STEROID USE IN SPORTS PART III: EXAMINING THE NATIONAL BASKETBALL ASSOCIATION'S STEROID TESTING PROGRAM

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

MAY 19, 2005

Serial No. 109–28

Printed for the use of the Committee on Government Reform

Available via the World Wide Web: http://www.gpo.gov/congress/house
http://www.house.gov/reform

U.S. GOVERNMENT PRINTING OFFICE

21–484 PDF WASHINGTON : 2005

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

COMMITTEE ON GOVERNMENT REFORM

TOM DAVIS, Virginia, *Chairman*

CHRISTOPHER SHAYS, Connecticut
DAN BURTON, Indiana
ILEANA ROS-LEHTINEN, Florida
JOHN M. MCHUGH, New York
JOHN L. MICA, Florida
GIL GUTKNECHT, Minnesota
MARK E. SOUDER, Indiana
STEVEN C. LATOURETTE, Ohio
TODD RUSSELL PLATTS, Pennsylvania
CHRIS CANNON, Utah
JOHN J. DUNCAN, JR., Tennessee
CANDICE S. MILLER, Michigan
MICHAEL R. TURNER, Ohio
DARRELL E. ISSA, California
GINNY BROWN-WAITE, Florida
JON C. PORTER, Nevada
KENNY MARCHANT, Texas
LYNN A. WESTMORELAND, Georgia
PATRICK T. MCHENRY, North Carolina
CHARLES W. DENT, Pennsylvania
VIRGINIA FOXX, North Carolina

HENRY A. WAXMAN, California
TOM LANTOS, California
MAJOR R. OWENS, New York
EDOLPHUS TOWNS, New York
PAUL E. KANJORSKI, Pennsylvania
CAROLYN B. MALONEY, New York
ELIJAH E. CUMMINGS, Maryland
DENNIS J. KUCINICH, Ohio
DANNY K. DAVIS, Illinois
WM. LACY CLAY, Missouri
DIANE E. WATSON, California
STEPHEN F. LYNCH, Massachusetts
CHRIS VAN HOLLEN, Maryland
LINDA T. SANCHEZ, California
C.A. DUTCH RUPPERSBERGER, Maryland
BRIAN HIGGINS, New York
ELEANOR HOLMES NORTON, District of Columbia

BERNARD SANDERS, Vermont (Independent)

MELISSA WOJCIAK, *Staff Director*
DAVID MARIN, *Deputy Staff Director/Communications Director*
ROB BORDEN, *Parliamentarian*
TERESA AUSTIN, *Chief Clerk*
PHIL BARNETT, *Minority Chief of Staff/Chief Counsel*

CONTENTS

	Page
Hearing held on May 19, 2005	1
Statement of:	
Stern, David J., commissioner, National Basketball Association; Richard W. Buchanan, senior vice president and general counsel, National Basketball Association; G. William Hunter, executive director, National Basketball Players Association; Keith Jones, athletic trainer, Houston Rockets; and Juan Dixon, player, Washington Wizards	28
Buchanan, Richard W.	41
Dixon, Juan	58
Hunter, G. William	42
Jones, Keith	53
Stern, David J.	28
Letters, statements, etc., submitted for the record by:	
Cummings, Hon. Elijah E., a Representative in Congress from the State of Maryland, prepared statement of	18
Davis, Chairman Tom, a Representative in Congress from the State of Virginia:	
Prepared statement of	5
Prepared statement of Dr. Lloyd Baccus, medical director, NBA	23
Dixon, Juan, player, Washington Wizards, prepared statement of	59
Gutknecht, Hon. Gil, a Representative in Congress from the State of Minnesota, basketball statistics	65
Hunter, G. William, executive director, National Basketball Players Association, prepared statement of	45
Jones, Keith, athletic trainer, Houston Rockets, prepared statement of	55
Maloney, Hon. Carolyn B., a Representative in Congress from the State of New York, prepared statement of	89
Porter, Hon. Jon C., a Representative in Congress from the State of Nevada, prepared statement of	92
Ruppersberger, Hon. C.A. Dutch, a Representative in Congress from the State of Maryland, prepared statement of	74
Stern, David J., commissioner, National Basketball Association, prepared statement of	30
Watson, Hon. Diane E., a Representative in Congress from the State of California, prepared statement of	87
Waxman, Hon. Henry A., a Representative in Congress from the State of California, prepared statement of	11

STEROID USE IN SPORTS PART III: EXAMINING THE NATIONAL BASKETBALL ASSOCIATION'S STEROID TESTING PROGRAM

THURSDAY, MAY 19, 2005

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

The committee met, pursuant to notice, at 9:39 a.m., in room 2154, Rayburn House Office Building, Hon. Tom Davis (chairman of the committee) presiding.

Present: Representatives Davis of Virginia, Gutknecht, Souder, Issa, Brown-Waite, Porter, Marchant, McHenry, Dent, Waxman, Sanders, Maloney, Cummings, Kucinich, Clay, Lynch, Van Hollen, Sanchez, Ruppersberger, and Higgins.

Staff present: Melissa Wojciak, staff director; David Marin, deputy staff director/communications director; Keith Ausbrook, chief counsel; Ellen Brown, legislative director and senior policy counsel; Jennifer Safavian, chief counsel for oversight and investigations; Anne Marie Turner, counsel; Robert Borden, counsel/parliamentarian; Rob White, press secretary; Drew Crockett, deputy director of communications; Susie Schulte, professional staff member; Teresa Austin, chief clerk; Sarah D'Orsie, deputy clerk; Corinne Zaccagnini, chief information officer; Phil Schiliro, minority chief of staff; Phil Barnett, minority staff director/chief counsel; Kristin Amerling, minority deputy chief counsel; Karen Lightfoot, minority communications director/senior policy advisor; Earley Green, minority chief clerk; Jean Gosa, minority assistant clerk; and Cecilia Morton, minority office manager.

Chairman TOM DAVIS. Good morning. The committee will come to order. We want to welcome everybody to today's hearing on the National Basketball Association and the use of performance-enhancing drugs. The purpose of this hearing is to consider the NBA's drug policy, how the testing policy is implemented, how effectively it addresses the use of prohibited drugs by players, and the larger societal and public health ramifications of steroid use.

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

The Centers for Disease Control and Prevention tells us that more than 500,000 high school students have tried steroids, nearly triple the number just 10 years ago. A second national survey, con-

ducted last year by the University of Michigan, found that over 40 percent of the 12th graders described steroids as "fairly easy" or "very easy" to get, and the perception among high school students that steroids are harmful has dropped from 71 percent in 1992 to 56 percent in 2004.

Against this alarming backdrop, the committee launched an investigation into steroid use in professional, amateur, collegiate, and high school athletics. In March the committee held its first hearing, focused on Major League Baseball's steroid testing policy and their efforts to combat steroid use. We followed up last month with a hearing on the National Football League and the changes the League and the NFL Players Association agreed on to strengthen their testing policy. In addition, the committee has received detailed information on the drug testing policies of the National Hockey League, Major League Soccer, U.S. Soccer Federation, USA Cycling, USA Track & Field, and the Association of Tennis Professionals.

Today's hearing is based on information provided by the NBA on its steroid testing program. As was the case with the NFL and the NFLPA and the NBA and the National Basketball Players Association, they have all been helpful in educating us about their policy, and we very much appreciate your cooperation.

Today, league management and the union should be prepared to answer serious questions about their steroid testing policy. In some ways, today's hearing stands in stark contrast to previous ones.

On the one hand, we have heard from top league officials, players and trainers that steroid use is not "an issue" in the NBA, since steroids don't increase the endurance and agility needed to excel on the court. Perhaps that is true. Certainly, the NBA is not suffering under the same cloud of steroid use suspicion that has been hovering over other professional sports.

But we are still left with some questions, given the fact that NBA's testing program has some "Shaq-sized" holes in it: How do we know for sure there is no steroid problem if testing policies aren't that strong? If there is little or no upside to using steroids in basketball, shouldn't the NBA then have the strongest of all the sports?

I am willing to accept that steroids won't make your cross-over dribble smoother, or move the three-point line closer to the hoop. What we are trying to understand is a policy that tests all non-rookies just once a year, and not at all during the regular season; trying to understand the policy under which a first steroids offense results in a mere five-game suspension, the equivalent of 6 percent of the regular NBA season. Compare that to the NFL, where the first offense is punished by a suspension of four games, or 25 percent of the regular season. This is a difference in the impact on a player's pocketbook, where it probably hurts the most and has the most enforcement.

I am encouraged by Commissioner Stern's written testimony that the NBA has asked the union to increase the amount of random testing per season for veteran players, to subject players to off-season testing, and to increase the penalties for violators. However, we are concerned by the response. While Mr. Hunter explains in his written statement that basketball "can't tolerate even the percep-

tion that the integrity of our contests is at issue," he also says the current program "strikes the appropriate balance with regard to the issues of testing and discipline."

How do we realistically argue that testing the vast majority of professional basketball players once a year, during the preseason, is an appropriate balance?

Yesterday, a spokesman for the Players Association reportedly said, "Over the last 7 years, of the approximately 400 rookies who have been tested randomly, not one of them has violated the steroid policy—zero for 400. One could argue that there is no evidence of any kind of use of steroids by NBA players."

I suppose one could argue that, but it wouldn't be very compelling, because we already know there are a handful of players who have tested positive for steroid use since the league implemented its testing policy. Taking testing results from rookie players and extrapolating the results to reflect on the entire league doesn't cut it. If there were no testing, there would be no evidence of use either. What does that mean, we don't have any testing?

Data from the World Anti-Doping Agency on testing of international basketball players suggests at least some believe there is a competitive advantage to be found in steroids. In 2004, 26 players tested positive. We know that basketball players somewhere in the world are using steroids, and the number is increasing.

Since our Major League Baseball hearing, there have been a large number of public statements from NBA personnel and players on the lack of steroid use in professional basketball, and the responsibility of NBA players to discourage youth from using steroids. In advance of today's hearing, the committee invited players who have been outspoken on this issue to testify and use this as a platform to express to young players that steroid use is not only physically harmful, but also a form of cheating.

We are fortunate that one player answered the call, Juan Dixon. Juan is a local hero here, playing for the Wizards, played for Maryland, and has a very compelling story. We just very much appreciate your coming forward today.

By the time he was 16 years old, Juan had lost both of his parents to illness within a year of each other. Division I college recruiters told Juan he was too small and lacked the talent to play college hoops, but that didn't deter him.

He worked hard, on the court and off, not only convincing the University of Maryland that he deserved a scholarship, but also achieving the SAT scores necessary to play college basketball. In 2002, Juan proved to every young athlete the benefits of hard work and perseverence when he led the Terps to their first-ever NCAA championship.

Later that year, Juan was drafted 17th overall in the NBA draft. Over the past three seasons, he has continued to prove the college recruiters wrong, as he has helped breathe new life into our resurgent Washington Wizards.

As I have often said over the past 2 months, we are here because more than half a million high school students have tried steroids, and the number is increasing every day. If our goal is to stem that tide, nothing is more effective than hearing from people like Juan Dixon; role models, stars. Young athletes will listen to him far

more attentively than they will listen to the rest of us. We hope that other NBA players will follow your lead in speaking out to kids in public forums about the dangers of steroids and how there is no place for these drugs in organized sports.

Our investigation has already spawned results, evidenced most profoundly by Major League Baseball's about-face on the need for more stringent testing.

Our inquiry has also led me and Mr. Waxman and Senator John McCain to draft legislation creating a uniform testing standard for the NBA, Major League Baseball, NFL, and the National Hockey League. We are still dotting some I's and crossing some T's, but the legislation—which, frankly, will have more teeth than other bills introduced—will be ready for introduction early next week.

With our oversight and legislation, we are hoping to send a clear message to young people in search of their own "Hoop Dreams." Steroid use is harmful, even deadly. Steroid use is cheating. Steroid use will be punished.

We look forward to the testimony today. We thank our witnesses for being here.

[The prepared statement of Chairman Tom Davis follows:]

Opening Statement of Chairman Tom Davis
Committee on Government Reform
"Steroid Use in Sports Part III: Examining the National Basketball Association's Steroid Testing Program"
May 19, 2005

Good morning, and welcome to today's hearing on the National Basketball Association (NBA) and the use of performance-enhancing drugs. The purpose of this hearing is to consider the NBA's drug policy; how the testing policy is implemented; how effectively it addresses the use of prohibited drugs by players; and the larger societal and public health ramifications of steroid use.

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

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

Against this alarming backdrop, the Committee launched an investigation into steroid use in professional, amateur, collegiate, and high school athletics. In March, the Committee held its first hearing, focused on Major League Baseball's (MLB) steroid testing policy and their efforts to combat steroid use. We followed up last month with a hearing on the National Football League and the changes the League and the NFL Players Association (NFLPA) agreed on to strengthen their testing policy. In addition, the Committee has received detailed information on the drug testing policies for the National Hockey League, Major League Soccer, U.S. Soccer Federation, USA Cycling, USA Track & Field, and the Association of Tennis Professionals.

Today's hearing is based on information provided by the NBA on its steroid testing program. As was the case with the NFL and the NFLPA, the NBA and the National Basketball Players Association (NBPA) have been helpful in educating us about their policy, and we have appreciated that cooperation.

Today, league management and the union should be prepared to answer serious questions about their steroid testing policy. In some ways, today's hearing stands in stark contrast to the previous two.

On the one hand, we have heard from top league officials, players and trainers that steroid use is not "an issue" for the NBA, since steroids do not increase the endurance and agility needed to excel on the court. Perhaps that is true. Certainly the NBA is not suffering under the same cloud of steroid-use suspicion that has been hovering over other professional sports.

But we're left with some confounding questions, given the fact that the NBA's testing program has some "Shaq-sized" holes in it: How do we know for sure there's no steroid problem in the NBA if its testing policies are so weak? If there's little or no upside to using steroids in basketball, why doesn't the NBA have the strongest policy in all of sports?

I'm willing to accept that steroids won't make your cross-over dribble smoother, or move the three-point line closer to the hoop. But what I can't understand is a policy that tests all non-rookies only once a year, and not at all during the regular season. What I can't understand is a policy under which a first steroid offense results in a mere five-game suspension, the equivalent of 6% of the regular NBA season. Compare that to the NFL, where a first offense is punished by a suspension of four games, or 25% of the regular season. This marks a stark difference in the impact on a player's pocketbook, where, arguably, it hurts the most.

I am encouraged by Commissioner Stern's written testimony that the NBA has asked the union to increase the amount of random testing per season for veteran players; to subject players to off-season testing; and to increase the penalties for violators. However, I am concerned by the response from the union. While Mr. Hunter explains in his written statement that basketball "cannot tolerate even the perception that the integrity of our contests is at issue," he also says the current program "strikes the appropriate balance with regard to the issues of testing and discipline."

How can we realistically argue that testing the vast majority of professional basketball players only once a year, during the preseason, is an appropriate balance?

Yesterday, a spokesman for the players' association reportedly said, *and I quote*, "Over the last seven years, of the approximately 400 rookies who have been tested randomly, not one of them has violated the steroid policy – zero for 400. One could argue that there is no evidence of any kind of use of steroids by NBA players." *End quote.*

I suppose one could *argue* that – but it wouldn't be very compelling. *We already know* there are a handful of players who have tested positive for steroid use since the league implemented its testing policy. Taking testing results from rookie players and extrapolating the results to reflect on the entire league is silly on its face. If there were ***no*** testing, there would be no evidence of use either. Does that mean that we should have no testing?

Data from the World Anti-Doping Agency (WADA) on testing of international basketball players suggests at least some believe there's a competitive advantage to be found in steroids. In 2003, 17 international players tested positive for steroids. In 2004, 26 players tested positive. We know that basketball players somewhere in the world are abusing steroids, and the number is increasing.

Since our MLB hearing, there have been a large number of public statements from NBA personnel and players on the lack of steroid use in professional basketball and the responsibility of NBA players to discourage youth from using steroids. In advance of today's hearing, the Committee invited players who have been outspoken on this issue to testify, and use the hearing as a platform to express to young players that steroid use is not only physically harmful, but also a form of cheating.

We are fortunate that one player answered the call. Juan Dixon should be commended for stepping up to the plate... or maybe the free throw line is more appropriate.

By the time he was 16 years old, Juan had lost both of his parents to illness within a year of each other. Division I college recruiters told Juan he was too small and lacked the talent to play college hoops. This did not deter him.

He worked hard – on the court and off – not only convincing the University of Maryland that he deserved a scholarship, but also achieving the SAT scores necessary to play college basketball. In 2002, Juan proved to every young athlete the benefits of hard work and perseverance when he led the Terrapins to their first-ever NCAA championship.

Later that year, Juan was drafted 17th overall in the NBA draft. Over the past three seasons, he has continued to prove the college recruiters wrong, as he has helped breathe new life into our resurgent Washington Wizards.

As I have often said over the past two months, we are here because more than half a million high school students have tried steroids, and the number is rising every day. If our goal is to stem that tide, nothing is more effective than hearing from stars like Juan Dixon. Young athletes will listen to him far more attentively than they'll listen to the rest of us. We hope that other NBA players will follow your lead in speaking out to kids, in a public forum, about the dangers of steroids and how there is no place for these drugs in youth, college, or professional basketball.

Our investigation already has spawned results, evidenced most profoundly by Major League Baseball's abrupt about-face on the need for more stringent testing.

Our inquiry also has led me, Mr. Waxman, and Senator John McCain to draft legislation creating a uniform testing standard for the NBA, MLB, NFL, and the National Hockey League. We're still dotting some I's and crossing some T's, but the legislation – which, frankly, will have more teeth than other bills introduced recently – will be ready for introduction early next week.

With our oversight and legislation, we're hoping to send a clear message to young people in search of their own "Hoop Dreams." Steroid use is harmful, even deadly. Steroid use is cheating. Steroid use will be punished.

