

Doping Control Initiatives since 1988

In my opening statement at the public hearings of this Commission, I stated that I would be inquiring into the efforts being made in Canada to eliminate the use of performance-enhancing drugs and other banned practices in sport and also into the efforts other jurisdictions are making to accomplish that end.

The evidence before the Commission established the extensive use of performance-enhancing drugs and other banned practices both in Canada and in international competition. In order to determine whether there will be a level playing field for Canadian athletes who compete among themselves and in international competition in the future, it is necessary to examine what steps have been taken since the commencement of this Inquiry to eliminate doping in Canada and internationally.

Prior to the public hearings of this Inquiry, the only action taken to eliminate doping in international competition was, with few exceptions, in-competition testing. Since positive tests during competition were relatively few, the public was led to believe that doping was not extensive in international competition and that those who broke the rules would be detected. This justification was also used as an excuse by many national and international sport organizations for their failure to take more vigorous action. The evidence before the Inquiry demonstrated that, because anabolic steroids and related drugs are used during training, in-competition testing was an ineffective means of detecting their use or of determining the extent of such use among athletes. Although this was well known by the officials of the major sport organizations and by coaches and athletes, it was not a matter of public knowledge. Every witness who testified on this issue before the Inquiry recognized that something more than in-competition testing was necessary for there to be effective detection and deterrence.

As the public hearings progressed, many international conferences were held on doping control, and Canada played a leading role in some of them. Notwithstanding pious statements supporting a broad random testing policy which emanated from these conferences, there was little real action. Indeed, for a time it appeared that the major international sport federations were content to carry on as they had in the past. In recent months, however, considerable national and international activity has resulted in definitive proposals which, if pursued, give some basis for encouragement.

Canada has taken a leading role since June 1988 in promoting international cooperation to eliminate doping in sport. If Canada is to insist on action at the international level, however, it is necessary first to ensure that effective steps to eliminate doping have been taken in Canada.

CANADIAN INITIATIVES

Canadian Track and Field Association

In 1982 the CTFA adopted a policy for random out-of-competition testing and doping control. However, the procedures for carrying out the policy were not approved by the CTFA board of directors until December 1987, and nothing was done until November 1988 to implement the policy. The administrative budget for the program was set at \$24,340, and later lowered to \$15,160. It had been anticipated that some fifty-four tests would be carried out between April 1988 and March 1989, but only forty-three out-of-competition tests were done, not before the Seoul Olympics but after, between November 1988 and June 1989.

In 1988 the CTFA projected a cost of \$39,200 to implement its new doping control program. Sport Canada initially approved \$20,000, but, by the time the approval was obtained, the CTFA had already spent \$22,028.43. The moneys were expended as follows:

• Travel (doping control officer and out-of-competition testing seminar in Sweden, autumn 1988)	\$ 5,500.00
• Meals and accommodation, including Swedish seminar	\$ 6,500.00
• Honoraria to doping control officers (competition and out-of-competition testing)	\$ 4,500.00
• Educational materials	\$ 2,978.43
• Shipping and courier	\$ 1,050.00
• Administration	\$ 1,500.00
	<u>\$22,028.43</u>

It is worth noting that \$12,000 of the budget intended to be used for doping control was spent on travel, meals, accommodation, and the Swedish seminar. Sport Canada subsequently approved funding the shortfall. In addition, the laboratory costs were paid by the Sport Medicine Council of Canada.

In 1988–89 a total of 358 tests were carried out. Of these, 310 were in-competition and 48 were random. Bruce Savage, doping control chairman of the CTFA, said in his evidence before the Inquiry that the intention of the CTFA, supported by the experience of Scandinavian countries, was that the ratio of out-of-competition to in-competition testing would change. This would be accomplished by an increase in the number of out-of-competition tests while the number of in-competition tests remained static. The ratio in 1988–89 fell far short of the ideal for an effective antidoping policy, particularly since the ineffectiveness of in-competition testing is now well known.

The CTFA implemented a special Commonwealth Games dope-testing program for the games beginning in New Zealand in January 1990. It was a three-month, short-notice program designed, according to Mr Savage, in response to a lack of action by the Commonwealth Games Association of Canada with respect to testing for the games. Thirty-two sprinters and throwers were selected for testing, and there were no positive results.

It remains to be seen whether the CTFA will increase the number of out-of-competition tests to a level that will pose a real deterrent to the use of banned substances by track and field athletes.

Canadian Olympic Association

The COA has had a drug policy in place since 1984. However, it was limited to the imposition by the COA

of penalties “against any person found guilty of a doping offence, as determined by tests conducted at a laboratory accredited by the IOC, irrespective of where such offence may have occurred.” Therefore, only a positive test at an Olympic or non-Olympic event or in an out-of-competition situation would fall within the rule. Proof of drug use, apart from a positive test, would not. This system, according to Richard Pound, vice-president of the International Olympic Committee, and Dr Arne Ljungqvist of the International Amateur Athletic Federation, was in keeping with IOC and IAAF policy prior to 1989.

The COA did not establish its own independent doping control program but relied on the results of testing by the IOC or the sport bodies themselves. The policy acknowledged that the COA could apply penalties only to games under its jurisdiction — the Summer Olympic Games, the Winter Olympic Games, the Pan American Games, “and any other event in respect to which the COA may be required to identify or approve participants.” The COA acknowledged that it had no jurisdiction to ban any person from participation in any other sport event, and was not in a position to extend its policy to such events. However, the COA policy bound it to respect all penalties imposed by international federations, national federations, and the International Olympic Committee, while reserving the right to impose greater penalties with respect to COA competitions.

At the November 13, 1988, meeting of the board of directors, the COA passed a resolution that the following recommendations be made to the IOC:

- that a program or programs of unannounced, out-of-competition testing be instituted in respect of Canadian athletes;
- that a similar policy be adopted by all international sport federations and their member national federations, and that Canadian national sport federations be urged to work actively

to achieve such programs both within Canada and internationally;

- that the IOC undertake a coordinating role to ensure the operation of such programs on an international basis, including the possibility of creating a single international authority to assume responsibility for administering the required tests;
- that the IOC use its best efforts to organize an international program of an educational nature against the use of prohibited substances and procedures in sport.

The motion was carried unanimously.

A further resolution of the COA, also passed on November 13, 1988, provided that prior to departure for any competition under the jurisdiction of the COA, all Canadian athletes would be subject to testing. Roger Jackson, president of the COA, stated that at the time of his testimony the COA had not yet determined how to implement that program. The COA did not intend to set up a parallel doping program but rather would provide resources. A further resolution was passed supporting out-of-competition testing and urging all international federations to adopt such a program.

On April 14, 1989, the COA board of directors resolved unanimously with respect to the drug abuse issue:

THAT the Canadian Olympic Association

- Reaffirm its complete opposition to the use of performance enhancing substances and procedures prohibited by the International Olympic Committee.
- Reaffirm its belief that the vast majority of athletes observe and respect the rules which apply to their sports and are fine examples to our society as a whole.
- Recognize that a serious problem exists, which must be addressed by the Canadian Olympic Association, its members and the public at large.

- Call upon its member sports federations to review and redouble their efforts to eradicate the use of such substances and procedures and to report thereon as to their plans to the next meeting of the Board of Directors of the Canadian Olympic Association.
- Ensure that these factors are communicated to the public and to the Dubin Commission of Inquiry and instruct the Executive Committee to develop and to carry out the necessary program to accomplish this objective as a matter of the highest priority.

In addition, the COA board of directors passed a resolution on antidoping on April 16, 1989, as follows:

That the member sports of the COA establish a plan for anti-doping for their associations, which include[s] the elements of short-notice, out-of-competition testing; and that such plans be approved by the Sport Medicine Council of Canada and be ready for implementation prior to April 1, 1990; and that failure to do so would mean that a sport would not be eligible to participate in any programs of the COA including funding and participation in future Games under the jurisdiction of the COA. [Emphasis added]

Until this most recent resolution, the COA limited itself to statements of pious hopes and recommendations and relied on the sport federations to enforce antidoping rules. The resolution of April 16, 1989, appears to have real teeth, in that failure by any of the member sports of the COA to establish and actually implement random, short-notice, out-of-competition testing would prevent that sport from participating in the Olympic Games — the “ultimate club” — or receiving any funding from the COA. According to Mr Jackson in his testimony before the Commission, \$12 million in interest earned from the Calgary Olympic Endowment Fund will be distributed in the quadrennial which began January 1, 1989, to the thirty-five Canadian sport-governing bodies which form the membership of the

COA. The total budget of the COA for this quadrennial is \$30–\$32 million. The potential loss of this funding would no doubt have a salutary effect on any sport failing to implement an effective doping control policy.

Canadian Weightlifting Federation

The Canadian Weightlifting Federation (CWFHC) is the national governing body for weightlifting in Canada. Serious problems with doping by weightlifters have been evident for many years, and, notwithstanding a doping control program in place since 1983, the problem continued up to the 1988 Seoul Olympics. The extensive doping history in weightlifting has been detailed elsewhere in this report.

At a presentation to the Canadian Olympic Association in 1988, Yvon Chouinard, vice-president of the CWFHC, spoke of the enormous amount of work and the problems in logistics that testing involved for an organization such as the CWFHC. Athletes from as far away as Whitehorse, Yukon, or Stephenville, Newfoundland, are eligible to be tested. Clinics to train controllers were organized in Montreal and Regina, but, because of distances involved, it was extremely difficult to test with short notice.

In June 1988 Dr Andrew Pipe, chairman of the Committee on Doping in Amateur Sport of the Sport Medicine Council of Canada, expressed concern at the failure of the CWFHC to follow standard operating procedures in securing urine samples. He sent a letter to the president of the CWFHC protesting the number of diluted samples. In response, the CWFHC pleaded the shortage of SMCC controllers, the difficulty in contacting athletes, the possibility that athletes had consumed large amounts of liquid to stimulate their bladder function, as well as logistical problems with short-notice testing. Katherine Barber,

the administrative coordinator of the CWFHC, submitted a report to the Commission outlining the difficulties of no-notice testing and stating that, in her opinion, no-notice testing is not feasible in the current Canadian context.

In 1988 the CWFHC instituted a new policy in which, each month, the organization tested its nine carded athletes and six other athletes chosen at random. The athlete must submit a urine sample within forty-eight hours of being notified by the anti-doping controller. In her report, Ms Barber states that forty-eight hours is the outside limit and that tests are often done within twenty-four hours or less of notification. She agrees that no-notice testing is the ideal, but that this kind of testing is beyond the current capacity of the CWFHC to carry out. She points to the difficulty of getting the athlete and the controller together when the athlete may live in a remote location. As it happens, many weightlifters come from rural or mining communities, whereas the network of doping controllers employed by the Sport Medicine Council of Canada tends to be concentrated in major urban areas.

In this regard, it is useful to compare the Swedish random testing program as described by Dr Arne Ljungqvist. In that program the selection of athletes and collection of samples is delegated to local appointees. In contrast, the CWFHC system has a central control area in Montreal which decides who will be tested and when.

Notwithstanding these efforts by the CWFHC, however, doping in weightlifting is so endemic that, until there is a change in the thinking of the athletes themselves and their coaches, testing alone will not eradicate doping from the sport.

Canadian Interuniversity Athletic Union

In their testimony before the Commission, athletes who had played football at York University, University of Toronto, University of Guelph, Bishop's University, McGill University, Acadia University, and St Mary's University as well as at several U.S. colleges readily admitted their own steroid use and that of their teammates. Ontario players estimated steroid use by 25 to 35 percent of team members, with 70 to 90 percent of linemen and linebackers using drugs.

The public is well aware of the use of anabolic steroids in professional football and the efforts being made by the National Football League (NFL) to test for and control drug use. In 1990 university football, through the CIAU, began to take an aggressive approach to the use of steroids by initiating random testing. The CIAU is the national governing body of university athletics in Canada. Its specific mandate is to govern intercollegiate competition in a wide range of sports. It is also responsible for developing playing regulations for the different sports it governs.

Across Canada, forty-six universities are members of the CIAU and approximately 8000 to 10,000 athletes compete annually in activities governed by the CIAU. Altogether, twenty-three universities have football teams, involving approximately 1000 players. Ontario has eleven teams; four universities participate on the east coast, three from Quebec, and five from the Western Conference.

The CIAU has had an antidoping policy in place since 1983. Its 1989 position statement is to the point:

The CIAU is unequivocally opposed to the use by student-athletes of any banned substances or methods in contravention of the rules of the National and/or International Sport Federations, the International Olympic Committee, and the Fédération du Sport Universitaire.

The CIAU is unequivocally opposed to any encouragement of the use of such substances and/or methods by individuals in positions of leadership in university sport (ie. coaches, athletic staff, medical practitioners, sport scientists, administrators, etc.) or by the athletes themselves. The providing of, or administration of banned substances and/or methods to athletes is also forbidden.

Despite the strong words of this policy statement, the CIAU carried out no testing of university athletes prior to 1990. As a result, no penalties were imposed for infractions of policy. University athletes were well aware that the CIAU policy had no teeth, and, in certain sports such as football, they continued to use anabolic steroids with impunity. By 1987, however, the CIAU was becoming increasingly aware that the use of banned substances by university athletes might be greater than envisioned. Accordingly, it formed an ad hoc committee to set up policies, procedures, and sanctions for testing university athletes.

The committee developed a comprehensive antidoping program which included random testing and severe penalties for positive tests. The program was approved by the CIAU board of directors in June 1989, and received final approval by the general annual assembly of the CIAU in mid-December 1989. It has two main components: education and testing.

Education University coaches and others will be required to present educational seminars to their athletes on drug use and doping control in sport within the first half of the competitive season or, in the case of football, during the preseason training period. Resource material will be provided to each sport by the CIAU office. These educational seminars became compulsory in all sports under CIAU mandate in the 1989-90 school year. Student athletes will be expected to attend one seminar each year.

Testing The CIAU instituted testing of athletes commencing in January 1990. At first, testing will be done only in football, but additional sports will be added each year until all sports governed by the CIAU are subject to testing.

Testing will be done for all IOC-banned substances and methods. Athletes will be selected at random by the CIAU office. The testing is short notice, rather than no notice, since athletes will be given forty-eight hours to report to a drug-testing site. The tests will be carried out over a twelve-month period and approximately six to ten people will be tested on a monthly basis, for a yearly total of 100 to 150 athletes.

Athletes who test positive on the first offence will be suspended from all CIAU competitions for one calendar year from the date of the second, or B-sample, test. During the suspension they will have an opportunity to undergo counselling. They can then take a second test a year later. On a second offence, athletes will be banned for life from all CIAU competitions.

Athletes who attempt to avoid a test by indicating they will retire will be required to retire for a minimum of one year. They will not be allowed back after the year's retirement unless they test negative. This rule will affect the eligibility of university football players, where the time limit is five years, provided the player completes a fifth year at the school in which he played during his fourth year.

In addition to penalties imposed on the individual athlete, the CIAU may initiate at its discretion an investigation of the institution in accordance with CIAU regulations.

INTERNATIONAL INITIATIVES

Second Permanent World Conference on Antidoping in Sport

It will be recalled that the First Permanent World Conference on Antidoping in Sport (Ottawa, June 1988) had produced the international antidoping charter, subsequently entitled the International Olympic Charter against Doping in Sport. This document was accepted by 117 nations at the UNESCO meeting of sports ministers (Moscow, November 1988).

In October 1989 the Second Permanent World Conference on Antidoping in Sport was convened in Moscow by International Olympic Committee member nations. The purpose of the conference was to review progress since the Ottawa conference and to continue to coordinate international efforts to combat doping in sport. The Moscow conference focused on four themes:

- out-of-competition testing
- education and information
- ethics, rights, and responsibilities
- a model national antidoping program

Proposals at the conference called for increased responsibility by national Olympic committees to ensure compliance with antidoping rules. To be eligible for Olympic competition, the conference proposed that "athletes shall agree to submit to a doping test whether in or out of competition when so requested by the designated organization appointed to manage doping control." Canada continues to co-chair the international working group on antidoping in sport.

I am struck once again by the contrast between the strong antidoping statements emanating from conferences and the slow pace of actual implementation of effective doping control measures. As Lyle Makosky, Fitness and Amateur Sport's assistant deputy minister, noted in his evidence, the implementation and policing of doping control policies lie not with governments but with the sport federations. In effect, this practice reduces the policy statements of groups such as the World Conference on Antidoping in Sport to expressions of an ideal with which, it is hoped, the sport federations will comply. As Mr Makosky stated in the hearings:

The intent was that, coming out of the conference, these countries, through their governments and their sport community, would somehow begin to influence their International Federations.

International Amateur Athletic Federation

The IAAF, an unincorporated association of 184 members, is the international governing body for track and field ("athletics"), and its members are national sport-governing bodies for track and field. The IAAF is the body responsible for the rules and regulations governing international competition in track and field and for organizing international competitions, such as the world championships, most recently held in Barcelona in 1989. It recognizes one national governing body from each member country as representing amateur track and field in that country. In Canada this body is the Canadian Track and Field Association (CTFA). An athlete who is not a member of a sport-governing body recognized by the IAAF is not eligible to compete in international competition under IAAF rules.

Anabolic steroids were banned by the IAAF in 1974, following the creation of the IAAF medical committee in 1972. It rapidly became clear that it was hardly sufficient simply to announce a list of banned drugs, and in 1976 the medical committee set up a doping subcommission, although this body had no constitutional status under IAAF rules. The requirement of mandatory testing at international championships was approved in 1979 and came into effect the following year. A recommendation at that time proposed that testing take place at international matches, although it was included as a desirable, not an obligatory, requirement.

In 1987 the IAAF Congress — the legislative organ of the federation — approved a new rule that member organizations include in their constitutions a clause requiring out-of-competition testing by the member and the submission of a report to the IAAF on test results. In addition, a clause was to be included allowing the IAAF to conduct arbitrary doping control at a member's national championships. In fact, however, little if anything has been done to implement these procedures, as Dr Arne Ljungqvist stated in his evidence. Of the 184 members of the IAAF, only a few actually had an out-of-competition testing procedure in place in September 1989. In 1988 the IAAF did testing at three members' national competitions, but by then the IAAF was as aware as everyone else of the ineffectiveness of in-competition testing. A budget of U.S.\$50,000 was set aside in 1989 for random out-of-competition testing to be conducted by IAAF representatives. This initiative came out of the 1989 congress in Barcelona, which saw rules strengthened to allow the IAAF itself to carry out such testing on a member federation's athletes.

The evidence of Richard Pound, vice-president of the IOC, is useful for the light it throws on the attitude of the international federations, and particularly that of the IAAF, towards the necessity for effective doping controls:

Our experience has been that there is an uneven acceptance of that idea [doping control policies] among the international federations and there are many that do it simply to get us off their backs, but they don't fully implement them and they don't really believe in them. They do it simply because they think they would look bad if they didn't have a doping policy.

With respect to testing carried out by the IAAF itself at the world championships in Helsinki in 1983, Mr Pound said:

These championships took place without a single positive test reported, and all over the world people just shook their heads and said, you know, that's not credible. It's simply not credible, and there was quite a lot of pressure put on the IAAF to say look, you're in serious danger of becoming a laughing stock here with this kind of result.'

At the 1987 world championships in Rome, according to Mr Pound, the IOC Medical Commission representatives who were to be responsible for the testing laboratory were removed, presumably at the request of the international federation, and were replaced by IAAF representatives. Dr Manfred Donike testified that he "wasn't very much amused" and had received no explanation from the IAAF. (The Rome world championships produced one positive result.)

In September 1989 the congress approved a new set of doping control rules and procedural guidelines. Recent events, including the evidence heard by this Commission, had clearly shown that the existing rules were inadequate and contained a number of inherent weaknesses. Perhaps not the least of those inadequacies was the IAAF's apparent lack of serious intent to implement its own policies and procedures and to compel the national federations to comply.

The IAAF has now established its own Doping Control Commission. Previously, an informal doping subcommission had provided the IAAF with information on doping and advice on difficult technical cases. This practice, however, was not provided for under the IAAF rules; technically, the doping subcommission did not exist and had no jurisdiction to decide anything. The new rules give the Doping Control Commission specific powers to advise the IAAF on doping matters generally and to make decisions on the outcome of doping control in cases of technical difficulty.

In addition to a requirement that a member include within its constitution (1) a provision obliging that member to conduct out-of-competition doping control (a report of which must be submitted annually to the IAAF) and (2) a provision allowing the IAAF to conduct doping control at the member's national championships or at any similar meeting, there is now a provision allowing the IAAF to conduct out-of-competition testing on the members' athletes. As well, athletes will not be allowed to compete in their national championships unless they agree to be subject to out-of-competition testing by both the member and the IAAF.

A new provision in the rules concerns ineligible athletes. In order to resume competing after their period of ineligibility has expired, they must make themselves available for out-of-competition testing at any time during the period of ineligibility. Where an athlete has been rendered ineligible for two years, a minimum of three tests must be conducted by the member organization, with at least four months lapsing between each test. The results of each test must be reported to the IAAF. In addition, immediately prior to the end of the suspension period the athlete must undergo testing for the full range of prohibited substances. If these test results are positive, an athlete will be liable to further penalties, which could mean ineligibility for life.

The rules now provide for the recognition of results of doping controls carried out by other sporting bodies. This provision clears up a technical anomaly that found the IAAF without authority to declare an athlete ineligible where testing had been carried out by the IOC, by a regional organizing committee, or even by a member.

A further change to the rules proposes that any athlete found to have committed a doping offence would not be entitled to any award or addition to his or her trust fund in respect of a competition where the doping control was conducted. The IAAF recognizes that, legally, it is difficult to deprive an athlete of any funds already gained or held in his or her trust fund. For the present, it will simply attempt to prevent future payment to trust funds where a doping offence is involved.

There is now a rule that applies to other parties involved in a doping offence. A report on the circumstances surrounding a doping offence and on the steps being taken by a member to establish those responsible must be submitted to the IAAF by the national federation.

The actual procedures involved in testing are not substantially different from those in the IOC rules. With respect to the analysis of samples, the rules state that "only laboratories accredited or approved by the IOC/IAAF may be used." It is not clear whether the laboratory must be approved by both organizations or only by the IAAF.

Random out-of-competition testing is to be conducted by independent sampling officers appointed by the IAAF. An athlete must present himself or herself for testing within forty-eight hours of notification.

In the first three months of the new program, testing was carried out in six countries. The IAAF's independent team went unannounced to some countries. All results were negative, except for one ephedrine case found at the Australian marathon championships on July 23, 1989.

The IAAF has stated, however, that further analysis of the sample is required owing to the low level of the substance found. Four men and one woman tested positive at the Southeast Asian games in Kuala Lumpur in August 1989. No positive cases were reported from the World Cup track meet at Barcelona in September 1989, where forty-five athletes were tested.

The definition of doping was expanded to include an *admission* by an athlete to have "taken advantage of a prohibited substance or prohibited technique." Prohibited techniques are described as (1) blood doping and (2) use of both substances and methods that alter the integrity and validity of urine samples used in doping control. With respect to the "admission" for the purposes of the IAAF rules, "a statement shall only be regarded as an admission either where it was made under oath or where it was made in writing and signed by the maker." The statement will not be regarded as an admission if made more than six years after the facts to which it relates. In addition, Rule 148(3) now provides that:

Where an athlete has admitted that at some time prior to achieving a World Record he had used or taken advantage of a prohibited substance, or a prohibited technique, then, subject to the advice of the Doping Commission, such record will not continue to be regarded as a World Record by the IAAF.

Thus, an athlete who admits that a world record was achieved with the benefit of performance-enhancing substances or techniques will now be stripped of the record. It was by the retroactive application of this rule that, on January 20, 1990, as a result of their evidence before this Commission, Ben Johnson and Angella Issajenko were stripped by the IAAF of their world records.

Until the adoption of this rule, the only basis for disqualification of an athlete was a positive test. An athlete might admit using banned substances prior to competition, but, so long as the test was negative, no action could be taken. This practice was confirmed by Dr Ljungqvist in his evidence:

THE COMMISSIONER: . . . up to now . . . the only basis of a doping offence, apart from the banned practices, was actually to have the substance found in your system?

THE WITNESS: Yes.

Richard Pound admitted that for the IOC the situation was the same and that the only basis for disqualification was a positive test. Indeed, that was the position when the athletes who testified before this Commission admitted to the use of banned substances. Their evidence was, in large part, instrumental in uncovering the pervasive practice of doping in sport that was until then hidden from public view, although perhaps not from the view of the sport community. I shall have more to say about this retroactive disqualification by the IAAF in my conclusions and recommendations.

International Weightlifting Federation

The International Weightlifting Federation (IWF) is the international governing body for weightlifting. The medical committee of the IWF was formed in 1966 and since 1967 has carried out doping controls in weightlifting. Between 1967 and 1976 these controls were limited to the world championships. The IWF used the IOC's list of banned substances, and, after the IOC added anabolic steroids to its doping list in 1975, the IWF included them as well, in February 1976. At the 1976 Montreal Olympic Games, which saw anabolic steroids analysed for the first

time, the controls brought out positive results for seven weightlifters. The IWF initiated a study and adopted a resolution to approve a world record only if it was accompanied by a negative doping control certificate. A four-year ban against any lifter testing positive was also called for. As well, the national federations were advised to educate weightlifters against drug use.

From 1977 through 1985, the IWF carried out between 800 and 1000 tests at various events. Because positive tests continued to appear, in January 1984 the IWF decided that any weightlifter having a positive doping result at the Los Angeles Olympics would be banned for life. Today there is a two-year suspension for a first offence and a life suspension for a second.

Since August 1985 the IWF has expanded its doping controls. All 131 members joined the IWF Doping Control Program and accepted the possibility that their weightlifters might be tested not only in competition but also at random. Members of the IWF Doping Commission were given the right to travel to any country during the eight weeks before the world championships and to carry out random tests on lifters in their own countries during this time. This routine was carried out in 1986, 1987, and 1988, and, in the eight weeks prior to the Seoul Olympic Games, the IWF conducted doping controls in twenty-five countries. Nevertheless, five of the ten positive doping cases at the 1988 Seoul Games belonged to weightlifters.

As a result of the positive tests, the IWF executive board approved an antidoping program consisting of three main components:

- prevention and education
- controls
- sanctions

On January 1, 1989, the IWF introduced a year-round, out-of-competition, random testing program. The cost of these tests (to be carried out no more than twice a year per country) must be undertaken by the national federation concerned. These costs are for testing and for the controllers' travel and accommodation expenses. IWF-controlled testing is to be done only at accredited laboratories, and members of the IWF medical committee cannot take part in the doping controls.

World records are verified only if set at calendar events under doping control. The sample-taking procedure follows IOC rules, with one addition: when giving the urine sample, the athlete must be nude.

The IWF proposed to establish an international doping commission under the auspices of the IOC but involving all parties of the Olympic movement. Under this proposal, a "resistance to submit to doping control" would have the same "disciplinary consequences" as a positive test. (The IWF refers to a "resistance to submit" as opposed to a "failure to submit or refusal to submit," which is the phrasing in other doping control guidelines.)

According to the IWF proposal, any athlete caught testing positive at the Olympic Games is banned for life from future Olympics. Any athlete testing positive at Olympic Games in any other sport does not receive IWF approval to compete in Olympic weightlifting.

Under the IWF proposal a fine of U.S.\$1000 is to be paid by the national federation for each positive testing. If three or more positive results appear within one year from lifters of the same national federation, that federation receives a year's suspension from international competitions. A second group of three cases from one country results in a two-year suspension. Refusal to cooperate in the random out-of-competition testing results in a two-year international

suspension for the national federation. In addition to penalties already enforced, a further penalty is determined by the IWF for anyone found guilty of tampering with a urine sample.

Coaches, doctors, or officials associated with and found guilty in the athlete's positive result receive the same punishment as the athletes, and they must be named by the national federation. If a specific name is not supplied, the national federation's team coach receives the punishment.

Anyone found guilty of dealing and trafficking in drugs is banned for life from involvement in the IWF.

On October 12, 1989, the IWF announced that it was prepared to introduce the steroid-profile procedure for testing for steroid use. This is a system being investigated by Dr Manfred Donike, and it is believed that the IWF is the first international sport federation to adopt it. According to Tamas Ajan, general secretary of the IWF, the move to use this procedure was prompted by the revelation of nine new positive dope tests out of approximately 600 tests carried out in 1989 by the federation. Of these, approximately 200 were conducted out of competition. The steroid-profile system has not yet been approved by the IOC, and for this reason, according to Mr Ajan, no athlete who tests positive under the technique will be banned by the IWF. Instead, a warning will be issued to the national federation involved. It must be emphasized that, to date, the scientific validity of this procedure has yet to be established.

In a sport that has been notorious for the use of banned substances and practices, and which has had more positive tests and disqualifications than any other, these new measures by the international governing body are an encouraging sign of an intent to clean up the sport.

European Sports Conference

The European Sports Conference, a nongovernmental group of sports organizations from Eastern and Western European countries, in October and November 1988 conducted an antidoping seminar that focused on out-of-competition testing. Sport representatives from twenty-one European countries gathered in Borlänge, Sweden, with representatives attending from Canada, Kenya, China, the Council of Europe, and the General Assembly of International Sport Federations (GAISF).

A background paper produced by the Swedish, Norwegian, and United Kingdom sport federations and councils set out the fundamental elements of a doping control program:

- 1 Out-of-competition controls can be carried out at any time of the year — outside of competitions and during any form of training session, wherever the athlete is.
- 2 Out-of-competition controls must be without any or with a minimum of prior notice.
- 3 The controls should be conducted on top-level international athletes and those aspiring to international competition.
- 4 To be effective, out-of-competition controls should be a part of a national program and should be carried out by a national responsible body.
- 5 Out-of-competition controls should be contained within bilateral or multilateral agreements between countries, which would allow athletes from one country training on the territory of another to be tested by the authorized doping control team of the latter country. Appropriate action would be taken and positive results treated as if the control had taken place on the athlete's own territory.

