



**Weighing the Committee Record: A Balanced  
Review of the Evidence Regarding  
Performance Enhancing Drugs in Baseball**

**Staff Report  
U.S. House of Representatives  
110<sup>th</sup> Congress  
Committee on Oversight and Government Reform**

**Tom Davis, Ranking Member  
March 25, 2008**

Table of Contents

I. Executive Summary..... 3

II. Findings..... 5

III. Introduction, Purpose, and Scope ..... 11

IV. The Referral ..... 14

V. The Committee’s Investigation..... 15

VI. Clemens and McNamee ..... 18

VII. Repeated Denials by Clemens..... 21

VIII. Andy Pettitte ..... 28

IX. Testimony About Chuck Knoblauch’s Use of HGH ..... 47

X. Evidence Regarding Jose Canseco’s Barbecue..... 49

XI. Testimony Regarding 1998 Use of the Anabolic Steroid Winstrol..... 60

XII. Testimony Regarding 2000 Use of Anabolic Steroids and HGH ..... 78

XIII. Testimony Regarding 2001 Use of Anabolic Steroids..... 81

XIV. Testimony Regarding Debbie Clemens’s Use of Human Growth Hormone..... 86

XV. Testimony Regarding Injections of Vitamin B-12..... 91

XVI. Testimony Regarding Lidocaine Injection ..... 99

XVII. Evidence Regarding a Meeting Between Jim Murray and Brian McNamee ..... 103

XVIII. Conclusion..... 109

## I. Executive Summary

On February 27, 2008 the U.S. House of Representatives Committee on Oversight and Government Reform Chairman Henry A. Waxman, and Ranking Minority Member Tom Davis wrote to Attorney General Michael B. Mukasey requesting an investigation by the U.S. Department of Justice into the truthfulness of Roger Clemens's testimony before the Committee at a February 5 deposition and at the February 13 hearing on steroid use in baseball.

At both his deposition and the Committee hearing Clemens repeatedly denied the charges made by his former personal trainer Brian McNamee in the Mitchell Report that Clemens used anabolic steroids and human growth hormone at least 16 times in 1998, 2000 and 2001.

Clemens and McNamee told two spectacularly conflicting stories. The differing testimony leads to an obvious conclusion – one committed perjury and made materially false statements to Congress. Both are serious crimes. The ultimate question for the Justice Department is whether Clemens knowingly provided materially false testimony about using anabolic steroids and human growth hormone. If Clemens is not lying on that subject, McNamee is.

Originally billed as day 2 of Mitchell Report hearings, the February 13 hearing quickly devolved into a nationally televised show trial – McNamee v. Clemens. Other than McNamee's testimony, the critical evidence against Clemens was the deposition testimony of his former Yankees teammates Andy Pettitte and Chuck Knoblauch.

In their deposition and transcribed interview, both Pettitte and Knoblauch testified, as Senator Mitchell reported, that McNamee injected them with human growth hormone. Further damaging to Clemens was the testimony of Pettitte that Clemens admitted to using human growth hormone in 1999 or 2000. Clemens maintained Pettitte "misheard" and "misremembered." But Pettitte also testified that shortly after that conversation, and long before federal investigators or Congress were involved, McNamee was upset to learn that Clemens had told Pettitte that he had used human growth hormone.

The stark contrast in Clemens's and McNamee's testimony on the core question of whether Brian McNamee injected Roger Clemens with anabolic steroids and human growth hormone merited a referral to the Justice Department.

The Committee's investigation was far-reaching. Eighteen witnesses were deposed or interviewed. Roger Clemens produced medical records and other documents. The Committee took evidence as to whether McNamee injected Clemens with the numbing agent lidocaine and liquid vitamin B-12; whether Clemens sustained an abscess to his buttocks as a member of the Toronto Blue Jays in 1998; whether Clemens went to a Blue Jays' team barbecue at the home of teammate Jose Canseco in June 1998; the circumstances surrounding Clemens's wife Debbie's use of human growth hormone; and

a meeting between McNamee and one of Clemens's sports agents in 2003 or 2004 where McNamee testified he warned of a positive steroid test.

The Committee did not conclude that a referral to the Justice Department was warranted on these subjects. Either the particular subject was not so critical to the core question of whether Roger Clemens used steroids or HGH or the evidence on a particular issue was simply too inconclusive to warrant such a referral. Sometimes both considerations were at work.

Not all subjects of any Congressional investigation yield sufficiently clear contrasts to justify a request for further serious investigation by the Justice Department. While some may believe in the truthfulness and the accuracy of memories of some witnesses and not others, the fact finding process – especially when some of the facts are nearly a decade old – is not always conclusive. The evidence answers some questions and not others.

The evidence shows Andy Pettitte believed Roger Clemens admitted to using HGH in 1999 or 2000. Contemporaneously, Pettitte told his wife about this admission. She submitted a sworn affidavit to this effect. Around the same time, Pettitte told McNamee about what he thought Clemens told him. The evidence shows McNamee became angry.

The evidence before the Committee is inconclusive on the question was Roger Clemens at Jose Canseco's barbecue. A question with only slight relevance to the core question, the Committee nevertheless took testimony from several witnesses who were there. One witness places Clemens at the barbecue. The rest do not.

The evidence regarding the causation of an alleged abscess or other buttocks injury sustained by Roger Clemens in the summer of 1998 is inconclusive. Four witnesses who treated Clemens for a buttocks injury at the time testified they did not recollect such an injury. After reviewing the medical records, two of the treating physicians said the injury was somewhat minor. One team physician said the injury was merely a contusion, i.e., a bruise, and was the result of a B-12 injection, the doctor specifically recalled administering. But, an expert consulted separately by the Democratic staff stated there was a theoretical possibility Clemens's injury may have been caused by an injection of anabolic steroids.

The evidentiary record is also inconclusive on the question of whether Clemens was a frequent recipient of injections of liquid vitamin B-12. The Committee interviewed representatives from each of the four teams Clemens played for, and the record shows three of these teams provided B-12 injections during Clemens's time with the teams. An official for one team – the New York Yankees – conceded the team administered B-12 shots, and did not always keep records of them.

This staff report aims to provide careful review of the key differences in disputed facts. It also seeks to dispel conclusions that may have resulted from an incomplete consideration of the full record before the Committee.

## II. Findings

- Repeated Denials by Clemens

Under oath at both his deposition and the Committee hearing, Roger Clemens repeatedly denied the allegations set forth in the Mitchell Report. Clemens denied using anabolic steroids or human growth hormone. Clemens testified that Brian McNamee's contrary statements are false. Clemens also denied seeing, possessing, or discussing for purposes of his own use anabolic steroids or human growth hormone.

- Testimony About Pettitte's First Conversation with McNamee about HGH

Both Andy Pettitte and Brian McNamee testified they discussed human growth hormone during the winter of 2001-02. According to their testimony, Pettitte asked McNamee about human growth hormone. McNamee recalled Pettitte saying something along the lines of "why didn't you tell me about that stuff." McNamee testified he replied, "it's illegal and I know how you are." Both testified McNamee counseled Pettitte against using HGH at this time.

- Testimony About Pettitte's 2002 Use of HGH

Andy Pettitte testified he used human growth hormone over a period of two days in 2002 while on the disabled list with an elbow injury. Pettitte testified he asked McNamee to travel to Tampa, Florida for ten days to help him rehabilitate the elbow injury. Pettitte testified after McNamee had been in Tampa for several days, he finally decided he wanted to try HGH. Pettitte said he believed McNamee obtained the HGH from a family doctor. He said McNamee injected him with HGH in McNamee's hotel room near the Yankees' team facility.

McNamee testified differently. McNamee told Committee staff Pettitte had decided to use HGH before McNamee flew to Tampa. McNamee testified Pettitte "made a statement to me that he wanted to go on human growth hormone and he was going to go on human growth hormone. Also can you come down and train me two times a day while I'm down [in Tampa] going through" rehabilitation.

- Testimony About Pettitte’s Conversation with Clemens During 1999 or 2000

Andy Pettitte testified Roger Clemens told him in 1999 or 2000 he had used human growth hormone. According to Pettitte, Clemens told him HGH helped the body recover.

Roger Clemens denies this. Clemens testified Pettitte “misheard” him. At the hearing, Clemens testified this initial conversation with Pettitte would have concerned the use of HGH by individuals featured on a television program, “something . . . about three older men that were using HGH and getting back their quality of life from that.”

- Testimony About Pettitte’s Conversation with Clemens During 2005 or 2006

Andy Pettitte testified he had a second discussion with Clemens concerning human growth hormone in 2005 around the time of the Congressional hearings into steroid use in Major League Baseball. According to Pettitte, “I . . . asked him . . . what are you going to say if anyone . . . ask[s] you if you had ever used HGH? And he said . . . what are you talking about? And I said . . . you had told me you had used HGH. And he said, I never told you that. And I said, you didn't? And he said no. I told you that Debbie used HGH.”

Clemens testified he recalled a similar conversation with Pettitte but believed it occurred in October 2006 in connection with a *Los Angeles Times* story about the use of performance enhancing drugs in baseball. Clemens testified Pettitte “looked right at me and said, What are you going to tell them? And I told [Pettitte] that I am going to tell . . . the truth, I did no[ne] of this. . . . That alone should have confirmed Andy’s misunderstanding that I have ever told him that I used HGH.”

- Testimony Regarding Pettitte’s Conversations with McNamee About Clemens’s Use of HGH

Andy Pettitte testified he told McNamee about Clemens admitting to the use of human growth hormone. According to Pettitte, McNamee became “upset.” Pettitte testified, “I remember [McNamee] getting angry and said, you know, who told you that? And you know he was like, man, he shouldn't have done that.” McNamee’s spontaneous expression of anger in response to Pettitte lends credence to Pettitte and McNamee’s testimony Clemens had used HGH. Had Pettitte been mistaken about what Clemens had told him, McNamee would have responded differently.

- Testimony About Chuck Knoblauch’s Use of HGH

Chuck Knoblauch testified the information contained in the Mitchell Report about his use of HGH was “accurate.” According to Knoblauch, McNamee injected him with human growth hormone at least 7-9 times. McNamee testified he injected Knoblauch with HGH “closer to 50 times.”

- Evidence Regarding Jose Canseco’s Barbecue

The evidence before the Committee regarding Clemens’s attendance at Jose Canseco’s house for a Toronto Blue Jays team barbecue in June 1998 is inconclusive. According to Brian McNamee’s testimony, Roger Clemens’s use of anabolic steroids began shortly after attending the barbecue. McNamee testified Clemens attended this barbecue with his wife, two children, and nanny.

The Committee staff interviewed several of those in attendance at the barbecue. Nobody recalled seeing Clemens there. Jose Canseco “specifically recalled that Clemens did not come to the barbecue.” None recalled Clemens attending.

The Committee staff interviewed Jose Canseco’s ex-wife, Jessica Fisher and she testified she has “no independent recollection of seeing Roger Clemens at the barbecue.”

The Clemens family’s former nanny testified she did not attend a barbecue as McNamee alleges. She testified, “that is something that I definitely would have remembered.”

Clemens testified he may have “gone by” Canseco’s house after a golf outing during the Blue Jays three game series against the Florida Marlins in June 1998, but has no specific recollection.

- Testimony Regarding 1998 Use of the Anabolic Steroid Winstrol

Brian McNamee testified he injected Roger Clemens with the anabolic steroid Winstrol as many as 15 times between June 11 and the beginning of August 1998. Clemens denied this at his deposition.

- Evidence Regarding Alleged Abscess

The evidence regarding the causation of an alleged abscess or other buttocks injury sustained by Roger Clemens in the summer of 1998 is inconclusive. The buttocks injury Clemens suffered in July 1998 was not an abscess as McNamee testified. According to McNamee, he was responsible for an abscess resulting from a hurried injection of anabolic steroids.

The medical records show Clemens received an injection of liquid vitamin B-12 in July 1998. Blue Jays team doctor Ron Taylor remembers giving Clemens an injection of B-12. Thereafter, Taylor testified Clemens complained of soreness in his buttocks. In reviewing the medical records, Taylor testified Clemens merely suffered a contusion, i.e., a bruise.

An MRI was ordered by the team’s orthopedist Allan Gross. The MRI findings were normal, and according to Gross consistent with an injection of liquid vitamin B-12.

An expert consulted separately by the Democratic staff stated there was a theoretical possibility Clemens’s injury may have been caused by an injection of anabolic steroids.

- Testimony Regarding 2000 Use of Anabolic Steroids and Human Growth Hormone

Brian McNamee testified he injected Roger Clemens with human growth hormone as many as 20 times during the summer of 2000. McNamee also testified he injected Clemens as many as 10 times with anabolic steroids during the summer of 2000. Clemens denied this at his deposition.



- Testimony Regarding 2001 Use of Anabolic Steroids

Brian McNamee testified he injected Roger Clemens with anabolic steroids as many as 14 times during the summer of 2001. Clemens denied this at his deposition. During the summer of 2001, McNamee began saving physical evidence from these injections. McNamee told the Committee that in January 2008, he produced to federal agents used syringes, bloody gauze pads, and used ampules of anabolic steroids that he claims were used to inject Clemens. McNamee provided photographs to the Committee of the materials produced to federal agents.

- Testimony Regarding Debbie Clemens's Use of Human Growth Hormone

Brian McNamee and Roger Clemens both testified McNamee injected Clemens's wife Debbie with one shot of human growth hormone in the winter of 2002-03. According to both of them, this injection occurred at the Clemens' residence in Houston.

McNamee testified he was instructed by Roger Clemens to administer the injection to Debbie Clemens. McNamee testified Debbie Clemens was "into the Hollywood scene" and understood HGH to be "great" for "women and body fat and youthful appearances."

Roger Clemens testified McNamee injected Debbie Clemens without his knowledge.

Contrary to press reports, no witness testified Debbie Clemens was motivated to use human growth hormone in advance of a Sports Illustrated photo shoot.

- Testimony Regarding Injections of Liquid Vitamin B-12

Roger Clemens testified it was his practice to take injections of liquid vitamin B-12 over the course of the baseball season. According to Clemens, he began taking B-12 injections in 1988 on the advice of his mother. He estimated taking six to eight shots a year since 1988.

Officials from three of the four professional teams Clemens played for – Boston Red Sox, Toronto Blue Jays, and the New York Yankees – confirmed injections of vitamin B-12 were administered during the years in which Clemens was with the teams. One of Clemens's teammates on the Yankees, Andy Pettitte testified he too received B-12 injections as a member of the Yankees from the

team physicians. The head athletic trainer for the New York Yankees Gene Monahan confirmed he has given B-12 injections. Monahan also testified the Yankees did not always keep records of B-12 injections. Clemens testified McNamee injected him with B-12 four to six times. McNamee denied this.

- Testimony Regarding Lidocaine Injection

Roger Clemens testified Brian McNamee administered one injection of lidocaine in 1998. The Committee staff interviewed medical professionals from the four teams Clemens played for. Each official testified lidocaine injections are performed solely by orthopedic specialists due to the inherent dangers of the numbing agent.

The Astros team orthopedist David Lintner testified the procedures required for administering a lidocaine injection sometimes require the injection to occur with the assistance of x-ray technology. Lintner did, however, testify a lidocaine injection to the muscles of the lower back region is not particularly dangerous.

Brian McNamee denied injecting Clemens with lidocaine.

- Evidence Regarding a Meeting Between Jim Murray and Brian McNamee

Brian McNamee testified he alerted Jim Murray, one of Clemens's sports agents, to the possibility of Clemens failing a drug test in 2003. McNamee testified he met with Murray in 2003 or 2004 in a coffee shop in Manhattan to raise this prospect. According to McNamee, Murray took "note after note and asked question after question about Roger's steroid use."

Jim Murray did not remember it this way. Murray testified he met McNamee once in a Manhattan coffee shop to discuss whether Murray's agency, Hendricks Sports Management LP, would be willing to hire McNamee. Murray also remembers "something about [McNamee] having knowledge [of] drug test results." When asked whether McNamee mentioned Clemens in connection with the drug test results, Murray testified, "No."

### III. Introduction, Purpose, and Scope

On February 27, 2008 Chairman Henry A. Waxman, and Ranking Minority Member Tom Davis wrote to Attorney General Mukasey asking for an investigation into the truthfulness of Roger Clemens's testimony before the Committee.<sup>1</sup>

Concurrent with this letter, the Democratic staff posted on its website an 18 page memorandum outlining "seven sets of assertions made by Mr. Clemens in his testimony that **appear to be contradicted by other evidence before the Committee or implausible** (sic)."<sup>2</sup> The Democratic staff memorandum's characterizations and conclusions regarding these other matters is simply not relevant to the core question of whether Clemens knowingly lied about using anabolic steroids and human growth hormone (HGH). For example, the Committee has not fully examined why McNamee might provide truthful testimony about Pettitte and Knoblauch, but false testimony about Clemens.<sup>3</sup> For these reasons, the Republican staff did not subscribe to it.

More concerning, however, the Democratic memorandum reads like an advocate's brief or prosecutorial indictment of Roger Clemens.

At the hearing, Rep. Westmoreland cautioned against this:

Let me start off by saying that [two] years ago when this committee held hearings on this issue I supported that decision because we have jurisdiction over our Nation's drug policy. But I think it's important that we be very careful over how we exercise that jurisdiction. And I'm convinced that this hearing today is a shift away from questions about widespread use of steroids in baseball. And instead focuses on alleged wrongdoing by individuals.<sup>4</sup>

That's not our role in this process, and I certainly hope this show trial will teach us that very valuable lesson.<sup>5</sup>

---

<sup>1</sup> Letter from Chairman Henry A. Waxman and Ranking Member Tom Davis, H. Comm. on Oversight and Gov't Reform [hereinafter Oversight Comm.] to Attorney General Michael B. Mukasey, (Feb. 27, 2008) [hereinafter Referral Letter].

<sup>2</sup> Democratic staff, Oversight Comm., 110<sup>th</sup> Cong., Memorandum Re: Testimony of Roger Clemens (Feb. 26, 2008) at 1 [hereinafter Democratic memorandum] (emphasis supplied).

<sup>3</sup> Democratic memorandum at 3.

<sup>4</sup> *The Mitchell Report: The Illegal Use of Steroids in Major League Baseball, Day 2: Hearing Before Oversight Comm.*, Preliminary Hearing Transcript, 110<sup>th</sup> Cong. at 155 (2008) [hereinafter Hearing Tr.].

<sup>5</sup> *Id.* at 155.

In his opening statement, Ranking Member Davis also cautioned against proceeding too aggressively against one witness or the other. Davis said:

We can't be arbiters of credibility, at least not this soon after gathering evidence. We can't be lured into attaching a coefficient of credibility to different witnesses. We can only collect facts and present them as completely and dispassionately as possible.

