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COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
FACSIMILE (202) 225-4784
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Opening Statement of Rep. Henry A. Waxman Committee on Oversight and Government Reform The Mitchell Report: The Illegal Use of Steroids in Major League Baseball, Day 2 February 13, 2008

Good morning. This is our second hearing on Senator Mitchell's report on the illegal use of steroids and other performance-enhancing substances by players in Major League Baseball.

This hearing is focused on the accuracy of an important section of the report: the section that is based on the information that strength and fitness coach Brian McNamee provided to Senator Mitchell.

This Committee has a special connection to the Mitchell report. In 2005, when Tom Davis was our Chairman, we urged Commissioner Selig to investigate baseball's history with performance-enhancing substances. The Commissioner agreed with our suggestion and appointed Senator George Mitchell to lead that effort.

Senator Mitchell's report is impressive and credible. He concluded that the use of performance-enhancing substances was pervasive for more than a decade and that everyone in baseball — the players, the union, the owners, and the Commissioner — were responsible for the scandal.

Senator Mitchell released his report on December 13. That same day, this Committee announced a hearing with Senator Mitchell, Commissioner Selig, and Don Fehr. We intended for that hearing to close the chapter on looking at baseball's past.

On the same day the Mitchell report was released, however, Roger Clemens, through his attorney Rusty Hardin, publicly challenged the accuracy of the section of the report that presented evidence of his use of steroids and human growth hormone. Mr. Hardin later told the Committee that the Mitchell report is "a horrible, disgraceful report."

Given the Committee's past work and our interest in an accurate record of baseball's steroids era, we have investigated the evidence in Senator Mitchell's report that relates to Mr. McNamee and the players he identified. Tom Davis and I made this decision reluctantly. We

have no interest in making baseball a central part of our Committee's agenda. But if the Mitchell report is to be the last word on baseball's past, we believed we had a responsibility to investigate a serious claim of inaccuracy.

The Committee's inquiry and this hearing are focused on the accuracy of the Mitchell report as it relates to information provided by Brian McNamee. Mr. Davis and I both believe that this narrow focus is important. We have carefully limited our inquiry to the relevant facts regarding Mr. McNamee's interactions with the three players he claims to have supplied with these substances.

In the course of this investigation, we have been able to probe more deeply than Senator Mitchell could. Senator Mitchell could only ask for information and had no power to subpoena documents or to insist that individuals talk to him. As the chief investigative committee in the House of Representatives, we have greater authority and have been able to consider evidence that was not available to Senator Mitchell.

I will now summarize some of the information our investigation has uncovered.

Based on the information that Brian McNamee provided, Senator Mitchell reported that Chuck Knoblauch used human growth hormone in 2001. According to the report: "Beginning during spring training and continuing through the early portion of the season, McNamee injected Knoblauch at least seven to nine times with human growth hormone."

Mr. Knoblauch voluntarily met with the Committee on February 1 and told us that Mr. McNamee was accurate when he told Senator Mitchell that Mr. McNamee had injected him with human growth hormone.

Mr. Knoblauch also told us about additional injections of human growth hormone that were not reported by Senator Mitchell. Mr. Knoblauch told us that he administered HGH injections to himself in 2002. There is no mention of these injections in Senator Mitchell's report or in any published account.

In a moving part of his deposition, Mr. Knoblauch said:

[M]y son was here today. And I am trying not to get emotional about this, but ... I am trying to teach him a lesson that you need to do things in life that you are going to be willing to talk about openly and to tell the truth.

On behalf of the Committee, I want to thank Mr. Knoblauch for his cooperation and for his candor in accepting responsibility for his actions.

Based on the information Brian McNamee provided, Senator Mitchell also reported that Andy Pettitte used human growth hormone. Mr. McNamee has known Mr. Pettitte since 1999 and has worked as his personal fitness coach. According to the Mitchell report, "McNamee recalled that he injected Pettitte with human growth hormone ... on two to four occasions" in 2002.

Andy Pettitte voluntarily met with the Committee for a sworn deposition on February 4 and told the Committee that the information that Mr. McNamee provided to Senator Mitchell was accurate.

In addition, Mr. Pettitte told the Committee about a second time he used human growth hormone. This occurred in 2004, when Mr. Pettitte injected himself twice with HGH when he was recovering from an injury. Mr. Pettitte had never told anyone outside of his family about this incident. But he volunteered it during the deposition because he wanted to provide a complete record to the Committee.

Mr. Pettitte also provided additional information of particular relevance to this hearing, which I will describe later in my statement.

On behalf of the Committee, I want to commend Mr. Pettitte for his cooperation. He found himself in an extremely uncomfortable position but he did the right thing and told the truth. During his deposition, he was asked how he approached this difficult situation. He said:

I have to tell you all the truth. ... And one day I have to give an account to God and not to nobody else of what I've done in my life. And that's why I've said and shared the stuff ... that I wouldn't like to share with y'all.

Mr. Pettitte's consistent honesty makes him a role model on and off the field.

