

Open Letter to the World Anti Doping Agency and International Olympic Committee

Regarding the McLaren Report and the Politicization of Doping in Sports

March 27, 2017

Dear WADA President Sir Craig Reedie and Executive Committee,

Dear IOC President Thomas Bach and Executive Committee,

I hope you will persevere and overcome the differences and disagreements between WADA and the International Olympic Committee and Russia. Many people around the world were displeased with the controversy last summer. The contentious situation and mutual accusations distracted from the Rio Olympics, reduced attendance and appeared to undermine the goals of the Olympic Charter against national discrimination.

We are at a point where things could get better or worse. Russian President Putin has said that while they do not accept the accusation of ‘state sponsored doping’, they acknowledge doping violations which need to be prevented in future through coordination with WADA. Some WADA officials have responded favorably. Yet there are countervailing efforts. The U.S. Congress recently held a [hearing](#) to further politicize the situation. Meanwhile the Institute of National anti-doping organizations has opposed proposals for independent testing and [aggressively criticized](#) the IOC.

As you know, the banning of Russian athletes from the Rio Olympics and Paralympics was largely based on the private statements and first report of Richard McLaren. The evidence supporting these accusations along with details of the “athlete part of the conspiracy” are said to be in [McLaren Report #2](#) issued in December 2016.

To determine the best way forward in keeping with the goals of WADA and the IOC, it is important to look at the facts objectively. As shown below, there are significant inconsistencies, inaccuracies and errors in McLaren Report #2. The problems range from the lack of specific evidence to distortion of the findings of the “toolmarks expert”.

Clearly the situation has been politicized. We need you to resist the pressures and reject calls for blanket condemnations which hurt innocent and guilty alike. Please reject the politicization of doping in sports.

Inaccuracies and distortions in the final McLaren Report include:

(1) McLaren’s Report #2 falsely claims [the first report](#) was not challenged. On page 7 McLaren says “The fundamentals of what was described in the 1st Report have neither been the subject of criticism nor contested ...” That is untrue. Here are a few examples:

* *Forbes* published a concise but devastating editorial titled “[Russian Complaints about McLaren Report on Alleged State Sponsored Doping Have Merit](#)”. The author, a well known sports and ethnics attorney, identified three ways in which the McLaren Report #1 violated due process. He talked of the significance of this failing: “Due process is not an empty phrase. Without it, there cannot be justice. Surely it should be required before a major sporting nation's athletes are banned from the Olympics and Paralympics.”

* The British *Sports Integrity Initiative* published [a detailed critique](#) of McLaren Report #1 with the following conclusion: “WADA has an important task that deserves support, but not if it becomes a politically biased

crusade. As shown above, the McLaren Report has major deficiencies. The targeting of Russia and indiscriminate punishment of their athletes is a betrayal of the Olympic spirit.”

* The Italian *Dirito Penale Contemporaneo* published [a Critical Analysis of the Report of Richard McLaren](#). The 13 page analysis concludes that the McLaren Report #1 possesses “inconsistencies and exaggerations” and is “biased and unsubstantiated”.

(2) McLaren is inconsistent in his accusations against Russian athletes and knows the evidence may be weak. On page 2 he says “Over 1000 Russian athletes can be identified as being involved in or benefiting from manipulations to conceal positive doping tests.” On page 5 there is less certainty as he says “over 1000 Russian athletes ... appear to have been involved” On page 20 the previous certainty is reduced even more as he says “246 athletes can be identified as potentially knowingly participating in manipulation...” (underlining added). On page 18 McLaren acknowledges the evidence may be weak as he says “the IP has not assessed the sufficiency of the evidence to prove an ADRV by any individual athlete.” (For readers unfamiliar with the acronyms, McLaren is the “Independent Person” or “IP” and “ADRV” is anti-doping rule violation).

(3) Sports Federations are now confirming that McLaren’s evidence is weak. The lack of evidence is confirmed in the recent findings by different athletic federations. For example the International Biathlon Union recently evaluated McLaren’s information and cleared 22 of 29 Russians who had been implicated. Investigation of the other 7 continues. Even if all 7 are ultimately found guilty that means that 76% were not and suggests that McLaren’s accusation of 1000 complicit Russian athletes was a huge exaggeration.

