right now, its records and current players, the overwhelming percentage who are completely innocent are all tainted. This committee will continue to pursue all illegal drug use, whether in Afghanistan or Colombia, whether it's in rural or urban America. Whether it involves street dealers or whether it involves millionaire athletes, we will not stop.

Chairman TOM DAVIS. Thank you, Mr. Souder.

[The prepared statement of Hon. Mark E. Souder follows:]

Statement of Congressman Mark Souder (R-IN)
Chairman, Subcommittee on Criminal Justice, Drug Policy and Human Resources
House Government Reform Committee
March 17, 2005 at 10:00 A.M.
Washington, D.C.

Some have questioned why we are focusing on steroids. As chairman of the Drug Policy Subcommittee of the Government Reform Committee, I have held 29 narcotics hearings, along with Ranking Democrat Member Elijah Cummings, in the last 24 months—hearings on how to prevent, control, interdict, eradicate, and treat cocaine, crystal meth, marijuana, heroin, ecstasy and over-the-counter drug abuse. This committee has been tackling the overall narcotics issue—what has been missing is this type of media coverage. If there is a question to be asked, it is: Why, considering there have been 29 other anti-drug hearings, has all the media focus been on this one? That answer proves in and of itself the vital importance of this hearing.

Like so many Americans growing up, baseball players were my heroes. Nellie Fox was my favorite. I tried to bat left-handed, saved money for months to buy a Nellie Fox baseball glove, had Nellie Fox baseball bats, traded a whole box of cards once—including Mickey Mantle—to get one Nellie Fox card.

Today we will hear from parents of young athletes who wanted to become baseball heroes. Only they took steroids. They are now dead.

Years ago, when the integrity of baseball was at stake, Judge Kennesaw Mountain Landis put an end to the infamous Black Sox scandal when eight Chicago White Sox players were allegedly bribed. Even Shoeless Joe Jackson, an illiterate who hit about .380, is still banned from the Hall of Fame because Judge Landis not only said that "no player who throws a game" will ever play professional baseball, but "no player that sits in conference with a bunch of crooked players" where "ways and means of throwing a game are discussed" shall play the game.

If this was baseball's reaction to players who may have allegedly let a ball go through their legs, or deliberately walked a batter, what about key players today who systematically cheat through steroids and performance-enhancing drugs to alter the games?

Pete Rose was banned for life from baseball and the Hall of Fame by Commissioner Bart Giamatti because he eroded "the integrity of the game of baseball."

How low the integrity of baseball has sunk. Their example is sad. Now, millionaire players and owners—dependent upon the wealth-producing protections of their business through anti-trust exemptions that are granted by the public—have refused to testify without subpoenas when the elected representatives of those taxpayers wanted to ask some questions.

Even worse, Major League Baseball appears to have told less than the whole truth about what policies they do have. They have changed numbers so many times in the last few days that the only question is what exactly they are covering up.

With dramatically-rising steroid abuse among youth, Major League Baseball needs to come clean.

If anyone takes the Fifth Amendment today because they "would incriminate themselves," it will be a terrible tragedy.

The scourge of drug abuse tears at the fabric of our nation. Baseball—once America's pastime—needs to start today to regain its claim to glory.

Right now its records and current players—most of whom are completely innocent—are all tainted.

This committee will pursue all illegal drug use, whether in Afghanistan or Colombia, in urban or rural America, and whether it involves street dealers or millionaire athletes.

Chairman TOM DAVIS. Mr. Cummings.

Mr. CUMMINGS. Mr. Chairman, for the first time I want to associate myself with the words of my subcommittee ranking chairman, and I want to commend you and the ranking minority member, Mr. Waxman for holding today's very important hearing examining the use of steroids in professional baseball and Major League Baseball's response to the problem and the broader implications of this problem for America's public health. As ranking member of the Subcommittee on Criminal Justice, Drug Policy and Human Resources, I work routinely with subcommittee Chairman Souder on issues related to the U.S. drug control policy and public health. All those Schedule I substances are the primary focus of our oversight, the dangers associated with the illegal diversion and abuse of other drugs, including drugs available by prescription, can be as serious as those attending the use of purely illicit drugs.

Anabolic steroids have legitimate medical use in patients who have suffered muscle damage, but abuse of steroids by recreational users seeking increased muscle growth and enhanced athletic performance can result in serious health problems. These problems can include early cardiovascular disease, liver damage, infection from contaminated injection equipment, changes to sexual characteristics and serious psychiatric side effects, including severe depression leading to suicide.

To protect the public from dangerous and illegitimate use of steroids, Congress added certain anabolic steroids to Schedule III of the Controlled Substances Act. Individuals possessing drugs without a valid prescription can be subject to a misdemeanor charge with persons convicted of distributing, dispensing or selling these drugs are subject to a 5-year sentence for the first offense. In addition, Drug Enforcement Administration has authority to schedule additional substances. State laws on controlled drugs may also apply to the use and distribution of anabolic steroids. The growing abuse of steroids by recreational users, particularly by young athletes seeking a competitive edge to get to the next level in their sport, is a serious public health problem that is encouraged by the illegal use of steroids by professional athletes.

The iconic status of elite athletes in America's society gives them tremendous influence over the attitudes and behaviors of the American public, especially among young people who aspire to be like them. The alleged private actions and personal choices of even a few elite players can speak even louder than the scripted promotional messages that prominent athletes are paid to recite. Young people are the most impressionable consumers of all of these messages and there is clear evidence that steroid use among young people is increasing at the same time that steroid use in professional baseball is being called widespread.

In just 10 years, the percentage of U.S. high school students reporting steroid use has tripled and experts believe more than 500,000 high school students have used steroids in some form. According to the Centers of Disease Control, 1 in 45 high schools reported steroid use in 1993. By 2003, the figure was 1 in 16. Major League Baseball has lagged behind other sports in clamping down on the use of steroids by athletes, often blaming its collective bargaining agreement with the players' union, but specific substances

banned by other sports have only recently been banned by baseball and despite numerous reports of steroid use by baseball players, the league has not once exercised its authority to investigate a specific allegation of illegal steroid use.

Mr. Chairman, Major League Baseball's policy on steroids needs to be one of zero tolerance and needs to have teeth. The committee's preliminary review of the new drug policy announced by Major League Baseball and the players' union suggest the policy could be made stronger by addressing areas of concern, which include the limited scope of prohibited drugs and the paltry penalties for violations.

What is clear, in my opinion, is that Major League Baseball and the Players' Union has a joint responsibility to send to the public the message that steroids and performance-enhancing drugs have absolutely no place in legitimate sports competition or a lifestyle that is consistent with long-term health. In the absence of strong proactive leadership by Major League Baseball, it is incumbent upon those of us who have responsibility for overseeing our Nation's public health and drug policies to counteract the missed mixed signals of steroids emanating from the world of professional sports. I believe we have a moral obligation to the parents of youth who are using or who may be tempted to use these drugs to say that not only is the use of performance enhancing drugs contrary to the spirit of fair competition that we aim to promote in all aspects of American life, but these drugs can lead to serious mental and physical harm, including death. The editors of the Baltimore Sun may have put it best when they wrote, "the time has come to hold baseball up to the brightest possible light. The sport needs to be examined and challenged." That is exactly what we plan to do today. I want to thank all of our witnesses for being here. And with that, Mr. Chairman, I yield back.

[The prepared statement of Hon. Elijah E. Cummings follows:]

Opening Statement of

Representative Elijah E. Cummings, D-Maryland

Hearing on "Restoring Faith in America's Pastime: Evaluating Major League Baseball's Efforts to Eradicate Steroid Use."

Committee on Government Reform

U.S. House of Representatives
109th Congress

March 17, 2005

Mr. Chairman,

I want to commend you and Ranking Minority Member Waxman for holding today's very important hearing examining the use of steroids in professional baseball, Major League Baseball's response to the problem, and the broader implications of this problem for America's public health.

As Ranking Minority Member of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources Subcommittee, I work routinely with Subcommittee Chairman Mark Souder on issues related to U.S. drug control policy and public health.

Although Schedule I substances are the primary focus of our oversight, the dangers associated with the illegal diversion and abuse of other drugs, including drugs available by prescription, can be as serious as those attending the use of purely illicit drugs.

Anabolic steroids have legitimate medical use in patients who have suffered muscle damage, but abuse of steroids by recreational users seeking increased muscle growth and enhanced athletic performance can result in serious health problems. These problems can include early cardiovascular disease, liver damage, infection from contaminated injection equipment, changes to sexual characteristics, and serious psychiatric side effects including severe depression leading to suicide.

To protect the public from dangerous and illegitimate use of steroids, Congress added certain anabolic steroids to Schedule III of the Controlled Substances Act. Individuals possessing such drugs without a valid prescription are subject to a misdemeanor charge, while persons

convicted of distributing, dispensing, or selling these drugs are subject to a five-year sentence for a first offense.

In addition, the Drug Enforcement Administration has authority to schedule additional substances. State laws on controlled drugs may also apply to the use and distribution of anabolic steroids.

The growing abuse of steroids by recreational users, particularly by young athletes seeking a competitive edge to get to the next level in their sport, is a serious public health problem that is encouraged by the illegal use of steroids by professional athletes.

The iconic status of elite athletes in American society gives them tremendous influence over the attitudes and behaviors of the American public -- especially among the young people who aspire to "be like" them. The alleged private actions and personal choices of even a few elite players can speak even louder than the scripted promotional messages that prominent athletes are paid to recite.

Young people are the most impressionable consumers of all of these messages and there is clear evidence that steroid use among young people is increasing at the same time that steroid use in professional baseball is being called widespread.

In just ten years, the percentage of U.S. high school students reporting steroid use has tripled and experts believe that more than 500 thousand high school students have used steroids in some form. According to the Centers for Disease Control, 1 in 45 high school students reported steroid use in 1993. By 2003, the figure was 1 in 16.

Major League Baseball has lagged behind other sports in clamping down on the use of steroids by its athletes, often blaming its collective bargaining agreement with the players union. But specific substances banned by other sports have only recently been banned by baseball and, despite numerous reports of steroid use by individual ballplayers, the

League has not once exercised its authority to investigate a specific allegation of illegal steroid use.

Mr. Chairman, Major League Baseball's policy on steroids needs to be one of zero tolerance and it needs to have teeth.

The Committee's preliminary review of the new drug policy announced by Major League Baseball and the players union, suggests the policy could be made stronger by addressing areas of concern, which include the limited scope of prohibited drugs and paltry penalties for violations.

What is clear, in my opinion, is that Major League Baseball and the players union have a joint responsibility to send the public the message that steroids and performance enhancing drugs have no place in legitimate sports competition or in a lifestyle that is consistent with long-term health.

In the absence of strong, proactive leadership by Major League Baseball, it is incumbent upon those of us who have responsibility for overseeing our nation's public health and drug policies to counteract the mixed signals on steroids emanating from the world of professional sports.

I believe we have a *moral* obligation to the parents of youth who are using, or who may be tempted to use, these drugs to say that, not only is the use of performance enhancing drugs contrary to spirit of fair competition that we aim to promote in all aspects of American life, but these drugs can lead to serious mental and physical harm, including death.

The editors of the *Baltimore Sun* may have put it best when they wrote, "The time has come to hold baseball up to the brightest possible light. The sport needs to be examined…[and] challenged."

That is exactly what we're here to do today.

I thank you again for working in a bipartisan way to bring this important issue before us.

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Chairman TOM DAVIS. Thank you, Mr. Cummings. Because we have four panels and many witnesses to hear from today, we are going to limit further opening statements to where we are and we are ready to move with our first panel. But before we get there, I want to ask unanimous consent that Mr. Osborne from Nebraska, former coach at the University of Nebraska, Mr. Sweeney, who has been active on this issue, and Mr. Serrano, be allowed to sit with the panel.

And hearing no objection, so ordered. Our first witness is the Honorable Jim Bunning, U.S. Senator from Kentucky, and a member of the Major League Baseball Hall of Fame. As a pitcher for the Detroit Tigers and Philadelphia Phillies, Senator Bunning was the only second pitcher to record 1,000 strikeouts and 100 wins in both the American and National Leagues. Senator Bunning has served in public office since 1977. After winning a seat in the Fort Thomas, Kentucky City Council, he was elected to a second term in the U.S. Senate this past November, and he is a former Member of this body. And thank you, Jim, for being here.

STATEMENT OF HON. JIM BUNNING, A U.S. SENATOR FROM THE STATE OF KENTUCKY

Senator BUNNING. Thank you, Mr. Chairman and all other members, Ranking Member Waxman and all my good friends from the House of Representatives. I appreciate the opportunity to come here today to testify on this very important issue. As a member of the Baseball Hall of Fame and someone who helped found the current Player Association, our union, and as a lifelong fan, protecting the integrity of our national pastime is a matter that is near and dear to my heart.

Since the beginning of this scandal, I have said that baseball should get the chance to clean up its own mess and government should stay out of the way. With the new steroid testing policy, it looks like baseball has taken a first baby step toward restoring honesty to the game. But if they backslide or don't follow through, then the owners and players need to know that we can and will act. Mr. Chairman, thank goodness that I don't have any personal experience with steroids. They weren't around during my 17 years in the Major Leagues. But when players broke the rules or cheated for sharpening spikes or corking bats or something worse, they were suspended. Since 1991, it has been illegal under Federal law to possess or sell anabolic steroids without a prescription. Many steroid dietary supplements like Android, were regulated as controlled substances by legislation that Congress passed last year. These substances have no place in baseball and players who use them illegally are cheating.

Like I said before, I think the new policy that suspends players for steroid use is a baby step forward. Personally, I think the penalties are really puny. I would like to see much stronger ones. One-month suspension for a first offense and from what I have read today, that isn't really what happens. A year for a second. And then 1-month suspension for a first offense is what it should be, a year for a second and then the third strike and you are out, out of the game. Football has a much stronger penalty and everyone agrees its program has worked. Players who break the law and

cheat should be severely punished and their records and statistics from when they used steroids should be wiped out.

If baseball fails to fix this scandal, then there are a lot of things we can do to get their attention, by amending the labor laws, repealing the outdated anti-trust exemption that baseball alone enjoys and shining the spotlight of public scrutiny. The last thing I want for the national pastime to be the subject of a witch hunt. All of the players should be considered innocent until proven guilty, but we can't let anything get swept under the rug either. It is important we hear from the players themselves about the steroid use in baseball. We need to hear the truth and I think hearings like this one the committee is holding today can be helpful in bringing the truth forward. The players and Major League Baseball must be held accountable for the integrity of the game. After all, it's not their game. It's ours, they're just enjoying the privilege of playing it for a short time.

What I may think many of today's players don't understand is that many others came before them and even more will come after them. And all of us have an obligation to protect the integrity of the greatest game ever invented. Now the game of baseball has been tarnished by some players because they didn't follow the rules and thought they were bigger than the game. It is disturbing to see trends continuing today. Baseball has to follow the rules just like everyone else. If a player thinks they are above the law of the land and can defy a congressional subpoena, they are sadly mistaken. They are not bigger than the game and they are certainly not bigger than the law of the land.

The same goes for owners. For over a decade, they have turned their heads when it came to steroids. They have helped put the game at risk. Not only did they turn a blind eye, they built smaller parks making it easier to hit home runs. The balls started flying farther. We have to ask why all of these things happened. Some in the press have talked about this hearing like it's a lark. It isn't. Congress is dead serious. We have every right to be concerned that the national pastime and all that it represents has been threatened by the selfish actions of a few.

Baseball is part of our culture, our history. It's a multi-billion dollar business that affects our economy and most of our largest communities. There's no doubt that Congress has a direct and important interest in what happens in baseball. Finally, players can't forget that like it or not, they are role models. By using steroids, they have sent the wrong message to the kids and to the public. As has been quoted by many in opening statements, too many, almost a half a million kids or more have tried steroids. 40 percent of 12th graders in a recent University of Michigan study said that steroids are easy to get.

So it's important for the American public to understand just how harmful steroids can be to someone's health. Side effects of steroid use include fatal conditions like liver cysts, liver cancer, blood clotting, hypertension and can even lead to heart attack and stroke and many other bad things. Baseball has helped to open a Pandora's box and now there's a chance to fix that damage and educate the public on the terrible health effects of steroids.

Baseball needs to know that we are watching and even more importantly, the fans are watching. Mr. Chairman, maybe I'm old fashioned. I remembered players didn't get any better as they got older. We all got worse. When I played with Henry Aaron and Willie Mays and Ted Williams, they didn't put on 40 pounds and bulk up in their careers and they didn't hit more home runs in their late 30's than they did in their late 20's. What's happening in baseball now is not natural and it isn't right. Baseball has to get its act together or else. So let's see how they do. And now I'll follow the proverb President Reagan always quoted, trust but verify. I'm willing to trust baseball, but players and owners have a special responsibility to protect the game and they owe it to all of us to prove that they are fixing this terrible problem. If not, we will have to do it for them. Thank you again for giving me this opportunity to speak before your committee today and I will be happy to answer any questions you might have.

[The prepared statement of Senator Jim Bunning follows:]

JIM BUNNING
U.S. Senator for Kentucky

March 17, 2005
FOR IMMEDIATE RELEASE
2005-068
EMBARGOED UNTIL DELIVERED

STATEMENT BY U.S. SENATOR JIM BUNNING
HOUSE GOVERNMENT REFORM HEARING ON STEROIDS AND MAJOR LEAGUE BASEBALL
MARCH 17, 2005

Thank you, Mr. Chairman. I appreciate the opportunity to come here today and testify on this very important issue.

As a member of the Hall of Fame, as someone who helped found the Players Association, and as a lifelong fan, protecting the integrity of our national pastime is a matter that is near and dear to my heart.

Since the beginning of this scandal, I've said that baseball should get the chance to clean up its own mess and government should stay out of the way.

With the new steroid testing policy, it looks like baseball has taken the first baby steps toward restoring honesty to the game. But if they backslide or don't follow through, then the owners and players need to know that we can and will act.

Mr. Chairman, thank goodness that I don't have any personal experience with steroids. They weren't around during my 17 years in the Major Leagues.

But when players broke the rules or cheated ---- for sharpening spikes or corking a bat, or something worse ---- they were suspended.

Since 1991 it has been illegal under federal law to possess or sell anabolic steroids without a prescription.

Many steroidal dietary supplements, like Andro, were regulated as controlled substances by legislation that Congress passed last year.

These substances have no place in baseball. And players who use them illegally are cheaters.

Like I said before, I think the new policy that suspends players for steroid use is a baby step forward.

-CONTINUE-

For more information, contact Mike Reynard at (202) 224-1156 (office) or (202) 302-3716 (cell) or email mike_reynard@bunning.senate.gov

Personally, I think the penalties are pretty puny. I'd like to see much stronger ones ---- one month suspension for a first offense, a year for the second and then three strikes and you're out.

Football has stronger penalties and everyone agrees its program has worked.

Players who break the law and cheat should be severely punished and their records and stats from when they used steroids should be wiped out.

If baseball fails to fix this scandal, there are a lot of things we can do to get their attention ---- by amending the labor laws, repealing the outdated antitrust exemption that baseball alone enjoys, and shining the spotlight of public scrutiny.

The last thing I want is for the national pastime to be the subject of a witch hunt. All of the players should be considered innocent until proven guilty.

But we can't let anything get swept under the rug either. It's important we hear from the players themselves about the steroids in the game.

We need to hear the truth. And I think hearings like the one your committee is holding today can be helpful in bringing the truth forward.

The players and Major League Baseball must be held accountable for the integrity of the game. After all, it's not their game. It's ours. They're just enjoying the privilege of playing it for a short time.

What I think a many of today's players don't understand is that many others came before them, and even more will come after.

And all of us have an obligation to protect the integrity of the greatest game ever invented.

Now the game of baseball has been tarnished because some players didn't follow the rules and thought they were bigger than the game.

It's disturbing to see that trend continuing today. Baseball has to follow the rules just like everyone else.

If a player thinks they are above the law of the land and can defy a Congressional subpoena, they are sadly mistaken.

They are not bigger than the game and they are not bigger than the law.

The same goes for the owners. For over a decade, they turned their heads when it came to steroids. They helped put the game at risk.

Not only did they turn a blind eye, they built smaller parks making it easier to hit home runs. The balls started flying farther. We have to ask why all of these things happened?

Some in the press have talked about this hearing like it's a lark. It isn't. Congress is dead serious.

-CONTINUE-

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We have every right to be concerned that the national pastime and all that it represents has been threatened by the selfish actions of a few.

Baseball is part of our culture, our history. And it's a multi-billion dollar business that affects our economy and most of our largest communities.

There's no doubt that Congress has a direct and important interest in what happens in baseball.

Finally, players can't forget that like it or not they are role models. By using steroids, they've sent the wrong message to kids and the public.

A 2003 CDC survey estimated that half a million high school kids had tried steroids.

40 percent of 12th graders in a recent University of Michigan study said that steroids were "easy" to get.

So it's important that the American public understand just how harmful steroids can be to someone's health.

Side-effects of steroid use include things like fatal liver cysts, liver cancer, blood clotting, hypertension, and can even lead to heart attack or stroke.

Baseball has helped to open a pandora's box. Now it has a chance to fix that damage and educate the public on the terrible health affects of steroids.

Baseball needs to know that we are watching. And even more importantly, the fans are watching.

Mr. Chairman, maybe I'm old fashioned. I remember when players didn't get better as they got older. We all got worse. When I played with Hank Aaron and Willie Mays and Ted Williams, they didn't put on forty pounds of bulk in their careers, and they didn't hit more homers in their late thirties than they did in their late twenties.

What's happening now in baseball isn't natural and it isn't right. Baseball has to get its act together or else.

So let's see how they do. For now I will follow the proverb that President Reagan always quoted – "trust but verify."

I'm willing to trust baseball, but players and owners have a special responsibility to protect the game. And they owe it to all of us to prove that they are fixing this terrible problem. If not we will have to do it for them.

Thank you again for giving me this opportunity to speak before your committee today.

I'll be happy to answer any questions you may have.

-END-

For more information, contact Mike Reynard at (202) 224-1156 (office) or (202) 302-3716 (cell) or email mike reynard@bunning.senate.gov

Chairman TOM DAVIS. Senator Bunning, thank you for a splendid statement from a Hall of Famer. I think we have given you a copy of Major League Baseball's drug testing policies, the one with the red tabs. Could you turn to page 11, section 9(b), discipline. It says, player tests positive for a steroid. It says, first positive test result, a 10-day suspension or up to a $10,000 fine. Is that a baby step?

[The information referred to follows:]

Attachment 18

MAJOR LEAGUE BASEBALL'S
JOINT DRUG PREVENTION AND TREATMENT PROGRAM

Major League Baseball's Joint Drug Prevention and Treatment Program (the "Program") is established by agreement of the Office of the Commissioner and the Major League Baseball Players Association (the "Commissioner's Office," the "Association" and, jointly, the "Parties") (1) to educate Players on the Major League Clubs' 40-man rosters ("Players") on the risks associated with using Prohibited Substances (defined in Section 2 below); (2) to deter and end the use by Players of Prohibited Substances; and (3) to provide for, in keeping with the overall purposes of the Program, an orderly, systematic, and cooperative resolution of any disputes that may arise concerning the existence, interpretation, or application of this agreement. Except as otherwise provided herein, any dispute arising under this Program shall be subject to resolution through the Grievance Procedures of the Basic Agreement.

1. HEALTH POLICY ADVISORY COMMITTEE

A. Health Policy Advisory Committee Members

The Health Policy Advisory Committee ("HPAC") is responsible for administering and overseeing the Program. HPAC shall be composed of one medical representative ("Medical Representative") from each of the Parties (both of whom shall be licensed physicians expert in the diagnosis and treatment of chemical use and abuse problems), and one other representative each from the Office of the Commissioner and the Association (both of whom shall be licensed attorneys).

B. Appointment and Removal of HPAC Members

The respective representatives shall be appointed and removed by the Office of the Commissioner or the Association at will and shall not serve a minimum term.

C. Voting Procedures

HPAC shall endeavor to reach a unanimous decision with respect to the matters committed to it. In the absence of a unanimous decision, and subject to Section 2.C below, a majority decision shall govern. When a majority decision cannot be reached, the Medical Representatives shall jointly appoint, on an *ad hoc* basis, a fifth member of HPAC (the "Fifth Member") who shall cast the decisive vote with respect to the matter at issue. The Fifth Member shall be a licensed physician expert in the diagnosis and treatment of chemical use and abuse problems. Except as provided in Section 3.C.2, HPAC shall use its best efforts to appoint the Fifth Member within 48 hours after being unable to reach a majority decision.

D. Duties and Responsibilities of HPAC

1. HPAC shall have the following duties and responsibilities:

(a) to establish advisory groups as it deems necessary to the effective administration of the Program, provided that no such advisory group may incur any extraordinary expenses without the approval of the Office of the Commissioner and the Association;

(b) to prepare and undertake educational presentations supporting the objectives of the Program;

(c) to administer in all respects the Program's testing requirements;

(d) to establish, monitor, maintain and supervise the collection procedures and testing protocols set forth in Addendum A hereto;

(e) to select, retain or replace an entity or entities to collect and transmit urine samples to the laboratory;

(f) to select, retain or replace a laboratory to conduct the analysis required by this program;

(g) to select, retain or replace a "Medical Testing Officer" to advise on and resolve, when called upon, the scientific issues associated with the testing required by the Program;

(h) to determine the validity of newly-developed testing procedures for Prohibited Substances (*see* Section 2 below);

(i) to establish uniform guidelines or requirements for Clubs' Employee Assistance Programs ("EAPs") as they relate to Major League Players and monitor the performance of all such EAPs as they relate to Major League Players;

(j) to determine a Player's placement on either the Clinical or Administrative Track as set forth herein;

(k) to create, or participate in creating, individualized programs for Players on the Clinical or Administrative Track ("Treatment Programs");

(l) to monitor and supervise the progress of Players on Treatment Programs;

(m) to review periodically the operation of the Program and, upon majority agreement of the HPAC members, make recommendations to the Office of the Commissioner and the Association for appropriate amendments; and

(n) to take any and all other reasonable actions necessary to ensure the proper administration of the Program and confidentiality of Program records.

2. HPAC may make recommendations to the Office of the Commissioner with respect to any contemplated discipline of Players for violations of this Program. Notwithstanding the foregoing, other than with respect to its responsibility to determine the appropriate placement of Players on the Clinical or Administrative Track, HPAC shall have no authority to discipline players for violations of this Program and, other than as specifically set forth in this Agreement, no authority to investigate or make findings with respect to possible violations of this Program. All such authority shall repose in the Office of the Commissioner.

2. DRUGS OF ABUSE AND STEROIDS

All Players shall be prohibited from using, possessing, selling, facilitating the sale of, distributing, or facilitating the distribution of any Drug of Abuse and/or Steroid (collectively referred to as "Prohibited Substances").

A. Drugs of Abuse

Any and all drugs or substances included on Schedule II of the Code of Federal Regulations' Schedule of Controlled Substances ("Schedule II"), as amended from time to time, and all Schedule I drugs listed on Addendum B attached hereto, as amended from time to time, shall be considered Drugs of Abuse covered by the Program. The following substances and their analogs are covered by the Program, their Schedule classification notwithstanding:

1. Cocaine
2. LSD
3. Marijuana
4. Opiates (*e.g.*, Heroin, Codeine, Morphine)
5. MDMA ("Ecstasy")
6. GHB
7. Phencyclidine ("PCP")
8. Ephedra

B. Steroids

Any and all anabolic androgenic steroids covered by Schedule III of the Code of Federal Regulations' Schedule of Controlled Substances ("Schedule III"), as amended from time to time, shall be considered Steroids covered by the Program. Anabolic androgenic steroids that are not covered by Schedule III but that may not be lawfully obtained shall also be considered Steroids covered by the Program. The following is a non-exhaustive list of substances that shall be considered Steroids covered by the Program:

1. Androstanediol
2. Androstanedione
3. Androstenediol
4. Androstenedione
5. Bolasterone
6. Boldenone
7. Calusterone
8. Clostebol

9. Dehydrochloromethyltestosterone
10. Desoxy-methyltestosterone
11. Δ1-dihydrotestosterone
12. 4-dihydrotestosterone
13. Drostanolone
14. Ethylestrenol
15. Fluoxymesterone
16. Formebolone
17. Furazabol
18. 13a-ethyl-17a-hydroxygon-4-en-3-one
19. 4-hydroxytestosterone
20. 4-hydroxy-19-nortestosterone
21. Mestanolone
22. Mesterolone
23. Methandienone
24. Methandriol
25. Methenolone
26. Methyltestosterone
27. Mibolerone
28. 17a-methyl-Δ1-dihydrotestosterone
29. Nandrolone
30. Norandrostenediol
31. Norandrostenedione
32. Norbolethone
33. Norclostebol
34. Norethandrolone
35. Oxandrolone
36. Oxymesterone
37. Oxymetholone
38. Stanozolol
39. Stenbolone
40. Testolactone
41. Testosterone
42. Tetrahydrogestrinone
43. Trenbolone
44. Any salt, ester or ether of a drug or substance listed above; and
45. Human Growth Hormone

C. Adding Prohibited Substances to the Program

During the term of this Agreement, Prohibited Substances may be added to this Section 2 only by the unanimous vote of HPAC, provided that the addition by the federal government of a substance to Schedule I (of the type of substance listed on Addendum B), II or III shall automatically result in that substance being added to this Section 2.

D. Joint Task Force

1. No later than May 1, 2005, the Office of the Commissioner and the Association each shall appoint two licensed physicians or scientists expert in the area of performance enhancing substances to a Joint Task Force. The Joint Task Force shall review the available literature and scientific materials and prepare a report on the health issues related to the use of anabolic androgenic steroids by world-class athletes. The report will be submitted to HPAC, the Office of the Commissioner and the Association no later than November 1, 2005.

2. The Joint Task Force report may be released to the public only after consultation between the Office of the Commissioner and the Association.

3. The costs of the Joint Task Force shall be borne equally by the Association and the Office of the Commissioner.

3. TESTING

A. Steroids

1. In-Season Testing. During each championship season covered by this Agreement (which, for purposes of this Section only, shall commence with the spring training mandatory reporting date and conclude with the final day of the regular season), all Players will be randomly selected for testing once at an unannounced time for the presence of Steroids.

2. Additional In-Season and Off-Season Testing. In addition, the Office of the Commissioner shall have the right during each of the calendar years covered by this Agreement to conduct additional testing of randomly-selected Players at unannounced times for the presence of Steroids. The number, schedule and timing of these tests shall be determined by HPAC. Each Player shall remain subject to such additional tests regardless of the number of tests taken by the Player during any calendar year.

3. Testing for Steroids ordered by HPAC under Section 3.C below or as part of a Treatment Program established under Section 6.B below may be conducted on a continuing basis when determined by HPAC to be appropriate.

4. Testing for Steroids will be conducted only pursuant to a scientifically-validated urine test.

B. Drugs of Abuse

Except as set forth in Section 3.C, Players shall not be subject to testing for the use of any Drug of Abuse.

C. Reasonable Cause Testing

1. In the event that any HPAC member has information that gives him/her reasonable cause to believe that a Player has, in the previous 12-month period, engaged in the use, possession, sale or distribution of a Prohibited Substance, such member shall immediately request a meeting (or conference call) to present such information to the other HPAC members. If HPAC agrees by a majority vote that such reasonable cause exists, the Player will be subject to immediate testing, to take place no later than 48 hours after such vote, in accordance with the Collection Procedures and Testing Protocols set forth in Addendum A hereto.

2. If HPAC's vote is evenly split as to whether reasonable cause exists, the Medical Representatives shall, within 24 hours of such vote, use their best efforts to appoint the Fifth Member to cast the deciding vote. The name of the Player involved shall not be disclosed to the Fifth Member.

D. Collection Procedures and Testing Protocols

All testing conducted pursuant to this Program shall be conducted in compliance with the Collection Procedures and Testing Protocols set forth in Addendum A hereto.

E. Positive Test Results

Any test conducted under the Program will be considered "positive" under the following circumstances:

1. If any substance identified in the test results meets the levels set forth in the Testing Protocols section of Addendum A hereto.

2. A Player refuses or, without good cause, fails to take a test pursuant to Section 3.A or 3.C, or refuses to cooperate with the testing process.

3. A Player attempts to substitute, dilute, mask or adulterate a specimen sample or in any other manner alter a test.

The determination of whether a test is "positive" under Section 3.E.2 and 3.E.3 shall be made by HPAC.

F. Notification

Subject to Section 9.C below, HPAC shall immediately notify the Player and the Club of a Player's positive result from a test conducted pursuant to Section 3.A.

4. CLINICAL AND ADMINISTRATIVE TRACKS

A. Clinical Track

1. Except as set forth in Section 4.B below, all Players who enter the Program shall be automatically placed on the Clinical Track.

2. A Player shall automatically be moved to the Administrative Track if he is convicted or pleads guilty (including a plea of *nolo contendre* or a similar plea, but not including an adjournment contemplating dismissal or a similar disposition) to the sale or use of (including a criminal charge of conspiracy or attempt to possess, use or distribute) any Prohibited Substance. Such Player shall also be subject to immediate discipline.

3. In all other events, HPAC shall have the discretion to transfer a Player from the Clinical Track to the Administrative Track. The parties agree, however, that HPAC shall not move a Player to the Administrative Track solely on the basis that the Player is in an in-patient treatment program.

4. The parties agree that the act of transferring a Player from the Clinical to the Administrative Track shall not be considered discipline. The parties further agree that a Player may be subject to immediate discipline at the time he is transferred from the Clinical to the Administrative Track.

B. Administrative Track

A Player shall be automatically placed on the Administrative Track if:

1. Subject to Section 9.C below, that Player tests positive for a Steroid under the testing program established by this Agreement; or

2. HPAC determines that Player has failed to cooperate in his Initial Evaluation (as defined in Section 6.A below). If HPAC fails to reach a majority vote on whether a Player has failed to cooperate, the Fifth Member shall cast the deciding vote and shall base his/her determination on a "reasonable cause" standard and shall not be permitted to consider or rely upon past practice. If HPAC concludes that Player has failed to cooperate in his Initial Evaluation, Player shall be subject to immediate discipline; or

3. HPAC determines that Player has failed to cooperate in his Treatment Program (as defined in Section 6.B below). If HPAC fails to reach a majority

vote on whether a Player has failed to cooperate, the Fifth Member shall cast the deciding vote and shall base his/her determination on a "reasonable cause" standard and shall not be permitted to consider or rely upon past practice; or

4. Player is convicted or pleads guilty (including a plea of *nolo contendere* or a similar plea but not including an adjournment contemplating dismissal or a similar disposition) to the sale or use (including a criminal charge of conspiracy or attempt to possess, use or distribute) of any Prohibited Substance; or

5. Player participates in the sale or distribution of any Prohibited Substance.

HPAC shall notify the Club's General Manager when a Player is placed on or moved to the Administrative Track.

5. SALARY RETENTION

A player shall be entitled to salary retention, over the course of his career, for the first 30 days he is required, under a Treatment Program, to be in inpatient treatment, or outpatient treatment necessitating his absence from the Club. A Player shall be entitled to one-half salary retention, over the course of his career, for the 31st through 60th days he is required, under a Treatment Program, to be in inpatient treatment, or outpatient treatment necessitating his absence from the Club. A Player shall not be entitled to salary retention, over the course of his career, for any period beyond the 60th day in the event he is required, under a Treatment Program or otherwise, to be in inpatient treatment or outpatient treatment necessitating his absence from the Club.

6. PLAYER EVALUATION

A. Initial Evaluation

A Player who is referred to HPAC shall receive an evaluation from HPAC's Medical Representatives (the "Initial Evaluation"). The purpose of the Initial Evaluation is to ascertain the type of Treatment Program that, in the opinion of the Medical Representatives, would be most effective for the Player involved. The Initial Evaluation shall include at least one meeting between the Player and one or both of the Medical Representative(s). After the first meeting, the Medical Representative(s) may determine that additional meetings and/or a medical examination, including a toxicology examination, is necessary to complete the Initial Evaluation.

B. Treatment Program

After concluding the Initial Evaluation and consulting with the other HPAC members, the Medical Representatives shall prescribe a Treatment Program for the Player. In devising the Treatment Program, the Medical Representatives may consult with other treating physicians or experts in the field and, unless HPAC decides otherwise, may not divulge the Player's name. The Treatment Program may include any or all of the following: counseling, inpatient treatment, outpatient treatment and follow-up testing. The Medical Representatives must inform the Player

of the initial duration of the Treatment Program. During the course of the Player's Treatment Program, the Medical Representatives may change the duration (either longer or shorter) and the scope of the Treatment Program, depending on the Player's progress. The Treatment Program may, upon determination by the Medical Representatives, be administered by someone other than the Medical Representatives (including a Club's EAP and/or physician), but the Medical Representatives shall maintain overall supervision of the Program and receive regular updates on the Player's progress from the treating professionals to whom administration of the Treatment Program may have been delegated.

7. CONFIDENTIALITY

The confidentiality of the Players' participation in the Program is essential to the Program's success. To best ensure that confidentiality is protected in all aspects of the Program's operation, the parties agree to the following:

A. Except as provided in Section 8, the Office of the Commissioner, the Association, HPAC, Club personnel, and all of their members, affiliates, agents, consultants and employees, are prohibited from publicly disclosing information about the Player's test results, Initial Evaluation, diagnosis, Treatment Program (including whether a Player is on either the Clinical or Administrative Track), prognosis or compliance with the Program.

B. Testing records shall be maintained in accordance with the procedures set forth in Addendum C.

C. For purposes of this Section 7, a "governmental investigation" shall mean any subpoena issued, warrant obtained, or other investigative effort employed by any governmental body (including a court acting at the request of a private party) with the intention of securing information relating to drug testing of Players; provided, however, that any such subpoena, warrant or other effort (i) supported by individualized probable cause regarding particular Players, and (ii) in which the evidence supporting such cause did not arise from the operation of this Program, and (iii) in which the information obtained relates only to those particular Players shall not be considered a "governmental investigation" within the meaning of this Section 7. A subpoena issued by a court at the request of a private party shall not be considered a "governmental investigation" unless a court has issued an order requiring compliance with the subpoena or otherwise requiring the disclosure of confidential information.

D. Either party to this Agreement shall notify the other upon learning of a governmental investigation. Both parties shall resist any governmental investigation by all reasonable and appropriate means including, when necessary, initiation and prosecution of legal proceedings. In addition, the parties will also use all reasonable means to resist any effort by a private party to obtain confidential information about the testing program through civil litigation, including but not limited to the filing of a motion to quash in the appropriate court. The parties shall split the costs incurred in connection with such efforts to resist and shall confer as to other aspects of their efforts.

E. Unless the bargaining parties agree otherwise, all testing pursuant to Sections 3.A.1 and 3.A.2 of this Agreement shall be suspended immediately upon the parties' learning of a governmental investigation. Such a suspension will remain in effect until the governmental investigation is withdrawn, or until the parties have successfully resisted the governmental investigation at the trial court level, or until the parties otherwise agree to resume testing. If the parties have successfully resisted an investigation at the trial court level, and that decision thereafter is set aside by an appellate court, all testing pursuant to Section 3.A.1 and 3.A. 2 shall again be suspended. If a suspension is in place for 12 months consecutively, either party may reopen this Agreement by providing notice within 20 days thereafter. This Agreement will remain in effect for 30 days after such notice to reopen is provided.

8. DISCLOSURE OF PLAYER INFORMATION

A. Disclosure of Information

1. A Club whose Player is on the Clinical Track is prohibited from disclosing any information regarding a Player's participation in the Program to either the public, the media or other Clubs. Notwithstanding this prohibition, a Club is permitted to discuss a Player's Treatment Program progress with another Club that is interested in acquiring such Player's contract if the Club receives the Player's prior written consent and release of Treatment Program history.

2. Any and all information relating to an Administrative Track Player's involvement in a Treatment Program, including but not limited to the fact or the results of any Prohibited Substance testing to which the Player may be subject, the details of his Treatment Program and his progress thereunder, and any disciplinary fines imposed upon the Player by the Commissioner shall remain strictly confidential. Notwithstanding the foregoing, if the Player is suspended by the Commissioner, pursuant to Section 9 below, the suspension shall be entered in the Baseball Information System as a suspension for a specified number of days for a violation of this Program, and the only public comment from the Club or the Office of the Commissioner shall be that the Player was suspended for a specified number of days for a violation of this Program. In addition, HPAC may, without the suspended Player's consent, disclose the Player's status on the Administrative Track and the reason for any discipline imposed on the Player to the General Manager of the Player's Club, who shall keep such information confidential, except that the General Manager, and only he, may disclose such information to the General Manager of a Club that has expressed an interest in acquiring such Player's contract via assignment.

B. Method of Providing Information

Any information authorized to be provided to General Managers pursuant to this Section 8 shall be provided either in person or by conference call, provided that at least one HPAC member representing each Party is in attendance or on the call.

9. DISCIPLINE

A. Player Fails to Comply with Treatment Program

1. If HPAC determines by majority vote (or by a Fifth Member vote, if necessary) that a Player has failed to comply with his Treatment Program, and if the Player is either already on the Administrative Track or, as a result of such failure to comply, is placed on the Administrative Track, that information shall be disclosed to the Commissioner and the Player shall be subject to the following discipline by the Commissioner:

(a) First failure to comply (including failure to comply resulting in placement on Administrative Track): at least a 15-day, but no more than a 25-day, suspension or up to a $10,000 fine;

(b) Second failure to comply: at least a 25-day, but no more than a 50-day, suspension or up to a $25,000 fine;

(c) Third failure to comply: at least a 50-day, but not more than a 75-day, suspension or up to a $50,000 fine;

(d) Fourth failure to comply: at least a one-year suspension or up to a $100,000 fine.

(e) Any subsequent failure to comply by a Player shall result in the Commissioner imposing further discipline on the Player. The level of the discipline will be determined consistent with the concept of progressive discipline.

2. All suspensions shall be without pay.

3. The parties agree that any disputes regarding the fact of a Player's failure to comply with his Treatment Program and/or the level of discipline within the above-stated ranges for such failure to comply shall be subject to the Basic Agreement's Article XI.B grievance procedures.

B. Player Tests Positive for A Steroid

1. First positive test result: a 10-day suspension or up to a $10,000 fine;

2. Second positive test result: a 30-day suspension or up to a $25,000 fine;

3. Third positive test result: a 60-day suspension or up to a $50,000 fine;

4. Fourth positive test result: a one-year suspension or up to a $100,000 fine;

5. Any subsequent positive test result by a Player shall result in the Commissioner imposing further discipline on the Player. The level of discipline will be determined consistent with the concept of progressive discipline.

All suspensions shall be without pay.

C. Player Appeal Procedures

The following procedures shall apply when the laboratory reports to HPAC a test result that may be the first positive for Steroids for a Player. All information associated with or generated by these procedures is subject to the confidentiality protections of Section 7 above. Unless expressly authorized by this Section, neither HPAC, the Office of the Commissioner nor a Club may disclose any information obtained in connection with these procedures.

1. Within 24 hours of receiving notice of a Player's positive test result, the Association attorney representative from HPAC shall notify the Player of the reported result. Within two business days following such notification, the Player shall inform the HPAC representative whether he intends to challenge that result. Until the expiration of this two business day period, HPAC shall notify no other person of the reported result.

2. If the Player either does not give notice of an intent to challenge or chooses not to challenge the result within the timeframe specified in Section 9.C.1 above, HPAC shall then notify the Club and the Office of the Commissioner that the Player has tested positive for a Steroid. Within 24 hours after such notice is issued, the Office of the Commissioner shall notify the Player and the Club of the discipline imposed for the positive test result. Any such discipline shall be effective immediately. The Player reserves the right to grieve any discipline imposed by the Commissioner but in no event shall the Player's suspension be stayed while the Grievance is pending. Any such Grievance would be processed pursuant to the Grievance Procedure set forth in Article XI(B) as one involving a "disciplinary suspension." The Player's failure to give notice of an intent to challenge to HPAC or the Player's decision not to challenge the test result shall not be admissible in any arbitration of such Grievance.

3. If the Player gives notice of an intent to challenge the result, he must at the same time provide HPAC with a written basis for such challenge. HPAC shall immediately request all information relating to the positive test result which is customarily provided upon a challenge ("the litigation packet"). Upon its receipt, HPAC shall transmit the litigation packet to the Player. Within three days after the Player receives the litigation packet, HPAC shall convene, in person, to consider the Player's challenge of the test result. If HPAC is unable to meet in person, HPAC shall convene by conference call within the three-day time period. HPAC may request the Player to appear and, if the Player elects to do so, he may

be accompanied by a representative. Whether or not HPAC requests the Player to appear, the Player may submit a written statement to HPAC. HPAC shall not disclose to any individual that the Player gave notice of an intent to challenge the result, nor any aspect of its proceedings or deliberations regarding that challenge. HPAC shall determine as soon as practicable after the conclusion of the meeting on the Player's challenge, but in no event more than 24 hours following such conclusion, whether there is a reasonable basis for that challenge.

4. If HPAC unanimously concludes that there is not a reasonable basis for the Player's challenge, HPAC shall, within 24 hours after reaching such conclusion, notify the Player, the Club and the Office of the Commissioner that the Player has tested positive for a Steroid. Within 24 hours after such notice is issued, the Office of the Commissioner shall notify the Player and the Club of the discipline imposed for the positive test result. Any such discipline shall be effective immediately. HPAC shall not notify the Club or the Office of the Commissioner of the Player's challenge of the result nor of HPAC's deliberations or conclusion regarding such challenge. The Player shall retain all rights to grieve any discipline imposed for that test result but in no event shall a Player's suspension be stayed while the Grievance is pending. Any such Grievance would be processed pursuant to the Grievance Procedure set forth in Article XI(B) as one involving a "disciplinary suspension." Neither the Player's challenge of the result, nor any aspect of HPAC's proceedings or deliberations regarding such challenge, shall be admissible in the arbitration of such Grievance.

5(a)(i) If any member of HPAC concludes that the Player has a reasonable basis to challenge the result, HPAC shall, within 24 hours, notify the Player, the Association and the Office of the Commissioner of that conclusion. Within 24 hours after such notice is issued, the Office of the Commissioner shall inform the Player and the Association of any discipline to be imposed for the reported positive test result. Any suspension imposed by the Office of the Commissioner shall be effective two business days after the discipline is issued. If the Player grieves the discipline before the effective date of the suspension, the Player's suspension shall be stayed until the Arbitration Panel issues an award. The parties agree that any such Grievance shall be heard by the Arbitration Panel no later than five days after the Player files a Grievance.

(ii) The parties will select two members of the National Academy of Arbitrators who sequentially will be asked to serve as a substitute for the Panel Chairman in the event that the Panel Chairman is unable to hear the grievance within the five-day period. The parties shall also designate the order of potential service of each arbitrator alternate.

(iii) The arbitration hearing shall be conducted consistent with the Rules of Procedure, but the Panel Chair shall have the authority to employ such procedures as he or she deems appropriate given the parties' mutual desire for expedition. During the pendency of any such Grievance, neither HPAC nor the Office of the

Commissioner may notify the Club of the reported test result or any of the proceedings resulting therefrom. The Arbitration Panel shall notify the parties of its decision immediately after such decision is reached and shall forward a written opinion to the parties within a reasonable time of such notification. If the Arbitration Panel determines that discipline is appropriate, the Club and Player shall be notified and the Player shall begin serving his suspension immediately. If the Panel determines that discipline is not appropriate, all aspects of the Grievance proceeding shall remain confidential.

5(b) If the Player does not grieve the discipline before the effective date of the suspension, HPAC shall notify the Club of the reported test result and of the discipline imposed upon the Player. The Player shall retain all rights to grieve the discipline imposed but in no event shall the Player's discipline, including any suspension, be stayed during the Grievance process. Any such Grievance would be processed pursuant to the Grievance Procedure as one involving a "disciplinary suspension." Neither a Player's challenge of the test result, nor any aspect of HPAC's proceedings or deliberations regarding such challenge, shall be admissible in the arbitration of such Grievance.

D. Conviction for the Use of Prohibited Substance

A Player who is convicted or pleads guilty (including a plea of *nolo contendere* or similar plea but not including an adjournment contemplating dismissal or a similar disposition) to the use of any Prohibited Substance (including a criminal charge of conspiracy or attempt to possess or use) shall be subject to the following discipline:

1. For a first offense: a 15-day, but no more than a 30-day, suspension or up to a $10,000 fine;

2. For a second offense: a 30-day, but not more than a 90-day, suspension or up to a $50,000 fine;

3. For a third offense: a one-year suspension or up to a $100,000 fine;

4. For a fourth offense: a two-year suspension; and

5. Any subsequent offense by a Player shall result in the Commissioner imposing further discipline on the Player. The level of the discipline will be determined consistent with the concept of progressive discipline.

E. Participation in the Sale or Distribution of a Prohibited Substance

A Player who participates in the sale or distribution of a Prohibited Substance shall be subject to the following discipline:

1. For a first offense: at least a 60-day, but no more than a 90-day, suspension and up to a $100,000 fine;

2. For a second offense: a two-year suspension; and

3. Any subsequent offense by a Player shall result in the Commissioner imposing further discipline on the Player. The level of the discipline will be determined consistent with the concept of progressive discipline.

F. Marijuana

A Player on the Administrative Track for the use or possession of marijuana shall not be subject to suspension. The Player will be subject to fines, which shall be progressive and which shall not exceed $15,000. Notwithstanding the foregoing, a Player who participates in the sale or distribution (as those terms are used in the criminal code) of marijuana will be subject to the discipline set forth in Sections 9.D or 9.E above.

10. STRENGTH AND CONDITIONING ADVISORY COMMITTEE

A. Establishment

The Parties shall establish and maintain a Strength and Conditioning Advisory Committee which shall be comprised of an equal number of members representing the Association and the Office of the Commissioner. At least two members of the Strength and Conditioning Advisory Committee shall be Major League strength and conditioning coaches currently employed by a Club. The purposes of the Committee shall be:

1. to establish standards of professional qualifications and training applicable to all individuals employed by Clubs as strength and conditioning coaches;

2. to establish standards applicable to all Clubs concerning the availability of food products and nutritional supplements for Players in Major League clubhouses; and

3. to address other matters relating to the strength and conditioning of Players.

B. Committee Meetings

A meeting of the Strength and Conditioning Advisory Committee may be called by any Committee member who believes that there is an immediate need to address a matter set forth in Section 10.A above. In addition, the Committee shall have at least two (2) regular meetings during each calendar year.

C. Personal Trainers

Consistent with existing regulations of the Office of the Commissioner, personal trainers shall not be provided with access to Major League clubhouses.

11. COSTS OF THE PROGRAM

Any costs for the treatment and testing of Players on either the Clinical Track or the Administrative Track, which are not covered by the Major League Baseball Players Benefit Plan ("Plan"), shall be borne by the Club then holding title to the Player's contract. A Club that has unconditionally released a Player who is on a Treatment Program shall be responsible for any costs of such Program that are not covered by the Plan through the season in which the Player was released. The testing costs shall be borne by the Office of the Commissioner. Notwithstanding the foregoing, it is expressly agreed that the Testing Facility utilized in the Program shall be jointly selected by the Parties and, upon selection, shall be equally responsible to each of the Parties in the conduct of its affairs. All other costs relating to HPAC shall be shared by the Office of the Commissioner and the Association in proportion to each Party's exercise of HPAC responsibilities.

12. TERM

A. Duration

Notwithstanding the provisions of Article XXVI, the parties expressly agree that the Agreement contained in this Attachment 18 will remain in effect through December 19, 2008.

B. Reopener

Notwithstanding Section A above, the Office of the Commissioner has the unilateral right to reopen this Agreement on December 19, 2006, but solely with respect to whether stimulants should be added to the Drugs of Abuse category or another category of Prohibited Substances under Section 2 of this Agreement and the extent to which, if any, the Program should cover them.

In order to exercise its right to reopen on the above-limited basis, the Office of the Commissioner agrees that it shall specifically reference its intent to do so by including a reference thereto in the notices provided to the Association pursuant to Section 8(d) of the National Labor Relations Act in relation to the expiration of the 2002 Basic Agreement. As part of those negotiations for a successor Basic Agreement, the Office of the Commissioner and the Association shall have the right to engage in concerted action (i.e., lockout, strike or unilateral change in the event of impasse) if the Office of the Commissioner exercises its limited right to reopen this Agreement.

C. Concerted Action

Notwithstanding Article XXVII of the Basic Agreement ("Comprehensive Agreement"), upon expiration of this Agreement in December 2008, the Office of the Commissioner and the Association shall have the right to engage in concerted action (i.e., lockout or strike); provided

that, except as provided in Section 12.B. above, there shall be no unilateral change in any term or condition of this Agreement prior to the expiration of the successor to the 2002 Basic Agreement, even in the event of impasse.

ADDENDUM A

MAJOR LEAGUE BASEBALL COLLECTION PROCEDURES

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1. Player must wash and dry hands

a. To assure that the player does not have any chemicals on his hands, he must thoroughly wash and dry his hands prior to providing a specimen.

2. Selecting a collection cup

a. Ask the player to select a sealed specimen collection cup. The collection cup must be kept in collector's site at all times.
b. There must be a minimum of three (3) specimen collection cups from which the player can choose.

3. Providing a specimen under direct observation

a. The male collector directly observes the collection unless otherwise instructed by CDT.
b. As you accompany the player to and from the restroom facility, be sure to walk BESIDE him, not in front or behind him. This way, you always have a view of the collection cup.
c. You must have a clear and unobstructed view of the passing of the specimen. [No observing from behind.]
d. Have the player provide a urine specimen. Return to the processing table.
e. After the player voids, the player, not the collector, must carry the specimen to the processing table.
f. Determine if there is sufficient urine for testing.
    1. 75 mls of urine must be collected.
    2. If you notice a strange odor, color or precipitate in the specimen, make a note in the collector comments section of the chain of custody form.
g. Player is unable to void adequate amount.
    1. If an inadequate amount of urine is collected, less than 75 ml, discard the specimen in the player's presence.
    2. Instruct the player that he should return in an hour to attempt another collection.
    3. He should drink no more than 15 oz. of fluid an hour from sealed containers, certified by the collector.
    4. Also, let the Team Representative know that the player has not provided a specimen and will need to try again.

5. Call Tracey Sweetser at CDT two hours after the first attempt if the player has not provided a specimen.
6. The additional attempts for collecting 75 ml of urine must also follow the procedures set forth herein, including washing and drying hands, selecting a collection cup and providing a specimen under direct observation.
7. Make notations of all low volume specimens on the problem collection log.
8. You may have to stay 1 hour after the end of the game to collect an adequate specimen.

4. Selecting the collection kit and envelope

a. If a sufficient amount of urine has been collected, have the player select a sealed collection kit and an envelope, which contains a Chain of Custody Form and security seals.
b. The player must have at least three (3) kits and envelopes from which to select.
c. Have player open the envelope and verify that the Control Identification Numbers on the seals match the number on the Chain of Custody Form.

5. Processing the specimen and dividing and sealing the specimen

a. The collector pours the specimen from the disposable specimen cup into the specimen bottles.
b. The collector must wear disposable gloves.
c. The player must watch the collector pour the specimen. If the player turns his back or gets distracted, he can claim that he did not see the specimen being poured into the bottles, and the specimen is not his.
d. The collector must reserve a small amount of urine (approximately 3 ml) in the collection cup for testing of specific gravity and pH.
e. The specimen must be split as follows: 50 ml in the "A" bottle and 25 ml in the "B" bottle.
f. The collector places the bottle caps on the specimen bottles. Ensure that the caps are sealed properly to prevent leakage.
g. The collector must turn each bottle upside down to ensure that the caps are sealed properly to prevent leakage.
h. Complete the bottle custody seals for the "A" and "B" specimen as follows:
    1. Ask the player to verify that the Control ID numbers on the top of the Chain of Custody Form match those on the security seals.
    2. Peel the back off the bottle custody seals and place over the bottle caps and down the sides of the bottles that contain the urine.
    3. DO NOT PLACE THE SEALS ON THE OUTER CANNISTER, which contain the absorbent pack.

4. The collector will initial and date the security seals, after the seals have been placed on the bottles.
5. The player WILL NOT initial the security seals.

6. Testing specimen using a Refractometer and a pH dipstick

a. Testing specimen for specific gravity-using the refractometer
   1. Using the refractometer, check the specific gravity of the urine remaining in the cup and record the findings in Section 2 (collector's comments section) of the Chain of Custody Form.
   2. The specific gravity must be performed PRIOR to the pH measurement.
      i. Remember to wipe the prism (glass) with a soft cloth or tissue moistened with water and dry thoroughly between collections.
      ii. Hold the instrument in a horizontal position.
   3. Use a plastic pipet to place a few drops of fluid sample on the center of the measuring prism.
   4. To obtain a reading, hold the instrument horizontally underneath a light source so the light is shining down into the sample prism.
   5. Focus the scale seen in the eyepiece by rotating the eyepiece.
   6. Read the urine specific gravity scale (left side of image) at the point where the dividing line between bright and dark fields cross.
   7. If you are looking through the refractometer viewer and the screen is entirely blue, there is not enough urine on the prism.

b. Reading specific gravity
   1. Specific gravity must be greater than 1.005 by refractometer.

c. Specific gravity out-of-range
   1. If the specimen does not meet these standards, it is processed and the player shall be required to provide an additional specimen under direct observation, repeating the collection procedures identified above.
   2. The second specimen is to be sent to the laboratory regardless if it is within range or out of range.
   3. The player is not required to provide a third specimen.
   4. Note the specific gravity out of range on the Problem Collection Log.

d. Testing specimen for pH
   1. Using a pH dipstick, check the pH of the urine remaining in the cup and record findings on line 2 (collector's comments section), Chain of Custody Form.

2. Completely immerse reagent area of the strip in the urine.
3. While removing, run the edge of the strip against the rim of the urine container to remove excess urine.
4. Hold the strip in a horizontal position to prevent possible mixing of chemicals from adjacent reagent areas and/or contaminating the hands with urine.
5. Compare the pH reagent area to the corresponding color chart.

e. Reading pH strip
   1. pH must be between 4.5 and 7.5.

f. pH reading out-of-range
   1. If the pH reading is out of range in the player's first specimen, the collector nonetheless must send such specimen to the laboratory for analysis and must collect a second specimen from the player.
   2. If the pH reading is out of range in the player's second specimen, the collector must also send the second specimen to the laboratory for analysis.
   3. The player is not required to provide a third specimen.
   4. Note the pH as out of range on the Problem Collection Log.

7. Completing the Chain of Custody Form

a. Fill in the following information at the top of the Chain of Custody Form:
   1. Test : Check Standard
   2. Control ID number: Fill in the last 2 digits of the year "05"

b. Read the Donor's Statement aloud to the player.
"I certify that I produced the attached urine specimen under observation; that it consists entirely of my own urine; that my specimen bottles were capped and sealed in my presence; that the control identification number on both specimen bottles was the same as the control identification number appearing on this from and that I observed the collector placing his initials on the seal".
c. After you have read this statement to the player, have him sign, print his name, and write the date.
d. The collector will print the city of collection at the bottom of the form.
e. Line 1. Read the collector statement and sign your name. Fill in the date and time of collection.
f. If the player refuses to sign the chain of custody form, contact the Team Representative and CDT immediately. Remain calm and professional. Make a notation of the refusal on the chain of custody form. Send the specimen to the laboratory for testing.

8. Placing specimens/form in an individual box

a. Prepare the Specimen Box: Place the sealed specimen bottles in the larger bottles, which contain the absorbent material.
b. Place the 3rd page of the Chain of Custody Form and the bottles inside the shipping box.
c. Place the Blue Seal on the box.

9. Responding to questions from the Player

a. If the player wants to know which drugs are being tested for, or penalties for positives, refer him to Gene Orza at the Major League Baseball Players Association, (212) 826-0808.

10. Player is uncooperative

a. If at any point in the collection process, a player is belligerent or uncooperative, remain calm and professional. Notify the Team Representative and CDT immediately.

TESTING PROTOCOLS

Drugs of Abuse

Drugs	Initial Test Level (ng/mL)	Confirmation Test Level
Cocaine Metabolites	300	150
Opiates/Metabolites	2000	2000
Phencyclidine (PCP)	25	25
Cannabinoids	50	15

Steroids

A test will be considered positive if any Steroid as defined in Section 2.B of the Program is present. Notwithstanding the foregoing, the presence of nandrolone shall be considered a positive only if the level exceeds 2ng/ml.

ADDENDUM B

Substance Name	DEA Number
Acetyl-alpha-methylfentanyl (N-[1-(1- methyl 1-2-phenethyl) -4- piperidinyl -N-] phenylacetamide)	9815
Acetylmethadol	9601
Allylprodine	9602
Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM)	9603
Alphameprodine	9604
Alphamethadol	9605
Alpha-methylfentanyl (N-[1-(alpha -methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl) -4-(N-propanilido) piperidine)	9814
Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl-N-] phenylpropanamide)	9832
Benzethidine	9606
Betacetylmethadol	9607
Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide)	9830
Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide	9831
Betameprodine	9608
Betamethadol	9609
Betaprodine	9611
Clonitazene	9612
Dextromoramide	9613
Diampromide	9615
Diethylthiambutene	9616
Difenoxin	9168
Dimenoxadol	9617
Dimepheptanol	9618
Dimethylthiambutene	9619
Dioxaphetyl butyrate	9621
Dipipanone	9622
Ethylmethylthiambutene	9623
Etonitazene	9624
Etoxeridine	9625
Furethidine	9626
Hydroxypethidine	9627
Ketobemidone	9628
Levomoramide	9629
Levophenacylmorphan	9631

3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl] -N-phenylpropanamide)	9813
3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl] -N-phenylpropanamide)	9833
Morpheridine	9632
MPPP (1-methyl-4-phenyl-4-propionoxypiperidine)	9661
Noracymethadol	9633
Norlevorphanol	9634
Normethadone	9635
Norpipanone	9636
Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide	9812
PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine	9663
Phenadoxone	9637
Phenampromide	9638
Phenomorphan	9647
Phenoperidine	9641
Piritramide	9642
Proheptazine	9643
Properidine	9644
Propiram	9649
Racemoramide	9645
Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl] -propanamide	9835
Tilidine	9750
Trimeperidine	9646
Acetorphine	9319
Acetyldihydrocodeine	9051
Benzylmorphine	9052
Codeine methylbromide	9070
Codeine-N-Oxide	9053
Cyprenorphine	9054
Desomorphine	9055
Dihydromorphine	9145
Drotebanol	9335
Etorphine (except hydrochloride salt)	9056
Heroin	9200
Hydromorphinol	9301
Methyldesorphine	9302
Methyldihydromorphine	9304
Morphine methylbromide	9305
Morphine methylsulfonate	9306
Morphine-N-Oxide	9307
Myrophine	9308
Nicocodeine	9309
Nicomorphine	9312
Normorphine	9313
Pholcodine	9314
Thebacon	9315

Alpha-ethyltryptamine	7249
Some trade or other names: etryptamine; Monase; [alpha]-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; [alpha]-ET; and AET.	
4-bromo-2,5-dimethoxy-amphetamine	7391
Some trade or other names: 4-bromo-2,5-dimethoxy-[alpha]-methylphenethylamine; 4-bromo-2,5-DMA	
4-Bromo-2,5-dimethoxphenethylamine	7392
Some trade or other names: 2-[4-bromo-2, 5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus.	
2,5-dimethoxyamphetamine	7396
Some trade or other names: 2,5-dimethoxy-[alpha]- methylphenethylamine; 2,5-DMA	
2,5-dimethoxy-4-ethylamphetamine	7399
Some trade or other names: DOET	
4-methoxyamphetamine	7411
Some trade or other names: 4-methoxy-[alpha] -methylphenethylamine; paramethoxyamphetamine, PMA	
5-methoxy-3,4-mdthylenedioxy-amphetamine	7401
4-methyl-2,5-dimethoxy-amphetamine	7395
Some trade and other names: 4-methyl-2,5-dimethoxy-[alpha]-methylphenethylamine; "DOM"; and "STP"	
3,4-methylenedioxy amphetamine	7400
3,4-methylenedioxymethamphetamine (MDMA)	7405
3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA	7404
N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy) phenethylamine, and N-hydroxy MDA	7402
3,4,5-trimethoxy amphetamine	7390
Bufotenine	7433
Some trade and other names: 3-([beta]-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine	
Diethyltryptamine	7434
Some trade and other names: N,N-Diethyltryptamine; DET	
Dimethyltryptamine	7435
Some trade or other names: DMT	
Ibogaine	7260
Some trade and other names: 7-Ethyl-6,6 [beta], 7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino 5,4-b indole; Tabernanthe iboga	
Lysergic acid diethylamide	7315
Marihuana	7360
Mescaline	7381

Parahexyl -- 7374; some trade or other names: 3-Hexyl-1-hydroxy- 7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl.

Peyote 7415

Meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812 (c), Schedule I(c) (12))

N-ethyl-3-piperidyl benzilate 7482

N-methyl-3-piperidyl benzilate 7484

Psilocybin 7437

Psilocyn 7438

Tetrahydrocannabinols 7370

Meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:

1 cis or trans tetrahydrocannabinol, and their optical isomers

6 cis or trans tetrahydrocannabinol, and their optical isomers

3,4 cis or trans tetrahydrocannabinol, and its optical isomers

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

Ethylamine analog of phencyclidine 7455

Some trade or other names: N-ethyl-1-phenylcyclohexyl-amine,(1-phenylcyclohexyl)ethylamine, N-(1-phenyl-cyclohexyl) ethylamine, cyclohexamine, PCE

Pyrrolidine analog of phencyclidine 7458

Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP

Thiophene analog of phencyclidine 7470

Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl] -piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP

1-[1-(2-thienyl)cyclohexyl] pyrrolidine 7473

Some other names: TCPy

gamma-hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate) 2010

Mecloqualone	2572
Methaqualone	2565
N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers	9818
N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isolers, salts and salts of isomers	9834
N-benzylpiperazine (some other names: BZP; 1-benzylpiperazine), its optical isomers, salts and salts of isomers	7493
1-(3-trifluoromethylphenyl)piperazine (other name: TFMPP), its optical isomers, salts and salts of isomers	7494
2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its optical isomers, salts and salts of isomers	7348

ADDENDUM C

1. All Collectors will use the preprinted Chain of Custody forms.

2. The Chains of Custody forms will consist of three copies. Only the top copy of the Chain form (CDT) and the bottom copy of the Chain of Custody form (Lab) will contain a control identification number. The middle copy will not contain a control identification number.

3. **Between 48 and 24** hours before the scheduled test, CDT will fax the collector the list of players to be tested on a given day.

4. Collectors will overnight via Federal Express their copy of the Chain of Custody along with all other paperwork concerning the test. Collectors do not retain any paperwork.

5. Once CDT receives a negative result for a sample, it will destroy all documents related to that sample.

6. When CDT receives a positive result it will notify the two Medical Representatives by **the delivery of two overnight delivery packages to each representative. One package will contain the player's name and the control number of his sample; the second will contain the laboratory result and control number.**

7. CDT will retain Chain of Custody Forms related to positives samples until notified by the Commissioner's Office and the Association that destruction can be undertaken. That notice will be given once the time limits for a challenge to the validity of a test have lapsed or earlier if a player waives his right to such a challenge.

ADDENDUM D

AUTHORIZATION
FOR THE USE AND/OR DISCLOSURE
OF MAJOR LEAGUE PLAYER HEALTH INFORMATION

I authorize the use and/or disclosure of my health information as provided for below:

1. This authorization applies to all health information about me that is now (or, during the period covered by this authorization, may be) in the possession, custody or control of the persons or entities (or classes of persons or entities) identified in Paragraph 2 below. As used hereafter in this authorization, "health information" shall mean my entire health or medical record, including, but not limited to, all information relating to any injury, sickness, disease, mental health condition, physical condition, medical history, medical or clinical status, diagnosis, treatment or prognosis, including without limitation clinical notes, test results, laboratory reports, x-rays and diagnosis imaging results, but does not mean any health or medical records or any test results, if any, deriving from Major League Baseball's Joint Drug Prevention and Treatment Program.

2. I authorize the following persons and entities (or classes of persons and entities) to use and/or disclose (to the individuals specified in paragraph 3 below) any of the health information about me that is (or, during the period covered by this authorization, may be) in their possession, custody or control for the purposes described in paragraph 3 below: All health care providers (including but not limited to **[add Club orthopedist and medical internist]**, other physicians, laboratories, clinics and Club trainers) with whom I have consulted pursuant to my Uniform Player's Contract or the Basic Agreement.

3. I authorize the persons and entities (or classes of persons and entities) described in Paragraph 2 to disclose any of the health information about me that is (or, during the period covered by this authorization, may be) in their possession, custody or control, for any purpose relating to my employment as a player for the Club, to the Owner, President, General Manager, Assistant General Manager, Manager, Physicians and such medical personnel as they may designate, Trainer and Assistant Trainer of the Club or Clubs for which I have agreed (or may agree) to render playing services during the period covered by this authorization. In the event my Uniform Player's Contract is optioned to a minor league affiliate of the Club, I also authorize, during the period of my optional assignment, the disclosure of health information to the Club's Farm Director and to the minor league affiliate's Field Manager, Physicians and such medical personnel as they may designate, and Trainer and Assistant Trainer. In the event of any contemplated assignment of my Uniform Player's Contract to another Club or Clubs, I authorize disclosure of my health information to the physicians and officials (including, but not limited to, trainers) of such other Club or Clubs.

4. In addition to the disclosure permitted in Paragraph 3 above, I also authorize any health care provider with whom I have consulted pursuant to Major League Baseball's Joint Drug Prevention and Treatment Program ("Program") to disclose to members of the Health Policy Advisory Committee ("HPAC") health information about me (including, but not limited to, drug test results) that is (or, during the period covered by this authorization may be) in their possession, custody or control. It is my understanding that HPAC may only disclose this information pursuant to the provisions set forth in Section 8 of the Program.

5. I acknowledge that there exists the potential that information disclosed pursuant to this authorization might be subject to redisclosure by the recipient and thus no longer be protected by HIPAA in certain circumstances. I also acknowledge that Club trainers may not be considered as bound by HIPAA's restrictions on disclosure of health information. Nothing in these

acknowledgements or this authorization shall be considered as a waiver of any rights to privacy or nondisclosure of health information that I may have under the Basic Agreement, the Uniform Player's Contract, any state law (which is not preempted by HIPAA), or any other federal law.

6. I understand that my refusal to sign this authorization will not affect my ability to obtain treatment from _____*[insert name of Club physician]*_____. I acknowledge, however, that, pursuant to Paragraph 6.(b) and Regulation 2 of the Uniform Player's Contract to which I am (or, during the period covered by this authorization, may be) a party, I have agreed that I will furnish and that ____*[insert name of Club physician]*_____ and others may furnish to the Club(s) referred to in Paragraph 6.(b) and/or Regulation 2 all relevant medical information relating to me, and further that my refusal to authorize the furnishing of such information as provided for by Paragraph 6.(b) and/or Regulation 2 of my Uniform Player's Contract may constitute a breach of that contract.

7. I understand that I have the right to revoke this authorization at any time, but that my revocation will not be effective to the extent that any of the persons or entities (or classes of persons or entities) I have authorized to use and/or disclose my health information have acted in reliance upon this authorization. My revocation must be in writing and be sent to _____*[insert name and address of Club physician]*_____. I further understand that my right to revoke this authorization shall not serve to excuse any failure on my part to comply with the provisions of any Uniform Player's Contract to which I am (or, during the period covered by this authorization, may be) a party, or any other agreement that may govern the terms and conditions of my employment as a player for a Major League Baseball Club.

8. This authorization expires one year from the date it is signed, unless previously revoked.

9. I acknowledge that I have received a copy of this authorization.

Signature

Date

Printed Name

Witness Signature

Date

Witness Printed Name

Senator BUNNING. Unfortunately, that is not the evidence that was sent to me by Major League Baseball. I have in front of me the penalties for testing positive for steroids are as follows: First offense, 10 days suspension. It doesn't mention anything, up to a fine of $10,000.

Chairman TOM DAVIS. Or, the option. Could you turn to page 10 for a second? Do they say anything in their letter to you that the name would be disclosed if someone flunked the test for steroids?

Senator BUNNING. No mention of that in here.

Chairman TOM DAVIS. It says on page 10, under section (a)(2), the results of any prohibitive substance testing, any disciplinary fines imposed upon the player by the Commission shall remain strictly confidential. And it says if a player—and that is on the or. So if they go with a fine, the way I read this, it's not even public. If they elect to suspend, only then will they note somebody was suspended for a specified number of days for a violation of the program be made public. Is that in the policy?

Senator BUNNING. That was not sent to me either. I know you are familiar with the Major League Football drug testing policy. Not only do they suspend them for four games on first offense, but they name the offender.

Chairman TOM DAVIS. That's 25 percent of the season?

Senator BUNNING. That is 25 percent of the season. This 10-days suspension is 10 days or $10,000 or up to $10,000.

Chairman TOM DAVIS. It could be $1.

Senator BUNNING. Or, and they do not name the person. Second offense in football is eight games suspension. That is half a season. No pay.

Chairman TOM DAVIS. That gets you where it hurts.

Senator BUNNING. There is a difference in the approach between the National Football League. And I realize that Major League Baseball was at a disadvantage in trying to negotiate a new agreement with a contract already in hand, so they had their hands tied behind them. But in fact, what they did is a Band-Aid and it doesn't really get to the problem.

Chairman TOM DAVIS. Would you think that maybe they are not at the first base, they are merely out the of the batter's box?

Senator BUNNING. First step out of the box.

Chairman TOM DAVIS. I just note that in the Commonwealth of Virginia where I reside, in our legislature, if a student athlete is caught with steroids, it is a 2-year suspension.

Senator BUNNING. The Olympic Committee has the best policy as far as steroids are concerned, 2 years suspension for the first offense, life suspension for the second offense.

Chairman TOM DAVIS. Our feeling is this starts from the top down. They have passed laws in legislatures for kids. It's strict and it has to start from the top. Mr. Waxman.

Mr. WAXMAN. Senator, I want to thank you for your eloquent statement. When I hear from someone who has firsthand knowledge who was a baseball player as well as a very well respected senior member of the Senate, I'm impressed by what you had to say to us. I want to put out there for further discussion with you an idea that was suggested to me by a very prominent person in the athletic field and he suggested that maybe what we ought to

do is have one standard, one standard for all sports, not only in the Major Leagues, Minor Leagues and at schools, something like the Olympic standard and have that as a clear statement that there are going to be severe penalties, maybe even suspension from forever participating in the sport if there are numerous occasions when they have been caught.

I don't want you to answer that now. I would like you to think about it and perhaps we can talk about it at another time.

Senator BUNNING. You know that would require a lot of changing of the laws that we have now.

Mr. WAXMAN. Yes, but laws can be changed if it's appropriate, and I want to discuss with you at some future time whether it is appropriate.

Chairman TOM DAVIS. What's your time schedule? We have a vote in 10 or 15 minutes. Do you have a couple of minutes?

Senator BUNNING. I have whatever you want.

Chairman TOM DAVIS. Mr. Burton.

Mr. BURTON. I just would like to ask if you were in a position where you could make decisions, what would be the steps that you personally would take to clean this mess up?

Senator BUNNING. I've been looking back a little sooner than the current operation. You have to look forward and you've got to at least get some kind of an idea where these records that are being set have come from. So there's got to be a date certain if you can find out—and I don't suggest you do that today, find out from some of these key players if they started in 1992 or 1993 illegally using steroids, wipe all of their records out, take them away. They don't deserve them. Go ask Henry Aaron, go ask the family of Roger Maris, go ask all of the people that played without enhanced drugs if they would like their records compared with the current records. I sincerely believe that one of the solutions to get baseball's integrity back in heel is to look forward, but not forget what's happened in the past.

Mr. BURTON. I guess I didn't make my question clear, assuming you were commissioner, what steps would you take to make sure that this sort of thing does not happen in the future? How do you stop it?

Senator BUNNING. By making the penalties such that if you are caught, you are out of the game. Who would take the chance of losing $12 million a year if they were thrown out of the game if they tested positive for any of the steroids and if they were randomly sampled. That's the big key to be able to randomly sample every player in Major League Baseball and not just once, but at the will of the Major Leagues.

Mr. BURTON. Thank you, Mr. Chairman.

Chairman TOM DAVIS. Mr. Cummings.

Mr. CUMMINGS. Just one quick statement. I want to thank you for your testimony. It was indeed very moving. And there is only thing that I wonder about, when you say "trust and verify," and you can answer this some other time, but the question becomes how long do you trust?

Senator BUNNING. You are about at the end of your trust.

Mr. CUMMINGS. You answered my question. Thank you.

Chairman TOM DAVIS. Mr. Towns.

Mr. TOWNS. Let me also thank you, Senator for your testimony and I think part of my question is, the question that was asked, but I would like to take it a little step further. Are you saying that Congress should not take action at this time, that we should wait and give Major League Baseball an opportunity to act?

Senator BUNNING. I'm not saying that. Congress can take action at any time. On the evidence presented today at this hearing and subsequent hearings, I think this committee can put forward any kind of legislation they deem necessary to clean up the problems. You are going to hear some statistics today you are going to have a hard time believing from Major League Baseball. You are going to hear statistics that the abuse is down to 1 percent. Now that's hard for me to believe, knowing full well that a 150-pound right-handed hitting second baseman can hit the ball 425 feet to the right center field for a home run. And I'm not naming any names. But it's impossible.

