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Doping Control Policy and Practice in Track and Field before September 1988

The responsibility for doping control in track and field in Canada rests with the Canadian Track and Field Association. The organization's involvement in doping control can be traced through a number of published statements opposing the use of banned drugs by its athletes. Such statements reveal that in the last decade or more its board of directors and senior officers have indeed turned their attention to developing the CTFA doping control policy. The implementation of that policy, however, has fallen far short of the intended mark.

The CTFA board first stated its policy in 1976:

The Board of Directors wished to make it known that it was against the use of steroids and artificial stimulants being used by any athlete, and it encouraged all medical attempts to trace the use of such drugs. It was also felt that all medication prescribed at training camps and at athletic events must be prescribed and handed out to the athlete by the team physician.

It was not until October 1980, however, that the board passed a formal motion (moved by Abby Hoffman and seconded by Jean-Guy Ouellette, both directors at that time) that the CTFA institute doping control at the national senior outdoor championships. In the summer of 1981 at the national championships in Regina, thirty-seven urine samples were tested for banned substances at the Edmonton laboratory which had been used at the 1978 Commonwealth Games.

After the implementation of in-competition testing by the CTFA in the summer of 1981, the organization began to formulate a more detailed antidoping policy, although at this time the organization's position appeared to be that Sport Canada was responsible for formulating a detailed policy. In November 1981 Thomas MacWilliam, the technical director of the CTFA and the staff person responsible for its doping control program, prepared a paper for the board entitled, "Recommendations Regarding Doping Control." The document was intended to be a discussion paper, and Mr MacWilliam testified that it was set out in a controversial way. The first recommendation was followed by three alternatives:

Recommendation #1: "The CTFA Board of Directors take a firm and clear stand on the use of banned drugs as ergogenic aids by Canadian athletes and articulate this position clearly to its membership, the media and Sport Canada":

Alternatives: (a) "The CTFA continue its present policy of proclaiming opposition to the use of drugs as ergogenic aids and doing occasional testing at championships (in reality turning a blind eye to their use, but providing no medical/scientific support for athletes, no information, pro or con, on their use)."

(b) "The CTFA pursue excellence in the international arena at any price including full medical/scientific support of our athletes which would encompass a regular monitoring program for those athletes choosing to use drugs as an ergogenic aid to their training

programs, doing testing to screen athletes before international competition to make sure they are 'clean' before entering the international arena, supporting scientific research to make sure our athletes have access to the best aids available, etc. and vigorously pursue at the international level the lifting of the ban on drugs as ergogenic aids which are not health hazzard [sic]."

(c) "The CTFA declare its intention to be 'clean' of drug users and take the necessary steps to ensure that Canadian athletes are not using banned drugs as part of their training including: requiring carded athletes to undergo random testing throughout the year, testing all participants at all national championships, requiring any non-carded athletes named to teams to be tested, test at all international events in Canada for all banned drugs; bar any Canadian athlete caught using banned drugs from the CTFA for life; vigorously pursue at the international level similar steps to remove the use of drugs from sport."

It is the *opinion* of the Technical Director that the CTFA cannot afford, either financially or in another [sic] terms of the impact on the sport, to *action* either alternative (b) or (c). If one of these two alternatives is selected then the Association must vigorously pursue Sport Canada to adopt and support a similar policy. At the same time, the CTFA cannot afford to continue with alternative (a). It is time to come off the fence.

The implications of alternative (b) are the probability of a strong international backlash among the sporting world, a strong negative reaction from the Canadian public and considerable cost. This may be the necessary path to choose however if Sport Canada is going to continue to press for high level results in international competition, to make success internationally a major factor in determining financial support of associations, athletes and programs.

The implications of alternative (c) are even more striking: the costs of testing, the international backlash as far as competitions in Canada (although the Association will probably have lots of invitations to compete abroad unless testing is required as one of the conditions of CTFA participation); the resistance of athletes and the impact on Sport Canada support for the Association, athletes and programs, so long as Sport Canada sets success at the highest international level as its priority.

Mr MacWilliam testified that the paper was forwarded to the board for its consideration. While I accept without question that this document was circulated to the board as a controversial discussion paper and should be read in that light, I am struck by the suggestion in it that in 1981 the policy of the CTFA was characterized by Mr MacWilliam as "in reality turning a blind eye" to the use of banned drugs as ergogenic aids by Canadian athletes.

At the annual general meeting of the CTFA in June 1982 in Saskatoon, the organization approved its first detailed policy on doping. The policy contained a clear statement opposing doping and provided for the testing of athletes at the national championships "where feasible." The policy also stated that all CTFA-carded athletes and any non-carded athletes selected to national teams must submit to random (out-of-competition) testing.

The necessity for out-of-competition testing was therefore formally recognized by the CTFA as early as June 1982 and indeed it had been raised as a serious topic of discussion the previous year. As events subsequently unfolded, it took many years for the CTFA actually to implement a program of out-of-competition testing.

In 1982 the CTFA began to lobby Sport Canada for sufficient funds to implement its policy on doping. In that year Sport Canada provided the funds for the testing done at the national championships in Ottawa.

After the Pan American Games in the summer of 1983 and the revelations about the use of steroids, Sport Canada invited the CTFA to make a submission outlining its funding requirements for the remainder of the 1983-84 fiscal year in order to enforce its anti-drug use rules. According to Mr MacWilliam, the CTFA made such a submission and included a request for funding to do up to forty out-of-competition tests. Mr MacWilliam testified that Sport Canada,

although approving most of the proposed requests for funding, failed to provide moneys specifically requested for out-of-competition testing.

The extent of funding provided by Sport Canada for the antidoping program of the CTFA has continued to be a matter of much discussion and negotiation between the two organizations. Little would be gained here from an historical analysis of those negotiations.

In response to the Sport Canada Policy on Drug Use and Doping Control in Sport announced in December 1983, the CTFA produced a detailed doping control policy and plan for 1985. In this plan, doping substances were defined as those listed in the IAAF rules. The penalty for a positive test was simply disqualification from a meet. Any person assisting an athlete to use doping substances would also be liable to "disciplinary action," although what this disciplinary action would be was not spelled out. Drug testing at all national championship competitions was recommended, as was testing a random selection of athletes, including one of the first, second, or third place finishers. As required by the Sport Canada policy, the plan also contained a proposed education program.

The plan contained the form of a carded athlete's agreement with the CTFA and obliged the athlete "to avoid use of banned drugs in contravention of the IAAF rules . . . and submit to dope control tests at competition or upon request of CTFA, CTFA appointee or Sport Medicine Council of Canada."

The plan also set out a program of drug testing for the 1985 season in Canada. It provided for 148 tests to be done at competitions and an additional sixty tests at three different training camps for sprinters, jumpers, and throwers. As it turned out, no drug testing took place at the jumpers' camp and the throwers' camp was not held. The sprinters' camp took place in Provo, Utah. Mr MacWilliam by this

time had left his permanent position as technical director with the CTFA and was acting in a consulting capacity. As doping control coordinator, he went to Provo, Utah, to do the testing in accordance with the 1985 plan.

At Provo, a controversy erupted among the sprint coaches, including Charlie Francis, Brian McKinnon, Alex Gardiner, and Gerard Mach, the national team head coach, to the effect that they did not accept that testing could be done at a training camp because this constituted out-of-competition testing. Their expressed view was that testing could only be carried out in conjunction with a competition. They held this view even though it had apparently been the policy of the CTFA since 1982 to permit out-of-competition testing. The dispute was resolved by testing athletes who competed in what was described as a mini-competition during the training camp.

Whether or not the testing scheduled for the Provo training camp could be labelled out-of-competition testing, it is significant that in 1985 the program planned for drug testing by the CTFA did not contain any provision for short-notice random testing outside a purely competitive or a training camp environment where the athletes would expect testing to be carried out. It is also significant that drug testing was never again carried out at a CTFA training camp prior to the Seoul Olympics.

In the summer of 1985 the organization began to revise its original 1982 policy. This revised policy was presented to the board and approved in February 1986. The policy again favoured out-of-competition testing, although its position was less than perfectly articulated:

Testing may be carried out on athletes described in section (g) at any time during the year at the discretion of the C.T.F.A. in accordance with an annual plan drawn up for testing at competitions and training sessions and submitted to Sport Canada.

The above wording does not appear to include provision for testing outside competition or training camp situations; however, the carded athletes' form of agreement at that time required an athlete to agree to out-of-competition testing. This provision in the athletes' form of agreement in my view represented CTFA policy at that time. Also, Sport Canada's policy of September 1985 clearly contemplated that a national sport organization such as the CTFA would be obligated to have an out-of-competition testing program.

In May 1986 Ole Sorensen, the manager of Sport Canada's antidoping program, wrote to Wilf Wedmann, then president of the CTFA, and said that he wanted to meet with him "at your earliest convenience to discuss the design of your proposed random testing program." Mr Sorensen's letter indicated that specific decisions were required on a number of matters, including the "selection procedures for athletes to be tested on random or 'short-notice' testing." According to Mr MacWilliam, at this stage Sport Canada was starting to press all sports to do out-of-competition testing, particularly sports with a history of a problem with steroids; track and field had such a history.

The policy approved by the board in February 1986 was ratified at the annual general meeting of the organization in June 1986. At a board meeting in September 1986, however, the out-of-competition part of the policy was "referred back to the committee to seek input from Branches, carded athletes, coaches, and Board of Directors."

Mr MacWilliam testified that at about the time the policy was referred back to committee by the board, he was in the association offices in Ottawa and asked Terry McKinty, the manager of domestic programs, where things stood in regard to out-of-competition testing. According to Mr MacWilliam, Mr McKinty responded as follows:

And he indicated to me that the testing program was going to go back to committees for further study, that we were already the leaders in the world and we were too far out in front of everybody else, and that we weren't going to put our programs at risk. And the exchange got pretty heated because I was very frustrated.

Mr McKinty also testified at this Inquiry. He recalled the conversation but somewhat differently. He remembered being asked by Mr MacWilliam why the out-of-competition testing program was not proceeding. Mr McKinty said he replied that the president of the CTFA, Wilf Wedmann, had indicated that the CTFA was going back to various groups and committees for their help in developing the actual operational procedures necessary to institute the program. According to Mr McKinty, he suggested to Mr MacWilliam that Mr MacWilliam should more appropriately take up the issue with Mr Wedmann. Mr McKinty also said that he took exception to Mr MacWilliam's suggestion that the reason the program had been referred back to committee was in some way to prevent out-of-competition testing from taking place. According to Mr McKinty, Mr Wedmann wanted programs to be perfect before they were implemented and was extremely sensitive to the thoughts of others on this issue.

I heard similar evidence from Mr Wedmann and others in this regard. Mr MacWilliam could not recall Mr McKinty's suggestion that he speak to Mr Wedmann and, indeed, could not recall if he did speak to Mr Wedmann on this issue at that time.

I do not find it necessary to resolve whether Mr MacWilliam or Mr McKinty has the better recollection of their discussion. My concern is simply that the implementation of the out-of-competition testing program appears to have been delayed once again. This time the reason for delay does not appear credible to me. Although

feedback was requested from carded athletes, coaches, provincial branches, committee members, and board members, there were only seven responses. While consultation is important, it was clear that by the fall of 1986 out-of-competition testing had been on the agenda for several years. The organization knew that out-of-competition testing was the only effective deterrent to the use of anabolic steroids. Indeed I accept the evidence of Mr MacWilliam to the following effect:

we all recognized the fact, and had for a number of years, that the only effective way of catching athletes, if that is the intent of the program is to catch people or to really effectively deter their use, is to do out-of-competition testing. That's why we proposed out-of-competition testing as early as 1982 as part of our policy.

In my view, there was simply no reason at this stage to delay further the implementation of the out-of-competition testing program.

In May 1987 the World Symposium on Doping in Sport was sponsored by the International Athletic Foundation (an organization related to the IAAF) in Florence, Italy. Mr MacWilliam was scheduled to attend as part of the Canadian delegation, but he was dropped in favour of another representative. This resulted in Mr MacWilliam's discontinuing his work on behalf of the CTFA in the anti-doping area. He described his reason for leaving in the following way:

And that basically was the straw that broke the camel's back as far as I was concerned with my involvement. I had been working very, you know, very diligently in this field since 1980 on behalf of the Association and this was the first major international conference. I felt very strongly that the knowledge that I had in terms of the system that we had developed in Canada, and the work that I had done warranted that I be one of the people [to] go to this symposium.

And I took it as a slap in the face when I was dropped from the list of those attending. And at that point, I severed my connection with the CTFA anti-doping program.

The direct responsibility for the further development of the CTFA antidoping policy and, in particular, the implementation of the out-of-competition testing program fell to Bruce Savage, a Toronto lawyer and a track and field enthusiast, who had held various organizational positions at the club and provincial level before joining the CTFA board in June 1986.

Mr Savage supported the objective of effective out-of-competition testing, but was determined that it be implemented through a full set of procedures which were clearly understood and accepted by the board, the athletes, and the coaches. He was also concerned that the procedures should take account of almost every eventuality. While his dedication was admirable, it may well have provided, at least in the short term, a further delay in actually implementing out-of-competition testing.

Mr Savage was one of three Canadian representatives at the world symposium in Florence in May 1987. After that meeting he suggested to the CTFA board that they set up a committee to deal with the implementation of out-of-competition testing. The board accepted his proposal and in August 1987 appointed the Banned Substance Solutions and Education Committee. The committee held its first meeting in October and Mr Savage was elected chairman. (the committee became known as the Savage committee). It is interesting to note that the one athlete representative on the committee is recorded in the minutes of the first meeting as stating:

he does not agree with non-competition testing especially if other countries are not doing it. He feels that it imposes on the athletes' rights. [He] also reiterated that if a "full" doping solution program is not in place, we should not continue to implement the "policing" side of the program.

On November 13, 1987, Mr Savage attended a meeting of athletes' representatives in Toronto to discuss the out-of-competition testing program. Although certain concerns were expressed about athletes' rights, there was a recognition that out-of-competition testing was going to be implemented and also a willingness on the part of the athletes to cooperate.

At a meeting of the board of the CTFA on December 17, 1987, the detailed procedure developed by the Savage committee was approved. The pool of athletes covered by this program was to include all members of a national team, including junior, senior, and espoir teams. Any carded athlete was defined as a member of a national team. The pool represented approximately 200 to 250 athletes.

The out-of-competition testing program which was submitted to Sport Canada by the CTFA in January 1988 provided for fifteen tests to be carried out, three in each of the months of April, May, June, July, and August. Thirty-nine further tests were projected for the period September 1988 to March 1989. The number of in-competition tests projected for April 1, 1988, to March 1, 1989, was well over 200. This, in my view, represents an inappropriate balance between the two kinds of tests.

Out-of-competition testing did not commence on April 1, 1988. According to Mr Savage, a principal reason was the fact that by April 1 no national team member had yet been named and, therefore, there was not the anticipated pool of

200 to 250 athletes. There were, however, approximately ninety carded athletes who, in my opinion, represented more than enough to commence what was a very modest out-of-competition testing program. As it turned out, the CTFA did not implement out-of-competition testing prior to the Seoul Olympics.

The record of the CTFA on developing and implementing its antidoping policy up to the Seoul Olympics is characterized by a tendency to philosophize, discuss, and delay. This is both striking and disappointing when one considers the many warning signs about the increased use of performance-enhancing drugs and, in particular, anabolic steroids during the last decade.

While it is true that some well-intentioned individuals within the CTFA were concerned about the issue of drugs and cheating, they appear to have been voices crying in the wilderness. Indeed I am satisfied that what impetus there was for the implementation of an effective antidoping program which included out-of-competition testing came in large part from Sport Canada. The CTFA did not give the priority to this issue that was clearly required in light of the information it had. This is apparent from the minutes of the Athletes Council meeting in February 1988 in Windsor, Ontario. The minutes note the report on the banned substance policy:

At the meeting of the CTFA Board of Directors in Ottawa in December, 1987, the Board approved the Doping Control Procedure Proposal for Competition and Non-Competition testing. Non-Competition Testing is due to be implemented on April 1, 1988.

The proposal arose largely in response to pressure exerted on national sports federations by Sport Canada and the Department of Fitness and Amateur Sport to address the use of performance enhancing substances by athletes . . .

While everyone wishes that resources did not have to be spent in this unproductive manner, random testing is in and was inevitable given the pressure coming from Sport Canada.

It appears, however, that this pressure from Sport Canada came considerably later than the enunciation of its antidoping policy in 1983. The CTFA doping policy following Seoul is detailed later in this report.

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The Throwing Events

In any examination of the use of performance-enhancing substances, the throwers deserve special attention. This group of elite athletes who compete internationally in the events of shot put, discus, hammer, and javelin is small. Its members know and trust one another. One of the bonds of camaraderie is the use of banned substances over long periods and at extreme dosages.

Canadian throwers are typical among international competitors. The senior members of the sport, such as Bishop Dolegiewicz and Bruce Pirnie, followed the example of their U.S. counterparts and began steroid programs early in their careers. Younger throwers coming up in the ranks, such as Rob Gray, Peter Dajia, and Mike Spiritoso, then followed suit. It should be noted that none of these five athletes now uses drugs and two actively oppose their use.

Both Mr Dolegiewicz and Mr Pirnie indicated that significant performance gains were made in men's shot put in the late 1960s and early 1970s. There were no significant changes in training methods at this time to account for the increase in distances being achieved. According to Messrs Dolegiewicz and Pirnie, the explanation was, very simply, steroids. The world record for the men's shot set in 1988 was 23.06 metres. It is commonly believed by those in the throwing community that it is extremely difficult to put the shot more than 20 metres without the use of steroids. The similar performance breakthroughs in women's shot that have taken place in the 1980s are likely attributable to steroids.

One negative effect of a steroid-driven world record is that it makes it difficult for a clean thrower to get carded under the Sport Canada carding system. In 1989 there were only six carded throwers in Canada: two male javelin throwers, one female javelin thrower, one female discus thrower, one male discus thrower, and one male shot putter. In 1989 the number two and number three shot putters in Canada, Lorne Hilton and Kevin Palmer, were not carded. The national hammer champion has never been carded.

Bruce Pirnie

Canadian throwers were taking steroids in the 1970s, during the period of breakthrough in men's shot. Bruce Pirnie, now a coach in throws at the national training centre at the University of Manitoba, was a competitive shot putter in the late 1960s and the 1970s. He learned about steroids from U.S. athletes around 1970 and used them himself initially to prepare for the 1972 Olympic Games in Munich. He obtained his first drugs from a U.S. hammer thrower and later on by prescription from a team doctor and another physician. Thereafter he continued to take steroids off and

on until 1979. Although noting strength and weight gains, Mr Pirnie stopped taking steroids when he became concerned about the effect they were having on his health.

When he went to the University of Manitoba in 1984, he was asked about his stance on drugs. He indicated that the rules of the game had changed since his competitive days; he was now opposed to the use of drugs and would not tolerate it in the athletes he coached. With his own athletes, Mr Pirnie has to stress personal achievement and satisfaction as worthy goals rather than world records because, he believes, record performances at the current level are unlikely without steroids.

As part of his coaching duties Mr Pirnie is involved in a number of programs at the university dealing with drug abuse, in which he stresses that the use of banned substances is cheating. He also participates in a program in Manitoba high schools that educates students about drugs.

Bishop Dolegiewicz

Bishop Dolegiewicz's name surfaced early in the Inquiry from other track and field witnesses. He was described as someone with a fund of knowledge on performance-enhancing substances and a ready supply of drugs to sell. He was characterized as someone who would readily share with his fellow athletes his knowledge and expertise about specific drugs, the cycling of drugs, their side effects, and other such matters.

Mr Dolegiewicz competed in shot put and discus in the 1970s and early 1980s, ranking among the top in the world in these two events. Since his retirement in the mid-1980s, he has been involved in coaching field events. He is currently the throws coach at the high-performance centre at the University of Saskatchewan.

Mr Dolegiewicz was first introduced to steroids by U.S. athletes when he attended university in Texas in the early 1970s. It soon became his view that steroids were used by the majority of, if not all, elite throwers, both in the United States and internationally, at major competitions such as the Pan American Games, the world championships, and the Olympics. He embarked on a steroid program himself in the 1970s and continued on steroids, off and on, until his retirement in 1985. The number and extent of injuries he was suffering, which he attributed to overtraining as a result of steroids, had become a cause of increasing concern.

During the period of his active competition, Mr Dolegiewicz was a resource on drug information for other athletes. He knew Charlie Francis and was one of the initial sources of supply of steroids to Mr Francis for use by his sprinters. From time to time Mr Dolegiewicz also provided Mr Francis with advice about specific drugs; for example, in 1982 he advised that Winstrol was to be preferred over Dianabol because it was milder. As well, Mr Dolegiewicz assisted athletes such as Angella Issajenko with the structuring of their steroid cycles, and on occasion he administered injections of steroids.

Mr Dolegiewicz was also a source for the younger throwers. He discussed various steroid regimes with the throwers and on occasion supplied and administered steroids to such throwers as Rob Gray and Mike Spiritoso. He resolutely discarded this role when he retired.

As a coach, Mr Dolegiewicz is an active opponent of drugs. He was one of the founders of Top Form, a track and field club that requires all its members to be clean and to undertake voluntarily an active role in educating other athletes and the community against the use of drugs in sport.

Rob Gray, Peter Dajia, and Mike Spiritoso

Of all throwers, the Canadian public is probably best-acquainted with three — Rob Gray, Peter Dajia, and Mike Spiritoso — who received much publicity as a result of their positive tests for steroids in 1986 and the subsequent court challenge and appeals related to these tests.

Mr Gray was a discus thrower who, from 1978 to 1986, was a member of Canada's national team. He competed in the national championships in 1988. Mr Dajia also competed in the shot put in the Canadian national championships in 1988. Mr Spiritoso was an active competitor in shot put during the 1980s.

All three are admitted steroid users. Mr Gray began taking steroids in 1977, when he was a freshman at Southern Methodist University in the United States. He obtained his steroids from other athletes until 1984, when, at the suggestion of Charlie Francis, he became a patient of Dr Astaphan. Mr Dajia started on steroids at the age of nineteen, in 1983. His first source of supply was Mr Dolegiewicz. He also obtained steroids from other athletes and from physicians, including Dr Astaphan. Mr Spiritoso first became involved with steroids when he was studying in the United States in 1982. Steroids were prevalent among U.S. throwers at the intercollegiate level during the mid to late 1980s. The college throwers were described as an extremely social group who would sit down and talk after competition. Steroids were a common topic.

At the June 1986 national championships, Messrs Gray, Dajia, and Spiritoso tested positive for 19-nortestosterone, while Messrs Dajia and Spiritoso tested positive for excess testosterone. They were suspended from competition. At that time the penalty for a first steroid offence under the IAAF rules, which were followed by the CTFA and OTFA, was automatic lifetime suspension, with the right to apply for reinstatement after eighteen months.

All three athletes launched appeals through the OTFA. In addition, Mr Gray commenced a court application in the Supreme Court of Ontario, in which he sought an injunction to set aside his suspension so he could compete in the Commonwealth Games.

The appeal through the OTFA appeals procedure provides some insight into the response of athletes who test positive. The throwers were confused about what their appeal rights actually were and to whom they should appeal — the OTFA or the CTFA. Mr Gray, who had legal training, in December 1986 represented himself and the other two throwers at a lengthy hearing before an OTFA investigative committee chaired by Bruce Savage. The athletes themselves took the position that they could not have tested positive for 19-nortestosterone because they did not believe they had taken any drug that would produce a positive result for 19-nortestosterone. They attempted to secure the actual quantitative test results and raw data at the hearing so they could have them independently verified, but were unable to do so. Their appeal was dismissed.

In 1987 the Canadian Olympic Association held a hearing to determine what penalties it would impose on the three throwers in addition to those already imposed by IAAF rules. The COA determined that the athletes would not be eligible to participate as members of any Canadian sport team falling under COA jurisdiction for the Olympic quadrennial 1984 to 1988. This restriction prevented the athletes from participating in the 1987 Pan American Games and the 1988 Olympics.

The three athletes were also subject to penalty by Sport Canada for their infractions. Sport Canada imposed a lifetime ban on federal funding for these athletes. This penalty, however, was overlooked by the throwers as well as by CTFA officials, who led the three to believe they could successfully apply for reinstatement to the IAAF after eighteen months of suspension. Accordingly, the CTFA

agreed to forward the reinstatement application for all three athletes to the IAAF if they passed a urine test at their own expense and agreed to participate in an out-of-competition testing program for two years. Mr Gray and Mr Dajia agreed to these conditions. Mr Spiritoso declined, since he had retired from track and field and no longer wished reinstatement. After some delays, both Mr Gray and Mr Dajia were reinstated in July 1988.

Both athletes participated in the Canadian national championships in August 1988. Mr Dajia performed well and expected that he would be named to the Canadian national team, which was to tour Europe shortly thereafter. It was then that he was advised by Paul Dupré that Sport Canada would cut funding to the CTFA if any of the three athletes were put on a national team, since Sport Canada had imposed a lifetime ban on eligibility for direct and indirect funding of athletes testing positive for steroid offences. The effect of this ban was to prevent athletes from ever competing internationally for Canada. The only relief from such suspension was a direct appeal to the minister of state for fitness and amateur sport, then the Honourable Jean J. Charest. Mr Gray and Mr Dajia appealed to the minister, and their appeals were denied.

It is evident from the above that anabolic steroids have been an integral part of the training programs of the great majority of those who compete in the throwing events at the elite level, both nationally and internationally. As well, the experiences of Messrs Gray, Dajia, and Spiritoso have raised two other important issues. The first concerns the nature of the procedural safeguards which exist to ensure that any review or appeal of a positive drug test is conducted in a fair manner and with full disclosure. The second issue concerns multiplicity of penalties and what role Sport Canada should play in the penalty process. I will have more to say about these issues later in this report.

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Canada's Olympic Sprint Team, 1988

Included among the athletes selected to represent Canada at the 1988 Olympic Games in Seoul were Ben Johnson, Angella Issajenko, Desai Williams, and Mark McKoy. Because of their past performances, they were the sprint team members of whom most was expected. Their coach was Charlie Francis; their physician, George Mario (Jamie) Astaphan; and their massage therapist, Waldemar Matuszewski.

The premier event for the 1988 Olympics was the 100 metre sprint. Mr Johnson came first and, in doing so, broke his previous world record for that event and was awarded the gold medal. He was subsequently disqualified when metabolites of stanozolol were discovered in the urine sample he submitted following the competition. The details of his disqualification and the events which led up to it will be dealt with later in this report.

Once Mr Johnson's entourage had returned to Toronto from Seoul, and before the appointment of this Commission,

Dr Astaphan appeared on television to say categorically that Mr Johnson had never been given anabolic steroids. Mr Johnson on more than one occasion denied ever having taken any banned substance and denied ever knowingly having done so. Mr Francis also publicly stated that Mr Johnson had not taken stanozolol. All these events will be described in detail later in this report.

Thus, at the commencement of the investigation leading up to the public hearings of this Inquiry, the only fact available to the Commission of the use of anabolic steroids by any member of Canada's Olympic sprint team was the disqualification of Mr Johnson for the use of steroids. The validity of this disqualification was subsequently put in issue by Mr Johnson, Dr Astaphan, and Mr Francis.

Although there had been rumours for many years impugning the integrity of Mr Francis's training methods and suspicions that his athletes were using steroids to improve their performance, such allegations were met with vehement denials from all concerned. For many years there had been what has been described as "a conspiracy of silence" and, indeed, as Ms Issajenko stated, "but for the inquiry the truth would never have been discovered and the athletes would have gone to their graves with their secret." During the preliminary investigations and interviews preceding the public hearings, the staff of the Commission were confronted with this silence.

It is doubtful whether the other members of the conspiracy, who subsequently testified about their own involvement with the use of performance-enhancing substances, would have done so if Mr Francis and Ms Issajenko had continued their past practice of denials. Fortunately, after consultation with their own lawyers and Commission counsel, Mr Francis and Ms Issajenko decided that it was timely to tell their full story and to assist the Commission in ferreting out all the facts.

The order of witnesses to be called during the sessions dealing with track and field was discussed with counsel for the witnesses, and, at the request of counsel for Mr Johnson, it was agreed that he would be called last. Consistent with the practice of the Commission, full disclosure was made to counsel for witnesses yet to be heard on the results of investigations being undertaken by Commission staff and the evidence it was expected would be led. In that way, counsel for the witnesses were armed in advance with what might be said about their clients by the witnesses who preceded them.

Mr Francis was the first witness called in this phase of the Inquiry and he testified for eight days. He was subjected, as were others, to a rigorous cross-examination, particularly by counsel for Mr Johnson. In the end, there was very little evidence contradicting Mr Francis's testimony concerning the facts on most major issues. In some areas his evidence conflicted with that given by others, and I will deal with these conflicts in the appropriate sections of this report.

Much of Mr Francis's evidence was also an expression of opinion, which I am satisfied he honestly held. This opinion related to the extent of use of anabolic steroids in international competition as well as nationally, and the knowledge of the extent of such use, in national and international sports federations. Although this evidence prompted immediate denials in Canada and elsewhere through the media, many of these matters were subsequently confirmed in testimony before the Commission, in evidence given elsewhere, and in subsequent media reports. In some respects, Mr Francis's opinions were incapable of being substantiated.

Both Mr Francis and Ms Issajenko, along with their counsel, cooperated fully with Commission counsel and staff. Mr Francis and Ms Issajenko encouraged other athletes to come forward to assist the Commission and it is largely due to their cooperation that many other athletes

testified about their involvement in a steroid program. They helped the Commission to identify other witnesses to call and other individuals in Canada and elsewhere to interview. It was impossible to call every person who had some knowledge of the extent of use of anabolic steroids in national and international competition, but, as a result of those interviews, considerable helpful background information was provided to the Commission.

THE COACH, CHARLIE FRANCIS

Over the last two decades, Mr Francis has been one of the dominant people in track and field. His track and field career began when he was a teenager in Toronto with the Don Mills Track Club. He was the national champion for the 100 yard and 220 yard events at the juvenile, junior, and senior levels. In 1971 he was fifth on the world list in the 100 metres, with a personal best time of 10.1 seconds. He attended Stanford University in California on a track scholarship between 1967 and 1971, and was a member of the Canadian Olympic team for the 1972 games in Munich. He retired as an athlete in 1974.

Mr Francis's coaching career began in the summer of 1976 when he began as a part-time volunteer at the Scarborough Optimist Track and Field Club. After June 1978 he devoted himself to coaching track full time, but still as a volunteer. In order to make this career change, he refinanced a car and moved out of his apartment into his parents' house. It was not until 1981 that Mr Francis first received a salary for his work as a full-time track coach at the Metropolitan Toronto Track and Field Centre (high-performance centre) located at York University.

The Scarborough Optimist Track and Field Club played a significant role in Mr Francis's coaching career and the careers of his athletes. It was there that Mr Francis met Ross Earl, the founder of the club. Mr Francis and Mr Earl worked together, with Mr Francis providing the coaching skills and Mr Earl devoting much of his efforts to fund-raising and assisting individual athletes in a multitude of ways. In addition, Mr Earl also did some coaching.

During the early period of Mr Francis's coaching years, both he and Mr Earl worked tirelessly to obtain the best for their athletes by way of equipment, training facilities, and competitions. Often some of these athletes were so impetuous that Mr Francis used his own funds to finance their personal expenses. It was not uncommon for Mr Francis to provide a place to stay in his own apartment for athletes from outside Toronto who came to train with him. He would also provide his athletes with money to pay the rent and buy groceries.

On trips out of town for competition and training, many of the athletes were unable to provide their own expense money. One striking example was when Mr Francis learned on a trip to Montreal that Mr Johnson and his brother Edward had six dollars between them to buy food for the weekend. On other trips, Mr Francis asked his athletes to turn over their spending money to him for safekeeping. They were instructed to bring the money to him in envelopes to save any potential embarrassment. On occasion, a number of the envelopes when opened were empty. No athlete was turned away, since Mr Francis would use his own money to ensure that everyone made the trip.

It was conceded by all witnesses that Mr Francis was devoted to his athletes to the point where no sacrifice by him in favour of his group was too much to make. In return, Mr Francis received intense loyalty from most of the athletes, who admired, respected, and in some cases revered him.

There were others, however, who did not always "hit it off" with Mr Francis. Just as Mr Francis attracted intense loyalty and respect, there were some athletes and, indeed, others in track and field who did not hold him in the same high regard. In short, Mr Francis was a controversial figure in the track and field world. Those who agreed with him did so in the extreme, and those who did not were often highly critical of him.

One view that appears to be universally held is that Mr Francis is an excellent track coach. His knowledge and technical expertise in regard to sprint events at least equals that of any other person in Canada or elsewhere. His knowledge of the history and current state of the sport is encyclopedic. His technical expertise was attested to by several athletes and coaches who appeared as witnesses before this Inquiry.

When Mr Francis began coaching in the summer of 1976, he was involved with a handful of unknown young athletes. By 1980 athletes who were coached by Mr Francis and who qualified for the Canadian Olympic team included Charmaine Crooks, Angella Issajenko, Ben Johnson, Molly Killingbeck, Mark McKoy, Marv Nash, Tony Sharpe, and Desai Williams. This group did not compete in the 1980 Olympics, however, because of the Moscow boycott. In subsequent games in 1984 and 1988, most of the Canadian sprinters were coached by Mr Francis.

Mr Francis first heard of the use of anabolic steroids while he was a college student in the United States in the late 1960s and early 1970s. He told the Inquiry that, at that time, talk about steroid use among athletes who competed in the shot put and discus events was common. While at the Munich Olympics in 1972 he became aware of and, indeed, observed the presence of steroids at those games. It was at the Munich Olympics that he learned that steroids had a beneficial effect on the performance of sprinters.

In the circles in which Mr Francis moved, he became increasingly aware that the use of anabolic steroids by world-class athletes was becoming a significant factor in international competition. He began to consider using steroids himself and did so at the end of his career.

As Mr Francis moved around the international competitive scene as a coach, his knowledge of the use of anabolic steroids increased. In 1979, while in Europe, a Canadian athlete told him that his British wife, who had been an Olympic finalist in the 100 metres, had been on a steroid regime of 35 mg per day. At about the same time, a former world-record holder in the shot put from the United States said it was obvious to him that Mr Francis's athletes were not on steroids and, because of that, their U.S. competitors were leaving them behind. He asked Mr Francis when he was going to tell his athletes the "facts of life." Mr Francis had many conversations about steroids with other coaches and athletes who competed at the world level.

Mr Francis became an avid student of training methods and procedures as well as of performance. After considering the dramatic increase in the performance of sprinters over the last several years, he concluded that such performances could not have been achieved by increased athletic ability or improved training practices but only by the athletes having been aided by use of steroids. He believed that the majority of world records broken in sprint events in recent years were achieved by athletes who were on steroids and that the dramatic improvement of their performance could only be explained in that way. In his opinion, in order to compete successfully against those athletes at the very top level, an athlete had to take steroids.

He recognized that the use of steroids posed a number of ethical problems because the athletes who were taking them had an advantage over those who were not, both

nationally and internationally. He salved his conscience by concluding that the use of steroids was widespread at both levels.

Mr Francis made an intensive study of anabolic steroids and demonstrated an extensive knowledge about them. He knew the components of the various steroids available which were said to improve athletic performance, their advantages and disadvantages, and when, in his opinion, they could or could not be combined ("stacked") with other drugs. He studied the clearance times which were vital for him to know so that the use of steroids would not be detected when the athletes were tested at competitions. Indeed, from his evidence, it would be easy to assume that he had a degree in pharmacology. In some circles he had the nickname "Charlie the chemist."