- 6 Any competitor, coach, doctor, official, or other person found to be in breach of doping regulations should be penalized in accordance with the procedures recommended by the IOC and/or International Federation.

In its recommendations the conference laid out broad, basic doping control procedures that generally comply with those set out in the guidelines of both Sport Canada and the IOC. The recommendations stress that the sport authority or governing bodies of the individual country should appoint an independent department or commission to be responsible for ensuring that the doping controls take place according to the established procedures.

Council of Europe

On June 21, 1988, the Committee of European Ministers Responsible for Sport extended the principles of the European Anti-Doping Charter for Sport by adopting a recommendation on the institution of no-notice, out-of-competition doping controls. In order to maintain and expand the Council of Europe's lead in the fight against doping in sport, the sport ministers decided it would be advisable to draw up a legally binding antidoping convention, open for signature by the member states of the Council of Europe. Such a convention was drawn up and proposed at the Reykjavik conference in June 1989 and adopted by the ministers on September 19, 1989. An explanatory report issued by the Council of Europe in October 1989 notes that

By adopting a common backdrop and framework, governments will help athletes who will know that they are subject to the same policy and procedures no matter what country they come from.

The main features of the Council of Europe Anti-Doping Convention are as follows:

- The aim of the convention is to reduce and eliminate as far as possible doping from sport.
- Sport should play an important role in the protection of health, and in developing moral and physical qualities.
- [G]overnments have a general obligation to take the measures they consider appropriate to protect public health . . . The international sports federations are responsible for the organization of the activities under their aegis.
- The Convention is conceived as an instrument to intensify international co-operation . . . in the anti-doping campaign . . . [It] is not an instrument for bringing about sophisticated technical changes, but a reassertion, at a crucial moment in sport's history, of certain lasting principles.
- The . . . IOC is to be regarded as the . . . reference [for] banned classes and methods.
- The Parties shall adopt where appropriate legislation, regulations or administrative methods to restrict the availability of banned doping agents and doping methods and, in particular, anabolic steroids.
- [T]he Parties . . . shall make it a criterion for the grant of public subsidies to sport organizations that they effectively apply anti-doping regulations.
- The creation of doping-control laboratories is an essential part of an effective anti-doping strategy.
- Anti-doping education is a part of the general moral and civic education as well as a specific element in the education of sport ethics and fair play.
- [S]ports organizations in setting up doping control programs should adapt or adopt regulations which would give expression to the concept of natural justice, or due process.

The Council of Europe's Anti-Doping Convention is a fine statement of high moral and ethical tone. It is a clear signal that the council's member countries are fundamentally opposed to the practice of doping in sport. The practical effect of the convention will, however, depend on the degree of commitment of individual sport bodies, not only to putting in place doping control measures but also to implementing them and ensuring that athletes comply. The requirement that sport bodies implement effective antidoping controls as a condition of receiving grant aid places an onus on governments to monitor antidoping programs and may be the key to ensuring compliance.

British Sports Council

Britain has continued to refine and strengthen its anti-doping policies. Prior to 1988 the sport-governing bodies conducted random out-of-competition doping controls. Since April 1988 the Sports Council itself has taken over the entire program.

Athletes who wish to be considered for the national team must formally agree to make themselves available at any time for testing. They must provide details of how they can be contacted day or night. If planning to be away from their permanent residence for more than five days, they must provide an address at which they can be reached. For athletes at other levels, the Sports Council relies on the governing bodies' own regulations to discourage the use of performance-enhancing substances. The Sports Council assists the sport-governing bodies to set up an acceptable drug control program. Its focus, however, is on high-performance and international calibre athletes, and is weighted towards those sports perceived to be a potential problem. The list of athletes subject to testing is revised

every six months or less, as athletes move into and out of the elite and international categories. An athlete who retires is still subject to testing for eighteen months. Selection is now done randomly by computer.

The Sports Council selects the athlete, dispatches the independent sampling officer to collect the sample, and tests that sample at the IOC-accredited laboratory in London. The Sports Council's procedures state that "[f]ailure to appear for testing may be regarded as a refusal to attend for testing." Indeed, one athlete has already been suspended for failing to make himself available for testing. The athlete's sport-governing body is contacted only if the Sports Council is unable to reach the athlete within five days, or if the sample is positive. In order to receive grants from the Sports Council the sport-governing body must cooperate with the council's doping control program.

The Sports Council also considered the problem of testing a country's athletes when they are training at a foreign training camp. Sir Arthur Gold, chairman of the Sports Council's Drug Abuse Advisory Group, believes that the only solution is bilateral and multilateral agreements that would allow athletes to be tested by an authorized doping control team of the country in which they are training or of an international sports organization. Nevertheless, the council recognized that the bulk of out-of-competition testing would always be in the athlete's own country. Recent events suggest that the sport world is indeed moving in the direction of multilateral agreements to combat the problem. Britain is one of the signatories to the December 1989 Rome Multi-Lateral Doping Control Agreement, of which more will be said later. It is also working with other Commonwealth countries, including Canada, towards a Commonwealth Agreement.

The Sports Council expended £350,000 in 1987-88 to support its drug abuse work and had a budget of £450,000

in 1988–89. In a paper delivered at the 1988 antidoping seminar held at Borlänge, Sweden, Dr Huw G. Jones of the Sports Council estimated the screening cost alone for one type of testing for controlled drugs at £20 per sample. With a projection of 500 samples for 1988–89, the cost of out-of-competition testing would be £10,000. In 1989–90 it was anticipated that 1500 samples would be taken, at a cost of £30,000. In addition, there would be the cost of travel, subsistence, and presumably honoraria. The estimate for this was £100 per out-of-competition test. In addition, the Sports Council has plans to increase the number of mobile sample collection laboratories, at a cost of £30,000 per unit.

Clearly, an effective drug program is going to be very costly. The Sports Council's budget for its drug-control program for 1989–90 is £492,000.

Notwithstanding these efforts and expenditures, it seems that some offenders continue to escape the net. The positive tests of two British weightlifters at the 1990 Commonwealth Games are disheartening and yet another indication of the serious, perhaps incorrigible, problems in weightlifting.

United States

The United States does not have a public funding system for athletes. There is no federal or state budget specifically for sport. Instead, the United States relies heavily on the school or university system to train athletes, through the system of athletic scholarships. Sport Canada director Abby Hoffman, in her testimony, stated that, although this system has been very successful in some respects, success is confined to sports that are popular in U.S. colleges, and the system makes little provision for athletes of postuniversity age; once an athlete graduates, no further assistance is available. The U.S. Olympic Committee has raised a considerable amount of money which it has been able to pass

on to the American sports bodies, but Ms Hoffman points out that there is no equivalent to Sport Canada, "nor is there a budget that in any way, shape or form looks like that of the Federal Government in sport in this country."

The Athletic Congress (TAC) is loosely equivalent to the CTFA. In December 1988, at its annual convention in Phoenix, Ariz., it approved a random out-of-competition testing procedure. The program, implemented on October 2, 1989, makes the top fifteen Americans in each event subject to random selection, within forty-eight hours of notification throughout the year. The tests are for steroids, masking agents, diuretics, and for other substances designed to enhance an athlete's performance. The plan envisions testing fourteen athletes each week in the first month; thereafter the number tested is to be sixty athletes per month.

According to the plan, each week the 600 athletes eligible for testing will be identified and the requisite number selected at random by a confidential numerical code known only to a public accounting firm. A second accounting firm will audit the entire testing process. A TAC administrator will notify each athlete selected for testing, and urine samples will be collected within forty-eight hours by drug-testing personnel of the U.S. Olympic Committee. The laboratory at Indianapolis, Ind., will analyse the samples. In addition to the random out-of-competition testing, TAC will continue testing for drugs at all events at which national teams are chosen, at selected national championship events, and at other randomly selected competitions throughout the United States.

A positive test for anabolic steroids will result in a two-year suspension for the first violation, and lifetime banishment from the sport for a second offence. An athlete who fails to appear for drug testing is deemed to have had a positive result, except in extenuating circumstances such as a death in the family or hospitalization of an athlete.

Athletes who do not live within seventy-five miles of a tester may also be excused for not appearing within the specified time.

In November 1989, during the first three weeks of the program, thirty-seven athletes were tested after being chosen at random from a pool of national-calibre road racers, race walkers, and track and field performers. Five failed to show up. All of the tests were negative.

The National Collegiate Athletic Association (NCAA) is the U.S. counterpart of the Canadian Interuniversity Athletic Union (CIAU). In October 1989 Dick Schultz, executive director of the NCAA, endorsed a proposal to begin random year-round testing for anabolic steroids in college athletes. In 1988 the NCAA had tested 3700 athletes during competition, of which 0.8 percent tested positive. It was felt that these results did not accurately reflect the true extent of the use of banned substances in college athletes. At its January 1990 annual convention in Dallas, the NCAA voted to institute a program of year-round testing.

Australia

On May 19, 1988, the Australian Senate referred to its Standing Committee on Environment, Recreation and the Arts the following matter: "The use by Australian sportsmen and sportswomen of performance enhancing drugs and the role played by Commonwealth agencies." The inquiry was expected to last six months, but at the end of one year, in May 1989, it delivered only an interim report: *Drugs in Sport*.

Many of the concerns which led to the establishment of the Australian commission were the same as existed in Canada. There was widespread comment in newspapers and television on the alleged use of performance-enhancing drugs and allegations concerning the involvement of the

Australian Institute of Sport (AIS). According to the press coverage, there seemed to be a general belief among athletes and coaches that it was impossible to compete on equal terms with athletes from other countries without using performance-enhancing drugs. According to the interim report, one article stated: "Sporting officials continue to cover up their involvement in the use of drugs in the sport despite the increasing amount of information available to the public and the government. There is nothing new in this sort of hypocrisy."

At the time of the Senate hearings, Australian athletes were subject to random testing both internationally and at major Australian competitions. The Senate Committee found, however, that the frequency of tests *during training* is crucial to the deterrent value of the testing program. In the AIS random testing program, begun in 1987, one athlete and later two athletes were selected for testing each week. Whole AIS teams were also tested at the director's discretion, and, up to July 20, 1988, the weightlifting, track and field, and cycling teams had been tested.

The Australian Olympic Federation (AOF) also carried out random tests in 1988. It conducted 148 tests with little or no notice, although some of these were at competitions. Sports outside the AOF and the AIS programs, the two major testing programs, have complete control over their own testing.

One of the experts at the hearings stated that "to be sure all athletes in any group were clean, they would need to be tested once every six weeks." This is presumably because a steroid program would typically last six to eight weeks; it was the opinion of another expert that quarterly testing would not be frequent enough to be sure of deterring athletes. The committee was satisfied that a program

designed to detect half, or even one-third, of steroid-using athletes would likely be an effective deterrent because the risk of incurring serious penalties would become unacceptable.

The committee looked at three types of testing and their relative advantages and disadvantages:

1 Competition Testing

Advantages

- Establishes bona fides of place and records.
- Detects abuse of drugs other than anabolic steroids.

Disadvantages

- Does not deter steroid abuse.

2 Random Testing

Advantages

- Ensures an element of risk for all sports people and is a good deterrent.
- Is effective against anabolic steroid use.
- Protects tester from allegations of bias.

Disadvantages

- May waste testing funds in low-risk areas.

3 Targeted Testing

Advantages

- Enables testers to focus on high-risk sports.
- Enables testers to follow up complaints to test reports about specific athletes.

Disadvantages

- Opens testers to allegations of bias and favouritism.

The committee recommended in its report that an independent Australian Sports Drug Commission be set up "to carry out all sports drug testing in Australia." It recommended that the actual program should contain the following elements:

- at least 2000 tests a year;
- 350 of Australia's best athletes be tested four times per year using targeted, random, and competition testing;
- 300 tests be carried out on athletes not in the above group outside competitions;
- 300 tests be carried out at competition events;
- 25 percent of all tests "to be on a strictly random basis of selection."

The cost of the random testing program for the AIS increased from AUS\$3800 in 1986–87 to AUS\$23,000 in 1987–88. The cost of each test in 1988 was AUS\$232 and the AIS expected that the total costs would be about AUS\$40,000 in 1988–89. The committee's recommendation of a minimum of 2000 tests would bring the cost closer to AUS\$500,000. By the time the committee came to write its interim report, the institute's procedures for collection, identification, and dispatch of the urine sample followed IOC requirements.

The committee recommended that in cases where there is clear evidence of doping practices which, although not detectable from urine samples, would normally be accepted by a court of law, it would seem reasonable to impose penalties without a positive test. As an extension of this, the committee felt it would be reasonable to allow officials from the drug-testing program to seek evidence of drug abuse other than that coming from tests. The committee

felt that this would at least reduce the incidence of athletes' flouting the intent of antidoping policies by using blood doping and natural hormones, such as human growth hormone, with the full knowledge of their competitors. Such evidence would include, presumably, an athlete's admission that he or she was using a banned substance or practice. As indicated earlier, the only basis for disqualification by either the IOC or the IAAF has been a positive test result. The committee recognized that it is now evident to all that positive tests are but one indication of abuse.

The committee was harshly critical of the ineffectiveness of the doping control program at the AIS prior to 1989. "The lack of action by the senior management and medical staff," the committee felt, "can only be described as incompetence and as a failure to treat the drug testing program with the seriousness that it deserves." In its conclusion, the committee stated:

While it is recognised that the AIS initiated a drug testing program, it appears that this was a response to outside pressures to be seen to be "drug free," rather than from any real concern for the need to strictly apply IOC guidelines to ensure the integrity of Australian sport and the health of its athletes. The administrators at the AIS had shown a low commitment to developing an effective deterrent program until this Inquiry became active. This is demonstrated by them ignoring for over a year and a half advice from the doctors on the need to include other athletes, in their testing program. They then took action over a matter of a few weeks in April 1989 after the issue had been raised at a hearing of the inquiry. The Committee believes that in many ways the AIS drug testing program was worse than having no drug testing programs at all. It provided the protection of appearing to do something to prevent the use of drugs, but was conducted in such a manner that it may have been possible for athletes using drugs to claim that the program showed them to be drug free.

The move to put the AIS drug testing program into the hands of the National Drugs in Sport Program is to be welcomed. However, it is the Committee's view that an effective drug testing program will require that all tests be conducted by the completely independent Australian Sports Drug Commission proposed in Chapter Three.

Obvious parallels can be drawn with the situation both in Canada and internationally.

Bilateral and Multilateral Agreements

In November 1988 the U.S. Olympic Committee and the USSR Olympic Committee reached an agreement for bilateral doping control. The agreement was signed by Barron Pittenger, USOC executive director, and Valerie Gromyko, the deputy chairman of the Soviet State Committee for Physical Culture and Sports. The agreement was subject to review and adoption by their respective Olympic committees.

The basic text of the agreement was as follows:

- 1 Both NOCs to make a mutual commitment to eliminate doping substances or methods forbidden by the IOC Medical Commission in their countries and to unify their efforts in this area.
- 2 To create the Soviet-American drug education and anti-doping commission composed of eight persons, charged with the administration of the joint U.S.-U.S.S.R. initiative.
- 3 The commission so formed to be charged with the implementation and realization of the joint program on the basis of the First World Conference on Doping in Sports' recommendations and the IOC Medical Commission.
- 4 The Commission to develop recommendations for a program to provide for mutual doping control of the athletes of both countries in various sports during training cycles and at competitions.

- 5 Joint research work on doping in sports and publications.
- 6 Sharing of doping control results within the Commission and with the IOC Medical Commission and the International federations for each sport.
- 7 The development of education materials and antidoping propaganda.
- 8 An annual report of the Commission to go to the NOCs of both countries.
- 9 Both NOCs to take all measures to protect their athletes from unfair competition and to induce all other NOCs to carry out the decisions of the IOC Medical Commission on the exclusion of doping from sports.

This agreement has now been extended by the agreement reached at the summit held in Rome in December 1989. At that summit, Australia, Bulgaria, Czechoslovakia, Great Britain, Italy, Norway, South Korea, Sweden, and West Germany joined the United States and the Soviet Union in signing an agreement providing for the testing of one another's athletes. Canada was an observer at the summit, not an official participant, and did not sign the agreement.

International Olympic Committee

The IOC has been aware for many years of the widespread nature of doping in sport. Its efforts to combat the problem, however, have been limited to testing at the Olympic Games and, according to Richard Pound, to attempting to persuade international federations to implement doping control in their sports. Clearly this policy was ineffective, and the IOC was well aware of it.

In its most recent efforts to combat doping in sport, the IOC has been attempting to coordinate an international approach. The International Olympic Charter against Doping in Sport (which includes provision for "without

notice" out-of-competition testing) was adopted by the IOC in September 1988 and endorsed in principle by UNESCO. The charter was a product of the First Permanent World Conference on Antidoping in Sport, held in Ottawa in June 1988.

According to Mr Pound, the IOC has already obtained the consent of the international sports federations to a number of important steps to combat doping in sport:

- a common list of doping substances and procedures;
- a common list of IOC-accredited laboratories;
- a standard set of sanctions that will be applied for doping offences; and
- the implementation of random out-of-competition testing.

In addition, the IOC is working with public authorities, cohosting world antidoping conferences, and endeavouring to develop better methods of testing. Officials from twelve countries, including Canada, met in Rome on December 12, 1989, to draw up plans for testing one another's athletes for performance-enhancing drugs. The two-day closed-door session was held at the Italian Olympic Committee headquarters. Representatives of participating countries signed an agreement to test one another's athletes for use of steroids and other performance-enhancing drugs in and out of competition. The details of the accord are to be worked out in separate bilateral accords between national federations, but it is effective from January 1, 1990, to December 31, 1992, and it can be extended for a further four years. The accord is to be supervised by the IOC's Medical Commission, and the IOC hopes that eventually the accord will be signed by all of its 167 members.

At the Commission hearings, Mr Pound stated that the IOC was prepared to fund a "flying laboratory," a fully equipped testing laboratory that could be taken anywhere

in the world on short notice. Testing done by this laboratory would supplement that done by individual nations and sport federations. The IOC executive board, meeting at Lausanne, Switzerland, in December 1989, approved a target date of April 1990 for the start of this operation to be used worldwide at competition and out-of-competition testing. The initial costs are projected at \$1.5 million.

It seems that the IOC has finally concluded that to protect the integrity of amateur sport and the Olympic Games, it is not enough to ensure that athletes are "clean" during the weeks of competition every four years. Notwithstanding the evidence of Mr Pound that the IOC "cajoled and bullied and threatened and forced a lot of these international federations into having these medical commissions and adopting doping control policies," it seems that, until now, not even the authority and prestige of the IOC was able to prevent the problem from reaching scandalous proportions. The ultimate, and perhaps most effective, penalty of exclusion from the games was apparently never seriously considered.

OTHER INITIATIVES

In addition to the measures being taken on the international scene and by national sport federations as described above, I note that, since the commencement of this Inquiry, many other bodies have begun to address the problem of doping in sport. The plans vary in size and perhaps in effectiveness, but the trend is encouraging. Some of those bodies are:

- The Canadian Junior Football League
- McGill University
- York University
- University of Calgary

- Province of British Columbia
- Women's International Tennis Association
- Swimming Canada
- Association of Professional Tennis Players
- United States Big Ten Conference
- National Hockey League
- U.S. National Collegiate Athletic Association
- U.S. National Football League.

In some cases, existing antidoping programs are being strengthened; in others, new programs are being put in place. Revelation of the widespread nature of the problem and the extent to which it threatens the existence of sport has, it seems, finally been recognized.

SUMMARY

It now appears that a concerted worldwide effort will be made to combat doping in sport. It remains to be seen whether the actual implementation of the measures proposed will be effective. The linking of grants and funding by government to effective antidoping programs is one method that should be enforced rigorously in those countries where government itself does not carry out the antidoping program. National Olympic committees and the IOC can do much to ensure the integrity of sport by insisting that international federations abide by the IOC charter and the multilateral agreements on doping in sport that are now in place. I see no future for amateur sport, its ideals and potential for human betterment, unless these measures are taken and consistently enforced.

PART
FIVE

Rights and Ethical
Considerations

23

Athletes and Coaches against Drugs

The most vigorous opponents of cheating in sport are those coaches and athletes who insist that sport be conducted in accordance with the rules, rules that include a recognition of the high moral and ethical values underlying sport. They are fearful that cheating, now so prevalent, will destroy sport.

Over the years these individuals have been a bulwark against the pervasive influence of performance-enhancing drugs in sport. Their careers may not necessarily show first-place performances as medals went to others who were not "clean." Their devotion to their sport and willingness to compete for personal satisfaction rather than public acclaim illustrate how sport ought to be.

Bill Crothers and Bruce Kidd are senior statesmen of track and field in Canada. They were both prominent middle-distance runners in Canada in the 1960s. Mr Crothers has left the world of sport and is now a pharmacist. He remains

a keen observer from the sidelines. Mr Kidd is now a professor in the School of Physical and Health Education, University of Toronto, and through his association with various sport organizations, including the Canadian Olympic Association (COA), has continued to be involved in the sport system. They are vigorous opponents of cheating, and Mr Kidd has written extensively about this issue. They both described their own careers as competitive, clean athletes in a world when steroids and other performance-enhancing drugs were largely unknown.

Mr Crothers characterized his involvement in track, even at the height of his career, as an avocation that took second place to his schooling. During university, he was a full-time student; he trained and competed in track and field and held a part-time job while doing so. In those simpler days there was no direct government funding of athletes, no specialized sports medicine physicians, and no commercial endorsements.

Mr Crothers considers money to be the root of the current problems in athletics:

As long as there is sufficient money in the sport to produce the kind of rewards that the athletes can receive for their performances, and, more importantly, that there is enough money to support all the support personnel, the trainers, the physicians, the agents, the promoters, that is far more important. As long as there is sufficient money in the sport to make it possible for them to benefit by the performances of individual athletes, there will always be the problem. Because . . . they achieve their benefits, not by virtue of the enjoyment they get out of the sport, but they achieve their benefits by virtue of the success that the individual athlete achieves.

And as long as they can receive material, significant material benefits from that, there will always be . . . some people who are looking for an edge and an angle.

That's the problem. That's the insidious part of it. And that's what makes it so darn difficult is that those of us who have the background, we tend to get a little bit cynical about the prospects because we — you know that it's wrong, but you don't really know how to realistically go about getting rid of the problem. As long as there is that much money involved, it will always be a problem. You try to suggest that you take the money away from sport and everybody screams and hollers.

Bruce Kidd, who competed actively as a middle-distance runner for Canada between 1960 and 1964, approached his athletic career similarly. Sport was an avocation for him too. Mr Kidd was a full-time student, worked on the university newspaper, and also held a part-time job. As he put it, "certainly we were highly competitive and we wanted to win and everything, but we made a real effort to combine it with other activities."

He described his training as something that was undertaken in a more casual way. When he told a fellow competitor that he had increased his training by adding a morning run, this runner replied:

You know, you represent the thin edge of the wedge. If it gets to the point where people are training twice a day, then they will move on to three times a day because probably there is a marginal efficiency to be gained with a lot more training. And it will become a full time occupation and the life we lead will be impossible. And it will mean that people such as us will be forced to choose from being a full time athlete, focusing on nothing but the sport, or a recreational athlete with little opportunity to travel and compete at a high level.

This intensified training schedule was one of the changes that marked the start of the move to the full-time athlete:

And I still remember that because I was trying to defend the new approach, training twice a day, and surprised that I was under attack. And now realizing how prophetic that was because

subsequent Canadian athletes have experienced great difficulty trying to make that choice.

And nowadays there is just no question . . . Athletes today identify themselves as full time athletes.

In Mr Kidd's view, full-time athletes today live under poor economic conditions. The carding money from Sport Canada is intended to assist athletes, not to provide full-time support. In fact, the amount of the carding payments is far below the minimum wage and far below the poverty line. According to Mr Kidd, graduate students and artists funded by the Canada Council receive far more support. Most athletes have difficulty supplementing their carding income because training and competition schedules are now such that they must be virtually full-time athletes. Few athletes can generate significant additional income from endorsements and performance fees. The result of these economic conditions, Mr Kidd believes, is to add greatly to the pressure on athletes to cheat by using performance-enhancing drugs.

Leaving aside the question of money alone, Mr Kidd was also critical of the basis of the carding system. Rather than encouraging athletes to do their best, the current system is keyed to performances relative to international standings. Many athletes even though performing at their best will simply be unable to meet these standards. In addition, the athletes view the standards as tainted by drug-induced performances. Mr Kidd advocates that the system should provide financial opportunities to the best athletes in Canada, regardless of how they rank on the world list:

I mean, Milt Ottey still inspires me whether he's in the top 8, as he was in the early '80's, or he's now in the top 100. It's still quite incredible to see a guy jump so far over his head and do so with toughness, with courage, under a lot of pressure. I mean, that's still very inspiring. And what does it matter what he does on the world list?

When I go out to the track to see Milt train or compete, that gives me a thrill. This is an important cultural practice. Let's provide opportunities to the best of our social resources, regardless of what people are doing in other countries of the world.

Mr Kidd calls the current system "highly exploitive" and suggests that we either accept that our athletes are underpaid professional "culture performers," and pay them as such, or return to a system based on need rather than performance. I will return to this question and the status of our amateur athletes later in this report.

Mr Kidd was part of the 1988 Task Force on National Sport Policy which produced the report *Toward 2000: Building Canada's Sport System*. He agreed that that report did contain a number of recommendations directed towards the pursuit of international success in sport, with medals as the goal of the national program; however, Mr Kidd's personal view is that the high-performance goals of the program should be seen in terms of opportunities for Canadians "and the quality of those opportunities rather than medals."

On the question of doping in sport, Mr Kidd was quite specific. He stated that Canada must recognize that doping is a major problem. He described it in terms of a moral crisis in sport. He also stated that Canada must recognize the pressures it puts on its athletes through the method of funding. Athletes feel they are competing not only for themselves but also for the future of their sport. They fear if they do not win a medal or score high enough on the international list, government funding for their sport will be cut back. The pressure this system creates will not necessarily lead athletes to cheat, in his view, but it may. He calls it "unfair pressure," unnecessary in a proud and rich country like Canada. He commented:

I think we have to recreate the moral basis of sport. You know it is almost as if the exchange value of sport today is the only value. As we heard other people say . . . if you win you are a hero and you make millions, if you lose you are a bum.

These sentiments were echoed by Andy Higgins, a prominent track and field coach. Mr Higgins has always been associated with drug-free sport in his own career as an athlete and subsequently as a coach. His particular involvement with the high-performance centre at the University of Toronto and his dealings with the CTFA are dealt with elsewhere.

Mr Higgins commented that, in the late 1980s, Sport Canada and other official sport bodies, such as the COA, seemed to be sending contradictory messages to athletes and coaches. On the one hand, the message was that Canada wished to have clean and honest athletes. On the other hand, performance levels were set so high that they were totally unreasonable for clean athletes. The coaches were fully aware of the ambiguity and felt the resulting pressure on themselves and the athletes.

Mr Higgins believes we must ask ourselves why we engage in sport and what we seek to get out of it, rather than striving solely to be in the top eight in the world. Breaking records is only one aspect of sport:

There is little value in the world or to anybody in being able to project 16 pounds of metal some distance through the air. I mean, we have machinery today that can make it go much further, so just projecting metal through the air some distance is an absolutely useless activity, and one of the first things I taught the young people about is what is the point then in putting a shot far or running around a track or jumping out into the sand, and I think that's a discussion that has to be generated from the very beginning.

It's a discussion that should be generated in our country. It should come from the top. We should understand why we are doing sport, and the only value, it seems to me, is what happens to the individual in the process of trying to make that piece of metal go as far as he is capable of making it go. Because once one commits to that kind of endeavour, then all kinds of possibilities begin to arise. We are going to meet all the challenges that many of these athletes spoke about, and they will come in minor ways and in major ways, and at every challenge we are faced with options.

It seems to me the value of sport to the individual and to the country is to help young people to make the choice that will make them stronger when you meet the challenge, and not go the easy route, not to take what I refer to as the "fear choice."

Mr Higgins deplores the current emphasis on winning as an overly superficial approach to sport. As he puts it:

The problem with winning is it's a limiting concept . . . three major problems stand out right away.

The first one is that for many of us, it's just not possible. We know that. We're just not fast enough, we're not strong enough, we're just not gifted with coordination or the skills of somebody else, whatever it is. So winning becomes an unreasonable possibility and we don't do sport. The second one is that we may have the ability to be very close to winning and then it puts a terrific — and undue pressure on the game . . . because of all the values attached to winning, we might then . . . do anything to win . . . when the focus is on winning. And the third one is that for many of the gifted people . . . [they] suffer because they win too easily, and particularly as youth, they don't develop skills, they don't develop training attitudes . . . and by the time they come to quality coaching or whatever, there are not only attitudes regarding winning and what success is all about to deal with, but there is this problem of the lack of skills or bad skills that have been developed because one could do almost whatever one wanted technically and beat other people.

Mr Higgins stresses personal excellence, which is possible for everyone. It precludes cheating but it does not preclude winning.

Many athletes currently competing are carrying forward the ideals espoused by Bruce Kidd, Bill Crothers, Andy Higgins, and others. Some do so in a quiet personal way, training and competing drug free. Others speak out against drugs and try to educate athletes to move to drug-free sport. Still others work within sport organizations to combat drugs in sport.

Lynn Williams has been a full-time athlete since 1984, competing in cross-country, 1500, and 3000 metre events. She has been a member of Canada's national track and field team since 1983. She was an Olympic medalist in 1984 and a member of the Olympic team in 1988.

Ms Williams described the frustration created by the belief that other runners in her sport are using performance-enhancing drugs:

There's been traditionally a tremendous dominance — tremendous predominance of Eastern Bloc women, middle distance runners, in terms of world rankings as well as all the international events. And, you know, you hear the rumours. And like you say, you begin to believe them whether you have any proof or not.