Finally, based on the information that Brian McNamee provided, Senator Mitchell reported that Roger Clemens used human growth hormone and steroids. Brian McNamee told Senator Mitchell that on over 20 occasions, he injected Roger Clemens with either human growth hormones or steroids.

All of us, from time to time, can have memory lapses. If any of us were asked to recall a specific event from ten years ago, we might get the substance right but be off on some details. I think most of us could relate to that.

It's rare, however, to have the situation the Committee faces today. Mr. Clemens and Mr. McNamee have both cooperated fully with us and both have given sworn statements. They both insist they are telling the truth. But their accounts couldn't be more different.

They don't disagree on a phone call or one meeting. They disagree whether over a period of four years Mr. McNamee repeatedly injected Mr. Clemens with steroids and human growth hormone. It's impossible to believe this is a simple misunderstanding. Someone isn't telling the truth.

If Mr. McNamee is lying, then he has acted inexcusably and made Mr. Clemens an innocent victim. If Mr. Clemens isn't telling the truth, then he has acted shamefully and unconscionably smeared Mr. McNamee. I don't think there's anything in between.

After we had completed our depositions, my instinct was to cancel this hearing and issue a written report. We have learned a lot about Mr. McNamee's allegations and Mr. Clemens' account, and I thought a bipartisan report with Mr. Davis might be the most effective way to present the results of our investigation. But others had different views. I was particularly influenced by the view of Mr. Clemens' attorneys, who thought it would be unfair if the Committee issued a report without giving Mr. Clemens the opportunity to testify in public.

So I decided to proceed with this hearing, which I expect will be the last hearing this Committee will have on baseball's past or the Mitchell report.

In today's hearing, Mr. McNamee's credibility will be bolstered by the testimony the Committee received from Mr. Knoblauch and Mr. Pettitte in their depositions. Mr. McNamee named three players in the Mitchell report: Mr. Knoblauch, Mr. Pettitte, and Mr. Clemens. None of those players talked with Senator Mitchell. But now two of them have told us under oath that Mr. McNamee told the truth as it related to them.

Senator Mitchell told us in our January 15 hearing that two other factors supported Mr. McNamee's credibility. First, he said that the only penalty Mr. McNamee faced in dealing with federal prosecutors was perjury, which meant that he faced legal jeopardy only if he lied. Second, Mr. McNamee was being paid by Mr. Clemens in 2007, as he had been paid for many years, and he had an economic interest against implicating the individual who supported his livelihood and was his most prominent client.

Federal criminal investigators have also concluded that Mr. McNamee is credible.

On the other hand, the Committee has learned that Mr. McNamee has twice failed to tell government investigators the full truth.

There was an incident in Florida in 2001 that is not related to the matter before us but relates to Mr. McNamee's credibility. We are not going to make that incident part of today's hearing, but Mr. Davis and I have prepared a joint statement that will be part of today's record.

We are stipulating for the record that Mr. McNamee lied to police officers when they investigated the matter. Mr. McNamee does not dispute he lied, but told us he did it to protect others. Mr. McNamee was never charged in the case.

Of more direct relevance to this matter, it is clear from our deposition with Mr. McNamee that he didn't tell federal prosecutors everything he knew. In his deposition, Mr. McNamee acknowledged that he misled prosecutors about the number of injections he gave Mr. Knoblauch and Mr. Clemens.

Until last month, he also withheld from the prosecutors physical evidence that he says implicates Mr. Clemens.

Mr. McNamee says he did not tell the full truth because — and I quote:

I was trying not to hurt the guy. I felt awful for being in the situation I put myself into. ... [T]here was a feeling of betrayal. ... I shouldn't have done [it]. ... [B]ut I didn't want to hurt him as bad as I could.

That is no excuse. It is a serious matter that Mr. McNamee did not tell investigators the full truth. We need to keep this fact in mind in evaluating his credibility today.

Mr. Clemens has visited with many Committee members personally in the last few days. One point he and his attorneys have made is that it would make no sense for him to testify under oath if he actually used steroids. In judging his credibility, the risk that he takes by testifying today needs to be taken into account.

It is also relevant that Mr. Clemens is credible and convincing in person. I'm also aware of the tremendous amount of good that Mr. Clemens has done through the Roger Clemens Foundation and I thank you for helping so many children.

But it is also true that as we've moved forward in our investigation, we have found conflicts and inconsistencies in Mr. Clemens' account. During his deposition, he made statements that we know are untrue. And he made them with the same earnestness that many of the Committee members observed in person when he visited your offices.

In other areas, his statements are contradicted by other credible witnesses or are simply implausible.

At the beginning of his sworn deposition, Mr. Clemens repeatedly told the Committee that he never talked with Brian McNamee about human growth hormone. We know from his later testimony that these statements were false.

Mr. Clemens told the Committee that Mr. McNamee injected him with a dangerous pain medication, Lidocaine, in a public area of a team training room. Dr. Ron Taylor, the team doctor, and Melvin Craig, the team trainer, both told the Committee that this account "does not make any sense."