The only person who could do that in my era of baseball was Mickey Mantle, and the only reason he could do it he was stronger than anybody who played the game. But he was the only one who ever hit a ball in the right center field. Maybe it's because they knocked the mound down 5 inches. But I know one thing, hitters are much stronger and the ball is much more souped up than it was in the 1950's, 1960's and 1970's.

Mr. TOWNS. I want to leave this room with new ideas and a cogent plan to stem the tide of steroids among our professional athletes as well as our young people. If we are to explore the dangers of these drugs and educate our young athletes, we need to hear from the right people. Mr. Chairman, I'm here today to help our younger people stay away from these substances, if we have any future hearings on this topic, please consider inviting these individuals that I'm going to mention.

This is essential and could go a long way toward helping our young people avoid the temptation and dangers of this crippling drug. We should invite the Commissioner of FDA. We should invite Mr. John Walters, Director of the National Drug Control Policy for the United States of America, the Governor of the most populated State in the Nation, Governor Schwarzeneger who has indicated that he has used enhancing drugs and is now speaking out against them. I would like to hear from him. I think he has a lot to contribute.

So Mr. Chairman, on that note, I yield back. But I'm hoping we do not stop at this point but continue to move forward with these people that have information that we need in order to make the proper decision.

Chairman TOM DAVIS. Thank you very much.

Mr. Shays.

Mr. SHAYS. Thank you, my colleagues, it is great to have you here. I think one thing that Major League Baseball has done more is to unite Republicans and Democrats in this Congress than anything else that has happened in the last 18 years, because of the arrogance that you outlined. The letter that you received was from whom?

Senator BUNNING. Major League Baseball.

Mr. SHAYS. Who signed the letter?

Senator BUNNING. I would have to ask staff.

Mr. SHAYS. Is it in front of you, could we have a copy of that letter?

Senator BUNNING. Well, I only have an outline of the policy.

Mr. SHAYS. Thank you. I think we would like a copy of that letter. And we would like to know who it was from.

Senator BUNNING. It was background in a memo. It wasn't a letter. It was a background memo.

Mr. SHAYS. All right. In your statement, I just want to clarify, because you talked about 30 days for the first suspension. It's 10 days for the first?

Senator BUNNING. Correct.

Mr. SHAYS. It's 30 for the second, 60 for the third, and for the fourth, 1 year. What we didn't know, and you clearly didn't know as well, is that it could be replaced with a fine. I am interested to know, do you think the reason that they chose a fine was so that they then didn't have to publicize that this player was being reprimanded or disciplined?

Senator BUNNING. Well, I think they gave the opportunity of a fine, because obviously it doesn't hurt. Somebody is making a $6 to $8 or $10 or $12 million a year, when you are fining them $10,000 or less for our first offense, it means absolutely nothing. There is no record of who that person is.

Mr. SHAYS. You clearly wouldn't know it, necessarily, but if they are absent from the game, it would raise questions from the press. If they were suspended for 10 days or 30 days or 60 days, we would clearly have a sense of what they were all about.

Senator BUNNING. Unlike football's program, where you know exactly who has been suspended.

Mr. SHAYS. I thank you Mr. Chairman.

Chairman TOM DAVIS. Who seeks recognition? Mr. Owens.

Mr. OWENS. Mr. Chairman, I would just like to make a brief comment. I serve as the ranking democrat on the Subcommittee on Workforce Protections, which is concerned about the safety of workers in the workplace and although baseball players earn tremendous amounts of money in the final analysis, baseball is a business, and they are workers and we are looking at a situation where the health and safety of every worker will be compromised if we allow the use of steroids, because in order to remain competitive have been has to do it, stay in the sport unless you compete on that basis, so we are jeopardizing the health of every worker eventually if we don't put a stop to this at this point.

Thank you.

Chairman TOM DAVIS. Thank you, Mrs. Miller.

Mrs. MILLER. Thank you, Mr. Chairman. Just a brief question. Senator, I appreciate you coming today, I am from Detroit, so you can guess my allegiance to the Detroit Tigers. We are very proud to call you a Detroit Tiger—I don't quite remember—I read about it.

Senator BUNNING. Don't date yourself.

Mrs. MILLER. For the Detroit Tigers, but let me say, in light of the conversation and the subject that we are talking about today—I am glad there are no Detroit Tigers on any of our panels here today. But also in the Detroit area, of course, we have very strong

unions there. And I am just wondering, why has it taken, in your opinion, the players union such a long time to address this? The union, in my mind, is the organization that tries to help and protect other members. Do you have any comment on that, Senator?

Senator BUNNING. You will be able to answer that question of Donald Fehr. He is the executive director of the Major League Baseball Player Union, so I suggest that you ask him.

Mrs. MILLER. Thank you, I will.

Chairman TOM DAVIS. Thank you very much. Let me just add. Just because a player is summoned here today. It is a cross-section. We have some players here today who have been outspoken about steroids and we are proud to have all of them here.

Mr. Sanders.

Mr. SANDERS. No questions.

Chairman TOM DAVIS. Mr. McHugh.

Mr. MCHUGH. Thank you, Mr. Chairman, Jim, Senator, great to see you.

Senator BUNNING. John.

Mr. MCHUGH. Always appreciate your enlightened comments on so many subjects. I had the opportunity to go to Cooperstown, and listen to Jim Bunning to speak as he was inducted into the Hall of Fame. Anybody who heard that speech or knows of his representation on our stance knows he is a real straight talker, and it is hard to imagine anybody who has more validity on that issue and I appreciate you being here.

I just wanted to followup on my young colleague who doesn't remember that no hitter, I do. In comments about the Players Association, Major League Baseball, as you look at the situation now, how would you assess culpability for there not being a stronger steroids testing policy? Could you say it's equally responsible in equal failure between Major League Baseball and the Players Association, 80/20, just to give us an idea where the true land mine is?

Senator BUNNING. I think after the 1994 debacle where we lost part of the season, lost part of the World Series. There was a lack of attention played by both the Players Association and the management. That's when it looks like steroids really got a hold in baseball.

Everybody was looking for kind of a rekindling of interest at the Major League Baseball level, and the home run looks like, was the savior, and Mark McGwire, who you will have here before you, and Sammy Sosa, put on a home-run hitting contest that wound up breaking—or Roger Maris' 1961 record, and that rekindled fans' interest in Major League Baseball.

I think maybe that might be the reason that there wasn't real hard scrutiny put on the players who were succeeding in hitting balls out of the ballpark faster than I have ever seen in my life. I always wondered why the pitchers weren't pitching inside a little more. Because when someone hit a ball, you know, 480-foot, a few years prior to that, they had to suffer some consequences if they did that.

My feeling is that there wasn't a lot of attention paid, John.

Mr. MCHUGH. So the home run meant the dollars, meant the game?

Senator BUNNING. Well, take a look at the Major League parks and what has come from that time forward. They have shortened the fences, the home run is a big part of the game. People don't really like to watch 1–0 or 2–1 games. They would rather be 11–9.

So I would say that's pretty accurate.

Mr. MCHUGH. Thank you, Senator, thank you, Mr. Chair.

Chairman TOM DAVIS. Thank you. Mr. Kucinich.

Mr. KUCINICH. I will have some questions of a later panel, thank you.

Chairman TOM DAVIS. Mr. Davis.

Mr. DAVIS OF ILLINOIS. Thank you, Mr. Chairman I want to thank you and Mr. Waxman for holding this hearing. Senator, let me thank you for your testimony. It was certainly good to see you earlier this morning. I want to ask you, do you think that a strong anti steroid-use statement from the Baseball League and the Players Association with serious consequences for abusers would be helpful in stemming the tide among active players and would help to steer young people away from their use?

Senator BUNNING. I don't know about the latter part of your statement, but I know for sure, if there was a joint statement between Major League Baseball and the Players Union, and there were severe enough penalties involved in the use of those steroids at an earlier time, not on the fifth or sixth time, yes, I think that would have a dramatic effect on the use of steroids in Major League Baseball.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Chairman.

Chairman TOM DAVIS. Thank you. Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. Thank you, Mr. Chairman. Senator, it is a pleasure to see you again.

Senator BUNNING. Ileana.

Ms. ROS-LEHTINEN. We all know you as an American hero in Major League Baseball, but maybe some of our members don't know that in my native homeland of Cuba, you are also a baseball hero, because you played for many years in the Cuban leagues in the off season. And we thank you, and you are very much of a hometown favorite, still in south Florida, where so many Cuban exiles are living now.

You say in your statement that you would hope that the Association, the Players Association and all of the entities would take the necessary rules and regulations so that Congress would not have to act, and that the recommendations are not what we had hoped that they would be. What role do you see Congress playing in this, in the regulation of steroid use, understanding that the union is such a powerful union, what can we do and how do we fit into that scenario?

Senator BUNNING. Well, there's been some suggestions made already. My suggestion is if you feel this committee, and any other committee of the Congress feels, that Major League Baseball and the Players Association or Players Union does not comply strongly enough to our desire to wipe steroids completely out of baseball, then we ought to take it into our own hands. And it's not going to be an easy thing to change the labor laws of this land, to make sure that we can affect a change in all professional athletics. I

think you are going to have to do it that way, make it the law of the land that all professional athletics are governed under this one-drug policy.

Ms. ROS-LEHTINEN. You think hearings such as this one help further the cause for that?

Senator BUNNING. I think it can, yes.

Ms. ROS-LEHTINEN. Thank you, Senator.

Chairman TOM DAVIS. Thank you. We have votes on the House floor. The Obey amendment, the Hensarling amendment and rules suspension from yesterday, so when we go there we will be doing three votes. When we come back, the rest of the voting of the day, I think, will be single votes on different substitutes to the budget resolution. And at that point, we should be able to keep the hearings going continuously if we alternate the Chairs.

Mr. Burton, Mr. Shays have offered to help with the Chair duties at that point.

I would like to see if anybody else would like to make an opening statement before we go or any other comments, and then Senator Bunning could have—anyone else wish to, Mr. Clay.

Mr. CLAY. Thank you, Mr. Chairman, thank you, Ranking Member Waxman, for holding these hearings. I will be very brief since the votes are on. Thank you, Senator, for being here in this matter. As a fan of baseball, I hope today's hearing will serve as a forum to discredit some rumors and prove that the records obtained by future Hall of Fame inductees are credible.

While the NFL randomly tests football players for steroid use, using unpaid suspensions to get their point across, the most impressive testing is within the Olympics. Olympic sports have the strongest drug-testing program run by the independent U.S. Anti-Doping Agency. Athletes are subject to frequent unannounced year-round testing, and the first positive test brings a minimum 2-year suspension.

I commend Major League Baseball, therefore, to strengthen its steroid policy. However, it is strikingly clear that more steps need to be taken in order to send a clear message to players that using illegal drugs will not be tolerated.

It is my hope that today's hearing will not only shed light on Major League Baseball's policies, but more importantly educate the public about the dangers to youths who may be tempted to use anabolic steroids and to insure that adequate safeguards for the future are in place.

Thank you, Mr. Chairman, I yield back.

Chairman TOM DAVIS. Thank you very much.

Mr. Duncan.

Mr. DUNCAN. Mr. Chairman, thank you, I will save my questions for later, but I do want to make a brief comment that I think my friend, Jim Bunning's statement was one of the finest summations of this problem that I have heard. And I want to commend him.

I also want to commend you for calling this hearing, because I think this has given a very important wake-up call to Major League Baseball.

As some of you know, my family owned and operated the Knoxville Smokeys AA baseball team, and were involved with the team from 1956 until the early 1990's. So this is very near and dear to

my heart also. I grew up in baseball, although at a much lower level than Jim Bunning.

But I think this is very, very important here today, and I think also, though, that we should give Major League Baseball a chance to take some serious steps, in addition to the actions that we take. I think that we will react positively, and I certainly hope they will, because this is a very serious problem for the young people of this country, and I thank you very much.

Chairman TOM DAVIS. Thank you very much.

Mr. Van Hollen.

Mr. VAN HOLLEN. Thank you, Mr. Chairman, Senator, thank you for your excellent testimony. I will be very brief. During my 12 years in the Maryland Legislature I had the opportunity to work with many people in raising awareness about the dangers of chewing tobacco, tobacco use, for oral cancer and many of the baseball players and the Baltimore Orioles organization were terrific at helping get out the word, Hank Aaron has been a real leader in that effort.

I think that effort shows that the players understand that when they are committed to doing it, can work to send signals and messages to our young people, and I think it's had an effect, because of the position Hank Aaron and others have taken. It seems to me we need an even higher level of commitment to message sending to our youth, from Major League Baseball and the players, especially from the players, who young people—I have young children, I have two young boys and a daughter, they are very actively engaged in sports.

My 13-year-old tries to do 10 pushups every night. He is very interested in being physically fit. We may need to make sure that we are sending a message that in sports across the board, as you said, baseball or any other sport, you can't get ahead by taking these shortcuts. You can't get ahead by cheating. We can't send a message that sports figures are somehow above the law, and it's critical that the ball players themselves, those who are engaged in those efforts.

So I thank you for all your efforts to raise attention to this issue and call upon my colleagues here, the ball players to get with it and to start sending the right messages to our youth. Thank you.

[The prepared statement of Hon. Chris Van Hollen follows:]

Statement of
Rep. Chris Van Hollen
Before the Committee on Government Reform
Hearing on Steroid Use in Baseball

March 17, 2005

When I was a member of the Maryland General Assembly I was proud to have worked with others to educate young people about the relationship between spit tobacco use and oral cancer. High school athletes in growing numbers across the state had begun using spit tobacco to imitate their favorite sports figures. I was heartened by the support of the Baltimore Orioles who, from the beginning, were enthusiastic participants in our efforts.

Today we will hear testimony about the alarming growth of another health hazard facing our young people, anabolic steroids. According to survey results done by the Centers for Disease Control and Prevention, in 1993, 1 in 45 high school students reported having used illegal steroids. By 1999, a similar survey showed that the number had risen to 1 in 27. In a 2004, a National Institutes on Drug Abuse survey found that 19% of eight graders, 29% of tenth graders and 42% of twelfth graders reported that steroids were "fairly" easy to obtain. Young athletes, in an effort to emulate the success of their heroes under the bright lights of the sports field, have begun imitating their failures in the shadows of the locker room.

There are no shortcuts in life. We can not allow our young people to believe that success is based on anything other than hard work and perseverance. We must do all we can to dispel any notion among our young people that cheating in any form is justifiable. Major League baseball has a proud history of community service.

As we gather today, I look forward to hearing testimony of our panelists. I especially look forward to hearing about the plan Major League Baseball has put in place to fight the incidence of steroid use among its players.

Our young people look up to professional athletes as a sign of strength and virtue. I hope that Major League Baseball remembers this and remembers that the eyes of our youth are upon them.

Chairman TOM DAVIS. Mr. Dent.

Mr. DENT. Thank you, Mr. Chairman, Senator Bunning, as a representative of eastern Pennsylvania, I want to congratulate you nearly 41 years after your perfect game on Father's Day 1964.

In your statement, you mentioned the Federal antitrust exemption. If Major League Baseball fails to enact stringent policies on steroids, do you think that we as a Congress should consider repealing that antitrust exemption that, in my State, the team owners effectively use to extract over $150 million to pay for their stadiums in the cities of Philadelphia and Pittsburgh?

Senator BUNNING. Well, my personal feeling is that if you are going to grant an exemption to someone, if they don't honor the exemption that they have and respect the fact that they have it, or Major League football doesn't and Major League basketball doesn't and Major League hockey never had it, then they should be held accountable for that exemption. Of course, it should be one of the things on the table, if you are going to look at not reacting to this crisis that's before them.

Chairman TOM DAVIS. Thank you very much. Anyone? Mr. Ruppersberger.

Mr. RUPPERSBERGER. First, one baseball question. What was that pitch that you threw to Mickey Mantle when he hit the ball to right field, home run?

Senator BUNNING. Which home run, which pitch?

Mr. RUPPERSBERGER. Well, we know this is a very serious area, I am from Baltimore, a Baltimore Oriole fan all of my life. I went to a lot of games, I have seen you pitch. But what I liked about your testimony, I liked a lot about your testimony is bottom line, baseball is a game and you talked about using steroids as cheating. We do not want our national pastime, the sport that we love, to be considered a game where people can cheat, where it can take advantage of one over another.

It seems to me that now we have to come together, and this hearing will put the limelight on this and I think help the Commission. The Commissioner is in a pretty bad position right now, because he has to pull the Players Association together. Maybe have the Players Association rethink their position, because it seems we have to be able to get the facts on using steroids and who was not. Right now, a lot of the testimony out there from Canseco is Canseco's credibility versus someone else's credibility.

My question to you is what do we need to do now, from a testing point of view, a change in policy for baseball, to get this issue worked on so we can start worrying more about the game and who is going to win or lose and not about athletes using sports, using steroids that is cheating and illegal.

Senator BUNNING. Well, what you need to do is make it tougher and then the policy that they have proposed, and you have to make it so that if you use them and get caught, you are gone.

Mr. RUPPERSBERGER. And I agree with all of that. I think the Olympic testing is great, but I think we have to move right away. How can we move right away from your point of view?

Senator BUNNING. Well, they are in the middle of a contract right now, a collective bargained agreement. And that puts an ominous

job on the United States to change labor law, so it is much more difficult than it appears.

Mr. RUPPERSBERGER. Well thank you, we have to go run and vote thank you.

Senator BUNNING. Thank you.

Chairman TOM DAVIS. Senator Bunning, thanks so much for being with us.

Senator BUNNING. Thank you, Tom.

Chairman TOM DAVIS. Ms. Norton, we have to go run to vote. Go ahead—well, the hearing will be in a recess for about half an hour as Members go. We have three items, at that point we will go with our second panel, be ready to swear them in and move on to their testimony and questions, thank you.

[Recess.]

Chairman TOM DAVIS. I want to move to our second panel as everybody will return from votes.

We have Dr. Denise and Mr. Raymond Garibaldi, the parents of former U.S. player Rob Garibaldi, who committed suicide after steroid use.

We have Mr. Hooton, president and director of Taylor Hooton Foundation and father of high school baseball player, Taylor Hooton, who committed suicide after steroid use.

We have Dr. Nora D. Volkow, Director, National Institute on Drug Abuse, National Institutes of Health.

Dr. Gary I. Wadler, associate professor of clinical medicine, New York University School of Medicine.

And we have Dr. Kirk Brower, associate professor of psychiatry, University of Michigan Medical School and executive director Chelsea Arbor Addiction Treatment Center.

And Dr. Elliott Pellman, the medical advisor to Major League Baseball.

We ask unanimous consent that the written statement of Mr. Efrain and Brenda Marrero be inserted in the record, and hearing no objection, so ordered.

[The information referred to follows:]

Congress Of The United States
House of Representative
Committee On Government Reform
2157 Rayburn House Office Building
Washington, DC 20515-6143

March 13, 2005

Dear Committee,

Six months ago we arrived home to a scene that has shattered the very fabric of our family – a horror that is forever seared into our souls. We found our oldest son Efrain in our bedroom, dead from a self-inflicted gunshot.

Through the crushing grief and bottomless despair that washed over our family we kept coming back to one question. Why? What led this gentle, kind, caring, and respectable young man to take his own life? He was deeply committed to his family – a family with parents fiercely committed to the welfare and well-being of their children. He was the kind of son every parent hopes for. He was the big brother every little sister and brother dreams of. He had good friends. He was a successful and powerful athlete. We are a religious family, and Efrain had solidly embraced his faith. He was attending college – he had a

plan for his life. He had a bright future and everything to live for. Why then?

Approximately three weeks before his death Efrain told us he had been using steroids. He was preparing to play football at the community college he was attending, and he wanted to move from the offensive line to middle linebacker. Even a novice football fan would have recognized the significant physical transformation it would take for him to make that move, and that transformation was exactly what he was looking for when he turned to steroids. Since our son's death we have educated ourselves about these drugs, and in retrospect the signs of Efrain's steroid use were right in front of us. The mood swings, the rages, his obsession with the gym, his rapid fat loss and equally rapid muscle gain – all of these were clues we attributed to the trials and tribulations of adolescence. We were, regrettably, completely unaware of their real significance.

We did what any responsible and caring parents would do – we told Efrain that using steroids was wrong and he had to stop

immediately. He listened. Next we talked to our family physician, who assured us the substances would pass out of his system soon – no further action required. Little did we know that telling our son to stop using steroids "cold-turkey" was ill-advised, and our physician failed to provide us with an appropriate course of action. Three weeks later our son killed himself, and we are absolutely certain that the deep depression that accompanies sudden withdrawal from steroid use led him to put that gun to his head and pull the trigger.

When we told Efrain that using steroids to enhance his athletic performance was unethical, illegal and simply wrong, his response was "Barry Bonds does it! Mark McGwire does it!" What clearer evidence does anyone need that professional athletes have a profound and lasting influence on our children? Teenagers and young adults are at a point in their lives when they begin to look beyond their parents to find a direction for their lives. Professional athletes, with their glamour -- fame – money – fancy cars -- expensive homes – stylish clothes, make a very attractive model for our kids to emulate. To those

professional athletes who say they don't want to be role models for our children, we say "You have no choice!" Their only choice is whether they will be a positive role model or a destructive one. Pro athletes are in the limelight constantly, and whether or not they want to acknowledge it, our kids are watching and listening intently. It's time the public who pays their lofty salaries demands some accountability for their behavior.

The first step toward establishing accountability is to immediately and permanently ban the use of steroids and their precursors from all sports at all levels from high school to the pros – they simply have no place in athletics.

Secondly, the governing bodies for various sports from the local high school level to the NCAA to the professional ranks must implement a strict "No Tolerance" policy that permanently bans violators from their sport without endless "one more chances." If these governing bodies fail to take action on their own, then Congress must act to protect our children.

Next, coaches at all levels must be held responsible for ensuring their athletes are steroid free. Coaches must be trained to recognize the signs and symptoms of steroid use, and given the tools necessary to deal with it. This must include the ability to direct an athlete be tested for steroids if the coach has a reasonable suspicion that the athlete is "juicing."

Finally, a credible random testing program, conducted by an impartial outside agency, must be implemented at all levels of athletics. Without this final action everything else is just "window dressing." Athletes must know that they are subject to testing on any given day, and that the consequences for non-compliance are swift and severe.

We also feel strongly that education must be a centerpiece of our effort to counteract the scourge of steroid abuse. Certainly, a greater effort must be made to educate our children about the dangers of steroid abuse, and our high schools and junior high schools are the best places to accomplish this goal. In

particular, though, the education effort must stress that severe depression and suicidal thoughts are potential side effects of steroid use. These disastrous symptoms are too often overlooked in current discussions about these drugs.

Education, however, must go beyond our children. Parents need education so they can recognize the signs and symptoms of steroid abuse, along with appropriate actions to take if they become aware their children are using these poisons. Had we been armed with the right information, perhaps our son would still be alive. The Department of Health and Human Services should be able to find an innovative way to arm parents with the knowledge they need to prevent the kind of tragedy we've endured.

Additionally, physicians across America need to be alerted to the steroid abuse issue as it relates to our children. As you recall, we consulted our physician to address our son's steroid abuse, but because our doctor either didn't take the situation seriously or wasn't attuned to the dangers of steroid abuse, he

failed to provide the care our son needed. Urgent guidance from The Surgeon General's office to physicians nationwide alerting them to this problem would be a positive step.

Finally, we recommend that the various professional sports organizations be required to implement anti-steroid public awareness programs that include successful, respected athletes speaking out about the dangers of steroid abuse in the print media, on the radio and on TV. This would be an important step toward counteracting the harmful messages our kids are getting from the likes of Canseco, Bonds, Giambi, etc. You need not look any further than Canseco's book "Juiced" for the message that's being conveyed to our children. And I quote, "To score that big paycheck, to set up your family and become one of the richest people in your country or on your island you're going to need to guarantee that performance—and the only way to ensure that is to make the most of the opportunity presented by steroids and growth hormone. Put it that way, and I don't see any young kid turning it down. Would you? Would you really?"

We wish none of this was necessary. We wish we could turn back the clock and protect our son. We wish Efrain was still alive. But, the genie is out of the bottle now. The problem is upon us, and it's incumbent on us to deal with it effectively and responsibly. Unfortunately, with high profile athletes like Jose Canseco not only condoning steroid use, but actually encouraging it, we must also deal with it quickly before it kills more of our children.

Respectfully,

//Signed	**//Signed**
Efrain Marrero	**Brenda K. Marrero**
Father	**Mother**

Chairman TOM DAVIS. It's a policy of this committee that all witnesses be sworn before you testify. If you would rise with me and raise your right hands.

[Witnesses sworn.]

Chairman TOM DAVIS. Your entire statements are in the record. This is a very important topic, and I thank each of you for taking the time to be with us here today to share it.

Dr. Garibaldi, I will start with you.

STATEMENTS OF DENISE AND RAYMOND GARIBALDI, PARENTS OF FORMER U.S. PLAYER ROB GARIBALDI; DONALD HOOTON, PRESIDENT AND DIRECTOR, TAYLOR HOOTON FOUNDATION, FATHER OF HIGH SCHOOL BASEBALL PLAYER, TAYLOR HOOTON; NORA D. VOLKOW, M.D., DIRECTOR, NATIONAL INSTITUTE ON DRUG ABUSE, NATIONAL INSTITUTES OF HEALTH; GARY I. WADLER, M.D., ASSOCIATE PROFESSOR OF CLINICAL MEDICINE, NEW YORK UNIVERSITY SCHOOL OF MEDICINE; KIRK BROWER, M.D., ASSOCIATE PROFESSOR OF PSYCHIATRY, UNIVERSITY OF MICHIGAN MEDICAL SCHOOL, AND EXECUTIVE DIRECTOR, CHELSEA ARBOR ADDICTION TREATMENT CENTER; AND ELLIOTT PELLMAN, M.D., THE MEDICAL ADVISOR TO MAJOR LEAGUE BASEBALL

STATEMENT OF DENISE AND RAYMOND GARIBALDI

Ms. GARIBALDI. Honorable Davis and members of the committee, as a licensed psychologist and more so parent, I thank you for the honor of addressing this committee today. My husband's and my personal efforts interest in your efforts emanates from our son, Rob, who, with the exception of his size, had all the makings of a professional baseball player.

We were living on the San Francisco peninsula when Rob was a Little Leaguer, watching with excitement the accomplishments of his local sports heroes, Barry Bonds and the Bash brothers, Mark McGwire and Jose Canseco. Their successes fueled his dreams. He had both the talent and the desire. To Rob, baseball was life. By the time he reached high school, his skill at baseball was considered remarkable. In fact, his dream of playing in the Major Leagues came very close to reality.

Rob turned down the Yankees in 1999 in order to accept a full scholarship at University of Southern California, and then he played for USC in the 2000 World Series.

Mr. GARIBALDI. As a team, Rob was told by all working with him, coaches, trainers and scouts, that the only way to improve his game was to get bigger. With the exception of size, he had all the tools Major League scouts considered in a potential draftee. Running speed, throwing skills, defensive skills and hitting skills. Getting bigger began with working out diligently and using creatine. Creatine was supplied by a scouting team sponsored by the California Angels when he was 15.

In fact, this and other performance-enhancing supplements, such of which the FDA purport as food, were given to him throughout his baseball career. We were told they were like vitamins. When weight lifting, nutrition and supplements did not produce the de-

sired results, Rob was encouraged to obtain and use steroids. Rob obtained his first cycle of steroids after graduating from high school. He travelled to Tijuana, Mexico with a friend, and within an hour, had a prescription and purchased steroids from a pharmacy there for himself and other friends. Rob also implicated his trainer at USC as assisting his use of steroids so as to gain 20 pounds.

At 16, 5'9" and 130 pounds, Rob was far from being a prototype designated by Major League scouts as desirable. Their goal weight for Rob was 185 pounds. By the 2002 Major League draft, steroids had made good on their promise. Rob was a power hitter, 5'11" and weighed 185 pounds, but he was not drafted. Steroids had taken an insidious hold with scouts commenting he was a head case.

Even though his mom and I confronted him about his weight gain, upper body muscle development, puffy face, hair loss and acne—all symptoms of steroids use—he denied his use. Most disturbing were the adverse psychiatric effects he demonstrated over time. Mania, depression, short-term memory loss, uncontrollable rage, delusional and suicidal thinking and paranoid psychosis—symptoms he never acknowledged as being problems.

Prior to steroids, Rob never displayed any of these symptoms. When not on steroids, or withdrawn from them, Rob was a sweet and empathetic guy with ambitions beyond baseball. When disabled by steroids, his character and demeanor so drastically changed that he was dismissed by the coaching staff at USC as a behavioral problem. During this time, no one recognized his symptoms as being somewhat other than aggregated depression or bipolar disorder.

Rob also never thought of the known physical consequences as being serious. Having heart or liver disease or being sterile were issues he would think about after baseball. At our insistence, Rob eventually cooperated with psychiatric treatment. He was hospitalized in an inpatient psychiatric unit involuntary, and was prescribed antidepressants and antipsychotics, and went to an residential treatment facility. But his depression was unsurmountable. On October 1, 2002, in his car a half a block from our home, Rob shot himself in the head. He was 24.

We support your every effort to implore your continued efforts to purge steroids from baseball and inform and legislate law that guides the general public.

Ms. GARIBALDI. Our children are using the same performance-enhancing supplements and drugs as professional athletes. Research is showing that at an early age, intake of the supplements creates a mindset that prompts steroid use later.

Grave misinformation, such as that in Jose Canseco's recent account in his book "Juiced," continues to be disseminated. Because of ignorance, denial of these athletes who refuse to testify without subpoenas and opinions touted as fact, coaches, scouts and parents will continue to make misinformed statements to those in their charge.

Even though Mr. Canseco states on the first page that steroids are for adult use, youth are not afraid to take the risk of losing their health or their lives to emulate their heroes and/or to help

guarantee a place on a team a scholarship, their physique or competitive edge.

I have a question, if the Federal Government has designated steroids as illegal unless prescribed by a physician, why did Major League Baseball have to ban their use before ball players could be sanctioned for using them. Our children are reading "Juiced" right now, watching Barry Bonds right now, getting permission from their role models right now to use. Canseco states—and his counterparts imply—that as long as you trust your instincts, control carefully the amounts, administer them at a proper time and be smart, careful and know what you are doing, full potential can be reached.

I would like to know where Dr. Canseco got his research. Because what we know is that without steroid use, Rob's suffering, and ultimately his death, would have been averted. How many more youngsters will die questing ego and fame through steroids?

There is no mind that anabolic steroids caused Rob to assault his father and choke him until he was restrained by two men. There is no doubt in our minds that steroids killed our son. Ultimately we do blame Rob for his use. He surrendered his well-being and integrity. He made his choice, and we must now live with the consequences.

However, with his sports heroes as examples and Major League Baseball's blind eye, Rob's decision was a product of erroneous information and promises.

In his mind, he did what baseball players like Canseco have done and McGwire and Bonds are believed to have done. Rob fiercely argued, I don't do drugs, I am a ball player, this is what ball players do. If Bonds has to do it, then I must. We miss him terribly.

And in Rob's name and in the name of athletic excellence, we thank the committee for defining and demanding responsibility for those who are admired and communicating to the Nation that the win-at-all-cost attitude that prevails is much too dangerous a game for our youths for anyone. Baseball is not life. Baseball is a game.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. and Mrs. Garibaldi follows:]

DENISE A. GARIBALDI, PH.D.
Licensed Psychologist – CA PSY 14742

111 LIBERTY STREET PETALUMA, CA 94952 707-769-9407

March 15, 2005 FINAL

Congress of the United States
House of Representatives
Committee on Government Reform
Washington, CD 20515-6143

Honorable Davis, Waxman, and members of the committee:

As a licensed psychologist and more so, parent, I thank you for the honor of addressing the increased use of potentially deadly substances, androgenic-anabolic steroids.

My husband's and my personal interest in your efforts emanates from our son, Rob Garibaldi, who with the exception of his size, had all the makings of a professional baseball player. We were living on the San Francisco Peninsula when Rob was a Little Leaguer, watching with excitement the accomplishments of his local sports' heroes, Barry Bonds and the Bash Brothers, Mark McGwire and Jose Canseco. Their successes fueled his dreams. He had the talent and the desire. To Rob, baseball was life. By the time he reached high school, his skill at baseball was considered remarkable. In fact, his dream of playing in the major leagues came very close to reality. Rob turned down the New York Yankees in the 1999 Major League Amateur Draft to accept a full scholarship to the University of Southern California. He played for USC in the 2000 College World Series.

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Rob also never thought the known physical consequences as being serious. Having heart or liver disease or being sterile were issues he would think about after baseball. At our insistence, Rob eventually cooperated with psychiatric treatment. He was hospitalized in an inpatient psychiatric unit involuntarily, was prescribed antidepressants and antipsychotics, and went to a residential treatment facility. But his depression was unsurmountable. On October 1, 2002, in his car ½ block from our home Rob shot himself in the head. He was 24.

We support your every effort and implore your continued efforts to purge steroids from baseball and inform and legislate law that guides the general public. Our children are using the same performance enhancing supplements and drugs as professional athletes. Research is showing that at an early age intake of these supplements creates a mind set that prompts steroid use later. Grave misinformation, such as that in Jose Canseco's recent account in his book, Juiced, continues to be disseminated. Because of ignorance, denial of those athletes who refuse to testify without subpoenas, and opinions touted as fact, coaches, scouts, and parents will continue to make misinformed statements to those in their charge. Even though Mr. Canseco states on the first page that steroids are for adult use, youth are not afraid to take the risk of losing their health or lives to emulate their heroes and/or help guarantee a place on a team, a scholarship, physique, or competitive edge.

I have a question: If the federal government has designated steroids as illegal unless prescribed by a physician, why did Major League Baseball have to ban their use before ball players could be sanctioned for using them? Our children are reading Juiced right now; watching Bonds lie right now; getting permission from their role models right now to use. Canseco states and his counterparts imply that as long as you "trust your instincts," "carefully control the amounts," "administer them at the proper time," be "smart, careful, and know what you are doing," full potential can be reached. Dr. Canseco, where is your research? What we know is that without steroid use, Rob's suffering and ultimately, his death would have been averted. How many more youngsters will die questing ego and fame through steroids? There is no doubt in our minds that anabolic steroids caused our son to unexpectedly assault his father and choke him until he was restrained by two men. There is no doubt in or minds that steroids killed our son.

Ultimately, we blame Rob for his use, for surrendering his well being and integrity. He made his choice - and we live with the consequences. However, with his sports' heroes as examples and Major League Baseball's blind eye, Rob's decision was a product of erroneous information and promises. In his mind, he did what baseball players like Canseco has done and McGwire and Bonds are believed to have done. Rob fiercely argued, "I don't do drugs. I'm a ballplayer. This is what ballplayers do. If Bonds has to do it, then I must."

We miss him terribly. In Rob's name and in the name of athletic excellence, we thank the committee for defining and demanding responsibility of those whom are admired and for communicating to our nation that the win-at-all-cost attitude that prevails is much too dangerous a game for anyone. After all, baseball is not life. Baseball is a game.

Respectfully,

Denise A. Garibaldi, Ph.D.
Mother and Licensed Psychologist
Petaluma, CA

Raymond J. Garibaldi
Father and Business Consultant
Petaluma, CA

Chairman TOM DAVIS. Mr. Hooton.

STATEMENT OF DONALD M. HOOTON

Mr. HOOTON. Mr. Davis, Mr. Waxman, Congressmen. 20 short months ago, our youngest son, Taylor, took his own life. He was 2 weeks away from beginning his senior year in high school. He was carrying a 3.8 average, made excellent scores on his SAT tests, and he and I were preparing to make college visits. Taylor was well liked by all who knew him, adults tell us he was one of the nicest young men they ever knew, extremely well mannered. His kids thought he was one of the nicest kids on campus, a real lady's man, quite a charmer. This past spring, Taylor would have been a starting pitcher on his varsity baseball team.

But during the fall of his junior year, his JV coach told the 6-foot 3, 175-pound young man that he needed to get bigger in order to improve his chances of making the varsity team. Taylor resorted to using anabolic steroids to help him achieve his objective. Like the Garibaldis, I am absolutely convinced that Taylor's secret use of anabolic steroids played a significant role in causing the depression, the severe depression that resulted in his suicide. And I have also learned that the events leading up to and including Taylor's suicide are right out of the medical textbook on steroids.

Experts put the usage of steroids amongst our high school kids at about 5 to 6 percent of the overall population. Some of the percent experts that I talk to put the numbers at more like 1 million kids doing steroids, not 500,000. And I am of a personal belief that those numbers are at the bottom end of that range, that number is higher.

In some parts of the country the studies show that usage among high school and junior and senior males is as high as 11 to 12 percent. Let me put that in context. The kids in my part of the country tell me that as many as one-third of the boys who show up to play football under the lights on Friday night are juicing. A number of factors are contributing to the increasing usage amongst our kids. You have asked me to talk about one of them, and I am happy to do that.

I believe the poor example being set by professional athletes is a major catalyst fueling the high usage of steroids amongst our kids. Our kids look up to these guys. They want to do the things the pros do to be successful. And with this in mind, I have several messages for the professional athletes.

First, I am sick and tired of having you tell us that you don't want to be considered role models. If you haven't figured it out yet, let me break the news to you that whether you like it or not, you are role models, and parents across America should hold you accountable for behavior that inspires our kids to do things that put their health at risk and that teaches them that the ethics we try to teach them around our kitchen table somehow don't apply to them.

Second, our kids know that the use of anabolic steroids is high amongst professional athletes. They don't need to read Mr. Canseco's new book to know that something other than natural physical ability is providing many of you with the ability to break

so many performance records that provides you with the opportunity to make those millions of dollars.

Our youngsters hear the message loud and clear, and it's wrong. If you would want to achieve your goal, it's OK to use steroids to get you there, because the pros are doing it. It's a real challenge for parents to overpower the strong message that's being sent to our children by your behavior.

Third, players that are guilty of taking steroids are not only cheaters, you are cowards, you are afraid to step on the field to compete for your positions and play the game without the aid of substances that are a felony to possess, without a legitimate prescription, substances that have been banned from competition at all levels of athletics. Not only that, you are cowards when it comes to facing your fans and our children. Why don't you behave like we try to teach our kids to behave? Show our kids that you are man enough to face authority, tell the truth and face the consequences.

Instead, you hide behind the skirts of your union. And with the help of management and your lawyers, you have made every effort to resist facing the public today.

What message are you sending our sons and daughters, that you are above the law, that you can continue to deny your behavior and get away with it? That somehow you are not a cheater unless you get caught? Your attorneys say they are worried about how your public testimony might play in a court of law. But how do you think your refusals to talk about playing in the court of public opinion? Let me tell you that the national jury of young people have already judged your actions and concluded that many of you are guilty of using illegal performance-enhancing drugs.

But instead of convicting you, they have decided to follow your lead. In tens of thousands of homes across America, our 16 and 17-year-old children are injecting themselves with anabolic steroids. Just like you big leaguers do.

Your union leaders won't want us to be sensitive to your right of privacy. Rights of privacy? What about our rights as parents, our rights to expect that the adults our kids all look up to will be held to a standard that does not include behavior that is dangerous, felonious and is cheating.

How about a short message for management. We can't leave them out. Major League Baseball and other sports need to take serious steps to stop the use of steroids. Slapping a player on the wrist with a 10-day suspension, I didn't even know about the $10,000 thing until this morning, but a 10-day suspension is just one more signal to our children that you are not serious about ridding the game of this junk. Forcing a pro, even at worse, to miss 10 games, is asking him to miss 6 percent of a season. Let's put that through the prism of the glasses of a high school student.

Forcing a high school student to miss 6 percent of his season is asking him to sit the bench for less than 1 game. We shouldn't be talking about whether or not to put asterisks next to these guys' records. They ought to be thrown out of baseball, and we ought to be turning them over to the authorities to have them arrested and put in jail for the behavior that they have done.

Why don't you implement a program that we have heard about today that is a lot closer to the Olympics standard where cheaters

are not able to compete for 2 years after their first offense and banned for life following the second. Just maybe our kids will get the message that you are finally serious about solving this problem. Let me add to the whole discussion that this is not about a collective bargaining agreement.

Guys, we are way past that. Steroid usage has become a major health issue that is affecting the lives and health of our kids, and I encourage the Members of Congress to please deal with it in such a manner. A critical weapon that we have in this battle is education.

Our students need to know that these drugs can seriously harm them. But I am convinced that trying to warn 16-year-olds about the danger of liver cancer or having a heart attack probably is going to fall on deaf ears, which I believe is why our first targets for education have to be our parents and coaches.

Our parents need to know the dangers of this drug, how to recognize the warning sign and how to understand the importance of supervising this with our kids. Our coaches have to be more responsible and accountable for dealing with this situation with their teams. Coaches across the country need to be certified and credentialed to have to pass a test to prove that they are competent to supervise our children. As part of a certification, they need to be trained about steroids and other performance-enhancing drugs and trained to know what to do about it when they find it.

Finally, they need to be held accountable for insuring that their teams are steroid free, to help fill the education void, we have formed the Taylor Hooton Foundation for fighting steroid abuse, the Nation's first private organization in this area. Working in conjunction with experts like Dr. Gary Wadler here on my left, we would like to explore ways to work with you and others in the government to make our foundation a part of your work going forward.

On behalf of my son, Taylor Hooton, Rob Garibaldi and Efrain Marrero, whose parents are with us today, let me implore you to take steps to clean up this mess. Please help us to see that our children's lives were not lost in vain. You have the power to do something about it, and we are counting on you to do so.

Thank you.

Chairman TOM DAVIS. Thank you very much, Mr. Hooton.

[The prepared statement of Mr. Hooton follows:]

Donald M. Hooton - Oral Testimony

House Government Reform Committee

March 17, 2005

20 short months ago, our youngest son Taylor took his own life. He was just 2 weeks away from beginning his senior year in high school. He was carrying a 3.8 average, had made an excellent score on his SAT test, and we were preparing to make college visits. Taylor was well liked by all who knew him – adults tell us he was one of the most well mannered young men that they ever met – he was always smiling! His friends tell us that he was one of the nicest kids on campus, a ladies man who was a real charmer.

This past spring, he would have been a starting pitcher on his varsity baseball team. During the fall of his junior year, his JV coach told this 6'3"/175 pound young man that he needed to "get bigger" to improve his chances of making varsity. Taylor resorted to using anabolic steroids as a short cut to reach his objective.

I am convinced that Taylor's secret use of anabolic steroids played a significant role in causing the severe depression that resulted in his suicide. I have learned that what happened to Taylor – the events leading up to and including his suicide – are right out of the medical textbook on steroids.

Experts put the steroid usage rate at about 5-6% of the total US High School population – about a million kids. I am convinced that those numbers understate the problem. Some studies have put the use of steroids at about 11-12% of the junior/senior high male school population in some parts of the country. To put these numbers into perspective, the kids I've spoken with estimate that at least a third of the high school players that show up to play football under the lights on Friday nights in my part of the country are "juicing."

A number of factors are contributing to the increase in steroid usage amongst our kids – you have invited me to discuss one of them.

I believe the poor example being set by professional athletes is a major catalyst fueling the high usage of steroids amongst our kids. Our kids look up these guys – they want to do those things that the pros do to be successful. With this in mind, I have some messages for the players:

First, I am tired of hearing you tell us that kids should not look up to you as role models. If you haven't figured it out yet, let me break the news to you, you are role models whether you like it or not. And parents across America should hold you accountable for behavior that inspires our kids to do things that put their health at risk and teaches them that the ethics we try to teach them at home somehow don't apply to you.

Second, our kids know that the use of steroids is high amongst professional athletes. They don't need to read Mr. Canseco's new book to know that something other than natural physical ability is providing many of you with the ability to break so many performance records that provide you the opportunity to earn those millions of dollars.

With respect to the sacred home run record, I think Reggie Jackson's comments on this subject are instructional: "Somebody is definitely guilty of taking steroids. You can't break records hitting 200 home runs in 3 or 4 seasons. The greatest hitters in the history of the game didn't do that. Henry Aaron never hit 50 in a season, so you're going to tell me that you're a greater hitter than Henry Aaron? Bonds hit 73 in 2001, and he would have hit 100 if they had pitched to him. I mean, come on now."

Our youngsters hear the message: it's loud, it's clear, and it's wrong – "if you want to achieve your goals, it is okay to use steroids to get you there because the pros are doing it." It is a real challenge for today's parents to overpower the strong messages being sent to our kids by your behavior.

Third, players that are guilty of taking steroids are not only cheaters but you are also cowards. You are afraid to step onto the field, compete for your positions, and play the game without the aid of substances that are a felony to possess without a legitimate prescription; substances that have been banned from competition at all levels of athletics.

Not only that, you are cowards when it comes to facing your fans and the kids. Why don't you behave like we try to teach our kids to behave? Show our kids that you are man enough to face authority, tell the truth, and face the consequences. Instead, you hide behind the skirts of your union and now, with the help of management and your lawyers, you have made every effort to resist facing the public today. What message are you sending our sons and daughters? That you are above the law? That you can continue to lie, deny your behavior, and get away with it? That somehow you are not a cheater unless you get caught?

Your attorneys say they are worried about how your public testimony will play in a court of law – but, how do you think your refusals to talk are playing in the court of public opinion? The national jury of young people has already judged your actions and concluded that many of you are guilty of using illegal performance enhancing drugs. But instead of convicting you, they have decided to follow your lead. And in tens of thousands of homes across this country, our 16 and 17-year-old children are injecting themselves with steroids – just like big leaguers do.

Your union leaders want us to be sensitive to your right to privacy. Right to privacy? What about our rights as parents - our rights to expect that the adults that our kids all look up to will be held to a standard that does not include behavior that is dangerous, felonious and is cheating?

Now, a message for management: Major League Baseball and other sports need to take serious steps to stop the use of steroids. Slapping a player on the wrist with a 10-day suspension sends just one more signal to the kids that you are not serious about ridding the game of this junk. Forcing a pro to miss just 6% of the season is equivalent to forcing a high school kid to sit the bench for less than one of his games! And, we shouldn't be talking about whether to put an asterisk next to these guys' records! We're missing the whole point. You should be throwing them out of the big leagues.

Why don't you implement a real program that's closer to the Olympic program where cheaters are unable to compete for two years after their first offense and banned for life following their second? Do that and the kids may begin to get the impression that you are taking this issue seriously!

Let me add that this whole discussion is not about a collective bargaining agreement. We are way past that – steroid usage has become a serious public health issue. The behavior of our major league athletes is affecting the lives and the health of our kids, and I encourage members of Congress to deal with it in such a manner.

A critical weapon that we need to use in this fight is education coupled with a random testing program.

Students need to understand that these drugs can seriously harm them. But warning a 16-year-old about the dangers of having a heart attack or developing liver problems when he is 35 or 40 will probably fall on deaf ears. That's why I believe that parents and coaches are our most important targets for education. Parents need to know the dangers of this drug, how to recognize warning signs, and understand the importance of supervising their children in this area.

Our coaches must be more responsible & accountable for supervising this situation with their teams. Coaches across the country need to be:

a) Certified and credentialed – to have to pass a test to prove they are competent to supervise our kids. As part of their certification, they need to be trained to recognize the symptoms of steroid and other performance enhancing abuse and trained to know what to do about it when they find it, and
b) Held accountable for insuring that their teams are steroid-free. They should enforce a true zero tolerance policy against steroid abuse.

To help fill the education void, working in conjunction with experts like Dr. Gary Wadler, we have formed a non-profit foundation – the Taylor Hooton Foundation for Fighting Steroid Abuse, the only private group organizing to help fight this battle. We would like to explore ways to work with you make our Foundation part of your efforts moving forward.

On behalf of Taylor Hooton, Rob Garibaldi, Efrain Marrero and other kids around the country who have lost their lives to steroids, let me implore you to take steps to clean this mess up. Please help us to see that our children's lives were not lost in vain. You have the power to do something about this problem, and we are counting on you to do so.

Chairman TOM DAVIS. Dr. Volkow, thank you for being with us.

STATEMENT OF NORA D. VOLKOW, M.D.

Dr. VOLKOW. Mr. Chairman and members of the committee, it is my privilege to be here today to discuss what science has taught us about the serious health consequences of anabolic steroid abuse. We are now facing a very damaging message that is becoming pervasive in our society, that bigger is better and being the best is more important than how you get there.

We are here today because of the reports of anabolic steroid abuse by professional athletes, many of you are regarded as role models by today's young people. There is great risk that our adolescents will be vulnerable to these messages, and will be far less concerned about the long-term health risks to their bodies and their minds.

What are anabolic steroids and how do they affect the body? Anabolic steroids are synthetic versions of the primary male sex hormone testosterone. They can be injected, taken orally or transdermally. They promote the growth of skeletal muscle and the development of male sexual characteristics. Anabolic steroids are controlled substances which can be prescribed to risk conditions such as body wasting in patients with AIDS and other diseases that occur when the body produces abnormally low levels of testosterone.

However, the doses prescribed to treat these conditions are 10 to 100 times lower than the doses that are abused for performance enhancement.

Let me be clear, although anabolic steroids can enhance certain types of performance and appearance, they are dangerous drugs. And when used inappropriately, they can cause a host of severe, long lasting and often irreversible negative health consequences. These drugs stunt the height of growing adolescents, masculinize women, and alter sex characteristics in men.

Anabolic steroids can lead to heart attacks, strokes, liver tumors, kidney failure and serious psychiatric problems. In addition, because steroids are often injected, users risk contracting or transmitting HIV or hepatitis.

The research also indicates that anabolic steroids directly affect the brain. They affect some of the same reverse sequence as other drugs of abuse, and with repeated use, can produce addiction. However, they also affect areas in the brain that are normally regulated by sex hormones, and these actions account for many of the behavioral changes that occur with steroid abuse, such as aggression, depression, psychosis, mania.

Some of these consequences occur long after the person stops taking the drug. Indeed, depression induced by steroid withdrawal can result in suicide weeks after drug discontinuation.

Anabolic steroid abuse differs from the use of other illicit substances, in that the initial use is not driven for the desire of the high or euphoria with such drugs such as cocaine, marijuana or heroin, but the desire of the user to enhance their performance and appearance, characteristics that are extremely important for adolescents. The effects of steroids in addition can boost confidence

and strength, leading the abuser to overlook the potentially serious long-term damages that these substances can cause.

I am pleased to say that NIDA has supported research that lead to the development of two highly effective prevention programs, ATLAS targeting male athletes, and ATHENA, targeting female athletes, which not only prevent anabolic steroid abuse but also promote other behaviors and attitudes in adolescents.

Because school-sponsored athletics involve about 50 percent of high school students, these programs, which are sports-based, provide the opportunity to reach a large number of adolescents. Influential coaches and peer groups provide information on sports nutrition and acrobatic strength training as alternatives to the use of drugs to performance and build confidence.

ATLAS and ATHENA have been adopted by schools in 29 States and Puerto Rico. Both Congress and the substance abuse and Mental Health Services Administration have endorsed ATLAS and ATHENA as model prevention programs which could and should be implemented in more communities throughout the country.

In response to the increasing alarming use of steroids in adolescents, NIDA invested in public education efforts to increase the awareness of the dangers of steroid use. Beginning in 2000, we created a new Web site focused on steroid abuse, developing information on material for healthcare professionals and the public and aired public service television announcements.

In summary, we know that the inappropriate use of anabolic steroids can have catastrophic medical and psychiatric consequences.

For this reason, we are very concerned about the misleading positive messages being conveyed on the abuse of these drugs by well-known professional athletes. These could undermine our work prevention and education efforts. NIDA will continue to bring the power of science to bear on these issues.

I thank you for your attention and interest, and would be pleased to answer any questions you may have.

Chairman TOM DAVIS. Thank you, Dr. Volkow.

[The prepared statement of Dr. Volkow follows:]

Testimony

Before the Committee on Government Reform
United States House of Representatives

Consequences of the Abuse of Anabolic Steroids

Statement of
Nora D. Volkow, M.D.
Director
National Institute on Drug Abuse
National Institutes of Health
U.S. Department of Health and Human Services

For Release on Delivery
Expected at 9:30 am
Thursday, March 17, 2005

Mr. Chairman and members of the Committee:

Thank you for inviting the National Institute on Drug Abuse (NIDA), a component of the National Institutes of Health, to participate in this important hearing. As the world's largest supporter of biomedical research on drug abuse and addiction, we have learned much about the behavioral and health effects of anabolic steroids. I am pleased to be here today to present an overview of what the science has taught us about anabolic steroids, their health effects and what we can do to prevent their abuse.

Recently, we have been hearing a great deal about the abuse of anabolic steroids by professional athletes, many of whom are regarded as role models by today's youth. Anabolic steroids are synthetic versions of the primary male sex hormone, testosterone. They promote the growth of skeletal muscle and the development of male sexual characteristics. People choose to take steroids because they do, in fact, enhance certain types of physical performance and appearance. This practice is not new-- athletes in many sports have abused substances in an attempt to gain competitive advantage. This occurs despite the severe and often irreversible adverse health consequences to those taking these drugs.

Anabolic steroids are available legally only by prescription, to treat conditions that occur when the body produces abnormally low amounts of testosterone, such as delayed puberty and some types of impotence. They are also prescribed to treat body wasting in patients with AIDS and other diseases that result in loss of lean muscle mass. People who

take anabolic steroids usually inject them or take them orally. It is important to realize that the doses taken by those who abuse these drugs are supraphysiological; that is, they are much larger than what the body normally produces for healthy function. The main visible result of this drug taking is an increase in the size of skeletal muscle; abusers can clearly be seen to "get bigger." Today, men and women, including adolescents, abuse a variety of drugs, such as anabolic steroids, in the hope of improving their athletic performance and appearance.

At NIDA, we are especially concerned about the non-prescribed, non-supervised use of anabolic steroids, as well as other prescription medications, since abusing these drugs can lead to serious health problems, some irreversible. People who abuse anabolic steroids, particularly those involved in weight training, will experience increases in strength and muscle size significantly beyond those observed from training alone. However, there are long-term health risks associated with steroid abuse that can be very serious and potentially life threatening. Younger steroid abusers, both male and female, are at risk of permanently halting their bone growth, which could result in shorter stature than nature had intended. Males may experience a shrinking of their testicles, reduced sperm count, infertility, baldness, development of breasts, and an increased risk for prostate cancer. In females, anabolic steroids have been associated with a number of adverse effects, some of which appear to be permanent even when drug use is stopped, including menstrual abnormalities, deepening of voice, shrinkage of breasts, male-pattern baldness, and an increase in sex drive, acne, body hair and clitoris size. For both genders, other consequences include liver and heart disease, stroke, drug dependence, and increased

aggression. In addition, people who inject anabolic steroids run the added risk of contracting and/or transmitting HIV/AIDS or hepatitis through sharing contaminated needles.

What are we doing about it?

NIDA has as its primary mission to lead the nation in bringing the power of science to bear on drug abuse and addiction. We accomplish this in two ways: We support and conduct basic, clinical, and applied research on all health aspects of drug abuse and addiction; and we ensure rapid and effective dissemination and use of research results to improve prevention and treatment and to advise policy.

NIDA supports a focused research portfolio to develop knowledge on the health effects of steroid abuse, with the ultimate goal of more effectively preventing abuse and/or reversing its consequences. Our basic research is designed primarily to help us better understand how anabolic steroids affect the brain and behavior. For example, NIDA is supporting research on anabolic steroid-induced aggression. So-called "roid rage" is one of the prominent symptoms that has been reported in some anabolic steroid abusers. In fact, we already know from animal studies that anabolic steroids can induce aggression. NIDA is supporting the use of animal models of anabolic steroid-induced aggression to help us better understand the brain circuitry that is responsible for these abnormal behaviors and determine how this circuitry is affected by exposure to anabolic steroids. Our goals are to find treatments that would mitigate the adverse effects associated with

anabolic steroid abuse and to better understand how anabolic steroid abuse harms the body and negatively affects brain chemistry.

Anabolic steroids are different from other drugs of abuse in that many of their "reinforcing effects", i.e., those effects that keep a person using a drug, are not experienced immediately or rapidly. The main reason people give for abusing steroids is to improve their performance in sports or their appearance, that is, to increase their muscle size and/or reduce their body fat. These effects take time to develop, although once developed may be a strong incentive for continued anabolic steroids abuse.

Some percentage of steroid abusers become addicted to the drugs, as evidenced by their continuing to take steroids in spite of seriously adverse medical and behavioral problems. One of the most dangerous consequences is the severe depression that can occur during withdrawal which if not recognized and treated properly can result in suicide weeks after drug discontinuation. Indeed untreated, depressive symptoms have been known to persist for a year or more after the abuser stops taking the drugs.

NIDA researchers have also investigated factors that increase an individual's likelihood of abusing anabolic steroids. Among these is a unique syndrome which NIDA researchers identified and termed "muscle dysmorphia." It involves a preoccupation with physique, poor insight into actual body size or weight, rigid dietary practices, and impairments in social or occupational functioning. It has been described in both females and males who train with weights, and it is more common in those who abuse anabolic

steroids. More research is needed to characterize this syndrome further, to determine who is most vulnerable, and to develop potential treatments.

Success Story in Developing Science-based Prevention Programs: Projects ATLAS and ATHENA

NIDA has always been a strong proponent of prevention research, and began in 1993 to fund researchers at the Oregon Health and Science University to develop a program for preventing steroid abuse and improving health behaviors in high school students. The researchers chose to develop separate programs for males and females. The interventions are called Athletes Training and Learning to Avoid Steroids (ATLAS) and Athletes Targeting Healthy Exercise and Nutrition Alternatives (ATHENA)--both ATLAS and ATHENA demonstrate that sports teams can be effective vehicles to promote healthy lifestyles and deter drug abuse and other harmful behaviors. Their format uses influential coaches and existing, single-gender bonded peer groups to deliver immediately relevant information and messages. The research shows that incorporating peer-led drug abuse prevention and health promotion curricula into sport team settings is effective, and can be used in communities across the country. In fact, when the Congress amended the Controlled Substances Act last year to focus on steroid abuse, ATLAS and ATHENA were specifically mentioned as model programs.

Scope of the Problem

The number of people abusing anabolic steroids nationwide is not known at this time. Many of the abused substances only became illegal with the passage last year of the

amendments to the Controlled Substances Act; therefore, up until then some forms of anabolic steroids (usually steroid precursors) could be purchased legally in health food and other commercial establishments or through the Internet. More information needs to be obtained on the true magnitude of abuse.

NIDA supports the conduct of a nationwide survey, Monitoring the Future (MTF), which annually collects information on drug abuse and attitudes about drug risk among the Nation's 8th, 10th, and 12th grade students. MTF has been collecting information on anabolic steroid abuse in youth since 1989 in high school seniors and since 1991 in all three grades. The Centers for Disease Control and Prevention also conducts a biennial survey of students in grades 9 through 12, the Youth Risk Behavior Survey (YRBS), which includes questions on anabolic steroids. Note that although both surveys query overlapping age groups of students, they are designed differently and results may therefore differ. In 2003, according to YRBS, 6.1% of students reported illegal use of anabolic steroids at least once in their lifetime, up from 2.7% in 1991.

The most recent MTF survey found that, in 2004, past year steroid abuse among 12th graders was holding steady, but at peak levels of about 2.5%. This translates into an estimated 79,000 high school seniors who report having abused anabolic steroids in the past year. Perception of harm among 12th grade students has also been holding steady for the past few years at approximately 56%, which is down from a peak of 71% in 1992. When students view drugs as less harmful their levels of abuse often increase. We are

encouraged, though, by the fact that the survey also found abuse by 8th graders within the past year declined, from 1.4% in 2003 to 1.1% in 2004.

This encouraging news regarding 8th graders contrasts with what we saw a few years ago. In late 1999, we learned from the MTF that anabolic steroid abuse had increased among 8th and 10th graders, and that the perceived risk of harm from anabolic steroid abuse had declined among 12th graders. These were troubling signs and NIDA responded by enhancing our public education efforts related to the adverse consequences of steroid abuse.

NIDA partnered with multiple individuals and organizations to develop a public education campaign on the dangers of anabolic steroid abuse. Among those involved were the American College of Sports Medicine, the National Collegiate Athletic Association, and the National Federation of High Schools. NIDA created a new website: www.steroidabuse.org, prepared *a Community Drug Alert Bulletin* for health care professionals (more than 150,000 distributed), and developed a Research Report to inform the public on the state of science regarding anabolic steroid abuse (more than 500,000 distributed). NIDA also distributed 390,000 free postcards on the health risks of anabolic steroids directing the public to NIDA's website for further information.

In 2002, with the winter Olympics on the horizon, we re-invigorated our public education efforts by launching "Game Plan," which included additional materials (posters, web banner advertisements, print advertisements) and public service television

announcements. We worked with organizations across the country to especially target high school and collegiate athletic associations and all of their members. Between February 2002 and February 2003, a public service campaign advertisement, developed as a part of NIDA's steroid abuse prevention initiative, was aired by 228 television stations (located in 130 cities). It played almost 25,000 times! We will be re-airing these PSAs in 2005. In 2003, NIDA also distributed more than 166,000 art cards to 81 locations nationwide (surf, ski, skate shops and health clubs), including metropolitan areas, beach resorts, and ski resorts, and worked with Scholastic Inc. to develop an article, "Steroids: Behind the Bulk", for their magazine series, entitled *HEADS UP*: Real News About Drugs and Your Body. This magazine has an estimated reach of 6.8 million middle and early high school students.

Conclusion

The research clearly indicates that inappropriate use of anabolic steroids can have serious health consequences. In light of recent publicity on this issue, we must be vigilant to educate young people that these are dangerous drugs and need to be viewed that way. This is a particularly important problem since not all anabolic steroid abusers experience the same deleterious outcomes, and many serious problems require months or years to develop, which could lead to conflicting street messages. NIDA is actively working to ensure that realistic messages are conveyed in a convincing manner regarding anabolic steroids and the serious harms they can cause. We will continue to work to promote this message, to work with the appropriate groups to facilitate the adoption of proven effective prevention programs, such as ATLAS and ATHENA, and to develop

effective interventions to help those who are suffering from the damaging effects of steroid abuse.

Thank you for allowing me to share this information with you. I will be happy to answer any questions you may have.

Chairman TOM DAVIS. Dr. Wadler. Thanks for being with us.

STATEMENT OF GARY I. WADLER, M.D.

Dr. WADLER. Thank you, Mr. Chairman, I appear before this committee wearing multiple hats. I am an associate professor of clinical medicine at NYU School of Medicine and represent the United States as a member of the World Anti-Doping Agency's Prohibited List and Methods Committee. I am a fellow of the largest sports medicine association in the world, the American College of Sports Medicine, and am the legal author of the textbook, "Drugs and the Athlete."

In 1993, I received the International Olympic Committee's President's Prize for my work in doping. I have served as an expert on anabolic steroids for the Department of Justice and since 1999, I have advised the Office of National Drug Control policy on matters of doping. Since appearing before the Senate Committee on Commerce, Science and Transportation in 1999 to discuss the use of performance-enhancing drugs in Olympic competition, there has been a sea of change on many fronts. At the Federal level, we have witnessed great strides in the fight against doping.

The President highlighted his issue in his 2004 State of the Union. The Department of Justice has pursued the BALCO investigation, and the FDA removed ephedra and androstenedione from the store shelves. Just last month, the Anabolic Steroid Control Act of 2004 became effective, adding numerous steroid precursors to the list of steroids controlled under the act.

Internationally the United States, with the Office of National Drug Control Policy at the helm has played a leadership role in the World Anti-Doping Agency, its governance and funding. And most recently, in drafting the anti-doping convention under the auspice of UNESCO.

In 2004, the U.S. Government contributed an unprecedented $1.45 million toward WADA budget of $23 million and last year $7.5 million was appropriated to support our national anti-doping and the U.S. Anti-Doping Agency, USADA for testing, research and education.

With this as a backdrop, one must ask the question where have we gone astray with Major League Baseball and why should we care? Perhaps a seminal moment on researching the issue of performance enhancing drug use in baseball was a 1998 revelation that Mark McGwire had used androstenedione during his record-breaking 70 home run season. At the time, McGwire did not violate the laws of the land nor the laws of baseball. Those were to change. The 2002 assertions of Jose Canseco and the late Ken Caminiti that steroid use was rampant in baseball were dismissed by many in organized baseball as being hyperbolic.

However, last week, Mr. Selig acknowledged in 2001, 11 percent of Minor League players had tested positive, and baseball's own 2003 steroid survey testing have revealed that even with its very poorest testing program, as many as 5 to 10 percent of players had tested positive, the equivalent of two entire Major League teams.

Last week we learned that in 2004, 1 to 2 percent tested positive, which still translates to an unacceptable number of users, between 12 to 24-league wide, the equivalent of a half to full roster. The in-

cidents would likely have been higher if the testing had been performed as it should have been year around, in and out of competition, on a random, no notice basis.

To put these figures in perspective, compare Major League Baseball's statistics with those of the World Anti-doping Agency, where less than 1 half percent of 150,000 tests rigorously administered worldwide in 2002 tested positive for steroids. One can only conclude that the prior assertions of rampant steroid abuse in baseball likely were not hyperbobolic, and why should we care?

We should care for many reasons, but perhaps most notable is that baseball, our national pastime, for better or for worse, is a role model sport and likely contributes to the alarming abuse of anabolic steroids by teenagers. Just reflect on the enormous increase in sales in andro, the year after Mark McGwire broke Roger Maris' longstanding home run record. The most recent data from the annual review of the National Institute of Drug Abuse survey reveals that in 2004, 3.4 percent of 12th graders had used these drugs at some time in their lives and as many as 1.9 percent of 8th graders had used them. Even more alarming is the perception amongst high school students that they are harmful has dropped from 71 percent in 1992 to only 56 percent in 2004.

Let me assure you from a public health perspective that the abuse of these drugs is harmful both physically and behaviorally. Their abuse can lead to an array of physical problems, some predictable, such as feminization of the male, some not, such as premature heart disease, some permanent and some not.

But baseball's problem is not limited to steroids. One can only wonder why baseball's new drug policy does not explicitly ban amphetamines, a Schedule III drug. It was amphetamine abuse that gave rise to the Controlled Substances Act of 1970 and to the development of Olympic banned substances list in 1968.

Following the first recorded fatalities from performance enhancing drugs, namely amphetamines. While ephedra is now banned in baseball subsequent to the heat stroke defendant of Steven Bechler and is being banned by the FDA, one should not lose site of the fact that ephedra is closely related to the stimulant amphetamine. Why ephedra is banned by Major League Baseball while amphetamines are not, remains an enigma. The position that the Players Association has taken with respect to amphetamines, certainly leads one to suspect that they too are endemic in baseball.

Finally, a few words about Major League Baseball's new drug policy testing program, which I had a brief chance to review.

In my judgment, the policy at best as we know it, can best be described as one of incrementalism. One designed to silence its critics, but not one designed to seriously rid professional baseball of the abuse of all performance enhancing drugs. To be sure that the devil is in the details as we heard with the word "or," for example, while human growth hormone is on baseball's banned list, baseball will not conduct blood testing, which is the only way it can be currently detected.

Doping is an exquisitely complex subject involving interplay of numerous disciplines. In my opinion, the complexity of antidoping far exceeds the capacity of baseball to design, implement and monitor an effective transparent and accountable program.

It is embodied in the world's antidoping code, which I distributed to you this morning, and its international standards and Major League Baseball should embrace them, as have other high profile professional sports such as men's professional tennis, soccer and cycling.

Organized baseball should heed the experience of the Olympic movement, which recognized that its very credibility was cracking under the weight of doping. And so it passed the antidoping baton to WADA, the World Anti-Doping Agency, and to the national doping agencies such USADA.

I am pleased to note that baseball has taken one significant step in that direction, by contracting out its antidoping laboratory services to WADA certified accredited laboratory.

At a minimum, and now I am being very, very specific, as the next step, Major League Baseball should adopt the WADA list, which I distributed this morning of prohibited substances and methods in its entirety. The list is a continuously evolving product reflecting countless man-hours by scientists, and physicians around the world. It is endorsed by sporting bodies worldwide as well as by world governments, including the United States.

For the potential of a 2-year sanction for steroid abuse is called for in the world antidoping code, we make baseball hesitant to erase the code, baseball should be mindful that baseball caused the sanctions to be reduced in "exceptional circumstances," and provides for the possible reduction or elimination of the period of eligibility in the unique circumstances where the athlete can establish that he had no fault or negligence in connection with the violation.

Furthermore, the U.S. Anti-Doping Agency [USADA] is in the best position to implement the best practices of doping control baseball in conformity and the requirements with the world requirements of the world antidoping code.

Finally, only when baseball demonstrates its unabashed commit to drug-free sport, will it fully regain the confidence of its fans and once again deservedly become America's favorite pastime. Thank you.

Mr. SOUDER [presiding]. Thank you.

[The prepared statement of Dr. Wadler follows:]

Written Statement

GARY I. WADLER, M.D., FACP, FACSM, FACPM, FCP
Associate Professor of Clinical Medicine
New York University School of Medicine

Hearing on
Major League Baseball and the Use of performance-Enhancing Drugs

Before the
U.S. Congress House of Representatives Committee on Government Reform

March 17, 2005

Dear Mr. Chairman and Members of the Committee:

I am honored to appear here today and I 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 Fellow and former Trustee of the largest sports medicine and exercise science organization in the world, the American College of Sports Medicine, where I had chaired its Health and Science Policy Committee. In addition, I am a member of the Board of Stewards and former Vice-President of Women's Sports Foundation. I have served as a member of the Technical Advisory Committee of the CASA National Commission on Sports and Substance Abuse. At the local level, I serve as Chairman and President of the Nassau County Sports Commission.

I am the lead author of the internationally acclaimed text, *Drugs and the Athlete,* and the recipient of the 1993 International Olympic Committee's President's Prize for my work in the field of doping.

I have served as an expert on anabolic steroids to the United States Department of Justice, and since 1999, I have advised the White House Office of National Drug Control Policy on matters of doping.

I was intimately involved in the formation of the World Anti-Doping Agency, served on a number of its committees, including its Health, Medicine and Research Committee, its Therapeutic Use Exemption Committee, and its Athlete's Passport Committee. Currently, I represent the United States as a member of the WADA's Prohibited List and Methods Committee where, on occasion, I have served as Acting Chair.

I have no vested interest in testifying today other than to share my views with the Committee about the complex issue of Major League Baseball and the use of performance-enhancing drugs.

Since appearing before the United States Senate Committee on Commerce, Science and transportation in 1999 to discuss the use of performance-enhancing drugs in Olympic competition, there has been a sea change on many fronts.

At the federal level, we have witnessed great strides both nationally and internationally in the fight against doping.

The President highlighted the issues in his 2004 State of the Union, the Department of Justice has pursued the BALCO investigation, and the FDA removed ephedra and androstenedione form the store shelf.

Just last month, the recently enacted Anabolic Steroid Control Act of 2004 became effective adding numerous so-called steroid precursors to the list of anabolic steroids controlled under the federal Controlled Substances Act. This Act increased the government's commitment to education regarding the dangers of anabolic strides while requiring a review of the federal sentencing guidelines for criminal offenses involving anabolic steroids.

The United States Government has also demonstrated its commitment through increased funding of several anti-doping initiatives. For example, just last year, $7.5 million was appropriated to support the United States Anti-Doping Agency's (USADA) testing research and education programs. It was USADA that played a critical role in the BALCO revelations and in unmasking the numerous issues associated with the designer steroid, THG.

Internationally, the United States, with the White House Office on National Drug Control Policy at the helm, has played a leadership role in both the formation of WADA and in its ongoing governance and funding.

Specifically, in 2004, the United States Government contributed a historic and unprecedented $1.45 million towards WADA's $23 million budget (60% to research, 15% to out-of-competition testing, 15% to education, 10% for contingency) and that unprecedented level of commitment continues as reflected in the President's fiscal year 2006 budget.

WADA was created in November 1999 to support and promote fundamental values in sport. WADA was set up as a foundation under the initiative of the IOC with the support and participation of intergovernmental organizations, governments, public authorities and other public and private bodies fighting against doping in sport. The agency has equal representation from the Olympic Movement and from public authorities.

The United States is one of only five nations serving on WADA's Executive Committee. It chaired WADA's Ethics and Education Committee, and most recently, the United States Government has assumed a strong leadership position during the drafting of the anti-doping convention under the auspices of UNESCO.

With this as a backdrop, one must ask the question where have we gone astray with Major League Baseball and why should we care?

These questions can be addressed from many perspectives.

Perhaps the seminal moment in surfacing the current issue of performance-enhancing drug use baseball was in 1998 with the revelation that Mark McGwire had used androstenedione during his record-breaking 70 home run season. At the time, McGwire's use did not violate the laws of the land, nor the laws of baseball – both were to change.

The 2002 assertions of Jose Conseco and the late Ken Caminiti that steroid abuse was rampant in organized baseball were dismissed by many in baseball as being hyperbolic. However, last week Mr. Selig acknowledged that in 2001, that in fact, 11 percent of Minor League players had tested positive, and baseball's own 2003 "Survey Testing" had revealed that even with a very porous testing program, as many as 5 to 7 percent of Major League players had tested positive – the equivalent of two major league rosters.

Two weeks ago, we learned that in 2004, though employing a porous testing program, 1% to 2% tested positive, which still translates to an unacceptable numbers of users - between 12 and 24 league wide, the equivalent of a team to a team roster. The incidence would likely have been higher if the testing had been performed, as it should have been - year round, in and out of competition, random, no notice basis.

The incidence would likely have been higher if the testing had been performed, as it should have been - year round, in and out of competition, random, on a no notice basis.

To put these figures in perspective, compare Major League Baseball's statistics with those of WADA, where ½ percent of the 150,000 tests rigorously administered worldwide in 2003 were positive for steroids.

One can only conclude that the prior assertions of rampant steroid abuse in baseball were likely not hyperbolic.

Why should we care?

We should care for many reasons, but perhaps most notable, is that baseball, our national pastime, for better or for worse is a role model sport and likely contributes to the alarming abuse of anabolic steroids by teenagers. Just reflect on the enormous increase in sales of androstenedione (andro), the year after Mark McGwire broke Roger Maris' long-standing home run record.

The most recent data from the annual National Institute of Drug Abuse's Monitoring the Future survey reveals that in 2004, 3.4% of 12th graders have used these drugs at some time in their lifetime and as many as 1.9% of 8th graders have used them – very disturbing statistics.

And even more alarming is the perception amongst high school students that they are harmful has dropped significantly from 71% in 1992 to 56% in 2004.

And let me assure you from a public health perspective the abuse of these drugs is harmful both physically and behaviorally. Their abuse can lead to an array of physical problems, even with therapeutically prescribed doses, some predictable, some not, some permanent and some not.

Some adverse effects are visible to the naked eye, while others are not. If anabolic steroids are injected, the transmission of HIV and hepatitis B through shared needles and vials use is a very real concern.

Additionally, unlike almost all other drugs, the adverse effects of steroid based hormones share a unique characteristic -- their dangers may not be manifest for months, years and even decades.

With regard to physical side effects in males, their use may result in feminization with symptoms such as breast development, high-pitched voice, testicular atrophy, and impotency. This is because anabolic steroids may be converted in the body to estrogens in a process known as aromatization. The abuse of these drugs by women may result in their masculinization.

Both sexes can experience the following effects, which range from the merely unsightly to the life endangering. They include severe acne, bloating and rapid weight gain, clotting disorders, liver damage, premature heart disease and stroke, elevated total cholesterol and LDL levels with depressed HDL levels and increased tendinous injuries.

In adolescents, anabolic steroids can result in the premature closure of the epiphyses (growth centers in bone), such that the adolescent will never reach their genetically determined height.

The abuse of anabolic steroids can cause severe mood swings with marked irritability, depression, and with feelings of invincibility. Antisocial behaviors may be manifest by bouts of outright aggression commonly referred to as "roid rage".

Regular use of anabolic steroids can result in a dependency syndrome, which can result in the development of a profound depression that can lead to suicide.

But baseball's problem is not limited to steroids.

One can only wonder why baseball's new drug policy does not explicitly ban amphetamines.

It was amphetamine abuse that gave rise to both the controlled substances act of 1970, and to the development of the Olympic banned substances list in 1968, following the first recorded fatalities from performance-enhancing drugs, namely, amphetamines.

Amphetamines, which are stimulants, have an array of adverse effects associated with their use and abuse.

Acute side effects include: increased heart rate, increased blood pressure, reduced appetite and weight loss, insomnia, headaches, convulsions, hallucinations and paranoia, and death may also occur due to cerebral hemorrhages, heart attacks, heart rhythm abnormalities and heatstroke. Chronic side effects include: uncontrollable and abnormal movements of the face and jaw muscles called dyskinesias, compulsive and repetitive behaviors, paranoid delusions, systemic vascular disorders and nerve damage.

While ephedra is now banned in baseball subsequent to the heatstroke death of Steven Bechler and its being banned by the FDA, one should not lose sight of the fact that ephedra is closely related to the stimulant, amphetamine.

Why ephedra is banned by MLB and amphetamine is not remains an enigma.

The position that the player's association has taken with respect to amphetamines certainly leads one to suspect that they too are endemic in baseball.