So, there has been a certain amount of frustration. You wonder . . . what does it take . . . to beat these people.

She commented that, despite improvements in her own performances between 1983 and 1988, she does not seem to be able to close the gap between herself and the competitors ahead of her. Why does she continue to run? She describes it in terms of a personal battle. She competes largely against herself, trying to do the best she can:

So, in dealing with that frustration, though, let me at them, I will come back again and just give it my best shot each time round.

Instead of looking solely at what she can get from sport in terms of medals she realizes her participation has bettered her life:

But what happened is I sort of found myself all of a sudden realizing, wait a minute, you know, sport has done so much for me as an individual, taught me so much. There is no greater feeling than, you know, giving something your very best, putting forth your very best effort. And it doesn't matter what the outside circumstances are. And, you know, that's what it means to win really, is to — is to just give your very best.

And none of that has changed in spite of everything. We have known what we have been up against for years. There is really nothing new here. As athletes, the public has been shocked, we have been shocked in our hearts, I suppose, but it's nothing — nothing new.

These sentiments were echoed by Dave Steen, the winner of the bronze medal in the decathlon at the Seoul Olympics. Mr Steen made a personal commitment not to use drugs. He has spoken out against drugs and has been an effective role model for younger athletes. In order for more athletes to accept drug-free sport, it is his view that sport needs a moral overhaul:

I think we have to get back to maybe some of the original ethics and morals of the sport. I think that's the only direction we can head. If we have the young people coming into the sport with a different attitude about it, that will make the difference.

Angela Bailey, a well-known Canadian sprinter, also testified before the Commission. Much of her sprinting career was spent in the shadow of Angella Issajenko. Despite Ms Bailey's suspicions that her rival's performances were

drug induced, Ms Issajenko continued to win medals without a positive doping control test. The number two position was not easy for Ms Bailey to accept, but she kept competing. She is outspoken in her criticisms of athletes who take drugs; she was under the same pressures and subject to the same temptations. She was determined to compete clean no matter what the cost:

I really firmly believe that if you are going to cheat to win then it is just not worth it.

I always like to stand out as an individual and even if I had to stand alone and compete that was good enough for me to compete and win my way.

Ms Bailey pointed out that the use of performance-enhancing drugs in track was growing. At the start of her career in the late 1970s, drug use by sprinters was minimal. This had changed in the 1980s. Athletes were no longer competing on a level playing field. She began to question the reasons for competition:

And I believed if it was getting to this point where athletes were going to do anything and everything to win, then it didn't [matter] whether you were born with natural talent any more. You could just go to a pharmacy and be the fastest athlete in the world. If that was the case, I wasn't willing to compete any more.

Ann Peel is an athlete who has identified herself with the antidrug movement by joining a track club for clean athletes only. Members of the Top Form Track and Field Club must be drug-free athletes who are willing to help educate athletes and members of the public against the use of performance-enhancing substances in sport. Ms Peel's sport is race walking. Anabolic steroids are not widely used in race walking but the banned practice of blood doping was rumoured to be common in Europe.

Ms Peel pointed out how athletes are negatively affected by the belief that their competitors are using banned substances, or engaging in banned practices. She believes athletes too easily seize on such rumours to explain their own lack of success:

I've become concerned lately that a lot of athletes will use the fact that other people may be taking steroids or other banned substances or engaging in banned practices as a crutch for their failure to be the best in the world themselves, to tend to look at everybody [ahead] of them and say they're all on something. And I haven't wanted that to happen to me.

Milt Ottey, a Canadian high jumper, is one of the quiet clean athletes. He spoke poignantly of what his sport and competition had brought to his life. Although he was pleased personally with his own performances, he was tired of having them compared with outstanding performances that were drug induced:

It is very hard to, you know, stand next to somebody . . . and think to yourself, yes, I am going to do this clean and watch your performance look . . . mediocre when in essence your performance is really very good.

And it is a thing that you got to look within yourself. I found out [that] is the reason why you are doing this sport. Is it because of the financial gains or because you start doing it because you love doing it.

I personally love track and it did a great deal for me as far as myself, my self esteem, my confidence within myself because if you look back in my — when before I even started track, I was very shy, my self worth was nowhere, really. I didn't know what I was going to do with my life.

So, my decision not to take drugs was because I did not want to take away from anything that I have already accomplished.

A personal sense of satisfaction at doing one's best is increasingly difficult to hold on to in a world that measures success only by outer standards. Mr Ottey touched on the media's role in this process in describing a conversation he had with a newspaper reporter in 1986 just after he had broken the Canadian record. Everyone was crowding around him, congratulating him. He was feeling proud and happy until a newspaper reporter commented, "You know, Milt, that's nowhere even close to a world record, is it?" The moment was spoiled for Mr Ottey. The newspapers the next day had only minimal coverage of his victory.

Mr Ottey views the media as fostering the public attitude that only victory and broken records are worthwhile, rather than individual accomplishments. The Commission got a taste of this when the press gave ample coverage to athletes who admitted steroid use but little or no coverage to athletes who had competed without drugs. Their testimony was all but ignored. Far from being of no interest, these athletes are the only hope for the future of sport.

Some clean athletes send out their message by speaking out against drugs on an individual basis. Others, such as Ken Read, a prominent Canadian downhill skier in the 1970s and 1980s, work within existing sport organizations to promote drug-free sport and severe penalties for users. Since his retirement from sport, Mr Read has worked within the COA and IOC as a spokesperson for athletes promoting drug-free sport.

Athletes competing at the Olympic Games had no formal voice until the mid-1980s; however, prominent individuals spoke out against doping prior to that time. In 1982 British runner Sebastian Coe, on behalf of other athletes at an Olympic Congress held in Baden-Baden, West Germany, called for a lifetime ban of athletes, coaches, and doctors involved in doping. The IOC Athletes' Commission was formed following this congress to advise the

IOC on matters affecting the athletes. In 1984 the Athletes' Commission circulated a brochure at both the Los Angeles and Sarajevo Olympics, requesting that the IOC impose severe penalties for doping.

Mr Read became a member of this commission in 1985 and attended a meeting in Lausanne that October. Following the meeting, the commission released a statement:

The IOC Athletes' Commission at its meeting in Lausanne on the 6th and 7th of October 1985 expressed great concern for the increasing incidence of doping.

Doping remains a significant problem that blemishes the Olympic Movement and all athletes. The IOC Athletes' Commission repeats its appeal on doping taken at the IOC Congress in 1981.

More specifically, we call for the institution of the following:

- 1) Education programs designed to inform athletes, coaches and administrations of the dangers of banned drugs, alternatives to banned drugs for therapeutic uses, and doping control procedures.
- 2) International and national doping control through random testing in competition and particularly in training.
- 3) World Olympic records to be recognized only in conjunction with doping control.
- 4) A lifetime ban from the Olympic Games for any coach intentionally found guilty of a doping violation.
- 5) A lifetime ban from the Olympic Games for any athlete intentionally found guilty of doping.
- 6) We suggest that all sponsorship contracts include a clause strictly forbidding the use of banned drugs and obliging the contract partners to take sanctions in the event of a violation.

In conclusion, we find doping to be a breach of the rules of fair play and ethical principles of the sport. The health of all athletes must remain a primary concern of all partners in the Olympic movement.

Since the athletes perceived there had been little movement against doping in the international sport community, they wished the IOC Athletes' Commission to reiterate the strong stance taken in 1982 by Sebastian Coe. Of particular concern to the athletes was the multiplicity of penalties of varying severity that could be imposed on athletes who tested positive for banned substances. The IOC Athletes' Commission adopted a proposal prepared by the IOC Medical Commission to rationalize penalties. It recommended a range of penalties, including a lifetime ban. The IOC Athletes' Commission circulated this proposal to athletes at both the Calgary and Seoul Olympics in 1988.

The Athletes' Commission then relaxed its stance somewhat because it finally saw movement on the issue by the IOC. At the 1988 Seoul Olympics, the IOC Athletes' Commission prepared a document known as the Seoul Declaration:

Olympic athletes gathered in a meeting on the 27th of September, 1988 in the Seoul Olympic Village hereby declare:

We acknowledge with great disappointment the doping cases during the 1988 Olympic Games in Seoul.

The athletes and officials involved have not only broken the rules, risked their own health, but have also damaged the image of all athletes competing in the real spirit of fair play.

Therefore, we strongly support the position taken on doping by the IOC Athletes' Commission since 1981, and appreciate the firm statements taken by IOC President Juan Antonio Samaranch on the issue.

We share the ideals laid down in the Olympic Anti-Doping Charter and urge all partners in sport throughout the world to implement this program.

In conclusion, we confirm our main positions:

1. We call for the establishment of unannounced random testing for athletes in training and competition on an international basis.

2. We call for a full inquiry of each doping case, to review the involvement of all concerned, including the athlete, coach, and administrators, and call for severe punishment for those found guilty.
3. We call for more education for athletes, coaches, and administrators, to teach the dangers of performance-enhancing drugs and thus to prevent future doping infractions.

Whether the sport bureaucracy will respond to the athletes' call for reform remains to be seen.

In a column that appeared in the magazine *Champion* in the fall of 1988, Mr Read stated, in part:

Athletes are role models to millions of children, which makes our actions much more than those of just individuals. We have a responsibility to be worthy leaders of society and healthy role models.

Canadians have invested heavily in the development of our sports system, either through direct government support through Sport Canada or indirectly from the benefit of sporting facilities in our communities. Canadians have a right to expect their representatives in sport to adhere to the rules of the game . . .

Since the vast majority of athletes will never see drugs in sport, nor have any interest in using them, we must not tolerate their use in Canadian sport. We can call for effective legal sanctions against steroid distribution and use for reasons other than medicinal purposes. We can call for the medical profession to implement effective ethical standards. And we can ask our sports officials to provide leadership in the international sports community, to clean up international sport so there is no imagined need to use performance-enhancing drugs to compete against the worlds' best.

All of us must play an active role if we are going to establish effective measures to combat drug use. But perhaps most importantly, we must speak out to regain public confidence in amateur sport and in our athletes who devote years of individual effort to representing our country.

In the meantime, clean athletes will continue to train and compete true to their personal code of ethics. Robert Armstrong, in his closing remarks as Commission counsel, described their situation well:

I want to say a word about the victims of drug abuse in sport — there are many. Those athletes who attempt to beat the system by taking performance-enhancing drugs are victims of their own dishonesty. While they cheat others, they cheat themselves because they will never know just how good they can really be. There are many other victims of drug abuse in sport but none is a greater victim than the athlete and coach who have competed drug-free — who played the game by its rules. We have heard the eloquent testimony of many of them. You know who they are — those people who have had the guts and determination to run, to jump, to throw knowing that the only satisfaction to be gained was to be the best that they could be, whether in the end they stood on the podium with a medal around their neck or simply walked off the field to no more than a hot shower.

The real heroes of the lengthy battle to eliminate the use of performance-enhancing drugs and other banned practices in sport are those coaches and athletes who refuse to engage in such practices. They faced the same temptations and the same pressures as those who cheated, but they refused to succumb. They realize that there is something more to sport than the mere winning of medals, and, if sport is to survive, heed must be given to those moral and ethical values which form such an important part of its definition.

The witnesses who were called to give this message represent, I am satisfied, the vast majority of Canadian coaches and athletes. They also demonstrated that one can be competitive without cheating, even when competing against those who do cheat. They recognize that cheating tarnishes the reputation not only of the individuals who

have cheated but also of sport itself and of those athletes who have played the game according to the rules. Unfortunately and unfairly, through guilt by association, the cheaters have made all athletes suspect.

It is time for the voices of those who have consistently fought against the use of drugs in sport and other means of cheating to be heard. They are the ones who are best able to carry to our young Canadians the message of the values of sport and what sport can mean to them in their future life. They should be the role models for young Canadians to follow.

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Athletes' Rights

DRUG TESTING

For many years sport federations, both nationally and internationally, have incorporated drug-testing provisions into their eligibility rules. Initially these rules provided for drug testing at competitions only. More recently, in light of the evidence that random unannounced testing is necessary to detect the use of banned substances, many national and international federations have required athletes to agree to submit to some form of random testing. Athletes who refuse to do so are not eligible to compete. Where enacted, the rules apply to all athletes who desire to compete.

The overwhelming majority of athletes not only agree to be tested but consider testing to be protection against unfair competition by others and proof that they themselves obey

the rules. Ken Read, a member of the IOC Athletes' Commission, stated the athletes' view this way:

[A]thletes should be given the rights of due process and natural justice in any proposal and so on, but I think that at the most basic level, an individual's participation in sport is not a right but a privilege, and as such, as a privilege you are subject to the rules. And one of the rules is that you, and that's not just the athlete that's the coach, that's everyone participating in that, you are subjected to the rules. And one of the rules is that you don't use performance enhancing drugs.

Even those athletes who have used drugs testified that they would welcome an effective testing program which would eliminate drug use by all athletes and thus ensure a level playing field.

It is to be observed that an individual's participation in sport is not a right but a privilege, and as such it is subject to the rules governing the sport in which the athlete wishes to participate. Athletes must abide by the rules of sport. Those who are refused eligibility because they will not agree to abide by the rules are not being deprived of any right.

Sport Canada's payments to the athletes are *ex gratia*, and no athlete is entitled by right to be funded. Athletes are required as a condition of funding to enter into an agreement with their sport federations in which they expressly agree that they will not use or be in possession of anabolic steroids and are required to make themselves available for both regularly scheduled and random doping control test procedures. If an athlete is denied funding for refusing to comply with the conditions for funding, the athlete is not being denied any right.

Concern has been raised by witnesses in this Inquiry and in published reports about whether random testing is an infringement of the rights of the athletes as citizens of

Canada. Several recent legal challenges by collegiate athletes in the United States, under constitutional laws significantly different from those in Canada, may also have contributed to questions about the legal validity of random drug testing.

Among those expressing concern has been Canada's privacy commissioner, John Grace. In his 1988–89 annual report to Parliament, with reference to the Charter of Rights and Freedoms, he wrote:

If privacy is to have any meaning in the 90s and beyond, great care must be taken to ensure that effective limits are placed on new, more intrusive means of information collection. Yet as we end the 80s there are indicators that the policy-makers may not be so inclined.

Some officials testifying at the Dubin Inquiry strongly advocated mandatory, random and unannounced urine testing of federally-funded athletes. While a strong case can be made for such testing, it is troubling that a government policy, even in a well-defined area and with tacit consent of the athletes, appears to ignore a concept which is fundamental to individual privacy — the presumption of innocence. The need to prevent intrusions into private lives, unless there is a specific and reasonable suspicion of wrongdoing, has been clearly articulated by the Supreme Court as part of Canada's Charter of Rights and Freedoms. It has only been compromised in rare instances to protect life — instances such as random, roadside alcohol tests.

Yet, in the case of athletes, the country's offended national pride seems to be widely accepted as sufficient reason to ignore a fundamental principle of freedom. If we can justify the intrusions necessary to test athletes, and perhaps Mr. Justice Dubin will conclude that we can, will it not become easier for employers to justify intrusions into the bodies of their employees or potential employees? Canada's inquiry into drug use by athletes may have an impact on our philosophy of individual privacy which will not end in the sports arena or at the locker room door.

With the greatest respect, the issue of random testing does not engage the provision of the Charter of Rights and Freedoms concerning the presumption of innocence. The

provision with respect to that presumption reads in part as follows:

11. Any person charged with an offence has the right . . . (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal[.]

The right to presumption of innocence has no application to issues of drug testing in sport.

PRIVATE SPORT ORGANIZATIONS

The rules enacted by various national sport organizations relating to drug testing apply not only to government-funded athletes but also to all members of the organizations. They are universal in their application.

In determining the rights of athletes with respect to the national sport organizations, the relevant provision of the Charter is section 32, which reads:

32. (1) This Charter applies
 - (a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and
 - (b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

Section 32 of the Charter has been interpreted by the courts as limiting the application of the Charter to what may be described broadly as governmental action.¹ The Charter does not apply to the private activity of independent sport federations. It has also been held that the mere fact that sport organizations are partially funded by government is not a sufficient connection to government to bring

otherwise private action within the language of section 32 of the Charter.² Thus, the rules of the national sport organizations that require athletes to agree to random testing as a condition for eligibility are not affected by any provision of the Charter.

Human Rights Legislation

Unlike the Canadian Charter of Rights and Freedoms, human rights legislation enacted by the Province of Ontario has been held to apply to private sport organizations. Similarly, legislation in other provinces may well have the same application. These statutes set out enumerated grounds of discrimination. To require all athletes within a sport federation to agree to random testing as a condition for eligibility could not, in my opinion, be viewed as discriminatory.

In my opinion, the rules of national sport organizations which require the agreement of the athlete to be tested, as a condition of eligibility for competition, do not violate any provision of the Charter of Rights and Freedoms or human rights legislation.

SPORT CANADA FUNDING

In contrast with the rules of private organizations, the requirements by Sport Canada that all athletes, as a condition of funding, agree not to use prohibited drugs and that they will make themselves available for both regularly scheduled and ad hoc test procedures could be viewed as governmental action. A general government requirement for mandatory drug testing without consent could in some

circumstance be subject to a Charter challenge on the basis that it may be an unreasonable search contrary to section 8 of the Charter. That section reads:

Everyone has the right to be secure against unreasonable search or seizure.

Whether such a challenge in some or all cases would be successful remains to be seen.

In the case of drug testing under Sport Canada policy, however, Sport Canada has a right to impose conditions for funding. When an athlete agrees to the conditions, random testing is not mandatory in a true sense. It is consensual. In my opinion, drug testing under such circumstances and having regard to its valid purposes cannot be viewed as an unreasonable search contrary to the provisions of section 8 of the Charter.

Nor can the conditions of funding imposed by Sport Canada be viewed as discriminatory within the meaning of section 15(1) of the Charter, which reads in part:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

The rules relating to drug testing are universal in application and are not based on any of the grounds enumerated in section 15(1) or grounds analogous thereto. Nor are those rules discriminatory in their effect.

In my opinion, the requirement by Sport Canada that athletes make themselves available for random testing as a condition of funding does not violate any provision of the Charter of Rights and Freedoms.

OTHER CONSIDERATIONS

Apart entirely from the issue of the validity of drug testing, however, the rights of the athletes are a matter of serious concern and must be addressed. At present athletes tested under the auspices of the Sport Medicine Council of Canada have the right to appeal a positive test "on the basis of technical administrative grounds which may have jeopardized the integrity of the sample." Internationally, rights of appeal vary according to the sport organization and the particular competitions involved.

In the context of privacy protection, the potential exists for misuse of information gained through athletic testing. Examples include the release to the news media of a positive result for an A-sample before the B-sample has been confirmed and, more generally, the release of incorrect information. Athletes have had their reputations damaged only to learn that ultimately they passed the drug test. Of serious concern would be the release of information about use of "street drugs" with the potential for criminal liability. Other forms of misuse of information are actions taken on the basis of drug use that is not banned and release of personal information learned in the process of drug testing.

The drug-testing procedures, like all human endeavours, are not perfect. There was evidence in this Inquiry that at times the A-sample was positive for banned substances but the B-sample was not. There was also the remote possibility of an athlete's being falsely accused, as in the case of the testosterone-to-epitestosterone ratio when the athlete's natural levels are higher than those accepted by the laboratories. Another example of the acknowledged imperfections in the system was the evidence of the ban and then removal of the ban on a component of a certain type of birth control pill.

The IOC-accredited laboratories are reluctant to have the accuracy of their tests challenged. They have a legitimate concern that releasing technical information would allow athletes interested in cheating to benefit from that information. Athletes whose futures are affected by drug testing should, however, be allowed to know the criteria used to judge them.

These issues were addressed in the "Model for a National Anti-Doping Program," presented by Abby Hoffman on behalf of Sport Canada to the First Permanent World Conference on Doping in Sport in 1988, in which the following procedural rights were proposed:

- i) Compliance with written Standard Operating Procedures Guidelines during all phases of the testing process
- ii) Provision of information to athletes during the administration of doping controls
- iii) Confidentiality of test results until after verification of the B-sample
- iv) Description of the investigative and appeal mechanisms in the Standard Operating Procedures Guidelines
- v) Maintenance of an appeal system which permits challenge to the integrity of the sample-taking and testing procedure to ensure that the ownership of the sample and untampered-with status of the sample are guaranteed
- vi) Maintenance of an appeal system which permits challenge of the scientific basis for claiming a doping violation has been committed
- vii) Provision of appeal opportunities both within the sport system and ultimately through genuinely independent mechanisms outside of sport
- viii) Provision of investigative procedures which ensure that those who may be involved in doping infractions in addition to the guilty athlete are investigated and penalized

- ix) Provision of a review procedure which permits discussion of the circumstances surrounding a doping violation before the imposition of any discretionary penalty.

It is noteworthy that the foregoing model, among other matters, recommends that challenges be permitted not only to the integrity of the procedure but also to the scientific basis, something which has so far not been permitted in Canada. It is unfortunate that the "Model for a National Anti-Doping Program" has not yet been put into practice.

Apart from drug testing, it is urged that all athletes who have been subjected to disciplinary action should be afforded the right of appeal in accordance with the principles of natural justice.

John Brewin, member of Parliament, in his submission to the Inquiry endorsed the concept of a bill of rights for athletes and in particular called for a grievance process analogous to that provided for unionized employees. Bruce Kidd extended the argument further, stating that Olympic athletes should not only have the rights of employees but should also be paid as civil servants representing Canada abroad. Alternatively, he would have them receive substantial grants comparable to Canada Council arts grants for major artists. He, among others, would solve questions of athlete rights by giving athletes steady wages, vacation pay, limited working hours, overtime, pregnancy leave, pay equity, and collective bargaining rights.

My conclusions on this issue are dealt with later in the report.

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Ethics and Morality in Sport

We look to sport to build character, to teach the virtues of dedication, perseverance, endurance, and self-discipline. Sport helps us learn from defeat as much as from victory, and team sports foster a spirit of cooperation and interdependence. We look to sport to impart something of moral and social values and, in integrating us as individuals, to bring about a healthy, integrated society:

Sport, through the discipline which it requires, brings home the necessity of order and the benefits of voluntary, organised effort. The team activity often involved in sport develops a respect for the loyally established hierarchy, a sense of equality, solidarity and interdependence. Sport is undoubtedly an excellent apprenticeship for human relationships: a remarkable school of sociability.¹

Sport can be used to teach a great number of desirable things: how to master skills and the satisfaction that follows; good general work habits and cooperation; how to break down racial and class prejudices; how to build respect for and responsibility toward other people.²

It is not surprising, therefore, that many of our current leaders in the political, social, and community life of Canada have benefited from the experience they gained from athletic competition.

There is no doubt that sport has a meaning, purpose, and value that transcends the merely physical and that it is an important part of the culture of our society. It contributes so very much to the health and character of those who participate, arming them with essential tools that will help them meet the challenges that life inevitably presents.

It is for those reasons that the Government of Canada is a financial contributor to amateur athletic competition in Canada. It provides funding for the national sport organizations, paying for the coaches and other support staff and, together with provincial and municipal governments, provides facilities for training and competition. In addition, in order to permit our leading athletes to pursue their academic studies while training for athletic competition, the Government of Canada supports them financially by a modest monthly allowance and provides funds to be used for higher education.

Canadians who compete internationally are said to be ambassadors for Canada throughout the world. As such, they should be representatives of the principles Canadians value. Cheating is not one of those principles.

If athletic competition is to be pursued for less worthy objectives, and if the winning of a gold medal at all costs — including cheating and with unacceptable risk to the health

of the athletes — is the only object of the exercise, then there can be no justification for continued public financial assistance.

If ethics, morality, and the sporting ideal have no place in the future of athletic competition, and if public funds are being used by our athletes for drugs and for other banned practices, financial support should not be continued because such practices defeat the very objective and justification for the expenditure of public funding.

It is said that athletes cheat for many reasons: media pressure to win (the “gold, gold, gold” syndrome); the prevalent attitude that doping is necessary to be competitive; community expectations about international competitiveness of Canadian athletes; the huge financial rewards of winning; the desire to be the best in the world; the system of graduated payment to athletes based on performance (carding); coaching that emphasizes winning as the only goal; condonation by national and international sport organizations of unethical practices; the character of the athletes themselves; and the development of spectator sport:

It is impossible to deny, that the development of spectator sport has turned attention away from the moral value of sport for the individual towards its entertainment potential. For the mass of people, sport has become a form of entertainment of which they are mere spectators; radio and television spare them even the trouble of getting to the sportsground. The success of spectator sport and the importance it has come to assume in everyday life are unfortunately too often exploited for purposes alien or even opposed to sport — commercialism, chauvinism and politics — which corrupt and deform it. *If we want to save sport's soul, the time has come to react and react quickly.*³

While acknowledging the existence of all of those factors and their undoubted effect on Canadian athletes, there can be no justification for athletes to cheat in order to win.

The pressures and temptations are the same for all athletes, yet most do not succumb. Those who do show a lack of character. Sport is intended to build character; cheating destroys it. I agree with those who say the problem is not educational, not economic, and not social — but moral.

WINNING, LOSING, AND THE SPORTING IDEAL

Baron de Coubertin, founder of the modern Olympic Games, said at a meeting of the Union des sports athlétiques at the Sorbonne on November 25, 1892:

Before all things it is necessary that we should preserve in sport these characteristics of nobility and chivalry which have distinguished it in the past, so that it may continue to play the same part in the education of the peoples of today as it played so admirably in the days of ancient Greece.⁴

Sportsmanship was the ideal upon which the Olympics was founded. According to the Olympic Charter, one of the aims of the Olympic movement is “to promote the development of those physical and moral qualities which are the basis of sport.”

How has it come about, then, that many of those who symbolize Canadian hopes and aspirations for sport have resorted to cheating? Why are the rules that govern sport often regarded as obstacles to be overcome or circumvented, rather than as regulations designed to create equality of competitive opportunity and to define the parameters of the sport? The answers will not be found if we focus only on the individuals involved. We must examine how Canada as a society has allowed, suffered, or connived at a climate in sport in which the only good is perceived to be winning, and the manner of doing so of no consequence:

We have created a society where if you win, you are a hero, even a god. But if you lose, you are much more than a non-winner, you are a loser.⁵

In 1972 Abby Hoffman represented Canada at the Olympic Games in Munich. In every heat she broke the previous Canadian record. Eight of the best athletes in the world made the finals, and Ms Hoffman was one. She came eighth. One media headline reporting this remarkable achievement read: "Abby Hoffman last." At the 1988 Winter Olympic Games in Calgary, Brian Orser established himself as one of the best figure skaters in the world. He came second in the competition, and one newspaper report read, "Orser loses." Angella Issajenko's remarkable achievement to be ranked as the fifth best female in the world in her first international season in track and field was reported as "disappointing." When Milt Ottey broke the Canadian high-jumping record, his moment of achievement was deflated when the media immediately pointed out to him that he had not broken a world record. There are many similar examples.

The public also places pressures on athletes beyond the expectation that they should win every competition. Why do Canadians expect so much of athletes? Why should those possessed of unusual physical talents be expected to bear the burden of our collective need for the heroic? We do not demand this of others, but only that they be competent and abide by the ethics of their particular vocations. We do not ask that young scientists all become Nobel Prize winners, nor do we provide potential Nobel Laureates with intensive, specialized training, funding, coaching, equipment, and facilities. These are only available as an adjunct to programs of wider application in universities and colleges, and as part of overall education funding.

Why has winning, being first, come to mean so much that, in the minds of some of our athletes and sport professionals, all other benefits and goals of competition are devalued by comparison? In showering the winner with praise, adulation, and substantial financial rewards, we have failed to recognize the equal efforts of those who also competed at this high level. Coach Andy Higgins of the University of Toronto added some perspective when he said at the Inquiry:

To be among the top 100 in the world in a single discipline, is definitely a world class performance. If one can be in that select group of the top fifty, that's great. To be the sixteenth in the world or the eighth in the world, is exceptional . . . [H]ow many of us in this country in any activity, in any profession are among the top 100 in the world in anything?

If the slogan "winning isn't everything, it's the only thing" is acceptable, then everything is permissible in order to win. If Canadians truly believe that, then as a society we are indeed morally bankrupt.

If winning is the only goal, then Canadians applaud not the best athlete but the best cheater. The contest becomes one between doctors and biochemists plotting their strategies, perhaps in a clandestine laboratory, and the athlete becomes a tool of technology. The health of the athlete is put at risk, and all other entrants are excluded from fair competition unless they too submit to the use of chemically induced aids. The most ingenious chemist then propels the athlete to victory.

We live in an era when the genetic and chemical manipulation of life forms has become commonplace. There is an acceptance that the body can be "improved" by surgical, chemical, and even mechanical means; that the body can be trained to perform tasks of superhuman strength, speed, and agility:

Every sport now involves a fantastic *manipulation of human robots* by doctors, psychologists, bio-chemists and trainers. The "manufacturing of champions" is no longer a craft but an industry, calling on specialised laboratories, research institutes, training camps and experimental sports centres. Most top-level athletes are reduced to the status of more or less voluntary guinea pigs.⁶

I do not believe that Canadians want their athletes to be treated or to treat themselves in this unnatural fashion as a means of winning in athletic competitions. Victory at such a cost is too dearly bought.

I am satisfied that the slogan "winning isn't everything, it's the only thing" does not represent the standard of morality and ethics which Canadians expect of their athletes. There is sufficient evidence from sport philosophers, coaches, the public, and athletes themselves that such is not the case. Indeed, the strongest opponents of drugs and cheating are the athletes and coaches who do not engage in such practices, but whose own reputations have been blemished by the doubt cast on all athletes by the conduct of the few who do cheat.