Today we'll let the American people judge who's to be believed in this unfortunate battle of wills, memories, and reputations. Coming into today's hearing, we have before us some very different stories. They're in many ways incompatible. **Someone is lying in spectacular fashion about the ultimate question.**<sup>6</sup>

It was because of the spectacularly different stories told to the Committee by Roger Clemens and his accuser Brian McNamee about the ultimate question – did Clemens use anabolic steroids and HGH – that Ranking Member Davis agreed to refer the matter to the Justice Department for further investigation.

The intent of this staff report is to present the relevant facts and evidence obtained by the Committee through its investigation. While the Committee has released publicly virtually the entire record of its investigation, the record is simply too large to be easily understood. **This staff report is aimed at presenting and comparing some of the key differences in disputed facts. Relevant facts not in dispute are not addressed in depth here.** For example, it is not disputed that Brian McNamee injected Andy Pettitte with HGH on two days in 2002. Their conversations and recollections immediately before the injections, however, are in dispute. To this end, their differing recollections, as reflected in their testimony are presented here.

Here, evidence and testimony are presented as they appear in the record with as much context as reasonably possible. Accordingly, the Committee staff makes liberal use of block quotes, often including not only the question posed to the witness, but some of the back and forth between Committee staff and the witness. Many of the quotes attributed to witnesses in the Democratic memorandum are presented absent the necessary context. Page 15 of the Democratic memorandum cites to Clemens's response about whether he could have been at Jose Canseco's residence during the June 8-10 timeframe. According to the Democratic memorandum, Clemens testified "no."<sup>7</sup> But, one question earlier, Clemens expressly stated "I could have gone there after a golf outing."<sup>8</sup> At both his deposition<sup>9</sup> and at the hearing,<sup>10</sup> Clemens testified he did not

---

<sup>6</sup> Hearing Tr. at 19 (statement of Ranking Member Tom Davis) (emphasis supplied).

<sup>7</sup> Democratic memorandum at 15; Clemens Deposition at 17.

<sup>8</sup> Deposition of Roger Clemens, by Oversight Comm. staff, in Wash., D.C. (Feb. 5, 2008) at 17 [hereinafter Clemens Deposition].

<sup>9</sup> *Id.* at 17.

<sup>10</sup> Hearing Tr. at 132.

remember going to Canseco's, but he did not rule out the possibility. Clemens testified he may have stopped by after playing golf at a nearby course.

We believe the Democratic memorandum does not fully represent the investigative work of the Committee or the evidentiary record. Instead of concentrating on the ultimate question – whether Clemens was untruthful about his use of anabolic steroids and human growth hormone – the memorandum goes far afield into Clemens's recollections about inconsequential matters. For example, in our view, the details of what and when his sports agent told him about the Mitchell Report or about Senator Mitchell's desire to speak with him are not crucial to whether Clemens used anabolic steroids. Likewise, whether Clemens was at Canseco's house at all in June 1998 is not terribly important. It is indisputable that the evidence concerning Canseco's barbecue is conflicting. Similarly, the extent to which Clemens received injections of vitamin B-12 throughout his career is not entirely germane to the ultimate question of whether he was using anabolic steroids.

Witnesses have different recollections. This is not uncommon. This is especially not uncommon when witnesses are asked to reflect on a conversation or a barbecue that occurred nearly a decade ago. Even if, for the sake of argument all “seven sets of assertions” are contradicted by the available evidence, proving that Clemens intentionally misled the Congress on these inconsequential matters would be a nearly impossible undertaking. It would also be a waste of time.

It is important to ask the Justice Department to examine whether Clemens committed perjury or made false statements to Congress about his use of anabolic steroids and human growth hormone. If the Justice Department finds further evidence to support this, they will move forward to hold Clemens accountable. If the Justice Department also uncovers evidence that Brian McNamee fabricated his story, they will move forward to prosecute McNamee as well.

## IV. The Referral

As part of the Committee's investigation into the use of performance enhancing drugs in Major League Baseball, Roger Clemens was called to a deposition on February 5, 2008 and as a witness at a full Committee hearing on February 13, 2008. At both, Clemens denied using anabolic steroids and human growth hormone. Evidence to the contrary – testimonial for the most part – was obtained by the Committee in the course of its investigation and at its February 13 hearing. Congress cannot perform its oversight function if witnesses who appear before it do not provide truthful testimony. Perjury and false statements before Congress are serious crimes that undermine the integrity of congressional inquiries.<sup>11</sup> For these reasons, the Chairman and the Ranking Member agreed to refer the matter to the Justice Department.

On the referral, Ranking Member Davis stated:

My main concern is the integrity of the Committee's proceedings. Mr. Clemens gave statements in a sworn deposition on Feb. 5 and under oath before our hearing on Feb. 13 that he never used anabolic steroids or human growth hormone. Evidence in our investigative record contradicts those statements. Knowingly providing false information to Congress is a matter we have to take very seriously, and we concluded the only responsible course was to refer the matter to the law enforcement authorities charged to determine whether laws were broken.

Our referral focuses on the core question before the Committee: whether Roger Clemens used steroids or other performance enhancing drugs. Some may want to 'help' the Department of Justice by characterizing evidence or packaging apparently contradictory quotes on other questions to help make a case for perjury. I don't think that's necessary. The record speaks for itself, and it tells me the question of Mr. Clemens'[s] truthfulness demands further analysis by law enforcement under a process that protects the rights of all parties.<sup>12</sup>

In his statement, the Ranking Member counseled against characterizing evidence and otherwise framing the case for perjury against Clemens. Shortly after the joint referral letter, the Democratic staff posted an 18 page memorandum on their website doing just this. The Democratic memorandum, in our view, mischaracterizes the evidentiary record of the Committee's investigation.

---

<sup>11</sup> Referral Letter at 2.

<sup>12</sup> Statement of Ranking Member Tom Davis, Oversight Comm., Davis Signs on to Criminal Referral for Baseball Great Roger Clemens (Feb. 27, 2008).

## V. The Committee's Investigation

On February 13, 2008, the full Committee held a hearing entitled, “The Mitchell Report: The Illegal Use of Steroids in Major League Baseball, Day 2.”<sup>13</sup> The stated purpose of this hearing was to examine allegations contained in the Mitchell Report<sup>14</sup> that Major League Baseball Players used performance enhancing drugs during their professional baseball careers.<sup>15</sup> The February 13 hearing dealt primarily, if not exclusively, with Roger Clemens’s alleged use of anabolic steroids and HGH.

Roger Clemens was one of 89 current and former Major League Baseball players named in the Mitchell Report. Clemens was not the only player to refute the information contained in the Mitchell Report. Public denials have also been made by Cincinnati Reds’ pitcher Mike Stanton,<sup>16</sup> Toronto Blue Jays’ Catcher Greg Zaun,<sup>17</sup> Oakland Athletics’ Designated Hitter Jack Cust,<sup>18</sup> Cleveland Indians’ pitcher Brendan Donnelly,<sup>19</sup>

---

<sup>13</sup> On January 15, 2008, the Committee held Day 1 of its hearings on the Mitchell Report. Witnesses at the January 15 hearing were the Commissioner of Major League Baseball Allan H. “Bud” Selig, Executive Director of the Major League Baseball Players Association Donald M. Fehr, and Senator Mitchell.

<sup>14</sup> George J. Mitchell and DLA Piper US LLP, Report to the Commissioner of Baseball of an Independent Investigation Into the Illegal Use of Steroids and Other Performance Enhancing Substances by Players in Major League Baseball (Dec. 13, 2007) [hereinafter Mitchell Report].

<sup>15</sup> Letter from Chairman Henry A. Waxman and Ranking Member Tom Davis, Oversight Comm. to Roger Clemens, (Jan. 18, 2008) [hereinafter Clemens Invitation Letter]; Letter from Chairman Henry A. Waxman and Ranking Member Tom Davis, Oversight Comm. to Andrew Pettitte, (Jan. 18, 2008) [hereinafter Pettitte Invitation Letter]; Letter from Chairman Henry A. Waxman and Ranking Member Tom Davis, Oversight Comm. to Edward Charles Knoblauch, (Jan. 18, 2008) [hereinafter Knoblauch Invitation Letter]; Letter from Chairman Henry A. Waxman and Ranking Member Tom Davis, Oversight Comm. to Brian McNamee, (Jan. 18, 2008) [hereinafter McNamee Invitation Letter]; and Letter from Chairman Henry A. Waxman and Ranking Member Tom Davis, Oversight Comm. to Kirk Radomski, (Jan. 18, 2008) [hereinafter Radomski Invitation Letter].

<sup>16</sup> Mark Sheldon, *Stanton Denies All Allegations*, MLB.com, Dec. 13, 2007 (“I’ve done absolutely nothing wrong. . . . The reports are outrageous and unfair.”) [hereinafter Stanton MLB.com story, Dec. 13, 2007].

<sup>17</sup> Jordan Bastian, *Zaun Breaks Silence on Mitchell Report*, MLB.com, Feb. 15, 2008. A check by Zaun in the amount of \$500 payable to Kirk Radomski appears on page D-23 of the Mitchell Report. According to the Mitchell Report, through a third person, Zaun ordered steroids from Radomski. Radomski said he mailed the drugs to the Kansas City Royals clubhouse. See Mitchell Report at 180. Zaun was also implicated in the Mitchell Report by former bullpen catcher Luis Perez. Perez told investigators for the Commissioner’s Office he supplied anabolic steroids to Zaun and seven other players. See *Id.* Zaun denies the allegations contained in the Mitchell Report. He told MLB.com the \$500 check made payable to Radomski was negotiated by Jason Grimsley. Zaun said he owed Grimsley money – possibly a gambling debt – and wrote a check with the payee line blank. Zaun believes Grimsley wrote in Radomski’s name and purchased steroids from Radomski. As to the Perez allegation, Zaun said “My guess is that he made up eight names of guys he could remember that were probably still playing.”

<sup>18</sup> ESPN.com News Services, *Cust Questions Source Behind His Inclusion in Mitchell Report*, ESPN.com, Jan. 27, 2008 (“Cust told Bay Area media that he has never used performance-enhancing substances. ‘No. No. Not even one game.’”).

<sup>19</sup> Ian Browne, *Donnelly Denies Steroid Allegation*, MLB.com, Dec. 17, 2008 (“I made a phone call to Radomski. We discussed Anavar. Upon learning Anavar was classified as a steroid, I realized it was not an option. . . . I did not purchase or receive anything from [Radomski]. I never took Deca or Anavar.”).

former player David Justice,<sup>20</sup> former Major Leaguer Alex Cabrera,<sup>21</sup> and former player and current ESPN baseball analyst Fernando Vina.<sup>22</sup>

On January 18, 2008, the Committee invited five witnesses to testify at the February 13 hearing. Invited were three former Major League Baseball Players, Roger Clemens, Andy Pettitte, and Chuck Knoblauch, and two individuals who supplied Senator Mitchell with information relating to the use of performance enhancing drugs by the players, former Mets clubhouse attendant Kirk Radomski, and former Yankees and Blue Jays strength and conditioning coach Brian McNamee.<sup>23</sup>

In preparation for the February 13 hearing, the joint Committee staff met with 18 witnesses in a variety of formats, including 3 depositions, 2 in-person transcribed interviews, 11 telephone transcribed interviews and 2 non-transcribed telephone interviews.<sup>24</sup>

---

<sup>20</sup> Bryan Hoch, *Justice 'Shocked' by Report's Findings*, MLB.com, Dec. 14, 2007 (“I didn’t pay for [any] human growth hormone, ever. . . . I can’t do needles. Everybody knows that about me – I don’t do needles. And I’m really glad that I chose not to do it. Now that I know about it, that would have been the worst thing for me to do.”).

<sup>21</sup> AP, *Former D-back Cabrera Refutes Report*, Dec. 15, 2007 (“I couldn’t have used the substances that are identified. . . . “I never had possession of the alleged box that supposedly contained . . . drugs.”).

<sup>22</sup> ESPN.com, *ESPN Analyst Vina Says He Used HGH in 2003, but Never Steroids*, Dec. 17, 2007, (“Vina said that 2003 was the only time he used HGH, disputing claims in the Mitchell [R]eport of using steroids or HGH ‘six to eight times during 2000 to 2005. I have never used steroids,’ he said.”).

<sup>23</sup> Clemens Invitation Letter; Pettitte Invitation Letter; Knoblauch Invitation Letter; McNamee Invitation Letter; and Radomski Invitation Letter.

<sup>24</sup> Clemens Deposition; Deposition of Andy Pettitte, by Oversight Comm. staff in Wash., D.C. (Feb. 4, 2008) [hereinafter Pettitte Deposition]; Deposition of Brian McNamee by Oversight Comm. staff, in Wash., D.C. (Feb. 7, 2008) [hereinafter McNamee Deposition]; Transcribed Interview of James Murray, Hendricks Sports Management LP, by Oversight Comm. staff, in Wash., D.C. (Jan. 31, 2008) [hereinafter Murray Interview]; Transcribed Interview of Chuck Knoblauch, by Oversight Comm. staff, in Wash., D.C. (Feb. 1, 2008) [hereinafter Knoblauch Interview]; Telephonic Transcribed Interview of C.J. Nitkowski, by Oversight Comm. staff, in Wash., D.C. (Jan. 27, 2008) [hereinafter Nitkowski Interview]; Telephonic Transcribed Interview of Ron Taylor, Toronto Blue Jays team doctor, by Oversight Comm. staff, in Wash., D.C. (Feb. 4, 2008) [hereinafter Taylor Interview]; Telephonic Transcribed Interview of Allan Gross, Toronto Blue Jays orthopedic surgeon, by Oversight Comm. staff, in Wash., D.C. (Feb. 11, 2008) [hereinafter Gross Interview]; Telephonic Transcribed Interview of Tommy Craig, former Toronto Blue Jays head athletic trainer, by Oversight Comm. staff, in Wash., D.C. (Feb. 4, 2008) [hereinafter Craig Interview, Feb. 4, 2008]; Telephonic Transcribed Interview of Scott Shannon, former Toronto Blue Jays assistant athletic trainer, by Oversight Comm. staff, in Wash., D.C. (Jan. 31, 2008) [hereinafter Shannon Interview, Jan. 31, 2008]; Telephonic Transcribed Interview of Gene Monahan, New York Yankees head athletic trainer, by Oversight Comm. staff, in Wash., D.C. (Feb. 12, 2008) [hereinafter Monahan Interview]; Telephonic Transcribed Interview of Arthur Pappas, former Boston Red Sox Medical Director, by Oversight Comm. staff, in Wash., D.C. (Feb. 12, 2008) [hereinafter Pappas Interview]; Telephonic Transcribed Interview of David Labossiere, Houston Astros head athletic trainer, by Oversight Comm. staff, in Wash., D.C. (Feb. 8, 2008) [hereinafter Labossiere Interview]; Telephonic Transcribed Interview of Rex Jones, Houston Astros assistant athletic trainer, by Oversight Comm. staff, in Wash., D.C. (Feb. 8, 2008) [hereinafter Jones Interview]; Telephonic Transcribed Interview of David Lintner, Houston Astros team doctor and orthopedic surgeon, by Oversight Comm. staff, in Wash., D.C. (Feb. 11, 2008) [hereinafter Lintner Interview]; Telephonic Transcribed Interview of Clemens’ Nanny (name withheld), by Oversight Comm. staff, in Wash., D.C. (Feb. 12, 2008) [hereinafter Nanny Interview]; Telephonic Interview of Jose Canseco, by Oversight Comm. staff, in Wash., D.C. (Feb. 10, 2008) [hereinafter Canseco Interview]; and



**Table of Witnesses**

<b>No.</b>	<b>Witness</b>	<b>Position</b>	<b>Format</b>	<b>Date</b>
1	Roger Clemens	MLB Player	Deposition	Feb. 5
2	Andy Pettitte	MLB Player	Deposition	Feb. 4
3	Chuck Knoblauch	Former MLB Player	Tr. Interview	Feb. 1
4	Brian McNamee	Former MLB Staff	Deposition	Feb. 7
5	Jim Murray	Clemens's Agent	Tr. Interview	Jan. 31
6	C.J. Nitkowski	Former MLB Player	Tel. Tr. Interview	Jan. 27
7	Dr. Ron Taylor	Blue Jays Team Physician	Tel. Tr. Interview	Feb. 4
8	Dr. Allan Gross	Blue Jays Orthopedic Surgeon	Tel. Tr. Interview	Feb. 11
9	Tommy Craig	Former Blue Jays Head Athletic Trainer	Tel. Tr. Interview	Feb. 4
10	Scott Shannon	Former Blue Jays Assistant Athletic Trainer	Tel. Tr. Interview	Jan. 31
11	Gene Monahan	Yankees Head Athletic Trainer	Tel. Tr. Interview	Feb. 12
12	Dr. Arthur Pappas	Former Red Sox Medical Director	Tel. Tr. Interview	Feb. 12
13	David Labossiere	Astros Head Athletic Trainer	Tel. Tr. Interview	Feb. 8
14	Rex Jones	Astros Asst. Athletic Trainer	Tel. Tr. Interview	Feb. 8
15	Dr. David Lintner	Astros Team Physician and Orthopedic Surgeon	Tel. Tr. Interview	Feb. 11
16	Jose Canseco	Former MLB Player	Tel. Interview	Feb. 10
17	Jessica Fisher	Canseco's Ex-wife	Tel. Interview	Feb. 10
18	Name Withheld	Clemens Family Nanny	Tel. Tr. Interview	Feb. 12

---

Telephonic Interview of Jessica Fisher by Oversight Comm. staff, in Wash., D.C. (Feb. 10, 2008) [hereinafter Fisher Interview].