Finally, a few words about MLB's new drug testing policy.

In my judgment, the policy as best we know it, can best be described as one of incrementalism - one designed to silence its critics, but one not designed to seriously rid professional baseball of the abuse of all performance-enhancing drugs.

And to be sure the devil is in the details. For example, while human growth hormone is on baseball's banned list, baseball will not conduct blood testing which is the only way it can currently be detected.

Doping is an exquisitely complex subject involving the interplay of numerous disciplines – chemistry, physiology, pharmacology, laboratory science, therapeutics and therapeutic exemptions, results management including sanctions, law, and least but not least, athlete's rights.

The interplay of these disciplines, as detailed in the International Standards of the World Anti-Doping Agency, has been approved by sporting bodies and governments worldwide. These Standards provide the blueprints and guideposts that are essential to an effective, transparent, and accountable anti-doping program.

In my opinion, the complexity of anti-doping far exceeds the capacity of baseball to design, implement and monitor an effective, transparent and accountable program.

It is beyond the scope of two attorneys and two physicians, one each from MLB and from the MLB Player's Association as called for in the 2003 agreement between the two entities.

It is noteworthy that the gold standard for anti-doping already exists.

It is embodied in the World Anti-Doping Code and its International Standards and Major League Baseball should embrace them.

Major League Baseball should heed the experience of the Olympic Movement, which recognized that its credibility, its very essence, was cracking under the weight of doping and so it passed the anti-doping baton to WADA and to national anti-doping agencies, such as USADA.

I am pleased to note that baseball has taken one significant step in that direction by contracting out its anti-doping laboratory services to a WADA accredited laboratory.

At a minimum, and now I am being very specific, as a next step, Major League Baseball should adopt the WADA List of Prohibited Substance and Methods in its entirety, as well as its existing testing protocols.

The List of Prohibited Substances and Methods is a continuously evolving product of countless man-hours experts, scientists and physicians from around the world. It is endorsed by sporting bodies, world wide, as well as by the governments of the world, including the United States.

While the potential of a two-year sanction for steroid abuse, as called for in the World Anti-Doping Code, may make baseball hesitant to embrace the Code, Major League Baseball should be aware that the Code calls for sanctions to be reduced in "exceptional circumstances", and provides for the possible reduction or elimination of the period of ineligibility in the unique circumstances where the athlete can establish that he had no fault or negligence in connection with the violation.

By adopting the World Anti-Doping Code, Major League Baseball would not be alone in so doing as a high profile professional sport. For example, currently men's professional tennis (ATP), soccer (FIFA), and professional cycling (UCI) are signatories to the Code.

Furthermore, United States Anti-Doping Agency, USADA, is in the best position to implement the best practices of doping control in Major League Baseball in conformity with the requirements set forth in the World Anti-Doping Code.

Finally, only when baseball demonstrates its unabashed commitment to drug free sport will it fully regain the confidence of its fans and once again deservedly become America's favorite pastime.

Websites: www.wada-ama.org (World Anti-Doping Agency) (WADA)
www.wada-ama.org/rtecontent/document/list_book_2005_en.pdf
(The 2005 Prohibited List)
www.usantidoping.org (United States Anti-Doping Agency) (USADA)

Mr. SOUDER. Our next witness is Dr. Kirk Brower, associate professor of psychiatry, University of Michigan Medical School and executive director of the Chelsea Arbor Addiction Treatment Center.

STATEMENT OF KIRK J. BROWER, M.D.

Dr. BROWER. I want to thank Members of Congress for inviting me to testify here today. I will focus mostly on psychiatric side effects. May I have the first slide please. Illicit use of anabolic-androgenic steroids has been associated with a variety of adverse psychiatric effects. You can cancel that slide, since it is not mine. Illicit use of anabolic androgenic steroids has been associated with a variety of adverse psychiatric effects, which I define here as disturbances in, thinking, behavior, and perception. The most frequently described of these effects are major mood swings, ranging from mania to depression, suicidal thoughts and behaviors, marked aggression, including homicidal thoughts and behaviors, sometimes called by users "roid rage."

In addition, grandiose and paranoid delusions and addiction can occur. Mania, or its less severe form known as hypomania, aggression and delusions typically begin during the course of using steroids. Whereas depressive episodes and suicide attempts are most likely to occur within 3 months of stopping use, that is, during the period we call steroid withdrawal. Fortunately, most psychiatric effects we believe, such as mood swings, are reversible with medically monitored cessation of steroid use. But not always as you have heard this morning. Suicides and homicides are obviously irreversible.

In adolescents, psychiatric effects of illicit steroid use are not well studied, but this age group may be particularly vulnerable. Adolescents are already subject to the normal surges of sex hormones during puberty, which are associated with expected, albeit sometimes problematic changes in mood and behavior, which everyone who has a teenage child at home knows. Thus, taking additional sex hormones in the form of steroids could potentially exacerbate the usual degree of psychological upset normally observed during adolescence.

Suicide is the third leading cause of death among young people aged 15 to 24 years of age, following unintentional injures and homicide. This statistic is especially troubling, because steroids can increase suicide risk in an age group that is already at risk.

The true rate of adverse psychiatric effects amongst steroid users is unknown. One controlled study of 160 athletes reported that 11 percent were diagnosed with major depression, and that the psychiatric effects were dose related. The higher the dose the greater the risk.

Another study found that 3.9 percent of 77 illicit steroid users had made suicide attempts during the withdrawal period. Rates of completed suicides, however, are especially hard to estimate. In a series of 34 forensically evaluated deaths among male steroid users, 11 users committed suicide, 9 were victims of homicide, 12 deaths were judged as accidental and two were indeterminate.

The gold standard of drug studies is the placebo control double blind randomized trial. There are at least four such studies that employed relatively high doses of steroids in human subjects. Aver-

aging across studies, the incidents of prominent irritability or hypomania was 5 percent. Another study found that during steroid withdrawal, 10 percent developed significant depressive symptoms, including 3.2 percent, who met full criteria for major depression.

These gold standard studies, however, are likely to underestimate psychiatric effects, illicit steroid users as you have been told typically consume 10 to 100 times a therapeutic dose. By contrast, the maximum doses that can be ethically prescribed in the gold standard studies are zero to 6 times a therapeutic dose, or up to 20 times less than active illicit users take.

At least 165 cases of addiction or dependence on steroids have been documented in the medical literature. In individuals who chronically consumed high doses and combinations of steroids taken as pills or injections for nonmedical purposes. No cases of dependence have been associated with legitimate prescriptions of steroids used as therapeutic doses for medical purposes.

How teenagers and student athletes regard the use of steroids by professional athletes has not been investigated. However, studies of other drugs suggest the following. First, the adolescent's peer group is probably a more important influence than adults. Although adult role models can be important.

Second, adolescents' use of a drug is influenced by the perception of how harmful that drug is. In other words, the more harmful they perceive a drug, the less likely they will take it, and unfortunately, use of steroids by famous athletes who appear so well in the media probably contribute to the perception that steroids are not harmful.

Thank you.

[The prepared statement of Dr. Brower follows:]

Anabolic-Androgenic Steroids and Psychiatric Effects

Illicit use of anabolic-androgenic steroids (AAS) has been associated with a variety of adverse psychiatric effects. Adverse psychiatric effects are defined for this testimony as disturbances in mood, thinking, behavior, and perception.

The most frequently described adverse psychiatric effects of AAS are extreme mood swings ranging from mania to depression, suicidal thoughts and behaviors, marked aggression including homicidal thoughts and behavior ("roid rage"), grandiose and paranoid delusions, and addiction (11, 20). Mania (or its less severe form known as hypomania), violent aggression, and delusions typically begin during a course of AAS use, whereas depressive episodes and suicide attempts are most likely to occur within three months of stopping AAS use, i.e., during AAS withdrawal (7). Fortunately, most psychiatric effects such as mood swings are reversible with medically monitored cessation of AAS use, but suicides and homicides are obviously irreversible.

Psychiatric effects of illicit AAS use among adolescents are not well-studied, but this age group may be particularly vulnerable. Adolescents are already subject to the normal surges of sex hormones during puberty, which are associated with expected, albeit sometimes problematic, changes in mood and behavior (16). Thus, taking additional sex hormones in the form of AAS could potentially exacerbate the usual degree of expected psychological turmoil normally observed during adolescence. *Suicide*, a grave indicator of vulnerability, *is the third leading cause of death among young people 15 to 24 years of age*, following unintentional injuries and homicide (5). *The association between illicit AAS and suicide, therefore, is especially troubling in adolescents.*

The true rate of adverse psychiatric effects among AAS users is unknown. Studies of illicit AAS users typically include small numbers of subjects who may not be representative of all AAS users; and the studies rely on self-report of past events which may not always be accurate (10, 14, 15). Another concern is that the amount of AAS consumed by illicit users is not easily measured or verified. Nevertheless, such *studies find higher rates of psychiatric effects in AAS users than in comparable nonusers* (14, 15), and one controlled study of 160 athletes reported that 23% of 88 AAS users were diagnosed with major mood disorders (i.e., mania, hypomania, or depression) in association with their AAS use, including 11% diagnosed with major depression (14). That study also suggested that psychiatric effects are dose-related: none of the AAS users taking low doses had major depression whereas medium-dose and high-dose users had rates of 6% and 28%, respectively. Another study (7) found that rates of depression were higher during AAS withdrawal than when actively taking AAS (6.5% vs. 1.3%). That study also found that 3.9% of 77 illicit AAS users had made suicide attempts during the withdrawal period (7). Rates of completed suicides, however, are especially hard to estimate. In a series of 34 forensically evaluated deaths among male AAS users, 11 users committed suicide, 9 were victims of homicide, 12 deaths were judged as accidental, and 2 were indeterminate (21).

Many methodological weaknesses of the above-cited studies are circumvented by conducting trials in which known amounts of AAS or placebo are administered in a randomized double-blind fashion to subjects without a past psychiatric history. (Double-blind means that neither subjects nor investigators knew who got placebo and who got AAS until after the study was completed). Such placebo-controlled, double-blind, randomized controlled studies represent the

gold standard in clinical drug trials. There are at least four such studies that employed relatively high doses of AAS (13, 19, 22, 24). *Three of these studies indicate that some individuals will experience severe, adverse psychiatric effects after high doses of AAS are administered* (13, 19, 24), although one study found no evidence of psychiatric effects (22). Averaging across studies, *recent reviews have concluded that the incidence of prominent irritability or hypomania attributable to steroids during controlled trials is 5%* (13, 18). These gold standard studies, however, are likely to underestimate the incidence and severity of psychiatric effects, because ethical considerations limit the maximum doses of AAS that can be administered to human subjects (13). Illicit AAS users typically consume 10 to 100 times the therapeutic doses prescribed legitimately by physicians to restore testosterone levels in patients who cannot make their own. By contrast, the maximum doses administered in the cited controlled trials were 5-6 times the therapeutic dose (13, 19, 22, 24). Nevertheless, even relatively lower-dose studies (2-3 times the therapeutic dose) have reported psychiatric effects such as increased feelings of anger and hostility without aggressive behavior (9). Other lower-dose studies, however, have not shown psychiatric effects (1, 20), emphasizing the importance of dose when making comparisons to patterns of illicit AAS use.

There are many factors that can influence the development of adverse psychiatric effects to drugs. Such factors include genetic vulnerability, social context, stress, personality characteristics, a past history of psychiatric problems, use of other substances, and expectancies. Expectancy theory suggests that if people expect to become violent on a drug, then they will – but to no greater extent than if they took a placebo or sugar pill. Controlled human studies attempt to exclude the influence of these other factors and to focus strictly on the pharmacologic effects of AAS. Animal studies provide another way to exclude non-pharmacologic influences. Based on reviews of these studies, *there is general consensus that AAS are psychoactive drugs that can contribute to and cause psychiatric effects* (17, 20, 25).

In contrast to undesirable psychiatric effects, AAS may also have some positive psychiatric effects. For example, testosterone was first used medically to treat depression in the 1930s. The antidepressant effects of AAS at generally low doses continue to be investigated and some encouraging findings were recently reported (12). For better or worse, therefore, AAS can have potent psychiatric effects.

At least 165 cases of addiction or dependence on AAS have been documented in the medical literature (2). Similar to other psychiatric effects, dependence typically occurs in individuals who chronically consume high doses and combinations of AAS taken as pills and/or injections for nonmedical purposes. *No cases of dependence have been associated with legitimate prescriptions of AAS used at therapeutic doses for medical purposes.* Moreover, there is good evidence from laboratory studies (23) that the addictive potential of AAS is less than that of drugs such as heroin (a Schedule I controlled substance) or cocaine (a Schedule II controlled substance). Therefore, AAS are considered to be correctly classified as Schedule III controlled substances, but any further restrictions on legitimate medical prescribing would be unjustified at this time.

The mechanisms by which AAS produce addiction and other psychiatric effects are unknown, but accumulating scientific evidence implicates AAS-induced changes in neurochemistry and

neurobiological functioning. AAS can alter the functioning of chemical systems in the brain including dopamine, serotonin, and endorphins (2, 3, 23) that are also affected by other abused drugs (e.g., alcohol and cocaine). In addition, AAS can induce brain wave patterns similar to those seen with stimulant drugs (6). More sophisticated brain imaging studies using magnetic resonance imaging (MRI) or positron emission tomography (PET) scanning would add greatly to our knowledge of AAS effects and mechanisms, but such studies have yet to be performed. Abnormally high or low levels of hormones are also important. Depressive symptoms during AAS withdrawal, for example, appear correlated with lowered levels of testosterone. A recent well-controlled study of drug-induced testosterone withdrawal in 31 men found that 10% developed clinically relevant depressive symptoms, including one man (3.2% of sample) who met full criteria for major depression (18).

Professional Athletes and Adolescents

How teenagers and student athletes regard the use of AAS use by professional athletes has not been investigated. Studies of adolescent use of other drugs, however, suggest the following: First, the adolescent's peer group is probably a more important influence than are adults and their warnings about drug use, although adult examples and role models can be important. Second, adolescents' use of a drug is strongly influenced by their perception of how harmful that drug is (8). In other words, the more harmful they perceive a drug especially to themselves personally, the less likely they will take it. Unfortunately, use of steroids by famous athletes who appear well in the media probably contributes to the perception that AAS are not harmful.

Educating America's Youth

Even though perceiving drugs as harmful reduces their use to some extent, simply educating youth about the dangers of AAS is not sufficient. In fact, education alone may increase the desire and intention of adolescents to use steroids. Alternatively, there is a comprehensive prevention program called ATLAS, which stands for "Adolescents Training and Learning to Avoid Steroids" that has been tested and found to be effective (4). No large-scale, mass media campaigns against the nonmedical use of AAS have been launched or evaluated.

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Adverse Psychiatric Effects

- Mood swings from mania to depression
- Suicidal thoughts and behaviors
- Marked or violent aggression ("roid rage")
- Homicidal thoughts and behaviors
- Grandiose or paranoid delusions
- Addiction

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University of Michigan

When do symptoms begin?

During use

- Mania
- Aggression
- Homicidal behavior
- Delusions

During withdrawal (within 3 months)

- Depression
- Suicidal behavior

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Adolescents

- May be particularly vulnerable
- Already subject to the normal surge of sex hormones with expected mood changes
- Suicide is the 3rd leading cause of death in 15-24 year olds
- Steroids can increase suicide risk in age group already at risk

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University of Michigan

How Common?

Estimated occurrence with illicit use

- Mania or hypomania
- Major depression
- Suicide attempts

- 5%
- 3-11%
- 4%

Malone et al (1995)
Pope & Katz (1994)
Schmidt et al (2004)
Thiblen & Petersson (2005)

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Fortunately

- Most users do not have psychiatric effects
- Most psychiatric effects are reversible with proper monitoring and treatment

Unfortunately

- Suicides & homicides are obvious exceptions

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Psychiatric effects influenced by:

- **Patterns of illicit use including dose**
- Genetics
- Social context
- Stress
- Personality characteristics
- Past psychiatric history
- Expectations

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Addiction

- At least 165 cases in nonmedical users reported in medical literature
- No cases reported with medical use at therapeutic doses

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How do they work?

- Alter hormone levels
- Alter brain chemistry and functioning
  - e.g., dopamine, serotonin, endorphins

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Summary

- Steroids alter brain chemistry causing profound psychiatric effects
- Adolescents especially vulnerable
- True rates of adverse psychiatric effects influenced by drug and non-drug factors
- Addiction occurs with high-dose nonmedical use only

University of Michigan Health System
K. Brower, M.D. 3-17-05
University of Michigan

Mr. SOUDER. Last witness on this panel is Dr. Elliott Pellman, the medical advisor to Major League Baseball.

STATEMENT OF ELLIOTT PELLMAN, M.D.

Dr. PELLMAN. Thank you, Mr. Chairman. I would like to begin by thanking the committee for the opportunity to be present this morning. Unlike some other medical professionals that you have heard from today, I have had extensive experience in the area of professional sports. This morning I would like to offer you three important medical perspectives that are relevant to the development or evaluation of any steroid policy.

I would also like to discuss the medical and educational efforts that form a key component of Major League Baseball steroid policies.

Although there is understandably a serious lack of studies in this area, my personal belief is that anabolic steroid use has significant associated health risks.

Most physicians agree that steroid abuse can increase the risk of heart disease, certain types of cancer, sterility and can lead to depression and aggressive, and at times, inappropriate behavior.

More importantly, in professional sports, anabolic steroids can create a working environment that is unfair and unbalanced. Those who use steroids have a competitive advantage, and others may feel forced to take steroids to even the playing field. When one fully appreciates this perspective, it becomes clear that steroid use is like an insidious, contagious disease. In structuring programs to deal with steroids, it is to approach steroids like the disease it is.

Second, the complexity of the steroid problem in professional sports in America has been significantly increased by the Federal Government's deregulation of nutritional supplements and prohormones in the 1990's. Despite recent changes in the law, there is an entire generation that has been potentially contaminated by the belief that the uses of such substances is in fact legitimate. In creating an effective drug program, one must take into account the reality of the damage that has been caused by the deregulation of nutritional supplements.

Last, in evaluating the severity of penalties imposed under any program, an element of reality is necessary. My experience in the National Football League suggests that other than deliberate cheating, the most common reason for a positive test is the ingestion of a dietary supplement that is contaminated with a banned substance that is not listed on the label. When one begins talking about 2-year suspensions or lifetime bans for professional athletes, it is important to remember that, while athletes must be forced to take responsibility for what they put in their bodies, honest mistakes do occur. Commissioner Selig has described in some detail for all of you the substance of the Major League Baseball's new drug testing program. I am also very familiar with the National Football League's program. On balance, the baseball program compares favorably with any of the other professional sports leagues, including the NHL, NBA and the PGA. Above a certain critical threshold of testing, there will always be individuals, whether or not baseball, NFL, NCAA and the Olympics, who will try to circumvent or cheat the testing program. This point is perhaps illustrated by the al-

leged use of athletes of several different sports of THG, the designer steroid that is the center of the BALCO investigation.

Therefore, the intent of a testing program must be to try to create an environment that is conducive for athletes to perform without feeling the need to cheat by taking steroids. But the program must be flexible and innovative enough to change as the type of drugs change. I am comfortable that the baseball program like the NFL's meets this goal. Our efforts with respect to steroids, however, are much broader than just drug testing and discipline. Last year, the Major League Baseball's medical staff visited in person all 30 Major League camps to provide players and baseball operations personnel an educational program on the health risks associated with the use of steroids. Participation in this program was mandatory, and we have followed up last year's program with individual calls or visits to, presently, approximately two-thirds of the teams. Major League Baseball continues to believe that the issue of steroids also must be addressed from the bottom up. As you know, Commissioner Selig implemented a very aggressive Minor League drug testing program in 2001. That program has continually been refined and strengthened. As a supplement to the testing program, we have produced a professional quality video in English and Spanish which details the health risks and problems associated with steroid use. Minor League programs must view this video every year. We significantly enhanced this educational video this off-season, and the new video has been or will be shown in every Minor League camp this spring.

We have also made resources available to players that can be utilized on an individual basis. For example, we have entered into a contractual relationship with a hotline that is available to provide players with information about what substances are included in particular dietary supplements. We have strengthened and educated the employee assistance provider's program at each individual club, so they are in a position to deal effectively with steroid-related issues associated with the Major League and Minor League players. We have also used the medical staffs on the individual teams as a resource in combating steroid use. Each of the last 2 years, we have had mandatory meetings for physicians and athletic trainers to educate and instruct them on the dangers of steroid use and to review with them the uncertainties associated with players using dietary supplements. A major component of that program is to emphasize to all club personnel the serious disciplinary ramifications they face in the event they enable use by any player Major League or Minor League. Our educational efforts have extended to the highest levels of management in the game.

Over the last 2 years, I have addressed the assembly of all general managers on two separate occasions on the issue of steroids and performance-enhancing substances. I have also had the opportunity to discuss steroid performance-enhancing substances at two separate owners meetings as well. My strong sense is that at all levels of management in baseball are committed to the elimination of these substances. In this regard, there is no difference between the leadership in the Commissioner's Office, between Major League Baseball and the National Football League. Looking ahead, Major League Baseball is committed to making every effort to eliminate

the use of performance-enhancing agent substances from this sport. We are working to establish a program that will provide nutritional products to players that can be used without concern about potential contamination of prohormones. We are working closely with the World Anti-Doping Agency certified laboratory, UCLA, to make sure that baseball is completely abreast of developments in the area of designer steroids.

Finally, Major League Baseball is currently in the process of developing a funding arrangement that will hopefully speed the development of a urine test for human growth hormones.

[The prepared statement of Dr. Pellman follows:]

STATEMENT OF
ELLIOT J. PELLMAN, MD
MEDICAL ADVISOR TO THE COMMISSIONER OF BASEBALL
BEFORE THE HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM
MARCH 17, 2005

I would like to begin by thanking the Committee for the opportunity to be present this morning. Unlike some other medical professionals you will hear from today, I have had extensive experience in the area of professional sports. This morning, I would like to offer you three important medical perspectives that are relevant to the development or evaluation of any steroid policy. I would also like to discuss the medical and educational efforts that form a key component of Major League Baseball's steroid policies.

Although there is, understandably, a serious lack of scientific studies in this area, my personal belief is that anabolic steroid use has significant associated health risks. Most physicians agree that steroid abuse can increase the risk of heart disease, certain types of cancer, sterility and can lead to depression and aggressive, and at times, inappropriate behavior.

More important, in professional sports, anabolic steroids can create a working environment that is unfair and unbalanced. Those who use steroids have a competitive advantage and others may feel forced to take steroids to even the playing field. When one fully appreciates this perspective, it becomes clear that steroid use is like an insidious, contagious disease. In structuring programs to deal with steroids, it is important to approach steroid use like the disease that it is.

Second, the complexity of the steroid problem in professional sports in America has been significantly increased by the federal government's deregulation of nutritional supplements and pro-hormones in the 1990's. Despite recent changes in the law, there is an entire generation that has been potentially contaminated by the belief that the use of such substances is legitimate. In creating an effective drug program, one must take into account the reality of the damage that has been caused by the deregulation of nutritional supplements.

Last, in evaluating the severity of penalties imposed under any program, an element of reality is necessary. My experience in the NFL suggests that, other than deliberate cheating, the most common reason for a positive test is the ingestion of a dietary supplement that is contaminated with a banned substance that is not listed on the label. When one begins talking about two-year suspensions or lifetime bans for professional athletes, it is important to remember that, while athletes must be forced to take responsibility for what they put in their bodies, honest mistakes do occur.

Commissioner Selig has described in some detail the substance of Major League Baseball's new drug testing program. I am also very familiar with the NFL's program. On balance, Baseball's testing program compares favorably with any in professional sports. Above a certain critical threshold of testing, there will always be individuals (in Baseball, the NFL, NCAA and Olympics) who will attempt to circumvent, or cheat, the testing program. This point is perhaps best illustrated by the alleged use by athletes from

several different sports of THG, the designer steroid that is at the center of the BALCO investigation. Therefore, the intent of a testing program must be to try to create an environment that is conducive for athletes to perform without feeling the need to cheat by taking steroids. But the program must also be flexible and innovative enough to change as the type of drugs change. I am comfortable that Baseball's program, like the NFL's, meets this goal.

Our efforts with respect to steroids, however, are much broader than just drug testing and discipline. Last year, the Major League Baseball's Medical Staff visited, in person, all thirty Major League camps to provide players and baseball operations personnel an educational program on the health risks associated with the use of steroids. Participation in this program was mandatory and we have followed up last year's program with individual calls or visits to approximately two thirds of the teams.

Major League Baseball continues to believe that the issue of steroids also must be addressed from the bottom up. As you know, Commissioner Selig implemented a very aggressive minor league drug testing program in 2001. That program has been continually refined and strengthened. As a supplement to the testing component, we have produced a professional quality video, in English and Spanish, which details the health risks and problems associated with steroid use. Minor league players must view this video every year. We significantly enhanced this educational video this off-season and the new video has been or will be shown in every minor league camp this spring.

We have also made resources available to players that can be utilized on an individual basis. For example, we have entered into a contractual arrangement with a hotline that is available to provide players with information about what substances are included in particular dietary supplements. We have also strengthened and educated the employee assistance providers at each individual Club so that they are in a position to deal effectively with steroid-related issues associated with Major League and minor league players.

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Our educational efforts have extended to the highest of levels of management in the game. Over the last two years, I have addressed the assembly of all General Managers on two separate occasions on the issue of steroids and performance enhancing substances. I have also had the opportunity to discuss steroids and performance enhancing substances at two separate owners meetings. My strong sense is that all levels of management are committed to the elimination of these substances from Baseball. In

this regard, there is no difference between the leadership of Major League Baseball and the leadership of the NFL.

Looking ahead, Major League Baseball is committed to making every effort to eliminate use of performance enhancing substances from the sport. We are working to establish a program that will provide nutritional products to players that can be used without concern about potential contamination with pro-hormones. We are also working closely with the World Anti-Doping Agency ("WADA")-certified laboratory at UCLA to make sure that Baseball is completely abreast of developments in the area of designer steroids. Finally, Major League Baseball is currently in the process of developing a funding arrangement that will hopefully speed the development of a urine test for human growth hormone.

Chairman TOM DAVIS. I want to thank all of our witnesses here. I am going to start the questions with Mr. Sweeney.

Mr. SWEENEY. I thank you, Mr. Chairman, and I know we have other panels that are of greater celebrity than maybe this panel is, but I happen to think this is the most important panel we are going to face today. It starts with the notion and the idea and our deepest gratitude to the Garibaldis and Mr. Hooton for your courage in being here and for your commitment to keep fighting, and please know that you have our sympathies and our best wishes. I have so many questions to ask in such little time, and I want to get to them as quickly as I can.

Mr. Hooton, I have a bill in Approps to create such an education program. And I would like to work with all of you on the panel to try to get it more perfected as we get forward. I want to get to the scientists, though, because I think it is important.

Dr. Wadler, you are not a member of USADA.

Dr. WADLER. I'm not a member and have no vested interest at all.

Mr. SWEENEY. You mentioned that Major League Baseball does use your labs?

Dr. WADLER. My understanding is that they have used the Montreal lab.

Mr. SWEENEY. And you mentioned that, in your testimony, that you hope that they will adopt your list of prohibitive substances. That's not the case now; is that correct?

Dr. WADLER. That's correct.

Mr. SWEENEY. You have the capacity to test for those in your labs now?

Dr. WADLER. Yes, we do.

Mr. SWEENEY. I want to make this point to you, that lab testing is only the final test in this process.

Dr. WADLER. That's correct.

Mr. SWEENEY. In the current Major League Baseball agreement or whatever the status of it is, because I'm confused as to whether it's in play or not in play at this point, there's no process in place other than the lab testing. In other words, the chain of custody that is critically important here, the monitoring of athletes during testing, during the entire test and the amount of tests and the randomness of those tests are sketchy. And I have other questions that Dr. Pellman can answer.

Dr. WADLER. I did not mention, because of time, there are a series of international standards which are highly complex documents. The one on testing, which I'm glad to make it available to you, is 41 pages of highly detailed information of utmost importance. Remember that these cases tend to be adjudicated, and issues of a legal nature are incredibly important. So the standard is spelled out and used worldwide.

Mr. SWEENEY. Does it make any sense not to employ a group like USADA to oversee that chain of custody and the process to you?

Dr. WADLER. I personally believe there is no reason why this should not be done by an agency.

Mr. SWEENEY. Dr. Pellman, I'm intrigued by your testimony and hope that, when we're done, that we can talk about some things. I'm intrigued by the notion or your assertion that there is a lack

of studies in the area, and maybe you could clarify that because I think Dr. Brower has an issue with that. I'm going to let you clarify first, and then I'm going to ask Dr. Brower if he would agree with you.

Dr. PELLMAN. First, talking as a physician and a scientist, it is very difficult to do studies on anabolic steroids. In terms, if you go and look at publications on anabolic steroids, when we talk about the risk of cancer or liver disease or heart disease, it is very hard to do analysis on those patients, because how, in fact, do you give them anabolic steroids and study them and test them the way most validated scientific studies are done?

Mr. SWEENEY. You don't refute the notion that anabolic steroids need to be banned in baseball and need to be banned in general society. You are not casting aspersions on the idea that this is a substance that is no worse than anything else out there; are you?

Dr. PELLMAN. Quite the opposite. Despite the fact that there are no strong scientific studies that support those conclusions, I, in fact, absolutely concur regarding the potential health risks and the fact that it should be banned.

Mr. SWEENEY. You make reference in your testimony to THG. You know, we banned that last year along with precursors like andro. I need to mention to the parents, I don't have your experience, but I got in this business because my teenage son wanted to take andro because he heard Mark McGwire took andro. I happen to have access to some scientists who believe there is emphatic data out there, and that is how I got started out there, and I was lucky. You make reference to THG, the designer steroid that is the center of the BALCO investigation. Several baseball players may have used THG for years before its detection by authorities was really even capable. And its addition to the list of Federal controlled substances was perfected as of last year. Under the new policy, does baseball currently list designer steroids like THG and the precursors like andro?

Dr. PELLMAN. First, the answer is in terms of precursors, absolutely, yes. And I will get to THG in one moment, but in fact, I would like to ask a question as well. What is interesting to us and in fact I suspect the other physicians on this panel as well is why not all precursors were banned. Why was DHEA not banned, in fact, when the new laws were passed? I have very strong feelings about that and in fact spoke to one of the Senators regarding this, a key Member.

Mr. SWEENEY. I don't want to filibuster, but it's a good point, and I agree with you on that issue.

Dr. PELLMAN. When we talk about prohormones and talk about the exclusion of prohormones, DHEA was excluded. But, yes, prohormones are covered. And regarding THG, yes, designer steroids are covered. It is impossible to list steroids that you can't identify, but the intention—and I suspect that Rob Manfred will address this later on—was in fact THG was added on and the intention was that any designer steroid that is identified will be added on to that list.

Chairman TOM DAVIS. Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman, I want to say to the Garibaldis and Mr. Hooton, thank you very much for being here.

I know it is painful for you to have to relive the experience, but it is a powerful message for everyone to get.

Dr. Wadler, I want to ask you, because you are a world expert in the use and detection of performance-enhancing drugs, you have a senior advisory position with the World Anti-Doping Agency, and that oversees the Olympic testing and is considered the international gold standard in preserving integrity in sports. You have had a chance to look at the Major League Baseball's new 2005 drug testing policy?

Dr. WADLER. I have had a chance to look it over, but not study in detail. I'm not paid by the World Anti-Doping Agency by the way. I'm a volunteer.

Mr. WAXMAN. I would like to run down a few key provisions of baseball's policy and ask for your professional opinion. Does the policy cover all anabolic steroids?

Dr. WADLER. No.

Mr. WAXMAN. Does the policy address the misuse of human growth hormone?

Dr. WADLER. Inadequate in terms of testing.

Mr. WAXMAN. Does the policy cover other important performance-enhancing drugs that have similar effects as anabolic steroids and human growth hormone?

Dr. WADLER. They do not for IDF1, insulin, and there is a number of them that do not.

Mr. WAXMAN. Does the policy cover stimulants?

Dr. WADLER. Except for ephedra, I believe it does not deal with the broad category of stimulants, including amphetamines.

Mr. WAXMAN. Does the policy ensure integrity in the testing process?

Dr. WADLER. There are significant loopholes in the program as outlined.

Mr. WAXMAN. Does the policy permit new types of substances to be tested as new problems are identified?

Dr. WADLER. It's not quite clear, as it winds its way onto the list. I am not certain.

Mr. WAXMAN. Does the policy adequately inform athletes what are banned substances and masking agents?

Dr. WADLER. They don't test for masking agents, by the way, and they don't test for diuretics, which are critical in detecting abuse. I'm not sure how much of the educational part of the program deals with it.

Mr. WAXMAN. Does the policy contain adequate penalties?

Dr. WADLER. Categorically, in my view, not.

Mr. WAXMAN. Will this new policy remove the cloud that has been hanging over baseball?

Dr. WADLER. Unfortunately, it creates the cloud.

Mr. WAXMAN. Dr. Wadler, Dr. Pellman just made the statement that I thought was really quite interesting, and if it's true, that is a number of legal dietary supplements are laced with banned substances which is not known to the player and would come up with false positives. Has this been a problem in the Olympics or in other testing programs?

Dr. WADLER. Yes. He is absolutely correct about that. That was a major issue for several years around the world. Very large per-

centage of positive tests were related to the ingestion of the so-called precursors, andro-type drugs. A lot of adjudication around that. The United States was seen as somebody who actually facilitated that with respect to around the world and happy to see the loophole has been closed, but it did account for a lot of positive tests, and the adjudication took that into account.

Mr. WAXMAN. You disagree with Dr. Pellman when he claims this is a problem in the testing.

Dr. WADLER. I think it was a problem, but I don't think it's a problem anymore.

Dr. PELLMAN. May I respond to some of the comments that Dr. Wadler just said, including the fact that my suggestion is, before you comment on something for the record, that you do more than glance at it but that you study it?

Mr. WAXMAN. Dr. Pellman, I only have a few minutes, and if you want to respond to that last point on testing because he challenged your statement.

Dr. PELLMAN. I am getting there. Substances like diuretics are tested for, like masking agents are tested for. The letter that I saw from this body, four steroids were listed as being out of the list in which that will be disputed later on.

Mr. WAXMAN. My staff has had a chance to review National Baseball League's policy and there is no list of specific masking agents or diuretics in this policy contrary to the public assurances of Major League Baseball. It is not in the documents that were submitted to us. I want to ask Dr. Wadler because I only have a few seconds. You suggested that the Olympic testing program is the right way to approach, which happens every 4 years, and it's the wrong approach to sports like baseball with long seasons. Can you give us some examples of other sports that have adopted the Olympic testing program, and could the standard be applied to baseball and other sports at different levels?

Dr. WADLER. Professional tennis. I adjudicated a case yesterday morning on a professional tennis player. May not be as big in this country as in other parts of the world, but professional soccer, huge money sport is signatory to the world anti-doping code as is cycling, which is a huge money sport. Rugby. But there are at least four professional sports around the world which are not in the Olympic movement which are using this as their standard.

Mr. WAXMAN. Could it apply to baseball?

Dr. WADLER. Could it apply to baseball? Absolutely. Absolutely.

Mr. WAXMAN. Thank you, Mr. Chairman.

Chairman TOM DAVIS. Mrs. Miller.

Mrs. MILLER. I want to agree with my colleague, Mr. Sweeney, when he said this is the most powerful panel we are going to hear from today, and I say that because, personally, I wasn't quite certain this was something Congress should be getting involved in. I wasn't quite sure. In fact, I want to read you one quick thing. This is today's Detroit News, my big paper in my area. In my district, I had a lot of people calling and saying, "What are you doing?" This is what the Detroit News opined today. They said: Congress strikes out with steroid hearings. A Federal jury has already exposed the problems, and the teen use of performance-enhancing drugs is de-

clining. That is what my Detroit News is saying. And I read that this morning and thought, I don't know about this hearing.

But I'm going to tell you, after listening to you parents, in particular—and my heart goes out to you—I am convinced we are doing the right thing, and I applaud the chairman and ranking member for calling this hearing. I intend to write an editorial to the Detroit News. And I may lift some of your statements if you don't mind, because it was very powerful.

And Mr. Hooton in particular, when you said that your son's coach said to your son that he needed to get bigger, he essentially told your son—I don't want to put words in the coach's mouth, but what was he implying to your son? He was implying to your son, essentially, that Taylor should be using steroids. To the Garibaldis as well, so sorry for the loss of your son. But you said in your testimony, he was advised to obtain steroids. I am wondering who actually advised him to do so? Was it a coach? Was it a scout? This is amazing to me listening to that.

Mrs. GARIBALDI. That statement comes from Rob himself. When we were trying to figure out what was going on with his steroid use, he said he was advised and it actually had been obtained for him at the University of Southern California. He did not name names. However, since he has passed away, we have learned that his initial course of steroids he did on his own going across to Tijuana. We have no facts if the University of Southern California was involved. What we are concerned about is that we believe they are still implicated because Rob was ill, showed symptoms for months, and nothing was done. It took a mother from his roommate to call us and say something is terribly wrong, and you have to get down here. So the coach's staff at USC did nothing to help us.

Mrs. MILLER. Did USC have a program set up to test?

Mrs. GARIBALDI. It is set up, but only during the season. Rob began suffering the withdrawals during the season and had taken the steroids in the fall.

Mr. HOOTON. In our case, first of all, it was Taylor with his psychiatrist that told his psychiatrist that the reason he got started was because of the advice the coach had given him to get bigger. In this particular case, I don't make any inference, because I don't know that the coach had steroids in mind. Rather, what I would like us to learn from this, the reason that I think our coaches need to be trained and certified, because this particular coach hasn't been trained in how to show this kid get on a diet or exercise program to show him how to gain 20 pounds. And you turn a 16-year-old kid loose with an objective of trying to gain 20 pounds when he has half of his teammates doing steroids, it doesn't take a genius to figure out what path he is going to take. But this is going on with coaches around the country. They need to be trained, but they need to be held accountable to see that this doesn't happen.

Chairman TOM DAVIS. Thank you very much. Mr. Cummings.

Mr. CUMMINGS. First of all, I want to thank the Garibaldis and Mr. Hooton, I thank you for being here. As a father, I can truly relate to how you must feel, and I can only say that, hopefully—and first of all, I thank you for taking your pain and trying to turn it into something positive so somebody else might be helped and

other young people might not go through what your sons have gone through. And I am just wondering, what it is that you would like for baseball players to do to help get the word out, in other words, to help as opposed to hurting the process?

Mr. HOOTON. Well, we have an organization that was formed to tackle this. The Garibaldis are involved. And it would be wonderful if coming out of these hearings, after the dust settles, if we haven't made them so mad that they won't talk to us again, they would get behind an organization like ours or the programs that we are working on and become a part of actively solving this problem with the kids, not just doing training in the locker rooms of Major League Baseball, but doing training in the locker rooms in our high schools across the country, with the big league players with the big names standing there helping us deliver that message.

Mr. GARIBALDI. It's not only the players. Major League Baseball scouts have a big influence on the young kids of this country. Their network of scouts evaluates every kid playing baseball in high school in this country. Their stats, everything, all their statistics are all there. This is where it starts. Major League Baseball in 1988, the average-sized player was 188 pounds. Today, it is 220 pounds. The scouts indirectly talk to every high school coach, college coach and get the point across so a kid who is a prospect, exactly what they need to do to meet the profile that they desire. So they have an influence on our high school kids from the time they are 14, 15 years old. And what they say and how they deal with it is a problem.

Mr. CUMMINGS. Thank you.

Dr. Wadler, let me ask you this. You said that there were loopholes in the policy as you know it, the National Baseball League's policy. Let me ask you this. If a player cannot urinate an adequate amount, there is a rule, apparently, that says if an inadequate amount of urine is collected, less than 75 milliliters, to discard the specimen in the player's presence; instruct the player that he should return in an hour to attempt another collection. Do you see that as a problem?

Dr. WADLER. The player has to be escorted from the moment they are notified. They can never be left and must be chaperoned until an adequate specimen is supplied so they can be certified by the players' union and there was no opportunity for tampering.

Mr. CUMMINGS. Coming back in an hour, there is a problem that happens there. In other words, if they come back, you are saying there can be—in other words, the body is still the same; is it not?

Dr. WADLER. I don't want to get graphic, but there are a number of things that athletes have been known to do to deceive the collection of urine. You don't want to leave them alone unattended until you have that specimen, from the moment they are notified until you have it sealed.

Mr. CUMMINGS. Would you consider that a major loophole?

Dr. WADLER. I consider it a loophole.

Mr. CUMMINGS. Dr. Pellman, you are the medical adviser to the commissioner. Can you say why that is allowed?

Dr. PELLMAN. No, I cannot, but I agree with Dr. Wadler that person should be observed for that hour.

Mr. CUMMINGS. Were you aware of that policy?

Dr. PELLMAN. In terms of that component, no.

Mr. CUMMINGS. You are the advisor on these kinds of issues, and you didn't even know that a person could walk away and not be observed—is that what you are telling me—for a test?

Dr. PELLMAN. Well, the answer to that, Congressman, is yes, but on the other hand, I would tell you that in terms of the development of this program, which was brand new, if that's the worst of my problems as we move forward and make changes, I would say we have done a pretty good job; that if you tell me in fact that is the loophole there that stands alone, I will make sure that gets changed.

Mr. CUMMINGS. You are telling me today that you are going to go back to baseball and say, make sure you do this, as their advisor?

Dr. PELLMAN. Yes.

Chairman TOM DAVIS. Mr. Westmoreland.

Mr. WESTMORELAND. I want to thank the Garibaldis, Mr. Hooton and the Marreros, and for your losses.

My first question is for Dr. Pellman. Dr. Pellman, you are the advisor to the commissioner of Major League Baseball; is that correct?

Dr. PELLMAN. Yes, I am.

Mr. WESTMORELAND. If he had asked you what the result of steroid use was, would you have answered him that there was a serious lack of scientific studies as to what it did?

Dr. PELLMAN. First, I think we need to separate that out between what I am and have published and do publish. When I say things that are for the record, that is for the record. So therefore, my response to that is, I would have told the commissioner that there are severe medical consequences from taking anabolic steroids. However, do I have the literature that can be pulled to make my case in front of other scientists in terms of certain health risks that we assume? The answer is no.

Mr. WESTMORELAND. Would your answer have been to him that there are no serious studies as to what the effects of the use of steroids are?

Dr. PELLMAN. Again, it depends upon how you define studies. In terms of when we talk about doing perspective analysis and we talk about doing trial studies on drugs, we take two groups of patients. We take patients and put them on a drug. We took patients that we presume they are on the drug and may not be, and then we put them on something else, and then we follow that. You cannot do that humanistically when it comes to anabolic steroids. The data we look at is called retrospective. We pull data out, for example, with East German swimmers and others who have allegedly taken steroids. But the consensus, again, is that, and my opinion strongly stated, is that anabolic steroids are unequivocally unhealthy for you and can lead to severe consequences, including death.

Mr. WESTMORELAND. You didn't get that from reading studies about it?

Dr. PELLMAN. It depends, again, in terms of defining studies. There are studies out there.

Mr. WESTMORELAND. Let's go to the next question. You also say that the most common reason for a positive test is the contamination.

Dr. PELLMAN. I say that, in my experience, in the National Football League, one of the more common—besides taking it and cheating it—the most common reason for being tested positive for anabolic steroids is, in fact, at least allegedly taking a dietary supplement that contains a banned substance.

Mr. WESTMORELAND. I could be taking a dietary supplement right now and be taking some controlled substance?

Dr. PELLMAN. In fact, there is no doubt about it. That is one of the travesties of the dietary supplement industry right now.

Mr. WESTMORELAND. Could it be caused from carrying them in the same bottle?

Dr. PELLMAN. It could be, but it also could be that it's contaminated. And if you take a dietary supplement that does not contain a bad substance, it won't do anything for you; therefore, it increases their own marketing.

Mr. WESTMORELAND. If the commissioner asked you about the penalties imposed, just getting your expert opinion you would have said that, from your experience with the NFL, that this contamination, unknowing to this athlete, caused most of the positive drug testing.

Dr. PELLMAN. Could cause some of, if not many, of the positive drug tests.

Mr. WESTMORELAND. Dr. Brower, could I ask you a question? You know, lately, in sports, we have seen basketball teams run into the stands. We have seen baseball players go over bleachers and dugouts to get to fans. Could this be a sign of some type of steroid use? Not accusing anybody. But is this the typical behavior? Because it seems that more and more of this is happening in sports today that we witness. And I know there is a lot of pressure from being a professional athlete, but could steroid use help this along?

Dr. BROWER. I am not in a position to say whether any player has used or not. I have not examined these players, and I haven't seen their urine tests. It is also the case that these professional sports are going to attract athletes who are competitive and have to be aggressive in order to be successful at their sport. Steroids may be involved, but I cannot say for sure.

Dr. VOLKOW. Could I interject, because I wanted to take a pointer? Effectively, we cannot do studies where we can give steroids to a normal controlled population and compare it with those that don't get it. What we can do is test on laboratory animals. And what these tests have shown is that steroids do affect a wide variety of parameters that include your own physiology as well as behavior. And there is clear evidence, and there are multiple studies in animals showing that, if you give them these anabolic steroids, animals are more aggressive.

Mr. ISSA [presiding]. Gentleman's time has expired. Because there are no Democrats presently here, we will go to the Republican side and make it up when they come back.

The gentleman from Indiana, Mr. Souder.

Mr. SOUDER. Thank you very much. I don't think there could be anybody who heard the testimony of the Garibaldis or the Hootons and not be moved.

And I particularly wanted to ask Mr. Hooton, if the baseball stars had spoken out against steroids and performance-enhancing drugs, do you think your son Taylor might be alive today?

Mr. HOOTON. Yes, I do.

Mr. SOUDER. If you thought that Rob might be alive today also?

Mr. GARIBALDI. Without a doubt. Absolutely.

Mr. SOUDER. They were their heroes?

Mr. GARIBALDI. So much so that he would videotape his heroes and breakdown frame by frame and try to emulate their swing, and he was a student of the game.

Mr. SOUDER. This is so different than the other drugs we deal with where, many times, the drug dealers and the pushers are not heroes, and it is a different set of problems. But professional baseball has a whole different set of responsibilities because it is different than heroin and cocaine.

I wanted to ask Dr. Volkow, and I want to thank you for coming in front of our committee. You just gave some additional testimony on what we can know from at least laboratory animals, and it is hard to get human tests. One of the things in baseball is not the strength and aggression, but do you believe—any tests that have occurred—that it would impact hand-eye coordination because that would be very critical as far as how it impacts the game?

Dr. VOLKOW. My knowledge, in other words, specific study that has evaluated the effects of anabolic steroids on eye-motor coordination—I am aware of studies that have evaluated the effects of these anabolic steroids on performance but not specifically on coordination. Most of the studies have evaluated their effects on strength and endurance.

Mr. SOUDER. If it increased your aggression or your heart rate, would that impact, potentially, motor skills and how quick you could react as well as how powerful you would react?

Dr. VOLKOW. What we do know, for example, is that aggression is related to the activation of an area of the amygdala. And when the amygdala gets activated, the frontal cortex gets deactivated, and I say to my staff, do not comment if you are angry because your cognitive abilities are not going to be as sharp. So if you are very, very angry, your ability to do the right thing and make proper decisions is going to be markedly, markedly impaired.

Mr. SOUDER. But not necessarily on a baseball that is coming at you. The increased aggression and increased enhanced hyperactivity might in fact, short-term, result in you being able to hit the ball harder or quicker?

Dr. VOLKOW. The extent to which you can disassociate the effects of steroid performance in baseball where many of the issues are very controlled as opposed to outside where you don't know if a car is going to hit you is very different. In the baseball field, to my knowledge, there is—and this is clearly not scientific because, there are no scientific studies done on a game; there is no evidence in my view of the performance of the player itself in the game.

Mr. SOUDER. Dr. Brower, you made some references on medical things. Do you know of anything that might suggest that or whether it might impact that ability?

Dr. BROWER. What I can say is that steroids do work otherwise athletes wouldn't take them. There are studies not looking at specific coordination issues, but there are studies looking at development of muscle mass and muscle strength and those studies are fairly conclusive that anabolic steroids can increase muscle mass and muscle strength. Is that going to be an advantage to every athlete? Maybe not. But to many athletes, it will. Steroids will not turn me into a baseball player. But if I was a baseball player, they could give me an edge.

Mr. SOUDER. Our fastest growing and most difficult law enforcement problem in the United States is meth. And we have many proposals both here in Congress and at different State levels to regulate pseudoephedrine, which is the manufactured form of ephedra. Can you talk about what similarities ephedra would have to pseudoephedrine which is the key for meth?

Dr. VOLKOW. The question relates to stimulant drugs. All of these drugs share a similar psychological effect, and they increase the concentration of a chemical, called dopamine, that allows you to perform motor speed much faster. It also gives you a sense of energy. They vary in terms of their potency, so some of these drugs are more potent. Among the most potent is methamphetamine, and that is why it results in such a severe addiction.

Mr. SOUDER. It's rather problematic when we are trying to send a message about crystal meth around the United States when Major League Baseball wouldn't even address ephedra which has now been illegal for several years.

Dr. VOLKOW. Yes.

Mr. SOUDER. Even if it is a lighter dose. Methamphetamine, crystal methamphetamine can come in heavier or lighter doses. Ephedra would be in effect very similar to a lighter impact of pseudoephedrine, which is the key part of crystal meth.

Dr. VOLKOW. Correct. It is not the right message that one drug is bad and the other one is acceptable. And I think that is one of the reasons why we lose so much credibility in our education prevention campaigns.

At the same time, we need to recognize that not all of the drugs are the same and that some are more dangerous. Definitely amphetamines are drugs that are dangerous and definitely produce addiction, no question about it. Should we be sending the message ephedra versus pseudoephedrine is OK? No, we shouldn't.

Mr. ISSA. Gentleman's time has expired. The Chair now recognizes Mr. Marchant for 5 minutes.

Mr. MARCHANT. Thank you very much.

Mr. Hooton, I think most of my comments and my questions will be directed to you. I'm a neighbor; I live in Copper Hill. So let me say, first of all, I'm sorry for your tragedy and appreciate all of your efforts today appearing before this panel. As you have been reading in the newspaper in our area in the last 2 or 3 months, the district that I represent is Copper Hill. We probably have several dozen professional athletes that live in our communities that play for the Rangers, the Stars, the Mavericks, and the Cowboys

practice there in Irving. So these professional athletes are very, very important people in our community, and they are very involved in our community.

But the message that I'm most concerned about today is the message that Major League Baseball is sending to the student athletes in my district. We are the home of South Lake, the best high school football team in America it is said and that we are seeing a disturbing trend in our high schools where steroids are not only being used but, I think, are being encouraged to be used both among the athletes themselves and, I believe from some of the comments that we have read in the newspaper, from even the parents. What do you think Major League Baseball could do? What kind of practical things do you think Major League Baseball could do to begin to communicate directly to those student athletes?

Mr. HOOTON. Two things. One is the message I delivered today, which is taking serious steps to clean up their act to make sure it's not just training and all of the good words, that we implement meaningful programs.

As far as the kids go, the horse is already out of the barn, and we have to figure out how to get them back in there. I think a great role that Major League Baseball could play and the Trainers' Association and the other significant players within the league could come with us or by themselves, however we implement the program, to go into the schools with us to deliver the message to the coaches but, most importantly, to the kids that this stuff is not acceptable and that it's not being tolerated and they are trying to turn this thing around. As a parent——

Mr. MARCHANT. What would you say to parents who are out there, who are listening today and beginning to wonder whether their student athlete is involved in this? What kind of questions would you say to a parent you can ask and what are some of the signs that my parents that I represent——

Mr. HOOTON. Outstanding question, No. 1, recognize the use of this stuff is as high as it is and don't assume that your son or daughter—we haven't talked about the girls in here—that your son or daughter is somehow immune from being in this thing.

Second, you need to read for yourself what the signs are of steroid abuse. Hindsight is 20/20. In hindsight, all of the signs that would have told us that Taylor was doing steroids were right in front of us. He put on about 30 pounds of weight in his upper body. He had acne on his back; puffy face; puffy neck; oily skin. He was going through what seemed to be gallons of mouthwash. Bad breath is another sign. He was beginning to grow nipples. Boys on steroids begin to grow breasts. Taking any of those individually and you combine them with aggressive behavior of the type that the Garibaldis experienced and we experienced, the Marreros, you have a steroid user in your house. And all of the signs were right there in front of us, but parents across America like us have no idea what we are looking at, and it's right there in our face.

[The prepared statement of Hon. Kenny Marchant follows:]

"Restoring Faith in America's Pastime: Evaluating Major League Baseball's Efforts to Eradicate Steroid Use."

Opening Statement: Congressman Kenny Marchant

March 17, 2005

Thank you, Mr. Chairman. I appreciate the leadership for holding this hearing. It enables us to publicize the legal consequences and negative health effects that the use of illegal performance enhancing drugs is having on America's youth.

To each of the witnesses today, I want to thank you for being here and providing us with your testimony on the ramifications that come with using performance enhancing drugs, and for shedding public light on the culture of steroid use in many of our institutions. I think each of us here today, no matter who we represent, share a positive bias; a bias that sees the health and livelihood of our athletes, our children, and our youth as an essential and primary concern that must be addressed.

Steroid use among teens is rising. This is an enormous health problem for America's youth and clearly, it must be a priority to end the use of these drugs. The Centers for Disease Control and Prevention, in its 2004 report on "Trends in Drug Use and Youth Risk Behavior Survey," concluded that more than 500,000 high school students have tried steroids. 500,000 is almost triple the number of youth who tried steroids just ten years ago. Also, according to a study by the National Institute on Drug Abuse and the University of Michigan in December of 2004, almost 30 percent of tenth graders and more than 40 percent of twelfth graders reported that steroids were "fairly

easy" or "very easy" to obtain. A staggering number of our kids are experimenting with illegal performance enhancing drugs. It is a pervasive health problem to all athletes—our young and older athletes alike.

As we all know, youth and aspiring athletes of all kinds follow baseball and many other professional sports. These kids admire and emulate their favorite players. Many youth go even further and call players, like you, heroes. This combination – of your capacity to be in the public eye and our children's potential to emulate those they admire – is contributing to a serious public health crisis regarding performance enhancing drugs, and it is tainting America's sports environment.

I do appreciate that Major League Baseball and the Players Association is now addressing these issues; and by being here today and testifying on the scope of the problem and on the steps being taken by your organization, you will help remove the cloud hanging over baseball. More importantly though, I believe these hearings will begin a framework where we can more effectively press you as "role-model" athletes to take a firm stand in public and in policy against steroids and to condemn the use of all illegal performance enhancing drugs. In turn, I hope these hearings will educate the public, and especially our young athletes, about the extreme dangers of steroid use and the potential legal and, most importantly, health consequences of using performance enhancing drugs.

It is important that these hearings do not unravel into an arena of finger-pointing and pronouncement of guilt as to whether individual players themselves used the illegal steroids. I believe it is extremely important for the committee and the public to learn

from medical experts and families impacted by steroid use and to address the scope of the steroid problem and its consequences nationwide.

I hope this hearing will shed light on the role of steroids in professional sports and the culture which is allowing the use of performance enhancing drugs to flourish. Most importantly, I hope this hearing will address how to end the negative effects of this steroid culture on our young athletes.

Congressman Kenny Marchant
Texas-District 24
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Mr. ISSA. Now my privilege to introduce the Member from California, Mr. Lantos for 5 minutes.

Mr. LANTOS. Thank you, Mr. Chairman. Let me first say, my heart goes out to the parents. As a grandparent of 17, I know exactly of your loss. We are deeply grateful for your presence. I would like to step back for a moment from baseball to put this hearing into broader perspective, because in many ways, what we are dealing with is the problem of a society that provides mind-boggling opportunities to some individuals with obscenely excessive rewards. And these individuals, whether they are corporate crooks, CEOs who eventually go to prison, domestic divas like Martha Stewart, who spent some time behind bars, or people viewed as role models considering themselves somehow not bound by the laws of society that apply to the rest of us.

And in many ways, this hearing is also reminiscent of the tobacco hearings we held in this body, very profitable industry which has grown very arrogant and is unprepared to play by the rules. The first inkling we got is that we had no authority, no jurisdiction to deal with this issue. Well, baseball is not on the moon. It is subject to the oversight authority of the Congress. Second, I think it is sort of intriguing listening to our physicians and scientists that, unless one is unbelievably naive, it is self-evident that baseball's new policy is designed to silence the critics and not to solve the problem.

I found your testimony, Dr. Pellman, unpersuasive, and you underrate the intelligence of this panel in presenting the arguments you have, shifting the blame to other entities; the Federal Government, other sports are more guilty than we are. That simply will not wash.

What I would like to ask, Dr. Wadler, and I was very much impressed by your testimony, sir, is there any earthly reason why, in the face of tragedy such as the ones presented here today and untold numbers of others, we should not have penalties which, in fact, work? Our distinguished colleague, the first witness, former baseball star, said the industry is taking baby steps when young men are dying and tens of thousands of children or hundreds of thousands are involved; baby steps are not enough. We need to have, since self-regulation palpably has not worked, we need to have provisions enacted into law that will work. And while we have had some discussion of the Olympic rules, I would be grateful if you would comment on the applicability of the Olympic rules with proper changes for baseball.

Dr. WADLER. There are a number of issues at hand here. We haven't talked about governance, for example, and having conflicts of interest. What we need is an independent transparent accountable system. What you are referring to is the Olympic movement code that is no longer the Olympic movement code but the world code. The United States is part of that and is taking a leadership position in it. That applicability is not only to Olympic sports, but to sports worldwide. It is the gold standard. It takes no bias whatsoever. It is absolutely incomprehensible that code should not be adopted with slight modifications perhaps in its entirety by all sports. This is an incredibly complex business, its physiology, its chemistry, therapeutics, psychiatry, law, ethics, education and so

on. And the budget alone of the World Anti-Doping Agency is $20 million a year. To think that HPAC, Health Policy Advisory Committee, a body of four, can substitute for the collective wisdom of the world makes no sense to me. So I think it's time to move forward. And as I suggested in my remarks, my biggest concern of baseball is the sanctions, because of the mandatory 2-year sanctions under the code. I understand that. But, clearly, even the National Football League comes close to that code and they have at least some teeth in their sanctions. Four games suspension, a quarter of a season. But the bottom line is all sports should get out of the drug business. They should leave it to the people who are experts in the drug business and go on about running their sports. This has gotten far too complicated and far too expensive for them to deal with it on their own. The day has come to move this agenda forward to say that all sports should adopt that and use that as their gold standard, and sports should get out of the drug business period.

Chairman TOM DAVIS [presiding]. Thank you, Mr. Lantos. Mr. Kanjorski, 5 minutes.

Mr. KANJORSKI. I was struck today by the testimony I think we all concede that the use of steroids are extremely disadvantaged personally in certainly the tragedies we heard. But I am awfully struck by the fact—and maybe I am unfamiliar with the question; who manufactures these steroids? Who profits from them? Is that the driving motivation or is it something else? Is it attainment in success which, obviously, for professional sports, that is there. Does any member of the panel know they are manufactured in the United States? Are they manufactured in garages or manufactured in sophisticated laboratories?

Mr. HOOTON. In working very closely over time with the Drug Enforcement Administration, several of the agents have told me that the stuff that the kids are buying, that is another whole subject. The stuff that kids are buying is different than what the professional athletes are taking. Steroids are not the same. The stuff that is coming in illegally is in excess—80 percent is coming across the border from Mexico. From a quality standpoint, at best, this stuff is veterinary grade. What our kids are getting was designed at best for use in horses and pigs and cattle. That's what our kids are taking, not the stuff the big boys are taking.

Mr. KANJORSKI. Where are the big boys getting theirs?

Mr. HOOTON. I don't know.

Dr. WADLER. I think it's important to understand on another level, this is about drug dealing. It is another mote pervasive form of drug dealing. It is a different cache than cocaine, marijuana and heroin. Some of it is diverted from legitimate sources. Some of it is clandestinely manufactured. Some of is comes across the border or through the Internet.

Mr. KANJORSKI. Let me ask this question. What volume of the production of steroids are for illegal or improper use? Do you have any studies on that?

Dr. WADLER. I missed your question, sir.

Mr. KANJORSKI. What percentage of the production of steroids are being used illegally, improperly? In other words, do we have a large volume? The question I'm asking is why can't we look at the

inventory of production and realize that people that are making these things know they are going for illicit purposes?

Dr. WADLER. I can only answer in general terms but, there is no question that the illegitimate use of these substances has dropped dramatically in recent years. So the legitimate marketplace for it has shrunk substantially.

Mr. KANJORSKI. What is the production? Has that shrunk, too? What I'm struck with, we don't have any manufacturer on the panel. We have no doctor on the panel. This isn't happening in a void. Who is making the delivery system? Who is making the production of these things? You know, I will relate for the panel and the record, I just went over to vote and a Member of Congress told me that in 1967, he used steroids on the advice of his coach, and they were animal-grade steroids and the only reason he stopped was because his father was a cattle rancher and told him that he is losing too many cattle out on the range and these things probably aren't good for you. Where is the medical profession and the pharmaceutical profession? Why aren't they here?

Dr. WADLER. I think that is another question that——

Mr. KANJORSKI. This hearing is set up that we are going to talk about handling this on the retail basis. I mean that is what we are talking about, what kind of studies, what more labs do we need, how many more tests? And the reality it seems to me is that it's clear it is being used by some percentage in sports. But how are we going to get down to its broad use and get control if we don't find something. One question I would like to know, is there a footprint after you test that you can identify after you test where the source of the drug came from?

Dr. WADLER. Generally. But just as alluded to, in baseball's own statistics, Equipoise, which is a veterinary drug, accounted for half of the 96 tests. Stenozonal and called Winstrol and Winstrol V, which is a veterinary drug; clenbuterol is also used in animals. Some of this is coming out of the veterinary world not the human medicine world.

Mr. KANJORSKI. Can't we require a licensing or manufacturing process that a footprint be entered into the drug that would be traceable after testing so we would know what companies or what individuals knowingly are profiting from the manufacture and sale of these illicit drugs?

Dr. WADLER. That's a very good question. A number of years ago, EPO, which is another abused drug in other endurance sports, we had met with Amgen to put a marker on the EPO, but the feeling was that it would cause such other issues in terms of approvals going through drug approvals and so on that considering the extent of abuse relative to use, that was dropped. I am not aware of any market that exists.

Mr. KANJORSKI. We would have the physical capacity to put a marker in?

Mr. ISSA [presiding]. We will come back with a second round.

Mr. KANJORSKI. Can I get a response to that?

Dr. VOLKOW. The other aspect that makes it very difficult to do what you are doing is that unfortunately, access to drugs is now through Web sites. You get drugs that are manufactured not only from the United States but abroad. Moreover if you go to the Web

and put anabolic steroids, no prescription, you will get hits. You can now go as an adolescent in the privacy of your own home and order these things through the Web delivered to you. You will not know the quality or where they came from, which of course is very risky, but there is no revelation. So that makes it very, very problematic.

Mrs. GARIBALDI. The vials that I found in Rob's bedroom after he died were not marked. There would be no way to trace them.

Mr. HOOTON. The vials that were found in Taylor's bedroom all had Spanish writing on them.

Mr. GARIBALDI. If you type on your computer, buy steroids, you will come up with thousands of sites.

Mr. ISSA. The gentleman's time has expired and we will come back for the next question. The gentleman from Minnesota Mr. Gutknecht.

Mr. GUTKNECHT. I was interested in this line of questioning. We have this ongoing battle with the FDA and a lot of folks in my home State of Minnesota where people are buying legal drugs from Canada and are facing a blizzard of criticism. And they are intercepting a lot of the drugs now and sending them back. And what I'm hearing is this particular class of drugs which are clearly dangerous, clearly illegal, and we don't see much enforcement by our own FDA is that what you are saying?

Mr. HOOTON. What I am suggesting is that the law enforcement folks that I have talked to, both at the local, State, as well as the enforcement guys from the DEA, will all tell you the same thing. They don't get as many points for picking up a steroid dealer as they do for picking up somebody on coke or heroin. It's not in the same classification as the harder drugs. So the reality is, when you can talk to them privately and understand what is really going on—the officer in Plano, TX, that handled our cases, you know, Mr. Hooton, if this wasn't such a high-profile case, we wouldn't even be following up on it.

Steroids are not considered—it's a whole other can of worms. They are not considered hard-core drugs. I think we have learned today they are, and for whatever the rules are on the penalties that go along with the drugs, they don't incent our law enforcement agencies to deal with them. That's a general statement, but I believe it's very accurate.

Mr. GUTKNECHT. Yes.

Dr. WADLER. There was an unintended consequence of the Substance Control Act in 1990, the anabolic steroid guidelines, but those have been rectified with the recent enactment of the Anabolic Steroid Act of 2004. But——

Mr. GUTKNECHT. Can you explain what you mean by rectified?

Dr. WADLER. Apparently the sentencing guidelines provide for a high degree of sentencing, depending on amounts and so on. I am not in that area, but I was sufficiently involved with several cases years ago for the Justice Department. That became obvious, and there was actually a review, I think it was under the DEA, as the consequences of the sentencing guidelines a couple of years ago, and U.S. attorneys from around the country had recognized that the sentencing guidelines were sort of—deincentivized how they used their budgets in prosecuting cases. But I don't believe—and

it's not my area of expertise, but I believe it was rectified in the Anabolic Steroid Act that went into effect last week, and there may be greater prosecutions.

Mr. GUTKNECHT. Mr. Chairman, I would hope at some time we would try to get some folks in from FDA and the DEA and try to get to the bottom of why it is we treat one classification of potentially dangerous drugs so leniently, and yet we are going after seniors who are driving to save 50 bucks on their Zocor. It seems to me that's a misallocation of resources and the wrong way to ultimately deal with these kinds of problems.

I yield back the balance of my time.

Mr. ISSA. The gentleman yields back.

Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman.

First of all, I want to thank the Garibaldi and Hooton families for coming. Please know that our prayers are with your families and your sons. I deeply regret that this has happened.

I want to turn my questions principally to Dr. Wadler and also Dr. Pellman. It seems we are in a cat-and-mouse game where a substance is listed as a prohibitive substance in the Major League Baseball drug policy. Dr. Pellman, did you help draft this? Are you part of this?

Dr. PELLMAN. No.

Mr. LYNCH. OK. It seems we have a listing here, and if a chemical, a steroid is on the list and is laid out in the contract, and a player uses it, it's illegal, and they can be penalized on its face.

However, if there's an alteration, and if there's a slight modification, chemical modification, a molecular modification, to any of these substances, then technically under the contract they are legal.

What I am fearful of is that it will just be a cat-and-mouse game as designer steroids become available, and players continually shift from listed steroids to up-listed steroids. That's a concern of mine. I do know that the International Olympic Committee has their answer to that problem, and they have adopted language that says any substance listed or any substance of a similar chemical composition that has a similar biological effect on the person taking the chemical, that is also banned as well. So it is sort of a like a catch-all so that we don't get into this long list of steroids that has to be added to.

By the way, under the baseball policy, it has to be by mutual consent by the Players' Union and by management to add something to the list, which is problematic. I am wondering, you know, Dr. Wadler, if you could speak to the IOC dimension of this, and perhaps, Dr. Pellman, you could talk to Major League Baseball.

Dr. PELLMAN. Well, I could certainly give you a medical perspective, and my answer is, speaking not only for myself, but for the other medical people who work for me, is that the intention is and will be to ban all anabolic steroids. But you are asking——

Mr. LYNCH. I am an attorney, OK.

Dr. PELLMAN. I am not.

Mr. LYNCH. I negotiate these collective bargaining agreements. And I will tell you what, if it is not in the agreement, there is no

written agreement here. The reason we write it down is there is an agreement.

Dr. PELLMAN. Then, Congressman Lynch, my——

Mr. LYNCH. The people who defend what is in the contract—these are basic rules of contract. If it's not in there, you can't enforce it.

Dr. PELLMAN. Then, Congressman Lynch, I suspect, knowing the schedule today, you will be able to speak to Mr. Manfred, who did write out the contract——

Mr. LYNCH. Fair enough.

Dr. PELLMAN [continuing.] And ask him that question. I am unable to answer that question.

Mr. LYNCH. OK, fair enough, Doctor, fair enough.

Dr. Wadler.

Dr. WADLER. Yes. This is a living document. Just to tell you the way we deal with this list is that we meet—and I am a member of the list—what they call the Prohibited List and Methods Committee, because there are methods to enhanced performance which are illegal also, not only drugs.

We revisit this list several times a year with experts around the world. We distribute the modifications to the governments of the world, including the U.S. Government, to weigh in on this, and so we constantly have information, and we have the flexibility to add to it. We actually have a provision where if there's a sudden new drug that was otherwise uncategorizable, it could be added to the list without waiting for the 1-year cycle.

Mr. LYNCH. OK.

Dr. WADLER. It's a living account that takes into account what you are saying.

Mr. LYNCH. Mr. Chairman, how am I doing on time?

Mr. WAXMAN. Would you yield?

Mr. LYNCH. Certainly, I would yield.

Mr. WAXMAN. I would just point out, Dr. Pellman, we have had 3 loopholes pointed out, and we have 10 more. You are here at the request of Major League Baseball, but you said you didn't draft this testing protocol. Did they consult you about the testing protocol?

Dr. PELLMAN. Well, first, in terms of what I said, I said—the paper was held up, and my first response is I am not a lawyer, I am a physician. My role is to give medical advice, and so therefore I will answer that question in terms of broad strokes.

Mr. WAXMAN. Well, let me—it is Mr. Lynch's time, but the point I am making is we have pointed out three areas where there are loopholes that you aren't aware of.

Dr. PELLMAN. Can you define the three for me to refresh my testimony?

Mr. WAXMAN. Yes. Somebody who is tested and gone for an hour.

Dr. PELLMAN. Yes, of that I am aware.

Mr. WAXMAN. The specimen could be corrupted. The second one, 10 days suspension, could also be a fine or less, you were aware of that; and the third one is the one that Mr. Lynch just pointed out that not everything was covered.

Dr. PELLMAN. Congressman Waxman, let me respond to the second one, because I have already responded to the first one. This is for the record.

We talk about drawing up this document. In terms of philosophy, my philosophy has been expressed very strongly to the Commissioner and others in the Commissioner's Office, I stand by, in fact, and as you are well aware, my thumbprints are all over the NFL's policy as well. Therefore I will look at you and tell you the following. The intentions of this program is suspension and public notice of that suspension. If that is not adhered to, I will resign. I am aware of the language, and not aware of the language before it was published, but I am now.

So therefore, my understanding from conversations with the Commissioner, from Mr. DuPuy and Mr. Manfred, who will clarify that today, that if, in fact, there is a loophole in which a player—and I understand——

Mr. LYNCH. I think you have made your point. We will take it up with Mr. Manfred.

Chairman TOM DAVIS. The gentleman's time has expired.

Mr. WAXMAN. Mr. Chairman, since I asked Mr. Lynch to yield to me, you are so gracious, could I ask unanimous consent he be given an additional minute?

Chairman TOM DAVIS. Without objection.

Mr. LYNCH. Thank you, Mr. Chairman. You are very fair.

The last section I want to ask you about is this. We have a provision in this agreement that states that in the event of an independent government investigation into this drug policy, that it will be null and void.

If the government looks into this agreement and into this drug policy and starts investigating whether the enforcement is going on, monitoring and penalties are going on and actually being enforced, then by mutual agreement it goes away in the face of a government investigation.

Dr. Wadler, I mean, you have had experience with a bunch of countries, and have you ever seen a policy like this, a provision like this; and if you have, could you enlighten the committee as to what its purpose might be?

Dr. WADLER. I have a simple answer: No, I have not. I have never heard of that.

Mr. LYNCH. Now, Dr. Pellman, with great trepidation I will ask you, I know you are saying you didn't draft the document, but perhaps you were advised around some of it? Do you have any information with respect to this sort of escape clause that says if the Government Reform Committee starts looking into this, we are going to treat it as void, and we won't treat the policy as valid? That is very troubling here.

Dr. PELLMAN. Mr. Lynch, I suspect that you know what my answer will be in terms of again being a physician and not a lawyer.

Mr. LYNCH. If I knew, I wouldn't have asked.

Dr. PELLMAN. I think you need another lawyer to respond to that regarding individual rights and protection of Constitutional rights.

Mr. LYNCH. OK.

Dr. PELLMAN. For me to begin to comment on that would be way beyond the scope of my knowledge.

Mr. WAXMAN. Mr. Lynch, I just want to point out that what the document says is what will be controlling, not what Dr. Pellman intends for it or wishes it would say. We were told that you had,

Dr. Pellman, a very intimate involvement in drafting this document. If you did, I think the lawyers picked your pocket, because what they did is substituted wobbly words so that what you suggested they do they didn't even do.

Dr. PELLMAN. You know what I am finding most fascinating about this, Mr. Waxman, is the following, is that the terms and intentions of this complicated world we live in in terms of these drug policies and what we have done, there's a fine line between patients and being a physician and working with lawyers. And in terms of my pocket being picked, I will come back to you and tell you the following, that baseball in its way has made an incredible amount of progress, despite the comments here today.

Mr. WAXMAN. That's what you have already told us.

Dr. PELLMAN. I am responding to a personal comment you made to me.

Mr. WAXMAN. But we have to talk about——

Dr. PELLMAN. We have talked about the Major League system, but we have not talked about the Minor League system, and, in fact, in terms of the language that was there, I have deferred to Mr. Manfred in terms of answering that.

So instead of coming to a conclusion about whether or not there was a quarter or a dollar picked from my pocket, I suggest you wait until you get all the information. Thank you.

Mr. WAXMAN. I recommend the same for you before you tell us what is in the document.

Dr. PELLMAN. I could not. You have told me.

Mr. PORTER [presiding]. Doctor, I have a question. Assuming the Major League Baseball's policy is weaker than the NFL's, the penalties for violation differ significantly. For example, the NFL, the first positive test results in a four-game suspension, which I guess is about a quarter of a regular season. Major League Baseball policy stipulates that the penalty for the first offense could be a 10-day suspension or a $10,000 fine. How do you reconcile the difference?

Dr. PELLMAN. Well, I think I reconcile the difference in terms of the ability—and this will be more of a nonphysician response, but a response in terms of dealing with both cultures. Dealing with the NFL and dealing with the National Football League in terms of getting medical issues solved is truly a partnership between management and between the Players Association, one of which it is ultimately interesting in terms of parallel lives in terms of priorities. I will tell you that from my experience—remember, I have only been with baseball now for about 2½ years—is, in fact, that there is a difference of philosophy between the Commissioner's Office and the Players Association in terms of the priorities.

If you ask me, and you look at me and you tell me what would be your wish in terms of the ability to make unilateral decisions regarding the Major League program, I will point out the Minor League program to you, because it would have been my intentions that, in fact, the Minor League program become the Major League program. And the Minor League program, a first suspension is, in fact, 15 games; not 15 days, but 15 games.

We could argue in terms of how substantial that is in terms of taking a quarter of a season from the NFL, 15 games of Minor

League baseball. But look at the amount of money and the hardship that those young men experience from being suspended from what they often claim are innocent mistakes.

However, the program that you have for the Major League is a negotiation between management and the Players Association. And I will tell you that in terms of my perspective and their perspective, there is a wide, wide schism.

Mr. PORTER. You, I guess, testified that—the testing for anabolic steroids began in the NFL, in the league, in 1989, correct?

Dr. PELLMAN. I did not testify, but, yes, that is very correct.

Mr. PORTER. When did testing begin for anabolic steroids in the Minor League?

Dr. PELLMAN. In the Minor Leagues, essentially it started before I started in baseball, but became much more rigorous upon my starting and recommendations that were made to the Commissioner's Office.

Mr. PORTER. And you stated that the difference between baseball and football policies can be attributed to the climate of labor relations between management and the Players Association. Is there a union in baseball's Minor League?

Dr. PELLMAN. No, there is not. Unilateral decisions are made from the Commissioner's Office regarding that program. There are no negotiations.

Mr. PORTER. Thank you very much.

Yes, sir. Mr. Cummings.

Mr. CUMMINGS. Thank you very much.

Dr. Pellman, let me go back to something you said a moment ago. I think you said that you were prepared to resign. Under what circumstances?

Dr. PELLMAN. If, in fact, players were not suspended, and their names were not made—publicly notified; in fact, it was deferred, that instead of that penalty, as was intended, they received a monetary fine, that was blinded.

Mr. CUMMINGS. Well, according to our review of the policy as presented by Major League Baseball, the policy states, "The results of any prohibited substance testing shall remain strictly confidential," and in the case of a fine, the policy also states, "Any disciplinary fines imposed on the player by the Commissioner shall remain strictly confidential."

Are you aware of that?

Dr. PELLMAN. In fact, not only did we discuss it, I am aware of it. Again, I will let Mr. Manfred explain the technical components to that, but I was assured that those names will be out there in the public and be aware of who was suspended.

Mr. CUMMINGS. Let me go back, because, you know, we have the Garibaldis here, and we have Mr. Hooton, and one of the things that has always concerned me is that particularly when we have the testimony of people who have suffered like these wonderful parents have is that I don't want them or anybody else to get the impression that, you know, they come here, they sit through a hearing, they are heard, and, in the words of my mother, we have motion, commotion, emotion and no results. It gets rather frustrating.