THE PURSUIT OF EXCELLENCE

No one can quarrel with the concept of excellence. To be the best we can be, in any activity, is unquestionably a worthy goal. Canadians foster and support this commitment to excellence in athletics by funding elite athletes through the carding system and through high-performance centres. We must examine what we mean by excellence and what message we are conveying when we extol it. The pursuit of excellence does not mean that we want our athletes to win at any cost and in spite of considerations of ethics and fair play.

True excellence is not simply an objective standard, such as winning a gold medal. It must be measured by the athlete performing to his or her own natural ability. It precludes cheating, taking an unfair advantage over other contestants. It is attainable by every contestant who competes at his or her maximum effort, and within the rules. As Saul Ross of the Department of Physical Education, University of Ottawa, described it:

Striving to win involves total effort, doing one's best, within the rules of the contest. A commitment to that position, which ensures true competition, does not entail the adoption of the winning-is-the-only-thing attitude. Striving to win and regarding victory as the only acceptable thing are two different positions.⁷

It has been suggested that the competition to achieve carded status, and the funding that goes along with it, is one of the pressures that induces athletes to cheat. I do not accept the argument that providing support for athletes to allow them to achieve their full potential is inconsistent with excellence, nor is it a corrupting influence. The amount of funding athletes receive from Sport Canada is dependent on their demonstrated ability to compete at certain levels in international competition. Many athletes claim those standards are set by athletes in other countries who have used performance-enhancing drugs. In order to meet those standards, and receive the funding to which they believe they are entitled, they claim they too must use these drugs. In using performance-enhancing drugs or engaging in other banned practices to obtain funding, those athletes cheat the majority of Canadian athletes who refuse to do so.

It is faulty logic to assert that a lowering of standards would discourage cheating. If the standards were reduced, the temptation would still be there. The threshold is simply lowered. The athlete who cannot meet the lower standard

would then be in the same position as the athlete today who cannot meet the higher standard. Those athletes who have resorted to the use of banned drugs to enhance their performance would not hesitate to do so as a means of qualifying for funding under the lower standards. I am satisfied that athletes who use funding as an excuse for their conduct do so because of their inability to accept the limitations of their natural ability and because of a flawed system of values.

The funding system should be a reward and encouragement for excellence, not for winning. The flaw in the present system of carding appears to be that the emphasis is on winning and on using standards which can be met only by potential medal winners. This denies the opportunity for funding to an athlete who may be the best Canadian in his or her sport but who may not be a potential international medal winner.

In funding and supporting excellence, Canadians must be careful to ensure that they are not contributing to a situation where the best athletes are so narrowly focused on the physical aspects of sport and competition that they become ill-equipped to deal with life outside the sport community and the hot-house environment of high-level competition. The pursuit of excellence must be above the simplistic criterion of "winning" in the sense of being first, of being awarded a gold medal. What Canadians must fund and support is the opportunity for athletes to reach their full potential as human beings — and achieving their optimum level of sporting excellence is but one aspect of this potential.

It should also not be overlooked that even for the most successful athlete, an athletic career represents a relatively short period. Athletic training and success can be an important part of an individual's life, and the lessons and discipline of sport can be of great assistance in whatever career the athlete chooses.

THE ROLE OF THE COACH

It is impossible to underestimate the importance of the coach in the development of an athlete. From the youngest peewee player to the elite athlete, the coach is a pivotal character in the moral as well as the physical development of his or her charges.

The more intensive the training, the greater the opportunity for moulding the athlete's character and personal philosophy as it pertains to his or her athletic career. Elite athletes appear to cleave to their coaches as mentors, guardians, and, in some cases, almost as surrogate parents. They are fortunate indeed if their coach is concerned with their moral and intellectual development as well as their athletic training. Mr Higgins described the role of the coach in this way:

I think coaching is probably, in the field of education, one of the most powerful influences possible . . .

No where else in the whole area of education does anyone get into a relationship that can be as intense as high performance coaching where you spend a number of hours in a situation that is very emotional in the sense, there's a big commitment here and right after, the ultimate if you will, of which that human being is capable.

So there is a potential for great influence and so the quality of the human being who's involved in the coaching process is everything.

Similarly, Dr Andrew Pipe places a high degree of responsibility on those involved in the training of athletes:

We, you and I, share a fundamental responsibility to "care," in the most complete sense of the word for our athletes. Theirs is a vicarious, isolated and at times vulnerable existence . . . We live off their performances. Our responsibilities include protecting them from injury (and, at times, from themselves), providing

them with appropriate treatment when they are injured and ensuring that they do not prostitute themselves in the course of their careers.

*The care, training and athletic education of an athlete should be in accord with the highest standards of ethical behaviour and scientific knowledge.*⁸ [Emphasis added]

Testimony given in the course of this Inquiry indicates that the coaching, training, and care of Canadian athletes runs the gamut of two extremes. One approach argues that it is not possible to achieve and maintain excellence in international competition without training that focuses only on winning and that involves the use of performance-enhancing substances. This philosophy demands the total commitment of the athlete to his or her particular sport, at the expense of a rounded, well-balanced education and preparation for life. The other approach upholds a philosophy of coaching that attempts to guide the athlete towards physical excellence while at the same time developing qualities and values that will ensure a balanced, integrated individual who is equipped to deal with all aspects of life. It is this second philosophy that we must support and encourage, embodying as it does reasons why sport can be such a force for good in individuals and societies. It is these reasons that justify the expenditure of public moneys on sport.

SPORT AND MORALITY

Somehow in sport we have felt that ethics, and any consideration of ethical behaviour are outside our domain. That may prove to have been a very costly oversight.⁹

Why should ethics be important in sport? In every human activity, there must be a consideration of its effect on the participants and on society in general. Very few activities are value neutral. Sport must involve others, some directly

as fellow contestants, others vicariously as spectators and educators. Sport touches every segment of society and is a powerful social force, for good or evil. It cannot, therefore, exist outside ethical considerations:

[D]ecisions about sport are, by definition, ethical decisions because they do involve the welfare of individuals or groups . . . Too often they are made for other reasons. A large number of those other reasons are involved with the emphasis on winning and the entertainment value of sport. If these become the overriding purpose of an athletic program, decisions are made which will promote winning and entertainment rather than the welfare of the individual athlete . . .

But, as in many cases of ethical or moral decision-making, there is conflict between personal needs and the needs of others. It is apparent that to some individuals, the win-lose record of their team is more important than the preservation of equality of competition, the welfare of athletes, or even the essence of sport.¹⁰

It is inconceivable that the Government of Canada would choose to fund any organization that carried on its activities without regard for moral and ethical considerations. This was clearly not the basis on which funding was granted, and in recent years considerably increased, to sport organizations and athletes in this country. Indeed, the *raison d'être* for government support of sport was precisely because of its all-pervading influence on the lives of Canadians. Regardless of whether the government funds sport or not, such a powerful influence on society must be a legitimate area for public and governmental concern:

If an individual's value system serves as a base for all of his/her thoughts and actions, then as responsible citizens and adults they should be ensuring that mature, self-directed individuals emanate from these [sports] programs, or at least progress somewhat in the direction of moral development.¹¹

Elite athletes are the most visible product of the sport system in Canada. They are a measure of the success of the system and of the intensified high-performance training they have received with the help of funding from the federal government. Most of them are a source of pride to all Canadians. Some, however, as we heard in this Inquiry, subscribe to the "win at all costs" approach to competition, and, by their failure to abide by the rules — by their cheating — they have displayed a lack of ethics that has brought dishonour to themselves and to Canada.

It is only when winning is the sole purpose of sport that ethics and morality are cast aside. Clearly, that is a warped view of sport and competition. Fortunately, it is not the view of the majority of athletes and others involved with sport in this country, and Canadians may therefore hope that this more balanced and healthy view of sport will prevail. Certainly, Canadians wish to impart fair sporting ideals to their children, for whom these elite athletes are such influential role models.

Quite apart from their influence on young people is the effect on the athletes themselves of disregarding ethical considerations in pursuit of competition gold. Personal integrity cannot be compartmentalized. It is not possible for an individual to act unethically in one area of life without infecting that individual's entire value system. We live in a competitive society, and an athlete who cheats in athletic events may carry this attitude over to the everyday world in which he or she must now compete.

In discussing the relationship between a lack of moral and ethical behaviour in sport and morality in general, one sports philosopher had this to say:

And if it is true that there is a carry-over, and if it is true that the whole aspect of morality is abused, and if it is true that this form of participation leads to a truncation of moral development, then why is it that citizens are supporting these activities? Governments, in fact, are pouring millions of dollars into facilities and programs associated with these organizations.¹²

The condonation or acceptance of cheating in sport is another element that contributes to a dysfunctional society. There will always be those, in any activity, who are prepared to do whatever is necessary to achieve material success, by fair means or foul. In athletics, this means the fatalistic acceptance that there can be no winning without cheating or evading the rules, because "everyone does it." We must guard against this insidious notion.

As Bruce Kidd said in his testimony, Canadians must re-create the moral basis of sport. We must examine to what extent our expectations of our athletes have contributed to the current unacceptable situation in sport in Canada. We must examine, too, whether the programs supported by the federal government have contributed to the problem, and indeed whether the funds provided by the government are being utilized in a manner consistent with the fostering of those values and ethics which are so important to us as Canadians.

PART
SIX

Conclusions and
Recommendations

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Conclusions and Recommendations

OVERVIEW

At the first public session of this Inquiry, I posed these questions:

Have we, as Canadians, lost track of what athletic competition is all about? Is there too much emphasis by the public and by the media on the winning of a gold medal in Olympic competition as the only achievement worthy of recognition?

In my opinion, the answers will in large measure determine the future of sport in Canada.

When I speak of sport in this context, I refer particularly to those sports of the summer and winter Olympics in which athletes compete nationally and internationally. These competitions include not only the Olympic Games themselves and the Pan American Games, both of which are held under the auspices of the International Olympic

Committee, but also the Commonwealth Games and numerous international meets held throughout the year under the rules of the various international sport federations. Canadian athletes also compete nationally under the auspices of national sport organizations that select the athletes who compete internationally. Many of these national competitions are designated as pre-Olympic events and as such are part of the Olympic movement and subject to the rules that govern the Olympics.

The fundamental principles of the Olympic movement are stated in the Olympic Charter as follows:

1. The aims of the Olympic Movement are:
 - to promote the development of those physical and moral qualities which are the basis of sport,
 - to educate young people through sport in a spirit of better understanding between each other and of friendship, thereby helping to build a better and more peaceful world,
 - to spread the Olympic principles throughout the world, thereby creating international goodwill,
 - to bring together the athletes of the world in the great four-yearly sport festival, the Olympic Games.

The charter also states:

3. The Olympic Games take place every four years. *They unite Olympic competitors of all countries in fair and equal competition.*
[Emphasis added]

Unfortunately, the noble sentiments and lofty ideals proclaimed in the Olympic Charter are a far cry from the reality of international competition. This reality has not until recently been widely known, but the conspiracy of silence has now been broken and the truth revealed. Truth is not always pleasant.

The evidence in this Inquiry establishes that for many years in many of the Olympic events, Canadian athletes have resorted to performance-enhancing drugs and other banned practices, thereby gaining an unfair advantage over those who did not do so, and most of the cheaters have gone undetected. Those who have cheated have threatened the very future of sport and tarnished its reputation, perhaps irreparably. They have also unfairly cast a cloud of suspicion over the majority of athletes, who abide by the rules, and have threatened their future financial support from governments, corporations, and the general public.

But Canadian athletes are not alone. The use of drugs extends to the highest levels of international competition. It is a serious problem both in Canada and internationally. The brief submitted on behalf of the Canadian Olympic Association acknowledged that there is "a deep crack in the armour of the Olympic ideals: drug use at the highest level of sport." In my opinion, that is an understatement.

How is it that this sorry state of affairs has been allowed to continue for so long? We must consider whether there are other factors that have contributed to it — whether we, as a society, and those who govern sport must also share the responsibility.

Cheating in sport, I fear, is partially a reflection of today's society. Drugs and the unprincipled pursuit of wealth and fame at any cost now threaten our very social fabric. It is little wonder that immorality has reached into sport as well. Of course, cheating as such is not a new phenomenon in Olympic competition, but the methods used to cheat have become more and more innovative and more pervasive. Moreover, the use of drugs as the method of cheating has reached epidemic proportions.

We have placed pressures on our young men and women which have tempted them to cheat, even at the risk of their own health. I have detailed these pressures in this

report. They afford no excuse to those who have cheated, since all our athletes are subject to the same pressures and temptations and the majority do not succumb. However, in determining responsibility, these factors cannot be overlooked.

The athletes who cheat must bear their full share of responsibility for the damage they have done to themselves and to sport, but they should not be held solely responsible. Until now the focus has been only on the athletes. It is obvious that a broader net of responsibility will need to be cast. Coaches, physicians, therapists, and others involved in the care and training of athletes cannot escape responsibility for the sorry state of sport today.

As a society we have created a climate in sport in which the only good is perceived to be winning and the manner of doing so of no consequence. Only the winner is accorded praise and financial reward without recognition of the outstanding achievements of those who also compete but do not come first. The role of the media in fostering and encouraging this narrow, superficial view of success cannot be ignored. I have detailed in this report the negative reaction by the media to outstanding performances by Canadian athletes that did not result in gold medals. This too has placed the wrong emphasis on what sport is all about.

If winning a gold medal in Olympic competition is the only achievement worthy of recognition, then everything is permissible in order to win. Such a proposition is completely unacceptable. But I do not mean to say that we must now accept mediocrity. We must strive for a true excellence, not the hollow victory of the cheater.

At its inception, participation in Olympic competition was available only to amateurs. That is no longer the case. Some participants are truly professionals; others are professionals in all but name. Indeed, in the high-profile Olympic sports, many participants devote virtually all of their time

to sport to the exclusion of employment, study, or other vocations. In addition, significant financial rewards are available to them. The Olympic Games and other international athletic competitions have become substantial commercial enterprises, particularly with the advent of television. The financial rewards for those conducting competitions and potentially for the athletes who compete are now enormous. The athlete who wins a gold medal in international competition or breaks a world record in a high-profile sport can become a millionaire overnight from commercial endorsements and appearance fees. Commercialization of amateur athletic competition need not be a corrupting influence, but it does increase the temptation for those who are inclined to cheat.

The drugs of choice in recent years have been anabolic steroids. Not until the mid-1970s was a suitable method devised to detect anabolic steroids in a urine sample, but, for the most part, athletes were tested only at the time of competition. It was well known by those who were responsible for conducting the competitions that in-competition testing was not effective for detecting the use of anabolic steroids. The limits of testing were also well known to the athletes, as well as to the coaches, physicians, and others who were encouraging them to use the drugs. They were able to make a mockery of the doping control procedures and used those drugs with impunity.

The failure of many sport-governing bodies to treat the drug problem more seriously and to take more effective means to detect and deter the use of such drugs has also contributed in large measure to the extensive use of drugs by athletes. Added to the laxity of enforcement has been a laxity of investigation. When an athlete was detected using performance-enhancing drugs, only the athlete was disciplined and the incident was treated as an aberration. No inquiries were made about the circumstances under which

the athlete took the drugs, and whether responsibility should also attach to coaches, physicians, or indeed to the athletic organizations themselves. Thus, no investigation was made into the true extent of the use of drugs and what influenced the athlete to use them.

The use of drugs and other banned practices to improve performance beyond one's own natural ability is cheating. Cheating is the antithesis of sport, but it is not the disease, only a symptom. The root problem is the lack of ethical and moral values. Ethical and moral questions have permeated all aspects of this Inquiry, and unethical and immoral behaviour has been apparent in many contexts. There is a moral crisis in sport. We are at the crossroads and must decide whether the values that once defined the very meaning of sport still have meaning in the context of sport today.

Financial support for the sport organizations and the athletes is largely dependent on public funds, principally from the Government of Canada and to a lesser degree from provincial governments and municipalities. It is axiomatic, I think, that if ethics and morality and the sporting ideal have no place in the future of athletic competition and if public funds are being used by athletes for drugs or other banned practices, financial support should not be continued. Furthermore, no public funds should be provided to any athletic organization that carries on its activities without regard for moral and ethical considerations. To do so would be contrary to the fundamental principles and objectives which form the basis for government funding.

I do not think that Canadians believe that everything is permissible in order to win. They do expect athletes to compete in accordance with the highest standards of fair play, ethics, and morality that define the parameters of sport, even if some competitors do not. Indeed, the strongest opponents of drugs and cheating are the athletes and

coaches who do not engage in such practices but whose own reputations have been blemished by the doubt cast upon all athletes and coaches by the conduct of those who do cheat.

The use of drugs in sport is not only an ethical issue. Of equal concern is the health of the athletes. Anabolic steroids in particular and the manner in which they are used pose serious risks to the health of all who use them, especially the young. I have discussed the risks in detail earlier in this report.

The use of anabolic steroids is not confined to those who participate in Olympic sports. They are used by athletes who compete in other sports, including football, powerlifting, and bodybuilding. I have detailed the extent of the use of these drugs both in Canada and internationally. I have also described the supply and distribution of anabolic steroids to a black market in Canada worth up to \$60 million annually and said to be more profitable than trafficking in hard drugs. Equally alarming is the evidence of the extent of the use of anabolic steroids by teenagers, particularly young males. Drugs are being used by our young people not only as a way of gaining an edge in athletic competition but also as a means of improving their physique and image. Their source is also the black market.

Because of the increasing awareness of the serious risks to the health of those who use anabolic steroids, the matter has recently been the subject of studies in the United States, the United Kingdom, and Australia.

Senator Joseph R. Biden, who in 1989 chaired a United States Senate Committee which studied the extent of use of anabolic steroids in that country and the serious risks to the health of those who use them, estimated that about 500,000 teenagers in the United States were using anabolic steroids. In Senator Biden's language, "their lives were

threatened by the many dangers imposed by steroid abuse . . . steroid abuse threatens the mental and physical welfare of thousands of our fittest, healthiest, brightest young people.”

The situation in Canada is comparable. Commission investigators, who are experienced drug-enforcement officers, discovered that anabolic steroids were readily available across Canada and can be found in physical fitness centres, gymnasiums, and high school locker rooms.

Anabolic steroids are prescription drugs and their use is regulated pursuant to the *Food and Drugs Act*. The current controls, however, are very limited, and the law-enforcement agencies have been hampered in their endeavours to deal with the illegal sale and distribution of these drugs.

Because of the growing concern over the harm caused by the abuse of anabolic steroids, legislators in the United States, the United Kingdom, Australia, and elsewhere are taking steps to increase the control of these substances in their equivalent legislation beyond those presently provided in the *Food and Drugs Act*.

Anabolic steroids are not the only drugs being used. Athletes and others are resorting to other drugs, such as growth hormone, which pose equally serious health risks, all of which I have also dealt with earlier in this report. Many legislatures are increasing the control of human growth hormone as they are of anabolic steroids.

It is apparent, I think, that the use of these drugs is not merely the concern of those directly engaged in the administration of or participation in sport. It is a grave social problem and a matter of public concern. There is no single solution, no easy remedy that would let us return to a mythical problem-free era in sport. The most obvious solution, that of more drug testing, was unanimously recommended by the witnesses who appeared before the

Commission. Yet it is a sad commentary that the athletes we expect to uphold the ideals of sport, together with their coaches and officials, must be policed ever more closely. Drug testing in itself does not address the root problem. We must look beyond testing as the panacea that will cure this sickness in sport. While testing will always be necessary, we must ground the integrity of sport on the firmer base of fair play, ethics, and a sense of what is right.

The resolution of this problem cannot simply be left to those who govern sport nationally and internationally. The events of the last several years illustrate that. It will require a joint commitment by others, and particularly by the parents and educators of our children, whose physical and moral health is at risk. I am concerned too about the carry-over effect of a breach of ethical standards in one field, sport, to other areas of an individual's life, and about the consequent erosion of the entire value system. We cannot allow sport, which we expect to build character, to become a means of destroying it, encouraging hypocrisy and cynicism in athletes and other young people.

A message must be taken to all who participate in athletic competition, to their coaches and advisers, and particularly to all young people, which will instil in them an appreciation of the true value of sport and of self-achievement, while imparting the knowledge that athletes can compete successfully without the use of drugs and conveying an awareness of the serious risks to the health of those tempted to use them. Vigorous law-enforcement action must also be taken against those who, for profit, traffic in and distribute these drugs and endanger the health of the user. But unless the sport-governing bodies take cheating and the use of drugs more seriously in future than they have in the past, I fear that any message will not be truly effective.

If this Commission has accomplished nothing else, I hope that it has brought a public awareness of the present dangers inherent in the use of performance-enhancing substances and other banned practices.

There will be those who say that this view of sport and its purposes is idealistic and out of date, that I have taken too high a moral tone, that the modern world of sport has progressed beyond the point where the original amateur ideals of fair play, honest striving to do one's best, camaraderie, and wholesome competition have any meaning or validity. If that is indeed the view of Canadians (and I do not accept that it is), then there is no justification for government support and funding of sport.

ROLE OF GOVERNMENT IN SPORT

Government Funding

Sport is a very important part of our culture that transcends regional, ethnic, and cultural barriers. It has become a means of unifying Canadians, preserving our identity, redressing gender inequalities and discrimination against the disabled and minorities, and improving the health of our citizenry and the vitality and integrity of our society. Sport affords participants an opportunity for self-fulfilment and fosters those traits of character which should be of benefit to them as they integrate into the economic and social life of Canada. Our athletes are looked upon as models for others and particularly for young people.

Sport also affords Canadian athletes an opportunity to compete internationally, to travel abroad, and to learn from those experiences. While doing so, they are expected to be examples of a modern, thriving, healthy, and prosperous nation which values the ideals of fairness and honesty in dealing with others.

It is the essence of athletic competition that it should be conducted fairly, with an equal opportunity for all who compete based on their natural ability, and in accordance with the underlying principles of ethics and morality. That is what sport is all about. International competition is intended to promote the development of those physical and moral qualities that are the basis of sport. In addition, it is intended to bring athletes from different countries and cultures together in a spirit of friendship and better understanding.

Based on such premises, there are valid and legitimate reasons to justify government involvement in and funding of sport. To that end and to further these worthy social and national objectives, the Government of Canada, by the expenditure of public funds, has made a very substantial commitment to and investment in sport and, over the last thirty years, has become more and more involved in the development and funding of sport.

However, as the degree of involvement in and funding of sport has increased, there has been a shift of emphasis in the nature and focus of that involvement. While task force reports and government white papers acknowledge the broad objectives set forth above and the benefits of widely based participation in sport, in fact government support of sport, particularly since the mid-1970s, has more and more been channelled towards the narrow objective of winning medals in international competition. Notwithstanding protestations to the contrary, the primary objective has become the gold medal. That is evidenced by the most recent task force report — *Toward 2000: Building Canada's Sport System* — in which the proposed long-term goal of government funding and the measure of its success are clearly related to the winning of medals. This sends the wrong message to athletes, coaches, and sport organizations, all of whom are funded in one way or another by

the Government of Canada. Government funding should not enshrine victory as the sole worthy objective of participation in sport. Although there are many commendable objectives in the *Toward 2000* report, their importance is minimized when the measure of success of government investment in sport is the number of medals won in international competition.

The changed emphasis from broad-based support of sport for the general community of ordinary Canadians to high-level competitive sport demands a re-examination of the role and mandate of government in sport.

The pursuit of excellence is worthwhile and should be encouraged. But all Canadians, not just our high-performance athletes, should have the opportunity to pursue personal excellence through sport while broadening their experience and abilities with a view to their future contribution to society. Success in national and international competition should be viewed as a consequence and not as a goal of mass participation in sport. Its main value is not the glitter of gold but the inspiration it gives for even greater popular involvement in sport from all ages and interests.

This may result in our having different expectations of our athletes in international competition. Indeed, if cheating continues to be so prevalent, it is worth considering whether, at present, success in international competition is still a worthy objective. Earlier in this report I have detailed the efforts made before and subsequent to this Inquiry to eliminate doping in sport, but whether these efforts will result in a level playing field in the near future remains to be seen.

Nevertheless, I have no doubt that with the benefits of modern, drug-free training methods and coaching, Canadian athletes can compete effectively and honourably in any field. I believe too that in broadening the base of support

for sport, a greater talent pool will be identified from which future champions will emerge, while at the same time creating a healthy sporting climate for all Canadians.

RECOMMENDATIONS

- 1 THAT the mandate for those responsible for administering the funds provided by the Government of Canada for sport reflect a commitment to those principles on which government funding of sport was originally based:**
 - broad participation in sport, not solely a focus on elite sport;
 - access to sport programs by all Canadians;
 - encouragement of women in sport by ensuring equal access to sport programs and facilities;
 - encouragement of greater participation in sport by disadvantaged groups;
 - support for the disabled in sport;
 - amelioration of regional disparities in access to sport programs and facilities.

- 2 THAT provision of expert coaching and training facilities and financial assistance for our most promising athletes be continued.**

- 3 THAT those responsible for administering federal funds ensure**
 - (a) that individuals and organizations in receipt of government funding meet the ethical standards as well as the performance standards required for funding;**

- (b) that organizations in receipt of federal funding require as a condition of membership that athletes agree to comply with doping control rules, and make themselves available for testing in accordance with the organization's own requirements and those of the Sport Medicine Council of Canada;
- (c) that those involved in the health, care, and training of athletes are qualified to be so ethically as well as technically.

In general, the aim should be to encourage a climate in sport in Canada where individual excellence is a consequence of strong, broad-based community involvement in sport, and not the sole objective. The benefits of government funding of sport should be directed towards the larger community, which is not to say that support for high-level sport should cease.

RECOMMENDATIONS

- 4 THAT those responsible for administering government funds to sport consider in making funding decisions:
 - (a) the extent to which a sport organization has made its programs accessible to the broader community;
 - (b) the sport organization's record with respect to the carrying out of doping control policies;
 - (c) the manner in which the sport organization disciplines athletes, including coaches and others involved in doping infractions;
 - (d) the organization's record in encouraging participation by women, minorities, disadvantaged groups, and the disabled.

I would not exclude from consideration an organization's record of success in competition and world ranking, but I must stress that this should be but one factor in funding decisions, and by no means the overriding one.

Government Involvement in Sport

The day-to-day administration of sport in Canada has become a function of government to a degree that never was intended nor, indeed, is either healthy or appropriate for sport. The "management by objective" style of administration that appears to have evolved in the 1980s has resulted in an emphasis on elite sport and international success that has turned sport away from broad-based community participation. Sport Canada has been the guiding force behind that change of direction. That it should have perceived this to be its role is not surprising, given the statement in the 1981 white paper, *A Challenge to the Nation: Fitness and Amateur Sport in the '80s*, to the effect that the federal government's commitment to sport in the 1980s "means that the government's support will be largely channelled in the direction of international competitions such as the Olympic, Commonwealth and Pan American Games — as well as bilateral competitions" [emphasis added].

In order to fulfil the expectations contained in the white paper and justify increased funding to sport, Sport Canada took a leading role in structuring and directing sport in Canada towards the creation of international medal winners. Victory in the international sporting arena became a measure of the success not only of the athletes, coaches, and sport federations, but of Sport Canada itself and its officials. The staff of Sport Canada are highly qualified and motivated people, and their expertise is invaluable in any

future plans for sport in Canada. But their efforts must be channelled in a new direction. It is appropriate for government to fund sport but not be involved in the day-to-day operations of the sport organizations. Sport Canada may not have intended to use its funding as a means of regulating sport, but it is clear that the sport community perceives its actions to have grown beyond those of a granting agency. I believe that Canada is unique among Western nations in having government control so closely the ordinary functions of the sport federations.

Sport Canada's mandate is:

- to provide leadership, policy direction, and financial assistance for the development of the Canadian Sport System;
- to provide support for the attainment of the highest possible level of achievement by Canada in international sport;
- to provide support for initiatives aimed at increasing the number of Canadians participating in sport.

Indeed, one of Sport Canada's own goals for the achieving of its mandate is expressed in those terms:

- to provide administrative and technical leadership, policy direction, consultative services and financial resources *to assist national sport organizations to function effectively as the primary agents for the development of their sport in Canada.* [Emphasis added]

In my opinion, it is possible for Sport Canada to fulfil that mandate while respecting the independence of the sport federations in the day-to-day administration and regulation of sport. Since Canada is unique among Western nations in having government control so closely the ordinary

functions of sport, I have, however, considered the advisability of recommending the establishment of an independent body charged with the responsibility of administering the funding and supervising the development of sport in Canada as the Sports Council does in Britain. That concept is attractive to me because such a body operates independently of the government. However, no one who appeared before the Commission submitted that such a body was appropriate for Canada. Therefore, in the absence of a full airing of the matter, I am not prepared to make an express recommendation to that effect.

RECOMMENDATIONS

- 5 THAT the federal government examine its relationship with sport in Canada and consider the creation of a mechanism to ensure that:**
 - (a) an arm's-length relationship is maintained between government and the sport-governing bodies;
 - (b) the provision of government funding to sport does not result in day-to-day control of sport by government;
 - (c) the wider social goals of government funding of sport are being met;
 - (d) the measure of success of government funding be linked not to medal count, but to the degree to which it has met the social, educational, and national goals of government for sport.

- 6 THAT Sport Canada continue its international antidoping role at the ministerial and government-to-government level, including its current efforts in promoting multi-lateral and bilateral antidoping agreements between**

nations, in conjunction with the activities of the Sport Medicine Council of Canada working at the sport organization level.

- 7 THAT decisions on eligibility for competition remain a function of the sport-governing bodies themselves. While the federal government can and should reserve the right to determine what individuals and bodies receive government funding, it is not appropriate for the Government of Canada to determine who is eligible to compete in either domestic or international competition.

Athlete Assistance Program

In the Eastern Bloc countries, athletes who compete internationally are usually treated as civil servants and compete as servants of the state. Their full time is devoted to athletic competition with a view to achieving success in the Olympics and other international competitions. International competition has become a contest not between athletes but between countries, and success in athletic competition is pursued as a means of demonstrating the superiority of governments and ideologies. We have seen that the use of anabolic steroids as a tool for achieving success is prevalent in Eastern Bloc countries, and we have seen what a destructive force that has been.

