

Attachment-Additional Questions for the Record

The Honorable Tim Murphy

- 1. On March 1, the day after the Subcommittee's hearing, Vladimir Putin pledged to establish an "independent" system in Russia to tackle doping. This system will transfer its anti-doping program from the nation's sports ministry to an independent organization. Does USADA believe this will address the problems that occurred in Sochi and London?**

Unfortunately, for many including Russia, the term “independence” is being used as a political talking point rather than a genuine call to action. Those who truly value clean sport know that Russia is still a long way away from implementing the types of reforms necessary to remove the fox from the henhouse, achieve real independence and prevent this type of corruption from ever occurring again. We need action, not words. With that said, if Russia can finally commit to removing both sport and government influence over its anti-doping system, that’s something we would of course be supportive of.

- a. If not, what steps does USADA believe need to be taken to further improve the system?**

The first step to solving a problem is admitting you have one. Yet here we are, a year-and-a-half removed from the first McLaren report and Russia – in the face of irrefutable facts – still won’t admit to having operated a state-supported doping system. It’s ridiculous.

Secondly, we should understand that while enacting the proper reforms, including regaining code compliance and removing both sport and government influence is a step in the right direction, ultimately it is about developing a culture within the system that truly values clean competition – and that’s something that will take time. Unfortunately, if you analyze their recent rhetoric, hires within the anti-doping system, the lack of ongoing testing, and unwillingness to show even the slightest degree of contrition, it’s clear they’re still a long, long way off.

- 2. With the 2018 Winter Olympics in PyeongChang less than a year away, Is USADA confident the systemic weaknesses identified before and after the Rio games will be addressed in advance of the games?**

In February, you heard the most accomplished Olympian in the history of the Games, Michael Phelps, tell you that he doesn’t believe he’s ever competed on a truly level playing field during international competition – including the Olympic Games. Why is

that? It's because Michael, like many of us who value clean and fair competition, know that the IOC cannot be trusted to both promote and police itself. If you need proof, look no further than the Independent Observer report from the Rio Games:

- 4,125 athletes out of 11,470 in the athlete's village had no testing in the year prior to Rio
- Of those, 1,913 were athletes competing in ten of the high-risk sports

Considering both the anti-doping program in Rio, as well as the IOC's reticence to remove themselves from critical anti-doping functions, the simple answer to your question is no, as of right now, we do not have confidence that the systemic weaknesses identified before and after the Rio games will be adequately addressed in advance of PyeongChang. But with that said, we would certainly hope that it is – clean athletes deserve it.

And, we do believe it could be . . . if the IOC is willing to strengthen WADA and remove itself from critical anti-doping functions. The answers are relatively easy, yet finding sport leaders with the fortitude to implement them has proven much more difficult.

a. **In addition, does USADA have confidence that all athletes implicated in the Russian doping scheme will be adequately tested leading up to and during competition?**

No. Regarding Russian athletes, we've always said there needs to be an independent panel of experts that can assess each athlete on an individual basis using uniform criteria to determine whether they should be eligible to compete. It's an unfortunate situation, but given the established evidence on the corrupt Russian system, they simply cannot be trusted to assess themselves.

b. **What additional changes do you believe are necessary to ensure public confidence that the next Olympics will be a clean and fair competition?**

The first step is removing the fox from the henhouse, and that can be easily done by implementing the Copenhagen Reform Proposals that have been established and endorsed by both National Anti-Doping Organizations and clean athletes from around the world. Once we remove the fundamental conflict of interest that exists when sport is asked to both promote and police, we can then focus on strengthening WADA through improved independence, transparency and increased investment, as well as further establishing WADA's ability to investigate, monitor compliance and impose sanctions. At the end of the day, we need to make sure all athletes from around the world are held to the same, high standard.

3. **Recently, an International Olympic Committee (IOC) Athlete's Commission member described the current lack of sanctioning criteria for sporting organizations that fall foul of**

anti-doping rules “completely ridiculous.” Does USADA agree with this characterization? Please explain.

