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Helsinki Commission Hearing, The First Clean Olympics? Rodchenkov Act Enforcement at
Tokyo 2021

Testimony of Dr. Edwin Moses
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Chairman Cardin, Chairman Cohen, members of the commission, good afternoon. My name is Dr. Edwin Moses and I am the Chair Emeritus of the Board of Directors for the United States Anti-Doping Agency (“USADA”). I am also a four-time Olympian, as such, athletics have played an integral role in my life for the past 40 years. Although great strides have been made, particularly here in the U.S., the issues of doping in international sport that plagued my generation continue to affect athletes now. I want to thank the Helsinki Commission for its interest in ensuring clean competition ahead of the Tokyo Olympics and protecting U.S. athletes’ rights and the integrity of competition both at home and abroad. I commend your efforts on these critical issues especially by introducing the Rodchenkov Anti-Doping Fraud Act and seeing it enacted into law. It is a game-changing statute that will have a major positive impact on international sport. I look forward to continuing to work with you as the Tokyo Games begin this week and as we gear up for the 2028 Los Angeles Olympic Games, the first Olympics on U.S. soil since 2002.

It is an honor for me to be here representing the USADA Board, our talented professional staff and clean athletes from across the United States for whom we advocate every day. It is an honor for USADA, a 501(c)(3), not-for-profit, incorporated in Colorado, to be a part of such an important discussion. We also greatly appreciate the ongoing support of Congress and the President’s Office of National Drug Control Policy (“ONDCP”) for believing in clean sport, a fair and robust system and working to ensure the global system is safe, effective and fair for all athletes.

USADA opened its doors in late 2000 thanks largely to the bipartisan efforts of Congress in recognizing the need for an independent anti-doping system in the U.S. As some of you may recall, throughout the 1990s, many here in the U.S., and around the world, viewed the U.S. and our athletes as dirty and only winning on the world stage because they were doping. This view was largely held due to the weak anti-doping policy and broken anti-doping structure in the U.S. During this time, there was no independent anti-doping effort and the Olympic sports movement, whose job it is to promote sport, was also handling the anti-doping program – a potential conflict of severe proportion.

This was bad for athletes and this was bad for sport.

As a result, in the late 1990s Congress, together with the United States Olympic Committee (“USOC”), took action and put a stake in the ground to establish, through a public-private partnership, an independent organization to implement and enforce a fair and robust national anti-doping program. This bipartisan effort sparked the courage of the entire U.S. Olympic and Paralympic movement to agree to give up control to an independent organization.

This was a landmark decision that changed the game for U.S. athletes for the good and has given them hope, and the belief, to know that they can now win clean. Further, while somewhat skeptical at the time, the USOPC and over 45 National Sport Federations are thrilled to be out of the anti-doping business and to have USADA handling these complex but essential matters so that they can focus on their job of developing athletes and growing and promoting their sports.

Thanks to these historic actions, the U.S. is now respected for its work and viewed by many around the world as the gold standard (along with some other countries). And, most importantly, the independent model ensures that we are never complacent and we always strive, just like our athletes, to be the best we can be, to not just say we ‘drug test’ for sport brand purposes like some, but to ensure clean athletes can actually win. We have given athletes at every level the firm belief that cheating never pays and that winning the right way is the only way.

For the past several years, as so clearly revealed by the Russian state-sponsored saga, we have been at a critical juncture for the soul of sport – a time of truth, if you will. And today, I want to speak to the commission about not only the significant and on-going threats facing clean athletes and fair play, but also about the sound solutions to these problems that are already in play.

First the challenges: The truth is, fairness and integrity in athletic competition — two principles at the very heart of why we play and love sports — hang in the balance. They have been abused and are currently under attack. If we turn a blind eye to fraudulent conduct contrary to the rules of competition in track and field, cycling, football, weightlifting – essentially saying as long as we win and do not get caught it is okay – then we send a powerful message that it is acceptable, justifiable, even noble, to win by any means necessary including dangerous performance enhancing drugs, corrupt measures, fraud, or whatever else – as long as you win

and do not get caught. Over the last 8 years, USADA has found one of its new challenges to be the protection of the integrity of sport from sport itself.

