AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

115th CONGRESS
2nd Session

Printed for the use of the
Commission on Security and Cooperation in Europe

The Russian Doping Scandal: Protecting Whistleblowers and Combating Fraud in Sports

FEBRUARY 22, 2018

Briefing of the
Commission on Security and Cooperation in Europe

Washington: 2018

Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515
202–225–1901
csce@mail.house.gov
http://www.csce.gov
@HelsinkiComm

Legislative Branch Commissioners

HOUSE
CHRISTOPHER H. SMITH, New Jersey
Co-Chairman
ALCEE L. HASTINGS, Florida
ROBERT B. ADERHOLT, Alabama
MICHAEL C. BURGESS, Texas
STEVE COHEN, Tennessee
RICHARD HUDSON, North Carolina
RANDY HULTGREN, Illinois
SHEILA JACKSON LEE, Texas
GWEN MOORE, Wisconsin

SENATE
ROGER WICKER, Mississippi,
Chairman
BENJAMIN L. CARDIN. Maryland
JOHN BOOZMAN, Arkansas
CORY GARDNER, Colorado
MARCO RUBIO, Florida
JEANNE SHAHEEN, New Hampshire
THOM TILLIS, North Carolina
TOM UDALL, New Mexico
SHELDON WHITEHOUSE, Rhode Island

Executive Branch Commissioners

Department of State
Department of Defense
Department of Commerce

ABOUT THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

The Helsinki process, formally titled the Conference on Security and Cooperation in Europe, traces its origin to the signing of the Helsinki Final Act in Finland on August 1, 1975, by the leaders of 33 European countries, the United States and Canada. As of January 1, 1995, the Helsinki process was renamed the Organization for Security and Cooperation in Europe (OSCE). The membership of the OSCE has expanded to 56 participating States, reflecting the breakup of the Soviet Union, Czechoslovakia, and Yugoslavia.

The OSCE Secretariat is in Vienna, Austria, where weekly meetings of the participating States' permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations. Periodic consultations are held among Senior Officials, Ministers and Heads of State or Government.

Although the OSCE continues to engage in standard setting in the fields of military security, economic and environmental cooperation, and human rights and humanitarian concerns, the Organization is primarily focused on initiatives designed to prevent, manage and resolve conflict within and among the participating States. The Organization deploys numerous missions and field activities located in Southeastern and Eastern Europe, the Caucasus, and Central Asia. The website of the OSCE is: <www.osce.org>.

ABOUT THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The Commission on Security and Cooperation in Europe, also known as the Helsinki Commission, is a U.S. Government agency created in 1976 to monitor and encourage compliance by the participating States with their OSCE commitments, with a particular emphasis on human rights.

The Commission consists of nine members from the United States Senate, nine members from the House of Representatives, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair rotate between the Senate and House every two years, when a new Congress convenes. A professional staff assists the Commissioners in their work.

In fulfilling its mandate, the Commission gathers and disseminates relevant information to the U.S. Congress and the public by convening hearings, issuing reports that reflect the views of Members of the Commission and/or its staff, and providing details about the activities of the Helsinki process and developments in OSCE participating States.

The Commission also contributes to the formulation and execution of U.S. policy regarding the OSCE, including through Member and staff participation on U.S. Delegations to OSCE meetings. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from participating States. The website of the Commission is: <www.csce.gov>.

The Russian Doping Scandal: Protecting Whistleblowers and Combating Fraud in Sports

---

FEBRUARY 22, 2018

Page

PARTICIPANTS

Paul Massaro, Policy Advisor, Commission for Security and Cooperation in Europe 1

Jim Walden, Attorney for Dr. Grigory Rodchenkov 2

The Russian Doping Scandal: Protecting Whistleblowers and Combating Fraud in Sports

---

February 22, 2018

Commission on Security and Cooperation in Europe
Washington, DC

The briefing was held at 3:30 p.m. in Room 385, Russell Senate Office Building, Washington, DC, Paul Massaro, Policy Advisor, Commission for Security and Cooperation in Europe, presiding.

Panelists present: Paul Massaro, Policy Advisor, Commission for Security and Cooperation in Europe; and Jim Walden, Attorney for Dr. Grigory Rodchenkov.

Mr. MASSARO. All right. Smack dab 3:30, so let's go ahead and get started. Everybody, wake up. Hello, and welcome to this briefing of the U.S. Helsinki Commission. The commission is a unique entity of Congress, mandated to monitor compliance with international rules and standards across Europe, ranging from military affairs, to economic and environmental issues, to human rights. My name is Paul Massaro, and I am the international economic policy advisor at the commission, responsible primarily for anticorruption and sanctions-related issues. I am joined today by Jim Walden, the attorney for Russian doping whistleblower Dr. Grigory Rodchenkov, for this look into the dark underworld of fraud in sports, and what we can do about it.

As an administrative aside, I would like to mention that camera crews are permitted to record the briefing in its entirety.

Our topic today is the Russian doping scandal, a story of corruption and fraud on an unprecedented scale. It has now been demonstrated beyond a reasonable doubt that the Russian State was behind a systematic effort to dope their athletes and defraud the Olympics. No one can see how deep this rabbit hole goes, and how long these corrupt practices have gone on. But what we can say is that it is a microcosm of the conflicts playing out across the world. As clean athletes compete against cheaters, so do legitimate businessmen face off against oligarchs and governments based on the rule of law do battle with authoritarian kleptocrats. And much like at the Olympics, without the benefit of transparency and the bravery of those few who stand up and say enough is enough, it becomes immeasurably more difficult for democracy, human rights, and free markets to succeed.

Dr. Rodchenkov is one of these brave few. Formerly the director of Russia's anti-doping laboratory, Dr. Rodchenkov was the lead architect of Russia's state-run doping program, working with the FSB, the successor to the Soviet KGB, to cheat the international checks put in place to prevent doping by Olympic athletes. That all changed in 2016, when Dr. Rodchenkov blew the whistle on the program he had once helped facilitate, resulting in suspension of Russia from the 2018 Winter Olympics. His revelations also generated a revitalized debate on the need to combat corruption in international competitions more generally.