(4) McLaren accuses Russian officials and institutions without providing evidence. On page 20 he states “The cover up and manipulation of doping control processes involved officials in the Ministry of Sport (“MofS”), CSP , and Federal Security Service (“FSB”) as well as other sport officials and coaches. Also included were both the Russian Anti-Doping Agency (“RUSADA”) and the Moscow Laboratory.” It is widely known that Rodchenkov and the Moscow Laboratory were at the center of doping violations. What is new and requires evidence are the accusations that officials from the Ministry of Sports, Security Services and RUSADA were part of a conspiracy.

When this author contacted Richard McLaren asking where the evidence is, he replied “*The EDP is divided into categories so you can locate the documents you are looking for.*” The [“Evidence Disclosure Package”](#) contains 1,031 evidence documents. A chart assigns each document among twelve general categories. McLaren’s major accusations do not reference a specific document. In effect, the Independent Person tells readers to find it for themselves. This is a very curious way to persuade or convince anyone. It raises the question whether the evidence is weak or non-existent. McLaren admits that there is “no direct evidence of ROC (Russian Olympic Committee) involvement in the conspiracy.”

By contrast, when McLaren explained why he declined the request of the Vice Chairman of the IOC Ethics Commission, he refers to a specific letter which documents the communication (EDP1164). When McLaren describes the WADA directive telling Moscow Laboratory to save samples, he documents the communication (EDP1160). If McLaren has evidence of the “institutional conspiracy”, why does he not identify or present the evidence?

(5) McLaren smears all Russian athletes, innocent and guilty alike. On pages 46-47 he says “doping manipulation and cover up of doping control processes was institutionalized ... It is unknown whether athletes knowingly or unknowingly participated in the processes involved. However they may be part of the conspiracy...”

Together, all of these parties were implicated parts amounting to a conspiracy....” With this logic, McLaren says all Russian athletes are guilty - whether or not they knew, whether or not they participated.

(6) McLaren claims that Rodchenkov followed the directions and instructions of high officials in the Ministry of Sports but provides no evidence. For example, on page 82 McLaren says “On Deputy Minister Nagornykh’s instructions, the first phase in developing the sample swapping technique was launched.” On page 83 he says “At the direction of the MofS, these athletes would collect clean urine in baby bottles, Coke bottles or similar containers and supply it to the CSP.” On page 84 he says, “By direction of Minister Mutko and Deputy Minister Nagornykh all pre-competition washout samples for testing were to be collected only ‘under the table’ in unofficial containers.” If this is true, why does McLaren not provide the evidence in the form of emails or other communication?

(7) McLaren suggests without evidence that the Ministry of Sports was responsible for distributing performance enhancing drugs (“PEDs”). On page 64 he says “Centralizing and controlling distribution of PEDs to athletes became an increasingly important element of the doping control system and manipulation.” This is contradicted by the fact that Rodchenkov was previously arrested for possession and distribution of PEDs and his sister was convicted for this activity. It is contradicted by the fact the Rodchenkov and coach Melnikov received payments for the drugs and falsified tests. Many pieces of evidence confirm the guilt of McLaren’s principal witness, Dr. Rodchenkov, but none give proof of collusion or direction by the Minister of Sports or another high official. In a footnote on page 68 McLaren says “it appears that athletes had to pay Coach Melnikov and Rodchenkov for positive samples to be clean.” This suggests a profit making or extortion scheme rather than state organized.

(8) McLaren makes sensational accusations based on erroneous or misleading references. For example on page 74 he refers to the ‘hijacking of the London 2012 Games’. To substantiate this extraordinary claim, McLaren refers to the 2016 IOC media release [“IOC sanctions eight athletes for failing anti-doping test at London 2012”](#). It is implied these are some of the Russian athletes who “hijacked” the London Games. This is misleading because only two of the eight disqualified athletes were Russian.