He held the opinion, from information he had obtained from certain physicians, that there would be no serious side effects to the health of his athletes who were taking steroids if the drugs were administered in limited dosages over a short period of time. He passed that opinion on to his athletes. Mr Francis arranged for many of his athletes to visit a physician and discuss the pros and cons of a steroid program before they embarked on it, and many of his athletes who were taking steroids consulted a physician while doing so.

Mr Francis believed that anabolic steroids were an aid to training but not a substitute for hard work, and athletes could only improve their performance if anabolic steroids were administered in conjunction with a vigorous training program. They were not the type of drug taken on the day of a race. His program was designed with the intention that the athletes would not have any steroids left in their systems at the time of competition.

Mr Francis acknowledged that he had encouraged many of his athletes to embark on a steroid program and had aided them in doing so. He had also assisted them in obtaining steroids and frequently supplied steroids to the athletes. To use his language, steroids were the “icing on the cake,” but it was necessary first to have the cake — the cake being the athlete’s own natural ability, dedication, and determination.

Many of the athletes trained by Mr Francis were not on steroids. In some cases he did not recommend the use of steroids for them, and, in others, the athletes did not follow his recommendation and refused to go on a steroid program.

In his testimony, Mr Francis did not shirk from his responsibility for encouraging and aiding many of his athletes to cheat and he accepted responsibility for doing so. However, he insisted that the ultimate decision to embark on a steroid program was made by each individual athlete and, in that respect, his evidence was confirmed by athletes he trained who admitted participating at one time or another in a steroid program. They all agreed that in the end the decision to engage in a steroid program was their own.

Mr Francis’s role in the events leading up to the Seoul Olympics will be considered later in this report, along with my assessment of his conduct.

ANGELLA TAYLOR ISSAJENKO

Angella Taylor Issajenko was the first athlete called in the track and field phase of the Inquiry. She was a particularly impressive witness. She was articulate, forthright, fair, and truthful. Her cooperation and testimony were invaluable to the work of this Commission.

She was born in Jamaica in 1958, came to Canada in 1975, and attended Parkdale Collegiate in Toronto where

she completed grade 13 in 1979. She started her track career as a member of the Parkdale Collegiate track team and won the Ontario high school 100 metre title in 1977. In 1978 she joined the Scarborough Optimist Track and Field Club where she was coached by Mr Francis. In that year she qualified for the Canadian Commonwealth Games team in the 200 metres.

Ms Issajenko was an outstanding athlete from the beginning of her career. In 1979, her first full competitive season, she established new Canadian records for the 200 metres and 50 metres indoors. In the same year she won the bronze medal in the 200 metres in the Pan American Games. She came first in the Canadian national championships in both the 100 and 200 metre events. She placed fifth in both the 100 and 200 metre events in World Cup competitions and, by the end of that year, she ranked seventh in the world in the 100 metres and eighth in the 200 metres.

Notwithstanding her outstanding success, however, when she ran fifth in the World Cup championships in both the 100 and 200 metres, her performances were described in the Canadian media as a major disappointment. This made her very discouraged and, as she testified, "at that moment I decided . . . that the Canadian championship was not good enough, it didn't mean anything and that the next year I should go out there and get the world."

It was approximately at this time that she and Mr Francis discussed the prospect of a steroid program for her. They examined the performances of others with whom she competed and the times set by them, and concluded that the current results on the international level and for the previous few years could not be attributed to the athletes' own natural ability or to improved training, facilities, and equipment. She was convinced that the results obtained by them must have been achieved through the use of steroids.

Ms Issajenko believed that she had the potential to be the best in the world and was determined to achieve it. The 1980 Olympics were coming up and she thought that if she went on an anabolic steroid program she would have the extra edge she needed.

On Mr Francis's suggestion, Ms Issajenko visited Dr Gunther Koch, a physician practising in Toronto, for matters related to her general health. In June 1979 Ms Issajenko, along with Mr Francis, discussed the use of anabolic steroids with Dr Koch. He advised her that he was uncertain whether anabolic steroids did enhance athletic performance but, taken in moderate dosages over a short period of time, the side effects would be minimal. Dr Koch prescribed Dianabol tablets, which he testified were for the purpose of improving her haemoglobin level. Ms Issajenko, however, believed that she had received the Dianabol prescription solely for performance enhancement. I accept Ms Issajenko's evidence that she obtained the Dianabol prescription as an aid to her athletic training program.

Dr Koch provided Ms Issajenko with one of his old copies of the *Compendium of Pharmaceuticals and Specialties*, a leading reference on a wide range of drugs. Ms Issajenko consulted the CPS on a regular basis throughout her athletic career. Indeed, much like her coach Mr Francis, she acquired considerable knowledge of the use of a number of drugs and their effects on the human body, and became quite expert on the subject.

Ms Issajenko was the first of the athletes coached by Mr Francis to use steroids. Throughout the next nine years, apart from time off for the birth of her daughter, she consistently included anabolic steroids of many varieties in her training program.

In June and July 1980 Dr Koch administered three injections of Depo-Testosterone to Ms Issajenko. He had previously given her an injection of that drug for reasons

unrelated to athletic performance. Dr Koch admitted, however, that there was no medical reason for the injections given in June and July 1980, and that he administered them because she requested them. Following those injections, Dr Koch stopped giving steroids to Ms Issajenko. Indeed, his role in this regard appears to have been relatively minor and only for a short period of time.

Some of the drugs used by Ms Issajenko in the early years were obtained from Mr Francis who, in turn, had obtained them from Bishop Dolegiewicz, a well-known Canadian thrower. Mr Dolegiewicz became a significant source of steroid supply for many track and field athletes, including the Francis group, during the 1980s.

Ms Issajenko testified that in 1981 she obtained the anabolic steroid, Anavar, from Brian Oldfield, a U.S. shot putter. According to her evidence, he also injected her with a mixture of Primobolan, Deca-Durabolin, and testosterone. In August 1981 she received an injection of testosterone propionate from Bishop Dolegiewicz. On several occasions, she received other injections from him too.

In the fall of 1983 she visited Dr Robert Kerr of San Gabriel, California. He was often referred to as the "steroid guru" and had an extensive practice principally involving U.S. athletes. Following consultation with Dr Kerr, she received a drug program which included Anavar, growth hormone, and L-dopa, which was believed to increase the uptake of growth hormone.

In the fall of 1983 Mr Francis and Ms Issajenko were introduced through a chiropractor to Dr Jamie Astaphan, a medical practitioner in Ontario. She sought Dr Astaphan's advice on the program which had been recommended for her by Dr Kerr. At that time Dr Astaphan knew very little about steroids, but, after meeting Ms Issajenko, he read Dr Kerr's book, *The Practical Use of Anabolic Steroids with Athletes*. From that time on, Dr Astaphan developed an

intense interest in the use of performance-enhancing drugs. This introduction marked the beginning of Dr Astaphan's involvement as physician to the Francis group of athletes, as their adviser on their use of performance-enhancing drugs and as one of their principal suppliers. Ms Issajenko's steroid program for the years 1983–88 was developed jointly by Dr Astaphan and Mr Francis as well as by herself.

Throughout the 1980s Ms Issajenko continued to excel as a sprinter. By 1982 she was ranked fourth in the world in the 100 metres by *Track and Field News*. She was similarly ranked in 1987. Ms Issajenko was consistently the Canadian champion in both the 100 metres and 200 metres during the 1980s and in that time she set Canadian, Commonwealth, and world records in a variety of sprinting events ranging from 50 metres to 400 metres.

It would be unfair to attribute her success solely to her use of steroids, although there can be no doubt that her performance was enhanced by them. I do not think that anyone trained harder or dedicated herself more to achieving her goal of being world champion than Ms Issajenko. If anything, she overtrained.

She kept a daily diary which detailed every step in her training program, including those occasions when she took steroids and her sources of supply. There is no reason to question the accuracy of what appears in her diary.

In her testimony, she spoke freely and frankly of her own steroid use and of the use of steroids by certain of the other athletes trained by Mr Francis. They became a clandestine, closely knit group, each of whom appeared to be seeking help from the others. Ms Issajenko became the confidante of most of them. She described, in vivid terms, the conspiracy of silence they all agreed upon and in which any suggestion that they were cheating was met with a vehement denial. "Deny, deny, deny" was how she described their code of silence.

Ms Issajenko decided that she should cooperate with the Commission and tell the truth, and encourage others to follow suit. By doing so, she hoped that she would contribute to the elimination of drugs in sport. While being examined by her counsel, Mr O'Connor, the following exchange took place:

Q. And as a last question, Ms. Issajenko, what do you hope, if you feel like commenting on it, will come from this exercise in which you are a participant and from the inquiry as a whole?

A. I certainly hope that other countries will follow suit and address the problem of doping . . . because of what's happening here, because of what's going on in Canada, that the IOC and the IAAF will really start taking more of an interest in the problem of doping because if they do not respond, it's hopeless. They will never get rid of doping in sports. We will clean it up in some countries, and then unfortunately those countries will be at a disadvantage.

She was very fond of Ben Johnson, she admired him, and held him in awe. Her feelings are illustrated in this exchange between Mr O'Connor and herself:

Q. And the Commissioner referred yesterday in your diary to the note about on September 26th after Ben Johnson had won the gold medal where you said, "Fantastic. Ben's outrageous. Now he's set for life." I take it it was a spontaneous feeling, how you felt about it?

A. I always wrote his times, and not only Ben. I wasn't the only one who sort of held Ben in awe or hold him in awe. Everybody around him. Everybody in the group did.

When she returned to Toronto from Seoul, however, she became very upset with Mr Johnson's public denials of his use of steroids and particularly with what appeared to her to be a determination on his part to blame Mr Francis and Dr Astaphan for what had happened to him. She thought

it was unfair for him to suggest that Mr Francis and Dr Astaphan would have administered steroids to him without his knowledge. In a dramatic episode during her testimony, while in tears, she commented:

Then I had seen the report in the paper where Ben said he — I did not knowingly take an anabolic steroid and I came to the conclusion that B.J. was going to lay the blame on Charlie and Jamie. And this could not be because I felt at the time that when someone has been very good to you, someone has done you a good turn, that has been responsible for making you great, then you shouldn't turn against people like that.

I cannot help but feel that these public statements made by Mr Johnson were additional motivating factors which led Ms Issajenko to tell the whole story.

THE PHYSICIAN, DR JAMIE ASTAPHAN

Dr Astaphan is from the island of St Kitts in the eastern Caribbean. He studied at Sir George Williams University in Montreal, where he received a BSc degree in 1967, and at the University of Toronto, from which he graduated with his MD in 1971. After an internship at the Scarborough General Hospital in Ontario, he worked as the district medical officer in St Kitts for about a year, followed by a short period of general practice in South Dakota. Between 1974 and 1981 he carried on a general practice in Warkworth, Ontario. He went back to St Kitts for a two-year period in 1981 as medical officer of health on the island. Between 1983 and 1986 he had a general practice in Toronto.

From the fall of 1983 to the fall of 1986, while practising in Toronto, he became a physician for many of the athletes trained by Mr Francis, including Ms Issajenko and Mr Johnson. In the fall of 1986 he returned to St Kitts, where he lived and practised medicine. However, from

that time until the fall of 1988, he frequently visited Toronto and attended on Mr Francis's athletes, was in touch with Mr Francis constantly, and travelled with his track team while they participated in track meets in Europe, including the world championships in Rome in 1987 and the Seoul Olympics in 1988. He became an important member of the entourage that surrounded Mr Johnson in the years leading up to the Olympics in Seoul.

Following Mr Johnson's disqualification, Dr Astaphan returned to Toronto from Seoul. Shortly afterwards, he was interviewed on the CBC television program, "The Journal." During that interview, he asserted that he did not administer anabolic steroids to Mr Johnson at any time.

Dr Astaphan returned to St Kitts. From there, and through the media, he made many contradictory statements with respect to his attendance as a witness before the Inquiry, suggesting that he would not attend voluntarily, or, in the alternative, would do so only if certain financial conditions were met. No such conditions were acceptable. As a witness, Dr Astaphan would be treated the same as any other witness.

As a result of the investigation by Commission staff and counsel, and before Dr Astaphan eventually testified, the Commission had ample evidence of Dr Astaphan's participation in prescribing and administering anabolic steroids to many of Mr Francis's group of athletes and to others. Commission counsel thought it was appropriate that if Dr Astaphan was not willing to appear voluntarily, an effort should be made to obtain his testimony by way of commission evidence in St Kitts.

An application was made to the Supreme Court of Ontario for an order seeking the assistance of the authorities in St Kitts to compel Dr Astaphan to testify there. In the preliminary proceedings leading up to the return of the motion, counsel for Dr Astaphan advised Commission

counsel that there would be no need for such an order since Dr Astaphan was prepared to come to Toronto to testify voluntarily and unconditionally. On the return of the motion before the Chief Justice of the High Court, the court was advised, in the presence of Dr Astaphan's counsel and with his full agreement, that Dr Astaphan had promised to appear before the Commission on an unconditional basis. Pursuant to such an agreement, the motion seeking to compel him to testify in St Kitts was adjourned and was to be brought on again only if Dr Astaphan failed to comply with his promise.

With the cooperation of counsel for Dr Astaphan, Commission counsel attended in St Kitts in order to interview Dr Astaphan in preparation for his testimony. And, subsequently, he did testify at the Inquiry in Toronto. In his evidence, Dr Astaphan confirmed, in a large measure, the testimony of other witnesses who had preceded him about his involvement in designing a steroid program for athletes and administering and supplying anabolic steroids to them.

As has been previously noted, Mr Francis and Ms Issajenko visited his office in Toronto in the fall of 1983. After the first meeting, Ms Issajenko and Mr Francis fully disclosed to Dr Astaphan the steroid program in which she was engaged. Ms Issajenko also told Dr Astaphan of her meeting with Dr Kerr in California and of the steroid program designed by him for her.

Dr Astaphan had no prior experience with anabolic steroids. From that time on, he made an intensive study of anabolic steroids as performance-enhancing drugs. He advised Ms Issajenko that he did not approve of the program designed by Dr Kerr and recommended a program of his own. From the fall of 1983 until the fall of 1988, Dr Astaphan was largely instrumental in designing a steroid program for Mr Francis's athletes, as well as for others, and was one of their principal sources of supply.

He became very knowledgeable about the various anabolic steroids available through normal suppliers and the black market, the advantages and disadvantages of different steroids, and, in particular, the vital information on clearance times. Thus, in his opinion, he was able to advise the athletes when to stop taking steroids in relation to the time in which they would be tested, so that at that time they would have excreted any steroids in their systems.

A number of Canada's leading track and field athletes, other than those trained by Mr Francis, consulted Dr Astaphan and received advice and assistance in regard to anabolic steroids and other performance-enhancing substances. Dr Astaphan said he had also been consulted by athletes from other countries, including the United States, Italy, Holland, Australia, Sweden, Finland, West Germany, Bulgaria, Jamaica, East Germany, the United Kingdom, and several African nations. They included athletes in a number of sports. Apart from track and field athletes, Dr Astaphan also supervised drug programs for football players, weightlifters, powerlifters, and bodybuilders.

Dr Astaphan concluded that he was being true to the Hippocratic Oath by supplying steroids and other performance-enhancing drugs to athletes. He thought it was better to supervise their drug taking than to let them medicate themselves. He also said he wanted to control what he described as polypharmacy — the use of many drugs from many sources.

Dr Astaphan described his rationale for providing anabolic steroids to athletes in the following way:

The axiom among track and field plus other athletes was "if you don't take it, you won't make it," so if I didn't monitor them and if I didn't give it to them, they were going to get it elsewhere, and most of them had got it elsewhere and were taking it at the time they came to me. They came to me for advice and for supervision, and I thought it was my responsibility to do this.

In justifying his conduct for prescribing drugs to increase athletic performance rather than for any therapeutic reason, Dr Astaphan relied on the policy of the College of Physicians and Surgeons of Ontario then in place. A provision in that policy, as interpreted by Dr Astaphan, permitted a doctor to prescribe anabolic steroids solely for the purpose of enhancing the performance of athletes, provided that the physician clearly informed the athletes of their side effects.

Dr Astaphan claimed that he did keep his athlete patients informed and that he monitored them by way of physical examinations and laboratory tests for any adverse effects they might be experiencing. In particular, he stated that he monitored them for any potential damage to the liver. He said he also went to the track and watched them training, and observed any physical changes in their bodies. He told them what to look for in terms of changes in their own bodies and, before any of them went on a program, he discussed at length what drugs they had been on or were taking and what they knew about the drugs. He found his athlete patients to be quite knowledgeable. His evidence in that respect was confirmed by some of the athletes, but others claimed that they were never advised of the side effects of the drugs which he was administering, nor had they provided samples for laboratory tests.

Over the years, Dr Astaphan introduced various anabolic steroids to the athletes' programs. He worked carefully with Mr Francis in combining those anabolic steroids with the training procedures pursued by Mr Francis.

Many of the drugs supplied by Dr Astaphan were obtained from legitimate drug supply agencies. However, on occasion, he resorted to purchasing them on the black market. One of his suppliers, Steve Brisbois, was a bodybuilder and a former Mr Universe. Mr Brisbois purchased various drugs on the black market and sold them to Dr Astaphan who, in turn, sold them to the athletes for the amounts of money he had actually paid for them.

Growth hormone is a very tightly controlled drug and only available to physicians through special procedures. Dr Astaphan resorted to the black market to obtain growth hormone for his patients. He made a deal with Mr Brisbois to obtain growth hormone, but Mr Brisbois claimed he was double-crossed and unable to obtain the product, and that the money advanced by Dr Astaphan for the growth hormone could not be recovered. Dr Astaphan, however, was able to arrange for the purchase of growth hormone from other black market sources; subsequently, he resold it to some of his patients. The drugs obtained on the black market were supplied by Dr Astaphan to athletes without his knowing even the source or the quality of the drugs.

Dr Astaphan said that sometimes he was paid by athletes for the drugs he gave them and sometimes he was not. This was confirmed by many of the witnesses. In any event, he claimed he lost money as a result of his supplying drugs to the athletes. He testified that Mark McKoy and Desai Williams each still owed him \$1000 for the supply of growth hormone.

The drugs supplied by Dr Astaphan were both in tablet and injectable form. He supplied athletes with bottles of anabolic steroid pills and would frequently inject them with an injectable anabolic steroid. He also supplied some of the athletes with vials of injectable anabolic steroids to be injected by the athletes themselves.

Included amongst the drugs supplied by Dr Astaphan was the drug with the generic name stanozolol, also known by the trade name Winstrol. In different formulations, Winstrol is sold for human or animal use. For human use, it comes in tablet form only. Winstrol tablets are also sold under the trade name Winstrol-V and are manufactured for veterinary use only, although they are of identical composition to the tablets sold for human use. Stanozolol is also sold in injectable form under the trade name Winstrol-V

and is supplied in 30 mL vials. Its composition is different from that of the tablet and is for veterinary use only. There is no injectable form of Winstrol manufactured for human use.

In Canada, Winstrol and Winstrol-V tablets and injectables are sold by Sterling Drug Ltd of Aurora, Ontario. More will be said later in this report about the purchases by Dr Astaphan of those drugs from Sterling Drug Ltd.

In 1985 Dr Astaphan introduced what he claimed to be a new anabolic steroid for use by his patients, including those athletes being trained by Mr Francis. He called the drug "estrugol." It was an injectable drug which he supplied to them in 30 mL vials. Although the athletes knew that it was an anabolic steroid, they only knew it under the name "estrugol." It is a milky white substance, and the athletes referred to it as the "milky white stuff" or some other name.

From the fall of 1985 to the fall of 1988, many of the athletes visited Dr Astaphan's office for injections of "estrugol." He also supplied some of them with vials of this drug to be injected by themselves. Before he left Toronto for St Kitts, he left a large supply of vials of "estrugol" with Mr Francis.

Following its introduction in the fall of 1985, this steroid was the one most frequently administered and supplied by Dr Astaphan. Other steroids in tablet form were often supplied by him as a stacking agent in conjunction with "estrugol." When injecting "estrugol," Dr Astaphan frequently combined it with inosine and vitamin B-12, neither of which are banned substances.

The circumstances surrounding Dr Astaphan's acquisition of "estrugol" and its role in respect to himself, Mr Francis, Ms Issajenko, and others will also be detailed later in this report.

THE THERAPIST, WALDEMAR MATUSZEWSKI

Waldemar Matuszewski was the massage therapist associated with the Francis group. He came to Canada in 1984 after working for many years in his native Poland as a physiotherapist. He had obtained a master's degree in physiotherapy in Poland and had worked towards a doctorate in neuromuscular stimulation. Most of his work experience had been with athletes. He worked with elite athletes as director of physiotherapy at the Polish Olympic Centre between 1975 and 1978, and then as a physiotherapist with the Polish Olympic and National Track and Field Association. He left Poland in 1982 and was on staff in a hospital in Iraq for two years. Soon after he came to Canada he began working with Canadian athletes. He was involved as a consultant and therapist with the Canadian Weightlifting Federation and with the Canadian Alpine Ski Association.

After meeting Mr Francis at a seminar at York University in either 1985 or 1986, he agreed to work with Mr Francis's athletes to provide rehabilitation and regenerative services. He obtained a contract with the Canadian Track and Field Association, and Mr Francis agreed to supplement his CTFA salary with money from the Mazda company, the sponsor of some of the Francis group.

Mr Matuszewski's contract required him to work on a fulltime basis, five days a week, at the York University high-performance centre. He provided services to all the track and field athletes at the centre but gave special attention to the sprinters. His services included recuperation and regeneration programs for the athletes, including massage therapy, physiotherapy, hydrotherapy, and balneotherapy. He also provided special programs for injured athletes.

During his time at the high-performance centre, Mr Matuszewski was closely linked to the athletes who trained under Mr Francis, including Ben Johnson, Angella Issajenko, Desai Williams, Mark McKoy, Tony Sharpe, Michael Sokolowski, Molly Killingbeck, Cheryl Thibedeau, and Tracy Smith. He was involved with them on a day-to-day basis in their training. At competition times, he travelled with them to meets and provided massage services at the track immediately before and after events.

Several years before moving to Canada and while he was still in Poland, Mr Matuszewski became aware that a group of Polish athletes with whom he was working were using steroids. In 1986 he also became aware that some of the athletes coached by Mr Francis were on steroid programs. Mr Matuszewski said everyone within the group knew about the steroids, but it was treated as a secret. He also testified he could tell if an athlete was on steroids simply by feeling the athlete's muscles. There is no indication, however, that he did anything to discourage this practice, which was contrary to Sport Canada and CTFA policy.

Mr Matuszewski admitted he had administered injections of inosine and vitamin B-12 to some of the Francis group of athletes. However, he denied administering anabolic steroids to any of the athletes except Michael Sokolowski. He admitted he was involved in the administration of a milky white substance, together with inosine and vitamin B-12, to Mr Sokolowski in the fall of 1987. Mr Sokolowski was a sprinter who was coached by Mr Francis and who lived in the same house as Mr Matuszewski. Mr Matuszewski said he obtained the milky white substance from Dr Astaphan and he assumed it was a steroid because Dr Astaphan told him it was given to build up the athlete's muscles.

Mr Matuszewski testified about another situation which involved him in steroids in the fall of 1987. A Polish hurdles coach named Szczepanski was in Toronto to give a clinic at

the York high-performance centre. Mr Matuszewski met with him and the Polish coach asked him to acquire some steroids for use in Poland. After considerable effort, he was able to obtain some Anavar without a prescription from a pharmacy in Toronto. He sent 100 tablets of the drug by mail to the coach in Poland.

I will have more to say about Mr Matuszewski when I discuss the events leading up to Mr Johnson's positive test at Seoul in 1988. He was not a major player in the events of 1988, but he was by that time part of the Johnson entourage and was therefore involved to some extent in the preparation of Mr Johnson for the Seoul Olympics.

BEN JOHNSON

Ben Johnson was born in Falmouth, Jamaica, on December 30, 1961. He enjoyed a normal boyhood there, going to school and joining in soccer and other physical activities. He came to Canada in April 1976 when he was fourteen years of age. At that time, his mother had already moved to Toronto to provide a new home and new opportunities for him, his older brother, and four sisters.

His brother Edward had participated in organized track events in Jamaica, so it was natural he should pursue that interest in Toronto. He joined the Scarborough Optimist Track and Field Club and trained under coach Charlie Francis. After Ben Johnson won some ribbons at his local school, his brother suggested he join the Optimist Club and he took him along to a practice. That was in the summer of 1977.

Mr Johnson's natural talent was not readily apparent during his introduction to the Scarborough group. Mr Francis said that Mr Johnson was about 93 pounds when he started, and, although he was fifteen years old, he looked about twelve. Mr Johnson initially found the workouts too

strenuous and quit for a week until Mr Francis urged him to return. Mr Johnson soon showed such promise that, as Mr Francis recalled, when one of the older sprinters was beaten by Mr Johnson in the summer of 1977, he quit in disgust. For that athlete, it was the last straw. As Mr Francis put it, that individual eventually had a lot of company.

By 1980 Mr Johnson had progressed to the point where he was selected for the Canadian Olympic team. His main races were the 100 metres and 4 x 100 metre relay, although he occasionally ran in 200 metre races. During the indoor seasons he raced in the 50 yard, 50 metre, 60 yard, and 60 metre events.

In 1982 Mr Johnson won silver medals in the 100 metres and the 4 x 100 metre relay at the Commonwealth Games in Australia. At the Los Angeles Olympics in 1984 he won bronze medals in the same two events. In 1985, at the World Cup championships in Australia, he won a gold medal in the 100 metres and the silver medal in the 4 x 100 metre relay. At the Edinburgh Commonwealth Games in 1986 he won gold medals in both events. In the same year he won the gold medal in the 100 metre race at the Goodwill Games in Moscow. At the world championships in Rome in 1987 he won a gold medal in the 100 metres and set a new world record of 9.83 seconds. In the same year he also set world records in the 60 metre and 50 metre events.

Because of certain issues raised by counsel on his behalf, I must make some observations which are personal in nature. Mr Johnson appears to be a very polite and well-mannered young man and has the benefit of a close family relationship.

From his early days as a youth, he has devoted himself to his career as an athlete. In that respect, as a witness, he displayed considerable knowledge about his training techniques, his own body, the medication and treatment for his athletic injuries, and his progress as an athlete. Within the

field of his own expertise, he had no difficulty in expressing himself. His colleagues described him as affable and friendly, and he was well liked by them.

Although he placed great trust in his coach, his physician, and other members of his entourage, it is apparent that he has a mind of his own, both with respect to his training program and his finances. He took a direct interest in his financial affairs, including his own expenditures and the amounts to be paid to others who were assisting him.

It was only natural that he should enjoy the acclaim and wealth which came his way, and, for a while, he was personally very extravagant. From a financial point of view, he is a fortunate young man. In his athlete reserve fund alone, which is retained for him in trust by the Canadian Track and Field Association and from which he draws a substantial monthly allowance, there are still sufficient funds which, if carefully invested, will assure him of financial security for his future.

Mr Johnson's involvement with banned substances, the circumstances surrounding it, and the events of 1988 are detailed later in the report.

10

The Disqualification at the Seoul Olympics

Ms Carol Anne Letheren, chef de mission of the Canadian Olympic team, was awakened at 1:45 a.m. on Monday, September 26, 1988, to receive a hand-delivered letter from Prince Alexandre de Mérode, chairman of the IOC Medical Commission. The letter advised that the A-sample of Mr Johnson's urine had produced a positive result. There was no indication of the drug involved. The Canadian Olympic Association was invited to send a delegation of three people to attend the analysis of the B-sample, in keeping with IOC regulations which require a confirmatory test after an initial test has proved to be positive. The analysis of the B-sample was scheduled for 10:00 a.m. A meeting of the IOC Medical Commission was scheduled for 10:00 p.m., when the results of the A- and B-samples would be reviewed and appropriate action recommended.

Ms Letheren immediately awakened Dr William Stanish, chief medical officer of the Canadian Olympic team, to tell him about the information disclosed in the letter. After discussing the matter with two other team officials, they met with David Lyon, one of the two team leaders of the track and field team, at about 7:00 a.m. Ms Letheren, Dr Stanish, and Mr Lyon then met with Charlie Francis for about an hour in the Canadian Olympic Association's medical clinic.

Mr Francis was asked whether Mr Johnson had taken any banned substances and, in particular, whether he had taken anabolic steroids. Mr Francis responded that Mr Johnson had not been on any banned substance. Dr Jamie Astaphan was then contacted by telephone and he assured Dr Stanish that Mr Johnson had not been on any banned medication. Dr Astaphan was specifically asked about steroids and he indicated that Mr Johnson had not taken them. Dr Stanish requested Dr Astaphan to provide him with a detailed list of medications taken by Mr Johnson both prior to Seoul and during the Olympic Games.

It was agreed that Dr Stanish, Mr Francis, and Mr Lyon would be present at the Olympic laboratory for the analysis of the B-sample. There they met with Dr Arnold Beckett, Dr Manfred Donike, and Dr Jongsei Park, who represented the IOC Medical Commission. Dr Stanish was unable to advise what medications Mr Johnson was on, so Mr Lyon was sent to find Mr Johnson. When Mr Johnson arrived at the laboratory about half an hour later, he brought a training bag containing several medications (many unlabelled) and other substances. He also brought a note addressed to Dr Stanish from Dr Astaphan. This two-page handwritten note referred to a number of medications taken by Mr Johnson as far back as May 1988. Significantly, there was no mention of any anabolic steroids.

Dr Beckett asked Mr Johnson if he had ever taken any banned substances and he said he had not. The drug stanozolol was then disclosed as the banned substance revealed by the test on Mr Johnson's urine. Mr Johnson suggested that the explanation for his positive test must have been the result of something done by a stranger who was in the doping control area at the time he provided his urine sample following the 100 metre final. This explanation was the genesis of the sabotage theory.

After those discussions, the Canadian group stayed for the opening of the B-sample. They satisfied themselves that the sample to be tested was the one originally provided by Mr Johnson, and then they left.

In the afternoon of Monday, September 26, a meeting was convened in the hotel suite of Richard Pound, a Canadian and a member of the IOC executive, to develop a plan for the meeting of the IOC Medical Commission scheduled for 10:00 p.m. that evening. Among those present were Mr and Mrs Pound, James Worrall (another Canadian IOC member), Dr Roger Jackson (president of the COA), Ms Letheren, Dr Stanish, Mr Francis, and Mr Lyon. Interviews of those people who had been with Mr Johnson in the doping control area after the 100 metre final were conducted. These included RCMP officer Donald Wilson, Mr Matuszewski, and Diane Clement, another team leader of the track and field team. Mr Johnson was also interviewed.

What emerged from those discussions was a decision to present an appeal to the IOC Medical Commission based on the sabotage theory. The defence was founded on the premise that Mr Johnson was not a user of anabolic steroids of any kind and that he had certainly not taken the drug stanozolol. According to Mr Pound, they intended to rely

on the sabotage theory because it was the only explanation that was consistent with the position that Mr Johnson had not taken any prohibited drugs.

The evidence which the Canadian group relied on to support the sabotage theory was Mr Johnson's suggestion that the positive test must have been the result of something done by a stranger in the doping control area and that the security after the 100 metre final appeared to be extremely relaxed. The suggestion was also put forward that the stranger may have been associated in some way with one of the other finalists.

The Canadian representatives at the meeting of the IOC Medical Commission were Messrs Pound, Worrall, and Jackson, Dr Stanish, and Ms Letheren. Mr Pound was the spokesman. The meeting, which included the members of the "Subcommision on Doping and Biochemistry of Sport," was chaired by Prince de Mérode and involved about twenty-five people. At this meeting, the results of the B-sample were disclosed as positive for metabolites of stanozolol.

During Mr Pound's presentation of the appeal, premised on the sabotage theory, Dr Donike, a member of the sub-commision on doping and biochemistry of sport, intervened and provided some additional scientific data from the results of the laboratory analyses. He reported that the analyses of the sample were inconsistent with a single application of the substance and indicated long-term use.

From that point on it became clear to Mr Pound and his colleagues that their appeal was doomed to failure. After deliberating for about two hours, the Medical Commission rejected the appeal and advised the Canadian contingent that they would recommend to the IOC executive committee that Mr Johnson be disqualified.

At a meeting of the executive committee at 8:30 a.m. on September 27, Mr Johnson was disqualified from the Olympic Games. An IOC press release stated in part:

The urine sample of Ben Johnson (Canada — Athletics — 100m) collected on Saturday, 24th September 1988 was found to contain the metabolites of a banned substance namely Stanozolol (anabolic steroid).

The IOC Medical Commission discussed all arguments presented by the Canadian Delegation, especially the statement that the substance in question might have been administered after the competition by a third party.

The steroid profile however is not consistent with such a claim.

The gold medal had already been retrieved by Ms Letheren from Mr Johnson in the early hours of the morning in his hotel room. Mr Johnson, accompanied by his mother, sister, and Dr and Mrs Astaphan, returned to Toronto the same day. Mr Francis also returned to Toronto that day.

On Wednesday, September 28, following his return to Toronto, Dr Astaphan was interviewed on the CBC television program, "The Journal." He denied giving stanozolol or any other anabolic steroid or banned substance to Mr Johnson. He went on to say that he had never discussed anabolic steroids with Mr Johnson and further stated that he was prepared to testify under oath at a federal inquiry that he had never given anabolic steroids or any other banned drugs to Mr Johnson.

On Friday, September 30, 1988, Mr Johnson was interviewed by George Gross of the *Toronto Sun* newspaper. In attendance at that interview were Edward Futterman, Mr Johnson's lawyer, Kay Baxter, consul general for Jamaica, and Paul Godfrey, publisher of the *Sun*. The interview published on October 1 quoted Mr Johnson as stating: "I'm innocent. I never took any banned substances."

Mr Johnson further stated: "I want my name to be cleared, and I'll do anything to clear it." According to Mr Gross, Mr Johnson said he welcomed an investigation "to find out how it happened that I tested positive in Seoul." Mr Johnson was further quoted as saying: "I didn't do anything wrong. It hurt me, though, that people would condemn me without hearing my side of the story."

The interview with Mr Gross also disclosed Mr Johnson's knowledge of and interest in the various vitamins he took. In discussing his training prior to the Olympic Games, he said:

To make sure so much intensive training doesn't hurt me, I took big vitamin tablets from a power pack. Each of those packs contained eight pills.

I bought them myself because I had been buying them before. They're pills that contain calcium and vitamins. They're essential to me for intensive training.

During the course of the interview, Mr Johnson apparently related to Mr Gross that he had heard talk at the Olympics in Seoul that he was using steroids. The following excerpt from Mr Gross's article is illuminating:

After the heats, I heard bad comments about me, he said. They said I was out of shape and overweight. The fact is that I had lost six pounds since my defeats in Europe. I couldn't have been taking steroids. Had I done so, I'd have put on six pounds, not lost them.

He also says that he knew he faced a drug test under IOC rules. I knew I was going to be tested, he said, because the three medal winners always are.

Ben added he was also tested after losing to Carl Lewis in Zurich in August, and passed that examination. If I had been taking steroids, it would have shown in Zurich, he insisted. If I had taken them, I wouldn't have dared go to the Games and embarrass my family, my country and the Canadian media.

Mr Johnson also provided a signed statement on September 30, which was also published in the *Toronto Sun* of October 1, 1988:

I want to state clearly now that I have never knowingly taken illegal drugs nor have had illegal drugs administered to me.

I have always believed, and I certainly believe now, that illegal drugs have no place in our society.

During the past two years I have been tested about 10 times. Every single one of my tests has been negative. My most recent test was on or around August 17. All of these tests to my knowledge were thorough and complete.