Because what it does is that it—I would imagine that people can get to a point where they say—throw up their hands and say, why

did I even go there? I would be happy to yield, but they weren't here. So I just want to ask you a question—all right, I am going to yield. I will be happy to yield to anyone here. I will yield to whoever else is here.

Mr. WAXMAN. OK. Well, go ahead.

Mr. CUMMINGS. Thank you.

So, I guess what I am trying to get to, Mr. Waxman, was—he had raised some issues. I want to know, what are you prepared—you told me you were prepared to make it clear that this thing about being able to go away for an hour while you are taking a urine test, that needs to be straightened out. What else are you prepared to recommend to the folks that you are working with; the Commissioner, that is? In other words, as a result of what you have heard today, are there other things that you would recommend? Are you following me with regard to the policy?

Dr. PELLMAN. What more would I recommend?

Mr. CUMMINGS. Yes, sir.

Dr. PELLMAN. Well, what I would recommend would be clearly stated by just looking, again, at the Minor League policy.

Which is, in fact, an image of a policy that was created without negotiation.

Mr. CUMMINGS. OK. All right. With that, I yield back to Mr. Waxman, Mr. Chairman.

Mr. WAXMAN. Thank you. I just wanted to see if anybody on our side wanted a chance to ask questions. OK.

Mr. CUMMINGS. I yield to the gentleman.

Mr. SANDERS. Thank you.

I would like to take the discussion just a hair away from the central subject, if I might. In our society today, when you turn on television, we see programming like Extreme Makeover, right? And essentially what that programming is telling millions of American people, hey, your bodies are not good enough, you are not a Hollywood star, you are not voluptuous, you are not really strong. You need radical change in your body.

To what degree do you think that whole effort in our culture, to make everybody beautiful and voluptuous and strong, has some impact? I know this is above and beyond taking steroids to hit a home run or pitch faster. Dr. Wadler, how does that influence the taking of steroids and other types of body-enhancement drugs?

Dr. WADLER. I don't have figures, but there's no question, in talking to my colleagues and talking to people around the country, that body image is another important factor here. It is not only about enhancing performance, and that, in fact, is probably the major reason why girls are using it. As a physician I encourage people to go to the gym and exercise and so on. They have taken it a step further and feel they have to use enhancing products.

Unfortunately much of this, in my view, took root in the Dietary Supplement and Health Education Act of 1994, which sort of set the notion in play that you need a powder, a potion of some sort to be better than by eating a regular diet or working out. So there is a whole culture of getting six-pack abs, getting muscularly-defined, cut-looking, which is totally separate from fit-looking, which is totally the athletic enhancement aspects of this.

Mr. SANDERS. But you would agree, I think, that the television industry and entertainment industry spends huge amounts of money telling us, hey, we are not strong enough, we are not busty enough, we are not voluptuous enough, you better do something about it.

Yes, Doctor.

Dr. VOLKOW. Yes, you are touching on something that is very problematic not only for anabolic steroids, but also for a wide variety of drugs of abuse. But indeed, one of the elements, and one—I mentioned two programs that were very effective in anabolic steroids are actually targeting exactly, among other things, not just exercising, but telling them how to construct the images that the media is putting forth. So these kids sit down, and then as their homework they have to go in into the message and look at them and say, this is absurd for this and this, and this is not part of the reality. So part of the training prevention program, which, as I said, is shown to be very effective, is allowing the kids to realize that not everything the media says should be emulated.

Mr. SANDERS. Thank you.

Did anyone else want to comment on that?

Dr. BROWER. Yes, I did——

Mr. SANDERS. Doctor.

Dr. BROWER [continuing.] As well. The comment was made that, true, that anabolic steroids are hard-core drugs, and this is true, but there is a big difference between anabolic steroids and the people who are taking them and the people who take cocaine and heroin. When you take cocaine and heroin, your main goal is to get high. When you take anabolic steroids, your main goal is to make yourself consistent with what our cultural goals are, winning and looking good.

Chairman TOM DAVIS [presiding]. Thank you. The time of the gentleman is expired.

What I would ask, we have two more panels to go, I would and unanimous consent 5 minutes a side, and we can move on to the next panel. Is there objection? Hearing no objection, I will yield to your side. I will start on our side, Mr. Issa, and I know Mr. Osborne has a couple of questions.

Mr. ISSA. Thank you, Mr. Chairman. I will be yielding half of my time to Mr. Osborne so we can get through this. When you are here at the end on one of these panels, there's an awful lot that has already been asked and answered. I will try to do my opening and closing by just working on a couple of things that I don't know were made completely clear.

Senator Bunning made it completely clear in his opinion that if you take steroids, you are cheating, and there should be an asterisk, more or less, after the name of every record set at a time in which steroids were involved. I think that's a fair characterization of the Senator.

So what I would like to do is just ask each of you, in light of the fact that we know that if you go into a baseball game with a corked bat deliberately, not making any accusations, but if you went in deliberately with a corked bat and hit extra home runs, you would be cheating, and that would be clear. Yes or no for each of you, if

you take anabolic steroids, bulk up and play professional sports, are you cheating?

Mr. GARIBALDI. Yes.

Ms. GARIBALDI. Definitely.

Mr. HOOTON. Absolutely.

Dr. VOLKOW. Yes.

Dr. WADLER. Absolutely.

Dr. BROWER. Yes.

Dr. PELLMAN. Absolutely.

Mr. ISSA. OK. So the second question that goes with this, should Congress have the ability to make sure that our national pastime—including its exemption from antitrust, there is no cheating?

Mr. GARIBALDI. Yes.

Ms. GARIBALDI. Yes.

Mr. HOOTON. Yes.

Dr. VOLKOW. Yes.

Dr. WADLER. Yes.

Mr. BROWER. Yes.

Dr. PELLMAN. Yes.

Mr. ISSA. In light of that, I just want to close my 2½ minutes by saying as a Member from San Diego, I am all too aware that every day young boys go over—many of them can't even drive. They go by trolley, they go into Mexico. They go into a pharmacy. There are more pharmacies in Tijuana than all the rest of Mexico combined. They go into a room with just the pharmacist. They get shot up and come back out, and Mexican law protects that pharmacist because it can't be entrapment. That is a problem what we in San Diego and the people of San Diego have to fix. There is no question that they will continue doing it until they take care of that, but hopefully today we are setting the stage to send the right message. With that I yield to the gentleman from Nebraska.

[The prepared statement of Hon. Darrell E. Issa follows:]

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49TH DISTRICT, CALIFORNIA

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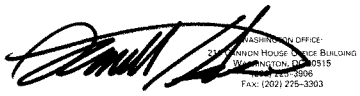

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Opening remarks by Congressman Darrell Issa to the House Committee on Government Reform for March 17, 2005

Thank you Mr. Chairman and Ranking Member Waxman for holding this important hearing on "Restoring Faith in America's Pastime: Evaluating Major League Baseball's Efforts to Eradicate Steroid Use." I also want to thank the witnesses for taking time out of their busy schedules to testify before the full Committee. I welcome the opportunity to discuss the problem of steroid use in Major League Baseball.

Major League Baseball is facing scrutiny because at a time when all other leagues have drug testing policies to protect the health of players and the integrity of their games, Major League Baseball and the Players Association have failed the game, their fans and the American people by not instituting a zero-tolerance drug testing policy. Baseball occupies an almost sacred place in our culture, the very definition of Americana, but the wholesome image that baseball has for so long embodied has been tarnished by the League's failure to act responsibly. By the failure of both Major League Baseball and the Players Association to take action against the use of steroids by their players, they have jeopardized the health of the players, harmed the image of the game and disrupted the business of the League. Collectively, MLB and the Players Association have created a situation in which everyone loses.

The integrity of the sport rests on the adoption and implementation of an effective drug testing policy, to protect the game and the health of the players. Professional baseball players are sending the youth of America the message that steroid use is permissible, if not necessary, to make it in the big leagues. The use of steroids and other performance enhancing drugs has become an epidemic in America. Record numbers of college and high school (and younger) athletes are turning to these drugs to get ahead, to make it to the next level of competition.

The announcement in January of Major League Baseball's new drug testing policy was welcome; however the details of the agreement reveal a weak attempt to rid baseball of the destructive force of steroids. It appears that MLB attempted to intentionally mislead its fans and the public regarding the policy, as the agreement includes a provision allowing for the immediate suspension of testing should there be any independent investigation into the issue of steroids by the government. This raises the question of just how seriously MLB is taking the problem of steroid use.

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The League is best advised to quickly adopt a testing policy resembling that of the International Olympic Committee and take a zero tolerance approach when it comes to all illegal substances. The IOC employs the most stringent testing policy to ensure that Olympic athletes are drug-free, and these athletes continue to set world records every four years without the assistance of performance-enhancing drugs. Major League Baseball must adopt a strict zero-tolerance policy or else the youth of America will continue to die trying steroids as they strive to be the next record-breaking baseball players.

Baseball fans are now openly questioning the integrity of records set and the achievements of individual players. Major League Baseball must take responsibility for its actions, and the examples its players set. It is clear from their behavior that both Major League Baseball and the Players Association take for granted the support of the American people and the anti-trust exemptions Congress has granted them.

I thank the Chairman for scheduling this hearing today and look forward to the testimony of this panel of witnesses.

Chairman TOM DAVIS. The gentleman from Nebraska is recognized.

Mr. OSBORNE. I thank the gentleman for yielding. I thank you for being here today. The thing is we focus so much on the physical effects of steroids, you know, the increased risk of heart disease and the competitive advantage, sometimes an increased risk of cancer. But I would really like to thank the parents for being here today, because I think maybe the most serious side effect that I see is the emotional component, the mood swings, the roid rage, the tremendously devastating things.

I think there are an awful lot of really bad things that happen to kids, whether it be suicides, automobile accidents or whatever. Sometimes they are never really linked to steroids. They really are there. And so I just wanted to thank you all for calling attention to that. And I don't think there's anything that could be more painful to a parent than to lose a child taking their own life, so I just wanted to thank you for being here. Thank you for calling attention to that issue, because it is something that kind of flies under the radar screen so much of the time.

Thank you. I yield back.

Chairman TOM DAVIS. Thank you.

Mr. Souder, do you have anything you want to put in the record?

Mr. SOUDER. I have a unanimous consent request. I would like to insert into the record testimony from Mark McClellan, the Commissioner of the Food and Drug Administration, before the Energy and Commerce Committee on July 24, 2003, where he praised, on ephedra, the National Football League, NCAA, International Olympic Committee and specifically not baseball. I think actions speak louder than words. I ask unanimous consent for this.

Chairman TOM DAVIS. Without objection, it is so ordered.

[The prepared statement of Mr. McClellan follows:]

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STATEMENT OF

MARK B. MCCLELLAN, M.D., PH. D
COMMISSIONER

FOOD AND DRUG ADMINISTRATION

BEFORE

THE SUBCOMMITTEE ON COMMERCE, TRADE AND CONSUMER PROTECTION
AND
THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
COMMITTEE ON ENERGY AND COMMERCE

UNITED STATES HOUSE OF REPRESENTATIVES

JULY 24, 2003

INTRODUCTION

Thank you, Mr. Chairman for this opportunity testify before your Subcommittees at this joint hearing on ephedrine alkaloid containing dietary supplements.

BACKGROUND ON REGULATION OF DIETARY SUPPLEMENTS

More than half of the population of the United States uses "dietary supplements." The Dietary Supplement Health and Education Act of 1994 (DSHEA) (P.L. 103-417) set up a unique regulatory framework in an attempt to strike the right balance between providing consumers access to dietary supplements that they may choose to use to help maintain and improve their health, and giving FDA the necessary regulatory authority to take action against supplements or supplement ingredients that present safety problems, have false or misleading claims, or are otherwise adulterated or misbranded. Although dietary supplements are generally regulated as foods, there are special statutory provisions and implementing regulations for dietary supplements that differ in some respects from those covering "conventional" foods. Moreover, the regulatory requirements for dietary supplements also differ from those that apply to drug products (prescription and over-the-counter).

Congress defined the term "dietary supplement" as a product that, among other things, is ingested, is intended to supplement the diet, is labeled as a dietary supplement, is not represented as a conventional food or as a sole item of a meal or the diet, and contains a "dietary ingredient." The "dietary ingredients" in these products may include vitamins, minerals, herbs or other botanicals, amino acids, and dietary substances such as enzymes. Dietary ingredients also can be metabolites, constituents, extracts, concentrates, or combinations of the preceding types of ingredients. Dietary supplements may be found in many forms, such as tablets, capsules, liquids, or bars. DSHEA placed dietary supplements in a special sub-category under the general umbrella of "foods," but products that meet the drug definition are subject to regulation as drugs.

LABELING OF DIETARY SUPPLEMENTS

Under the Federal Food, Drug, and Cosmetic (FD&C) Act and FDA's implementing regulations, the label of a dietary supplement must bear a statement of identity (product name) that identifies the product as a dietary supplement; nutrition information in the form of a Supplement Facts panel; a list of any ingredients not listed in the Supplement Facts panel; the name and address of the manufacturer, packer, or distributor; and the net quantity of contents. In addition, if the labeling includes a claim to affect the structure or function of the body, a claim of general well-being, or a claim of a benefit related to a classical nutrient deficiency disease, the product must also bear a disclaimer stating that FDA has not evaluated the claim and that the product is not intended to diagnose, treat, cure, mitigate, or prevent any disease.

Products containing ephedrine alkaloids have unusual features and present complex regulatory issues. If the product is a botanical, it may meet the definition of a dietary supplement regulated under DSHEA. On the other hand, if it contains synthetic ephedrine, that ingredient and other synthetic ephedrine alkaloids (including pseudoephedrine) are regulated as drugs, which are only marketed for indications where safety and effectiveness have been demonstrated. Synthetic ephedrine and pseudoephedrine are available as components of various over-the-counter and some prescription drug products for treating allergies, asthma, nasal congestion, and related upper respiratory symptoms. None of these drug products include other ephedrine alkaloids, caffeine, or other stimulants that may interact with their effects. Synthetic ephedrine drug products are subject to stringent manufacturing, labeling, and dosing requirements. There are no synthetic ephedrine drug products approved for long-term use. Some dietary supplements have been found to contain synthetic ephedrine and FDA has taken enforcement action against their use. Nevertheless, synthetic ephedrine poses serious law enforcement and public health challenges, which are beyond the scope of this testimony.

ADVERSE EVENT REPORTING

DSHEA's regulatory framework is primarily a postmarket program like the bulk of food regulation. Thus, as with most foods, there is no requirement for manufacturers to provide evidence of product safety to FDA prior to marketing ephedra-containing dietary supplements. In contrast, drug regulation involves an extensive premarket evaluation of safety and effectiveness with explicit standards of evidence. This evidence provides a basis to guide not only approval decisions but also conditions of use to manage benefits and risks. In addition, there are post-market reporting requirements for drugs to support product safety monitoring. These requirements do not exist for dietary supplements.

As a result, voluntary adverse event reports (AERs) are the primary means FDA has for identifying potential safety problems with dietary supplements. Under DSHEA, FDA must rely on AERs as a major component of its post-market regulatory surveillance efforts under DSHEA. Also, unlike drug regulation, FDA cannot compel reporting of adverse events by dietary supplement manufacturers.

FDA's Center for Food Safety and Applied Nutrition (CFSAN) has recently put in place the CFSAN Adverse Event Reporting System (CAERS) to monitor adverse event reports on food, cosmetics and dietary supplement products. CAERS includes a comprehensive single computerized system that captures and analyzes all reports of consumer complaints and adverse events related to CFSAN-regulated products. This state-of-the-art system started collecting reports after June 15, 2003, and combines all existing CFSAN adverse event-reporting systems and logs reports into one portal within CFSAN.

DIETARY SUPPLEMENTS CONTAINING EPHEDRINE ALKALOIDS

A number of plant genera, including ephedra, are known to contain ephedrine alkaloids. Ma huang is a common name given to Chinese Ephedra, which is used in traditional Chinese medicine. Ephedra has been shown to contain various chemical stimulants, including the alkaloids ephedrine, pseudoephedrine and norpseudoephedrine, as well as various tannins and related chemicals. The concentrations of these alkaloids depend upon many factors,

such as the species, parts of the plant used, time of harvest, growing location, and production methods. Ephedrine and pseudoephedrine are used in some over-the-counter and prescription drugs, where they have been demonstrated to be safe and effective for the labeled use. Many of these stimulants have known, and potentially serious, side effects. While ephedra has been used in herbal medicine preparations for thousands of years, in recent years ephedra has been sold primarily in dietary supplement products for weight control, as well as in products promoted to boost energy levels or to enhance athletic performance. Some ephedra-containing products have been marketed as alternatives to illicit street drugs. Ephedra-containing products often contain other stimulants, such as caffeine, that may have synergistic effects and increase the potential for adverse effects.

A number of adverse effects associated with ephedrine alkaloid-containing dietary supplements have been reported to FDA. These include elevated blood pressure, rapid heartbeat, nerve damage, muscle injury, and psychosis and memory loss. More serious effects have also been reported, including heart attack, stroke, seizure and death.

As the tragic deaths of the Baltimore Orioles' pitching prospect Steve Bechler and of Sean Riggins, the sixteen year old from Illinois have reminded us, use of ephedra, particularly in sports, raises serious concerns about safety and has long posed difficult issues for health care professionals, regulators, and for consumers. These concerns stem from both the mechanism of action of ephedrine alkaloids on the sympathetic nervous system, and accumulating evidence of potentially serious adverse events after use of ephedra-containing products.

While there has been considerable debate about the safety and effectiveness of dietary supplements like ephedra, as well as the most effective approach to regulating them, one thing is clear: Although dietary supplements are regulated as foods and not drugs, the consumer should not assume they are always safe to use. "Natural" does not necessarily mean safe. In particular, botanical and herbal products may have active ingredients with pharmacologic properties similar to, or in the case of ephedra identical to, drug products.

USE OF EPHEDRA BY ATHLETES

I want to take this opportunity to applaud the National Football League, National Collegiate Athletic Association, and the International Olympic Committee for banning the use of ephedra by their players. Although FDA is reviewing ephedrine alkaloids under DSHEA to assess the safety concerns, FDA has particular concerns about the use of ephedra by persons engaged in strenuous exercise. A recent study by RAND, discussed in more detail below, concluded that ephedra has minimal if any proven benefit for enhancing sports performance. Yet ephedra acts like an adrenaline boost, stressing the heart, raising blood pressure, and increasing metabolism. Moreover, the stimulating effects of ephedra may mask the signs of fatigue, causing even the most well conditioned athletes to push beyond their physical limits. Thus, ephedra's risks are potentially much more serious for competitive athletes than for the general population. As FDA has said before, ephedra should not be used by people who engage in strenuous activity.

Because of the special risks of ephedra use in athletes, I believe that the sports leagues that have acted to restrict ephedra use are making a prudent decision. Even as the Agency evaluates the safety of ephedra use in the population more generally, including its use for weight loss, I have clearly and repeatedly indicated that ephedra poses special risks in the context of sports performance with little or no identified benefit for athletes.

FDA's RULEMAKING ON EPHEDRINE ALKALOIDS

Right now, the Agency's professional, scientific and legal staffs are working hard to address the extraordinary challenges presented by these products. The regulatory actions in process now have several major components. Earlier this year, the Agency published a *Federal Register* notice seeking comment on proposed warning label for ephedra-containing dietary supplements. These changes would make it clear to users, via a black-box warning on the front of the product, as well as additional information elsewhere in the product labeling, that serious adverse events and death have been reported after using

ephedra, and that risks of adverse events are particularly high with strenuous exercise and/or use of stimulants including caffeine. In addition, the Agency reopened the comment period on its 1997 proposed rule on dietary supplements containing ephedrine alkaloids. There is now considerably more evidence available on ephedra's risks and benefits than when the proposed rule was published. In its recent *Federal Register* notice, FDA announced that it was seeking comments from health professionals, the supplement industry, and the general public on any additional data on ephedra's safety, so that we can acquire the most complete picture possible of the product's potential risks, as a basis for appropriate further regulatory action.

Our *Federal Register* announcement also sought comments on whether, in light of current information, FDA should determine that dietary supplements containing ephedrine alkaloids present a significant or unreasonable risk of illness or injury under the conditions of use recommended or suggested in labeling or under ordinary conditions of use if the labeling is silent. In FDA's view, "unreasonable risk" implies a risk-benefit calculus. Such a calculus should examine the best available scientific evidence and take it into account in assessing whether the product's known or suspected risks outweigh its known or suspected benefits. The "sentinel" events identified by RAND, coupled with the adverse event information we have collected at the Agency and our knowledge of ephedra's pharmacology and mechanism of action, have all raised serious concerns about whether ephedra use poses an unreasonable risk.

By undertaking these regulatory actions and seeking public comments on these issues, our intent is to give DSHEA the meaning in practice that many of its supporters say it should have, by clarifying that public health authorities can use the standard in the law to determine whether a product poses unreasonable, albeit uncertain, safety risks and then take appropriate regulatory or enforcement action. We are establishing an up-to-date public record for further, legally sustainable actions based on the latest scientific evidence. We are currently in the process of analyzing the over 16,000 public comments we received earlier this summer. We are in the final stages of our deliberative review related to finalizing our rule, so I cannot discuss the specifics of that process or the anticipated outcome. However, I want to emphasize that we are committed to moving forward expeditiously to make a determination that is well grounded in all available scientific evidence and that is protective of the public health in accordance with DSHEA.

While we are undertaking these regulatory procedures, under my leadership, the Agency has dramatically increased its enforcement actions against ephedrine alkaloids and other dietary supplement products making false or misleading claims. These actions, many of which have been undertaken in collaboration with the Federal Trade Commission (FTC), are having an impact on the marketing of dietary supplements in general and ephedra in particular.

ENFORCEMENT ACTIONS

At the core of FDA's enforcement efforts is our commitment to enhance the legitimate manufacture, sale, and use of dietary supplements while enforcing the law aggressively against fraudulent product claims and other illegal practices. Achieving these goals relies on a number of strategies, including cooperation and coordination with other Federal, state, and international law enforcement agencies in protecting consumers against unapproved and potentially harmful products offered by Internet outlets, some of which are based abroad.

With a mutual goal of consumer protection, FDA and FTC formed a Dietary Supplement Enforcement Group to closely coordinate their enforcement efforts against health care fraud. In addition, FDA and FTC chair an interagency health fraud steering committee that meets regularly to coordinate activity on these issues. The workgroup currently includes Federal agencies in the U.S. and Canada. Mexico has been invited to join the group. As part of its effort to curb Internet health fraud, FDA has conducted several "surfs" to identify fraudulent marketing of health care products over the Internet. These actions were carried out in partnership with the FTC and other law enforcement and public health authorities in

the United States and abroad.

Sports Uses of Ephedra
On February 28, 2003, based on the conclusions of the RAND study, FDA warned 26 firms to cease making unproven claims that ephedrine-containing dietary supplements enhance athletic performance. The actions were primarily a result of the Agency's surveillance of the firms' websites. Fourteen of the firms responded to the warning letters by discontinuing the product or the claim. The remaining twelve firms were inspected by FDA. Of those twelve inspected firms, all but one either discontinued the product or the objectionable claims. Investigation for consideration of regulatory action against the remaining firm is ongoing. Since performance enhancement was one of the two principal ways in which ephedra has been marketed, the impact of these warning letters has been substantial. As a result of FDA's enforcement actions, all but one of these products are no longer being marketed for sports enhancement.

Street Drug Alternatives
In September 2002, FDA became aware of the tragic death of Sean Riggins, the 16-year-old high school football player who had taken the product, Yellow Jackets. One source of the product was found to be a distributor in the Netherlands, which promoted the product on the Internet as an alternative to street drugs. The product was manufactured by NVE Pharmaceuticals in New Jersey.

Yellow Jackets capsules and Black Beauties capsules, another NVE product at the time, were both "street" terms for controlled substances, and are sold as herbal street drug alternatives. These products are labeled to contain ephedra extract and other herbal ingredients, including kola nut extract, a source of caffeine. Their sale as a substitute for controlled substances is illegal. FDA issued a Cyber Letter to Mr. Xoch Linnebank, Sjamaan Internet Department, The Netherlands, on October 4, 2002, regarding the sale of Yellow Jackets into the United States and placed the company's products on import alert on October 7, 2002.

On October 8, 2002, FDA attempted to inspect NVE Pharmaceuticals, the manufacturer of Yellow Jackets and Black Beauties. NVE refused to allow the inspection and on October 11, FDA and the U.S. Marshal's Service returned to NVE under a limited administrative inspection warrant. Although NVE refused to provide access to batch records and complaints during the October inspection, FDA obtained sufficient evidence to support an additional warrant. In January 2003, FDA and the U.S. Marshal's Service returned to NVE under a comprehensive inspection warrant and obtained both records and complaints. FDA witnessed the firm's voluntary destruction of both "street drug-alternative" products with a retail value of between $4 and $5 million.

After NVE stopped marketing Yellow Jackets and Black Beauties, they began marketing Yellow Swarm and Midnight Stallion as replacement products. These products appear to be almost identical in formulation and appearance, but they no longer bear street drug names or claims - yet safety issues associated with these types of products remain.

On March 31, 2003, FDA also took new enforcement action against firms marketing street drug alternative products, some of which contained ephedra or other sources of ephedrine. FDA sent warning letters to eight firms, again based primarily on an investigation of the firms' websites. The investigation revealed that the firms sold products for "recreational" purposes with claims to produce such effects as euphoria, a "high" or hallucinations. As with Yellow Jackets and Black Beauties, these street drug alternatives are not dietary supplements under the legal definition, because they are not intended to supplement the diet. These eight letters went to manufacturers of products that contain the drugs ephedrine or norephedrine hydrochloride labeled as dietary supplements for use in weight loss, suppression of appetite and enhanced libido. The majority of the firms stopped selling these products or removed the street drug alternative claims for these products. We are currently working to assure that all of the firms are brought into full compliance.

DIETARY SUPPLEMENT GOOD MANUFACTURING PRACTICES

Another important arm of FDA's regulatory and surveillance activities to help ensure the safety of dietary supplement products is improving product quality and consistency. DSHEA gave FDA the authority to promulgate regulations for dietary supplement good manufacturing practices (GMPs).

Examples of product quality problems the GMPs will help prevent are: superpotent, subpotent, wrong ingredient, drug contaminant, other contaminant (e.g., bacteria, pesticide, glass, and lead), color variation, tablet size or size variation, under-filled containers, foreign material in a dietary supplement container, improper packaging, and mislabeling.

On March 7, 2003, FDA announced proposed rules to establish GMPs and labeling standards for dietary supplements. FDA's proposed rule, if adopted as proposed, would establish GMPs to help reduce risks associated with adulterated or misbranded dietary supplement products. FDA is soliciting comments from the public and industry on this proposal. Written comments will be received until August 11, 2003.

The proposed rule would:

- Establish industry-wide standards necessary to ensure that dietary supplements are manufactured consistently as to identity, purity, quality, strength, and composition.
- Include requirements on the design and construction of physical plants that facilitate maintenance, cleaning, and proper manufacturing operations, for quality control procedures, for testing final product or incoming and in process materials, for handling consumer complaints, and for maintaining records.
- Apply to all firms that manufacture, package, or hold dietary ingredients or dietary supplements, including those involved with testing, quality control, packaging and labeling, and distributing them. The proposed regulations also would apply to both domestic firms and foreign firms that manufacture, package, or hold dietary ingredients and dietary supplements for distribution into the U.S.

FDA EFFORTS TO OBTAIN SCIENTIFIC DATA

In order to acquire the best available scientific data to support its regulatory decisions relating to ephedra, the Agency has undertaken numerous credible and appropriate steps to gain access to information, in the form of adverse event information, clinical studies, and other scientific reviews that could be helpful in evaluating the safety concerns identified by AERs associated with dietary supplements containing ephedrine alkaloids. These successful efforts have put the Agency in a better position to make meaningful science-based decisions about these products. In particular, FDA has sought unredacted complaints from Metabolife as well as the raw data from the six-month Boozer Daly study that was conducted at the request of the makers of dietary supplements containing ephedra.

On February 28, 2003, Secretary Tommy Thompson and I held a press conference and announced the conclusions from the RAND study, commissioned by the National Institutes of Health, which reviewed recent evidence on the risks and benefits of ephedra and ephedrine based on the adverse events reports provided by Metabolife. In evaluating potential benefits of ephedra, the RAND report found only limited evidence of an effect of ephedra on short-term weight loss, and minimal evidence of an effect on performance enhancement in certain physical activities. Also, the RAND study concluded that ephedra is associated with higher risks of mild to moderate side effects such as heart palpitations, psychiatric and upper gastrointestinal effects, and symptoms of autonomic hyperactivity such as tremor and insomnia, especially when it is taken with other stimulants. Moreover, its review of some 16,000 adverse event reports revealed two deaths, four heart attacks, nine strokes, one seizure, and five psychiatric cases involving ephedra in which the records appeared thorough and no other contributing factors were identified. RAND called such cases "sentinel events," because they may indicate a safety problem but do not prove that ephedra caused the adverse event. The study recognized that such case studies are a

limited form of scientific evidence. The study also identified other adverse events potentially associated with ephedra, in which other factors may have contributed to the adverse events or in which records were inadequate.
The RAND review, along with the data provided to the Agency by Drs. Boozer and Daly from their controlled clinical study of ephedra use are being reviewed by the Agency and its outside experts, along with the adverse event information the Agency has received in its own CAERS. All three of FDA's outside reviewers of the Boozer Daly weight loss study have raised serious concerns about that study's ability to prove the safety of dietary supplements containing ephedra.

At this time, we have amassed a significant data set and conducted substantial analyses on ephedrine alkaloids. This data set includes AERs from FDA's Medwatch and from Metabolife as well as detailed assessments by Agency experts and outside experts at RAND that have identified ephedra as an ingredient of particular concern. But as the General Accounting Office and the Rand report have noted, AERs alone in this context are sentinel events indicative of a potential safety problem, but are not enough alone to make an empirical, scientific determination with a high degree of statistical confidence that ephedra causes serious adverse events. In addition, our careful review of the Boozer Daly study and underlying data have raised additional significant concerns about the empirical effects of ephedra. At this point, we are in the final stages of our deliberative review related to finalizing our rule, so while I cannot get into the specifics of that process or the anticipated outcome, I want to emphasize that we are moving forward as expeditiously as possible to make a determination that is well grounded in the scientific evidence we have and that is protective of the public health in accordance with DSHEA. Meanwhile, under my leadership the Agency will continue to use all available resources to target our limited enforcement resources on false and misleading dietary supplement claims among other top priorities.

Mr. Chairman, thank you for this opportunity to testify. I am happy to answer your questions.

Chairman TOM DAVIS. Our side will yield the last 5 minutes.

Let me just say to the parents, thank you so much for your testimony. I know this is difficult for you, something America needs to hear. Commissioner Selig has been here the whole time listening to this. I know they are sensitive to it as well. We appreciate very much your being here. And for the medical experts, thank you very much for shedding light on this very dangerous epidemic.

Mr. Waxman—Mr. Clay.

Mr. CLAY. Thank you.

I want to ask about human growth hormone, and according to what we know about Jason Giambi's testimony in the BALCO case, one of the substances he took was human growth hormone. That hormone acts like a steroid in that it builds muscle. It also changes the physical appearance of a player.

Major League Baseball officials have told the public that the new policy bans the use of human growth hormone, but my concern is that it appears to be another big loophole. The only drug test that baseball is doing is a urine test, and this does not work to detect the illegal use of human growth hormone.

Dr. Wadler, is it fair to say, then, that the new policy does not have a mechanism to enforce a ban of human growth hormone?

Dr. WADLER. That's absolutely correct. There's been a national consensus for testing human growth hormone. It is only a blood test. There are two different types of tests done. It was implemented in Athens on 300 athletes. There's nothing in the immediate future to suggest there is going to be a urine test.

Mr. CLAY. Well, we have asked Major League Baseball about this loophole. They have told us not to worry because they have expressed optimism that a urine test for human growth hormone could be available in time for the 2006 season. I would like to ask if that optimism is justified.

Dr. WADLER. There is absolutely no basis for that optimism whatsoever.

Mr. CLAY. Let me ask Dr. Pellman.

Dr. PELLMAN. Yes, I will be more than happy to comment regarding that. First, the blood test that Dr. Wadler is alluding to is a nonvalidated blood test, and, in fact, was used for the first time by the Olympics, this past Olympics, of which the data has not been released.

We have had conversations with both the WADA lab and the UCLA in Montreal that has confirmed that to us, as well as, my understanding both as a physician and in my role as an advisor, that taking blood in the United States and checking urine is two very, very different things, complicated in terms of privacy acts, in terms of taking blood and doing urine tests, and again in terms of what my recommendation would be, because, again, for the record, in terms of what I have told two Commissioners is that my biggest fear is, in fact, about human growth hormone. I am more worried about human growth hormone now in terms of the future than I am about anabolic steroids.

Mr. CLAY. OK, Doctor, that doesn't make a lot of sense, because the new agreement prohibits blood tests, and this agreement lasts until 2008. Why is baseball banning the only known tests for human growth hormone then?

Dr. PELLMAN. It's not a question of banning it, it's a question of banning blood tests. And, again, in terms of technically speaking, right now there is no validated test for human growth hormone. In fact, I am unaware, and Dr. Green, who is behind me, who is the former chairman of the subcommittee of the NCAA for drug testing, who is my expert on this, has informed me that, in fact, it is unvalidated. We have no information on it.

Mr. CLAY. Doctor, they use blood tests for Olympic athletes and tennis stars. Can I ask that Dr. Wadler try to respond to what Dr. Pellman said, please?

Dr. WADLER. Blood testing is part of the landscape in antidoping control worldwide for a variety of substances. For human growth hormone, there are two tests, isoforms and a market test. There was a consensus meeting in Dallas last year under the auspices of the U.S. Anti-Doping Agency. It was clearly a consensus as to how to proceed. It was implemented by the World Anti-Doping Agency with the assurance that the test was validated and, in fact, was implemented and carried out with 300 athletes in Athens.

Mr. CLAY. Thank you for that response to the parents.

Dr. PELLMAN. May I ask Mr. Wadler one question which I think will help you?

Mr. CLAY. No. No. No. I have a limited amount of time. You can get to him after this.

To the parents my deepest sympathy on the tragic loss of your young sons. As a father I cannot imagine how painful this must be for you, and we thank you for sharing both of your sons' story.

Would you recommend testing high school athletes?

Mr. HOOTON. Absolutely, for two reasons. Excuse me. I jumped on that one. I feel very strongly.

One, we will never, ever know how many kids we got doing steroids without testing. Kids don't admit it, just like our professional athletes don't admit it. You have to test.

But second, I think more important and more positive, is at least if there is a testing program, even if it is random, for the good kids, it gives them an excuse to say no. At least there's a disincentive to do it. Right now, no testing, no supervision, there's nothing to keep the players from doing it.

Mr. CLAY. Doctor.

Ms. GARIBALDI. Second, the huge Constitutional argument is about the privacy of our youngsters. As a parent, I expect to know everything there is to know when it comes to my child, especially that under 18, I believe it's the parents that hold the rights, not the children. Therefore, the parents especially would like testing, and the schools are for it. It needs to happen.

Chairman TOM DAVIS. Thank you very much. The gentleman's time has expired.

Ms. Watson, we have run out of time. We can give you a quick question, I guess, with unanimous consent.

Ms. WATSON. I, too, want to extend my sympathy to both parents for being brave and courageous in coming here today. I am very disturbed right now because I have a picture of my Governor, Arnold Schwarzenegger, who said that he does not regret using steroids in the 1970's because they were not illegal then.

But he doesn't want school-age children to use steroids and at the same time vetoed a bill that would have created a list of banned substances for interscholastic sports and required coaches to take a course on performance-enhancing supplements.

The Garibaldis' son went to USC, which is in my district, and I want to know if you will join with me in seeing that a new bill in the State of California directed toward the high school students and coaches be introduced, and would you attend a meeting at USC with me and the coaching staff?

Ms. GARIBALDI. We will absolutely be there. Currently we are working with State senator Jackie Spear on her reintroducing Senate Bill 37, which targets exactly what it is you are talking about.

Ms. WATSON. Thank you very much. I see this as a public health issue, and we have to make a move now, or our children will be impressed by this.

Ms. GARIBALDI. They are impressed by that.

Chairman TOM DAVIS. Thank you very much.

Mr. GARIBALDI. We also are working with the California Interscholastic Federation, and by, I think, the first week of May, they will be voting on a certification for high school coaches and banning accepting sponsorships from any performance-enhancing supplement company.

Chairman TOM DAVIS. Thank you very much.

Our time has expired. We have to get on to the next panel at this point. I want to thank you for the time today. It's been a very, very healthy discussion. We thank our medical experts. Thank you very much. The panel is dismissed.

The committee will take about a 10-minute break as we set up for the next panel.

[Recess.]

Chairman TOM DAVIS. As I noted in my opening statement this morning, the committee's primary goal in this inquiry is to break the vicious cycle of the growing steroid use that begins at the professional level, and inevitably trickles down to college and high school sports.

Mr. Waxman, I believe our oversight, which begins but does not end today, can help break that cycle and help 500,000 using steroids today that are making a big mistake. We can't do this alone. After all, there is a cause and effect here. Steroids becomes legitimized in large part because young people emulate star athletes, so it is going to take stars to combat stars. Today we are grateful that we have two pillars of the game of baseball ready, willing and able to take on that charge.

We are taking this break in today's hearing to announce the creation of Zero Tolerance, the advisory committee on the ending the use of performance-enhancing drugs in sports. While membership on this task force is evolving, and names are sure to be added in coming days and weeks, it will initially be cochaired by Curt Schilling and Frank Thomas, Mr. Waxman and myself. Zero Tolerance will gather information, foster discussion and provide recommendations to Congress on the next steps.

We have invited the NFL, the NBA and the NHL to recommend participants to this panel, since every professional sport needs to let young people know about the dangers of illegal steroid use. We

believe the profile Mr. Schilling and Mr. Thomas can lend to this committee will send a strong message in and of itself about the dangers of steroid use. We also believe that their input and leadership will be essential to putting the issue of steroid use at all levels of sports under the microscope.

Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman.

I am pleased to have Mr. Schilling here with us. The reason that Mr. Schilling and Mr. Thomas were invited to be participants in this hearing today is because they have both been outspoken critics of steroid use by baseball players, for which I commend them, and I think it's so important that they have taken the position that they have. I am pleased that they are going to be testifying, in one case, Mr. Thomas, by remote control, and, Mr. Schilling, you are with us today. I am pleased that they are here, and announcing as well the fact that they will be part of an advisory group.

This will serve a very, very important purpose as we move along to try to figure out how we can best stop steroid use by sports figures and, more importantly, the children who emulate them. So I want to commend both of them for their presence, willing to participate in the committee that they are going to be a part of. Thank you.

Chairman TOM DAVIS. Mr. Waxman, before we start the formal hearing again, Mr. Schilling and Mr. Thomas were invited today because they have been outspoken about steroids in professionals sports.

Mr. Schilling, before you give your prepared and are sworn in, would you like to say anything?

Mr. SCHILLING. No, I wouldn't.

Chairman TOM DAVIS. We are happy to have you as part of this. I just wanted to say thank you very much. And, Mr. Thomas, same thing, thank you very much.

We are ready to bring in the next panel. We are going to swear each member in before they testify individually. Jim Sharp will be reading Mr. Sosa's statement. I will start.

We have a very distinguished panel here, obviously, in front of us: Mr. Jose Canseco, the former member of the Oakland Athletics and Texas Rangers; Mr. Sammy Sosa, current member of the Baltimore Orioles and former Chicago Cub, accompanied by his interpreter Mrs. Patricia Rosell, and also Mr. Jim Sharp will be reading his opening statement; Mr. Mark McGwire, former member of the Oakland Athletics and St. Louis Cardinals; Mr. Rafael Palmeiro, current member of the Baltimore Orioles and former Texas Rangers; and Curt Schilling, current member of the Boston Red Sox. And we have Mr. Frank Thomas, current member of the Chicago White Sox, appearing by video conference.

Mr. Canseco, if you would stand first and——

[Witness sworn.]

Chairman TOM DAVIS. Mr. Canseco, do you wish to make an opening statement?

Mr. CANSECO. Yes.

Chairman TOM DAVIS. We will go down, each one of you make an opening statement, and then we will open it up for questions.

Thank you very much for being here.

STATEMENTS OF JOSE CANSECO, FORMER OAKLAND ATHLETIC AND TEXAS RANGER; SAMMY SOSA, CURRENT BALTIMORE ORIOLE AND FORMER CHICAGO CUB, ACCOMPANIED BY JIM SHARP, ATTORNEY, AND PATRICIA ROSELL, INTERPRETER; MARK McGWIRE, FORMER OAKLAND ATHLETIC AND ST. LOUIS CARDINAL; RAFAEL PALMEIRO, CURRENT BALTIMORE ORIOLE AND FORMER TEXAS RANGER; CURT SCHILLING, CURRENT BOSTON RED SOX; AND FRANK THOMAS, CURRENT CHICAGO WHITE SOX

STATEMENT OF JOSE CANSECO

Mr. CANSECO. Thank you, Mr. Chairman, members of the committee, distinguished guests. My name is Jose Canseco, and for 17 years I played professional baseball. I am humbled by the opportunity to appear before you today. Never in my wildest dreams could I have imagined that my athletic ability and love for America's game would lead me to this place and this subject that has brought me before this committee.

When I decided to write my life story, I was aware that what I revealed about myself and the game I played for the majority of my life would create a stir in the athletic world. I did not know that my revelations would reverberate in the halls of this Chamber and the hearts of so many.

My heart and condolences go out to those families who lost their children through the use of steroids. Today I commit myself to doing everything possible to assist them in conveying to the youth of America the dangers that using steroids will bring. After this hearing I will be happy to work with them in whatever way I can to help convey to the youth of America the message that steroid use is unnecessary to be a great athlete, and that they are harmful to those who take them.

When first contacted by the committee, I was willing to cooperate in all aspects of the investigation. Unlike others, I have never refused to appear before this committee and assist in this endeavor. However, due to the fact I am on probation in Florida for events unrelated to baseball and steroid use, and to the clear evidence of the overzealous efforts of State prosecutors to make an example of me, I request immunity from this committee. I requested immunity from this committee. With immunity I will be free to answer all questions posed to me by the committee without fear of how my testimony would affect my probation. Without immunity, I cannot.

Chairman TOM DAVIS. Thank you very much.

Mr. CANSECO. It has been represented that this committee has been called to get to the bottom of steroid use in baseball. Having said that, this meeting is not about prosecution or individual use. If that were true, granting immunity to me should not be an issue. Although I have nothing to hide, and although my answers to your questions will be helpful in resolving uncertainties and issues facing this committee, because of my fear of future prosecution for probation violations or other unrelated charges, I cannot be totally candid with this committee. When appropriate, I will invoke the protections offered me by the fifth amendment.

It is unfortunate that the committee chose not to grant me this request, especially since I have been the only player or member of

baseball who did not fight the request to appear here today. It is unfortunate the committee has made this decision, as it will not be able to fully investigate the steroid issue without all testimony, and the issue will continue to plague the sport.

Thank you for asking me to appear. I will try and answer every question that may be posed to me. Thank you.

Chairman TOM DAVIS. Thank you very much, Mr. Canseco.

[The prepared statement of Mr. Canseco follows:]

Mr. Chairman, members of the Committee, distinguished guests; I am humbled by this opportunity to appear before you today. Never in my wildest dreams could I have imagined that my athletic ability and love for America's game would lead me to this place and the subject that has brought me before the Committee. When I decided to write my life's story, I was aware that what I revealed about myself and the game I played for a majority of my life would create a stir in the athletic world. I did not know that my revelations would reverberate in the halls of this chamber and in the hearts of so many.

I had hoped that what I experienced first hand, when revealed, would give insight into a darker side of a game that I loved. That maybe it would force baseball to acknowledge it condoned this activity for the sole purpose of increasing revenue at the gate. Unfortunately, by our presence here today, it is clear that MLB is not interested in admitting the truth. It is also clear that although others have tried to come out in support of my revelations, fear of repercussions from MLB haunts their conscience.

The book that I wrote was meant to convey one message. The preface makes my position very clear. I do not condone or encourage the use of any particular drugs, medicine, or illegal substances in any aspect of life. My book was informational and intended to enlighten the world about a problem that until my book was released had only been spoken of in whispers. I did not write my book to single out any one individual or player. I am saddened that the media and others have chosen to focus on the names in the book and not on the real culprit behind the issue. That the focus of my life and those involved in it may have inadvertently damaged players was not my intent. I hoped rather that finally the media and the world would try and dig beyond the easy answer and not fix

blame but fix the problem. A problem that would continue unabated if I did not call attention to it.

Because of my truthful revelations I have had to endure attacks on my credibility. I have had to relive parts of my life that I thought had been long since buried and gone. All of these attacks have been spurred on by an organization that holds itself above the law. An organization that chose to exploit its players for the increased revenue that lines its pockets and then sacrifice those same players to protect the web of secrecy that was hidden for so many years. The time has come to end this secrecy and to confront those who refuse to acknowledge their role in encouraging the behavior we are gathered to discuss.

I love the sport of baseball. I love it in its purest and simplest form. I still long for the time when I could pick up a bat and ball and hit one over the fence for the game-winning run. I am appreciative of the opportunities that the sport of baseball has given to me along with the quality of life it has provided. It permitted me to take care of my family and provide a better life for myself and others close to me. However, had I known that this opportunity would cost me so much, I would have refused the offer so many years ago.

The pressure associated with winning games, pleasing fans, and getting the big contract, led me, and others, to engage in behavior that would produce immediate results. This is the same pressure that leads the youth of today, other athletes and professionals, to engage in that same behavior. The time has come to address this issue and set the record straight about what risks are involved in that behavior. To send a message to

America, especially the youth that these actions, while attractive at first, may tarnish and harm you later. That sometimes there are things more important than simply money.

Why did I take steroids? The answer is simple. Because, myself and others had no choice if we wanted to continue playing. Because MLB did nothing to take it out of the sport. As a result, no one truly knew who was on muscle enhancing drugs. As a result, a player who wanted to continue to play, to perform as a star, was forced to put into their bodies whatever they could just to compete at the same level as those around them.

However, why we are before Congress today is only part of a much larger problem. The American public continues to place athletes in a position above everyone else. "Some people are born to greatness and others have greatness thrust upon them." A successful athlete is viewed as the voice of a city, state, and country. He or she, in playing their sport, often represents the very spirit of a nation and its people. We rarely see riots and the gut wrenching emotion so apparent in sports in any other forum. When the Boston Red Sox failed to get to the World Series two years ago the pain echoed throughout the fans as a personal attack on the city and on the individual residents there. When a Chicago Cubs fan got caught up in the moment and interfered with the game, he was attacked, vilified, and forced to move and change his life.

Such emotional investment is felt by the players daily. We want only to please those who hold us in such high esteem. We feel deeply the obligation that we each have to perform and win. It is a burden that we take on willingly and without hesitation or regret. However, perhaps, in addition to addressing this pressing issue we should take the

opportunity to look at the priority that we place on athletes and athletics and change our focus.

Baseball owners and the players union have been very much aware of the undeniable fact that as a nation we will do anything to win. They turned a blind eye to the clear evidence of steroid use in baseball. Why? Because it sold tickets and resurrected a game that had recently suffered a black eye from a player strike. The result was an intentional act by baseball to promote, condone and encourage the players to do whatever they had to do to win games, bring back the fans, and answer the bottom line. Salaries went up, revenue increased and owners got richer. But this comes with a cost.

MLB issued press releases years ago stating clearly the position that banned substances that enhanced performance were not a part of MLB. MLB set forth "for cause testing" to support this position. However, during my entire career no player was ever tested for performance enhancing substances. "For Cause" became a hollow threat that was never used by anyone involved with MLB. It was again made clear that press releases were the only thing MLB was going to do to "clean up" MLB's image. The duplicity present throughout my career continues today.

Many have said that my motivation for revealing this problem is myriad; revenge, monetary gain, vindication. The truth is that I would have played baseball for free. I even offered to play for free some years ago and to donate my salary to charity just to be a part of the game. This offer was rejected and MLB turned its back on me just as it had turned a blind eye to the drugs that were running rampant through the sport. My motivation is nothing more than a clearing of conscience and an effort to resurrect a sport that has given joy to so many.

I am moved by the efforts Congress is taking to address this problem. I am humbled that my book may have played a small part in setting forth this juggernaut. I am hopeful that it will yield a positive result.

As I sit here today I would be remiss if I did not again stress that I do not condone the use of any drugs or illegal substances. I urge parents to become more active and involved in the lives of their children. I hope that my message will be received as it is intended, that we, as professional athletes, are no better than anyone else. We just have a special ability that permits us to play ball. We should not be held up to any higher standard of behavior than any other mother or father. Our children's heroes should not be solely the athletes they watch, but more importantly the parents who are with them each day.

Thank you for this opportunity to appear before you. I hope that my statements and answers to those questions posed to me will help find a solution to this problem. That the intentional failure of MLB to address this issue will finally be put to rest, and that those who follow me into this sport will have the opportunity to do so free of the pressure to compromise themselves simply for increased revenue.

To those players who have been thrust into this debate I simply ask them to tell the truth as I have told the truth. To join with me and help resurrect the sport we love from where the owners and union have let it go.

Thank you.

Jose Canseco, Jr.

Chairman TOM DAVIS. You are appearing voluntarily.

Second, I would note that we did try to get immunity. I talked to the Attorney General about it. We were not able to get it in the time scheduled, unfortunately, but we thank you for your statement.

Mr. Sosa, you will be next. Would you rise with me, raise your right hand, as well as your attorney and your interpreter.

[Witness, attorney and interpreter sworn.]

Chairman TOM DAVIS. If you have any opening statement, the committee would been happy to entertain it.

Mr. SHARP. Yes, I do.

Chairman TOM DAVIS. Mr. Sharp, I understand you are going to read it for Mr. Sosa.

STATEMENT OF SAMMY SOSA

[NOTE.—The following statement was provided through Mr. Sosa's attorney.]

Mr. SHARP. Mr. Chairman, Congressman Waxman and representatives of the committee, my name is Jim Sharp, and I represent Mr. Sosa. I appreciate the departure from the norm permitting me to read his statement.

The statement of Mr. Sammy Sosa.

Good afternoon, members of the committee. I understand that people have said that steroids are a big problem in professional baseball, and that it is trickling down to our children. I am here to offer my testimony in the hope that it will assist the committee in remedying this problem.

I grew up in San Pedro in the Dominican Republic with four brothers and two sisters. My father passed away when I was 7 years old. We sold oranges and shined shoes to get by. Early on I displayed a talent for baseball, and when I was 16, I left home and signed with the Texas Rangers. I played in the Minor Leagues for 4 years before I played in my first Major League game when I was 20 years old.

Playing at that level is very difficult, especially for someone as young as I was. I had to fight for everything, and that meant working out harder than the next guy, lifting a few more reps than the last guy. It meant spending more time in the batting cages and less time in the clubs.

Everything I heard about steroids and human growth hormones is that they are very bad for you, even lethal. I would have never put anything dangerous like that in my body, nor would I encourage other people to use illegal performance-enhancing drugs. To be clear, I have never taken illegal performance-enhancing drugs. I have never injected myself or had anyone inject me with anything. I have not broken the laws of the United States or the laws of the Dominican Republic. I have been tested as recently as 2004, and I am clean.

I support testing professional athletes for illegal performance-enhancing drugs. Because rigorous testing is new to baseball, the initial reaction of many players was to bristle at the perceived invasion of privacy, but if more testing is what it takes to help clean up the sport, I am behind it.

In light of recent scandals and serious public health problems, we players need to commit to doing whatever it takes to regain our credibility as athletes and as members of the community. I do a lot of charity work for young people. I am genuinely committed to their welfare. I am willing to work with you and the Congress as a whole to educate kids and young athletes about these serious issues. Education, of course, starts in the home, but we baseball players can help by speaking out against the use of illegal performance-enhancing drugs. To the extent that I can help in these efforts, I am anxious to do so.

Thank you very much.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. Sosa follows:]

STATEMENT OF MR. SAMMY SOSA
To The House Committee On Government Reform
March 17, 2005

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Mr. SHARP. If you will indulge me at this point, he would just like to say a few words.

Chairman TOM DAVIS. That would be fine. Make sure the microphone is in front of him.

Mr. SOSA. Thank you, Mr. Chairman. I was back there in the room, and I was watching on the TV the two families that lost the two kids, and it really shocked me and breaks my heart. I want to send sympathy to those families that had to go through that situation, and, you know, the quicker we can resolve this problem as to that which is bad for kids, you know, I am willing to work with you guys and do the best that I can to stop this. I just want to say that. Thank you very much.

Chairman TOM DAVIS. Thank you very much.

Mr. McGwire, rise with me and raise your right hand.

[Witness sworn.]

Chairman TOM DAVIS. Mr. McGwire, thank you very much for being with us today.

STATEMENT OF MARK McGWIRE

Mr. MCGWIRE. Mr. Chairman, members of the committee, thank you for having me. My name is Mark McGwire. I played the game of baseball since I was 9 years old. I was privileged to be able to play 15 years in the Major Leagues. I even had the honor of representing my country in the 1984 Olympic baseball team. I love and respect our national pastime. I will do everything in my power to help the game, its players and fans.

First and foremost, my heart goes out to every parent whose son or daughter were victims of steroid use. I hope that these hearings can prevent other families from suffering. I admire the parents who had the courage to appear before the committee and warn of the dangers of steroid use. My heart goes out to them.

When I was lucky enough to secure my last Major League contract, one of the first things I did was establish a foundation and donate $3 million of my own money to support abused children.

I applaud the work of the committee in exposing this problem so that the dangers are clearly understood. There has been a problem with steroids in baseball, like any sport where there is pressure to perform at the highest level, and there has been no testing to control performance-enhancing drugs if problems develop.

It is a problem, and that needs to be addressed. Most importantly, every Little Leaguer, Pony League, high school, college player needs to understand that performance-enhancing drugs of any kind can be dangerous. I will use whatever influence and popularity that I have to discourage young athletes from taking any drug that is not recommended by a doctor. What I will not do, however, is participate in naming names, in implicating my friends and teammates.

I retired from baseball 4 years ago. I live a quiet life with my wife and children. I have always been a team player. I have never been a person who spread rumors or say things about teammates that could hurt them. I do not sit in judgment of other players, whether it deals with sexual preference, their marital problems or other personal habits, including whether or not they use chemical substances. That has never been my style, and I do not intend to

change this just because the cameras are turned on, nor do I intend to dignify Mr. Canseco's book.

It should be enough that you consider the source of the statements in the book and that many inconsistencies and contradictions have already been raised. I have been advised that my testimony here could be used to harm friends and respected teammates, or that some ambitious prosecutor can use convicted criminals who would do and say anything to solve their own problems, and create jeopardy for my friends.

Asking me or any other player to answer questions about who took steroids in front of television cameras will not solve the problem. If a player answers no, he simply will not be believed. If he answers yes, he risks public scorn and endless government investigations.

My lawyers have advised me that I cannot answer these questions without jeopardizing my friends, my family and myself. I intend to follow their advice.

It is my understanding that Major League Baseball and the Players' Union have taken steps to address the steroid issue. If these policies need to be strengthened, I would support that.

I appreciate the difficult job you have as Congressmen and Congresswomen and will use this opportunity to dedicate myself to this problem. I am directing my foundation to concentrate its efforts to educate children regarding dangers of performance-enhancing drugs. I am also offering to be a spokesman for Major League Baseball to convince young athletes to avoid dangerous drugs of all sorts.

Thank you very much.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. McGwire follows:]

Mark McGwire Statement

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE

1. My name is Mark McGwire.

2. I have played the game of baseball since I was 9 years old.

3. I was privileged to be able to play 15 years in the Major Leagues.

4. I even had the honor of representing my country on the 1984 Olympic Baseball Team.

5. I love and respect our national pastime, and I will do everything in my power to help the game, its players and fans.

6. First and foremost, my heart goes out to every parent whose son or daughter were victims of steroid use. I hope that these hearings can prevent other families from suffering.

7. I admire the parents who had the courage to appear before this Committee and warn of the dangers of steroid use. My heart goes out to them.

8. When I was lucky enough to secure my last major league contract, one of the first things I did was to establish a Foundation and donate $3 million dollars of my own money to support abused children.

9. I applaud the work of the Committee in exposing this problem so that the dangers are clearly understood. There has been a problem with steroid use in baseball. Like any sport where there is pressure to perform at the highest level and there has been no testing to control performance enhancing drugs - problems develop. It is a problem that needs to be addressed.

10. Most importantly - every Little League, Pony League, High School and college player needs to understand that

performance enhancing drugs of any kind can be dangerous. I will use whatever influence and popularity I have to discourage young athletes from taking any drug that is not recommended by a doctor.

11. What I will not do, however, is participate in naming names and implicating my friends and teammates.

12. I retired from baseball 4 years ago. I live a quiet life with my wife and children.

13. I have always been a team player. I have never been a person who has spread rumors or said things about my teammates that could hurt them.

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and I do not intend to change just because the cameras are turned on.

15. Nor do I intend to dignify Mr. Canseco's book. It should be enough that you consider the source of the statements in the book and the many inconsistencies and contradictions that have already been raised.

16. I have been advised that my testimony here could be used to harm friends and respected teammates, or that some ambitious prosecutor can use convicted criminals who would do and say anything to solve their own problems, and create jeopardy for my friends. Asking me, or any other player, to answer questions about who took steroids in front of television cameras will not solve this problem. If a player answers no, he simply will not be believed. If he answers yes, he risks public scorn and endless government investigations. My lawyers have

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18. I appreciate the difficult job you have as our Congressmen and Congresswomen and will use this opportunity to dedicate myself to this problem.

19. I am directing my Foundation to concentrate its efforts to educate children regarding the dangers of performance enhancing drugs.

20. I am also offering to be a Spokesman for Major League Baseball and the Players Association to convince

young athletes to avoid dangerous drugs of all sorts.

Thank you

Chairman TOM DAVIS. Mr. Palmeiro.

[Witness sworn.]

Chairman TOM DAVIS. Thank you very much for being with us today.

STATEMENT OF RAFAEL PALMEIRO

Mr. PALMEIRO. Good afternoon, Mr. Chairman and members of the committee. My name is Rafael Palmeiro, and I'm a professional baseball player. I will be brief in my remarks today.

Let me start by telling you this: I have never used steroids, period. I do not know how to say it any more clearly than that. Never. The reference to me in Mr. Canseco's book is absolutely false. I am against the use of steroids. I don't think athletes should use steroids, and I don't think our kids should use them. The point of view is one, unfortunately, that is not shared by our former colleague Jose Canseco. Mr. Canseco is an unashamed advocate for increased steroid use by all athletes.

My parents and I came to the United States after fleeing the Communist tyranny that still is in my homeland of Cuba. We came seeking freedom, knowing that through hard work, discipline and dedication, my family and I could build a bright future in America.

Since arriving to this great country, I have tried to live every day in my life in a manner that I hope has typified the very embodiment of the American dream. I have gotten to play for three great organizations, the Chicago Cubs, the Texas Rangers and the Baltimore Orioles, and I have been blessed to do well in a profession I love. That blessing has allowed me to work on projects and with charities in the communities where I live and play.

As much as I have appreciated the accolades that have come with a successful career, I am just as honored to have worked with great organizations like the Make a Wish Foundation, Shoes for Orphans' Souls and the Lena Pope Home of Fort Worth.

The league and the Players Association recently agreed on a steroid policy that I hope will be the first step to eradicating these substances from baseball. Congress should work with the league and the Players Association to make sure that the new policy being put in place achieves the goal of stamping steroids out of the sport. To the degree an individual player can be helpful, perhaps as an advocate to young people about the dangers of steroids, I hope you will call on us. I, for one, am ready to heed the call. Mr. Chairman, I think the task force is a great idea to send the right message to kids about steroids. If it is appropriate, I would like to serve with Mr. Schilling and Mr. Thomas. Thank you.

Chairman TOM DAVIS. Thank you very much, Mr. Palmeiro.

[The prepared statement of Mr. Palmeiro follows:]

Testimony of Rafael Palmeiro
before the
Committee on Government Reform
United States House of Representatives
March 17, 2005

Good morning, Mr. Chairman and Members of the Committee. My name is Rafael Palmeiro and I am a professional baseball player. I'll be brief in my remarks today. Let me start by telling you this: I have never used steroids. Period. I don't know how to say it any more clearly than that. Never. The reference to me in Mr. Canseco's book is absolutely false.

I am against the use of steroids. I don't think athletes should use steroids and I don't think our kids should use them. That point of view is one, unfortunately, that is not shared by our former colleague, Jose Canseco. Mr. Canseco is an unashamed advocate for *increased* steroid use by all athletes.

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Chairman TOM DAVIS. Mr. Schilling.

[Witness sworn.]

Chairman TOM DAVIS. We have votes on, so if Members feel they have to leave to go to vote, come back. We have three votes. I am going to try to get the testimony in of Mr. Schilling and Mr. Thomas. If we stay as a block, I think they will hold the vote.

Mr. Schilling, you have been asked here today because you have been an outspoken opponent of steroid use in professional sports, and we are happy that there are some people that want to help you in that regard, and thank you very much.

STATEMENT OF CURT SCHILLING

Mr. SCHILLING. Chairman Davis, Congressman Waxman, members of the committee and other distinguished guests and invitees, nearly 2 weeks ago I had the extreme honor of standing on the West Lawn of the White House alongside my teammates and other members of the Boston Red Sox world championship team to accept the congratulations of President Bush and Vice President Cheney. Following that, my teammates and I made a visit to Walter Reed Hospital here in Washington, DC. During that visit my teammates and I had the extreme honor of meeting and visiting with the heroic men and women serving in our country's great Armed Forces. As a son of a man who served almost two decades in the U.S. Army, as a member of the 101st Airborne, with a brother who served in Vietnam, a cousin who served in the U.S. Navy aboard the USS Carl Vincent, and another cousin who recently finished his service in the U.S. Army as a member of the Rangers, Green Berets and finally the Delta Force, I think that visit, with absolutely no disrespect to our esteemed President and Vice President, was the highlight of many of our trips and some of our lives. I believe that visit made my teammates and I aware of how fortunate we are to live in this country and how fortunate we were able to bring joy that afternoon to those courageous service people just because we are Major League Baseball players.

Being a professional baseball player has put me in a position to try to bring awareness to certain issues and causes that affect so many people in our great country. For example, my recognition as a player has enabled me to bring an increasing awareness to the terrible disease known as ALS, also known as Lou Gehrig's disease, which afflicts some 30,000 Americans at any one time, and to act as an advocate to try to find a cure for the disease. My position as a player, along with the dedication of my wife Shonda, a cancer survivor, has enabled the two of us to bring awareness to the terrible problem that is skin cancer, or melanoma. Our foundation tries to educate young Americans on the dangers of exposure to the sun. In fact, at this moment the bill has passed the Arizona Senate and is awaiting a vote by the House of Representatives that would mandate that all children be taught sun safety in school, the first such mandate anywhere in the United States.

My hope is that this hearing results in an increased awareness of steroids and their inherent danger to America's youth. I understand from the invitation I received to appear before this committee that my presence has been requested because I have been outspoken on this issue. I'm honored to be cochairman on an advisory

committee, tasked with putting together recommendations on how to prevent steroid usage among young people. I recognize that professional athletes are role models for many of the youth in this country. Most athletes take this role very seriously, and I hope through my appearance here that I am conveying my seriousness and understanding of the issue.

While I don't profess to have the medical expertise to adequately describe the dangers of steroid use, I do believe I have the expertise to comment on whether steroids are necessary to excel in athletics. I think it is critical to convey to the youth who desire to excel in sports that steroids are not the answer, and steroids are not necessary in order to excel in any athletic event, and success is achieved through hard work, dedication and perseverance.

I also hope that by being here I can raise the level of awareness on several other fronts. First, I hope the committee recognizes the danger of possibly glorifying the so-called author scheduled to testify today or by indirectly assisting him to sell more books through his claim that what he is doing is somehow good for his country or the game of the baseball. A book which devotes hundreds of pages to glorifying steroid usage, and which contends that steroid use is justified and will be the norm in the country in several years is a disgrace, was written irresponsibly, and sends exactly the opposite message that needs to be sent to kids. The allegations made in that book, the attempt to smear the names of players, both past and present, having been made by one who for years vehemently denied steroid use should be seen for what they are, an attempt to make money at the expense of others. I hope we come out of this proceeding aware of what we are dealing with when we talk about that so-called author and not create a buzz that results in young athletes buying the book and being misled on the issues and dangers of steroids.

I must tell you that I hope as a result of this hearing there is a better awareness of the steroid program recently implemented by Major League Baseball and its Players Association. That program, though certainly not perfect, and I dare say there is no such thing as a testing program, is a substantial step in the right direction that appears from initial statistics to be having the desired effect; that is, removing steroids from the game of baseball.

Statistics have shown from 2003 to 2004, the number of players using steroids in the Major Leagues has gone from 5 to 7 percent to 1.7 percent. In yesterday's New York Times it was reported that there were 96 positive tests during the 2003 testing period. In 2004, that number saw a dramatic decrease as 12 players tested positive. I see that as progress. I see that as positive.

It troubles me when I hear the program being identified as a joke, a travesty, a program not designed to rid baseball of steroids. I think those numbers show this to be a meaningful program, one that is working, and steroid usage is dropping. The Players Association in an unprecedented move reopened the collective bargaining agreement for the sole purpose of strengthening drug testing procedures and its penalties. You may view that reopening of an agreement as a nonissue or one of minimal consequences, but we didn't.

It appears that the main complaint about the current program revolves around the current penalties for being caught or failing a test. It is my view as a 19-year veteran of professional baseball there will be no system of suspensions or discipline that can be implemented that will stand up to or match the agreement made by the players that positive test results will be made public, subjecting the player to public humiliation and labeling as a steroid user or a cheater. Given the intense media coverage that now permeates professional sports, there is no doubt in my mind that any player who is caught after this program has been implemented will, for all intents and purposes, have his career blacklisted forever. When a player's suspension is over, he may be able to lose the label of a player who is under suspension, but I am convinced he will never lose the label of a steroid user.

While not a part of my original prepared statement, I think it is important to address the issue that has arisen with respect to the issue of public disclosure of test results under the current testing program. It is my belief that the positive test results will be made public, and it is the public disclosure which constitutes the real teeth of the testing program as far as I am concerned. When I learned upon my arrival in Washington yesterday that there was some question about public disclosure, I looked into the public disclosure issue because of my beliefs. Based on that, I'm still of the belief that positive test results will be made public. And I know for a fact that 98.3 percent of the players who tested clean want the results to be made public because they know the key to the elimination of steroids is a public recognition of who the cheaters are.

Members of the committee, do I believe steroids are being used by Major League Baseball players? Yes. Past and present testing says as much. Do I believe we should continue to test and monitor steroid usage in Major League Baseball? Absolutely. I believe the message has been heard by players, and that serious, positive, forward-thinking steps have been taken on the issue.

I urge the committee to focus its efforts in that direction and not dwell on what may have occurred in the past. I also urge the committee to not make this process just about baseball. Steroids and supplement usage appears to not be a baseball problem, but a society problem. Everywhere you look, we are bombarded by advertising of supplements and feel-good medications. I urge you to evaluate the way in which these products are manufactured and the way in which they are marketed. If we are going to send a message to the young athlete that steroid use is bad and steroids are not necessary to achieve success, you cannot allow that message to be drowned out by the manufacturers' advertising to the contrary. If the government thought enough of American youth to rally against the tobacco industry and its advertising to our youth, why should the supplement industry be any different?

I cannot conclude my statement without expressing my admiration to the Hootons and Garibaldis for appearing, and I extend my deepest sympathy to each of them for their loss. As a father of four children, I cannot begin to imagine the pain they must be suffering. To the Hootons and Garibaldis, I want to say this: Having been appointed as a cochairman on the advisory committee tasked with

educating our youth about the dangers of steroid usage, I would welcome their input in helping the committee move forward.

Thank you for your attention and the chance to speak.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. Schilling follows:]

FINAL STATEMENT OF CURT SCHILLING

Chairman Davis, Congressman Waxman, members of the committee, and other distinguished guests and invitees:

Nearly two weeks ago I had the extreme honor of standing on the west lawn of the White House, alongside my teammates and other members of the Boston Red Sox World Championship team, to accept the congratulations of President Bush, and Vice President Cheney. Following that, our team made a visit to Walter Reed Hospital here in Washington D.C. During that visit, my teammates and I had the extreme honor of meeting and visiting with the heroic men and women serving in this great country's armed forces. As the son of a man who served almost 2 decades in the United States Army as a member of the 101st Airborne Division, with a brother in law who served in Vietnam, a cousin that served in the US Navy aboard the USS Carl Vincent, and another cousin who recently finished his service in the United States army as a member of the Army Rangers, Green Berets and finally the Delta Force, I think that visit, with absolutely no disrespect to our esteemed President and Vice President, was the highlight of many of our trips, and some of our lives. I believe that visit made my teammates and I aware of how fortunate we were to live in this country and how fortunate we were to be able to bring some joy that afternoon to those courageous service people, just because we were major league baseball players.

Being a professional baseball player has put me in a position to try to bring awareness to certain issues and causes that affect so many people in our great county. For example, my notoriety as a player has enabled me to bring an increase in awareness to the terrible disease known as ALS which afflicts some 30,000 Americans at any one time, and to act as an advocate to try to find a cure for the disease. My position as a player, along with the dedication of my wife Shonda, a cancer survivor, has enabled the two of us to bring awareness to the terrible problem that is skin cancer or melanoma. Our foundation tries to educate young Americans of the dangers of exposure to the sun. In fact, at this moment, a bill has passed the Arizona Senate and is awaiting a vote by the House of Representatives that would mandate that all children be taught sun safety in school, the first such mandate anywhere in the United States.

My hope is that this hearing results in an increased awareness of steroids and their inherent danger to America's youth. I understand from the invitation I received to appear before this Committee that my presence has been requested because I have been outspoken on this issue. I am honored to be a co-chairman on an advisory committee tasked with putting together recommendations on how to prevent steroid usage among young people. I recognize that professional athletes are role models for many of the youth of this country. Most athletes take that role very seriously and I hope through my appearance here that I am conveying my seriousness and understanding of this issue. While I don't profess to have the medical expertise to adequately describe the dangers of steroid use, I do believe I have the expertise to comment on whether steroids are necessary to excel in athletics. I think it is critical to convey to the youth who desire to excel in sports that steroids are not the answer, that steroids are not necessary in order to excel in any athletic event and that success is achieved through hard work, dedication and perseverance.

I also hope that by being here, I can raise a level of awareness on several other fronts. First, I hope the Committee recognizes the danger of possibly glorifying the so called author scheduled to testify today or by indirectly assisting him to sell more books through his claim that what he is doing is somehow good for this country or the game of baseball. A book which devotes hundreds of pages to glorifying steroid usage and which contends that steroid usage is justified and will be the norm in this country in several years is a disgrace, was written irresponsibly and sends exactly the opposite message that needs to be sent to kids. The allegations made in that book, the attempts to smear the names of players, both past and present, having been made by one who for years vehemently denied steroid use, should be seen for what they are, an attempt to make money at the expense of others. I hope we come out of this proceeding aware of what we are dealing with when we talk about that so called author and that we not create a buzz that results in young athletes buying the book and being misled on the issues and dangers of steroids.

I must also tell you, members of the committee, that I hope that a result of this hearing there is a better awareness of the steroid program recently implemented by Major League Baseball and its Players Association. That program, though certainly not perfect, and I dare say there is no such thing as a perfect testing program, is a substantial step in the right direction that appears, from initial statistics, to be having the desired effect—that is removing steroids from baseball. Statistics have shown that from 2003 to 2004 the number of players using steroids in the major leagues has gone from 5-7% to 1.7%. In fact, in yesterday's New York Times it was reported that there were 96 positive tests during the 2003 testing period, and in 2004 that number saw a dramatic decrease as only 12 players tested positive. I see that as progress, I see that as a positive. It troubles me when I hear the program being identified as a joke, a travesty and a program not designed to rid baseball of steroids. I think those numbers show this to be a meaningful program, one that is working, and steroid usage is dropping. The Players Association, in an unprecedented move, re-opened the Collective Bargaining agreement for the sole purpose of strengthening the drug testing procedures, and its penalties. You may view the reopening of the agreement as a non-issue, or as one of minimal consequences, we don't.

It appears that the main complaint about the current program revolves around the current penalties for being caught, or failing a test. It is my view as a 19-year veteran of professional baseball that there will be no system of suspensions or discipline that can be implemented that will stand up to, or match, the agreement made by the players that positive test results will be made public, subjecting the player to public humiliation and labeling as a steroid user or cheater. Given the intense media coverage that now permeates professional sports, there is no doubt in my mind that any player who is caught after this program has been implemented, will for all intents and purposes have his career blacklisted, forever. When a player's suspension is over, he may be able to lose the label of a player who is under suspension, but I am convinced he will never lose the label of a steroid user.

Members of the Committee, do I believe steroids are being used by Major League Baseball players? Yes. Past and present testing says as much. Do I believe we should continue to test and monitor steroid usage in Major League Baseball? Absolutely. In fact in that regard I believe the message has been heard by players, and that serious, positive, forward thinking steps

have been taken on this issue. I urge the Committee to focus its efforts in that direction as well and not to dwell on what may have occurred in the past.

I also urge the committee to not make this process just about baseball. Steroids and supplement usage appears to be not a "baseball" problem, but a society problem. Everywhere you look, we are bombarded by advertising of supplements and feel good medications. I urge you to evaluate the way in which these products are manufactured, and more importantly, the way in which they are marketed. If we are going to send a message to the young athlete that steroid use is bad, and that steroids are not necessary to achieve success, you cannot allow that message to be drowned out by the manufacturer's advertising to the contrary. If the Government thought enough of the youth of this country to rally against the tobacco industry and its advertising to our youth, why should the supplement industry be any different?

I cannot conclude my statement without expressing my admiration to the Hootons and the Garibaldis for appearing here today and I extend my deepest sympathy to each of them for their loss. As a father of four children, I cannot begin to imagine the pain they must be suffering. Maybe their loss will result in an awareness of the tragedy that follows steroid use.

Thank you for your attention.

Chairman TOM DAVIS. Mr. Thomas, are you with us? Do we have an audio out to Mr. Thomas? Can you hear us, Mr. Thomas? Can I swear you in?

[Witness sworn.]

Chairman TOM DAVIS. And as you know, we have invited you here because you have been an outspoken opponent of steroids in Major League sports.

Do you wish to make an opening statement? And thank you for joining the task force and cochairing it with Mr. Schilling.

STATEMENT OF FRANK THOMAS

Mr. THOMAS. Good afternoon, Mr. Chairman and members of the committee. My name is Frank Thomas, and I am a baseball player for the Chicago White Sox, a team I am proud to have been a part of since joining Major League Baseball since 1989.

First of all, Mr. Chairman, let me say that as an outspoken critic of steroids, I would like to work with the committee, Major League Baseball and the Players Association to warn everyone, especially young people, about the dangers of performance-enhancing drugs. Steroids are dangerous, and the public should be educated about them, and, in particular, parents should make sure their children are aware that steroids can be bad for their health.

I also believe the league and the Players Association have done the right thing by reopening our collective bargaining agreement and strengthening our policy on drug testing. I support this new policy as a very good first step in eliminating steroid use in the sport I love.

I have been a Major League Baseball player for 15 years, and throughout my career I have never, ever used steroids.

Thank you, Mr. Chairman and member of the committee.

Chairman TOM DAVIS. Thank you very much, Mr. Thomas.

[The prepared statement of Mr. Thomas follows:]

Testimony of Frank Thomas
before the
Committee on Government Reform
United States House of Representatives
March 17, 2005

Good morning, Mr. Chairman and Members of the Committee. I want to thank the Chairman and the Ranking member for allowing me to make this statement. My name is Frank Thomas and I am a baseball player for the Chicago White Sox—a team I am proud to have been part of since joining Major League Baseball in 1989.

First of all, Mr. Chairman, let me say that as an outspoken critic of steroids, I would like to work with this Committee, Major League Baseball, and the Players Association to warn everyone – especially young people – about the dangers of performance enhancing drugs. Steroids are dangerous and the public should be educated about them, and in particular, parents should make sure their children are aware that steroids can be bad for their health.

I also believe the League and the Players' Association have done the right thing by reopening our collective bargaining agreement and strengthening our policy on drug testing. I support this new policy as a very good first step in eliminating steroid use from the sport I love.

I have been a major league ballplayer for 15 years. Throughout my career, I have not used steroids. Ever.

Thank you, Mr. Chairman and Members of the Committee.

Chairman TOM DAVIS. And I am going to recess the meeting and ask the Members to come back. We are in the middle of three votes and should be back in 20 minutes. I appreciate your opening statements, and if you would be able to stay for a few questions, we very much appreciate everybody being here.

[Recess.]

Chairman TOM DAVIS. Let me start the questioning so we can move this along.