We look forward to the testimony today and thank our witnesses for being here.

Chairman TOM DAVIS. Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman.

This is our third hearing on the performance-enhancing drug policies of major league sports, and with each sport we found a different set of issues. Today we turn to basketball.

In preparation for this hearing, we had an opportunity to review the NBA drug policy, and with all due respect, the NBA policy on steroids and other performance-enhancing drugs is simply inadequate. Indeed, of the professional sports policies this committee has reviewed, the NBA policy appears to be the weakest.

Under the NBA policy, NBA players face no random testing at all once they complete their rookie year. They are only tested once each year, during their 1-month training camp.

The policy also fails to cover a vast number of drugs. There are literally dozens of steroids and stimulants that are outlawed in Olympic competition that are still legal for use in the NBA. The policy fails to cover performance enhancers such as human growth hormone or EPO, and it fails to cover designer steroids.

And the NBA penalties are not strong enough to provide a significant deterrent. Penalties call for only a five-game suspension for a first violation, and only 10 games for a second violation. Even for a fourth or fifth violation, players are only subject to a 25-game violation.

These penalties stand in stark contrast to the NBA penalties for street drugs, which call for a 2-year ban for the first offense for a veteran player. Since use of steroids is both illegal and cheating, this disparity in penalties makes little sense.

It is pretty easy to look at the NBA policy and determine how weak it is, but we also have to ask what is the impact of this weakness. Are NBA players using steroids or other performance-enhancing drugs?

There are two answers here. The first is based on perception, and the answer is no. The second is based on reality, and the answer is we really don't know for sure.

The NBA's remarkably weak steroid program makes it impossible to know whether there is a problem. We do know that only a handful of players tested positive for steroids in the last 5 years. But we also know loopholes undermine the effectiveness of the league's steroid program. One NBA trainer has told us that "basketball is not immune" to the problem of performance-enhancing drugs. Another former NBA trainer told us that because of the lack of testing, "even if we did have a problem, it would be hard to pick up."

Many NBA insiders—players, trainers, even the commissioner, Mr. Stern—have indicated that the NBA has few problems with steroids because they just don't apply to the skill set needed to play basketball. They say that basketball is about quickness and touch and stamina, not about brute strength. And they assume that steroids and other performance-enhancers don't provide any advantage to basketball players.

This may be true. But the New York Times yesterday reported on a surprising finding from Major League Baseball's steroid testing program. For years, experts said that only the game's sluggers would use steroids, not pitchers: that pitching was about "proper

mechanics and natural ability," and that bulking up on steroids would hurt pitchers.

Well, it turns out that assumption was wrong. So far, almost half of the players caught in the Major League Baseball testing have been pitchers. And now experts are acknowledging that there are uses of steroids they hadn't thought of: that steroids help pitchers throw the ball faster; that they speed recovery times between outings and help pitchers maintain strength throughout the season; and even that steroids help players gain a mental edge.

The baseball results tell us that we need to guard against relying on assumption. We really don't know what is going on in the NBA until the league implements an effective steroid testing policy.

I know that the league and the union are entering negotiations for a new collective bargaining agreement. Mr. Stern, the league commissioner, has shared his proposals for the new policy with this committee, and Mr. Hunter, the head of the players' union, has indicated some support for a tougher policy on the steroid issue. These proposals are not perfect—I am particularly concerned that punishments will still be weak—but they will be a significant improvement over the current policy.

In the meantime, Congress stands ready to act. I will soon join Chairman Davis and Senator John McCain in introducing bipartisan legislation that will ensure that all major professional sports have strong performance-enhancing drug policies that are consistent with the Olympic standard. The bill would require leagues to test for a broad range of performance-enhancing drugs; it would have true random testing; and it would have tough penalties—2 years for a first offense and a lifetime ban for a second—that would make athletes think twice before resorting to cheating.

Ultimately, I believe this is the direction we must take if we want to set an example for young athletes and rid all professional sports of performance-enhancing drugs.

Mr. Chairman, I thank you for calling the meeting. I look forward to the testimony from the witnesses that are here today and learning what we can from all of them.

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

Statement of
Rep. Henry A. Waxman, Ranking Minority Member
Committee on Government Reform
Hearing on
"Steroid Use in Sports Part III: Examining the National Basketball Association's Steroid Testing Program

May 19, 2005

This is now our third hearing on the performance-enhancing drug policies of major league sports. With each sport, we found a different set of issues.

Today, we turn to basketball.

In preparation for this hearing, we had an opportunity to review the NBA drug policy. And with all due respect, the NBA policy on steroids and other performance-enhancing drugs is simply inadequate. Indeed, of the professional sports policies this Committee has reviewed, the NBA policy appears to be the weakest.

Under the NBA policy, NBA players face no random testing at all once they complete their rookie year. They are only tested once each year, during their one-month training camp.

The policy also fails to cover a vast number of drugs. There are literally dozens of steroids and stimulants that are outlawed in Olympic competition that are still legal for use in the NBA. The policy fails to cover performance enhancers such as human growth hormone or EPO. And it fails to cover designer steroids.

And the NBA penalties are not strong enough to provide a significant deterrent. Penalties call for only a five-game suspension for a first violation, and only ten games for a second violation. Even for a fourth or fifth violation, players are only subject to a twenty-five game violation.

These penalties stand in stark contrast to the NBA penalties for street drugs, which call for a two-year ban for a first offense for a veteran player. Since use of steroids is both illegal and cheating, this disparity in penalties makes little sense.

It's pretty easy to look at the NBA policy and determine how weak it is. But we also have to ask, what is the impact of this weakness? Are NBA players using steroids and other performance-enhancing drugs?

There are two answers here. The first is based on perception, and the answer is no. The second is based on reality, and the answer is we really don't know for sure.

The NBA's remarkably weak steroids program makes it impossible to know whether there is a problem. We do know that only a handful of players tested positive for steroids in the last five years. But we also know loopholes undermine the effectiveness of the league's steroids program. One NBA trainer has told us that "basketball is not immune" to the problem of performance enhancing drugs. Another former NBA trainer told us that because of the lack of testing, "even if we did have a problem, it would be hard to pick up."

Many NBA insiders — players, trainers, even the Commissioner, Mr. Stern – have indicated that the NBA has few problems with steroids because they just don't apply to the skill set needed to play basketball. They say that basketball is about quickness and touch and stamina, not about brute strength. And they assume that steroids and other performance-enhancers don't provide any advantage to basketball players.

This may be true. But the New York Times yesterday reported on a surprising finding from Major League Baseball's steroid testing program. For years, experts said that only the game's sluggers would use steroids, not pitchers: that pitching was about "proper mechanics and natural ability," and that bulking up on steroids would hurt pitchers. It turns out that this assumption was wrong. So far, almost half of the players caught in the Major League Baseball testing have been pitchers. And now experts are acknowledging that there are uses of steroids they hadn't though of: that steroids help pitchers throw the ball faster; that they speed recovery times between outings and help pitchers maintain strength throughout the season; and even that steroids help players gain a mental edge.

The baseball results tell us that we need to guard against relying on assumptions. We won't really know what's going on in the NBA until the league implements an effective steroids testing policy.

I know that the league and the union are entering negotiations for a new collective bargaining agreement. Mr. Stern, the league commissioner, has shared his proposals for the new policy with the Committee. And Mr. Hunter, the head of the players' union, has indicated some support for a tougher policy. These proposals are not

perfect – I am particularly concerned that punishments will still be weak — but they will be a significant improvement over the current policy.

In the meantime, Congress stands ready to act. I will soon join Chairman Davis in introducing bipartisan legislation that would ensure that all major professional sports have strong performance-enhancing drug policies that are consistent with the Olympic standard. The bill would require leagues to test for a broad range of performance enhancing drugs; it would have true random testing; and it would have tough penalties — two years for a first offense, and a lifetime ban for a second — that would make athletes think twice before resorting to cheating.

Ultimately, I believe that this is the direction we must take if we want to set an example for young athletes and rid professional sports of performance-enhancing drugs.

Chairman TOM DAVIS. Thank you.

Mr. Souder will make no opening statement.

Mr. Cummings, did you want to say anything?

Mr. CUMMINGS. I have a brief statement.

Chairman TOM DAVIS. And then other Members will have 7 days to submit opening statements or can make their statements during their questions.

Yes, sir.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I truly thank you for holding this hearing today, examining the use of steroids in the National Basketball Association and the effectiveness of the NBA's steroid testing policy.

Today's hearing represents a growing awareness that steroid abuse in professional sports is no game. Such abuse undermines the credibility of the sports, sends a dangerous message to our young people, contributes to a growing public health crisis, and violates the sanctity of our laws.

Fortunately, sports can represent so much more. At their best, sports can embody the virtues of teamwork, hard work, and integrity. Regrettably, as our hearings with Major League Baseball demonstrated, some professional athletic leagues have failed to embrace this recognition.

I regularly work on issues related to U.S. drug control policy and public health in my role as a ranking minority member of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources. Although the primary focus of our oversight is Schedule I substances, the dangers associated with steroid abuse should not be underestimated.

While steroids can have legitimate medical use, the abuse of steroids by those seeking a competitive advantage through enhanced athletic performance can cause adverse health effects. These problems range from early cardiovascular disease to serious psychiatric side effects, including acute depression and even suicide.

With this in mind, Congress added certain anabolic steroids to Schedule III of the Controlled Substances Act. Individuals possessing such drugs without a valid prescription are liable for a misdemeanor, while persons convicted of distributing, dispensing or selling these drugs are subject to a 5-year sentence for a first time offense. In clear and plain terms, illegitimate steroid use is a crime.

The ripple effect caused by steroid abuse extends beyond the individual user. Steroid use by professional athletes in defiance of the law perpetuates the myth that steroids are not only acceptable, but are also safe. Unfortunately, these destructive messages resonate most with our young people.

Consider the loss of the Garibaldi and the Hooten families who testified before this committee just recently. Their children committed suicide after using steroids, a tragedy they attributed to the negative examples set by professional athletes.

Steroid use has become more pervasive among high schools, with the Centers for Disease Control reporting that 1 in 45 high school students reported using steroids in 1993. By 2003, the figure was 1 in 16.

In light of these figures, I am disturbed by the fact that the NBA steroid testing policy is weaker than that of the NFL or the MLB's. While only three NBA players have been suspended for steroid abuse, the absence of a strong testing policy makes it very difficult to undermine the scope of performance-enhancing drug usage in the NBA. Specifically, the NBA's policy fails to randomly test veteran players, fails to sufficiently penalize players who test positive, and maintains significant gaps in coverage by not banning a variety of performance-enhancing drugs.

As the old adage goes, it is wrong to hope when you can have. If ever there was a time to have an effective steroid testing policy in sports, it is now. We must continue to push for a performance-enhancing drug testing policy in the NBA that is robust and one of zero tolerance.

I am very pleased that Juan Dixon is here from my alma mater, the University of Maryland, and I want to make it very clear, Mr. Chairman—because I have been asked about this so many times on radio shows here recently, whether Juan Dixon was subpoenaed. I want to make it very clear that he came here to send a message voluntarily.

Chairman TOM DAVIS. Absolutely.

Mr. CUMMINGS. Voluntarily, Mr. Chairman. He wanted to send a message that steroid use should not be a part of the NBA.

And I want to thank you, and better luck next time in the playoffs; I hope you move up a little further.

I am encouraged by Commissioner Stern's announcement of a proposal for a tougher testing policy in the NBA. League officials seem to now understand we owe nothing less to our children and to our fans. It is my hope that the players will recognize the urgent need to adopt the recommended changes as well.

So, Mr. Chairman, with that, I look forward to the testimony and I yield back.

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

Opening Statement of

Representative Elijah E. Cummings, D-Maryland

Hearing on "Steroid Use in Sports Part III: Examining the National Basketball Association's Steroid Testing Program"

Committee on Government Reform

U.S. House of Representatives
109th Congress

May 19, 2005

Mr. Chairman,

Thank you for holding today's hearing examining the use of steroids in the National Basketball Association (NBA) and the effectiveness of the NBA's steroid testing policy.

Today's hearing represents a growing awareness that steroid abuse in professional sports is *no* game. Such abuse undermines the credibility of sports, sends a dangerous message to our young people, contributes to a growing public health crisis, and violates the sanctity of our laws.

Fortunately, sports can represent so much more. At their best, sports can embody the virtues of teamwork, hard work, and integrity. Regrettably, as our hearing with Major League Baseball

demonstrated, some professional athletic leagues have failed to embrace this recognition.

I regularly work on issues related to U.S. drug control policy and public health in my role as Ranking Minority Member of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources. Although the primary focus of our oversight is Schedule I substances, the dangers associated with steroid abuse should not be underestimated.

While steroids can have legitimate medical use, the *abuse* of steroids by those seeking a competitive advantage through enhanced athletic performance can cause adverse health effects. These problems range from early cardiovascular disease to serious psychiatric side effects including acute depression and even suicide.

With this in mind, Congress added certain anabolic steroids to Schedule III of the Controlled Substances Act. Individuals possessing such drugs without a valid prescription are liable for a misdemeanor, while persons convicted of distributing, dispensing, or selling these drugs are subject to a five-year sentence for a first

offense. In clear and plain terms, illegitimate steroid use is a *crime.*

The ripple effect caused by steroid abuse extends beyond the individual user. Steroid use by professional athletes in defiance of the law perpetuates the myth that steroids are not only acceptable, but also safe. Unfortunately, these destructive messages resonate most with our youth.

Consider the loss of the Garibaldi and Hooten families who testified before this Committee. Their children committed suicide after using steroids—a tragedy they attributed to the negative examples set by professional athletes.

Steroid use has become more pervasive among high school students with the Centers for Disease Control reporting that, 1 in 45 high school students reported steroid use in 1993. By 2003, the figure was 1 in 16.

In light of these figures, I am disturbed by the fact that the NBA's steroid testing policy is weaker than the NFL's and MLB's. While only 3 NBA players have been suspended for steroid abuse, the absence of a strong testing policy makes it very difficult to

determine the scope of performance enhancing drug usage in the NBA. Specifically, the NBA's policy fails to randomly test veteran players, fails to sufficiently penalize players who test positive, and maintains significant gaps in coverage by not banning a variety of performance enhancing drugs.

As the old adage goes, it is wrong to hope when you can have. If ever there was a time to *have* an effective steroid testing policy in sports, it is *now*. We must continue to push for a performance enhancing drug testing policy in the NBA that is robust and one of zero tolerance.

I am encouraged by Commissioner Stern's announcement of a proposal for a tougher testing policy in the NBA. League officials seem to now understand we owe nothing less to our children and the fans. It is my hope that the players will recognize the urgent need to adopt the recommended changes as well.

I look forward to today's witnesses and yield back the balance of my time.

Chairman TOM DAVIS. Thank you very much.

Yes, let me just say again Mr. Dixon is appearing voluntarily. He is above reproach on this. He is a leader on this.

And we are just, again, honored to have you here, to have you step forward. I hope there is no misunderstanding on this. We are very pleased to have you.

Members will have 7 days to submit opening statements and, again, during your 5 minutes you are welcome to use it.

Nobody has been subpoenaed for this hearing, everybody is appearing voluntarily.

We have Mr. David Stern in our first panel, the Commissioner of the National Basketball Association; Mr. Richard Buchanan, the senior vice president and general counsel of the National Basketball Association; Mr. William Hunter, the executive director of the National Basketball Players Association.

We have Mr. Keith Jones, the vice president of basketball operations and athletic trainer for the Houston Rockets. Mr. Jones, who just completed his 16th year in professional basketball, is well respected within the professional basketball community. At 28, he became the first African-American and the youngest trainer in NBA history. In 2001, Mr. Jones' peers voted him NBA Trainer of the Year. We look forward to your testimony, and thank you for being here.

And Mr. Juan Dixon from the Washington Wizards. As I mentioned, Mr. Dixon is a former National Champion at the University of Maryland. He is the only player in NCAA history to accumulate over 2,000 points, 300 steals, and 200 three-point field goals. He is the Terps' career scoring leader, was named Most Outstanding Player of the 2002 NCAA Final Four, and was an AP First Team All American. Most recently, he helped lead the Wizards to the second round of the Playoffs.

It is our policy that all witnesses be sworn before you testify, so if you would rise with me and raise your right hands.

[Witnesses sworn.]

Chairman TOM DAVIS. Dr. Lloyd Baccus, who is the medical director of the NBA, was invited to testify at today's hearing, and he wanted to be here, but for understandable reasons he couldn't attend, but he did submit written testimony, and I think the NBA believes that Mr. Buchanan should be able to address the Members' questions regarding the logistics of the NBA steering testimony.

[The prepared statement of Mr. Baccus follows:]

TESTIMONY OF LLOYD T. BACCUS, M.D.
MEDICAL DIRECTOR, NBA/NBPA ANTI-DRUG PROGRAM

BEFORE THE COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

MAY 19, 2005

Chairman Davis and Members of the Committee:

Thank you for the opportunity to provide this testimony.

Since serving as Captain in the United States Air Force Medical Corps in the late 1960s, I have devoted my professional career to the mental and physical health issues associated with substance abuse. I am currently an Adjunct Associate Professor of Psychiatry at the Morehouse School of Medicine, and have previously held other teaching positions at both Morehouse and Emory University School of Medicine. I have advised on physical and mental health programs at correctional facilities throughout the country. In addition to my role with the NBA's anti-drug program, I am currently the President and CEO of Comprehensive Medical Associates, Inc., a company I founded in 1986 and which provides physical and mental health services to a variety of clients.