During his interview on 60 Minutes, Mr. Clemens asserted that Mr. McNamee "didn't tell me a word" about the Mitchell report, and he lambasted Mr. McNamee for sending him an e-mail about fishing equipment a week before the release of the report. These statements were not accurate.

Eight days before the release of the Mitchell report, Mr. McNamee called Mr. Clemens' representatives and told them about the report. Mr. McNamee also allowed Mr. Clemens' investigators to interview him at length about the evidence in the Mitchell report before the release of the report. We know this happened because the investigators secretly taped the interview.

There is also a direct conflict between Mr. Clemens' testimony and Mr. Pettitte's. During his deposition, Mr. Pettitte told the Committee that in 1999 or 2000, Mr. Clemens "told me that he had taken HGH."

During his deposition, Mr. Pettitte was asked whether he had any doubt about that recollection, and he said: "I mean, no. ... [H]e told me that."

Mr. Clemens says this conversation never happened.

Mr. Pettitte also says he had a second conversation with Mr. Clemens about HGH in 2005. This conversation took place after the Committee's hearings on steroids in baseball, when Mr. Pettitte asked Mr. Clemens what he would say about his HGH use if asked. According to Mr. Pettitte, Mr. Clemens said: "I never told you that. ... I told you that Debbie used HGH." Debbie Clemens is Mr. Clemens' wife.

We learned through our depositions of Mr. Clemens and Mr. McNamee that Mr. McNamee did inject Mr. Clemens' wife with HGH. Mr. Clemens and Mr. McNamee give completely different accounts of this injection. Mr. Clemens says that Mr. McNamee injected Mrs. Clemens without his knowledge. Mr. McNamee says that Mr. Clemens asked him to inject Mrs. Clemens.

What they do agree upon, however, is that these injections occurred in 2003. That makes it impossible that Mr. Clemens, when he spoke to Mr. Pettitte in 1999 or 2000, could have been referring to the injections of Mrs. Clemens.

Mr. Pettitte also told the Committee that he talked about both of these conversations with his wife.

Because of the relevance of this evidence to the Committee's investigation, the Committee asked Mr. Pettitte and his wife to submit affidavits to the Committee. This is an excerpt of what Mr. Pettitte wrote:

In 1999 or 2000, I had a conversation with Roger Clemens in which Roger told me that he had taken human growth hormone. This conversation occurred at his gym in Memorial, Texas. He did not tell me where he got the HGH or from whom, but he did tell me that it helped the body recover.

I told my wife, Laura, about the conversation with Roger soon after it happened.

In 2005, around the time of the congressional hearings into the use of performance enhancing drugs in baseball, I had a conversation with Roger Clemens in Kissimmee, Florida. I asked him what he would say if asked by reporters if he ever used performance enhancing drugs. When he asked what I meant, I reminded him that he had told me that he had used HGH.

Roger responded by telling me that I must have misunderstood him; he claimed that it was his wife, Debbie, who used HGH.

I said, "Oh, okay," or words to that effect, not because I agreed, but because I wasn't going to argue with him.

Shortly after, I told my wife, Laura, about this second conversation with Roger about HGH and his comment about his wife.

And this is what his wife, Mrs. Pettitte, wrote:

In 1999 or 2000, Andy told me that he had had a conversation with Roger Clemens in which Roger admitted to him using human growth hormone.

A few years later, I believe in 2005, Andy again told me of a conversation with Roger Clemens about HGH. Andy told me that he had been thinking that if a reporter asked him, he would tell the reporter of his own use of HGH in 2002. He said that he told Roger Clemens this and asked Roger what he would say if asked.

Andy told me that in this 2005 conversation, Roger denied using HGH and told Andy that Andy was mistaken about their earlier conversation. According to Andy, Roger said that it was his wife, Debbie, who used HGH.

We will sort through all of this today. I suspect we will find inconsistencies in both Mr. Clemens' and Mr. McNamee's accounts. And each member will have to reach his or her own conclusions. These conclusions should not be based on whether we like or dislike Mr. McNamee or like or dislike Mr. Clemens. Our conclusions must be based on the facts.

During the course of our investigation, we have acquired a considerable amount of relevant evidence. We have taken the depositions of Mr. Clemens, Mr. Pettitte, and Mr. McNamee. We have conducted transcribed interviews of Mr. Knoblauch, several team trainers and doctors, and Jim Murray, a representative of Mr. Clemens. We have received e-mails, communications, and transcripts of tape recordings. We have also received affidavits and declarations from several witnesses. Ranking Member Davis and I have agreed to make this evidence part of the hearing record, with appropriate redactions to protect personal privacy.

I know given the nature of this hearing that our witnesses have strong feelings. And I suspect that some Committee members may share these. I want to caution both the witnesses and the members: the Chair will not tolerate any outbursts or defamatory comments at this hearing. This is an unusual hearing. But we have tried to be as fair as we can throughout this investigation and I am determined that this hearing will also be conducted in the fairest way possible to everyone.

I will now recognize Tom Davis for his opening remarks.