Mr. Schilling, I will ask you and ask Mr. Palmeiro, as I read the Major League policy, it says if the player tests positive for a steroid, a 10-day suspension or up to a $10,000 fine. So under the policy, a suspension is optional, and you could do a fine up to $10,000. It could be less than that. Our feeling is it ought to be—with clarity, it ought to be a suspension because a suspension carries with it a public acknowledgement. Under the rules as we read them, a fine does not. Do you have any thoughts on that? I am not trying to put you in the middle.

Mr. SCHILLING. I don't think for a second there is any question about making names public upon a failed test. I can't speak at length as to why the clause is in there, but I was given the impression, and I'm under the impression, there will be no chance for a failed test to not be made public.

Chairman TOM DAVIS. It is not what it says, just to let you understand. Your position, you think it ought to be made public?

Mr. SCHILLING. I think that's the position of players as a whole.

Mr. PALMEIRO. I believe the players should be suspended. I believe our policy needs to be strong, and I think we need to give it a chance, but I believe the player needs to be suspended.

Chairman TOM DAVIS. That is one of the major concerns, and it was a huge surprise to us as we walk through here.

Mr. Canseco, let me ask you a question going back. It is your position that Major League Baseball knew that there was steroid use going on and for years didn't do anything to stop it?

Mr. CANSECO. Absolutely, yes.

Chairman TOM DAVIS. When you signed a contract with the team, is it your opinion that people knew about the players that they were signing and investigated, given the investment they were making in them?

Mr. CANSECO. I'm under the impression they even did background checks on them.

Chairman TOM DAVIS. So in all likelihood they would know if a player was taking steroids and what their private lives were because that could jeopardize their ability to perform?

Mr. CANSECO. I believe so, yes.

Chairman TOM DAVIS. And why do you think baseball didn't do anything about this?

Mr. CANSECO. I guess in baseball at the time there was a saying, if it's not broke, don't fix it. And baseball was coming back to life. Steroids were part of the game. And I don't think anyone really wanted to take a stance on it.

Chairman TOM DAVIS. I wanted to wait until we got people in the room. Mr. Palmeiro, I want to thank you for also agreeing to be a representative on the Zero Tolerance Advisory Committee on ending steroid use in sports. I want to thank Mr. Sosa and Mr.

McGwire for agreeing to support the efforts for the advisory committee as well. It is important that we get all athletes out there publicly on this issue.

And, Mr. Waxman, I'm going to recognize you. I appreciate you being here. Mr. Waxman.

Mr. WAXMAN. Mr. Chairman, before I start with this panel, I wanted to acknowledge a third family that is here with us today, the family of Efrain Marrero, a 19-year-old kid from California who loved to play football. He killed himself after falling into the grip of steroids. As his mother Brenda has said, steroids killed my son. I understand that his mother and father and sister Erica are here today, and they are working with the Garibaldis and Hootons to get the message out about steroid use to America's youth, and I want to say on behalf of all of us, thank them for coming.

On the question I want to ask, and I don't know which of you to ask, what I want to know is you have seen steroid use in baseball. You have seen it from inside the clubhouse. Mr. Palmeiro, maybe it would be best to ask you, is it something that most of the baseball players knew about?

Mr. PALMEIRO. I have never seen the use of steroids in the clubhouse.

Mr. WAXMAN. How about the fact that players were using steroids; is that something that other players knew?

Mr. PALMEIRO. I'm sure players knew about it. I really didn't pay much attention to it. I was focused on what I had to do as part of my job.

Mr. WAXMAN. Did players know? You have spoken out about this. Did you know that other players were using steroids?

Mr. SCHILLING. I think there was suspicion. I don't think any of us knew, contrary to the claim of former players. I think while I agree it's a problem, I think the issue was grossly overstated by some people, including myself.

Mr. WAXMAN. Grossly overstated? Why did you do that?

Mr. SCHILLING. I think at the time it was a very hot situation, and we were all being asked to comment on it. And I think my opinion at the time was to go with someone who maybe had a better idea than me. But given a chance to reflect, when I look back on what I said, I'm not sure I could have been any more grossly wrong.

Mr. WAXMAN. Do you think it is a nonproblem in baseball?

Mr. SCHILLING. If one person is using it, I think it's a problem. I think the desire to get to zero players using is a great goal. I don't know how achievable that is.

Mr. WAXMAN. Mr. Sosa, did you know that other players were using steroids?

Mr. SOSA. To my knowledge, I don't know.

Mr. CANSECO. Absolutely.

Mr. WAXMAN. You say it so affirmatively, but the others seem to be vague about it. Was it only where you were playing?

Mr. CANSECO. I didn't hear you.

Mr. WAXMAN. They seem to be vague as to whether it was known by the players that some players were using steroids. Do you think there should have been any doubt in anybody's mind that steroids was being used by—would you say a large number of players?

Mr. CANSECO. There should have been no doubt whatsoever, none.

Mr. WAXMAN. Does it stop with ballplayers? Steroid use has grown. Do you think that the team trainers, the managers and general managers, and even the owners might have been aware that some players were using steroids?

Mr. CANSECO. No doubt in my mind, absolutely.

Mr. WAXMAN. It's not a secret that stayed with the players; others knew it in the baseball community?

Mr. CANSECO. Absolutely.

Mr. WAXMAN. Do any of you disagree with you that?

Mr. SCHILLING. Disagree with——

Mr. WAXMAN. Not only did some baseball players know that others were using it, but that managers and other teammates and the trainers also were aware of it?

Mr. SCHILLING. Again, I think it falls—it includes a lot of suspicion and a lot of questioning. Unless you were Jose and you were actually using it, I don't think you had firsthand knowledge of who knew.

Mr. WAXMAN. Last week a very respected person in the athletic world called me with a suggestion. He said if we want to dramatically cut the use of illegal steroids by kids, we should pass Federal legislation that applies one standard to all major sports, to colleges and high schools, instead of a patchwork of different policies. He suggested taking the Olympic policy and applying that program to everyone. The first violation would result in a 2-year suspension, and the second would bring a lifetime ban. Do you think that would be effective? Let me start with you.

Mr. CANSECO. I think, in my opinion, the most effective thing, right, would be for us to admit there's a major problem. It's got to start here, and we have to admit to certain things we have done and change things there. From what I'm hearing, more or less, I was the only individual in Major League Baseball that used steroids. That's hard to believe.

Mr. WAXMAN. Mr. Sosa, do you think we ought to have that gold standard of the Olympic program, zero tolerance? You got caught using steroids; for whatever the sport is, that you are suspended for 2 years, and after that second offense, you're out. Do you think that would be effective with baseball and other sports as well?

Mr. SOSA. I can tell you, Mr. Chairman, I don't have too much to tell you.

Mr. WAXMAN. You can think about it.

How about you, Mr. McGwire?

Mr. MCGWIRE. I don't know, but I think we should find the right standard.

Mr. WAXMAN. Do you think that the standard the baseball commission is using right now is the right standard?

Mr. MCGWIRE. I don't know. I'm not a current player.

Mr. WAXMAN. You haven't looked at it?

Mr. MCGWIRE. Correct.

Mr. PALMEIRO. I wouldn't have a problem of playing under any type of standard. Like I said, I have never taken it, so if you want to play under the rules of the Olympics, I welcome it.

Mr. WAXMAN. My time is up, and I hope we will get another chance.

Chairman TOM DAVIS. Mr. Sweeney.

Mr. SWEENEY. Welcome all, and thank you for your participation.

I want to ask a general question of the entire panel with the idea that I would followup with a specific. The general question is you all made very strong statements about your interests in helping us develop some public education process. Very briefly, because there is a time issue and I would like to hear from each of you what you think the danger is, what your perception of what has happened out there in the world because of the allegations of steroid use; and second, what can Major League Baseball and the Players Association do tangibly, if you have ideas? And, Mr. Schilling, I will start with you.

Mr. SCHILLING. I think the inherent danger here is inactivity. I don't think a PSA is going to do it. I think there needs to be tough legislation mandated on the Federal level that affects high school athletics, college athletics. And I do agree, I think if you come to one standard and a blanket standard for everybody that is tough and strict and enforceable, there's no question that's the way to go.

Mr. PALMEIRO. I do believe we are role models, and we do have a lot of power in what kids listen to and the message that we send to them. And I believe that if we do send the right message, we can help tremendously.

Mr. MCGWIRE. I believe that's one of the reasons I am here is to make this a positive thing instead of a negative thing, and I will do everything in my power to turn this around from a negative to a positive.

Mr. SOSA. I agree with Mr. McGwire. One of the reasons we are here is to stop that. And I think we did some more tests. And one way or another, we are here to help.

Mr. CANSECO. I think the most important thing is going to be awareness here. I mean, it is in the forefront right now. We are looking at it. Major League Baseball player, whatever comes out of this meeting will say, wow, we have eyes on us, they are looking at us. We have to change something. Hopefully this book educates people and what is going on in sports and how devastating the use is in Major League sports. And no matter what comes out of this, at least we are going to have some type of start, some type of position to say, look, you got to stop this. The owners have to stop this continuing. They have to stop this, period.

Mr. SWEENEY. I have two questions to followup. One is that given its impact, especially with the last panel on scholastic athletics and kids in this country, do any of you doubt that maybe Major League Baseball—and when I say Major League Baseball, I'm including the Players Association—don't you think that Major League Baseball has an obligation to help pay for that program because all of those things cost money? Anyone disagree that Major League Baseball helps to subsidize?

Chairman TOM DAVIS. Talking about the owners here?

Mr. SWEENEY. I'm talking about the owners and possibly the Players Association in conjunction.

Mr. SCHILLING. For the owners I say yes.

Mr. SWEENEY. My point is baseball has an obligation here; don't you agree?

And the final question, I'm going to go into sensitive territory, and our intent is not to embarrass anybody here. We have just established—we all agree this is a public health policy issue. This is not treading on conduct that rises to the level of criminality in the past years, but this year it is, and that is the use of steroid precursors and designer steroids and how prevalent that was in baseball because that is part of the culture. And specifically, Mr. McGwire, I have to ask you this question from your statement. In part 10, you essentially say that the impact on children is devastating. You recognize that. And you want people to understand that the use of any performance-enhancing drug can be dangerous. It is rather an infamous occurrence that in the year you were breaking the home run record, a bottle of Andro was seen in your locker.

My question to you is your position now says that the use of that product, which is now illegal but was not then—how did you get to that point that was what you were using to prepare yourself to play? And if you could tell this committee how you ended up there. And I would like to know if other players have similar experiences. I think that would help us understand what you all live in.

Mr. MCGWIRE. Well, sir, I'm not here to talk about the past, I'm here to talk about the positive and not the negative about this issue.

Mr. SWEENEY. Were you ever counseled that precursors or designer steroids might have the same impact?

Mr. MCGWIRE. I'm not here to talk about the past.

Mr. SWEENEY. I will simply say to alleviate the kinds of questions that surround the game, we need to understand the game.

Chairman TOM DAVIS. Gentleman from Baltimore.

Mr. CUMMINGS. First of all, I want to thank all of you for being here, and, you know, Mr. Canseco, I have been taking a look at your book, and you said some things that really—I hear all of you, and I'm trying to feel good this hearing. But at the same time, I see you and Mr. McGwire with almost tears in your eyes when you are talking, and everyone is willing to come and be the spokespersons to help those families who may be trying to deal with this issue and prevent it in the future.

But, Mr. Canseco, let me ask you this. You said in your book, and this is in your book, I'm tired of hearing such short-sighted crap from people who have no idea what they are talking about. Steroids are here to stay. That's a fact, I guarantee. Steroids are the future. By the time my 8-year-old daughter Josie has graduated from high school, a majority of all professional athletes in all sports will be taking steroids, and believe it or not, that's good news.

Help me with that. You sit here one moment talking about how you want to do all these wonderful things to prevent it in the future, but then it sounds like you are saying something almost the opposite in your statement in your book.

Mr. CANSECO. I think that was very much pertaining to two subjects. No. 1, if Congress does nothing about this issue, it will go on forever. That I guarantee you. And basically steroids are only good for certain individuals, not good for everyone. I think I specify that,

in previous chapters, if you medically need it, if it is prescribed to you. I think those are the things I spoke about.

Mr. CUMMINGS. You realize it is a Federal crime to abuse steroids?

Mr. CANSECO. Yes.

Mr. CUMMINGS. Are you now for a zero tolerance policy?

Mr. CANSECO. Absolutely.

Mr. CUMMINGS. You made some allegations, and as I understand it, Mr. Schilling, Mr. Thomas, Mr. Sosa and Mr. Palmeiro said they never used the substances. Is that right, Mr. Sosa?

Mr. SOSA. Yes.

Mr. CUMMINGS. Mr. McGwire, would you like to comment on that? I didn't hear you say anything about it. You don't have to. I just ask. You don't want to comment. Are you taking the fifth?

Mr. MCGWIRE. I'm not here to discuss the past. I'm here to be positive about this subject.

Mr. CUMMINGS. I'm trying to be positive, too. But just a few minutes ago, I watched you with tears—I need to ask a question.

Chairman TOM DAVIS. The gentleman made it clear.

Mr. CUMMINGS. I made it clear, and I'm just telling him something. I sit here and I almost got tears in my eyes watching you testify. And, you know, the thing that I'm curious about is, you know, it's one thing to say that we want to help. It's a whole another thing when those parents are sitting directly behind you and they wonder if this is real.

I guess my question is you said something about your foundation and trying to help out. Tell us exactly what it is that you plan for your foundation to do.

Mr. MCGWIRE. Well, right now?

Mr. CUMMINGS. Talking about the future, as you said.

Mr. MCGWIRE. My foundation helps out neglected and abused children. We have not talked about it, but I'm going to redirect about this subject.

Mr. CUMMINGS. You are willing to be a national spokesman against steroids? We have all these high school kids that are emulating you and still look up to McGwire and others. And I think you said you are willing to be a national spokesman?

Mr. MCGWIRE. I would be a great one.

Mr. CUMMINGS. You would do it?

Mr. MCGWIRE. Absolutely.

Chairman TOM DAVIS. Gentleman's time has expired.

Mrs. Miller.

Mrs. MILLER. Yes, Mr. Chairman, perhaps just a question. I appreciate all of the panelists coming here today sincerely. But in your book you did admit you were a user and abuser of steroids, and you did suggest that perhaps steroids were a good thing for players to use. I think you said in your book if properly used, steroids could help you to live to be 120 years old.

Unfortunately during your playing career, baseball did not have the testing policy in place against the use of steroids, no testing regime.

I want to applaud you for your testimony today saying that you are willing to work toward educating our young people about the dangers of steroids, but could you answer, even if the new random

testing policy that the Major Leagues are putting in place today, if that was in place during your playing career, do you think it would have changed your behavior in regards to steroids, or do you think that the desire to play better is just so strong that the standard that is going to be in place today is going to eliminate steroid use in Major League Baseball?

Mr. CANSECO. I don't know how the policy for Major League Baseball is structured right now, but I heard it's a complete joke. Obviously if there were a proper system completely educating athletes and so forth, I truly believe that no Major League player would do steroids.

Mrs. MILLER. My understanding of the new policy is that it is a random test, at least one time during the season for each player. And I suppose we will have additional questions for the next panel.

Thank you, Mr. Chairman. That is my only question.

Chairman TOM DAVIS. If you would yield to Mr. Burton.

Mrs. MILLER. I yield to the gentleman.

Mr. BURTON. Thank you, Mr. Chairman. I don't have a question. I just would like to say it's evident from this hearing that a lot more needs to be done to make sure that not only the baseball world, but the entire world of athletics that these kind of drugs need to be outlawed. And I would like to say I understand the Commissioner has started to move in the right direction, but evidently hasn't moved fast enough.

Rather than me questioning the players who are here today or pound on this subject anymore, I would like to say that the message is loud and clear from this committee and from the Congress of the United States, we want this stuff stopped in all athletics, not just baseball. And I think you can tell by the tone of my colleagues up here, if it doesn't stop, you are going to end up with something that you don't want in the world of athletics, and that is the Congress of the United States doing what you don't do.

So do the job. Baseball players, whom I have respected since I was kid, go out there and tell the kids even if you use steroids, tell them this is not the right thing to do. Tell them about the people who lost their kids because of misuse of steroids. If you preach the Gospel, and if the baseball Commissioner and everybody in baseball gets the word out, this will change. You won't have to have Congress legislating. You will get the job done.

Do the job so we don't have to. And I hope this message goes out loud and clear in every athletic endeavor, not just in baseball. If it does in this hearing, Mr. Chairman, because of you and Mr. Waxman, it will be of great benefit to all sports.

Chairman TOM DAVIS. Mr. Lantos.

Mr. LANTOS. Thank you, Mr. Chairman.

Mr. Chairman, I increasingly feel a feeling of the theater of the absurd unfolding here. We are all interested in the future, but in order to plan a better future in this field, we must look at the past. In every single endeavor as we plan for the future, unless we learn from the past, it will be a futile endeavor.

I am totally disinterested in individual past behavior, let me make that clear. But there are a few specific questions I would like all of you gentleman to respond to. Jim Bunning, our former colleague testified earlier today, who said that the industry is taking

baby steps. Well, baby steps are clearly not adequate when we are facing a major national crisis impacting our young people. That's why we are here; that's why all the media is here. So to pretend that baby steps will solve this problem is ludicrous.

So I would like to ask each of you gentlemen to answer the following questions. You have already said, some of you, that you favor the Olympics formula. Could I ask all of you to say yes or no? It is a much tougher formula, much more demanding, with much more severe penalties. Mr. Schilling, are you in favor of it?

Mr. SCHILLING. I would need to see it first. I wouldn't give a blanket yes or no.

Mr. LANTOS. Are you in favor of much stricter penalties?

Mr. SCHILLING. I'm in favor of allowing the current system to continue to work, and where loopholes are found, loopholes need to be fixed. I think the testing is doing what it is aimed to do, which is reduce the usage of steroids by players.

Mr. PALMEIRO. I'm in favor of eliminating the problem completely.

Mr. LANTOS. Obviously, the Olympics are internationally recognized as it has been referred to as the gold standard. If, in fact, that is the gold standard, would you be in favor of applying to in baseball?

Mr. PALMEIRO. I would play under any type of deal that would clean our sport and make it level playing field for everyone.

Mr. LANTOS. Thank you.

Mr. McGwire.

Mr. MCGWIRE. Being that I'm retired, I think that anything that Major League Baseball can do to get rid of this problem and put a positive light on this for our children and our future, I think it would be great.

Mr. SOSA. Yes, I am in favor.

Mr. CANSECO. I'm definitely in favor of it, but I think you have to monitor whoever is issuing this test.

Mr. LANTOS. The second question I have is are you in favor of independent testing, because one of the issues that emerged is that unless all testing is done by a totally independent entity, which has nothing to do with the owners, the players, it stands by itself. Would you favor that, Mr. Schilling?

Mr. SCHILLING. Yes.

Mr. PALMEIRO. Yes.

Mr. MCGWIRE. I think it would be outstanding.

Mr. SOSA. Yes, sir.

Mr. CANSECO. Going to be the only way you are going to solve this.

Mr. LANTOS. Final question. On the assumption that within a reasonable period of time the industry doesn't clean up its own act, are you in favor of Federal legislation, Mr. Schilling?

Mr. SCHILLING. Yes.

Mr. PALMEIRO. I agree. I agree.

Mr. MCGWIRE. If that's what it takes, yes.

Mr. SOSA. Yes.

Mr. CANSECO. Yes.

Mr. LANTOS. Thank you very much.

Chairman TOM DAVIS. Mr. Souder.

Mr. SOUDER. My first question is to Mr. Schilling. And my belief is that all we have seen is sampling, and it is not adequate, and it is not independent, and so full of holes and ephedra and everything else, that if it was cheese, it would definitely be Swiss cheese. Clearly the policy needs to be fixed, and I'm disappointed that you don't seem to share that view.

You said earlier, as I understood it, that we went from 5 to 7 percent positive down to 1.7, and that is progress. I thought I heard you also say it would be inevitable, and the people—this would be public. I haven't heard 5 to 7 percent of the players named as using steroids. I haven't heard 1.7 percent. Where is the public part?

Mr. SCHILLING. After the agreement renegotiated those past couple of months, those are instituted now. Those previous results are from the last two seasons. The 5 to 7 percent was the number that needed to be met for the testing to be put into effect, the different method of testing which was put into effect last year.

Mr. SOUDER. Under the previous policy, was anybody suspended for steroids?

Mr. SCHILLING. I can't answer that.

Mr. SOUDER. The simple way to solve this is the way that Mr. Sosa and Mr. Palmeiro and Mr. Schilling and Mr. Thomas has said. I'm clean, I have been clean, I've taken the test, and I have passed the test. This is pretty simple, and the American people are figuring out who is willing to say that and who isn't.

And as far as this being about the past, that's what we do. This is an oversight committee. If the Enron people come in here and say, we don't want to talk about the past, do you think Congress is going to let them get away with that? When we were doing investigations on the travel office, on Whitewater, if President Nixon had said about Watergate when Congress was investigating Watergate, we don't talk about the past, how in the world are we supposed to pass legislation? When you are a protected monopoly, and all of your salaries are paid because you are a protected monopoly, how are we supposed to figure out what our obligations are to the taxpayers if you say you won't want to talk about the past?

I praise those people that have come forward and have been in awkward situations before because of peer pressure and said, look, I'm clean; but I'm really disappointed because we have to talk about the past because there isn't any way to address that. And unless there are independent entities doing this, I don't believe this is going to pass the laugh test. I believe we have advanced some today, but we have also gone backward some today. And this is going to be very critical.

Yield back the balance of my time.

Chairman TOM DAVIS. Mr. Owens.

Mr. OWENS. I don't want to repeat what my colleague asked before. I want a clarification. He said if the industry can't clean this up, are you in favor of Federal legislation? I think you gave a positive answer. I want to go one step further and say baseball is an industry, it's a business. It's our favorite pastime. In most instances, we have failed in attempts to have businesses self-regulate themselves. There are few successes. Do you think it is possible that self-regulation will solve this problem?

Mr. SCHILLING. Yes. Absolutely.

Mr. PALMEIRO. I think it's possible, too.

Mr. MCGWIRE. Me, too.

Mr. SOSA. I think it's possible, too. If we work together, yes.

Mr. CANSECO. My honest opinion, not completely, but because we have brought this to light, it's going to come very close.

Chairman TOM DAVIS. Thank you very much.

Mr. McHenry, any questions?

Mr. MCHENRY. Thank you all for coming here today. I know it is not an easy situation for any of you. I appreciate the fact that as individuals you don't like the idea of having to come before Congress and swear an oath. I certainly understand that, and I respect your right to privacy as individuals.

Our hearings today are not about you as individuals. A lot has been made of a book written, a lot has been made of statements that have been made, but it's not about you as individuals, it is the overall societal problem. And you all mentioned, with these families that testified earlier, the impact it had on you as individuals. That's a message that your sport, you and your colleagues are sending in many ways.

And so I have a simple question, and you can answer yes or no or choose to not answer. That is certainly your right. Is using steroids the use of steroids, is that cheating?

Mr. SCHILLING. Yes.

Mr. PALMEIRO. I believe it is.

Mr. MCGWIRE. Not for me to determine.

Mr. MCHENRY. For you, is it cheating, yes or no?

Mr. MCGWIRE. It's not for me to determine.

Mr. SOSA. I think so.

Mr. CANSECO. I think so. And in many ways it also cheats the individual who uses it because eventually if found out or come to the forefront, they have to go through this. Absolutely.

Mr. MCHENRY. My followup question is to Mr. McGwire. You said you would like to be a spokesman on this issue. What is your message?

Mr. MCGWIRE. My message is that steroids is bad. Don't do them. It's a bad message. And I'm here because of that. And I want to tell everybody that I will do everything I can, if you allow me, to turn this into a positive. There is so much negativity said out here. We need to start talking about positive things here.

Mr. MCHENRY. How do you know they're bad?

Mr. MCGWIRE. Pardon me?

Mr. MCHENRY. Your message, coming from professional baseball, would you say that perhaps you have known people that have taken steroids, and you have seen ill effects on that, or would your message be that you have seen the direct effects of steroids?

Chairman TOM DAVIS. Let me just note here that House rule 11 protects witnesses and the public from the disclosure of defamatory, degrading or incriminating testimony in open session. House rules at this point are both clear and strict. I think if the testimony tends to defame, the committee can't proceed in open session, and we want to proceed in open session today. So with that in mind, you can choose to answer that, Mr. McGwire.

Mr. MCHENRY. Respectfully, my question is just about the message he would carry to the people.

Chairman TOM DAVIS. I just wanted to give——

Mr. MCGWIRE. I have accepted, by my attorney's advice, not to comment on this issue.

Mr. MCHENRY. If you go down the line again, and I will ask another question, and everyone can answer simply and directly I would hope. If it is proven that a player has set records while using steroids, should those records stand?

Mr. CANSECO. It's impossible to measure, I would guess, what one steroid does to one player and another player. There is no guideline to try to say, well, if he hits 60 or 70 home runs because he was on steroids, we are going to take away 20 or 25 of his home runs. It's impossible.

Mr. SOSA. It's not up to me.

Mr. MCGWIRE. Not up to me to determine that.

Mr. PALMEIRO. I believe that's up to the Commissioner.

Mr. SCHILLING. Absolutely not.

Mr. MCHENRY. Thank you for your frank answers. And as members of the Players' Union, which you all are or were, your representatives sat down and negotiated on your behalf about the steroid policy. And part of what we will hear from the Commissioner, I'm sure, and your union representative, is the fact, well, from your union representative, that he was empowered to negotiate certain directions.

Did you support the old policy, the old policy on steroids? Did you empower your union representative—what was your stance on the issue of steroids within your union votes as members of the union? Did you support a more stringent policy, or did you ask your union representative to limit the policy when it comes to steroids?

Mr. SCHILLING. No, I didn't support the old policy. And as a team, the Diamondbacks made it very clear we didn't support the old policy to the point where we spoke about not taking the tests ourselves to force a failed result to increase the toughness of the policy. And I think that's exactly what happened.

Mr. PALMEIRO. Since there was a new policy in place, and first time I was tested, I was in favor of it. I was aware we needed to take bigger steps and more steps, and I think we need to give a chance to this new policy. And if we do take more steps, I'm in favor of that also.

Mr. MCGWIRE. I've been retired.

Mr. MCHENRY. When you were a member of the Players' Union?

Mr. MCGWIRE. There was no policy.

Chairman TOM DAVIS. Gentleman's time has expired, and we will allow the previous answer to be accepted.

Mr. SOSA. I don't have the specific question to explain to you.

Mr. CANSECO. The policy was never an issue when I was there. The only players that may have been privy to it briefly were members of the Players Association. Each organization had a representative that would go and represent that team. So as beyond that, no policy was ever mentioned or really talked about.

Chairman TOM DAVIS. The gentleman from New York Mr. Towns.

Mr. TOWNS. Thank you very much, Mr. Chairman.

You know, looking back over the rules and the recommendations that have been made, I think that we are overlooking the fact that

we can only hold the players accountable, but all wrongdoers, including management, trainers, front office and all, should be involved in this if we really want to clean up the situation we now find ourselves in.

Let me just go down the line starting with you, Mr. Schilling. Do you consider yourself a role model?

Mr. SCHILLING. Yes.

Mr. PALMEIRO. Definitely.

Mr. MCGWIRE. Yes.

Mr. SOSA. Yes.

Mr. CANSECO. Yes.

Mr. TOWNS. With that in mind, do you think that maybe posting something in a locker room might remind a person that they should not consider using? Being you're saying that the kind of damage that takes place with the person using steroids, for instance, in locker rooms, sometimes they put what smoking will do to you and things like that. Do you think that will serve as a deterrent? I'm trying to figure out what we might be able to do if it's a widespread kind of thing. Do you think that is a scare tactic?

Mr. SCHILLING. No, I don't.

Mr. PALMEIRO. I'm not sure.

Mr. MCGWIRE. I can't answer that.

Mr. SOSA. I can't answer that.

Mr. CANSECO. Yes. I think bringing this issue to light is going to be a major deterrent. Players will be talking about this on a daily basis and will be aware there will be a lot of eyes on them, especially Congress.

Mr. TOWNS. My concern is the young people, high school ballplayers and people playing that I was wondering if this kind of technique, the scared straight sort of thing, to kind of show them that if you use, you could end up looking like this at the end of the day. That is the reason why I was thinking about that for high school players more than professionals, because my concern is that at that level, they might begin to really use it. That is a real concern. So what can we do with high schoolers? Any thoughts on that? Any suggestions? Because that is the area we need to focus on a great deal.

Mr. PALMEIRO. I believe we can go around the high schools in the country, use our names, use who we are to send the right message, to send the message that steroids are wrong and costing lives every day.

Mr. SCHILLING. I don't think a PSA is going to do it. I think there needs to be some form of drug testing, and there needs to be ramifications to failing a drug test, be it high school or college. Until you have that and pay a price, I don't think there is going to be a lot of thought from a 16-year old about the consequences of using.

Mr. TOWNS. If a trainer has information about the fact that somebody is using, what should that trainer do? And I'm thinking in terms of in colleges, that if you see someone cheating and you don't tell, they put you out, too. So I'm thinking about the fact that if you have a trainer that is very much aware of the fact that illegal actions are taking place, and nobody is doing a thing about it, does anything happen to that person? You have a trainer who might be aware of the fact that somebody is using steroids. He

knows it, but he just walks around every day and doesn't tell anybody about the fact that this is going on.

Mr. SCHILLING. Might be aware or definitely know? Might be aware that someone is using?

Mr. TOWNS. Yes. Has information that somebody is using and not do anything about it.

Mr. SCHILLING. Unless you have a verifiable fact, I think you are treading on dangerous ground. We are here because of some people that had a loose tongue and said things that I don't believe are entirely true. And it could cause a lot more problems than it solves.

Mr. PALMEIRO. If the trainer knows for sure, it is his responsibility to make the player aware and educate the player.

Mr. MCGWIRE. I agree with Raffy, I think that would be a great step.

Mr. PALMEIRO. Exactly.

Mr. TOWNS. Mr. Sosa.

Mr. SOSA. I agree. I agree with Raffy. I think it is probably something we all should do.

Mr. TOWNS. Mr. Canseco.

Mr. CANSECO. I definitely believe and know that they are under the same circumstances, some Major League players are under—meaning if they come to the forefront and speak about it, Major League Baseball will do something to them in the sense of maybe blackballing them from the game or causing them a lot of problems.

Mr. TOWNS. In other words, there would be some penalties, if the trainer does not report it, that he should be penalized?

Mr. CANSECO. It's a very delicate position he is in. The example I can give you, let's say one player knows another player is using steroids, or this player is still active, or one player wants to come to the forefront but he is still active in Major League Baseball. Major League Baseball is very powerful, and if you act against them or speak out against them, it can cost you your livelihood, definitely.

Chairman TOM DAVIS. The gentleman's time has expired.

Mr. TOWNS. Mr. Chairman, thank you.

Chairman TOM DAVIS. Ms. Foxx.

Ms. FOXX. Thank you, Mr. Chairman.

Candice Miller asked one of the questions that I wanted to ask about whether, if the policy were in effect years ago, would it have made a difference. But I want to ask another question and that is, why do you think—I will ask each player this—why has it taken so long for the League to act on this, since it seems to have been so wide—that it was so well-known that abuse was going on; why has it taken the League so long to act?

Mr. CANSECO. Basically something like a book written about the problems in Major League Baseball had to be done, absolutely. I think it definitely triggered a lot of events. I think it finally made Major League Baseball aware of that, you know, or in the sense of stuff covering up, what was really going on.

Mr. SOSA. I don't really know, I am not sure.

Mr. MCGWIRE. Can you ask the question one more time?

Ms. FOXX. Why has it taken so long for the League to act, for professional baseball to act on this issue? There's a policy in effect

now, I think it's a very weak policy, but why has it taken so long to institute any policy?

Mr. MCGWIRE. I don't know. But there is a great reason why we are here today: to try to fix it.

Mr. PALMEIRO. Ma'am, I am not sure why it has taken so long. You may have to ask the Commissioner and the Players Association.

Mr. SCHILLING. I don't know—there was a policy in place before the book came out. The only thing I think that has happened in the last 6 months is that the policy has changed and gotten in some ways stronger.

Ms. FOXX. Thank you.

Chairman TOM DAVIS. Thank you. The policy is weaker than the Minor League testing at this point, and the Minor League had it way before, and I think one of the concerns is among professional sports, baseball has been a little bit late coming to the table and maybe a little bit short of where some of the standards are. That's one of the concerns. Obviously, we will see how this is implemented.

There's active testing going on now, but there is a concern, as you can hear from us and some of the other experts, that maybe it doesn't go far enough and hopefully this hearing will shine some light on it. Between the players and the owners, we can come up and close some of these loopholes and make it work.

The last thing you want is us making the policy, I guarantee it. We don't do things very well anyway when we get into it. We act as the last resort. But there's still a lot of concern, not that—it is late, but it is not as complete as we had hoped it would be. But your speaking here is very helpful.

Next. I think Mr. Kanjorski was next.

Mr. KANJORSKI. Thank you, Mr. Chairman.

Mr. Canseco, in your book—I didn't read your book I must confess, but in your book I assume that you confessed to taking steroids; is that correct?

Mr. CANSECO. Yes. In the past I have, yes.

Mr. KANJORSKI. Well, can you tell us—what we are trying to get to here—one of the reasons I objected to the—I objected to the use of subpoenas for the hearing was the highlight of just baseball, just superstars in baseball. And I have been listening to the examination now, and I am getting the indication that we want to clean up baseball at the highest level. And not looking at the broad application; I want to get to motive.

Why did you use steroids?

Mr. CANSECO. Well, there are many reasons. There's a chapter in my book, where my mom passed away, and I was called in from California. I was playing "A" ball that year, and when I flew home she was in the hospital and she was brain-dead from an aneurysm. She never had seen me play Minor League in general, and I promised her I was going to be the best athlete in the world, no matter what it took. I definitely got caught up in the whole——

Mr. KANJORSKI. Would it be fair to say that you did it because the motivation was to build your body to be more competitive, and ultimately make more money?

Mr. CANSECO. I don't even think the money was an issue there. I think just becoming, you know, the best athlete I could possibly become.

Mr. KANJORSKI. Right. Have you given a lot of thought that if we had the best damn testing system that baseball could possibly imagine, what type of implication or ramification would that have for all of those hundreds of thousands of high school athletes that we are trying to establish some help for? Shouldn't we be looking at what we can do for them?

And now my next question is, since you obviously favor testing for super-athletes, would you favor a universal testing of the highest standard—the Olympic standard—for all athletics, regardless of where they are and regardless of what level of schooling that they are in and regardless of what sex is involved, whether it's male, female or otherwise?

Mr. CANSECO. I truly believe that at the Major League level, if everyone knew there was no steroids at all, and a competitive balance was even, it will trickle down to the Minor League level, the high school level and beyond.

Mr. KANJORSKI. But is it your idea that we can't do anything about steroids, then?

Mr. CANSECO. No, we definitely can.

Mr. KANJORSKI. Wouldn't it require that we have a universal test of all athletes? You know, is some kid, 16-year-old, is not looking only at you, he is looking at football players, tennis players, he is looking at wrestlers, and probably he is not doing it for some narcissistic reason. But probably for accomplishment and success.

Mr. CANSECO. I agree. But if you just regulate it at, let's say, at the Minor League level and then the college level and high school level, and then don't regulate it at the Major League level——

Mr. KANJORSKI. I am not suggesting not doing it at the Major League level, I am saying a universal test for everybody who is an athlete.

Mr. CANSECO. For Major League on down.

Mr. KANJORSKI. Major league on down.

Mr. CANSECO. Absolutely, yes.

Mr. KANJORSKI. You would be in favor.

Mr. CANSECO. Yes.

Mr. KANJORSKI. Do you have any idea how pervasive steroids are used, particularly in your younger population, college and high school? Do you have any idea, being at the center of the controversy?

Mr. CANSECO. If it is proportion to at the Major League level at the peak of steroid use, I would say it's very high.

Mr. KANJORSKI. Do you have any percentages or fractions?

Mr. CANSECO. No, I don't, not beyond the Major League level. No, I don't.

Mr. KANJORSKI. Carrying that on, I am going to give you an analogy that has bothered me—and I don't expect anybody has the answer—but suppose somebody came out with smart pills and that smart pill could make you 10 times smarter than you are right now, and they may put a warning on there that it could cost you 5 or 10 years of your life expectancy. How many people would be tempted to try to win a Nobel Prize and take that smart pill?

Mr. CANSECO. You know, that's a very tough question, because we don't know whether we are going to be around tomorrow or not. We don't know if our futures are guaranteed or not. But the smart pill guarantees something, meaning you are going to win a Nobel Prize. It's a tough question to ask. I don't really even——

Mr. KANJORSKI. It is trying to get to the point. Look, there's a motivation of why athletes who have a high appreciation of their body—their making a judgment of risking something. So what I am asking, it is somewhat of an intelligent question that they raise. I mean, I assume all of you fellows, particularly you, I won't address—you had an idea it could be dangerous to your body, didn't you?

Chairman TOM DAVIS. The gentleman's time has expired. If you would like to answer, you may.

Mr. CANSECO. I think as athletes have become more educated, yes, they are starting to realize that—more and more information—that the dangers are greater and greater.

Chairman TOM DAVIS. Thank you.

Mr. Gutknecht.

Mr. GUTKNECHT. Thank you, Mr. Chairman. And this has been one of the most fascinating hearings I have ever participated in, and I have been in Congress now 10 years.

I am like a lot of the folks up here on this side of the panel. I grew up listening to baseball games on WHO radio, listening to Minnesota Twins, and my idols were people like Harmon Killebrew and Earl Batty and Richie Rollins, and I remember those games like it was yesterday.

When I started thinking about this issue, and as this issue has sort of, you know, bubbled up over the last several years, my first reaction is how unfair this is to people like Harmon Killebrew. You wonder how many home runs he might have hit if he had been able to use chemicals.

Or, particularly, Hank Aaron; you know, in some respects it sort of cheats the game, it cheats history, and it cheats things like that.

I think about baseball, especially because growing up watching Roger Maris hit 61 home runs and remembering that for years—even today there's an asterisk after his name—and knowing that, for example, in Little League now, and even in softball leagues, we use aluminum bats, but we don't do that in some Major League Baseball, not even in the Minor League, but the reason is we take those records so seriously. I mean, they are all almost a part of history. We all know where we were when Roger Maris hit that 61st home run, and we remember some of those things.

So in many respects, when I thought about this hearing, first I thought about some of the greats of the game.

One of my favorite expressions is, with all kinds of issues we deal with here in Washington, is that it shouldn't take an act of Congress.

But I would like all of you to perhaps respond to that question, can baseball heal itself, or is it going to take an act of Congress to force them to come to grips with this problem and hopefully begin to spread the message down to the Minor Leagues and to the colleges and high schools and ultimately to the Little Leagues, that this is a bad idea and it's the wrong way to go and it cheats you,

it cheats the game and it cheats the history of baseball. Is it going to take an act of Congress?

Mr. Schilling.

Mr. SCHILLING. I don't think so. I, as a member of the Players Union and as a former player representative, I believe—and I have always believed—that the 90-plus percentile of players that test clean want to make sure that the ones that don't are found out. And I think that, given what I have heard from the Commissioner and from the people and the player representatives, that's going to happen now. And I think the fear of public embarrassment and humiliation upon being caught is going to be greater than any player ever imagined.

Mr. PALMEIRO. I don't believe it will take an act of Congress. I believe that our game will get straightened out and I believe it will get cleaned up. We just need to give this policy a chance. Like I said before, if we need to enhance it, let's do it.

Mr. MCGWIRE. I don't know, being that I am retired, but whatever it's going to take to put more of a positive light on this situation, to detract the young people of today away from this stuff, I am all for it.

Mr. SOSA. I believe it can heal itself. If Major League Baseball will take that seriously, we can do so.

Mr. CANSECO. I have to be honest again. I don't believe it can, unless Congress steps in, because of the frugal testing programs that Major League Baseball has. It will just be a joke. It will be all this all over again, no buts about it.

Talk about the way baseball has evolved, baseball is evolving, the ballparks, the bats. Let's say there was no steroids invented today at all; the nutrition, the information on food supplements out there are incredible. Nonetheless, let's say 10, 15 years from now, we have a shortage of wood in the world, so we have to go to aluminum bats, so we are constantly evolving, striving to move forward, faster and stronger. We just have to find a way to do it legally, that's it.

Mr. GUTKNECHT. I yield back.

Chairman TOM DAVIS. Thank you very much.

Mr. Sanders.

Mr. SANDERS. Mr. Chairman, I want to thank you and the ranking member for calling this important hearing.

Mr. Chairman, this morning I was on a TV show, as I am sure many members of this committee were, and I was asked by the interviewer whether I thought this committee was grandstanding, whether in fact we were using the fame of these outstanding athletes to get our names in the paper and so forth. And I said I didn't think so, because I thought this was a hugely important issue impacting millions of young people. And that's what I believe.

But I do want to say that I am overwhelmed by the kind of media attention that this has gotten. I have counted dozens of TV cameras, and I think some of the American people wonder is this all we do, because this is what they see on television. So I want to say to our media friends, that when some of us talk about the collapse of our health care system and millions of people not having any health insurance, come and join us, and we talk about the United States having the highest rate of childhood poverty in the

industrialized world at a time when the rich are getting richer, come on down.

Now, maybe we may have to bring great baseball players to help us talk about childhood poverty, I don't know; I would hope not. I would hope we could have some of the great experts and you would come. But to the American people, some of us are dealing with other issues as well.

In terms of this issue, I have a couple of questions that I would like to ask our guests. I have heard a discrepancy of opinion about the seriousness of the problem. Mr. Canseco says it's rampant, everybody knows it, virtually lots of people are doing it. Mr. Schilling says he is not so sure. He doesn't really think it is a terribly serious problem. I think Mr. Palmeiro has agreed with Mr. Schilling.

So let me start off—and I know this is a hard one—are we talking about 1 percent of players, in your judgment, doing it? Are we talking about 5 percent, 10 percent? Is Mr. Canseco the only player in the world to have done this?

Mr. Schilling.

Mr. SCHILLING. No, I don't think he is the only player. I think he is a liar. I think that what he did was grossly overstate a situation to make himself not look as bad.

Mr. SANDERS. What would be your guess in terms of——

Mr. SCHILLING. You know what? I took an oath. I swore to tell the truth today. Nineteen years in the big league, I have never seen a syringe. Other than one prescribed by a doctor to a player, I have never seen steroids.

Mr. SANDERS. But in locker room gossip? You may not have seen it. Right. This guy is doing something. That guy is doing something. I don't need names. What is your guess? You have heard people say somebody is doing it?

Mr. SCHILLING. Absolutely. We have been through discussions about other guys on other teams. I would say the percentage is on or around where it's been tested at. I don't think it's much higher, I think it's—again, I am in a locker room I have played with six different teams. I have played with over thousands of players. I would guess that maybe 5 to 10 players in the last 15 years were using.

Mr. SANDERS. Five to 15.

Mr. SCHILLING. Five to 10 maybe. I wouldn't know—or more.

Mr. SANDERS. Mr. Palmeiro, Mr. Schilling says he would guess he believes it would be 5 to 10 players in the many years he has been in the majors. What do you guess?

Mr. PALMEIRO. I wouldn't know, I couldn't take a guess. I just think as long as—even 1 percent is high, way too high. We need to make sure it is zero percent.

Mr. SANDERS. Mr. McGwire, would you like to speculate?

Mr. MCGWIRE. I wouldn't know. It is a big reason today why we are here today, to talk about it.

Mr. SANDERS. Mr. Sosa, what is your guess?

Mr. SOSA. I wouldn't know.

Mr. SANDERS. Mr. Canseco.

Mr. CANSECO. I would say Mr. Schilling is correct on today's statistics about how many people are using steroids, because we have made steroids aware. We have brought it out. This book came out,

scared a lot of individuals. If they were using steroids when this book came out, they cold stopped, period.

Mr. SANDERS. You are suggesting that it went from wide prevalence down to what Mr. Schilling is saying, almost nothing; is that what you are saying?

Mr. CANSECO. When I mentioned 80 percent at the peak of steroid use, that may have been somewhere from the year 1994 to the year 2000. That's when I played. I have been retired I guess for 3 or 4 years now. It's been a long time. But because of certain instances that have happened, definitely it has curtailed greatly.

Mr. SANDERS. Let me ask the last question. I appreciate all of your efforts, and you are willing to stand up for the kids of America; that you know you are role models, you know that steroids are bad, and you want to do everything you can to prevent kids from emulating bad habits.

My question is this: If the Major League does not come forth with an aggressive policy—I think what you are hearing today is we are not overly impressed by what the Major Leagues have done—will you come back in a year from now and say, Members of Congress, we support you in passing Federal legislation to tell the Major Leagues that they have to be aggressive and pass strong and stringent requirements? In other words, will you come back and tell us to do that?

Mr. Schilling.

Mr. SCHILLING. I am not sure I can answer that. We are in support of a stronger system that eradicates the use of steroids by players.

Mr. SANDERS. The majors don't do anything if the league doesn't do anything. Are you going to come back?

Mr. SCHILLING. That's a hypothetical. That, I don't believe is going to happen.

Mr. SANDERS. Now you sound like a politician. I want you. Mr. Palmeiro.

Mr. PALMEIRO. I am agreeing with Curt. I don't think it is going to happen.

Mr. SANDERS. You think the league is going to do the right thing?

Mr. PALMEIRO. I believe so. But if it doesn't, I would be more than happy to come back and address the problem again.

Mr. SANDERS. Mr. McGwire, will you come back and join us?

Mr. MCGWIRE. Well, I have no idea, being a retired player, I have no idea what the policy is. But if you would like me back, sure.

Mr. SANDERS. Mr. Sosa.

Mr. SOSA. Sure. I believe Major League Baseball will do something. If you want me to come back here, I am happy to do it.

Mr. SANDERS. Thank you. Mr. Canseco.

Mr. CANSECO. I think it would be the Major League, to let the league police itself. No if and buts about it. We will be back here quicker than quick.

Mr. SANDERS. Thank you very much.

Chairman TOM DAVIS. Mr. Dent.

Mr. DENT. Thank you, Mr. Chairman.

Chairman TOM DAVIS. I'm sorry. I promised Mr. Issa first, then we will go to Mr. Dent.

Mr. ISSA. Thank you, Mr. Chairman.

Mr. Schilling, I must say I came here intending to throw softballs to all of you whenever possible. But listening, I have been a little disappointed. I am sort of hearing a consistent problem from you as a Players rep that there isn't a problem and we don't need to intervene.

So would it surprise you if I told you that I talked to multiple professional team owners, including baseball, and had an absolute positive "please legislate a zero tolerance"?

Mr. SCHILLING. Would it surprise me?

Mr. ISSA. Would it surprise you?

Mr. SCHILLING. No.

Mr. ISSA. So that's a position that you feel is comfortable coming from the owners?

Mr. SCHILLING. "Position" being——

Mr. ISSA. Zero tolerance, go ahead and mandate it. It doesn't surprise you that the owners feel that way?

Mr. SCHILLING. Not that they say it, no.

Mr. ISSA. Mr. Schilling, I take people at their word.

Chairman TOM DAVIS. He is a pretty good politician isn't he?

Mr. ISSA. Yes, he is. By the way, as to my colleague on the other side talking about that pill to make us 10 times smarter, I think it could be mandated for Congress to save the Nation. So I am not sure that wouldn't be one we would give ourselves a special exemption, as we do so many other things.

The earlier panel, I asked every member—and they were medical and grieving parents—basically a question. And I will set it up: If you use the aluminum bat, if you were to sneak one into a game and use it, that would be cheating, wouldn't it? And if you were to—if you were a pitcher and you were to bring in a dull ball so that nobody could really hit a home run off of you while you were pitching, that would be cheating, wouldn't it? Anyone disagree here?

So using an illegal drug to attempt to enhance the performance of a player would be cheating, wouldn't it? Anyone here disagree in any way, shape, or form? And wouldn't you agree that Congress has a vested interest in ensuring that baseball does not have cheating going on?

Mr. Chairman, I have all my questions answered. I yield back.

Chairman TOM DAVIS. Thank you. Mr. Kucinich.

Mr. KUCINICH. Thank you, Mr. Chairman, members of the committee.

Some have used steroids, and with respect to baseball it defies credibility that only the players know. I mean, we are holding players accountable here. But what about those who profited from a system of enhanced performance?

Others know, including the owners, which may explain why the owners may be congenial to some changes. So good for them. What has not been investigated today or documented, is the win-at-all-cost mentality which has infected not only sports but business, the media, and, I might add, politics. Our steroids are called PACs and special interest contributions. This does not excuse anyone.

But if we leave here today without looking at the larger questions of pressures to succeed, pressures to win, pressures to make money, pressures to be bigger, pressures to be better, win at all costs, at the cost of health, at the cost of reputation, at the cost of life—if we don't look at these life questions of win at all costs, if we don't think about this, if we don't go deeper with our thinking here today, we will be back here years from now, regardless of what these players so graciously commit to do. We only need to go back to Mr. Waxman's initial testimony, his statement about how we have been here before.

Now, I would like to have the remaining time belong to the players who have said that they want to communicate with the young people of America. Take the opportunity now, because I think this is an important moment to do it. What can you say right now, Mr. Schilling, to America's youth with respect to the use of steroids? Just in a half a minute to a minute.

Mr. SCHILLING. I think that——

Mr. KUCINICH. If you speak directly to the young people.

Mr. SCHILLING. I think to the youth of America, we have made it very clear that steroids is cheating, and winning without honor is not winning.

Mr. KUCINICH. Mr. Palmeiro.

Mr. PALMEIRO. I would have to say that I am the perfect example of someone that came from another country and took advantage of the situation that was given to me. I have worked very hard and I have dedicated my life to my sport.

Mr. KUCINICH. Mr. McGwire.

Mr. MCGWIRE. I would say that steroids are wrong, do not take them, it gives you nothing but false hope. That's what I would say.

Mr. KUCINICH. Mr. Sosa, poderia usted dar un consejo a los jovenes en nuestro pais con respecto a uso de estroidas?

Mr. SOSA. Yes, sir. I would say pretty much, you know, hard work, believe in yourself, you know, do good, and work hard, you know. Set an example, you know, coming from the island, work hard, make it to the Major Leagues. That's the only thing I can say. Everybody up there, you know, believe in yourself.

Mr. KUCINICH. Thank you. Mr. Canseco.

Mr. CANSECO. I can speak for myself and say I made a mistake using steroids, no if, ands, or buts about it. I don't want any youngster using steroids.

Mr. KUCINICH. Speak to the young people.

Mr. CANSECO. Yes. I probably haven't slept in 3 or 4 days. My attorney can verify this because of this issue. This is the first hearing about children that took their lives. It is not worth it.

I am going to say this again. If Congress does nothing about this, Major League Baseball will not regulate themselves. The Players Association will not regulate these players, that I guarantee. I have been a Major League Baseball player for 17 years. Sure, the Players Association and the owners disagree on most things, but when it comes to making money they are on the same page.

Mr. KUCINICH. Well, and that's what I alluded to earlier. I would suggest to the members of the committee that we can take these players at their word about their commitment, wherever they have been in the past. As a matter of fact, some who know the territory

well may be the best spokespersons about a new direction. And if you have not been in that territory, as some of our witnesses have said, you can also make a strong statement. Young people look up to you.

So thank you for being here today, and I agree that we need to look forward and we need to move forward.

Thank you.

Chairman TOM DAVIS. Thank you. Mr. Dent.

Mr. DENT. Thank you, Mr. Chairman.

You know, we are here for a variety of reasons today because, one, this committee has Federal oversight on drug policy. We are all concerned about our youth. I believe we can all say that.

The other constituency I think that has to be considered today are the taxpayers of this country. And in my State where we subsidize Major League Baseball—taxpayers do—over $150 million went to support stadiums in the cities of Philadelphia and Pittsburgh. And we subsidize that industry, which is treated like a monopoly, and the antitrust legislation your industry enjoys.

That said, here is my main question. In 1919, Major League Baseball went through the Black Sox scandal and the gambling issues that really, I guess, created the Commissioners Office in order to deal with that problem. I believe in 2005, that's about where baseball is now—1919—2005 is another similar year for baseball.

And I guess my question is really this: Do you believe that steroid use in baseball is as serious an issue for Major League Baseball as is the antigambling policy that Major League Baseball currently has imposed?

Mr. Schilling, do you want to start?

Mr. SCHILLING. I think it's cheating. I think any form of cheating—I don't think they are any more serious than the next.

Mr. PALMEIRO. I agree. As long as there's positive tests, it's wrong and we need to clean it up.

Mr. MCGWIRE. I don't know, but if it's a positive move, I am all for it.

Mr. DENT. I guess my——

Mr. SOSA. I would do the same thing.

Mr. CANSECO. I didn't quite hear the question.

Mr. DENT. The question is, is this issue, steroid abuse by ballplayers, as serious an issue as gambling or potential gambling by ballplayers?

Mr. CANSECO. Steroid use is much, much more serious because it takes lives. So you have to be very careful with it.

Mr. DENT. I get the sense you think it is as serious, or more serious in your case, because—I guess several years ago Pete Rose's ban for life—banned for life from the game of baseball because of a violation of gambling policy.

I guess this is the second question: Why do you think Major League Baseball was so aggressive, then, in going after Mr. Rose on that issue, and seems to have been so much less aggressive on this steroid issue? Do you think it's because of money, or what drives that?

Start with you, Mr. Canseco?

Mr. CANSECO. I think it's very simple when you really look at it. It didn't affect the game in a sense of this issue. I say steroids affects the game. It's a completely different subject matter.

Mr. DENT. Mr. Sosa.

Mr. SOSA. I have no idea.

Mr. PALMEIRO. I can't answer that.

Mr. MCGWIRE. I can't answer that.

Mr. SCHILLING. Could you repeat the question?

Mr. DENT. Why hasn't baseball been more aggressive about gambling than this issue of steroid abuse, which has been described by some as rampant?

Mr. SCHILLING. I don't know. It's illegal to gamble, it's illegal to bet on baseball. It's always been that way. That's about all that I can say about that.

Mr. DENT. No answer. OK.

I am curious what your perspective would be. It was always clear to me that baseball players knew not to bet on games, particularly once that they were playing and there were serious sanctions for that kind of behavior. I just get the sense, from hearing what I have heard, that Major League Baseball just doesn't take this issue nearly as seriously as it does the gambling issue.

I commend Major League Baseball for what they did when they found an instance of gambling. I mean, they dealt with it decisively, as they should have. I am just trying to get a sense from players or former players why you think they are less aggressive on this. If anyone has anything to say, I would be glad to hear it.

Chairman TOM DAVIS. You might ask the next panel.

Mr. DENT. I will ask them, too. I wanted to get a player's perspective on that one, but I understand your reluctance to answer that question.

Thank you very much.

Chairman TOM DAVIS. Mr. Davis.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Chairman.

Representatives of the league have emphasized that the current policy—that is, the current testing policy—is a negotiated labor agreement, you know, that was negotiated; it's a collective bargaining agreement. I have a great deal of respect for that.

But I guess the question becomes for me that since the impact, the outcome, the results, of what we are dealing with is far more reaching than just the players themselves terms of their work situation, and the owners themselves in terms of the work environment, how do we get the two—Mr. Canseco, you have emphasized consistently that you just don't believe that there is enough will within the industry itself, that there is enough will among the owners and players, to put together a serious policy that will impact the situation to a level of satisfaction.

Is there any possibility that the industry can, in fact, really police itself, that would make it unnecessary for Federal legislation to further regulate baseball and drug use, if you will, among players of the game? And so maybe we could just revisit that. Is there, Mr. Schilling, any real possibility of that happening?

Mr. SCHILLING. Absolutely. I think it's already happened. I think that what you have seen in the last couple of months is a direct result of Senator McCain's anger over the original policy. I under-

stand that after yesterday he is a little bit more perturbed than he might have been 2 days ago. But my understanding is, after having spoken to him, that we are taking steps. And I believe if you as a body are voicing your displeasure, which you have done, baseball will listen.

I know that as a player, we have listened. We understand that there needs to be stringent tests. There needs to be more stringent things done. There are loopholes. I don't question for a second we will close them to make sure, because as a player we want the playing field to be level.

Mr. DAVIS OF ILLINOIS. Mr. Canseco, could you—why are you so adamant that nothing will really happen unless Congress steps in?

Mr. CANSECO. I try to think about this in a positive way. But if you really look at it, and you look at the drug testing policies today, nothing has really been done. I think we are looking at a drug testing policy that is not even down on paper yet. So I mean, I am hoping, just out of this, something happens. At least the public is aware, at least, you know, children, children's parents are aware what is really going on, and maybe they can help also.

Mr. DAVIS OF ILLINOIS. So then all of you are actually disagreeing with people who have suggested that there is no role in this activity for Congress to play, and that this committee and the Congress is overstepping its bounds?

Mr. SCHILLING. I don't think any of us said that.

Mr. DAVIS OF ILLINOIS. No, I don't say any of you said it. But there are people who are suggesting it, and I am trying to get a verification from you that you are in agreement with my side of it, which is that we are doing exactly what we ought to be doing.

Mr. SCHILLING. The media and Democrats maybe, but, no——

Chairman TOM DAVIS. Where are you guys? After Ms. Watson's things?

Mr. DAVIS OF ILLINOIS. I believe so.

Chairman TOM DAVIS. Could we finish?

Mr. PALMEIRO. I believe that we are policing ourselves right now, and I believe that we will clean the game because I believe that players, like Curt said, want a level playing field.

Mr. DAVIS OF ILLINOIS. Mr. McGwire.

Mr. MCGWIRE. Whatever it takes.

Mr. DAVIS OF ILLINOIS. Mr. Sosa.

Mr. SOSA. Yes, I believe they will take it seriously. Yes.

Chairman TOM DAVIS. Thank you.

Mr. Waxman.

Mr. WAXMAN. The gentleman has a little time left. Would you yield to me?

Mr. DAVIS OF ILLINOIS. Yes, I yield to Mr. Waxman.

Mr. WAXMAN. Why should we believe that the Baseball Commission and the Baseball Union will want to do something when we have a 30-year record of them not responding to this problem? Why should we believe it's all going to be done now the way it should be done?

Mr. Schilling, could you answer that question? In 30 years they have done nothing, and even the proposal that you are vouching for is not in effect yet. It's only a draft, it is filled with loopholes. And

what you seem to be telling us is what baseball seems to be telling us: Trust us.

Don't you think there's a reason not to trust them?

Mr. SCHILLING. What do you mean by 30 years of history?

Mr. WAXMAN. Well, 30 years ago, there was a committee hearing in Congress that looked at this whole problem and Bowie Kuhn was the Commissioner, and he assured the Congressmen, and that they were going to do testing and they were going to stop steroids. That was 30 years ago.

There have been so many other incidents of reports in the last 10 or 15 years of widespread steroid use. Nothing has happened from the baseball industry. And even now when they have put a testing program in place, it seems to be full of holes.

Don't you think at some point even a Republican would say, as a Democrat would say, how long do we go along with this trust that something is going to be done when we don't see a very good record?

Mr. SCHILLING. I can't answer for the prior 30 years. I can answer for my time in the game as a player. I think there's a huge contingent. Like I said, there's 98.3 percent of us that have tested clean, that are all for as stringent testing as we can get that's Constitutional and fair.

Mr. WAXMAN. You accept the test results, then.

Mr. SCHILLING. Absolutely.

Mr. WAXMAN. Thank you.

Chairman TOM DAVIS. The gentleman's time has expired. Let me move on to Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. Thank you, Mr. Chairman.

Thank you all. This is a very important issue today. Not just important for the Nation, but, as all of the players have pointed out, what an important message it sends to the young people. And I am glad to hear that everyone is saying the right thing.

And I just wanted to point out the testimony given by two of my favorite athletes, Rafael Palmeiro and Sammy Sosa, they are hometown favorites in our community in south Florida. As Rafael said, "my parents and I came to the United States after fleeing communist tyranny that still reigns over my homeland of Cuba. We came seeking freedom, knowing that through hard work, discipline, and dedication, my family and I could build a bright future in America."

As a matter of fact, when he was asked by the team owner to go to Cuba and play baseball diplomacy, and do that with Castro, he said, "Not me." We admire him for his courage, because we know that was not an easy decision.

I thank Chairman Davis for being open to the possibility of having Rafael belong to the—be a member of the task force that they will be putting together. He will be a valuable addition, a person who says that his goal is to stamp out steroids out of the sport, and he would certainly add a lot to the debate.

As all of us know, there are a high number of Hispanics playing baseball throughout the Nation at all levels, and he would certainly be a leading role model for that.

And Sammy Sosa. What an outstanding athlete, growing up dirt poor in the Dominican Republic, undergoing very difficult cir-

cumstances to get where he is today. He says, very strongly, he supports testing athletes for illegal performance-enhancing drugs. And we congratulate you, Sammy, for that stand. And both of these individuals do so much charity work, especially in our area of south Florida, and we congratulate them for that. Felicidades, muchas gracias.

Jose Canseco is a Miami boy, growing up a just few blocks from where I grew up, graduated from Coral Park High School. And I am pleased to hear Jose say he is devastated when he listens to the testimony that he heard today. And I have heard it in the past, the parents of people, of young people who have killed themselves as a result of steroid use.

And I hope that as a proud graduate of Coral Park, the Rams, that in—a street right there, named for him right there, Southwest 16th Street. And you go back to Coral Park and you go back to my alma mater, southwest—my alma mater in southwest just a few blocks away, and talk to the people about the dangers of steroid use, and your voice will be heard.

I encourage all of you to continue that battle, and I especially congratulate Rafael and Sammy. Muchas gracias, mios amigos.

Mr. CANSECO. Muchas gracias.

Ms. ROS-LEHTINEN. I would like to yield my remaining time to Mr. Souder.

Chairman TOM DAVIS. Mr. Souder.

Mr. SOUDER. I would like to add for the record, as Major League Baseball and Congress work together in how you look at drug testing—in 1989 I was a staffer for then-Senator Dan Coats, and we passed the first drug-testing legislation through the Safe and Drug Free Schools Act. And we looked at a high school in Indiana, McCutcheon High School, where they drug-tested their kids because of several injuries on their baseball team, and one-third had tested positive for marijuana.

That led to it being sustained by the courts that any athletic—or any type of athletic drug test in the country, they could drug test. That's a random type of test, but courts have also ruled for students that when there is probable cause or something that a student does, you can do a test and not have it legally challenged. For example, if you are tardy 3 days to school, you can be tested; because that may be a sign that you have been imparting.

In baseball I would suggest there are other things, such as sudden dramatic changes in player performance.

Hey, if you are clean, it doesn't matter. Like Rafael Palmeiro said, if you are clean, hey, a drug test shouldn't be a problem.

Also dramatic improvement when you are aging, like Senator Bunning referred to. After a strike, when there is a financial incentive to alter a game, that would be a good time to have more drug testing than usual. Also, if a particular franchise is in trouble. Those are motivations that cause question to the game, and drug testing should be accelerated, also including ephedra and other things in it.

So there are lots of loopholes of policy. And I hope the players are very serious that you will talk to your player reps about doing logical testing, like we do for truck drivers, like we do for schools;

not in the Olympics but across the Nation. I thank the gentlelady for yielding.

Chairman TOM DAVIS. Thank you, Mr. Souder.

Mr. Clay.

Mr. CLAY. Thank you, Mr. Chairman.

Mr. McGwire, I along with all of St. Louis and the country watched with great excitement when you and Mr. Sosa chased and broke Mr. Maris' record. A stretch of Interstate 70 that runs through the heart of my district is named after you. And St. Louis Cardinals baseball has held a special place in the hearts of millions of fans for over 100 years.

So naturally I am very concerned about allegations of player misconduct that, if substantiated, could damage that proud condition.

Mr. McGwire, we are both fathers of young children. Both my son and daughter love sports and they look up to stars like you. Can we look at those children with a straight face and tell them that great players like you played the game with honesty and integrity?

Mr. MCGWIRE. Like I said earlier, I am not going to go in the past and talk about my past. I am here to make a positive influence on this.

Mr. CLAY. Mr. McGwire, you have already acknowledged that you used certain supplements, including andro, as part of your training routine. In addition to andro, which was legal at the time—that you used it—what other supplements did you use?

Mr. MCGWIRE. I am not here to talk about the past.

Mr. CLAY. Mr. Chairman, I am using my time.

Mr. Canseco, how did steroids enhance your effort to hit the home run or your ability to hit the ball?

Mr. CANSECO. For me I think it was a little different, because I have also had a background, since I was a child, of coming home from baseball practice and bending over and falling to the ground paralyzed. I have had—been diagnosed with degenerative disk disease, scoliosis, arthritis. I have had four major back surgeries, elbow surgery.

So for me, I was a separate, different case than anyone else in the sense of, yes, I truly believed, yes, it helped me. Yes, it helped my physical stature and my muscle density, helped me stand up straight. But I had so many other physical problems, that's why I said if you are completely healthy, I would never, ever, have touched the stuff. Never.

Mr. CLAY. Would you have been able to perform at that level that you did achieve without those—without steroids?

Mr. CANSECO. I am an exception to the rule, because I had all these ailments. And I truly believe that for myself and I am just, you know, just one in a billion in one sense, that it helped me because of my physicality, my problems.

Mr. CLAY. Thank you for your honesty.

Mr. McGwire, let me go back and ask you, would you have been able to perform at that level without using andros?

Mr. MCGWIRE. I am not going to talk about the past.

Mr. CLAY. OK.

Let me go on to Mr. Schilling then. I commend you speaking out against steroids even before baseball implemented testing. Who benefits from having a weak drug policy?

Mr. SCHILLING. Nobody.

Mr. CLAY. Nobody benefits. Do clean athletes speak out often?

Mr. SCHILLING. I am not sure I can answer that with any accuracy.

Mr. CLAY. How do your colleagues receive your message when you do speak out? Do they look at you funny?

Mr. SCHILLING. I don't think I speak for—I am not trying to speak for everybody, but I think I speak for the majority of the players when I say that we all feel that it—that, you know, stricter testing is not something we are against.

Mr. CLAY. OK. Thank you for that response.

Just in closing, Mr. McGwire. I wish you had taken this opportunity to actually answer some of these questions about your career. About the records that you established.

Chairman TOM DAVIS. The gentleman's time has expired.

Mr. Shays.

Mr. SHAYS. Thank you, Mr. Chairman.

Gentlemen, it's nice to have you here. This is an important hearing. It's about drugs, and, frankly, modestly interested, until we saw the response of Major League Baseball which I think has been outrageous.

Some of your testimony has been very helpful. I want you to know that this committee had requested a Major League Baseball joint drug prevention and treatment program. We wanted a copy of it. We asked for it, we wrote a letter, and then we had to subpoena it.

Now, I would like to ask the three who are active baseball players, I would like to have you tell me what you think, or thought until today, the policy was. And let me first say, we thought that it was—the first positive test, 10-day suspension; second positive test, 30-day suspension; third positive test, 60-day suspension; fourth positive test, 1-year suspension; and then any subsequent positive test, you are out for life. That's what we thought it was.

I want to ask the three active players, starting with you, Mr. Sosa, if you thought that was the policy, or did you think that it was what we have now learned: that you could also be fined up to $10,000 on the first offense; fined up to $25,000 on the second offense; fined up to $50,000 on the third offense; fined up to $100,000 on the fourth offense.

Were you aware that you could be given a fine instead of suspension?

Mr. SOSA. No.

Mr. PALMEIRO. I wasn't aware of it. I knew about the 10-day suspension for the first offense and your name being public and so on, but I wasn't aware of the fine.

Mr. SHAYS. They need an answer so they can record it.

Mr. SCHILLING. No, I wasn't aware of it.

Mr. SHAYS. What does that tell you about Major League Baseball and the management if we couldn't get this information voluntarily, we couldn't get it through a request by letter after asking

for it, we had to subpoena this? Why would this document, and why should this document have been prevented from coming to us?

Would anyone care to answer that question?

Let me ask you another question. I hear the concept of team player. And trust me, I don't care at this hearing, I don't care to get into the issue of cheating or records. I don't care at this hearing to know if you took drugs or not. I don't care to have you name names. But what piqued my interest was the concept that as a team player, I am not going to name names.

I would like to know the obligation that each of you think you have for your team to make sure you don't have drugs being used by teammates.

Let me start with you, Mr. Schilling.

Mr. SCHILLING. Well, my obligation first is to the Lord and to my family, my family name, above any of my teammates that I have ever had.

Mr. SHAYS. OK. What do you think the Lord would want you to do?

Mr. SCHILLING. To be as truthful and honest as you could be and had to be.

Mr. SHAYS. Do you feel that means you should confront, even privately, your colleagues that are using them, drugs?

Mr. SCHILLING. I think that varies with different people.

Mr. SHAYS. OK.

Mr. PALMEIRO. I am not sure how I would handle that. I have never had that problem. You know, if it became a problem, I guess I would confront the player.

Mr. MCGWIRE. I agree. I have never had that problem. And being retired and out of the game, I couldn't even think about that.

Mr. SHAYS. Never had the problem of seeing your colleagues use drugs?

Mr. MCGWIRE. Pardon me?

Mr. SHAYS. Never had a problem of seeing your colleagues use drugs, steroids; is that what you mean? I don't know what you mean by you never had that problem.

Mr. MCGWIRE. I am not going to get into the past.

Mr. SHAYS. OK, I am not really asking about the past.

Mr. Sosa, what obligation do you think that you have to your team if you are aware that someone is using drugs on your team?

Mr. SOSA. I am a private person, I don't really go, you know, ask people whether they——

Mr. SHAYS. I will just conclude by saying I think I know your answer, sir.

It just seems to me that one of the messages you may be telling young people is that a team player—it's an interesting concept of a team player, it seems to me. It seems to me you do have an obligation.

Chairman TOM DAVIS. The gentleman's time has expired.

Ms. Watson.

Ms. WATSON. I want to thank everyone in front of us for being here in this most grueling session. Believe me, some of us feel very deeply for you.

My concern is this. When I read statistics like this, more than 500 high school students have tried steroids, nearly triple the num-

ber just 10 years ago, nearly 20 percent of 8th-graders, nearly 30 percent of 10th-graders, and more than 40 percent of 12th graders that were surveyed in 2004. They were using steroids and found them fairly easy and very easy to obtain.

So I want to ask a question about where does that come from? And I think it comes to be that drug use goes across all sports. It is a sign of the times. It seems to be so acceptable today to take some kind of drug, I don't care what kind of sport you are using. And I guess we have to know that our youth are living in a different era when they do this as a matter of standard.

So, what I want to ask is what happened to sportsmanship? I am using that in the generic, sportsmanship. And why are drugs so accessible and is it the money that drives this kind of practice? Does anyone want to talk about that?

I am highly concerned about our youth today. Believe me, I know what I am talking about. I sit on a school board in Los Angeles. I was a school counselor. I chaired the Health Committee for 17 years. We fought, along with Representative Waxman, tobacco use. And that's why I held this up—a dual purpose. This is a man who uses steroids and smoked cigars and was on the front of "Sports Illustrated."

I am really disturbed by the messages we are sending to young people today, and so that's a general—those are general questions. If you would like to spout on them, it's fine. If you don't, it's all right with me. But I just had to get it out.

Chairman TOM DAVIS. Anybody want to say anything?

Ms. WATSON. Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much.

Ms. WATSON. Thank you very much, Mr. Chairman. I will yield.

Chairman TOM DAVIS. Mr. Lynch.

Mr. LYNCH. Thank you very much, Mr. Chairman.

I must say, the testimony I am hearing from you today is much, much different from what I read in your book. I must say it's a stark, stark change.

I just want to remind you, at the end of your book you stated, "What I am hoping is that some more intelligent forward-looking voices will come out and urge baseball to embrace the potential of steroids and to fight for their place in the game and in our lives." That's what you are selling here in this book.

I don't know if there is a new book coming out with what you are saying today, but I have to tell you I am a little surprised when I read—and what you are saying. So can you enlighten me a little bit, because I am a little bit surprised?

Mr. CANSECO. I think we have to put it in context. This book took, I think, over 2 years to write. And while that may have been my opinion 2 years ago, it is not today. Absolutely not. I know, spoken with people, seen certain things that steroids has done, and it's—I have completely done a turnaround when it comes to that.

Mr. LYNCH. We will wait for the sequel.

Mr. Schilling, you actually live in my district. I want to say in fairness to you, there's never been any allegation or any suspicion that you have ever had anything to do with any of the stuff. You are here for two reasons; that's what they tell me. One, you have been outspoken on this stuff, and a voice for right in this case, and

that you are well respected among all the parties, the owners, the managers, the players, everyone.

I have to tell you, though, I am a little surprised that you still believe in self-regulation, and I am looking—I am a former iron worker president, and I would negotiate for my guys and ladies, and then I would come back to them with the contract after I negotiated with the companies and I would ask them to ratify it.

And Mr. Davis touched on this a little earlier. Did you folks ratify this contract? Because it's not signed by the Players Union.

Mr. SCHILLING. That's right.

Mr. LYNCH. It's not signed by management. It says it's a draft agreement. I just wonder, did they ever come back to you and say here is the drug policy, here is the collective bargaining agreement, like I would do with my members? I would read to them, page by page, and say, OK, now we are going to vote on this. Did they do that?

Mr. SCHILLING. I don't think it's possible. I think the dynamics in which we negotiate are very different than the ones which you negotiate. We have over 1,000 players spread around the world.

Mr. LYNCH. The salaries are different than the iron workers as well, I might add.

Mr. SCHILLING. We elect player representatives to negotiate for us.

Mr. LYNCH. OK. Did that happen, though?

Mr. SCHILLING. Yes, that always happens.

Mr. LYNCH. That always happens. Even on the drug policy?

Mr. SCHILLING. I can't speak to that specifically. You will have to ask the panel following us exactly how that happened. But as a player, I am assuming it did. Yes, absolutely.

Mr. LYNCH. OK. I just want to talk about where self-regulation has got us. You are allowed to leave in the middle of a urine test. There are a bunch of substances that are not included on the list. The players and the league have to agree on what is going to be banned.

It says in the text of your agreement—and that's what you negotiate, the text of the agreement—that the first offense of steroid use, the players—according to the agreement—can pay $10,000 and keep it quiet. They are not publicized for their violation. They can buy it off for $10,000, and the average starting salary is over $2 million. So it's not even a slap on the wrist. We have an escape clause here, where if the government comes in and starts investigating your drug policy, it goes away, you just get rid of it.

The parties agreed. That's where self-regulation has got us. I am just—I am not with you on that, I have to admit. I just don't think that baseball is capable. I am going to have a—we are going to have a chat with the next panel coming in. I just don't think that they have demonstrated good faith on their ability to be able to police this type of thing.

But I want to thank you all for coming here today. Thank you.

Chairman TOM DAVIS. The gentleman's time has expired.

Mr. Duncan, any questions?

Mr. DUNCAN. Very briefly, Mr. Chairman. I hear Mr. Palmeiro say that he could live with a one-strike-you-are-out Olympic standard on the steroids. And then I had to go to other meetings. And

Mr. Souder tells me that some of you defended the present Major League policy.

After seeing all of the interest, all of the concern, after hearing all of this testimony and seeing all of these news reports about young people dying, and I saw a news report where a light heavyweight boxer who became a heavyweight boxer this weekend, they had a report on the national news, that his legs were amputated. All of these horrible things.

Do any of you on the panel, would anybody object to the Major Leagues coming in or instituting a much, much tougher stricter policy whatever that might be, much tougher than it is now?

Do any of you have an objection to or problems with something like that? Even if it is not quite as strict as what Mr. Palmeiro said, Olympic standard, but I mean a much, much tougher policy? Anybody have any problems with that? Mr. McGwire.

Mr. MCGWIRE. I am retired. But, I am telling you whatever anybody can do to improve it so there is no more meetings like this, I am all for it.

Chairman TOM DAVIS. I think everyone seconds that here on the panel. All right.

Mr. DUNCAN. I think everybody agrees, a much tougher standard is necessary. Thank you very much, Mr. Chairman.

Chairman TOM DAVIS. Thank you. Mr. Van Hollen.

Mr. VAN HOLLEN. Thank you, Mr. Chairman. And thank all of you for your testimony here today. And thank you, all of you also for your commitment to use your star power going forward to send a message to our young people about the dangers of steroid use, and the fact that it is just simply the wrong thing to do in baseball or any other sport.

One of my sons, one of my young sons, Mr. Sosa, wore your t-shirt to bed just about every night, couldn't get it off of him. And that is when you were with the Cubs. I am from Maryland. Now that you are with the Baltimore Orioles, he is a real fan.

So all of you understand, I know, that you have a great responsibility given the fact that you are heroes to so many young people to convey the right messages. And I thank you for that.

A part of making that message, I think, also requires conveying to people an understanding of the scope of the problem. And that is why we are here today is to try to get a handle on the scope of the problem, and the best way that we can all work together to approach eliminating the problem.

And in that regard, Mr. Schilling, I do have a question for you regarding your earlier statements regarding the extent of steroid use within baseball. Because as I understood your testimony, you said that steroid use in baseball is less than 2 percent. Is that right?

Mr. SCHILLING. That is the results of the testing from the last season. Right.

Mr. VAN HOLLEN. That is based on the league's current steroid testing policy? Right?

Mr. SCHILLING. Right.