I'm well aware that every Olympic medallist is tested and, as you all are aware, I wasn't going to Seoul to lose. I fully expected to win a gold medal and I fully expected to be tested.

There can be no possible reason under those circumstances that I would have taken an illegal drug.

If, indeed, it was my urine sample that was tested, then I invite a full investigation by the appropriate authorities to find out how all this happened.

I'm innocent and I welcome the opportunity of proving it.

I'm proud to be a Canadian and I would never do anything to hurt the people who support me. The Canadian people should have the right to hear my story first. [Emphasis added]

On October 4, Mr Johnson attended a carefully orchestrated press conference with his mother, father, and lawyer, Mr Futerman, in a Toronto hotel. Mr Johnson was quoted in the *Globe and Mail*, in part, as stating: "People who know me in Jamaica and people who know me here know I wouldn't take drugs . . . I have never, ever, knowingly taken illegal drugs, and I would never embarrass my family, my friends, my country and the kids who love me."

On October 3, 1988, the day before the Johnson press conference, Mr Francis released a public statement which began: "Like all Canadians, I was shocked and dismayed to learn of Ben Johnson's disqualification at the Seoul Olympics, based upon a positive test for the drug stanozolol. Such

a test result defies all logic and, in my opinion, can only be explained by a deliberate manipulation of the testing process."

Subsequent to those events, an Order in Council appointing this Commission of Inquiry was issued on October 5, 1988. At the time of my appointment as Commissioner, the information available about Mr Johnson's disqualification could be summarized in six main points:

- Mr Johnson had tested positive for the anabolic steroid, stanozolol, following the 100 metre final in Seoul.
- A submission had been advanced before the IOC Medical Commission that Mr Johnson might have been the victim of some form of sabotage.
- Mr Johnson denied he had taken stanozolol or any other banned substance.
- Dr Astaphan denied any knowledge that Mr Johnson had taken stanozolol or any other banned substance.
- Mr Francis stated that a positive test for stanozolol defied all logic and could "only be explained by a deliberate manipulation of the testing process."
- Mr Johnson invited "a full investigation by the appropriate authorities to find out how all this happened."

In light of these events, in response to Mr Johnson's request, and pursuant to my terms of reference, it was the duty of Commission counsel and staff to carry out an extensive inquiry into the circumstances of Mr Johnson's positive test results. A thorough, highly skilled and extensive investigation was undertaken, at considerable time and at great expense, to seek out any evidence which would support Mr Johnson's contentions.

At all times during the course of the investigation, counsel for Mr Johnson was fully advised on the matters being investigated and the outcome of the inquiries. Having regard to the position taken by and on behalf of Mr Johnson, certain possibilities were explored, such as mistakes in the identification and analysis of the urine sample and the suggestion of sabotage.

Identity of the Sample

Since Mr Johnson did not admit in his public statement that it was his urine which was the subject of the positive test, an investigation had to be made whether there had been a mistake in the identification of the urine sample. The documents signed by Mr Johnson confirming the identity of the sample and presented at the doping control station were requisitioned and examined. Those who witnessed the documents were also interviewed. There was no mistake about the identity of the urine sample which formed the basis of the positive test.

Mistake in the Analyses

The next matter to be investigated was whether there had been a mistake in the analyses made in Seoul. The documentation on which the scientists relied in concluding that Mr Johnson's sample disclosed metabolites of stanozolol was also requisitioned and reviewed by two scientific advisers, Dr Samuel Solomon of McGill University and Dr Arnis Kuksis of the University of Toronto, who had been retained by me for that purpose. They examined all the scientific data and confirmed the finding that the results did disclose metabolites of stanozolol. There was no mistake in the analyses.

Sabotage

Although the suggestion of sabotage had been rejected by the IOC Medical Commission, it was renewed on the return from Seoul. Commission counsel made a thorough inquiry into whether there was evidence that the positive finding was the result of the actions of a stranger in the doping control room. The Canadians who were present with Mr Johnson in the doping control room were interviewed, and they confirmed that there had been a stranger in the doping control area. There was no evidence, however, that this stranger had administered any drug to Mr Johnson. There was no sabotage.

11

The Use of Performance-Enhancing Drugs

In light of the concession made by Mr Johnson at the end of the track and field phase of the Inquiry that he had been using performance-enhancing drugs, little is to be gained by detailing his use of performance-enhancing drugs and his knowledge that he was doing so. But the concession was not readily forthcoming.

At the request of Mr Johnson's counsel, it was agreed that he would be the last witness to be called to testify in the track and field phase of the Inquiry, which, as it turned out, was very fortunate for him. Consistent with the practice adopted throughout the Inquiry, Mr Johnson's counsel was advised in advance of the nature of the evidence that was expected to be given by the witnesses who preceded Mr Johnson.

None of the witnesses who preceded him was called to prove, one way or the other, whether Mr Johnson was taking performance-enhancing drugs and whether he was aware of

it. Rather, they spoke of their own involvement in drugs and, in the course of doing so, related their experiences with others who were also taking drugs. They were all friends of Mr Johnson. In giving their evidence, they related their relationship with Mr Johnson, his use of steroids, his knowledge that he was doing so, and the many conversations and the banter they had with him about it. The witnesses were cross-examined by counsel for Mr Johnson. By that time, the identity of the urine sample, the validity of the positive test, and the untenability of the sabotage theory had been clearly established. But a new tack was taken. The cross-examination of the witnesses by counsel for Mr Johnson was conducted with a view to showing that Mr Johnson was unaware that the medications he was receiving were banned substances. During the cross-examination, very serious allegations were made against some of the witnesses.

Mr Francis was the first witness to testify in this phase of the Inquiry. I have already outlined in a general way the nature of his evidence, but avoided any reference to Mr Johnson's involvement with performance-enhancing drugs so that it could be dealt with at this time.

Mr Francis testified that by 1981 it had become clear that Mr Johnson was "on the threshold of breaking into international prominence." In the late summer and early fall of 1981, in anticipation of the next year's events, Mr Francis said, he and Mr Johnson discussed his future training regime, including the possibility of starting a steroid program, and that he encouraged him to do so for the same reasons he had previously encouraged Ms Issajenko. Mr Francis indicated that Mr Johnson was fairly noncommittal and that he did not want to make a decision at that time. Mr Francis recommended that they make an appointment with a doctor to discuss the matter.

Mr Francis arranged a visit to the office of Dr Gunther Koch. He recalled that they discussed Dianabol and its side effects, which Dr Koch considered to be minimal if taken in small doses and over a short period of time. According to Mr Francis, the doctor told Mr Johnson that he was not certain of the performance-enhancing qualities of Dianabol, and, at the conclusion of the meeting, Mr Johnson said he wanted to think further about the matter. Later in the fall of 1981, leading into the 1982 season, Mr Johnson advised Mr Francis that he would go on a steroid program.

In his testimony, Mr Francis provided details of the use Mr Johnson made of anabolic steroids over the next seven years, and of the introduction of Dr Astaphan to his athletes in the fall of 1983. He explained how Dr Astaphan was introduced first to Ms Issajenko and then to the other members of his sprint group, including Mr Johnson.

Mr Francis outlined how Mr Johnson's steroid program was administered and monitored by Dr Astaphan between 1984 and 1986, until Dr Astaphan returned to St Kitts.

After Dr Astaphan's departure, Mr Francis became directly involved in administering steroid injections to Mr Johnson right up to the period just before the departure for the Seoul Olympics. From time to time, Dr Astaphan returned to Canada and also travelled with Mr Johnson. On those occasions he again became involved in Mr Johnson's drug program. In addition to anabolic steroids, Mr Johnson also received injections of inosine/vitamin B-12 mixture from Dr Astaphan and Mr Francis.

As in the case of Ms Issajenko and others, it would be unfair to depict Mr Johnson's training regime as simply involving the use of anabolic steroids in both tablet and injectable form, followed by his showing up at the track for a scheduled race. Like Ms Issajenko, Mr Johnson was also a hard worker although, perhaps, not as dedicated as she was. Apart from his starting, sprinting, and running exercises,

he was also a devotee of weight training. Under Mr Francis's direction, Mr Johnson's program of increasing strength, speed, and endurance was carefully worked out over the course of a year to permit him to peak at particular points in the three competitive periods (indoor season, early outdoor season, and late outdoor season).

The steroid program developed by Dr Astaphan was designed to coordinate with Mr Francis's training program. There were two periods of six weeks and a third period of two weeks each year when steroids were taken. The steroid program was designed so that the largest quantity of drugs would be taken at the beginning of each training period.

Mr Francis described the effect of Mr Johnson's training program in the following way:

Because of this particular training system and because of the location of the steroid blocks and the small amount of steroids involved, Ben was able to compete more often than any of the other major competitors in the world and at a higher level because his muscles would be fresher and looser.

So, not only was he able to compete more often but he used the competitions to develop his speed.

According to Mr Francis, the competitions really became a part of the training program. As he put it, "if you're going to run fast, then why not get paid for it?"

He provided a review of Mr Johnson's 1987 competitive season which illustrated in a dramatic way how he had peaked at the most important races throughout the year. On January 15, 1987, in Japan, he set a new world record for the 60 metres of 6.44 seconds. A few days later in Perth, Australia, he ran the fastest hand-timed 100 metre race ever recorded in 9.7 seconds. In Ottawa on January 31, he set a new world record of 5.55 seconds for the 50 metres. He equalled his own world record of 6.44 seconds for the 60 metres in Edmonton on February 21. On March 7 at

the world indoor championships he ran 6.41 seconds for a new world record in the 60 metres and, thus, he reached his highest peak for the major indoor events of the season. Throughout the two outdoor seasons, Mr Johnson again entered a series of races in order to peak at the world championships in August at Rome. At the Canadian national championships on August 1 he ran 9.98 seconds in the 100 metres. On August 16 he ran the 100 metres in 9.95 seconds in Cologne. In Zurich on August 19 he ran the same distance in 9.97 seconds against a head wind of 1.2 metres. Mr Francis estimated that without the head wind his time would have been 9.85 seconds. Thus, Mr Johnson was ready for the world championships in Rome, where, on August 30, 1987, he set a new world record for the 100 metres of 9.83 seconds. These results clearly illustrate the benefits Mr Johnson received from the Francis training system.

At the conclusion of his testimony, Mr Johnson's counsel subjected Mr Francis to a lengthy and, at times, acrimonious cross-examination. It was designed to impeach Mr Francis's credibility at large and to place the responsibility for Mr Johnson's use of steroids solely on Mr Francis and Dr Astaphan. Counsel for Mr Johnson sought to establish, through Mr Francis, that Mr Johnson's mental capacity and level of education were such that he was incapable of understanding that he was using steroids or was engaging in any banned practices.

It was suggested to Mr Francis that he had taken advantage of a young athlete of diminished mental capacity by subjecting him to the use of anabolic steroids without his knowledge and while Mr Johnson thought throughout that the pills he was being supplied with and the injections he received were vitamins. This was a very serious allegation, since to administer drugs to an individual without his or her consent would constitute a criminal offence.

This allegation received prominent media attention, as if the allegation once made was true.

While acknowledging the advice and encouragement he gave to Mr Johnson to embark on a steroid program, Mr Francis insisted throughout the cross-examination that Mr Johnson was well aware that he was using performance-enhancing drugs, that he realized their significance, and that he knew they were banned. Mr Johnson was also aware of clearance times and of the importance of ensuring that his system was cleared of drugs before competition.

Mr Francis explained that his own career was on the line if any of his athletes were detected using banned substances. It was, therefore, essential for him that the athletes who were using the banned substances knew exactly what they were doing and the clearance times necessary to avoid detection. He further stated that he would never, under any circumstances, inject an anabolic steroid without the athlete knowing the nature of the injection he or she was receiving.

Mr Francis also took strenuous issue with the suggestion made to him by counsel about Mr Johnson's diminished mental capacity. From my own observations, I think it was unfair to Mr Johnson to describe him as unintelligent.

Mr Francis's testimony that Mr Johnson was fully aware of his use of drugs was confirmed by a series of witnesses who preceded Mr Johnson in the witness box. Dr Koch confirmed Mr Francis's testimony about Mr Johnson's visit to his office. Although he recalled Mr Johnson as being extremely shy, he was satisfied that he understood what was being said.

Ms Issajenko was a teammate and close associate of Mr Johnson. She related numerous instances of Mr Johnson's involvement with anabolic steroids and other drugs. In the spring of 1984 she had administered injections of steroids and growth hormone to Mr Johnson at a training camp in Guadeloupe.

Ms Issajenko was also subjected to the same line of cross-examination as Mr Francis, including the suggestion that she had administered injections of steroids and growth hormone to Mr Johnson without his knowledge. She vehemently denied that she would ever do such a thing. There was no doubt in her mind that Mr Johnson fully understood his involvement with the use of anabolic steroids. She described the discussions and the banter about drugs that went on in their group. She explained that although the term “anabolic steroids” was not used, they were described by Mr Johnson and others as “roids,” “juice,” “stuff,” or by some other name.

A number of other track and field athletes testified about their own use of anabolic steroids and the use by others, including Mr Johnson. They included Tim Bethune, Rob Gray, Tony Issajenko, Molly Killingbeck, Dave McKnight, Andrew Mowatt, Tony Sharpe, Michael Sokolowski, and Cheryl Thibedeau. Many of them were colleagues and close friends of Mr Johnson. As with Mr Francis and Ms Issajenko, they were all fond of Mr Johnson and respected him. They all denied the suggestion made to them in cross-examination that Mr Johnson was unaware he was using steroids and they referred to discussions they had with him in the past about their use.

In addition, two other witnesses, John Davies and Michael Ryan, were called in this phase of the Inquiry. They were college football players who had also trained at the high-performance centre at York University. While doing so, they met Mr Francis and members of his team, including Mr Johnson. They testified to Mr Johnson’s discussions with them about his own use and knowledge of steroids. Like the others, they were also cross-examined on the credibility of their evidence, but there is no reason to disbelieve their testimony.

Dr Jamie Astaphan also testified about Mr Johnson's use of steroids and other performance-enhancing substances. He was introduced to Mr Johnson in late 1983 by Mr Francis. At their first meeting, and in the presence of Mr Francis, Dr Astaphan said he discussed Mr Johnson's prior use of Dianabol, testosterone, and Deca-Durabolin.

In the period from the spring of 1984 through the summer of 1988, Dr Astaphan estimated that he administered some fifty to sixty injections of drugs to Mr Johnson. He also supplied Mr Johnson with bottles containing various anabolic steroid tablets. As in the case of the other athletes under Dr Astaphan's supervision, Mr Johnson received injections of "estrugol" from him between 1985 and 1988, and he was supplied by Dr Astaphan with his own vial of "estrugol." Dr Astaphan testified that Mr Johnson, like the others, knew that "estrugol" was an anabolic steroid and that it was banned. He stated that he explained the effects of the drug to Mr Johnson and that he was very inquisitive and understood what he was being told.

In the summer of 1987 and through to January 1988, Dr Astaphan, rather prophetically, became concerned that one or more of the athletes involved with his steroid program might be discovered through the drug-testing procedures which then existed at various competitions. From information he had received, he began to worry that an athlete might test positive and then deny his or her involvement with steroids and place the blame on him. He referred to the group who were involved with the steroid program as "belonging to the brotherhood of the needle," and described a scenario where one member of the brotherhood might be caught and might try to exonerate himself by placing the blame on the others. To protect himself, Dr Astaphan decided to engage certain people, including Mr Francis and Mr Johnson, in tape-recorded telephone conversations. His stated purpose was "to make sure that

they understood and admitted that they knew that they were taking anabolic steroids so that . . . my tail would be covered too." The following is the transcript of a telephone conversation which took place between Dr Astaphan and Mr Johnson on January 27, 1988:

- JOHNSON: Hello?
- ASTAPHAN: Hi?
- JOHNSON: Yeah?
- ASTAPHAN: What you doing?
- JOHNSON: Huh?
- ASTAPHAN: You going out?
- JOHNSON: I was just having lunch with someone.
- ASTAPHAN: Oh. They are — we saw the race — we saw the race in St. Kitts, the one in Ottawa.
- JOHNSON: Mm'hmm.
- ASTAPHAN: And you know, one of your muscles looked tight.
- JOHNSON: In Ottawa?
- ASTAPHAN: Yeah.
- JOHNSON: Not really. I just been tired and stuff.
- ASTAPHAN: Hmm'mmm.
- JOHNSON: I have travelled . . . (inaudible)
- ASTAPHAN: Yeah. Because one of your hamstrings, I think the left hamstring, looked as though it was tightening up a bit.
- JOHNSON: It was tight, yeah, it was tight.
- ASTAPHAN: It was. You haven't used any of the white stuff, the steroids, since December, have you?
- JOHNSON: Part of it, yes.

ASTAPHAN: Since December?

JOHNSON: Yeah.

ASTAPHAN: When did you do it? When was the last time?
Not the inosine, the other steroid, the white
one?

JOHNSON: Long time.

ASTAPHAN: Well — what — oh, you haven't used it
recently?

JOHNSON: Yeah.

ASTAPHAN: Because I put on the bottle that you must stop
on the 18th of December, something like that.

JOHNSON: Mm'mm.

ASTAPHAN: And you stopped then?

JOHNSON: Yeah.

ASTAPHAN: Oh! Because, you know, the bottle [sic] looked
pretty tight.

JOHNSON: Hm'mm.

ASTAPHAN: Charlie haven't given you any steroid shots or
anything by mistake?

JOHNSON: No.

ASTAPHAN: All right. You — you —you have more left in
the bottle?

JOHNSON: Yes.

ASTAPHAN: Okay. You going up to the track this afternoon?

JOHNSON: Yes, I'm going by the track this afternoon.

ASTAPHAN: Yeah. Okay. I'm going — I'm coming up there
about three, four o'clock. I'll meet you. I'm
in Toronto.

JOHNSON: Yeah. Okay.

ASTAPHAN: Okay. I'll see you up there then, Ben.

JOHNSON: Mm'hmm.

ASTAPHAN: All right.

JOHNSON: All right.

The transcript actually added very little, if anything, to all the testimony which had preceded it.

At the request of counsel for Mr Johnson, Dr Jack Sussman, who was Mr Johnson's family physician from November 1979 to the fall of 1988, was also called as a witness. In October 1987 Mr Johnson visited Dr Sussman's office and complained of tenderness in his left breast. Dr Sussman's examination revealed a condition known as gynecomastia, an enlargement of the breast tissue in males caused by use of anabolic steroids. Dr Sussman asked Mr Johnson if he was taking any steroid drugs and explained that the condition of gynecomastia was a common side effect of taking steroids. Mr Johnson denied taking any steroids at any time. Dr Sussman said he reviewed the matter with Mr Johnson three or four times. Dr Sussman checked the condition on two subsequent visits and the enlargement of the breast had disappeared by early January 1988.

In the end, the lengthy cross-examinations of the witnesses who preceded Mr Johnson turned out to be fruitless and, in many respects, were unfair. They extended the time of this phase of the Inquiry and added considerably to the expense.

By the time Mr Johnson took the witness stand on June 12, 1989, the evidence concerning his use of anabolic steroids and his understanding that he was doing so was overwhelming. No trier of fact could have concluded otherwise. In light of such evidence, it would have been quite impossible for Mr Johnson to maintain a credible position that he was

unaware he had been engaged in an anabolic steroid program for many years.

In his evidence, Mr Johnson did concede that for many years he had knowingly been involved in lengthy steroid programs and was well aware of it. Although he agreed with the testimony of the witnesses who had preceded him in its material respects, he, quite understandably, did not agree with or recall some of the details.

Mr Johnson testified that in the initial discussion he had with Mr Francis in the late summer of 1981 concerning the use of drugs, Mr Francis told him that other athletes were using drugs and that the only way to improve was to use steroids with his training. Mr Francis advised him to think about a drug program.

Mr Johnson recalled going to Dr Koch's office, and that Dianabol was mentioned. However, he did not recall the discussions between Dr Koch and Mr Francis about the performance-enhancing qualities and side effects of drugs. He claimed that the conversation was between Mr Francis and Dr Koch, and that he did not participate. Mr Johnson may very well have forgotten the details of the meeting, but I am satisfied that Dr Koch accurately described it.

Mr Johnson testified that in the early 1980s he did not fully appreciate the exact nature of the drugs he was taking. He stated that at that time he would go along with whatever his coach said. However, he understood, even then, that he had to stop taking the drugs within a certain time before a race so that they would clear his system. He also understood that the object of drug testing was to find out if there were any banned drugs in his system. He recalled taking the pink tablets given him by Mr Francis in 1982. He said he did not know at the time that they were steroids, but he knew they were banned "in certain ways" — apparently by the clandestine way in which Mr Francis handed them to him.

Mr Johnson did recall that the use of anabolic steroids and the fear of being caught in doping control at the Pan American Games in Venezuela in 1983 became a significant issue with many of the athletes. At that time, he was certainly aware some of the drugs he had been taking, such as Dianabol and Winstrol, were steroids. He understood that such drugs were banned and that if, after a drug test, they were found in an athlete's system, the athlete would be disqualified.

According to Mr Johnson, he first visited Dr Astaphan's office in January 1984 with Mr Francis in regard to an injured knee. Mr Johnson differed with Dr Astaphan's evidence in that he said there was no discussion of steroids on that first visit. Mr Johnson said he understood that Dr Astaphan was going to be his "track doctor to help me with injuries and any type of drugs such as B-12 or inosine, but Charlie didn't tell me that I am going to be there going to his office for any drugs at all like steroids or anything like that."

Mr Johnson further testified that neither Dr Astaphan nor Mr Francis ever discussed the possible side effects of anabolic steroids with him. He said that if he had been told of any potential side effects, he would not have been involved with a steroid program.

Mr Johnson recalled that Dr Astaphan introduced a drug called "estrugol," which he knew to be a steroid and banned, into his program in the fall of 1985. Dr Astaphan told Mr Johnson that it was a better drug, and that it would enable him to train a lot better, recover faster, lift more weights, and run faster. According to Mr Johnson, Dr Astaphan did not tell him about the side effects of "estrugol." Contrary to Dr Astaphan's testimony, Mr Johnson denied that he had asked the doctor a series of questions about the side effects of "estrugol."

In 1985 and 1986 during the training periods, Mr Johnson recalled going to Dr Astaphan's office three days a week for shots of "estragol," which Mr Johnson described as a milky white substance. Mr Johnson agreed with Mr Francis's testimony that after Dr Astaphan returned to St Kitts in September 1986, Mr Francis provided steroid injections to him on a regular basis. Mr Johnson also agreed that in the spring and fall of 1986, he took some Winstrol tablets in addition to the "estragol." During a training camp in St Kitts in December 1986, along with Angella Issajenko and Cheryl Thibedeau, he again received injections of "estragol" from Dr Astaphan.

Mr Johnson testified that during 1987 he was involved in an "estragol" program in the spring, early summer, and fall. He also stated that in the spring of 1987, Mr Francis gave him Winstrol tablets, which he took over a ten-day period.

Mr Johnson's involvement with performance-enhancing drugs in 1988 will be reviewed later.

I accept Mr Johnson's evidence that in the early days when he first embarked on a steroid program he was unaware of the exact drug or drugs he was taking, but, as he stated, even at that time he was well aware they were banned. On the basis of his own evidence, however, in the years succeeding the early 1980s, he was well aware that the drugs which he was receiving, either by way of tablet or by injection, were anabolic steroids, although he did not refer to them by that name.

I do not accept Dr Astaphan's testimony about the nature of his discussions with Mr Johnson on the side effects of steroids. The discussions were much more casual and less detailed than he described. However, Mr Johnson was well

aware that there were some side effects and, even after being advised by Dr Sussman on at least one such effect, he continued to take steroids.

It is clear that Mr Johnson was using performance-enhancing drugs from 1981 and throughout the years leading up to the Seoul Olympics in September 1988. It is also clear that he was fully aware he was doing so and that he fully understood the nature and consequences of the drug programs in which he was engaged.

12

The Positive Test

From 1986 until the Seoul Olympics in 1988, Mr Johnson was tested nineteen times for anabolic steroids and other banned drugs. Each of these tests was at the time of competition. Although he was engaged in extensive anabolic drug programs throughout that period, the results of the tests prior to Seoul were negative each time. He had never been tested out of competition.

Mr Johnson's coach, Charlie Francis, was one of the most experienced people in track and field. He possessed a sophisticated knowledge of the use of various drugs and, in particular, anabolic steroids. Mr Johnson's doctor, Jamie Astaphan, had been heavily involved for many years in the planning, supervision, and administration of steroid programs for many athletes. Mr Francis and Dr Astaphan were knowledgeable about the times it took for particular drugs to clear the human body. The calculation of "clearance times" in order to avoid a positive test was an important

part of their regular strategy as coach and doctor for Mr Johnson and a number of other athletes. It was therefore a surprise to some informed people in track and field who knew about the use of steroids that Mr Johnson would still have traces of an anabolic steroid in his system at the time of the most important race of his career. The answer to how Mr Johnson tested positive can be found only by an analysis of the events of 1988 leading up to the Olympic Games.

WINTER AND SPRING OF 1988

In the early indoor season in January 1988, Mr Johnson appeared to be ready to repeat his successes of 1987. He competed in Hamilton, Vancouver, Toronto, Ottawa, and Sherbrooke. At the Maple Leaf indoor games in Toronto, he set a new world record in the 50 yards. He then moved on to the European indoor circuit. In the middle of February in West Germany, while competing in a 60 metre race, he suffered an injury to his hamstring muscle. As a result, Mr Johnson was unable to compete for the balance of the indoor season.

After a holiday on the island of St Kitts, Mr Johnson returned to Toronto and began training again in March. At the same time, he began a six-week steroid program of "estrugol" injections, administered by Mr Francis, which was interrupted by a number of travel engagements connected with his endorsement contracts.

Arrangements were made for Mr Johnson to return to competitive racing in mid-May. The plan devised by Mr Francis was to enter him in his first outdoor race on May 13 in Tokyo, where the competition would be easy and not likely to push Mr Johnson to the limit. In the Tokyo race, Mr Johnson again suffered an injury to his hamstring

muscle below the site of the original injury. This time the injury involved a tear of the muscle, which was serious for an athlete embarking on a training and competitive program leading up to the Olympic Games in September.

After Tokyo, he was scheduled to go almost immediately with a group of Mr Francis's sprinters to a training camp and a series of competitions in Spain, followed by meets in Italy, Switzerland, and France. Mr Francis was concerned that Mr Johnson had not taken proper care of himself and had not received appropriate attention after his injury in February. Mr Johnson had simply gone on a holiday to St Kitts at a time when Dr Astaphan was not even on the island. Mr Francis did not want to repeat the same mistake.

Mr Francis thought that Mr Johnson should travel with the group to Europe and receive treatments from Waldemar Matuszewski, the group's massage therapist. While still in Tokyo, Mr Francis contacted Dr Astaphan in St Kitts and requested that he join the group in Europe and attend to Mr Johnson's injury. Mr Francis would then be able to supervise Mr Johnson's training program in Europe. Mr Johnson at first agreed to this arrangement, but when he returned to Toronto he told Mr Francis he did not wish to go to Europe because of the strain of travel and the constant attention he would likely receive from members of the public and the media.

Mr Francis understood Mr Johnson's concerns but he was adamant that he accept his plan. He told Mr Johnson that they could not afford to make another mistake. Mr Johnson reluctantly agreed and arrangements were made for him to travel to Spain via Helsinki, where he was to televise a commercial. He was to be accompanied by Dr Astaphan, Mr Matuszewski, and his agent, Larry Heidebrecht. Mr Francis went with the other athletes via London to Malaga, Spain.

Mr Johnson and Dr Astaphan did not arrive in Malaga. At the last minute, Mr Johnson simply refused to go to Europe. He apparently called Dr Astaphan in St Kitts and made arrangements to go to the Caribbean and begin his rehabilitation and recovery program there under Dr Astaphan's supervision. Mr Francis and Dr Astaphan discussed the program by telephone between Malaga and St Kitts, and, although Mr Francis was satisfied that Mr Johnson would get appropriate medical care from Dr Astaphan, he still had considerable misgivings about his being in St Kitts away from his therapist and coach. Mr Francis continued to attempt to get Mr Johnson to travel to Spain and pressed Mr Heidebrecht to make the arrangements. There is not much doubt that Mr Johnson's failure to travel to Spain and follow the Francis plan was the source of considerable friction between Mr Johnson and Mr Francis and the beginning of a deterioration in their relationship.

Before Mr Johnson went to St Kitts, he contacted Ross Earl of the Scarborough Optimist Track and Field Club. As he did with many of the athletes, Mr Earl had developed a close relationship with Ben Johnson. Mr Earl had assisted Mr Johnson in some of his financial dealings, and, in particular, he had kept large sums of cash that Mr Johnson had received as appearance fees from track promoters in a safe at his home. He subsequently forwarded some of it to the Canadian Track and Field Association, where it was deposited in Mr Johnson's athlete reserve fund. Before going to St Kitts, Mr Johnson asked Mr Earl to give him \$10,000 from the funds in the safe for Dr Astaphan, and Mr Earl obliged. He did not tell Mr Earl what the money was for, although Mr Earl believed that Mr Johnson owed Dr Astaphan some money for previous services.

Dr Astaphan testified that he requested and received the \$10,000 from Mr Johnson for the purchase of ten bottles of growth hormone to be used in his treatment of Mr Johnson's

injury. Arrangements were made for part of the \$10,000 to be delivered to Toronto bodybuilder Steve Brisbois, who was to obtain the growth hormone from black market sources. Mr Brisbois was not able to deliver, but Dr Astaphan obtained the growth hormone through other sources and then administered injections of it to Mr Johnson.

While Mr Johnson was in St Kitts, Dr Astaphan supervised his training. Dr Astaphan also provided him with medications, including growth hormone, and provided medical attention for his various needs.

Mr Johnson had an obligation under an endorsement contract with an Italian sports clothing company to appear in Padova in mid-June. Mr Johnson agreed to keep that commitment, so he and Dr Astaphan travelled to Italy. Mr Francis was also scheduled to be in Padova for a track meet. This was the first opportunity for Mr Francis and Mr Johnson to meet face-to-face since Mr Johnson had rejected Mr Francis's plan to travel with the group to Europe. At first, Mr Johnson and Mr Francis did not speak to each other when they met. Mr Francis was upset that Mr Johnson had not gone to Europe sooner, and by this time Mr Johnson was upset because Mr Francis had not called him personally in St Kitts to ask about his condition. Mr Francis also became upset with Mr Johnson because he showed up at the track meet in Padova wearing street clothes rather than the track suit of his Italian sponsor.

After the meet, Mr Johnson and Mr Francis met in Mr Johnson's hotel room where, after a heated discussion of their differences, they agreed to part company as coach and athlete. Mr Johnson and Dr Astaphan left Padova the next day to return to St Kitts via London.

Mr Francis had been Mr Johnson's only track coach. How Mr Johnson was going to continue without him was not clear. While in Padova, a conversation took place between Mr Matuszewski and Dr Astaphan. According to

Mr Matuszewski, Dr Astaphan proposed that Mr Matuszewski stop working with the other Canadian athletes and work exclusively with Mr Johnson together with Dr Astaphan. In this scenario, Mr Matuszewski would be the therapist and Dr Astaphan the personal physician and coach.

Mr Matuszewski said Dr Astaphan offered him U.S.\$5000 per month at that time, and, if Mr Johnson won the gold medal, Mr Matuszewski would be paid U.S.\$250,000 and would receive, in addition, 5 percent of the endorsement fees. Dr Astaphan was to receive the same remuneration, except the monthly payment was to be U.S.\$10,000 rather than U.S.\$5000. Mr Matuszewski simply told Dr Astaphan to prepare the contract and they would discuss it.

Dr Astaphan's version of this discussion is different. According to him, it was Mr Matuszewski who made the proposal that he become the exclusive therapist to Mr Johnson, and that Dr Astaphan become the physician and coach and also become involved in Mr Johnson's management. Dr Astaphan said some dollar figures were discussed, but he did not pay much attention. Dr Astaphan said he told Mr Matuszewski to discuss the matter with Mr Johnson.

Whatever version of the proposal is the correct one, nothing ever came of it. However, the fact that the discussion took place illustrates that Dr Astaphan and Mr Matuszewski at this time were obviously considering their own self-interest in the progress of Mr Johnson's career. In addition to everything else, this was further evidence of disarray in the Johnson entourage on the road to Seoul.

According to Mr Johnson, he thought Mr Matuszewski would continue to work with him as a therapist and that Dr Astaphan would continue as his doctor. As far as coaching was concerned, he would get help from some of the other coaches at the high-performance centre at York University.

Mr Johnson and Dr Astaphan returned to St Kitts about the third week in June. Mr Johnson's hamstring injury had healed to the point where he was able to recommence his training, and, at that time, Dr Astaphan also administered injections of growth hormone, inosine, and vitamin mixtures.

Through a contact made by Mr Heidebrecht, arrangements were then made to have Jack Scott of California, along with his associate Doug Casey, visit St Kitts to provide treatments with what was described as a myomatic machine. Dr Astaphan explained that this machine was a transcutaneous electrical nerve stimulator, but, in his opinion, the treatments, which were given over about five days, did not do any particular good.

Much publicity was focused on Mr Scott after the Olympic Games and during the course of this Inquiry, when it was revealed that he had also had some connection as a therapist to Carl Lewis of the United States prior to the Olympic Games. Mr Scott made himself available to my investigators for an interview and it was decided that nothing would be gained by calling him as a witness. I am satisfied that Mr Scott's relationship to Mr Lewis and his treatment of Mr Johnson with the myomatic machine, while appearing intriguing, were purely coincidental and irrelevant to the events which transpired.

Mr Johnson testified that, during this second visit to St Kitts in June, he received various pills and injections from Dr Astaphan. Included in the treatments were injections of "estragol."

SUMMER OF 1988

Mr Johnson returned to Toronto from St Kitts in late June and Mr Francis returned a couple of days later from Europe. At a meeting arranged by Mr Earl, Mr Francis and Mr Johnson

agreed to resolve their differences and Mr Johnson began training the same day under Mr Francis. At about this same time, Mr Earl undertook to deal with other members of the Johnson entourage in order to consolidate the group which had been almost split asunder by the events of May and June. In late June and in July, therefore, he had meetings with Mr Heidebrecht, Mr Matuszewski, and Dr Astaphan.

Mr Earl said he tried to emphasize with each of the people in the entourage, including Mr Francis, that they should confine their activities to their particular area of expertise. Also, because there had been adverse press comment about the group, including a suggestion that Mr Johnson was on steroids, each was told to confine his statements to the media to his own specialty.

As far as Dr Astaphan was concerned, there was an outstanding issue over what, if anything, he would be paid for his future medical services. In May, Mr Heidebrecht arranged for Dr Astaphan to receive U.S.\$25,000 from funds obtained from the Mazda company for its sponsorship of the Francis sprinters. The U.S.\$25,000 was a bonus which had been promised to Dr Astaphan after the world championships in 1987. However, Mr Earl said that Mr Johnson had asked Dr Astaphan to set aside his practice in St Kitts and be with him up to the time of the Seoul Olympics. Dr Astaphan expected to be paid for his time away from his medical practice. A sum of U.S.\$10,000 per month was agreed upon between Mr Johnson and Dr Astaphan.

The agreement was confirmed in writing by Dr Astaphan in a letter, dated July 19, 1988, to Mr Earl. In addition to the U.S.\$10,000 per month, Mr Johnson was to pay travel expenses for Dr Astaphan and pay for "all medication(s), nutritional supplement(s), and all other necessary equipment(s) such as bandages, splints, etc." This agreement was sent to the CTFA and payments pursuant to it were made from Mr Johnson's athlete reserve fund.