In 1989, I was asked by the NBA and the National Basketball Players Association to assume the position of Medical Director of the NBA's anti-drug program. In the 16 years I have served in this capacity, I have gained a great

deal of experience in understanding the substance abuse issues faced by NBA players. Over the last six NBA seasons, during which steroids and performance-enhancing drugs were included in the NBA's program, I have also learned a great deal about these substances and their effects on athletes. I am pleased to be able to provide information to the Committee and am fully supportive of its work in this important area.

In my capacity as Medical Director, I coordinate and implement the NBA's anti-drug program, and oversee all in-patient and aftercare treatment and testing of players who have entered the program. Such entry can occur as a result of a positive drug test or because a player has elected to come forward voluntarily to seek treatment. Once a player has entered the program, I will conduct an initial evaluation, arrange for in-patient treatment if medically necessary, develop an aftercare program that involves both dedicated support systems for the player and frequent drug testing, and monitor the player's progress (or lack thereof) and communicate my conclusions to the NBA and the Players Association. In performing this function, I am assisted by certified drug counselors who frequently travel to the player's home city to provide direct support during the initial stages of in-patient care or aftercare, and by a nationwide network of medical providers who assist players with counseling and treatment as medically indicated.

In addition to my role as Medical Director, I also serve as the program's Medical Review Officer ("MRO"). In this capacity, I am called upon to certify test results that have been deemed "positive" by the laboratory for a prohibited

substance. Among other things, the MRO function requires me to determine whether there is a reasonable medical explanation for the presence of a prohibited substance in the player's urine, or whether the particular substance is present at levels that may reflect an endogenous -- rather than an exogenous -- source. Steroids and performance-enhancing substances can impose a challenge in this regard, as a number of banned substances are naturally present at low levels in every human body. Other substances that are present on the NBA's banned list – such as pseudophedrine – can appear in over-the-counter medicines, and proper uses of these drugs must be distinguished by the MRO from improper uses for competitive advantage.

It is now, of course, common knowledge that steroids and performance-enhancing substances pose a substantial health risk to those who use them. Heart attacks, strokes, kidney and liver cancers, sterility, and changes to the musculoskeletal system are just a few of the many adverse health effects that have been associated with steroid use. Somewhat less well known, but equally dangerous, are the psychological effects of these drugs, which include increased aggressiveness, changes in mood, and severe depression when use is terminated.

During my tenure as Medical Director, I have not become aware of any evidence that would suggest more than the most minimal use of steroids and performance-enhancing drugs by NBA players. Of the approximately 4,200 drug tests that were conducted by the NBA for these substances during the past six seasons, only 23 were reported back as initial laboratory positives, and only 3 of

those were ultimately confirmed by me as "positive" tests after MRO review. These results do not surprise me, as it is not at all clear that the traditional benefits of steroids and performance-enhancing substances – such as increased muscle mass, strength, and endurance – are, or are perceived to be, advantageous to NBA players. The physical traits that NBA players rely on – particularly, quickness, agility, and dexterity – do not appear to be assisted, and may even be hindered, by the use of these substances.

Nevertheless, I fully endorse the NBA's decision in 1999 to include steroids and prohibited substances in its anti-drug program, and am pleased to learn that the NBA and the Players Association are currently discussing ways to further strengthen this aspect of the program. A strong and effective testing program is the best way to ensure that steroids and performance-enhancing substances never get a foothold in the NBA.

In addition to drug testing, the NBA's anti-drug program contains a substantial education and counseling component. Each NBA player, during each season, is required to attend a mandatory "team awareness" meeting, at which substance abuse issues are addressed. These meetings are conducted by members of the program's professional staff, including a physician and two certified counselors who are retired NBA players. The physician provides information about the adverse health effects of steroids and performance-enhancing substances, describes the drugs on the NBA's banned list (as it may have been amended from the prior season), provides written work-study materials designed to help players retain what they have learned, and answers questions from players. Drawing on

their experiences as former NBA players, the counselors make the connection between this technical information and the real life circumstances of players from adolescence to professional athletics.

In addition to the annual team awareness meetings, substance abuse education is provided to rookie players prior to their entry into the NBA. This occurs at a mandatory week-long "Rookie Transition Program," during which the dangers of drug and steroid use – among numerous other topics – are addressed in detail. A presentation on the NBA's drug program is also given at the NBA's Pre-Draft Camp in June of each year, where prospective NBA draftees are gathered.

In sum, the NBA's drug program has been and remains committed to ensuring that steroids and performance-enhancing drugs do not become part of the NBA landscape. I am confident that we will continue to be successful in this endeavor.

Chairman TOM DAVIS. Commissioner Stern, we will start with you, and we will move straight on down the line. Thank you for being with us.

STATEMENTS OF DAVID J. STERN, COMMISSIONER, NATIONAL BASKETBALL ASSOCIATION; RICHARD W. BUCHANAN, SENIOR VICE PRESIDENT AND GENERAL COUNSEL, NATIONAL BASKETBALL ASSOCIATION; G. WILLIAM HUNTER, EXECUTIVE DIRECTOR, NATIONAL BASKETBALL PLAYERS ASSOCIATION; KEITH JONES, ATHLETIC TRAINER, HOUSTON ROCKETS; AND JUAN DIXON, PLAYER, WASHINGTON WIZARDS

STATEMENT OF DAVID J. STERN

Mr. STERN. Chairman Davis, Congressman Waxman, members of the committee, I am honored to be here, and I applaud the work of the committee, its seriousness of purpose and what it has done to raise the awareness of steroid use in sports and amongst the Nation's youth.

We subscribe to the notionality that steroids and other performance-enhancing drugs have no place in the NBA. They are not good for our competition, they are not good for the health of our players, and they are bad for our young fans, because many millions of young fans look up to our NBA players.

I would just say that we have been dealing with the subject of drugs since 1983, when the NBA was first involved in allegations about drug use, and our attention had focused initially on drugs like heroin and cocaine, and we worked with then-President Reagan and the White House Conference for a Drug-Free America, of which I was a member, to deal seriously with that subject.

We learned a little bit about steroids along the way, and in 1999 we added steroids to our policy. Not because we believed that there was steroid use, but we sensed that something was happening in America that required us to begin to deal with steroids. We didn't think we had a problem, but we did want to stay ahead of the curve.

The details of the 1999 policy are in my written statement. We believe it was a good start, but we know now that it can be improved dramatically. We are currently negotiating a new collective bargaining agreement with the players, and we have proposed, as the chairman and Mr. Waxman noted in their opening statements, random tests for all players each season, four of them, one random test for each player off-season, the first penalty, 10 games suspension—and, by the way, at the average salary, that would be a half a million dollar penalty to our players—25 games for the second; and dismissal for the third. You will pardon my changing sports, but the policy that we propose is three strikes and you are out.

We have a prohibited substances committee, which consists of a representative of each of the league and the union and three independent drug experts in testing, two of whom oversee Olympic testing in laboratories. And they add, at their own instance or at one of the parties, additional substances to the list over time, and we have added a number of substances.

And I might add, with respect to Congressman Waxman's opening statement, that some of those substances are substances that we have added that Congress has not yet seen to declare illegal, and I would urge you to consider declaring them illegal, because that is a very important subject for us, and we added andro and ephedra and others at a time when this body and the Senate chose not to act on it, and we would use the occasion of our being here to urge you to look at that subject again.

We also recognize that with respect to public education we have a huge role to play, and I commit to you that whatever we do now, we will redouble our efforts with respect to programs reaching out to kids. We do an international basketball without borders program, where we do clinics and the like, and we will be reaching out there.

We do a Read to Achieve program across America, where we have opened up 100 reading and learning centers, and we will be strengthening our anti-steroid message there. We do a Junior NBA and Junior WNBA, which, likewise, will have strong anti-steroid messages. And our public service announcements, both on broadcast and on NBA.com, will be strengthened as we have learned more through these hearings about the use of steroids amongst our Nation's youth.

So I thank you again for bringing ours and the public's attention to this very important subject, and I have finished with 18 seconds to go.

[The prepared statement of Mr. Stern follows:]

TESTIMONY OF DAVID J. STERN
COMMISSIONER, NATIONAL BASKETBALL ASSOCIATION

AND

RICHARD W. BUCHANAN
SENIOR VICE PRESIDENT AND GENERAL COUNSEL,
NATIONAL BASKETBALL ASSOCIATION

BEFORE THE COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

MAY 19, 2005

Chairman Davis and Members of the Committee:

The use by athletes of steroids and other performance-enhancing substances is an issue implicating the fundamental integrity of all athletic competition. The National Basketball Association ("NBA"), as a result, has a strong and continuing interest in ensuring that these drugs are not used by our players and that our games are conducted on a fair and legitimate basis. Steroids and performance-enhancing drugs also would pose serious risks to the health of our players, which provides a separate but equally compelling rationale for preventing their use in the NBA. Finally, it is simply the fact that young people – and, especially, young athletes – look up to and attempt to emulate professional athletes. It is therefore incumbent on the NBA and its players to

keep steroids out of our game in order to send the message to all young fans that these substances have no legitimate place in athletic competition.

For all of these reasons, the NBA, in conjunction with the National Basketball Players Association ("Players Association"), has – over the past six seasons – paid considerable attention to the issue of steroids and performance-enhancing drugs in our sport. We have agreed on a comprehensive testing program as part of our collective bargaining negotiations; we have amended that program since 1999 to add new performance-enhancing substances as appropriate; and we have created an ongoing program to educate our players about the dangers of these drugs. We have previously produced to the Committee detailed information about the past and current structure of the NBA drug program, how it works, and its results to date.

The NBA and the Players Association are currently engaged in active negotiations for a new labor contract, to succeed the one that is scheduled to expire at the end of the current season. In those negotiations, the NBA has made proposals to the Players Association that would significantly improve our steroids and performance-enhancing drug program, and we are committed to obtaining those improvements as part of any new labor contract. As we describe in detail below, these improvements will, among other things, increase the number of random tests for players, add an off-season testing component, broaden our list of banned substances, and increase the penalties for violators.

It is therefore timely and appropriate for the NBA to have this opportunity to appear before the Committee to testify regarding steroids and performance-

enhancing drugs. We appreciate the Committee's hard work in this area, its seriousness of purpose, and the public attention it has drawn to this very important issue.

* * * * *

The History of the NBA Drug Program

In 1983, the NBA and the Players Association adopted our first drug program. At the outset, the focus of our collectively-bargained program was on drugs of abuse – in particular, cocaine and heroin. Veteran players who tested positive for these substances in "reasonable cause" tests were immediately dismissed from the NBA for a minimum of two years; and, when the program was modified in collective bargaining negotiations in 1988, rookie players who tested positive in either random tests or "reasonable cause" tests were immediately dismissed from the NBA for a minimum of one year. In all cases, players who came forward voluntarily for assistance were provided with appropriate treatment and counseling, and were subject to fines, suspensions, or dismissal for failure to comply with the terms of their prescribed treatment programs.

In 1999, the NBA and the Players Association substantially modified and improved the drug program. Among other things, the list of banned substances was expanded to include steroids and performance-enhancing drugs; testing was expanded to cover veterans as well as rookie players; and penalties for violators were increased. The Medical Director overseeing the NBA's drug program is Dr. Lloyd Baccus; he has served in this capacity since 1989. Rick Buchanan, NBA

Senior Vice President and General Counsel, is the senior NBA executive responsible for administering the program.

The NBA had no evidence in 1999 (and we have none today) to suggest even minimal use of steroids or performance-enhancing substances by NBA players. Indeed, some have suggested that the sport of basketball -- which emphasizes quickness, agility, dexterity, and skill above all other physical attributes – does not lend itself to the use of steroids and performance-enhancing substances, which are primarily used to build muscle mass, strength, and endurance. Nevertheless, both the NBA and the Players Association believed in 1999 that it was important to adopt a policy before any problem could emerge, and the NBA remains committed to that same approach today.

Testing of NBA players for steroids and performance-enhancing drugs commenced with the 1999-2000 season. Under the 1999 program, all players were tested once during training camp (the month of October), and rookies were tested three additional times during the course of the regular season. All such tests were conducted on a random basis – i.e., without prior notice to the player. In addition, all players were subject to testing at any time upon "reasonable cause." The laboratory used by the NBA also tests for masking agents and diuretics that could be used to hide drug use.

Players who tested positive under the 1999 program were required to be suspended for 5 games (first offense), 10 games (second offense), and 25 games (subsequent offenses). (There was a limited exception to this rule for certain substances newly added to the program in 2000, such as DHEA; positive tests for

these substances were to result in suspensions of 2, 8, and 12 games, respectively, for the first, second, and subsequent offenses.) All NBA suspensions are without pay, and all suspensions of players are publicly announced, although the applicable substance was only to be identified upon consent of the player. Any appeal by the player of a drug program suspension did not stay the imposition of the penalty.

In order to remain current with developments in this area, the 1999 drug program provided a mechanism for adding new substances to our banned list. These additions were made by a Prohibited Substances Committee, comprised of one representative from both the NBA and the Players Association, and three drug testing experts that were jointly selected by the parties. Those experts included Dr. Barry Sample, who served as Director of the Anti-Doping Laboratory for the 1996 Summer Olympics in Atlanta, and Dr. Doug Rollins, who served as Medical Director of the Doping Control Program for the 2002 Winter Olympics in Salt Lake City.

In November 2000, the Prohibited Substances Committee added nine new substances to the NBA's banned list, including androstenedione and DHEA (even though androstenedione was not declared illegal by Congress until 2004, and DHEA is still available over-the-counter). In September 2003, six additional substances were added by the Prohibited Substances Committee, including ephedra and related products. (Again, this was well before ephedra and related products were banned by the FDA in February 2004. The NBA's prohibition of these substances will not be affected by a federal court's decision in April

overturning the FDA's ephedra ban.) And, in December 2003, the Prohibited Substances Committee banned Gestrinone and THG.

The NBA has conducted almost 4,200 tests for steroids and performance-enhancing drugs in the six seasons since these substances were banned by our drug program, and have had a total of 23 initial laboratory positives – approximately ½ of 1 percent. Of the 23 initial laboratory positives in the NBA's program, only three satisfied the additional criteria that must be met for a sample to be confirmed as "positive" under the NBA's drug program (i.e., a laboratory positive on the "B" sample conducted at a different laboratory, and review and confirmation by the Medical Review Officer). Several initial laboratory positives involved players that were terminated from employment prior to confirmation of their test results; others were found by the Medical Review Officer to be subject to a reasonable medical explanation. Each of the 3 players with a confirmed positive test result was immediately suspended. None of these players are currently playing in the NBA.

In the last few years, the NBA and the Players Association have placed increasing emphasis on the dangers of dietary supplements, which are not subject to approval by the federal government. A special notice regarding dietary supplements is now distributed to all players prior to the start of each season, and is displayed as a poster in each team locker room. The warning states in part:

> "Use of supplements has been associated with high blood pressure, heart attack, stroke, seizure, and sudden death. These events have occurred in young adults, including elite athletes, in otherwise good health. Even supplements that are 'natural' can have adverse effects. . . . Because supplements are not regulated, their quality and potency may vary significantly from product to product. In fact, supplements may be contaminated with ingredients not

> listed on the label. Some of these ingredients may be harmful; others may be banned by the NBA/NBPA Anti-Drug Program, and could lead to a positive drug test."

NBA players must be particularly careful about any supplements they ingest because the NBA's drug program has a "strict liability" standard. All players are responsible for whatever substances they put in their bodies; a player does not need to have intended to take a performance-enhancing substance in order to violate the policy and be penalized. Thus, players may test positive (and suffer the consequences) as the result of the use of a tainted nutritional supplement or the use of a legal substance, such as DHEA, that is banned by our drug program.

In addition to drug testing, the NBA's drug program contains a substantial education and counseling component. Each NBA player, during each season, is required to attend a "team awareness" meeting, at which substance abuse issues are addressed by members of the program's professional staff. In addition, prior to their entry into the NBA, rookie players must attend a week-long "Rookie Transition Program," during which the dangers of drug and steroid use – among numerous other topics – are addressed in detail. A presentation on the NBA's drug program is also given at the NBA's Pre-Draft Camp in June of each year, where prospective NBA draftees are gathered. Finally, Dr. Baccus maintains a nationwide network of medical providers, at least one of which is available in each NBA city, to assist players with counseling and treatment as medically indicated.

Improvements to the NBA's Drug Program

The NBA's 1999 Collective Bargaining Agreement expires at the conclusion of the current NBA season, specifically on June 30, and the NBA and the Players Association are currently engaged in negotiations for a successor agreement. It is our hope that such an agreement can be reached prior to the end of the season, and our expectation that it will include a number of improvements to the drug program, including additional random testing for all players for steroids and performance-enhancing drugs. The NBA has proposed to the Players Association that the following changes be made to the Program with respect to steroids and performance-enhancing drugs:

- All players (veterans and rookies) will be tested at random 4 times during the season (once during training camp and 3 additional times during the season).
- All players (veterans and rookies) will be subject to off-season testing.
- Penalties for violators will be increased as follows: first offense -- 10 game suspension; second offense -- 25 game suspension; third offense -- dismissal and disqualification from the NBA (subject to reinstatement after two years).
- The list of banned substances will be expanded to include all steroids made illegal by the Anabolic Steroids Control Act of 2004, plus additional steroids and stimulants banned by WADA, and a provision will be added requiring that any substance declared illegal by Congress will automatically be added to the NBA's banned substances list.
- Other technical changes will be made to the program, such as lowering the threshold for a positive testosterone test from a ratio of 6:1 to a ratio of 4:1, as WADA did earlier this year, and changing the NBA's testing laboratory to one accredited by WADA in order to take advantage of the most advanced laboratory science.

With these improvements to our program, our continuing ability to make changes to the list of banned substances through our Prohibited Substances

Committee, and our ongoing efforts to educate our players about the dangers of steroids and performance-enhancing drugs, the NBA will soon have an even stronger and more effective drug program. Our fans and players deserve no less.