Absolutely. Athletes cannot be the only ones who are held accountable for their decisions to dope. Organizations should be held responsible for any anti-doping rules violation or systematic doping they are involved in. That’s why we believe that WADA – the global regulator – must have the power to suspend International Federations, National Olympic Committees, and National Anti-Doping Organizations when necessary for intentional violations of the WADA Code and of course with the right of appeal to an independent judiciary body.

4. The IOC has suggested the establishment of an independent testing authority, separate from national interests. What is USADA’s opinion on the proposal?

When the IOC uses the phrase ‘national interest’ it is really a convenient excuse to justify its terrible decision not to sanction proven Russian state doping. Further, it is offensive and inaccurate for the IOC to paint all nations with the corrupt Russian paintbrush. It is not the U.S.’s (or many other countries participating in the Olympics) ‘national interest’ to abuse our athletes with drugs, intentionally send cheating athletes to the Olympic Games and to knowingly rob other countries and athletes in violation of the established rules, an international treaty and the Olympic Charter.

In fact, our ‘national interest’ is the opposite – it is to protect public health and to protect the rule of law and clean athlete’s right to compete and win honestly.

The details and decision-making surrounding the creation of any new testing bureaucracies should be left to WADA, as the global regulator for anti-doping, not the IOC.

This is also a perfect example of the type of IOC double speak that far too often confounds our efforts at real change. While simultaneously professing a commitment to “independence,” the IOC is attempting to drive how the new system will be constructed. This again is emblematic of the IOC’s reluctance to relinquish control of international anti-doping efforts.

Further, it is our belief that true reform in global anti-doping efforts does not require the implementation of a new massive, top-down global testing bureaucracy that consolidates control without appropriate checks and balances, but rather a basic adherence to the fundamental principles of “independence” as outlined in the Copenhagen Declaration. While there is huge value in empowering WADA to be a strong global regulator that can oversee NADOs, hold them accountable, and ensure that athletes who come from countries without the will or ability to implement effective national anti-doping organizations are still being held to a high standard, creating a

large-scale bureaucracy that values minimum testing criteria over a localized, intelligence-based testing model would be a significant step backwards for clean sport.

To discuss and reach a better understanding of these points with the IOC, NADO leaders have for many months been seeking a meeting with IOC President Thomas Bach. So far, those efforts have been unsuccessful.

a. Do NADOs provide a valuable resource in the global fight against doping? If so, how?

Simply put, the most significant victories for clean athletes and advances in anti-doping over the past decade and a half have come from NADOs, whether it be in spearheading research for the detection of new performance enhancing drugs, collaborating globally in testing task forces, making sure that athletes in their own countries feel confident in their ability to compete clean and win, speaking up when sport organizations are not acting in clean athletes' best interests, or coming together in order to better the global system through reform efforts, NADOs are a critical resource for global anti-doping efforts.

Yet, despite these efforts and for no good reason, the IOC is currently looking to strip jurisdiction from NADOs in favor of a large-scale bureaucracy, in no small part due to the outspoken criticisms from many NADO leaders following the IOC's mishandling of the Russian doping crisis. A very telling position.

b. Based on your experience, what more can be done to ensure the national anti-doping organizations remain independent and do not place national interests above their mission?

The easiest way to accomplish this is to ensure that NADOs are adhering to an independent governance structure where neither sport or government has any role policy making. Once this is achieved, the focus then shifts to improving and strengthening WADA, who when made truly independent, can then act as an effective global regulator, holding NADOs and all other relevant stakeholders accountable and to ensure no interest – a national one or any other – gets in the way of the rules being fairly and uniformly enforced for the good of clean athletes.

c. Based on USADA's experience, would a centralized testing authority be financially and logically feasible and/or practical? Please elaborate on any specific challenges or benefits to this model.

It's not practical, or logically feasible to scrap the good parts of the current system in order to spend millions of additional dollars on an entirely new body that is still inherently conflicted. Instead, the more logical, efficient, and cost-effective approach is to enact the Copenhagen Reform Proposals to ensure sound governance, and then

invest in current independent anti-doping structures that have proven effective and fill the gaps by WADA becoming a truly independent global regulator not just an IOC puppet.