Dr. Rodchenkov now lives a precarious life in the United States, relying on whistleblower protections and fearful that Russian agents may one day come knocking. He seldom gives interviews or makes statements due to this very real threat on his life. But we are lucky enough today to have Jim with us, who will read an original statement from Dr. Rodchenkov, as well as speak to the man's story, his hopes and fears, and the centrality of whistleblowers in the fight against globalized corruption.

To conclude, I would like to remark that the word corruption is mentioned 14 times in the National Security Strategy, which I have with me today and would like to show off. [Laughter.] Many across the U.S. Government and the D.C. policy community are coming to terms with the tremendous threat that globalized corruption and kleptocracy pose to U.S. national security, and the need to build not only a 21st century financial and legal architecture, but also an ethical society capable of resisting expediency and opportunism at the expense of the values we hold dear. This sort of society is exemplified by whistleblowers. And I am humbled to speak today with Jim, who represents one of the most impactful and courageous such whistleblowers in recent years.

Before I hand the floor over to Jim, we would like to show the trailer for the Oscar-nominated documentary "Icarus" to bring you all up to speed, for those of you unfamiliar with the case. "Icarus" tells the story of Dr. Rodchenkov's decision to reveal Russia's state-run doping operation, and the implications of this decision for him and the world.

Thank you.

[A trailer for "Icarus" is shown.]

Mr. WALDEN. Okay. Well, first of all, I want to thank Paul and the Helsinki Commission for having me. It's a pleasure to be here. The original invitation was for Dr. Rodchenkov. And for reasons I'll describe, he can't be here. But I will read a statement from him. But it's a great honor to come to a congressional commission to talk about the importance of Dr. Rodchenkov's work and specifically to talk about the critical juncture that we are in when it comes to clean sports.

Now, as you now know from Paul and from "Icarus," and probably from the newspapers, Dr. Rodchenkov served for about 10 years as the director of the Moscow Anti-Doping Center, a collection of laboratories that was supposed to enforce a strict WADA code to help catch cheaters. Now, the World Anti-Doping Agency, or WADA, is the critical vanguard in the fight for clean sport. They are the ones that are supposed to be the gatekeepers. And you will not be surprised to learn that WADA's budget is made up of money from both the International Olympic Committee (IOC) and many individual nations. You will further not be surprised to know that the United States is one of the largest contributors to WADA's budget. Its $2.3 million annual contribution is the second largest, only behind the IOC.

Now, as the world now also knows, while Dr. Rodchenkov was working to catch cheaters under the WADA code, he harbored a dark secret. His bosses in the Kremlin—by the way, who were supposed to be completely independent of the Moscow Anti-Doping Center—ordered him to contrive an elaborate doping system to allow Russian athletes to cheat clean athletes from around the world at world competitions including, but not limited to, the Olympics.

Now, it would take me about three days, eight hours a day, to explain to you how sophisticated and how many people were involved in this system. But given the time constraints I'm going to boil it down to six main components. I'm going to separate them into two categories: Out-of-competition testing—meaning when there's not a competition going on—and in-competition testing. And when I talk about in-competition testing, I'm really talking about the two events in 2014, the world championships and the Olympics in Sochi.

Now, with respect to out-of-competition testing, Dr. Rodchenkov disclosed that Russia had long had a system that was referred to as the disappearing positive. For protected athletes, meaning those people that were on national teams, they would take performance-enhancing drugs but then, from time to time, be required to give urine tests—the primary method to detect cheating. Those athletes, when they came into the Moscow lab for out-of-competition testing, would be pre-tested—meaning, before the official tests began.

And if their urine sample tested positive—meaning it was a dirty test—that test was never downloaded to the ADAMS system, which is a system that links to WADA. Once a dirty sample is downloaded into ADAMS, WADA becomes aware of it and action to suspend the athlete then occurs. Now, according to Dr. Rodchenkov, the disappearing positive methodology was in place for Russia for virtually the entire time that he was the director of the Russian Anti-Doping Center, and was ordered not by him, but by his bosses in the Kremlin. And it was helped—the orchestration was assisted by both the Center for Sports Preparation and the FSB which, as Paul said, is the successor agency to the KGB. So that covers out-of-competition testing.

For in-competition testing—meaning testing that occurs while the games are going on—the system was dizzying in its checks and balances to ensure that Russians didn't get caught. Before the games, athletes were given a very sophisticated cocktail of three performance-enhancing drugs. Now, the main problem, as many of you may know, with taking performance-enhancing drugs is the time during which it stays in your system. But Dr. Rodchenkov devised a way to mix the performance-enhancing drugs with alcohol, and have the athletes swish it in their mouths for a while and then spit it out, so it would be absorbed under your tongue, sublingually. And that would keep the performance-enhancing drugs out of your digestive system and make it harder to detect. That was the first innovation.

But because athletes were going to be taking these performance-enhancing drugs leading up to, and sometimes during, the competitions, the athletes were instructed to give clean urine—meaning urine that they provided when they weren't taking performance-enhancing drugs—so that there could be a way to switch their dirty urine, taken during the games, with clean urine that had been collected before. Now, there was one major obstacle to this problem. For those of you who don't know, during competition testing when an athlete gives urine, the athlete gives two samples—an A bottle and a B bottle. The A bottle is used for testing during the games. The B bottle is used in case

there's a positive test in the A to check the B bottle to make sure that it wasn't a false positive.

The problem was these bottles are tamper-proof. They're made by a Swiss company who has developed an incredible technology for caps, such that if you remove the cap, the cap breaks. And you can't use a different cap because the cap has a serial number that's the same as the serial number on the bottle. But the greatest innovation was when the FSB found in 2013 that they could open the B bottles, which everyone, including Dr. Rodchenkov, believed was impossible. Because if you could open the B bottle, then you could put clean urine in it and put the cap back on. They opened the bottles without breaking the cap. That was the next innovation.