The “win at all costs” culture is alive and well. The state-sponsored doping of the Russians in the Sochi Olympics was shocking, but even worse the lack of repercussions was a nightmare realized. One that we have not yet woken from.

Just this year, 2021, five Russian Athletics Federation officials were sanctioned by the Athletic Integrity Unit (AIU) with four-year bans for going to great lengths to forge the whereabouts of an athlete so that athlete could evade testing. It was revealed that Russia had engaged in massive corruption with the president of the International Biathlon Union (IBU), who had defended Russian athletes, assailed critics and blocked efforts to root out doping by the Russian teams.¹ The International Weightlifting Federation’s (IWF) future currently is in jeopardy, as sanctions are being rolled out against their top leaders for widespread corruption and covered up drug tests.² It is ground hog day for athletes, as we repeatedly watch our dreams fail to those with corrupt actors behind theirs.

On behalf of those we serve along with anti-doping leaders from around the world, we have been consistent and firm. This cannot continue to happen and the IOC continues to miss, or ignore, defining moments to confront in the clearest way possible, the win at all costs culture of corruption through doping in global sport. These have all been opportunities to draw an unambiguous line in the sand: a chance to stand up for clean athletes – a chance to show clean athletes they care, to send a message, loud and clear, that this type of fraudulent behavior will not be tolerated in Olympic sport. Yet, when these decisive moments arrived, when the lights were shining brightest, WADA and the IOC repeatedly failed to lead.

While failures in the global system extend well beyond any one sport, as we have seen, the issue of corruption and drugs in sport strikes at the very heart of the question of what role sport will play in the world’s future. It is a question of dictators versus Democracies in the rule of law for both sport and politics. An interwoven network that allows state sponsored corruption

¹ Hunting Trips, Sex and Cash: How Russia Influenced Biathlon’s Leader, Tariq Panja, January 28, 2021, <https://www.nytimes.com/2021/01/28/sports/olympics/biathlon-russia-doping-besseberg.html>

² ITA report on IWF: Anti-Doping Violations and related allegations of misconduct from 2009 to 2019, June 24, 2021, <https://ita.sport/resource/ita-report-on-iwf-anti-doping-rule-violations-and-related-allegations-of-misconduct-from-2009-to-2019/>

to flourish and kleptocracies the ability to defraud athletes and corporations alike. Those that defraud sport with performance enhancing drugs do not let national borders stop them in perpetuating their crimes.

Since international sport and WADA have essentially failed to make the basic reforms necessary to ensure this type of corruption never happens again, we are inspired by the work of Congress with the enactment of the Rodchenkov Anti-Doping Act into law this past year. This law protects the U.S. financial investment in international competition; stops corrupt actors that organize and facilitate doping fraud; compensates clean athletes who have been defrauded; and protects whistleblowers and clean athletes. The Rodchenko Act is a strong deterrent to those that look to corrupt sport, on a global scale and ultimately a powerful detection mechanism. USADA is deeply committed to the effective utilization of this act and will actively assist putting it in place and demonstrating its success. One enhancement that might be worth investigating is adding the Rodchenkov Act to the U.S. Code Title 18 § 1956. As we understand it, this would allow financial transactions used in the corruption of sport under the Rodchenkov Act, involving the proceeds of specified unlawful activity, to be considered money laundering under the U.S. Code and prosecuted as such. We stand ready to assist if you all agree to pursue this.

As an independent anti-doping organization, we view athletes— and their powerful stories — as our guiding light, our North Star. Their stories give us hope, they remind us of our purpose, and they provide us the fuel to continue to fight for their right to clean and fair competition. Athlete testimonies and truths are also an incredibly important resource to create real change under the Rodchenkov Act and we and our international partners support this greater protection for truthful “whistleblowers” to encourage and incentivize them in speaking up and making it easier for them to obtain access to safe and secure living as well as to end any retaliation against them.

As essential component of any effective anti-doping program, and by extension any anti-doping law, is the ability to demonstrate to the athlete, coach and sport community that you can be trusted and relied on to do the job in fairly enforcing the rules even when not easy or popular to do so. We have seen this faith demonstrated in our Play Clean whistleblower line, receiving over 450 tips in 2020. This is a well-established source of information that can be built upon by

athletes, for athletes because of the powerful whistleblower inclusion in the Rodchenkov Anti-Doping Act. Sport has largely failed athletes in this effort, but athletes can stand up and aid in this fight, calling out corruption and taking back power from kleptocrats, and others who abuse their power, that want to defraud them.