Mr Earl also arranged for the payment of a sum of U.S.\$25,000 to Mr Matuszewski. As with the U.S.\$25,000 paid to Dr Astaphan, the money was provided from funds obtained from the Mazda company through arrangements made by Mr Heidebrecht. Mr Earl gave Mr Matuszewski U.S.\$18,750 in cash during the Canadian national track and field championships in Ottawa on August 6, 1988. This sum was said to be for payment for services to Mazda-sponsored athletes for the first three-quarters of 1988. The final instalment of U.S.\$6250 was to be delivered after the Olympic Games.

At the time that Mr Earl delivered the cash to Mr Matuszewski in Ottawa, he asked him to sign a handwritten document prepared by Mr Earl. The document reads as follows:

I Waldemar Matuszewski have received from Ross Earl (Mazda Optimist TC) 18,750 US dollars as payment for services to club athletes for the first 3 quarters of 1988. The fourth & final quarter of 6,250 US dollars will be deposited with Les Sosnowski after the Olympic Games. This bonus money has been made available to me through the Mazda Company and in no small way due to the success of Desi [sic] Williams, Angella Taylor, Mark McKoy and especially Ben Johnson. I realize and accept my position in the structure around these athletes and will reserve my comments to my field and within my professional field of expertise. I will make no comments or opinion statements on things that are not in my direct field [and] within my job description that could be construed as negative or damaging to the athletes or the club or any sponsors connected to them. My position (job description) with the club athletes is as a specialist in muscle massage & treatment to relax the muscles and prepare them for an optimum performance. My directions come from coach Charlie Francis and Dr Geo Astaphan. I realise that in working as closely as I do with these athletes that I may from time to time be privy to private and confidential information which will be treated as such with respect to my clients and their unique position in the world. My actions are within the IAAF rules and I will not claim otherwise in the future.

On the same day in Ottawa, Mr Earl requested Dr Astaphan to sign a handwritten document, which reads:

I Doctor George Astaphan as the chief physician of Ben Johnson and the person most responsible for his physical and mental well being will make statements only which pertain to my professional position about the athlete. I understand the job description [and] can fulfill my commitment to Ben. I realise that in working as closely as I do with this athlete I may find myself from time to time to be privy to private and confidential information which will be treated as such with respect to my client and his unique position in the world. My actions are within the IAAF rules and I will not claim otherwise in the future.

Mr Earl's explanation for asking Mr Matuszewski and Dr Astaphan to sign these documents was evasive, as were his reasons for including the last two sentences in each document. Dr Astaphan testified that at the time he was asked to sign he was at the side of the track in Ottawa, watching Mr Johnson warm up for the competition, and that he signed the document without reading it. He agreed that some of the language in the document appeared to be there so that he would not reveal publicly that Mr Johnson was on steroids. He acknowledged that his actions were not within the IAAF rules. He said that he would not have signed the document if he had read it. When Mr Matuszewski testified, he said that he understood the statement signed by him meant he should keep confidential the fact that some of the athletes he was assisting were using steroids.

It is quite clear that Mr Earl was trying to guard against Dr Astaphan's or Mr Matuszewski's going public with the fact that Mr Johnson was taking steroids.

By this time, Mr Francis had also received the sum of U.S.\$20,000, which appears to have been arranged for him by Mr Heidebrecht and paid out of funds provided by the sponsor. Mr Francis testified that Mr Johnson was fully aware of this payment.

COMPETITIONS PRIOR TO SEOUL

Mr Johnson's first race after his Tokyo injury was at the Canadian national championships on August 6, 1988, in Ottawa. He won the 100 metre event in a wind-aided time of 9.90 seconds. Mr Francis was satisfied with his performance and believed he was on schedule in his preparation for Seoul. After the nationals, Mr Johnson and the other members of the Francis sprint group left immediately to compete in meets in Italy, Switzerland, and Germany.

At the first meet in Sestriere, Italy, on August 11, Mr Johnson won the 100 metres in 9.98 seconds. The next race for him was in Cessanatico, Italy, on August 13, where he ran in a 4 x 100 metre relay.

There was still concern about the state of his injured leg and whether it had been adversely affected by the race in Cessanatico. Discussions took place whether he should compete in a much-publicized race to be held on August 17 in Zurich against Carl Lewis of the United States. On Dr Astaphan's advice, Mr Johnson decided to run. Mr Lewis finished first in a time of 9.93 seconds, Calvin Smith, also of the United States, was second in 9.97 seconds, and Mr Johnson finished third in a time of 10.00 seconds. His performance had deteriorated from that in Sestriere. Desai Williams finished seventh in the same race. Angella Issajenko ran in the women's 100 metres, but was unable to perform well because of a hamstring injury.

After Zurich, Ms Issajenko returned home to take a few days' rest and receive treatment for her injury. Mr Johnson and the others went to Cologne, and Mr Johnson competed there on August 21. Calvin Smith of the United States was first and Dennis Mitchell of Great Britain was second. Mr Johnson ran third in a time of 10.26 seconds, a further deterioration in his performance. Mr Williams was fourth

in a time of 10.28 seconds. Mr Francis testified that he had expected Mr Johnson to win this race easily.

In Cologne, Mark McKoy entered the 100 metre race because there was no hurdles competition. Although he ran well in his heat, he suffered a slight strain to his hamstring and stopped after about 60 metres in the final heat.

Following the competition in Cologne, the Francis group decided to withdraw from the final European meet scheduled to be held in Berlin and return to Toronto. Mr Francis was concerned with the condition of his athletes and the somewhat hectic European schedule which had started with the meet at high altitude in Sestriere in the Italian Alps. He felt there had not been an adequate rest period after the Canadian national championships. He described the decision to return home as follows:

We cancelled the competition. It was clear that a problem had been ensuing and we had an injury to Angella Issajenko. We had the problem, the slight injury to Mark, and we had Ben deteriorating.

Further, it wasn't — we believed that this altitude scenario was confirmed by other athletes who also appeared to have problems. The other Canadians who had come over to Europe and run in Sestriere had problems with the one exception which was Jillian Richardson simply because she ran a 200 metres dual meet rather than her usual event which was 400. And she stayed out of Zurich and rested and ran only in Cologne. So she was the only one of the Canadians who appeared to be on target.

So, I tried to evaluate not only what happened to my athletes, but in fact what happened to all the athletes who went on this same roundabout. And my conclusion was that the altitude trip and the short break was the main contributing factor in the performances.

At the conclusion of the European tour, the Francis group was less than one month from the start of the Olympic Games. Messrs Johnson and McKoy and Ms Issajenko had

each had disappointments on the European circuit. The greatest concern was for Mr Johnson and Ms Issajenko. Mr Johnson appeared to be deteriorating in each of his races and Ms Issajenko had gone home immediately after Zurich with a hamstring injury.

THE LAST STEROID PROGRAM

Dr Astaphan and Messrs Francis, Matuszewski, and Johnson returned to Toronto on August 22. Ms Issajenko had returned a few days earlier. The group was scheduled to leave for the Canadian Olympic team staging camp in Vancouver on September 6. From Vancouver they would go to Tokyo, where they would do further training and participate in a preparatory track meet on September 14 before moving on to Seoul.

It was decided to embark on a short steroid program. Mr Francis designed the training program for each of his athletes to follow after their arrival in Toronto and before their departure for Seoul. Dr Astaphan designed a program of inosine, "estrugol," and growth hormone for Ben Johnson, Angella Issajenko, Desai Williams, and Mark McKoy. As Dr Astaphan explained, "We decided to put them on a very quick program. The rationale was that . . . they had just completed a very strenuous trip, including the running parts of it, and they needed a little bit of rehabilitation and rebuilding."

The program was discussed on the way back from Europe and then at an informal meeting at the York University high-performance centre at which it appears Dr Astaphan, Ms Issajenko, and Messrs Francis, Johnson, McKoy, and perhaps Mr Williams were present. Dr Astaphan stated that he provided each of the athletes with a handwritten sheet, and that Mr McKoy and Mr Williams shared a sheet,

setting out the protocol for the taking of inosine, "estragol," and growth hormone. Each sheet advised the athletes when to take the particular substance and in what amount. The original protocol sheet for Ms Issajenko was filed as an exhibit in the Inquiry. At the top of the sheet were the following three headings:

E G I

Under each heading, the dates on which the respective drugs were to be taken and the dosages were set forth. "E" stood for "estragol," "G" stood for growth hormone, and "I" stood for inosine.

At the time that the protocol sheets were handed out, Dr Astaphan provided Ms Issajenko with a bottle of growth hormone for which she paid him U.S.\$1000. He also provided growth hormone to Mr McKoy and Mr Williams, although there is some question whether he provided them with a bottle each or one bottle between them. In any event, Mr McKoy and Mr Williams received the growth hormone from Dr Astaphan. At that time, he did not provide any growth hormone for Mr Johnson because he already had a supply.

Although the protocol sheet for Mr Johnson was not available at the time of the Inquiry, Mr Francis testified that he gave Mr Johnson an "estragol" and inosine injection on August 24 in his apartment. Dr Astaphan testified that he gave Mr Johnson two "estragol" injections, between August 25 and August 28.

While he was in Toronto during this period, Dr Astaphan gave Mr Johnson, Ms Issajenko, and Mr Williams (Mr Williams was to share his supply with Mr McKoy) a prescription for a drug called Moduret. Moduret is a diuretic and therefore a banned substance. This was a departure

from the normal medications which Dr Astaphan's athletes received. It was obviously given to the athletes to speed up the excretion of the steroids from their systems.

During the same period, Dr Astaphan made arrangements for these athletes to attend at the offices of a Toronto physician, Dr John Fenn, to receive diapulse treatment. They all presented themselves at Dr Fenn's office. These visits were also unique in that for the first time the athletes were sent out for diapulse treatment, although Dr Astaphan himself at one time had such a machine in his office. The treatment was intended to aid in flushing the steroids from their systems. When the group was in Tokyo prior to leaving for Seoul, there was further evidence that additional supplies of diuretic pills were supplied by Dr Astaphan. Although he denied this, I accept the evidence of the athletes who so testified.

While the group was still in Tokyo, Dr Astaphan had a few bottles of vinegar and honey with him. Mr McKoy testified that he understood the mixture of vinegar and honey was a masking agent and that Dr Astaphan asked him to carry one of those bottles to Seoul. Mr McKoy did so, and later testified:

And then prior to, prior to the final of the 100 metres I gave it to Desai. And I said, "Jamie told me to give this to you guys for after the 100 metres." And I believe I said something like, you know, you don't need it anyways, so just give it to Ben.

Mr Johnson received the bottle of vinegar and honey from Mr Williams just before he ran the 100 metre final. He stated:

Well, the day of the race in Seoul, I was in the area where they call all the athletes in, and Desai came up to me with a water bottle and asked me that Jamie said I must drink this vinegar and honey.

Mr Johnson testified that he did not know what the bottle of vinegar and honey was for and that he did not drink it.

The designing of a quick steroid program so close to a competition was inconsistent with past practices. It was apparent that on their return from Europe, Dr Astaphan and Mr Francis concluded that Mr Johnson did not appear to be ready at that time to win a gold medal at the Olympic Games. There had been a dramatic deterioration in his performance, and I think they panicked. They were within one month of the Olympics and the date for the final heat in the 100 metres event was scheduled for September 24, 1988 (South Korea time). To embark on a steroid program so close to a competition was risky and they knew it. With three injections of "estrugol" having been given, one on August 24 and two between August 25 and August 28 (Toronto time), the last probably on August 28, there was less than the usual assumed clearance time of twenty-eight clear days before the final 100 metre event (September 23, Toronto time). They obviously hoped that the diuretics and the diapulse treatment would flush out the steroids from Mr Johnson's system within that period of time. The vinegar and honey mixture was also intended as a masking agent. As the test results showed, however, their plan failed.

Ms Issajenko testified that while she was in Korea and after learning of Mr Johnson's positive test, she discussed the possibility of sabotage with Mr Williams. With respect to that conversation, she testified:

And Desai said to me that he did not believe it was sabotage. He said I (Williams) passed with twenty-eight days at the Nationals, I gave it twenty-eight days here, and *I just think Ben and Jamie cut it too close.* [Emphasis added]

Although Mr Williams denied making this comment, I accept Ms Issajenko's evidence that he did. Mr Williams was right when he concluded that "Ben and Jamie cut it too close."

There remains to be considered Dr Astaphan's contention that at the relevant time he was administering "estragol" and not stanozolol to Mr Johnson.

13

“Estragol”

Throughout his testimony, Dr Astaphan insisted that although metabolites of stanozolol had been detected in Mr Johnson's urine sample in Seoul, the injectable steroid he was administering to Mr Johnson was not stanozolol. According to Dr Astaphan, it followed that Mr Johnson must have obtained stanozolol from some other source, and that he was in no way responsible for the positive test.

Dr Astaphan testified that in 1985 he received a telephone call from a man in Montreal who said he had an athlete from the Eastern Bloc (East Germany) who wanted to obtain a quantity of Dr Astaphan's inosine/vitamin B-12 mixture. In return, this athlete was prepared to exchange a quantity of an injectable steroid used by certain elite East German athletes. The man from Montreal, together with the East German athlete, arrived in Toronto the next day and Dr Astaphan received forty-eight vials of the steroid in return for 144 bottles of the inosine/vitamin B-12 mixture.

According to Dr Astaphan, the injectable steroid was in fact furazabol, which was manufactured in Japan by the Daiichi Seiyaku Company of Tokyo under the trade name Miotolon. He reached an understanding with the East German that he would refer to the drug as "estragol" so that the U.S. competition would not find out about it.

When Dr Astaphan received the vials, the East German had taken the labels off and had kept them. Dr Astaphan claimed he had read the package insert and also an excerpt from a pharmaceutical compendium. The East German told Dr Astaphan the doses they had been using in Germany, the regimen they had followed for almost four years, and the results they had obtained from using this drug. Dr Astaphan further testified that the East German team which used the drug "had definitely come to prominence in the past four or five years." He would not disclose the name of either his friend in Montreal or the East German, stating that he refused to do so because his personal security and that of his family were at risk.

Dr Astaphan claimed that the drug was an anabolic steroid similar in chemical structure to stanozolol, but that it did not have the same androgenic side effects. He said he had read a copy of a clipping from an Italian text called *Repertorio Terapeutico*, which contained some information about it, and that he had discussed the drug with a Canadian doctor, whom he believed to be knowledgeable, and with some Eastern European and U.S. physicians. He learned that the clearance time for the drug was a maximum of eleven days, although he claimed to have known one athlete who passed a drug test administered by the IOC only three days after receiving this drug. As a result of the information he received, he made a decision to introduce this injectable steroid drug to his athlete patients.

Dr Astaphan admitted that in describing the drug to his athlete patients, he used the name "estragol." He said he told Mr Francis and the athletes, however, that "estragol" was an assumed name and that it was actually furazabol, a drug manufactured in Japan which was similar in chemical structure to stanozolol.

Mr Francis and the athletes who testified all knew the drug to be an anabolic steroid. They knew it only under its assumed name of "estragol." It is quite clear from the evidence that they all believed the name of the anabolic steroid to be "estragol," but referred to it as "the milky white stuff" or "the milky white substance."

When Commission counsel first learned of Dr Astaphan's contention that it was the drug furazabol he was injecting into his athlete patients, an inquiry was commenced into the possibility that the laboratory in Seoul had mistaken stanozolol for furazabol. From Mr Johnson's point of view, this was an academic exercise. He understood that he was being injected with an anabolic steroid, and, even if furazabol had been detected, he would still have been disqualified. For this reason, his counsel quite properly did not pursue this issue. In light of Dr Astaphan's contention, however, it was felt necessary to investigate the matter.

The drug being administered by Dr Astaphan was an injectable steroid which came in 30 mL vials. After considerable effort, samples of furazabol in tablet form were obtained by the Commission. Furazabol as an injectable steroid was unobtainable.

Tests were conducted on behalf of the Commission at the drug-testing laboratory of the Foothills Hospital in Calgary and the Vanderbilt Laboratory in Nashville, Tennessee, both of which had special expertise in such matters. They reported that furazabol detection could not be confused with stanozolol or stanozolol metabolite detection by standard doping control gas chromatography/mass

spectrometry procedures, the procedure which had been applied in the laboratory in Seoul. This confirmed that there had been no mistake in the analysis made in Seoul. The analysis of Mr Johnson's urine sample detected stanozolol and not furazabol.

Further inquiries were made about the drug furazabol. As I stated earlier, samples of these drugs in tablet form were obtained, but no furazabol in injectable form could be found. Although at one time injectable furazabol was manufactured for the Japanese market by Daiichi, it was discontinued in 1980. Furthermore, injectable furazabol only came in single-use vials and was never manufactured in 30 mL vials. Since it was manufactured for Japanese purposes only, the labels and the package insert were only in the Japanese language. I am satisfied that Dr Astaphan never purchased 30 mL vials of furazabol from the East German athlete as he contended.

When Dr Astaphan gave up his practice in Toronto in 1986 and moved back to St Kitts, he gave Mr Francis a large supply of the inosine/vitamin B-12 mixture and of 30 mL vials of "estragol." Dr Astaphan also gave a vial of "estragol" to Mr Johnson for his own use.

Mr Francis, in Dr Astaphan's absence, took on the responsibility of injecting the athletes with "estragol." He did so in his apartment in Toronto in a clandestine fashion. The athletes described how they visited Mr Francis at his apartment and secretly went to his bedroom, where they received the injections. Because many athletes who were not on steroids also visited Mr Francis, there was concern that one or more of these athletes might observe the use of steroid drugs by the other athletes. In the spring of 1988, then, Mr Francis kept one of the vials in his own possession and turned over the remaining vials of "estragol," which he had obtained from Dr Astaphan, to Ms Issajenko to store for him.

On November 22, 1988, Ms Issajenko handed over to Commission investigators twelve vials of "estragol," the balance of what she had received from Mr Francis. These vials were filed as exhibits. When the vials were shaken, the substance gave the appearance of a "milky white substance." The athletes who testified they had received injections of anabolic steroids from Dr Astaphan identified the vials obtained from Ms Issajenko as being identical to the vials used by Dr Astaphan when he was injecting them with "estragol."

Although Dr Astaphan admitted that before returning to St Kitts he had given Mr Francis a large supply of the 30 mL vials of the "milky white substance," his counsel challenged the continuity of possession of those vials before the Commission. He suggested that the vials Ms Issajenko handed over to Commission investigators were not the vials she had obtained from Mr Francis. There is no doubt in my mind, however, about the continuity of the exhibits, and I am satisfied that the vials Ms Issajenko handed over to the Commission were the vials she received from Mr Francis.

The twelve vials of the substance obtained from Ms Issajenko were taken to the Health Protection branch of Health and Welfare Canada for analysis. The milky white substance in each of the twelve vials was analysed and a certificate of analysis disclosed that the substance in each vial was found to contain stanozolol.

As part of the Commission's inquiry into the source of anabolic steroids, investigators visited pharmaceutical suppliers to find out to whom they were selling the product and in what quantities. As mentioned earlier, the trade name for stanozolol in Canada is Winstrol and it is sold by Sterling Drug Ltd of Aurora, Ontario. Stanozolol tablets for human use are sold under the trade name Winstrol. Stanozolol tablets for veterinary use are sold under the

name Winstrol-V. Stanozolol in injectable form is also sold under the trade name Winstrol-V and is manufactured for veterinary use only. It is different in composition from the tablet form of Winstrol and Winstrol-V. There is no injectable form of Winstrol manufactured for human use.

The sales records of Sterling Drug Ltd, entered in evidence, revealed that between 1985 and 1987 Dr Astaphan had purchased sixty-eight vials (30 mL per vial) of injectable Winstrol-V and sixty-five bottles (100 tablets per bottle) of Winstrol-V tablets. In explaining his purchase of Winstrol products for veterinary use, Dr Astaphan claimed that he had obtained them for a friend in St Kitts, Don Hiatt, who used them to fatten up his animals prior to selling them in the island market. At Dr Astaphan's request, Mr Hiatt was called as a witness and purported to confirm Dr Astaphan's evidence in that respect. All that need be said about Mr Hiatt's evidence is that it was completely incredible.

Dr Astaphan denied giving any drugs manufactured for veterinary use to any athlete. Tim Bethune, who competed in the 400 metre events, testified that he had visited Dr Astaphan to obtain anabolic steroids from him. He said that in his earlier visits he received little pink pills from Dr Astaphan, which he understood to be anabolic steroids, but he was not told what drug it was. On one visit, however, after being given a supply of pills, he noticed that Dr Astaphan had thrown the bottle from which he had taken the pills into the wastepaper basket. Out of curiosity, he asked to see the bottle and noticed that the label described the contents as being Winstrol-V tablets manufactured for veterinary use only. Although this was denied by Dr Astaphan, I accept the evidence of Mr Bethune. Dr Astaphan admittedly had Winstrol-V tablets in his possession, and Mr Bethune could not have known about that unless he had actually seen the bottle and the label.

Samples of injectable Winstrol-V were obtained from Sterling Drug Ltd and filed as exhibits. The vials were identical to those provided to the Commission by Ms Issajenko. When the contents were shaken, they also gave the appearance of a milky white substance.

Andrew Holmes, a chemist in the Forensic Laboratory of the Health Protection branch, conducted further analyses of the substances in five of the twelve vials obtained from Ms Issajenko. He also reported that they contained stanozolol. He was asked to conduct a similar analysis of the injectable anabolic steroid Winstrol-V which had been obtained from Sterling Drug Ltd. He was also asked to analyse the components of the substance of the five vials obtained from Ms Issajenko and compare them with the components of the injectable steroid Winstrol-V.

As with the earlier analyses by the Health Protection branch, the analyses carried out by Mr Holmes established that each of the five vials obtained from Ms Issajenko contained stanozolol, as did the substance in the vial obtained from Sterling Drug Ltd under the trade name Winstrol-V. His analyses of the contents of the vials obtained from Ms Issajenko disclosed that in addition to stanozolol there were present water, sodium chloride, thimerosal, and polysorbate 80. The components of injectable Winstrol-V are stanozolol, water, sodium chloride, thimerosal, and polysorbate 80. In other words, the substances obtained from Ms Issajenko are identical to injectable Winstrol-V.

Notwithstanding his protestations to the contrary, I am satisfied that when Dr Astaphan introduced "estrugol" to his athlete patients in 1985, he was in fact administering stanozolol and that, even more disturbing, the stanozolol he was administering was the injectable Winstrol-V which he had purchased from Sterling Drug Ltd. I am also satisfied that Dr Astaphan never told the athletes that the drug he was providing to them was in fact a veterinary product.

The injections given to Mr Johnson by Mr Francis and Dr Astaphan in Toronto in August 1988 were injections of stanozolol. The analysis of the sample taken in Seoul indicating long-term use of steroids by Mr Johnson is consistent with the foregoing evidence.

Other Track Athletes

In addition to Angella Issajenko and Ben Johnson, other track athletes testified before the Inquiry. Many had been involved in the use of anabolic steroids and other performance-enhancing drugs. This group included Tony Issajenko, Molly Killingbeck, Dave McKnight, Tony Sharpe, Michael Sokolowski, and Cheryl Thibedeau. I do not propose to deal with each of these athletes individually, since little can be gained from a detailed recital of each individual's involvement with performance-enhancing substances. This does not mean that their evidence was not important. On the contrary, these witnesses gave significant evidence of their own use of performance-enhancing drugs, the use of such drugs by others, and the circumstances surrounding such use. Their evidence was invaluable in helping me assess the nature and scope of the problem.

I will deal specifically with the involvement in the use of performance-enhancing substances by Desai Williams, Mark McKoy, and Julie Rocheleau. These athletes were members of the Canadian Olympic team in 1988 and, therefore, occupied significant positions in the sport of track and field. Moreover, Messrs Williams and McKoy disputed some of the evidence concerning their alleged drug use, and Julie Rocheleau chose not to appear as a witness at the Inquiry although requested to attend. I believe it is appropriate, therefore, to review the evidence and come to my own conclusions insofar as they relate to the use of banned substances by these athletes. I have already made some reference to Messrs Williams and McKoy, but there is more to their involvement with banned substances. In addition, the evidence of Tim Bethune, already discussed in part, merits further elaboration.

Desai Williams

Desai Williams was one of Canada's leading sprinters. His events were the 100 and 200 metres. In 1983 he held the Canadian record of 10.17 seconds for the 100 metres. He was a member of Canada's Olympic team in 1980, 1984, and 1988. He was a member of the Scarborough Optimist Track and Field Club and was coached by Charlie Francis from 1978 to 1983 and, again, from the fall of 1987 to the Seoul Olympics. He was in the 100 metre final at Seoul.

According to Mr Francis, the possibility of Mr Williams's commencing an anabolic steroid program arose in a discussion between them in the late summer or early fall of 1981. As in the case of Ms Issajenko and others, Mr Francis suggested to Mr Williams that he see Dr Gunther Koch and discuss with him the merits of taking anabolic steroids. Mr Williams denied that he had such a discussion with Mr Francis, although he admitted going to the doctor's

office. Mr Williams also denied that he had gone to Dr Koch's office for the purpose of discussing a steroid program, but the doctor's notes of a visit in April 1982 suggest otherwise. They reflect the fact that Mr Williams asked about going on a program of Dianabol. Mr Williams suggested that he was unaware of the purpose of the visit to Dr Koch's office and implied that Mr Francis had somehow tricked him into going. He agreed that there was a discussion about anabolic steroids, but stated that it was solely between Mr Francis and Dr Koch and that he did not take part. He did agree that the doctor, as is reflected in his notes, had suggested steroids were not necessary for him.

Dr Koch testified that during the visit Mr Williams provided him with a requisition for certain laboratory tests. Subsequently, Dr Koch received a report from the laboratory, which he produced from his files. Mr Williams denied that he ever received such a requisition or visited the laboratory.

Mr Williams admitted that after leaving the doctor's office, Mr Francis provided him with a bottle of steroid tablets but claimed that he threw them away when he got home. During 1982 Mr Francis certainly assumed that Mr Williams was taking anabolic steroids. Mr Williams admitted that he led Mr Francis to believe this, but claimed he did so because he thought that otherwise Mr Francis would not coach him. In the spring of 1982 Mr Francis again provided him with a bottle of steroid tablets. Mr Williams took the bottle home but he testified that he did not take any of the tablets.

Mr Francis recalled a discussion in the summer of 1982 with Ms Issajenko, Mr Sharpe, and Mr Williams about the reactions of the athletes to Winstrol and, in particular, the stiffness that it caused. Mr Williams denied being part of that discussion.

The evidence of Mr Williams that he did not take anabolic steroids as early as 1982 was contradicted by both Dr Koch and Mr Francis. I accept the doctor's evidence and that of Mr Williams's coach and find that Mr Williams did go on an anabolic steroid program sometime after his visit to the office of Dr Koch in 1982.

Mr Williams left the Francis group in the fall of 1983 because he felt Mr Francis was not showing sufficient interest in his training. He said he disagreed with Mr Francis about the use of drugs. Thereafter he coached himself until the fall of 1987.

At the 1987 world championships in Rome, Mr Williams discussed anabolic steroids with a group of international throwers. At that point, he was frustrated and was considering using anabolic steroids. He commented:

Well, I mean you see guys that, you know, you are beating, you know, consistently and all of a sudden you get to this, you know, this meet and, you know, you know they are kicking your butts, basically. So you know, something had to be — my interpretation of it was, hey, you know, if you can't beat them, you know, join them.

He obtained some Anavar tablets from one of the throwers. He intended to take the Anavar when he returned to Canada, but said he did not use it.

When he returned to Canada in mid-September 1987, he and Mark McKoy met with Charlie Francis and told him they wished to rejoin his group and "try something totally different now." Mr Francis outlined the steroid program his athletes had been on for years and recommended that they begin a program of "estrugol."

In the fall of 1987 Mr Williams, together with Mr McKoy, began to receive injections of anabolic steroids and the inosine and vitamin B-12 mixture from Mr Francis.

Mr Williams noted that the steroids increased his strength and shortened his recovery time, but, because of an injury, he did not complete the cycle. He denied taking steroids at any time after the fall of 1987. His actions up to the time of the Seoul Olympics suggest the contrary.

Mr Williams conceded that he met with Angella Issajenko, Molly Killingbeck, and Mark McKoy at Ms Issajenko's house in February 1988 in order to discuss the next cycle of steroids. He participated in the discussion and brought up the question of the use of Anavar. While the others assumed he would continue on a cycle of "estragol," he testified that he did not take any "estragol" after that meeting. In the spring of 1988, however, Mr Francis gave Mr McKoy and Mr Williams a vial of "estragol" for use by themselves and another athlete. Again, Mr Williams denied taking the "estragol."

Upon his return from the European circuit in August 1988, he was aware of the plan formulated by Dr Astaphan to fit in a further steroid cycle prior to the Seoul Olympics. However, Mr Williams testified that he was completely unaware that Mr McKoy had received a handwritten protocol and a vial of human growth hormone from Dr Astaphan for the use of the two of them.

As already stated, Dr Astaphan prescribed the diuretic Moduret for Mr Williams and others in August. Mr Williams did acknowledge that he received a prescription from Dr Astaphan, which he had filled at a pharmacy. He claimed that it was for a laxative and another drug but said that he did not know what the other drug was and that he did not take it.

According to Mr McKoy's evidence, Mr Williams also visited the office of Dr John Fenn, where he received diapulse treatment prior to leaving for Seoul.

I have already mentioned Mr Williams's involvement in receiving a bottle of honey and vinegar from Mr McKoy at the Seoul Olympics for his and Mr Johnson's consumption. He understood that they were to drink it after the 100 metre final. Mr Williams said that he gave the bottle to Mr Johnson while they were in the call room in the stadium and that Mr Johnson simply left it there on a bench. He said that neither of them consumed any of the honey and vinegar.

I have also mentioned Ms Issajenko's evidence of her conversation with Mr Williams after Mr Johnson tested positive. Mr Williams said in part that he "gave it twenty-eight days" at Seoul. He was obviously referring to the clearance time he allowed himself after taking anabolic steroids in August. Mr Williams denied having this conversation.

After considering the evidence of Mr Francis, Ms Issajenko, and Dr Astaphan and Mr Williams's own admission to Ms Issajenko, I am satisfied that Mr Williams was using anabolic steroids not only in the fall of 1987 but also during the spring and summer of 1988 prior to the Seoul Olympics. I am also satisfied that before leaving for Seoul he took growth hormone and a diuretic.

Mark McKoy

Between 1982 and 1986 Mark McKoy was among the top five hurdlers in the world. In 1987 and 1988 he was ranked third in the world. He was selected for the Canadian Olympic team in 1980, 1984, and 1988 and was expected to win a medal at Seoul. Mr McKoy finished seventh in the finals of the 110 metre hurdles on the same day it became known that Ben Johnson had tested positive. He was to participate in the men's 4 x 100 metre relay event, which was scheduled to take place after the public announcement

of Johnson's positive test. Mr McKoy left Seoul before competing in that event. He denied that his poor finish in the hurdles and early departure were related to a desire to avoid being tested.

Mr McKoy had been a member of the Scarborough Optimist Track and Field Club since 1977 and was coached by Charlie Francis between 1978 and 1981. However, he left Mr Francis in 1981 as a result of a disagreement over training methods. During the winter of 1982 he received coaching at the University of Toronto track club, and then for about one year he was coached at York University. Between 1983 and 1987 he had no coach. He was disappointed with his performances in those years and felt that he had not lived up to his potential to become the top hurdler in the world. In the fall of 1987 Mr McKoy decided to return to Mr Francis because he thought he needed a coach who would provide some structure to his training. He had also heard rumours about anabolic steroid use among Mr Francis's athletes and thought that a steroid program would help him.

As already mentioned, Mr McKoy and Mr Williams both discussed the use of anabolic steroids with Mr Francis in the fall of 1987, and they agreed to go on a steroid program and have their injections of "estrugol" administered by Mr Francis at his apartment. Mr McKoy also received injections of inosine and vitamin B-12 from Mr Francis. Mr McKoy noted increased muscle bulk as a result of the steroid program, but testified that he did not believe it improved his performance times. There were a number of witnesses during the course of the Inquiry who commented on the changes in Mr McKoy's physique within a relatively short period in early 1988.

Like Mr Williams, Mr McKoy insisted that he did not take any further anabolic steroids after the cycle in the fall of 1987, but like Mr Williams his actions painted a different picture. Certainly Mr Francis and the other athletes were led to believe by Mr McKoy that he was using anabolic steroids up until the Seoul Olympics. He conceded that he participated in the meeting in February 1988 at Ms Issajenko's house to discuss the next cycle of steroids. He also admitted that he and Mr Williams obtained a vial of "estrugol" from Mr Francis in the spring of 1988 but denied that he took any of it. He said that he and Mr Williams did not tell the others that they were not taking steroids because they did not want to cause friction within the group a few months before the Olympics.

As already discussed, after Mr McKoy returned from the European track circuit in late August 1988, he attended a meeting at York University with Dr Astaphan and others where Dr Astaphan gave him a vial of growth hormone and a handwritten protocol for the next cycle of drugs and vitamins prior to the Seoul Olympics. Mr McKoy agreed to pay Dr Astaphan \$1000 for the vial of growth hormone for himself and Mr Williams. Mr McKoy denied taking any of the growth hormone and he also denied taking any "estrugol," which was included in the protocol. He was aware that Mr Williams had obtained some diuretic tablets at about this time for their joint use, although he claimed not to have taken any of them. I have also previously mentioned that Mr McKoy visited the offices of Dr John Fenn for diapulse treatment prior to leaving for Seoul.

I am satisfied that Mr McKoy did take anabolic steroids in the spring and summer of 1988 up to the Seoul Olympics. I am also satisfied that he took growth hormone and a diuretic in the period immediately before the Olympics.

Tim Bethune

Tim Bethune was a 400 metre sprinter and a member of the Etobicoke Striders Track and Field Club. He was coached by Brian McKinnon. In 1981 he was ranked first in Canada in the 400 metres. He was a carded athlete and a member of the 1984 Canadian Olympic team.

In 1985, at the world student games in Japan, he heard from two Canadian athletes, Mike Dwyer and Mike Spiritoso, about extensive anabolic steroid use among Canadian sprinters and throwers. They discussed the prevalent rumours about drug use by Mr Francis's athletes and advised Mr Bethune that Dr Astaphan was the source of supply of anabolic steroids to Mr Francis's athletes. Out of curiosity, Mr Bethune decided to check this information by seeing Dr Astaphan himself. At that time, he was not an active competitor. In fact, he had made a decision to retire from sprinting because Sport Canada had cut his funding as a carded athlete.

In September 1985 he made an appointment with Dr Astaphan. When he went to the doctor's office, he told Dr Astaphan that he would like to go on Ben Johnson's program. He had no idea what the program was. After he was advised by Dr Astaphan that certain laboratory tests were satisfactory, he began to receive injections the doctor told him were growth hormone and tablets he understood were anabolic steroids.

Mr Bethune advised Mr McKinnon that he was on an anabolic steroid program. Mr McKinnon testified that, although he was strongly against the use of steroids, he went to see Dr Astaphan along with Mr Bethune in October 1985 because Mr Bethune told him Dr Astaphan wished to meet him. He talked to Dr Astaphan about the extent of anabolic steroid use in sport and observed Dr Astaphan provide tablets and prepare an injection for

Mr Bethune. Mr McKinnon testified that he later told Mr Bethune to request more tablets from Dr Astaphan to find out what drug Mr Bethune was receiving. Mr Bethune did so and turned over to Mr McKinnon an envelope containing pink tablets which, as I have already related elsewhere in this report, came from a container marked "For Veterinary Use Only." Mr McKinnon said he subsequently discarded the tablets but did locate one tablet and provided it to the Commission for an analysis. The analysis established that the tablet contained the anabolic steroid stanozolol.