Then during the games, as testing began, the FSB could open the bottles, replace the dirty urine with clean urine, restore them to the lab, and then test them. And the idea was that they would then test clean.

But there was another problem. The FSB could not control for surprise inspections on athletes, both in-competition and out of competition. And from time to time, WADA would send doping officers to take random samples for athletes. And so, in those instances, the FSB had a team of people that would intercept the samples once they went to DHL and confiscate them. So that, in five minutes, in a system that had so many other components to it, it's too complicated to go through.

Now, Dr. Rodchenkov. Let me be clear about this: Dr. Rodchenkov had no choice but to participate in this system if he wanted to stay alive. And in fact, despite his service to the Russian Federation, when German media started to leak details of the Russian doping system from other whistleblowers, and it became a major problem and the WADA investigation started in 2015, Dr. Rodchenkov learned that the Kremlin was hatching a new secret plan, a plan to blame him as the lone wolf. And they planned to execute this, by executing him, and staging his suicide. And when he learned this from a friend of his at the Kremlin, it did not take him long to decide what to do.

Within two days, as you saw in the trailer, he was on an airplane to Los Angeles, determined to tell the truth about the Russian state-sponsored doping system. But he didn't come alone. He brought with him powerful evidence to corroborate the truth of his claims. He brought a hard drive. He brought flash drives. He brought the telephone that he used when he was at the Moscow lab. And what he did with that evidence was to turn it over to anti-doping authorities. And what they found was a goldmine.

Details that have only come at the—you've seen the tip of the iceberg in some of the media reports that you see. Emails between himself and other co-conspirators about, among other things, the disappearing positive methodology. Memos that he wrote to his bosses at the Kremlin and within the FSB detailing some of the problems and issues with the doping system in Russia. And copious handwritten daily diaries that he has been keeping since he was a boy of every detail of every day at the Sochi Olympics, including information about what he was doing for the doping system and what his supervisors were doing for the doping system.

Since he came to the United States, Dr. Rodchenkov has told the truth, first in the documentary "Icarus," and then to The New York Times, and then to an independent commission established by WADA, headed by a renowned investigator named Professor Richard McLaren. Now, Professor McLaren didn't work alone. He assembled a team. He assembled a team of experienced investigators, hardscrabble people that were skeptical

of Dr. Rodchenkov's claims. And because he knew that he couldn't just rely on Dr. Rodchenkov's word, he hired people to review all the evidence and also to look at stored samples of Russian athletes, the B bottles, that had been taken from the Sochi lab and moved to a lab in Lausanne.

And what did Professor McLaren and his team of investigators find? They found that Dr. Rodchenkov was completely credible and, moreover, that his evidence was fully corroborated by the documents which they determined to be authentic, and by a rigorous and expansive testing protocol for the samples, which showed clear evidence of tampering—both of the bottles themselves, because of scratches and marks, and because adjustments made to the urine to make the salt levels match the salt levels that the athlete gave at the time of the in-competition testing—telltale signs that Dr. Rodchenkov was telling the truth.

And, most importantly, Dr. Rodchenkov produced the actual list of protected athletes. And the metadata for that list showed that it was not created by him. It was created by the Center for Sports Preparation, one of the main organizers of international sports and a key conspirator. And it just so happens that the scratches and marks and the salt found in samples of Russian athletes—because they tested many, many samples beyond the people on that list—the only people that had scratches, marks, and salt manipulation were the very people on this famous duchess list, which is what the list was called.

After Dr. Rodchenkov's truth was upheld by Professor McLaren, Dr. Rodchenkov's cooperation did not stop. The IOC then set up two disciplinary commissions. And despite the fact that they delayed significantly interviewing him and ultimately getting evidence from him, they themselves set up a completely different forensic testing system of the same bottles that McLaren had tested, and largely confirmed McLaren's reports. And Dr. Rodchenkov committed himself to submitting over 200 pages worth of affidavits, with meticulous detail about not only the Russian doping program in general, but the very officials within Russia which were pulling the strings of the puppet, and the involvement not only of officials but of coaches and athletes.

Now, let's just stop here for a second. None of Dr. Rodchenkov's revelations should have been news to anyone, because the evidence of a Russian state-sponsored doping system has been mounting for years. And it would take a day to go through all that evidence. But let me give you a couple of snippets. In 2008, there were Olympics in Beijing. And before the Beijing games, seven Russian athletes were suspended for doping violations—after, in the previous year, a whole flock of other Russians has been suspended. And The New York Times ran an article because of the mounting suspicion. And they said—and I'm paraphrasing—because of the number of suspensions and the varied sports of the suspended athletes, troubling questions are starting to mount about a state-sponsored doping system in Russia.

But then in 2013, WADA became concerned that doping was on the rise. And starting in 2013, they published a yearly report of the countries that had the most, what's called, an analytical adverse finding—a doping violation. And guess what the report showed? Russia had a staggering 225 adverse analytical findings in 2013—20 percent more than the second-ranked country on the list. So, in 2014, WADA did it again. And what did they find? Russia had 148 adverse analytical findings, 20 percent above the next highest ranked country. They did it again in 2015. What did they find? Russia had 176 adverse analytical findings, 36 percent more than the next-highest country.

And so think about that for a second, ladies and gentlemen. In three years' worth of time, Russia had almost 550 adverse analytical findings. And if that, in and of itself, is not compelling evidence of a state-sponsored doping system, I don't know what is. But I know what the IOC determined. The IOC determined that Dr. Rodchenkov was credible and, based on his evidence, they banned 43 of the athletes from the duchess list for lifetime bans against any further Olympic competitions. And so it's obviously important to talk about the corroboration and the verification that he's telling the truth.