Many countries in the Western world also support, to varying degrees, athletes competing internationally, but with far less government involvement. For example, in West Germany and the United Kingdom athletes are aided financially by national governments and local municipalities but principally through athletic clubs where athletic activity is centred. In the United States, there is no direct funding of athletes by either the federal or state governments, and financial support for athletes is largely by athletic scholarships and private sponsorships.

In Canada, we have taken a middle ground. We recognize that athletic competition requires the athlete to devote a great deal of time to training. Many of our young athletes could not find the time to do so if they were at the same time required to seek part-time jobs in order to pursue their academic studies.

At its inception, the Athlete Assistance Program was designed to provide the athletes with modest financial support, relieving them of the obligation of seeking part-time work so that they could pursue their academic studies while actively participating in athletic competition. The carded athletes were amateurs and were expected to continue to be amateurs, although for some of them this is no longer the case. The program was designed not to provide for a professional athletic career but to aid the athletes in preparing for their careers on retirement from athletic competition. For this purpose, the Athlete Assistance Program also provides funds for the athletes to pursue their education while competing and for a short period of time after their competitive days are over.

There are obviously not enough funds to support every aspiring athlete, and some standards have to be set. The Athlete Assistance Program is intended to encourage and reward excellence. But as the program developed, the standards agreed upon by the sport federations and Sport Canada measured an athlete's performance against that of the best athletes in the world.

Many athletes have said that the standards required for funding have been achieved with the aid of performance-enhancing drugs. In their view, they had to follow suit in order to be eligible for funding, and they urged that the standards be reduced. Earlier in this report, I rejected that contention and concluded that reducing standards would not be an effective way of eliminating the use of drugs in sport.

Nevertheless, in my opinion, the basis of eligibility for carding should be changed. The present system denies some of our best Canadian athletes eligibility for carding solely on the basis that they cannot measure up to world standards. Because funding our most promising athletes is a good investment for their own future and for their future contribution to society, the basis of qualification should be measured against Canada's best performances. Obviously, some regard must be had to the applicant's ability to compete internationally but not necessarily to be a medal contender.

It must also be recognized that many of the athletes receiving financial assistance were earning substantial incomes from their athletic achievements. I see no reason why, if an athlete is able to earn a substantial income, funding should not then cease and the moneys be granted to another young athlete who is one of Canada's best but is not able to earn sufficient funds to pursue athletics and simultaneously prepare for a future career. The athlete's means should be a factor in determining whether funding should be granted.

Many of the athletes who appeared before the Inquiry had been carded for many years and during that period had devoted their full time to their athletic endeavours. They were not equipped in any way for a career upon their retirement from athletic competition. All athletes who receive funding should be encouraged to pursue some course of study during their athletic careers, whether for a profession or a trade or any other calling which will equip them to pursue careers after retirement from competition, and some form of counselling services should be available to them during their period of athletic competition.

RECOMMENDATIONS

- 8 THAT domestic standards be used in determining carding levels for Canadian athletes.
- 9 THAT guidance, vocational assistance, and counselling be provided for athletes to prepare them for retirement from competition.
- 10 THAT financial need be a factor in determining whether direct government funding be provided to an athlete.

DOPING CONTROL IN CANADA

It is a matter of record, not merely of national pride, that Canada has been a leader in the fight against doping in sport. I have described Canada's international achievements including hosting the First Permanent World Conference on Antidoping in Sport in 1988. Much earlier, in 1983, the Government of Canada established its own domestic policy. Elsewhere in this report I set out the text of the 1983 Sport Canada policy on drug use and doping control in sport and the revisions to the policy in 1985. It is important to emphasize that the 1983 policy, in section 1(b), required national sport organizations to plan for testing not only at major competitions but also during training periods. By 1983, anabolic steroids had been banned for many years, and it was well known that competition testing was not effective for anabolic steroids and related substances. Although Sport Canada appears to have been pressuring certain national sport federations to comply with its policy, its efforts were ineffective and were resisted. Therefore in practice virtually all testing of Canadian athletes occurred at major competitions only.

It is also important to note that the penalty for use of banned drugs as stated in section 2(a) of the 1983 policy is suspension from all federal funding, provided directly or indirectly via national sport organizations, to athletes. This policy, however, was not consistently enforced. In many cases suspended athletes continued to train with a national team and to receive other indirect benefits. One athlete who gave evidence in this Inquiry even competed in demonstration events while under suspension.

It must be pointed out that, with respect to individual athletes, the only suspension in Sport Canada's power is by means of government funding, which in my opinion should relate to direct funding of athletes, not indirect funding, and not eligibility for competition. The sport federations themselves should decide whether an athlete is eligible to compete. Consequently, an athlete may be barred from receiving government funding but may be deemed eligible to compete by the sport federations.

The 1983 policy required that a funding suspension be invoked for the longer of the competition suspension imposed by the national and the international federations. Nevertheless there were instances of domestic suspensions shorter than international suspensions during which the athletes were allowed to compete domestically.

Section 3 of the policy required that athletes agree in writing not to use or possess banned substances. Many athletes received federal money although they did not sign the required contract or they signed but removed the required clause.

Section 5 of the policy contemplated penalties for those who counselled the use of banned drugs. Sport Canada neither ensured that national sport organizations were investigating nor did it have its own process for investigating infractions applying to coaches and other support personnel.

The Sport Canada policy and its revision were announced with great fanfare. It is apparent from the evidence gathered in this Inquiry, however, that many athletes and sport organizers ignored the policy. The focus of action was solely on testing for drugs at competitions. The broader aspects of the policy, such as the prohibition against possession of banned substances and the potential for penalties against coaches and others assisting athletes, were never invoked. The December 14, 1983, press release from Sport Canada announcing the new policy stated that "any athlete convicted of a civil or criminal offence involving a drug on the banned list shall be similarly suspended from eligibility for the Athlete Assistance Program and other federal government support. Harsher sanctions will be invoked against coaches, medical practitioners, or other support personnel who have proven to have encouraged others to use banned drugs in contravention of international rules." Athletes saw no evidence that coaches, medical practitioners, and other support personnel ever received penalties from Sport Canada.

The provisions of the 1985 revised policy were similarly honoured in the breach. Section 4 requires athletes, not only carded athletes but all directly and indirectly funded athletes, to make themselves available for both regularly scheduled and ad hoc random doping control. However, it was not until two years later that any random doping control occurred in Canada, and even that was done by only one national sport organization, the Canadian Weightlifting Federation. Virtually all testing was regularly scheduled with ample advance warning to the athletes.

While it is appropriate for Sport Canada to set out a policy as it did in 1983, revising it in 1985, it is apparent that a new approach needs to be taken to ensure that the policy is put into practice. The Sport Medicine Council of Canada already performs a large part of the doping control

functions that a model doping control agency would do, and as an independent agency it can continue to work with the impartiality needed to be effective and accepted by the sporting community. In particular, it should be given broad investigative powers with respect to the circumstances of doping infractions, including the power to review any investigation carried out by the national sport organizations.

RECOMMENDATION

- 11** THAT the Sport Medicine Council of Canada, pursuant to Sport Canada's antidoping policy direction and under the supervision of the Sport Medicine Council's Advisory Committee, expand its present role to become the central independent agency responsible for doping control of Canadian athletes and coordination of Canada's antidoping activities. Functions of the expanded Sport Medicine Council of Canada should include:
- (a) investigating and reporting to Sport Canada incidents of doping infractions to determine the parties involved, patterns of supply and distribution of banned substances, and other relevant circumstances;
 - (b) coordinating educational programs among sport organizations and agencies and assisting professional groups in developing educational campaigns;
 - (c) monitoring the extent of drug use and assessing Canadian needs for athlete testing;
 - (d) entering into and administering agreements with testing laboratories;
 - (e) determining patterns of testing and methodology for selecting athletes for testing in conjunction with the national sport organizations and other involved parties;

- (f) initiating and coordinating athlete testing;
- (g) training and deploying doping control officers;
- (h) developing and refining standard operating procedures and protocols for in-competition and out-of-competition testing;
- (i) compiling information on doping in sport in cooperation with libraries, professional organizations, and other information repositories;
- (j) negotiating and entering into international testing agreements with the International Olympic Committee and the international federations and with doping control agencies in other countries;
- (k) stimulating research on testing, substances, epidemiology, deterrence, and other matters related to doping in sport;
- (l) collaborating with national sport organizations, government, major games organizations, event organizers, universities, colleges, professional sport organizations, and others on matters related to athlete testing;
- (m) ensuring that all national sport organizations require that all athletes as a condition of eligibility agree to submit to the doping control;
- (n) publishing reports, including an annual report, on doping control activities; and
- (o) continuing its current activities in sport medicine research, drug-free training methods, and the health and well-being of athletes.

Funding of Doping Control

It is unfortunate, to say the least, that increasing amounts of time and money must be spent testing athletes who engage in what has traditionally been considered the noble pursuit of sport. At the time of the Commission hearings, in addition to funding national sport organizations and athletes, Sport Canada was spending more than half a million dollars on doping control, and that amount is projected to increase. Pursuant to the Sport Canada antidoping policy, all federal funds were conditional on compliance with that policy. The national sport organizations have an obligation to enforce the antidoping policy among their membership and comply with the conditions of funding. Recognizing that the sooner the drug problem is solved, the sooner will drug-testing resources be freed to help pay for training and competition, I believe that the sport organizations must commit a portion of their budgets to doping control and not merely request new money or expect to use their present doping control budgets for other activities.

RECOMMENDATION

- 12 THAT national sport organizations contribute a fixed percentage of their overall budgets to the funding of doping control activities of the Sport Medicine Council of Canada.**

I have described how the Olympic Games have become a lucrative commercial enterprise. It is only right that those responsible for the games share the cost of enforcing the rules. As noted earlier in this report, the Canadian Olympic Association receives funds from the federal government, particularly in years in which the Olympic Games are held.

RECOMMENDATION

- 13 THAT the Canadian Olympic Association contribute to the cost of enforcing the International Olympic Committee's doping control rules in Canada and in particular contribute to the costs incurred by the Sport Medicine Council of Canada.

Out-of-Competition Testing

Earlier in this report I described what I call the fallacy of in-competition testing. It is clear that out-of-competition testing is necessary and that there are many ways to do this, including "targeting" individuals and sports considered high risks for doping.

RECOMMENDATIONS

- 14 THAT doping controls be weighted towards unannounced out-of-competition testing. Because of the difficulties of conducting tests without notice in a large country like Canada, it is recommended that the Sport Medicine Council of Canada establish a mixture of techniques including without-notice, short-notice, and targeted tests. The out-of-competition tests should also be weighted towards high-risk sports. The successful Nordic doping control program should be studied as a model for a Canadian out-of-competition program.
- 15 THAT new sampling methods be used to increase the deterrent effect of testing while reducing the cost. For example, urine samples could be collected from many athletes with only some of the collected samples actually submitted to the laboratory for testing. The athletes would nevertheless face the *possibility* that their samples would be tested.

Laboratory Monopoly

I have also described how accreditation of laboratories by the IOC has created a monopoly of laboratories that has not benefited the Canadian taxpayer. Although it is necessary to ensure that Canadian athletes are tested by competent laboratories, it is clear that more than one laboratory in Canada can do so. The accreditation of the Calgary laboratory for the 1988 Winter Olympic Games is proof that more than one Canadian laboratory can satisfy the rigorous standards for IOC accreditation. Other laboratories in Canada at present engaged in testing for hospitals, governments, universities, or other organizations may also be capable of meeting the IOC standards. Indeed, given these resources, it is not clear that the testing of Canadian athletes within Canada need be conducted under the auspices of the IOC. The use of an external accrediting body like the IOC must be re-examined with a view to encouraging an open and competitive source of laboratory testing.

RECOMMENDATION

- 16** THAT the Sport Medicine Council of Canada use competitive tendering to engage the services of laboratories for testing Canadian athletes and that Health and Welfare Canada set standards for the competence of these laboratories.

I find it incongruous that IOC laboratory accreditation is determined by the heads of some of the very laboratories that receive accreditation.

RECOMMENDATION

- 17** THAT to avoid conflicts of interest, the competence of laboratories, including laboratories accredited by the International Olympic Committee, be determined by persons at arm's length from the laboratories under consideration, and in particular that the Canadian Olympic Association urge the IOC to take steps to remove the present conflict of interest that exists in the IOC laboratory-accreditation process.

Competition and Doping Control

Recognizing that Canadian athletes compete not only within Canada but around the world, I think it reasonable for Canadians to insist that other competitors abide by the rules.

RECOMMENDATION

- 18** THAT those responsible for administering the funds provided by the Government of Canada encourage Canadian sport organizations to permit their athletes to compete only with athletes from other countries whose doping control programs are as stringent as those in Canada.

Doping Control Appeals

The present right of appeal from a positive doping control test result is limited to technical administrative grounds concerning the integrity of the sample. In my opinion, those grounds should be expanded, as described in the model antidoping program referred to earlier in this report, to include challenges to the scientific validity of the test.

RECOMMENDATION

- 19** THAT the grounds of appeal against a positive doping control test result be expanded to include challenges to the scientific validity of the test.

ANABOLIC STEROIDS AND HEALTH

I am satisfied that there are serious risks to the health of athletes who use anabolic steroids to improve their performance. There is no doubt that anabolic steroids, taken even in therapeutic dosages, have potentially serious adverse effects. The evidence is clear, however, that athletes not only use these drugs without medical supervision but, more importantly, take much larger doses, over longer periods of time, and for no medical purpose, with correspondingly greater risks to their health. In addition, the evidence shows that athletes are using drugs manufactured for veterinary use only.

In the past some athletes were able to obtain anabolic steroids from their physicians, but even in those cases they do not appear to have been monitored carefully. In Canada this use has now largely been curtailed and the main source is the black market.

In addition to the abuse of anabolic steroids by athletes, there is growing evidence of increased use of these substances by young people at the high school level, particularly young boys, in a misguided attempt to improve their appearance and without any appreciation of the serious risks to their health. The apparently ready availability of anabolic steroids in gyms and locker rooms is a serious concern that must be addressed.

Earlier in this report, I reviewed in detail the manner in which these substances are regulated. Anabolic steroids, with the exception of stanozolol and boldenone, fall under Part II of Schedule F to the *Food and Drugs Act* regulations. As such, they are among the least regulated substances in the Act, having no penalty for simple possession or for possession for the purposes of distribution without a prescription and only minor penalties for illegal sale, importation, or distribution. Stanozolol, boldenone, and human growth hormone are no more tightly regulated, except that they do not have the veterinary and agricultural use exemptions enjoyed by Part II Drugs.

Decisions about the classification of a substance in the scheme of control and regulation set out in the *Food and Drugs Act* and the *Narcotic Control Act* are taken by the minister of national health and welfare, based on considerations of:

- the degree of medical usefulness, and
- the degree of health and social hazard associated with each substance.

The evidence before this Inquiry indicates not only a limited medical usefulness but also a significant health and social hazard associated with the use of these substances. There is a widespread, thriving black market in anabolic steroids in Canada, and dealers operate in the knowledge that the current regulatory controls are inadequate and the penalties insignificant. The abuse has spread beyond high-level sport into the gyms and high school locker rooms of the country, putting the health of athletes, recreational sports people, and high school children alike at risk. This situation cannot be allowed to continue.

I have outlined the measures being taken in other countries to regulate these substances more strictly; Canada should immediately move to do likewise. In the United States, many states not only have moved regulation of those substances into their controlled substances statutes, but have added specific prohibitions and penalties for prescribing, dispensing, or administering them for purposes of enhancing athletic performance, or increasing muscle mass, weight, or strength, purposes which are treated as having no medical validity. The particular dangers to young people are recognized by provisions for heavier penalties for offences involving minors.

RECOMMENDATIONS

- 20 THAT anabolic steroids, those in both Parts I and II of Schedule F to the *Food and Drugs Act Regulations*, in all forms other than "implant" form suitable only for veterinary or agricultural use, and human growth hormone be reclassified as Schedule G drugs. This will place them in the category of "controlled substances," making them subject to stricter regulation with correspondingly greater penalties for illegal possession, importation, and trafficking.
- 21 THAT the range of penalties be increased for offences involving minors.
- 22 THAT licensing requirements be made more stringent for all drug wholesalers, manufacturers, importers, and distributors of anabolic steroids and human growth hormone to reflect the need for increased control of those substances in light of their potential for abuse and health hazards.

- 23** THAT the minister of national health and welfare, in determining the proper classification of new substances, consider their potential for abuse in the sporting context, and, in particular, their potential for abuse by young people seeking an enhanced body image.

EDUCATION

I have emphasized the importance of educating our young people and have suggested a number of areas, including moral and ethical values, that should be emphasized.

RECOMMENDATIONS

- 24** THAT the Government of Canada, the Sport Medicine Council of Canada, and the various sport organizations apply a full range of public health education techniques to the problem of doping in sport, including education of the general public as well as athletes, coaches, officials, and other members of the sporting community.
- 25** THAT the Commission for Fair Play increase its role in public education, in particular with respect to ethics in sport, and that those athletes and coaches who have consistently throughout their careers been opposed to the use of drugs be invited to assist in these educational programs.

THE LEVEL PLAYING FIELD

One of the excuses of Canadian athletes who used banned substances was that they had to do so to compete with athletes from other countries who were also using drugs. This use may have levelled the playing field for the

cheaters, but it put those athletes who competed honestly at a great disadvantage. Canada is taking stern measures to ensure that, in future, Canadian athletes will compete without the taint of drug use. But what of the international playing field? There has been a great deal of activity on the international scene by way of conferences, proposals, agreements, and policy statements since these hearings commenced. But by no means is there cause for complacency or a belief that international sport is now free of drugs. Until each country promotes drug-free sport through educational programs and has in place and rigorously enforces random, out-of-competition, short-notice, or no-notice testing, there can be no assurance that international competition is fair.

International Amateur Athletic Federation

Of all the international sport federations, the International Amateur Athletic Federation is one of the largest and most powerful, and track and field is the most prominent of all Olympic sports. Hence the influence of the IAAF on the problem of doping in sport is considerable. It is unfortunate that it has not used its influence in a more meaningful way to eradicate the drug problem in track and field. The posture of the IAAF appears to have been to react to the problem only after the fact.

The Medical Commission of the IAAF has known since its inception that in-competition testing alone is not an effective means to detect anabolic steroids, nor is it an effective deterrent to anabolic steroid use.

In 1987 the Congress of the IAAF approved the rule that member organizations must include in their constitutions a clause requiring them to conduct out-of-competition testing and must submit a report of the testing results to the IAAF. The IAAF also was given jurisdiction to conduct

testing on its own. However, as has been noted, of the 184 member countries of the IAAF, few actually had an out-of-competition procedure in place in September 1988. Thus the rule was never enforced.

Prior to 1989, the only basis for disqualifying an athlete was a positive test. Thus, an athlete could actually have admitted using anabolic steroids to the doping control officer at the time of the urine sample collection, and the test would proceed. As long as the laboratory test itself was negative, there would be no disqualification. This was made clear by Dr Arne Ljungqvist in the following exchange:

THE COMMISSIONER: . . . up to now . . . the only basis of a doping offence, apart from the banned practices, was actually to have the substance found in your system?

THE WITNESS: Yes.

Under the IOC rules as well, a positive test is the only basis of disqualification. This fact was emphasized by IOC vice-president Richard Pound as described in the section of this report concerning the fallacy of in-competition testing.

On September 4, 1989, the IAAF established new rules. The definition of doping was expanded to include an admission by an athlete of having "taken advantage of a prohibited substance or prohibited technique." The admission was defined in these words: "a statement shall only be regarded as an admission either where it was made under oath or where it was made in writing and signed by the maker."

In January 1990 the IAAF applied that rule retroactively, and Ben Johnson and Angella Issajenko were stripped of their world records on the basis of their testimony before this Inquiry. If they had admitted the use of prohibited substances at the time the world records were established and before the test, and were then tested with negative results,

they would not have been disqualified. The only basis for disqualification at that time was a positive test result.

It is understandable that the IAAF would want to ensure that world records have been obtained validly. However, in light of the evidence at this Commission, such assurance is impossible to obtain as a matter of fact. Moreover, it is unjust as a matter of principle to change the rules retroactively. To adopt and apply retroactively a new rule contrary to the rule in place at the time the person committed the alleged infraction contravenes every principle of natural justice and fairness. Furthermore, the focus of disqualification on the basis of admission alone misses the point.

According to this new rule, if Mr Johnson and Ms Issajenko had denied their use of banned substances in their testimony at the Inquiry, their world records would still stand notwithstanding any finding to the contrary made by me on the basis of overwhelming evidence.

The evidence of those witnesses at this Inquiry who admitted their use of banned substances was in large part instrumental in uncovering the scandalous and pervasive practice of doping in sport that until then was hidden from public view, although not from the view of the national and international sport federations. To apply the new rule retroactively is to encourage the continuation of the conspiracy of silence that has allowed the problem to reach its present proportions, and will discourage athletes who would otherwise have been willing to aid in cleaning up the sport from coming forward.

In view of the testimony before this Commission, there is no guarantee that the world records that replaced those which were stripped are any less tainted, or that all the records still standing were made by drug-free athletes. Furthermore, by limiting the basis of disqualification to that of admission alone, the IAAF has foreclosed any investigation it might make on its own. Any record holder

being investigated would merely have to deny the allegation even if it were true. No other evidence, short of a positive test, would result in disqualification.

It is a concern that the IAAF appears to have made no investigation of very serious allegations made public in other inquiries. When one reads the evidence of U.S. track athlete Diane Williams before Senator Biden's Committee, reproduced earlier in this report, there is a striking similarity between her evidence and the relationship she states that she had with her coach and that of Ms Issajenko and her relationship with coach Charlie Francis. One only need recall this evidence and that of Pat Connolly and Evelyn Ashford before the Biden Committee about the number of gold medalists who they believe were using anabolic steroids.

RECOMMENDATIONS

- 26** THAT the Canadian Track and Field Association urge the International Amateur Athletic Federation to undertake investigations of doping control incidents that come to its attention within member countries and that action be taken if warranted in the circumstances.

- 27** THAT the Canadian Track and Field Association urge the International Amateur Athletic Federation to prohibit from competition member organizations that have not complied with the IAAF's own out-of-competition testing policy and that the IAAF use its financial resources to assist members in countries lacking their own resources to enable them to comply.

It appears to me that a suspension that nevertheless allows the athlete to compete in the next major world competition is a poor deterrent.

RECOMMENDATION

- 28** THAT the Canadian Track and Field Association urge the International Amateur Athletic Federation to increase the period of ineligibility for an athlete found guilty of using anabolic steroids. The period of ineligibility should at least encompass the next following world competition.

International Weightlifting Federation

The International Weightlifting Federation must be commended for its efforts to clean up the sport, although I am less than sanguine that the participants themselves are prepared to abandon drugs. In a sport that has been notorious for the use of banned substances and practices, and which has had more positive tests and disqualifications than any other, the new measures being taken by the international governing body are an encouraging sign. However, it is obvious from the numbers of positive tests in weightlifting, even up to the Commonwealth Games in New Zealand in 1990, that doping is endemic in this particular athletic pursuit. It is equally clear that the participants regard doping control measures as obstacles to be overcome or avoided rather than as rules within which to operate.

Notwithstanding the measures taken by the IWF to eliminate doping from weightlifting, it remains to be seen whether there is any real intent on the part of the participants themselves to abide by the rules. If Canada indeed succeeds in eliminating doping from weightlifting in this country, there is no assurance that Canadian weightlifters will be competing against clean athletes internationally. In these circumstances, it is difficult to support continued funding for international competition in weightlifting.

RECOMMENDATION

- 29** THAT the expanded Sport Medicine Council of Canada monitor and report on the success of the International Weightlifting Federation's antidoping program to assist Sport Canada to determine whether funding should be continued for Canadian weightlifters to compete in international competition.

International Olympic Committee

The International Olympic Committee is the most powerful, prestigious, and wealthy body involved in international sport and it has been described as "the ultimate sports club." The IOC has been aware for many years of the prevalence of drug use in Olympic sports. It also knew that testing at competition time was an inadequate method of detection and deterrence. Dr Donike and Dr Dugal, two members of the IOC subcommission on doping and biochemistry of sport, testified that they have known since before the introduction of testing for anabolic steroids at Olympic Games that in-competition testing was an ineffective means of detecting the use of such drugs. Yet the appearance of clean, fair competition was maintained while those directly involved in sport knew that the reality was otherwise. The IOC has recently been involved in a number of initiatives designed to improve methods of detection and deterrence of drug use, including bilateral and multilateral agreements between countries to test each other's athletes at short notice, out of competition. While these efforts are to be commended, and offer some encouragement for the future, the IOC must be more vigilant in order to ensure a level playing field.

The April 1989 Resolution of the Canadian Olympic Association to exclude from participation in its programs, games, and funding any sport failing to implement short-notice, out-of-competition testing for its members is one of the most encouraging signs of a new era in sport in Canada. Such a resolution, extended to the international arena, could go far in ensuring an international level playing field.

RECOMMENDATIONS

- 30 **THAT** the Canadian Olympic Association urge the International Olympic Committee and other national Olympic committees to pass and enforce resolutions excluding from participation in and funding for the Olympic Games and other games under IOC auspices any national sport organization that fails to have in place and actually implement an effective doping control policy.
- 31 **THAT** the Canadian Olympic Association urge the International Olympic Committee to monitor and carry out its own review of the testing programs of national sport federations, and refuse Olympic eligibility where the program is not effective in detecting and deterring drug use.
- 32 **THAT** the Canadian Olympic Association propose to the International Olympic Committee that the IOC contribute to the funding of effective doping control programs in those countries whose resources are unable to bear the cost of such programs.
- 33 **THAT** the Canadian Olympic Association encourage the International Olympic Committee to sponsor the establishment of an independent world doping control agency.

MEDICAL PROFESSION

In earlier sections of this report, I have described the evidence concerning physicians who provided banned substances to athletes for the sole purpose of improving athletic performance. It is encouraging to note that the respective governing bodies of the medical profession have deemed these practices to be in contravention of the rules of professional conduct.

RECOMMENDATION

- 34** THAT the sport-governing bodies, the Sport Medicine Council of Canada, and other major organizations in the administration of sport establish a reporting procedure to inform the provincial colleges of physicians and surgeons when the circumstances of a doping infraction suggest that a physician has been improperly involved in the supply, distribution, or administration of banned substances.

COACHING PROFESSION

Because of the leading role played by coaches in the lives of athletes, and particularly in their moral and ethical behaviour, it is clear that coaching must be of the highest standards. It is also apparent from the evidence that coaches, who work closely with the athletes on a daily basis, are likely to observe the effects of drug use by athletes.

RECOMMENDATIONS

- 35** THAT all coaches receiving federal funding be certified by the Coaching Association of Canada.

- 36** THAT national sport organizations establish rules requiring coaches to report to the Sport Medicine Council of Canada and the relevant national sport organization suspected drug abuse by athletes, with appropriate penalties for failure to do so.
- 37** THAT national sport-governing bodies establish under their rules a mechanism for investigation, adjudication, penalizing, and appeal of offences involving coaches.

ATHLETES' RIGHTS

As I have stated earlier in this report, the rights of athletes must be respected. It is apparent that athletes have a number of areas for potential disagreement with their sport-governing bodies, including not only doping infractions and eligibility to compete, but also the broad range of rules that govern the conduct of amateur athletes. At present there is no uniform method of resolving these disputes.

RECOMMENDATION

- 38** THAT all national sport-governing bodies establish within their own rules a grievance process through which athletes may receive a fair hearing from the sport-governing body itself, including a mechanism for arbitration by an independent arbitrator mutually acceptable to the parties.

PENALTIES

One of the most difficult problems in doping control is to establish fair, effective, and uniform penalties, not only for athletes, but also for coaches and others in the sport

community who cheat or help others to cheat. This difficulty is compounded by the many parties involved in sport, including national and international organizations as well as governments and individuals. I do not intend to set out a complete code of penalties here but rather to indicate the principles and the direction to follow for those responsible for the administration of sport. It is important, for example, to distinguish present penalties from those that might be adopted in future and to distinguish penalties governing eligibility to compete from penalties governing receipt of Sport Canada funding.

RECOMMENDATIONS

- 39 THAT no athlete or coach be penalized solely on the basis of his or her own testimony before this Commission.
- 40 THAT there be no retroactive imposition of penalties or creation of offences that were not in effect at the time of the infraction, and that the penalties imposed be only those permitted under the rules at the time of the infraction.
- 41 THAT a positive laboratory test not be the sole means of proof of a doping offence and that Sport Canada, the Sport Medicine Council of Canada, and the sport-governing bodies develop investigative procedures to supplement the present reliance on laboratory tests.

Sport Canada Penalties

Earlier in this report, I have set out the text of the December 1983 Sport Canada antidoping policy, the purpose of which was twofold: (1) to prevent cheating by those who were receiving government funds either directly

or indirectly; and (2) to protect the health of athletes tempted to use banned substances. I will now focus on the penalties set out in that policy.

The policy provided that any athlete who had been proven through appropriate due process to have used banned drugs would be suspended forthwith from eligibility for Sport Canada's Athlete Assistance Program and any other financial or program support provided directly or indirectly to athletes by Sport Canada through national sport organizations. It further provided that any athlete who had been proven to be in possession of anabolic steroids or related compounds or to have supplied them to others should also be immediately suspended from Sport Canada funding. The period of withdrawal of benefits was for the longer of one year or the duration of the suspension imposed by the international and national sport federations. Second offences would result in a lifetime withdrawal of federal benefits. The one-year minimum suspension for a first offence and the lifetime suspension for a second offence roughly paralleled the suspensions imposed by the sport organizations, which themselves imposed suspensions ranging from a few months to two years for a first offence and up to a lifetime ban for a second offence.