Dr Astaphan testified that he did give Mr Bethune Dianabol tablets and injections of inosine and vitamin B-12 but denied that he provided Winstrol-V tablets. I have already indicated that I accept Mr Bethune's evidence that he received Winstrol-V tablets from Dr Astaphan.

Julie Rocheleau

Quebec athlete Julie Rocheleau was one of Canada's foremost sprinters and hurdlers. In 1989 she set a new Canadian record of 12.78 seconds in the 100 metre hurdles. In 1988 she had a very good performance at the Seoul Olympics, placing sixth in the 100 metre hurdles. That year she moved to Switzerland.

During the preparatory investigation before the public hearings of this Inquiry, allegations were raised about the use by Ms Rocheleau of banned drugs. As a member of Canada's Olympic team at Seoul, Ms Rocheleau fell squarely within my terms of reference, and thus it was important to investigate the allegations.

Jacques Demers, a Quebec weightlifter whose evidence has been reviewed earlier in this report, had become an acquaintance of Ms Rocheleau while training with her at the Claude Robillard Centre in Montreal. He also became one of her sources of information about banned substances.

In June 1988 Mr Demers told her he had made his first purchase of growth hormone. She expressed a particular interest in growth hormone and he referred her to his own source of supply, Steve Brisbois, a bodybuilder from Toronto. Ms Rocheleau, using a false name, called Mr Brisbois and ordered two vials of growth hormone from him for a total of \$1400. When she learned it would take time for the growth hormone to be delivered, and given the short time remaining before the Seoul Olympics, Ms Rocheleau sought Mr Demers's help in obtaining another source who could deliver it quickly. He referred her to his friend, Benoît Lévesque.

Mr Lévesque, a Quebec bodybuilder, gave evidence of his dealings with Ms Rocheleau. He first met her in June 1988. She telephoned him but again used a false name. She asked him to obtain growth hormone, saying she wanted it for Jacques Demers. Mr Lévesque eventually agreed to obtain growth hormone for her at \$2000 for two 10 mL vials. He testified that the growth hormone came from Italy via his contact in New York. He met her again two weeks later, before he had obtained the growth hormone, at which time she purchased a bottle of Winstrol tablets from him. She told him she was using Winstrol-V and Primobolan and they had greatly increased her strength. At that meeting, she revealed her real name and said it was very important to keep her identity secret to protect her public image.

In early August she called him again, requesting more growth hormone and claiming it was for Jacques Demers who, at the time, was training in Czechoslovakia. Mr Lévesque obtained the growth hormone, this time made in Sweden and procured from a California source, but gave it directly to Mr Demers on his return from Czechoslovakia. Only when Mr Lévesque asked Mr Demers for full payment did he learn that the growth hormone had all along been intended for Ms Rocheleau.

Before these witnesses testified, Ms Rocheleau was invited to attend the hearings. Through her counsel, she declined. In the spring of 1989, during the Commission hearings, Ms Rocheleau was required to undergo a drug test under the CTFA's newly implemented out-of-competition testing program. As a result, she tested positive for stanozolol, the same anabolic steroid for which Ben Johnson tested positive at Seoul.

15

Athlete Reserve Fund

Track and field competition under the rules of the International Amateur Athletic Federation (IAAF) is restricted to "amateur" athletes. They are permitted to earn money from sport and they remain eligible to compete if the money is deposited in a trust fund until the end of their competitive careers. While actively competing, the athlete may draw on the trust fund only for necessary expenses of training and competition. The Canadian Track and Field Association (CTFA), as a member of the IAAF, has incorporated in its own rules the concept of a trust fund, calling it the Athlete Reserve Fund (ARF). Other sports have similar rules regarding amateur athletes' earnings.

In order to discuss the practical application of the present IAAF rules, it is necessary to set them out in detail:

Rule 51

Definition of Amateur

An amateur is one who abides by the eligibility rules of the I.A.A.F.

Rule 52

Restriction of Competition to Amateurs

Competition under I.A.A.F. rules is restricted to amateur athletes who are under the jurisdiction of a Member, and who are eligible to compete under I.A.A.F. Rules.

Rule 54

Guarantee by National Governing Body

In any competition under I.A.A.F. Rules, the eligibility of an athlete competing shall be guaranteed by the governing body of the country to which the athlete belongs.

There can be no doubt, after reading rules 51, 52, and 54, that the IAAF intends to distinguish between athletes who are amateurs and those who are not. The restrictions that apply to amateurs set out what they can spend and what they must do with income not spent, as described in these rules:

Assistance for Amateur Athletes

The following Rules 14–17 are based on the principle that an athlete's health must not suffer, nor must he or she be placed at a social or material disadvantage as a result of his or her preparation for or participation in the sport of athletics. An athlete's national Federation shall control such material and financial assistance as may be reasonable and necessary to assure this.

Rule 14

Expenses

1. — The following rules shall apply to expenses allowed to athletes competing in International Meetings under Rule 12 (1): —

These shall be limited to the daily allowance and to the actual outlay for transport, travel, insurance, meals, lodging and a subvention for hardship for the minimum time they are required to be absent from their normal residence.

- (a) Expenses payable in respect of Meetings under Rule 12 (1)(a), (b), (c), (d), (e), (f) and (g) shall be a matter for decision by the Member or Members concerned.
2. — The daily allowance for the out-of-pocket expenses to athletes must not exceed U.S.\$10 or its equivalent in other currencies, payable for the minimum time they are required to be absent from their normal residence.
A specially authorised per diem allowance of up to \$50 or its equivalent in local currency may be paid to participating athletes in International Invitation Meetings specifically sanctioned by the I.A.A.F. Council See Rule 12.1(e).
3. — (a) National governing bodies must strictly control all financial transactions.
(b) The athlete's own national governing body may authorise the national governing body under whose jurisdiction he is for the time being competing to refund to the athlete expenses as defined in paragraph 1.
4. — Payment of expenses in respect of competition under Rule 12.1 paragraphs (e), (f) and (g) is limited to a total of 60 days in each calendar year.

Rule 15

Provision of Equipment and Services

Athletes may accept assistance in the form of equipment and services required for training and competition, subject to the control of the national governing body.

Such assistance may include the following items: —

(a) Sports equipment and clothing;

When manufacturers are prepared to provide free issues of implements or personal equipment, distribution shall be controlled through the national governing body.

(b) Insurance cover for accidents, illness, disability and personal property;

(c) Cost of medical treatment and physiotherapy;

(d) Coaches and trainers authorised by the national governing body.

If an athlete is authorised to avail himself of the services of a doctor for medical treatment or a masseur or coach, accounts should be submitted and payments made direct to the doctor, masseur or coach and not through the athlete;

(e) Accommodation, Food, Transport, Education and Professional Training.

Rule 16

Subventions to Assist Athletes

1. — Where a national governing body, after full investigation, considers it appropriate, it may provide, or arrange for the provision of a subvention to an athlete to assist him in the expenses incurred in training for or participation in any competition under Rule 12.1 paragraphs (a) to (g).

2. — An athlete must not accept any subvention without the prior permission in writing of his national governing body.

3. — The Council of the I.A.A.F. may request information from Members concerning the payments of any such subventions.

Rule 17

Athletic Funds

1. — Funds may be established for the benefit of athletes. Such "athletic funds" may include monies arising under Rule 53 (viii) or from other permitted sources.

2. — The funds must be held, controlled and administered by a Member Federation. The Member must establish regulations for the administration of the Funds, which must comply with the I.A.A.F. Rules, particularly Rules 14–17, and with its own national, legal and administrative provisions.
3. — A copy of such regulations must be sent for registration to the General Secretary of the I.A.A.F. within three months of the regulations becoming effective.
4. — The Funds may be applied in the provision of assistance to athletes in compliance with Rules 14, 15 and 16.
5. — If monies in a fund established under this Rule are paid to an athlete or disbursed at his request, except under Rules 14, 15 and 16, the athlete concerned shall automatically cease to be eligible to compete at any level of competition. No reinstatement will be permitted once an athlete has become ineligible under this rule.

Bye-Laws and Guidelines for Administration of Athletic Funds

NOTE. The detailed regulations for the administration of athletic funds will depend upon the laws and practice of each country. However the following guidelines should be followed.

- (a) *In any contract for sponsorship, equipment, advertising or participation, or any other item for which athletic funds receive a benefit under Rule 53 (viii) only the Member may be a party to the contract with the advertiser or sponsor.*
- (b) *Any monies payable under the contract must be paid to the Member. The contract must not permit the advertiser or his agent to control the events in which the athlete participates.*
- (c) *At the time of establishing the Athletic Funds the following information should be made available.*
 - (i) *detailed administrative arrangements*
 - (ii) *acknowledgement of any obligations to the athlete(s) to the Member, sponsors, etc.*
- (d) *Where a contract entered into required the use of an athlete's name, person or image for advertising purposes, the athlete's consent to the detailed arrangements must be obtained.*

- (e) *Payment of the Athletic Fund to athletes or their personal representatives is permitted in the following circumstances:* —
 - (a) *Voluntary retirement from competition.*
 - (b) *Unavoidable retirement because of illness or injury.*
 - (c) *Death prior to retirement from competition.*
- (f) *Athletes must not assign, charge or mortgage the Athletic Fund or in any way borrow against it.*

Rule 17 above refers to Rule 53 (viii) which states:

The following persons are ineligible to take part in competitions whether held under I.A.A.F. rules or the domestic rules of the Member.

Any person who: — . . .

- (viii) allows his name, picture or athletic performance to be used for advertising, except when this is connected with a contract for sponsorship or equipment entered into by his national governing body, and any resulting payment or benefit goes to the national governing body.

The national governing body after deducting any percentage considered appropriate, can pay the remaining part of such sponsorship payment or benefit to an athletic fund (see Rule 17).

Rule 53 also deems ineligible any person who:

- (v) has competed in any sport for pecuniary reward, other than as permitted by I.A.A.F. Rules, or by special sanction of the Council.

However, upon application by a Member, the Council is empowered, in its absolute discretion, to declare eligible any person who is competing or has formerly competed for pecuniary reward in any sport other than athletics.

Reinstatement of professionals in other sports and their eligibility to compete should be done by the I.A.A.F. Council only in exceptional cases, considered case by case, and only if there are vital reasons, submitted officially by the National Federation of the athlete; . . .

- (x) accepts directly or indirectly any money or other consideration for expenses or loss of earnings, other than what is permitted under Rules 14, 15 and 16;
- (xi) enters into a contract or agreement to compete as a professional athlete.
- (xii) **who uses the services of a commercial agent, sponsor or manufacturer to plan, arrange or enter into negotiations on his behalf in connection with his athletic programme.** [Bold emphasis added]

From the language and intent of these rules it would seem that track and field athletes cannot spend large amounts of money and still be eligible to compete. Nor can they use the services of a commercial agent to help them earn money. Under rule 14, daily out-of-pocket expenses at international competitions are limited to U.S.\$50. Similarly, provision of equipment and services to an athlete is limited to items listed under rule 15. Such limits would be unnecessary if amateur athletes were to be treated like professionals who can earn and spend money at will. Yet the individuals who administered the Athlete Reserve Fund on a daily basis testified that they did treat some athletes almost like professionals. The way Ben Johnson's finances were handled, in particular, illustrates that the rules were interpreted as if there were virtually no limits.

Glen Bogue, manager of athlete services for the CTFA from August 1983 until October 1986, was responsible for managing the athletes' trust funds and their carding money and monitoring athletes' agents and corporate sponsors. He also represented athletes who did not have their own agents. At the 1983 world championships in Helsinki, for example, he acted as agent for Desai Williams and Mark McKoy. Mr Bogue testified that, when he joined the CTFA, the athletes' trust money was commingled with the general account, and he therefore convinced the president of the

association to begin to account separately for the trust funds. Mr Bogue also investigated what system was used in other countries. He cited Kenya as one country that kept the trust money for youth programs, unlike other countries in which the money belonged to the athletes.

Income to the ARF at first was primarily from endorsements of products such as athletic shoes. The athletes were keeping competition earnings to pay their expenses. The shoe contracts, as they were called, were signed three-party agreements between the shoe company, the athlete, and the CTFA; the athletes therefore had no choice but to deposit contractual earnings in the trust fund. By contrast, competition money, such as appearance fees and prizes, was not paid pursuant to contract and was generally received in cash. Mr Bogue said he arranged prompt payment of the athletes' expenses and encouraged them to put all moneys including cash earnings into the trust fund. His biggest fear was that they were evading taxes. He tried to convince them to report the money and put it into the trust fund, where it would remain tax free until they removed it.

According to Mr Bogue, the athletes could apply to the CTFA to receive money for food, rent, medicine, and even car and mortgage payments. He was concerned about the IAAF rule that athletes were limited to expenses for training and competition, but he said that the issue of what was a reasonable expense "never came to me in my period when I was there. There was never an application for it."

Steve Findlay assumed Mr Bogue's responsibilities in December 1986 under a new title, coordinator of athlete services, a position he held at the time he testified. He explained the present operation of the Athlete Reserve Fund, saying that disbursements are governed by rules 15 and 16. Under rule 16, for example, a monthly payment for the athlete's groceries can be authorized. Rule 15 governs expenses directly related to training for competition.

Mr Findlay testified that the sole justification for the use of trust fund money is to provide what athletes need to train and compete. The CTFA, however, interprets rule 15 as allowing continual payments to full-time athletes who train and compete all year round.

Table 15-1 shows the average monthly balance in the CTFA Athlete Reserve Fund.

Taking the 1989 figure in the table as an illustration, 100 athletes have money in the fund but only twenty-four have \$1000 or more. Only three have more than \$100,000. The average monthly balance is shown because the balance varies through the year. It is important to bear in mind that some cash payments are made to athletes without the knowledge of the CTFA and some payments are made directly from sponsors to doctors, therapists, and others in the athlete's entourage. Also, athletes are only required to report money in excess of U.S.\$250. Consequently, amounts credited to the Athlete Reserve Fund do not show the total financial picture.

Since 1987 an agent representing an athlete has been required to file a report with the CTFA listing money received. Mr Findlay said that this change has increased significantly the amounts deposited in the ARF. The

Table 15-1
CTFA Athlete Reserve Fund, Average Monthly Balance Profile, 1979-89

No. of Athletes	\$1,000-5,000	\$5,000-10,000	\$10,000-25,000	\$25,000-50,000	\$50,000-100,000	\$100,000+
1979	40	—	—	—	—	—
1980	40	1	1	1	0	0
1981	40	5	1	1	0	0
1982	45	5	0	0	1	0
1983	60	6	1	3	1	0
1984	60	3	1	2	2	0
1985	60	6	1	3	4	1
1986	60	7	4	3	2	2
1987	100	10	3	4	3	1
1988	100	11	3	5	3	2
1989	100	5	7	4	2	3

CTFA rules, however, do not require an athlete to file a copy of an income tax return or any other statement of income.

Though they act on behalf of the athletes, agents are called representatives of the CTFA to avoid the strict wording of IAAF rule 53 (xii) set out above. That rule purports to prevent athletes from hiring commercial agents. Five agents were licensed by the CTFA during the period 1987–88. Larry Heidebrecht, who acted as agent for Ms Issajenko and Mr Johnson among others, for example, was deemed to be the representative licensed by the CTFA to negotiate track and field appearance money, prize money, and participation money for these athletes. However, the CTFA's licensing of agents is not applied to commercial endorsement contracts because the rule is interpreted to govern only money directly related to competition. In any event, the CTFA is automatically involved in commercial endorsements as a party to each contract.

Mr Findlay justified the CTFA's claim that the athletes' agents are agents for the CTFA by saying the CTFA makes certain demands such as approval of any use of the athlete's image.

On the issue of how much money the athletes should be permitted to receive from the reserve fund, Mr Findlay testified:

I guess we restrict the use of funds to the purchase [of] one automobile and one house, generally.

For most athletes — for the majority of athletes, 95 percent of athletes who do use the fund . . . they wouldn't want to purchase or they can't purchase more than one car. They can just put a down payment on a house.

That's for almost [all] of them, that is the most they can use their funds for. And there is no limit to — I mean as you see in the rules, there is no dollar amounts stipulated as to the maximum values —

In essence, the CTFA judges the reasonableness of an athlete's expenditures in relation to the athlete's income. Mr Findlay testified that Mr Johnson's situation was unique because his earnings were so much greater than those of any other athlete. He was permitted to withdraw large sums of money for expenditures, such as a house in 1986 (\$121,000), a building lot (\$175,000 in spring of 1987 before he set the world record in Rome), and two sports cars, a Porsche (\$108,000) and a Ferrari (\$257,000 in August 1988 before the Seoul Olympics).

There was no evidence that any athlete had ceased to be eligible for breach of rule 17, which purports to disqualify an athlete permanently from any level of competition for improper payments from athletic funds. I will have more to say about this later in the report.

PART FOUR

Use and Control of
Banned Substances

16

Extent of Use of Banned Substances

Pursuant to the terms of reference of this Inquiry, I was directed to inquire into the extent of use by Canadian athletes of banned performance-enhancing substances and practices. At the outset of the Inquiry, the evidence available on this subject, both in Canada and elsewhere, was elusive. It consisted largely of opinion, rumour, and speculation. In addition, the published results of drug tests of athletes at various domestic and international competitions were available. However, as I have already stated in this report, the results of drug tests taken at the time of competition provide little help in determining the extent of the use of drugs such as anabolic steroids.

Two main factors contributed to the lack of immediately available evidence. First, those athletes, coaches, physicians, trainers, and officials who were involved in cheating by using or assisting in the use of performance-enhancing drugs and banned practices engaged in a conspiracy of silence.

Dr Astaphan referred to the conspiracy of silence among the athletes as the "brotherhood of the needle." Second, those officials and organizations charged with the responsibility for dealing with the problem have been content to ignore the many warning signals and failed to investigate them in order to break this conspiracy of silence.

A total of forty-six Canadian athletes from a wide spectrum of athletic disciplines admitted at this Inquiry their own anabolic steroid use. This number was merely a sample and in no way suggests that the total number of athletes using banned substances is limited to those who testified.

It would appear that what originally led some Canadian athletes into using performance-enhancing drugs was the belief that their fellow athletes on the international scene were receiving a significant competitive advantage by using such drugs as anabolic steroids and growth hormone. Since many of the Canadian athletes, coaches, and others who testified before me were involved in international competition, it is not surprising that I heard much evidence about the international scene. Although this is a Canadian inquiry, I could not ignore the context in which Canadian athletes compete. It is therefore important that any realistic consideration of this problem look beyond Canada.

After hearing the evidence and meeting with knowledgeable people from Canada, the United States, the United Kingdom, Australia, New Zealand, and elsewhere, I am convinced that the problem is widespread not only in Canada but also around the world. The evidence shows that banned performance-enhancing substances and, in particular, anabolic steroids are being used by athletes in almost every sport, most extensively in weightlifting and track and field. This is not to say that every athlete in every sport is using banned substances. But part of the great unfairness in doping in sport is that those who do so cast a cloud of suspicion over all athletes, a situation that is as unfortunate as it is unfair.

Throughout this report I have focused much of my attention on the use of anabolic steroids. I have done so because I am satisfied that anabolic steroids represent the most serious present threat to sport. I have, however, heard sufficient evidence to be satisfied that other banned drugs are also employed by those who compete in sport. These include the drugs that are classified by the IOC Medical Commission as stimulants, narcotics, beta blockers, and diuretics.

I have also heard evidence that the recently banned practice of blood doping has been employed at the highest levels of Olympic sports. Blood doping was not banned in 1984, and it is clear that it was employed by certain U.S. cyclists at the Los Angeles Olympics, which ultimately led to the IOC Medical Commission's adding the practice to its banned list.

Although I have concentrated on anabolic steroids, I do not think we should be lulled into a false sense of security that there is not a problem with other banned drugs and practices. I thought it best to concentrate this Commission's time and resources on the area that appears to be of greatest present concern. However, those who are responsible for controlling sport both domestically and internationally should be ever vigilant to ensure that the use of the other classes of banned drugs and practices is eradicated.

WEIGHTLIFTING, POWERLIFTING, AND BODYBUILDING

It is clear from what I have already said that the sport of weightlifting in Canada and elsewhere is riddled with the use of anabolic steroids. The related non-Olympic sport of powerlifting is similarly afflicted. Bodybuilding is another non-Olympic sport that, with its emphasis on the development of a muscular physique, has been the subject of heavy

steroid use among its participants. I am also satisfied that the competitors involved in these strength and power sports take other drugs, such as growth hormone, when available.

TRACK AND FIELD

In the chapters on track and field, I reviewed the extensive use of anabolic steroids by Canadian athletes in the sprinting and throwing events. The evidence from the many track and field witnesses extended far beyond the Canadian scene. Many of the top Canadian athletes have attended U.S. colleges on athletic scholarships. I heard evidence from some of them that they were introduced to performance-enhancing drugs, and particularly anabolic steroids, while training in the United States. This was especially so in the case of the throwers.

Bishop Dolegiewicz said that in the United States between 1970 and 1980 he would be "hard pressed to . . . give . . . a name of an individual [thrower] that was not using steroids." Similarly, Mike Spiritoso, who competed as a shot putter for Canada at international competitions, stated, based on his experience in the United States between 1982 and 1987, that "it was a known fact that most of the throwers were on [anabolic steroids] — if they were any good, and even some of the throwers that weren't any good, were taking the stuff." He estimated that 90 to 95 percent of the top U.S. throwers were taking anabolic steroids, and that the percentage in Canada was about 30 to 40 percent.

Angela Bailey, for many years one of Canada's top female sprinters, trained on a track scholarship at a U.S. college in 1985. After about six weeks she concluded that her coach "didn't know how to coach me because I was drug free." She then trained for a period of time under Pat Connolly, a coach of the U.S. Olympic team.

I was provided with a copy of the official record of the U.S. Senate Judiciary Committee Hearing on Steroid Abuse in America, chaired in April 1989 by Senator Joseph R. Biden, Jr.

Ms Connolly testified before the Biden Committee concerning her knowledge of the use of steroids by U.S. athletes during the 1984 and 1988 Olympics. The following is an excerpt from the record:

MS CONNOLLY: By 1984, out of a team of about 50 Olympians, probably 15 of them had used steroids. Some of them were medalists.

...

At least 40 percent of the women's team in Seoul had probably used steroids at sometime in their preparation for the games.

...

In the United States, I have heard of four male coaches of top athletes who have encouraged their women to use steroids. I know of no woman coach who advocates the use of male hormones.

...

SENATOR BIDEN: Coach, the fact that there are so many women, and as I understand it, you said you thought on the 1984 American Women's Track and Field Team that you thought there were 15, roughly.

MS CONNOLLY: It is an estimate, yes.

SENATOR BIDEN: It is an estimate. I realize that. Did that number, in your view, go up in 1988?

MS CONNOLLY: Oh, yes. Oh, yes, it went up a lot. There is approximately 45 to 50 women on a team depending on how many alternates and relay people you want to take. I would say that probably, like I said, 40 percent of the 1988 team had tried

it at least, maybe, 15 to 20 — I am using rough figures because there is so many rumors now. Everybody says everybody is doing it and it is really hard to sit down and be very objective about it. If you listened to all the rumors, you would think the whole team was dirty. But I know that, you know, knowing that there are clean people, knowing personally people who did it without drugs that I can believe in the innocence of some of those that are questioned by others.

SENATOR BIDEN: Recently Carl Lewis stated that he thought that five to ten gold medalists in men's track events at the Seoul Olympics were won by athletes who used steroids. Obviously you would not know with any certainty, but do you think that is an outrageous estimate or do you think — .

MS CONNOLLY: I am quite familiar with the men's program and the men athletes. I am married to one who testified in 1973 about this problem. So I know a little bit about it. I think Carl was low. If he was just talking about Americans, then he is probably accurate. But if you want to talk about the whole track and field program, his estimate was very low.¹

Senator Biden also heard from Evelyn Ashford, formerly coached by Ms Connolly. Ms Ashford is a prominent U.S. sprinter. She was the gold medalist in the 100 metres in the 1984 Olympics and the silver medalist in 1988 at Seoul. She knew of two U.S. gold medalists at the 1988 Olympics who had used anabolic steroids.

During the course of the Inquiry I heard evidence from more than one witness about a nonpunitive drug-testing program adopted by the United States Olympic Committee (USOC) prior to the 1984 Olympics in Los Angeles. This program was available not only to track athletes but also to athletes from all Olympic sports. USOC officials have stated that the program was intended to test the new laboratory facilities in Los Angeles and to give the athletes experience in the doping control process. Others, however,

have alleged that the real purpose was to allow U.S. athletes to check their clearance times and modify their steroid cycles prior to competing.

Dr Charles E. Yesalis of Pennsylvania State University testified in March 1989 before the U.S. Subcommittee on Crime of the House Committee on the Judiciary. He stated that 50 percent of the athletes who participated in the drug-testing program tested positive for anabolic steroid use. Ms Connolly expressed her concern about this program to the Biden Committee:

In 1983 when I heard about the USOC's pre-Olympic testing program that was allowing our athletes to find better ways to keep from being detected by official testing, I felt betrayed, like a child whose parents had deserted her.²

Dr Robert Kerr of San Gabriel, California, testified before this Commission that he prescribed anabolic steroids to approximately twenty medalists at the 1984 Olympic Games. He did not break this down among the various sports, although he stated that the use of anabolic steroids was prevalent among elite sprinters.

As I have indicated, the situation in track and field outside of North America is no different when it comes to the use of performance-enhancing drugs and banned practices. Charlie Francis has been closely associated with international track and field since the early 1970s as an athlete and since the late 1970s as a coach. As in the case of other Canadians, it was his experience in international competition that led him to consider actively the use of anabolic steroids. Mr Francis claimed that at the 1972 Munich Olympics there was extensive use of performance-enhancing drugs. Up to 80 percent of the top-level athletes were rumoured to be using steroids.

When Mr Francis went on the international circuit as a coach, he became increasingly aware from his observations and discussions with other coaches and athletes that the use of anabolic steroids was pervasive among throwers and sprinters in the United States, in Western Europe, and in the Eastern Bloc countries. It was Mr Francis's view that, after the late 1970s, the great majority of elite track and field athletes competing in events where performance-enhancing drugs could be of assistance in fact used such drugs.

Mr Francis testified that it was the practice of the Soviet Union to load sophisticated drug-testing equipment on a ship anchored in the nearest harbour to major international games where Soviet athletes were participating. The Soviets would test the athletes immediately prior to competition to ensure they were clean. Mr Francis stated that this practice was followed in Montreal in 1976 and in Seoul in 1988. The presence of a Soviet ship for the purpose of drug testing in Seoul was confirmed in 1989 by an article in the Communist youth magazine, *Zmena*.

As shocking as Mr Francis's evidence initially appeared when he testified before this Inquiry, much of what he said was supported by many other witnesses. Also, disclosures made subsequent to his testimony have tended to provide further confirmation. In this regard I have in mind the information concerning the Soviet ship in Seoul, the revelations before the Biden Committee in the United States, and a whole series of reports of drug use by athletes from Eastern Bloc countries such as East Germany.

Dave Steen, the Olympic bronze medalist in the decathlon, sent a letter to the CTFA in early 1988 in which he stated:

The use of steroids and other 'performance-enhancing drugs' is becoming so widespread both internationally and domestically that individuals who do not use drugs are in the minority. I am referring to high caliber international athletes.

Mr Steen testified that he had talked to a number of other decathletes who competed internationally about their use of drugs. He concluded that a significantly high proportion of athletes who competed at the international level in the decathlon take drugs. Similar information was provided by Daley Thompson, the British decathlete and two-time Olympic gold-medal winner, when he spoke to my Commission counsel in the United Kingdom in July 1989.

Bernd Heller, a former member of the West German track and field team and now a sport journalist, provided valuable insight into the European and international scene. He has been covering track and field throughout the world since 1978. It was his opinion that it was impossible to compete in the throwing events at the world-class level without taking steroids. He referred to Ricki Bruch, a Swedish discus thrower and former world-record holder, who admitted taking steroids on a number of occasions but had never tested positive.

Mr Heller referred to the Eastern Bloc practice of testing athletes prior to their leaving for international competitions; to ensure they do not run the risk of testing positive. At the 1986 European track and field championships in Stuttgart, the Soviet Union filed its team list several weeks prior to the meet. According to Mr Heller, approximately 25 percent of the athletes did not show up at the championships. Mr Heller suggested that it was unlikely 25 percent of the Soviet team became ill at the last moment. He assumed the Soviets had been tested prior to leaving for the championships and that a significant number stayed home because the drugs they were taking had not cleared their systems.

Mr Heller also testified about conversations he had had with Professor Manfred Donike, a West German member of the IOC Medical Commission. Professor Donike advised him he was doing a study of the endocrine profile of the

urine samples of the athletes who had been tested at Seoul and had determined that up to 80 percent of the athletes tested had used steroids in the previous five to eight years, although particular drugs could not be identified. Mr Heller said that Professor Donike later retracted his original statement. According to Mr Heller, Professor Donike withdrew the 80 percent estimate and the estimate of five to eight years and said that, by examining the endocrine profiles, one could make a determination of the use of steroids only in the previous three to six months.

Professor Donike, who also appeared as a witness at the Inquiry, testified that Mr Heller was in error concerning these conversations. According to Professor Donike, he had told Mr Heller about the nature of a study he was doing on the endocrine profiles of male athletes who had been tested in Seoul, with a view to determining prior steroid use. Professor Donike said he did not give percentage or time estimates, and that his study was not yet completed. Although Mr Heller may have confused the information he was given in these conversations, I am satisfied that Professor Donike told him his study was likely to reveal a high rate of prior steroid use among male athletes who were tested in Seoul — certainly much higher than was indicated by the results of the official tests.

I have said elsewhere in this report that Dr Astaphan testified that he had been consulted about the use of performance-enhancing substances by athletes from the United States, Italy, Holland, Australia, Sweden, Finland, West Germany, Bulgaria, Jamaica, East Germany, Africa, and the United Kingdom.

The Athletics Committee of Enquiry into Drug Abuse Allegations, set up by the British Amateur Athletic Association in February 1988 to study the problem of doping in sport, concluded that between 1976 and 1982 there was "considerable use of drugs, chiefly but by no means only

anabolic steroids . . . in the upper levels of at least the power events." The committee accepted that "there is a serious level of use of drugs [in sport] at present."³

The Australian government, concerned about the apparently increasing use of banned substances in sport by its own athletes as well as by athletes from other countries, in 1988 referred the matter to a Senate standing committee for investigation and report. Senator John Black, chairman of the committee, heard evidence that approximately 70 percent of Australian athletes who competed internationally had taken performance-enhancing drugs, and that one-quarter of the Australian track and field team which competed in Seoul had used drugs:

The Committee accepts that drug taking in Australian sport is widespread, and that anabolic steroids in particular are used in any sport in which power is an advantage. Moreover drugs are being used at all levels of sport and by most age groups, although the extent of use varies widely from one sport to another. The survey of drug abuse in Australian sport, for example, found that 22.4 per cent of powerlifters had used anabolic steroids, as had 15.7 per cent of weightlifters, but that only 1.2 per cent of cricketers, 1.1 per cent of cyclists and 0.8 per cent of water polo players admitted to using these drugs. Given the unacceptable health risks posed by anabolic steroids, these figures demonstrate a serious problem. [It must be noted that the percentages are based on admitted use only.]⁴

In Sweden, where out-of-competition testing has been carried out since the late 1970s, the situation appears to be no better. Dr Arne Ljungqvist of the IOC, in a paper presented at the second IAF World Symposium on Doping in Sport, held in Monte Carlo in June 1989, said that Swedish authorities uncovered a steroid-smuggling ring in the summer of 1988. In the previous two years, the ring had

brought 200 kg of anabolic steroids into the country — enough steroids, it was estimated, to serve a year-round heavy-doping program for 7000–8000 individuals.

In discussing the use of steroids in track and field, I have not specifically mentioned growth hormone. As in the case of weightlifting and related sports, I am satisfied that when growth hormone is available, track and field athletes in Canada and elsewhere use it in conjunction with their steroid programs.

CANADIAN INTERCOLLEGIATE FOOTBALL

Several Ontario intercollegiate football players testified at this Inquiry. Their evidence suggested that in the mid- to late 1980s, 25 to 35 percent of the members of intercollegiate football teams used anabolic steroids. Estimates among linemen and linebackers reached 70 to 90 percent. These estimates were supported by athletes from other universities in Canada and the United States. Part of the motivation for college football players to take drugs such as anabolic steroids is their desire to be drafted by a professional football team. The evidence before me suggested that some of these players had no hesitation in putting their health at risk by taking large doses of anabolic steroids in order to gain a chance at a professional football career.

I had the benefit of hearing evidence from Robert Pugh, executive vice-president of the Canadian Interuniversity Athletic Union (CIAU). Mr Pugh outlined the new doping control policy for university sport. When he testified before me it was anticipated that drug testing in football would be implemented in 1990, to be followed by testing in other sports. It appears to me that the CIAU has attempted to move quickly and responsibly on the drug issue. One would hope that with the implementation of its

doping control policy in 1990 in football, the CIAU will be able to eradicate drug use from this sport, which is such an important part of university life in Canada.

OTHER SPORTS

During this Inquiry I concentrated on the sports of weight-lifting and track and field, with attention directed as well towards intercollegiate football. It was not possible to examine every sport with the same degree of detail. My purpose was to focus on the sports in which there appeared to be the greatest likelihood of drug abuse and employment of banned practices by Canadian athletes.

I do not wish to ignore the problem where it exists in other sports because if one athlete uses drugs or cheats there is the potential that the practice will spread and threaten other sports. One need only observe how the use of anabolic steroids has spread through weightlifting and then through track and field. Thus, it is important to know what other sports are affected by drug abuse and banned practices so that we will be aware of the problem and so that the responsible officials will be prepared to address it. I therefore heard general evidence and sought out general information concerning a number of other sports.

Dr Kerr testified that he had prescribed anabolic steroids to several thousand athletes, both amateur and professional, in sports which included track and field, baseball, football, hockey, roller hockey, cycling, and swimming. Dr Astaphan testified that in addition to track and field, he had been consulted by athletes in cycling, skiing, volleyball, football (amateur and professional), weightlifting, powerlifting, bodybuilding, and cricket. Dr Ljungqvist identified track and field, bodybuilding, weightlifting, boxing, wrestling, hockey, handball, and soccer as sports in which drug use

was extensive. I also heard evidence from Canadian athletes concerning the use of anabolic steroids by those who compete in the Olympic sport of bobsledding.

The Australian Senate Committee also heard of extensive use by noncompetitive athletes, particularly in strength sports. More alarming was the evidence that children as young as ten years old, mainly boys, were being given these substances "sometimes apparently with the connivance of their parents." Some of that evidence came from the deputy director-general of health and medical services for Queensland, some from coaches, power athletes, and medical doctors involved with sports clubs. The principal medical officer of the Australian Rowing Council thought the problem so serious that he recommended a program

to test our schoolboy rowers or junior rowers at about the time their growth phase finishes to make sure they are not being given [substances] to increase muscle bulk at that time, and then simply training that muscle bulk forever after, which is the way it may be used in the Eastern bloc.⁵

OTHER NONMEDICAL USES OF ANABOLIC STEROIDS

The use of anabolic steroids is not limited to amateur and professional athletes but extends beyond sport to affect students, police officers, firefighters, and others who seek to improve their appearance and strength rather than their athletic performance. A recent study of more than 3000 male high school seniors in the United States showed that 6.6 percent had used or were using anabolic steroids. Dennis Degan, the leading U.S. investigator of steroid trafficking, testified that the black market for steroids in the United States was more than half a billion dollars annually. The evidence which I heard concerning steroid use in

Canada suggested that there is a similarly alarming trend of increased use among young people who want to look better, and an increasing black market to meet the demand of such users. Anabolic steroids are readily available in gyms and locker rooms where young people gather for bodybuilding and workout purposes, as will be seen when I deal with supply and distribution.