## VI. Clemens and McNamee

Roger Clemens played Major League Baseball for 24 seasons – 13 for the Boston Red Sox, six for the New York Yankees, three for the Houston Astros, and two for the Toronto Blue Jays.<sup>25</sup> One of the most successful pitchers in baseball history, Clemens has won the Cy Young Award – the annual award for each league’s top pitcher – a record seven times,<sup>26</sup> ranks second all-time in strikeouts,<sup>27</sup> eighth all-time in wins,<sup>28</sup> and has been selected to 11 All-Star teams.<sup>29</sup>

Brian McNamee met Roger Clemens in 1998. At the time, McNamee was a strength trainer with the Toronto Blue Jays.<sup>30</sup> For the next ten years, McNamee worked as a trainer with Clemens. McNamee described their relationship as that of an employer and employee.<sup>31</sup> Clemens left Toronto after the 1998 season to join the New York Yankees. Under contract with the Blue Jays, McNamee remained in Toronto during the 1999 season.<sup>32</sup>

During the 1999-2000 off-season McNamee trained Clemens in Houston.<sup>33</sup> Andy Pettitte joined these workouts.<sup>34</sup> Pettitte believes this is the first time he met McNamee.<sup>35</sup> McNamee recalled meeting Pettitte in 1995 during Pettitte’s rookie season while McNamee served as a Yankees bullpen catcher.<sup>36</sup> In 2000, the Yankees hired McNamee as a strength trainer.<sup>37</sup> According to McNamee, his salary was taken out of Clemens’s pay.<sup>38</sup> Clemens did not remember it this way and believes the Yankees paid McNamee without any salary reduction to him.<sup>39</sup> Thereafter, McNamee returned to the Yankees for two seasons – 2000 and 2001.<sup>40</sup> During the years 2002 through 2007, McNamee worked periodically with Clemens and Pettitte, sometimes during the season and during the off-season.<sup>41</sup>

---

<sup>25</sup> From 1984 through 1996, Clemens played for the Boston Red Sox (13 seasons); during 1997 and 1998 for the Toronto Blue Jays (2 seasons); from 1999 through 2003, and in 2007 for the New York Yankees (6 seasons), and from 2004 through 2007 with the Houston Astros (3 seasons).

<sup>26</sup> 1986, 1987, 1991, 1997, 1998, 2001, and 2003.

<sup>27</sup> Clemens has recorded 4,672 career strikeouts. Nolan Ryan is the all-time strikeout leader with 5,714.

<sup>28</sup> Clemens has 354 career wins. Ahead of Clemens on the all-time wins list are Cy Young (511), Walter Johnson (417), Christy Mathewson (373), Grover Cleveland Alexander (373), Pud Galvin (364), Warren Spahn (363) and Kid Nichols (361). As of the end of last season (2007), Clemens was the active leader. Ninth all-time is Greg Maddux, currently with the San Diego Padres (347).

<sup>29</sup> 1986, 1988, 1990, 1991, 1992, 1997, 1998, 2001, 2003, 2004, and 2005.

<sup>30</sup> Mitchell Report at 168.

<sup>31</sup> McNamee Deposition at 185.

<sup>32</sup> *Id.* at 137.

<sup>33</sup> Pettitte Deposition at 65.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> McNamee Deposition at 141-42.

<sup>37</sup> Mitchell Report at 170.

<sup>38</sup> McNamee Deposition at 143.

<sup>39</sup> Clemens Deposition at 60.

<sup>40</sup> Mitchell Report at 168.

<sup>41</sup> McNamee Deposition at 76-78; Clemens Deposition at 54-59; and Pettitte Deposition at 8-9.

Both Clemens and Pettitte have commented favorably about McNamee in the press. In October 2006, Clemens reportedly told the *Houston Chronicle*, “As far as the training part of it and Mac, I’ve probably over my career probably had 15-20 trainers. He’s at the top of the list as being one of the best, the most intense. The times he worked with different ballclubs - two of the four that I’ve worked with - he gets a lot out of you, expects a lot out of you. . . . He wants to get your work done and get you where you need to be and be done with you.”<sup>42</sup> Andy Pettitte was also quoted in the story, “Mac is the greatest trainer that I’ve ever been involved with or around. He’s trained me for the five years that (he) was in New York. I hired him for the year that I was in my first year in Houston. I’ve got a great relationship with him. I still talk to him probably once a week or so. Mac’s been awesome. He’s been awesome for my career.”<sup>43</sup>

In 2002, Clemens was quoted in the *New York Post*, “I’ve had more than a handful (of trainers), and Mac is a definitely the best. . . . When he’s working, it’s strictly work and we’re able to get the work done in a reasonable amount of time. That’s why he’s good at what he does. I’m a pretty driven person, so I expect my body to do certain things and he was able to get me there.”<sup>44</sup> In 2002, the *Daily News* (NY) wrote this about McNamee’s workouts:

For the second straight offseason, Clemens and Pettitte worked out together in Houston, where they both live. Pettitte credits his new-found devotion to fitness for his rebound from a subpar 1999 and a 19-9 record last season and Clemens is one of baseball’s most dedicated fitness fanatics.

‘I was throwing a lot harder than I ever have at the end of last year,’ Pettitte said. ‘I got to 95 (mph) a couple of times in the World Series and I’m more of an 88 or 89 guy who relies on location and movement.’

\* \* \*

McNamee put Pettitte and Clemens through distance runs, sprints, agility drills, lots of weight work on their legs and abdominal exercises. They also threw during the sessions, with McNamee catching. They work out at least twice a day, sometimes three times.<sup>45</sup>

---

<sup>42</sup> Jose De Jesus Ortiz, *Clemens, Pettitte Deny Grimsley Allegations; Astros Pitchers Say They Have Not Taken Steroids*, HOUSTON CHRONICLE, Oct 2, 2006 [hereinafter *Houston Chronicle*, Oct. 2, 2006].

<sup>43</sup> *Houston Chronicle*, Oct 2, 2006.

<sup>44</sup> Farrah Weinstein, *Secret to Rocket’s Power: Can You Keep Up With His Trainer’s Punishing Workout?*, NY POST, July 24, 2002.

<sup>45</sup> Anthony McCarron, *Creating a More Robust Andy*, Daily News (NY), Feb 25, 2001.

Both Clemens and McNamee testified when he trained Clemens in Houston, he stayed at Clemens's home.<sup>46</sup> In their tape-recorded telephone conversation on January 4, 2008, McNamee was effusive in his praise of Clemens. On the call, McNamee told Clemens:

You treated me like family. From day one I was family to you and, you treated me like that. You know, I'm, glad to hear your voice. I just, I don't believe, I just, bottom line is I'm glad to hear your voice. I'm sorry that your family is going through this and, I'll do whatever I can do to help and, you know, I don't know...

\* \* \*

You're treating me better than everybody. You treated me . . . I learned from you how to raise my kids.

\* \* \*

I can't say, I can't say it over and over again, you treated me better than anybody else. And I couldn't have – like I said, you treated me like family. You brought me into your house. I ate with your family. I helped you with school projects. I can't deny that. And I used how you were as a dad to your kids; I tried to be like you. I have told people that. You know, . . . that's one thing. This is another.<sup>47</sup>

Andy Pettitte testified he thought highly of McNamee:

Q And it sounds like from the way you describe your relationship with him, you thought pretty highly of him as a trainer?

A Yes. No doubt.<sup>48</sup>

\* \* \*

Well, first of all he was training Roger Clemens. So you know that made me think a lot of him, if Roger was using him as a personal trainer. And then . . . I just thought that . . . what we were doing over the courses of the years that Roger, whenever we were there training I saw how strong I was able to get. I always felt like I trained hard. But he was pushing me to new levels as far as with my workouts and stuff like that. And just, you know, we trained at

---

<sup>46</sup> Clemens Deposition at 177; McNamee Deposition at 118-19.

<sup>47</sup> Transcript of telephone conversation between Roger Clemens and Brian McNamee, Jan. 4, 2008.

<sup>48</sup> Pettitte Deposition at 9-10.

an enormous rate. And I never believed that my body would be able to handle, you know, the way that we were training. But he proved me wrong, you know, you were able to. So you know Mac was just you know he got a lot out of us. He was able to get a lot out of me. I really don't know how to explain that any more than that. Just when you train, you know you need somebody to push you. And he was never scared to push, never scared to push me, you know, to my max.<sup>49</sup>

## VII. Repeated Denials by Clemens

**FINDING:** *Under oath at both his deposition and the Committee hearing, Roger Clemens repeatedly denied the allegations set forth in the Mitchell Report. Clemens denied using anabolic steroids or human growth hormone. Clemens testified that Brian McNamee's contrary statements are false. Clemens also denied seeing, possessing, or discussing for purposes of his own use anabolic steroids or human growth hormone.*

At his deposition and the Committee hearing Roger Clemens emphatically denied he used anabolic steroids or human growth hormone. Clemens supported his testimony with a letter prepared by a medical expert. Clemens provided medical records, dating from April 1995 through August 2008 to the Chairman of Baylor College of Medicine's Molecular and Cellular Biology Bert W. O'Malley, M.D.<sup>50</sup> O'Malley has studied the effects of anabolic steroid use.<sup>51</sup> According to O'Malley some "general types of symptoms/signs normally associated with [anabolic] steroid use" include: elevated blood pressure, acne, increased LDL cholesterol, and decreased HDL cholesterol.<sup>52</sup> **O'Malley opined, "I have not found any of the above listed positive indications of steroid abuse during this period of time for Mr. Clemens. The record is remarkably uniform and devoid of suspicious indications."**<sup>53</sup>

---

<sup>49</sup> Pettitte Deposition at 10.

<sup>50</sup> Letter from Professor and Chairman, Dep't of Molecular and Cellular Biology, Baylor College of Medicine Bert W. O'Malley, M.D. [hereinafter Dr. O'Malley] to Rusty Hardin, Feb. 11, 2008 [hereinafter O'Malley Letter].

<sup>51</sup> CV, Dr. O'Malley.

<sup>52</sup> Other signs and symptoms identified and considered by Dr. O'Malley include: increased sebaceous activity, facial hair, deeper voice, coronary artery disease, liver damage, increased red blood cell mass, increased appetite and weight gain, increased lean body mass, and increased hostile tendencies.

<sup>53</sup> O'Malley Letter (emphasis supplied).

The differences in Clemens's and McNamee's testimony are stark. At the hearing, in his opening statement McNamee summarized his allegations as follows:

And make no mistake, when I told Senator Mitchell that I injected Roger Clemens with performance enhancing drugs, I told the truth. I told the truth about steroids and human growth hormone. I injected those drugs into the body of Roger Clemens at his direction. Unfortunately, Roger has denied this and has led a full court attack on my credibility. And let me be clear, despite Roger Clemens'[s] statements to the contrary, I never injected Roger Clemens or anyone else with Lidocaine or [B-12].<sup>54</sup>

At the hearing, McNamee admitted that his testimony<sup>55</sup> concerning Clemens's use of anabolic steroids and HGH conflict with public statements he made to the contrary in the past.<sup>56</sup>

Clemens has repeatedly denied McNamee's allegations. He testified at the hearing:

Let me be clear. I have never taken steroids or HGH.<sup>57</sup>

\* \* \*

Brian McNamee has never given me growth hormone or steroids.<sup>58</sup>

\* \* \*

And again, this man has never given me . . . growth hormone or steroids of any kind . . . .<sup>59</sup>

---

<sup>54</sup> Hearing Tr. at 30 (statement of Brian McNamee).

<sup>55</sup> *Id.* at 72-74.

<sup>56</sup> *See, e.g.*, William Sherman and T.J. Quinn, *Andy Totes Baggage to Bronx*, DAILY NEWS (NY), Dec. 10, 2006, at 56 (“I never, ever gave Clemens or Pettitte steroids,” said McNamee, 39, a native of Springfield Gardens in Queens and a former New York City police officer. “They never asked me for steroids. The only thing they asked me for were vitamins.” . . . . Contacted by the Daily News last month, McNamee said he never provided drugs for anyone . . . .”); Jon Heyman, *The Sixth Man: Clemens’ Trainer Denies Link to Grimsley Drug Probe*, SI.com, [http://sportsillustrated.cnn.com/2006/writers/jon\\_heyman/11/10/mcnamee.trainer/index.html](http://sportsillustrated.cnn.com/2006/writers/jon_heyman/11/10/mcnamee.trainer/index.html) (“I don’t have any dealings with steroids or amphetamines,” McNamee said. “I didn’t buy it, sell it, condone it or recommend it. I don’t make money from it, it’s not part of my livelihood and not part of my business.”).

<sup>57</sup> Hearing Tr. at 25 (statement of Roger Clemens).

<sup>58</sup> Hearing Tr. at 104.

<sup>59</sup> *Id.* at 139.

At his deposition, Clemens was equally clear:

And, like I have stated in the press conferences and when I first came out to make my statements when I heard about these allegations, basically it pertains to what Brian McNamee is saying about me. It is false. I have not used steroids or growth hormone.<sup>60</sup>

At the deposition, Clemens was asked about references to him in the Mitchell Report. He testified:

Q Toward the end of the road trip which included the Marlins series, or shortly after the Blue Jays returned to Toronto, Clemens approached McNamee and, for the first time, brought up the subject of using steroids. Clemens said that he was not able to inject himself, and he asked for McNamee's help. Is that accurate?

A That is false.<sup>61</sup>

\* \* \*

Q The next paragraph: Later that summer, Clemens asked McNamee to inject him with Winstrol, which Clemens supplied. McNamee knew the substance was Winstrol because the vials Clemens gave him were so labeled. McNamee injected Clemens approximately four times in the buttocks over a several week period with needles that Clemens provided. Each incident took place in Clemens's apartment in the SkyDome. McNamee never asked Clemens where he obtained the steroids. Is that a true paragraph?

A It is not true. And, again, this man has me being a drug dealer. Very upsetting about that, as I think if you have seen my interviews. Very upsetting.<sup>62</sup>

\* \* \*

---

<sup>60</sup> Clemens Deposition at 9.

<sup>61</sup> Clemens Deposition at 19.

<sup>62</sup> *Id.*

[This is] very offensive[.] [T]his man has me being a drug dealer. That hurts me and my family greatly. And I will say again, . . . who . . . ever . . . gave this to me, I am going to ask them to come forward once again nationally and make that clear. Very upsetting.<sup>63</sup>

\* \* \*

Q And let me ask just a general question. Did you during your playing career use steroids?

A I never used steroids.<sup>64</sup>

\* \* \*

Q And human growth hormone, have you ever used human growth hormone?

A Never.<sup>65</sup>

At his deposition, Clemens also denied ever seeing or possessing anabolic steroids as well as ever discussing taking steroids with any person:

Q And . . . have you ever possessed or seen anabolic steroids?

A I have not.<sup>66</sup>

\* \* \*

Q And did you ever discuss taking steroids with any player during your baseball career?

A I have not. I have never discussed yeah, I have never discussed taking steroids.

Q And did you ever discuss taking steroids with any person outside of baseball during your baseball career?

A I have not.

---

<sup>63</sup> *Id.* at 21.

<sup>64</sup> *Id.* at 24.

<sup>65</sup> *Id.* at 24-25.

<sup>66</sup> *Id.* at 101.



Q Did you know players whom you knew were taking steroids?<sup>67</sup>

A I didn't know any players. Again, it was all you assume, and I am not going to get into assuming other than somebody like Canseco who put a book out, some situation like that.<sup>68</sup>

Clemens denied ever speaking with McNamee about anabolic steroids:

Q So you don't recall ever asking Mr. McNamee just general questions about anabolic steroids or about a specific steroid?

A Never.

Q Do you recall Mr. McNamee ever raising the topic with you?

A I don't. . . .

Q And if you were to complain about being tired or having aches or any other type of problems, Mr. McNamee never suggested to you that you should take an anabolic steroid?

A Never.

Q And you never asked him whether you should take an anabolic steroid?

A Never. Never happened.

Q Did you ever speak with Mr. McNamee about human growth hormone?

A I have not.

Q Never asked him any questions about it?

A Never asked him, again, in direct I think in which way you are asking me. But again, I think if it came up because of a topic, we sure could have talked about it.

---

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

Q Do you recall a specific instance where you did speak with Mr. McNamee about HGH?

A I don't remember. The only thing I remember about the topic was, there was an article or a show about some elderly men that for quality of life they had a curvature in their spine. And one guy was literally looking at the ground, had a curve in his spine, and he was and then later on in the show he was able to play golf. And I think that's . . . basically what the conversation that we had. I know I've said that to many you know, to people around the house or people I've talked to about it. So and this subject's always come up.<sup>69</sup>

At the hearing Members expressed their skepticism to Clemens about his denials. Rep. Cummings, for example, observed:

And I've got to tell you, one of the most interesting things and Mr. McNamee said it, it's been borne out in the depositions is that when McNamee gave testimony about Knoblauch and Pettitte, those allegations were borne out to be true. And for some reason, your guy [i.e., Pettitte], who you admire, who you think is one of the greatest guys and honest guy and everybody says he's a religious guy, when . . . it comes to you, it's a whole another thing. You following what I'm saying? So you are saying Mr. McNamee lied about you but he didn't lie about the other two. How do you explain that?<sup>70</sup>

Although Knoblauch and Pettitte have admitted that McNamee's allegations about their use is accurate, others who have trained with McNamee have disagreed with his allegations. Two others – Yankees' catcher Jorge Posada and former Yankees' pitcher and now-Cincinnati Reds' pitcher Mike Stanton – who worked with McNamee have questioned his allegations. Stanton has publicly denied McNamee's allegations that he used human growth hormone. Posada, the Yankees' starting catcher during Clemens's tenure with the Yankees, has publicly sided with Clemens.

A June 2003 brochure for Hickey Chemists & InVite Health, identified McNamee as a "Member, Hickey Chemists Scientific Advisory Board,"<sup>71</sup> touting McNamee's work with Posada and Stanton, as well as Clemens and Pettitte. It stated:

---

<sup>69</sup> *Id.* at 66-67.

<sup>70</sup> Hearing Tr. at 176-77.

<sup>71</sup> Promotional Materials, Hickey Chemists & InVite Health, *Well Into the Future . . . Condition-Specific Nutrition Nutraceuticals, Cosmeceuticals, Petceuticals, Hydraceuticals, Homeopathy*, June 2003 [hereinafter Hickey Chemists Brochure].

Dr. Brian McNamee's dynamic physical performance program has been profiled nationally on CBS' 60 minutes, in the [sic] The New York Times, New York Post and numerous other media outlets. **Dr. McNamee, former Strength & Conditioning Coach/New York Yankees, is widely recognized for his work with Roger Clemens, Andy Pettitte, Jorge Posada, Mike Stanton, and many other star athletes.** These major league players rely heavily on Dr. McNamee's program to keep them injury free while performing at the highest level.<sup>72</sup>

Brian McNamee has alleged Mike Stanton – a player he trained – used HGH.<sup>73</sup> McNamee made these allegations against Stanton in three separate instances – at his deposition, during the hearing, and during the course of an interview with investigators for Clemens. McNamee told investigators for Clemens that he told federal agents Mike Stanton was buying drugs from Kirk Radomski. McNamee stated:

Oh, they talked a lot about – the reason why we didn't get back to Roger and Andy that day was Mike Stanton . . . was buying drugs . . . . So we talked a lot about that, how Radomski was selling – **I trained Stanton.** Stanton is from Houston. Stanton was taking growth hormones. As far as I know, that's it. But he was – Stanton came to me and he says, 'Listen, I want you to get me growth hormones.' And I said, 'I'm not getting it. I'm out of it.' That's when I washed my hands from Radomski. I said, 'You want it. I'll tell Radomski. Here's his number.'<sup>74</sup> . . . . So, then, between Stanton and Radomski, both of them told me that Radomski was very good friends with [Stanton's agent] . . . . So, then, [the agent], who had a lot of Met clients back in the '80's when Radomski worked there, . . . was getting his drugs from Radomski for Stanton.<sup>75</sup>

Stanton, however, has publicly denied the allegations made against him in the Mitchell Report. Stanton called the reports "outrageous and unfair."<sup>76</sup> After the hearings, Stanton was asked by the *Daily News* (NY) for comment on the February 13 hearings. Stanton was quoted by the paper stating, "Officially, I've been advised not to make any comments."<sup>77</sup>

---

<sup>72</sup> Hickey Chemists Brochure (emphasis supplied).