The policy required that national sport organizations develop a list of drug-related infractions applying to coaches and medical, technical, administrative, and other support personnel engaged on a voluntary or professional basis by the NSO or one of its affiliates. The policy also proclaimed that such personnel who had counselled athletes, coaches, medical personnel, or other support staff to use anabolic steroids or other drugs on the banned list should be withdrawn from eligibility for federal government sport programs immediately upon proof of the infraction.

In 1985 the policy was revised. The new policy provided that individuals proven to have violated antidoping rules involving anabolic steroids would be subject automatically to a lifetime withdrawal of eligibility for all federal government sport programs or benefits. It also provided for an appeal from a lifetime suspension to the minister of state for fitness and amateur sport. The lifetime suspension was stated in terms of "individuals," not only "athletes," and hence it was not clear from the wording of the policy whether the lifetime suspension or the appeal to the minister also applied to coaches, medical personnel, and others, but in practice only athletes were suspended for life. The inclusion of a lifetime suspension in the range of penalties was obviously the result of the awareness of the extent of use of anabolic steroids and the failure of the 1983 policy to deter such use.

Eligibility to Compete

It is important to emphasize that the current lifetime ban from government benefits for the use of anabolic steroids applies not only to direct government funding but also to indirect funding, which has been interpreted by Sport Canada to exclude participation in any athletic activity, including competitions, within sport federations funded by the Government of Canada. Sport Canada extends the ban to any activity on the basis that mere participation amounts to indirect receipt of government financial assistance. In my view, as I have stated earlier in this report, although withdrawal of government funding should be the decision of government, eligibility to compete should be the decision of the athlete's sport-governing body. Sport Canada's penalties for athletes should be limited to withdrawal of direct government funding.

Right of Appeal

Although the Sport Canada policy incorporates a right of appeal from the lifetime withdrawal of funding, that appeal is to the minister. Without intending a reflection on the impartiality of any minister, in my view basic principles of the appearance of fairness dictate that a right of appeal should be allowed to a person other than the one who originally levied the penalty. Furthermore, there should be a right of appeal to an independent arbitrator, not only for athletes, but also for coaches and others deprived of funding.

Lifetime Withdrawal of Government Funding

For many athletes, a lifetime withdrawal of direct government funding means the end of international competition for them. It must be noted, however, that, in addition to violating the doping control policy, it is a contractual condition of funding that the athlete agree not to use or possess anabolic steroids, and breach of those contractual provisions is, in my opinion, an aggravating factor. The permanent withdrawal of government funding for a first violation is a heavy penalty, but it is one that in my view might well in some circumstances be an appropriate consequence of the athlete's use of anabolic steroids or related compounds to cheat. There may be circumstances in a particular case, however, that would suggest a lesser penalty. Hence there should continue to be a right of appeal but that right of appeal should be to an independent arbitrator after the athlete has served the suspension from eligibility imposed by the sport federations. On appeal, the onus should be on the athlete to show why the suspension should be lifted.

Special Circumstances

In hearing appeals, the arbitrator should consider all the circumstances of the case, including but not limited to:

- the age and experience of the athlete;
- the frequency and duration of drug use;
- whether the athlete was carded and therefore whether his or her conduct was aggravated by breach of the express conditions of funding;
- cooperation with investigating bodies, which in principle is an important mitigating factor;
- the possibility of rehabilitation;
- the length of penalty imposed by sport-governing bodies;
- the conduct of the athlete during the period of suspension.

RECOMMENDATIONS

- 42** THAT Sport Canada continue to suspend from direct federal funding athletes who have deliberately violated the Sport Canada antidoping policy and that for all infractions, including anabolic steroid use, there be a right of appeal to an independent arbitrator rather than to the minister. The appeal should be permitted only after the athlete has served the suspension from eligibility imposed by the relevant sport-governing bodies, and the onus should be on the athlete to show why the funding suspension should be lifted. This right of appeal against the funding suspension should be in addition to the right of appeal on technical grounds concerning the test itself as set out in my recommendations with respect to doping control.

- 43** THAT Sport Canada develop criteria under which the funding of a sport organization would be suspended if, after investigation by the Sport Medicine Council of Canada, the organization has been proven to have failed to take all reasonable measures to avoid doping infractions by its members.
- 44** THAT Sport Canada suspend from funding any sport organization that fails to enforce contractual obligations concerning doping in sport with athletes, coaches, and others in receipt of federal funding.

Coaches

As noted above, coaches guilty of doping infractions are also subject to suspension from government funding. It is not clear whether there is a right of appeal from that suspension. In my view there should be. It cannot be overlooked that withdrawal of funding from a coach can amount to permanent denial of the opportunity to gain a livelihood in his or her chosen field.

RECOMMENDATIONS

- 45** THAT national sport organizations establish penalties applicable to coaches involved in doping infractions that are at least as stringent as penalties applying to athletes.
- 46** THAT Sport Canada explicitly apply a continuing suspension from funding for coaches involved in anabolic steroid offences with a right of appeal to an independent arbitrator after any suspension by the sport federation has elapsed; as in the case of athletes, the onus should be on the coach to show why the funding suspension should be lifted.

Sport Organization Penalties

If the problem of cheating in sport is to be solved, the individuals and organizations responsible for sport must take a serious look at the present penalties for cheating. Briefly stated, if the rewards for a cheater even when caught are greater than for obeying the rules, cheating will continue. When role models in sport, or in any other endeavour, are seen to cheat and prosper, then it is natural that young people will learn to do the same. An effective penalty should ensure that there are greater disadvantages than advantages to cheating. On the other hand, I have stated my view that it is unjust to apply penalties retroactively. Those who commit infractions are entitled to be assured that they will not face unforeseen penalties levied in the future. Hence the following recommendations should not apply to past infractions.

RECOMMENDATIONS

- 47** THAT the Canadian Olympic Association urge the International Olympic Committee to amend its rules so that in future any athlete found positive in a doping control test is banned from the next Olympic Games following the end of the period of suspension imposed by the sport federations and that similar rules apply with respect to all games under the auspices of the IOC.

- 48** THAT national sport organizations in Canada impose in future, and urge their respective international federations to impose, stricter penalties for doping infractions.

- 49** THAT anyone assisting an athlete to defeat or attempt to defeat a doping control test receive the same penalty as if the assisting individual had committed a doping infraction.
- 50** THAT a condition of reinstatement for any athlete suspended for any doping infraction be that the athlete agree to be tested during the period of suspension in accordance with the doping control requirements of the national sport organization.

WEIGHTLIFTING

Weightlifting officials in Canada appear to be serious in their determination to eliminate the doping practices that are endemic in the sport. The evidence of what transpired in Vancouver prior to the 1988 Olympics, however, shows that until there is a change in the thinking of the athletes themselves and their coaches, testing alone will not eradicate doping from the sport. There has to be a recognition and acceptance that doping not only poses risks to the health and well-being of those who participate, but is cheating, and destroys the moral fibre of the young men who find themselves caught up in the deception that goes along with doping.

The failure of the coaches to take strong action partly explains the paradox evident in the sport of weightlifting. On the one hand, the Canadian Weightlifting Federation was the leading federation in this country in the practical use of drug testing, whether in-competition, predeparture, or random testing; on the other hand, despite the testing programs, the athletes, with the connivance of their coaches, continued their disgraceful history of drug use. Without moral leadership, drug testing alone is not the answer.

Mr Zuffellato, the assistant coach to Canada's Olympic weightlifting team, impressed me as someone with a genuine concern for his sport. However, when faced with the choice of helping the athletes to cheat or preventing them from doing so, he breached his duty as a coach and actually assisted them in their attempt to defeat the doping control.

Mr Kulesza, however, bears the greater responsibility. As national weightlifting coach, he had a duty to his athletes, the federation, the sport of weightlifting, and the federal government, which provided the money that enabled the federation to hire him, to discourage the use of drugs by the athletes. He was derelict in all of those duties. Notwithstanding his protestations to the contrary, I have no doubt that he knew the extent to which his athletes were involved in taking performance-enhancing drugs during training and prior to competition and by his own conduct condoned that use. Furthermore, it is clear to me that he knew the Czechoslovakian training camps were a major factor in the use of banned substances by his athletes. I am satisfied that he was aware of the plot to defeat the doping control tests in Vancouver by the use of catheters, and that he took no steps to prevent it. I am equally satisfied that he knew that all of this was a breach of the conditions of government funding to his athletes and to himself, and contrary to the policies of his national federation, the international federation, and the rules of the IOC. He did not acknowledge his own involvement or the harm he had done to his athletes and his sport.

RECOMMENDATIONS

- 51 **THAT** Andrzej Kulesza be suspended from receipt of federal funds used to engage his services as a professional in the sport of weightlifting. In keeping with the principles

and procedures I have recommended with respect to penalties, he should have a right of appeal to an independent arbitrator at the end of whatever period of suspension is imposed by the weightlifting federations based on the findings in this report. Unfortunately, I see no mitigating factors in his case. I would expect the arbitrator to take into account the nature and extent of the doping offences with which Mr Kulesza was involved, his failure to cooperate with this Inquiry and with the doping control measures of the International Weightlifting Federation and the Canadian Weightlifting Federation, and his unwillingness to acknowledge the seriousness of his actions. In addition, I consider it no small matter that he was at the time of these activities Canada's national weightlifting coach.

- 52 THAT the Sport Canada suspension from receipt of federal funding be maintained in the case of those weightlifters already under suspension as a result of positive doping control results, subject to the right of appeal which I have outlined.
- 53 THAT in keeping with my recommendations that no penalty be levied against an athlete or coach solely on the basis of his or her own evidence before this Commission, federal funding should also be withdrawn from Denis Garon. The evidence, apart entirely from his own, shows he was involved in purchasing and using anabolic steroids at the Czech training camps in 1988.
- 54 THAT with respect to other weightlifters, apart from those who have had positive doping control tests, because there is not sufficient evidence to warrant the imposition of penalties, aside from their own admissions of doping infractions after December 1985, no penalties can be imposed.

Weightlifters Langis Côté and Denis Garon and coach Raphael Zuffellato assisted with the attempt to defeat the doping control in Vancouver in 1988, but this was not specifically set out in either the Canadian Weightlifting Federation or Sport Canada doping control policies as an offence. Consequently, they cannot be penalized on that account alone. However, I have recommended that, in future, assisting an athlete to defeat or attempt to defeat a doping control test be included as an offence in both the CWFHC and Sport Canada doping control policies.

RECOMMENDATION

- 55** THAT the Sport Medicine Council of Canada monitor closely the antidoping policies of the Canadian Weightlifting Federation and report to Sport Canada on their effectiveness with a view to assisting Sport Canada in determining whether funding to the federation should continue.

It is clear that foreign training camps are a major source of temptation and supply of banned substances for weightlifters.

RECOMMENDATION

- 56** THAT funding be suspended for attendance at foreign training camps until such time, in the opinion of the Sport Medicine Council of Canada and Sport Canada, they are no longer a contributing factor to doping problems in Canadian weightlifting.

CANADIAN TRACK AND FIELD ASSOCIATION

It is apparent from the details I have set forth in the chapter on the Canadian Track and Field Association that over the years information about the use of performance-enhancing drugs by CTFA athletes came to the attention of officials of the CTFA. The information was of such a serious nature that inquiries should have been commenced. No such inquiries were ever made. The information was consistently discarded as rumour and of no weight, and was often attributed to mere expressions of jealousy. It is true that in some cases the information could be described as rumours, but over the years these stories became increasingly prevalent and worthy of some inquiry into their basis.

In addition to the rumours, however, the CTFA had the benefit of opinions expressed by knowledgeable and responsible coaches and athletes, and those opinions should not have been ignored. Of particular significance, information was given to officials of the CTFA which, if pursued, would have constituted evidence of the use of drugs by athletes who were competing under its banner. Rather than encouraging a full investigation of the matter, the response by the CTFA to the information and complaints foreclosed any effective inquiry. The excuse for the failure to make such inquiries was the opinion, amounting to a fixation, of the executive of the CTFA that only a positive test could be the basis of disciplinary action.

Persistently overlooked was that, since December 1983, the CTFA was required by Sport Canada to include as a condition of funding in the contract of every carded athlete an undertaking not to use or be in possession of anabolic steroids. Since 1985, it was a further requirement of government funding that athletes make themselves available for regularly scheduled and ad hoc random doping control. These requirements were not enforced by

the CTFA and appear to have been ignored by them. Indeed, the athletes were permitted to delete the provision in the contract with respect to out-of-competition testing and they continued to be funded and eligible for competition. The officials of the CTFA mistakenly felt helpless to require any athlete to submit to a test other than during competition and they failed to follow up on information which might well have established that the athletes were in actual possession of performance-enhancing substances.

Furthermore, in those cases where athletes were disqualified after a positive test, only the athlete was penalized. No inquiry was ever made about the circumstances that led to the positive test and whether responsibility should also have been attached to the athlete's coach or physician or to any official.

The board of directors of the CTFA cannot escape responsibility for its failure to have made at least some effort to inquire into the facts and to determine the question of responsibility. Although the board is composed of volunteers, and I think well-intentioned ones, it was nevertheless their duty to oversee what was transpiring in the association.

Although a good deal of the information about suspected drug use was never brought to the attention of the board, some of it was reported to Jean-Guy Ouellette, vice-president of the association between 1977 and 1982 and chairman of the board since 1986. I was impressed with the sincerity of Mr Ouellette, who, I think, was anxious to eliminate the use of drugs in track and field, although the steps taken to pursue that end were long delayed. He was inclined to give the benefit of the doubt to the athletes and their coaches. He also relied on the advice of the association's chief executive officer, Wilf Wedmann, who was most familiar with the rumours, complaints, and allegations being made about drug use by CTFA athletes.

Mr Wedmann was president and chief executive officer of the CTFA from 1985 to May 1988. He came to the position well qualified and with excellent credentials and, in his own way, devoted himself to the promotion and development of track and field in Canada. I think it would be somewhat of an overstatement to conclude that he deliberately sought to cover up the use of performance-enhancing drugs by some of the track and field athletes. It may be that it was his inability to appreciate the scope of the problem and the significance of the information which came to his attention that led him to ignore the significant warning signals that prefigured what occurred in Seoul. However, he must have given the impression to those who were seeking action that he preferred not to hear about the problem and was prepared to turn a blind eye rather than deal with it. Mr Wedmann believed that the only solution was to institute random testing. That being so, the implementation of a new doping control policy should have been a matter of first priority. I have detailed earlier the painfully slow process leading to a procedure for random testing. Mr Wedmann is no longer directly associated with the CTFA.

It was a condition of funding of the CTFA after 1983 that some form of random testing would be implemented. It was apparent that Sport Canada was prodding the CTFA to do so, and yet nothing was done to implement such a procedure until after the Seoul Olympics in September 1988. Previously, it was assumed that the entire costs of doping control would be provided out of public funds in addition to the annual grants provided to the national sport organizations. The Sport Medicine Council of Canada paid the entire sum for testing, and Sport Canada provided the funds for the national sport organization's administrative costs of the program.

The CTFA resisted the implementation of more extensive doping control procedures on the basis that the entire cost should be funded by Sport Canada. Yet it is disturbing to note that a large part of the funds provided to the CTFA by Sport Canada in 1989 for out-of-competition testing appears to have been spent merely to attend an international symposium on doping control held in Stockholm, Sweden.

What has been overlooked throughout, in my opinion, is that all funding granted to national sport organizations was intended to be conditional on their implementing the doping control policy enunciated by Sport Canada. When the Government of Canada provides funds to national sport organizations and to athletes conditional on the implementation and enforcement of doping control procedures, it should not be the responsibility of government to provide additional funds for the sport organizations to implement those procedures. In light of the evidence I have heard, doping control should have been a matter of first priority for the CTFA for many years, and moneys should have been allocated by the CTFA for that purpose even if other programs had to be eliminated or reduced. It is the responsibility of national sport organizations to police their own athletes, and, unless they assume their share of financial responsibility for doing so, they will feel somehow that it is not their affair.

Apart from the question of funding, however, it does appear that under the present administration the CTFA has taken the question of doping seriously and has developed new procedures which should increase the detection of the use of drugs and, of equal significance, deter others who may be tempted to use them. The new executive is, I am sure, serious in its determination to eliminate the use of drugs in track and field in Canada.

RECOMMENDATIONS

- 57 THAT the Canadian Track and Field Association contribute from its operating budget to the expenses incurred by the Sport Medicine Council of Canada for doping control of Canadian athletes.
- 58 THAT Sport Canada withdraw funding from the Canadian Track and Field Association and its member athletes if the CTFA fails to enforce the contractual provisions of the Sport Canada antidoping policy.
- 59 THAT the Canadian Track and Field Association establish a reporting mechanism to inform the board of directors of potential doping problems within the CTFA membership.
- 60 THAT the Canadian Track and Field Association establish a procedure for the immediate investigation of the circumstances of any doping infraction and report the findings to the Sport Medicine Council of Canada.
- 61 THAT the Athlete Reserve Fund be administered as a true trust fund and with the objective of protecting the athlete's financial future on retirement from competition.

Charlie Francis

Mr Francis has devoted almost his entire life to track and field in Canada. I found him to be an extremely knowledgeable individual on the technical aspects of his profession. I have no doubt that he developed the athletic abilities of his athletes to a high degree by his training methods. But when he resorted to supplementing his own coaching methods and his athletes' natural abilities with drugs, he tainted their achievements as well as his own.

As a coach he had a duty, both morally and contractually, to instil in his athletes the true values of sport and to discourage them from cheating, even those who were inclined to do so on their own. His determination that the athletes trained by him would become the best in the world led him to ignore the ethical and moral values of sport and his duty as a coach. Similarly, he ignored his duty to abide by the rules of the national and international federations and the IOC and by the policies of Sport Canada, which funded his salary as a coach.

It would be unfair, as was suggested during his cross-examination by counsel for Mr Johnson, to conclude that Mr Francis encouraged his athletes to use steroids in order to exploit them. He was not motivated with a view of financial gain. For many years, he coached purely as a volunteer. Later on, when paid, his salary was a very modest one, and the bonus that he received in 1988 was not unreasonable. Because he relied on the advice of physicians who understated the adverse effects, I do not think he was fully aware of the risks to which his athletes were being exposed by the use of anabolic steroids. In a misguided way, he was convinced that he was helping his athletes. But, in doing so, he led them to accept cheating and lying as an acceptable way of life, which could only have resulted in the loss of their own self-esteem and self-respect and in the denial of the satisfaction of self-achievement. Thus, in the end, he failed them and himself, as well as the sport to which he had devoted so much of his life.

It is only fair to say, however, that by his testimony and the cooperation he gave to the Commission, he has made an important contribution to addressing the problem of the use of performance-enhancing drugs in sport, a problem to which he had so significantly contributed.

RECOMMENDATION

- 62 THAT Charlie Francis be suspended from receipt of federal funds used to engage his services as a professional in the sport of track and field. In accordance with the procedures I have recommended elsewhere, he should have a right of appeal to an independent arbitrator at the end of any suspension period imposed by the sport federations. In Mr Francis's case, factors to be considered are the extent to which he contributed to the spread and acceptance of drugs in elite sport; his participation in the conspiracy of silence surrounding drug use in sport up to the time of his evidence before this Commission; his full cooperation with the work of this Commission, which I consider a significant mitigating factor; the contribution he made to the sport of track and field; and the care and development of his athletes apart from his involvement with drugs.

Angella Issajenko

Ms Issajenko has expressed her desire to become a coach. There are few who have greater knowledge of training methods and practices, and of the importance of dedication to the sport than Ms Issajenko. The contribution she made to the work of the Commission is, I think, an important mitigating factor in considering her future. Ms Issajenko is no longer actively competing, and no longer a carded athlete. Suspension of federal funding in her case is therefore academic.

However, the evidence, apart from her own testimony, shows that she knowingly and consistently breached the 1985 Sport Canada antidoping policy, the current penalty for which is a lifetime ban from federal funding. She has

already been penalized by being stripped of her world record by the IAAF (an action I have commented on elsewhere in this report).

RECOMMENDATIONS

- 63** THAT if Angella Issajenko wishes to coach athletes in the future, she obtain certification from the Canadian Coaching Association, in accordance with recommendations which I have made with respect to coaches in general. I have stated elsewhere that such certification should be a prerequisite to receiving federal funding for coaches.
- 64** THAT in determining whether Ms Issajenko should be funded by the federal government as a coach in the future, consideration should be given, apart from her long-time use of banned substances and her participation for many years in the conspiracy of silence, to her openness before this Commission and her assistance in uncovering the deplorable practices in international competition.

Dr Jamie Astaphan

It would be unfair to describe Dr Astaphan's relationship with his patients as solely that of a supplier of steroids. For many of them, he became their general physician and looked after their needs, in particular those physical problems which arose by reason of their athletic endeavours. In that respect he practised in the field of sport medicine and, from all accounts, he was a very competent physician in this area, and his patients spoke highly of him. He spent a great deal of time with each of his patients and took a particular interest in their athletic endeavours.

For most of the years of his association with Mr Francis and his athletes, monetary reward did not seem to be a paramount consideration. Indeed, many of the athletes did not pay him for the drugs he was administering to them. It was only in 1988 that Dr Astaphan began to consider the opportunity for substantial financial reward by reason of the services he was rendering to this group of athletes and, in particular, to Mr Johnson.

Dr Astaphan expressed the opinion that anabolic steroids taken in limited dosages and over a short period of time would not result in any harmful health effects. In this respect, however, he was somewhat inconsistent, having regard to his insistence that he detailed the potential side effects of the drugs and carefully monitored his athlete patients. I do not accept his evidence about the extent of the details of the side effects of anabolic steroids which he claimed he had explained to the athletes, nor about the extent of the monitoring of them that he professed to have made.

Since anabolic steroids are not manufactured to be administered to healthy humans for the purpose of enhancing athletic performance, there is no prescribed dosage for such a purpose, nor did Dr Astaphan define "limited dosages" or "a short period of time." In any event, because Dr Astaphan supplied the athletes with bottles of the pills and vials of the injectable anabolic steroids, he was not able to monitor the amount of drugs that the athletes were taking on their own. He was well aware that most athletes on a steroid program are inclined to take very large dosages of those drugs, even when obtained from a physician. He became deeply involved with the performance of the athletes, as if he were a part of the coaching team, which led him to deal with them in other than a physician-patient relationship.

I do not accept Dr Astaphan's opinion about the minimal harmful effects of anabolic steroids, a subject which

is dealt with elsewhere in this report. Be that as it may, Dr Astaphan went far beyond a normal physician-patient relationship in the manner in which he provided steroids to the athletes. In obtaining drugs on the black market and supplying them to his patients, it cannot be said that he was merely prescribing drugs as a normal function of a physician. In addition, the evidence shows that he supplied and administered drugs manufactured for veterinary use only, and I am satisfied that he did not advise the athletes that he was doing so.

Furthermore, as a member of the medical profession, he was expected to conduct himself, both in his practice and elsewhere, in an ethical fashion. By supplying drugs, he encouraged his athlete patients to cheat and gave them the impression that such a practice was acceptable to society. He also gave them a false sense of security that, under his care, they were not being exposed to a serious risk to their health.

RECOMMENDATIONS

- 65** THAT the College of Physicians and Surgeons of Ontario review the conduct of Dr George Mario Astaphan, now practising medicine in St Kitts, with a view to taking whatever disciplinary action it deems appropriate in the light of the evidence before this Commission and my findings.

Dr Ara Artinian

I have previously outlined the involvement of Dr Artinian with the supply of anabolic steroids and other performance-enhancing substances.

RECOMMENDATION

- 66** THAT the College of Physicians and Surgeons of Ontario review the conduct of Dr Ara Artinian with a view to taking whatever disciplinary action it deems appropriate in the light of the evidence before this Commission and my findings.

Waldemar Matuszewski

I have already reviewed Mr Matuszewski's involvement with the use of drugs.

RECOMMENDATION

- 67** THAT Waldemar Matuszewski be suspended from federal funding, with a right of appeal to an independent arbitrator.

Ben Johnson and the Disqualification at the Seoul Olympics

I am satisfied, apart entirely from his own evidence, that Mr Johnson had for many years used anabolic steroids to enhance his athletic performance and that he was well aware he was doing so and knew that anabolic steroids were banned, although I do not think he was fully aware of the health risks involved. He denied those with whom he competed a level playing field and deprived worthy athletes of an opportunity to represent Canada internationally. As a carded athlete his cheating was aggravated because he was obligated as a condition of receiving public funding to agree not to use or be in possession of anabolic steroids. Furthermore, as a member of a team selected to

represent Canada in international competition, he was a role model for young people and had a special obligation towards them.

Having said that, the circumstances that led Mr Johnson to use drugs cannot be overlooked. In the view of his coach, Mr Johnson had the potential to be a world champion if aided by drugs. He competed in a highly commercialized sport in which winning was the only measure of success and the means of financial reward. Public and media pressure demanded winning at all cost. Having been encouraged by his coach and physician to use drugs, knowing that his teammates were also doing so, and in the atmosphere of the times, one can understand, although not excuse, Mr Johnson's following suit.

Although I can understand the circumstances that led Mr Johnson to use performance-enhancing substances, I cannot understand how, after his return from Seoul, following his disqualification, and knowing that he had been using performance-enhancing substances for several years, he would allow himself to be a party to an orchestrated plan he knew would mislead the Canadian public and the international sporting community into believing that he had never used performance-enhancing drugs, had never cheated, and had somehow wrongfully been deprived of his gold medal. This plan was emboldened by his request for a public inquiry.

RECOMMENDATION

- 68** THAT the Sport Canada suspension from federal funding to Ben Johnson be maintained. In accordance with the general principles to which I have referred elsewhere, his eligibility to compete must be decided by the sport federations and the Olympic organizations in accordance with the penalties in force at the time of his infraction. As is

the case with other suspended athletes; Mr Johnson should have a right of appeal from the funding suspension to an independent arbitrator after he has served his suspension from eligibility to compete. In addition to the general factors that an arbitrator should consider which I have earlier set forth, in Mr Johnson's case consideration should be given to the mitigating circumstances I have outlined, such as the influence of his coach and physician, as well as his long-time use of banned substances, his participation for many years in the conspiracy of silence, his public denial of wrongdoing up to the moment he himself gave evidence at this Inquiry, and the added expense to which he put the Commission by reason of this conduct.

Other Track and Field Athletes

A great deal of evidence was heard concerning the use by other track and field athletes of banned substances. Some of those athletes no longer compete, and the withdrawal of funding is of no concern to them. In the case of those athletes still competing, or likely to in the future, I refer again to the broad principles which I set out elsewhere with respect to penalties.

With those principles in mind, I am satisfied that, apart entirely from their own evidence, the following athletes, although not having tested positive, were in breach of the Sport Canada doping control policy on the basis of the evidence of other witnesses: Molly Killingbeck, Dave McKnight, Mark McKoy, Andrew Mowatt, Tony Sharpe, Mike Sokolowski, Cheryl Thibedeau, and Desai Williams.

RECOMMENDATION

- 69** THAT Molly Killingbeck, Dave McKnight, Mark McKoy, Andrew Mowatt, Tony Sharpe, Mike Sokolowski, Cheryl Thibedeau, and Desai Williams be suspended from funding with a right of appeal to an independent arbitrator. As in all cases, their eligibility to compete should be determined by the sport organizations.

Peter Dajia, Rob Gray, and Mike Spiritoso, who tested positive in 1986, were suspended from funding.

RECOMMENDATION

- 70** THAT the suspension from federal funding of Peter Dajia, Rob Gray, and Mike Spiritoso be maintained, subject to a right of appeal to an independent arbitrator at the end of the period of ineligibility as determined by the sport federations in accordance with the penalty in force at the time of the infraction. In effect, they may now be entitled to appeal that funding suspension. However, as I have said with respect to penalties in general, the onus is on the athlete to show why the suspension should be lifted.

Appendices

Appendix A

P.C. 1988-2361



PRIVY COUNCIL

Certified to be a true copy of a Minute of a Meeting of the Committee of the
Privy Council, approved by Her Excellency the Governor General
on the 5th day of October, 1988.

WHEREAS there is a clear public concern with respect to the use of various drugs and banned practices intended to increase athletic performance;

AND WHEREAS recent events warrant the establishment of an inquiry with the capacity to examine the issues and determine the facts with respect to the use of such drugs and banned practices;

Therefore, the Committee of the Privy Council, on the recommendation of the Prime Minister, advise that a Commission do issue under Part I of the Inquiries Act and under the Great Seal of Canada, appointing the Honourable Charles Leonard Dubin, the Associate Chief Justice of Ontario, to be a Commissioner to inquire into and report on the facts and circumstances surrounding the use of such drugs and banned practices by Canadian athletes, including the recent cases involving athletes who were to, or did, compete in the Olympic Games in Seoul, South Korea, and to inquire into and to make recommendations regarding the issues related to the use of such drugs and banned practices in sport, and

The Committee do further advise that

- (a) pursuant to section 37 of the Judges Act, the Honourable Charles Leonard Dubin be authorized to act as a Commissioner in the inquiry;
- (b) the Commissioner be authorized, subject to paragraph (c), to adopt such procedures and methods as he may from time to time deem expedient for the proper conduct of the inquiry;
- (c) the Commissioner be directed to establish an advisory panel; or advisory panels, including such sports, medical or legal experts as are in his opinion necessary for the purposes of the inquiry;

- (d) the Commissioner be authorized to consult with such groups, bodies or individuals having responsibility for, or authority or expertise in dealing with, on a national or international basis, the use of such drugs and banned practices as may, in his opinion, be required for the inquiry and to sit at such times and such places, whether within or outside Canada, as may be required for the purposes of the inquiry;
- (e) the Commissioner be authorized to rent such space and facilities as may be required for the purposes of the inquiry, in accordance with Treasury Board policies;
- (f) the Commissioner be authorized to engage the services of such experts and other persons as are referred to in section 11 of the Inquiries Act, at such rates of remuneration and reimbursement as may be approved by the Treasury Board;
- (g) the Commissioner be directed to advise the Governor in Council as to which, if any, of the groups or individuals that may appear before him, should receive assistance with respect to the legal costs they may incur in respect of those appearances, and the extent of such assistance, where such assistance would, in the opinion of the Commissioner, be in the public interest;
- (h) the Commissioner be directed to submit his report in both official languages to the Governor in Council with all reasonable dispatch; and
- (i) the Commissioner be directed to file the records and papers of the inquiry as soon as reasonably may be after the conclusion of the inquiry, with the Clerk of the Privy Council.