Public Education

We recognize that one of the Committee's concerns is the extent to which young people, both athletes and non-athletes, are using steroids today. The NBA is fully supportive of efforts to better educate young fans about the dangers of these substances, as well as drugs of abuse such as marijuana and cocaine. Indeed, the NBA, its teams, and its players have made numerous contributions to organizations and initiatives that counsel against substance abuse. The NBA, for example, contributes financially to organizations such as Partnership for a Drug Free America. We have also previously created public service announcements for the "Just Say No" campaign, and currently include anti-drug messaging in our Basketball Without Borders program -- an international basketball youth camp and outreach initiative that promotes friendship, healthy living, and education throughout the world.

NBA teams, as well, have sought to educate young people about the dangers of drug abuse. To name just a few examples: (i) for the past 15 years, the San Antonio Spurs have sponsored the Drug-Free Youth Basketball League, an eight-week basketball league targeting kids from less affluent city neighborhoods and promoting the values of teamwork, discipline, and avoidance of drugs; (ii) the

Denver Nuggets provide airtime in their local game telecasts for public service announcements from the Partnership for a Drug Free America/Drug Free Denver, and sponsor a Community Ambassador Program pursuant to which former NBA players speak to kids in the community about the dangers of drug use; (iii) the Dallas Mavericks facilitate a "Hoops for Health" program that places anti-drug messages in classroom materials and in a special section of the Dallas Morning News; and (iv) the Miami Heat will soon announce a partnership and various initiatives with the Miami Coalition for a Safe and Drug-Free Community, and will create public service announcements in support of this program.

NBA players, too, have contributed their efforts to the cause. Dikembe Mutombo, Vlade Divac, Peja Stojakovic, Nene, and Eduardo Najera have all appeared in media awareness campaigns and other events for Sports Against Drugs, a program co-sponsored by the NBA and the United Nations Office for Drug Control and Crime Prevention that educates young people about the dangers of drugs and the benefits of a healthy lifestyle through sports. NBA players, during each season and throughout the off-season, visit countless boys and girls clubs, recreation centers, schools, and hospitals to speak with children and promote the values of a drug-free lifestyle.

The NBA is committed to increasing our efforts in this area and targeting the use of steroids and performance-enhancing drugs. It is our intention, for example, to create a public service announcement directed at this issue that can be aired during NBA television programming. It is similarly our intention to incorporate anti-drug messaging within our Read to Achieve program -- the NBA's year-round

campaign to help young people develop an affinity for reading -- that reaches an estimated 50 million children a year, and within our Jr. NBA/Jr. WNBA Program – a nationwide support program for youth basketball leagues across the country – that reaches approximately 2 million kids and their parents on an annual basis. Finally, we also intend to utilize our website, NBA.com, which is uniquely visited by approximately half a million children each month, to distribute anti-drug messages.

The NBA is aware of this Committee's creation of the Zero Tolerance Committee, and understands that the current intention is for this Committee to convene in several meetings around the country during the course of this year. We would be pleased to participate on this Committee and to provide our input and ideas during these meetings.

* * * * *

The NBA is fully committed to a strong and effective drug testing program for steroids and performance-enhancing substances. We made a good start in this area with the creation of our first steroids program in 1999, but intend to do better by making improvements in this program prior to the start of next season. We appreciate the attention that the Committee's efforts have brought to this important matter, and for the opportunity to testify here today. We will be pleased to answer any questions.

Chairman TOM DAVIS. Thank you very much. It is a great precedent here.

Mr. Buchanan, thank you for being with us.

STATEMENT OF RICHARD W. BUCHANAN

Mr. BUCHANAN. Chairman Davis, Congressman Waxman, members of the committee, thank you very much for the opportunity to be here today. My name is Rick Buchanan, and I am the senior vice president and general counsel of the National Basketball Association. Among other duties at the NBA, I am the person who is responsible for the development, implementation, and administration of our drug program. I am directly involved with my counterparts at the union, Players Association in negotiating the terms of the policy.

I also work with the union to select the medical director and the other experts that we use to oversee the program. Those medical experts, of course, are the individuals that we rely on to administer and oversee our program on a day-to-day basis. The top of the list of the individuals that we have selected is Dr. Lloyd Baccus, who is our medical director. Dr. Baccus is responsible for reviewing and confirming positive laboratory results, for evaluating and treating players who have entered the program, and for educating NBA players about the dangers of substance abuse. He has also assembled a nationwide network of drug counselors and medical professionals to assist players with substance abuse issues in their home cities.

Dr. Baccus has served as medical director of the NBA's drug program for the past 16 years. The players know him and they trust him, and he is available to them on a 24/7 basis.

The NBA and the Players Association has also created a Prohibited Substances Committee, which Commissioner Stern just mentioned, and that is a committee that has a representative of both the union and the league and three independent drug testing experts. This is the committee that reviews our list of banned drugs and makes recommendations to add additional substances. We did that on three separate occasions since 1999. We banned androstenedione, DHEA, and similar substances in one traunch of drugs; we banned ephedra and related products in another; and, most recently, we banned several new designer steroids.

Members of that committee include, among others, Dr. Barry Sample, who was the director of the Anti-Doping Laboratory for the 1996 Summer Olympics in Atlanta; and Dr. Doug Rollins, who is the medical director of the Doping Control Program for the 2002 Winter Olympics in Salt Lake City.

The NBA and the Players Association also rely on our independent drug testing laboratory, Quest Diagnostics, and on a periodic basis we seek technical advice from Dr. Gary Wadler, who is a leading expert in the field of steroids and performance-enhancing drugs and who has appeared before this committee on two prior occasions.

The NBA takes very seriously its obligation to maintain an impartial, fair, and effective drug program. We fully recognize the importance of this endeavor to the health and well-being of our athletes, the integrity of our games, and the example we set for young

fans. Because of the medical staff we have assembled, because of the care we take in our processes and methods, because we have been drug testing our players since 1983 and so we have over 20 years of experience in this area, and because we have always managed to work cooperatively with the Players Association once we have negotiated our policy, we are very confident in our ability to do this job well.

As Commissioner Stern has noted, we believe that the NBA and the Players Association took a good first step with respect to steroids and performance-enhancing drugs when we added these substances to our program in 1999, and we are committed to having an even stronger and more effective policy when our current round of bargaining is concluded with the players.

In addition to the changes mentioned by the commissioner, the NBA would also intend to make other technical adjustments to the program, such as re-evaluating with our committee whether we should move to a 4-to–1 ratio for testosterone testing, better protecting against newly designed steroids by banning any substance with the same chemical structure or biological effect as a currently prohibited drug, and taking a hard look at our list of banned stimulants to ensure that it is sufficiently broad and current.

The NBA's drug policy has been and remains a dynamic one, and we are constantly striving to find ways to make it better. The committee's attention to this matter has been very helpful to the NBA, as we explore potential changes to our program. And I would be very happy to answer any further questions that you have.

Chairman TOM DAVIS. Thank you very much.

Mr. Hunter.

STATEMENT OF G. WILLIAM HUNTER

Mr. HUNTER. Mr. Chairman, Congressman Waxman, my name is G. William Hunter, and I am the executive director of the National Basketball Players Association, the labor union that represents all NBA players in collective bargaining. I am also an attorney, a former professional athlete, and I was honored to serve as the U.S. Attorney for the northern district of California under Presidents Carter and Reagan.

My first round of collective bargaining with the NBA took place in 1998. During those negotiations, the NBA owners suggested that we amend our anti-drug policy by adding steroids to our list of prohibited substances. Despite the fact that we were not perceived to have any problem with steroid use in the NBA, the players did not hesitate to put in place a comprehensive program and policy that provides for education, testing, and discipline with regard to the use of steroids. We were glad to get out in front of this issue long before it generated the national interest that exists today, and declare to the world that there is no place for steroids in professional basketball.

That collective bargaining agreement is set to expire next month, and we now find ourselves in a similar place to where we were when the agreement was negotiated in 1998–1999. That is, we still are not perceived to have a steroids problem in the NBA, but we again are offered an opportunity to get out in front of this now increasingly public issue and send a message to young people around

the world that our players do not condone or tolerate the use of steroids. As we did in 1999, we will again do our part to deliver this important message.

We have already advised the commissioner and the NBA owners he represents, and we state here publicly today, that beginning next season, our players will agree to even more frequent testing and harsher penalties for steroid use, regardless of whether the results of our testing over the past 7 years mandate that such changes be made. To be clear, with only three confirmed positive results in over 4,200 tests over the past 7 years, we believe that steroids are not an issue in the NBA. Nonetheless, we have pledged to amend our policy.

We have done so for a variety of reasons. First and foremost, whether or not steroids will in fact enhance the performance of a basketball player, there is little doubt that the use of such substances will create a perception in the minds of our consumers that a player has an unfair advantage. We cannot tolerate even the perception that the integrity of our contest is at issue. More so than an entertainment, the product we offer to the consumer is competition, and the purity of that competition cannot be compromised. If nothing else, for business reasons alone, to ensure the continued success of our enterprise, we must effectively police ourselves.

Our players have not hesitated to take the lead and speak out publicly on this point. Among the various players who have been quoted by the media, I cite the example of five-time All-Star and former Olympian Ray Allen of the Seattle Sonics, a former member of our union's Executive Committee, who said that we need "to create a level playing field and make sure nobody's cheating."

Another well known player, Jalen Rose of the Toronto Raptors, also spoke eloquently to this point in a recent article: "People have to understand the basics of athletics is fair play. That's why we shake hands after every event. I line up against you, whether it's middle school, high school, college, pro, and I try to beat you. But when it's all over, I understand that you did not necessarily have an unfair advantage over me."

Aside from the importance of protecting our business, the players will agree to amend our policy so that we can send a firm message on this important societal issue. Though the players and I do not profess to have medical expertise, there is little doubt that the use of steroids will cause a wide range of serious health problems.

As stated by our union's first vice president Antonio Davis of the Chicago Bulls in an interview last month, "I think we have a responsibility to high school kids, junior high kids, college kids, whoever, to show them it's hard work that's going to get them there, not cheating and tearing up your body." Derek Fisher of the Golden State Warriors, another member of our union's Executive Committee, echoed that theme during an interview last month on performance enhancers, stating that "we always have to be mindful of the fact that something is really prevalent in our country or in professional sports. I don't think we can be blind to the fact, because it's a very sensitive issue right now, particularly with the effect it's having on high school kids."

While I understand that this committee is considering enacting legislation regarding steroid policies in professional sports leagues,

I would respectfully urge the committee to stay its hand. Collective bargaining is the appropriate forum for consideration and resolution of these issues. The agreements we forget are respected by the parties and will endure, and we have already shown that the parties can work successfully on this issue. Our bargaining to date has resulted in an effective policy that justifiably has kept NBA players out of the steroid discussion, and we have pledged to do even more in our current negotiations to make sure that in the future we are not pulled in.

Finally, the league and players have an extremely strong incentive to police ourselves on these issues. Under our revenue sharing arrangement with the NBA, the players receive a significant portion of the billions of dollars in revenues generated each year by their performance in NBA games. If we detect a problem developing that will threaten our livelihood, we will of course take action. We acted in a decisive manner by imposing a meaningful policy in 1999, and we intend to do even more in the coming months.

I thank you for this opportunity.

[The prepared statement of Mr. Hunter follows:]

STATEMENT OF G. WILLIAM HUNTER, EXECUTIVE DIRECTOR, NATIONAL BASKETBALL PLAYERS ASSOCIATION, BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE ON GOVERNMENT REFORM, MAY 19, 2005

Mr. Chairman and Members of the Committee:

My name is G. William Hunter, and I serve as the Executive Director of the National Basketball Players Association, the labor union that represents all NBA players in collective bargaining. I am also an attorney, and was honored to serve as the United States Attorney for the Northern District of California under Presidents Carter and Reagan.

My first round of collective bargaining with the NBA took place in 1998. During those negotiations, the NBA owners suggested that we amend our anti-drug policy by adding steroids to our list of prohibited substances. Despite the fact that we were not perceived to have any problem with steroid use in the NBA, the players did not hesitate to put in place a comprehensive program and policy that provides for education, testing and discipline with regard to the use of steroids. We were glad to get out in front of this issue long before it generated the national interest that exists today, and declare to the world that there is no place for steroids in professional basketball.

That collective bargaining agreement is set to expire next month, and we now find ourselves in a similar place to where we were when the agreement was negotiated in 1998-99. That is, we still are not perceived to have a steroid problem in the NBA, but we again are offered an opportunity to get out in front of this now increasingly public issue and send a message to young people around the world that our players do not condone or tolerate the use of steroids. As we did in 1998-99, we will again do our part to deliver this important message.

We have already advised the Commissioner and the NBA owners he represents, and we state here publicly today, that beginning next season, our players will agree to even more frequent testing and harsher penalties for steroid use, regardless of whether the results of our testing over the past seven years mandate that such changes be made. As I will describe shortly, the test results confirm our belief that steroid use is not an issue in the NBA. Nonetheless, we will agree to these new terms, and ask nothing from management in exchange.

Before discussing the reasons why we would agree to, in effect, fix something that isn't broken, allow me to take a quick moment to familiarize the Committee with some of the general terms of the steroids policy that currently exists in the NBA.

As soon as a player enters the league as a rookie, he is immediately taught about the dangers of steroid use at our week-long Rookie Transition Program. During his

first season, each rookie is subject to random testing, once during training camp and three times during the season. Veterans are tested for steroids during training camp, and additionally a veteran can be tested at any time if there is reasonable cause to believe he is using steroids. Players who test positive are suspended for multiple games, with increasingly lengthy suspensions imposed on repeat offenders, specifically, 5 games for a first offense, 10 games for a second, and 25 games for a third and each subsequent offense. Under these levels, a player earning the average salary in the NBA this season who tests positive a third time would forfeit nearly $1.4 million while missing about 30% of the 82-game season.

All suspensions of players are publicly announced, although the applicable substance is identified only upon consent of the player. Our list of prohibited substances is expansive, consisting of 32 substances. To remain current, our agreement provides for new substances to be added if they are declared illegal, or if they are found to be performance enhancing and harmful to a player's health. An independent Prohibited Substances Committee, consisting of some of the top experts in the field, is empowered to add any substance that meets these criteria, and the Committee has done so regularly, adding 17 new substances since the inception of the program in 1999, including most recently ephedra and THG.

Finally, players receive continuing education on these topics through mandatory Team Awareness Meetings, with discussions led by drug counselors who are former NBA players. In addition, the Medical Director maintains a nationwide network

of medical providers, at least one in each NBA city, who are available to assist players with counseling and treatment.

We believe our program as it currently exists strikes the appropriate balance with regard to issues of testing and discipline, and we certainly have not seen signs that a steroids issue exists in the NBA. Since the time our steroids program took effect in the 1998-99 season, about 4,200 tests have been conducted on players, yielding only 3 confirmed positive results. (In total, there have been 23 laboratory positives – well less than 1% -- but only 3 that satisfied the additional steps that are required for a sample to be confirmed as positive under our program.) Anecdotal evidence my staff and I have compiled through our meetings with the teams this past season confirms that players in the NBA simply have no desire to use steroids. As seven-time All-Star and former Olympian Grant Hill of the Orlando Magic said in a recent article about steroids, "I can't remember even hearing anybody talk about it." He concluded that steroids simply are not an issue in the NBA.

Why? While I can not offer the Committee any medical expertise, I can offer the Committee one perspective that many players have communicated both publicly and privately, beyond their concern with the health risks and side effects, and aside from the deterrent effect put in place by our policy. Simply put, the players believe that steroid use will diminish, not enhance, their skills as a basketball player. Professional basketball is not a power sport; it is a sport of quickness and athleticism. Our players want to be long and lean. They believe that the added bulk that may be offered by steroid use would

only slow their lateral movement and detract from those instinctive abilities that have brought them to the pinnacle of their craft.

Tony Massenburg of the San Antonio Spurs, a 13-year NBA veteran, articulated the point well in a recent article: "Steroids are not going to make you put the ball in the basket. And if you get real big and pumped up, you're not going to be able to move very well. And if you can't move, no matter how big and strong you are, in this league people are just going to be able to go right around you." As Grant Hill said in that same article, "Muscles and extra weight and extra size are not conducive to what basketball is all about."

Regardless of these points, as I stated earlier, our players have decided to cut off the debate on steroid use in the NBA before it could even get started. We have indicated to the NBA owners that we will not resist their efforts in our current round of collective bargaining to increase testing and impose harsher discipline for steroid use. Our existing agreement expires next month, and any new terms would presumably take effect next season.

We have made this pledge for a variety of reasons. First and foremost, though as I discussed earlier we believe that steroids will not in fact enhance the performance of a basketball player, there is little doubt that the use of such substances will create a perception in the minds of our consumers that a player has an unfair advantage. We cannot tolerate even the perception that the integrity of our contests is at

issue. More so than entertainment, the product we offer to the consumer is competition, and the purity of that competition cannot be compromised. If nothing else, for business reasons alone, to assure the continued success of our enterprise, we must effectively police ourselves on this issue.

Our players have not hesitated to take the lead and speak out publicly on this point. Among the various players who have been quoted by the media, I cite the example of five-time All-Star and former Olympian Ray Allen of the Seattle Sonics, a former member of our union's Executive Committee, who said that we need "to create a level playing field and make sure nobody's cheating." Another well-known player, Jalen Rose of the Toronto Raptors, also spoke eloquently to this point in a recent article: "People have to understand the basics of athletics is fair play. That's why we shake hands after every event. I line up against you, whether it's middle school, high school, college, pro, and I try to beat you. But when it's over, I understand that you did not necessarily have an unfair advantage over me."