<sup>73</sup> Hearing Tr. at 51; McNamee Deposition at 68; and McNamee Interview at 49-50.

<sup>74</sup> McNamee Interview at 49-50 (emphasis supplied).

<sup>75</sup> *Id.* at 50.

<sup>76</sup> Stanton story MLB.com, Dec. 13, 2007.

<sup>77</sup> Anthony McCarron, *Former Yankee Mike Stanton Gets Quiet Over Roger Clemens' Trail of Blood*, DAILY NEWS (NY), Feb. 18, 2008.

Jorge Posada, the Yankees' starting catcher for all of Clemens's six seasons in New York, publicly stated he believes Roger Clemens is telling the truth.<sup>78</sup> Posada was quoted as stating, "I support him; he said he never took it and I'm behind him 100%."<sup>79</sup> "He sounded real truthful the other day and that's all I wanted to hear," Posada said to reporters at spring training.<sup>80</sup> "I believe Roger. That's the guy I believe."<sup>81</sup>

## VIII. Andy Pettitte

Andy Pettitte is a starting pitcher for the New York Yankees. Pettitte is entering his 14<sup>th</sup> season in Major League Baseball – and his 11<sup>th</sup> as a member of the Yankees.<sup>82</sup> A member of the 200 Win-club, at the end of 2007 Pettitte ranked 12<sup>th</sup> among active pitchers in wins.<sup>83</sup> Pettitte has been selected to two All-Star teams,<sup>84</sup> was named the Most Valuable Player of the 2001 American League Championship Series, and has pitched in seven World Series.<sup>85</sup>

Andy Pettitte's use of human growth hormone was reported by Senator Mitchell. The Mitchell Report stated:

McNamee began serving as Pettitte's personal trainer and started assisting Pettitte in off-season workouts after the 1999 season. According to McNamee, during the 2001-02 offseason, Pettitte asked him about human growth hormone. McNamee said that he discouraged Pettitte from using human growth hormone at that time.

From April 21 to June 14, 2002, Pettitte was on the disabled list with elbow tendonitis. McNamee said that Pettitte called him while Pettitte was rehabilitating his elbow in Tampa, where the Yankees have a facility, and asked again about human growth hormone. Pettitte stated that he wanted to speed his recovery and help his team.

---

<sup>78</sup> Mark Feinsand, *Jorge Posada Supports Roger Clemens*, DAILY NEWS (NY), Feb. 16, 2008 [hereinafter Feinsand, Feb. 16, 2008].

<sup>79</sup> Feinsand, Feb. 16, 2008.

<sup>80</sup> ESPN.com News Services, *Posada Believes Clemens Told the Truth*, ESPN.com, Feb. 17, 2008.

<sup>81</sup> *Id.*

<sup>82</sup> Pettitte is entering his 11<sup>th</sup> season with the New York Yankees. A rookie in 1995, Pettitte pitched for the Yankees through the 2003 season. For three seasons (2003 – 2006) Pettitte was a member of the Houston Astros. He rejoined the Yankees for the 2007 season.

<sup>83</sup> As of the end of the 2007 season, Pettitte had recorded 201 wins.

<sup>84</sup> 1996 and 2001.

<sup>85</sup> As a member of the Yankees, Pettitte pitched in the 1996, 1998, 1999, 2000, 2001, and 2003 World Series. Pettitte pitched in the 2005 World Series with the Houston Astros. Pettitte has four World Series rings, all with the Yankees (1996, 1998, 1999, and 2000).

McNamee traveled to Tampa at Pettitte's request and spent about ten days assisting Pettitte with his rehabilitation. McNamee recalled that he injected Pettitte with human growth hormone that McNamee obtained from Radomski on two to four occasions. Pettitte paid McNamee for the trip and his expenses; there was no separate payment for the human growth hormone.

According to McNamee, around the time in 2003 that the BALCO searches became public, Pettitte asked what he should say if a reporter asked Pettitte whether he ever used performance enhancing substances. McNamee told him he was free to say what he wanted, but that he should not go out of his way to bring it up. McNamee also asked Pettitte not to mention his name. McNamee never discussed these substances with Pettitte again.<sup>86</sup>

### **A. Testimony About Pettitte's First Conversation with McNamee about HGH**

**FINDING:** *Both Andy Pettitte and Brian McNamee testified they discussed human growth hormone during the winter of 2001-02. According to their testimony, Pettitte asked McNamee about human growth hormone. McNamee recalled Pettitte saying something along the lines of "why didn't you tell me about that stuff." McNamee testified he replied, "it's illegal and I know how you are." Both testified McNamee counseled Pettitte against using HGH at this time.*

McNamee testified the sections of the Mitchell Report relating to Andy Pettitte were accurate.<sup>87</sup> At his deposition, he explained he first discussed human growth hormone with Pettitte during the 2001-02 off-season.

And it was in, it was in Roger's gym when he I was cleaning up after one session. . . . Andy Pettitte was having a conversation with Roger [five] feet away. I walked in between the middle. Andy started to back up, back up, back up. He was getting further away from Roger. And all he did was bark at me and say why didn't you tell me about that stuff.<sup>88</sup>

\* \* \*

And I said what stuff are you talking about? And . . . he goes, growth hormone. And I said why. He goes, well, Roger is telling me that he's taking it and you know you get me all this protein and

---

<sup>86</sup> Mitchell Report at 175-76.

<sup>87</sup> McNamee Deposition at 28-30.

<sup>88</sup> *Id.* at 29.

this recovery stuff and why don't I take it. And I said well, Andy, it's illegal and I know how you are. And he just looked at me and he says well, if it's illegal then never mind, never mind. That was pretty much the last time we spoke about it. And I'm sure I wasn't do you know what? This date is killing me. Did he go a whole year?<sup>89</sup>

In a transcribed interview, former major leaguer C.J. Nitkowski told Committee staff of a similar conversation he had with McNamee. Nitkowski testified that McNamee encouraged him not to use anabolic steroids. Nitkowski testified:

Definitely at no time did he encourage me to do it. . . . But, you know, basically it came down to him talking . . . me out of them, because he could get me close to those effects by doing it naturally and staying on the program.<sup>90</sup>

At his deposition, Pettitte was asked whether he recalled the first conversation with McNamee described in the Mitchell Report. He did not.

Q Looking at the bottom of the first page of the two page exhibit I gave you, it says, According to McNamee, during the 2001 [-] 2002 off season, Pettitte asked him about human growth hormone. McNamee said that he discouraged Pettitte from using growth hormone at that time. Is that accurate?

A I would say . . . that is accurate, yes.

Q When did you . . . first talk to McNamee about HGH?

A I'm really . . . not sure. I mean, I know I took it in 2002. If I would have to think that I tried to start talking to him about it, to have some kind of knowledge of it, you know, in '01 or '02, right there. Can I remember specific conversations? I really can't.<sup>91</sup>

---

<sup>89</sup> McNamee Deposition at 30.

<sup>90</sup> Nitkowski Interview at 16.

<sup>91</sup> Pettitte Deposition at 12.

## **B. Testimony About Pettitte's 2002 Use of HGH**

**FINDING:** *Andy Pettitte testified he used human growth hormone over a period of two days in 2002 while on the disabled list with an elbow injury. Pettitte testified he asked McNamee to travel to Tampa, Florida for ten days to help him rehabilitate the elbow injury. Pettitte testified after McNamee had been in Tampa for several days, he finally decided he wanted to try HGH. Pettitte said he believed McNamee obtained the HGH from a family doctor. He said McNamee injected him with HGH in McNamee's hotel room near the Yankees' team facility.*

*McNamee testified differently. McNamee told Committee staff Pettitte had decided to use HGH before McNamee flew to Tampa. McNamee testified Pettitte "made a statement to me that he wanted to go on human growth hormone and he was going to go on human growth hormone. Also can you come down and train me two times a day while I'm down [in Tampa] going through" rehabilitation.*

During the 2002 season, Andy Pettitte was on the disabled list due to an elbow injury. Ultimately, Pettitte testified, he decided to try human growth hormone. Pettitte and McNamee's recollections about Pettitte's decision to use HGH are different.

McNamee testified:

Andy Pettitte called me up. I was in my house in New York. And he was . . . about to go on the DL. And he made a statement to me that he wanted to go on human grown hormone and he was going to go on human growth hormone. Also can you come down and train me two times a day while I'm down here going through their stuff, so I said yes. He said can you get human growth hormone for me because I'm going to do it. And I said sure.<sup>92</sup>

Recalling it differently, Pettitte testified:

When I went on the DL, I flew him down to Tampa. I asked him to come down. He wasn't working with the Yankees anymore. We continued to talk. We continued to have communications with one another. And I asked him to come down to Tampa to train me. And I know that I either brought it up to him or he brought it up to me from the standpoint I'm like, dude, I am hurt. You know my elbow is hurt. What can I do? Is there anything I can do? You

---

<sup>92</sup> McNamee Deposition at 31.

know, so that is where the initial, you know it had to come up to me getting it and him injecting me with the HGH.<sup>93</sup>

\* \* \*

You know, when we decided when I decided that I think I want to do it, you know he had it, you know, like I think the next day or maybe a day after that. I'm not real sure. I know he was down there for 10 days and I know we had to talk about it for several days because you know I was kind of grinding over it whether I should or whether I shouldn't. So I . . . could have swore I thought he'd told me that he got it from his family doctor. I know he didn't tell me he got it from a Mets clubhouse trainer.<sup>94</sup>

Pettitte told Committee staff McNamee initially was reluctant to give him HGH. He testified, "I mean, he told me that he knows what kind of person I am. I'm a Christian man. And he told me that he did not think that I would feel comfortable doing it once I did it."<sup>95</sup> Pettitte, however, explained he thought trying to get healthy by whatever means possible was the "honorable thing to do."<sup>96</sup> Pettitte described four injections over two days in 2002.<sup>97</sup> Pettitte explained it did not feel right, so he stopped:

And you know it wasn't anything that he brought to my room. I had to go up to his room and so you know I went up to his room to get it.

\* \* \*

I did feel uncomfortable with it. . . . I can't explain any better than that, just knowing if you've ever been somewhere and you don't feel right about it, so you just leave. I mean I just didn't feel right about it. I don't know. It was because every time, you know, before any injections I'd ever . . . had been administered to me by a team doctor or you know a trainer. And you know, just didn't feel comfortable with, you know, him doing that.<sup>98</sup>

Pettitte testified he did not notice any beneficial effect from the HGH. He said, "I think you have to take the stuff for an extended period of time. And you know, I don't believe it [was effective]."<sup>99</sup>

---

<sup>93</sup> Pettitte Deposition at 13.

<sup>94</sup> *Id.* at 17-18.

<sup>95</sup> *Id.* at 14.

<sup>96</sup> *Id.* at 15.

<sup>97</sup> *Id.* at 16.

<sup>98</sup> *Id.* at 16-17.

<sup>99</sup> *Id.* at 19.



## **C. Pettitte on Clemens's Use**

### **1. The Pettittes' Affidavits**

On the eve of the hearing the *New York Times* reported on an affidavit executed by Andy Pettitte:<sup>100</sup>

Roger Clemens will be confronted with a new and damaging affidavit from Andy Pettitte when he appears before the House Committee on Oversight and Government Reform on Wednesday to testify about allegations that he used performance-enhancing drugs, two lawyers familiar with the matter said late Tuesday.

Clemens will also be asked about corroborating information that committee staff members developed on their own that ties Clemens to such drugs, the lawyers said. That information, they said, stands separate and apart from the assertions made about Clemens by his former personal trainer, Brian McNamee, who contends that he injected Clemens with steroids and human growth hormone from 1998 to 2001.

The two lawyers familiar with what may be confronting Clemens at the hearing spoke on condition of anonymity because they were not authorized to speak publicly. They would not reveal details of the new Pettitte affidavit or of the new information obtained apart from McNamee's assertions.

'The committee is not messing around and has other damaging evidence against Roger,' one of the lawyers said.

---

<sup>100</sup> Without consulting the Minority, the Democratic staff contacted Andy Pettitte and asked him to execute an affidavit memorializing key testimony from his deposition relating to conversations he had with Roger Clemens about HGH. Pettitte was also asked to secure an affidavit from his wife. The opportunity to execute the affidavits was made available to Pettitte by the Democratic staff in lieu of Pettitte's appearance at the February 13 hearing. Pettitte's deposition speaks for itself. The circumstances surrounding the preparation of the affidavits were kept secret from the Minority. On February 8, one of Pettitte's lawyers, Jim Sharp, told the Minority staff the Democrats asked for Andy Pettitte's affidavit to contain certain information. Telephone conversation with Jim Sharp, counsel to Andy Pettitte, and Oversight Comm. Republican staff (Feb. 8, 2008) [hereinafter Sharp, Feb. 8, 2008]. Sharp also said the Democrats had requested an affidavit from Pettitte's wife Laura. Affidavit of Laura Pettitte (Feb. 8, 2008); Sharp, Feb. 8, 2008. The affidavits were executed by the Pettittes later that day. Three days later, having not seen the affidavits, the Minority asked Sharp for copies. Sharp told the Minority staff he was hesitant to provide the Minority with copies of the affidavits because Pettitte had not been officially excused from testifying at the hearing. The Minority was not aware of the executed affidavits existence until February 11. The Minority did not see the affidavits until one day before the hearing on February 12. When confronted with these irregularities, the Democrats said the affidavits were sent via overnight express mail to the personal residence of one member of the Democratic staff.

The other lawyer said, ‘Andy said enough to really hurt Roger.’<sup>101</sup>

Andy Pettitte’s affidavit reads:

I, ANDY PETTITTE, do depose and state:

1. In 1999 or 2000, I had a conversation with Roger Clemens in which Roger told me that he had taken human growth hormone (“HGH”). This conversation occurred at his gym in Memorial, Texas. He did not tell me where he got the HGH from or from whom, but he did tell me that it helped the body recover.
2. I told my wife, Laura, about the conversation with Roger soon after it happened.
3. Shortly after my conversation with Roger, I spoke with Brian McNamee. Only he and I were parties to the conversation. I asked Brian about HGH and told him that Roger said he had used it. Brian McNamee became angry. He told me that Roger should not have told me about his HGH use because it was supposed to be confidential. While I don’t remember if Brian told me that he supplied Roger with HGH, it certainly was my impression from the conversation that he did.
4. 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 me what I meant, I reminded him that he had told me that he used HGH.
5. Roger responded by telling me that I must have misunderstood him; he claimed that he told me that it was his wife, Debbie, who used HGH.
6. I said, ‘Oh, okay,’ or words to that effect, not because I agreed, but because I wasn’t going to argue with him.
7. Shortly after, I told my wife, Laura, about this second conversation with Roger about HGH and his comment about his wife.
8. Regarding my own use of HGH, as I have admitted publicly, I used it for two days in 2002 to attempt to recover from

---

<sup>101</sup> Duff Wilson and Michael S. Schmidt, *Damaging Information Said to Await Clemens*, NY TIMES, Feb. 13, 2008.

an elbow injury. I also have told the Committee's attorneys, and I restate it here, that in 2004, when I tore the flexor tendon in my pitching arm, I again used HGH two times in one day out of frustration and in a futile attempt to recover. Unfortunately, I needed surgery on the arm later in the year. I regret these lapses in judgment.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 8, 2008. /s/ ANDY PETTITTE<sup>102</sup>

The Democrats also asked Pettitte to secure an affidavit from his wife. Laura Pettitte executed the following affidavit:

I, LAURA PETTITTE, do depose and state:

1. 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 ("HGH").
2. 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.
3. 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.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 8, 2008. /s/ LAURA PETTITTE<sup>103</sup>

---

<sup>102</sup> Affidavit of Andy Pettitte (Feb. 8, 2008).

<sup>103</sup> Affidavit of Laura Pettitte (Feb. 8, 2008).

## 2. Testimony About Pettitte's Conversation with Clemens During 1999 or 2000

**FINDING:** *Andy Pettitte testified Roger Clemens told him in 1999 or 2000 he had used human growth hormone. According to Pettitte, Clemens told him HGH helped the body recover.*

*Roger Clemens denies this. Clemens testified Pettitte "misheard" him. At the hearing, Clemens testified this initial conversation with Pettitte could have concerned the use of HGH by individuals featured on a television program, "something . . . about three older men that were using HGH and getting back their quality of life from that."*

At his deposition, Pettitte testified Clemens told him he used HGH. Pettitte stated:

I remember a conversation in 1999 where Roger had told me that he had taken HGH.

\* \* \*

Q And what did he tell you?

A That's really all I can really remember, you know, about it. I can't remember specifics about the conversation. That's just, you know that's really all I can remember about the whole conversation.<sup>104</sup>

\* \* \*

Q Was that the context? Was he saying that in a suggestive way, that it might be a good idea for you?

A I don't believe so. I think we were just talking. I mean, just, you know, I hate to say something out of line I just I'm trying to, you know, speculate on the conversation or whatever and I hate to do that.<sup>105</sup>

\* \* \*

---

<sup>104</sup> Pettitte Deposition at 20.

<sup>105</sup> *Id.* at 21.

Q Did he tell you anything about where he got it?

A No. No.

Q Did he tell you why he was taking it, what it was doing for him, that kind of thing?<sup>106</sup>

\* \* \*

A I'm not real sure exactly. You know, I hate to speak out of line on that whole situation, but just can't, can't remember a whole lot of details about our conversation, you know, that we had.<sup>107</sup>

\* \* \*

A I think it was just a normal conversation. We were just . . . talking, like you and me would be talking right now. That was it.

Q Did . . . he tell you about the pros and cons of HGH?