EVIDENCE FROM POSITIVE TESTS

Some indication of the extent of the use of prohibited substances and practices by high-level competitive athletes can be derived from tables 16-1 to 16-5, which list athletes penalized for such practices. Table 16-1 is a list of Canadian athletes penalized for positive tests (1983-89); tables 16-2 and 16-3 are lists of IAAF track and field athletes suspended after failing a doping test; table 16-4 is a list of IAAF athletes suspended for refusing a doping test; and table 16-5 is a list of athletes penalized for positive dope controls during Olympic Games.

Positive test results for performance-enhancing drugs at major international competitions affect athletes from virtually all countries, as is evident from the tables of doping infractions. The numbers must, however, be viewed in the context of the ineffective doping control programs in force at the time. It has been said by Sir Arthur Gold, chairman of the British Olympic Committee, that only the careless or ill advised get caught. The evidence heard by this Commission demonstrates that many, many more athletes than those actually testing positive have taken advantage of banned substances and practices. This subject will be addressed further in the section of this report concerning the fallacy of in-competition testing. It must be remembered, too, that no doping control program, however effective, will reach those who are outside the competitive sport

structure. Other measures must be taken to protect such users from the health risks associated with use of these substances and practices.

Positive test results represent only a small proportion of actual drug users. In his evidence before the Australian Senate Standing Committee, Dr Tony Millar, director of research at the Australian Institute of Sports Medicine, alluded to the difficulties in extrapolation from test results:

The argument that 9 positives were found in Los Angeles and only 8 [sic] in Seoul does not prove that there is a lessening of the use of drugs, but is more consistent with the proposition that athletes are more sophisticated now in their knowledge and are able to use drugs more efficiently than they have . . . before so that the present testing procedures are no longer able to catch up with the user.⁶

This evidence is supported by that heard by the U.S. Subcommittee on Crime to the effect that when testing is announced, only 2 percent of athletes test positive, but when testing is unannounced, 50 percent test positive.

SUMMARY

In this chapter I have reviewed only some of the evidence covering the extent of the use of performance-enhancing drugs domestically and internationally. It would not add much to set out all of the evidence that I received during the course of the Inquiry. What has emerged is a clear picture of significant drug abuse, particularly of anabolic steroids, in many sports in many countries. Canada does not stand alone. My counsel suggested in his final submission that the problem knows no national boundaries, and I agree. Indeed, the *New York Times* suggested in an editorial that this Inquiry had uncovered a global disgrace.

Table 16-1
Canadian Athletes Penalized for Positive Tests, 1983-89

	Name	Sport
1983	Guy Greavette	Weightlifting
1983, 1985	Michel Viau	Weightlifting
1984	Luc Chagnon	Weightlifting
	Terry Hadlow	Weightlifting
1985	Robert Choquette	Weightlifting
	Yvan Darsigny	Weightlifting
	Michel Pietracupa	Weightlifting
	Guillaume Salvas	Weightlifting
	Harold Willers	Track & Field
	Lavent Mady	Swimming
1986	Mario Parente	Weightlifting
	Peter Dajia	Track & Field
	Rob Gray	Track & Field
	Mike Spiritoso	Track & Field
1988	David Bolduc	Weightlifting
	Jacques Demers	Weightlifting
	Paramjit Gill	Weightlifting
	Kevin Roy	Weightlifting
	Ben Johnson	Track & Field
	Linda McCurdy-Cameron	Track & Field
1989	Rock Gameiro	Weightlifting*
	Bill Karch	Weightlifting
	Julie Rocheleau	Track & Field*
	Pierre Lafleur	Fencing*
	Cal Langford	Bobsleigh*

* Suspensions under appeal

Table 16-2
IAAF Male Track and Field Athletes Suspended after Failing Doping Test

Rahman Awf Abdul (Iraq) 1986	Thomas Menne (West Germany) 1987
Gary Armstrong (USA) 1986	Rick Meyer (USA) 1986
Duncan Atwood (USA) 1985	Yevgeniy Mironov (USSR) 1978
A.L. Azoro Casillo (Cuba) 1986	Luis Morales (Puerto Rico) 1988
Wayne Barber (Australia) 1985	Cosmas Ndeti (Kenya) 1988
Lazaro Betancourt (Cuba) 1986	Hein-Direck Neu (West Germany) 1978
Darren Crawford (USA) 1986	Antoni Niemczak (Poland) 1986
Peter Dajia (Canada) 1986	Lars Arvid Nilsen (Norway) 1987
Juan de la Cruz (Dominican Republic) 1983	Juan Núñez (Dominican Republic) 1983
Dimitrios Delifotis (Greece) 1984	Andrea Pantani (Italy) 1988
Jean-Louis Demarne (France) 1987	Arne Pedersen (Norway) 1982
Eric De Smedt (France) 1987	Asko Pesonen (Finland) 1977
Ronald Desruelles (Belgium) 1980	Ben Plucknett (USA) 1981
S.D. Dos Santos (Brazil) 1986	Watcharakupt Pongsak (Thailand) 1986
Temel Erbek (Turkey) 1987	Paul Quirke (Ireland) 1987
Naser Fahamy (Iran) 1984	Antoine Richard (France) 1987
Rob Gray (Canada) 1986	Elisio Rios (Portugal) 1983
Bill Green (USA) 1987	Luis Rodriguez (Brazil) 1988
Jeff Gutteridge (UK) 1988	Walter Schmidt (West Germany) 1977
Vesteinn Hafsteinsson (Iceland) 1984	Al Schoterman (USA) 1984
Knut Hjeltnes (Norway) 1977	Ahmed Kamel Shata (Egypt) 1985
Seppo Hovinen (Finland) 1977	Mike Spiritoso (Canada) 1986
Kleanthis Ierissotis (Greece) 1984	Sasa Stojilovic (Yugoslavia) 1988
Tom Jadwin (USA) 1986	Lars Sundin (Sweden) 1985
Ben Johnson (Canada) 1988	Göran Svensson (Sweden) 1985
Dariusz Juzyzyn (Poland) 1963	Art Swarts (USA) 1986
Jerzy Kaduskiewicz (Poland) 1982	Laszló Szabó (Hungary) 1981
Lars-Erik Källström (Sweden) 1983	Markku Tuckko (Finland) 1977
Satomi Kawazu (Japan) 1988	GianPaolo Urlando (Italy) 1984
Markus Kessler (West Germany) 1986	Martti Vainio (Finland) 1984
Nikolai Kolev (Bulgaria) 1987	Lynn Valley (USA) 1987
Dimitri Kowcun (USSR) 1988	Velko Velev (Bulgaria) 1975
Hans-Joachim Krug (West Germany) 1978	Harold Willers (Canada) 1985
Jovan Lazarevic (Yugoslavia) 1984	Gary Williky (USA) 1985
Aleksandr Leonov (USSR) 1988	Nikolaos Yendenkos (Greece) 1985
Juan-Miguel López (Cuba) 1986	Vasiliy Yershov (USSR) 1978
Remigius Machura (Czechoslovakia) 1985	Joe Zelezniak (USA) 1986
Mike Mahovlich (Canada) 1986	Vladimir Zhaloshik (USSR) 1974
Greg McSeveney (USA) 1986	

Table 16-3
IAAF Female Track and Field Athletes Suspended after Failing Doping Test

Nunu Abashidze (USSR) 1981	Natalia Marasescu-Betini (Romania) 1979
Lyudmila Andonova (Bulgaria) 1985	Alice Matejkova (Czechoslovakia) 1986
Maria-Christina Betancourt (Cuba) 1983	Linda McCurdy-Cameron (Canada) 1988
Ilona Briesenick — see Slupianek	Gabriela Mihalcea (Romania) 1987
Dorina Calenici (Romania) 1987	Gael Mulhall-Martin (Australia) 1981
Mihaela Chindae (Romania) 1987	Alexis-Paul MacDonald (Canada) 1981
Valentina Cioltan (Romania) 1975	Totka Petrova (Bulgaria) 1979
Rosa Colorado (Spain) 1980	Julie Rocheleau (Canada) 1989
Daniela Costian (Romania) 1986	Danuta Rosani (Poland) 1976
Sabine Dewachter (Belgium) 1988	Ileana Silai (Romania) 1979
Emilija Dimitrova (Bulgaria) 1986	Zdenka Silhava (Czechoslovakia) 1985
Rosa Fernandez (Cuba) 1983	Ilona Slupianek-Briesenick (East Germany) 1977
Sandra Gasser (Switzerland) 1987	Yelena Stoyanova (Bulgaria) 1978 & 1982
Yekaterina Gordiyenko (USSR) 1978	Daniela Teneva (Bulgaria) 1979
Linda Haglund (Sweden) 1981	Nadyezhda Tkachenko (USSR) 1978
Agnes Herczeg (Hungary) 1983	Vera Tsapkalenko (USSR) 1977
Sue Howland (Australia) 1987	Anna Verouli (Greece) 1984
Inna Ivanova (USSR) 1988	Mayra Vila (Cuba) 1985
Hyw-Young Jung (Korea) 1987	Sanda Vlad (Romania) 1979
Karoline Käfer (Austria) 1981	Ola Conny Wallgren (Sweden) 1986
Yelena Kovalyeva (USSR) 1979	Joan Wenzel (Canada) 1975
Nadyezhda Kudryavtseva (USSR) 1979	Anna Włodarczyk (Poland) 1982
Evelyn Lendl (Austria) 1981	

Table 16-4
IAAF Athletes Suspended for Refusing Doping Test

Men	Women
Colin Sutherland (UK) 1978	Tatyana Kazankina (USSR) 1984
Dave Voorhees (USA) 1978	Maria Lambrou (Greece/Cyprus) 1982
August Wolf (USA) 1985	

Table 16-5
Athletes Penalized for Positive Dope Controls during Olympic Games

	Athlete	Country	Sport
1968	Broye Hans-Gunnar Liljenvall	Sweden Sweden	Pentathlon Pentathlon
1972	Capitaine Buidaa Bakhaavaa Miguel Coll Rick DeMont Jaime Huelamo Aad Van den Hoek Walter Legel Mohamed Arjanid Naskeri	West Germany Mongolia Puerto Rico USA Spain Holland Austria Iran	Ice Hockey Judo Basketball Swimming Cycling Cycling Weightlifting Weightlifting
1976	Paul Cerutti Galina Kulakova Lorne Leibel Frantisek Propisil Dr Treffny* Danuta Rosani Blagoi Blagoev Marc Cameron Dragomir Ciorosian Philippe Grippaldi Zbigniew Kaczmarek Valentin Khristov Arne Norrback Peter Pavlasek	Monaco USSR Canada Czechoslovakia Czechoslovakia Poland Bulgaria USA Romania USA Poland Bulgaria Sweden Czechoslovakia	Shooting Nordic Skiing Yachting Ice Hockey Team doctor Track & Field Weightlifting Weightlifting Weightlifting Weightlifting Weightlifting Weightlifting Weightlifting Weightlifting Weightlifting
1984	Batsukh Purevjal Thomas Johansson Eiji Shimomura Mikiyasu Tanaka** Vesteinn Hafsteinsson GianPaolo Urlando Martti Vainio Anna Verouli Luc Chagnon Serafin Grammatikopoulos Terry Hadlow Stefan Laggner Goran Pettersson Ahmed Tarbi Mahmoud Tarha	Mongolia Sweden Japan Japan Iceland Italy Finland Greece Canada Greece Canada Austria Sweden Algeria Lebanon	Nordic Skiing Wrestling Volleyball Volleyball Track & Field Track & Field Track & Field Track & Field Track & Field Weightlifting Weightlifting Weightlifting Weightlifting Weightlifting Weightlifting Weightlifting Weightlifting
1988	Jaroslaw Morawiecki Jorge Quesada Alexander Watson Alidad Kerrith Brown Ben Johnson Kalman Csengeri Mitko Grabkev Angel Guenchev Fernando Mariaca Andor Szanyi	Poland Spain Australia Afghanistan United Kingdom Canada Hungary Bulgaria Bulgaria Spain Hungary	Ice Hockey Pentathlon Pentathlon Wrestling Judo Track & Field Weightlifting Weightlifting Weightlifting Weightlifting Weightlifting

* Dr Treffny, Czechoslovakian team doctor, was banned for life by the IOC Medical Commission.

** No sanction against the athlete, but the masseur, Yahagi, was banned from the Olympic Games and a severe warning was given to the Japanese team.

17

Supply and Distribution of Banned Substances

The distribution of anabolic steroids and other performance-enhancing drugs to their ultimate consumers is a multimillion-dollar business. Athletes and other nonmedical users of these drugs obtain them through black market sources, such as gymnasiums, dealers, and mail order, and through legitimate sources, such as physicians, veterinarians, and pharmacies. Although anabolic steroids are the most common of these drugs, and this chapter therefore deals primarily with them, use of human growth hormone is increasing.

The legitimate distribution of anabolic steroids in Canada is governed by the *Food and Drugs Act*, a federal statute. Only licensed physicians, hospitals, and pharmacies may purchase anabolic steroids from pharmaceutical companies or wholesalers. In turn, the ultimate user may obtain them only by prescription from or by direct administration from a licensed physician. All other channels of distribution are illegal and constitute what is often called the black

market. Veterinary anabolic steroids are also governed by the *Food and Drugs Act* and will be discussed elsewhere in this report.

DISTRIBUTION THROUGH LEGITIMATE CHANNELS

Physicians

Some anabolic steroid users prefer to obtain steroids from a physician, perhaps to ensure that the product being used is authentic. A physician can also monitor the athlete's health and attempt to control any adverse effects of the drug. The names of physicians willing to prescribe anabolic steroids and other performance-enhancing drugs circulate widely in gyms. These physicians may develop practices with a focus on athletes and performance-enhancing drugs.

Dr Ara Artinian, a Toronto general practitioner, had been prescribing and administering anabolic steroids to athletes regularly throughout the past ten years. Between 1981 and 1988 he purchased anabolic steroids worth \$215,101 from various pharmaceutical companies. He administered injections and provided pills to his athlete patients in return for a cash payment rather than providing them with a prescription to fill at a pharmacy. Dr Artinian dealt mainly with football players and bodybuilders rather than elite athletes in Olympic sports.

Dr Astaphan also prescribed anabolic steroids to many athletes during the time he practised medicine in Ontario up to the middle of 1986. The extent to which he prescribed these substances and the numbers of athletes involved is dealt with elsewhere in this report.

Bruce Pirnie, at one time a shot putter and now a throwing coach, obtained anabolic steroids for performance-enhancement purposes by prescription from his doctor as

early as 1972. He stated that there were several doctors in Winnipeg at that time who were well known as sources of steroids. Mr Pirnie took steroids on prescription until 1979, when he stopped competing and took up coaching.

The Commission also heard evidence from many other athletes that they received anabolic steroids directly from physicians. Clearly, there are physicians in most major centres across the country who have at one time or another been involved in prescribing anabolic steroids and other performance-enhancing drugs to athletes. More will be said on this issue in the section of this report on medical policies.

In the United States, the situation is similar. Peter Dajia described visiting a doctor's office in Fort Worth, Texas, and obtaining a prescription for anabolic steroids simply by indicating what he wanted. Dr Robert Kerr, a sports physician practising in San Gabriel, California, estimated that in the mid-1980s there were at least seventy physicians in the Los Angeles area who prescribed anabolic steroids to athletes. He himself has prescribed them for athletes from the United States, Canada, South America, Australia, and the Far East, including Olympic Games medal winners.

In Australia, Senator Black's committee estimated that 15,000 users obtained anabolic steroids through physicians. The committee had heard estimates that 5 to 50 percent of users obtained their drugs through doctors. Forty-one percent of a group of Australian bodybuilders surveyed indicated that physicians were their source of supply, while the remainder obtained them from black market sources. One medical witness stated that ten to twenty doctors in Sydney alone prescribed anabolic steroids, and that he himself would see up to 200 "patients" a year for this purpose. Yet another medical witness was prescribing anabolic steroids for fifty male bodybuilders, one female weightlifter, and three other athletes.

Veterinarians

Because veterinarians occasionally use anabolic steroids in their clinical treatment of animals, these drugs are legitimately available to them as well as to horse trainers and farmers. Commission investigators formed the opinion that these drugs were diverted to the black market by selling them to middlemen, who resold them to athletes. A Quebec trainer who was involved in diverting drugs onto the black market was nicknamed "Mr Winstrol" because of his supplies of this drug.

In Ontario, the Ontario Veterinary Association monitors veterinarians' use of anabolic steroids to ensure that it matches the profile of their practice. To date, no veterinarian in Ontario has been prosecuted for professional misconduct with respect to the dispensing or administering of anabolic steroids.

Pharmacies

It is not common for pharmacies to keep large amounts of anabolic steroids in stock because these drugs have such limited clinical uses. When an athlete or other individual using anabolic steroids becomes friendly with a pharmacist, however, sometimes he or she will sell steroids without a prescription. On June 19, 1989, a pharmacist in the Quebec City area sold steroids without a prescription to undercover officers of the Quebec police force. He was suspended for three years by the Ordre des pharmaciens du Québec.

In Ontario an investigator for the Ontario Veterinary Association was informed that a pharmacy on the outskirts of Toronto was stocking veterinary drugs, including steroids, and making them available to the public without prescription. She went to the store and purchased the anabolic

steroid Winstrol-V. She subsequently learned that the store's employees had been advised that they could sell these veterinary products to customers who looked "horsey."

Bishop Dolegiewicz gave evidence that he was able to obtain prescriptions for huge quantities of steroids from a doctor who was himself a former weightlifter. The prescriptions were filled by a pharmacist in Austin, Texas, and the drugs in turn sold by Mr Dolegiewicz to other athletes. The pharmacist was later convicted of selling drugs without a prescription, fined \$10,000, and sentenced to ten years in jail.

In its brief submitted to the Commission, the Canadian Pharmaceutical Association recommends rescheduling anabolic steroids and human growth hormone from prescription drug status to controlled drug status under the *Food and Drugs Act*. It also recommends licensing drug wholesalers as a method of reducing the illicit supply of these substances. The association suggests those measures because it has formed the opinion that "current legislative mechanisms are inadequate and ineffective in prosecuting and deterring the trafficking of anabolic steroids."

BLACK MARKET DISTRIBUTION

Until recently Canadian authorities have paid little attention to the illegal distribution of anabolic steroids. Authorities in the United States began to investigate the illegal distribution network there after they recognized a nationwide problem with anabolic steroids in the early 1980s, well before the issue received any prominence in Canada. Steroid use in the United States, already common at that time among bodybuilders and weightlifters, had spread to a wider group including a variety of Olympic athletes and professional athletes. It had also moved beyond sport to

individuals wanting to improve their appearance, including students of high school age and younger. Under pressure from those involved in prosecuting steroid distribution offences, the U.S. Food and Drug Administration (FDA) created a national anabolic steroid program which would enable various state and federal regulatory and law-enforcement agencies to share information and resources.

Dennis Degan was named national coordinator of this program in January 1985. Since then he has worked full time investigating the distribution of performance-enhancing drugs. He estimated the U.S. market at over half a billion dollars. Between the start of this program in 1985 and 1988, there have been approximately 200 convictions across the United States for offences involving steroids.

A California case that received a great deal of media attention involved David Jenkins, a former British 400 metre runner. He was convicted of offences relating to the manufacture of counterfeit anabolic steroids in Mexico and their distribution throughout the United States. In Jenkins's operation, millions of dollars' worth of steroids came into the United States in less than a year between late 1986 and the summer of 1987.

Australia too has recognized that it has a problem with illegal distribution of these drugs. Senator Black's committee estimated the market in that country to be somewhere between \$15 million and \$150 million a year. A more accurate estimate was not possible because most of the distribution was through black market channels.

It is difficult to estimate the extent of the black market for anabolic steroids in Canada. Based on the U.S. experience, Commission investigator Ken St Germain, an experienced and knowledgeable law-enforcement officer, estimates that the Canadian market could be as high as \$60 million annually.

Since 1984, there have been several significant seizures at various Canada-U.S. border points. In these cases, Canadians were both importing anabolic steroids for Canadian customers and exporting them to the U.S. market. In 1987 in a single instance, 2000 pounds of steroids with a street value of \$1.5 million destined for the Canadian market were seized. In 1989 further significant amounts were seized. The problem is a growing one.

Gymnasiums

The main source of black market steroids is the local gymnasium. Elite athletes, bodybuilders, football players, and others all described the easy availability of such products in gyms throughout North America. Steve Brisbois, a professional bodybuilder who had trained at a number of gyms in the Toronto area, stated that anabolic steroids were widely available to anyone. Mike Spiritoso, who represented Canada in international track and field competition, also said he was able to obtain anabolic steroids easily in gyms in the Toronto area. According to David Bain, a high school football player, they are equally available in gyms in the Guelph area. Kevin Roy, a weightlifter and a carded athlete between 1981 and 1987, stated that he first obtained anabolic steroids at the gyms in which he was working out. Louis Taffo, a member of the York Yeomen Football Team, initially received anabolic steroids from Dr Jamie Astaphan. When Dr Astaphan closed his Toronto practice in 1986, Mr Taffo obtained them in local gyms. A succession of college football players who testified before this Commission stated that gyms were the main source of information and supply of anabolic steroids.

Commission investigators confirmed this evidence merely by visiting local establishments. Investigator Ken St Germain testified that "almost every . . . gym in Canada

is a source of anabolics, either legitimate or counterfeit." He went on to say that, in some cases, the owner may be opposed to the practice. In others, the owner is involved in the distribution:

[T]here are also people employed by the gyms that may be an instructor . . . that is supplementing his income by trafficking in steroids.

We also have the member that is attending a gym who becomes known to other people in there that the steroids are available through him.

He also pointed out that the gym may in some cases simply be the point of contact, with actual distribution taking place at another location.

A report prepared for the Quebec Provincial Police in 1987 concluded that trafficking in anabolic steroids was well established in gyms in the Montreal area and its suburbs. According to Dr Robert Kerr, anabolic steroids have been available at gyms in the United States since the 1960s, and gyms continue to be a major source of supply and distribution.

Distribution through gyms is not limited to North America. Senator Black, investigating steroid use in Australia, noted the availability of drugs in gymnasiums there and made specific recommendations to curb this activity.

The Health Department of Western Australia stated that "anabolic steroids are available in virtually all gymnasiums which specialise in strength sports and probably most others."¹ One of the Australian Committee's recommendations was that gymnasiums and health clubs be licensed and that a condition of licensing be that the premises be free of anabolic steroids and other drugs.

Bernd Heller, a West German journalist and former athlete, confirmed that the situation was similar in Europe. In Britain, the 1988 Amateur Athletic Association Drug Abuse Enquiry reported on the situation in that country:

We see no reason to doubt evidence we have heard of a regular importation of anabolic steroids from France to the minor port of Barrow-in-Furness, and their distribution through a gymnasium in that town to the north west of England; or that similar trading takes place equally openly around the whole of Britain.²

Black Market Dealers

It also became apparent from evidence given at this Inquiry that many of those who obtained steroids from black market sources in gyms became minor dealers themselves, usually to other users. Benoît Lévesque, a Quebec bodybuilder, supplied anabolic steroids to Quebec weight-lifters. He also sold anabolic steroids and growth hormone to sprinter Julie Rocheleau.

Mike Spiritoso gave evidence of buying steroids from Bishop Dolegiewicz:

[W]e would be sitting around at the Michael Power [High School] track and right after the workout, I would buy my supply. That would last me basically a year or nine months . . . we would just count it out and I gave him the money, and that was it.

These transactions took place in 1983 and 1984. In 1985 Mr Spiritoso "loaned" Mr Dolegiewicz 700 steroid pills "because they were hard to get at that time." Peter Dajia testified that he purchased anabolic steroids from Mr Dolegiewicz and also, while at Clemson University, from an ex-football player.

Dr Astaphan attempted to use Steve Brisbois as a black market source in May or June 1988. He asked Mr Brisbois to obtain growth hormone on the black market so that Dr Astaphan could then sell it to his elite athletes. Apparently Mr Brisbois was unsuccessful in obtaining the growth hormone and Dr Astaphan got it elsewhere.

Rob Gray said that prior to receiving steroids from Dr Astaphan, he received them from other athletes. Ontario collegiate football players also testified that, when they were unable to get anabolic steroids from physicians, they turned to gyms and in some cases to fellow team members for a source of supply.

David Bain described being offered steroids by a dealer at a gym in Guelph while he was a high school football player in 1987. He subsequently bought steroids and testosterone from an acquaintance in Guelph. Later, he and a friend bought human growth hormone from yet another source.

Richard Lococo, a football player from Sudbury who was subsequently drafted by the Hamilton Tiger Cats, was first offered steroids by a teammate while at high school in California. On his return to Canada, he obtained them from contacts in gyms.

Members of the Bureau of Dangerous Drugs, Health and Welfare Canada, in an article published in the *Canadian Pharmaceutical Journal* in August 1989, had this to say on the topic of distribution of anabolic steroids:

Information from various law enforcement agencies and reports found in the current literature suggest that most of the anabolic steroids used by athletes are not prescribed by physicians. The majority of these drugs are obtained directly from legitimate Canadian companies that illegally import and/or sell these drugs, or from other athletes who have obtained them while competing in foreign countries where they are readily available.

United States authorities have recently confirmed that a major distributor of anabolic steroids is operating in southwestern Ontario. Another major company, with addresses in various centres across the country, uses "muscle magazines" to advertise. During the past fiscal year, this company was reported to have had profits of \$2 million from annual sales estimated to be \$10 million. Another distributor located in Montreal, using 54 distribution sources throughout the province of Quebec, has recently pleaded guilty to trafficking charges. The majority of anabolic steroids illegally imported into Canada originate in the United States. Other sources include France, Germany, Italy, Spain, eastern countries, Mexico, India and Aruba.³

In the Montreal case, the distributor was fined a total of \$6000 and put on probation for three years. It was a condition of probation that he not communicate directly or indirectly with his customers, and that he have no dealings with or go to gyms or bodybuilding centres in Canada.

A disturbing note was struck by the evidence of Mario Chagnon, a former Bishop's University football player. He stated that he obtained his steroids from a pusher who supplied the campus with drugs as well as supplying the football team with steroids.

The British inquiry referred to above recognized that there is a black market problem in that country too for various banned substances:

With the more sophisticated forms of drug abuse, there appears to be ready access for any determined athlete, although not by any means on the local shopping basis of anabolic steroids or stimulants. We accept that there is a serious black market in human growth hormone, and there have been well-substantiated incidents of substantial thefts of such material which can only be seen as being planned with the athletes in mind as a market.⁴

Mail Order

Distribution of anabolic steroids and other performance-enhancing drugs by mail order is itself a multimillion-dollar business in North America. Mr Degan of the U.S. FDA pointed out that, as more information became available to the public through weightlifting and bodybuilding magazines, as well as publications such as the *Underground Steroid Handbook*, the interest in these drugs grew dramatically. Because there were few regulations touching the sale or distribution of steroids in the United States prior to 1983, several individuals started mail-order businesses. Information about the drugs together with price lists were distributed widely.

There was also evidence of mail-order distribution of performance-enhancing substances in Canada. In 1987 Canadian authorities investigated the owner of a mail-order operation in Nova Scotia with 6000 people on his customer list. He sent out 1500 letters each week to potential customers and received 200 letters a day requesting anabolic steroids. His mailing costs alone exceeded \$28,000 per annum. According to investigators, he had built up a massive business. He was charged, convicted, and fined \$500 for selling a substance containing a Schedule F drug under the *Food and Drugs Act*. He has since resumed the "legitimate" aspect of his business — publication of a newsletter about performance-enhancing drugs.

Mail-order operators paint a glowing picture of the business, as evident in these excerpts from a mail-order brochure:

Thank you for responding to our Report '88 ad. Due to the overwhelming response from our ad, we are currently out of stock of Report '88. We have just ordered 5,000 more copies and as soon as they are ready, we'll be sending your copy without delay. We are very sorry for the delay.

We are, however, sending a list of our products and services to you in case you are in a hurry to get some real steroids.

We say real, because there is so much fake steroid on the market and so many rip off artists that the steroid user today has to be very careful who he buys from . . . All our products we sell are 100% real and purchased right from the manufacturer.

Our prices might be a little higher but then you can be sure that from us you get fast service and real products. We look forward to having you as a customer and hope you find our products the very best.

and:

We now offer to you personalized steroid programs.

Send us a history of your training experience, current diet, body type, height, weight and any steroid experience, your current training program and training goals. We will send you a training program, proper diet and detailed steroid program personalized just for you.

SOURCES OF BLACK MARKET SUPPLY

Many of the anabolic steroids distributed on the black market in Canada and the United States are manufactured by clandestine laboratories in the United States and Central and South America, without any of the regulatory safeguards that apply to legitimate laboratories. The drugs are manufactured, packaged, and labelled to resemble legitimate products from pharmaceutical companies, with convincing details such as the inclusion of an explanatory product monograph. Pharmaceutical companies can point out minor discrepancies in label marking or lot numbers in the counterfeit packaging, but the ultimate consumer is unlikely to detect the deception. The appearance of the drugs therefore misleads unwary consumers who think they are receiving legitimate anabolic steroids.

In December 1989, the Health Protection branch of Health and Welfare Canada examined black market steroid preparations seized by Canadian law-enforcement authorities. Their analysis showed that most of the samples seized were of uncertain or poor quality. The majority contained no anabolic steroids at all. Furthermore, inadequate sterility had been maintained, particularly for injectable drugs, presenting additional health risks to the consumer of these products. Evidence to the same effect was heard at the Australian inquiry.

The biggest source of supply of black market steroids to the United States was a clandestine laboratory in Mexico. This laboratory was finally located and shut down by the Mexican authorities in early 1989. Other countries continue to fill the demand. Anabolic steroids manufactured in clandestine laboratories in Europe are very much in demand in North America, reportedly because European drugs are often not approved for use here, and athletes and others wish to use the same drugs as their European competitors.

These substances are costly. The evidence disclosed that injections of Deca-Durabolin cost up to \$25 each; and that bottles of steroid pills cost from \$35 to \$50 each. Angella Issajenko stated that in one year she had paid approximately \$1200 to each of two physicians for steroid products.

Human growth hormone represents an integral part of the black market in performance-enhancing substances. In both Canada and the United States the legitimate market for growth hormone is tightly controlled. As noted elsewhere in this report, it is distributed in Canada only by hospital pharmacies, under the control of physicians who are members of the Canadian Growth Hormone Advisory Committee. Occasionally, legitimate product may make its way onto the black market by theft or other means. More

commonly, counterfeit growth hormone is all that is available. Real growth hormone is much more expensive than anabolic steroids, with the average black market cost in the range of \$1000 for a single vial.

There is no doubt that the increased incidence of the use of banned substances in sport is due in part to the proliferation of sources of supply that have put these substances within reach of athletes, university and high school students, and anyone who frequents gyms in Canada. Furthermore, since much of what is available on the black market is illicitly produced, without proper or any quality control, users are not only being duped but are running serious additional health risks. Any plan to curb doping in sport must take into account the extent to which ineffective controls on the manufacture, importation, and distribution of these substances has allowed their use to spread.

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Food and Drugs Act

Drugs are regulated in Canada under the *Food and Drugs Act*, R.S.C. 1985, c. F-27, and the *Narcotic Control Act*, R.S.C. 1985, c. N-1. The combined effect of these two statutes is to regulate all drugs and substances through a classification system. At one end of the spectrum are substances over which very little control is exercised, and at the other end are prohibited substances. The federal minister of health and welfare administers these acts under the authority granted him or her to promote and preserve "the health, social security and social welfare of the people of Canada" (*Department of National Health and Welfare Act*, R.S.C. 1985, c. N-10).

Anabolic steroids are regulated under the *Food and Drugs Act*, R.S.C. 1985, c. F-27, and regulations made thereunder. Schedule F to the regulations lists those drugs that may be sold only by medical prescription. The schedule

is divided into two parts. Drugs listed in Part II may be sold without prescription in certain circumstances; those in Part I may never be sold without prescription.

Sex hormones, the general category into which anabolic steroids fall, are, with several exceptions, listed in Part II. The excepted sex hormones, which appear in Part I, are:

- (a) Boldenone undecylenate,
- (b) Cyproterone acetate,
- (c) Diethylstilbestrol and its salts and derivatives,
- (d) Megestrol and its salts,
- (e) Mibolerone, and
- (f) Stanozolol.

The Regulation reads as follows:

C.01.041.(1.1) Subject to sections C.01.043, C.01.046 and C.01.601, no person shall sell a substance containing a Schedule F drug unless (a) such sale is made pursuant to a verbal or written prescription received by him.

The exception contained in section C.01.043 is for sale without a prescription to drug manufacturers, licensed practitioners, wholesale druggists, pharmacists, hospitals, and government departments.

The exceptions referred to in sections C.01.046 and C.01.601 apply to those drugs listed in Part II of Schedule F. Section C.01.046 reads:

A person may sell a drug listed or described in Part II of Schedule F to the Regulations, without having received a prescription therefor, if

- (a) the drug is in a form not suitable for human use; or
- (b) the main panel of both the inner and outer labels carries the words "For Agricultural Use Only" or "Agricultural Use Only" immediately following or preceding the proprietary or brand name, proper name or common name in type not less than one half as large as the largest type on the label.

Section C.01.601 reads:

A person may sell a drug listed or described in Part II of Schedule F to the Regulations, without receiving a prescription therefor, if

- (a) the drug is in a form not suitable for human use; or
- (b) the main panel of both the inner and outer labels carries the words "For Veterinary Use Only" or "Veterinary Use Only" immediately following or preceding the proprietary or brand name, proper name or common name in type not less than one half as large as the largest type on the label.

It is apparent that these exceptions are to facilitate access to the Schedule F, Part II drugs for agricultural and veterinary purposes. Other sections of the Regulation exclude these drugs, when intended for veterinary or agricultural use, from the importation and advertising restrictions contained in the Regulation.

Section C.01.044 reads:

- (1) No person shall, in advertising a Schedule F Drug to the general public, make any representation other than with respect to the name, price and quantity of such drug.
- (2) Subsection (1) does not apply where
 - (a) the drug is listed or described in Part II of Schedule F; and
 - (b) the drug is
 - (i) in a form not suitable for human use, or
 - (ii) labelled in the manner prescribed by paragraph C.01.046(b) or C.01.601(b).

Section C.01.045 reads:

- (1) Subject to subsection (2), no person other than

- (a) a practitioner;
 - (b) a drug manufacturer;
 - (c) a wholesale druggist;
 - (d) a registered pharmacist; or
 - (e) a resident of a foreign country while a visitor in Canada, shall import a Schedule F Drug.
- (2) Any person may import a Schedule F Drug listed or described in Part II of Schedule F to the Regulations if the drug is imported in such form or so labelled that he could sell it under section C.01.046 or C.01.601.

The effects of the Regulation with respect to sex hormones, within which general term anabolic steroids fall, are:

- 1) Apart from veterinary or agricultural products, they cannot be sold to the public without a prescription.
- 2) Some anabolic steroids (those listed in Part II of Schedule F) can be sold to the public without a prescription if they are clearly labelled as being for agricultural or veterinary use only, or if they are in a form not suitable for human use.
- 3) Anabolic steroids may be imported only by those authorized by the Regulation to do so (practitioners, drug manufacturers and wholesalers, pharmacists, and foreign visitors). However, those anabolic steroids falling within Part II of the schedule may be imported by anyone if they are clearly labelled for agricultural or veterinary use or are in a form not suitable for human consumption.
- 4) Stanozolol is listed in Part I of the schedule. It is therefore subject to all the restrictions on sale, advertising, and importation, without any exception for veterinary or agricultural use.