But you know what a truthful person does? A truthful person tells the truth no matter whether the truth is guilt or innocence. And the IOC also did something important based on Dr. Rodchenkov's information, because he exonerated some athletes. There were two wrongly accused Russian athletes. And rather than simply trying to blame everyone, Dr. Rodchenkov called it out and said: IOC, you've gotten this wrong. I have no reason to believe that these two people were involved. They weren't on the duchess list. They didn't have scratches and marks. They didn't have salt content. And I don't have any recollection of being told that they were protected athletes. And based on Dr. Rodchenkov's evidence, the two athletes are now competing again.

But the IOC did something else important. It suspended not only a number of coaches, but a number of Russian officials—including the current Deputy Prime Minister of Russia Vitaly Mutko, who orchestrated the state-sponsored scheme, ordered it after the dismal Russian performance in the Vancouver Winter Olympics. And the IOC determined that he was legally responsible, culpable, for the state-sponsored doping system. So that's the good news.

Now, here comes the bad news. Where are we now? It's not good. Despite all of the extensive cooperation and evidence, what result, at the end of the day, has the conflicted self-policing system of the IOC—what has it delivered to the mission of protecting clean athletes and upholding whistleblowers like Dr. Rodchenkov? I'm sorry to tell you the situation is simply shameful. Now, recall something, the IOC has a track record with respect to violations where a foreign government unduly influences either a national Olympic Committee or a lab. The example's Kuwait. In 2014, Kuwait passed a law. And the law, in the IOC's view, unduly harmed the independence of the Kuwaiti Olympic Committee. And the IOC found that this was a terrible transgression, such that the banned Kuwait from the Olympics in 2015. And the ban still exists, all right?

Okay, so there's the example. What does the IOC think of what Russia did? Well, let's judge the words by the actions. At the time that these revelations first came out in The New York Times and then were confirmed by Professor McLaren, IOC president Thomas Bach called Russia's actions, and I quote, "A shocking and unprecedented attack on the integrity of the Olympic Games and Sports." And what's more, he promised action. He promised that he would, quote, "Not hesitate to take the toughest sanctions available against any individual or organization implicated in the criminality." So, surely you would think an unprecedented attack would result in an unprecedented set of disciplinary measures. Obviously, only a complete ban would have the dual purpose of punishing Russia's systematic doping system and deterring other cheaters.

And when he announced, on December 5th, that there would be a ban, there was much international acclaim. And I confess, I was part of the choir. I believed the words. And so did everyone else, until they read the fine print. The ban wasn't a ban at all. It was hardly a slap on the wrist. And in retrospect, it looks like a carefully crafted PR stunt, a sham, and one that has earmarks of extensive negotiations with Russia. I mean,

after all, think about it. In the current Olympic Games in Pyeongchang, Russia is fielding one of the largest Olympic teams, despite the fact that it's, quote, unquote, "banned."

And they're not just competing and neutrals, the way other suspended countries—and for those of you who don't know what neutral means, it means no national insignia. You're competing under the Olympic flag as Olympic athletes—but Russia got a special dispensation. Their athletes are wearing uniforms bearing Russia's name. And this ban, which is really just a temporary suspension, is going to be lifted in this Olympic game. And mark my words—[laughs]—by Tuesday, Thomas Bach is going to lift the ban and the Russians are going to march at the closing ceremony under their own national flag, despite this horrific behavior.

The Olympic self-policing system has had other catastrophes as well. Most of the 43 lifetime bans that I spoke about before, imposed by the IOC, have now been overturned by the highest court in sport, which is called the Court of Arbitration for Sport, allowing most of the athletes to compete again. But, most egregiously, Russia has been permitted, remarkably, to stonewall the IOC and WADA. Despite almost on a daily basis protesting their innocent and decrying the doping scandal as a byproduct of some Western conspiracy—in which, I assume, I must be a conspirator—Russia refuses to turn over critical evidence that was ordered by WADA more than a year ago.

Why? If they're innocent, and there's no doping system, then why not turn over the evidence? And let me just unpack that a little bit for you when we talk about the evidence. There are a lot of things that can be manipulated within a doping laboratory. But there's one thing that can't be. The testing equipment itself, as long as you're not running a pretest, records the results of the test on the computer drive for the testing equipment. And you can't change that, right? There is no way to alter it. There's no way to fake it. There's no way to change it at all. It's a permanent record. And WADA told Russia to turn over that data. And they've refused. And if that's not an admission of guilt, I really don't know what it is.

But let's ask another question: Honestly, has Russia accepted a scintilla of responsibility for this, despite the fact that, at least now, with respect to 11 athletes, the bans were in fact upheld by the Court for Sports Arbitration? Well, this comment from Pyotr Tolstoy, a leading member of Russia's state Duma, which is the lower house of their legislature, typifies Russia's reaction. I'm going to quote: "We won't apologize. We won't apologize to Bach, who prepared this report"—banning the Russian athletes—"so sweetly." We have nothing to apologize for. And neither do our athletes.

And what's more, putting aside the lack of any acceptance of responsibility or contrition, Russia has sought to retaliate against Dr. Rodchenkov again and again. Only, by the way, after his cooperation was revealed—Russia indicted him twice for politically motivated crimes. And let's be clear, in order for this sort of system to exist, obviously many people had to be involved. It couldn't have possibly been one man. No lone wolf could do all the things that were necessary in order for even a system that was less sophisticated to succeed. There had to be athletes participating, coaches participating, people swapping samples, people helping to cover it up.

Russia, not surprisingly, singled Dr. Rodchenkov out for these criminal charges, right? So that shows the motivation. The motivation is to silence him. Russian officials have harassed his family, confiscated his property, and even declared—and I'm going to quote here—that he should be, quote, "Shot as Stalin would have done." And to discredit Dr. Rodchenkov, even Russian President Vladimir Putin has gotten in the game, on the

one hand accusing the FBI of drugging Dr. Rodchenkov to elicit a false confession, while at the same time calling Dr. Rodchenkov an imbecile and mentally unstable.