A No. I want to think that he had just said that, you know, like that he had just heard that it helped, like helped your body recover and stuff like that. But again, you know, . . . I don't want to be inaccurate.<sup>108</sup>

At his deposition, Clemens denied telling Pettitte this:

From my understanding, what we talked about, that Andy Pettitte is trying to recall that he point blank asked me about using HGH. And . . . I think he remembers that I told him that I did. And it never happened. The conversation, again, in my gym would have been something to the effect, the story about the men playing golf, having quality of life, being able to play golf, the older men that I think I talked about earlier.<sup>109</sup>

\* \* \*

I've never told Andy Pettitte that I was using HGH. And if I did tell him that, he would have come to me again and asked me, because he would have thought that I was using it or that I had taken it after he had taken it, that he would have asked me about doing it. I'm convinced of it. It didn't happen. The conversation

---

<sup>106</sup> *Id.*

<sup>107</sup> Pettitte Deposition at 21.

<sup>108</sup> *Id.* at 22.

<sup>109</sup> Clemens Deposition at 170.

did not happen. There might have been something in general, again, about quality of life.<sup>110</sup>

At the hearing, Clemens testified Pettitte “misheard” and “misremembered.” He stated:

I believe Andy has misheard . . . on his comments about myself using HGH, which never happened. The conversation that I can recall, that I had with Andy Pettitte, was at my house in Houston, while we were working out. And I had expressed to him about a TV show something that I have heard about three older men that were using HGH and getting back their quality of life from that. Those are the conversations that I can remember.<sup>111</sup>

\* \* \*

My problem with what Andy says, and why I think he misremembers, is that if Andy Pettitte knew that I had used HGH, or I had told Andy Pettitte that I had used HGH, before he would use the HGH, what have you, he would have come to me and asked me about it. That is how close our relationship was. And then when he did use it, I am sure he would have told me that he used it. And I say that for the fact that we also used a product called Hydroxycut and ThermaCore. It had ephedra in it, from what I understand to be a natural tree root. I believe ephedra was banned in 2004, something of that nature. A player in Baltimore passed away because of it. Andy and I talked openly about this product. And so there is no question in my mind that we would have talked, if he knew that I had tried or done HGH, which I did not, he would have come to me to ask me those questions.<sup>112</sup>

\* \* \*

Q Well, the fact is, Mr. Clemens, that apparently now you know he knew it and he didn't tell you. Has your mind changed about his credibility?

A Andy's a fine gentleman. I have no reason, again [--]

Q Very well.

A I think he misremembers.

---

<sup>110</sup> Clemens Deposition at 172.

<sup>111</sup> Hearing Tr. at 37.

<sup>112</sup> *Id.*

Q Very well.

A I know it. Again, our relationship was close enough that if . . . he knew that I had tried HGH, which I hadn't, he would have come to me and talked to me and discussed this subject.<sup>113</sup>

Clemens testified along the same lines at his deposition:

If . . . I told Andy Pettitte that I used HGH number one, I was shocked to find out that he used it. . . . Andy Pettitte and I were close enough that he would have come to me and stated that he was thinking about doing it . . . . Number two, when he did use it, now that I know he used it, he would have come to me and said that he is using it. He would ask me other questions. Andy and I talked openly about Hydroxycut and Thermacor, which he took, I think, more often, more regularly than I did. We always talked about that. . . . I'm sure the subject came up when the young man died from Baltimore.<sup>114</sup>

Clemens was plainly wrong. Pettitte testified he believed, as early as the 1999-2000 off-season, Clemens had tried HGH.<sup>115</sup> And despite hearing this information, Pettitte **did not** consult Clemens prior to his own HGH use in 2002.<sup>116</sup>

---

<sup>113</sup> Hearing Tr. at 41.

<sup>114</sup> Clemens Deposition at 171.

<sup>115</sup> Pettitte Deposition at 20.

<sup>116</sup> *Id.* at 25.

### 3. Testimony About Pettitte's Conversation with Clemens During 2005 or 2006

**FINDING:** *Andy Pettitte testified he had a second discussion with Clemens concerning human growth hormone in 2005 around the time of the Congressional hearings into steroid use in Major League Baseball. According to Pettitte, "I . . . asked him . . . what are you going to say if anyone . . . ask[s] you if you had ever used HGH? And he said . . . what are you talking about? And I said . . . you had told me you had used HGH. And he said, I never told you that. And I said, you didn't? And he said no. I told you that Debbie used HGH."*

*Clemens testified he recalled a similar conversation with Pettitte but believed it occurred in October 2006 in connection with a Los Angeles Times story about the use of performance enhancing drugs in baseball. Clemens testified Pettitte "looked right at me and said, What are you going to tell them? And I told [Pettitte] that I am going to tell . . . the truth, I did no[ne] of this. . . . That alone should have confirmed Andy's misunderstanding that I have ever told him that I used HGH."*

Pettitte testified to a second conversation with Clemens about HGH. This conversation, according to Pettitte, took place in 2005 during the Congressional hearings. Clemens recalled a similar conversation, but believes it occurred in 2006 when the *Los Angeles Times* reported an affidavit filed in support of a search warrant for major league pitcher Jason Grimsley's home contained the names of several professional baseball players – including Clemens and Pettitte.<sup>117</sup>

Pettitte recalled the second conversation with Clemens about HGH as follows:

Q Did there ever come another time after this conversation you're talking about in '99 where you talked to Clemens about his own use of HGH?

A One other time.

Q When was that?

A In 2005.

---

<sup>117</sup> Lance Pugmire, *Clemens is Named in Drug Affidavit*, LA TIMES, Oct. 1, 2006, at A1 [hereinafter LA Times Story re Grimsley Affidavit].



Q Do you remember what prompted that conversation?

A Yeah. The congressional hearings. They were going on.<sup>118</sup>

\* \* \*

Q Can you sort of tell me the story there of what happened there, what you guys talked about?

A Well, I knew that the congressional hearings were going on. And I thought for sure that someone was going to come up to me, a reporter, and start talking to me and asking me questions about it. And I was going to go ahead and just admit that, you know, I had used HGH when I had used it. And so we were, you know, in spring training in . . . . Kissimmee, Florida, when I was with the Astros. **And I got Roger and just asked him, I said, dude, what are you going to say if anyone if any of the reporters ask you if you had ever used HGH? And he said, you know, he said well, what are you talking about? And I said, well, you had told me you had used HGH. And he said, I never told you that. And I said, you didn't? And he said no. I told you that Debbie used HGH.** And that's that was the end of the conversation right there.

\* \* \*

And between '99 and '05, I mean, those [six] years is the only two conversations that I ever recall having with Roger Clemens with regards to that.<sup>119</sup>

\* \* \*

Q What was your reaction to what he said?

A Well, obviously I was a little confused and flustered. But after that, **I was like, well, obviously I must have misunderstood him.**

Q But he had never told you before that his wife had used HGH, that was the first you'd heard of that, is that right?

A Yes.<sup>120</sup>

---

<sup>118</sup> Pettitte Deposition at 25-26.

<sup>119</sup> *Id.* at 26-27 (emphasis supplied).

<sup>120</sup> *Id.* at 27 (emphasis supplied).

\* \* \*

Q Did you understand that he was saying that as a way or sort of a strategy to handle the press inquiries? I mean, was that the nature of your conversation?

A Not really. The conversation wasn't very long. That was really the end of the conversation. Just when he said that, I was like, oh, just kind of walked out. I wasn't going to argue with him over it. You know.<sup>121</sup>

\* \* \*

Q It sounds like . . . your recollection of the conversation you had with him in 1999, you are fairly certain about that, that he told you he used it. Do you think it's likely that you did misunderstand what Clemens had told you then? Are you saying you just didn't want to get into a dispute with him about it so you dropped the subject?

A I'm saying that I was under the impression that he told me that he had taken it. **And then when Roger told me that he didn't take it, and I misunderstood him, I took it for that, that I misunderstood him.**

Q Did you ever talk to him about this again after that time?

A No.

Q About either his own use or his wife's use?

A No.<sup>122</sup>

---

<sup>121</sup> *Id.* at 27-28.

<sup>122</sup> *Id.* at 28 (emphasis supplied).

Clemens recalled similar details about this conversation, the difference being he thinks it happened in 2006 in connection with a story in the *Los Angeles Times*.<sup>123</sup> At the hearing, Clemens testified:

[I]n 2006 . . . he and I had a conversation in Atlanta's locker room when this L.A. Times report became public about a Grimsley report, and they said that Andy's and my name were listed in that. And I remember him coming into that room, the coach's room, the main office there of the clubhouse attendant, and sitting down in front of me, wringing his hands and looking at me like he saw a ghost. And he looked right at me and said, What are you going to tell them? And I told him that I am going out there and I am going to tell them the truth, I did none of this. I never worked out with Jason Grimsley. He was a teammate of mine, and I never worked out with him. And I am going to go out there and tell them the truth. That alone should have confirmed Andy's misunderstanding that I have ever told him that I used HGH.<sup>124</sup>

There is no evidence in the record that Andy Pettitte's question to Roger Clemens in 2005 or 2006 specifically identified Clemens's 1999 or 2000 statement to Pettitte about having used HGH. Accordingly, it is not at all clear what conclusion could or should be drawn from Clemens's response that he had been referring to Debbie Clemens's use.

#### **4. Testimony Regarding Pettitte's Conversations with McNamee About Clemens's Use of HGH**

**FINDING:** *Andy Pettitte testified he told McNamee about Clemens admitting to the use of human growth hormone. According to Pettitte, McNamee became "upset." Pettitte testified, "I remember [McNamee] getting angry and said, you know, who told you that? And you know he was like, man, he shouldn't have done that." McNamee's spontaneous expression of anger in response to Pettitte lends credence to Pettitte and McNamee's testimony Clemens had used HGH. Had Pettitte been mistaken about what Clemens had told him, McNamee would have responded differently.*

Pettitte testified he told McNamee about his conversation with Clemens about Clemens's HGH use.

---

<sup>123</sup> LA Times Story re Grimsley Affidavit.

<sup>124</sup> Hearing Tr. at 42-43.

Q Did you ever mention to anyone else what Clemens had told you about his using HGH?

A **Yeah. I mean I told . . . McNamee. I asked McNamee about it.**

Q And was that soon after you had that conversation with Clemens?

A Yeah. It would have had to have been.

Q And what was McNamee's response?

A **He was upset. You know he was you know, I went to Mac and just had told him you know that Roger had told me that he had took it. And he was . . . he was pretty upset. I remember him just kind of getting angry and said, you know, who told you that? And . . . I'm like, well, Roger did. And you know he was like, man, he shouldn't have done that.** I don't remember a whole lot more than that. But I just remember that he was upset that I had told him that Roger had told me that.

Q Was he saying that he shouldn't have told you or he shouldn't have taken the HGH?

A He was saying he shouldn't have told me that, yeah, yeah.

Q Did you have the impression at that time that it was McNamee who had given the HGH to Clemens?

A Yes.

Q And that's why you raised it with McNamee?

A Yeah.

Q Did you mention what Clemens had told you to anyone else other than Brian McNamee?

A No.<sup>125</sup>

**McNamee's response to Pettitte in this instance is significant. McNamee's spontaneous expression of anger in response to Pettitte telling McNamee this information lends credence to Pettitte and McNamee's testimony Clemens had used HGH. Were it not true, McNamee would have likely either corrected Pettitte, or he**

---

<sup>125</sup> Pettitte Deposition at 22-23 (emphasis supplied).

would have asked a probative follow-up to find out what Pettitte was referring to. Both men were not only close to Clemens, but both men were knowledgeable about the particulars of Clemens's work-out regimen.

Pettitte testified they never had any additional discussion about HGH or anabolic steroids. Pettitte never told Clemens about his own HGH use.<sup>126</sup> And, according to Pettitte, Clemens never acknowledged using anabolic steroids.<sup>127</sup>

Pettitte testified he and McNamee had one other conversation about Clemens's alleged use of performance enhancing drugs. This conversation occurred in 2004. Pettitte testified:

Well, we were . . . my house. You know we were in . . . [my] gym. We were training in my gym. And I can just remember, you know, Mac telling me that . . . he had gotten steroids for Roger.<sup>128</sup>

\* \* \*

Q Do you remember anything else about it?

A I just . . . remember that Mac was upset. I just remember that Mac was upset and he was venting and he was . . . telling me . . . that Roger . . . had done steroids.

At the time, McNamee was in a dispute with Clemens over what Clemens and his sports agents, Hendricks Sports Management LP, believed was the unauthorized use of Clemens's likeness in connection with a health and vitamin company advertisement.<sup>129</sup> Pettitte did not know what to make of McNamee's statements in this instance. Pettitte testified:

Yeah. I mean, that surprised me. But I just kind of to tell you the truth, I just like, just kind of blew it off. You know Mac would . . . tell me all kinds of stuff just like anything as far as life. And I just kind of was an ear for him to chew on. **And I just listened to him and just kind of . . . acknowledged him and kind of pacify him and just listened to him gripe.**

\* \* \*

Q And did you ever talk about it with McNamee again?

A No.

---

<sup>126</sup> *Id.* at 25.

<sup>127</sup> *Id.* at 30.

<sup>128</sup> *Id.* at 31.

<sup>129</sup> *Id.*; Hickey Chemists Brochure.

Q So it was just that one conversation?

A Yeah.

Q Other than this conversation, did you ever have a time when you obtained information about Clemens using steroids?

A No.<sup>130</sup>

McNamee recalled confiding in Pettitte that Clemens was using steroids and growth hormone:

I'm going to get to that specifically because . . . I got involved in it with this I said to him, it was obvious that appeared throughout 2004 from 2001 into 2002 that he had a lot of that he was confident and knew that Roger was taking steroids and growth hormones. I said to him, listen, I don't want you to think that I don't want it to devalue my product and think now that I'm training you, but don't think that it is not my work that I do that is the steroids that he took. That was my point. And he goes, no. You're the best trainer I've had, I want you to train me because I love the way my body feels which is a great thing to say. But that was on my mind for a while. Because if he knows this stuff, I don't want him to think that the only reason Roger was so good while I had him was because he was getting injected. And it wasn't a service that I offered. And Andy during that course of that conversation, he did ask how many times did you inject him or did you inject him, like because I injected him and I said a couple of times. That's all I said to him.<sup>131</sup>

\* \* \*

Q And when was that conversation?

A '04, probably . . . it had to be in the winter of '04 going into spring training because maybe a couple of weeks in because it just the more we talked . . . one on one personally and Roger's name he did talk about Roger a lot, not just about drug use, but that is when I started getting concerned that I hope he is not starting to think because if he did talk about it, I didn't deny. I might not have said obviously I didn't say what I did and how many times I had been doing it. But I did say I did acknowledge his thinking and his thoughts on it, but I said to him it started to bother me, whether it

---

<sup>130</sup> Pettitte Deposition at 34 (emphasis supplied).

<sup>131</sup> McNamee Deposition at 225.

was that week or the week before where I went back home and I said I hope this guy isn't starting to think that the only reason Roger did so well is not my program and not my work.<sup>132</sup>

## IX. Testimony About Chuck Knoblauch's Use of HGH

**FINDING:** *Chuck Knoblauch testified the information contained in the Mitchell Report about his use of HGH was "accurate." According to Knoblauch, McNamee injected him with human growth hormone at least 7-9 times. McNamee testified he injected Knoblauch with HGH "closer to 50 times."*

Chuck Knoblauch played Major League Baseball for eleven seasons – seven with the Minnesota Twins, four with the New York Yankees, and one with the Kansas City Royals.<sup>133</sup> Knoblauch enjoyed much success at the major league level, winning the 1991 American League Rookie of the Year and being named to four All-Star teams.<sup>134</sup> Knoblauch played in five World Series, and was on the winning team for four of these.<sup>135</sup>

The Mitchell Report discussed Chuck Knoblauch's use of human growth hormone:

McNamee said that he acquired human growth hormone from Radomski for Knoblauch in 2001. 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. Knoblauch paid Radomski through Jason Grimsley and, once or twice, through McNamee. (Radomski produced two checks from Grimsley in 2001 that totaled \$5,550.)

According to Radomski, McNamee suggested to him that McNamee was obtaining human growth hormone on Knoblauch's behalf. According to McNamee, on occasion Knoblauch also procured his own supply of human growth hormone. McNamee believed that Knoblauch's other source was Jason Grimsley.<sup>136</sup>

At his deposition, Knoblauch confirmed the information contained in the Mitchell Report was "accurate."<sup>137</sup>

---

<sup>132</sup> *Id.* at 224-25.

<sup>133</sup> Knoblauch played with Minnesota 1991 – 1997, the New York Yankees 1998 – 2001, and the Kansas City Royals in 2002.

<sup>134</sup> Knoblauch was an All-Star in 1992, 1994, 1996, and 1997.

<sup>135</sup> 1991 (Minnesota), and 1998 – 2001 (New York). Knoblauch's team won each World Series, except in 2001, when the Yankees lost to the Arizona Diamondbacks in seven games (4-3).

<sup>136</sup> Mitchell Report at 177.

<sup>137</sup> Knoblauch Deposition at 12-14, 32, and 34. The quotation appears at 34.

During his deposition, McNamee testified he injected Knoblauch “closer to 50” times.

Q So here it states that you injected Knoblauch at least seven to nine times. Is your recollection that the number is larger than that?

A Yes.

\* \* \*

Q So, Brian, do you think the number was greater than seven to nine times perhaps?

A It was probably closer to 50.<sup>138</sup>

Following the hearing, Minority staff contacted Knoblauch’s attorney Diana Marshall to inquire whether McNamee’s revised figure of 50 HGH injections was accurate. Marshall told Committee staff she had no reason to believe McNamee’s testimony was inaccurate.<sup>139</sup>

---

<sup>138</sup> McNamee Deposition at 89.

<sup>139</sup> Telephone conversation with Diana Marshall, counsel to Chuck Knoblauch, and Oversight Comm. Republican staff, Mar. 3, 2008.



## X. Evidence Regarding Jose Canseco's Barbecue

**FINDING:** *The evidence before the Committee regarding Clemens's attendance at Jose Canseco's house for a Toronto Blue Jays team barbecue in June 1998 is inconclusive. According to Brian McNamee's testimony, Roger Clemens's use of anabolic steroids began shortly after attending the barbecue. McNamee testified Clemens attended this barbecue with his wife, two children, and nanny.*

*The Committee staff interviewed several of those in attendance at the barbecue. Nobody recalled seeing Clemens there. Jose Canseco "specifically recalled that Clemens did not come to the barbecue." None recalled Clemens attending.*

*The Committee staff interviewed Jose Canseco's ex-wife, Jessica Fisher and she testified she has "no independent recollection of seeing Roger Clemens at the barbecue."*

*The Clemens family's former nanny testified she did not attend a barbecue as McNamee alleges. She testified, "that is something that I definitely would have remembered."*

*Clemens testified he may have "gone by" Canseco's house after a golf outing during the Blue Jays three game series against the Florida Marlins in June 1998, but has no specific recollection.*

According to the Mitchell Report and Brian McNamee, Clemens's involvement with anabolic steroids began after a meeting between Clemens, Canseco, and a third person during the course of a team barbecue in 1998. Clemens's presence at the barbecue is disputed.