Aside from the importance of protecting our business, the players will agree to amend our policy so that we can send a firm message on this important societal issue. Though the players and I do not profess to have medical expertise, there is little doubt that the use of steroids will cause a wide range of serious health problems. As stated by our union's First Vice President Antonio Davis of the Chicago Bulls in an interview last month, "I think we have a responsibility to high school kids, junior high kids, college kids, whoever, to show them it's hard work that's going to get them there,

not cheating and tearing up your body." Derek Fisher of the Golden State Warriors, another member of the union's Executive Committee, echoed that theme during an interview last month on performance enhancers, stating that "we always have to be mindful of the fact that something is really prevalent in our country or in professional sports. I don't think we can be blind to the fact, because it's a very sensitive issue right now, particularly with the effect it's having on high school kids."

While I understand that this Committee is considering enacting legislation regarding steroids policies in professional sports leagues, I would respectfully urge the Committee to stay its hand. Collective bargaining is the appropriate forum for consideration and resolution of these issues. The agreements we forge are respected by the parties and will endure, and we have already shown that the parties can work successfully on these issues. Our bargaining to date has resulted in an effective policy that justifiably has kept NBA players out of the steroids discussion, and we have pledged to do even more in our current negotiations to make sure that in the future, we are not pulled in.

Moreover, the league and the players have an extremely strong incentive to police ourselves on these issues. Under our revenue sharing arrangement with the NBA, the players receive a significant portion of the billions of dollars in revenues generated each year by their performance in NBA games. If we detect a problem developing that will threaten our livelihood, we will of course take action. We acted

once in a decisive manner by putting a meaningful policy in place in 1999, and we intend to do even more in the coming months.

Still another reason I believe Congressional action is unnecessary is that we have already mandated that we will follow the government's lead and amend our list of prohibited substances to ban any substance that is determined to be illegal. Such a change is virtually automatic, and within the past year and a half, we have indeed amended the policy on two separate occasions to ban numerous additional substances that have been found to be illegal, including ephedra and THG.

In sum, we have done a good job in educating our members and policing ourselves, and together with the league, we have the resources and the incentive to achieve continued success in keeping steroids out of professional basketball. I respectfully believe that Congress should stay its hand and allow us to continue performing this important work.

Thank you for this opportunity.

Chairman TOM DAVIS. Thank you very much.

Mr. Jones, thanks for being with us.

STATEMENT OF KEITH JONES

Mr. JONES. Chairman Davis and members of the committee, Mr. Waxman, my name is Keith Jones, and I first want to thank you for allowing me to appear here before you today.

I am the vice president of Basketball Operations and the head athletic trainer for the Houston Rockets of the National Basketball Association, and have served as head athletic trainer for the Rockets since 1996. Prior to that, I spent six seasons as head athletic trainer for the Los Angeles Clippers, one season assistant athletic trainer for the Orlando Magic, and several seasons working as an athletic trainer with football teams in the National Football League, the U.S. Football League, and the NCAA.

I also worked as an athletic trainer for the gold medal-winning U.S. Senior Mens National Basketball Team during the 2000 Summer Olympics in Sydney, Australia, and in the same capacity for the 1998 World Championship of Basketball in Athens, Greece, and the 1999 Tournament of the Americas in Puerto Rico.

In my role as head athletic trainer for the Rockets, and in conjunction with our team physicians, strength and conditioning coaches, and other staff, I am in charge of our team's efforts to prevent, evaluate, manage, and rehabilitate injured or ill athletes. I interact with Rockets players on a daily basis, am present in the locker room and the training room throughout the season, travel with the team, and attend all games and practices. It is my job to be intimately familiar with the health status of every member of our team and to help them perform at the peak of their physical and mental abilities.

I have worked as an athletic trainer in the NBA for 17 years, and have learned a great deal in that period about the physical abilities of professional basketball players and the physical and mental objects they face over the course of their careers. I also worked as an athletic trainer of various professional and college football teams prior to joining the NBA, and am, therefore, in a position to compare and contrast the physical attributes that allow players to succeed in basketball and, separately, in football.

During my tenure in the NBA, I have never observed an NBA player using an anabolic steroid or illicit performance-enhancing drug. I have never been asked by a player to supply such a substance, nor, of course, would I ever do if asked. In fact, in my experience, steroids and performance-enhancing drugs are not part of the culture of the NBA. They carry enormous health risks to athletes, they provide no significant advantage to NBA players, and are banned by the NBA's drug policy. Any benefit that a player might receive from using such a substance are greatly outweighed by their costs.

Even though the NBA does not currently have a problem with steroids and performance-enhancing drugs, I fully support the NBA's inclusion of these substances with its anti-drug policy. If we want to ensure that these drugs stay out of our game, the best way to do that is to have a strong and effective testing program.

Again, thank you for your time and the privilege to be here today.

[The prepared statement of Mr. Jones follows:]

TESTIMONY OF KEITH JONES
V.P. OF BASKETBALL OPERATIONS/ATHLETIC TRAINER
HOUSTON ROCKETS

BEFORE THE COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

MAY 19, 2005

Chairman Davis and Members of the Committee:

I am the Vice President of Basketball Operations/Athletic Trainer for the Houston Rockets of the National Basketball Association, and have served as head athletic trainer for the Rockets since 1996. Prior to that, I spent six seasons as head trainer for the Los Angeles Clippers, one season as assistant trainer for the Orlando Magic, and several seasons working as a trainer with football teams in the NFL, USFL, and NCAA. I also worked as the team trainer for the gold medal-winning United States Senior Mens National Basketball Team during the 2000 Summer Olympics in Sydney, Australia, and in the same capacity for the 1998 World Championship of Basketball in Greece and the 1999 Tournament of the Americas in Puerto Rico.

I appreciate the opportunity to testify before the Committee.

In my role as head athletic trainer for the Rockets, and in conjunction with our team physicians, strength and conditioning coaches, and other staff, I am in charge of our team's efforts to prevent, evaluate, manage, and rehabilitate

injured or ill players. I interact with Rockets players on a daily basis, am present in the locker and training rooms throughout the season, travel with the team, and attend all practices and games. It is my job to be intimately familiar with the health status of every member of our team and to help them perform on the playing court at the peak of their physical and mental abilities.

I have worked as a trainer in the NBA for 17 years, and have learned a great deal in that period about the physical abilities of professional basketball players and the physical and mental obstacles they face over the course of their careers. I also worked as a trainer of various professional and college football teams prior to joining the NBA, and am therefore in a position to compare and contrast the physical attributes that allow players to succeed in basketball and, separately, in football.

During my tenure in the NBA, I have never observed an NBA player using an anabolic steroid or an illicit performance-enhancing drug. I have never been asked by a player to supply such a substance, nor, of course, would I do so if asked. Steroids and other banned performance-enhancers have no place in the NBA. They carry enormous health risks to athletes, provide no significant advantage to NBA players, and are banned by the NBA's drug policy. Any benefits that a player might receive from using such a substance are greatly outweighed by their costs.

In my experience, steroids and performance-enhancing drugs are not part of the culture of NBA basketball. I cannot say with certainty why this is so, but I believe it to be true. It may be because, from the moment a player begins to

develop as a basketball player in AAU and high school, through and including his career in the NBA, the primary emphasis from coaches -- and the primary focus from players -- is on basketball skill and ability, rather than physical strength, power, or speed. It may be because basketball rewards quickness, agility, and dexterity, and promotes a lean body type, rather than favoring muscle mass, bulk and the larger body types often seen in football and baseball. It may be because steroids and performance-enhancing substances can have the effect of increasing a player's weight and changing his body structure, making it more difficult for him to feel where he is on the court, in the air, or in relation to other players. It may be because of the increased risk of injury and long-term adverse health effects, and the resulting advice of doctors and trainers in our league to avoid these substances. In more recent years, it may be because the NBA's drug policy serves to deter players from getting involved with these drugs.

No matter the reason, it is my belief that steroids and performance-enhancing drugs are not used in any meaningful amount by NBA players.

Even though the NBA does not currently have a problem with steroids and performance-enhancing drugs, I fully support the NBA's inclusion of these substances within its anti-drug policy. If we want to ensure that these drugs stay out of our game, it is important to send the message to players that steroids and performance-enhancing substances are banned and to have an effective testing program.

Chairman TOM DAVIS. Thank you very much.

Mr. Dixon, thank you for being with us.

STATEMENT OF JUAN DIXON

Mr. DIXON. Mr. Chairman and members of the committee, my name is Juan Dixon, and for the last three seasons I have been a professional basketball player with the NBA's Washington Wizards. Before entering the NBA, I played for 4 years at the University of Maryland, where I led the school to its first National Championship.

Over my 3 years in the NBA and 4 years of collegiate competition, I have never used steroids. Nor have I ever seen or have knowledge of any use of steroids by my peers. Though I do not have a detailed medical knowledge on the impact that steroids have on the human body, my general understanding is that, in addition to the well-known health risks inherent to their use, the potential gains do not translate into success in the game of basketball.

What I do know is what is fair. I know how hard I have worked to become a professional athlete and believe that maintaining a level playing field is vital to the integrity of our sport. The steroid conversation is not just about health risks. It is about ensuring the public and understanding that I, along with my peers in the NBA, have achieved success through years of hard work and dedication to our dreams, not through the use of steroids or other performance-enhancing drugs.

As a professional athlete, I have an obligation to be a role model that not only influences kids directly about healthy choices and the dangers of steroid use, but one that contributes to a culture where hard work is emphasized and cheating is never rewarded.

Thank you for the opportunity.

[The prepared statement of Mr. Dixon follows:]

STATEMENT OF JUAN DIXON, PLAYER, WASHINGTON WIZARDS, BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE ON GOVERNMENT REFORM, MAY 19, 2005.

Mr. Chairman and Members of the Committee:

My name is Juan Dixon, and for the last three seasons I have been a professional basketball player with the NBA's Washington Wizards. Before entering the NBA, I played for four years at the University of Maryland where I led the school to its first National Championship.

Through my three years in the NBA and four years of collegiate competition, I have never used steroids, nor have I ever seen or have knowledge of any use of steroids by my peers. Though I do not have a detailed medical knowledge on the impact that steroids have on the human body, my general understanding is that, in addition to the well-known health risks inherent to their use, the potential gains do not translate into success in the game of basketball.

What I do know is what is fair. I know how hard I have worked to become a professional athlete and believe that maintaining a level playing field is vital to the integrity of the sport. The steroid conversation is not just about health risks. It is about ensuring that the public understands that I, along with my peers in the NBA have achieved success through years of hard work and dedication to our dreams, not through the use of steroids or other performance enhancing drugs.

As a professional athlete I have an obligation to be a role model that not only influences kids directly about healthy choices and the dangers of steroid use, but one that contributes to a culture where hard work is emphasized and cheating is never rewarded.

Thank you for the opportunity to contribute.

Chairman TOM DAVIS. Well, thank you very much. And thank all of you.

Let me start the questions. We have heard about the specific changes that Commissioner Stern would like to make to the NBA steroid testing policy.

Mr. Hunter, let me ask you does the union support these changes?

Mr. HUNTER. The union supports some changes. I am not at liberty at this moment to indicate to you which changes and to what extent we do support them. As you are aware, Mr. Chairman, labor negotiations are ongoing, although they may be stayed for the moment, and I am sure that this is an issue that will be fully addressed and resolved, as Mr. Stern has alluded to, in the course of those negotiations.

Chairman TOM DAVIS. Well, at least here, this morning, we got you and Mr. Stern back to the table, although maybe on a different issue. There is no reason to wrap up steroids with the monetary issues, is there, in negotiations? Can't we take this apart? This is an issue that has societal implications. We are hearing that it is not a huge problem in the NBA. It just ought to be taken off the table from the other negotiations and put aside. We would really like to hear you say we think we can work the changes. You understand where I am coming from?

Mr. HUNTER. I clearly understand what you are saying, but, with all due respect, I don't know how many labor agreements you have negotiated. It is a rather complex and difficult process.

Chairman TOM DAVIS. I understand.

Mr. HUNTER. I can assure you that you are not going to be dissatisfied with whatever agreement Mr. Stern and I come to. I can give you that assurance. But I am not prepared at this time——

Chairman TOM DAVIS. Well, I am not asking you to dot Is and cross Ts here.

Mr. HUNTER. No, but I am not prepared at this time to separate it from the negotiations.

Chairman TOM DAVIS. Negotiate in public. OK.

Mr. HUNTER. I think that is unfair to me and to Mr. Stern.

Chairman TOM DAVIS. OK. I am just trying to give you our view. I have actually negotiated a number of labor agreements before I came to Congress, and I wouldn't negotiate, I think, on television either. But I think our point is this is a very important issue, and if we just get a consensus here this is something that we agree needs to be revisited and it needs to be toughened up. I think you basically agree to that.

Mr. HUNTER. I agree. I agree wholeheartedly. I agree with the philosophy that has been expressed by all the parties at this table. I agree that there is no place for steroids in professional basketball, and I know that the players support that position, and I know that we will not have a problem getting behind this issue and adopting a policy that both the NBA and the Nation can be proud of.

Chairman TOM DAVIS. I think we all recognize that the current steroid testing policy is weak on the tests, and we are all concerned to hear that the NBA announced that no further meetings are scheduled with you to reach the new collective bargaining agreement at this point.

So I will ask both of you how this will affect changes to be made to the policy? That without a collective bargaining agreement, the policy isn't going to change. Is that what I hear you saying?

Mr. STERN. No. I would say to you that our collective bargaining agreement expires on July 1, and without a new collective bargaining agreement there will not be a season.

Chairman TOM DAVIS. OK.

Mr. STERN. And when we open, whenever that is, there will be a new anti-drug agreement that reflects the positions that have been expressed here today.

Chairman TOM DAVIS. Is that an accurate statement, Mr. Hunter?

Mr. HUNTER. Yes, I think that is very accurate.

Chairman TOM DAVIS. OK.

Mr. Dixon, let me just say in my opening statement I spoke about how you were discouraged by recruiters from playing Division I basketball because they said you were too small.

Mr. DIXON. Right.

Chairman TOM DAVIS. You look pretty big to me, but I know for basketball at that level what it takes. Could you take me to the steps you took in high school to earn your scholarship to Maryland and be drafted? I think it is important for young athletes to hear about the hard work and commitment it takes to succeed. Some teenagers take steroids to get bigger and stronger. You didn't do that.

Mr. DIXON. Not at all.

Chairman TOM DAVIS. Just walk us through it. It can be done, can't it?

Mr. DIXON. Well, going through high school, a lot of people always doubted me, so I am a pretty self-motivated individual, but people told me that I was not going to be able to play on a big-time Division I level. I used all that to motivate me. And, as you can see, I am not the biggest guy, so with a lot of hard work in the gym, lifting as much weights as possible, I tried to develop my game, and each day got in the gym and worked hard and listened to people around me. So I never allowed what people said to get my spirits down; I stayed strong and tried to be the best I could be.

Chairman TOM DAVIS. You did it the old fashioned way, right?

Mr. DIXON. The old fashioned way.

Chairman TOM DAVIS. Thank you.

Mr. Jones, at a recent hearing the committee held on the NFL steroid policy, it was suggested that veteran NFL players misused steroids to help recover from injuries more quickly because steroids help build muscle growth. Do you see any problem with veteran NBA players misusing steroids for a quicker recovery from an injury?

Mr. JONES. No, I do not.

Chairman TOM DAVIS. How do you know if veteran NBA players were not tested during the regular season?

Mr. JONES. To my knowledge and my education, it is just to look for the change in that body type over a short period of time; the weight gain, the muscle bulk gain, the mass gain. You are looking for other physical characteristics that come with steroid use. There

are changes in the face, in the jaw that are noticeable; sometimes there is the acne on the face and on the back and other parts of your skin; and a lot of behavioral changes, some little uptight——

Chairman TOM DAVIS. So you do not see that?

Mr. JONES. I have not seen that, no, sir.

Chairman TOM DAVIS. Thank you very much.

Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman.

First of all, Mr. Stern, let me compliment you and Mr. Hunter for your efforts to deal with this issue early on, and to now make the policy much more aggressive. I think this leadership is important.

A lot of people still worry about steroid use in basketball, even though we haven't found any and people don't believe there is any use because of the kind of athletics involved. But we really don't know, either. And in international play, from the World Anti-Doping Agency's data, they found dozens of players who tested positive for illegal performance enhancing drugs. So at least in international competition some basketball players are clearly using the drugs.

I certainly hope that you will get a stronger testing program, which is a small reason, but an additional reason, why I hope you all will reach an agreement before July 1, because we also want a basketball season. In fact, that makes me want to ask a lot of questions about your negotiations, but it is not my business, so I won't. But I do wish you well, though negotiations in any area have their ups and downs.

The question I want to ask you is even though you are trying to get a better drug testing policy, many of us think it makes more sense to have one uniform policy for all the athletic sports, all the professional sports. Because if we look at what baseball is doing compared to basketball compared to football, each is handling it very differently and there is a different approach.

Some people have suggested that we have Federal legislation to establish a uniform approach for testing for steroids and other performance-enhancing drugs in professional sports. It would be modeled after the Olympic policy and it would make clear that, when the leagues run their own programs and apply different standards, that there is that question that always lingers: whether negative test results mean there is no steroid use or that the league is not serious about policing itself.

So I want to know your view about the idea of Congress adopting a tough uniform standard that is administered independently to answer these questions and put all these doubts to rest.

Mr. STERN. I would like to see what it is, but I would support such an approach.

Mr. WAXMAN. And how about you, Mr. Hunter, what do you think about such an approach?

Mr. HUNTER. I would obviously like to see a program that allows participation from the individual sports. I don't really know enough about it, what is being proposed, but just the idea of uniformity tends to kind of have a chilling effect, because I am not so sure that there is one applicable standard that should be introduced

across the board for basketball, football, baseball, ice hockey, track and field, etc.