Now, I was an organized crime prosecutor for many years. So I'm very used to seeing people who cooperate be discredited, or attempt to be discredited, by people that were their conspirators. So let's be clear about this. The U.S. didn't pick Dr. Rodchenkov. Russia did. They made him the director of the Moscow lab. When opponents of Vitaly Mutko started an investigation of Dr. Rodchenkov back in 2011, allegedly for distributing performance-enhancing drugs—which was his job—it was the Kremlin that quashed those charges so that Grigory Rodchenkov could continue the work that they had authorized. So Russia picked this witness. Nobody from the West did.

And to cap things off, just to make it extra sweet, just this week Dr. Rodchenkov—you're not going to really believe this unless you've seen it in the newspaper—was sued in New York State Supreme Court for defamation from three of the Russian athletes who had the most evidence against them in the McLaren report, in a lawsuit no doubt backed by the Kremlin. And I will say, just on a personal note, I have read media reports that an owner of an NBA franchise is helping to finance this frivolous lawsuit. And I hope that those reports are inaccurate, because if an NBA franchise owner is using NBA revenue to finance a lawsuit to attack and silence a whistleblower who's trying to bring integrity back to sports, I think that every American and every basketball fan would be galled by that. And I certainly hope that the NBA is monitoring this closely, because this sends a terrible message—a terrible message to the players, the fans, and the kids that watch that team.

So this whole litany of retaliation, right, spanning the last year and a half, which I've only just summarized—believe me, if you want to ask me questions I'll give you 15 more examples—what has the IOC done? Because the IOC has power, right? The power is right now the Russian Olympic Committee is suspended. And the IOC retained for itself in this ban the ability to continue that suspension if Russia didn't behave, if it didn't honor the IOC's decision. So all the IOC has to do is to pick up the phone and call Vitaly Mutko and say: This ban is going to continue in these Olympic Games and future Olympic Games, unless you leave our main witness alone. After all, he's testified, given affidavits, submitted evidence, been corroborated. I think that's the least that they could do, is make a phone call.

And what has the IOC done? Nothing. They've sat by and watched this abhorrent behavior and done not a single thing to stop the Russians. So let me ask you a question, do think that that emboldens the Russians when they act in this way and no one stops them? Well, you tell me, because according to press reports, assuming that they're true, Russian responded by retaliating against the IOC and WADA, right? [Laughs.] According to press reports, they hacked WADA's and the IOC's computers. They leaked their confidential documents. And some Russian Government officials have promised to impose sanctions on IOC members and WADA executives in retaliation for the ban. Does that sound like behavior that deserves its place among other nations upholding Olympic ideals?

Well, in the midst of all this—just funny twists and turns of this case, no one would have guessed what would happen next, right? [Laughs.] Because another whistleblower, in the midst of this whole thing—not Dr. Rodchenkov, not anyone that he had control of, he doesn't even know who it is—someone within Russia leaked a confidential database dating back before the Sochi games that the Moscow lab had been using to record all of

the adverse analytical findings before they made them disappear. This is exactly the evidence that Russia wouldn't produce. And the whistleblower disclosed it.

Now, WADA acted. WADA spent much time and ultimately authenticated it as a true and exact copy of what's called the LIMS database, the laboratory information management system, within the Moscow laboratory. And I've been assured by WADA that it is analyzing the thousands and thousands of adverse analytical findings stored in that secret database, and it will disclose the identities of those athletes to the international federations. And if the international federations do not bring cases against every single one of those athletes, Olivier Niggli said that WADA would do it. And I believe him. So WADA has acted.

But after the disclosure of the LIMS database, what did the IOC do? What did the IOC say? It's been crickets—simply crickets. Not a thing. The IOC didn't even disclose the LIMS database to the Court for Sports Arbitration, despite the fact that, as I've been told, there are 10 or 12 athletes whose appeals were being heard who had adverse analytical findings that had already been identified in the LIMS database. So it would have been critical corroborating information, but the IOC did nothing.

So, despite the overwhelming proof of a state-sponsored doping system and epic obstruction and retaliation, IOC President Thomas Bach still plans to lift the ban—the suspension, really, of the Russian team. And so it's little wonder at this point that information about infighting within the IOC executive committee is starting to leak. And there's been really one critically important and unfortunate casualty to that infighting, because there's a British IOC member named Adam Pengilly.

And Mr. Pengilly, together with Dick Pound, another legendary former IOC member, have been the two lone voices willing to stand up to Thomas Bach's complicity. And Mr. Pengilly, for reasons that we'll all figure out whether it's true or not, has been ejected from the Olympic Games in South Korea on the eve of the IOC making a decision whether or not to lift the suspension of the Russian team. So one of the, surely, dissenting voices within the IOC has now been silenced.

So, what does this all mean? No one can seriously argue that the cowardly and indecisive actions of the IOC are appropriate, will deter cheaters, or are fair to clean athletes, Olympic sponsors, or fans. And no one can seriously debate the fact that IOC's conflicted policing system is broken and is not working. And as a result of that, who's defrauded? Everybody knows what fraud is, right? Who's defrauded? Clean athletes who invested substantial physical, emotional, and financial investments in their training. Sponsors, most of whom, by the way, have anti-doping provisions in the contracts that they make the athletes sign, including the Russian athletes. Advertisers, international federations, and every single country, including the United States, who contributes to WADA's fairly large budget.

Now, I want to put a pin in something, because I think acceptance of responsibility is extraordinarily important, and is the measure of character of a person or a country. And the sad truth of it is, America is not blameless either. We have had our share of cheaters. We have had one systematic doping system in a cycling team relatively recently. I'm proud of the fact that we stand up, point out, and convict those individuals and make sure that they are exposed, no matter how important they are, no matter how powerful they are, and no matter how much money can be made off of their performances.