The Mitchell Report, through information supplied by McNamee, relates Clemens's alleged use of anabolic steroids in 1998 to the barbecue.

The Mitchell Report stated:

Jose Canseco was playing for the Blue Jays in 1998. On or about June 8-10, 1998, the Toronto Blue Jays played an away series with the Florida Marlins. McNamee attended a lunch party that Canseco hosted at his home in Miami. McNamee stated that, during this luncheon, he observed Clemens, Canseco, and another person he did not know meeting inside Canseco's house, although McNamee did not personally attend that meeting. Canseco told members of my investigative staff that he had numerous

conversations with Clemens about the benefits of Deca-Durabolin and Winstrol and how to ‘cycle’ and ‘stack’ steroids. Canseco has made similar statements publicly.<sup>140</sup>

Toward the end of the road trip which included the Marlins series, or shortly after the Blue Jays returned home to Toronto, Clemens approached McNamee and, for the first time, brought up the subject of using steroids. Clemens said that he was not able to inject himself, and he asked for McNamee’s help.<sup>141</sup>

### **A. McNamee’s Testimony**

Brian McNamee testified Clemens began using steroids shortly after the Blue Jays played an inter-league series in Miami against the Florida Marlins in June 1998. He told Committee staff, “I know [the 1998] injections started right after that party, pretty soon after. Maybe the day after we got back to Toronto.”<sup>142</sup>

In a tape-recorded and subsequently transcribed interview with investigators for Clemens, McNamee explained what he believed to be the nexus between the barbecue and Clemens’s alleged use of anabolic steroids. McNamee told Clemens’s investigators that the federal agents who interviewed him led McNamee to believe the Canseco barbecue is where Clemens obtained anabolic steroids. McNamee had no firsthand knowledge that Clemens obtained steroids at the Canseco barbecue.

That's what ties this into the same time in, like, June or July in Florida. I think he got it at Canseco's house. **I didn't know that until the government led me to believe that that's where he got it from, that somebody – someone else that the government talked to was – I guess those were the facts that they were checking on with me.** And somehow, whoever else the government is talking to, said that he got them there in Florida, that some guy walked into a room with him and Canseco and that's how they got the drugs, the Winstrol. The other drugs, I believe he already had. I don't think he got them – I could be wrong on that. But as far as the government and Mitchell, they know that he got the Winstrol at Canseco's house at a party; and that's when he did Winstrol.<sup>143</sup>

---

<sup>140</sup> Mitchell Report at 168-69; In his interview Canseco stated that the conversations he had with Clemens regarding steroids and about cycling and stacking steroids were all “one sided” with him (i.e., Canseco) doing all the talking. Canseco said Clemens never made any statements to him about using or acquiring steroids.

<sup>141</sup> *Id.* at 169.

<sup>142</sup> McNamee Deposition at 12-13.

<sup>143</sup> Interview of Brian McNamee by Jim Yarbrough and Billy Belk, Rusty Hardin and Assoc., P.C., Dec. 12, 2007, at 37 [hereinafter McNamee Interview] (emphasis supplied).

In his deposition McNamee testified about the Canseco barbecue:

Q Do you recall this party at Mr. Canseco's house?

A Yes.

Q How many people approximately were at the party?

A Mostly the whole team, the coaching staff.

Q The Blue Jays team?

A Canseco's, I believe yes, the Blue Jays. Canseco's wife, his daughter, and there were two elderly people. One might have been his mother and/or his father or somebody helping out with the party. They set up a spread outside near the pool.<sup>144</sup>

McNamee recalled Clemens attending the barbecue:

Roger was there with his nann[y] and I think two of his kids, two of his youngest kids. Because the nann[y] was there. . . . And Roger's wife was there, Debbie. She was the only other female besides the elderly woman helping with the food, Jose's wife, daughter and the two children and Debbie.

Jose Canseco remembers the barbecue differently. He remembers the team outing at his Miami residence to have included the majority of the Blue Jays traveling contingent, plus a number of wives and children. "There were kids running all over the place," he said.<sup>145</sup> He believes it may have been one of the road trips where families were traveling with the team.

McNamee recalled Clemens may have arrived after playing golf:

Roger showed up after golf, I believe. Maybe he was golfing. I don't know if he was golfing. He might have showed up a little bit later, but no, he was there the whole time for the most part. He was in the house.<sup>146</sup>

McNamee also recalled for the Committee staff details of a specific conversation between Debbie Clemens and Jose Canseco's wife concerning the topic of plastic surgery.<sup>147</sup>

---

<sup>144</sup> McNamee Deposition at 25.

<sup>145</sup> Canseco Interview.

<sup>146</sup> McNamee Deposition at 26-27.

<sup>147</sup> *Id.* at 27.

McNamee testified:

I could tell you a specific story about him being there, which was involving Jose, Jose's wife and Roger's wife when they went inside, when the guys showed up. I mean, they talked no disrespect, but they talked about how great Jose's wife's augmentation job was to Debbie and showed her. And then Debbie showed her . . . augmentation job.<sup>148</sup>

At the hearing, McNamee recalled “two distinct memories” of the barbecue, one being the sight of the Clemens’s nanny running around Canseco’s pool area in a bikini.<sup>149</sup>

McNamee testified:

And one of them is as I was eating a sandwich next to Mr. Canseco's pool by myself, I noticed a young child running towards the pool. And as I looked up, there was a woman chasing after the young child and she was wearing a peach bikini with green in it with board shorts and she was a thin probably mid to late 30s woman, and she grabbed the kid, the child, who was about 2 years old at the time, if not younger. And I later found out from one of the ball players, I said who's that? And they said, it's Roger's nanny.<sup>150</sup>

The Clemens’ nanny at the time disputes McNamee’s account. She denied being at the barbecue. She also denied wearing a bikini to such an event.<sup>151</sup> The nanny testified she did not attend the Canseco event. The former nanny told Committee staff:

Q You do recall whether there was a party at the house with all the Blue Jays over at the house?

A Sir, I don't, because **that is something that I definitely would have remembered, sir.** While I was there, I know that it wasn't no party, it was just the kids and I and [Crai]g, and we were in the pool. **I would have remembered the party, you know, because you would never forget all of these big boys,** and stuff, many of them, you know, all those parties having them around. I definitely would have remembered.<sup>152</sup>

Moreover, the former nanny was contacted after the hearing by an investigator for Clemens and according to him she said **she was definitely not wearing a bikini as**

---

<sup>148</sup> McNamee Deposition at 27.

<sup>149</sup> Hearing Tr. at 58.

<sup>150</sup> *Id.*

<sup>151</sup> Telephone Interview with Jim Yarbrough, Rusty Hardin and Assoc., P.C., and Oversight Comm. Republican staff, March 5, 2008 [hereinafter Yarbrough Interview].

<sup>152</sup> Nanny Interview at 12 (emphasis supplied).

**McNamee described at the hearing. The nanny said she is a very shy person.**<sup>153</sup> The nanny was with the Clemens family until June 2001. She left their employ to care for her grandson.<sup>154</sup>

McNamee testified during his deposition, however, he was never sure Clemens obtained steroids from Canseco during the barbecue. There is, however, a passage in the Mitchell Report discussing a meeting McNamee allegedly observed between Canseco, Clemens, and a third person. The Mitchell Report reads:

McNamee stated that, during this luncheon, he observed Clemens, Canseco, and another person he did not know meeting inside Canseco's house, although McNamee did not personally attend that meeting.<sup>155</sup>

When asked about this passage, McNamee provided no corroborating information that he was aware Clemens obtained steroids during this meeting. To the contrary, McNamee stated he asked the Mitchell staff to remove the reference to the party. He testified:

I was trying to get some leeway that, hey, why put that in there if I didn't have a fact on it.<sup>156</sup>

### ***B. Clemens's Testimony that He Was Not at the Barbecue***

The Democratic memorandum does not reflect Clemens's complete testimony on this subject. At page 15 of the memorandum, there is a section entitled "Mr. Clemens's Testimony That He Was Not At Jose Canseco's Home From June 8 to June 10, 1998." Clemens stated he did not attend the Canseco barbecue, "I never was at the party."<sup>157</sup> "I wasn't at the party. I know I wasn't at the party."<sup>158</sup> But, Clemens also stated – at the deposition and hearing – **he may have gone to Canseco's after playing golf.**

At his deposition Clemens testified:

Q Let me ask . . . you said you were not . . . at this . . . party?

A That's correct.

---

<sup>153</sup> Yarbrough Interview (emphasis supplied).

<sup>154</sup> Nanny Interview at 23.

<sup>155</sup> Mitchell Report at 168-69.

<sup>156</sup> McNamee Deposition at 232.

<sup>157</sup> Clemens Deposition at 16.

<sup>158</sup> *Id.* at 17.

Q Have you ever been to Mr. Canseco's home?

A I may have. I know I wasn't at a Toronto Blue Jay party, though.<sup>159</sup>

\* \* \*

Q Let me just go back here. So you have or you haven't been to Mr. Canseco's house?

A I sure could have been. I wasn't here at this at a party that he had. **I could have gone by there after a golf outing.** So but I was not at this party.

Q And could you have been at his house during this time period, June 8th to 10, 1998?

A No.

Q Why do you say that?

A I wasn't at the party. I know I wasn't at the party.<sup>160</sup>

The Democratic memorandum plucks one “No” out of the above question and answer sequence at his deposition to make the case Clemens is lying about being at Canseco’s house during the time period of June 8 – 10.<sup>161</sup> Clemens was badgered about the Canseco barbecue at his deposition. The Democratic memorandum states he had to address this topic eight times.<sup>162</sup> Clemens testified he **did not recall going to Canseco’s house during this time period**, but in both the deposition and at the hearing, concedes he may have been at the house after golf.

At the hearing, Clemens also testified he may have gone to Canseco’s briefly after golf. He testified:

**So could I have gone by the house later that afternoon** and dropped my wife or her brother-in-law, the people that golfed with me? Sure, I could have.<sup>163</sup>

---

<sup>159</sup> Clemens Deposition at 16-17.

<sup>160</sup> *Id.* at 17 (emphasis supplied).

<sup>161</sup> Democratic memorandum at 15.

<sup>162</sup> *Id.*

<sup>163</sup> Hearing Tr. at 132 (emphasis supplied).

### **C. Evidence that Clemens Played Golf on June 9, 1998**

Roger Clemens testified he played golf at Weston Hills Country Club on June 9, 1998 – the day of Canseco’s barbecue.<sup>164</sup> Clemens produced a receipt from the Weston Hills Country Club Golf Shop with an 8:58 a.m. time-stamp, to show he played golf while the barbecue was occurring.<sup>165</sup> At the hearing Clemens stated his wife and brother-in-law were in his golf foursome.<sup>166</sup> The fourth member was Clemens’s brother-in-law Craig Godfrey’s friend James Clodfelter.<sup>167</sup> Clodfelter is a Member of the Weston Hills Country Club and he told Committee staff that he hosted the group at his club.<sup>168</sup> Clodfelter said, Clemens played golf at his club on both June 9 and June 10, 1998.<sup>169</sup> He said, “I remember this because it was during the three-game series between the Marlins and [the Toronto] Blue Jays” that year.<sup>170</sup> Clodfelter recalled, “Roger pitched the night before. I was there. It was a really long game. Maybe the longest game in Florida Marlins history.”<sup>171</sup> Clodfelter remembers the golf round beginning at approximately 10 a.m. and lasting until 2:30 p.m.<sup>172</sup> “It was a really long round,” he said.<sup>173</sup> “We were rushing to get Roger back to Jose’s so that he could get to the game. Roger was driving a rental van, and I had my car and we drove from the golf course to Canseco’s. I followed him, or he followed me to Jose’s.”<sup>174</sup> According to Clodfelter, Canseco met Clemens in Canseco’s driveway and the two of them departed almost immediately for the stadium in Canseco’s car.<sup>175</sup> He said, Clemens may have signed a ball in the driveway or posed for a picture, but he did not go inside Canseco’s house or out to the pool area.<sup>176</sup> “**Roger wasn’t at that party – I will put my life on it anywhere.**”<sup>177</sup> He went on to say, “No member of the Blue Jays was there; the team had left by the time we [arrived].”<sup>178</sup> He

---

<sup>164</sup> *Id.* at 57; 132; Clemens Deposition at 17.

<sup>165</sup> Credit Card Receipt of Roger Clemens, Weston Hills Country Club, Ft. Lauderdale, Florida (June 9, 1998).

<sup>166</sup> Hearing Tr. at 57; 132.

<sup>167</sup> Telephonic Interview of James Clodfelter by Oversight Comm. Republican staff in Wash. D.C. (Mar. 18, 2008) [Clodfelter Interview].

<sup>168</sup> Clodfelter Interview.

<sup>169</sup> *Id.*; Clodfelter recalled the June 9 golf foursome to have included Clemens, Clemens’s wife Debbie, Clemens’s brother-in-law Craig Godfrey, and himself. On June 10 Clodfelter recalled playing golf with Clemens, Jose Canseco, and Canseco’s friend Glenn Dunn. Glenn Dunn does not specifically recall whether Canseco played on June 10, but remembers playing with Clodfelter and Clemens. Dunn could not remember whether Godfrey played on June 10 either.

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*; On June 8, 1998, the Florida Marlins defeated the Toronto Blue Jays 4-3 in 17 innings. The game was played at Dolphin Stadium in Miami Gardens, Florida. The game’s first pitch was thrown at 7:07 p.m. It was a five hour game, ending at 12:13 a.m. on June 9. Roger Clemens was the starting pitcher for the Blue Jays. He pitched seven innings, giving up three runs on seven hits. *See* Box Score, June 8, 1998 Toronto Blue Jays at Florida Marlins, Baseball-Reference.com, <http://www.baseball-reference.com/boxes/FLO/FLO199806080.shtml> (last visited Mar. 18, 2008).

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> *Id.*

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

said, “after Jose and Roger left, I went out to Jose’s [outdoor pool] area.” It was, according to Clodfelter, a fairly “expansive area with a lake and there were kids fishing back there. No ballplayers were left. They had all left for the game. I hadn’t been to Jose’s house before, even though I live a couple miles away.”<sup>179</sup>

Clemens’s attorneys produced audio from the telecast of two Blue Jays-Marlins games during the three-game series – June 9<sup>180</sup> and June 10<sup>181</sup> – where the announcers discussed the Canseco barbecue. The announcers commented Clemens did not attend the team function. During the June 9 game, Marlins announcer Joe Angel states the whole team attended the barbecue at Canseco’s “All except for Roger Clemens. He did not attend. **He was on the golf course. I saw him out there.**”<sup>182</sup>

### ***D. Jose Canseco’s Testimony***

Attorneys for Clemens produced an affidavit from Jose Canseco. In his affidavit, Canseco denied Clemens was at the barbecue. Canseco’s affidavit stated:

During the 1998 season, I played on the same team with Roger Clemens. In early June 1998, the Blue Jays participated in an interleague series in Miami against the Florida Marlins. During

---

<sup>179</sup> Clodfelter was asked about McNamee’s testimony that Clemens’s Nanny was wearing a bikini at the Canseco barbecue. He said, “I know [the Nanny]. . . . I have seen her at least a dozen times over the years. . . . She does not strike me as someone who would have been wearing a bikini. . . . I will tell you this though, the Clemens boys always had their friends with them. Ok, it wasn’t just the boys usually, it was always this entourage of kids. And, the Clemens [family often] had a young girl that would help [the Nanny], a second nanny – Nanny II. Maybe, this is where the bikini story is coming from. I don’t know. But [the Nanny] wearing a bikini does not sound right.”

<sup>180</sup> Major League Baseball, Marlins Television Network, Blue Jays v. Marlins telecast, June 9, 1998, Bottom of the 5<sup>th</sup> Inning [hereinafter Blue Jays v. Marlins telecast, June 9, 1998]. The play by play transcript reads:

Joe Angel: . . .breaking ball. Canseco, line drive, caught at second base off of his shoe tops, but that’s all Counsel gets. So Canseco is gone on one pitch. . . .

Joe Angel: Canseco, by the way today, Tommy, had a big bar-b-que party for the entire Ball Club. Canseco has a palatial estate down in Weston. He had the bar-b-que catered. And just about every member of the Toronto Blue Jays was at Canseco’s home earlier today for the big bar-b-que.

Tommy Hutton: Yeah, a lot of players, all the coaching staff, manager. They had a great day over at Jose’s house.

Joe Angel: All except for Roger Clemens. He did not attend. He was on the golf course. I saw him out there. Hitting all the par fives in two. (Laughter)

<sup>181</sup> Major League Baseball, Marlins Television Network, Blue Jays v. Marlins telecast, June 10, 1998, Top of the 10<sup>th</sup> Inning. (The video shows Canseco and Clemens sitting next to each other on the bench.) The play by play transcript reads:

Joe Angel: Canseco had that big team picnic, a bar-b-que, at his place out in Weston, yesterday, attended by just about everybody except the man on the right, Roger Clemens. He, he spent the day on the golf course.

Tommy Hutton: See, and that’s what’s Jose’s saying right now, “Come on Roger, you could have come over to the house. You didn’t have to hit golf balls. (Laughter)

Joe Angel: And Roger says, “Oh, yes I did!”

<sup>182</sup> Blue Jays v. Marlins telecast, June 9, 1998.



that time, I owned a house in Miami. On Tuesday, June 9, 1998, I hosted a bar-b-que at my house for my teammates and other Blue Jays staff members. It was an honor for me to host a lunch for my new team. During that luncheon, there were approximately 30-40 people present. I specifically recall that Clemens did not come to the bar-b-que. I remember this because I was disappointed that he did not attend. I later learned that he had a golfing commitment that day and could not attend the party. I have read the paragraph on page 168 of the Mitchell Report that states that '[Brian] McNamee attended a lunch party that Canseco hosted at his home in Miami. McNamee stated that, during this luncheon, he observed Clemens, Canseco, and another person he did not know meeting inside Canseco's house.' I know that this statement is absolutely false because Clemens did not attend the party. Neither Senator Mitchell nor anyone working with him ever contacted me to ask whether Clemens attended a party at my house in June 1998.<sup>183</sup>

The Committee staff interviewed Jose Canseco, and he said, "he remembers the barbecue like it was yesterday."<sup>184</sup> As to Clemens, Canseco said, "He didn't show up, and I was disappointed; upset."<sup>185</sup> Although he is not certain, Canseco believes Clemens's wife, Debbie and some of their children may have attended the barbecue, despite Roger Clemens's absence.<sup>186</sup> According to Canseco, since they were friendly, Debbie Clemens would have been more likely to have attended if his then-wife Jessica was there.<sup>187</sup> At the hearing, Clemens testified he believed his wife did not attend the barbecue because, as he recalled, she was in his golf foursome.<sup>188</sup>

### ***E. Others with Information About the Barbecue***

Committee staff contacted a number of players and officials with 1998 Toronto Blue Jays to see if they recalled Clemens's presence at the barbecue.<sup>189</sup> Nobody could remember seeing Clemens.