USADA is also grateful for the close partnerships with U.S. law enforcement agencies over the past twenty years. From BALCO to Operation Raw Deal and the Russian State-Sponsored investigation, we know these partnerships are essential to rooting out bad actors. We are thrilled the Act will further harmonize and strengthen the effort to build these relationships and we are excited as this paves the way for information sharing on a wider and more uniform scale. We know that athletes' and others standing up and owning their sport culture will be harnessed through these effective partnerships.

Additionally, testing is very much the backbone of an effective program, while cumbersome and sometimes inconvenient, that provides the deterrent needed to stop athletes from doping. Transparency in these efforts is essential to combatting conflicts of interest. WADA's inability to disclose their testing numbers leading into Tokyo is concerning for both athletes competing and international parties thoughtful to WADA's conflicts of interest. We understand global testing was down approximately 45% in 2020 and down 20% in 2021. This is alarming but what is worse is the actual athletes tested is secret. So there is no way to know if athletes outside the U.S. headed to the Games have been tested properly.

We have seen a number of Olympic Games corrupted by dirty athletes, and at the 2016 Rio Olympic Games, not only were 1,913 athletes in 10 high-risk sports allowed to compete who had not been tested ahead of the Games, but also scores of Russian athletes competed despite not being subject to credible anti-doping programs. Without transparency to testing numbers, one can not help but remain concerned leading into the Tokyo Games. We have to ask if these will be the cleanest games, as the IOC narrative continues to promise.

For our part, we post the test results for our U.S. athletes on our website. Athletes demanded we do this as a measure of accountability and transparency. We should all be proud of the sacrifices and lengths our athletes go to in order to live up to their promise to win the right way. All athletes deserve the same opportunity.

We also applaud ONDCP for their recent, robust analysis of the WADA in their report to Congress on May 17, 2021.³ It detailed the efforts for WADA Governance reform and possible solutions. We are particularly grateful for ONDCP's accepted suggestion to manage the funds to be paid to WADA based on real time steps of governance reform.

Since our founding in 2000, we at USADA have advocated for a clear separation between those who promote sport and those who police it. To do so otherwise, we believe, is to encourage the fox to guard the henhouse. No matter how well intended it might begin, it simply does not work. The conflict of interest is too great and clean athletes will always lose out.

Any chance at creating a divide between promoting and policing sport must start with independence and unfortunately, WADA continues to be conflicted and not independent. The IOC pays half its budget and gets half of the seats on its governing bodies. It is a "pay to play" for sport.

The good news is that WADA's conflicted governance model could be easily solved by removing sport leaders from WADA leadership and implementing a proper conflict-of-interest policy prohibiting governing members from simultaneously holding a governing role within a sports organization under WADA's jurisdiction. This must happen for WADA to be truly effective, and to restore confidence that the days of WADA being a toothless political tiger are over.

Chairmen Cardin and Cohen, members of the Commission, for those of us who value the rights of clean athletes and the preservation of a fair, safe and healthy playing field – this is our moment. As a global community that deeply cares about athletes' rights and health, we must merely find the resolve and the courage. True sport is built on the idea of honesty, respect, fairness and an equal opportunity for success under the rule of law – the very same principles that build the foundation of every free, democratic society, our society.

The personal well-being of the next generation of clean athletes hangs in the balance. This is not just about elite Olympic athletes – this is about every kid on a playground who has an

³ Office of National Drug Control Policy, Report on World Anti-Doping Agency Governance as required by House Report 116-456, May 17, 2021, https://www.usada.org/wp-content/uploads/ONDCP-2021-WADA-Report-to-Congress_Final.pdf

athletic dream and asks “what do I have to do to make my dreams come true?” And the truth is, if we don’t keep pushing, if we don’t win, we will likely find ourselves back in this same position, years from now, staring another state-supported doping system, another corrupt model in the face – one that has abused its athletes, and robbed another generation of clean athletes in the process.

And we will all be wondering why we didn’t do more when we had the chance.