(9) McLaren bases his “forensic analysis” on the findings of a “world renowned expert in firearms and toolmarks examinations” but mysteriously keeps his identity secret and does not cross-check or validate his investigation results. Richard McLaren says his conclusions are based on “immutable facts” and “forensic analysis”. The lofty words largely boil down to this:

- A toolmarks expert determined there was a way to open the supposedly tamper-proof urine sample bottles to allow exchange of dirty urine with clean urine. However the clandestine bottle cap opening would leave some slight marks. The marks were found to be of two types.
- Based on advice from Rodchenkov, McLaren did an investigation of select Russian sample bottles from the Sochi Games and afterwards and found that the samples were contaminated and either had mismatched DNA or impossible salt content.
- The toolmarks expert studied a small number of sample bottles from during and after the Sochi Games, again based on Rodchenkov’s suggestions, and determined that most of them had the “marks” suggesting they had been clandestinely opened.

Given the importance of the investigation, and the fact it was presumed to be impartial and objective, it is reasonable to ask some questions: Why is the expert anonymous? How was his evaluation and testing cross-checked and validated? Why was the Swiss manufacturer of the sample bottles (Berlinger) not involved in the examination and testing? Berlinger should have been involved for two reasons:

- a) because Berlinger has technical staff who are the most knowledgeable about these urine sample bottles
- b) to assist in correcting any flaw in the design, if it actually exists, to prevent future abuse.

In addition, it is important to note the highly selective nature of this examination. The Sochi Olympic and Paralympic athletes' samples that were investigated were selected by the person who was said to be at the heart of the corruption.

(10) McLaren distorts the findings of the “toolmarks expert”. On page 103 McLaren says “the forensic testing, which is based on immutable facts, is conclusive... The results of the forensic and laboratory analysis initiated by the IP establish the conspiracy that was perpetrated at the Sochi Games.” However, the toolmarks expert makes no such claims. The findings in the “Forensic Report” (EDP0902) are much more qualified:

- a) McLaren asserts that “marks” on the inside of the urine sample bottle confirm tampering. However the expert does not say that. Regarding “Type 1 marks”, the expert concluded that “these marks were reproduced and found to be present after screwing the lid on forcefully”. This means that if a user over-tightened the bottle cap trying to insure no urine leakage, it would cause similar marks.
- b) Regarding “Type 2 marks”, the expert found that “If there was manual manipulation of the metal ring and spring steel washer before the lids were screwed on for whatever reason, marks similar to some of the Type 2 marks were reproduced. This could for example result from fingers or cloth being used to wipe the inside of the lid to clean it.”
- c) On page 22 of the “Forensic Report”, the expert concludes with the following warning: “These marks on their own should not be considered to be conclusive evidence of opening the bottles or attempts to open the bottles”. (underlining added). This is opposite to what McLaren claimed.

Finally, I note the following: If the goal was to discover whether or not there was widespread tampering with sample bottles from one country, then it could be done by examining random sample bottles from many different countries to see if there are telltale marks from only one country. That would also be a strong indicator that the marks were from tampering and not from the incidental causes which the toolmarks expert warned of. This was evidently not done.

Conclusions

It's clear that there were doping violations by some Russian athletes with collusion and assistance by the Moscow Laboratory Director Rodchenkov and some others. Despite McLaren's accusations of “state sponsored doping” and an “institutional conspiracy”, he has presented little or no evidence showing this.

If there is clear evidence in the Evidence Disclosure Package, why is it not identified? What does it say about the integrity and fairness of someone in authority who makes sensational accusations which grab the headlines while knowing the evidence is weak and many of the accused may be innocent? What kind of ethics and “fair play” does this demonstrate?

It seems clear there needs to be an independent and NOT nationally-based testing authority which can implement common standards and prevent doping use, evasion and false accusations.

In closing, I appeal to the leaders of WADA and IOC to please find a way to reduce the politicization of doping in sports and resist the demands of those saying they wish to “protect clean athletes” by taking away the rights of other clean athletes based on national discrimination.

Best regards,
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