In 1998, the Blue Jays' manager of team travel was John Brioux. Committee staff interviewed Brioux about the event at Canseco's.<sup>190</sup> Brioux said there was one team bus that transported the Blue Jays traveling contingent from the hotel to Jose Canseco's house

---

<sup>183</sup> Affidavit of Jose Canseco at 1-2 (Jan. 22, 2008) [hereinafter Canseco Affidavit] (emphasis supplied).

<sup>184</sup> Canseco Interview.

<sup>185</sup> *Id.*

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

<sup>188</sup> Hearing Tr. at 57.

<sup>189</sup> The staff contacted Canseco, his ex-wife Jessica Fisher, former Blue Jays pitcher Woody Williams (who incidentally was the starting pitcher for the team later that evening), former head athletic trainer Tommy Craig, former assistant athletic trainer Scott Shannon, and former Manager of team travel John Brioux.

<sup>190</sup> Telephonic Interview with John Brioux, former Manager, Team Travel, Toronto Blue Jays by Oversight Comm. Republican staff in Wash., D.C., Mar. 25, 2008 [hereinafter Brioux Interview].

that day.<sup>191</sup> According to Brioux, the bus left the hotel in the “late morning.”<sup>192</sup> He recalled that the barbecue lasted approximately two or three hours.<sup>193</sup> Brioux believed the team bus departed Canseco’s house for the stadium at “probably . . . 2 or 3 p.m.”<sup>194</sup> Brioux remembered the barbecue. “There was a lot of food,” he said.<sup>195</sup> Brioux also remembered seeing a number of children, including two of Clemens’s children at Canseco’s.<sup>196</sup> “I do remember his children playing basketball in Canseco’s gym,” he said.<sup>197</sup> Brioux did not recall seeing Clemens at the barbecue.<sup>198</sup> Brioux also recalled that Clemens did not take the team bus that day.<sup>199</sup> As to Blue Jays team policy at the time, Brioux said it was permissible for players to arrange for their own transportation to the stadium.<sup>200</sup> Accordingly, Brioux said it would not be uncommon for Canseco, who lived in Miami, to drive himself to the game rather than use the team bus.<sup>201</sup>

In 1998, the Blue Jays’ head athletic trainer was Tommy Craig. Craig went to the team function at Canseco’s house.<sup>202</sup> As he remembered it, the team bus transported the traveling contingent from the team hotel to Canseco’s house.<sup>203</sup> Craig said he was at the barbecue for approximately 90 minutes and likely took the first bus from the barbecue to the stadium so that he could prepare for the game.<sup>204</sup> He remembered eating and looking around the house.<sup>205</sup> Craig does not recall seeing Clemens at the barbecue.<sup>206</sup>

The Blue Jays assistant athletic trainer at the time – Scott Shannon – does not recall seeing Clemens at the barbecue either.<sup>207</sup> Shannon recalled the barbecue as being more of a “meet and greet” that “wasn’t that long, about two hours.”<sup>208</sup> He recalled taking the team bus to Canseco’s, eating food by the pool, and receiving a tour of the house.<sup>209</sup> Shannon could not recall whether the Florida Marlins series coincided with the

---

<sup>191</sup> Brioux Interview.

<sup>192</sup> *Id.*

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*

<sup>195</sup> *Id.*

<sup>196</sup> *Id.*

<sup>197</sup> *Id.*

<sup>198</sup> *Id.*

<sup>199</sup> *Id.*

<sup>200</sup> *Id.*

<sup>201</sup> *Id.*

<sup>202</sup> Telephonic Interview with Tommy Craig, former Head Athletic Trainer, Toronto Blue Jays, by Oversight Comm. Republican staff in Wash. D.C., Mar. 19, 2008 [hereinafter Craig Interview, Mar. 19, 2008].

<sup>203</sup> Craig Interview, Mar. 19, 2008.

<sup>204</sup> *Id.*

<sup>205</sup> *Id.*

<sup>206</sup> *Id.*

<sup>207</sup> Telephonic Interview with Scott Shannon by Oversight Comm. Republican staff in Wash. D.C., Mar. 18, 2008 [hereinafter Shannon Interview, Mar. 18, 2008].

<sup>208</sup> Shannon Interview, Mar. 18, 2008.

<sup>209</sup> *Id.*

team's family trip, as Canseco suggested, but does recall some children "playing in the gym" at the house.<sup>210</sup>

Darrin Fletcher, the Blue Jays starting catcher in 1998, told *Newsday*, "I don't particularly remember Roger being there."<sup>211</sup>

During his interview, Jose Canseco informed the staff that Glenn Dunn, a friend of his, was someone we might speak with. According to Canseco, Dunn was at the barbecue.<sup>212</sup> After the hearing, the staff contacted Dunn. Dunn remembered the barbecue.<sup>213</sup> Dunn said he was at Canseco's house before, during and after the barbecue. He said it lasted about two hours, beginning at approximately noon. Dunn said the Blue Jays arrived in the team bus. Dunn specifically recalled that Clemens was not there. He said, "Roger was not at the barbecue."<sup>214</sup> Dunn remembered Canseco complained during the function that "Roger was playing golf."<sup>215</sup> Dunn said Clemens came to Canseco's house after golf, but was only there briefly. Dunn remembered, "[Clemens] didn't even change his clothes."<sup>216</sup> According to Dunn, by the time Clemens arrived at Canseco's, the team function had ended and the bus carrying the Blue Jays players had already departed for the stadium. Dunn said he spoke with Clemens before Clemens left with Canseco for the stadium. He remembered, Clemens arranged to "have me take his two boys to the game. . . . Jose drove Roger to the ballpark . . . . I followed in a separate car with my son and Roger's two boys."<sup>217</sup> Dunn said he left for the stadium five or ten minutes after Canseco and Clemens had left, and arrived at the stadium in-time for batting practice. "It is about a 20-25 minute drive," he said.<sup>218</sup> Dunn reiterated several times that Clemens was "not at the barbecue" and "was never at the barbecue."<sup>219</sup>

The Committee staff also spoke with Jessica Fisher, Jose Canseco's ex-wife.<sup>220</sup> While she recalled a barbecue at their Miami residence where Debbie Clemens was present, she could not specifically recall whether Roger Clemens was at the team event on June 9, 1998.<sup>221</sup> Fisher told Committee staff the two families were friendly and socialized from time to time while Roger Clemens and Jose Canseco were teammates.<sup>222</sup>

---

<sup>210</sup> *Id.*

<sup>211</sup> Jim Baumbach and Robert E. Kessler, *Trainer: Roger Clemens Was at Party*, *NEWSDAY*, Feb. 10, 2008.

<sup>212</sup> Canseco Interview.

<sup>213</sup> Telephonic Interview with Glenn Dunn by Oversight Comm. Republican staff in Wash. D.C., Mar. 20, 2008 [hereinafter Dunn Interview].

<sup>214</sup> Dunn Interview.

<sup>215</sup> *Id.*

<sup>216</sup> *Id.*

<sup>217</sup> *Id.*

<sup>218</sup> *Id.*

<sup>219</sup> *Id.*

<sup>220</sup> Fisher Interview.

<sup>221</sup> *Id.*

<sup>222</sup> *Id.*

Clemens and Canseco also played together on the Boston Red Sox in 1995 and 1996, and their wives had been friends since that time.<sup>223</sup> Because they did socialize from time to time, Fisher was unable to rule Roger Clemens's presence in or out at a specific event such as the one held on June 9, 1998.<sup>224</sup>

## **XI. Testimony Regarding 1998 Use of the Anabolic Steroid Winstrol**

**FINDING:** *Brian McNamee testified he injected Roger Clemens with the anabolic steroid Winstrol as many as 15 times between June 11 and the beginning of August 1998. Clemens denied this at his deposition.*

Brian McNamee told Senator Mitchell, he injected Clemens approximately four times in 1998 with the anabolic steroid Winstrol. At his deposition, the number of alleged 1998-injections increased to as many as 15.<sup>225</sup>

With respect to 1998, the Mitchell Report stated:

Toward the end of the road trip which included the Marlins series, or shortly after the Blue Jays returned home to Toronto, Clemens approached McNamee and, for the first time, brought up the subject of using steroids. Clemens said that he was not able to inject himself, and he asked for McNamee's help.

Later that summer, Clemens asked McNamee to inject him with Winstrol, which Clemens supplied. McNamee knew the substance was Winstrol because the vials Clemens gave him were so labeled. **McNamee injected Clemens approximately four times** in the buttocks over a several-week period with needles that Clemens provided. **Each incident took place in Clemens's apartment at the SkyDome.** McNamee never asked Clemens where he obtained the steroids.

According to McNamee, from the time that McNamee injected Clemens with Winstrol through the end of the 1998 season, Clemens's performance showed remarkable improvement. During this period of improved performance, Clemens told McNamee that the steroids 'had a pretty good effect' on him. McNamee said that Clemens also was training harder and dieting better during this time.<sup>226</sup>

---

<sup>223</sup> *Id.*

<sup>224</sup> *Id.*

<sup>225</sup> McNamee Deposition at 94.

<sup>226</sup> Mitchell Report at 169-70 (emphasis supplied).

## **A. The Alleged Injections**

McNamee told Committee staff of the circumstances of how Clemens allegedly asked to be injected.

Q Going back to when Mr. Clemens approached you with the request for your help injecting steroids. Can you explain the circumstances of that conversation, where you were, how it came up?

A We got back from the Florida trip, Florida Marlins trip. And within the course of a day or so, he asked me if I could help him inject because he can't inject in his bootie; that's his words. And I said, yeah, I think I can handle that. And he goes, all right, I'll let you know. And that was it. Nothing more, nothing less. I didn't elaborate, he didn't elaborate.<sup>227</sup>

McNamee's deposition testimony did not match the information contained in the Mitchell Report with respect to the timing of the alleged injections. At page 169 of the Mitchell Report, the Winstrol injections are said to have occurred after Canseco's barbecue, but not immediately thereafter. When he met with Senator Mitchell, McNamee said the injections began "later that summer."<sup>228</sup> At his deposition, McNamee said they began just a day or two after the barbecue on June 11 or June 12. He testified:

Q Do you recall when those injections began?

A Right after the 10th of June in Toronto.

Q So it would have been the next day, like June 11th?

A It could have been the next day or say 2 days. I'm not that exact on that. But it was definitely more than four times over a several week period. **It was probably no less than eight to 10, no more than maybe 14 or 15.** Because . . . Winstrol was injected like I think every fifth day for him when he did the regimen. And then he I know up to him getting an abscess he started doing it every third day. And I know I just it was more than four times.<sup>229</sup>

---

<sup>227</sup> McNamee Deposition at 94 (emphasis supplied).

<sup>228</sup> Mitchell Report at 169.

<sup>229</sup> McNamee Deposition at 13.

## ***B. Anadrol-50 Pills***

According to the Mitchell Report, in 1998, around the time Clemens is alleged to have started using anabolic steroids, “Clemens showed McNamee a white bottle of [the oral anabolic steroid] Anadrol-50.” The Mitchell Report stated:

Clemens told McNamee he was not using it but wanted to know more about it. McNamee told Clemens not to use it. McNamee said he took the bottle and gave it to Canseco. McNamee does not know where Clemens obtained the Anadrol-50.<sup>230</sup>

In his deposition McNamee described this further:

Q So did there come a time in 1998 when Roger Clemens gave some steroids to you?

\* \* \*

A He asked me about this jar of white pills, which . . . wasn't labeled. It was in a white nonsee through container that wasn't labeled a specific drug. I forget what the label said. And I believed it to be oral testosterone that was highly toxic. And Canseco kind of confirmed it. And I just turned around, and I gave the stuff to Canseco, because his locker was my locker was here, and he was like right here along the wall. He looked at it, and he said he thought it was Anadrol 50. And then he popped one or two in his mouth.<sup>231</sup>

Jose Canseco said McNamee is “lying.”<sup>232</sup> In an affidavit, Canseco said:

I have read the paragraph on pages 169-70 of the Mitchell Report that says that McNamee has stated that he gave me a white bottle of Anadrol-50 that he supposedly received from Clemens. McNamee's allegation is completely false. McNamee has never given me a white bottle of Anadrol-50 or any other steroid or human growth hormone substance. Neither Senator Mitchell nor anyone working with him ever contacted me to ask whether McNamee had given me a bottle of Anadrol-50.<sup>233</sup>

---

<sup>230</sup> Mitchell Report at 169-70.

<sup>231</sup> McNamee Deposition at 95-96.

<sup>232</sup> Canseco Interview.

<sup>233</sup> Canseco Affidavit at 2.

The Committee staff interviewed Canseco, and he said, “no athlete uses Androl-50. It is the most potent, dangerous steroid on the market.” According to Canseco, the incident McNamee described did not happen.<sup>234</sup>

### **C. Evidence Regarding the Alleged Abscess**

**FINDING:** *The evidence regarding the causation of an alleged abscess or other buttocks injury sustained by Roger Clemens in the summer of 1998 is inconclusive. The buttocks injury Clemens suffered in July 1998 was not an abscess as McNamee testified. According to McNamee, he was responsible for an abscess resulting from a hurried injection of anabolic steroids.*

*The medical records show Clemens received an injection of liquid vitamin B-12 in July 1998. Blue Jays team doctor Ron Taylor remembers giving Clemens an injection of B-12. Thereafter, Taylor testified Clemens complained of soreness in his buttocks. In reviewing the medical records, Taylor testified Clemens merely suffered a contusion, i.e., a bruise.*

*An MRI was ordered by the team’s orthopedist Allan Gross. The MRI findings were normal, and according to Gross consistent with an injection of liquid vitamin B-12.*

*An expert consulted separately by the Democratic staff stated there was a theoretical possibility Clemens’s injury may have been caused by an injection of anabolic steroids.*

### **1. The Tampa Injection**

McNamee testified Clemens sustained an injury to his buttocks in 1998. McNamee stated he believed he caused an injury to Clemens’s left buttocks stemming from a rushed injection of Winstrol. The record, however, surrounding this alleged botched Winstrol injection is not clear.

On one hand, McNamee believes the injection occurred in a clubhouse following an away game versus the Tampa Bay Devil Rays. During 1998, the Blue Jays visited Tampa Bay twice – June 15-17, and September 18-20. On the other hand, McNamee believes the botched injection occurred at the end of Clemens’s Winstrol use in 1998, i.e., late July or early August of 1998. The Blue Jays did not visit Tampa in late July or early August. McNamee has testified Clemens allegedly stopped using Winstrol with “a good part of the season left when he stopped.”<sup>235</sup>

---

<sup>234</sup> Canseco Interview.

<sup>235</sup> McNamee Deposition at 109.

McNamee testified as follows:

A But it was once, as I remembered later and told the investigators, Tampa Bay clubhouse.

Q One time in Tampa Bay clubhouse?

A Yes, when we were leaving. And it was in a like a pantry storage room. I can tell you exactly where it was. It was where they kept all the extra chips and cookies and stuff for the clubhouse. It was like narrow.

Q Was it part of the locker room?

A Yeah. But the clubbie's office was here. And then it was just like you can go out to the hallway there, which is like a runway, and the storage closet was right there on the way out to the righthand side.<sup>236</sup>

Clemens denied this. At his deposition he testified:

Q Did McNamee ever administer an injection to you in Tampa?

A No. And I believe if you're right on that, it even says what I've learned from you all, is it Tampa or Tampa clubhouse? Tampa clubhouse?

Q It might have been.

A Absolutely not.<sup>237</sup>

McNamee believes Clemens sustained an abscess during the 1998 season. The medical records produced to the Committee do not confirm this. Clemens was, however, treated by ultrasound for a "palpable mass" on both his left and right buttocks.<sup>238</sup> McNamee testified:

Q Did Mr. Clemens ever develop any medical problem or complication as a result of the injections you were giving him in 1998?

A Yes, he did.

---

<sup>236</sup> *Id.* at 15.

<sup>237</sup> Clemens Deposition at 167.

<sup>238</sup> Blue Jays medical records (WRC 00002-07).



Q What was the problem?

A He developed an abscess on his left butt cheek, gluteus maximus, from injecting Winstrol, stanozolol too quickly.<sup>239</sup>

McNamee's description of the injury is not consistent with an abscess. At his deposition he stated:

Q What did it look like? Did you get a look at it?

A It didn't look bad, it looked it just looked a little like discolored . . . plus, he didn't miss a start. So it couldn't have been that bad.

Q Did it look like there was blood underneath the skin? Or when you say discolored, what color?

A It was discolored like a bruise, maybe a little bit of a bruise. But it was not if he didn't direct himself to it, you wouldn't notice it, I don't think.

Q It wasn't large?

A No.<sup>240</sup>

McNamee testified that he described the injury as an abscess because he thinks this is what head athletic trainer Tommy Craig told him. McNamee stated:

I said to the head trainer, Tommy Craig, who was doing ultrasound on the area, What is wrong?

[According to McNamee, Craig replied] He developed an abscess.

I said, Is he all right? Yeah, he'll be fine. I turned around, I walked out.<sup>241</sup>

\* \* \*

---

<sup>239</sup> McNamee Deposition at 103.

<sup>240</sup> *Id.* at 110.

<sup>241</sup> McNamee Deposition at 104.

Q Could you just walk us through, again, what you did know about the injury to the buttocks?

A My . . . knowledge of that injury was based on a diagnosis by the head trainer, Tommy Craig. As far as he had ultrasound gel and a machine over the area. And I did see the area only on the table, and it just had a little discolor. And it wasn't it didn't even look like anything.

Q And when you saw it, was it in the location where you had administered an injection of Winstrol?

A It was in the exact same location that I would give that injection.

Q And the terminology 'abscess,' you heard that term first from Mr. Craig?

A Yes.<sup>242</sup>

\* \* \*

Q How do you know it was an abscess?

A It was diagnosed by the head trainer as an abscess. He told me directly, as I was standing over Roger Clemens.

Q When he described it as an abscess, the injury that is, did he simply say it was an abscess . . . ?