But we shouldn't take victory laps. And we shouldn't realize that this is a bit of a glass house. But at the same time, the United States has been a leader in the fight for clean sport. And the U.S. Anti-Doping Administration, USADA, and its president, Travis Tygart, have been lions on this issue. And if Congress does anything as a result of this saga, I hope that they will increase the budget for USADA so that USADA can do more of the good work that it's doing to call out cheaters within the United States, and cheaters within the Olympic and international communities.

But honestly, the United States can and, in my view, should do more to fight for clean athletes and protect whistleblowers. There are countries, such as Austria, Italy, France, and Spain, that have actually implemented criminal penalties for doping, because this is all about deterrence, right? It's a very simple concept. We learn it when we are children. If our actions are punished, then the conduct will stop. That is the basis of our criminal justice system. We don't have laws to punish doping as a criminal violation. We have many different conspiracies that cover many different kinds of fraud, but not fraud that embodies doping.

And this is true, despite the huge impact that international doping has on both U.S. athletes and U.S. sponsors, who are the main source of revenue for the Olympics and many other world events. So we need to change our language. We need to stop calling this doping, and call it what it is—doping fraud, right? This is doping fraud—fraud, meaning someone pretends that they are clean when they are dirty. It's not implicit. They've signed certifications. They've signed contracts saying, confirming, certifying that they are clean. And they are dirty. And other people get harmed. That's exactly what fraud is. And doping fraud should be the watchword in all of our discussions going forward.

But we can do more, right? I would be happy to work with this commission and propose the first doping fraud statute. But it can't be an ordinary statute. It's got to be a statute like the Foreign Corrupt Practices Act. That is a statute that allows U.S. prosecutors to reach even foreign government officials who are involved in bribery that has an impact here. And doping is no different. Congress should pass a doping fraud statute with a long-armed provision that allows us to reach out of the United States and catch the cheaters that destroy the lives of America's clean athletes and waste the resources of our businesses.

And one of my friends, when I was talking through this idea, had a very clever idea. And his idea was to just amend the Controlled Substances Act. The Controlled Substances Act is something that was passed in 1970. It's the major drug law in the United States. But it's not just drugs such as heroin or cocaine. It actually has on the schedule most of the worst performance-enhancing drugs, including all of the ones that were being used by Russia during this whole system. So we could simply just amend the Controlled Substances Act to include a provision that has a long-armed statute that says: When there is a conspiracy that affects U.S. persons or corporations, and that conspiracy exists outside of the United States, because of the harm here, we're going to prosecute it here.

So that's my recommendation for the day because, let me tell you something, if we have a long-armed statute for doping, I guarantee you, as long as we used it, this problem would go away. But we also have to protect whistleblowers like Dr. Grigory Rodchenkov. I mean, understand, the guy risked everything to come here. And what does he have to show for it? Not much of a life at all. The IOC has proved utterly toothless to do anything to stop the Russians from trying to indict him, extradite him, harass him, discredit him,

threaten him. And if the IOC can't police itself, we need to pass legislation that encourages other whistleblowers to come forward—not just from Russia, but from wherever there are state-sponsored doping systems.

So part of this doping fraud statute should have whistleblower protections that provide for legal assistance, immigration status, job placement, and other kinds of support. And, as importantly, provides tools for prosecutors to go after the people that are retaliating against the witnesses. Because, let me tell you something, if you're in the United States and you try to retaliate against a witness, that is a federal crime. It should be no less of a crime because someone who's physically here is being retaliated against by someone outside of the United States. The harm is here.

Okay. So thank you for patiently sitting through my remarks. But I would like to read a note from Dr. Rodchenkov that he wrote and asked me to read to you. Here's the statement. Excuse me for reading:

"Thank you for accepting my statement. I hope at some point soon my security situation will improve so that I may address this commission personally. As you know, I have been cooperating with WADA and the IOC to provide full and truthful details of Russia's state-sponsored doping system, in which I played an important role. I sincerely apologize for my actions, which were directed by the Minister of Sport Vitaly Mutko and his deputy minister, Yuri Nagornykh. Many other high-level officials, including from the Center for Sports Preparation, RUSADA—that's the Russian Anti-Doping Agency—and the FSB played roles in this scheme, along with many lower-level people. I truly had no choice but to play my part in this scheme. But I hope you understand, I did much work to advance the goal of clean sport during my time as the director of the Moscow Anti-Doping Center.

"But despite my extensive cooperation, I am in a very difficult position. Russia has openly retaliated against me. About that there can be no serious question. They have singled me out for prosecution, issued arrest warrants, are seeking my return to Russia, and even calling for my execution. Two of my colleagues died under mysterious circumstances after this scandal unfolded in 2005. And I fully believe they were murdered to silence them. Had I not fled Russia, I am sure I would have experienced that same fate.

"The IOC has the power to stop Russia's retaliation against me. They could simply use the power they retained to continue the suspension of the Russian Olympic Committee from participation in the ongoing Olympics and future games until Russia stops its efforts. The IOC has refused absolutely to use that power. In fact, the IOC seems ready to lift the suspension before the closing ceremony in these Olympic Games. Putting aside the direct impact on me, this sends a terrible message to future whistleblowers. Why should anyone come forward if the very guardians of clean sport leave their main witness, whose truth they have repeatedly verified, twisting in the wind?

"If the IOC has proven completely ineffective at punishing countries that dope, it will only embolden cheaters. I ask this commission to consider the important role the United States could play in both encouraging more whistleblowers to come forward and creating meaningful deterrence for such epic cheating. Self-policing by the IOC does not work, and WADA lacks the resources, tools, and independence to solve these problems. I believe the United States has played a leadership role but can and should play an even more forceful role in the fight for clean sport and the protection of whistleblowers."

Thank you very much for your time and attention. And I'll stay for any questions. [Applause.]

Mr. MASSARO. Thank you very much, Jim, for your powerful remarks. And I'm really looking forward to working on that legislation with you.

Mr. WALDEN. Me too.