CERTIFIED TO BE A TRUE COPY - COPIE CERTIFIÉE CONFORME



CLERK OF THE PRIVY COUNCIL - LE GREFFIER DU CONSEIL PRIVÉ

Appendix B

INDIVIDUALS AND ORGANIZATIONS APPEARING OR REPRESENTED AT THE INQUIRY

Individuals are identified by their role as pertinent to this Inquiry.

Individuals/Organizations	Counsel
Gus Alevizos University football player	
Dr Ara Artinian	Randal T. Hughes
Dr George Mario (Jamie) Astaphan	David H. Sookram Lorne Levine
Angela Bailey Sprinter	Paul R. Basso
David Bain High school football player	
Tim Bethune Sprinter	

Individuals/Organizations	Counsel
Glen Bogue Canadian Track and Field Association	
David Bolduc Weightlifter	Daniel Caisse
Steven Brisbois Bodybuilder	Harvey M. Salem, QC
Duncan Brownell University football player	
Shirley Cain Organon Canada Limited	
Richard Campion Canadian Weightlifting Federation	Allan Lutfy, QC
Canadian Interuniversity Athletic Union	George C. House, QC
Canadian Olympic Association	Ralph S. McCreath, QC Robert L. Falby, QC Darryl Mann
Canadian Track and Field Association	Roger C.J. Bourque
Canadian Weightlifting Federation	Allan Lutfy, QC
Mario Chagnon University football player	
Yvon Chouinard Canadian Weightlifting Federation	Allan Lutfy, QC

Individuals/Organizations

Counsel

College of Physicians & Surgeons
of Ontario

Julian H. Porter, QC
Richard H. Steinecke

Langis Côté
Weightlifter

Yves Poupart

Bruce Coulter
Bishop's University

John E. Hackett

William Crothers
Former track and field athlete

Paul Cutler
Pharmacist

Peter Dajia
Shot putter and discus thrower

David Zarek

John Davies
University football player

Dennis Degan
United States Food and
Drug Administration

Eugene M. Thirolf

Jacques Demers
Weightlifter

Daniel Caisse

Bishop Dolegiewicz
Former track and field athlete

Christopher Ashby
Sara Hickling

Manfred Donike
International Olympic Committee
Medical Commission

Thomas C. Barber
Robert C. Morrow

Rose Drake
E.L. Stickley & Co. Ltd

Individuals/Organizations

Counsel

Robert Dugal
INRS-Santé (laboratory)

Thomas C. Barber
Robert C. Morrow

Paul F. Dupré
Canadian Track and Field
Association

Roger C.J. Bourque

Ross Earl
Scarborough Optimist Track
and Field Club

Robert P. Sullivan

Larry F. Eldridge
Canadian Track and Field
Association

Roger C.J. Bourque

Steven Findlay
Canadian Track and Field
Association

Paul B. Kane

Donald S. Fletcher
Canadian Track and Field
Association

Roger C.J. Bourque

Clarke James Flynn
Bobsledder

Charles (Charlie) Francis
Coach

W. Roy McMurtry, QC
Alan Pratt

Denis Garon
Weightlifter

Guy Poupart

Paramjit Gill
Weightlifter

Norman Gledhill
Sport Medicine Council of Canada

Thomas C. Barber
Robert C. Morrow

Individuals/Organizations	Counsel
Government of Canada	Edward R. Sojonky, QC Joseph de Pencier Alain Préfontaine
Geoff R. Gowan Coaching Association of Canada	
Robert Gray Discus thrower	Terrance J. O'Sullivan
Guy Greavette Weightlifter	Denis Mondor
Walter Greczko Commission investigator	
Bernd Heller Sports broadcaster German Democratic Republic	
Don Hiatt St Christopher and Nevis, W.I.	
Andrew Higgins Coach	
Abby Hoffman Sport Canada	Edward R. Sojonky, QC Joseph de Pencier Alain Préfontaine
Andrew Holmes Health and Welfare Canada	
Angella Issajenko Sprinter	Dennis R. O'Connor, QC Gayle Pinheiro

Individuals/Organizations

Anthony Issajenko
Sprinter

Roger C. Jackson
Canadian Olympic Association

Ben Johnson
Sprinter

Marjorie Keast
Ontario, Ministry of Tourism
and Recreation

Christopher L. Kelly
Canadian Track and Field
Association

Dr Robert Kerr

Bruce Kidd
Professor of Physical and Health
Education and former track
and field athlete

Joseph Kiefer
Sterling Drug Ltd

Molly Killingbeck
Sprinter

Dr Gunther Helge Koch

Andrzej Kulesza
Coach

Sylvie Lallier
Quebec Provincial Police

Counsel

Dennis R. O'Connor, QC
Gayle Pinheiro

Ralph S. McCreath, QC
Robert L. Falby, QC
Darryl Mann

Edward M. Futerman, QC
Lorne M. Lipkus

Roger C.J. Bourque

G.W. Daniel Kirby
Penny S. Bonner

Dennis R. O'Connor, QC
Gayle Pinheiro

Linda R. Rothstein

Joel A. Silcoff
Marie Trudel

Individuals/Organizations

Carol Anne Letheren
Chef de mission, Canadian
Olympic Team, Seoul

Benoît Lévesque
Bodybuilder

Arne Ljungqvist
International Amateur Athletic
Federation

Deborah C. Lloyd
Ontario Veterinary Association

Richard Lococo
University football player

Mark Logan
University football player

Gary Lubin
Coach

Rolf Lund
Ontario Track and Field
Association

Linda McCurdy-Cameron
High jumper

Brian McKinnon
Coach

Terrence B. McKinty
Canadian Track and Field
Association

Counsel

Ralph S. McCreath, QC
Robert L. Falby, QC
Darryl Mann

Robert J. Clayton

Lawrence S. Gold

Andrew A. Buckstein

Roger C.J. Bourque

Individuals/Organizations

Counsel

Dave McKnight
Sprinter

Mark McKoy
Hurdler

Tom MacWilliam
Canadian Track and Field
Association

Lyle M. Makosky
Fitness and Amateur Sport

Christian Maksimovich
University football player

Ivan Maksimovich
Bodybuilder

Daniel Markus
University football player

Andy Marshall
University football player

Waldemar Matuszewski
Physiotherapist

William Morassutti
University football player

Benoît Paul Morin
Canadian Association of
Bobsleigh and Luge

Andrew Mowatt
Sprinter

Roger C.J. Bourque

Edward R. Sojonky, QC
Joseph de Pencier
Alain Préfontaine

Les Sosnowski
Michael W. Czuma

Individuals/Organizations

John Robert Mumford
Coach

Ontario Track and Field
Association

Shane Oldfield
University football player

Milt Ottey
High jumper

Jean-Guy Ouellette
Canadian Track and Field
Association

Charles Oxley
University football player

Frank Paradiso
University football player

Louis Payer
Weightlifter

Ann Peel
Race walker

Andrew Pipe
Sport Medicine Council of
Canada

Warren Bruce Pirnie
Coach

Richard W. Pound
International Olympic Committee

Counsel

Paul R. Basso

Andrew A. Buckstein

Pierre C. Fournier

Daniel Caisse

Thomas C. Barber
Robert C. Morrow

Individuals/Organizations

Counsel

Robert Pugh
Canadian Interuniversity
Athletic Union

George C. House, QC

Claude Ranger
Canadian Weightlifting Federation

Allan Lutfy, QC

Ken Read
Canadian Olympic Association

Ralph S. McCreath, QC
Robert L. Falby, QC
Darryl Mann

Warren Robinson
University football player

Kevin Roy
Weightlifter

David Wiseman

Pierre Roy
Coach

Michael J. Ryan
University football player

Don Sauder
Sterling Drug Ltd

G.W. Daniel Kirby
Penny S. Bonner

Bruce Savage
Canadian Track and Field
Association

Roger C.J. Bourque

Scarborough Optimists Track
and Field Club

Robert P. Sullivan

Robert E. Secord
Ontario Ministry of Tourism
and Recreation

Individuals/Organizations

Counsel

Anthony Sharpe
Sprinter

Cecil Smith
Ontario Track and Field
Association

Michael Sokolowski
Sprinter

Mary Southgate
Taro Pharmaceutical Inc.

Michael Spiritoso
Shot putter

Sport Medicine Council
of Canada

Ken St Germain
Commission investigator

William Stanish
Chief Medical Officer, Canadian
Olympic Team, Seoul

David Steen
Decathlete

Sterling Drug Ltd

Dr Jack Sussman

Andrew Swim
Bobsledder

Andrew A. Buckstein

Adam S. Albright

Thomas C. Barber
Robert C. Morrow

Ralph S. McCreath, QC
Robert L. Falby, QC
Darryl Mann

James W. McCutcheon, QC

G.W. Daniel Kirby
Penny S. Bonner

Individuals/Organizations

Louis Taffo
University football player

Cheryl Thibedeau
Sprinter

Casey Wade
Canadian Track and Field
Association

Wilfred Wedmann
Canadian Sport and Fitness
Administration Centre

Desai Williams
Sprinter

Lynn Williams
Distance runner

Raphael Zuffellato
Coach

Counsel

Roger C.J. Bourque

Jeremy M. Freedman

Appendix C

PUBLIC SUBMISSIONS TO THE COMMISSION

Anistics

Professor Rob Beamish, School of Physical and Health Education,
Queen's University, and Professor Bruce Kidd, School of Physical
and Health Education, University of Toronto

Ken Black, MPP, Ontario

John Brewin,* MP, New Democratic Party critic for Fitness and
Amateur Sport

Canadian Association for Health, Physical Education and
Recreation (CAHPER)

Canadian Colleges Athletic Association
Glenn Ruiter*

Canadian Intramural Recreation Association

Canadian Parks/Recreation Association

Canadian Pharmaceutical Association
Leroy Fevang*

Canadian Veterinary Medical Association
Christiane Gagnon*

Coaching Association of Canada

Cross Country Canada

Jerome Drayton, Toronto, Ontario

International Federation of Body-Builders

Professor Donald Macintosh,* School of Physical and Health
Education, Queen's University

National Alpine Ski Team

Ontario Commission on Interuniversity Athletics

Ontario Cycling Association, Cycling Women's Committee
Laura Robinson*

Ontario Federation of School Athletic Associations
Andy Gibson*

Ontario Sports Academy Project

Ontario Veterinary Association

L'Ordre des pharmaciens du Québec

Parks and Recreation Federation of Ontario

Régie de la sécurité dans les sports du Québec

Sports Federation of Canada

YMCA of Metropolitan Toronto
Henry J.D. Labatte*

* *Oral submissions*

Appendix D

SUMMARY OF FITNESS AND AMATEUR SPORT CONTRIBUTIONS TO NATIONAL ORGANIZATIONS, 1987-88

National Organizations ¹	Fitness Canada	Sport Canada	Total
	\$	\$	\$
Aquatic Federation of Canada		24,551	24,551
Basketball Canada	80,020	1,325,475	1,405,495
Canada Fitness Survey Inc.	1,077,870		1,077,870
Canada Sports Hall of Fame		107,500	107,500
Canadian Academy of Sports Medicine		37,970	37,970
Canadian Amateur Bobsleigh & Luge Association		178,505	178,505
Canadian Amateur Boxing Association		558,798	558,798
Canadian Amateur Diving Association		516,959	516,959
Canadian Amateur Football Association	52,240	225,051	277,291
Canadian Amateur Hockey Association	38,080	598,142	636,222
Canadian Amateur Rowing Association		1,020,781	1,020,781
Canadian Amateur Softball Association		382,045	382,045
Canadian Amateur Speed Skating Association		312,983	312,983
Canadian Amateur Swimming Association		1,250,071	1,250,071
Canadian Amateur Synchronized Swimming Association	87,145	615,394	702,539
Canadian Amateur Wrestling Association		604,604	604,604
Canadian Association for Health, Physical Education and Recreation	488,422		488,422
Canadian Association for the Advancement of Women and Sport		26,529	26,529
Canadian Association of Nordic Instructors	15,000		15,000
Canadian Association of Sports Sciences	148,985	88,700	237,685
Canadian Athletic Therapists Association		41,220	41,220
Canadian Badminton Association	37,360	459,179	496,539

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National Organizations ¹	Fitness Canada	Sport Canada	Total
	\$	\$	\$
Canadian Camping Association	59,440		59,440
Canadian Canoe Association		782,387	782,387
Canadian Colleges Athletic Association		145,834	145,834
Canadian Council on Children and Youth	10,000		10,000
Canadian Cricket Association		100,151	100,151
Canadian Cycling Association	124,245	768,243	892,488
Canadian Equestrian Federation		609,514	609,514
Canadian Federation of Amateur Baseball		405,098	405,098
Canadian Fencing Association		422,578	422,578
Canadian Field Hockey Association		430,820	430,820
Canadian Field Hockey Council		50,960	50,960
Canadian Figure Skating Association		326,700	326,700
Canadian Fitness and Lifestyle Research Institute	325,900		325,900
Canadian Five-Pin Bowlers Association		132,055	132,055
Canadian Gymnastics Federation		902,292	902,292
Canadian Handball Association		41,140	41,140
Canadian Association of Festivals and Events	22,000		22,000
Canadian Hostelling Association	74,860		74,860
Canadian Interuniversity Athletic Union		1,285,815	1,285,815
Canadian Intramural Recreation Association	490,316		490,316
Canadian Lacrosse Association		163,825	163,825
Canadian Ladies Golf Association		109,760	109,760
Canadian Oldtimers Hockey Association	90,000		90,000
Canadian Olympic Association		1,070,747	1,070,747
Canadian Orienteering Federation		155,146	155,146
Canadian Parks/Recreation Association	130,500		130,500
Canadian Parks/Recreation Association (Secretariat for Fitness in the Third Age)	107,390		107,390
Canadian Physiotherapy Association (Sport Physiotherapy Division)		44,030	44,030
Canadian Racquetball Association	42,170	189,210	231,380
Canadian Recreational Canoeing Association	77,600		77,600
Canadian Red Cross Society (Program for the Aged)	59,210		59,210
Canadian Red Cross Society (Safety Services)	141,025		141,025
Canadian Rhythmic Sportive Gymnastics Federation		466,698	466,698
Canadian Rugby Union		243,905	243,905
Canadian Ski Association		21,519	21,519
Canadian Ski Association (Alpine Skiing)		466,563	466,563
Canadian Ski Association (Biathlon)		213,371	213,371
Canadian Ski Association (Cross-Country Skiing)	92,480	286,907	379,387
Canadian Ski Association (Freestyle Skiing)		277,743	277,743
Canadian Ski Association (Nordic Combined)		61,792	61,792
Canadian Ski Association (Ski Jumping)		253,056	253,056
Canadian Ski Council	162,495		162,495
Canadian Ski Patrol System	110,899		110,899
Canadian Soccer Association		972,342	972,342
Canadian Sport Parachuting Association		130,695	130,695
Canadian Square and Round Dance Society	4,000		4,000
Canadian Squash Racquets Association	9,420	253,602	263,022
Canadian Table Tennis Association		496,744	496,744
Canadian Team Handball Federation		296,901	296,901

Fitness and Amateur Sport Contributions 603

National Organizations ¹	Fitness Canada	Sport Canada	Total
	\$	\$	\$
Canadian Tennis Association	52,480	341,225	393,705
Canadian Tenpin Federation		70,600	70,600
Canadian Track and Field Association	91,690	2,103,694	2,195,384
Canadian Volleyball Association		997,584	997,584
Canadian Water Polo Association		495,656	495,656
Canadian Water Ski Association		267,027	267,027
Canadian Weightlifting Federation		366,620	366,620
Canadian White Water Association		50,105	50,105
Canadian Women's Field Hockey Association		667,336	667,336
Canadian Yachting Association	14,215	798,110	812,325
Chambre de Commerce du Canada	135,000		135,000
Coaching Association of Canada		2,508,031	2,508,031
Commonwealth Games Association of Canada		39,220	39,220
Curl Canada		416,771	416,771
Federation of Canadian Archers		229,691	229,691
Girl Guides of Canada	51,613		51,613
Hockey Canada		560,000	560,000
Interprovincial Sport and Recreation Council	10,000	10,000	20,000
Judo Canada		580,014	580,014
Lawn Bowls Canada		194,133	194,133
National Council of YMCAs of Canada	119,000		119,000
National Karate Association		53,275	53,275
National Pensioners and Senior Citizens Federation	37,380		37,380
PARTICIPaction (Core Support)	916,000		916,000
PARTICIPaction (Special Projects)	361,500		361,500
Ringette Canada	64,540	190,603	255,143
Royal Canadian Golf Association		54,290	54,290
Royal Life Saving Society of Canada	92,090		92,090
Shooting Federation of Canada		602,539	602,539
Soaring Association of Canada		17,320	17,320
Sport Information Resource Centre		546,315	546,315
Sport Medicine Council of Canada		1,223,478	1,223,478
Sports Federation of Canada		77,960	77,960
YWCA of Canada	173,236		173,236
TOTAL	6,277,816	34,414,197	40,692,013

¹ NSO programs may have a recreational, as well as a competitive, orientation. Fitness Canada and Sport Canada funding is provided on that basis.

Appendix E

ATHLETE ASSISTANCE PROGRAM, CARDING ALLOCATION BY SPORT, JANUARY 1989

Category/Sport	Numbers Funded								Assistance			Total
	A	B	C	C-1	D	R	J	Cards	Living Allowance	Tuition	Special Needs	
SUMMER OLYMPIC									\$	\$	\$	\$
Archery*	—	—	2	1	—	—	—	3	15,000	500	—	15,500
Badminton	—	4	6	5	—	—	—	15	79,800	2,000	1,000	82,800
Basketball-W	—	—	8	9	—	7	14	38	127,200	12,500	500	140,200
Basketball-M	—	12	—	1	—	5	—	18	98,400	12,500	—	110,900
Boxing*	3	1	10	4	2	—	—	20	108,000	1,000	—	109,000
Canoe*	1	—	19	3	4	—	—	27	137,400	15,500	1,000	153,900
Cycling	—	—	10	5	—	—	—	15	75,000	3,500	—	78,500
Diving	—	2	4	2	—	—	—	8	43,200	5,500	—	48,700
Equestrian*	5	—	12	3	—	—	—	20	116,400	2,500	1,000	119,900
Fencing	—	—	10	3	1	—	—	14	70,200	6,500	—	76,700
Gymnastics-W*	—	6	3	2	—	—	—	11	64,200	5,000	—	69,200
Gymnastics-M	1	1	7	2	—	—	—	11	60,600	1,000	—	61,600
Rhythmic												
Gymnastics	—	1	4	2	1	—	—	8	40,200	1,000	—	41,200
Team Handball	—	—	5	—	8	3	—	16	64,800	5,500	—	70,300
Field Hockey-M	—	—	19	3	—	—	—	22	115,200	12,000	—	127,200
Field Hockey-W*	3	3	1	1	—	—	—	8	52,800	23,000	—	75,800
Judo	—	1	7	4	—	—	—	12	61,200	6,000	1,000	68,200
Rowing	5	—	13	3	13	—	—	34	168,600	47,000	1,000	216,600
Shooting	1	1	10	3	—	—	—	15	81,000	5,500	3,000	89,500
Soccer	—	—	9	22	—	—	—	31	141,000	17,000	—	158,000
Swimming	9	11	29	14	18	—	—	81	423,000	32,000	—	455,000
Synchro Swim	—	—	9	7	—	—	—	16	78,000	5,000	—	83,000
Table Tennis	—	1	8	1	1	—	—	11	57,600	8,000	—	65,600
Track & Field	15	14	34	8	25	—	—	96	516,600	47,000	3,000	566,600
Volleyball-W	—	—	5	4	—	1	11	21	66,600	17,000	3,000	86,600
Volleyball-M	—	—	2	4	4	9	2	21	72,600	15,000	—	87,600
Water Polo	—	—	14	—	—	—	14	28	100,800	10,000	2,500	113,300
Weightlifting*	—	—	5	1	2	—	—	8	38,400	2,500	—	40,900

Athlete Assistance Program 605

Category/Sport	Numbers Funded								Assistance			
	A	B	C	C-1	D	R	J	Cards	Living Allowance	Tuition	Special Needs	Total
SUMMER OLYMPIC												
Wrestling	—	—	19	2	2	—	—	23	\$ 118,200	\$ 18,000	\$ —	\$ 136,200
Yachting*	12	3	9	6	2	—	—	32	194,400	11,000	—	205,400
Total	55	61	293	125	83	25	41	683	3,386,400	350,500	17,000	3,753,900
WINTER OLYMPIC												
Bobsleigh	—	1	4	2	—	—	—	7	36,600	3,000	—	39,600
Luge*	—	—	3	3	—	—	—	6	28,800	2,000	—	30,800
Hockey**	—	—	—	—	12	—	4	16	50,000	—	—	50,000
Figure Skating	1	4	13	3	—	—	—	21	117,000	5,000	—	122,000
Speed Skating	2	3	10	3	14	—	—	32	152,400	10,000	500	162,900
Alpine Ski	4	9	8	4	—	—	—	25	150,600	2,500	—	153,100
Cross Country Ski	—	—	9	1	5	—	—	15	70,800	2,000	—	72,800
Ski Jumping	—	—	3	—	—	—	—	3	16,200	500	—	16,700
Biathlon	—	—	3	2	—	—	—	5	24,600	2,000	—	26,600
Total	7	17	53	18	31	—	4	130	647,000	27,000	500	674,500
NON-OLYMPIC												
4-Wall Handball	—	—	—	1	—	—	—	1	4,200	1,500	—	5,700
Racquetball	—	—	1	6	—	—	—	7	30,600	6,500	—	37,100
Water Ski	—	—	4	—	—	—	—	4	21,600	1,500	—	23,100
Freestyle Ski	—	—	5	1	—	—	—	6	31,200	—	—	31,200
Total	—	—	10	8	—	—	—	18	83,400	8,000	—	91,400
DISABLED												
Wheelchair Sports*	—	—	6	1	—	—	—	7	36,600	2,500	—	39,100
Blind Sports*	—	—	2	—	—	—	—	2	10,800	2,500	—	13,300
Total	—	—	8	1	—	—	—	9	47,400	5,000	—	52,400
GRAND TOTAL	62	78	364	152	114	25	45	840	4,164,200	390,500	17,500	4,572,200

* Carding cycle has ended
 ** Block funded

Appendix F

FITNESS AND AMATEUR SPORT AND SPORT CANADA MANDATE

FITNESS AND AMATEUR SPORT

Mandate

The mandate of Fitness and Amateur Sport, as defined in the 1961 Fitness and Amateur Sport Act, is "to promote, encourage and develop fitness and amateur sport in Canada."

This goal is achieved primarily through the activities of Fitness and Amateur Sport's two major program directorates, Sport Canada and Fitness Canada, each of which provides financial contributions and policy leadership to national sport and fitness-oriented organizations in Canada.

SPORT CANADA

Mandate

Sport Canada is the financial backbone of amateur sport in Canada. In conjunction with some 85 national sport organizations, Sport Canada seeks the establishment of a sound national sport system that

will promote and develop Canadian sport excellence at the international level and increase domestic participation levels in competitive sport.

The Sport Canada mandate is:

- to provide leadership, policy direction and financial assistance for the development of the Canadian Sport System;
- to provide support for the attainment of the highest possible level of achievement by Canada in international sport;
- to provide support for initiatives aimed at increasing the number of Canadians participating in sport.

Major Goals

In order to achieve its mandate, Sport Canada's major goals are:

- to assist in the development of an integrated sport system in Canada which would provide an increased range and quality of competitive opportunities for all levels of athlete and sport participant;
- to coordinate, promote and develop high performance sport in Canada in conjunction with recognized national sport organizations;
- to coordinate, promote and develop domestic sport programs in conjunction with national sport organizations and provincial governments;
- to provide administrative and technical leadership, policy direction, consultative services and financial resources to assist national sport organizations to function effectively as the primary agents for the development of their sport in Canada;
- to develop federal government policies for sport;
- to maintain a data base on Canadian sport and to undertake research, special studies, surveys and evaluations on various aspects of the Canadian Sport System.

Responsibility Areas

Sport Canada program activities fall under the following responsibility areas:

Support to National Sport Organizations

- provides administrative and technical leadership, policy direction, consultative services and financial resources to assist national sport organizations to function effectively as the primary agents for the development of their sport in Canada.

Sport System Building

- coordinates (in conjunction with other agencies) the development of an integrated sport system in Canada which would provide a wide range of programs and opportunities for all levels of athlete and sport participant.

Domestic Sport Programs

- coordinates, promotes and develops domestic sport programs (in conjunction with national sport organizations, provincial governments, schools and local authorities) designed to improve both the quality and the quantity of the opportunities available to Canadians to participate in sport below the high performance level.

High Performance Programs

- coordinates, promotes and develops high performance sport programs which will provide talented athletes in Canada with sufficient support to enable them to achieve at the highest level of international competition.

Sport Database Development

- designs and maintains an up-to-date data base for sport which would provide relevant information for management decisions both inside and outside of government.

Policy and Program Development

- undertakes research, special studies and evaluations which will lead to the development and implementation of federal government sport policies.

Appendix G

DRUG USE AND DOPING CONTROL IN SPORT: A SPORT CANADA POLICY, UPDATE (SEPTEMBER 1985)

Obligations of Athletes and National Sport Organizations

- 1 All national sport organizations will be required to develop a plan for their sport to eradicate improper drug use by Canadian athletes and support personnel.*

The plan must include the following items:

- (a) a statement of the organization's policy on drugs (including use, possession and other aspects considered appropriate by the organization); a procedure (including due process) for consideration of alleged drug infractions and penalties for such infractions (this statement must address the activities of athletes, coaches, medical and other support personnel);
- (b) an operational plan for regular testing of Canadian athletes at major competitions and drug [sic] training periods with a view to eliminating the use of anabolics and related compounds, and the use of other substances on the list of banned drugs at or near the time of competition;

- (c) an educational program;
 - (d) international lobbying activities which have as their objective the eradication of drug use in international sport.
- * Those sport organizations for whom the use of performance enhancing drugs is not an issue, are required to so signify in writing and are not required to develop a plan. These organizations are expected, however, to participate in the general doping control educational programs which will be made available to all national organizations and athletes.
- 2 All national sport organizations will be required, as of this date, to include a commitment to non-use and non-possession of banned substances by carded athletes in their contracts with said athletes. The only exceptions are possession and use of non-anabolic drugs where such use occurs under appropriate medical supervision and in non-competition situations.
 - 3 All national sport organizations are required, as of this date, to include a commitment of non-encouragement of use, and non-possession of anabolics and related compounds, and adherence to the rules concerning other banned drugs, in their contracts with coaches, sport scientists, medical practitioners and other support personnel engaged by the national sport organization.
 - 4 Athletes in receipt of federal sport benefits (including the Athlete Assistance Program and/or other direct or indirect funding programs such as travel to National Championships, access to National Coaches and High Performance Sport Centres, etc.) are required to make themselves available for both regularly scheduled and ad hoc random doping control test procedures as authorized by their national sport organization or the Sport Medicine Council of Canada's Committee on Doping in Amateur Sport. It is the responsibility of national sport organizations to ensure that athletes under their jurisdiction present themselves for such tests as requested by either of the two above-mentioned agencies.
 - 5 National sport organizations are required to develop a list of drug-related infractions applying to coaches and medical, technical, administrative or other support personnel engaged on a voluntary

or professional basis by the national sport organization or one of its affiliates. Such list of infractions shall indicate clearly that national sport organizations do not condone encouragement by their support personnel of the use of drugs on the banned lists. Such persons proven through appropriate due process to have counselled athletes, coaches, medical or other support staff to use anabolics or related compounds or to use non-anabolic drugs on the banned lists in contravention of the rules of their respective national or international sport federations shall be withdrawn from eligibility for federal government sport programs and support provided either directly or indirectly via national sport organizations. Such withdrawal of eligibility shall be invoked from the moment of proof, through appropriate due process, of said infraction.

Violations and Sanctions

- 1 (a) Any athlete who has been proven through appropriate due process to have used banned drugs in contravention of the rules of his/her respective national and/or international sport federation will be suspended forthwith from eligibility for Sport Canada's Athlete Assistance Program and any other financial or program support provided directly to athletes or indirectly by Sport Canada via national sport organizations (i.e., national championship funding, national team program support, etc.).
- (b) Any athlete who has been proven through appropriate due process to have been in possession of anabolics or related compounds or to have supplied directly or indirectly, or to have counselled the use or administration of such drugs to others to whom this policy applies, shall be suspended forthwith from eligibility for benefits through Sport Canada as described above.
- (c) The withdrawal of benefits as described in 1(a) and (b) above shall be invoked from the moment of proof of the said infraction by the appropriate authority. (In the case of positive results arising from doping control tests, the period of ineligibility for federal support takes effect at the time of the confirmation of the positive result of the "B" sample. Should an appeal subsequently overturn the finding of the positive result, benefits for the period between the initial announcement of the test result and the announcement of the result of the appeal will be reinstated.)

Individuals proven to have violated antidoping rules involving anabolic steroids and related compounds will be subject automatically to a lifetime withdrawal of eligibility for all federal government sport programs or benefits.