And I am sure that it requires someone with greater expertise than myself to be able to respond to that, but my gut reaction is I have a problem with the issue of uniformity, and it is simply because I think we have done—notwithstanding your assessment, I think we have done an exceptional job in the NBA when it comes to steroids.

Mr. STERN. As long as your legislation has the appropriate appropriations attached to it that deal with the increased cost for drugs that testing for which is unnecessary in basketball but is part of a broader standard, I would have no objection at all to have a uniform standard so that we can make the statement to our various audiences that we are all complying in a certain way. That is absolutely fine.

Mr. WAXMAN. I think this will be a topic for further negotiation. But I understand your point, and I also acknowledge the fact that you both have not seen a specific proposal, but that we are talking in a more general way.

I think a lot of people look at, Mr. Hunter, the basketball policy as not particularly the best, it is awfully weak now, and a lot of people don't believe that basketball players do not use steroids. Jalen Rose spoke to this issue recently and he said performance-enhancing drugs are an issue anywhere there is competition, and people are willing to do whatever it takes to get an edge.

We have also talked to some of the trainers in the league, and they have indicated that they have suspected players of steroid use in the past. They have indicated the NBA is not immune from such use. And what we are trying to do is to remove the doubt in people's minds that if there is no positive testing, it is not because the testing is inadequate or the league isn't trying to really do the job of sending a clear signal that steroid use is unacceptable.

Mr. HUNTER. No, you are right. Clearly, the NBA is not a pure environment. The numbers that I read indicated that we have had at least 23 tests, of which 3 were clearly positive. Twenty of the individuals were terminated even before they could make the team. I understand that it is a problem, and I think going forward, what we have attempted to do since 1983, is on the cutting edge when it came to adopting and modifying our drug policy.

As Commissioner Stern indicated, it was indicated in 1983, it was modified in 1999 to incorporate steroids. Here we are in 2005 negotiating a new deal, and we have indicated that if there is a weakness or gap, it is only because of testing. I am convinced that once testing is implemented, it is going to confirm—and maybe I will get a chance to come back a year from now and tell you what the results of those tests show.

Mr. WAXMAN. Thank you. My time has expired. I appreciate the answers to the questions.

Chairman TOM DAVIS. Thank you very much.

Mr. Gutknecht.

Mr. GUTKNECHT. Thank you, Mr. Chairman.

First of all, Mr. Stern, let me just say that there are a number of industries that do random drug testing and, to the best of my

knowledge, most of them do not require a Federal subsidy to do so. So we will certainly entertain that when we get to that level.

As Will Rogers said, all I know is what I read in the newspapers. And the news that we have received here in the last several weeks is not particularly good.

First of all, let me thank all of you for coming today. You are all here voluntarily and we do appreciate that.

But some of the news that we have read recently, just back in my home State of Minnesota, was somewhat disconcerting, because we had heard earlier from some of the folks in Major League Baseball and others that, for the most part, it wasn't the pitchers who were interested in this, because it didn't really improve their ability to do things. And yet we have read recently that pitchers are as guilty, if not more guilty, than others, in terms of the testing that has been done so far.

The other news that we got recently, as another professional athlete, unfortunately, again, in Minnesota was found to have an anti-doping kit in his luggage. I wonder if any of you would want to respond to the proliferation of these kits that make it easier to fool drug tests. And is there anything you can do about it; is there anything we should do about it?

Mr. STERN. I will take the first cut at that, and that is that our method of testing, without being too graphic for the committee, would not allow the skirting of the test results that the particular kit in question would allow. The sample collection that we have in basketball is quite direct and does not allow for the kind of shananigans that are suggested by that device. No. 2, our tests include tests for masking substances, which, if found, are treated the same as a positive test for the drug that is being masked.

And I just would add that I don't know that those other random tests that you refer to in the industry were federally mandated.

Mr. GUTKNECHT. Mr. Jones, are you familiar with these kits and do you know how they work?

Mr. JONES. Somewhat, yes, sir.

Mr. GUTKNECHT. Do they work?

Mr. JONES. I think they do work, but I can say that in our setting, the way that samples are collected, they could not work.

Mr. GUTKNECHT. Well, several of you have said that these kinds of steroids really don't help basketball players, but I have had distributed to you a copy of a memo that we received yesterday, I think, from the World Anti-Doping Agency. It is a copy of a report from World Anti-Doping Agency for International Competition, and these are basketball players only. Now, we don't know which teams they are from, which countries they are from, but I would call to your attention the fact that in 2003 they found 77 adverse analytical findings for basketball players at the international level, and in 2004 they found 96.

Now, if it doesn't improve the ability of basketball players, there is a disconnect apparently between the players and the reality. How do we square this number, 96 adverse analytical findings? Incidentally, the number of steroid findings went from 17 to 26. So somebody in basketball believes it enhances their ability.

[The information referred to follows:]

As per your request, below are the **basketball** statistics for 2004. 2003 stats are included for comparison.

	2003 75 cases (international)	**2004** **82 cases (international)**
	Adverse Analytical Findings	Adverse Analytical Findings
Stimulants	9	**11**
Narcotics	1	**0**
Cannabinoids (thc)	37	**38**
Steroids	17	**26**
Beta-2-agonists	6	**9**
Masking Agents	2	**1**
Glucocorticosteroids	4	**11**
Other	1	**0**
Total	77	**96**

Mr. BUCHANAN. Congressman, I think the last point you made I agree with. Individual players might perceive that something would help them, and that is the reason, of course, that we want to have a strong testing program. These numbers, I think you probably know, reflect, for the 2004 year, something a little less than 2 percent of the players that were tested, the basketball players that were tested turned up with these positives. The 1996 number represents, I think, 2.03 percent, and that was initial laboratory positives. So therapeutic use exemptions and other issues would drive the number down. But your point is well taken. Clearly, there are some players who believe this helps them.

Mr. GUTKNECHT. Well, and I think that is the purpose of these hearings, to at least get the facts out on the table and, more importantly, to send a message—and I think the chairman has made very clear—to younger people that, No. 1, it is not worth it and, No. 2, it probably doesn't help that much. But somehow we have to help get that message across, and you can be very helpful in getting that done.

I yield back.

Chairman TOM DAVIS. Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman and ranking member. I appreciate the work you have done on this. I want to thank the witnesses for coming to testify.

I had a chance to look over the collective bargaining agreement between the league and the union, and there are three, I think, glaring weaknesses. One is, again, we have talked about the substances that are allowed or not prohibited in the agreement. The fact that the test—Mr. Buchanan, you know, with all due respect, you said that this is a dynamic test. It is really, in my opinion, pathetic. Last, the penalties, given that we have had these highest paid athletes in the league in any league, and we have very, very minor penalties.

I want to go to the issue of the testing itself, though. We have no random testing in basketball. Basically, every October we tell players we are going to test you. Most of these steroids are out of their system in 2 weeks, so basically what we are assuring by the current test is that for that 2 weeks prior to the test in October our NBA players have not used steroids.

The other 50 weeks, under this agreement—unless you can show me a provision that tells me otherwise—based on this agreement that governs the conduct of the parties here, you have no random testing; for the other 50 weeks of the year players can be using steroids. And there is just nothing here. There is nothing here and it troubles me when you say we have had a dynamic testing policy in place and we continue to have a dynamic testing process in place, because I, frankly, don't see it.

Mr. BUCHANAN. Well, if I could respond. The first issue is that with respect to the testing we do in the training camp period, the training camp period is a month-long period that we do the testing for all players. So just to make that point. And then also we test our rookies three additional times during the course of the year. That is first.

Mr. LYNCH. As a rookie, just his rookie year.

Mr. BUCHANAN. Just the rookie, that is correct. You are correct.

Second, just to clarify my remark about a dynamic program, what I meant was we are looking at it, reviewing it, and particularly with respect to our list of substances, with our Prohibited Substances Committee, trying to keep that current. That is what I meant by the reference.

Mr. LYNCH. I understand. Just briefly, I think the reason you don't have evidence of steroid use is because you don't have a testing policy here. To give you a comparison, the NFL randomly picks seven players from each team every week, 200 players a week, and they find out whether folks are using steroids. This situation, it almost invites steroid abuse because there is no effective testing going on. It just troubles me greatly that is the condition.

The other aspect of this I guess I would have to go back to the reasonable cause standard that we have in the agreement that would allow you to test beyond that October training season. Based on what the NIDA—and this is an institute that you have used in the NBA, the National Institute on Drug Abuse—it says that steroid abuse in high doses causes irritability and extreme aggression in some cases.

Now, I just was wondering. I do know that back on November 19th we had a game between the Pistons and the Pacers, and there was a brawl in which players actually went up into the stands after the fans, and it was a very bad situation. I am wondering did that brawl, in itself, cause—given the connection between aggressive behavior and steroid abuse and your policy—did that altercation cause the reasonable cause requirement to institute any type of testing of any of the players involved there?

Mr. HUNTER. I think that is a quantum leap, for you to suggest that because a fight occurred during a game, that it was induced by steroids.

Mr. LYNCH. Sir, this was more than a fight in a game. This was not a shoving match.

Mr. HUNTER. Yes, but that it was induced by steroids?

Mr. LYNCH. Excuse me?

Mr. HUNTER. That it was induced by steroids?

Mr. LYNCH. Well, you have a provision here in this agreement that says reasonable cause. You have another document that is referred to in the agreement that says aggressive behavior is connected to steroid use.

Mr. HUNTER. I don't——

Mr. LYNCH. Sir, I am not saying that it was caused by steroid abuse. All I am saying is you don't. You don't know. You don't test the players.

Mr. STERN. That is correct, Congressman. And the reality is it worries me greatly if the absence of testing for anybody, including the Members of Congress, would somehow be used to say, well, if you don't have it, that is proof that it must exist; and then referring to a policy as pathetic. On behalf of the players of the National Basketball Association, I would like to say that the guilt that you seek to attribute to them on the basis of this policy is ill taken and very unfair.

Mr. LYNCH. Well, I don't believe it is unfair. I believe if you are going to test players, you ought to have something in the agreement that says you are going to test players.

Mr. STERN. Well, it is a good country, and I would like to just disagree with your approach here. That is all.

Chairman TOM DAVIS. The gentleman's time has expired.

Mr. LYNCH. You are free to do that.

Mr. STERN. Thank you.

Chairman TOM DAVIS. The gentleman's time has expired.

Mr. Marchant.

Mr. MARCHANT. Thank you, Mr. Chairman.

This question is for Mr. Jones. Mr. Jones, as the trainer for the Rockets, do you, on a regular basis, have players come to you and ask you whether they can take certain dietary supplements, or do they come to you and say I am thinking about taking this, I have heard about this, is it legal, is it something I can do? Do they come to you as a reference for that?

Mr. JONES. Yes, sir. And I actually, through the NBA's policy and the NBA players' policy, we have literature and education. I encourage them, if they are going to take something, to come ask me. And I take it to our team physicians and we look at the ingredients and where it is from, make sure there are not any banned substances from the list that we have for our drug policy, and we go from there.

Mr. MARCHANT. Do you, as a trainer, feel like a policy of random testing would interfere with the job you do as trainer? Do you think it would give you any additional tools to make sure that the players are not involved in steroids?

Mr. JONES. I think a stronger policy would help me and it would help the game.

Mr. MARCHANT. Mr. Chairman, just as a comment, not as a result of these hearings, but as a result of the awareness that has been raised in part by these hearings, two of the high schools in my district, just last week, have adopted for the first time a random drug test for all of their varsity athletes, and the local school board has voted it and the parents were in agreement, the athletes were in agreement. So I think this is a subject that is not just at the professional level, but it is beginning to be considered seriously at home, among parents and coaches and student athletes.

Thank you.

Mr. ISSA. Would the gentleman yield?

Mr. MARCHANT. Yes, I will yield my time.

Mr. ISSA. Was that done without a Federal subsidy?

Mr. MARCHANT. It was done by some additional funding through the local school board budget.

Mr. ISSA. Well, congratulations. Thank you.

Chairman TOM DAVIS. Mr. Clay.

Mr. CLAY. Thank you, Mr. Chairman. And thank you for conducting this hearing today.

Let me start with Commissioner Stern. Welcome to the committee today. The primary purpose of these series of hearings is to demonstrate the dangers of steroids and protect young people who might be tempted to use performance-enhancing drugs. The NBA's current penalties for performance-enhancing drugs are, in my opinion, a joke. No disrespect to you, but I think it is a joke and it is the weakest among the professional sports. Do you intend to tough-

en them to set the right example for younger Americans, or will Congress have to act?

Mr. STERN. As we said before you came in, Congressman, our current proposals to the union call for sharply increased testing and penalty, and Mr. Hunter has indicated that, although he doesn't want it negotiated here, that the union is amenable to increases in both of those categories.

Mr. CLAY. I am glad to hear that.

Mr. STERN. And I must also add that I think that the work that this committee has done in bringing attention to this subject has provided an extraordinary public service. It has sharpened our attention, I think, and also changed many minds about the necessity of setting the example. And I know the committee will be dealing with what has been described as a Zero Tolerance Committee, and I just wanted to add that the NBA looks forward to working as constructively as we can with that committee.

Mr. CLAY. Thank you for that response, commissioner. As a followup, when do you think we may see some movement on the changing of the rules?

Mr. STERN. Prior to the next season.

Mr. CLAY. Thank you.

For Mr. Dixon, welcome to the committee and thank you for being here. As an alum of the University of Maryland, I congratulate you on your success in the NBA and also for bringing a National Championship to the University of Maryland. How rampant do you believe steroids are in the NBA?

Mr. DIXON. Well, to my knowledge, I haven't seen or heard anything about steroids in the NBA. I don't know much about it, but I am sure the union and Mr. Stern will come up with an agreement that will penalize players if they use or distribute steroids. So to tell you the truth, Mr. Clay, I don't know much about it.

Mr. CLAY. Would you support a more stringent policy?

Mr. DIXON. Excuse me?

Mr. CLAY. Would you support a more stringent uniform drug testing policy for your sport?

Mr. DIXON. Well, like I said, I am sure they are going to come up with cost penalties for guys who use steroids. Whatever direction our union goes, that is what I support.

Mr. CLAY. Do you think steroids enhance a basketball player's ability?

Mr. DIXON. I don't see how they could. Usually, when people use steroids, I guess it is to bulk up, to gain more muscle, power. I guess you can use power, but for the most part, all I know is that we use our God-given abilities, and I don't know of anyone out there that is using steroids that is in the NBA right now.

Mr. CLAY. Thank you for that response.

For Mr. Hunter, welcome also.

Mr. HUNTER. Thank you.

Mr. CLAY. Every year in the NBA Draft some of the most talented young athletes in the world, and from the time that they are drafted to the time that they report, many of the prospects significantly increase their body mass. Are you concerned that players might be using performance-enhancing drugs to accelerate this process?

Mr. HUNTER. I am not aware of any empirical evidence, any evidence at all, any innuendo or rumor that there is an increase in body mass of prospective NBA players from the time of the draft in June to when they show up in October. And I think Mr. Jones, who is seated to my left, has indicated in his 17 years or so as a professional trainer in professional basketball and other sports, specifically as it relates to the NBA, he has seen no evidence of that. So I am unaware of that. I am going to look for it.

Mr. CLAY. Would you support having an independent agency conduct a drug test for the players? If so, why? If not, why?

Mr. HUNTER. Well, we do. We currently have an independent group that actually handles the drug testing for our players. It is a group that is selected by the league and union, and it is independent of us.

Mr. CLAY. It is under contract?

Mr. HUNTER. Oh, yes. Definitely.

Mr. CLAY. OK, thank you for your response.

Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much.

Mr. Souder.

Mr. SOUDER. Thank you. I wanted to make a few comments. First, that while you have a policy, we can only say that apparently there is not a lot of use. This 2 percent figure internationally, if the 2 percent got caught, it is pretty extraordinary. Those are the people that got caught. And the fact that you don't test during the season is a big loophole. It doesn't mean that you would actually catch anybody, it just means it is a big loophole. Or that you would catch it.

Also, this 3 years and you get one-third of a year suspension is just a lot of what we are objecting to, and we have expressed our concerns about the penalties. Mr. Stern, you have made a stronger proposal.

When we wind up doing national laws, enforcing drug laws in the United States really isn't a labor negotiation question. When we put drug testing in for truck drivers, the Teamsters didn't get to make that decision anymore. Because when policies evolve during the course of congressional hearings—and the initiatives seem to have a lot in common in all the different sports, a lot because of the congressional hearings—it causes doubt among the American people.

Furthermore, we don't appropriate the funds to enforce the laws of the United States. And I know it was a casual comment, I know your frustration because, thus far, you haven't seen as much as some of the other sports, but it was illustrated in the high school question, it is illustrated in the truck driver question. We also, with all due respect to Mr. Hunter, don't go down to street kids and street dealers and say what do you think your penalties ought to be. We don't negotiate on drug laws.

We like it to be done first in the private sector, first at the State and local level. But, ultimately, if we don't have the confidence, on behalf of the taxpayers of the United States, we may intervene. And I would say that is increasingly likely because it is a little too little and a little too late.

And the funding level, increasing numbers of Americans follow NBA basketball, but many don't, and they are struggling to pay their healthcare, and they are not going to take their taxes to make sure your sport is clean. If we decide that, in fact, Congress has to intervene, you are probably not going to get the funding question.

I have two technical questions. One is for Mr. Jones. Have you ever seen amphetamines?

Mr. JONES. Have I ever seen amphetamine use in the NBA?

Mr. SOUDER. You say you haven't seen steroids. Have you ever seen any amphetamine use?

Mr. JONES. No, sir.

Mr. SOUDER. Has anybody asked you about them?

Mr. JONES. I have had many players ask just out of curiosity. My belief is that they were just asking out of curiosity after reading something or hearing something. But as far as them asking questions where I thought that was something they were thinking of doing, no.