Mr. MASSARO. [Laughs] I'm going to ask Jim a couple questions. We're going to have a little conversation up here. And then we'll open the floor to the audience. So please start considering your questions. When I call on you to ask a question, please state your name and organization. We'll bring you microphones. Please make sure you speak into the mics, since we're being broadcast.

So to get us started, Jim, during your remarks one question kept ringing in my mind. And that was, what is going on with the IOC? You know, I mean, again and again you've said, OK, it's not working, it's not working, it's not working, it's not—but why is that? Do they need structural reform? Is it a lack of deterrence? What's going on?

Mr. WALDEN. Listen, I've said before that whether or not the IOC intends this or not, these decisions look either corrupt, complicit, or, at best, inept. But I'm sure that I'm not being 100 percent fair, in the sense that it must be difficult to balance when you need people to hold these competitions. You need big countries to hold them. You need the revenue that is necessary.

QUESTIONER. Could you start again?

Mr. WALDEN. I've said before, that whether this is the intent or not, the actions of the IOC look either corrupt, complicit or, at best, inept. But I don't think that that's completely fair, in the sense that I'm sure it's difficult to balance the pressures of, on the one hand, you know, doping—punishing dopers, but on the other hand, needing large countries to host the games, to fund the games, to do all of the things that are necessary to make the Olympics go. But we have to have one standard of justice, right? There can't be one standard of justice for Kuwait and another standard of justice for Russia or America, for that matter. So if they're going to punish countries that impact the independence of the Olympic Committees and the labs, they have to punish those countries equally. And that's why, again, the only rational explanation for these decisions is corruption, complicity, or ineptitude. And I don't know, Paul, which one it is.

Mr. MASSARO. Thank you, Jim. And my second question concerns the other massive international sports association in the world, and that's FIFA, right? And despite the fact that the Russian team has been banned from the Pyeongchang Olympics, we're looking at a World Cup in Sochi next year. So is it a coordination issue? Is there less doping in FIFA? Do these organizations not speak to one another? Or is this another case of complicity and potential corruption?

Mr. WALDEN. Well, I think the problems that FIFA has been having with corruption are now well known. There's been a trial in Brooklyn where it's been proved. There are other investigations going on. With respect to what Dr. Rodchenkov knows about Russia soccer, I've said publicly that he can confirm that the Russian football team—or the soccer team, as we know it—was protected by the state-sponsored doping system, and in particular the disappearing positive methodology. But there's a pending investigation going on. I'm not sure if it's a credible investigation. But he's certainly going to cooperate with FIFA with respect to that investigation.

On your larger question, Paul, I don't really know. But what I can say is corruption's not a long-game strategy. It is not a long-game strategy, particularly not in this day and age where all over the spectrum of issues that are being faced in the world people are

being empowered to step forward and tell their secrets, right? We see it in the #MeToo movement, thank God. We see it in so many other areas. And we're going to see it in doping. And the number of investigations of international sports agencies that are now ongoing is dizzying. So if they want to have a long-term game and they want to be viable, they should stop the corruption, or even the appearance of corruption. Because with all of these issues swirling around, to have the World Cup in Sochi, of all places, sends a terrible message to the world.

Mr. MASSARO. Great. Thanks. And let me ask a final question. In your conversations with Dr. Rodchenkov, have you spoken to him at all about the incentive for a nation to dope? It seems to me like in the short term we can all imagine, you want to win a few competitions. But it does seem like the risk/reward ratio here is way out of whack, you know? You get caught, and——

Mr. WALDEN. Well, I can't tell you about the private conversations we have, obviously.

Mr. MASSARO. Yes, of course. Of course.

Mr. WALDEN. I can tell you what he said publicly. And he thinks that this is unique in Russia, because of the power of sport in Russia. And he believes—and I know that he believes it because I've seen the agony on his face as he describes this—that the Sochi success that brought Vladimir Putin from an epic low approval rating to an incredibly high approval rating, emboldened Russia to invade the Ukraine and annex Crimea. Now, is he right, is he wrong, I don't know. But what I do know is that, again, doping is not a long-term game. It's a short-term game. And I just hope that one of the powerful messages of this story—whether the doping is occurring here in the United States or it's occurring in any other Western country or any other Eastern Bloc country—the day of reckoning is coming.

Mr. MASSARO. Well, thanks so much, Jim. And we'll take questions from the audience now. So, please wait until you receive the mic, and if you could say your name and organization.

QUESTIONER. Hi, there. My name is David Larkin. I'm an international sport and anticorruption attorney, and probably the only one in Washington, D.C. I got dragged into the sport anticorruption world about eight years ago by accident. My first comment would be directed to Paul. And I'd say, Paul, the United States needs to understand something that they don't at the moment. And that is, that sport is not about sport at the international level. What's great about this case, is that this is a great demonstration that sport is about geopolitics. And when you're dealing with sport at the international level, you need to understand that it gets hijacked over and over by foreign governments because the game dates back to 1936. Hitler's Olympics. Sport is a great propaganda tool.

And so what you see is, you see this incursion into sport by foreign nations over and over again. Countries across the world have sports ministers. And the United States, almost singularly, does not. Why? Because the United States does not understand that sport is geopolitics. So the United States Congress gets taken for a ride on this over and over. And in fact, I moderated a panel here at the Capitol and found persons financed by foreign governments talking about the legalization of sports gambling. And that should worry you, Paul. It should worry all Americans, because we don't understand this issue at all.

So, Jim, I appreciate what you're doing. I believe your client.

Mr. WALDEN. Thank you.

QUESTIONER. Two questions really. One is, to what degree were Russian athletes aware of this systemic program? Because if you watch "Icarus," if you watch what Dr. Rodchenkov says, he says only a portion of Russian athletes were doping at the games at various times, right? And so that's really my first question. My second question is, is he talks about how WADA should be afraid, okay? Why would WADA need to be afraid?