- 5) Human growth hormone (somatrem and somatropin) is listed in Part I of the schedule. It therefore cannot be sold to the public without prescription. Its therapeutic use is limited to the treatment of growth hormone deficiency in children, and the medical profession itself controls distribution. It follows that the product used by athletes comes from black market sources.

There is no restriction in the Act or Regulations against simply possessing Schedule F drugs. The definition of "selling" contained in section 2 of the Act does include possession for sale, as well as distribution:

"[S]ell" includes offer for sale, expose for sale, have in possession for sale and distribute, whether or not the distribution is made for consideration.

The penalties for a breach of the Act and Regulations are contained in section 31 of the Act:

Every person who contravenes any of the provisions of this Act, except Parts III and IV, or of the regulations made under this Part is guilty of an offence and liable

- (a) on summary conviction for a first offence to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both and, for a subsequent offence, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both; and
- (b) on conviction on indictment to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three years or to both.

A review of some of the cases that have come before the courts indicates that the most commonly applied penalty is a fine of \$500 or less — an amount which poses no real deter-

rent to an activity that generates huge profits for those who illegally sell and distribute anabolic steroids.

Parts III and IV of the *Food and Drugs Act* deal with classes of drugs that are more closely regulated than those in Schedule F.

Schedule G of the Act lists drugs classed as "controlled." These drugs have some medical use, but significant abuse potential exists. Amphetamines are one example of a "controlled" substance. Schedule H lists drugs classed as "restricted," which include substances such as LSD. These drugs have no recognized medical use and have significant potential for abuse. Psychoactive substances, such as morphine, heroin, and cocaine, are regulated by the *Narcotic Control Act*.

With respect to "controlled drugs," section 39 of the Act provides:

- (1) No person shall traffic in a controlled drug or any substance represented or held out by the person to be a controlled drug.
- (2) No person shall have in possession any controlled drug for the purpose of trafficking.
- (3) Every person who contravenes subsection (1) or (2) is guilty of an offence and liable
 - (a) on summary conviction, to imprisonment for a term not exceeding eighteen months; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding ten years.

With respect to "restricted drugs," section 47 of the Act provides:

- (1) Except as authorized by this Part or the regulations, no person shall have a restricted drug in possession.
- (2) Every person who contravenes subsection (1) is guilty of an offence and liable

- (a) on summary conviction for a first offence, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both and, for a subsequent offence, to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both; or
- (b) on conviction on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three years or to both.

Section 48 of the Act provides:

- (1) No person shall traffic in a restricted drug or any substance represented or held out by the person to be a restricted drug.
- (2) No person shall have in possession any restricted drug for the purpose of trafficking.
- (3) Every person who contravenes subsection (1) or (2) is guilty of an offence and liable
 - (a) on summary conviction, to imprisonment for a term not exceeding eighteen months; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding ten years.

“Traffic” is defined in sections 38 and 46 of the Act — for the purposes of both “controlled” and “restricted” drugs — as follows:

“[T]raffic” means to manufacture, sell, export from or import into Canada, transport or deliver, otherwise than under the authority of this Part or the regulations.

As with Schedule F drugs, simple possession of a “controlled” drug is not an offence under the Act, although the penalties for sale or trafficking are much more severe than those that apply to Schedule F drugs. Mere possession of a “restricted” drug is, however, an offence under the Act. One of the recommendations contained in a brief submitted

to the Inquiry by the Canadian Pharmaceutical Association was that anabolic steroids and human growth hormone be given "controlled drug" status under the Act:

[T]he Canadian Pharmaceutical Association suggests that consideration be given to re-scheduling anabolic steroids and human growth hormones in all forms other than through implantation, from Part II, Schedule F of the Food and Drugs Act to Part III, Schedule G of the Food and Drugs Act thereby giving them a "controlled drug" status.

An exception was suggested for steroids used for veterinary purposes, so long as they be in implant form and unsuitable for use in humans. The brief suggested that the implications of rescheduling anabolic steroids would

- make anabolic steroids and human growth hormones, excluding implants, subject to the strict manufacturing, importation and distribution controls which govern controlled drugs
- establish tighter controls over the purchase and sale of all such products including within the licit system
- allow for easier enforcement and prosecution for trafficking.

The Ordre des pharmaciens du Québec in its submission also recommended that anabolic steroids be given "controlled drug" status:

The Ordre des pharmaciens du Québec recommends that anabolic steroids be listed henceforth in Appendix G of the Food and Drug Regulations and be considered controlled drugs. [Translation]

Both associations made recommendations for tightening controls over wholesalers and manufacturers of these products.

A brief submitted by the Ontario Veterinary Association acknowledged that evidence before this Commission had established that "some anabolic steroids manufactured and

labelled for veterinary use have been diverted for human use." Among the recommendations of this association were:

Establishment of a monitoring and reporting system for the sale of anabolic steroids from wholesalers and retailers to legally qualified licensed practitioners such as medical doctors, pharmacists and veterinarians.

Develop programs to intensify cooperation and information flow between all drug enforcement agencies and the investigative units of regulatory bodies that license practitioners who are authorized to prescribe drugs.

Intensified surveillance of legal and illegal movement of drugs across international boundaries.

There appears to be a consensus among those bodies involved in the legitimate sale and distribution of anabolic steroids that the regulatory mechanisms now in place are inadequate to deal with the abuses that occur. I note also that other countries are taking steps to regulate more strictly the production and sale of these products and to increase the range of penalties available.

REGULATION IN OTHER COUNTRIES

United Kingdom

Two governing statutes apply to the control of drugs in the United Kingdom: the *Misuse of Drugs Act* of 1971 and the *Medicines Act* of 1968. The following summary was prepared by the British Sports Council.

Misuse of Drugs Act 1971

This Act replaced the *Dangerous Drugs Acts* of 1965 and 1967 and *Drugs (Prevention of Misuse) Act* 1964. It provides powers to prevent the misuse of drugs, and to deal with social problems related to their misuse in several ways. It establishes a list of all

dangerous or otherwise harmful substances and products, ie controlled drugs and creates a framework to prevent their misuse involving restrictions and controls on the import, export, production, supply and possession of controlled drugs; safe custody, licensing, regulating of prescriptions, power to withdraw authority from doctors, dentists, veterinary surgeons or pharmacists and the punishment of offenders.

Controlled drugs are listed in Schedule 2 of the Misuse of Drugs Act 1971 and are divided into three classes — A, B and C. The classification is used to determine the penalties which may be imposed for offences involving drug misuse.

Enforcement of the Act is the responsibility of the Home Office through the Police and the Courts.

Medicines Act 1968

This Act provides for the control of medicinal products and substances through a system of licences, including the licensing of firms engaged in their manufacture or wholesale. There are three categories of status of the products controlled under the Medicines Act 1968 which, dependent upon the ingredients involved, govern the availability of medicines:

- a. The Prescription Only Medicines (POM list) where products may only be provided on a prescription from a medical practitioner.
- b. The General Sales List (GSL) where products may be purchased over the counter.
- c. Medicines whose ingredients are not covered by the POM or GSL lists are Pharmacy only and may only be sold under a Pharmacist's supervision.

Specifically a product licence is needed to market or import a medicine; manufacturers' and wholesale dealers' licences are needed for these operations.

Enforcement of the Medicines Act is the responsibility of the Department of Health.

Unlicensed dealing in, and obtaining of anabolic steroids without a licence are offences against the Medicines Act 1968. Offences would be liable to criminal proceedings and could attract penalties of fines and/or imprisonment. For example, unlicensed trading on summary conviction would attract a fine not exceeding £2,000; on conviction of indictment higher penalties, including imprisonment, could be imposed.

The Medicines Act 1968 does not control the abuse of anabolic steroids or other substances. Possession of anabolic steroids does not constitute an offence under the Act.

A bill being prepared for consideration by Parliament proposes moving the regulation of anabolic steroids from the Medicines Act to the *Misuse of Drugs Act*, with corresponding increases in the applicable penalties.

United States

Steps are being taken by a number of states in the United States, as well as by federal authorities, to deal more effectively with what the federal Department of Health and Human Services has described as a major drug problem — the abuse of anabolic steroids and related prescription drugs by athletes and nonathletes. I was advised by the Office of Enforcement of the Department of Health and Human Services that, as of April 1990, thirty-three states had enacted legislation or adopted regulations dealing specifically with anabolic steroids. Proposed legislation of four other states was in committee. (Twenty-six of the bills introduced in 1988 and 1989 had not yet been issued.)

These legislative measures vary in their thrust, from mandating penalties for illegal distribution to placing anabolic steroids under a state's controlled substances legislation. (A summary of the legislation enacted or introduced federally and in various U.S. states appears as appendix H at the end of the report.)

It is noteworthy that many of the measures proposed or already enacted contain the following elements:

- treating as a felony the prescribing, dispensing, or administering of anabolic steroids or human growth hormone solely for athletic purposes;
- rejecting enhanced athletic performance, increased muscle mass, or weight or strength gain as a "valid medical purpose" for prescribing or dispensing anabolic steroids or human growth hormone;
- assigning heavier penalties for offences involving minors;
- requiring warnings about anabolic steroids and human growth hormone to be posted in schools, gymnasiums, and athletic facilities, with fines for noncompliance; and
- treating simple possession as a misdemeanour, but treating possession for the purposes of distribution — whether or not for consideration — as a felony.

I have considered these measures in making my recommendations with respect to the regulation of anabolic steroids and related substances in Canada.

Australia

As in the United States, Australia's legislation relating to drug offences varies from state to state. In general, the states and territories are responsible for the sale and distribution of all pharmaceuticals within their boundaries. The Commonwealth government, however, through the provisions of Regulations 5A to 5G of the Customs (Prohibited Imports) Regulations, is responsible for controlling the importation of therapeutic substances. A person wishing to import a therapeutic substance into Australia must either

be a licensed importer or have written permission from the secretary of the Department of Community Services and Health. Once the substance is in the country, its distribution must be in accordance with conditions set out in the secretary's approval. A person may import in his or her accompanying luggage therapeutic substances for personal use, such as vitamins and anabolic steroids, although the amount allowed is at the discretion of Customs officers.

The 1988 Senate committee inquiring into drugs in sport found this last policy unsatisfactory. Further, it found that therapeutic substances for use solely in the treatment of animals were exempt from licensing requirements — and that anabolic steroids were being imported under that exemption. The evidence before the committee established that anabolic steroids intended for veterinary use only were being diverted to the black market, for human use.

With respect to state regulation of these substances, the committee examined the legislation in place in Victoria and noted that substances appearing on the IOC list of prohibited substances fall into four categories for the purposes of the *Drugs, Poisons and Controlled Substances Act* of 1981: (1) drugs of dependence (Schedule Eleven), (2) drugs of addiction (Schedule Eight), (3) restricted substances (Schedule Four), and (4) industrial and agricultural poisons (Schedule Six). Anabolic steroids for human use fall into Schedule Four and are available only on prescription. However, veterinary anabolic steroids fall into the category of industrial and agricultural poisons (Schedule Six); when intended for agricultural use, they are available in Victoria without restriction.

As a result of these findings, the Senate committee recommended:

- that the supply for human use of any anabolic steroid labelled for veterinary use be made a criminal offence punishable by the same penalties as those that apply to the unauthorized use of human anabolic steroids;
- that regulations concerning the importation of veterinary anabolic steroids be made as stringent as those that apply to anabolic steroids for human use;
- that anabolic steroids prepared for human use be reclassified as a Schedule Eight drug (i.e., drugs of addiction);
- that the sale or supply without prescription of anabolic steroids be made a criminal offence;
- that the Australian Medical Association and the responsible medical boards develop and implement policies prohibiting the prescription of drugs purely to enhance sporting performance; and
- that Australian Customs officers be made aware that Australian athletes should not continue to be in a low-risk category with respect to the importation of anabolic steroids and other performance-enhancing drugs, and that passenger control guidelines be amended accordingly.

On February 3, 1985, the Government of Western Australia made anabolic steroids subject to that state's *Misuse of Drugs Act*. The effect of this initiative is that in Western Australia:

- selling or supplying or intending to sell or supply anabolic steroids is an indictable offence and carries a maximum fine of \$100,000 or imprisonment for twenty-five years;
- simple provision of anabolic steroids without a prescription is an offence and carries a maximum fine of \$3000; and

- owners of premises who allow the sale or use of anabolic steroids on their premises are liable for a fine up to \$3000.

The Senate committee urged other states to follow the same approach.

SUMMARY

The extent to which a substance is open to abuse, with consequent health risks, is a proper consideration in determining the degree to which the substance should be regulated. I am satisfied on the evidence before this Commission that the time has come to review the method by which anabolic steroids and other substances open to abuse in the sport context are regulated in Canada.

This view is supported further by the fact that other countries have arrived at a similar conclusion and are moving towards stricter controls on these substances.

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Medical Profession

Physicians have played an important role in supplying anabolic steroids and other banned drugs to athletes for performance enhancement. Many athletes who testified at this Inquiry received banned substances from physicians, in some cases together with medical supervision and in other cases without any medical care whatsoever. The medical profession across Canada, however, has recently taken an active role in curtailing these practices by regulating the prescription of performance-enhancing substances to athletes. The policies of the associations governing Canadian physicians are set out below.

MEDICAL POLICIES REGARDING PERFORMANCE-ENHANCING DRUGS

The Canadian Medical Association (CMA) has taken this position on drug use in sport:

The CMA condemns the use of anabolic steroids, growth hormones and other substances (defined by the International Olympic Committee's Medical Commission) for the sole purpose of enhancing athletic performance. The association considers the provision of such agents unacceptable medical practice. The CMA believes, however, that it is imperative that athletes not be penalized for using drugs that are required for medical reasons.

The College of Physicians and Surgeons of Ontario has issued two statements regarding the use of anabolic steroids by athletes. In June 1983 the policy was as follows:

Use of Anabolic Steroids by Athletes

Anabolic steroids are frequently used by athletes despite the bans of various sports organizations. Controversy surrounds the interpretation of clinical trials, but there appears to be little evidence that they enhance endurance, speed or cardiovascular fitness. Physicians who prescribe anabolic steroids must warn their patients of side effects and carefully monitor the patient as long as these compounds are being taken.

Even though the newer synthetics have a lower androgenic effect, they may cause premature and irreversible epiphyseal closure in young persons. The masculinizing effects are particularly striking in young women. Prepubertal female athletes are at greatest risk.

All oral forms of anabolic steroids contain a chemical group that is associated with some degree of hepatic toxicity in a large proportion of those who use them. These side effects have only been described in patients taking oral agents and have not been reported where injectable forms were used.

In men, anabolic steroids may cause testicular dysfunction which is reversible on withdrawal of the agent.

In November 1988, after the Seoul Olympic Games, the policy was stated as:

New Policy on Providing Substances to Athletes to Enhance Performance

In June of this year, the Sport Medicine Council of Canada asked the College to re-examine the issue of physicians providing anabolic steroids to athletes. The College had issued a statement in 1983 warning physicians of the side effects of anabolic steroids, but the Sport Medicine Council felt this was becoming an issue of increasing concern.

The College undertook a thorough review of the literature on this matter, and consulted with a number of experts in the field. As a result of this research, the Council of the College approved the following policy statement at its October meeting:

"Prescribing, administering or providing assistance relating to the use of substances, including anabolic steroids, for the purpose of enhancing athletic performance, without medical indication, and/or for the apparent purpose of assisting an athlete to cheat, is unprofessional conduct."

The Quebec Office of the Syndic has issued the following policy as of November 1988:

Prescribing Anabolic Steroids to Athletes

The results of studies concerning the effects of anabolic steroids on athletes who take them to improve their performance remain controversial.

These products can have side effects that may not be reversed when the athlete stops taking them, including certain signs of virilization in women. Furthermore, the changes that occur to HDL-cholesterol lead us to believe that users of such products are at increased risk with respect to cardiovascular disease.

Consequently, medical authorities in certain Canadian provinces and American states have deemed it necessary to pass a regulation specifically prohibiting the prescription of anabolic steroids to athletes.

In Québec, the Office of the Syndic does not intend to request that such a regulation be passed because the province's Code of Ethics of Physicians contains sections that apply to this type of practice. Physicians who prescribe such products, under

these circumstances, contravene section 2.03.21* of the Code of Ethics of Physicians, which stipulates that physicians may only prescribe drugs for medical reasons. [*A physician must only provide care or give a prescription for medication or treatment when medically necessary.]

On May 10, 1988, with a view to enforcing this regulation, the Corporation's Committee on Discipline imposed a penalty against a physician who had prescribed anabolic steroids to athletes solely in an attempt to improve their performance.

In light of these facts, and the Corporation's role of protecting the public, the Office of the Syndic wishes to notify physicians *that any prescription of anabolic steroids to athletes with the sole aim of improving their performance will be considered as an act directly contravening the Code of Ethics and will be likely to entail the application of disciplinary measures against the offender.*

The British Columbia College of Physicians and Surgeons passed its Resolution 88-10 before the Seoul Olympic Games:

Resolved that it shall be deemed to be unprofessional or in some instances, infamous conduct for a member of the College to administer, prescribe, give, sell or furnish, or co-operate in the provision of anabolic steroids to healthy individuals.

The College of Physicians and Surgeons of Alberta passed motion 110-88, stating:

That the deliberate provision to an individual of a substance, as defined by the International Olympic Committee's Medical Commission, for the purposes of enhancing athletic performance and/or building muscle mass, is an unacceptable practice.

Saskatchewan's College of Physicians approved Bylaw 42 in February 1988:

(A) A physician shall not utilize anabolic steroids, growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of enhancing athletic ability;

(B) A physician shall complete and maintain patient medical records which accurately reflect the utilization of any substance or drug described in (A) above. Patient medical records shall indicate the diagnosis and purpose for which the substance or drug is utilized, and any additional information upon which the diagnosis is based. Records on these patients must be produced for inspection by the College.

(C) Failure to follow this bylaw shall be considered unprofessional conduct under Section 46 of the Medical Profession Act.

In September 1988 the Standards Committee of the College of Physicians and Surgeons of Manitoba approved the following statement for publication:

That physicians should not prescribe drugs for non-medical reasons. In particular, physicians should not prescribe, nor support in any way, the use of anabolic steroids, growth hormones, or any other drugs for athletic enhancement; and

That physicians should acquaint any patient using these drugs of the inherent danger of the use of drugs; and

That the College deems prescribing of the above drugs for non-medical uses to be unethical conduct.

The New Brunswick rule is:

That Anabolic Steroids for athletes and body builders does not conform to the standard of acceptable medical practice in this licensing authority and that all physicians in New Brunswick, through the N.B. Medical Society Newsletter, be informed of this policy and that if any physician feels he should treat an athlete with Anabolic Steroids for any reason, he should first inform the Council of the College in writing of this special circumstance and Council will deal with that specific request.

Nova Scotia has the following policy:

The Provincial Medical Board of Nova Scotia considers it unacceptable practice for a physician to prescribe anabolic steroids to a healthy individual for body building or any other

purpose. The Provincial Medical Board considers it to be unprofessional conduct unbecoming a doctor to administer, prescribe, give, sell or furnish or cooperate in the provision of steroids to healthy individuals.

The Prince Edward Island College of Physicians and Surgeons states the rule as follows:

Council has decided that presently in the regulations under the Medical Act it is stated that "improper use of the authority to prescribe, sell, or dispense a drug, including falsifying a record in reporting a prescription or the sale of a drug" constitutes professional misconduct. In interpreting this regulation the prescribing of anabolic steroids for other than strictly medical indications and specifically the prescription or sale of these agents for the purpose of enhancing athletic performance will be considered as professional misconduct by the Council.

The following policy was approved by the Newfoundland College of Physicians and Surgeons in the fall of 1988 and published in January 1989:

It shall be the policy of the Newfoundland Medical Board that physicians who prescribe, supply or assist in the administering of anabolic steroids to healthy persons for the purposes of enhancing athletic ability will be deemed to have committed professional misconduct and as a consequence will be subject to Section 25 of the Newfoundland Medical Act.

The Yukon Medical Council issued the following guideline in September 1988:

Anabolic Steroids

- (a) A physician shall not utilize anabolic steroids, growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of enhancing athletic ability.

- (b) A physician shall complete and maintain patient medical records which accurately reflect the utilization of any substance or drug described in (a) above. Patient medical records shall indicate the diagnosis and purpose for which the substance or drug is utilized, and any additional information upon which the diagnosis is based.

Canadian physicians are not alone in their position regarding performance-enhancing substances. For example, the American College of Sport Medicine has issued the following statement regarding the use of anabolic steroids:

Based on a comprehensive literature survey and a careful analysis of the claims concerning the ergogenic effects and the adverse effects of anabolic-androgenic steroids, it is the position of the American College of Sports Medicine that:

1. Anabolic-androgenic steroids in the presence of an adequate diet can contribute to increases in body weight, often in the lean mass compartment.
2. The gains in muscular strength achieved through high-intensity exercise and proper diet can be increased by the use of anabolic-androgenic steroids in some individuals.
3. Anabolic-androgenic steroids do not increase aerobic power or capacity for muscular exercise.
4. Anabolic-androgenic steroids have been associated with adverse effects on the liver, cardiovascular system, reproductive system, and psychological status in therapeutic trials and in limited research on athletes. Until further research is completed, the potential hazards of the use of the anabolic-androgenic steroids in athletes must include those found in therapeutic trials.
5. The use of anabolic-androgenic steroids by athletes is contrary to the rules and ethical principles of athletic competition as set forth by many of the sports governing bodies. The American College of Sports Medicine supports these ethical principles and deplores the use of anabolic-androgenic steroids by athletes.

The condemnation of the prescription of anabolic steroids for athletics or appearance is unanimous among responsible physicians. Given the obvious concern about these drugs within the medical profession, how much more urgent is the need to take action against the growing uncontrolled use of anabolic steroids from nonmedical sources.

PHYSICIANS PRESCRIBING PEFORMANCE-ENHANCING DRUGS

The evidence disclosed that a number of physicians had prescribed performance-enhancing substances, including anabolic steroids, to Canadian athletes. Three of these physicians testified about their practices.

The evidence of Dr Gunther Koch has been discussed earlier in this report. It should be pointed out that Dr Koch provided anabolic steroids to only one competing athlete.

The evidence of Dr George Mario (Jamie) Astaphan has been discussed earlier as well, in the section on track and field. There is no doubt that over a period of several years he administered anabolic steroids and other banned substances to many athletes solely for the purpose of performance enhancement.

As noted in the chapter of this report concerning supply and distribution of anabolic steroids, Dr Ara Artinian, a Toronto physician, has over the past ten years prescribed anabolic steroids to many patients, including a number of athletes. He claimed that he used anabolic steroids to treat a wide variety of conditions. He admitted that he also prescribed anabolic steroids to patients merely because they wanted to get bigger, stronger, and heavier. Many athletes testified that they went to Dr Artinian for the sole purpose

of obtaining anabolic steroids and that he distributed the drugs both as pills and in injectable form in return for cash payments.

As noted above, physicians who may have been permitted to prescribe performance-enhancing substances to athletes, subject to certain conditions, are no longer permitted to do so. There remains, however, the question of what should be done in light of the specific evidence concerning the physicians named above. This issue will be addressed in the conclusions and recommendations of the report.

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Drug-Testing Issues

Having discussed the disheartening evidence of drug use in sport, I can now return to several themes related to drug testing that are apparent in the evidence. The first theme is what I call the fallacy of in-competition testing.

FALLACY OF IN-COMPETITION TESTING

Many witnesses testified about “clearance times” for anabolic steroids. The expression described how long before the test the athlete would have to stop using drugs to avoid detection. Anabolic steroids in particular are used during training. If the athlete stops treatment a few weeks before the competition, at the time of the test the drug may be below detectable limits or have been completely excreted.

Dr Robert Dugal, head of the INRS-Santé laboratory in Montreal, discussed the concept from the laboratory’s point of view in terms of the “retrospectivity” of the test — the

length of time that the laboratory can look back to detect drug use. He stated that there is little scientific data on the subject. Factors such as the type of drug, the dose, the frequency and duration of administration, as well as the athlete's own body characteristics would affect the clearance time for anabolic steroids and for all other drugs. He was nevertheless certain about the best way to detect drugs used in training. In a paper presented in October 1974, Dr Dugal and a colleague wrote:

These compounds are taken sequentially over periods of several months and the benefits acquired from their use remain long after the athlete has interrupted the treatment, which they usually do before an important event. *It would then seem that the effective control of anabolic steroids would have to be carried out during the training period.*¹ [Emphasis added]

Dr Dugal said that international consensus on testing outside competition has been difficult to build during the fifteen years since he wrote that article. Nonetheless, in his view, competition testing has been partly effective in that it has abolished doping immediately prior to competition and has served as a deterrent to athletes taking steroids. He admitted, however, in the words of Sir Arthur Gold, that "only the careless or ill-advised get caught" when tested at competitions.

In a similar vein, Dr Manfred Donike wrote in a 1975 article:

[T]he question may be put forward, why the national and international federations concerned do not perform dope controls at regular intervals. One reason is that the federations stick to the demand that controls should be performed at the day of the competition. This demand is not justified because anabolic steroids are not used to increase the performance at the day of the competition — like stimulants — , but they are ingested months before during the building up phase of training . . .

Therefore the doping control for anabolic steroids must be performed not only at the day of competition but months before at the occasion of less important competitions respectively in training camps. The difficulties which may occur are smaller than the until now tolerated health risks for the athletes.

My opinion is that in future the discussion should not concentrate [on] if there will be a test for anabolic steroids or not, but *when*. Based on pharmacokinetical results and the analytical possibilities a urine sample delivered at the day of the competition will allow a retrospectivity of 3, 8, 14 or 21 days. But this retrospectivity is not sufficient to fight against the misuse of anabolic steroids, as positive effects may persist even after several weeks or months.

A possible solution for international events is to advance the entry date and organize controls in regular intervals. At a national level each federation having problems with anabolic steroids should be interested in controls before the season.

Who seriously wishes to control anabolic steroids in sport cannot avoid administrative measures as described above. [Translation; emphasis added]

When questioned about his 1975 paper, Dr Donike confirmed that “[t]he scientific facts provoking, or asking, demanding out-of-competition controls . . . are known since the beginning. And now we have reached a stage where it is time to act and not to discuss.” Hence it was clear more than fifteen years ago that the worldwide practice of testing at competitions was not the most effective way to detect users of anabolic steroids.

More recently Dr Arne Ljungqvist said at the 1987 International Athletic Foundation (IAF) World Symposium on Doping in Sport:

It is obvious that the frequency of positive doping cases under the prevailing testing programmes does not accurately reflect the actual use of doping substances, since most doping substances (hormones) are used during training when tests are only rarely conducted.

These statements are even more critical of in-competition testing than may be apparent at first. They refer only to clearance times, but athletes not only wait passively while the drugs clear their bodies, they also actively manipulate their results using banned practices such as urine substitution and drugs such as probenecid. In-competition testing gives the athletes ample warning to allow them to circumvent drug testing by other means than simply allowing for clearance times.

Despite knowing the fallacy of in-competition testing, as they have for many years, the medical commissions of sport organizations such as the IAAF and the IOC have taken no steps to make the fallacy more widely known. By failing to do so they have given the impression that their competitions are fair and that the laboratories cannot be fooled.

Each year the IOC Medical Commission gathers statistics on the substances detected by all of the accredited laboratories. The statistics for the years 1986 through 1989 are summarized in tables 20-1, 20-2, and 20-3.

Tables 20-1 and 20-2 purport to indicate that approximately 2 percent of tested athletes use banned drugs and, of those, between half and two-thirds use anabolic steroids. We know, however, that in-competition testing is ineffective for drugs taken during training and for drugs that can be blocked or masked. Therefore the figures do not show how many athletes use drugs but merely how many happened to be caught. Yet the same statistics have been used misleadingly in various attempts to show that drug abuse affects only a small percentage of athletes. Consider these words:

Since the reactions to the case of Ben Johnson were very strong and to some extent exaggerated and the case gave rise to many rumours it might be of some value to try to put the pieces together. First of all it can be said that the olympic games [sic] in Seoul

Table 20-1
Samples Analysed by IOC-Accredited Laboratories, 1986-89

		Number of Samples	Number of Negative Samples	Number of Analytically Positive A-Samples	%
Competitions with national competitors	1986	15,533	15,272	261	1.68
	1987	13,381	13,049	332	2.48
	1988	16,925	16,497	428	2.53
	1989	21,522	21,060	462	2.15
Competitions with international competitors	1986	5,227	5,148	79	1.51
	1987	8,159	7,986	173	2.12
	1988	13,706	13,379	327	2.39
	1989	10,076	9,858	218	2.16
Major international championships	1986	4,449	4,338	111	2.49
	1987	9,759	9,530	229	2.35
	1988	4,930	4,790	140	2.84
	1989	6,134	5,990	144	2.35
Samples collected out of competition	1986	6,505	6,368	137	2.11
	1987	5,870	5,800	70	1.19
	1988	10,140	9,919	221	2.18
	1989	14,684	14,302	382	2.60
Checking of competitors prior to major championships	1986	1,268	1,233	35	2.76
	1987	713	663	50	7.01
	1988	1,368	1,331	37	2.70
	1989*				
Totals	1986	32,982	32,359	623	1.89
	1987	37,882	37,028	854	2.25
	1988	47,069	45,916	1,153	2.45
	1989	52,416	51,210	1,206	2.30

Source: Statistics gathered by the IOC Medical Commission

* Figures not available

Table 20-2
Categories of Substances Detected, 1986-89

	1986		1987		1988		1989	
	Number	%	Number	%	Number	%	Number	%
Samples analysed	32,982		37,882		47,069		52,416	
Negative samples	32,359		37,028		45,916		51,210	
Positive A-samples	623	1.89	854	2.25	1,153	2.45	1,206	2.30
Classes of dope agents								
A Stimulants	177	25.76	301	31.92	420	31.00	423	36.30
B Narcotics	23	3.35	55	5.83	58	4.30	72	6.20
C Anabolic steroids	439	63.90	521	55.25	791	58.50	610	52.30
D Beta blockers	31	4.51	33	3.50	8	0.60	6	0.50
E Diuretics	2	0.29	9	1.00	57	4.20	45	3.90
F Sedativa	15	2.18	—	—	—	—	—	—
Masking agents (probeneicid)	—		24	2.55	19	1.40	10	.09
Total	687		943		1,353		1,166	

Source: Statistics gathered by the IOC Medical Commission

Table 20-3
Types of Anabolic Steroids Detected, 1986-89

Anabolic Steroid	1986	1987	1988	1989
Nandrolone	250	262	304	224
Testosterone	22	83	155	166
Stanozolol	19	37	89	77
Metenolone	28	42	60	22
Metandienone	72	27	54	37
Methyltestosterone	25	20	33	25
Oxandrolone	10	6	22	10
Boldenone	—	17	19	11
Dehydrochlormethyltestosterone	5	7	16	12
Oxymetholone	2	3	12	11
Mesterolone	1	1	11	8
Clostebol	4	9	6	4
Drostanolone	—	1	4	2
Formebolone	—	—	2	—
Fluoxymesterone	—	3	1	—
Methandriol	—	1	1	—
Trenbolone	—	—	1	—
Norethandrolone	1	1	—	—
Quinabolone	—	1	—	—
Oxymesterone	—	—	—	1
Total	439	521	790	610

Source: Statistics gathered by the IOC Medical Commission

could not be regarded as the “Doping Olympic Games.” Close to 1600 athletes were tested and 10 of them came out positive. In Los Angeles 11 cases were positive out of about the same number of tests. In 4 of the positive cases in Seoul diuretic substances were detected, substances that were not on the banned list in Los Angeles. Thus a comparison between the games in Los Angeles and Seoul does not favour the idea that things were worse in Seoul. The problem in Seoul was that one of the doped athletes was named Ben Johnson.

That statement was made by Dr Arne Ljungqvist addressing the IAF World Symposium on Doping in Sport in Monte Carlo in June 1989. He and others know that in-competition testing does not catch all athletes. Yet he uses in-competition testing to measure the extent of doping at Seoul. Evidence from this Inquiry proves that the athletes caught at Seoul were not the only drug users. They were the only detected ones.

The fallacy appears at the national level as well. For example, the Canadian Track and Field Association justified its testing plans before Seoul by pointing out that Mr Johnson was tested many times between 1986 and 1988. This sort of argument ignores the fallacy of in-competition testing and pretends that in-competition testing prevents unfair competition.

In light of this evidence, the following exchange with IOC Vice-President Richard Pound is significant:

THE WITNESS: Can I just add a footnote, Mr Commissioner, just so that there is no doubt as to what the IOC rule is.

The IOC rule is that if you do not test positive at the time the sample is taken during the games, there is no basis for disqualification . . .

THE COMMISSIONER: That's not what the ban is. That's not what the Sports Canada ban is. You're not allowed to use it.

THE WITNESS: That's right. But Sport Canada is Sport Canada.

THE COMMISSIONER: In other words, let's assume that . . . you fill out your medication form . . . before you go to the doping control room, right?

THE WITNESS: Right.

THE COMMISSIONER: And you say I've been taking all these steroids?

THE WITNESS: Right.

THE COMMISSIONER: And it's . . . there in your own admission. But because you know how to mask it or you've had enough clearance time or you've used diuretics or other procedures, you can safely take the test. We've heard that over and over again.

Now, are you saying that you can still win a gold medal, is that what you're saying?

THE WITNESS: I'm saying that that would not produce a positive test and therefore, we would not, under our rules disqualify [the athlete]. [Emphasis added]

According to Mr Pound, therefore, the IOC relies only on positive tests at competitions, all the while knowing that those tests are ineffective for detecting the types of drugs used during training — in particular, anabolic steroids. This concern for appearance, not substance, has been a continuing theme in the evidence.

Dr Ljungqvist's statement "the problem in Seoul was that one of the doped athletes was named Ben Johnson" similarly directs attention at positive tests rather than at the real problem of doping in sport. The general public has long been led to assume that if only one athlete tested positive, the others were not also using drugs. We now know, as the IOC and the IAAF have known for many years, that this assumption is false and that steps must be taken to remedy the situation.

MONOPOLY OF INTERNATIONAL LABORATORIES

As discussed above, the IOC accredits laboratories throughout the world. By virtue of their association with the Olympic Games and other major sports events, the IOC-accredited laboratories have become the *de facto* standard for laboratories testing athletes. Even organizations with no direct connection to the IOC, such as the National Collegiate Athletic Association (NCAA) in the United States, non-Olympic sports such as bodybuilding, and various professional sports organizations, send urine samples of their athletes to IOC-accredited laboratories. Sport Canada too has a policy of using IOC-accredited laboratories for testing athletes in Canada.

Montreal Laboratory

The first Canadian laboratory to be accredited by the IOC was the INRS-Santé laboratory in Montreal headed by Dr Robert Dugal. Part of the Université du Québec research system, INRS-Santé is one of seven research centres of the Institut national de recherche scientifique in the province of Quebec. INRS-Santé itself has four research programs in health science, one of which, called health and safety in sports, is responsible for drug testing for the Sport Medicine Council of Canada (SMCC) and Sport Canada. The laboratory was accredited for testing during the 1976 Olympic Games in Montreal and remains accredited today. As the head of one of the five original IOC-accredited laboratories, Dr Dugal sits on the IOC subcommission on doping and biochemistry of sport, the subcommission that controls the accreditation process.