Mr. VAN HOLLEN. But, I think we have heard testimony today about the weakness in that policy. As I understand it, it does not include testing in the off season. Is that right?

Mr. SCHILLING. Yes. It is random.

Mr. VAN HOLLEN. OK. It does not include, I understand, new designer steroids like the recent steroid, recently recognized by the World Anti-Doping Agency. It did not include Andro, which is an anabolic steroid precursor that we understand that players used. It did not include human growth hormone, which we also believe, at least from news accounts, that players used.

And so I guess, given that information, are you confident that the 2 percent testing results really reflect the use of steroids?

Mr. SCHILLING. I don't believe as written in—by the author of that book that 70 percent of them slip through the cracks, if that is what you are asking me.

Mr. VAN HOLLEN. I'm really asking very simply, you have used the number 2 percent. And that 2 percent I think is just important to understand for everybody is based on the current testing; right?

Mr. SCHILLING. Right.

Mr. VAN HOLLEN. I think that a lot of the testimony today we heard from earlier panels suggests that policy is a very weak policy. As I understand your testimony, you would be willing to accept a much tighter policy?

Mr. SCHILLING. Right.

Mr. VAN HOLLEN. So I think it is something that we all have to look at now, is that when you have a weak testing regime, you can't be confident in the results; is that right?

Mr. SCHILLING. Right. I think my answer earlier was given, again, on my 19 years of being in the Major League clubhouse. I can honestly tell you I have never seen a syringe. The discussion is nothing more than you get on high school lunch breaks. You talk. You wonder. You speculate. But none of us, if any, are experts. But I have never seen it. I have never seen—I wouldn't know what it would look like.

Mr. VAN HOLLEN. I appreciate that. The 2 percent number has been out there. It is important for people to understand that is based on a testing policy that I think most people have acknowledged today is relatively weak and would agree to strengthen it. And I think it is important that we understand the scope of the problem when we are trying to get a solution to it. I think it is important when we are communicating to young people that we are not trying to narrow the scope of the problem, which at least by all press accounts is much broader.

So I really think there has been some progress today. I think the fact that you are all committed to going forth after the testimony today to dedicate yourself to sending a strong message, I think that is a very important part of it.

Obviously, tightening the testing policy is what gives some teeth to the message going forward. But, I thank you for your testimony. Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much. Ms. Sanchez.

Ms. SANCHEZ. Thank you. Let me just start by saying that I am a huge baseball fan. I admire all of your talents and dedication to the sport. As a young girl who played competitive softball, I looked up to Major League Baseball players as my heroes.

And as someone who plays on the Congressional baseball team, and that is baseball, I still look up to you all and admire your tal-

ent. But, because baseball is so intertwined in, like our national heritage and our history, to me this hearing is about being up front and honest about the problem. I think everybody here has agreed that there is a problem, but so far today, and I have to say I am really disappointed, because I am hearing differences in terms of how widespread it is.

We have one member of the panel who says it is rampant, and we have four-fifths of the panel that could not really speculate because, you know, they never saw it, they never heard it, they have never been around it, they do not know anything about it.

I just want to tell you that it is hard to reconcile those two visions about how rampant is this problem in baseball. And I think, you know, if we want to move forward, we have to start with being honest about how deep is this problem.

I want to just read to you really briefly some news accounts. In 1995, the Los Angeles Times reported that anabolic steroids apparently have become the performance drugs of the 1990's in Major League Baseball, and the paper quoted the San Diego Padres general manager saying we all know there is steroid use, and it has definitely become more prevalent. I think 10 to 20 percent. That is in 1995.

In July 1997, the Denver Post quoted a player for the Colorado Rockies estimating that 20 percent of ball players used steroids. In 2000, the New York Times quoted Brad Andrews, the strength coach for the Colorado Rockies, as estimating that 30 percent of Major League Baseball players had used steroids at some point in their careers. And one veterans all star outfielder said he believed that two-thirds of the top players in the National League are using some kind of steroid.

In 2002, Sports Illustrated reported that the game has become a pharmacological trade show, and outfielder Chad Curtis estimated that 40 to 50 percent of the players used steroids.

So it is hard for me to imagine that 2 percent of the players are using, we have had extensive questions on the testing, and my understanding is the current policy is that 2 percent testing, is not testing that is done more than once a year, randomly, it can be done in the off season, it can be done in the preseason, but that is 2 percent that they are catching using at the time that the test is administered.

We had a colleague that tried to pin you all down and have you just, I mean, estimate for us what percentage of ballplayers do you think are using. You guys are in the clubhouses. We are not. We do not have access there. We do not know. But we are getting this hear no evil, see no evil, don't know anything that is going on.

I mean, the first step is admitting, hey, there is a problem, next step, how widespread is it? And then the next step is, what do we do to try to combat it. I am not hearing that from you today, and I am very disappointed, I have to say, extremely disappointed in the testimony today.

So I am going to ask, you know, we are not asking you to name names, we are not asking you to implicate anybody. We are asking you because everybody admits that it is serious for young kids, but you as a teammate, as a player, and if you are all nonusers, which you, four-fifths of the panel has testified you guys did not use, if

you guys are users, I would think that you would be the first to step and say, hey, there is a problem with teammates that are using, because it is potentially hazardous to their health, and because it is unfair, it is cheating, it is not a level playing field.

If I am not using, why should teammates be allowed to use? Yet I am not hearing that. Have any of you ever confronted over the use, asked them about it, you hear rumors in the locker room, that was some of the testimony today. But none of you went to management or said, hey, there may be a problem here. Have any of you ever confronted a player or made that problem known?

I mean, I am hearing that 1 percent is too much. Yet none of you, throughout all of the years that you have collectively played together, has ever stood up and said that before now. I would just like an answer to that question, as briefly as possible.

Mr. SCHILLING. The question is?

Ms. SANCHEZ. Have you ever made—I am sorry, but I am very passionate about this. Have you ever made the problem of use among players that you have heard rumors of, made that known to somebody responsible?

Mr. SCHILLING. No. No, I haven't. I never would, because I have never known for sure.

Mr. PALMEIRO. I wouldn't know who to go to. I wouldn't know who is on it.

Ms. SANCHEZ. Nobody knows.

Mr. MCGWIRE. I am not here to discuss it.

Mr. SOSA. I really am not going to tell you something that I do not know, period.

Ms. SANCHEZ. Mr. Canseco, when you played, did you ever notify anybody about the use by other players?

Mr. CANSECO. In my days, which I will stick to my book, I was a source of information for it.

Ms. SANCHEZ. But you never made it, the problem, aware to anybody responsible?

Mr. CANSECO. It is funny because it wasn't a problem. There wasn't anyone that said, you know, don't do it, or you shouldn't do it, or if you get caught, this is going to happen to you. It was as acceptable in the 1980's and mid to late 1990's as a cup of coffee.

Chairman TOM DAVIS. Thank you. The gentlelady's time has expired. We have two questioners left and then will dismiss the panel and move to the final panel. Mr. Ruppersberger, any questions?

Mr. RUPPERSBERGER. When you come to the end of the panel, a lot has been discussed. We have been here all day. The first thing, I think, in the beginning I was concerned about this hearing.

Now, I think it is very positive, it is very positive for baseball. The issue is now on the table. I guarantee you, if Jose Canseco is not going to win a popularity contest with the players, but he might be the best thing that has happened to you.

Baseball has a public relations problem. And in my opinion, you players can solve it. Now, we can talk about management, and management has a lot of responsibilities. But we have been going through this testimony about who knows what, would you talk to a player? And it all comes down, in the end, I think, to having a good drug policy that works.

And if the NFL can have a policy, if the Olympics can have a policy, especially the Olympics who had a credibility problem, then you can do it.

We love your game. And I look at you, Curt Schilling, it was one of the worst trades we ever had. I'm a Baltimore Oriole fan. But, bottom line you can fix it. You have been dodging a little bit today, in my opinion, about saying, if I do not know about it, I am not going to say about it.

If I think my colleague has taken a bribe, I am going to deal with it. It is your responsibility I think as baseball. You have one of the best negotiators, Mr. Fehr, if he cannot negotiate with management and management really, I am putting more burden on you than management, because management would love to fix this.

And let's get on with the game of baseball. So my question, bottom line, would you take the position to go to Fehr and organize your players who have responsibility to this country, for our national pastime, for our children, would you go to Fehr and say, we want the best and the strongest program that we can have to bring integrity to baseball?

Because if you do not have integrity, eventually this game is going to have problems. And we don't want that to happen. Would you go to Fehr and do whatever, and work with us. You might not know the intricacies of drug policy. I do. I was a former prosecutor who dealt with drugs. You have to have accountability. You can't tell people when they are going to test somebody. You have to make sure that you follow the vial when you take the urine test.

These are things that have to be done. But if each one of you would agree, and I challenge each one of you here today to organize your players, you are world champion now, you have a momentum to challenge your players to say, we will go and we will do what we can do. We will match the NFL. Do you think you are a better sport than the NFL?

Mr. SCHILLING. Definitely.

Mr. RUPPERSBERGER. Why can't you have a drug policy like the NFL? So bottom line, you can fix it. OK. You cannot blame the owners. The owners have responsibility. But you go to Selig, I am sure that he would love to have the strictest policy that you can have, and then you can go on about playing baseball.

How about you, Rafael?

Mr. PALMEIRO. I agree. I would go to Donald Fehr for that.

Mr. RUPPERSBERGER. If you were there, Mr. McGwire?

Mr. MCGWIRE. Being that I am retired, I still would go to him, yes.

Mr. RUPPERSBERGER. Sammy Sosa, welcome to Baltimore. But would you do that?

Mr. SOSA. I would do the same thing.

Mr. RUPPERSBERGER. What do you think, Jose. I gave you a plug. You put this issue on the table. And, by the way, if I was going to question you, I would question you about credibility, because you have made some inconsistent statements about how many people—I will go over it later in my private time if I was going to question you.

But, the more I think about it, you put it out there on the table and now we are dealing with it. And if players and baseball man-

agement do not do it now, shame on you. OK. That is all. Thank you.

Chairman TOM DAVIS. Thank you very much. Mr. Serrano, you are the clean-up batter.

Mr. SERRANO. Clean-up batter. Thank you, Mr. Chairman. I am just going to make two comments very briefly. One, a request which probably falls more on the shoulders of Mr. Sosa and Mr. Palmeiro than anyone else. If we talk about an education program for young people, please remember that according to statistics, I think it is 40 percent of all professional ballplayers from rookie league up are Latin Americans.

And so an educational program that doesn't include an outreach to the Dominican Republic, to Venezuela, to Mexico, and to other places in Latin America, will not be in preparation for what needs to happen.

There have been already scandals reported about an anticipation of signing as free agents people in different parts of Latin America that have been beefed up and hurt with drugs.

And, I hope that would happen. And second, I hope that as the one of the last speakers today, you see us for who we are. I am not a member of this committee. The chairman and the ranking member gave me the privilege of being here today because I, like so many of these people on the panel, are baseball fanatics.

For me baseball is not a game, it is a passion. Some reporters may see us as politicians having another hearing, but we are concerned about a game that we love.

When Mr. McGwire and Mr. Sosa took us on that ride that summer, that wasn't just hitting home runs, that was a country hanging onto heroes.

When Mr. Palmeiro, I will watch you this summer, as you become only the fourth player, joining Aaron and Murray and Mays to get 500 home runs and 3,000 hits. As a Latino, I feel proud, and as an American I will be excited.

Mr. Canseco, I wish I could have helped you get those 38 homes to reach 500. You stopped at 462. Perhaps baseball stopped you, you claim at times.

And, Mr. Schilling, even though you did it to my Yankees, you are still my hero. That is who you are. You are not just normal, regular people. It is not the kids who look at you alone. That is the excuse we use. This autograph is for my son. It is for me. I already signed up for Major League Gameday audio for my computer.

I already bought my first 25 packs of baseball cards for this year to add to the closet full of baseball cards that I have. Mr. McGwire, I will never sell your rookie card. I will leave it to my children and my grandchildren, because you are heroes.

There is no prize for my love of this game. And so I hope that when you leave here today, and think about it tomorrow and the next day, that you do not think of us as another legislative committee, you think of us as no different than the people you see in the stands. We are baseball fans who love this game, and we are terrified of what could happen to it.

I do not like the fact that you are here. I do not like to see the break-up of the Bash Brothers in front of me. I do not like the fact that Mr. Sosa hasn't smiled that famous smile. I do not like the

uneasiness of all of you today. You shouldn't be here. Circumstances put you here. Please save the game. Without this game, this country is in deep trouble. I would like to yield now, to Mr. Waxman.

Mr. WAXMAN. I thank you for yielding to me. That was a very eloquent plea. And I thank you for it, because you speak on behalf of so many of us.

But, Mr. Schilling, I just want to raise something that just came to my attention and read you some quotes that were attributed to you, which sound so different than what you said today.

So you will be prepared for it in case somebody raises it later. This was from Sports Illustrated, June 2002. "Schilling says that muscle building drugs have transformed baseball into something of a freak show. Quote, you sit there and look at some of these players and you know what is going on, he says. Guys out there look like Mr. Potato Head with a head and arms and six or seven body parts that just do not look right. They do not fit.

I am not sure how steroid use snuck in so quickly, but it has become a prominent thing very quietly. It is widely known in the game. And also I know guys who use and do not admit it, because they think it means they do not work hard. And I know plenty of guys now are mixing steroids with human growth hormone, those guys are pretty obvious."

Were those your quotes?

Mr. SCHILLING. Yes.

Mr. WAXMAN. You feel—don't those quotes seem to indicate that you thought that at least when you gave them, that there was a widespread use of steroids with some people, because you could see it?

Mr. SCHILLING. I think we saw it as a problem. I think that any player looks at anybody on the field, that gave themselves a competitive advantage by cheating as a problem.

Mr. WAXMAN. You do not think this is inconsistent with your statements today?

Mr. SCHILLING. No. I think—I said those are my quotes. I made those quotes. I think I said earlier today that there were some quotes I had made in the past, referring to some of those, where they grossly overstated the problem due to being uninformed and unaware.

Mr. WAXMAN. Thank you very much.

Chairman TOM DAVIS. Thank you very much. Let me just thank all of you. It has been a long afternoon for you. This has been very helpful to us. I think it is going to be very helpful, hopefully the owners and management and union are listening to this as well.

We have a lot of different perspectives up here. We are the elected representatives of the people. I think we share that perspective, which is a little different from being a player or in management. But this has been very helpful for us.

I just appreciate the willingness of all of you to step forward. This has been, I think, a victory in itself. We look forward to continuing to work with you. We wish all of you good luck on the field this year as the season begins as well, and I am going to release this panel. Thank you very much.

Take a 5-minute recess.

[Recess.]

Chairman TOM DAVIS. If we can get everybody seated.

We are going to now recognize the fourth panel. We have Commissioner Allan H. Selig of Major League Baseball. Commissioner Selig was not subpoenaed. He called up and volunteered to come here today. And we appreciate that very much.

He is accompanied by Mr. Robert Manfred, the executive vice president for labor and human resource of Major League Baseball.

We have Mr. Don Fehr, the executive director and general counsel of the Major League Players Association. Don, thank you for much for coming here as well. I think you know where the lines of inquiry are going to be, the concerns from the previous panels.

We have Sandy Alderson, the executive vice president of baseball operations. Former general manager of the Athletics, Mr. Kevin Towers, general manager of the San Diego Padres.

As you know, it is our policy that we swear in all witnesses before they testify. So if you can rise with me and raise your right hands.

[Witnesses sworn.]

Chairman TOM DAVIS. Which of you are going to make an opening statement? Bud and Rob? Mr. Fehr, are you going to make an opening statement as well?

Mr. FEHR. Very brief.

Chairman TOM DAVIS. That is fine. Commissioner Selig, welcome very much. You know the rules. Your entire written statement is in the record. But take what you need. This is important, and I can't thank you enough.

Just for the record, you sat out here the whole day. He listened to everybody that testified, the parents and everything else. And I know it has been an interesting experience for you, as it has for us. We appreciate your being with us.

STATEMENTS OF ALLAN H. SELIG, COMMISSIONER OF MAJOR LEAGUE BASEBALL; ROBERT MANFRED, EXECUTIVE VICE PRESIDENT, LABOR AND HUMAN RESOURCES, MAJOR LEAGUE BASEBALL; DON FEHR, EXECUTIVE DIRECTOR AND GENERAL COUNSEL, MAJOR LEAGUE BASEBALL PLAYERS ASSOCIATION; SANDY ALDERSON, EXECUTIVE VICE PRESIDENT, BASEBALL OPERATIONS, MAJOR LEAGUE BASEBALL, FORMER GENERAL MANAGER, OAKLAND ATHLETICS; AND KEVIN TOWERS, GENERAL MANAGER, SAN DIEGO PADRES

STATEMENT OF ALLAN H. SELIG

Mr. SELIG. Thank you very much, Mr. Chairman. Major League Baseball has made progress in dealing with the issue of performance enhancing substances. Today I would like to describe for you that progress at both the Minor League and Major League level.

I would also like to describe for you the newly negotiated Major League steroid policy, as well as an effort we have undertaken with the Partnership for a Drug Free America aimed at educating America's youth on the dangers of steroid use.

Before I start, Mr. Chairman, let me clarify an issue that was raised yesterday so that there is no misunderstanding from my perspective. I will suspend any player who tests positive for an illegal

steroid. There will be no exceptions. The union is aware of that and they accept it.

In 2001, I promulgated the first-ever comprehensive drug-testing policy for Minor League baseball. In the first year of testing under that policy, the positive rate in the Minor Leagues was approximately 11 percent. Confronted with this high rate, we responded with more testing and tougher discipline. In each subsequent year, that positive rate has decreased. In the overall, the decrease has been dramatic. The rate was 4.8 percent in 2002, 4 percent in 2003, and just 1.7 percent in 2004.

As we embark on the 2005 season, baseball has committed even more resources to the eradication of steroid use in the Minor Leagues. We will do more testing, expanding the program into the Venezuelan summer league. And we will continue to discipline violators in a manner that our medical advisors believe will eradicate steroid use.

Similar progress has been made at the Major league level. In 2002, Major League Baseball reached a new agreement with the Major League Players Association, which, for the first time, provided for testing of Major League players for steroids. The positive rate for performance enhancing substances in 2003 testing was in the range of 5 to 7 percent.

This disturbing rate triggered a more rigorous disciplinary testing program in 2004. That more effective program resulted in a decline of the positive rate to 1 to 2 percent. In other words, the 2002 agreement that has been roundly criticized in some circles, actually resulted in a significant reduction in steroid use.

Despite this improvement, Major League Baseball has continued to move ahead on this most important and challenging issue. Last December at my urging, the Players Association took the unprecedented step of reopening an existing collective bargaining agreement to allow for the negotiation of an even stronger new policy on performance enhancing substances.

This new policy addresses all of the major areas of concern raised in congressional hearings conducted in 2004. Before I turn to the specifics of the new policy, however, I want to review the background that led to our concerns and ultimately the adoption of a new policy.

In the period of time following the 1994, 1995 strike, I began to hear more about the possibility of the use of performance enhancing substances by players. That concern escalated with the 1998 statements involving Mark McGwire and Andro. At that time we began a comprehensive review of the medical and health issues.

Given the limitations in our collective bargaining agreement, we were prohibited from testing players to determine which particular players were using what substances. To assist us in the development of our Minor League policy, and later our bargaining proposals to the Players Association, we hired and relied upon experts in the areas of drugs and sports. I have relied heavily on those experts in developing and refining our policies.

I want to say a word about our players, four or five of them who have just left. For sometime now the majority of our great and very talented athletes have deeply and rightly resented two things. They have resented being put at a competitive disadvantage by their re-

fusal to jeopardize their health and the integrity of the game by using illegal and dangerous substances, and they have deeply and rightly resented the fact that they live under a cloud of suspicion that taints their achievements on the field.

The cloud has been produced in part by some critics of baseball, who although well intentioned are not well informed about baseball's multifaceted campaign against such substances. This campaign has produced a dramatic quantifiable successes that I outlined earlier.

Now I would like to turn to the details of our new Major League policy. First the new policy broadens the list of banned substances in baseball. The list includes not only all steroids, but also steroid precursors, ephedra, human growth hormone, diuretics and other masking agents. I should add that Congress's passage of the Anabolic Steroid Control Act of 2004 was a key development in allowing baseball to move closer to accepted international standards in that area.

Second, the new policy greatly increases the frequency of testing of Major League players. Under our prior policy, each player was subject to one steroid test per season on an unannounced randomly selected date. This type of testing was an important first step and will be continued in 2005.

Under the old testing program, however, once a player had completed his one test for the year, the threat of discipline for the use of steroids was gone until the next season. To address this issue, Major League Baseball added on ongoing program of random testing for 2005, under which players can be tested multiple times in a given year. Under the new policy, no matter how many times a player is tested in a given year, he will remain subject to an additional random test.

Third, the new policy for the first time introduces off-season or out-of-competition testing. In the traditional employment context, unions have understandably resisted employer efforts to intrude into off-duty hours and vacation time. To its credit, however, the Players Association has agreed to compromise the legitimate privacy concerns of its members and allow off-season testing. This off-season testing, which will literally be carried out around the globe, will ensure that players cannot use the winter as an opportunity for drug-induced performance enhancement.

Baseball's new policy also provides for increased penalties. Under the new policy, first-time offenders, and as I said at the beginning of my remarks, make no mistake about this, will be suspended for 10 days without pay, and will be publicly identified as having violated the policy against the use of performance enhancing substances.

A 10-day suspension will cost the average Major League player approximately $140,000 in lost salary. Penalties for subsequent offenses include increase to 30 days, 60 days, and 1 year. More important in terms of deterrence, however, is the fact that no player wants to be identified to his peers and the public as a cheater.

As baseball's testing program has become more strict, we have also worked to improve its quality. Last year baseball moved its testing programs into independent Olympic laboratories certified by

WADA. These labs are the gold standard in testing for performance enhancing substances.

Equally important, our relationship with these facilities has put baseball in a better position to monitor new developments in the area of performance enhancing substances. For example, baseball has already banned at both the Major League and Minor League levels the designer steroid DMP, that was recently discovered at the WADA laboratory in Montreal.

Baseball is, of course, an international game. Recognizing that fact, our efforts at eliminating the use of performance enhancing substances have an international component. Last year, the Minor League policy was expanded to the Dominican summer league, complete with testing and educational activities. Our partners in the Mexican League have announced recently their intention to implement a program much like our Minor League policy.

We will extend our Minor League policy to the Venezuelan summer league this year. Next spring, baseball and the MLBPA will conduct the first ever international baseball tournament in which countries from around the world will field teams that include the best professional players, including the biggest Major League stars. As part of that event, Major League Baseball and the Players Association and the International Baseball Federation have reached an agreement whereby all participants in this event will be subject to Olympic style drug testing in accordance with the world antidoping code.

The world tournament will not only provide great international competition, but it will mark yet another step forward in baseball's effort to deal with the problem of performance enhancing substances. In promoting this event, baseball will emphasize this important antisteroid message.

Major League Baseball has always recognized the influence that our stars have on the youth of America. As such, we are concerned that recent revelations and allegations of steroid use have been sending a terrible message to our young people. Over the past year we have been working with our friends at the Partnership for a Drug Free America to determine the appropriate timing and content of public service announcements that will discourage young people from using steroids.

In the coming months you will see the product of these efforts on television, and we can only hope that those announcements will contribute to better decisionmaking by young athletes. My office has also had conversations with Congressman Sweeney about Major League Baseball providing support for his proposed legislation on steroid education, and becoming involved in the educational programs created by that legislation.

I expect that these conversations will continue and will bear fruit. Baseball will not rest and will continue to be vigilant on the issue of performance enhancing substances as we move toward my publicly stated goal of zero tolerance.

Thank you, Mr. Chairman. And I request that my entire written statement be placed in the record.

Chairman TOM DAVIS. Without objection. And thank you for bearing with us.

[The prepared statement of Mr. Selig follows:]

STATEMENT OF
ALLAN H. SELIG
COMMISSIONER OF BASEBALL
BEFORE THE HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM
MARCH 17, 2005

Major League Baseball has made tremendous progress in dealing with the issue of performance enhancing substances. Today I would like to describe for you that progress at both the minor league and Major League level. I would also like to describe for you the newly-negotiated Major League steroid policy as well as an effort we have undertaken with the Partnership for a Drug Free America aimed at educating America's youth on the dangers of steroid use.

In 2001, I promulgated the first-ever comprehensive drug testing policy for minor league baseball. In the first year of testing under that policy, the positive rate in the minor leagues was approximately eleven percent. Confronted with this high rate, we responded with more testing and tougher discipline. In each subsequent year, that positive rate has decreased and the overall decrease has been dramatic. The rate was 4.8 percent in 2002, 4 percent in 2003 and just 1.7 percent in 2004. As we embark on the 2005 season, Baseball has committed even more resources to the eradication of steroid use in the minor leagues. We will do more testing, expanding the program into the Venezuelan Summer League, and will continue to discipline violators in a manner that our medical advisors believe will eradicate steroid use.

Similar progress has been made at the Major League level. In 2002, Major League Baseball reached a new agreement with the Major League Baseball Players

Association ("MLBPA") which, for the first time, provided for testing of Major League players for steroids. Under the agreement, an anonymous prevalence study was conducted in 2003. The positive rate for performance enhancing substances in the 2003 testing was in the range of 5-7 percent. This disturbing rate triggered a more rigorous disciplinary testing program in 2004. This more effective program resulted in a decline of the positive rate to 1-2 percent. In other words, the 2002 agreement that has been roundly criticized in some circles actually resulted in a significant reduction in steroid use.

Despite this improvement, Major League Baseball has continued to move ahead on this important and challenging issue. Last December, at my urging, the MLBPA took the unprecedented step of reopening an existing collective bargaining agreement to allow for the negotiation of an even stronger, new policy on performance enhancing substances. This new policy addresses all of the major areas of concern raised in Congressional hearings conducted in 2004.

Before I turn to the specifics of the new policy, however, I want to review the background that lead to our concerns and, ultimately, the adoption of a new policy. In the period of time following the 1994-95 strike, I began to hear more about the possibility of the use of performance enhancing substance by players. That concern escalated with the 1998 statements involving Mark McGwire and androstenedione ("andro"). At that time, we began a comprehensive review of the medical and health issues. Given the limitations in our collective bargaining agreement, we were prohibited from testing

players to determine which particular players were using what substances. Through extensive conversations with doctors and trainers and consultation with experts in the field, however, I was able to learn enough to decide that performance enhancing substances were a serious issue in Baseball that had to be addressed.

To assist us in the development of our minor league policy and, later, our bargaining proposals to the Players Association, we hired and relied upon experts in the area of drugs and sports. As the Medical Director of Major League Baseball, we hired Dr. Elliot Pellman, who holds a similar position with the NFL. Dr. Pellman, in turn, hired Dr. Gary Green who is affiliated with the World Anti-Doping Agency-certified laboratory at UCLA. Dr. Green is a leading expert on performance enhancing substances. We also retained Dr. Larry Westreich, a well-known expert on the treatment of substance abuse problems. I have relied heavily on these experts in developing and refining our policies.

I should also say a word about our players. For some time now the majority of our great and talented athletes have deeply -- and rightly-- resented two things. They have resented being put at a competitive disadvantage by their refusal to jeopardize their health and the integrity of the game by using illegal and dangerous substances. And they have deeply -- and rightly -- resented the fact that they live under a cloud of suspicion that taints their achievements on the field.

This cloud has been produced, in part, by some critics of baseball who, although well intentioned, are not well informed about baseball's multifaceted campaign against such substances. This campaign has produced dramatic, quantifiable successes. You will hear in detail from Robert Manfred, Executive Vice President of Major League Baseball, about what has done in the minor leagues, and about what has been done at the major league level, in the context of collective bargaining.

Now, I would like to turn to the details of our new Major League policy. First, the new policy broadens the list of banned substances in baseball. The banned list includes not only all steroids, but also steroid precursors, ephedra, human growth hormone and diuretics and other masking agents. I should add that Congress' passage of the Anabolic Steroid Control Act of 2004 was a key development in allowing Baseball to move closer to accepted international standards in this area.

Second, the new policy greatly increases the frequency of testing of Major League players. Under our prior policy, each player was subject to one steroid test per season on an unannounced, randomly-selected date. This type of testing was an important first step and will be continued in 2005. Under the old testing program, however, once the player had completed his one test for the year, the threat of discipline for the use of steroids was gone until the next season. To address this issue, Major League Baseball added an on-going program of random testing for 2005 under which players can be tested multiple times in a given year. Under the new policy, no matter how many times a player is tested in a given year, he will remain subject to an additional random test.

Third, the new policy, for the first time, introduces off-season or "out-of-competition" testing. In the traditional employment context, unions have understandably resisted employer efforts to intrude into off-duty hours and vacation time. This traditional union resistance has carried over into the context of professional sports. To its credit, however, the MLBPA has agreed to compromise the legitimate privacy concerns of its members and allow off-season testing. This off-season testing, which will literally be carried out around the globe, will insure that players cannot use the winter as an opportunity for drug-induced performance enhancement.

Baseball's new policy also provides for increased penalties. Under the new policy, first-time offenders will be suspended for ten days, without pay, and will be publicly identified as having violated the policy against the use of performance enhancing substances. A ten-day suspension will cost the average Major League player approximately $140,000 in lost salary. Penalties for subsequent offenses increase to 30 days, 60 days and one year. More important in terms of deterrence, however, is the fact that no player wants to be identified to his peers and the public as a cheater.

Some have suggested that greater penalties, particularly for first offenders, would be in order. With the guidance of my medical advisors, however, I agreed to the lesser penalties on the theory that behavior modification should be the most important goal of our policy and that the penalties in our new policy were well-designed to serve that goal.

As Baseball's testing program has become more strict, we have also worked to improve its quality. Last year, Baseball moved its testing programs into independent Olympic laboratories certified by the World Anti-Doping Agency ("WADA"). The minor league testing is now done at the WADA-certified lab at UCLA and the Major League testing for performance enhancing substances is done at the WADA-certified lab in Montreal. These labs are the "gold standard" in testing for performance enhancing substances. Equally important, our relationship with these facilities has put Baseball in a better position to monitor new developments in the area of performance enhancing substances. For example, Baseball has already banned at both the Major League and minor league levels the designer steroid Dehydrochloromethyltestosterone ("DMT"), that was recently discovered at the WADA laboratory in Montreal.

Baseball is, of course, an international game. Recognizing this fact, our efforts at eliminating the use of performance enhancing substances have an international component. Last year, the minor league policy was expanded to the Dominican Summer League, complete with testing and educational activities. Our partners in the Mexican League have announced recently their intention to implement a program much like our minor league policy and we will extend our minor league policy to the Venezuelan Summer League this year.

Next spring, Baseball and the MLBPA will conduct the first-ever international baseball tournament in which countries from around the world will field teams that include the best professional players, including the biggest Major League stars. As part

of the event, Major League Baseball, the MLBPA and the International Baseball Federation ("IBAF") have reached an agreement whereby all participants in the event will be subject to Olympic-style drug testing in accordance with the World Anti-Doping Code. The world tournament will not only provide great international competition but it will also mark another step forward in Baseball's effort to deal with the problem of performance enhancing substances. In promoting this event, Baseball will emphasize this important anti-steroid message.

Major League Baseball has always recognized the influence that our stars can have on the youth of America. As such, we are concerned that recent revelations and allegations of steroid use have been sending a terrible message to young people. Over the past year, we have been working with our friends at the Partnership for a Drug Free America to determine the appropriate timing and content of public service announcements that will discourage young people from using steroids. In the coming months, you will see the product of these efforts on television and we can only hope that these announcements will contribute to better decision-making by young athletes. My office has also had conversations with Congressman Sweeney about Major League Baseball providing support for his proposed legislation on steroid education and becoming involved in the educational programs created by that legislation. I expect that these conversations will continue and will bear fruit.

Baseball's policy on performance enhancing substances is as good as any in professional sports. Notwithstanding the quality of our new policy, Baseball will not rest

and will continue to be vigilant on the issue of performance enhancing substances as we move toward my stated goal of zero tolerance.

Chairman TOM DAVIS. Mr. Manfred.

STATEMENT OF ROBERT D. MANFRED

Mr. MANFRED. Thank you, Mr. Chairman, ranking member, committee members, I especially appreciate the opportunity to speak with you this evening. And I would like to take the opportunity to respond to some of the issues raised in the committee's letter to Commissioner Selig and Mr. Fehr.

At the outset, I should say that baseball has worked hard to negotiate and improve its drug policy in recent years. We know that we have made significant progress in this area. At the same time, we know that the policy is not perfect.

Our collective bargaining agreement, like every collective bargaining agreement, is a living document. There is the pure language, there is the understandings of the parties, and there are the party's practices. Tonight I would like to try to explain to you what the agreement means based on those language, understandings and practices.

I hope I can convince you that I am reading the agreement correctly. And in making that determination, I urge you to take into consideration that the gentleman that I negotiated the agreement with, Mr. Fehr, agrees with everything that I am about to tell you.

First, much has been made out of the fact that our agreement sets forth penalties in the disjunctive. For each offense, there is a suspension of a specified length or a fine amount. The formulation of the penalties was included in our 2002 agreement, and was carried forward into the new agreement.

In retrospect, the language as a drafting matter should have been altered. There is, however, no misunderstanding or dispute between the bargaining parties as to how the agreement is going to operate. We informed the MLBPA at the bargaining table, while we were negotiating the agreement, that the Commissioner intends to and will suspend across the board for all violations. The owners ratified the agreement with this understanding. It is also my understanding that Mr. Fehr's constituents are in the process of ratifying, based on the same understanding.

The agreement might have been drafted better. But, even as it sits, it provides the Commissioner with the unfettered right to do what he has said he is going to do, namely suspend all players who violate the agreement.

Moreover, those suspensions are automatic in the sense that they are for stated periods of time, and the union has taken the unprecedented step of waiving its right to contest the length of those suspensions. Our commitment to suspend also undercuts the committee's criticism with respect to the topic of disclosure.

Under the agreement, if a player tests positive and is suspended, it will be reported in the transaction list that is published in every paper in America, that the player tested positive for violating the joint drug agreement.

Given that we only test for steroids under the joint drug agreement, everyone will understand that the suspension was based on a steroid test. In terms of the general confidentiality language in our agreement, I would point out that virtually every drug program in America contains such general confidentiality language, includ-

ing the programs that have been adopted by the Federal Government to cover its employees.

The assertion that all steroids are not banned under the baseball policy is simply not correct. The plain language of our agreement bans all steroids that are on Schedule III, as well as any other anabolic androgenic agent that cannot lawfully be obtained in this country.

The list of substances in the agreement is clearly identified, explicitly identified as a nonexhaustive list. As to the four substances specifically mentioned in your letter, we have discussed those with our experts.

Two of the substances are anabolic androgenic agents that cannot lawfully be obtained in the United States and as such are banned under the general language in our program. A third, Boldonone, is a nutritional supplement that Congress inappropriately excluded from the Steroid Control Act of 2004.

We have been in conversations with the DEA, and we understand that substance is going to be added to Schedule III as the first additional substance under the Steroid Control Act, at which time it will be automatically banned under our agreement.

The fourth substance listed is DHEA, which dispute our lobbying efforts, was excluded from the Steroid Control Act of 2004. I would now like to address the issue of diuretics and masking agents.

At page 6 of our agreement it says: Any test conducted under the program will be considered a positive under the following circumstances. Item 3. A player attempts to substitute, dilute, mask or adulterate a specimen sample in any other—or in any other manner alter a test.

In order to enforce this provision of the agreement, the Montreal laboratory has been instructed by the MLBPA and me that they are to test for their standard list of diuretics and masking agents, continuing a practice that has existed under our agreement. The assertion that our policy fails to ban designer steroids is contrary to the language and history of this agreement. The language banning, quote, anabolic androgenic steroids that are not covered by Schedule III, but that may not be lawfully obtained in the United States has been previously used by the bargaining parties to ban THG and DMT.

The bargaining parties have relied on this language in the contract to ban designer steroids in the past and will do so in the future. I would also point out that substances that fall within this definitional language in the contract are added automatically to our banned list without the necessity for action by the Health Policy Advisory Committee.

The committee's criticisms on our position with respect to human growth hormone were addressed earlier today. I want to reiterate that our experts, including the director of the WADA certified laboratory in Montreal, and our drug testing expert, Dr. Gary Green from UCLA has informed us that there is not a verifiable blood test, and that blood test kits for this test are not available.

The labs do not have testing kits to perform this blood test. They may have had 300 of them for the Olympics this summer, but they are not currently available. We are actively involved in efforts to accelerate the development of a urine test, and there are actually

some advantages associated with a urine test as opposed to a blood test. I should also point out that no professional sport in America conducts blood testing of any type.

The committee also raises issues with respect to the health policy advisory committee. No other professional sport uses an independent outside agency to supervise its drug testing program. This includes the NFL. In fact, I am unaware of a single collectively bargained private employer drug testing program anywhere in the United States that is supervised by an independent outside agency such as the USADA.

While the Olympics may take a decidedly different approach, the Olympics operate in a decidedly different environment, unrestrained by a collective bargaining obligation or the obligations that accrue to an employer under many State and Federal statutes. The committee's letter characterizes as extraordinary a provision that would suspend testing in the face of a government effort to obtain across-the-board testing results from our program.

At the outset, I should point out that this provision relates only to individually, identified-by-name drug test results and not general oversight activities of the type reflected in the subpoena that was issued to baseball.

It also does not apply if the Government's investigation is supported by individualized probable cause for particular players. It is also important to understand that this provision did not arise in a vacuum. Baseball has faced efforts by law enforcement authorities to obtain across the board testing results absent any individualized showing of probable cause.

All the provision does is temporarily suspend the program while we resist an attempt by law enforcement officials to premise a criminal probe on private drug testing results.

Last, the committee's letter raises issues with respect to some of our collection procedures. In particular, the letter makes the point that they are not consistent with those used by WADA. At the outset, it is important to understand that there are many Federal and State laws that make it very difficult for an employer like Major League Baseball, as opposed to an oversight organization like the Olympics to follow strictly the WADA requirements.

On the fundamentals, however, our collection procedures are entirely sound. All urine specimens are provided under the direct observation of an independent, not employed by Major League Baseball, collector.

While players are occasionally allowed to leave the portion of the locker room that is identified as the testing site for approximately an hour, if they cannot provide a specimen in order to continue their preparation for the game, the opportunities for a steroid user to avoid detection during this hour are very limited, given that baseball tests for diuretics and masking agents, and checks the specific gravity of all urine samples.

I do not know whether anyone on the committee has been at a Major League clubhouse, but there is precious little privacy in those clubhouses. While they may leave the particular area where the samples are being provided, our collectors are in and out of that clubhouse and the players are still subject to observation by those collectors during that period of time.

In closing, I would like to point out that no one likes to receive a letter like we received from the committee yesterday. When one really understands the substance of our policy, however, there are few legitimate criticisms that can be directed at this policy. This is particularly true when one gives some appreciation for the fact that this policy was negotiated in the context of a voluntary reopener of a collective bargaining agreement that is encouraged and protected by the Federal labor laws.

Chairman TOM DAVIS. Mr. Manfred, thank you very much.

[The prepared statement of Mr. Manfred follows:]

STATEMENT OF
ROBERT D. MANFRED, JR.
EXECUTIVE VICE PRESIDENT, MAJOR LEAGUE BASEBALL
BEFORE THE HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM
MARCH 17, 2005

In a perfect world, those of us privileged enough to work in Major League Baseball would have been aware of the use of steroids from the minute it became an issue among our players. In a perfect world, the leadership of Major League Baseball would have had the unfettered right to deal with the problem of performance enhancing substances as soon as we became aware of that problem. Unfortunately, we do not live in a perfect world.

In his statement to the Committee, Commissioner Selig describes the progress that Baseball has made on the issue of steroids in recent years and the new policy that we began implementing on March 3, 2005. That policy is the product of collective bargaining with the Major League Baseball Players Association ("MLBPA"). Major League Baseball continues to believe that Congressional review of a portion of a private collective bargaining agreement is contrary to the national labor policy that Congress established in 1935. Because the Committee does not share our view in this regard, we are present here today and my goal is to provide the Committee with some historical context that must be considered in evaluating this portion of our collective bargaining agreement with the MLBPA.

Major League Baseball has been called in front of a number of Congressional

committees in recent years to answer questions about the use of performance enhancing substances by players. In the testimony presented to the various committees by Major League Baseball, one theme has been clear: drug testing is a mandatory subject of collective bargaining with the MLBPA. This theme should not be viewed as an excuse or complaint by Major League Baseball. It is simply a statement of fact.

I am sure that every member of the Committee is well aware that the system of collective bargaining created by the National Labor Relations Act is, by design, an incremental process. The law creates a framework for mandatory negotiation, but no outside party or governmental agency has the authority to dictate a substantive result. Because the process is essentially consensual, the agreements that emerge necessarily reflect a balancing of different interests and are often not as forceful as those that can be produced by a different process or in a different legal framework.

Moreover, Baseball's collective bargaining has had its own unique dynamics and limitations. Most of you will recall the long players' strike in 1994 and the series of Congressional hearings convened to pressure the sport into a settlement. Major League Baseball made a comprehensive proposal on steroid testing during that round of bargaining. It was a sound proposal that reflected foresight on the part of the leadership of the game. But, as those of you who were around in 1994 will remember, the priority was resolving the economic issues facing the game and getting the game back on the field. No one believed that there was significant steroid use in the game at that time.

Within the context of a collective bargaining relationship imposed by federal law, Baseball and the MLBPA have made steady and important progress on steroids in recent years. The 2002 Basic Agreement allowed the industry to move forward with drug testing at the Major League level for the first time. The 2003 survey testing put to rest the parties' disagreement over the scope of the problem. More important, the contract's creative approach moved the game directly into disciplinary testing in 2004, rather than waiting for the next round of negotiations. This winter, the bargaining parties moved forward with the fight against steroids and reopened their contract for the first time in history. The parties proceeded to negotiate a stiffer policy, even though positive rates had declined sharply in 2004.

Major League Baseball has openly admitted that its policy on steroids in the 1990's was inadequate and inappropriate. During that period, however, the federal government's policy on performance enhancing substances was also deeply flawed. In 1994, Congress passed the Dietary Supplement Health and Education Act ("DSHEA"), which essentially deregulated the nutritional supplement industry. Steroid precursors, such as androstenedione (which was developed for use by the East German Olympic team) were made available to consumers, including children, over the counter. DSHEA gave legitimacy to the performance enhancement industry and allowed athletes who used products such as andro to argue that they were not cheating because the products were "legal." The legality of products such as andro also complicated the process of drug testing. For example, athletes who inject testosterone are detected by a test that shows an abnormally high ratio of testosterone to epitestosterone in the body, or a high "T/E ratio."

Because andro causes the body to produce additional testosterone and can elevate the T/E ratio, andro users can be difficult to distinguish from those who are illegally injecting testosterone.

Late last year, Congress, with the full support and at the urging of Major League Baseball, passed the Anabolic Steroid Control Act of 2004 and corrected the flawed federal policy on steroid precursors. Within weeks, Baseball and the MLBPA implemented a new drug policy banning these dangerous substances. In fact, it seems fair to observe that as the nation has become more aware and less tolerant of the use of performance enhancing substances by athletes, Major League Baseball and the MLBPA have responded to this shift with progressively more effective policies.

Before closing, I would like to address two topics that have been raised by members of the Committee in discussions leading up to this hearing. The first is the independence of Baseball's drug testing program. Contrary to some assertions, every aspect of Baseball's drug program, with the exception of the actual imposition of discipline, is controlled by parties independent of Major League Baseball and the MLBPA. The selection of players to be tested, the dates of the testing, the selection and supervision of collectors and the observation of players providing samples are all functions controlled by an outside, independent company. The new random component of the program is completely unpredictable and Clubs have no advance notice of when a particular player will be tested. The actual testing of samples and interpretation of results are performed by the Olympic laboratory in Montreal that is certified by the World Anti-

Doping Agency. In fact, our program is run with more independence than those in other professional sports where league employees collect samples and "captive" labs have been used.

Second, Baseball has been and will be committed to funding research to combat the proliferation of performance enhancing substances. In 1998, in the wake of revelations of andro use by high-profile players, Major League Baseball and the MLBPA funded a seminal study at Harvard University. That study produced the first medical evidence establishing that andro can, like an anabolic steroid, increase muscle mass. Currently, Baseball is in discussions with the WADA-certified laboratory at UCLA (which does our minor league testing) about providing additional funding for research directed at the development of a urine test for human growth hormone. Contrary to published reports, there is not an available, verified test for HGH, even with a blood sample. Therefore, our efforts to develop a urine test are vital.

In closing, I can tell you from extensive personal experience that Commissioner Selig has a long-term, deep commitment to the goal of eliminating steroids in Baseball and we will work tirelessly to reach that goal.

TOM DAVIS, VIRGINIA,
CHAIRMAN

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BERNARD SANDERS, VERMONT,
INDEPENDENT

March 16, 2005

Mr. Allan H. Selig
Commissioner of Baseball
The Office of the Commissioner of Baseball
245 Park Avenue, 31st Floor
New York, NY 10167

Donald M. Fehr, Esq.
Executive Director and General Counsel
Major League Baseball Players Association
12 East 49th Street
New York, NY 10017

Dear Commissioner Selig and Mr. Fehr:

On January 13, 2005, Major League Baseball and the Players' Association announced a new policy on performance-enhancing drugs. In meetings with us, senior baseball officials represented this policy as the "gold standard" for drug testing. In public statements, Commissioner Selig stated, "My job is to protect the integrity of the sport and solve a problem. And I think we've done that."[1] He has also said, "Do I believe the new program … will work? I really do… We will eradicate steroid use."[2] Relying on Major League Baseball's assurances, observers have called the new policy "very strict,"[3] "finally … the right thing,"[4] and "one strike-you're out."[5]

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[1] *Selig Takes on Critics, Lauds New Drug Policy*, Sacramento Bee (Mar. 7, 2005).

[2] *Selig Vows to Purge Steroids from Baseball*, Chicago Tribune (Mar. 6, 2005).

[3] *Tougher Calls for Players*, Hartford Courant (Jan. 14, 2005).

[4] *Handwriting Was on Dugout Wall*, Atlanta Journal Constitution (Jan. 13, 2005).

[5] *One Strike—You're Out*, Tampa Tribune (Jan. 14, 2005).

On Monday, Major League Baseball provided the Committee with a copy of its new policy, which was noted to be "still in draft form."[6] Our preliminary review raises questions about whether the new policy is as comprehensive and effective as you have claimed. For example, we have questions about:

- **The Penalties for Violations.** In public statements, Major League Baseball representatives have emphasized that players who violate the new policy will be publicly identified and suspended from baseball for ten days. In fact, the details of the new policy reveal that the penalty for a first offense can be either a suspension or a fine of $10,000 or less; that there is no public identification of players who are fined instead of suspended; and that even if players are suspended, the public disclosure is limited to the fact of their suspension with no official confirmation that the player tested positive for steroids. In contrast, the Olympic policy calls for a two-year suspension for a first offense.

- **The Scope of the Ban.** The new Major League Baseball policy appears to differ markedly from the Olympic policy in the scope of the drugs covered. At least four anabolic steroids banned by the Olympics are excluded from Major League Baseball's ban, as are novel "designer" steroids that the Olympics prohibit because they have "a similar chemical structure or similar biological effect." Unlike the Olympic policy, the Major League Baseball policy does not include tests for human growth hormone or amphetamines.

- **The Makeup of the Supervisory Committee.** Under the new Major League Baseball policy, many key implementation decisions, such as how to conduct off-season testing and whether to prohibit additional substances, are to be made by a four-person committee that includes Robert D. Manfred, Jr., Major League Baseball's Executive Vice President, Labor and Human Resources, and Gene Orza, the Chief Operating Officer and Associate General Counsel of the Major League Players Association. According to the policy, some of these decisions must be made unanimously, giving both Major League Baseball management and the players union a veto. The Olympic drug testing policy takes a different approach, giving an independent expert agency, the World Anti-Doping Agency, the authority to make important scientific judgments.

- **The Anti-Oversight Clause.** An unusual provision in the new Major League Baseball policy provides that the new policy "will be suspended immediately" if there is an independent government investigation into drug use in baseball.

There are other significant differences between Major League Baseball's new policy and the more stringent Olympic policy. For example, while the Olympics require

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[6] Letter from Robert D. Manfred, Jr. to the Honorable Tom Davis and the Honorable Henry A. Waxman (Mar. 14, 2005).

continuous monitoring of the athlete from the notification of the test until its completion, Major League Baseball appears to permit players to leave in the middle of a drug test.

In these areas and others, we have a number of questions about the discrepancies between Major League Baseball's public presentation of its new drug testing effort and the language of the new policy. We hope you will come prepared to address these questions at tomorrow's hearing.

The Penalties for Violations

In announcing its new policy in January, Major League Baseball described a set of specific penalties to the public. Robert D. Manfred, Jr., Executive Vice President, Labor and Human Resources, stated:

> For the first time, we will have discipline for first-time offenders under the drug program. Such offenders will be suspended for 10 days. All of the suspensions under this program are without pay. For the second offense, a 30-day suspension will be imposed. Third offense, a 60-day suspension. And fourth offense, the suspension will be for one year.[7]

Referring to the penalty for a first offense, Commissioner Selig has stated: "People have said that policy is weak ... I strongly disagree. A player making the average salary would lose $140,000 for a first offense."[8]

Major League Baseball officials have also indicated that the names of players who test positive for steroids will be disclosed to the public. Commissioner Selig has stated, "The fact that it is announced and everybody in America will know who it is, that's a huge deterrent ... No player wants that."[9]

These descriptions of the policy, however, appear to contradict its text. The policy states that after testing positive for steroids, a player faces *either* "a 10-day suspension *or* up to a $10,000 fine." The second violation may be settled by *either* "a 30-day suspension *or* up to a $25,000 fine." The third violation may be settled by *either* "a 60-day suspension *or* up to a $50,000 fine." The fourth violation may be punished by *either* "a one-year suspension *or* up to a $100,000 fine." One hundred thousand dollars is less money than some players earn in one game. The penalty for a fifth violation is at the discretion of the Commissioner.[10]

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[7] Fox on the Record with Grega Van Susteren (Jan. 13, 2005).

[8] *Selig Asserts Steroid Policy Works,* Milwaukee Journal-Sentinel *(Mar. 6, 2005).*

[9] *Id.*

[10] Major League Baseball, *Joint Drug Prevention and Treatment Program*, 11-12 (2005)(Emphasis added).

In addition, contrary to public statements by Major League Baseball, the policy does not require public disclosure of positive steroid tests. In fact, the policy appears to prohibit such disclosure. The policy states that "the results of any Prohibited Substance testing ... shall remain strictly confidential."[11] In the case of a fine, the policy also states that "any disciplinary fines imposed upon the Player by the Commissioner shall remain strictly confidential."[12] Under the policy, there appears to be public disclosure only in the case of a suspension, and even then the disclosure appears to be limited. The policy states that "the only public comment from the Club or the Office of the Commissioner shall be that the Player was suspended for a specified number of days for a violation of this Program."[13]

The testing program covers ephedra, ecstasy, and a variety of other drugs.[14] Consequently, a public announcement that a player has been suspended for a violation of the program would not reveal whether the drug involved is a performance-enhancing steroid.

By comparison, the first violation in Olympic sports carries a two-year suspension, and the second requires a lifetime ban.[15] All disciplinary actions are made public.

The Scope of the Ban

A central element of Major League Baseball's new drug policy is the list of substances that are (1) prohibited and (2) subject to testing so that the ban can be enforced. In key areas, however, the baseball list appears limited, especially when compared to the more comprehensive Olympic standards.

First, the new policy does not ban all anabolic steroids. It appears that at least four anabolic steroids recognized by the World Anti-Doping Agency and prohibited for Olympic athletes are still permitted for major league ballplayers. These include boldione, danazol, quinbolone, and dihydroepiandrostone.

The policy does not explain the rationale for exempting these substances, all of which can enhance performance. One of the substances, boldione, is marketed on the web as "Boldione for Muscle Mass!" and "the most potent anabolic prohormone ever

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[11] *Id.* at 10.

[12] *Id.*

[13] *Id.*

[14] *Id.* at 3.

[15] World Anti-Doping Agency, *World Anti-Doping Code* (2003).

developed."[16] After boldione was detected in the urine sample of a swimmer, she was barred from Olympic competition for two years.[17] Yet boldione and the other anabolic steroids listed above are not included on either of the two lists that, according to Major League Baseball officials, are the basis of Major League Baseball's steroid testing regimen.[18]

Major League Baseball's new policy also fails to ban novel or "designer" steroids. These are drugs created in the lab to evade laboratory detection and marketed directly to sport's top stars. In contrast, the Olympic ban broadly includes all substances that have "a similar chemical structure or similar biological effect(s)" to existing anabolic steroids."[19] The Olympics enforces this ban by conducting tests on stored samples from athletes as novel drugs are identified.

The failure of Major League Baseball to cover designer steroids would appear to be a significant omission. According to experts, hundreds of potential "designer" steroids already exist.[20] Major League Baseball is still confronting a major scandal caused by the designer steroid tetrahydragestrinone (THG). According to leaked grand jury testimony, several baseball stars may have used THG for years before its detection by authorities and its addition to the list of federal controlled substances.[21] Yet under the new Major League Baseball policy, the use of the next THG would appear to be permissible in baseball.[22]

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[16] Vitafly, *Bondione for Muscle Mass!* (Undated) (online at http://www.vitafly.com/article112.html).

[17] *Area Swimmer Has Few Options After Positive Test*, Washington Post (Nov. 6, 2004).

[18] The four anabolic steroids are not found either on (1) a list of 43 anabolic steroids on pages 3 and 4 of the draft baseball policy or (2) on schedule III of the Drug Enforcement Administration. While the Health Policy Advisory Committee has the capacity to add additional steroids beyond these two lists to baseball's testing regimen, we understand that the league has only added one, desoxymethyltestosterone. Robert D. Manfred, Jr., Major League Baseball's Executive Vice President, Labor and Human Resources, telephone briefing with staff of the Government Reform Committee (Mar. 15, 2005).

[19] World Anti-Doping Agency, *The 2005 Prohibited List*, 5-6 (2005).

[20] *Doping Experts Say Baseball Faces Tough Job*, New York Time (Dec. 9, 2004).

[21] *Giambi Admitted Taking Steroids*, San Francisco Chronicle (Dec. 2, 2004); *What Bonds Told the BALCO Grand Jury*, San Francisco Chronicle (Dec. 3, 2004); *Sheffield's Side*, San Francisco Chronicle (Dec. 3, 2004).

[22] The new baseball policy includes a provision prohibiting "anabolic androgenic steroids that are not covered by Schedule III but that may not be lawfully obtained." However, there is no federal law that explicitly prohibits the obtaining of designer

Another apparent gap is the policy's failure to test for human growth hormone, a substance with similar effects to anabolic steroids. Major League Baseball officials have assured the public that "human growth hormone will be banned under the program."[23] Yet the new policy fails to enforce this ban. Testing of major league ballplayers is limited to urine samples,[24] and all available tests for human growth hormone require analysis of blood.[25]

When asked about the omission of testing for human growth hormone, Major League Baseball officials have responded that there is no reliable blood test for the substance.[26] Publicly, Major League Baseball's officials have expressed optimism about the availability of a urine test "in the relatively short term," perhaps as early as next season.[27] Yet independent experts have raised doubts about Major League Baseball's approach. In April 2004, the U.S. Anti-Doping Agency convened a meeting of the world's leading researchers and concluded that all promising approaches for measuring human growth hormone "use blood for measurement, as opposed to the traditional use of urine in doping control."[28] According to Dr. Gary Wadler, who serves on the Prohibited Lists and Methods Committee of the World Anti-Doping Agency, a validated blood test for human growth hormone was employed at the Olympic games in Athens.[29] Blood testing for human growth hormone is now standard for Olympic athletes.[30]

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steroids. There also appears to be no provision in the draft policy for retaining samples to test in the future when designer steroids are recognized. MLB, *Prevention*, *supra* note 10 at 3-4.

[23] *Major League Baseball Revises Drug Policies*, Cable News Network (Jan. 13, 2005).

[24] MLB, *Prevention*, *supra* note 10 at 6.

[25] *Baseball's New Drug Policy Way Off Base*, Miami Herald (Jan. 17, 2005).

[26] Robert D. Manfred, Jr., Major League Baseball's Executive Vice President, Labor and Human Resources, telephone briefing with staff of the Government Reform Committee (Mar. 15, 2005).

[27] *Selig Says Steroids Testing Is Working*, St. Louis Post-Dispatch (Mar. 6, 2005).

[28] U.S. Anti-Doping Agency, *Statement from Larry Bowers, USADA Senior Managing Director, Following USADA Research Symposium on Growth Hormone* (Apr. 5, 2004).

[29] Dr. Gary Wadler, Telephone briefing with minority staff of the Government Reform Committee (Mar. 16, 2005); *Hormone Tests in Athens*, New York Times (Sept. 18, 2004).

[30] WADA, *supra* note 19.

Major League Baseball's policy also fails to ban other substances that have similar effects to anabolic steroids, including insulin, human chorionic gonadotropin, and IGF-1.[31] These substances are all banned for Olympic athletes.[32]

In addition, Major League Baseball's new policy apparently fails to ban amphetamines and most other stimulants. Experts believe this omission makes no sense. Dr. Wadler has stated, "The most classic of all studies ever done in doping was on amphetamines. ... It clearly is performance-enhancing."[33] At the Olympic level, athletes are prohibited from using a wide range of amphetamines and other stimulants.[34]

The Makeup of the Health Policy Advisory Committee

According to the new policy, Major League Baseball's drug program will be run by a four-member Health Policy Advisory Committee. This committee determines many key elements of the program's implementation including (1) how to conduct off-season testing; (2) whether to prohibit the use of additional substances; (3) whether a player's challenge to a testing result has a "reasonable basis"; and (4) whether a player has good cause to refuse to submit a sample.[35]

According to Major League Baseball, one member of the Health Policy Advisory Committee is Robert D. Manfred, Jr., Major League Baseball's Executive Vice President, Labor and Human Resources. Another member is Gene Orza, the Chief Operating Officer and Associate General Counsel of the Major League Baseball Players Association. For many years, these two men have led collective bargaining efforts for management and the players' union, respectively. The two other members are physicians, one appointed by Major League Baseball and the other by the Players' Association.[36]

The staffing of the Health Policy Advisory Committee raises serious questions about the credibility of the drug testing policy. For example, the Players Association has long resisted a random testing program for anabolic steroids. Under the new policy, either Mr. Orza or the physician appointed by the Players Association has a veto over

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[31] MLB, *Prevention*, *supra* note 10.

[32] WADA, *supra* note 19.

[33] *Baseball Bulks Up Steroid Testing; New Policy Omits Amphetamines*, Chicago Tribune (Jan. 14, 1005).

[34] WADA, *supra* note 19.

[35] MLB, *Prevention*, *supra* note 10.

[36] Robert D. Manfred, Jr., Major League Baseball's Executive Vice President, Labor and Human Resources, telephone briefing with staff of the Government Reform Committee (Mar. 15, 2005).

adding any new steroid to the existing program.[37] The policy also permits any single member of the committee to deem that a player's objection to a positive result has a "reasonable basis," triggering automatic arbitration.[38]

The Olympics takes a markedly different approach to oversight of its testing program. To assure integrity, the Olympics has handed control over drug testing to an independent expert agency, the World Anti-Doping Agency.

The Anti-Oversight Clause

The new policy contains an extraordinary provision that in the event of a "governmental investigation" relating to drug testing of players, "all testing ... shall be suspended immediately."[39] The suspension will remain in effect until the government investigation is withdrawn, the league and players' union "have successfully resisted an investigation at the trial court level," or both sides agree to resume testing.[40] If testing is suspended for a year, then the entire drug program is subject to renegotiation.[41]

We have serious questions about this provision. By requiring the indefinite suspension of the testing program when government officials, including elected representatives, ask basic questions about drug use in baseball, this provision appears designed to discourage responsible independent oversight.

Other Questions

We have questions about other significant differences between testing for Olympic athletes and the new Major League Baseball policy.

One question relates to the integrity of the testing process. For Olympic athletes, the World Anti-Doping Agency requires uninterrupted monitoring from the "first moment of in-person notification until the completion of the sample collection procedure."[42] We understand that the goal of such monitoring is to keep athletes from having opportunities to cheat. In addition, the Olympic rules do not permit an athlete to evade testing by only providing a partial specimen. If an Olympic athlete provides less

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[37] MLB, *Prevention, supra* note 10, at 4.

[38] *Id.* at 13.

[39] *Id.*

[40] *Id.*

[41] *Id.*

[42] World Anti-Doping Agency, *International Standard for Testing*, 18 (June 2003).

than the required amount of urine, the sample is not discarded. Instead, he or she must drink liquids under supervision until the remainder of the sample is provided.[43]

By contrast, under the new policy, when a major league player fails to provide the required amount of urine, his sample must be discarded. He may then leave the testing site unmonitored and return in an hour.[44] This extended break could provide an opportunity to cheat or develop an excuse to postpone the testing altogether.

This provision for interrupting drug testing is a departure from the previous Major League Baseball policy on testing, which did not permit players to leave in the middle of a drug test. The 2002 collective bargaining agreement stipulated that "players may not leave the place of testing without giving a specimen unless authorized to do so."[45] We intend to ask why Major League Baseball's approach was weakened and why it falls so far short of the Olympic standard.

We also plan to ask you about several important issues that are not specified in the new policy. For example, Major League Baseball officials have stated: "We're using only Olympic-certified labs ... these are the best labs in the world, the gold standard of laboratories."[46] However, the new policy apparently does not require Major League Baseball to continue using a certified lab. The policy only states that analyses be done "pursuant to a scientifically-validated urine test."[47]

Conclusion

Despite the public assurances of Major League Baseball officials, we have questions about the effectiveness of its new drug policy. There appear to be major differences between Major League Baseball's new policy and the independent, widely respected testing program of the Olympics. The Olympic policy appears comprehensive, strict, independent, and transparent. Major League Baseball's program appears to raise questions on all four counts.

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[43] *Id.* at 36.

[44] Major League Baseball, *Addendum A: Major League Baseball Collection Procedures* (2005).

[45] Major League Baseball, *Major League Baseball's Joint Drug Prevention and Treatment Program*, 173 (2002).

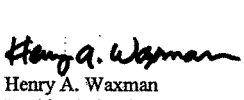
[46] *Selig: I'll Rid Game of Steroids,* Chicago Tribune (Mar. 6, 2005).

[47] MLB, *Prevention, supra* note 10, at 5 (2005).

We hope to explore these and other questions with you at the Committee's hearing tomorrow.

Sincerely,

Tom Davis
Chairman



Henry A. Waxman
Ranking Minority Member

Chairman TOM DAVIS. Mr. Fehr, thanks for being with us.

STATEMENT OF DON FEHR

Mr. FEHR. Thank you, Mr. Chairman. It has been a very long day. I have listened to a lot of testimony. And rather than read some remarks that were prepared last night, I am going to try and make a number of other comments that perhaps may be more central to the question at hand. My full testimony I understand will be placed in the record.

Chairman TOM DAVIS. Would you like to put some remarks in the record?

Mr. FEHR. My full testimony, I understand, will be in the record.

Before going on, I would like to make two introductory comments. First of all, we had concerns, a lot of people had concerns, as the chairman knows, about the fairness of the hearing. And I would like to thank him and the Members for the fashion in which the hearing has been conducted.

Second, I want to address the parents of the three individuals that were the subject of testimony and comment earlier in the hearing. I have four children. My wife and I can think of nothing more tragic than losing a child under any circumstances. Our hearts simply go out to them. In my own family, although it wasn't of a child, we have experienced something of suicide, and it just is tragic beyond description.

Third, I appreciate the committee's interest and concern about the unlawful use of steroids. And I want to just take a minute to repeat the basic position we have had, which I expressed twice before Senate committees, once in 2002 and once in 2004. Simply put, Major League Baseball Players Association does not condone or support the use by players, or by anyone else, of any unlawful substance or condone the unlawful use of any substance legal for certain purposes.

I cannot put it any more plainly. The use of any illegal substance is wrong. And lest there be any question on the matter, I should add that we are committed to dispelling any notion that the route to becoming a Major League athlete somehow includes the taking of unlawful performance enhancing substances.

I am not a physician. One doesn't have to be to understand that these are powerful drugs that are dangerous, and should not be fooled around with. And we understand that this is particularly true for children.

Next, as I indicated in my full written statement, this has been one of the most difficult and divisive issues that we have faced. As I have explained to other committees, let me just take one moment to go through the process. The summer of 2002, when we were in bargaining, I met, as I do normally in bargaining with the players on every team one at a time, to talk about all issues involved in that negotiation.

Half of each meeting and a little more was devoted to steroids. And a lot of issues were discussed with a lot of different, and a lot of conflicting opinions. There was a lot of discussion, for example, about the differences between legal and illegal steroids. And, in fact, people wondered what percentage of the claimed steroid use

was legal substances. We did not know. There was a lot of speculation.

There is a lot of speculation about whether we could be certain that dietary supplements, authorized and made legal by action of this Congress some 11 years ago unanimously in both Houses could be counted on to have the purity of products, or whether they were adulterated. There were questions raised as to whether or not testing does not amount to an assumption of guilty. What I mean by that is, you go up to someone and you say, take a test. And the failure to take a test, even without any other evidence is considered guilt. Normally, some players said, if someone accuses you of doing something wrong, it is up to them to have some evidence of that.

And in a similar fashion, there was a question as to whether you should have to make a preliminary showing to test of some reason to believe there was inappropriate conduct. Not a precise fourth amendment standard, but the concept is similar.

That produced, if I can use the words of Mr. Sosa earlier today, some bristling among the players. We talked it through. And we came to the following solution. We will do an anonymous test in 2003, and we will get some empirical data. If it is 5 percent or more, we will shift to a program with disciplinary consequences.

Did I hope and expect that it would substantially below 5 percent? Yeah, I think I did. Was I right? No, I wasn't. It was slightly above 5 percent. So we shifted in 2004 to a program with disciplinary consequences.

The incidence of use dropped to somewhere in the neighborhood of 1 percent. I have heard a lot of the comments about holes in the program. I am not sure there are really there, or that any real analysis has been done of the program. But, in any event, the trend line is pretty clear. Notwithstanding that, after the hearing before the Senate Commerce Committee a year ago this month, in which I indicated, as I will today, or as I will now today, that we understand the concerns raised by the members of the committee, I have listened all day, and that we will discuss them with the constituents.

We entered into discussions with Major League Baseball about expanding that program. It took longer than we thought, in part, because there were some legal matters that we had to await the resolution of to see how certain matters could be resolved.

I went to the players in December, at our executive board meeting, and made the recommendation that they give us the authority to finish that agreement and make the changes that we had negotiated. They gave me that authority without question. The result is, without going into the details, although I will be happy to if questioned, there is much more frequent testing this year.

And as Mr. Selig has indicated, there is never a time in which a player is free from other tests. There is off-season testing. The substances, Mr. Manfred has covered. And just to reiterate a point, we both copied the applicable law, and provided that if any substance is shown to be anabolic and is unlawful, it gets automatically added. And the penalties were enhanced. With respect to the "or" clause, about which there has been a lot of discussion, let me echo what Mr. Manfred has just told you.

During bargaining, we were explicitly told, there will be suspicions. During bargaining we expressly waived our right to contest that. It is not up to us. Normally a union can file a grievance and say, we think the penalty is too severe. In this case, up to the limit set forth in the agreement, we cannot. This was such a nonissue that in my transmittal to the players on ratification, I did not even mention the "or" possibility. It was just the straight suspensions.

By any reasonable estimation, this is a considerably stronger and more enhanced program than we had a year ago. Will it work? I have my own belief. I believe that it will. And I believe that the evidence we have from last year is. But we won't have to guess about that. We won't. Mr. Selig won't. None of you will. Because the data will be the data. It will show us. And if it is successful, we will know it. If it is not, we won't.

We were asked about ratification. The players are not together during the off season. They are together now. They are ratifying this agreement on an ongoing basis through spring training. A lot of clubs haven't, because I have not had an opportunity to meet with them yet, answer questions and explain the agreement and make sure they understand it. I can envision no circumstance in which it will not be overwhelming ratified.

Finally, the committee's letter inviting me to testify asked me to comment a bit on what can be done to help educate America's young people about the dangers of abusing drugs and so on. As I previously testified, we stand prepared to work with the Congress, to meet with all of you, and see what makes the most sense, what would be the most effective. And I think you heard that from the players that were here today. I don't have to speak for them.

I also want to echo that we ought to make certain that we do not explicitly or implicitly give credence or notoriety to those who claim or have claimed that steroids are the future of sports, etc. I applaud the Advisory Committee which has been the subject of some testimony.

I did not know about it until today. It seems to me to be a fine idea. I am very glad that the players are involved. And I certainly hope that it gets off the ground. If we can help as an institution, as apart from the individual players, I am sure that we will be willing to do so.

Finally, two points. I thank you for hearing me, Mr. Chairman. I think that the Congress needs to consider the reality that for many young people, steroids may only be a mouse click away. They are getting them from somewhere. Or the fact that our culture does not have a uniformally negative image of steroids.

And I was struck by testimony before House Energy and Commerce last week. And I don't remember the individual testifying, I apologize, who pointed out that a number of corporate giants have premised advertising campaigns for products linking those products to being bigger and better, like they were on steroids.

I mention it to indicate the breadth of the issue that perhaps is out there in the public mind. Congress should consider not limiting its attention exclusively to a top down review of testing programs, but also how to furnish parents, coaches, athletic directors, team physicians, teachers, principals and others who work with young people to have the information that they need.

I know there was a bill pending in California that has not come into law yet. I do not know what is in the bill. It seemed to me the idea behind it was good. Last point and I will conclude.

There is an article today in the Washington Post talking about gene doping. That article was similar to one that was in, I believe, Scientific American or Discover that I saw about a year ago. The principal point is, what has been going on now is chemical efforts to change muscle mass. And the science may be progressing to a point where it may be genetic efforts to directly change the genetic code.

I suggest to you that is something which bears the closest scrutiny. And I do not know of anyone who can do that, other than the Congress of the United States.

Thank you, Mr. Chairman. I apologize if I went a little long.

Chairman TOM DAVIS. No. That is fine. Thank you very much. Anybody else wish to say anything up there.

[The prepared statement of Mr. Fehr follows:]

BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE ON GOVERNMENT REFORM

STATEMENT OF DONALD M. FEHR

EXECUTIVE DIRECTOR, MAJOR LEAGUE

BASEBALL PLAYERS ASSOCIATION

17 MARCH 2005

Mr. Chairman and Members of the Committee:

My name is Donald M. Fehr, and I serve as the Executive Director of the Major League Baseball Players Association. I appear today in response to the Chairman's and Ranking Member's March 3 invitation to testify.

I appreciate the Committee's interest in and concern about the unlawful use of steroids, which led to this hearing. Let me begin by re-stating the MLBPA's position, which I

articulated before the Senate Commerce Committee in June 2002, and again a year ago. Simply put, the Major League Baseball Players Association does not condone or support the use by players, or by anyone else, of any unlawful substance, nor do we support or condone the unlawful use of any legal substance. I cannot put it more plainly. The use of any illegal substance is wrong.

Lest there be any question on the subject, I should add that we are committed to dispelling any notion that the route to becoming a Major League athlete somehow includes taking illegal performance-enhancing substances like steroids. I am not a doctor, but one does not have to be a physician to understand that steroids are powerful drugs that no one should fool around with. This is particularly true for children and young adults, as the medical research makes clear that illegal steroid use can be especially harmful to them.

Playing Major League Baseball requires talent, drive, intelligence, determination, and grit. Steroids have no place in the equation.

Over the last several months, there has been no end of discussion of this troubling issue. Much of it has been thoughtful and constructive; some of it frankly, has not. What I would like to do today, with your permission, is correct a number of misimpressions that have been circulating about Baseball's and the MLBPA's response to the steroid issue.

To boil our position down to its essence:

The players want to rid their game of illegal drug use.

We have never suggested that baseball players should be above the law; but neither should they be below it. They should be treated like anyone else. The good news is that the players and owners have put in place a tough, new testing program that we feel will eliminate steroid abuse in baseball with due regard for the rights of the players.

As I indicated in June of 2002, use of unlawful steroids was then a subject of ongoing collective bargaining between the Players Association and the Major League Clubs. That round of bargaining produced a new Basic Agreement between the parties in September of that year. Before turning to that agreement, it may be helpful to briefly describe the history of drug testing in our bargaining relationship.

The matter of drug treatment and prevention is not new to major league baseball. Nor is the demonstrable willingness of the parties -- the Players and the Clubs-- to address the issue, despite significant differences over the means which may be appropriately employed to confront the shared goal of the elimination of unlawful drug use in the sport. Two decades ago, in response to a growing concern about the alleged use of cocaine by players, the parties undertook extensive, and at times contentious, negotiations, which resulted in the first Joint Drug Agreement in the major professional sports. The emphasis of that agreement was on treatment and prevention, and its provisions were designed to encourage and assist players to address any chemical use or

misuse problems they might be experiencing.

During those negotiations, the subject of suspicionless urine testing of players was advocated by the Clubs, and opposed by us. We thought then -- and believe now - that the testing of an individual, not because of something he is suspected to have done, but simply because he is a member of a particular class, is at odds with fundamental principles of which we in this country are justifiably proud. In this country it is not up to the individual to prove he is innocent, especially of a charge of which he, as an individual, is not reasonably suspected. Moreover, one should not, absent compelling safety considerations, invade the privacy of someone without a substantial reason – that is, without cause – related to that individual. While the Fourth Amendment's protection against unreasonable searches and seizures is not directly applicable to the private employment setting, we have always believed that the important principles on which it is based should not be lightly put aside. The Clubs articulated a different view.

This fundamental disagreement did not, however, stop the parties from continuing to work toward the shared goal of the elimination of the illicit drug use by players. Over the years, even in the aftermath of the termination of that first Joint Drug Agreement, the parties forged a working relationship that eliminated contested cases in this once volatile, highly charged, area. We were able to do that with a program that emphasized education, not punishment, that includes progressive, not draconian, discipline, and that included individual cause-based, not suspicionless, testing - - in other words, a program consistent with basic principles of due process.

This history is helpful because it provides a needed context for the latest rounds of bargaining. Coming into the negotiations that produced the September 2002, Basic Agreement, the parties endeavored to respond to growing reports of widespread use of illegal anabolic steroids. How did the parties bridge the 20-year old divide between them on the subject of suspicionless testing? By agreeing to a Players Association formulation in which, in essence, we proposed to break the decades old deadlock on suspicionless testing by, first, implementing a program of unannounced, anonymous testing of all players (with 20% of the players, selected at random, being subject to a second, unannounced test) in order to empirically determine, the incidence of use, and with an agreement calling for an enhanced testing program to be implemented the following year if 5% or more of the tests were positive. In 2003, a total of 1438 tests were conducted in an 1198 player group, a ratio of actual tests to the number of individuals eligible to be tested that we understand far exceeds the norm in most other testing regimes.

How were the 2003 tests conducted? The tests were administered over the course of the season. Contrary to some suggestions, players did not know when the tests were to be administered. Nor, as some have suggested, was the timing of the tests determined by the Commissioner's Office, or by the Players Association. The parties then received from the testing administrators, through the laboratory, which conducted the tests, a report of the numerical results. Within hours of receipt of the test results, we publicly announced that the 5% threshold had been slightly exceeded and that identified testing, with potential disciplinary consequences, would be in effect in 2004.

Accordingly, in 2004, each Player was tested on an unannounced, identified basis for the unlawful use of steroids, without any requirement that cause related to the individual to be tested be first demonstrated. No player knew when he was going to be tested. However, as Commissioner Selig announced earlier this month, we have the results from 2004. Incidence of use of illegal steroids declined significantly, from over 5% to approximately 1%. The data suggests convincingly that the 2004 program did work.

Under the program in effect last year (2004) a player who tested positive was first to be evaluated by the joint Health Policy Advisory Committee (HPAC), after which a Treatment Program was prescribed, which can subject him to further testing, effectively for cause, in addition to the testing required of all Players. He was then subject to the progressive discipline set forth in the Basic Agreement, which called for increased levels of suspensions without pay, or substantial fines, for any subsequent positive test result (including any test which is part of the Treatment Program), or other violation of his Treatment Program. For example, for a second positive a player faced a suspension of 15 days, which in an average case would have resulted in the loss of nearly $200,000. Moreover, Players were then and always have been subject to for-cause testing. If any Club or central office official has information that gives him reason to believe a player is unlawfully using steroids, it can refer the matter to HPAC, which may order diagnostic testing if it believes it appropriate to do so. If HPAC determines the claim has merit, it can prescribe a Treatment Program, and, as noted, that Program may include further testing.

When I appeared last March before the Senate Commerce Committee chaired by Senator McCain, I explained the agreements reflected in the 2003 and 2004 testing programs, and also expressed my belief that the 2004 program, if given a chance to do so, would work well, as we now know that it did. But, a year ago, I think it is fair to state that I did not have a receptive audience. I was chastised, both at that hearing and elsewhere, for the perceived deficiencies in our program. These were the principal complaints.