Mr. SOUDER. Would you recognize somebody's behavior changes if they were using amphetamines?

Mr. JONES. Yes, I would. I think I could recognize some of the——

Mr. SOUDER. And you don't think you have ever seen any player using amphetamines?

Mr. JONES. No, sir, not in my years.

Mr. SOUDER. Have you, Mr. Stern or Mr. Hunter, ever thought about having that included in your testing process? Are you considering that at this point?

Mr. STERN. It actually is included in our testing process and will be, therefore, included as we increase the penalty and increase the tests.

And I guess on the subject of the appropriations remarks, I just would like to clarify a point. That as you go down the lists of drugs that get added, there are some drugs, like EPO, which are prevalent and I think would be acknowledged in particular sports, not basketball or any sports that have appeared here could be affected by it, which are the most expensive drugs for which to test.

And I would just urge that although I would support and be in favor of Federal legislation here, that it is easy to toss in a list of drugs and some notionality should exist of where the line gets drawn in terms of the number of testing and the complication of testing.

Mr. SOUDER. I have one additional question, but that is a wise warning, that as we look at particularly as we get a pattern, and with the changing hormonal growth drugs, that it may vary slightly sport by sport, and we have to figure out how to accommodate that with the costs and masking agents.

My last question is—and this is once again to Mr. Jones—is it possible that people can use steroids in the off-season and get it out of their system by the time you institute testing in pre-season or during the season?

Mr. JONES. I think you said something as you asked me the question about masking agents. That is possible. I think the tough part with steroids, compared to other drugs, the anabolic steroids,

those things are oil-based, so they are going to stay in your system longer, so they are harder to detect and they are harder to mask. But to say that masking is impossible would be wrong.

Mr. SOUDER. I thank you all. Your answers are helpful.

Chairman TOM DAVIS. Mr. Ruppersberger.

Mr. RUPPERSBERGER. First, Commissioner Stern, I want to acknowledge the fact that, in my opinion, I think you have done a very good job and you are a strong leader to maintain the integrity of a game that this country really likes and has a lot of influence on all generations. There are inconsistencies that I want to deal with, though. To begin with, you have a testing program that is different between veterans and new players coming in. I think that program is the veterans are tested, I think, once a year and the new people coming in. Why the inconsistency in that testing procedure?

Mr. STERN. Well, at the time we put it in, there was little or no testing in sports on steroids and steroids did not appear to be a problem, so we added it, we added the once a year, and then to sort of send a message, we thought the best place to start it was with random testing on rookies. We now understand, in light of the attention that has been placed on this, that random testing for veterans is something that is a necessity.

Mr. RUPPERSBERGER. Well, I think it is good that you recognize that. I want to bring up another issue, too, because a lot of what we deal with in politics and what you deal with is perception, and we know that.

Mr. STERN. Correct.

Mr. RUPPERSBERGER. Sometimes it is not reality. And you talk about steroids. Basketball is more a game of quickness and speed than it is bulk, unless you are going up against Shaq. But basically the Houston Rockets coach, Van Gundy, I think you fined him $100,000 and threatened that he be banned for life for the kind of comments that he made. And that was strong. That showed leadership. You were trying to protect the integrity and that coaches should not criticize the integrity of the officials, which is an important part of the game.

Don't you think that as strong as you were with that, that because of the perception that NBA basketball needs to be just as strong? I mean, you are stronger on street drugs than maybe you are on steroids. Whether or not steroids are a reality—I don't think we have the evidence to say that, but we do know this: that all of these sports, these professional sports that are very popular, younger generations are influenced.

Juan Dixon is a star. Younger generations look up to Juan Dixon and other players. And it seems to me that because of the hearings—which I was concerned about at first, but I think the chairman and Mr. Waxman have done a great job to put this on the forefront, because it is about the impact with younger generations. And I think it is the responsibility of Juan's generation to hold this game in trust and to do the right thing for these younger kids who will come forward.

Because of the Van Gundy situation and because of the inconsistency in the testing procedures, because of the fact that steroids isn't in the same level as you have the street drugs—and I think

street drugs, if you are caught, you are 2 years out right away; and that is a deterrent. So are you going to consider addressing these issues?

Mr. STERN. Well, I guess I would say that I agree with your praise for the committee and what it has focused on this. I would say to you that the five-game suspension, which is what we have for steroids on a first offense, for the average NBA player would be a quarter of a million dollars. So that is somewhat higher than the $100,000 that Coach Van Gundy was fined.

And with respect to the statement that we should send to kids, I would tell you that the committee's hearings have—I had my doubts at first too, frankly, and I am now persuaded that it is appropriate for an athlete coming into the NBA, in effect, to participate in the statement made by all players, commissioners, unions, and the like that steroids have no place in sports, period.

Mr. RUPPERSBERGER. And any use of steroids is cheating. That is not what we want in our professional sports. And that is why I would hope that after these hearings that you will get together with the Players Association.

Mr. Dixon, I am a Terp too. I didn't realize my friend Mr. Clay was a Terp from Missouri. I am also from Baltimore, so I have watched your career, and I know your aunt, who is president of the city council. I think you have really held yourself in a situation where you have dignified your profession when you were at the University of Maryland and now that you are at the Wizards.

Based on the fact that you came from a tough background, you came from the street, what deterrents do you think that we need to have so that you can send a good message to kids as it relates to drugs? Are you concerned that your sport needs to have stricter penalties, not as much to catch players, but to show that we are buttoned up and we are not going to be able to tolerate any drugs because it is going to affect the dignity of our sport?

Mr. DIXON. Well, you know, growing up in Baltimore City I was surrounded by a lot of drugs, and growing up as a kid you choose what direction you want to go into, and I chose to go in another direction, I focused on sports. And, yes, I agree that there should be stricter penalties. Like I said, I am sure the union and Mr. Stern and Mr. Hunter will come up with an agreement that will have harsh penalties if guys use steroids. That is pretty much all I know and all I am going to answer.

Chairman TOM DAVIS. Thank you. The gentleman's time has expired. Thank you.

[The prepared statement of Hon. C.A. Dutch Ruppersberger follows:]

Congressman C.A. Dutch Ruppersberger
Committee on Government Reform

"Steroid Use in Sports Part III: Examining the National Basketball Association's Steroid Testing Program"

May 19, 2005

Statement:
Thank you Mr. Chairman for calling for this hearing today.

As we know, this is the third of a series of hearings this committee is having on steroid use in sports. During the last two hearings we have learned of various ways steroid use by players is addressed in both professional baseball and professional football.

You know, a few months ago I was reluctant to have these hearings because I thought it might not be the best venue for a discussion on this issue, but now that we have had two hearings I believe that this Committee, Mr. Davis and Mr. Waxman, made the right decision. It is important that we discuss and address steroid use.

As it stands today, professional football is considered to have the strictest steroid policy in effect. While there is more that can be done, I believe that strict policies are adequate deterrents to steroid use.

I am pleased that as a result of our earlier hearings, Bud Selig, the Commissioner of the Major League Baseball Association has decided to propose a much stricter policy

that includes increased penalties and has agreed to support federal legislation that would increase the penalty for a first-time steroid offense to a two-year suspension.

I think that professional sports organizations should be willing to address internally their steroid use policies and make appropriate adjustments themselves in order to avoid federal regulation of their sport.

Today is the National Basketball Association's turn. It is my understanding that the players and NBA management feel that steroid use is not a problem in professional basketball. This opinion is reflected in the minimal steroid testing of players and the weak penalties for violations of the steroid policy.

It is my hope that steroid use in basketball is as infrequent as is claimed, however, infrequent steroid use is not a sufficient reason why the stated penalties for use do not include a lifetime ban from the sport for repeated violations of the steroid policy.

Without a lifetime ban as a possible penalty, the NBA gives the impression that steroid use is tolerated at some level by the players and management.

As we know, one of the main goals for having these hearings is to encourage professional athletes to recognize that they are role models for the youth of America, whether they like it or not. And as such, professional athletes have a

responsibility to demonstrate good attitudes and behavior regarding their chosen occupation.

All participants in professional athletics have an obligation to set a good example for the impressionable youths who look up to them. We cannot let the next generation of athletes make the same mistakes when it is their time to play.

Plain and simple, if you use illegal steroids you are a cheater and you are a selfish person.

Those who use steroids, turn a blind eye to their use, or reject the notion that steroid use is an important issue to address are perpetuating the impression that steroid use is permissible.

Steroid use among the young and attitudes toward steroid use are increasingly shocking. We must do all that we can to fight steroid and other illegal drug use in all professional sports.

Thank you Mr. Chairman for calling this hearing today. I am looking forward to hearing from our witnesses today on this issue.

Ms. Brown-Waite.

Ms. BROWN-WAITE. Thank you very much, Mr. Chairman.

I want to thank the panel for being here. I had read your testimony before I arrived.

Any law enforcement officer will tell you that when they arrest somebody for a crime, it is usually only 1 percent of those arrested that this is the first time that crime has ever been committed. Using that logic, I wonder why, Mr. Stern, a recent newspaper article said that you were willing to introduce another random steroid testing? Why would you not want to have more than just one other random drug testing?

Mr. STERN. Actually, you are quite right. In our proposal to the union is four additional random drug tests and one additional random test out of competition, which is in the off-season. So we are actually proposing—plus the one in the exhibition season. So we are actually proposing as many as six.

Ms. BROWN-WAITE. That is great. Obviously the newspaper article that I had was incorrect.

Mr. STERN. Correct.

Ms. BROWN-WAITE. And any of us involved in politics knows that very often it is not always the correct thing that is printed in the paper.

Mr. STERN. So Will Rogers maybe wasn't familiar with today's newspapers.

Ms. BROWN-WAITE. My next question is for Mr. Jones. As a former trainer for the Olympic National Basketball Team, obviously, you are familiar with the U.S. Anti-Doping Agency and the World Anti-Doping Agency's doping control. Is that correct that you are familiar with that?

Mr. JONES. Yes, ma'am.

Ms. BROWN-WAITE. How does the NBA's prohibited substance use compare to WADA's prohibited substance list? And the second question would be does the list include designer steroids, and do you feel that some substances tested for in Olympic athletes should also be tested for in NBA players? And I look forward to your response.

Mr. JONES. OK. That is a pretty big question. I am familiar with the WADA list and the IOC and the USOC lists, and they are very extensive. I think, for the most part, the NBA list covers a lot of the banned substances on both ends, whether they are anabolic steroids or drugs of abuse.

Do I think that the NBA's list should cover everything that they have? That would be tough. I think there is a lot of supplements—call them nutritional supplements, call them vitamins, whatever—that NBA players—not a lot that they use, but a lot of the same ones are pretty consistent with it—that I really couldn't say for sure if they are on the IOC list or the WADA list.

Ms. BROWN-WAITE. Could you give me an example of some of the supplements?

Mr. JONES. Well, it is just some of the things the guys take, some of the drinks that they have, things with creatine and creatine phosphate. I don't know what the levels are, if that is a thing with WADA. Some of the pre-game drinks that they have that have certain substances, I don't know what the concentration level of

WADA is. We have had our physicians look at them, and they have deemed them safe for our players. And our physicians have that banned substance list that comes from the NBA, and also for the Olympics, so we are actually using it.

As far as the Houston Rockets are concerned and NBA trainers, we are actually using that same list, because we don't know when our players are going to get selected for an international competition. Somebody may have made an Olympic team and you have to get an alternate. Those alternates pop up all the time, so our guys, we make sure that they stay within the guidelines.

Ms. BROWN-WAITE. Well, I think the basic question is if it is good enough for the Olympic National Basketball Team, why should this not be a universal standard?

Mr. JONES. I would agree with you there. I think the banned substances list for both are pretty accurate. I think what the WADA and the IOC get into are more of the designer steroids and more of the growth hormones that we have not yet tested for, and, yes, I do think those should be included.

Chairman TOM DAVIS. Thank you.

Ms. Sanchez.

Ms. SANCHEZ. Thank you, Chairman.

I just, in listening to the testimony today, can't help but find some artificial distinctions that are troubling to me. And before I get into those, I do want to ask Commissioner Stern for a little bit of clarification.

Did you just state that the new proposed policy would have four additional random drug tests throughout the season, one out of season and one in the——

Mr. STERN. Actually, I misspoke. It is one random test in training camp, three additional random tests in season, and one out of season. Mr. Buchanan has corrected me. So it is not six, it is five. But, yes, we are proposing the opportunity for three additional random tests in season.

Ms. SANCHEZ. OK. And would those random tests apply to veterans and rookies?

Mr. STERN. Correct. To every NBA player.

Ms. SANCHEZ. OK. Because I was finding it a little bit troubling that there is this artificial distinction between rookie players and veteran players.

One of the other distinctions that is a little bit troubling to me is that the current policy right now covers testing for street drugs and covers testing for steroid use or performance-enhancing drugs, but the penalties for the street drug use are far stricter. And the example that I am going to give you is that an NBA veteran who is caught using cocaine faces a minimum of a 2-year ban from the league, but the same veteran who uses steroids faces only a five-game suspension; and even after multiple offenses, the player would face a 25-game suspension.

That makes no sense to me. Both substances are illegal and one is actually helping somebody cheat in a sport where you want to maintain the integrity of the game. So how could you justify having such a large difference in penalties?

Mr. STERN. Well, actually, let me take you through the history of it. The cocaine, which has been in effect since 1983, when we

dealt exclusively with non-steroidal drugs, recreational drugs, if you would, that was for for-cause testing when we caught somebody who didn't come forward into our program. As we came to learn more about steroids, in the first instance we were concerned about the fact that there were certain tainted nutritional supplements and that since our policy is absolute, no matter what—if you are found to have the substance in your system, you were gone, period—the possibility for accidental contamination, which we didn't think was the case with cocaine, caused us to move more slowly with respect to steroids. We are concerned about that because in addition to wanting to set an example and also wanting to make our integrity level as high as it can possibly be, we do have concerns for the individual rights of our players.

Ms. SANCHEZ. And I can understand that. But with respect to the concerns about contamination, if I am not mistaken, the NFL and the Olympics have a way to deal with that, and I think part of that is educating players about it and holding them responsible for their actions.

Mr. STERN. Actually, the way that the Olympics has been doing it is with a series of modifications that allow you to consider ameliorative conditions, where every player who is found guilty of some drug use has the opportunity to appeal—not widely reported—and endless hearings go on with respect to that. In our view, we don't even want the discretion. We think it is appropriate for it to be absolute, and we deal with the issue in the penalty phase so that the penalties get stepped up.

Ms. SANCHEZ. But you don't think that there is an inherent message that you are sending by saying that for illegal street drugs we are going to penalize you in a much more severe manner, and with respect to performance-enhancing drugs—which are not only illegal, mind you, but again undermine the integrity of the sport—we are going to have stepped up penalties?

Mr. STERN. Actually, I tell you that there may be some inconsistencies, but in 1983, when our NBA players stepped up and said we think it is most important for us to have this drug policy because kids in our neighborhoods are using those drugs, and they wanted to send a strong message. We have been evolving with respect to steroids, and now we are there, and that is reflected by the conversations that we and the union are now having and the propsals that I have put before this committee.

Ms. SANCHEZ. Thank you.

Mr. DENT [presiding]. Your time has expired.

Thank you. I have a question for the commissioner, Mr. Stern. Can you hear me?

Mr. STERN. Yes.

Mr. DENT. A question for Mr. Stern. Following up on Representative Brown-Waite's comments on supplementals, I know that tainted supplements are a source of concern for the NBA, given the strict liability of your policy. Have you considered certifying certain supplements as safe, as the NFL has begun to do?

Mr. STERN. It is on our agenda. It is hard for us to think that if we certify a company, that puts us into the business of drug manufacturing and supplement manufacturing, and thereby vouch-

ing for its product; and that at least gave us some pause, Congressman.

Mr. DENT. OK. And just to followup, have you considered using a USADA certified lab to conduct your steroid testing?

Mr. STERN. Yes. In fact, we do.

Mr. BUCHANAN. At risk of correcting the commissioner, we currently do not use a WADA-certified lab. The lab that we use is certified by the College of American Pathologists and the Substance Abuse and Mental Health Services Administration. There are two WADA-certified labs in North America, UCLA and Montreal, and we are currently looking to move our program potentially to one of those labs starting next season in order to take advantage of the best science that they have, because there are some substances that only those labs are able to test for in this country.

Mr. STERN. To help resurrect me, who heads the lab that we currently use?

Mr. BUCHANAN. Who is our director of toxicology?

Mr. STERN. Isn't he the head of the——

Mr. BUCHANAN. We will just have this conversation.

Mr. STERN [continuing]. Moscow Olympics?

Mr. BUCHANAN. Yes, correct, Victor Uralets is our director of toxicology at Quest Diagnostics.

Mr. STERN. OK. Thank you.

Mr. DENT. And I guess maybe to Mr. Jones, the NBA currently has certified drug collectors in half the cities that have professional basketball teams. Are you familiar with which cities have the ability to collect those drug samples and which cities don't, and is Houston one of them?

Mr. JONES. Yes, as far as my knowledge, the NBA has a security person in every city that is certified to collect those samples, and I know who our representative is there.

Mr. DENT. Could anybody else comment on that, maybe Mr. Buchanan?

Mr. BUCHANAN. Sure. We have a staff of security representatives that are employed by the league office. There is a security representative for each of the 30 teams. We have trained a subset of that group, half, to collect specimens for us in our drug testing in the pre-season and during the season, and those collectors, we utilize them regionally and throughout the country to get the samples from the players.

Mr. DENT. OK. The reason I asked is because some of these steroids might only stay in the body for a few days and they can cycle it. I have no further questions at this time.

Chairman TOM DAVIS [presiding]. The Chair recognizes Mr. Cummings.