Although the Montreal laboratory was the first IOC-accredited laboratory in Canada, it has not always been the only one. The IOC accredited the laboratory at the Foothills

Hospital in Calgary for the 1988 Winter Olympic Games, but the accreditation was suspended in January 1989, as set out more fully below.

In the fall of 1984, the SMCC entered into a four-year contract with INRS-Santé for testing Canadian athletes. This was not the first agreement between the SMCC and the Montreal laboratory. Earlier agreements had provided for tests prior to the 1984 Los Angeles Olympic Games, but the new contract included responsibility not only for testing urine samples but also for research and other aspects beyond routine laboratory analysis. Although the contracting parties were the SMCC and the INRS-Santé laboratory, Sport Canada provided all funding. The contract permitted up to 1200 tests each year, but in no year has the laboratory been required to test that many.

Table 20-4 shows the number of tests in each year of the contract with the corresponding total cost. According to Dr Andrew Pipe, the SMCC could not ensure that all 1200 allotted tests were used in each year because it cannot compel the national sport organizations to test athletes. Rather, the organizations submit plans that are reviewed by Sport Canada. Dr Pipe said the SMCC merely provides advice and ensures that the capacity to test is available. The actual negotiations for the number of tests are between Sport Canada and the sport organizations. According to Dr Norman Gledhill, an exercise physiologist and former president of the SMCC, the initial contract specified 1000 tests annually, although it was agreed that there would be no additional charge if up to 1200 tests were requested. The contract was negotiated on the basis that each individual test was of minimal incremental cost compared with the basic equipment and research costs.

Table 20-4
Testing of Canadian Athletes by INRS-Santé

	Number of Tests	Cost
1985-86	900	\$343,470
1986-87	850	450,000
1987-88	800	448,000
1988-89	1,163	456,000

Dr Dugal explained how the incremental costs of testing are related to laboratory capacity. Referring to his own laboratory and to the formerly IOC-accredited laboratory in Calgary, he said that

as the number of samples go up or the number of analyses go up, the cost is brought down.

And very briefly . . . if the number of tests were to be increased to say 4,000 per year it would be much cheaper to have those processed in the same lab rather than to divide them equally between the two labs, because maintenance of an infrastructure, of a basic infrastructure, maintenance of the . . . qualifications of personnel and so forth are extremely costly. And there is a breakeven point above which testing is significantly cheaper.

He did not specify what the breakeven point would be. The figures given in table 20-4 show that the average cost of a urine test during the term of the agreement has been over \$400. Dr Dugal, however, said it was not proper to divide the total contract amount by the number of tests to establish a cost for each urine sample tested. Instead he compared the money received from Sport Canada to a research grant that covers direct costs only:

When I devised the budget first in 1983 or early '84, my budget was established on both the testing activities and the research programs that I felt had to go for the testing itself to maintain it competent.

So, a budget was established by ventilating, if you wish, each budgetary post in salaries of personnel, supplies that were necessary to conduct both the testing and the research, equipment replacement because these — this type of equipment ages rapidly when it is used day in and day out. And, of course, the research activities which I felt at the time again were necessary to provide Canada with a competent doping control program. In other words, to generate technology instead of importing it. And that budget then was established on that basis. Again I insist including research activities and other types of services. And I have calculated —

THE COMMISSIONER: Does that include the cost of any replacement of your equipment or is that —

THE WITNESS: Yes, it does, sir. There was a budget allocated of approximately 60 or \$70,000.00 a year for purposes of equipment replacement.

I might add to this that my own institution has contributed in a very significant way to this program. The total cost of running this per year is in excess of \$400,000.00.

For example, my own salary is not budgeted in this particular sum or amount, nor is that of my senior faculty members, nor is the extensive travel I have to do when I am acting as scientific advisor to the Canadian Ministry of Fitness and Sport.

The contract with the SMCC is not the largest for the Montreal laboratory. The NCAA does approximately 4500 tests each year and uses the IOC-accredited laboratories in Los Angeles, Indianapolis, and Montreal, each for approximately a third of the total. Dr Dugal said his laboratory analyses 1500 to 1700 tests annually for the NCAA. Apart from SMCC and NCAA tests, the laboratory does a small amount of work, approximately 100 to 150 samples per year, for powerlifting and bodybuilding associations.

The Montreal laboratory charges the NCAA U.S.\$185 for each sample tested. In addition, the laboratory received U.S.\$500,000 to purchase equipment at the beginning of the NCAA contract in the fall of 1986.

I must say that I was puzzled by Dr Dugal's explanation of the cost of testing. I would have thought that a unit cost for a test for the SMCC could be calculated, as it has been for the NCAA, despite the complexities of the laboratory's relationship with the university, the staffing arrangements, and so on. Although Dr Dugal expressed the view that it is not reasonable to compare the approximately C\$400 cost of each test in Canada with the approximately U.S.\$185 cost to the NCAA, the price charged to the NCAA was comparable with estimates from other countries such as the estimated cost in England of £120 and the Australian cost of approximately AUS\$230. Similarly the IAAF, in its submission to this Inquiry, estimated the cost of a single drug test to be approximately U.S.\$150.

Calgary Laboratory

As noted earlier, the laboratory at the Foothills Hospital in Calgary was accredited for testing at the 1988 Winter Olympic Games. In January 1989 the IOC subcommission on doping and biochemistry of sport removed the full accreditation from the Calgary laboratory, ordered it to restrict testing during the next four months to competitions within Canada, and demanded that any samples with a positive A-sample result be sent to a fully accredited IOC laboratory for the B-sample confirmation. Dr Dugal recalled excusing himself from the deliberations that resulted in the suspension of the Calgary laboratory. He was less certain about whether he had been involved in the suspension of other laboratories that might compete with his own, such as the IOC-accredited laboratory in Indianapolis. As a consequence of the Calgary suspension, and given its policy

of using only IOC-accredited facilities, Sport Canada renewed its contract with the Montreal laboratory, leaving the Calgary laboratory out of any testing programs for Canadian athletes.

The IOC subcommission on doping and biochemistry of sport cited a number of technical reasons for its decision to restrict the Calgary laboratory's activities. Lengthy correspondence was exchanged during every month of 1989 as the laboratory responded to the criticism and the IOC subcommission made further demands. At one point, Dr Donike as secretary of the subcommission threatened the Calgary laboratory for not complying with the restrictions imposed by the subcommission. He wrote to the laboratory on October 21, 1989:

There are press reports that the Calgary laboratory analysed samples for the American Football League. Analysing such samples has been performed in spite of the fact that the secretary of the sub-commission gave you twice, verbally and by letter, the sub-commission's interpretation of the term "national samples": samples originating in Canada.

Robert D. Baynton responded on behalf of the Calgary laboratory in a letter dated November 3, 1989:

In regards to the "national" issue. Yes, I recall our telephone discussion and your letter clarifying your (and presumably the subcommission's) understanding of what was meant by "national" testing. But if you would kindly refer to my letter of 1989 July 14 (copy enclosed) which initiated the discussion, I stated my interpretation of our Phase 1 restrictions — no *amateur* International competitions and International out of season testing. Also, presumptive positives from *Amateur* National competitions and out of season testing would have to be confirmed by a fully accredited laboratory. Your return letter of 1989 July 18 states "The interpretation regarding your status is correct" (copy

enclosed). Well, now it appears that it isn't and that professional sports are included. Is this another change in the "rules" to suit the circumstances?

You must appreciate the need for our laboratory to maintain expertise and funding while in phase I of accreditation. This is very difficult due to the nature of the Canadian national testing program. We can not survive without income derived from sample analyses in that the hospital can not subsidize the laboratory indefinitely.

In conclusion, this last reaccreditation attempt by our laboratory confirms suspicions that we have had for quite some time — there is no intention by you to reaccredit [sic] this laboratory. If every I.O.C. laboratory was subjected to the same scrutiny and treated as unfairly as us, chances are the number of I.O.C. labs would only number five (5) — exactly the number of members of the subcommission who are heads of I.O.C. laboratories. We know of few other systems where vested interests control and adjudicate so directly.

It is apparent that the subcommission wishes to have only one I.O.C. accredited laboratory per Country. Right or wrong, this should have been addressed before the Calgary Olympics. Our laboratory, its personnel, our Institution and its community have been put through a great deal of anguish and financial stress, attempting to achieve what may be impossible. It is paradoxical that one of the purposes of doping control is to make competitions fair (fairplay) and to keep the competition field "level." The subcommission seems to have lost sight of this in their own dealings.

When I started working with the local organizing committee in 1984, I had high ideals and expectations of the Olympic movement. Like countless numbers of Calgarians, I spent hundreds of hours volunteering my free time to the XV Olympic Winter Games. My employer, the Foothills Hospital, allowed me almost unlimited time (at their expense) to work with OCO '88. We were not only preparing to make our Games the best ever but to provide a legacy for our City and ultimately our Country. With little thanks to the subcommission, our legacy appears to be fading.

Without an impartial avenue of appeal, the Calgary laboratory could only dispute the IOC interpretation of its rules, and in particular the restrictions on testing in professional sport, by appealing to the very person who made the claim, Dr Donike — with obvious results. Further correspondence ensued, including a December 11, 1989, letter from Dr Donike to Dr Baynton in which he suggested the following agenda for meetings to resolve the dispute:

For example the agenda might include:

1. Developmental history of the Canadian IOC laboratory
2. Relationships between and commitments of various parties
e.g. the Canadian Olympic Association and Sport Canada
3. Business aspects of a successful IOC accredited laboratory
4. Technical expertise of the Calgary staff: now and in the future
5. Steps to provide lasting resolutions to existing or perceived problems
6. Possible assistance of the IOC Medical Commission.

This agenda further illustrates the extent of the IOC monopoly as Dr Donike sought to influence the relationships between the Calgary laboratory and other parties within Canada, including the COA and Sport Canada.

Dr Donike's agenda was never pursued. On December 20, 1989, the president of Foothills Hospital, Mr R. Coombs, wrote to Dr Donike:

We appreciate the consideration that the Subcommission on Doping and Biochemistry of Sport has given to this issue . . .

In view of the importance our institution has placed on the Calgary Olympic Doping Control Centre, senior members of our administration have reviewed all of the difficulties that have been encountered with initially obtaining, and subsequently maintaining accreditation for this laboratory. Our staff has made

every effort to correct specified deficiencies to meet printed standards, and to seek reconciliation of differences. Paragraph three of your letter dated December 11 completely fails to take into account written discrepancies of fact or interpretation, which Dr Baynton outlined to you in his letter dated November 3.

You are intimately familiar with the staff and capabilities of our laboratory. In addition, we have recently had the laboratory reassessed by an internationally respected pharmacokineticist, who has expertise in analysis using HPLC, GLC, and Mass Spectroscopy. After several days of detailed evaluation of our methods, procedures, and staff, he advised us that this was a first class laboratory with excellent professional staff. Consequently, we see little merit in a repeat visit from members of the Subcommission and we have advised our staff not to enroll in the January reaccreditation procedure.

After careful study, and widespread consultation with knowledgeable experts regarding the structure and behaviour of the Subcommission, it is our intention to recommend to our Board of Management that we close the Calgary Olympic Doping Control Centre as a facility for drug testing in competitive sports. You will be familiar with some of the evidence documented in the transcripts of the Dubin Commission. Similar concerns are widely held elsewhere.

The structure of the Subcommission, which permits your members to be the professionals who act as consultants, then accreditors, subsequently adjudicators, and also the appeal group, while maintaining a monopoly commercial interest, defies common standards of public accountability. We expect that the Subcommission will eventually be persuaded to restructure and function in a more forthright and open manner. In the meantime, we are unable to commit sufficient finances to continue our program.

We regret this disappointing ending to our relationship with the I.O.C. Medical Commission. [Emphasis added]

Because members of the IOC subcommission who grant and revoke accreditation are also heads of IOC laboratories, they can affect the fate of laboratories in competition with their own. It is clear, for example, that the monopoly the

INRS-Santé laboratory holds at present by virtue of its status as the only Canadian IOC-accredited laboratory has not made drug testing less expensive for Canadian taxpayers.

Mr Pound was asked whether the IOC executive committee has addressed this conflict of interest. He testified:

Yes, it has. We've been following with some interest, as I'm sure you can imagine, the proceedings before this Commission, and when that evidence was led it became a cause of concern. I communicated the . . . general nature of the evidence that you've outlined today, Mr. Armstrong, to our executive board in Puerto Rico. As a result of that, we have urged the Medical Commission as a whole to look at the issue of possible conflict and to consider giving — to give serious consideration to appointing sort of an oversight group that . . . would be responsible for the accreditation of laboratories, so that you don't have the operators having a vested interest in who may or may not be accredited, make the accreditation decisions.

And I think that that is an area that is worth looking into, as is . . . the economics of the testing process.

We were certainly concerned to learn of the differential in pricing that applies here in Canada; that's an issue that I've brought to the attention of the Medical Commission a couple of times in the past, saying, Listen, when you accredit a laboratory, it does to some degree create a kind of a monopoly, and you've got to make sure within your Commission that people in a position that is essentially monopolistic don't take undue advantage of it. Because what we're trying to do is to solve a doping problem, not to, not to support laboratories.

So that is now before the Medical Commission as a whole with the very strong recommendation from the executive board that they look at that issue and report back to us.

To date, no change has been made in the composition of the IOC accrediting body. Later in this report, I will return to the issue of drug-testing laboratories and make specific comments with respect to Canadian laboratories.

21

Doping Control Initiatives before 1988

As outlined earlier in this report, the serious nature of the problem of doping in sport began to be widely recognized in the early 1960s. Since that time, governments and some sport bodies have attempted to eliminate or curtail doping in sport through agreements and initiatives, as well as regulations. In spite of these efforts, the doping problem in sport not only has continued but has become more pervasive. That the various measures undertaken have been ineffectual is now well recognized. In order that future measures may avoid the shortcomings that allowed athletes to circumvent the doping rules, it is necessary to examine the earlier attempts.

CANADA'S INTERNATIONAL INITIATIVES

The Canadian government has taken a prominent position on the issue of the use of banned substances and

practices in sport, and since 1985 it has been involved in a series of international initiatives not only as a participant but also, in some cases, as the prime mover. Through the minister of fitness and amateur sport, Canada has made known to the world its opposition to what it considers the insidious corruption of the sporting ideal.

In 1985 Canada requested and was granted observer status to attend the Council of Europe's Committee for the Development of Sport/Experts Committee on Anti-Doping in Sport, becoming the first nonmember nation to receive permanent-observer status. The Council of Europe, a parliament of twenty-one Western European nations, was founded in 1949, with a permanent residence in Strasbourg, France. There are eight program portfolios, one of which is sport. The council was in 1985 the leading multigovernmental forum addressing doping.

In 1986 the Honourable Otto Jelinek, minister of fitness and amateur sport, addressed the Council of Europe Sports Ministers Conference in Dublin. Canada tabled a series of proposals recommending a worldwide antidoping charter among governments, to be based in part on an expanded European antidoping charter. The objective was uniformity, with world leadership to come from the International Olympic Committee, among other bodies. These proposals were endorsed by the European sports ministers, and planning was initiated to advance the concept. A charter group was struck, made up of representatives from Canada, the Council of Europe, the IOC, and the United States Olympic Committee, and it immediately determined that the international antidoping charter should be a joint project of governments and the sport community.

During the 1988 Calgary Winter Olympics, Mr Jelinek called a meeting with fellow sports ministers from a number of other countries. Collectively, these ministers explored and then proposed the idea of a world conference

on antidoping at the policy level. This idea was then proposed by Canada to the chairman of the IOC Medical Commission and the president of the IOC, both of whom supported it.

A subsequent meeting in Calgary included representation from key socialist and Western European nations, as well as from the United States. It was decided then that Canada would host and co-chair with the IOC the First Permanent World Conference on Antidoping in Sport, to be held in Ottawa in June 1988. Initial objectives and terms of reference were determined.

Representatives from Fitness and Amateur Sport conducted a three-nation tour in April 1988 to seek support for and advice related to the upcoming conference's objectives and design. They met in Paris with Prince Alexandre de Méröde (vice-president of the IOC) and George Walker (secretary-general, Council of Europe, Sport Division); in East Berlin with the GDR Sports Committee; and in Cologne with the Doping Committee of the European Sports Conference.

When the First Permanent World Conference on Antidoping in Sport was convened in Ottawa, participants included sport leaders from twenty-eight countries representing the various national sport councils and federations from each of the five geographic zones; international sport organizations; and special groups such as the Council of Europe, the European Sports Conference, and the Supreme Council of Sport in Africa. As well, senior government officials from these countries attended the conference to ensure a coordinated sport and government solution to the problem of doping in sport.

A proposed international antidoping charter was reviewed and endorsed as a model by the delegates attending the conference. An international working group was established following the conference to advance both a strategy

and a plan for promoting an international antidoping campaign and, specifically, for advancing the international antidoping charter. The secretariat of that working group, of which Canada is co-chair, is located in Canada.

The conference in its final declaration condemned the administration and use of prohibited classes of drugs and banned methods and called for worldwide action to combat the problem of doping in sport. The conference called on the chairman of the IOC Medical Commission (Prince de Mérode) and Canada, as co-chairs, to present formally the final documents and recommendations to the president of the IOC for the upcoming IOC session in Seoul and to invite the IOC to adopt the charter.

The IOC did in fact adopt the charter — and it included the “Model for a National Antidoping Programme” as an annex to it — at its ninety-sixth session in Seoul. Canada’s timely initiative in convening the conference was commended by the delegates.

COUNCIL OF EUROPE

The Committee of Ministers of the Council of Europe, in response to growing public concern over the abuse of drugs in sport, in 1967 adopted a resolution on the subject of doping in sport. It was the first international text of its kind on the topic, and later that year the International Olympic Committee instituted its first doping controls. The 1967 resolution defined doping in a sufficiently broad manner to include practices that were unknown at the time (for example, blood doping). The resolution explicitly referred to doping as cheating, and it called on governments to persuade sport-governing bodies to institute controls and penalize offenders. It stressed the moral and ethical principles at stake, and the risk to the health of athletes.

It called upon governments to take action themselves if the sport-governing bodies did not do so within three years. Several governments soon passed antidoping legislation (Belgium and France had already passed legislation in 1965), and national sport bodies began to take action in the 1970s.

In 1983 the European Anti-Doping Charter for Sport was drawn up by the Council of Europe's Committee for the Development of Sport. It was adopted by the Committee of Ministers in 1984, in the hope that the charter, although not a legally binding convention, would have "moral, political and practical impact."¹

The following year the General Association of International Sports Federations, the International Olympic Committee, and the Association of European National Olympic Committees all adopted resolutions in support of the charter.

The fifth conference of European Ministers Responsible for Sport (Dublin, 1986) endorsed Canada's proposals for strengthening the charter and widening its acceptance. Those proposals included the need for out-of-competition testing and the establishment of multilateral and bilateral antidoping programs between countries. Subsequently, the committee of ministers extended the principles of the charter by adopting a recommendation on the institution of no-notice, out-of-competition doping controls.

In furtherance of its work against doping in sport, the Council of Europe monitors and reports on the development of antidoping legislation in European countries. In addition, information was presented to the World Symposium on Doping in Sport (Florence, 1987), which was organized by the International Athletic Foundation (IAF) and the Italian Track and Field Federation, about the state of doping controls in Europe. Some evidence was also heard by this Inquiry on the same subject.

SURVEY OF WESTERN EUROPEAN NATIONS

Before 1988, notwithstanding the European Anti-Doping Charter for Sport, there appears to have been little uniformity of approach to the problem, as evidenced by the following overview of the manner in which several European countries dealt with doping in sport. The following survey is based in part on information gathered by the Council of Europe and presented in February 1989 to the Committee for the Development of Sport.

Austria

The Austrian Ministry of Culture and Sports, in conjunction with the Austrian Sports Federation, has prepared guidelines for the fight against drug abuse in sport. Regulations deal with the selection and implementation of testing procedures as well as with sanctions against offenders. Tests without prior warning have been carried out since 1986 and out-of-competition testing has been conducted since 1987.

Belgium

A law passed in 1965 in Belgium bans doping in sport. The law applies to the athletes themselves, as well as to anyone who might abet the use of forbidden substances or practices. Tests are carried out at the initiative of the legal authorities or officials appointed by the health minister, and they may be conducted before, during, or after the sporting event. The law provides for penal sanctions — fines or prison sentences. An antidoping committee, answerable to the health minister, provides advice on problems related to drug abuse, the list of prohibited substances, the sampling procedure, and the validity of laboratories.

Cyprus

Cyprus's first drug-testing of athletes was carried out at an annual sporting event in 1985, at the request of the IAAF. The tests were conducted by the Cyprus Amateur Athletics Federation in cooperation with an IAAF expert. The Cyprus Sports Organization, in cooperation with the health ministry, is setting up a test centre that will systematically be able to detect drug abuse in all sports.

France

The Ministry of Youth and Sports, which is the body responsible for sport in France, in 1967 asked the country's sport federations to include antidoping rules in their general regulations. In May 1977 a decree was passed stipulating that federations should carry out regular antidoping controls. The ministry provided financial support, access to toxicology laboratories, and the cooperation of a group of specialized doctors. At the time of the IAF's 1987 world symposium a new decree was to be passed enabling the ministry to carry out its own controls if a sport federation refused to comply with the ministry's directive. The decree allowed the ministry to cut subsidies if a federation failed to implement effective doping controls and stipulated that antidoping controls were to be carried out during training sessions. (This decree became law in June 1989, and in fact provided for random out-of-competition testing. Control of the program rests with an independent national committee composed of government officials, sports representatives — including athletes, and local legal and scientific personnel.)

Greece

In 1975 Greece passed a law against doping in sport, which was later repealed and substituted, in 1986, by a new law that provides for a system of penalties that can be applied to athletes as well as to sport workers, doctors, and coaching staff involved in the use of drugs in sport.

Italy

The Italian sport system is essentially a club-based organization, although a number of high-level training centres also exist. In 1975 Italy's Ministry of Public Health issued a decree on drug abuse, which includes the use of performance-enhancing substances by athletes. Italy began testing for doping in 1983 and, according to a report at the IAF's 1987 world symposium, has steadily increased the number of tests carried out each year since. Testing is conducted by the Italian Medical Sports Federation. Italy has two laboratories used by the Medical Sports Federation: one in Florence and the other, which is IOC-accredited, in Rome.

Portugal

In 1979 and 1980 Portugal passed various decrees that obliged all athletes or sport practitioners participating in official events to submit to drug tests. These decrees included a list of the penalties that may be applied to offenders. New legislation is being prepared in an effort to update existing terms by including provisions for controlling the prescribing of performance-enhancing drugs; for conducting out-of-competition testing; for requiring sport organizations to have effective doping regulations; for

penalizing teams for offences committed by team members; for penalizing accomplices to an offence; and for providing the ministry itself with authority to initiate antidoping tests.

Spain

Spain's Higher Sports Council forms a part of the Ministry of Culture. In recent years, measures taken by the council to control the use of drugs in sports have included out-of-competition testing (1988); an antidrug campaign; and antidoping testing for football (1987). The Higher Sports Council subsidizes top-level athletes and includes among the conditions of acceptance an agreement by the athlete to submit to drug testing without prior warning. (A new antidoping law has been drafted for presentation to Spain's parliament after sports federations, training centres, political parties, and regional and local authorities have been consulted.)

West Germany

The West German government, through the Federal Institute of Sport, is responsible for top-level sport. Doping control activities have been carried out since 1974, and an education and information program has been in place since that time.

Since 1983-84, all sports have been requested to conduct "off-season" testing. At the time of the IAF's 1987 world symposium, however, the German Swimming Federation was the only organization complying.

The number of doping tests carried out in West Germany has ranged from a low of 465 in 1977 to a high of 2165 in 1986. The percentage testing positive for banned substances has ranged from 0.65 percent in 1977 to 3.65 percent in 1986.

EASTERN BLOC

East Germany

Testing in East Germany is carried out by the Doping Control Commission of the Sports Medical Service of the GDR. "Off-season" testing has been conducted since 1977, and 3429 tests were carried out in 1986. (No information was available on the percentage testing positive.) In 1987 and 1988, 1091 tests were carried out, of which 917 were in track and field alone. In 1988, 23 percent of the 1400 tests carried out in training were positive, with most of the infractions occurring in weightlifting.

Strict controls exist on the sale of drugs, and all substances on the IAAF list of banned substances have to be prescribed and then obtained from licensed pharmacies. Each county has a doping control commissioner who, "on short-term request" by the commission, conducts the testing.

Soviet Union

Sport in the USSR, which is completely government-funded, is the responsibility of the Soviet State Committee for Physical Culture and Sports. The USSR established a doping control program in 1970. In 1986, 5000 tests were carried out, 17 percent of which were of track and field athletes. The number of tests taken in track and field has gradually increased since 1982, and to date 3000 track and field athletes have been tested (60 percent of the tests were during competition and 40 percent were during training). The results were 1.6 percent positive — 75 percent of these for anabolic steroids and 25 percent for stimulants or diuretics.

Recent reports coming out of the Eastern European countries tend to substantiate rumours that the purpose of the doping controls was simply to establish clearance times and ensure that athletes would not test positive in competitions abroad. However, in 1987 and again in 1988 the Socialist ministers of sport released a significant statement — referred to as the Socialist Ministers of Sport Appeal — calling for an aggressive and coordinated international antidoping campaign. Time will tell whether this initiative represents a new attitude towards doping in sport and will result in effective methods of deterrence.

THE NORDIC CONFEDERATION

The earliest and most concerted effort by national sport bodies to attack the problem of doping in sport was that of the Nordic sport federations, composed of Finland, Norway, Sweden, Denmark, and Iceland. The Nordic Antidoping Convention, adopted in 1985, is a set of rules, penalties, and procedures by which all Nordic sport federations abide with respect to antidoping measures in sport. Athletes are subject to being tested by any member country's sport organization. The essential elements of the convention are that:

- A. [The] use of listed doping agents or forms of doping in connection with competitions or training is forbidden. This applies to all [substances and practices] on the IOC's list . . . and that of the international sports federations. Incitement to use or complicity is likewise forbidden.
- B. Doping controls can be carried out on any athlete who is a member of an organization or who participates in competitions held by sports organizations which are associated with the national sports organization in question . . . The controls can be carried out at any time of the year, wherever the athlete is, both during training sessions and in competitive situations . . .

The controls can take place without prior warning . . . Anybody who resigns from a national sport organization is still obliged to submit to doping controls up to 1 month after resignation. Checks on national athletes who are living and competing or training abroad can also be carried out.

C. Doping controls must be carried out in conformity with . . . the rules applying under the IOC and the international sports federations. The individual national sports organization lays down detailed guidelines for carrying out doping-controls.

D. Failure to appear for control when required is regarded in the same way as a positive test.

E. [The penalty for a first offence is suspension of] at least 18 months.

F. [There is a range of penalties for anyone contributing to] an athlete using doping agents or failing to report for . . . doping control.

G. [The] reporting and judging bodies shall be distinct, the individual must have the opportunity of making a statement . . . there must be an opportunity to appeal the case to a higher authority . . . as a temporary measure, the authority dealing with the case can suspend the athlete concerned.²

Although all the signatory countries to the convention abide by its terms, Norway, Sweden, and Denmark appear to have the most comprehensive antidoping programs. The sport-governing bodies of these countries are especially concerned with education and information and have produced information packets, videos, and seminar material for athletes and the general public.

Norway

Out-of-competition controls have been conducted in Norway since 1977, and by 1988 nearly 75 percent of all controls were conducted out of competition. The Nordic

system "follows" the athletes wherever they stay, year-round. As noted, the Nordic Antidoping Convention includes an agreement which stipulates that any Nordic athlete may be tested at any time, wherever he or she may be in the Nordic countries. The Norwegians believe that a similar provision should be included in mutual agreements on bilateral and multilateral levels so that athletes from one country training or competing in the territory of another may be tested by the authorized doping control team of the host country and according to the host country's procedures.

Sweden

The Swedish Sports Confederation, the country's sport-governing body, is funded totally by the Swedish government. The Doping Commission is a body within the Swedish Sports Confederation. Members of the confederation are elected by sport federations and local sport organizers; there is no sport ministry as such. In 1977 a doping sub-commission was formed and became involved in education, literature, and research related to the doping issue. Out-of-competition testing was initiated in 1981. The program began with a few hundred tests, and in 1988 approximately 2000 tests were carried out: 85 percent out of competition and the balance at national events.

The dope-testing team arrives unannounced at training sites on campus or at an individual's particular location. (The testing team has also travelled to both the United States and Great Britain.) According to Dr Arne Ljungqvist, board member of the Swedish Sports Confederation, the majority of tests are collected "in a total surprise situation all of a sudden at the training site." But athletes may also be notified by registered mail to present themselves for testing at a designated time and place, a procedure generally practised when the commission is otherwise unable to find an athlete.

Dr Ljungqvist stated in his evidence before this Inquiry that he feels 2000 tests a year, 85 percent of which are out of competition, is not enough. For a population of 8.5 million, and to have a program extensive enough to make the athletes feel they run a real risk of being tested, 15,000 tests or more a year would be more appropriate. Dr Ljungqvist estimated that the total (i.e., worldwide-accredited) laboratory capacity today is approximately 50,000 tests per year.

Under the Swedish Random Doping Test Program, the actual collection is made by local people in a local area. (There are more than forty such areas.) The vital element is surprise. Dr Ljungqvist is on record as stating that:

[T]he problem of doping can never be solved without unannounced out-of-competition controls, such as those forming part of the Swedish anti-doping programme.³

As well, the Swedish program concentrates heavily on providing information to athletes, coaches, and sport administrators and on educating the young.

The Swedish Sports Confederation adopts the definition of doping given in the IOC list and bans any other substance or method prohibited in the rules of an international federation. Only athletes who agree to be tested at any time of the year will be considered for selection to national and international teams and competitions. Failing to appear for doping control is equivalent to obtaining a positive result. For a first offence, the penalty for a breach of doping regulations is a ban from competition for a minimum of two years. Stricter penalties are imposed for a repeated offence. Anyone contributing to an athlete's using doping agents is barred from participating in competitions and from any position in an affiliated sport organization. Here, too, stricter penalties are imposed for repeated offences.

Denmark

Denmark has no specific legislation on drug abuse in sport. Control over the use of doping substances falls under the general medical legislation governing the production, import, sale, and prescription of medicines. Drug tests and sanctions against athletes and their coaching staff are carried out by the Danish Sports Federation on the basis of strict federation rules and according to regulations included in the Nordic Antidoping Convention.

It is significant that, prior to 1988, the Nordic Convention, the only program which posed any real deterrent to the use of banned substances and actively conducted random out-of-competition testing, was not government-affiliated but belonged to a body made up of sport federations.

EUROPEAN SPORTS CONFERENCE

The European Sports Conference, founded in 1973, is composed of representatives of national sport organizations from thirty-five Eastern and Western European countries. The conference meets every second year. An antidoping working group, with Great Britain as leader, was established in 1985 at the seventh conference, in Cardiff, Wales. Its mandate was to study ways of promoting and implementing effective antidoping measures in member countries. In its appeal to members, the working group stated that "Doping is a breach of the rules of fair play and of all other ethical principles in sport."⁴ The working group tabled its final report at the 1988 conference in Borlänge, Sweden. According to Lyle Makosky, Fitness and Amateur Sport's assistant deputy minister, one of the documents produced by the group was to form part of the International Olympic Charter against Doping in Sport.

UNITED KINGDOM

Sports Council

The serious nature of the problem of doping in sport has been recognized in the United Kingdom since at least 1978, after which time a succession of increasingly stringent measures has been taken to control the problem.

The governing body for sport in the United Kingdom is the Sports Council, an independent body established in 1972 by royal charter. The council, whose mandate covers British sport as a whole, is mainly concerned with English matters since there are separate councils for Scotland, Wales, and Northern Ireland. The Sports Council is made up of members, all of whom are appointed by the secretary of state for the environment, and approximately 600 permanent employees. The council receives a government grant — £37.15 million in 1977–78, £39 million in 1988–89 — and also raises money from nongovernmental sources. (For example, it seeks sponsors for individual programs and undertakes commercial activities such as publishing and endorsements; income from such other sources in 1987–88 was £6.5 million.) The ten regional councils for sport and recreation in England are independent bodies that bring together local authorities, voluntary organizations, and regional branches of governing bodies.

The Drug Abuse Advisory Group was established in 1980 as a subcommittee of the Sports Council. Its terms of reference are:

- a. To advise the Sports Councils on activities in the field of drug abuse in sport both in the United Kingdom and internationally.
- b. To advise the Sports Councils on policy and such action as, in the Group's opinion, may be necessary, with regard to the control of drug abuse in the United Kingdom.

- c. To advise the Sports Council on its financial investment in the operation of the Drug Control and Teaching Centre and in the commissioning of new research into methods of detection of drug abuse in sport.
- d. To consider and report to the Sports Councils on proposals from international organisations, in particular the Council of Europe and its constituents, and to advise on action necessary in the control of drug abuse in sport both nationally and internationally.
- e. To make proposals to assist the eradication of drug abuse in sport.⁵

The control of performance-enhancing substances in the United Kingdom is covered under the *Medicines Act* of 1968, for which the Department of Health and Social Security is responsible. Specific licences are required to manufacture, market, or import a medicine. Under the Act, anabolic steroids, beta blockers, and probenecid, among other medicines, are legally obtainable by the public only from a pharmacy on prescription. Thus, to deal in anabolic steroids without a licence and to obtain them without a prescription are offences against the Act, subject to criminal proceedings. Unlicensed trading, for example, would on summary conviction attract a fine not exceeding £2000, or imprisonment. On conviction on indictment, higher penalties, including imprisonment, could be imposed.

In 1985 the Sports Council increased its efforts to curb drug abuse in sport. Guidelines and regulations on doping procedures were set up and circulated by the Sports Council's Drug Abuse Advisory Group. The council adopted the IOC list of prohibited substances and, in addition, carried out tests on the use of heroin, cocaine, and other drugs. Since 1985 the Sports Council has been allocated credits for the financing of antidoping analysis by the sports

federations. To offset the concerns expressed by certain sports federations, laboratory expenses are paid for entirely by the Sports Council. The Sports Council also operates mobile antidoping centres, and ninety-six sports associations, representing thirty sports, have agreed to participate in this program. The mobile antidoping laboratories conduct unannounced tests during both sports events and training sessions.

Since April 1988 the Sports Council itself, rather than the sport federations, has operated the doping control program. Prior to that time the federations had to submit doping control programs to the Sports Council, and failure would have resulted in funding cuts. (The Sports Council did, however, offer the services of an independent sampling team for federations that did not have the means to organize their own doping controls and also helped fund the legal costs of producing antidoping regulations.) The conclusion was ultimately reached that for such a program to be truly effective, control would have to lie with a body outside the sports federations.

Drug Control and Teaching Centre

The Drug Control and Teaching Centre, which is funded by the Sports Council, was established in 1978. Located at King's College in London, it has the capacity to analyse annually 4000 urine tests of international and national competitors. Professional sport organizations are able to use the testing facilities at King's College but are charged the full cost of the service, as are non-United Kingdom sport organizations. The King's College centre is accredited by the IOC for drug testing.

SUMMARY

It should be obvious from the foregoing that if agreements, conventions, conferences, and policy statements were effective in themselves, the doping problem would long since have been eliminated. However, prior to 1988 there was a failure to implement and enforce antidoping measures in many sport-governing bodies, and the incidence of doping by athletes actually increased. With the exception of the Nordic confederation, no group prior to 1988 had actually implemented in a meaningful way what was recognized as the one effective deterrent: a program of random, unannounced out-of-competition testing. Although the British Sports Council made valiant efforts to encourage sports federations to implement such a program, it finally was forced to conclude in April 1988 that the only viable solution was to assume responsibility itself.