The first major criticism was that the 2004 testing regimen was lacking because all players would only be tested once. Therefore, the criticism was, once a player had been tested he was free to resort to using illegal steroids without fear of detection. A second major criticism was that we had not negotiated a program that called for off-season testing. Even if players knew they had to remain clean during the season, the complaint went, once the season was done he could begin using illegal steroids during the off-season.

The third major criticism was that there was no penalty for a first positive test. Under the Joint Drug Agreement, once program testing began in 2004 a first time offender was to be placed on the "clinical track", that is, required to meet with our doctors and to abide by their treatment program, including further testing for that individual, but was not suspended nor his name made public unless he committed another infraction. There was good reason for this; our focus was on treatment and prevention, not discipline, as is common in drug treatment programs, particularly for first time offenders. But this was

unacceptable, we were told, because it meant players could continue to use illegal steroids without fear of serious penalties until after the first positive test.

And so, even though we were very confident that the 2004 program would be successful, and despite the fact that we had a contract which ran for three more seasons, the players nevertheless decided to negotiate a new, stricter, drug testing regime, in light of these perceived criticisms. Our new Agreement with MLB was announced in January. It is fair to state that such a midterm, major, amendment to the CBA is unprecedented, and, it can be argued, the new amendments consist entirely of concessions made by the players, who were under no legal obligation to bargain over these matters at this time.

Under the new agreement, which is effective this season, every player will be tested once for illegal steroids, and, in addition, players at random will be chosen for additional testing. No players will know in advance when any test will be administered. Every player is potentially subject to being tested whenever random tests are conducted, no matter how many times he has already been tested.

Moreover, we now will have off-season random testing.

Third, for a first positive, a player will now face a 10-day suspension without pay. And the loss of ten or so games that the player will never get back is quite meaningful to a Major League player. But, perhaps more significantly, a player who is suspended for

testing positive will be publicly identified, even for a first offense. The penalties for a subsequent positive test or violation of a Treatment Program are enhanced as well.

As we were negotiating the amendments to the Joint Drug Agreement, we learned the results of the 2004 program testing. As mentioned, those results showed that the number of positives dropped dramatically in just one year. Given the new enhancements to the program, and the continued education of the players, we are even more confident that we are moving in the right direction.

Let me make a few more points before I close. First, some may contend that the penalties under our new Agreement are still not strict enough. I respectfully, but strongly disagree. Whether you are a young player trying to make it in the big leagues, an established star, or a veteran utility player fighting for a job, the impact of being identified as a steroid user, especially in the current environment, could be devastating, and certainly will be a significant deterrent.

Second, and with all due respect, if Congress wants employers and unions to negotiate drug testing programs in order to clean up the problems in their own industries, Congress is going to have to be sensitive to the need for confidentiality, which is surely the cornerstone of any successful drug testing policy. Indeed, Congress has recognized the need for confidentiality in a similar context, by explicitly regulating the disclosure of records from drug treatment programs regulated, conducted or assisted by the government. *See,* 42 U.S.C. Sec. 290dd-2.

Let me also acknowledge that it has not been easy to get to where we are today. I have worked for the players for 28 years; this is as difficult and divisive an issue as we have confronted in all of that time, including the issues, which led to the two long strikes in 1981 and 1994-5. We have always believed that Constitutional principles such as those contained in the 4th Amendment, while not perfectly applicable in a private employment setting, remain important principles that we should not casually abandon. There is both the view that we should never have agreed to the testing of individuals without cause; and there are those who believe we should have random, mandatory steroid testing, and should have had such testing earlier. For making this new agreement we have been criticized by my mentor and predecessor, Marvin Miller, the first MLBPA Executive Director, and a man to whom all players owe a great debt. He has said publicly that it was a mistake to reopen the contract, that testing should only be for individual cause, and that we will rue the day we took this step. His opinion is not one to be dismissed lightly.

But the important thing is that the players have decided that it is necessary to do this now. We think the agreement we have negotiated will be a successful one.

Under the National Labor Relations Act the negotiation of terms and conditions of employment is committed to good faith collective bargaining between employers and the organizations selected by and representing employees. The agreement reached in September 2002, and now amended, is a product of that process. We continue to believe that collective bargaining is the appropriate forum for consideration and resolution of these issues. One of the premises of our labor laws is that solutions devised by the

parties in the workplace are more likely to be workable and enduring, precisely because they are forged by those parties, rather than by others outside that relationship, no matter how well intentioned they may be.

Finally, the Committee has asked what the players can do to educate young people on the dangers of abusing drugs in the name of athletic excellence. As I have testified before, we stand ready to work with Congress and others on finding the most effective way to convince America's youth that there are no short-cuts to athletic excellence, and that the use of steroids is not only wrong, but dangerous. We must make sure that we do not explicitly or implicitly give credence or notoriety to those who claim that steroids are the future of sports.

But we should recognize other problems while we do so. For example, we also have to address the reality that for many young people steroids may only be a mouse click away on the Internet, or the fact that our culture does not have a uniformly negative image of steroids, as evidenced in the marketing campaigns of corporate giants like 3-M and Saab, which were pointed out in the hearing held last week. Congress should consider not limiting its attention exclusively to a top-down review of testing programs, but also how to furnish parents, coaches, athletic directors, team physicians, teachers, principals and others who work with our young people with the information they need to counter any suggestion that athletic success should be achieved by the use of unlawful substances.

Let me close with the observation that players share, with the owners and the fans, and with the members of this Committee and this Congress, the goal of a game free of the unlawful use of drugs. We believe that the actions we have taken will achieve that result. We want the fans, and especially the children, the Major Leaguers of the future, to know that we are determined to achieve that goal.

Mr. ALDERSON. I have a statement, if I can. It will be abridged, but I would like to make an opening statement, if I can.

STATEMENT OF SANDY ALDERSON

Mr. ALDERSON. Mr. Chairman, Mr. Waxman, committee members, I have been employed in baseball for almost 24 years, 17 of them with the Oakland Athletics, 14 of those years, from 1984 through 1997, I was the general manager of the A's. I have been executive vice president of baseball operations at Major League Baseball since 1998.

With the considerable attention now being paid to the steroid issue, it is difficult to imagine that there was a time when those in baseball had barely heard of steroids, much less suspected that they were a problem in the game.

When I first became the general manager of the Athletics, the conventional wisdom within professional baseball was that strength training would not result in improved performance. Many players and clubs placed no emphasis at all on strength development.

In the early and mid 1980's, the Oakland Athletics embarked on many innovative programs. We were the first to embrace quantitative analysis for the evaluation of players. We hired the first mental coach, someone actually in uniform, to assist with the development of our players and staff. We may have been the first team to promote strength training and to configure a team weight room at the ballpark.

At the Major League level, a former Major League player already on the coaching staff was assigned additional responsibility as the strength coach. One of the players developed by Oakland during this time was Jose Canseco. Canseco was a mid-round draft selection, but he quickly developed a reputation for bat speed and power. By the end of the 1984 season, which was before Canseco claims he began using steroids, Canseco was a possible future star with great power potential.

Baseball America considered him the A's No. 1 prospect. Consequently his subsequent development physically as well as professionally was gratifying, but not surprising to those in the organization. By the time Canseco was an established player, many organizations had adopted similar strength training programs, and as a result throughout—many players throughout Major League Baseball were getting stronger and bigger.

There did come a time when I did wonder whether Jose Canseco might be using steroids. There was a column written late 1988 that speculated his steroid use. But his reaction to that speculation was a vehement denial, much different response than the recent admissions in his book. Also, probably in 1989, Canseco reported to spring training looking markedly bigger and more physically developed than he had been the year before. However, under the collective bargaining agreement then in force with the Major League Baseball Players Association, Major League players could not be tested for steroid use. Steroids were not even illegal until 1991.

During my time in Oakland, I never saw a player use steroids, never saw steroids or steroid paraphernalia. Steroid suspicion was

not a consideration of mine in trading Canseco in 1992, in trading in 1997 or not resigning him in 1998.

There were many factors at work in baseball in the 1990's which may have obscured a steroid problem. Home runs and run production were increasing during this time, but not always year to year. At the same time, strength programs were in vogue across baseball; hitter-friendly ballparks were being built, expansion that occurred in 1993 and again in 1998. Two seasons, 1994 and 1995, had been shortened by a player strike. That design had changed, and there was an emphasis with many clubs on having more offensive players even at traditionally defensive positions.

Beginning in the late 1990's, there has been a growing awareness of steroid use in professional baseball. This greater awareness first emerged with the inquiry into the use of androstenedione in 1998. Since then we have become more knowledgeable as a result of a strong testing program in the Minor Leagues as well as the testing program contained in the 2002 collective bargaining agreement with the Players Association. Participation in international competitions such as the Olympics, where professional players have competed since 2000, has also contributed to our knowledge and, I believe, to the willingness of the Players Association to finally accept drug testing for steroids. Out of this greater awareness have come a strengthened Minor League drug policy, the new Major League drug policy implemented for this season, and a medical advisory committee that was formed partly to keep the Commissioner and Major League Baseball informed about performance-enhancing substances. Also, tighter controls on the access to Major League clubhouses have been instituted.

Hindsight is 20/20 vision. All of us in baseball, including me, wish we would have been able to detect steroid use early in the 1990's, but we can only learn from this recent history. In the meantime, the new Major League steroid policy effective for this season is a great step forward. The program represents on the part of both players and management an affirmation that the integrity of the game, the health of Major League players and the health of the youth of the United States are vitally important to baseball. Thank you.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. Alderson follows:]

STATEMENT OF
RICHARD L. ALDERSON
EXECUTIVE VICE PRESIDENT, MAJOR LEAGUE BASEBALL
BEFORE THE HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM
MARCH 17, 2005

I would like to begin today by emphasizing the most important point of these hearings for Congress and young people: Baseball is dealing aggressively with the usage of steroids in the game. I believe that the current Minor League drug policy and the newly implemented Major League drug policy are enormous steps forward as we strive to eliminate performance-enhancing drugs from professional baseball.

I have been employed in baseball for almost 24 years, 17 of them with the Oakland Athletics. For 14 of those years, from 1984 through 1997, I was the General Manager of the Athletics. I was also President of the A's from 1993 through 1995 and in 1997 and 1998. I have been Executive Vice President, Baseball Operations, at Major League Baseball from 1998 to the present.

My awareness of steroids has evolved through that time, from little or no awareness in the early years to a great awareness today. Simply put, we now know far more about performance-enhancing drugs and their use in professional baseball than we once did. In retrospect, I wish that I and the rest of Major League Baseball had known more about this problem sooner so that effective controls could have been implemented earlier than they have been. No one involved in the management of Major League Baseball over the past 20-plus years would answer otherwise, but in the past we did not have the benefit of the knowledge we have now. Our awareness has been dynamic, not

static, as have been our steps to address the problem. And we are addressing this problem, not only to protect the health of our players and the integrity of our sport, but also to demonstrate to young athletes and others that steroids and other performance enhancing substances should not be used or condoned.

With the considerable attention now being paid to the steroid issue, it is difficult to imagine that there was a time when those in baseball had barely heard of steroids, much less suspected that they were a problem in the game. When I first became the General Manager of the Athletics in 1983, the conventional wisdom within professional baseball was that strength training would not result in improved performance. Many players and Clubs placed no emphasis at all on strength development.

In the early and mid-1980s, the Oakland Athletics embarked on many innovative programs. We were the first to embrace quantitative analysis for the evaluation of players. We hired the first "mental coach," someone actually in uniform, to assist with the development of our players and staff. We may have been the first team to promote strength training and to configure a team weight room at the ballpark. At the Major League level, a former Major League player already on the coaching staff was assigned additional responsibility as the strength coach.

We also instituted a comprehensive Club drug program for Minor League players in 1984. This program focused on recreational drugs and it had a testing component. Therapy was the goal of this program, not punishment. The program did not include steroids, because possible steroid use was not even contemplated at that time.

One of the players developed by the Oakland organization during this time was Jose Canseco. Canseco was a mid-round draft selection, but he quickly developed a

reputation for bat speed and power. By the end of the 1984 season, which was before Canseco claims he began using steroids, Canseco was a possible future star with great power potential. Baseball America considered him the A's number one prospect. Consequently, his subsequent development, physically as well as professionally, was gratifying but not surprising to those in the organization. By the time Canseco was an established player, many organizations had adopted similar strength training programs and, as a result, many players throughout Major League Baseball were getting stronger and bigger. For those of us in management, certainly into the late 1980s, there was little reason to believe that players' strength and weight gains resulted from anything other than hard work.

There did come a time, however, when I did wonder whether Jose Canseco might be using steroids. There was a column written in late 1988 that speculated about his steroid use and led to a brief fan reaction in Boston during the 1988 playoffs. But his reaction to the speculation was a vehement denial, a much different response than the recent admissions in his book. Also, probably in 1989, Canseco reported to spring training markedly bigger and more physically developed than he had been the year before.

However, under the Collective Bargaining Agreement then in force with the Major League Baseball Players Association, Major League players could not be tested for steroid use. Congress did not even make steroids illegal until 1991.

During my time in Oakland, I never saw any player use steroids. I never saw any steroids or steroid paraphernalia. Steroid suspicion was not a consideration of mine in trading Jose Canseco in 1992, in trading for him in 1997 or in not re-signing him for

1998. I never suspected Mark McGwire or Jason Giambi of using steroids during my tenure in Oakland.

There were many factors at work in baseball in the 1990s which may have obscured a steroid problem. Home runs and run production were increasing during this time but not always year to year. At the same time, strength programs were in vogue across Major League Baseball; hitter friendly ballparks were being built; expansion had occurred in 1993 and again in 1998; two seasons, 1994 and 1995, had been shortened by a player strike; bat design had changed and there was an emphasis with many Clubs on having offensive players even at traditionally defensive positions (i.e., shortstop, centerfield, second base, catcher).

Beginning in the late 1990s, there has been a growing awareness of steroid use in professional baseball. This greater awareness first emerged with the inquiry into the use of androstenedione in 1998. Since then, we have become more knowledgeable as a result of a strong testing program in the Minor Leagues, as well as the testing program contained in the 2002 Collective Bargaining Agreement with the Major League Baseball Players Association. Participation in international competitions such as the Olympics, where professional players have competed since 2000, has also contributed to our knowledge and, I believe, to the willingness of the Players Association to finally accept drug testing for steroids. Out of this greater awareness have come a strengthened Minor League drug policy, the new Major League drug policy implemented for this season, and a Medical Advisory Committee that was formed partly to keep the Commissioner and Major League Baseball informed about performance enhancing substances. Also, tighter controls on the access to Major League Baseball clubhouses were instituted.

Hindsight is 20/20 vision. All of us in baseball, including me, wish that we had been able to detect steroid use earlier in the 1990s. But I and we can only learn from this recent history. In the meantime, the new Major League steroid policy effective for this season is a great step forward. The program represents, on the part of both players and management, an affirmation that the integrity of the game, the health of Major League players, and the health of the youth of the United States are vitally important to Baseball.

Chairman TOM DAVIS. Mr. Towers, did you want to make an opening statement?

Mr. TOWERS. Just questions.

Mr. MANFRED. Mr. Chairman, I notice this list went up over here, and I might—so that we are clear, the second item from the bottom, clenbuterol, that is listed is not covered by our policy. If you review my letter of March 14, 2005, we reported a positive for that substance to you. It is, in fact, covered by our program. It is in response No. 5. In addition, the first item under the list of anabolic steroids is the base molecule for THG, which is also banned under the program.

Chairman TOM DAVIS. That is Mr. Waxman's chart. Let me ask you while you are here. Let's turn to the agreement, page 11, player tests positive for steroid. First positive test results in a 10-day suspension or up to a $10,000 fine. You are telling me this was just carried-over language from a previous agreement?

Mr. MANFRED. Yes.

Chairman TOM DAVIS. Mr. Fehr, your understanding is you have communicated this to the players, that you didn't even talk about the fine; is that correct?

Mr. FEHR. That's correct, we have not.

Chairman TOM DAVIS. Since this is a draft agreement, we have no problem taking this out of here, do we, ratifying this and just taking this out? Does anybody?

Mr. SELIG. I do not have a problem.

Chairman TOM DAVIS. Can we execute an agreement that we can take that out?

Mr. FEHR. I will certainly go back to the players with it.

Chairman TOM DAVIS. The players don't know it's in there, right?

Mr. FEHR. That's correct.

Chairman TOM DAVIS. You didn't communicate this?

Mr. FEHR. Mr. Chairman, as we heard from one of the individuals on the doctors' panel, and I apologize, I do not remember who it was, there may be individuals for whom it's clear that a positive result was either inadvertent or unknowing.

Chairman TOM DAVIS. That's why you have the appeal.

Let me just say I'm not a big lawyer like you, I'm a recovering lawyer, but that's why you have an appeal procedure where they can come back.

Let me just say, we will look at this. Taking this out would be a major advance for baseball both for everybody's credibility.

Mr. SELIG. When we presented it to the owners on January 13 and 14, in Phoenix, we presented it as just suspension. There was not a mention of fines. So it was passed and ratified 30 to nothing with the understanding that any violation would be suspension.

Chairman TOM DAVIS. Let me say, you are people of goodwill. Mr. Fehr is a careful attorney, and I understand why he wants to go back and check it, but it wasn't communicated to the players, according to your testimony, so I wouldn't think you would have to go back to the players. It seems to me there is an appeal period for players who have a test result otherwise they can take advantage of and take care of——

Mr. WAXMAN. On this one point, yesterday Mr. Manfred was on the radio, and he said that this was not simply carried over, but

it was intentionally done so to give as much power to the Commissioner as possible. Do you deny saying that on a radio interview yesterday?

Mr. MANFRED. What I said on the radio was that the language was originally put in the agreement to deal with an extraordinary circumstance such as Mr. Fehr just described. That's what I said on the radio when I was talking about going into the agreement.

Chairman TOM DAVIS. Wouldn't the appeal period allow for that?

Mr. MANFRED. You are correct about that. Your analysis of that issue is correct.

Chairman TOM DAVIS. Let's watch that, and would like you to report back to us on that. We have made a major issue out of it, and you have responded. And if you could respond to it, that would be helpful.

If I could turn back to page 8 on the disclosures, where it says that disciplinary fines imposed upon the player by the Commission will remain strictly confidential, since we are not going to be doing fines, is this another drafting error?

Mr. MANFRED. What page?

Chairman TOM DAVIS. Page 10, disclosure of player information, A–2.

Mr. MANFRED. There is language that deals with suspension. The suspension shall be entered in the baseball information system.

Chairman TOM DAVIS. I understand that. But under the language on page 11, where you still had under the written document a fine or suspension option, this refers to the fine would not be disclosed. You tell me that was a drafting error. Would this be a drafting error as well?

Mr. MANFRED. You still might have fines under the drugs of abuse portion of the program, Mr. Chairman. So not the steroid portion, but the drugs of abuse portion. And there may be some use for that language still, I believe, but not under the steroid piece, because all the suspensions would be disclosed in the transactions.

Chairman TOM DAVIS. What about the discipline, going back to page 11, under the discipline program, where you give options for players who are at this point—who are put into treatment, and they fail treatment, failure to comply with the treatment. Again, you have suspensions, and you also have a fine option there. Was this agreed to?

Mr. MANFRED. There is an option to fine. This part of the program would apply to drugs and abuse. Some people who enter these programs are in an employee assistance mode. They may come forward voluntarily, seek treatment, and they are put on a treatment program and may be tested, OK. And if they have a slip, sometimes the doctors recommend to us that a fine is appropriate, and we don't disclose those fines.

Chairman TOM DAVIS. And, in fact, if a player came forward and admitted they have a problem and went into the program, they could still be playing, and you want to protect the fact that they came forward?

Mr. MANFRED. Absolutely correct. The drugs and abuse portion of the program, there could be still some fines there.

Chairman TOM DAVIS. Confidentiality. Turn to page 9 of the confidentiality, and this was addressed. Mr. Selig, you addressed this

both in your opening statements on the governmental investigation. This means any subpoena issued, warrant obtained or any other investigative effort employed by any governmental body with the intention of securing information relating to drug testing of players—that, in my mind, doesn't just mean the individual player's results; these could be the composite results, which we have subpoenaed in this case, too. Am I misconstruing this, or did you really mean——

Mr. MANFRED. All I can tell you is that when we provided you the aggregate information——

Chairman TOM DAVIS. Which is all we asked for. We didn't ask for any individual player results because some of your representatives are out there saying we asked. We never did ask for that, did we, to you knowledge?

Mr. MANFRED. I believe—and I don't have the document in front of me. I think the original request for information was broader than the subpoena. I mean, I don't have it in front of me.

Chairman TOM DAVIS. It is not in front of me.

Mr. MANFRED. I just don't remember, Mr. Chairman. Candidly, the best answer I can give you on this is the type of request made was such that nobody raised even the possibility that this language was operative. Again, I think the best evidence of what we intended the language to mean was the way that Mr. Fehr and I conducted ourselves, confronted with the type of limited investigation that you wanted to undertake.

Chairman TOM DAVIS. It would not apply to the investigation of this committee under your understanding?

Mr. MANFRED. That is correct.

Mr. FEHR. If it is not seeking the individual private data. This is designed to get that private, individualized results, and it is broad enough to encompass not only steroid testing, drugs and abuse testing, treatment programs, medical records.

Chairman TOM DAVIS. Also broad enough to include what we are doing, but you are telling me that doesn't apply?

Mr. FEHR. The fact that it doesn't, I think, is evidenced by the fact that there was no effort to resist the subpoena once it was clear that no individual names were being sought.

Chairman TOM DAVIS. Both of your interpretations is as long as you stay away from individual information, subpoenas and investigations would not halt the program?

Mr. MANFRED. I agree with what you just said.

Mr. FEHR. Yes.

Chairman TOM DAVIS. I think one of our concerns is, you know, when you get into labor negotiations—and I'm a recovering lawyer. I used to do this before I got here. You get into negotiations, and you very ably want to represent your client whether it's the league owners, whether it's the players, and you get inside this bubble. And I hope if nothing else, I hope today's hearing has shown you inside the bubble and what you are dealing with on these issues from the players' perspective and from the managers' perspective is just a solar system away from where the American public is.

The public really demands more clarity to this, a clearer sign than what we have. NFL—and we have talked about other sports and amateur sports. This is a start, and I don't want to sit here

and say you haven't tried to do something. That would not be fair. And I know you have worked hard on this. I know, Mr. Fehr, from your perspective, this is not an issue you had to address under your collective bargaining contract. You came back and did this out of cycle. I don't want to take that away from you. But I want to say that the end result—and you can hear this from the testimony and from liberals and conservatives and Republicans and Democrats here—really falls short of what we think Major League Baseball ought to be doing because it is not just a business, it has been decreed by the court as a national pastime. These players, like it or not, are role models, and this trickles down into every element of organized sports. And that is really the concern here as we look at this in terms of some of the shortcomings.

Again, as Senator Bunning said, you are out of the batter's box and on your way to first base, and we think it needs, as we have discussed here, some additional work. So I will end with that and pass it on to Mr. Waxman.

Mr. WAXMAN. Thank you very much, and thank you, gentlemen, for your testimony.

Mr. Selig and Mr. Fehr, there are two fundamental questions that I think we need to focus on today. One is what did baseball know about steroid use in the game, and what did baseball do about it? The other, of course, is whether baseball's new policy is adequate.

I want to focus my questions on the first issue. What did baseball know, and what did baseball do to respond? Mr. Selig, Jose Canseco told us that it was widely—Jose Canseco was widely suspected of using steroids during his career, yet he told us that no one in baseball ever asked him about his steroid use. No one told him it was wrong or asked him to submit to a drug test. What did you do as Commissioner to investigate whether Jose Canseco was using steroids?

Mr. SELIG. Some of the things that happened, Congressman, with Jose Canseco happened before I became Commissioner.

Mr. WAXMAN. The stories were after you became Commissioner.

Mr. SELIG. The fact of the matter is that I have said—if I can answer your question—having been in this sport for almost 40 years, that in the 1990's, and I have gone back over that period, there was some conversation, there was the 1988 thing, there were a few articles written that people have quoted, but not many—nobody ever came to me, no manager, no general manager, nobody ever came to me in the 1990's. I became concerned myself in July on a Sunday morning when I read about Mark McGwire and Andro, and that's when all these things started.

Mr. WAXMAN. Before that, Fay Vincent, who was your predecessor, was concerned about steroid use to make it a prohibition on his own. He said it is going to be prohibited in baseball. And then there were news reports about Jose Canseco.

Mr. SELIG. With all due respect, I want to be careful about my predecessors, but baseball had no drug program at all until I took over, none, zero. And therefore, whatever you may hear and whatever you read, there was no program, and it was only in the 1990's as we developed that these programs began to develop. There was nothing. And remember——

Mr. WAXMAN. Let me interrupt you, because I have limited time. In 1991, it became baseball's drug policy the possession, sale or use of any illegal drug or controlled substance by Major League players and personnel is strictly prohibited. Those were the rules in 1991.

Mr. SELIG. They were not the rules. They were not enforceable. They were our statement of purpose, but they had to be collectively bargained.

Mr. WAXMAN. That was true only if you were going to have random tests of everybody. But if you have an individual for whom you had probable cause to believe that something needs to be investigated because they are violating the rules, it seems to me—I have in front of me, the Major League Constitution, and it says, the functions of the Commissioner shall include to investigate or upon complaint or upon the Commissioner's initiative any act, transaction or practice charged, alleged or suspected to be not in the best interest of the national game of baseball with authority to subpoena persons and order the production of documents in case of a refusal to do so, and to determine after investigation what actions to take.

So you had the ability, if you knew that somebody was breaking the rules, to bring them in and ask them, why are you breaking the rules, are you breaking the rules, would you submit to a test?

Mr. MANFRED. Mr. Waxman, all aspects—and the only reason I am answering, because it's a lawyer's answer, all aspects of that Commissioner's drug policy—and again, we have had a lot of agreement today. I think Mr. Fehr is going to agree with me about that, we are mandatory. The probable cause requirement, the random testing, those are all mandatory.

Mr. WAXMAN. I'm going to interrupt you, because you are giving me a lawyer's answer. The collective bargaining agreement was for random testing of everyone, but the constitution of Major League Baseball said if there was some suspicion of breaking the rules, the Commissioner could do something about it.

I have a picture up there of Giambi, and he went to the Yankees. And the picture on the left showed him with long hair and a beard. And Steinbrenner said, nobody is going to play with long hair and beard. That is what he looked like right after he went to the Yankees. If people said you are not going to disobey the rules of using steroids, we are not going to permit it; and if we suspected it, I think the Commissioner had the ability to go in and demand an explanation.

Mr. SELIG. I will let him give a more legal answer. 1990, 1991 was before I took over. Mr. Vincent was the Commissioner then. No. 2, the fact of the matter is he denied it, he being Canseco. And nobody did come to me. And he denied it emphatically, and that was the end of the discussion.

Mr. WAXMAN. In July 2000, the police found illegal steroids in the glove compartment of the car of Red Sox shortstop Manny Alexander. At the time it was a Federal crime to possess these steroids. At the time you were the Commissioner. The Commissioner's policy on drug use specifically banned the anabolic steroids in Major League Baseball. What kind of investigation did your office do after this discovery, and was Mr. Alexander ever asked to take a test for illegal steroid use?

Mr. SELIG. Mr. Manfred conducted the investigation.

Mr. MANFRED. When we learned about the situation with respect to Mr. Alexander, we worked with the Players Association under kind of ad hoc arrangements we developed. We reached an agreement, and there was actually reasonable cause testing imposed in that situation.

Mr. WAXMAN. There was testing?

Mr. MANFRED. Yes.

Mr. WAXMAN. What sanctions did Mr. Alexander receive? Did he get a suspension?

Mr. MANFRED. I believe——

Mr. WAXMAN. The answer was no.

Mr. MANFRED. I believe because his test was actually negative and he denied those steroids were his, he took the position that they belonged to a young man that was in the car with him. And after we tested him and he was clean, we didn't have a basis for disciplining the individual.

Mr. WAXMAN. We heard from Senator Bunning this morning, and he is a very respected Senator and someone who is—most valuable player in the Hall of Fame for baseball, and he said your testing program is puny. We heard from the parents, and the parents said to us, we don't think this testing program is adequate. We heard from the players, and over and over again they were asked, why don't you go to something stronger? Why don't you go to something like the Olympic standard?

Now, Mr. Selig, you can't agree to anything without collective bargaining, but if Mr. Fehr would agree, would you accept the idea that on a first offense, you got a 2-year suspension, and on a second violation, that you are out of the game? That is one that has worked in the Olympics, and it would be a clear signal.

Mr. SELIG. Well, the Olympics are a little bit different, but let me answer your question. The fact of the matter is—and I say this and I think everybody is going to understand—yes, I wanted tougher testing. I think the Minor League program is a manifestation of that. I believe there should be tougher testing. I believed it in 2002. I believe it now. But we now have a program——

Mr. WAXMAN. Let me ask Mr. Fehr. If you are supporting it, maybe we could find out if Mr. Fehr would support it.

Mr. Selig said he would support a tougher testing program. The players said they wanted it. The members of your union, they wanted a tougher testing program. And it appears that this program that you have already agreed on is not tough enough in the eyes of so many people. Would you support a tougher testing program?

Mr. FEHR. Let me take a minute to explain my response. It is not a simple yes or no answer. First, I believe my obligation with the players is to consult with everyone in private, confidentially, in a situation in which they are not under the glare of TV cameras. That's first.

Second, my personal view, this is not an institutional view I'm expressing now, my personal view is that our job with violations of substance use is not to destroy careers. Our job is to stop it. And if we can stop it short of destroying careers, and we can put people on the right track, and we can get them back to playing with the

appropriate disclosures that you heard the players talk about and all the rest of it, that is manifestly better.

That is the principle behind which every employee assistance program in the country. It worked with drugs and abuse with us. No question about that. And therefore, my suggestion is, and I believe this very strongly, we have to find out empirically if it works before you go back and do that. The evidence we have so far suggests that what we did, which is far short of the program we have now, far short of it, had a—not only a demonstrable, but a dramatic effect. The data is the data.

Mr. WAXMAN. I would submit to you that it's not just a collective bargaining issue between the two of you. The best law enforcement is the one that is clearly stated and enforced. And if laws are broken, you enforce them, and that means you prevent people from using steroids or any other illegal drug. If we had a policy of first offense, light penalty; second offense, not that big a penalty; third offense, maybe a little stronger, if they know they are going to be out of the game and lose that money, those players are not going to be using steroids.

Mr. SOUDER [presiding]. We have gone way over time. I yield to Mr. Shays.

Mr. SHAYS. Thank you. I appreciate you gentlemen being here. Frankly, you are the most important panel. I know you are people of goodwill, but I feel that you are asking us to do something that just boggles the mind. It boggles the mind for me to think that you would send us a drug policy and then tell us that the document isn't accurate, and that is just sloppy. You guys are the best lawyers in the business. And I want to know, and I want to know without—under oath, I want to know if you were asked for the drug policy verbally by our staff?

Mr. MANFRED. I was here on March 2, and a member of the staff asked me if we could get the drug policy. I told them we were still drafting the policy. The next request that I received was a letter that I received on March 7th. It was a two-page, single-spaced request for documents that included items——

Mr. SHAYS. Thank you. You have answered the question. You were asked first by staff. You were asked second by letter on March 7. I want to know why it took a subpoena to get this document.

Mr. MANFRED. Because the document was not yet complete.

Mr. SHAYS. What do you mean not yet complete?

Mr. MANFRED. We were drafting the document. That document on March 2 did not exist.

Mr. SHAYS. This document didn't exist?

Mr. MANFRED. Not in the form that you have it.

Mr. SHAYS. You mean you just wrote it then; this document you were telling people you had a policy, and now telling us wasn't even drafted in March?

Mr. MANFRED. We were making changes to the draft still in March.

Mr. SHAYS. I think that I need to calm down.

Mr. WAXMAN. If the gentleman would calm down, I just want to point out the Commissioner announced this policy in January.

Mr. MANFRED. We always have announced our collective bargaining agreements without language drafted. We have routinely done that for 30 years.

Mr. SHAYS. All you do by your answers is make me want to know more about what the hell you do do, because when you announce the policy and you tell us—and you have not been responsive to our staff—and the bottom line is—no, you haven't been—and the bottom line is we had to subpoena this information. And when we get this information, you are telling us what we are looking at is a drafting error, that to me is just unbelievable.

I would like to ask you why should someone have five strikes before they are out? I want to go down the list. Why five strikes?

Mr. MANFRED. Congressman, let me begin——

Mr. SHAYS. I would like the Commissioner. Why five strikes?

Mr. SELIG. That is the negotiated policy. That is the best we could do in collective bargaining. This is collective bargaining.

Mr. SHAYS. It's the players' fault? I want to know your position. Is your position one strike and you're out?

Mr. SELIG. No, but the penalties would be much tougher if I had my way, as I did in the Minor Leagues.

Mr. SHAYS. Let's not blame the players. I want to know why you need five strikes and you're out.

Mr. SELIG. I am not blaming the players.

Mr. SHAYS. I want to know why you need five strikes and you're out. I want to know why you can break the law once, break the law twice, break the law three times, break the law four times and then you're out? Mr. Fehr, maybe you could tell me, because you represent the players.

Mr. FEHR. The notion of progressive discipline is well ingrained in collective bargaining agreements in this country and has been for years.

Mr. SHAYS. Even when you break the law?

Mr. FEHR. Has been for years.

Now, second—I'm sorry. I lost my train of thought.

Mr. SHAYS. Why should you have five strikes before you are out?

Mr. FEHR. And the second reason is did we believe—did I believe that doing it this way with the public disclosures would accomplish the result of getting it stopped? The answer is, yes, I did. And I think the data we have so far supports that.

Mr. SHAYS. Well, why would it accomplish it if you have five strikes? You can break the law five times, four times before you are asked to leave baseball?

Mr. FEHR. I can't say it any more than we have. We believe in the concept of progressive discipline. It is well ingrained in labor law and has been for a long time. We believe that if what you do is you have a circumstance in which there is a positive test, there is no treatment program like there was under the first one. That was the criticism last year. It becomes publicly known. That person is now subjected, immediately, to individualized testing. He is no longer part of the random program. He gets it on an ongoing basis. If he screws it up, he is gone.

Mr. SHAYS. My light is on, but what you are telling the kids is—is you can break the law four times before you are out of the game. And that, to me, is amazing. And I just want to say to you, Com-

missioner, when you say it is collective bargaining, you are basically blaming the ballplayers. And I don't know why you just don't say what you want, what it should be, and fight like hell to make sure it happens and publicly expose the players if they are taking the position they are taking.

Mr. SELIG. I have said, Congressman Shays, over and over again publicly that the Minor League policy, which is much tougher, is a manifestation—is about how I feel about the issue and what I want. I would even tighten that up, and we may in future years.

Mr. SHAYS. I think you need to take your case to the public.

Mr. SOUDER. Mr. Cummings.

Mr. CUMMINGS. How many people have you suspended?

Mr. MANFRED. I'm sorry?

Mr. CUMMINGS. I asked the Commissioner how many people have been suspended.

Mr. SELIG. This policy has just kicked in.

Mr. CUMMINGS. That's what I thought.

You know, one of the things that you said, Mr. Fehr, and I do appreciate all your testimony, but you talked about you didn't want to destroy the careers of these players, these multimillion-dollar players. Well, Mr. Fehr, let me tell you something. I have people in my district that don't have a job. And if they got caught with a Schedule III drug, you know where they're going? To jail. And nobody cares about their careers. And Mr. Souder will tell you, we travel all over this country, and we have people who get convicted of offenses, and they suffer for the rest of their lives. And so we have criminal laws here. And it seems to me that we would want zero tolerance. Is that what you want, Mr. Selig?

Mr. SELIG. Yes.

Mr. CUMMINGS. 1.7 isn't good enough, is it?

Mr. SELIG. No. I agree with that.

Mr. CUMMINGS. Let's talk to you, Mr. Manfred. On ESPN radio, Mike and Mike show yesterday, you said the way the policy is written is that it says that for a first positive steroid test, the Commissioner has the discretion to impose a 10-day suspension or $10,000 fine. The reason it was written that way and committed to the Commissioner's discretion is because the bargaining party's understanding consistent with the descriptions that have been made to the policy publicly and to Congress is that a positive test will result in the Commissioner imposing a 10-day suspension. The language after the disjunctive was added, to give the Commissioner discretion to deal with that unusual circumstance where there was an unwitting positive, what does that mean?

Mr. MANFRED. First of all, I was describing the original reason for including the language in the 2002 agreement, No. 1. No. 2, what I meant by the phrase "the unwitting positives," somebody who demonstrated to us that the only substance they ever took was in this jar. We analyzed it. It contained a contaminant, a steroid that resulted in a positive, and it was nowhere listed on the label. The individual had no way of knowing; he could not have known that it was in there, and that was the kind of circumstance I had in my head when I said that.

Mr. CUMMINGS. When do we expect this, whatever the policy is, to be ratified, Mr. Fehr?

Mr. FEHR. I'm sure it will be by the end of the month. I still have to meet with 12 or 13 teams and make sure that I explain it and answer the questions from them.

Mr. CUMMINGS. You can understand the frustration of Members of Congress, can you not?

Mr. FEHR. Of course.

Mr. CUMMINGS. You can understand the frustration of these parents that I'm sitting here watching, and I feel kind of bad about this, and they're sitting here listening to this, and I wish you could have a camera so you could see them while you are testifying, because they are getting the impression—that there used to be a time when they used to use the phrase rope-a-dope where I think Mohammed Ali—they'd rope-a-dope and just play out the clock. And basically I want to make sure that, first of all, that we know what the policy is.

I am going to be frank with you. I've sat here for about 8 or 9 hours, and I am still not clear what the policy is. And we want to know when is that policy going to take effect, and is it clear, Mr. Selig, that if someone is found to use steroids, that they will be suspended? Is that what you are telling us, that $10,000——

Mr. SELIG. Unequivocally, they are gone, and they will be suspended.

Mr. CUMMINGS. For how long?

Mr. SELIG. Ten days for first offense.

Mr. CUMMINGS. Without question?

Mr. SELIG. Without question.

Mr. SOUDER. I hope that you realize your position has deteriorated substantially on this panel, and we were progressing along thinking we were kind of moving to the same page. In fact, you have upset me and most of the other Members. Doesn't matter if you are a Democrat, Republican or liberal or conservative. We have been hearing all day about a policy. I think spring training is under way. I think off season is already over. Drafting errors—where you have contradicted yourselves, whether it is a drafting error—we have had testimony here saying there is precious little privacy in the locker room. Mr. Alderson says he didn't know what was going on in the locker room. Is there precious little privacy that we know? Ken Caminiti has already confessed. Jose Canseco has already confessed. How come nobody could see it? It isn't even plausible. American people who are watching this right now aren't viewing your testimony plausible. It is a huge problem right now for Major League Baseball.

Let me tell you another reason why you are losing ground. You talk about financial penalties, and you confuse matters by saying what is voluntary and involuntary. Quite frankly, that's easily fixed in the contract. Those that come forward voluntarily are treated differently than those who get caught in a drug test. It is that way in every business. Don't act like you are the only collective bargaining agreement or the only business in the country that has drug testing problems.

And in your fines, you are dealing with people who are making in some cases $10 million a year. Do you know what your fine system is, the equivalent for a truck driver who has to take a test and gets suspended? The equivalent is a $25 fine for a major player,

and the $10,000 equivalent for a 2 million or lower-level player is $125. That is a real severe penalty.

As Mr. Fehr said, you believe someone will be—the first suspension, even though it is only 10 days, why do we have five? And you said, well, because it won't take five. Then take the five out if you are so confident it won't take the five. We don't give five strikes and you're out to people all over this country. We are looking for all kinds of reentry programs and looking how to address it, but we don't give young kids on the street that we pick up five chances on this type of thing.

Let me go through one other category that I raised, and I ask unanimous consent to put these materials in the record on ephedra.

[The information referred to follows:]

Timeline on Ephedra: A Pattern of Ignoring Performance-Enhancing Drugs in Major League Baseball?

1997 – NCAA bans Ephedra

May 2001 - The NFL becomes the first professional sports league to ban the use of ephedra, allowing any player that fails a random testing for ephedra to be suspended for four games.

February 17, 2003 – Twenty-three year old Baltimore Oriole Steve Belcher died from complications of an Ephedra-related substance.

February 20, 2003 - The FDA is investigating whether to ban ephedra in response to the most recent death of Baltimore Orioles pitcher Steve Bechler. Since the FDA is unable to regulate herbal supplements, the agency must prove clear dangers is present before it is able to ban sales.

February 21, 2003 - Selig issues a statement saying the league office and team officials will meet with the players union regarding the use of ephedrine and other potentially dangerous dietary and nutritional supplements.

Also, Baseball management and baseball players' union received a letter from two lawmakers, Rep. John E. Sweeney (R-N.Y.) and Sen. Richard J. Durbin (D-Ill.), containing aggressive words regarding their disagreement with the continuation to risk deadly and serious effects to occur to players due to the lack of ephedrine stance the league has taken.

February 22, 2003 - The MLB Commissioner Bud Selig has asked ephedra be banned from the league in light of the recent death of Steve Bechler.

February 27, 2003 - Baseball has announced ephedra is ***no longer allowed in the minor leagues***.

February 28, 2003 – FDA warns 26 firms to cease making unproven claims that ephedrine-containing dietary supplements enhance athletic performance (based on RAND study).

March 14, 2003 - Ephedrine contributed to Steve Bechler's death. Toxicology results show that ephedrine was a contributor to pitcher Steve Bechler's death. An investigation performed by Dr. Joshua Perper concluded that Bechler's heatstroke caused multiple organ failure that ephedrine played a role in causing. Bechler had a "significant" level of ephedrine in his systems that Perper stated, "it's my professional opinion that the toxicity of ephedra played a significant role in the death of Mr. Bechler."

March 16, 2003 - Baseball and ephedra ruling made, yet Baseball Commissioner Bud Selig has said baseball officials have not made a decision on asking a ban on ephedra yet.

Officials have received the toxicology report showing the presence of ephedra in the recently deceased pitcher Steve Bechler.

July 24, 2003 – House Energy and Commerce hearing on Ephedra, in which FDA Commissioner Mark McClellan testifies on the dangers of the substance. Identifies NCAA, NFL, and International Olympic Committee as banning Ephedra. But not Major League Baseball.

March 29, 2003 – "We have a real hard time saying that if you can walk into a store and buy something ... do I have the right to tell a 35-year-old guy he can't?" union chief Don Fehr said. "If a substance is so dangerous it ought not to be used by anyone, then it ought to be prohibited."" - Don Fahr, LA Times March 29, 2003

December 30, 2003 – FDA issues over 60 letters to manufacturers notifying them of impending pan on Ephedra products.

February 11, 2004 – FDA announced a the final rule banning dietary supplements containing ephedrine, because the substance "present[ed] an unreasonable risk of illness or injury."

April 12, 2004 – FDA rule banning dietary supplements containing ephedrine goes final.

Question: When did Major League Baseball ban ephedra/ephedrine?

Ephedra is a substance that has impacted baseball. A compound containing Ephedra was found to be partially responsible for the death of a young ball player, Steve Bechler, in 2003. At the end of that year (December 31, 2003), the New York Times reported, "Ephedra is banned in baseball's minor leagues but not in the major leagues. It has been banned by the N.F.L. the N.C.A.A. and Major League Soccer." Why is it, that even after the tragic death of a twenty-three year old ball player that was directly connected with this substance, that Major League Baseball was so slow to ban it? When was Ephedra banned by Major League Baseball?

Survey Of Baseball's Drug Policy and Prevention Program Documents

Year	Does the Plan Mention Steroids?	What Drugs are Covered?	Testing Type?	Unannounced Testing?	Penalty?	MLB Emp. Tested
2005	Yes	Cocaine, LSD, Marijuana, Opiates, Ecstacy, GHB, PCP, Ephedra, 43 Specific Steroids and Hormones	In and Off season, All Players For Steroids/ Other Drugs Only for Reasonable Cause	Yes	Minimum: 10 day or up to $10,000 fine	Not Specified
2003 - 2004	Yes	Listed Schedule I, all Scheduled II Controlled Substances, and all anabolic steroids covered by Schedule III, Cocaine, LSD, Marijuana, Opiates, Ectacy, GHB, PCP	In season, Major League Players for Steroids/Other Drugs Only for Reasonable Cause	Yes	Suspension w/o pay (15 days-2 years), and/or fines ($10,000-$100,000)	Not Specified
2002	Yes	All Schedule I, II, III Controlled Substances, amphetamines, Cocaine, LSD, Marijuana, MDMA, GHB, and all anabolic steroids.	Major League Players are only tested if they admit or are detected	No, yes for covered players, minor league players, and first year players	No Immediate Penalty	Yes
1991-2001	Yes	Cocaine, Marijuana, amphetamines, opiates and PCP	Major League Players are only tested if they admit or are detected	No, yes for covered players, minor league players, and first year players	No Immediate Penalty	Yes
1988-1990	No	Cocaine, Marijuana, opiates and PCP	Handled by "most clubs," PRC must approve.	No, yes for covered players, minor league players, and first year players	None Specifically Listed	Yes
1987	No Data					
1986	No	Not listed	Handled by "most clubs," PRC must approve.	Not Specified	Only for repeated offenses	Yes
1985	No	Cocaine, Amphetamines, Marijuana, Heroin and Morphine	Major League Players Do Not Participate	No, Yes for minor league players	No Immediate Penalty	Yes
1984	No	Cocaine, Heroin, Barbituates, and All Drugs Listed in Sched. II of the 1970 FCSA	Major League Players are only tested if they admit or are detected	Not Specified	None Specifically Listed	Not Specified
1983	No Data					
1982	Bowie Kuhn Memo Suggesting That Clubs Set Up A Drug Testing Regime for Certain Players					
1981	Bowie Kuhn Memo Suggesting That Clubs Set Up A Drug Education and Assistance Program					
1971 - 1980	No	All illegal drugs	None	None	Case-by-case basis	No

Mr. SOUDER. In 1997, the NCAA banned ephedra. In 2001, the NFL banned ephedra. In 2003, a baseball player of the Baltimore Orioles, Steve Belcher, died of complications of an ephedra-related substance. Shortly thereafter, Mr. Selig, Commissioner Selig, said we are going to ban ephedra. Then ephedra wasn't banned. Then Congress went ahead and we made ephedra illegal. And this is one of the documents I'm inserting into the record. It's only in this policy that you start to even test for ephedra 1 year after it's illegal, and you expect us to believe here that you shouldn't have independent testing, trust us, when you said there are drafting errors, when you brag about the policies of the whole hearing, and you don't have the policy, as we are trying to develop the hearing, that you have already started the baseball season and you are not doing it.

And one last thing I want to say, and I would be interested in some responses, that I heard you say that even given the holes in the test, which I believe they are substantial, including on steroids, that this applies to steroids only. If somebody is on cocaine or LSD or other hormones, that they can be fined basically the equivalent of $25 for a star; in other words, $10,000 converted is $25 for a star, and $125. Are you saying you are going to suspend for other drugs as well as steroids?

Mr. MANFRED. First of all, even though we reached this agreement in late January and began redoing what is a long and complicated agreement to get it right, we began operating under this agreement on March 3. We were in the camps taking urine samples. So I understand you would have liked it done faster. That was as fast as we could get it done, and, frankly, demonstrated a lot of sort of cooperation in terms of beginning to go out and make collections under the program before the document was finalized.

With respect to the drafting of the agreement, this is a very long and complicated document. You did identify one spot in the language where it could have been drafted better. I will say again what I said at the outset, as drafted, the Commissioner had the ability to do what he said he was going to do. He has the ability to suspend for 10 days. And you have been mischaracterizing the document.

Mr. SOUDER. You have been describing that as one thing we made an error in. It is the pivotal part which is the penalty.

My time is up. I yield to Mr. Kanjorski.

Mr. KANJORSKI. I can sympathize with some of my fellow committee members and a little bit of the frustration in your responses. I think people that are watching us ask questions whether there is favoritism and special benefits that flow to professional athletes as opposed to the general population, and that is a reasonable question. And I have always wondered why you could go to a hockey game and see an organized riot on the field, and nobody ever gets prosecuted for assault and battery. If you are a professional hockey player, you have the right to take your club and beat the living bejeezus out of your opponent as long as he doesn't get brain dead.

What we are facing here that—as a result of this hearing, we are approaching this whole problem like it's a baseball problem. I don't happen to think it is. I think it is a societal problem of great pro-

portions. But what I think our policy as Congress should be is what we are going to do to protect average people and average athletes, misguided but nevertheless average, many of which will never get there.

I am not certain it is totally solvable. I proposed some questions earlier today that what is the motive for doing these things. And, you know, when you are dealing with cocaine or marijuana, I guess the motive is to feel good, I'm not sure. But when you are dealing with these things, it's a profit motive. If you can equip your body in a more special way than your opponent, you have a chance to succeed and get a greater salary. It is sort of free enterprise's solution to the challenges of modern science. And regardless of what we do in policy, somebody is going to be out there trying to put another drug together ahead of us so that we are obsolete by the time we pass the law.

Mr. KANJORSKI. The situation I would like to have baseball look like is one, and the rest of the committee is saying, back off from this idea of collective bargaining. Quite frankly, if it is illegal substances, I'm not sure how you can participate in not prosecuting. It would seem to me—isn't it correct that in a junior high school or high school, we found out if someone was taking one of these Class III drugs that are illegal, that they would have to be prosecuted? Why should baseball be any different?

So whether I'm talking to the players' side or the league side, you know, you really have to disengage yourself from the idea that you are some special category in American society that is not subject to criminal law or the same type of punishment as my friend from Maryland indicated what happened in his congressional district has happened. You have to—and I'm going to tell you, I'm a sympathetic Member of this Congress from the standpoint that I'm not sure that it's our role to get into taking on the regulation of every sport in America. But it is awfully frustrating when professional athletics think they are in a special category and don't have to measure up to what other citizens are held for in criminal respects. And you have to do something about it. Have to do something about it.

But what we are trying to do is see how we can protect those kids out there. I want to bring up a proposition. Look, we use markers. We can trace where a drug comes from, where it was manufactured, whose hands it was in until its final disposition. Has baseball ever gone to people and said, let's get these steroids with markers in them so we can determine where they came from? Has anybody inquired into who is making the money on this? Is this the American pharmaceutical industry, or is this some diabolical foreign industry, or is this a garage operation? I happen to think it is probably more sophisticated than that.

My question is what are you doing about the prevention of this so it doesn't spread to the millions of athletes out there that are dreaming someday to sign a $10 million contract?

Mr. MANFRED. Let me take a crack at that. What we do know as a result of our own internal activities is that steroids are available a wide variety of places. You heard some testimony earlier today, different countries, Mexico, the Dominican Republic have different types and severity of regulation in terms of the availabil-

ity of these substances, and not only is the regulation different, the acceptance in society of the use of those substances are different.

The Internet is a second huge problem. I mean, if you go on the Internet and look up things like steroids, you cannot only figure out how to buy them, there are whole Web sites devoted to how you beat steroid tests. It is like a cottage industry.

So in terms of getting at it from the control end, when you realize you have both foreign sources and the Internet, to us, we don't have a good answer as to how you get your arms around that. It just seems kind of beyond the capacity of a private employer to deal with, you know, the trafficking issues associated with availability in other countries and, you know, the sale of these substances on the Internet.

Mr. ALDERSON. Recent reports to the contrary notwithstanding, Major League Baseball has had an ongoing and very positive relationship with the FBI. We currently expect to have a meeting with the FBI over the next 2 or 3 weeks in order to make sure that, going forward, we work together. And this is certainly an area where the FBI has been active in the distant past and perhaps may be active again in the future.

Chairman TOM DAVIS. Thank you.

Mr. Westmoreland.

Mr. WESTMORELAND. Thank you, Mr. Chairman. The only document we have is this drug proposal that we were handed today that talks about Major League Baseball's joint drug prevention and treatment program. And I assume that is the most current copy; is that correct?

Mr. MANFRED. Document that I produced to the committee.

Mr. WESTMORELAND. And who negotiated this for Major League Baseball, and who negotiated it for the players?

Mr. SELIG. Mr. Manfred did for Major League Baseball.

Mr. FEHR. It was very probably Michael Weiner for the players.

Mr. WESTMORELAND. Mr. Manfred, we've got a saying down home for something like this: You've got your hat handed to you. And when they handed you, their hat—your hat, they handed America their hat, because this thing right here, I'm going to read this to the American people, and hopefully this will be able to put on the Internet. As Mr. Shays said, if you don't comply with the treatment program, you have five opportunities; that the fifth failure is any subsequent failure, this is after No. 4, to comply by a player shall result in the Commissioner imposing further discipline on the player. The level of discipline will be determined consistent with the concept of progressive discipline.

Now, remember, these people are being suspended for 15 days, and I just took out my little calculator, and I hope I did it right, if they are making $10 million a year, they make $61,728 a day. If you're going to suspend them for 15 days, maybe they are going to play 10 ballgames, about $670,000, I think they will probably want to go with a $10,000 fine. And if you negotiate with the players like you did on this, they are going to get by with a $10,000 fine.

Mr. MANFRED. We have already clarified that they have agreed to take that language, at the chairman's request, out of the agreement to clarify.

Mr. WESTMORELAND. You both agreed on this at one time, correct? I'm assuming you did.

Mr. SELIG. Yes, we did.

Mr. WESTMORELAND. If a player tests positive for a steroid, first test, 10-day suspension or up to a $10,000 fine, is that still correct?

Mr. MANFRED. No. We agreed with the chairman earlier in this hearing. It was drafting language.

Mr. WESTMORELAND. Conviction for the use of a prohibited substance, first offense, a 15-day—but no more than a 30-day suspension or up to a $10,000 fine; is that correct?

Mr. MANFRED. Page what?

Mr. WESTMORELAND. Page 14.

Mr. MANFRED. That is correct.

Mr. WESTMORELAND. Now, these are people being caught with a prohibited substance; is that correct? Something that is against the law, against the Federal law.

Mr. MANFRED. Defined term in the agreement.

Mr. WESTMORELAND. It could be against Federal law; is that correct?

Mr. MANFRED. Yes.

Mr. WESTMORELAND. You are going to fine them up to $10,000 on the first offense?

Mr. MANFRED. That is correct.

Mr. WESTMORELAND. And you could suspend them for 15 days but no more than 30 days?

Mr. MANFRED. That's correct.

Let's go to marijuana. And I would point out that these levels of discipline are consistent with the levels of discipline that arbitrators have upheld in prior decisions in this agreement. Sometimes the law is not good, but the law is what the law is.

Mr. WESTMORELAND. If it is against Federal law, I don't know what the arbitration society has to say. Listen to me, because there are people in prison that would like this same kind of deal. Number E says participation in the sale or distribution of a prohibited substance. A player who participates in the sale or distribution of a prohibited substance shall be subject to the following discipline: For the first offense, at least a 60-day but no more than 90-day suspension and up to a fine of $100,000; is that correct?

Mr. MANFRED. That's correct.

Mr. WESTMORELAND. Second offense, they get a 2-year suspension. Then the third time, it goes into the progressive discipline, again up to the Commissioner as to what it would be. Marijuana, a player on the administrative track for the use or possession of marijuana shall not be subject to suspension. The player will be subject to fines which shall be progressive and shall not exceed $15,000. Notwithstanding the foregoing, a player who participates in the sale or distribution of marijuana would be subject to those same penalties.

Chairman TOM DAVIS. Gentleman's time has expired.

Mr. WESTMORELAND. One quick question. Mr. Fehr, you talked about the progressive punishment. What kind of progressive punishment did Pete Rose get for gambling? And gambling is legal in some States. What kind of progressive punishment did he get ver-

sus somebody that sells drugs that is against Federal law that gives progressive punishment? Can you tell me the equity?

Mr. FEHR. My recollection is that Pete Rose was declared permanently ineligible. I am not familiar with the details.

Let me make one point in response to the questions you have raised. Players are not immune from prosecution. We assume that they will be prosecuted to the same extent that other individuals will be prosecuted in similar circumstances. If they are in prison, they are not getting paid and don't have to be suspended.

Mr. WESTMORELAND. How many are going to prison; do you know?

Mr. FEHR. No.

Mr. WESTMORELAND. One more question for Mr. Manfred. On page 2, at the bottom of page 2, you put, but as those of you who were around in 1994 will remember, the priority was resolving the economic issues facing the game and getting the game back on the field.

Mr. MANFRED. Uh-huh, I did.

I was reporting——

Mr. WESTMORELAND [continuing]. Than the welfare—health and safety people that were reporting priorities.

Mr. MANFRED. I was not stating priorities. I was stating priorities that were expressed repeatedly in various committees on both committees of the House, some when we were involved in the long labor dispute.

Mr. WESTMORELAND. So it was Congress' fault that we didn't do anything about steroids then?

Mr. MANFRED. I am simply making the point as to what happened. Congress called us down here, and that was the point they made.

Mr. SELIG. Congressman, let me also say, in 1994, I heard from nobody—there was nobody anywhere who was talking to me about steroids. I have really—any knowledge other than the one player who admitted—that he now admitted that he was using steroids, but he was in tremendous denial at the time. The fact of the matter is, even though we had a program that was—imposed collective bargaining, there was no—if you go back to 1994—and I am an old history major, and I understand this——

Mr. SANDERS. Please talk into the mic.

Mr. SELIG. There was nobody that was bringing up the steroid issue.

Look, I have often said, and I will say to you here tonight, I wish I knew in 1995, 1996, 1997 and 1998 what I know today. I will acknowledge that.

Mr. WESTMORELAND. I understand. I will just tell you, this document—for you to send this to us and expect us to use this during this hearing, it's an embarrassment to me, and I would hope that it would be an embarassment to Major League Baseball.

Chairman TOM DAVIS. The gentleman's time has expired.

Let me ask, before I recognize Mr. Sanders, if you were to catch—if a Major League ballplayer were distributing illegal drugs and you were to discover that, would you turn him over to the authorities?

Mr. SELIG. Oh, absolutely.

Chairman TOM DAVIS. You would.

Mr. SELIG. Oh, there is no question about it.

Chairman TOM DAVIS. OK.

Mr. SELIG. Oh, absolutely.

Chairman TOM DAVIS. Thank you.

Mr. Sanders.

Mr. SANDERS. Thank you, Mr. Chairman.

Let me start off with the very first line of Mr. Selig's statement. He said, Major League Baseball has made "tremendous progress" in dealing with the issue of performance enhancing substances.

Mr. Selig, I gather that if you have made major progress, there must have been a tremendous problem. Was Jose Canseco correct when he said that everybody knew what was going on? It sounds to me like you are in agreement. If you have made tremendous progress, there must have been a very serious problem. Was Canseco correct?

Mr. SELIG. No. Jose Canseco has—in my judgment, was not correct.

Mr. SANDERS. What tremendous progress did you make, if there wasn't a tremendous problem?

Mr. SELIG. Because in the year 2000——

Mr. SANDERS. Please speak closer to the mic.

Mr. SELIG. I'm sorry. In the year 2000, we had no problems anywhere. Finally, I was able to put one unilaterally in the Minor League. We began one in 2002. We began an educational program. We began other multifacet——

Mr. SANDERS. But you are not answering my question. You are saying that you made an effort, and I understand that. Whether it was good enough, people here dispute that. Was there a major problem?

I am gathering what you are telling us, between the lines, is that Major League Baseball had a very, very serious problem with steroids. It wasn't dealt with, that in a sense Canseco is correct and that what you are now saying is that you have begun to make some progress.

Mr. SELIG. We have made some progress in testing and everything else. Did we have a major problem?

Mr. SANDERS. Yes.

Mr. SELIG. No, I don't believe we ever had what he says is a major problem. Let me say this to you, there is no concrete evidence of that. There is no testing evidence. There is no other kind of evidence. All we have is some anecdotal evidence mainly articulated by him, and I think the other players dealt with that today. But we needed a testing program.

Mr. SANDERS. There is—one of the problems that we are having this whole day is trying to get a handle on how serious this problem was. You say nobody came to you, and yet there were articles in the newspaper talking about Canseco in particular. Just because nobody came to you doesn't mean to say there wasn't a problem. Why are people turning their backs?

Mr. SELIG. I don't believe people were turning their backs. No, I certainly do not believe that. There were very few articles. But once the andro—I said before, now let me try to say it again. I can only tell you from my personal experience that when I read about

andro in July 1998, I began to be very concerned, and I would talk to all of our people, and that's when all this began.

But so—if—from my own thing—and I have been in this sport almost 40 years, sir, and I think I understand and every general manager I talked to, all the doctors I have talked to, all the trainers I have talked to, know there is no evidence that there was any widespread problem, and nobody has any data to support that.

Mr. SANDERS. Let me just quote, in 1995, the LA Times reported that anabolic steroids apparently have become the performance drugs of the 1990's in Major League Baseball. 1995, the LA Times wrote that. You don't know anything about that?

Mr. SELIG. No, I don't.

Mr. SANDERS. Well, we have a problem here.

Mr. SELIG. No.

Mr. SANDERS. If the LA Times says something, how come—are they wrong?

Mr. SELIG. Well, you would have to tell me what their basis in fact was, because I was not aware of any of us, Congressman—OK.

Mr. SANDERS. Just out of curiosity, if there was an article in a major newspaper—doesn't say that they are right. I am not saying they are right. Somebody should say, gee, we may have a problem, we should look at it, don't you think?

Mr. ALDERSON. Congressman, if I could attempt to answer that question.

Mr. SANDERS. Sure.

Mr. ALDERSON. As a followup to that 1995 article in the LA Times, there was also an article in the Detroit paper the following year. The general manager quoted in the LA article is also quoted in the Detroit article. The general manager had gone from San Diego to Detroit. I only read this to you as a—sort of a sense of what was going on at the time in terms of other factors that may have obscured what was going on. But here is the same general manager——

Mr. SANDERS. Is this Randy Hughes Smith?

Mr. ALDERSON. "The pitching has thinned out. The hitters are stronger and the ballparks are smaller. They are always thinking about hitting. I remember once finding Melvin Nieves working out on a batting cage on Christmas Eve. Baseball could help slow the offensive onslaught by raising the mound to pre1969 levels." Smith said, "They are not going to make ballparks any bigger, and you can't change the physical strength of the hitters. But you could help even things out a little by raising the mound."

Now I am not pointing this out in contrast to the 1995 article but only to say that those articles were infrequent, and there were other explanations for the kinds of offense that were being generated at the time. I am not suggesting there wasn't a problem, but I think what it did was obscure the nature of the problem and the extent of the problem.

Mr. SANDERS. I don't have a lot of time, Mr. Alderson, so let me say this. I think what people up here, regardless of political persuasion, are getting the impression is you have turned your back on the problems in the past.

And the second issue—Mr. Cummings raised it—is obviously we all know that in the real world people with money are treated dif-

ferently than low-income and moderate-income people. There are God knows how many thousands of people rotting in jails, and whether they should or should not is a whole other issue, but they are in jail. And what people, I think, in America want to know is that in this country people who commit the same crimes are treated the same way, and I think that the impression that we are getting is that is not the case.

The last point I would make. The players themselves acknowledge what everybody here knows, that they are role models for millions of young people, and I would hope that the union and management would substantially raise the standards to tell people who are making millions and millions of dollars, who have opportunities that very few people have, that if they want to do that type of work and make that kind of money, they are going to have to not do drugs at all, period.

Thank you.

Chairman TOM DAVIS. Thank you. The gentleman's time has expired.

I mean, one of the problems you have is not the percentages. It's been the very high-profile MVP players who have bulked up who have been linked to this. We heard from Mr. Canseco and Mr. McGwire today. Mr. Caminiti was an MVP; Barry Bonds, a seven-time MVP; Jason Giambi, an MVP; Sheffield. These are the role models.

The percentages are one thing, but it is a lot of the stars that appear to be using drugs. Yes, Mr. Selig, that seems to be where it is siphoning down, to the little——

Mr. SELIG. I understand; and, No. 1, I accept the social responsibility that we have. I have said that everywhere. We have it—you are correct. Our players have it. The clubs have it.

The thing that is fascinating me, as we go back in the 1990's—I have spent a lot of time now—I sent Sandy Alderson in 1998 and 1999 to Costa Rica. Do you know why? Everybody said the ball was all juiced up. Then everybody said there was something wrong with the bats. Then we had two expansions in the 1990's, and everybody said the pitching is lousy. Mike Smith, the Hall of Fame third baseman, said the other day he doesn't believe it's the steroids. He said, I believe it is the small ballparks, juiced-up ball, bats.

I am not—I don't want to debate. I guess what I am saying, everybody has theories. As the Commissioner, I think you all understand that I need to deal with facts as they are. I understand our responsibility, and I don't disagree with it, and, frankly, the steroid situation has been on my mind now the last 6 or 7 years.

Of course, I am not only taking it seriously, broke my heart today to listen to the parents. I understand it's an enormous health problem. But, more importantly, we do have a responsibility, and we better set and be a good role model.

Mr. WAXMAN. Mr. Chairman.

Chairman TOM DAVIS. Mr. Waxman.

Mr. WAXMAN. Just on that point, Mr. Selig, you said it's not a major problem. Yet Barry Bonds, seven times Most Valuable Player; Giambi, Most Valuable Player; Jose Canseco, 1998 Most Valuable Player; Ken Caminiti, who was Most Valuable Player; and Mark McGwire was suspected of steroid use. That's half of the 30

MVPs, roughly speaking, and your job was to protect the integrity of the game. Because you don't need large numbers to have filtered down to the kids to think it's acceptable, because these are the heroes. So I just want to point that out to you.

Mr. SELIG. May I respond to you, Mr. Waxman? I agree with you, Congressman. You are right. It is my responsibility. I take it very, very seriously, and I have throughout my entire life.

However, having said that, the fact of the matter is that's the only way to finally get to the root problem here and solve it, is through the toughest kind of testing program, doing all the other things that I have heard here today. I agree with that, education, everything else. I am not disagreeing there.

But I can't just take anecdotal evidence about something without having any other evidence that somebody has done something. For instance, today—there are people who came here today, players, who have been accused of something and clearly denied it today, and that's the kind of thing that we—that I have to live with, and we have to deal with.

Chairman TOM DAVIS. Thank you.

Mr. Sweeney.

Mr. SWEENEY. Thanks, Mr. Chairman.

Thank you all. I know this has been long, arduous. Commissioner, I am really thankful that you mentioned in your statement you are going to work with the partnership, and I look forward to working on a program.

Let me just leave you this message. I know each of you pretty well now after these numbers of years. You can tell Congress—I think you have misread and misinterpreted Congress' tolerance here. I think you have made some very critical mistakes. I would suggest to you—I know, Donald, this will be harder for you because you have to sell this stuff—but I think time is of the essence.

You need to go back to your membership and let them know that not only do the American people but Congress has reached a level of intolerance, that this game that is special to them. But, more importantly, its impact on public health policy has really reached an end, and you need to do something a little more definitive than what you have done, maybe substantially more definitive.

Along that line—I would like to be helpful here, and I want to talk to Mr. Manfred, specifically. I am a former labor commissioner. I called the NLRB. I talked to the Department of Labor. That confidentiality clause is really, really extraordinary. I have not seen too much of that, and neither have folks at the NLRB.

This is really more commentary than it's anything, but Mr. Alderson mentioned you are going to be preaching to the FBI to work with them on steroid issues, related issues. Does that mean that—because what you are essentially saying here in both subsection D and E, that both parties agree to resist the government investigation and that the program itself will be suspended? It is overly broad. It is incredible language, it seems to me, especially to an entity that has the public relation problems and the perception problems you all have. I think you need to relook at that as well and be—at least be more defined.

I understand it's a privacy issue for you, Mr. Fehr, but people aren't particularly interested in the privacy aspects when their kids are dying because of the influences.

Finally, let me say this. On the testing procedures, Mr. Manfred, you said two things that have confused me. One is you said that—I do think the chain of evidence is real important here—that independent collectors are involved in the collection of specimens. I don't see that anywhere in here. If you could point that out to me, I would greatly appreciate that.

Mr. MANFRED. I will find the language for you. It may not be laid out here.

I can tell you how we operate. We use a company called Comprehensive Drug Testing Services in California. We have used them for a number of years. We have used them to put distance between the Health Policy Advisory Committee and the actual operation of the program. They do the random selection of dates on which tests are to take place and actually dispatch the collectors, too.

Mr. SWEENEY. My understanding of the collection process—and I am looking for the section myself.

Mr. MANFRED. And in terms of an independent——

Mr. SWEENEY. I forget what the acronym was for the group that you had doing it.

Mr. MANFRED. CDT?

Mr. SWEENEY. HPAC. It's certainly a representative from the Players Association and a representative from management that collects—is there an independent party involved or not?

Mr. MANFRED. Yes. HPAC oversees, picks somebody, enters into an arrangement with a company to do—it has been the same company for a number of years, and there are two different contracts. One is with this company called CDT. I think it is the largest drug collection company in the United States. All they do is collect—I am sorry?

Mr. SWEENEY. How did you find them?

Mr. MANFRED. Originally, the woman who ran the company knew Commissioner Ueberroth from the Olympics. She was involved in the Olympics in Los Angeles. And then we have a separate contract——

Mr. SWEENEY. You are saying you have an independent contractor in the game.

Mr. MANFRED. We do.

Mr. SWEENEY. Mr. Fehr, your colleague next to you has indicated in the past that you probably would be the problem with bringing U.S. antidoping in.

Mr. FEHR. I'm sorry. What?

Mr. SWEENEY. You would be the problem. You would object to reopening the Collective Bargaining Agreement to bring in USADA in, sort of gold standard collector and standard setter in the area. Is that true?

Chairman TOM DAVIS. The gentleman's time has expired.

Mr. FEHR. My view is as follows: As Mr. Manfred indicated, and I agree with, all of these drug testing programs operate under the terms of their Collective Bargaining Agreements. We have a legal obligation to negotiate all terms and the conditions of contracts—of the contract and to administer it.

I think that if this committee had the opportunity—and I knew that because of the speed this hearing was put together that was very difficult to do—to examine who does the collections and what the procedures are to look at the WADA certified lab and so on, you would conclude that it is completely independent and entirely trustworthy.

Chairman TOM DAVIS. The gentleman's time has expired.

Mr. Kucinich.

Mr. KUCINICH. Thank you, Commissioner. Tell me, can you tell the committee who hired you as Commissioner?

Mr. SELIG. Who hired me?

Mr. KUCINICH. Yes, who hires the Commissioner?

Mr. SELIG. The owners.

Mr. KUCINICH. The owners, thank you.

Commissioner, 1 month ago the New York Daily News reported that, in the 1990's, FBI agents contacted Major League Baseball to inform them that certain players were using steroids; and, according to the story, baseball did nothing to pursue these allegations, no investigations, no testing, no nothing. Can you describe, Commissioner, the communications with the FBI?

Mr. SELIG. I can only tell you what the head of our security department said, Mr. Kevin Hallernan, who said that there hadn't been a contact and that he sort of denied the existence of the story.

Mr. KUCINICH. I'm sorry, what did you say, Commissioner?

Mr. SELIG. He denied that somebody contacted him.

Mr. KUCINICH. You were contacted or you weren't?

Mr. SELIG. He was not contacted.

Mr. KUCINICH. Major League Baseball was not contacted. In that New York Daily News story, you are saying that story was wrong?

Mr. SELIG. Well, I am just telling you—you asked me.

Mr. KUCINICH. You don't have any knowledge.

Mr. ALDERSON. Congressman, could I attempt to respond to that?

Mr. KUCINICH. I am asking if the Commissioner had any knowledge, any contact.

Mr. SELIG. I did not, head of security said he didn't know. He works for Mr. Alderson.

Mr. KUCINICH. Does the gentleman want to answer yes or no, whether you have knowledge of any contacts? I am interested in finding out the substance of the New York Daily News article.

Mr. ALDERSON. Well, we have no knowledge of the 1994–1995 contact. If it happened, it happened on an informal basis at a seminar in Quantico.

The only other contact we had on the subject was in 2002 from the same agent. That was an 8-year gap between what he said was the initial contact and the subsequent followup.

Mr. KUCINICH. So you are saying—you are acknowledging that there may have been informal contacts.

Mr. ALDERSON. It's conceivable, yes, Congressman.

Mr. KUCINICH. Commissioner, let me ask you something. After listening to Congress today, you feel very strongly that you are willing to cooperate to make sure that baseball has strict standards with respect to steroid testing, is that correct?

Mr. SELIG. Yes, sir. Absolutely.

Mr. KUCINICH. Is this the first time that you have heard from Congress on this matter?

Mr. SELIG. No, we were here last year before Senator McCain and his committee.

Mr. KUCINICH. Was that the first time you heard from Congress on that matter?

Mr. SELIG. I have heard from him on most other matters. I believe that's the first time——

Mr. KUCINICH. Let me submit for the record, Mr. Chairman, I ask unanimous consent to submit for the record H. Res. 496 from the 107th Congress titled, Expressing the Sense of the House of Representatives that Major League Baseball and Major League Baseball Players Association should implement a mandatory steroid testing program, and this is dated July 22, 2002.

[The information referred to follows:]

107TH CONGRESS
2D SESSION

H. RES. 496

Expressing the sense of the House of Representatives that Major League Baseball and the Major League Baseball Players Association should implement a mandatory steroid testing program.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2002

Mrs. JOHNSON of Connecticut (for herself, Mr. OSBORNE, Mr. WATTS of Oklahoma, Mr. KIND, Mr. SIMMONS, Mr. FOLEY, Mr. ISRAEL, Mr. CAMP, Mr. HOLDEN, Mr. GEKAS, Mr. CULBERSON, Mr. MCINNIS, Mr. HOUGHTON, Mr. BOSWELL, Mr. BOEHLERT, Mr. CASTLE, and Ms. PRYCE of Ohio) submitted the following resolution; which was referred to the Committee on Energy and Commerce

JULY 22, 2002

Committee on Energy and Commerce discharged; which was considered under suspension of the rules and agreed to

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RESOLUTION

Expressing the sense of the House of Representatives that Major League Baseball and the Major League Baseball Players Association should implement a mandatory steroid testing program.

Whereas studies have shown an alarming increase in steroid use among children, who may be modeling their behavior after professional athletes;

Whereas one report said that steroid use by high school boys was as high as 12 percent;

Whereas earlier this year, 2 retired Major League Baseball players, each having been a Most Valuable Player, admitted to steroid use, unleashing a wave of articles about rampant use throughout the league;

Whereas the stories have focused on the muscle-enhancing aspect of steroids, linking it to a surge in power hitting among many players;

Whereas the Nation's children are receiving the wrong message, namely that drug use is not only permissible, but desirable if an individual wants to perform at his or her best;

Whereas the truth is that steroids are dangerous and harmful to an individual's health and have no place in our national pastime or the lives of the Nation's children;

Whereas other professional sports, notably football, basketball, and even the Olympics, already ban steroids, a dangerous drug that often causes liver damage, kidney failure, heart disease, and brain tumors;

Whereas although steroid use is illegal without a doctor's prescription, the failure in Major League Baseball to test for such use has led to speculation that steroids are widely abused by many of today's players;

Whereas professional baseball players have tremendous influence on children and therefore have an obligation to attempt to be good role models;

Whereas the question of rampant, systemic steroid abuse now hangs over a game that the people of the United States love; and

Whereas instituting mandatory steroid testing will send the right message to the public, namely that Major League Baseball is serious about banning steroids and will con-

tinually work to protect the integrity of the game: Now, therefore, be it

1 *Resolved*, That it is the sense of the House of Rep-
2 resentatives that—
3 (1) Major League Baseball and the Major
4 League Baseball Players Association should imple-
5 ment a mandatory steroid testing program; and
6 (2) such a program would send a clear message
7 to our Nation's children that steroids are dangerous,
8 illegal, and morally offensive to our country's com-
9 petitive spirit and one of our most cherished sports.

○

Mr. KUCINICH. Are you familiar with this, by the way, Mr. Selig?

Mr. SOUDER [presiding]. Mr. Kucinich, may I interject here——

Mr. SELIG. We were here. There may have been a resolution——

Mr. KUCINICH. Thank you, Mr. Commissioner.

I would like to ask Mr. Towers a question. Is it true that, under current law, baseball franchise owners are able to write off half the cost of a purchase price of a team by capitalizing and depreciating players' contracts?

Mr. TOWERS. I would not have the answer to that, Mr. Kucinich.

Mr. KUCINICH. Does anyone on the panel know the answer to that question, that baseball franchise owners are able to write off half the cost of a purchase price of a team by capitalizing and depreciating players' contracts?

Mr. FEHR. Mr. Kucinich, my basic understanding is as follows—I haven't looked at this in a long time—that the IRS had a rule in effect which allowed substantial write-offs, and I believe that this Congress, within the last 120 days, modified that. But the write-offs still continue. I don't remember precisely what they did.

Mr. SELIG. But I believe that is correct, Congressman.

Mr. KUCINICH. OK. Let me ask just one quick followup, may I?

Mr. SOUDER. One followup.

Mr. KUCINICH. If you see baseball players' contracts as being that valuable, why in the world wouldn't you want to know what the health of a player was with respect to what they were putting in their body, since it could undermine the value of your investment, if you don't look at it any other way?

Mr. Towers.