One last point, Paul—we need to understand in the United States that this system of international sport is systemically corrupt. We would never allow the Court of Arbitration for Sport to exist and call itself a court the way that it currently does in the United States. It's gamed. And so we in the United States need to not only address the issue in this instance. We have a system of international sport that victimizes American athletes, and that's got to be addressed. That's the bigger issue here. This is a great and important case, but there's a much bigger issue. And that's the victimization of American athletes. And I hope you're going to address that.

Mr. MASSARO. Well, if I may, thank you so much for your comments. You know, one thing about your comments that strikes me is that we really are an outlier. And in that way, I hope we can remain an outlier. I think that our take on sportsmanship as being between two sportsmen is precisely what sports should be about. [Laughs.] And I think that the United States has been able to support the rule of law in really interesting ways around the world. And I think one of those ways, as Jim hinted at, was the FCPA, through which our companies—you know, you wanted U.S. investment, you got to play by the rules of the FCPA. And that's stopped bribery. So potentially—I mean, it didn't stop bribery entirely, but, you know, it certainly put a dent in it.

But in any case, if we were able to put some sort of legislation on the table, or some sort of incentive for these guys to play similarly by rules in which we acknowledge that sports is about sports—[laughs]—and not about geopolitics, then that would likely be very positive. That said, I really, really, really hope it doesn't go in the reverse, and the United States ends up thinking, oh, it's about geopolitics. We got to play their rules—no. It's about keeping sports pure and about sports, you know? And that would just be my comment on there. Jim.

Mr. WALDEN. David, thanks for your questions. And believe me when I say I appreciate that you believe Dr. Rodchenkov. And I think many people do. But you really asked two questions., right? The first question was, were the Russian athletes aware. And I can't answer that question with respect to every Russian athlete. But what I can tell you is people don't swish things in their mouth and spit it out for no reason, right? That's kind of impossible to believe, that that wouldn't tip someone off, even if they hadn't been told, right? And when you're asked to give clean urine, you know, hard to believe that you think it's normal to give clean urine in a discarded baby bottle or a Coke bottle or the different bottles that were being used to collect multiple samples of clean athletes, and then give them over to the Center for Sports Preparation. Well, why are they doing that?

But I think that the larger question is the world and, frankly, the Court of Arbitration for Sports (CAS) took this case and understood it in a way that an American prosecutor would not. They carved up the evidence and looked really at the forest with a microscope. Instead of realizing that when you look at all of the evidence, including Dr. Rodchenkov's evidence and the decades' worth of evidence that exists in other places, right—because it's not just him—there is no question that this occurred. This is not a serious topic. And there's no one that follows the Olympics or world competition that

believes the lying coming out of the Kremlin. So, yes, the participating Russian athletes knew.

You asked a second question and I, frankly, am not sure I quite understood it. I don't remember the line from the movie where he said WADA should be afraid.

QUESTIONER. Basically, that WADA's afraid of what he knows. Because, let's be honest, because WADA is part of the problem. I'm just saying, you know, in the movie he makes reference to the fact that WADA should be—is afraid of him and some of the information he knows. And to be frank, WADA's part of the problem. I mean, that's—historically in this construct of international sport, WADA's absolutely part of the problem. CAS is part of the problem. But it's the entire construct that's the problem, that victimizes American athletes. But why was he saying that WADA was afraid of him? That's really the question.

Mr. WALDEN. Yeah, yeah. So I can answer the question, but I got to say, just in all candor, I'm guessing a little bit, right? But I just want to tweak one thing that you're saying. This is a system, and the system is evolving. And honestly, out of all of the nonsense that we've had to deal with with the IOC and WADA—I can't judge historically—but at least WADA's doing something now. You know, I believe Craig Reedie, I believe Olivier Niggli when they look me in the eye and say: We are going after these cases. And I look forward to it, because when the LIMS data is revealed, no one is going to be able to dispute Dr. Rodchenkov's truth. It would literally be impossible given the staggering number of athletes that have adverse analytical findings there.

But what I think that Dr. Rodchenkov is probably referring to is, you remember that there was a time when the Moscow lab was almost banned, right, just before Sochi. And if the Moscow lab—not banned, suspended, I guess. If that had happened, Russia would have had a huge problem running the Sochi Games, and implementing the state-sponsored doping system, right, because all of their samples then would have to be sent to other labs and they couldn't control the swapping, et cetera, et cetera. And I think that Dr. Rodchenkov believes that he was given a pass there.

And I don't think that he believes that it was corrupt, but that all of these agencies are much more forgiving than they should be, and much less skeptical and much less rigorous. And there are many, many different factors—human error, human incompetence, lack of independence, many different pressures put on these institutions. So I'm sorry to give you an "I think," but I think that's probably what he was referring to.

Mr. MASSARO. Great, thank you. Other questions? Please. No other questions from the audience, huh? Okay, Stacy, do we have any from Facebook?

Mr. WALDEN. Wow.

Mr. MASSARO. Wow. Yes, I guess you were very comprehensive, Jim. [Laughter.] Well, that's great. In that case, thank you so very much, everyone. That was a fabulous briefing. Let me make mention of a hearing we'll be having on February 28th, for all you Russia watchers out there, on the legacy of Boris Nemtsov, all right?

Thank you so much. And with that, we'll close the briefing.

Mr. WALDEN. Thanks, everyone. Thank you.

Mr. MASSARO. Thank you, Jim.

[Whereupon, at 4:38 p.m., the briefing ended.]

○

This is an official publication of the **Commission on Security and Cooperation in Europe.**

★ ★ ★

This publication is intended to document developments and trends in participating States of the Organization for Security and Cooperation in Europe (OSCE).

★ ★ ★

All Commission publications may be freely reproduced, in any form, with appropriate credit. The Commission encourages the widest possible dissemination of its publications.

★ ★ ★

www.csce.gov **@HelsinkiComm**

The Commission's Web site provides access to the latest press releases and reports, as well as hearings and briefings. Using the Commission's electronic subscription service, readers are able to receive press releases, articles, and other materials by topic or countries of particular interest.

Please subscribe today.