Individuals proven to have violated antidoping rules involving drugs other than anabolic steroids and related compounds will be subject automatically to ineligibility for all federal government sport programs or benefits for a minimum period of one year or the duration of any suspension imposed by the respective international or national federation, whichever is the longer. Second offences shall be punished by means of lifetime withdrawal of eligibility for federal government sport programs or benefits.

- (d) Any athlete convicted of a criminal or civil offence involving a drug on the banned list of his/her respective national or international federation shall be similarly suspended (as outlined in 1(c)) from eligibility for the Athlete Assistance Program and other federal government support as described above.
 - (e) The only relief from life suspension is through direct appeal to the Minister of State, Fitness and Amateur Sport.
- 2 Sport Canada does not intend to usurp the role of the civil and criminal authorities with respect to the non-medical use of drugs which do not appear on the banned list of the international federations and the IOC. However, national sport organizations are requested to include any restrictions with respect to the use of these drugs in their contracts between carded athletes and the national sport organizations.
- 3 The only exceptions to the above provisions involving the use of anabolics or related compounds shall be in the case of disabled athletes who may be required, under medical supervision, to use such drugs for on-going or intermittent therapeutic or rehabilitative purposes. Where such drugs are used by disabled athletes for performance enhancement, the provisions as outlined above shall apply. Where disabled athletes are using anabolics or related compounds for therapeutic or rehabilitative purposes, such use must be reported by an appropriate medical authority to the national sport organization.

For the purpose of this section, a disabled athlete means an individual who is affiliated for the purpose of participation in competitive sport to one of the national sport federations responsible for organizing sport for the physically disabled.

Sport Canada Coordination and Liaison

- 1 Sport Canada will collaborate with the Canadian Olympic Association on matters pertaining to the testing of athletes prior to and at major Games under the jurisdiction of the COA (i.e., Olympic and Pan American Games) and on matters pertaining to the role of the IOC and NOCs in doping control.
- 2 Sport Canada will collaborate with other Major Games Organizations — Commonwealth Games Association of Canada, Canadian Interuniversity Athletic Union, Canada Games Council and Canadian Federation of Sport Organizations for the Disabled — on matters pertaining to doping control prior to, and at Major Games events under the jurisdiction of these agencies.
- 3 Sport Canada will undertake to initiate and fund research related to the drug issue with the various national research agencies as required.

Appendix H

ANABOLIC STEROIDS: SUMMARY OF U.S. FEDERAL AND STATE LEGISLATION

FEDERAL LEGISLATION

Federal Public Law 100-690 (November 18, 1988)

- Primarily intended to prevent the manufacturing, distribution, and use of illegal drugs.
- Sections 2401, 2402, and 2403 deal specifically with anabolic steroids.

Section 2401

- Allows the seizure of assets of an individual convicted of a violation of the *Food, Drug and Cosmetic Act* involving anabolic steroids or human growth hormone, if such act is punishable by imprisonment for more than one year.

Section 2402

- Provides that the comptroller general shall study and report to Congress on the extent of anabolic steroid and human growth hormone use among high school students, college students, and other

adults, including estimates of licit and illicit use, domestic and international production, and medical analysis of the health consequences of use of these drugs.

Section 2403

- Calls for imprisonment for not more than three years, or a fine, or both, for persons who distribute or possess with intent to distribute any anabolic steroid for any use in humans other than the treatment of disease pursuant to the order of a physician.
- Punishment increased to not more than six years, if the person distributes or possesses with intent to distribute to an individual under eighteen years of age.

HR 995 and Section 466

- Prohibiting mailing or receiving by mail of anabolic steroids for any use in humans other than the treatment of disease pursuant to the order of a physician.
- Property involved in a violation is subject to forfeiture.

Status

- At present before Congress.

STATE LEGISLATION AS AT APRIL 1990

State/ Bill Number	Major Provisions	Status
Alabama	Has placed anabolic steroids under <i>Controlled Substances Act</i> , Schedule V by rule.	Enacted
Alaska H 126	Places anabolic steroids under <i>Controlled Substances Act</i> , Schedule VA.	In committee

State/ Bill Number	Major Provisions	Status
Arizona	<i>Medical Practice Act</i> defines "unprofessional conduct" to include prescribing, dispensing, or administering anabolic-androgenic steroids to a person for other than therapeutic purposes.	Enacted
Arkansas HB 1231	Makes it a felony to distribute or possess with intent to distribute anabolic steroids and human growth hormone or counterfeits thereof for other than the treatment of disease pursuant to the order of a physician. The penalty is doubled if the recipient or intended recipient is a minor. Possession of more than 200 capsules or tablets or more than 16 cc of anabolic steroids or human growth hormone creates a rebuttable presumption of intention to distribute.	Enacted
California B 4029	Places anabolic steroids under <i>Controlled Substances Act</i> , Schedule III.	Enacted
A 1591	Adds toxandropirone (Anavar) to Schedule III (with other anabolic steroids).	Enacted
A 2063	Requires schools to teach the effects of using anabolic steroids.	In committee

State/ Bill Number	Major Provisions	Status
A 2064	Requires that advertisements for anabolic steroids contain a warning on their dangers.	Introduced March 10, 1989
A 2065	Requires instruction on the dangers of using anabolic steroids prior to receiving teaching credentials. Also, seventh to twelfth grade science courses to contain material on anabolic steroids.	In committee
SB 1585	Requires warning statements concerning unlawful use, sale, or exchange of anabolic steroids to be posted in schools and colleges and athletic facilities by June 1990. Failure to do so can attract fines of \$50 per day.	Enacted
Colorado SB 81	Makes dispensing, injecting, or prescribing an anabolic steroid for the purpose of increasing muscle mass, strength, or weight without a medical necessity to do so, or for the intended purpose of improving performance in any form of exercise, sport, or game, a misdemeanor. Subsequent violation is a felony. Makes the dispensing or injecting of an anabolic steroid, unless dispensed from a pharmacy or practitioner in the course of professional practice, a felony. Requires that the label for anabolic steroid prescriptions state the purpose for which the drug is prescribed.	Enacted

State/ Bill Number	Major Provisions	Status
Connecticut HB 5302	Prohibits prescription of anabolic steroids to athletes. Directs the commissioner of consumer protection to designate anabolic steroids as controlled substances.	Enacted
H 6027	Makes possession of and possession of with intent to sell anabolic steroids felony offences.	In committee
H 6124	Provides penalties for those who use or encourage use of anabolic steroids.	In committee
Florida SB 607	Regulation places anabolic steroids and human growth hormone under <i>Controlled Substances Act</i> , Schedule IV.	Enacted
Georgia HB 71	Provides prison terms and/or fines for distributors of anabolic steroids. Penalties are increased for offences including minors.	Enacted
Hawaii SB 1197	Outlaws the possession, possession for distribution, or manufacture of anabolic steroids without a prescription issued by a practitioner acting in the usual course of professional practice. Simple possession is a misdemeanour. Other violations of the statute are classed as felonies.	Enacted

State/ Bill Number	Major Provisions	Status
Idaho SB 1258	Places anabolic steroids under <i>Controlled Substances Act</i> , Schedule IV. Additional penalties to those already in the Act are laid down for prescribing, dispensing, selling, supplying, or manufacturing anabolic steroids or human growth hormone for purposes of enhancing performance in any form of exercise, sport, or game without medical necessity.	Enacted
Illinois HB 2626	Created the <i>Steroid Control Act</i> . Makes it a felony to supply human anabolic steroids to amateur athletic participants. Penalties are increased for offences involving minors. Prohibits prescription or administering of anabolic steroids except for valid medical purposes, and states that hormonal manipulation to increase muscle mass, weight, or strength, or for the intended purposes of improving physical appearance or athletic performance, is not a valid medical purpose or in the course of professional practice. Simple possession of anabolic steroids is a misdemeanour.	Enacted
HB 2624	Amends the School Code to provide for education in steroid-abuse prevention.	Enacted

State/ Bill Number	Major Provisions	Status
Indiana SB 415	Makes it a felony for a practitioner to prescribe, order, distribute, supply, or sell an anabolic steroid for enhancing performance in an exercise, sport, or game or for increasing muscle mass, strength, or weight without a medical necessity. Makes it a felony for a person other than a practitioner or lawful manufacturer to knowingly or intentionally manufacture or deliver an anabolic steroid or to possess with intent to manufacture or deliver. Penalties are higher if delivery is to a minor who is at least three years younger than the delivering person.	Enacted
Kansas SB 293	Places anabolic steroids under <i>Controlled Substances Act</i> , Schedule IV. Simple possession is a misdemeanor. Other offences are felonies. If possession is with intent to sell to a minor, or if anabolic steroids are sold or offered for sale to a minor, "there shall be at sentencing a presumption that the defendant be sentenced to imprisonment and not granted probation or a lesser sentence."	Enacted

State/ Bill Number	Major Provisions	Status
Louisiana HB 270	<p>Makes it unlawful to furnish or sell an anabolic steroid, punishable by a fine up to \$5000, or imprisonment with or without hard labour for up to five years, or both. Makes it a misdemeanour to possess an anabolic steroid, punishable by a fine up to \$500, or imprisonment for up to six months, or both.</p>	Enacted
SB 525	<p>Prohibits prescribing of anabolic steroids unless for a valid medical purpose. Use for athletic purposes is not a valid medical purpose.</p>	Enacted
Maryland H 636	<p>Places anabolic steroids under <i>Controlled Substances Act</i>.</p>	In committee
H 681	<p>Prohibits a person from distributing, dispensing, or administering an anabolic steroid at or near schools or gyms.</p>	Committee reported unfavourably
Massachusetts	<p>Board of Medicine regulations were amended to prohibit practitioners from prescribing anabolic steroids for the purpose of enhancing a patient's athletic ability or performance.</p>	Enacted

State/ Bill Number	Major Provisions	Status
Michigan H 4081	Prohibits the use, distribution, or possession of anabolic steroids under certain circumstances.	In committee
Minnesota S 339	Places anabolic steroids under <i>Controlled Substances Act</i> , Schedule IV.	Enacted
Nevada SB 308	Empowers and directs the Board of Pharmacy to designate as a controlled substance a steroid or other product that is used to enhance athletic performance, muscle mass, strength, or weight without medical necessity.	Enacted
New Hampshire HB 264	Provides that any person who prescribes, sells, provides, or distributes anabolic steroids to another person for purposes other than treatment of a medical prob- lem or injury is guilty of a felony. Simple possession is a misdemeanour.	Enacted
New Jersey S 2282	Places anabolic steroids under Schedule V of the <i>Controlled Substances Act</i> .	In committee
AB 4224	Makes it unlawful for anyone other than a practitioner to manufacture, distribute, or dispense anabolic steroids; makes it unlawful to possess anabolic	Enacted

State/ Bill Number	Major Provisions	Status
	steroids without a prescription. Directs the commissioner of health to study the feasibility of including anabolic steroids in the <i>Controlled Substances Act</i> .	
S 756	Prohibits use by college athletes other than for legitimate medical reasons.	In committee
S 1434	Requires random testing of students for controlled substances and anabolic steroids prior to participation in interscholastic athletics and certain other programs.	In committee
S 3315	Includes anabolic steroids in school drug-education, prevention, and intervention programs.	Enacted
New Mexico HB 303	Except as authorized by <i>Food, Drug and Cosmetics Act</i> , it is a misdemeanour to intentionally possess anabolic steroids. It is a felony to intentionally distribute or possess with intent to distribute anabolic steroids. Penalties are greater if the offence involves a minor. A copy of the law must be displayed prominently in the athletic locker room of all state postsecondary and public schools.	Enacted

State/ Bill Number	Major Provisions	Status
New York A 4613	Criminalizes the knowing dispensing of anabolic steroids for athletic enhancement and the knowing possession for same. Dispensing is a class E felony; possession is a class A misdemeanour.	In committee
A 6177	Requires development of an educational program on anabolic steroids for use in grades 7 to 12.	In committee
A 6408	Requires instruction of pupils in the use of anabolic steroids. Creates crime of unlawful distribution.	In committee
S 2783	Places anabolic steroids under <i>Controlled Substances Act</i> .	In committee
SB 3047	Places anabolic steroids under the state <i>Controlled Substances Act</i> , Schedule II. Makes the prescription and dispensing of anabolic steroids for other than therapeutic purposes a misdemeanour. Requires parental notification prior to administering anabolic steroids to children under nineteen.	Enacted
S 3086	Provides that certain students receive education on the dangers of using anabolic steroids.	In committee
North Carolina HB 1130	Places anabolic steroids under <i>Controlled Substances Act</i> , Schedule III.	Enacted

State/ Bill Number	Major Provisions	Status
North Dakota HB 1352	Distribution or intent to distribute anabolic steroids for any use in humans other than the treatment of disease is a class B felony.	Enacted
Ohio	<p>In 1988, the Ohio State Board of Medical Examiners passed an anti-abuse rule prohibiting the prescribing, dispensing, delivering, or administering of anabolic steroids or human growth hormone for the purpose of enhancing athletic ability, including use in bodybuilding.</p> <p>Physicians must complete and maintain medical records that accurately reflect the utilization of these substances and indicate the diagnosis, the purpose of the use, and any additional information upon which the diagnosis is based. Physicians who violate the rule are subject to reprimand, probation, licence suspension, or licence revocation.</p>	Enacted
Oklahoma HB 1191	Prohibits the prescribing, dispensing, delivering, or administering of anabolic steroids or human growth hormone except for a valid medical purpose, which does not include bodybuilding or other athletic purposes in otherwise healthy persons.	Enacted

State/ Bill Number	Major Provisions	Status
Oregon HB 2373	This bill classifying anabolic steroids as controlled substances was passed by the House and Senate, but vetoed by the governor on August 14, 1988. Nevertheless, the state Board of Pharmacy adopted a regulation placing anabolic steroids in Schedule III of the <i>Controlled Substances Act</i> .	
Pennsylvania HR 27	Calls for an investigation of anabolic steroid use and abuse.	In committee
H 693	Prohibits the use of anabolic steroids by any pupil involved in school-related activities.	In committee
H 855	Places anabolic steroids under Schedule II of the state <i>Controlled Substances Act</i> . Prohibits the prescribing, administering, or dispensing of any anabolic steroid for purposes of athletic enhancement or hormonal manipulation (except when medically necessary).	In committee
H 1083	Amends the Public School Code of 1949 by adding chemical and steroid abuse to the mandatory instruction programs.	In committee
S454	Requires school directors to prohibit the use of anabolic steroids by pupils involved in athletics; requires education	Enacted

State/ Bill Number	Major Provisions	Status
Rhode Island H 5160	regarding the use of anabolic steroids; requires penalties for unauthorized use of anabolic steroids; provides for dispensing of and prescriptions for anabolic steroids.	
H 5160	Sets out penalties by fine or imprisonment for the prescribing or selling of anabolic steroids without medical necessity.	In committee
H 5923	The manufacture, sale, or distribution of anabolic steroids, or possession of anabolic steroids for purposes of sale, manufacture, or distribution by anyone other than a practitioner or licensed manufacturer, is punishable by a fine of up to \$5000, or imprisonment for not more than five years, or both. Practitioners who prescribe, order, distribute, or sell anabolic steroids for enhancing athletic performance, increasing muscle mass, or increasing weight without medical necessity are guilty of an offence and subject to fines of up to \$500, or up to six months' imprisonment, or both.	Enacted
South Carolina SB 281	Designates as unprofessional conduct for a practitioner or veterinarian to prescribe, dispense, or administer anabolic steroids for purposes of improving performance in any exercise, sport, or game, or	Enacted

State/ Bill Number	Major Provisions	Status
Tennessee S 1004	to increase muscle mass or strength without medical necessity. Makes it a misdemeanor for anyone other than a practitioner, pharmacist, or veterinarian to possess anabolic steroids without a prescription. Makes it a felony for anyone other than a practitioner, pharmacist, or veterinarian to prescribe, dispense, deliver, or administer anabolic steroids. Felony offences are punishable by fines of up to \$5000 and/or up to five years in prison for a first offence. The range of penalties is doubled for a second offence.	
Texas HB 1507	Places anabolic steroids and human growth hormone under the state <i>Controlled Substances Act</i> . Requires schools and gymnasiums to post copies of the law. Prescribing, dispensing, or administering of anabolic steroids can be only for a valid medical purpose; muscle enhancement, bodybuilding, etc., are not valid medical purposes. Violation of the statute is a criminal offence	Enacted

State/ Bill Number	Major Provisions	Status
Utah SB 120	punishable by confinement in jail or imprisonment in the Texas Department of Corrections.	
Virginia HB 1418	Places anabolic steroids under the state <i>Controlled Substances Act</i> , Schedule III. A state licence issued to manufacture, produce, distribute, dispense, administer, or conduct research with anabolic steroids may be denied, suspended, or revoked upon finding that the applicant has prescribed, dispensed, administered, or injected an anabolic steroid for the purpose of manipulating human hormonal structure so as to (a) increase muscle mass, strength, or weight without medical necessity and without a written prescription by any practitioner in the course of professional practice or (b) improve performance in any form of human exercise, sport, or game.	Enacted
	Makes it unlawful for any person to knowingly manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give, or distribute any anabolic steroid. Does not define the term anabolic steroid. A violation is punishable by a term of imprisonment of not less than one year or more than ten years or, in the discretion of the jury or the court trying the case	Enacted

State/ Bill Number	Major Provisions	Status
HJR 99	<p>without a jury, confinement in jail for not more than twelve months, or a fine of not more than \$20,000, or both.</p> <p>Establishes a joint committee to study the use of anabolic steroids by high school athletes.</p>	In committee
Washington HB 1558	<p>Defines and regulates the use of anabolic steroids. Expands offences to include manufacture and possession. Prohibits certain athletics-related uses. Prohibits the prescribing, administering, or dispensing of anabolic steroids, human growth hormone, certain other drugs, and auto-transfusion by practitioners for the purpose of manipulating hormones to increase muscle mass or strength, or to enhance athletic ability. Violation by a practitioner is a gross misdemeanor. Possession of under 200 tablets or eight 2cc bottles of steroids without a prescription is a gross misdemeanor. Possession of higher amounts is a felony. Provides for education programs in schools, and suspension from school athletic events for students violating the law.</p>	Enacted

Source: From U.S., Department of Health and Human Services, State Program Coordination branch, April 1990.

Notes

Chapter 1 Government and Sport in Canada

- 1 Donald Macintosh, Tom Bedecki, and C.E.S. Franks, *Sport and Politics in Canada: Federal Government Involvement since 1961* (Kingston and Montreal: McGill-Queen's University Press, 1987), 186.
- 2 Canada, *Report of the Task Force on National Sport Policy, Toward 2000: Building Canada's Sport System* (Ottawa: Fitness and Amateur Sport, 1988), 16, 15, 16–17, 4 (bullets added).
- 3 Canada, Department of National Health and Welfare, *Annual Report* (Ottawa: the Department, 1945), 65; quoted in William D. Hallett, "The History of Federal Government Involvement in the Development of Sport in Canada 1943–1979," PhD thesis, University of Alberta, 1981, 153.
- 4 Macintosh, Bedecki, and Franks, *Sport and Politics in Canada*, 162.
- 5 Canada, *Report of the Task Force on Sports for Canadians* (Ottawa: Queen's Printer, 1969), 42.
- 6 Ibid.
- 7 Ibid., appendix A. The balance of this section draws on the 1969 task force report, 1–2, 47, 16, 43, 5.
- 8 Canada, Department of National Health and Welfare, *A Proposed Sports Policy for Canadians* (white paper) (Ottawa: the Department, 1970), 7. The balance of this section draws on the white paper, 8–15, 16, 19, 23–4, 40, 41.
- 9 Canada, Fitness and Amateur Sport, *A Challenge to the Nation: Fitness and Amateur Sport in the '80s* (white paper) (Ottawa: Fitness and Amateur Sport, 1981), 5. The balance of this section draws on the white paper, 10, 19–20.
- 10 Macintosh, Bedecki, and Franks, *Sport and Politics in Canada*, 41.
- 11 Ibid., 140.
- 12 Canada, *Report of the Task Force on National Sport Policy* (1988), 19. The balance of this section draws on the report, 77–8, 36, 48, 65, 73, 14, 7, 15.
- 13 Macintosh, Bedecki, and Franks, *Sport and Politics in Canada*, 163.
- 14 Canada, *Report of the Task Force on National Sport Policy* (1988), 56.
- 15 Macintosh, Bedecki, and Franks, *Sport and Politics in Canada*, 131.
- 16 Canada, *Report of the Task Force on National Sport Policy* (1988), 39.
- 17 Macintosh, Bedecki, and Franks, *Sport and Politics in Canada*, 170.
- 18 Canada, *Report of the Task Force on National Sport Policy* (1988), 38, 39 (bullets added).

- 19 Canada, *Report of the Task Force on Sports for Canadians* (1969), 12, 9.
- 20 Canada, *Report of the Task Force on National Sport Policy* (1988), 27.
- 21 Canada, *Report of the Task Force on Sports for Canadians* (1969), 8.
- 22 Canada, *Report of the Task Force on National Sport Policy* (1988), 7.

Chapter 2 Doping Definitions and Policies

- 1 Melvin H. Williams, *Drugs and Athletic Performance* (Springfield, Ill.: Charles C. Thomas, 1974), 6-7.
- 2 Michael J. Asken, *Dying to Win: The Athlete's Guide to Safe and Unsafe Drugs in Sports*, (Washington, D.C.: Acropolis Books, 1988), 33-4.
- 3 Neal Wilkinson, "The Pill That Can Kill Sports," *True: The Man's Magazine*, March 1958, 102.
- 4 The selected list of doping in sport was compiled from a variety of sources.
- 5 International Olympic Committee *Newsletter*, No. 11, August 1968.
- 6 Sir Arthur Porritt, "Doping," *The Journal of Sports Medicine and Physical Fitness* 5 (1965): 166.
- 7 Great Britain, Amateur Athletic Association, "Report of A.A.A. Drug Abuse Enquiry," typescript, 1988.
- 8 IOC medical controls handbook, 12.
- 9 In 1975 and 1981; the latter was a positive for anabolic steroid use.

Chapter 3 Banned Substances and Practices

- 1 Herbert A. Haupt and George D. Rovere, "Anabolic Steroids: A Review of the Literature," *American Journal of Sports Medicine* 12, no. 6 (1984): 469.
- 2 Robert E. Windsor and Daniel Dumitru, "Anabolic Steroid Use by Athletes: How Serious Are the Health Hazards," *Postgraduate Medicine* 84, no. 4 (September 15, 1988): 41.
- 3 Ibid; Jean D. Wilson, "Androgen Abuse by Athletes," *Endocrine Reviews* 9, no. 2 (May 1988): 181.
- 4 Wilson, "Androgen Abuse," 189.
- 5 Windsor and Dumitru, "Anabolic Steroid Use by Athletes," 39-49.
- 6 Haupt and Rovere, "Anabolic Steroids."
- 7 Wilson, "Androgen Abuse," 191.

- 8 *Drugs and Medicines in Sport: Their Use and Abuse*, Royal Society of New Zealand, Miscellaneous Series no. 19 (Wellington, N.Z.: the Society, 1990), 74.
- 9 From J.B. Ziegler's "Introduction," to Bob Goldman et al., *Death in the Locker Room: Steroids, Cocaine & Sports* (Tucson, Ariz.: The Body Press, 1987).
- 10 Marc Desgagné, Jacques LeCavalier, and Ihor Malyniwsky, "Anabolic Steroids: Use and Abuse Profile in Canada," typescript (Ottawa: Department of Health and Welfare, Bureau of Dangerous Drugs [1988]), 4. (Published in the *Canadian Pharmaceutical Journal* 122, no. 8, August 1989.)
- 11 K.B. Kashkin and H.D. Kleber, "Hooked on Hormones? An Anabolic Steroid Addiction Hypothesis," *JAMA, The Journal of the American Medical Association* 262, no. 22 (December 8, 1989): 3166.
- 12 United States, Congress, Senate Judiciary Committee, Hearing on Steroid Abuse in America, April 3, 1989, testimony of Pat Connolly.
- 13 *Ibid.*, testimony of Diane Williams.
- 14 *Ibid.*, opening statement by Senator Joseph R. Biden, Jr.

Chapter 6 The Canadian Track and Field Association

- 1 *Ontario Athletics*, December 1977/January 1978.
- 2 *Ibid.*, [1979].
- 3 In 1975 a Canadian athlete tested positive for ephedrine at the Pan American Games in Mexico City. In 1981 Alexis Paul-MacDonald tested positive for steroids at the Pacific Conference Games in New Zealand. She challenged the result on the grounds that oral contraceptives may have produced a false positive, but after investigation the positive result was upheld.
- 4 *Athletics*, November/December 1983.
- 5 *Ibid.*
- 6 To illustrate this point, Mr Smith prepared a chart for use while he testified which compared performances by athletes in discus and shot put at the 1988 Olympics with their best performance before 1988 and their world ranking. As Mr Smith put it, "there is a heck of a variance between the cold hard facts of the book [ie, of statistics] and the reality of the world that we are living in."
- 7 Harold Willers, a thrower from British Columbia, tested positive in June 1985.

Chapter 16 Extent of Use of Banned Substances

- 1 United States, Congress, Senate Judiciary Committee, Hearing on Steroid Abuse in America, April 3, 1989, testimony of Pat Connolly.
- 2 Ibid.
- 3 Great Britain, Amateur Athletic Association, "Report of A.A.A. Drug Abuse Enquiry," typescript, 1988.
- 4 Australia, Parliament, *Drugs in Sport: An Interim Report of the Senate Standing Committee on Environment, Recreation and the Arts* (Commonwealth of Australia, 1989), 75.
- 5 Ibid., 67.
- 6 Ibid., 69.

Chapter 17 Supply and Distribution of Banned Substances

- 1 Australia, Parliament, *Drugs in Sport: An Interim Report of the Senate Standing Committee on Environment, Recreation and the Arts* (Commonwealth of Australia, 1989), 177.
- 2 Great Britain, Amateur Athletic Association, "Report of A.A.A. Drug Abuse Enquiry," typescript, 1988, G10.
- 3 Marc Desgagné, Jacques LeCavalier, Ihor Malyniwsky, "Anabolic Steroids: Use and Abuse Profile in Canada," *Canadian Pharmaceutical Journal* 122, no. 8 (August 1989): 405.
- 4 Great Britain, Amateur Athletic Association, "Report."

Chapter 20 Drug-Testing Issues

- 1 Robert Dugal and Michel Bertrand, "Pharmacological Aspects of Doping in Sports," *Proceedings of a Feature Presentation on Spectroscopy and Drug Use* (Ottawa: The Spectroscopy Society of Canada, 1975), 111.

Chapter 21 Doping Control Initiatives before 1988

- 1 Council of Europe, "Anti-Doping Convention: Explanatory Report," typescript (Strasbourg, France: the Council, 1989), 5.
- 2 Nordic Sports Confederation, "The Nordic Anti-Doping Convention" (Farsta, Sweden: Swedish Confederation of Sports, no date), 6-7.

- 3 Ljungqvist, Arne, "The Swedish Anti-Doping Programme," paper presented to the 2d IAF World Symposium on Doping in Sport, Monte Carlo, June 5-7, 1989, 6.
- 4 European Sports Conference, Working Group on Effective Anti-Doping Measures, "Stop Doping: Out-of-Competition Testing: Final Report of the Anti-Doping Seminar," October 30-November 2, 1988, typescript (Borlänge, Sweden: the Conference); 5.
- 5 Great Britain, Department of the Environment, "The Misuse of Drugs in Sport" (London: the Department, September 1987), Annex C.

Chapter 24 Athletes' Rights

- 1 *Retail, Wholesale and Department Store Union, Local 580 v. Dolphin Delivery, Ltd.*, [1986] 2 S.C.R. 573; *Re Blainey and Ontario Hockey Association et al.* (1986), 58 O.R. (2d) 274 (C.A.); *Re McKinney and Board of Governors of the University of Guelph* (1987), 63 O.R. (2d) 1 (C.A.).
- 2 *Connell and Harrison v. The University of British Columbia* [1988] B.C.J. No. 13 (B.C.C.A.).

Chapter 25 Ethics and Morality in Sport

- 1 Haut Comité des sports, Paris, "Essai de doctrine du sport" (1965), quoted in J.-M. Brohm and Bernard Yanez, "Why the École Émancipée Is against Competitive Sport," in Jean-Marie Brohm, *Sport — A Prison of Measured Time* (London: Ink Links, 1978), 75.
- 2 Tara Scanlan, quoted in Bil Gilbert, "Competition: Is It What Life Is All About?" in Pasquale J. Galasso, ed., *Philosophy of Sport and Physical Activity* (Toronto: Canadian Scholars' Press 1988), 51.
- 3 René Maheu, "L'Éducation et le sport," quoted in Jean-Marie Brohm, "Introduction: Enough of the Myth of Educative Sport," in Brohm, *Sport*, 8.
- 4 Quoted in Philip Goodhart and Christopher Chataway, *War without Weapons* (London: W.H. Allen, 1968), 4.
- 5 Gilles Neron, past-chairman of the Commission for Fair Play, quoted in *Champion Magazine* 13, no. 2 (September 1989): 28.
- 6 Brohm, "Introduction," in Brohm, *Sport*, 18.
- 7 Saul Ross, "Winning and Losing in Sport: A Radical Reassessment," in Galasso, ed., *Philosophy of Sport*, 59.

- 8 Andrew Pipe, "The Making of a Champion: Chemistry or Coaching," *Sports: Science Periodical on Research and Technology in Sport*, December 1983.
- 9 Ibid.
- 10 Patricia A. Lawson, "How Urgent Is the Need for Improved Ethical Behaviour and Decision-Making in Sport?" in Galasso, ed., *Philosophy of Sport*, 197-9.
- 11 Pasquale J. Galasso, "Sport Organizations and Ethical Concerns," in *ibid.*, 353.
- 12 *Ibid.*, 354-7.