Mr. TOWERS. Well, we do, and because of the current basic agreement we were not able to test and find out what some of these players were putting in their bodies.

I will say that our organization, San Diego Padres, in 1997 was one of the first in baseball to add not only over-the-counter muscle enhancers as well as steroids that test our Minor Leaguers. So at least I knew within my own organization players that would either want to commit to or not to commit to because they would have knowledge of use.

Mr. KUCINICH. Thank you.

Mr. SOUDER. Mr. Alderson, we have been going back and forth on a couple of other questions about whether the FBI contacted baseball. Why weren't you contacting the FBI, if these things were circulating, to do an investigation?

Mr. ALDERSON. I'm sorry, I didn't hear your question.

Mr. SOUDER. In other words, the questions that have mostly come at you is because there were—whether it's at Quantico or whatever—FBI contacts to baseball. The question is, why, if these things were swirling around, weren't you going to the FBI?

Mr. ALDERSON. Since the story in the Daily News, we have been in touch with the FBI quite frequently, and—in an attempt to understand what exactly did take place in 1994 or 1995. And what we hope to do is meet shortly in order to resolve that, as well as reestablish a very positive relationship which has existed for quite a long time.

Mr. SOUDER. I think the fundamental concern is why the FBI would have to be initiating something, and they could figure it out

when those of you in the locker rooms couldn't and weren't going to the FBI first. I think that's the fundamental question.

I yield to Mr. Dent.

Mr. DENT. Thank you, Mr. Chairman.

Mr. Selig, I have a question of you. Back in 1919, the so-called Black Sox scandal really created the Commissioner's office as it now is.

Mr. SELIG. Right. Major League Baseball, as you know, deals very aggressively and swiftly with a player betting or gambling.

Mr. DENT. Pete Rose was mentioned. Do you believe that this issue of steroid use in baseball players is as serious as the involvement in betting on baseball?

Mr. SELIG. Well, I don't know that I could draw that analogy. Let me suggest to you that Pete Rose was suspended by Commissioner Giamatti, voluntarily accepted a lifetime suspension. There have been rules since 1920 about gambling. Pete Rose was the manager of the Cincinnati Reds, and so what he did was a violation of our rules. At that time, we didn't have any rules on steroids.

Do I think steroid use is very serious? Congressman, I think it's very serious. And as we test now we will be able to discipline players or people that violate that under the terms of our Collective Bargaining Agreement. It's a little different in terms of the Pete Rose situation.

Mr. DENT. My only point is this. I don't know if what Pete Rose did was legal or illegal, but he was dealt with swiftly. He is out of the game.

This issue—by the way, I just spoke a couple of hours ago—I spoke to Curt Schilling. He said, in every locker room, it's—I don't know what the article is about baseball betting, but every player was well aware of that policy. They knew what the consequences would be if they were involved in betting in baseball.

Mr. SELIG. That is correct.

Mr. DENT. They would be gone.

Mr. SELIG. That is correct.

Mr. DENT. All I am asking is that this issue be given the same level of attention and interest by Major League Baseball as the gambling issue. Based on what I have seen, we have heard about the four strikes or five strikes and you are out, and it just seems to many of us that this policy is unacceptable.

Again, I asked the ball players about that question. Again, we have been talking about the kids, we have been talking our committee's oversight on drug policy. In my State, and I will say it again, that my taxpayers in Pennsylvania subsidize Major League Baseball in a big way. Hundreds of millions of dollars just for two baseball stadiums, not even counting the football. They are able to do that because of the fact that you have this antitrust exemption.

At the time the Pittsburgh Pirates said—we were told they were going to go to northern Virginia if they didn't get their stadium. A lot of people didn't want to pay for that. They have a stake in the game and I believe an obligation to the taxpayers. And I have to ask to question, you know, is Major League Baseball worthy of that antitrust exemption, granted at the Federal level, in light of all of this issue with steroids?

Mr. SELIG. Well, I am obviously very sensitive about it. I think that we have dealt with the issue as aggressively as we could, but there is clearly work to be done. I don't deny that. There is clearly work to be done in the future, but I can assure you we are not taking it lightly in any way, shape or form, nor should we.

Mr. DENT. I would ask the same question of the players' representative here, too. I know we heard from Mr. Selig that he would like to have a more stringent policy but can't because of collective bargaining and that apparently the Players Association is the impediment, if I heard him correctly, to a more stringent policy on steroid use.

Mr. FEHR. I will repeat what I said in my introductory remarks, at least I hope we did. We took the unprecedented step of opening the contract in the middle of this last year. We believe we have made very substantial improvements. We believe that the data that we have so far—and I am confident, but if I am wrong, it's going to be shown—is going to make everybody extraordinarily pleased.

I will, if you will permit me, make the same commitment that I did before the Senate Commerce Committee a year ago, which is that my obligation is, as you might expect, to relay the sentiments of this committee to my constituency.

Mr. DENT. We do not as a Congress—I believe I agree with the chairman we do not want to have to get into the issue of passing a law at this level to deal with steroids, baseball, and the only thing we have to hold over your heads is the antitrust exemption to make you do something about it. So we hope you take this seriously. I believe you are now.

Mr. Towers—OK, well, I had a question for Mr. Towers. I guess I will defer. Thank you.

Mr. SOUDER. We haven't had a question of Mr. Towers. Why don't you go ahead.

Mr. DENT. Mr. Towers, I would first like to thank you for speaking today on such an emotional issue for you. I applaud the candor of your public statements. Buster Olney and ESPN, the magazine, quotes you stating that you have—imagine that all GMs at one point or another had reason to think that a player on their ball club was probably using. Could you please speak to what you believe general managers could do to curb the use of steroids in Major League Baseball?

Mr. TOWERS. In the mid-1990's we had our general managers meetings, and several topics come up during those discussions. I would probably say the mid to late 1990's probably the most major topic was over-the-counter muscle enhancers, something that we talked about.

We certainly knew that there were whispers of steroids at the time. There were discussions, because of the current basic agreement. There was no way of really knowing. I can say that, as general managers, we saw with our own eyes andro and muscle enhancers in our clubhouses, in our locker rooms; and what we did was we acted when we knew. We banned those from the clubhouse, and now that we have more information and it is becoming evolutionary we are learning more about steroids. Now, today, we do have a program where I think, as long as there is public disclosure, I think it will be very effective.

Mr. DENT. And a quick followup, do you think that the league ought to impose an obligation on management to report such illegal drug use?

Mr. SOUDER. Mr. Dent, others will have to do the followup.

Mr. Davis.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Chairman.

Mr. Manfred, in your testimony, you talked about the Health Policy Advisory Committee; and, Mr. Fehr, you also mentioned it in your statement.

A few years ago, the Olympics were in a similar position to Major League Baseball. There were allegations of drug use, and the Olympic organizations had no credibility within really to fix the problem. In response, the Olympics decided to rely on an independent expert body to oversee the integrity of sports. This removed any shadow of a doubt that decisions will be made on the best possible science and not as part of a Collective Bargaining Agreement. This is the same decision that other major sports have made, including tennis, international soccer and cycling.

By contrast, baseball's policy is overseen by the Health Policy Advisory Committee. This sounds good. But when you read the details, you learn that the Health Policy Advisory Committee is a four-member panel, with two members appointed by management and two by the Players Association. Of course, one of the members is you, Mr. Robert Manfred, who handles labor negotiations for the owners, and the other is Gene Orza, who handles negotiations for the players.

Now when I look at this provision, I really don't see an independent health advisory committee. I see an extension of the labor management negotiations. So I have to ask the question, how can the public have confidence that this is a credible policy when the members of the health advisory committee are management and labor negotiators?

The Health Policy Advisory Committee has key responsibilities. For example, it has to agree unanimously before any new substances are added to the drug testing regime. Also, it decides how players will be tested during the off season when steroid use is reported to be common. These are decisions that should be made by independent experts. That's what's done in the Olympics, and it is what needs to be done to restore credibility to baseball.

My question is, why can't it be done? What prevents it from being done the same way?

Mr. FEHR. I will respond first, if that's permissible, Congressman.

We have heard a lot of comment today about this isn't really a matter for collective bargaining in one sense or another. Please understand that, under our laws, the Players Association and management are obligated to bargain about all terms and conditions of employment. Where you have matters arising under that agreement which need to be implemented, the traditional and expected way to handle it—and I believe this is true in all professional team sports in the United States—is done by the parties themselves. That's what the law contemplated, just like it does in other industries.

I think that if there would be an evaluation of the Health Policy Advisory Committee, just as I indicated with respect to the independence of the testing collectors and of the lab, the suggestion that it isn't operating independently or it isn't operating on the basis of the best science or that the doctors are somehow making medical judgments for reasons other than their sound medical beliefs, I think would be found to be inaccurate.

If the doctors disagree—if there is a disagreement, for example, there is a provision for a fifth member to be chosen, effectively by the two doctors, that will be another physician that will break the tie.

That's the best answer I can give you, Mr. Congressman.

Mr. DAVIS OF ILLINOIS. Then do you have any fear that if labor and management cannot come up with a program that is going to be independently oriented that really gets to the bottom of the issue, similar to what appears to have happened with the Olympics, that then Congress may very well find it necessary to step in and add some regulations that would lock both labor and management into some situations that you might find untenable and disagreeable?

Mr. FEHR. There may be a lot of things that people say that I disagree with positions that I take or may advocate. No one has ever questioned my ability to listen.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Chairman.

Mr. SOUDER. Thank you.

Mr. Gutknecht.

Mr. GUTKNECHT. Thank you, Mr. Chairman.

It's been a long day, and I want to thank you all. I really don't want to badger you, but, you know, what we are hearing from most of you is, well, this is a collective bargaining issue. This is a legal issue. I think. At the end of the day, this is both a criminal and a moral issue.

I want to at least congratulate you, Mr. Selig, because I think—in your last few responses, I think you have acknowledged that this is much bigger than just a collective bargaining issue.

Mr. Fehr, you heard the testimony today, and you heard from the parents, you heard from the doctors, you heard from the players. Based on what you heard today, would you be willing to go back to members and ask for a much tougher policy and get a vote on that?

Mr. FEHR. As I indicated before, I will report fully the sentiments here today, both the testimony at the hearing and the comments that have come from the Members; and I want to consult with my membership.

Mr. GUTKNECHT. That's an interesting answer. The question is, will you go back to your members and ask for a new vote?

Mr. FEHR. I will go back to my members, and I will consult with them. That's the most I can do.

Mr. GUTKNECHT. Thank you.

Mr. Selig, I want to come back to something I raised earlier, and that is, in some respects, using these chemicals, some of these chemicals, it cheats the fan, it cheats the game. But, most importantly, in some respect it cheats some of the heroes that we grew

up with. If you had credible evidence that records had been set by people who had used illegal chemicals, what would you do about it?

Mr. SELIG. If I had credible evidence and I wasn't dealing just in hypotheticals or conjecture, I would then feel that it is my responsibility to do something.

Mr. GUTKNECHT. Do you think that right now we are dealing in hypotheticals?

Mr. SELIG. Well, there's no question that we have had a steroid problem, and there's no question that we need to do something about it. I agree with what you said at the outset of your remarks. No question in my mind.

The fact of the matter is, what is difficult—and people have raised this issue with me. What will you do about the records? What will you do about so on and so forth? And I am very sensitive about that. But what I would say to you is, the evidence from the 1990's—is the period we are talking about, there is no tangible evidence.

Mr. GUTKNECHT. Mr. Selig, in all fairness, I don't know how much evidence you need to have. You know, I am not sure that you don't have to have the same level of evidence. I am not sure—you have a lot of latitude as commissioner of baseball. I am not saying you should move arbitrarily or whatever. But I think this is a very serious matter, and I think you owe it to the greats of the game. You owe it to the fans. You have the responsibility to protect the integrity of the game. And so far, I mean, the general public and the average fan thinks that you really don't have much interest in making certain that the records that have been broken in the last several years were done legitimately.

Mr. SELIG. I don't think that's right. I mean, I think our fans do. You know, I go from ballpark to ballpark. I wind up talking to a lot of people. I have been in this sport for 40 years, so I think I understand.

I happen to agree with you. I understand the sensitivity of the problem, the depth of the problem. But I have said often, and I would say to you, the first thing I said to myself, 4 or 5 or, actually, 7 years ago now, look, we have to—we get to deal with this problem, and there was a lot of—it was tough. I have talked to a lot of players—talked to a lot of players. Hank Aaron has been a friend of mine for 50 years. We literally have grown up together. So I understand exactly how people feel and how different generations feel.

But what I said to you is I have concentrated my energy on trying to make the present and the future better. I will deal with the past when there is evidence that I can deal with. Until then, I just don't want to deal with a matter of conjecture.

Mr. GUTKNECHT. Mr. Selig, in all fairness, that really sounds like a hear-no-evil, see-no-evil, speak-no-evil strategy.

Mr. SELIG. Oh, I don't think so.

Mr. GUTKNECHT. Well, it seems to me words are plentiful, but deeds are precious. And, ultimately, I think we are looking for—the American people and the fans are looking for some level of real investigation by Major League Baseball to find out is there any real evidence. See, that's why we have hearings to find out: Is there real evidence?

I'm sorry, Mr. Chairman. I used more than my 5 minutes.

Mr. SOUDER. Ms. Watson.

Ms. WATSON. Thank you. We have been here since 10 a.m.; and, members, I think we have chewed over every issue as much as one can tolerate.

Several hours ago, I held up a poster of our Governor; and I read his comments. What I am trying to do now is start doing something positive and productive. We discussed the substances that were on that chart, and because I want to move forward and really focus on our youth and preventing them from getting into steroids, I made a telephone call to Senator Jackie Speier, who had the bill that was described by myself that the Governor vetoed. That bill would have created a list of banned substances for interscholastic sports and would require coaches to take a course of performance-enhancing supplements.

I asked her if she would amend her bill to put in a passage where we would ask the 1,100 school districts in California to look at the problem among their high school students. It may be even middle school students. And she said, if you don't make it a mandate, I will do that. So my staff at this minute is sending her an e-mail.

I would like to ask a question of Mr. Manfred, Mr. Fehr and anyone else that might answer. There was some discussion as to whether those substances should be on the list or not. I told the Senator that I would get back to her with a list of the substances so that she could be sure that they were coinciding with what she had in her bill before. So is there an agreement on those substances?

Mr. MANFRED. Let me take them one at a time.

We ban human growth hormone, clearly should be on her list.

The first four are anabolic. Well, I have to take them in order. The first four are all anabolic agents of some sort. I would put them on—if you are asking me my opinion, I would put them in the bill.

I would also put in DHEA. We lobbied for that to be part of the Steroid Control Act. That's the last indented substances. Designer steroids, THG and DMT should be included.

I have to tell you, I can't answer about the next three, because I don't know what they are. Clenbuterol is banned under our program.

OK, so I can pull all but those last three. If you have any additional ones, would you give me that list? I am going to see that she gets them right now.

Mr. MANFRED. OK. The only one that I would just talk briefly to——

Ms. WATSON. There are some questions.

Mr. MANFRED [continuing]. To our drug expert, Dr. Green. He said the only one that he would leave off the list is insulin. Insulin is a complicated issue.

Ms. WATSON. OK, why don't——

Mr. WAXMAN. Would the gentlelady yield?

Are those all on the list of what you would prohibit in baseball?

Mr. MANFRED. Ours in baseball. Human growth hormone is. I said everything except DHEA in the anabolic steroid category

would be on our banned list or will be as soon as Boldione is added to the Steroid Control Act.

Designer steroids are banned in our program. Insulin is not. I don't know what the next two are. Clenbuterol is the one I said we had a positive for, is banned under our program; and stimulants, with the exception of Ephedra, not banned under our program.

Mr. WAXMAN. Why wouldn't you ban DHEA and Ephedra?

Mr. MANFRED. Ephedra is banned. DHEA—we actually lobbied for DHEA to be included in the Steroid Control Act. We did what Congress did in terms of the ban.

Mr. WAXMAN. Why—I mean, you lobbied, and I supported your position, but why wouldn't you put it on your list even though Congress failed to adopt it as a prohibitive substance?

Mr. MANFRED. We actually—look, it is a legal substance, and that's why it's not on our banned list. It is, by the way, banned in the Minor League.

Ms. WATSON. If I can reclaim my time, I would put it on the list and save us some controversy about it. She can do what she wants about it. It's her bill.

Mr. MANFRED. I am sorry.

Ms. WATSON. So I will include it in the list, too.

But I want to thank all of you for spending this time with us. It's been a long day, and I don't think there is another question that we can put to you in any other form that hasn't already been addressed. So I want to thank you so much.

At this point, I am going to leave the committee. I want to thank the chairman and the ranking member for, I think, quite an inclusive hearing; and the tolerance that you have shown is remarkable. Thank you so much.

Mr. SELIG. Thank you very much.

Mr. WAXMAN. On the fact sheet, could we just put that in the record?

Mr. SOUDER. Ask unanimous consent to it.

Mr. WAXMAN. Unanimous consent.

Mr. SOUDER. So ordered.

[The information referred to follows:]

Fact Sheet on Today's Hearing and Baseball's New Testing Program
Prepared by Minority Staff, Government Reform Committee

Substance: Human Growth Hormone

While the Olympics is testing for human growth hormone, baseball is not doing so. There was no disagreement about this point at the hearing.

Substance: Gestrinone

Major League Baseball Executive Vice President Robert Manfred appeared to indicate that gestrinone was covered by the policy's reference to THG. In fact, THG, and gestrinone are different chemical substances and are listed separately by the World Anti-Doping Agency.[1]

Substances: Boldione and DHEA

Mr. Manfred indicated that these substances not banned by Major League Baseball. They are considered anabolic steroids by the World Anti-Doping Agency.[2] There was no disagreement about these points at the hearing.

Substances: Danazol and Quinbolone

Mr. Manfred appeared to indicate that these substances, which are considered anabolic steroids by the World Anti-Doping Agency,[3] are covered by the policy. However, in a call with the Committee staff on March 15, 2005, Mr. Manfred stated that the only steroids tested for now are those (1) listed on pages 3-4 of the policy; or (2) scheduled by the DEA; or (3) the substance deoxymethyltestosterone, which was just added. These two substances are not listed in the policy. And DEA has told the Committee they are not scheduled steroids.[4]

Substances: Designer Steroids

The Major League Baseball policy bans only certain steroids, not the entire category of substances with similar structures or effects. The Olympics has the broader policy, which covers designer steroids even before they are recognized by authorities.[5]

Substances: Insulin, IGF-1, HCG

These substances are performance-enhancing drugs banned in the Olympics.[6] They are not banned in baseball. There was no disagreement about these substances at the hearing.

Substances: Beta-2 Agonists and Stimulants

The policy does not ban all Beta-2 agonists prohibited by the Olympics.[7] Mr. Manfred testified that clenbuterol, which is not specifically listed in the policy, was one of the positive tests in the past. This would seem to be all the more reason for the policy to ban Beta-2 agonists. There was agreement that most stimulants are not banned by the baseball policy.

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[1] The World Anti-Doping Agency, *The 2005 Prohibited List*, 5 (2005).

[2] Id at 6.

[3] *Id.*

[4] Email communication from DEA to Committee staff (Mar. 15, 2005).

[5] *World Anti-Doping Agency* at *6.*

[6] *Id.* at *8.*

[7] *Id.*

Mr. SOUDER. Mr. McHenry—Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman.

I feel obligated—I have asked each panel of questions the same series of questions, and I think this is the panel that I have waited, as you have waited, for a long day to ask.

Please just nod yes, and we will acknowledge it, unless you want to make some individual statement on it. Would you agree that if a player brought a bat in that was either aluminum or had steel or had cork or some other enhancing inside in violation of your batting rules that would be cheating if they brought it into a game and slugged with it? Could I get a yes from everyone?

Mr. SELIG. Yes.

Mr. MANFRED. Yes.

Mr. ISSA. If a pitcher were to go get a dead ball that was custom wound so it would not be very hittable and he threw with that, would that be cheating?

Mr. SELIG. Yes.

Mr. MANFRED. Yes.

Mr. ISSA. So if is there any way not to say that if somebody were to take illegal drugs which made them better at hitting a baseball that would be cheating?

Mr. SELIG. It's cheating, yes.

Mr. ISSA. Cheating.

Mr. SELIG. Yes, it's cheating.

Mr. ISSA. There is no question here? It's cheating.

Mr. SELIG. Yes.

Mr. ISSA. I am glad we have an agreement. That's what we strive for here.

Commissioner, I particularly want to call something to your attention, because I am concerned that this is sort of, you know, deja vu, all new, all again.

In 1985, somebody who I have grown to know and actually worked with when he explored running for Governor, Peter Ueberroth, when he was Commissioner, in speaking about drugs in 1985 he said, baseball will be providing important leadership which we believe will be followed by other segments of society. He was talking about his intention to deal with drugs in professional baseball as Commissioner.

In 1986, again, Commissioner Ueberroth said, we do not have any type of agreement with the Players Association regarding a drug program because we have been unable to bridge the gap between the desire of the clubs for effective and comprehensive drug testing program and the Association's opposition to meaningful testing.

Now, Commissioner, you are aware of that?

Mr. SELIG. Yes, yes.

Mr. ISSA. These two words of a man—two expressions in just a year of a man I have great respect for—and I know his honesty and integrity is unquestioned—tells me that, for 20 years, 19 and change, you have known of a terrific problem of drugs and even today, with your brand-new program, at best are just getting around to dealing with it.

So I would like to echo Mr. Sweeney and others in saying that it is going to be this Congress' position that if you do not act much

better in very little time than you have done up until now, we will clearly be holding you accountable by our mandating an act in some way, shape or form.

I would like to ask a question of Mr. Towers. Mr. Towers has not been asked very many questions.

As a general manager, multiple clubs, would it surprise you—consistent with Commissioner Ueberroth's second expression, would it surprise you if I said that every professional sports team owner I have talked to, including in baseball, had said that they would welcome this body mandating mandatory testing, that it would be great for them because it would bypass the collective bargaining system, and it would allow for an even playing field?

Mr. TOWERS. I think I would agree with that, yes.

Mr. ISSA. Is there anyone there that finds that surprising?

Mr. SELIG. No, I would say to you that the owners have been unanimous in wanting very aggressive—see, and I, frankly—nobody has asked me, but I would tell you I would agree to a Federal program, too. I think that's—and I think I can speak for all the owners. I don't think that's a problem.

Mr. ISSA. Mr. Fehr, you are the other half of that equation. Does it surprise you that the owners unanimously would like to have that kind of enforcement and cite your representation and your members as the reason that they don't have it?

Mr. FEHR. Well, the owners generally would rather not be burdened with collective bargaining. I am not surprised by the comments.

Mr. ISSA. No, no, just as to drug testing, if you please. That was the question.

Mr. FEHR. No, I am not surprised by the comments.

Mr. ISSA. Mr. Chairman, I know time has expired, but we have been letting it go a little longer. One question, because we have two choices if you don't react. I would like to just paraphrase them.

One is, we can mandate drug testing. The other is, we can change the law as to collective bargaining to take it out of all collective bargaining agreements for all organizations in this country, dramatically change that. Either one of those would change what would happen, and I only say that because those are really the choices you are leaving us if you do not act and act immediately.

Thank you, Mr. Chairman.

Mr. SOUDER. Thank you.

Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman.

I think Mr. Issa is much more generous than I am. I don't think we have time to wait. I think that Congress has to act, and I have not been reassured one bit by the testimony I have heard today, I have to tell you.

I am a person who has negotiated probably 30 collective bargaining agreements on behalf of everyone from iron workers to wardrobe workers to stagehands to electricians to carpenters, and I always took the position in negotiating for my members that a drug policy was a good thing for my members. I did not resist it. I thought it was good to have clean members who would be subject to that and that would get the clear signal that drug use on the

job is something to be avoided and when it was not good for their overall health.

So this back and forth about whether people can hold each other accountable to support our solid steroid policy is just—you know, it's just lost on me. I just think that if you are really acting in the best interest of the people involved, the players who were using this stuff, then you will get rid of it; and if you are doing it for baseball, you will come to the same conclusion.

You know, I am looking at this agreement that it came up with, and there are so many loopholes in this it is just unbelievable. And the statement by Mr. Manfred, and confirmed by Mr. Fehr, that the language of the contract, the Collective Bargaining Agreement, the drug policy, it says you can either be suspended or you can pay the fine, that's clear language. That's clear language. It is unambiguous.

I know you are going to tell me it was a typing error, but I have to tell you, I have the 2002 agreement in front of me, the entire agreement. I have the 2005 agreement in front of me. I have looked at both of them. They have changed extensive language in the second agreement. They have left "or" in, the word "or" in. I am telling you—I know what your explanation has been—as a union labor attorney, I find it unbelievable.

Mr. MANFRED. Congressman.

Mr. LYNCH. I find it unbelievable. Honestly.

Mr. MANFRED. OK. You can find—I mean, you are entitled to find it whatever you want, obviously. But the fact of the matter is the language as written, OK—just as written on the page—you read it to suggest that the player gets to pick whether he gets a fine or a suspension when, in fact, the agreement even as written, however critical of it you may be, gives the Commissioner absolute discretion.

Mr. LYNCH. Not under a plain reading of the contract.

Mr. MANFRED. With all due respect, I respectfully disagree.

Mr. LYNCH. Not under a plain reading of the contract, I have to tell you. You are comparing the 2003 agreement to the 2005.

Mr. MANFRED. Who would believe a disciplinary decision that the player gets to pick what the discipline is? There has never been a Collective Bargaining Agreement written——

Mr. LYNCH. There is a lot of stuff I have never seen before, I have to tell you.

Mr. MANFRED. OK.

Mr. LYNCH. But these are extraordinary terms to these agreements as well. I have to tell you, I am not encouraged, and I think Congress has to act. I think the time for waiting has long since passed.

I am very disappointed in the testimony and the fact that there is still reluctance here, people are still in denial to say we have a problem I think is a good indication of the depth of that problem.

Mr. Chairman, I will yield back, but I think Congress has to act now.

Mr. SOUDER. Mr. McHenry is next.

Mr. MCHENRY. Thank you, Mr. Chairman.

I certainly appreciate it. I certainly appreciate you all being here. I know it's been a very long day. I commend you for your endur-

ance; and, indeed, I commend the committee for their endurance. It has been quite a long day for all of us.

Let me just get to the point, and I just need a simple answer. We have talked about the frequency of drug tests. How many—there are 1,200 players. Let's just say—how many samples will there be at each interval of testing?

Mr. MANFRED. Every player will be tested once.

Mr. MCHENRY. No, no, the number, sir, the number.

Mr. MANFRED. Every player will be tested once, so there are 1,200 tests there. There will be four random selections at different calendar points in the year, and we—our only understanding at this point is there will be hundreds of additional random tests. We haven't allocated them out yet.

Mr. MCHENRY. OK. Hundreds, could be 101?

Mr. MANFRED. Hundreds of multiple—hundreds is what our understanding is.

Mr. MCHENRY. Is part of a policy? Is that part of a Collective Bargaining Agreement?

Mr. MANFRED. No, HPAC will allocate out—decide a specific number and then allocate out those specific numbers when we get an opportunity to go back to finalizing the policy.

Mr. MCHENRY. Any ranges in mind?

Mr. MANFRED. As I said, I can't be more—our discussions have only progressed to the point that we understand there needs to be hundreds.

Mr. MCHENRY. That will be a helpful thing to tell us. What you are trying to say to us is baseball is acting reasonably and responsibly to crack down on steroids.

Mr. MANFRED. I understand that.

Mr. MCHENRY. Another question. Commissioner Selig, let's say a proposal is put on the table. Let's say a proposal was put on to the table that said, Mr. Commissioner, would you accept a zero tolerance policy, where you break it once, you are done, you are out. Would you accept that? Yes or no?

Mr. SELIG. I can't answer yes or no. I want a zero tolerance policy. I want tougher things. Whether once and out is fair is something I would have to think about.

Mr. MCHENRY. What is it then?

Mr. SELIG. Well, I really—I think that these—the numbers that we have, frankly——

Mr. SOUDER. Mr. Selig, Commissioner Selig, mic.

Mr. SELIG. I'm sorry. I think that while the numbers that we have now need to be expanded considerably to get to a zero tolerance, I happen to agree with that. I have said that all along. Whether or not there is no American sport that has once and out—and I would really have to think that one through, frankly.

Mr. MCHENRY. So you are negotiating with a players union with a perspective that—that not a zero tolerance policy—you are saying maybe somewhere—maybe we can tolerate some steroid use and give some people a few outs.

Mr. SELIG. Well, no, I am not saying that we tolerate anything. On the contrary, I think that what we have done so far will discourage it. I am really very optimistic about this program.

But what I am suggesting to you is that I heard people say today, about the NFL, well, isn't that good? They do four games. That's 25 percent of their schedule. And there were a lot of nods of approval today.

Mr. MCHENRY. Sure, sure. Let me go on to another question.

Mr. SELIG. I am suggesting to you I would take the ones we have and I would make them tougher, yes, much tougher.

Mr. MCHENRY. Yes, you would make a much tougher steroid policy than what is in place.

Mr. SELIG. Yes.

Mr. MCHENRY. That's positive.

Let me start from the end.

Mr. Towers, thank you, sir, for being here; and you can just answer yes or no. Do you consider the use of steroids cheating? Yes or no?

Mr. TOWERS. Yes.

Mr. ALDERSON. Yes.

Mr. FEHR. Yes.

Mr. MANFRED. Yes.

Mr. SELIG. Absolutely, yes.

Mr. MCHENRY. So what you are telling me is professional baseball said, you can cheat once, you know, we will just give you a slap on the wrist. You cheat twice, you know, we are starting to get a little upset. We might even say your name. Third time well, we are getting really ticked off here. The fourth time, fifth time—I mean, this is absolutely ridiculous.

You admit that it's cheating, but you don't want a zero tolerance policy. So you want to tolerate some level of cheating, which to me seems totally irresponsible, and that's why you are before the committee. The reason why we are having these hearings is not because we want to. No, in fact, the reason why we are having these hearings is we want to be able to preserve our national pastime. That's what we are here to do, and you guys have not acted responsibly.

But, Mr. Selig, I want to let you off the hot seat, because Mr. Fehr needs the final question.

From your perspective, Mr. Fehr, would you accept a zero tolerance policy?

Mr. FEHR. From my perspective, there is in the agreement now penalties from day one, from the first one; and I believe, as I have previously indicated, that the data we have suggests that it will work. We will know if it doesn't.

The final point I would make, if I understand the views of the committee expressed by you and by other members, and I will advise my constituency, as is my obligation.

Mr. MCHENRY. A final note, Mr. Chairman, if I may.

Mr. Towers, I certainly appreciate you being here. I certainly appreciate you as an owner to step forward and to say tough things. I know it's not easy on you. But we as a committee appreciate your genuine honesty on this issue and being forthright on it and your boldness. And I speak for all members of the committee when it comes to that matter.

On a final note, I think the players union needs to step forward so we can save baseball from this disgrace, which you all have put it in.

I yield back.

Mr. SOUDER. Mr. Selig, do you have a once and out on gambling?

Mr. SELIG. I am sorry?

Mr. SOUDER. Is it once and out if you are caught gambling?

Mr. SELIG. Do we have once and out on gambling? We do, yes.

Mr. SOUDER. Mr. Ruppersberger.

Mr. RUPPERSBERGER. Sure. Well, we are coming to the end. It's been a long day. I hope we have learned something from today.

Mr. Towers, you are the general manager of the San Diego Padres.

Mr. TOWERS. Yes.

Mr. RUPPERSBERGER. About 2 weeks ago, you were quoted basically, I think, because of your relationship with Caminiti, who just passed away.

The quote, the truth is we are in a competitive business, and these guys are putting up big numbers and helping your ball club win games. You tended to turn your head on things. I hate to be the one voice for the other 29 GMs, but I have had to imagine that all of them at one point or another had reason to think that a player on their ball club was probably using baseball—body changes and things that happened over the winter.

Now what you had the courage to say is what a lot of people maybe suspect. There's a lot of issues involving baseball. I am sure Mr. Selig wants to do the best he can from his point of view; and, Mr. Fehr, you want to do the best representing your players.

Bottom line, I think what I have learned today, more than I thought I would, is that we have a perception problem. We have an integrity problem. And we love this sport, and I feel you are holding this sport in trust for future generations just like people did for you. And if you don't act on this and learn from today—I would like you to respond to your comment a little bit more.

Evidently, based on what you said, you feel there is a problem. Why do you think other GMs have not addressed that problem?

Mr. TOWERS. I don't want to speak for the other GMs. I commented earlier that we have had GMs discuss only over-the-counter muscle enhancers as well as steroids. My comments and quotes are accurate, and I stand by those.

I will say that, you know, reflecting back on Ken Gaminiti, who was a player of mine and somebody who I was very close with, I have hindsight knowledge now. Some of those comments, I think, were based on "I wish I knew back in 1996 and 1998 what I know now" with Ken coming out and saying he was a user of steroids. I do believe that, with the steroids testing program as it is today in place, I am very hopeful that we will not be sending a wrong message to the youth of America.

I can tell you as a talent evaluator, as a former scout and former scouting director, listening to the testimonies today of Mr. and Mrs. Garibaldi as well as Mr. Hooton, I have spent a lot of time in high school parks and college parks and seen a lot of games around the country, and I will assure them now that steroids—if there is any

knowledge of steroids with any amateur player that has aspirations to get into professional baseball—steroids is not your way in.

Mr. RUPPERSBERGER. Let me ask Mr. Selig and Mr. Fehr this question. We have been here all day. You have your agendas on both sides of your positions. Have you learned anything today that you can take back with you that you might reconsider where we are with respect to your existing policies? First, Mr. Selig, and Mr. Fehr.

Mr. SELIG. I would say that it has been a most interesting day, and I think I understood the intensity of the feelings. It is the feeling I have communicated and others have communicated, we are going to be very, very sensitive in trying to meet all the feelings and complaints and thoughts that this group has. That is fair. And from an ownership standpoint, we will do that.

Mr. RUPPERSBERGER. We can talk about it, but we need action. And I know that we have to move forward.

Let me ask you this. You stated today that you feel that we need a stronger drug policy in baseball, and I think you want that. And I think most of the owners do, because you want to fix this and move on. Would you be in a position that you would not sign or not participate in the existing contract? Would this be a contract buster? Would you, in your negotiations, demand that there is a stricter policy than you have now? You have talked about it all day. If you mean this, would you say that this would be a contract that you could not support? That is what it comes down to really.

Mr. SELIG. We are bound by the Collective Bargaining Agreement. To the Players Association's credit, they reopened when they didn't have to.

Mr. RUPPERSBERGER. Could you answer my question? My light is starting to come on, and you are probably happy.

Mr. FEHR. As I indicated to a couple of your colleagues, a lot of people have accused me of not doing a lot of things. Not listening is not one of them.

Mr. RUPPERSBERGER. Let me say this, I would hope that your two sides could get together based on what we have here. It is not what you think. It is perception. This is becoming reality. Perception does become reality. We all deal with it. And we have an obligation for our American sport, and if we don't take away from today what we have said and what Congress is doing, Congress probably will start to get involved. You don't want that. You want to take care of that yourselves. And shame on you if you don't.

Mr. Fehr, you have a lot of respect for your players and have taken them a long way. And I challenge you, as I did the players.

And I challenge you, Mr. Selig.

And I challenge the players that were up here, to coordinate and get a consensus to come back, because it is your game, and you are getting the money. And if you don't do it, it's going to hurt.

Let me ask you one thing, and I will go forward. I would look at the perception of NFL Football. The reason they are perceived to have a better program is because of the penalties, but they also are in a position where they can rehabilitate first time. But then it's time to move on, and I don't see that in your contract at this point.

Mr. SOUDER [presiding]. Ms. Foxx.

Ms. FOXX. Thank you, Mr. Chairman, very much. Again, some of the questions I wanted to ask have been asked already, but I have to come back to the comment that has been made.

Mr. Selig, you said that there is one time for gambling, and you are out. Is that correct?

Mr. SELIG. That's correct.

Ms. FOXX. Mr. Fehr, do you feel like one time for gambling and you're out? Is that your position?

Mr. FEHR. That has been the rule that has been articulated for a long time. In a given case, we have a legal obligation to look at the facts and advise the individual player whether or not we think that can be supported. That is what any union would do.

Ms. FOXX. Explain to me, if you will, why it is you consider one type of illegal activity having a zero-tolerance and not another kind of illegal activity having zero-tolerance; having a zero-tolerance policy for one kind of illegal activity and not another?

Mr. FEHR. The best way I can respond in a succinct fashion—and we know it's late—is that the agreements we have had over the last 20-odd years—and there actually were some in the 1980's, formally and by consent, ad hoc, if you will—procedures that were in place were the traditional type of employee-assistance programs that we believed would work and we believed would solve the problem. And that's the way you go after substance-abuse problems. That's the approach we have taken.

Ms. FOXX. Well, I will make one brief comment, and I need to ask another question. I come from a family of huge baseball fans. My husband can quote you the statistics of every game, I think, that has been played from the Brooklyn Dodgers since the beginning. He is a huge, huge fan and really loves the game. And I find it impossible to have sat here all day today and have heard the kinds of things we have heard. And I know you all have said you hear what we are saying, but I am not sure you have understood the intensity of feeling of these when you have made both the Republicans and the Democrats as upset as they are in this body. You have to get that message back to the folks that you deal with.

I need to ask a quick question of Mr. Alderson. In 2001, the Fort Lauderdale Sun Sentinel reported a Major League scout as saying, "I wish our industry would start testing for steroids. It's really become a joke. It is a laughing joke." That same year, the Denver Post stated, "Sandy Alderson has said he is not convinced steroid use is a problem."

You all have said that you have become increasingly aware that it's a problem. Can you tell us when you personally became convinced that Major League Baseball had to institute a new drug testing policy that encompassed steroids? Did a particular event spark this realization on your part?

Mr. ALDERSON. Yes, I think, as I said in my statement, that, in 1998, actually, with the identification of andro in the locker room was a precipitating event. It was the first concrete evidence we had of something going on in the clubhouse. So from that time, really, I have felt that steroids were something that needed to be addressed, and I felt that the commissioner has addressed steroids progressively since 1998.

Ms. FOXX. Mr. Chairman, I yield the remainder of my time to Mr. Shays.

Mr. SHAYS. I thank the gentlelady for yielding. I have been wrestling with the response to your question of the Major League Baseball's joint drug and prevention program and the claim that it was not written. And I want to ask you, since you were asked for this document on March 2, Mr. Selig, what change in the document has been made since March 2 on this document?

Mr. MANFRED. I would have to—I couldn't tell you what has been done to the document.

Mr. SHAYS. Mr. Manfred, what change was made in this document since you were asked for this document on March 2?

Mr. MANFRED. I can't tell you what specific language changed. There were meetings between the parties in which language was reviewed.

Mr. SHAYS. Who were the members in that party? Who was at those meetings?

Mr. MANFRED. On my side, myself, Frank Coonelly who works for me, Mr. Orza and Mr. Weiner. We had conversations throughout that period back and forth.

Mr. SHAYS. Was there a document on March 2?

Mr. MANFRED. There certainly was a draft.

Mr. SHAYS. Why didn't you give us that March 2 document?

Mr. MANFRED. Because, as I explained to the committee, it was a draft, and no one seemed to want the draft. I said that, when the document is final——

Mr. SHAYS. That is not true, Mr. Manfred.

Mr. MANFRED. That is absolutely true.

Mr. SHAYS. It is not true. We asked for whatever draft you had.

Mr. MANFRED. The response I gave to the committee was when I have a final document, I will provide it. That is exactly what I said.

Mr. SHAYS. The response of the committee was, we want the draft that existed.

Mr. MANFRED. I never was told that. I did not hear anyone say that to me.

Mr. SHAYS. What I'd like from you is, I want the copy of the draft of March 2, and I want to compare it to this draft. You are under oath. I don't buy it one bit. I don't buy one bit that you would draft a document, you would announce it that you had a document, you had a policy and then you would make it up after the committee has requested. I don't buy it.

Mr. Selig, do you want to respond?

Mr. SELIG. No, Mr. Manfred was negotiating that.

Chairman TOM DAVIS [presiding]. I don't think anybody wants to respond.

Mr. SHAYS. That is the problem.

I want to ask you, Mr. Selig, was there a draft on March 2?

Mr. SELIG. I don't have any knowledge.

Mr. SHAYS. There was no draft on March 2. You have no draft of any drug policy on March 2? I'm asking the commissioner. I want to know if he ever saw a draft of any drug policy before March 2.

Mr. SELIG. I did not.

Mr. SHAYS. Why?

Mr. SELIG. Because that is not the way it works. I told Mr. Manfred what he had to do. He was proceeding with the Players Association people, and frankly, I don't participate in the drafting.

Mr. SHAYS. Mr. Fehr, was there any draft on March 2?

Mr. FEHR. I'm sure there was a draft.

Mr. SHAYS. Would you make sure this committee gets a copy of that draft of March 2? We would like to compare how you changed it from March 2 when you were requested for a draft and the document we finally got. That is the request. Are you unclear on what the request is?

Mr. MANFRED. No.

Mr. FEHR. No.

Mr. SHAYS. Do you think there will be much of a difference between the March 2——

Mr. MANFRED. I don't believe there is any material change. There were discussions about the document. I don't think the language changed in any big way.

Mr. SHAYS. Why didn't you give us the March 2 document?

Mr. MANFRED. Because, I said it.

Mr. SHAYS. You have said it, and you are really now saying you had a copy you could have given us. Give us that draft. We want to compare it.

Chairman TOM DAVIS. That's fine. Thank you.

Mr. WAXMAN. Mr. Chairman, Mr. Selig, I don't know as much about baseball as a lot of other members on the committee. I certainly don't know as much as Senator Bunning, but when he was here many hours ago, he said that all records tainted by steroids should be thrown out. But you have made it absolutely clear that you won't consider doing that. You have also said that you would only do that if you had credible evidence, but you have also said your own investigator looked back. You made it as clear as you can you weren't going to find any evidence if you don't investigate. That's one problem.

You have told us baseball doesn't have a major problem, but Kevin Towers has made it clear there is a major problem. And everything we know, everything that the American people know that there was and is a major problem. I think you have let baseball down. What is even worse, I think you have let down the kids of this country. You have been involved deeply in baseball for over 30 years, and I know you have done many good things for baseball, and I know you have done incredibly positive things for kids. And I praise you for that, but we have been running in place for 30 years, and I think we can do better. We need to have accountability, I want to ask you, I want to ask you to work with us to get a strong policy across all the sports. It ought to be like the Olympic policy. I think that's a policy you would support. If we can't get it through collective bargaining, I want you to work with us to get it through legislation. And I want to say something that I don't mean to be real harsh, but I think that whoever makes the decision for baseball—and you, also—look at the situation we are in and see if it is time for new leadership, because I don't think baseball is doing what it should have been doing for all these years on the steroid problem.

In my opening statement, I went back 30 years ago when Congress first looked at this issue, and we were given assurances, as we have been given assurances, this problem would be dealt with in a responsible and satisfactory way. I don't think it has been. I don't think your policy will do it. Let's get legislation passed, and let's get this issue resolved.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Do you want to respond briefly?

Mr. SELIG. I know the hour is very late, but I would just say to you, Congressman, and I understand criticism. One thing about being a commissioner, criticism goes with the job on a daily basis. Having said that, I would say to you, my father used to say to me 1,000 times a day, nothing is good or bad except by comparison. We have a program in place. None of my predecessors had a program in place. There were a lot of problems in the 1970's and 1980's and 1990's not dealt with. You may think this program is not adequately dealt with. Only time will tell. You may be right. And by the way, and I share your view on Federal legislation and on other things, and I do share your view on a tougher program. We probably don't disagree. But having said that, we have a program in place, and it is fair now to try to let that program work.

Mr. WAXMAN. In 1984, there was a drug testing program for baseball. It didn't test for steroids because steroids weren't illegal at that time, but Major League Baseball, because of the commissioners, abandoned that program. And I think there were a lot of other causes for you to have reinstituted it, not as late as you did, but in the 1990's. I know what you have said, and I'm not going to debate it with you any longer. I hope we can get legislation passed. Let's get one national standard for baseball and all sports and college, professional, even kids in schools and let's make it one that is very, very clear if we are going to prevent people from using steroids.

Chairman TOM DAVIS. And thank you.

And it has been a long day for you, and we appreciate you.

And just again, Mr. Selig, you are not here under subpoena. You came here voluntarily—and I want to thank everybody else for coming as well. Hindsight is 20/20. And as we look at this from our perspective today and look back with the moral clarity that I think history gives us, we appreciate the advancements that baseball has made, but we think it is still short of the mark. And we urge you to make some of the corrections I think you said you would do through here. And we are going to watch this closely. We represent people from vastly different districts, but tonight, we speak with one voice, conservative and liberal, Democrats and Republicans.

By the way, this is not the end of our investigation into steroids, and Major League is one component, but you are a critical component because we can't do this going into high schools. It has to start at the top. Like it or not, your players are the role models and the heroes for millions of kids. So I appreciate everybody taking the time to come here. This has been a very fruitful hearing. And I know you would have rather done other things today, but we have established a record here and heard a lot in terms of what you are doing and what the league is doing, what the union is doing. And we appreciate your staying with us until this late hour.

[Whereupon, at 9:15 p.m., the committee was adjourned.]

[The prepared statements of Hon. Ginny Brown-Waite and Hon. Brian Higgins, and additional information submitted for the hearing record follow:]

Statement of
The Honorable Ginny Brown-Waite
Before
The House Government Reform Committee
March 17, 2005
"Restoring Faith in America's Pastime: Evaluating Major League Baseball's Efforts to Eradicate Steroid Use"

Mr. Chairman and Ranking Member Waxman:

Thank you for holding this hearing to examine Major League Baseball and its efforts to eradicate steroid use in the League.

I must admit, when I first heard of the subject matter of this hearing I was a bit skeptical about Congress's proper role in this matter. After all, such weighty issues as social security reform, education funding, and border control issues all await Congress's attention. In each of these issues mentioned, Congress is striving to make the future better, safer and freer for the sake of our children.

However, after looking deeper into the hearing topic, I realized that this was not just a hearing on Major League Baseball and the steroid scandal they are currently embroiled in. If it was, then quite frankly, I would not be here. However, this hearing is about our nation's youth. It is about their role models who have been accused not just of cheating, but of taking illegal substances to enhance their performance on the playing field. If Major League Baseball fails to correct the public perception that steroids are acceptable, then young athletes looking for a competitive advantage will undoubtedly use them.

If players who use steroids go unpunished and are rewarded for their deceit then we as a society are culpable for not taking a strong stand against their illegal use and abuse of steroids. I am not willing to turn a blind eye. It is not just the record books that are in jeopardy of being tarnished. Our children are in jeopardy if Congress and Major League Baseball do nothing.

Studies show that the use of anabolic steroids among high school students had a significant up-tic in the mid 1990's. Usage rates had remained stable at a level under 1.5 percent for students in 8th, 10th, and 12th grades in the early 1990s. But in the mid 1990's, when certain Major League Baseball players were breaking long standing records, steroid use among high school students began to rise. Peak rates of use occurred in 2002 for 12th-graders (2.5 percent), and in 2000 and 2002 for 10th-graders (2.2 percent). To translate these percentage terms into actual numbers- there were approximately 12.5 million students enrolled in high school in 2002. If the usage rate in 2002 was 2.0%, that means 270,000 children used performance enhancing drugs. I would be willing to bet that a large percentage of these 270,000 were talented young men and women that were looking to get ahead in their sport. If they could just edge out their

peers, they could get a scholarship to play sports at a prestigious school. And why not, after all, isn't that what the pros do?

Clearly, the increase in steroid use among high school students is unacceptable. The use of steroids among professional athletes is just as unacceptable. Mr. Chairman, I thank you for holding this hearing so that we may investigate why steroid use was permitted by Major League Baseball, how it can be eliminated, and how we can best educate our children on the dangers of using steroids.

Thank you.

Opening Statement
Representative Brian Higgins
Committee on Government Reform
"Restoring Faith in America's Pastime: Evaluating Major League Baseball's Efforts to Eradicate Steroid Use"
March 17, 2005

Mr. Chairman, Ranking Member Waxman, thank you for calling this hearing today on steroid use in baseball. I hope we can use today's hearing as a platform to address a major public health problem: the growth in steroid use by kids, and its relation to steroid use by ball players.

In the past decade or so, rumor and innuendo have swirled around Major League Baseball and the use of steroids by players. Unfortunately, because little action was taken by Major League Baseball to prove or disprove those rumors, and despite its knowledge that a serious problem existed, baseball is now under a dark cloud. Americans are concerned not only that their national pastime is perhaps fraudulent or cheating them, but that it is setting a poor example for their children among whom steroid use has grown threefold in the last decade.

I am here today to get to the heart of the problem; to find out what the League knew and when, and how it responded, to find out how pervasive steroid use is in baseball, how players got illegal drugs, to find out what the League is doing to stop steroid use in baseball, and to find out how we can all fight the scourge of steroid use on the high school baseball diamond and in the school locker room.

This is the first step toward gathering more information on how pervasive the problem is and having some of the premiere players, both current and past, as well as others, parents of kids who committed suicide as the result of their depression resulting from anabolic steroid use, help us understand and better address the problem. Today's hearing will question the depth and severity of the problem to help determine future action either by the Congress, or by Major League Baseball.

This is, in the end, not about what any of our witnesses today did or did not do, it is about a public health problem and the half million high school kids using steroids. I hope that the League will be put on notice that they need to do a better job with respect to policing themselves; that a $10,000 dollar fine is a paltry punishment for using an illegal drug. The bottom line is high school kids are using steroids. Their use is pervasive and growing; that is a serious public health problem. When kids see the big name players who are alleged to have used steroids, it encourages those who aspire to make it to professional baseball that this is a good route from which to get to the majors. Let's change that reality and create a newer healthier one.

Thank you again Chairman Davis and Ranking Member Waxman, and thank you to our panelists for working with us to answer these questions.

STATEMENT OF
THE HONORABLE WM. LACY CLAY
COMMITTEE ON GOVERNMENT REFORM HEARING ON
RESTORING FAITH IN AMERICA'S PASTIME: EVALUATING MAJOR LEAGUE BASEBALL'S EFFORTS TO ERADICATE STEROID USE

MARCH 17, 2005

Thank you, Chairman Davis and Ranking Member Waxman, for holding today's hearing on an important public health issue, steroids and their impact on America's youth. Today we will look at Major League Baseball's recently negotiated drug policy and examine if their standards for testing its athletes are stringent enough to effectively eliminate the use of anabolic steroids and other illegal performance-enhancing drugs from within the League. As a fan of baseball, I hope today's hearing will serve as a forum to discredit some rumors and prove that the records attained by future Hall of Fame inductees are credible.

While the NFL randomly tests football players for steroid use, using punishment such as unpaid suspension to get their point across; the most impressive testing is within the Olympics. Olympic sports have the strongest drug-testing program, run by the U.S. Anti-Doping Agency (USADA) in this country. Athletes are subject to frequent unannounced, year-round testing and the first positive test brings a minimum two-year suspension. I commend Major League Baseball's effort in strengthening its steroid policy, however it is strikingly clear that more steps need to be taken in order to send a clear message that using illegal drugs will not be tolerated.

Anabolic steroids are a federally controlled substance and Major League Baseball's slow response to sufficiently addressing this issue sends the wrong message to our nation's youth. Today's hearing is bigger than baseball. As a parent, I believe children are the priority for tackling this issue head on. It is astounding that more than 500,000 American boys are using anabolic steroids today. According to the National Institute on Drug Abuse, 40 percent of high school seniors say getting steroids is not a difficult task and more than 40 percent of high school seniors do not see a great risk in taking steroids. These statistics are unacceptable and it is imperative that Congress focus on ways to address the larger societal and public health ramifications of steroids.

As a young man in St. Louis, I grew up with baseball in my blood. I spent my summers cheering for great players like Willie Mays, Hank Aaron, Roberto Clemente, Lou Brock, Bob Gibson and Curt Flood. These great players used their natural ability not drugs to set records and have successful careers.

It is my hope that today's hearing will shed light on Major League Baseball's policies, educate the public about the dangers to youth who may be tempted to use anabolic steroids and ensure that adequate safeguards for the future are in place.

Thank you, Mr. Chairman.

Congressman Jon Porter (R-NV-3)
March 17, 2005
Government Reform Committee
"Steroids in Baseball" Hearing

Mr. Chairman, thank you for holding this important hearing, and thank you for letting me submit this statement for the record. I would also like to thank the witnesses for taking the time to be here today.

Mr. Chairman, baseball is America's pastime. I certainly took part in pick-up baseball games whenever I could, dreaming to someday be like one of the "greats", such as Babe Ruth, Willie Mays, and countless others.

This dream is something that many American children aspire to achieve someday. Baseball is a way of life for millions of young people and we as Members of Congress, must appreciate that. Whenever our youth turn on a television set to watch a game, or go to a ballpark to enjoy the sport with family and friends, we must help to ensure that the players, who are in many cases their role models, are maintaining the honesty and integrity that this sport had provided to Americans of generations past.

The statistics I have heard regarding the use of steroids in our young people are incredibly disturbing. From what we, as Members of Congress, know about a half a million young people have admitted or have been found to have used anabolic steroids. When I heard that number, I realized that the problems related to steroid use were not something that we can brush under a rug anymore. This is a health epidemic and we must look into ways to cut that number down to zero.

I represent much of Southern Nevada, and my district is the fastest-growing district in the nation. We are producing world-class athletes out of our high schools and the University of Nevada at Las Vegas. Many of these young people look up to professional athletes, like the athletes who are here today, as role models. It is our responsibility to make sure that these young people are not given mixed messages about what is acceptable and what is not in regard to professional sports. We must make sure that those associated with professional baseball are given clear-cut rules and strict punishments in order to eradicate illegal drug usage. We don't need any more excuses. We just need solutions.

Mr. Chairman, I appreciate your letting me submit this statement for the record, and I look forward to hearing the testimony from the witnesses.

* * *

ELIOT L. ENGEL
17TH DISTRICT, NEW YORK

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March 16, 2005

Mr. Donald Fehr
Executive Director and General Counsel
Major League Baseball Players Association
12 East 49th Street
24th Floor
New York, NY 10017

Mr. Allan H. (Bud) Selig
Commissioner
Major League Baseball
245 Park Avenue
31st Floor
New York, NY 10167

Dear Mr. Fehr and Mr. Selig:

I am writing to express my grave concerns about Major League Baseball's lax policy regarding steroid use.

As you know, last week the House Energy and Commerce Committee, of which I am a member, held a hearing on steroids and sports. We had the opportunity to hear from a diverse panel of experts regarding the impact of steroids and penalties for steroid use in high school, college, Olympic and professional sports.

Major League Baseball's steroid policy badly distinguished itself from the other sports authorities by administering the weakest penalties for steroid use. Penalties should reflect the severity of the offense and serve as a deterrent for future transgressions; the current MLB policy accomplishes neither goal, allowing players to be caught four times for steroid use before suspending their right to play for one year.

You must realize what your steroid policy communicates to children who participate in athletics. You essentially say that in lieu of personal achievement, hard work and true talent, athletes should take any means necessary—even committing illegal acts—to achieve stardom. As a life long baseball fan, and father of three children, I am truly saddened by this troubling message.

Further, by continuing to turn a blind eye on professional players' use of steroids, you cheat sports fans of the opportunity to enjoy a true contest between athletes. It would be a travesty if baseball was viewed as little more than body building theatrics currently associated with pro-wrestling. Baseball fans don't pay for fraud, they pay for the suspense that comes from true competition.

In order to restore integrity to America's national past-time and to protect our children from the serious health complications caused by illegal steroid use, I strongly

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urge you to institute more stringent penalties for steroid abuse. A policy that is still too generous to players but a good compromise is first strike: out for the remainder of season, second strike: out for one year and third strike: a permanent ban from baseball.

We must take this opportunity to move forward from this black eye on Major League Baseball. I hope you will carefully rethink MLB's steroid policy and look forward to your response to my concerns.

Sincerely,

Eliot L. Engel

Eliot Engel
Member of Congress

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BERNARD SANDERS, VERMONT,
INDEPENDENT

March 10, 2005

Mr. Stanley Brand
Brand & Frulla
923 Fifteenth St., N.W.
Washington, D.C. 20005

Dear Mr. Brand:

On March 8, we received your letter on behalf of "Major League Baseball ('MLB'), the Major League Baseball Players Association, and Major League Club officials" questioning the Committee's jurisdiction and the basis of the Committee's investigation into steroid use in baseball. Your legal analysis is flawed, and any failure to comply with the Committee's subpoenas would be unwise and irresponsible.

The issue of jurisdiction is easily resolved. The Government Reform Committee is the principal investigative committee in the House. Under the rules of the House, "[T]he Committee on Government Reform may **at any time** conduct investigations of **any matter** . . . ."[1] The House has given the Government Reform Committee this broad oversight jurisdiction so that the Committee can make "findings and recommendations . . . available to any other standing committee having jurisdiction over the matter involved."[2] Without question, the use of illegal performance-enhancing drugs under the Federal Controlled Substances Act is a "matter" within the oversight jurisdiction of Congress and the Government Reform Committee.

In addition, the Committee also has considerable legislative jurisdiction in the area of drug policy. The Committee has jurisdiction over the laws authorizing the activities of the White House Office of National Drug Control Policy, which "establishes policies, priorities, and objectives for the Nation's drug control program."[3] The allegations that illegal performance-enhancing drugs are used in baseball have implications for these federal policies.

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[1] House Rule X, clause 4(c)(2)(emphasis supplied)

[2] *Id.*

[3] White House Office of National Drug Control Policy, *About ONDCP* (online at http://www.whitehousedrugpolicy.gov/about/index.html).

In 1991, Congress defined steroids as Schedule III drugs under the Federal Controlled Substances Act. As a result, both possessing these drugs without a valid prescription and distributing these drugs are federal offenses. Yet over the past decade, the news media has repeatedly reported that steroid use is common in major league baseball and that management was aware of the problem but did not intervene or investigate. Some informed observers have even alleged that "the owners ... have been complicit, content to watch balls fly out of the ballparks and make the cash registers ring."[4]

For example:

- In 1995, the *Los Angeles Times* published an investigative report on steroid use in baseball titled "Steroids Become an Issue." The report quoted Randy Smith, the general manager of the San Diego Padres, who stated: "We all know there's steroid use, and it's definitely become more prevalent . . . I think 10% to 20%." An American League general manager added: "I wouldn't be surprised if it's closer to 30%."[5]

- In 2000, the *New York Times* published a front-page story titled "Guessing the Score: Open Secret; Steroid Suspicions Abound in Major League Dugouts." The article stated that "[i]nterviews with more than 25 major league strength coaches, general managers, league officials and players indicated a general view that steroid abuse has become a problem in baseball, perhaps even widespread, and that the sport must address it." Brad Andress, the strength coach for the Colorado Rockies, estimated that 30 percent of major league baseball players had used steroids at some point in their careers. One veteran all-star outfielder said he believed that: "[T]wo-thirds of the top players in the National League are using some kind of steroid."[6]

- In 2002, *Sports Illustrated* published a cover story on performance-enhancing drugs in baseball entitled "Totally Juiced." The magazine reported that "the game has become a pharmacological trade show." Former San Diego Padre Ken Caminiti admitted to using steroids during the 1996 season, when he was voted the National League's most valuable player. Outfielder Chad Curtis estimated that 40 percent to 50 percent of major league players use steroids.[7]

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[4] Harvey Araton, *Players' Steroid Proposal Is Lacking in Muscle,* New York Times (Aug. 11, 2002).

[5] *Steroids Become an Issue; Baseball: Many Fear Performance-Enhancing Drug is Becoming Prevalent and Believe Something Must Be Done,* Los Angeles Times (July 15, 1995).

[6] *Guessing the Score: Open Secret; Steroid Suspicions Abound In Major League Dugouts,* New York Times (Oct. 11, 2000).

[7] *Totally Juiced; With the Use of Steroids and Other Performance Enhancers Rampant, According to a Former MVP and Other Sources, Baseball Players and Their Reliance on Drugs Have Grown to Alarming Proportions,* Sports Illustrated (June 3, 2002).

We do not presume that these reports are accurate. But clearly they should have been investigated. When reports reached baseball in 1989 that Pete Rose was suspected of gambling on baseball, Major League Baseball initiated its own investigation within a month, and within eight months, Mr. Rose was banned from baseball for life. Yet ten years after the *Los Angeles Times* reported widespread use of illegal performance-enhancing drugs in baseball, Congress remains concerned that Major League Baseball's recognition of the problem and its solution may not be adequate.

Even after the publication earlier this year of Jose Canseco's book about steroid use by Mark McGwire and other baseball players, Sandy Alderson, the executive vice president of baseball operations, stated: "I'd be surprised if there was any significant follow-up."[8]

Contrary to your letter, whether and how baseball chooses to police itself raises important federal policy issues. Steroid use among teenagers – especially aspiring teenage athletes – is large and growing problem. More than 500,000 teenagers have tried steroids, nearly triple the level just ten years ago.[9] The National Institute on Drug Abuse and the University of Michigan looked at steroid use in teens and concluded that nearly 20 percent of eighth graders, nearly 30 of tenth graders, and more than 40 percent of twelfth graders surveyed in 2004 reported that steroids were "fairly easy" or "very easy" to obtain.[10]

Many of these youth follow baseball and seek to emulate their heroes, potentially contributing to this serious public health problem. Moreover, the reports of the extensive use of federal controlled substances within Major League Baseball raise issues about the adequacy of federal drug laws and the effectiveness of federal enforcement efforts.

These are some of the questions that the Committee intends to examine in its hearing. Our investigation will be thorough, fair, and responsible. And it will help remove the cloud over baseball, educate the public about the dangers and consequences of illegal drug use, and inform Congress about the effectiveness of federal steroid policies.

We understand that Major League Baseball and the Players Association are adopting a new steroid policy for the 2005 season. But we do not agree that this eliminates the need for a

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[8] *Commissioner's Office Likely Will Not Pursue Canseco Allegations,* Associated Press (Feb. 11, 2005).

[9] Centers for Disease Control and Prevention, Trends in the Prevalence of Marijuana, Cocaine, and Other Illegal Drug Use, *National Youth Risk Behavior Survey 1991-2003* (2004).

[10] National Institute on Drug Abuse and University of Michigan, *Monitoring the Future 2004 Data from In-School Surveys of 8th-, 10th-, and 12th-Grade Students* (Dec. 2004).

hearing. To the contrary, questions have been raised about the adequacy of the new policy that we hope to examine as part of our inquiry. Baseball has had a series of steroid policies in effect since at least 1991. Understanding how baseball has implemented – or failed to implement – those policies is relevant to an evaluation of how effectively the new policy may be applied.

You also appear to have made factually incorrect public statements regarding the document subpoena served on Major League Baseball by the Committee. As you may be aware, on March 2, 2005, we met with representatives from Major League Baseball, including the League representative who negotiated the policy with the Players Assocation, to discuss the hearing and the new drug testing policy. During this meeting, we personally asked Major League Baseball for the protocols of the new drug testing policy. That afternoon, a call was placed by the Committee to the person whom Major League Baseball held out as their representative in Washington, D.C. The Committee confirmed to Major League Baseball that a hearing would be held on March 17, 2005, and also requested an additional meeting with the League regarding the hearing as soon as possible. Telephone calls made by the Committee to the League from March 2 until the present were ignored. In fact, your March 8th letter was the first substantive communication the Committee received from Major League Baseball.

Any suggestion that the Committee gave Major League Baseball only one day to produce documents is false. The Committee's March 7, 2005 letter requesting documents stated that "if significant forward movement is not made" by the League, the Committee would be forced to subpoena the documents. It was our hope the letter would encourage the League to return the telephone calls to the Committee. Nowhere in the letter did it state that the documents must be produced, in full within 24 hours. Even after getting no forward movement in response to our letter, the Committee made three additional attempts to communicate with the League to discuss the document request. Major League Baseball was given not only adequate time to produce documents, but more than enough encouragment to work with the Committee.

We also object to your erroneous characterizations of the Committee's subpoena to Major League Baseball. As you know full well, the subpoena to Major League Baseball expressly states that the documents being sought by the Committee should be provided "with personal identifying information redacted."

We are fans of baseball and admirers of professional baseball players. But Major League Baseball and professional baseball players should not be above responsible scrutiny. We believe that Major League Baseball and baseball players should not be singled out for unfair or punitive treatment. But at the same time, baseball and ballplayers do not, by virtue of their celebrity, deserve special treatment or to be placed above the law.

In this case, Committee is clearly acting within its jurisdiction on a matter of important federal policy. The Committee has properly issued subpoenas. Any American citizen under these circumstances would be required to comply with the Committee's request. Major League Baseball and baseball players are no different.

Sincerely,

Tom Davis
Chariman

Henry A. Waxman
Ranking Minority Member

Mr. Bob Tufts
108th Street, A 27
Forest Hills, NY 11375

Honorable Members of Congress and the Committee:

With the appearance this fall of numerous athletes before a grand jury in San Francisco, an open season on athletes and their reputations has commenced. News releases and articles are riddled with ominous phrases such as "deep background" and "sources familiar with the case who request anonymity", which imply known criminal activity by these players called to testify.

At the present time, we know little of the path of the investigation, except that the subpoenaed athletes are not targets and have they been indicted. We do not know the names of the anonymous accusers quoted in the paper or those who have leafed federal grand jury testimony. But this does not seem to matter to those who use these undocumented facts to make incomplete and incendiary comments that impugn all current and former athletes. A recent editorial cartoon showed a bottle of steroids with the heading, "Breakfast of Champions". It is the opinion of far to many people that any athlete called to testify is guilty of some drug charge until proven innocent, a chilling legal proposition for any American citizen to face. It is even more disturbing when members of Congress hold these views or espouse them via press releases.

I cannot prevent people from resenting athletes for their incredible salaries and success. However, it is not permissible to imply group guilt and jeopardize any American's civil liberties. I am unfortunately familiar with the personal damage that can result from such rampant and ill-informed speculation.

I pitched for the San Francisco Giants and the Kansas City Royals in the early eighties. I played with Vida Blue, Willie Wilson, Willie Mays Aikens and Jerry Martin, who were all sentenced for cocaine possession. Despite my best efforts to continue playing baseball in 1984, I was unable to find a place in the minor leagues or even at the minor league level. Later that year, I ran into a Royals official who passed along an apology to me from one of the players. When I asked why, he informed me that I have been blackballed after having a poor season. An inaccurate conclusion was reached that since I played with these offenders, I may also have been involved with drugs. These wild and baseless accusations even followed me through business school at Columbia University and during my interviews with Wall Street firms. Do not get me wrong – any athlete that violates the law and the substance abuse policy of their organization deserves sanction. However, those that are law abiding do not deserve to suffer such guilt by association.

When discussing the possession and use of steroids, Schedule III substances that require a prescription to be legally dispensed, we must be extremely careful as we pursue this story that we do not resort to profiling and trample the reputations and careers of their subjects. Nor should we cite sources that accuse any person of violation of federal law without actual proof. Educate speculation does not qualify as fact!

No one in the United States should be forced to prove their innocence and be subject to innuendo and speculation simply because they are a member of some group.

Bob Tufts
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(Former pitcher, San Francisco Giants, 1981, Kansas City Royals 1982 – 83)
(Former President, Major League Baseball Players Alumni Association, New York State Chapter)

Dr. Allan M. Lans

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March 10, 2005

The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Representative Waxman:

I am a Psychiatrist, a Fellow of the American College of Psychiatry and Neurology as well as certified by the American Society of Addiction Medicine, practicing in New York for 20 years. Prior to that and also for 20 years I practiced as a certified General Practicioner in Bergenfield, N.J.. I hold appointments at St Luke's/ Roosevelt Hospital, the Hospital for Special Surgery a division of New York Hospital. I have an academic appointment as an Assistant Professor of Clinical Psychiatry at Columbia University's College of Physicians and Surgeons, where I have taught for many years.

From mid 1985 and up to March 2003 I was the team psychiatrist and director of the New York Mets Employee Assistance Program. During that period and to the present time I have had abundant experience with athletes, their families, and their coaches, and their employers. My time was spent in the Dominican Republic as well as in New York and all the places between. With the Mets my objectives were to create an environment for success. Unfortunately some of that time needed to be about substance abuse, education and treatment. I am well acquainted with use of all forms of substances used by professional athletes both for performance enhancement and mood altering .While the most prominent players are major leaguers the problem is greater in the "Minors" where young men are most likely to feel the pressure to improve their chances at any cost.

I used most of my time on the minor league level working with players as they started in professional baseball. That talented but undersized young man from the Dominican Republic needs to get bigger as quickly as possible if he wants to succeed just as that Triple A player with a wife and two kids needs to get a bit stronger in order to get to the Big Leagues and earn a living. It is a big difference: $35,000 to 400,000 plus! The stakes are high and there is no clear plan or desire to deal with drug issues in a meaningful way. Drugs have been in the culture of baseball for a long time and partial measures ,will not succeed. I would welcome the opportunity to discuss these matters with the committee members. As I have stated my point of view is unique and may be helpful.

Yours truly,

Allan M. Lans, D.O.
155 E. 55th Street
New York, N.Y. 10022

March 9, 2005

The Honorable Tom Davis
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

My name is Scott Weiss, and I am a baseball fan advocate. I have been a fan of baseball for over 30 years, and was very involved in the grassroots baseball fan advocacy movement during the 2002 baseball season which helped prevent a damaging work stoppage. I am submitting this written testimony related to the steroid use issue to give a voice to the 73 million fans who attended Major League Baseball games in 2004. Although I volunteered to testify in person before the Government Reform Committee on behalf of baseball fans, my request was denied. Nevertheless, I thought that it was vitally important for the voice of baseball fans to be at least included in the written congressional record regarding the issue of steroid use in Major League Baseball.

Baseball fans have been hearing loud rumors about the use of steroids in baseball since the late 1990's. The chase of Roger Maris' single season homerun record in 1998 was filled with whispers about possible steroid use by the two men pursuing his record, Mark McGuire and Sammy Sosa. McGuire even admitted to using Androstenedione, which was legal at the time but is now on the banned substances list. However, despite the whispers, no proof ever came out about any other use of performance enhancing substances. As we all know, both McGuire and Sosa smashed Roger Maris' record of 61 homeruns which had been the record since 1961.

For baseball, the homerun chase could not have come at a better time. Major League Baseball was still suffering the consequences of having cancelled the 1994 season, and the homerun chase renewed baseball's love affair with its fans. The baseball establishment surely was not going to let rumors of steroid use get in the way of the economic windfall that McGuire and Sosa created. The problem was that the owners and players had no incentive to confront the steroid problem. For the owners, bigger players meant more homeruns, which ultimately resulted in more fans in the ballpark. For players, more homeruns resulted in bigger contracts. As I said, where is the incentive to confront the steroid problem?

So, as baseball fans continued to put their trust in the baseball establishment that the game was on the up and up, a dirty little secret was about to explode into the public eye. This trust that baseball fans had been giving to the baseball establishment was smashed beginning in December 2004. It started with the leak of the BALCO testimony implicating some present Major League players, and continued with Victor Conte's TV interview, Ken Caminiti's (an admitted steroid user) death, and Jose Conseco's tell all book. The most appalling thing to note is that if Senator John McCain did not threaten to force baseball to toughen its steroid policy, I truly believe that no changes would have been initiated by Major League Baseball. Why should it have to take the threat of a prominent government official to get baseball to do the right thing?

To add insult to injury, baseball fans have recently been subjected to two of the most bizarre and evasive press conferences by two of baseball's superstars, Barry Bonds and Jason Giambi. I think both press conferences were related to the steroid scandal, but I am not quite sure. Mr. Giambi apologized for something, but never mentioned the word steroids. Mr. Bonds deflected reporter's questions with the skill of an all-star goaltender, and basically generalized that steroids were no big deal. All the while, baseball fans have been reassured by Commissioner Selig that the steroid problem has been all but eradicated. Why should fans trust Mr. Selig now when he has been the person overseeing the game during this time of alleged rampant steroid use? Amazingly, the baseball establishment sees fan anger and efforts by congress as a major nuisance. The prevailing sentiment in baseball is that everyone should just move forward; let bygones be bygones. Well, as an advocate and fan of the game, I hope that this scandal does not just fade away.

Mr. Selig wants us to believe that the new and improved steroid policy will eliminate the problem. Before I address this, I want to point out that baseball implemented a tough steroid policy in their minor leagues back in 2001. I for one am furious that baseball implemented a tough steroid policy for their lesser league in 2001, and did not even begin testing in the Major Leagues until 2003. Now to address the new policy. I am not painting myself as an expert on steroids, but a few things that I have read are disturbing. 1. The International Anti-doping Commission has stated that they are unimpressed with baseball's new steroid policy, 2. there will still not be a test for human growth hormone, and 3. there will be no testing for amphetamines, another drug which it is alleged by many that is used and abused by baseball players. My question is that even after all of this controversy around steroid use, why the toughest and most state of the art steroid testing will still not be used?

Form a baseball fan's perspective, why is all of this important anyway? First and foremost, the use of performance enhancing substances in baseball sends a bad and dangerous message to the youth of our country. Although most players do not want to be held up as role models, they are looked up to by kids. The things that they do both good and bad are emulated. If kids think that it is okay for Major Leaguers to use steroids and other drugs to enhance their performance, then why can't they do the same? Everyone knows the devastating medical and emotional consequences of steroids on the youth of our country.

Aside from the impact on youth, there are other reasons why steroid use is a major concern for baseball fans. Baseball is "America's Game," our national pastime. We as Americans and baseball fans want to be proud of our national game. Use of steroids on the other hand is cheating, and compromises the integrity of the game that we as fans love. Cheating goes against all that our nation stands for. Another important point to consider is that the romance of baseball is built on its history and statistical records. Numbers allegedly inflated by steroids and other performance enhancing substances raises major questions regarding the legitimacy of these records. Baseball's most coveted record, Henry Aaron's lifetime 755 homeruns, is being pursued by Barry Bonds, who is under suspicion for alleged use of steroids. Rather than celebrating the pursuit of this great record, most questions are about asterisks and whether there will even be public acknowledgement of the breaking of the record.

Clearly the owners and players have proven that they are not responsible enough to police their game. It has been encouraging that politicians such as Representatives Henry Waxman and Tom Davis, and Senator John McCain have cared enough to stand up for America's Game. However, in the long run, it will need to be a united effort on the part of baseball fans to prevent future scandals like this from taking place. As I mentioned before, total attendance in baseball in 2004 was 73 million fans. The potential power of this huge number of fans is limitless. I am in the process of creating an organization of baseball fans, who will ultimately become a strong permanent third voice alongside of baseball owners and players. In addition to addressing issues of steroid use, the organization will also work to keep ticket prices in check to make attending games more affordable for families, assure free TV for viewing games, sponsor charity events, provide scholarships for student athletes, and further develop youth interest in baseball.

I appreciate the opportunity to submit this written testimony related to steroid use in baseball on behalf of baseball fans.

Sincerely,

Scott Weiss
Baseball Fan Advocate

Committee on Government Reform
March 14, 2005

Thank you for the time and courtesies extended to me during our recent phone conversation. I'd like to first commend President Bush for his firm stand against steroid use in all athletic endeavors. Secondly, I would like to thank Tom Davis and the rest of the committee members for holding this hearing, which will put a spotlight on this steroid epidemic among our youth.

I started weightlifting when I was 16 years old. Currently I am 48, and still exercise regularly. Also, for the last 10 years, I have worked in the fitness industry as a repair tech. I was your average guy, football and weightlifting were my interests as a teenager. I attended college for several years and worked as a salesman for a steel drum company. Then my life changed. I joined a gym in 1980, where I was introduced to the world of steroids. I found myself spending all my free time in this environment, with my new found friends, the only common bond being weightlifting. Within months, I was taken to a doctor's office where I purchased steroids to use in my first bodybuilding competition. Among our group of 2 dozen bodybuilders / weightlifters, steroid use was seen and discussed daily. To gain more information on steroids, we would travel to national bodybuilding competitions, where some of the biggest names in the sport would discuss with us their steroid use and techniques. Our belief was that steroids were no big deal, everyone was using them. In my case, I went from using them to selling them. In 1986, I severed my ties with steroids. I had met my future wife, Danita Marcum, and she deserved better. However, my past caught up with me in 1988 when I was contacted by law enforcement about my prior steroid involvement. I plead guilty to tax evasion from the sale of steroids and was sentenced to 6 months in a half way house.

I have spent the last 16 years trying to educate kids on the perils of steroids, using my life as an example. I have found that the youth of today are more open to advice from one who has been there, someone they can relate to. Telling them they will have side effects 10-20 years down the road just doesn't register with them. What grabs their attention is when you discuss with them what adverse reactions will occur within months of taking steroids. And it's not a pretty picture. Unfortunately this is an uphill battle. Some of our most beloved professional athletes are sending the wrong message, and our kids are listening. Multi-million dollar contracts and star celebrity are worth the risks, some tell me. And recently, Jose Canseco's public remarks about the benefits of using steroids is morally irresponsible.

I have thought long and hard about this issue, and in order to make a difference and curtail the use of steroids, our high schools must be targeted. Here we can reach those kids who already feel pressure to excel in sports at any cost.

Anything I can do to help!

Sincerely,
Paul G. Janszen
Cincinnati, Ohio
513-300-4040

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