Mr. CUMMINGS. I missed what you just said about the people who do the collecting, because, for us, the integrity of the tests are very, very important. When we examined the baseball folks, we were extremely alarmed that there were so many loopholes in the testing. And I was just wondering. Tell me who does the testing? Who collects the specimens?

Mr. BUCHANAN. Our drug testing specimens are collected by a staff of NBA security representatives. These are people who are all former law enforcement individuals; they work under the direction

of our NBA head of security, who is a former official with the FBI. They are trained in the procedures and the chain of custody that is required to collect drug samples. All of our samples are collected under direct observation.

Mr. CUMMINGS. Now, Mr. Stern—and maybe this would also go to Mr. Hunter—I am sure it has been made clear here—I am sorry I had to leave; I had to go over to the Senate about this nuclear option business—but let me ask you this. I notice that you all came up with the new proposed penalties. Do you think the likelihood of them going through is pretty good?

And I am wondering—and perhaps this is for you, Mr. Hunter—we here come from all sides of the country, and I come from the inner city of Baltimore, where young men are going to jail every day for Schedule I, II, and III drugs. And they look at this steroid thing and they say to themselves, well, wait a minute, these guys are bulking up and I am going to jail; and they are getting paid a million and I am unemployed.

And then they ask the question what's up with that? And I am just wondering if the players understand that the Congress is losing a little patience, and that there is not a lot of sympathy up here for these millionaire players who may be bulking up and, by the way, severely damaging the credibility and the integrity of the game.

And I am just wondering do you think that is getting through, Mr. Stern, that message?

Mr. STERN. Well——

Mr. CUMMINGS. I mean, in light of the fact that you just came up with some stricter—and I applaud you for that, by the way.

Mr. STERN. Yes. Well, I would say to you that I would like to parse your question and say to you that the committee has gotten our attention, it has done the service, and we want to make clear that our game is free of that. My concern by you raising the question suggests that NBA players are bulking up, and I am not prepared to acknowledge the truth of that assertion.

Mr. CUMMINGS. Well, let me back up, then. Let us take that way and let me ask the question another way. First of all, do you think that if other players are using steroids, do you believe that they believe that is cheating? Do you believe it is cheating?

Mr. STERN. Yes, I do believe it. I believe our players believe it, and I believe our current drug policy—in its intention if not quite yet in its fully desired effect—makes that statement forcefully on behalf of both the union and the league.

And with respect to your point on criminal enforcement, as far as I am concerned, we are not law enforcement. And if somebody is illegally using drugs, wherever they are, including NBA players, the law enforcement authorities should do what they deem appropriate.

Mr. CUMMINGS. Do you have a response, Mr. Hunter?

Mr. HUNTER. No. I am in agreement with what Mr. Stern is saying relative to his last comment. I was a Federal prosecutor for about 8 years and a State prosecutor for about 10 or 11 before that. I served as U.S. attorney for northern California. So I have been deeply involved in the criminal aspect for a long, long time prior to coming to the NBA. It is my contention that our players are con-

trolled by the same laws that control everybody else, and I am sure that whatever we put in place, the message that we intend to deliver will be delivered and the players will conform their conduct accordingly, assuming there is a problem.

Mr. CUMMINGS. And I take it that, in listening to you, Mr. Stern, you think that if there is a problem—I am not putting words in your mouth, I just want you to answer me—just based upon what you said a few minutes ago, that it is not a major problem in the NBA, use of steroids?

Mr. STERN. I would say that I have no evidence of it. But I think we owe it to the public at this point, based upon the concerns that have been raised by this committee, to demonstrate that what I believe to be the fact is truly the fact, so we don't have to debate about bulking up versus speed. If you are an NBA player, you will be subject to random testing that both protects your health, protects the confidence in the game, and sends the message to kids that this is something that is not a part of sports.

Mr. CUMMINGS. Thank you.

Chairman TOM DAVIS. Thank you very much. We will just go through a few more questions, then I think we can let you go.

Mr. Hunter, our staff has been in contact with the Players Association regarding the formation of a Zero Tolerance Roundtables to foster discussions between a wide cross-section of both the professional sports and amateur sports worlds, including medical experts, high school coaches, anti-drug advocacy organizations, and we are pleased that the NBA has agreed to participate. But we haven't gotten the same commitment from the Players Association. Can we have that commitment?

Mr. HUNTER. Yes.

Chairman TOM DAVIS. OK. Thank you very much. And we just need you to work with us to get some players that would be part of this. They are the real role models. They don't care what Commissioner Stern or Mr. Waxman or I think about it, they look up to the Juan Dixons of the world; that is who the kids are idolizing out there, and it is just important they make those kind of statements.

Juan, that is why we are so pleased to have you here today making your statements.

I have one piece I am trying to followup on. I think we have almost closed on—this is on the NBA current policy on the drug collectors in half of the cities that have teams back and forth. You admit it is probably not as solid as you would like it, is that fair to say?

Mr. STERN. We are absolutely quite happy with the collection. We accept—and you can see from our proposals that additional penalties and additional random tests and consideration of what, if any, additional substances should be added are all things that we should be looking at.

Chairman TOM DAVIS. Because of where the collectors are, some teams could only be tested at away games, so in theory, at least, it would be easier to game if somebody wanted to do that.

Mr. STERN. I don't think so. Mr. Buchanan.

Chairman TOM DAVIS. We don't have any evidence anybody is gaming yet, but I am just saying——

Mr. BUCHANAN. Well, I think, actually, to the contrary, Congressman. Because we use a subset of the full 30 security reps, those security reps that do our drug collections, they travel. So the players on a given team are not going to know who they are going to see to do their collections, when they are going to see them. It actually adds, in my opinion, an additional element that is a positive for our program.

Chairman TOM DAVIS. OK, that clarifies it, as far as I am concerned. I just remember a few years ago, when the Wizards were building the MCI Center downtown and I had Wes Unseld before me under oath, and I asked him a question, I said, are the Wizards going to have a winning team next year. And this was before, of course, Juan Dixon arrived on the scene.

Mr. STERN. And what did he say?

Chairman TOM DAVIS. He said, I can promise you exciting basketball. That was his answer. So let me just ask this. Commissioner Stern and Mr. Hunter, are we going to be able to work this out, do you think? Not just on the drug side, but your other issues? You have millions of fans around the world watching.

Mr. HUNTER. We are going to try.

Chairman TOM DAVIS. You are going to try?

Mr. STERN. We will give it our best shot.

Chairman TOM DAVIS. We are all counting on you. Thank you very much.

Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman.

I want to thank each of the witnesses that appeared before us today. You have been here voluntarily and your testimony has been very forthright and helpful to us, and I very much appreciate it. I gather that you and I both think that steroids is not a big problem with basketball players, but the truth of the matter is we don't know for sure because the testing program that you have in place now is so weak. That is why I am grateful for your leadership, Mr. Stern and Mr. Hunter, to negotiate a stronger testing policy.

Mr. Stern, I appreciate your willingness to support the idea of uniform legislation.

I wanted to point out to Mr. Hunter that when we talk about uniform legislation, we are talking about a minimum, and the different sports groups can do other things; it is not a one-size-fits-all for everyone. I know details are important, and I just wanted to point that out to you. We will go over some of the details at another time.

There was a heated exchange with Mr. Lynch. As I heard what Mr. Lynch was saying earlier, I don't think he was saying that steroids caused the brawl, but he was saying, in effect, the brawl would have triggered the reasonable cause clause. So I just want to point that out. Not to engage in it any further, but I think there was a misunderstanding.

Mr. STERN. I was reacting to the difference between some of the words you used and the word pathetic that Mr. Lynch used.

Mr. WAXMAN. I see. Well, that was your response, but there was an earlier exchange.

Mr. STERN. No, but I understand. And, actually, we were sufficiently engaged with that event in so many difficult ways—with re-

spect to security, service, crowd control, protection of players, and protection of fans—that didn't trigger the issue that you raised, but I understand the issue well.

Mr. WAXMAN. Well, you certainly were much more involved in it, but I thought he was being somewhat criticized for an interpretation of what he had to say, which isn't what I heard him say.

Mr. STERN. I understand.

Mr. WAXMAN. But I can see how you would have that feeling.

Also in the questioning by Mr. Ruppersberger, when he talked about Van Gundy, I think you answered part of the question when you talked about the monetary fine being comparable to what monetary fine in other circumstances, but the disparity was that your first reaction was to ban him from the game, which is a pretty harsh penalty. It didn't go that far, but that would have been a very harsh one, banning him for life. That is a harsh penalty, and when you think about the kind of penalty for drug use it is a lot different. So there is a disparity in how strongly you felt about what might be an appropriate penalty.

Mr. STERN. Well, but I have to delve further into the facts of the situation with you, and it had to do more with his non-cooperation in revealing sources. And I have known the House to react strongly when people appearing before it refuse to either testify or give information. So it was not about simply the criticism of the game, but it was about his unwillingness to be forthcoming when asked questions that he was required to answer.

Mr. WAXMAN. I wouldn't want our House ethics policy to be a model for you.

Mr. STERN. Congressman, I didn't say that.

Chairman TOM DAVIS. I was going to ask which policy, Henry.

Mr. WAXMAN. But on the other hand, I wouldn't think that a House ethics policy ought to call for banning for life for an offense under one circumstance, but a slap on the wrist for another one if they both go to the integrity of the game and are very serious problems.

Mr. STERN. Actually, people have come to expect more of our athletes and coaches, unfortunately, than even of commissioners or Members of Congress. We somehow apply a higher standard. And in the case of Mr. Dixon, even though I didn't go to the University of Maryland, I am proud to be sitting on this panel with him, and I think he is a great representative of all of our NBA athletes.

Mr. WAXMAN. Well, our goal is, because of the reverence in which sports are held in this country, that we want the American people to feel that you are meeting higher standards, even if they look at politicians and think there might be a higher standard that politicians could achieve. But I am not really asking for a response.

Mr. STERN. We agree, and we are going to make you proud of us, Congressman.

Mr. WAXMAN. Well, we are going to work together with you, and I just think that your being here was very helpful. This is the beginning of further discussions that we will all have.

Mr. STERN. Thank you very much.

Mr. WAXMAN. Because we have the same goal in mind.

Mr. STERN. We do.

Chairman TOM DAVIS. Thank you.

I think, Mr. Souder, do you have one last?

Mr. WAXMAN. Oh, I did want to also thank Keith Jones for his testimony.

Chairman TOM DAVIS. Very helpful. Thank you.

Mr. WAXMAN. And Mr. Dixon. I was told by Karen Nelson, who is my chief of staff, who is a fanatic Wizards fan, that I should keep asking questions until she could get back from a doctor's appointment just so she could see you. So I hope she will arrive in time. But you have been terrific to be here. Thank you.

Chairman TOM DAVIS. Thank you.

Mr. Souder has one more question.

Mr. SOUDER. I do, by the way, favor drug testing for Congressmen; have done that myself. I believe we should lead by example. Not that any of us are likely to be seen as steroid users. I think you can look at the picture of us and see that is probably the case.

I had one particular question. I agree that the testing during the season, possibly off-season, and the penalties are the biggest questions, and you are attempting to address those. But there is another one that is emerging that the World Anti-Doping Agency, as you said, is looking at what you test becomes critical, and that is gene doping. Because what we have been up until now is behind.

In other words, as steroids and human growth and this one isn't there, but as it has been in multiple news stories in Seattle and the AP in the last couple months, steroids are old news for edge seekers. And the World Anti-Doping and the U.S. Anti-Doping policy says the non-therapeutic use of cells, genes, genetic elements, or of modification of gene expression having the capacity to enhance athletic performance is prohibited. If that could at least be part of any policy, I think we are looking at that here because this would just dramatically alter it in a different way.

Mr. STERN. I couldn't agree with you more, Congressman. I have been doing some reading on that in line with some other work I do at the university level. The potential for genetic therapy which will arguably corrupt athletic competition is out there. Whether we can stay ahead of the curve I think is going to be a real issue, but we are committed to, with other sports and with this committee, to attempt to do that.

Mr. SOUDER. And my last is a question, but first I want to say thanks for working with Partnership for Drug-Free America. You used several examples in your testimony of a number of you doing local efforts. But the NBA is a little unusual compared to the other sports, in that you take kids straight out of high school, which has, for example, tremendously helped the Indiana Pacers, for which we are very appreciative. But are you also doing directed high school outreach, where you have such a huge impact, even more probably than other sports?

Mr. STERN. You know, we are. We go, for example, to the places like the McDonald's All American Tournament, where we bring in representatives to talk to the kids who have been identified as likely pro prospects, and with our Junior NBA and Junior WNBA, which go younger, we are going to increase that. But I must tell you that if we can find a way together to get the kids at a younger age than when they are high school players, that, to me, would be the most important thing to do. And it has to be more than just

public service announcements. There has to be a complete cultural shift on the entire subject.

In the mid-1980's, when Mrs. Reagan was deeply involved with Just Say No, I am pleased to say that the NBA was deeply involved with that effort. And despite my initial skepticism, there actually was a change in the way kids behaved vis-a-vis drugs, and I think it had something to do with her efforts. And if we could somehow recreate that collectively, I think it would be terrific.

Mr. SOUDER. Thank you very much.

Chairman TOM DAVIS. I want to thank all of you. This has been a great panel. It will help us. As we move our legislation forward, Commissioner Stern, Mr. Hunter, we will share with you our thoughts as the process moves forward.

The hearing is adjourned.

[Whereupon, at 11:36 a.m., the committee was adjourned.]

[The prepared statement of Hon. Diane E. Watson, Hon. Carolyn B. Maloney, and Hon. Jon C. Porter follow:]

Opening Statement
Congresswoman Diane E. Watson
Government Reform Committee
Hearing: Steroid use in Sports Part III Examining the National Basketball Association's Steroid Testing Program
May 19, 2005

Mr. Chairman, the uses of anabolic steroids are a controversial issue. I am very concerned with the individual health implications and, more importantly, the consequential messages that are generated in the general public.

I want to focus on the responsibility that Major League Sports groups, and leaders in our society, have to the general public. They must be held accountable to the message we send to other athletes, college students, impressionable high school young adults, and small children.

People serving in positions of authority and leadership–and this includes sports personalities, who young people seek to emulate in every way in our media saturated society– must always be critically aware of the consequences of their actions and statements.

The fact of the matter is that the use of steroids and other dangerous so-called performance enhancing drugs are increasingly being used by younger athletes who are seeking to emulate the actions of their sports heroes in their misguided quest for athletic excellence.

Thank you for your willingness to come forward and testify in order for all of us, as high profile public figures, to educate America. We must strengthen our policies, and join forces, to send out the message that "Steroids and performance enhancing drugs are not acceptable"

I yield back.

Representative Carolyn B. Maloney (NY-14)
Committee on Government Reform
The National Basketball Association and Steroids
May 19, 2005

I would like to thank Chairman Davis
and Ranking Member Waxman
for holding this hearing today,
which will continue our investigation
about how steroids
are affecting America's young people.

We will also learn more
about how the National Basketball Association
has addressed and is addressing
the use of illegal substances among players.

We have already heard
from Major League Baseball
and the National Football League
about their steroid policies.

We also have heard from medical experts
and parents whose children have died

because of steroid use.
I know my colleagues on the committee
agree that steroid use
among the nation's teenagers
is a public health crisis.

I believe that this Committee already
has played a valuable role
in educating the public,
and most importantly, parents, coaches,
and young athletes that steroids
are not acceptable at any level of sports,
including in the professional sports leagues.

By hearing the firsthand accounts
of those who are on the front lines
of addressing steroid use in the NBA,
we will continue to shed light
on this very serious issue
and work toward effective policies
and programs to combat the dangers posed
by these substances.

I thank the witnesses for appearing
before us today,
and I look forward to hearing their testimonies.

Thank you.

CONGRESSMAN JON C. PORTER (R-NV-3)
COMMITTEE ON GOVERNMENT REFORM
"Steroid Use in Sports Part III: Examining the National Basketball Association's Policy on Anabolic Steroids and Related Substances"
May 19, 2005

Mr. Chairman, thank you for holding this hearing today. I would also like to thank the witnesses for being here today.

On March 17th, the Committee on Government Reform held a hearing that looked into Major League Baseball's efforts to eradicate steroid use in professional baseball. After listening to the testimony of the witnesses, I was incredibly disturbed by the extent to which steroids have been allegedly used by professional players. Like it or not, professional sports players are role models to our young people, and the statistics regarding the rise in steroid use among teenagers is worthy of attention by Congress.

On April 27, 2005, the Committee held another hearing regarding steroids—this time, the National Football League was the focus.

We are here today to conduct a hearing on the use of steroids within the National Basketball Association (NBA). Although the NBA has been cooperative in sharing information to the Committee about its drug policy and steps that both the Association and its Players Association have taken to reduce or eliminate illegal drug use, I am concerned about the policies that are currently in place.

In reading the NBA's drug policy, one aspect truly stands out: either the players are tested no more than one time during regular training camp and no more than three times during the regular season for first time players, or no more than one time each season for veteran players.

Mr. Chairman, one test per year for veteran players is not enough. I believe that the NBA should be testing more frequently in order to send a strong message regarding illegal drug use. One test per year cannot truly be considered "random," because once that one test is completed, the player knows that months will lapse until the next test, allowing players to partake in illegal drug use if they so choose.

Professional sports players should be the true example for all young sports players to look up to. I firmly believe that we, as a nation, cannot afford to give our young people any mixed messages regarding what is permissible to "get ahead" in sports and what is not. When even one teenager dies due to steroid use, the cost has already risen too high. As I said in last month's hearing, we do not need any more excuses from professional sports leagues and players. We just need solutions.

Mr. Chairman, I appreciate your letting me submit this statement for the record, and I look forward to hearing the testimony from the witnesses.

○