The creation of a global testing agency would be a step backwards for clean sport. As mentioned above, while there is huge value in empowering WADA to be a strong global regulator that can oversee NADOs and others, hold them accountable, and ensure that all athletes are being held to a high standard; creating a large-scale bureaucracy that values minimum testing criteria over a localized, intelligence-based testing model, would be a significant blow to the hopes of clean athletes.

5. The IOC recently suggested that CAS should be responsible for sanctioning athletes. What is USADA's reaction to and position regarding this proposal?

This appears to be more IOC doublespeak. The IOC has cited “separation of powers” as the rationale behind removing all sanctioning power from anti-doping organizations and handing it to the Court of Arbitration for Sport (CAS) -- whose current President just so happens to be an IOC Vice President.

So, let’s be very clear, this is not a “separation of power” as much as it is a clear and unambiguous consolidation of power by the IOC.

Lastly, CAS has never been a sanctioning body. It is an adjudicative body, meaning that it only resolves cases through arbitration hearings or mediations – which will now be required in every case. The costs of these proceedings would be exorbitant, and entirely unnecessary, as 99 percent of cases are currently being resolved without a hearing. Having CAS be the sanctioning body would also compromise the due process rights that U.S. athletes are currently afforded. Additionally, there is no need for this power grab as WADA currently has the power to appeal any national level case to CAS and thus, ensure fair, thorough, harmonized sanctioning.

a. If CAS is responsible for issuing sanctions, how would an athlete appeal a sanction?

Presumably there would either be no appeal or an appeal to CAS, but it is a good question and one that we’re asking as well. Any attempts to meet with IOC President, Thomas Bach, to clarify their positions on this, and other topics, have been unsuccessful.

6. In your oral testimony, you stated “We find ourselves at a critical juncture for the soul of sport.” Please elaborate on that statement, particularly the “critical juncture” component, and explain why need for reform is so timely.

We said following the IOC’s decision to allow the Russian sports system to go unpunished that “the Olympic flame burns less bright today.” It was true then, and it’s

true now. There has never been a greater attack on the spirit of Olympism. Yet from those ashes emerges a silver lining: We have now a once-in-a-lifetime opportunity to reform the global anti-doping system in a way that prevents future generations of athletes from having their moment stolen from them.

But with the Winter Games in PyeongChang rapidly approaching, our window is fading fast, and the reform efforts are moving too slow. We must act now, otherwise we do a terrible disservice to not only the Olympic Games, but more importantly, the athletes – and future generations of athletes – who dedicate their lives to competing in them.

The IOC's game seems to be to delay – let the crisis subside and make a few tweaks to the system ultimately giving the IOC more control. This will be a huge loss for clean sport and the rights of athletes.

7. During the hearing, Dr. Budgett testified that the IOC has already taken steps to invoke change with a governance structure review. This review, which includes independent experts as well as representatives from sport and government, is tasked with examining the total of the World Anti-Doing Agency (WADA), including whether the executive board should be independent of sport and government.

Your reaction to this statement seemed hopeful, yet pessimistic given your comment that “we’ve had 2-plus years for that move to be made and athletes are still waiting for some change...” Since the hearing, have you seen any progress with regard to changing the governance structure at WADA? Do you believe that the IOC review will ultimately effectuate change in the governance structure of WADA? Please explain.

We do not as the IOC could act today (as it could have every day since this scandal first broke in 2014) to remove itself from WADA’s governance and while in the press it claims to want sport removed all it has done is attempt to gain more, not less, control of critical anti-doping functions. And, in fact, the likelihood of real reform is waning. The window of opportunity for real reform is rapidly closing. The IOC delay game so far has worked to a large extent. This is why Congress’ and other governments’ attention and focus on these issues is needed now more than ever before.

While the IOC pays lip service to “independence” at the hearing in February, just weeks’ later they published a “12 Point Declaration” of its Executive Board outlining their vision for global anti-doping reform. It’s is not a vision centered on independence, but rather a vision where the IOC continues to influence critical anti-doping functions, consolidates testing and sanctioning powers and suppresses its most vocal critics.

As we’ve said before, finding the answers to the global doping crisis is not difficult, but finding sport leaders who are willing to implement them is.