A Plainly, he just said he developed an abscess and he is treating for an abscess.<sup>243</sup>

Tommy Craig disagreed. In a second interview after McNamee's deposition, Craig said it did not happen this way – "nobody ever thought it was an abscess."<sup>244</sup> The term never came up.<sup>245</sup> There was just a small pool of liquid under the skin.<sup>246</sup> Craig said it was caused by the B-12 shot and it "had nothing to do with steroids."<sup>247</sup>

---

<sup>242</sup> *Id.* at 126.

<sup>243</sup> *Id.* at 127.

<sup>244</sup> Craig Interview, Mar. 19, 2008.

<sup>245</sup> *Id.*

<sup>246</sup> *Id.*

<sup>247</sup> *Id.*

McNamee thought the Tampa Bay injection caused an abscess.

It was after the game, it was a day game, we were getting out and I think, you know, the more I beat myself up thinking about this stuff, I think it might have been the time he got the abscess, because it was one of those and I didn't know really about how you get an abscess, but I injected him too quickly because it was like quick, go, get out, you know, who wants to see two guys getting out of the clubhouse I mean, out of the storage room. So it was done in a rush fashion. So if I could see when . . . we played . . . Tampa Bay that year, it might coincide with the time he got an abscess. Because we were leaving that day, we were rushed and you're not supposed to inject that stuff very quickly and that's how you get an abscess. It's one of the major side effects of it.<sup>248</sup>

McNamee testified the buttocks injury caused Clemens to halt the injections.

Q [C]an you place this in time for me? Do you have a sense of when that occurred?

A It had to be I believe it was late August, early September of '98.

Q And why do you say that?

A Because he immediately stopped the injections, and he threw the stuff in my locker and said get rid of it, the rest of the Winstrol, and I gave it to Canseco.<sup>249</sup>

According to Canseco, McNamee never gave him any anabolic steroids.<sup>250</sup> In his affidavit and interview with Committee staff, Canseco said this is “completely false.”<sup>251</sup>

McNamee recalled this botched injection occurred in August or early September.<sup>252</sup> McNamee had some difficulty in reconciling whether the Tampa injections were early in the cycle, or towards the end of the cycle. When McNamee was told the Blue Jays played in Tampa June 15-17 and September 18-20, he replied:

A Yeah, that refreshes the date, to be more accurate, on when I injected him in the clubhouse with Tampa Bay, because like I told you about the testosterone, it had to be early to inject in a clubhouse where he was probably just starting the regimen. For

---

<sup>248</sup> *Id.* at 16.

<sup>249</sup> *Id.* at 106.

<sup>250</sup> Canseco Affidavit at 2; Canseco Interview.

<sup>251</sup> Canseco Affidavit at 2.

<sup>252</sup> McNamee Deposition at 106.

him to risk that and do it in a clubhouse like that, it had to be earlier in his regimen.

Q I thought you had said earlier and correct me if I'm wrong that the injury to his buttocks, which you've called an abscess, and I think . . . we can't be certain from a medical standpoint until we see some evidence that it is an abscess but what you thought was an abscess, I'll call an injury you said occurred towards the end of a cycle, to the point where Mr. Clemens had suggested to you that he didn't want to use Winstrol any more because of the injury.

A That's correct. But I didn't call it an abscess, the trainer did. And I just reiterated his diagnosis.

Q Right. I just wanted to . . . call it an injury.

A Right. That ended his taking of Winstrol.

Q And that was towards I thought you had said earlier this morning, towards the end of his dabbling in Winstrol for the '98 season?

A Yeah.<sup>253</sup>

\* \* \*

Q But a couple of seconds ago, you said it was at the beginning of the cycle that you did it in a clubhouse?

A Well, it would have been in the beginning, because the party at Canseco's house was June 8th to June 10th. So he would have started it immediately after purchasing it there, if that is a fact. And the fact that it is June that's why I asked you the dates June something, the 18<sup>th</sup>[.]<sup>254</sup>

\* \* \*

Q I guess what I'm confused about is that we've had this discussion that the injection in Tampa Bay the Tampa Bay Clubhouse was at the beginning of the cycle now is what you are saying; is that correct?

A Yes.

---

<sup>253</sup> *Id.* at 128.

<sup>254</sup> *Id.* at 128-129.

Q And I thought I recollected from what you said earlier, that when you were in the clubhouse in Tampa Bay, you may have injected the substance too quickly, which caused the abscess. Do you remember that?

A Yes.

Q And I thought I understood your testimony to say that the injury that resulted from the injection that happened too quickly was towards the end of the cycle.

A That's what I said.

Q Can you help reconcile those two?<sup>255</sup>

\* \* \*

A Yeah, I was adding to I was trying to give more information based on my recollection of I said check those dates when they played, because it might have been then. I can't honestly or correct or exactly say. But I just know that was a rush rush thing.

Q Okay.

A And equate that to rushing that shot causes abscesses.

Q Okay. So you can't be sure that the injection that occurred in the Tampa clubhouse resulted in the injury that we spoke about?

A No, I'm not sure.

Q So it is fair to say that the injury we spoke of did occur, in fact, towards the end of the cycle, for the lack of a better term?

A It ended the cycle.

Q Okay. It did end the cycle?

A Yes.<sup>256</sup>

\* \* \*

---

<sup>255</sup> *Id.* at 129.

<sup>256</sup> *Id.* at 130.

So it also could have been caused by too many too frequently injecting himself.

\* \* \*

He went from 5 days to 3 days towards the end and that also could have, you know, been part of the abscess or why the abscess happened.<sup>257</sup>

At the hearing, McNamee conceded his memory could have been faulty. The Ranking Member had the following discussion with McNamee:

Mr. McNamee. Sir, the botched injection is just something that I felt bad about that I might have done. I'm not exactly sure it was a botched injection. That's what I had told the people. But my recollection is [--]

Mr. Davis of Virginia. Your deposition said this happened in the Tampa Clubhouse, and I'm just saying the only times they were in Tampa were in the middle of June and the end of September. And as you testified before us, it was at the end of July or the beginning of August. And I'm just saying, could your memory be faulty on this?

Mr. McNamee. Very much so.<sup>258</sup>

Clemens denied he sustained an abscess. At his deposition he stated:

[A]nd the abscess, from what I understand an abscess to be, that Mr. McNamee's complaining, would be a huge, pussy, nasty looking thing that would cause me to miss time on the disabled list is what I've learned here a little bit about this. And my recalling would be, go ask the trainers. I don't remember ever missing a start, ever having an abscess that would be nasty, anything like that. Again, I can think that I know when I've warmed up a few times, I might have pulled my glute muscle here or there. . . . I said, I don't think I've ever had an abscess. Go check. Go check it out. So it didn't happen.<sup>259</sup>

The Committee met with four members of the Blue Jays medical staff, none of whom could recall any injury to Clemens's buttocks in 1998.

---

<sup>257</sup> McNamee Deposition at 131.

<sup>258</sup> Hearing Tr. at 88.

<sup>259</sup> Clemens Deposition at 162.

## 2. Blue Jays' Medical Staff

The Committee staff interviewed four members of the 1998 Blue Jays medical staff – the team doctor, the team's orthopedic surgeon, the head athletic trainer, and the assistant athletic trainer. None of these witnesses recalled Clemens's 1998 buttocks injury. Clemens's medical records show he received an injection of liquid vitamin B-12 approximately 7-10 days prior to July 28, 1998.<sup>260</sup>

The Democratic memorandum goes to great lengths to imply Clemens's buttocks injury must have been caused by an injection of anabolic steroids. Without the use of quotes or sufficient context, the Democratic staff present the testimony of the four witnesses. They write:

The Committee [staff] asked Dr. Taylor, and the Blue Jays team trainers, Tommy Craig and Scott Shannon, whether they thought a vitamin B-12 injection could have caused the mass on Mr. Clemens's buttocks. Dr. Taylor told the Committee [staff] that this was unlikely. He stated that he had given close to 1,000 vitamin B-12 injections in his medical career and that he had never seen a complication like Mr. Clemens's. Mr. Craig told the Committee [staff] that he had never seen a side effect like Mr. Clemens's from a vitamin B-12 injection in almost 30 years as a trainer. The assistant trainer, Scott Shannon, in a career of almost 20 years, also said he had never seen a vitamin B-12 injection cause this kind of reaction.<sup>261</sup>

The evidence does not even show Clemens had a serious buttocks injury in 1998. The evidence actually shows that Clemens had nothing more than a bit of redness. McNamee himself testified:

It didn't look bad, it looked it just looked a little like discolored . . . plus, he didn't miss a start. So it couldn't have been that bad.<sup>262</sup>

---

<sup>260</sup> Blue Jays Injuries Report (July 28, 1998) (WRC-00004).

<sup>261</sup> Democratic memorandum at 8 (footnotes omitted).

<sup>262</sup> McNamee Deposition at 110.

### a) Dr. Ron Taylor

Blue Jays team doctor Ron Taylor<sup>263</sup> remembered giving Clemens a B-12 injection. According to Taylor, there was no abscess, and the MRI findings were normal.<sup>264</sup> Taylor explained he administered the B-12 injection to Clemens. Taylor testified, “I have a clear memory of giving him the shot.”<sup>265</sup> **“I’ve only given it twice in my career, and once was to Roger Clemens, as you know.”**<sup>266</sup>

He told Committee staff:

What happened was the trainer came to me, and I guess [Clemens] was feeling kind of fatigued. He may have had [B-12] shots in the past, and he asked the trainer for one, and I said, okay, I’ll give you one. There’s no harm. He was feeling fatigued. Maybe it would help him.<sup>267</sup>

Taylor testified he had a specific recollection of administering the B-12 shot.

Q You . . . provided a [B-12] shot to Mr. Clemens?

A One in 1998.

Q Okay. Do you remember giving the shot?

A Yes, I do.

---

<sup>263</sup> Before attending medical school, Taylor played Major League Baseball for 11 years (1962-72), pitching in 497 games, including four World Series games. Taylor pitched in games four and six of the 1964 World Series for the St. Louis Cardinals and in games one and two of the 1969 World Series for the New York Mets. His teams won both World Series. In the 1964 World Series, the St. Louis Cardinals defeated the New York Yankees four games to three, and in the 1969 World Series, the New York Mets defeated the Baltimore Orioles four games to one. See Baseball-Reference.com, Ron Taylor Statistics, <http://www.baseball-reference.com/t/tayloro01.shtml> (last visited Mar. 7, 2008).

<sup>264</sup> Taylor Interview at 23.

<sup>265</sup> *Id.* at 26-27.

<sup>266</sup> *Id.* at 14 (emphasis supplied).

<sup>267</sup> *Id.* at 21.



Q Where was it given to Mr. Clemens?

A His buttock.<sup>268</sup>

Taylor explained the injection was “an intramuscular injection, you know, the gluteus muscle.”<sup>269</sup>

According to the documents, the question of whether Clemens had an abscess only came up in the context of the MRI report – where it was ruled out. While simultaneously reviewing the medical records, Dr. Taylor testified:

On the 28th he complained of some soreness in his right buttock. And he was examined by Dr. Gross, one of our orthopedic surgeons, who felt it was a small collection of blood below the surface of the skin. He prescribed therapy with hot packs and ice packs alternating. I prescribed him an antibiotic, cloxacillin, to cover him in case there was an infection there, and just continue. **Two days later he had a MRI performed at Mount Sinai Hospital, and results were negative for an abscess.** And Dr. Gross recommends current therapy of heat and ice and massages tolerated, and all activities tolerated, just to monitor.<sup>270</sup>

\* \* \*

Q They say it's a contusion, and you said that there might have been a small collection of blood.

A No.

Q I'm sorry, go ahead.

A The diagnosis by Dr. Gross was a small collection of blood.

Q Okay.

A The MRI really showed nothing.<sup>271</sup>

Taylor did not think the injury was too significant – just “a small collection of blood.”<sup>272</sup> “It didn't appear to be swollen that much. He complained of some tenderness there. And that's when we got the MRI, which I said was normal.”<sup>273</sup> Taylor testified:

---

<sup>268</sup> *Id.* at 15.

<sup>269</sup> *Id.* at 17.

<sup>270</sup> *Id.* at 16 (emphasis supplied).

<sup>271</sup> *Id.* at 18.

<sup>272</sup> *Id.* at 21.

<sup>273</sup> *Id.*

Q Okay. And was one of the purposes of the MRI to determine if the injury was, in fact, an abscess?

A It was to determine what it was, period.<sup>274</sup>

\* \* \*

Q All right. The injury is described as . . . as a contusion?

A Yeah.

Q In layman's terms can you tell me what a contusion is?

A A bruise.<sup>275</sup>

\* \* \*

Q Can you tell me what would cause such an injury if there was no trauma?

A It could be a strained muscle could cause it. He could have strained it throwing. If he slid into a base, he could cause it. Of course, we don't hit they don't hit there. If he got hit with a line drive, it could cause it.<sup>276</sup>

Taylor was puzzled about why the term abscess was being used to describe this injury. He testified, "Well, the findings were that it was negative for an abscess, and that was it. They were normal. There was no abscess there. **I guess I don't know why they used the term 'abscess.'**"<sup>277</sup>

---

<sup>274</sup> *Id.* at 22.

<sup>275</sup> Taylor Interview at 24.

<sup>276</sup> *Id.*

<sup>277</sup> *Id.* at 23 (emphasis supplied).

## b) Dr. Allan Gross

The Committee staff interviewed Blue Jays orthopedic specialist Allan Gross. Gross did not have an independent recollection of Clemens's 1998 buttocks injury. With the assistance of Clemens's medical records, he provided testimony about the injury. Gross explained:

Q But . . . outside of these notes you have no independent memory of the injury?

A No, no. Ten years is a long time.<sup>278</sup>

\* \* \*

Q The findings described are compatible with a small focal collection of fluid deep within the subcutaneous fat likely related to the patient's prior attempted intramuscular injections.

A Yeah.

Q In layman's terms, can you tell us what that means?

A Well, you know, I'm just looking I was looking at this report just the other day for the first time after 10 years. **The report makes it sound like the patient was attempting intramuscular injections.** And so I tried to talk to [the radiologist] Larry White today to ask him where he got that impression, **because I didn't have that impression.** And I think that if you read the sentence and you're going to have to speak to Larry White for sure, but he's out of the country right now. But you'll have to speak to him. **I think what he meant was likely related to the patient's prior like the attempted intramuscular injections on the patient rather than the patient attempting intramuscular injections.**<sup>279</sup>

Q I see.

A But it's worded very badly, especially under these circumstances.<sup>280</sup>

Gross did not believe this injury was caused by an injection gone wrong. He testified the MRI was consistent with an injection of B-12. In testimony, he explained:

---

<sup>278</sup> Gross Interview at 8.

<sup>279</sup> *Id.* at 10-11 (emphasis supplied).

<sup>280</sup> *Id.*

I don't think it went awry. I don't think you could actually say that. If you got an injection deep into your muscle in your buttock and then you had a MRI about 10 days later, it's probably going to show some edema in there, some fluid collection, related to the injection and the damage by the needle and the reaction to the substance and so forth. **So this was not considered to be an alarming MRI.**<sup>281</sup>

### c) Blue Jays Trainers

During the 1998 season Tommy Craig was the Blue Jays' head athletic trainer. The Committee staff interviewed Craig about the injury sustained to Clemens's buttocks. He did not remember it saying, "it doesn't stick out in my mind at all."<sup>282</sup> Craig further observed the MRI was not ordinarily ordered for injuries like a suspected abscess. **As to the MRI, Craig was asked "Is it the type of thing you would use to rule out an abscess?" He replied, "No. Usually not."**<sup>283</sup> Craig was asked if he recalled treating Clemens for any infections in the buttocks region whatsoever. He replied, "No, sir."<sup>284</sup> After the hearing, when the staff followed-up with Craig, he said this type of injury – where you have "some fluid beneath skin" happens when B-12 shots are not administered deep-enough into the muscle.<sup>285</sup>

As head athletic trainer, Craig had some responsibility for McNamee, who was the assistant strength trainer. Craig said he did not hire McNamee; "he was hired by [Blue Jays Assistant General Manager Tim] McCleary. He wasn't my choice . . . . And, he did not have [proper] credentials."<sup>286</sup> Craig remembered McNamee to "be shaky."<sup>287</sup> According to Craig, McNamee "told a lot of stories that didn't make any sense . . . a lot of holes in his stories."<sup>288</sup> Craig said for the most part he "stayed clear" of McNamee.<sup>289</sup>

Assistant athletic trainer Scott Shannon also testified he did not remember treating Clemens's buttocks. Shannon stated, "Oh, [Tommy Craig's] recollection was the same as mine, that we don't ever remember treating Roger for something around his buttocks area or what they called an abscess due to an injection."<sup>290</sup>

---

<sup>281</sup> *Id.* at 12 (emphasis supplied).

<sup>282</sup> Craig Interview, Feb. 4, 2008 at 20-21.

<sup>283</sup> *Id.* at 25 (emphasis supplied).

<sup>284</sup> *Id.*

<sup>285</sup> Craig Interview, Mar. 19, 2008.

<sup>286</sup> *Id.*

<sup>287</sup> *Id.*

<sup>288</sup> *Id.*

<sup>289</sup> *Id.*

<sup>290</sup> Shannon Interview, Jan. 31, 2008 at 51.

### 3. The Expert Consulted by the Democratic Staff

The Democratic memorandum includes a sentence that purports to support the allegation that Clemens's "abscess" was caused by an injection of steroids.<sup>291</sup> It suggests that the July 1998 B-12 shot administered by Taylor may not have actually occurred. Despite Taylor's testimony that he had a specific recollection of administering the B-12 injection, the Democratic staff at page seven of their memorandum states: "There is no direct documentation of this vitamin B-12 injection in the medication and medical visit records kept by the physicians who provide the injections."<sup>292</sup>

The MRI Report itself described findings "compatible with a small focal collection of fluid deep within the subcutaneous fat . . . . No evidence of a well-defined abscess collection, or an underlying tumor mass is seen."<sup>293</sup>

The Democratic staff consulted with their own expert, Chief of Musculoskeletal Radiology at the Armed Forces Institute of Pathology Mark Murphey. The circumstances surrounding Murphey's consultation are highly suspect.<sup>294</sup> In the midst of a so-called bipartisan investigation, the Democratic staff found their own expert. The Democratic staff failed to disclose this expert until 63 minutes before the Committee hearing. Read carefully, Murphey's report reveals the unusual request made by the Democratic staff. According to his report, identified as a "Congressional Consult," the Democratic staff asked him to evaluate the theoretical possibility that Clemens's MRI showed the presence of Winstrol.<sup>295</sup> Such theoretical possibilities are no substitute for actual evidence.

---

<sup>291</sup> Democratic memorandum at 7.

<sup>292</sup> *Id.*

<sup>293</sup> Lawrence M. Wright, MD, Tri-Hospital Magnetic Resonance Center, MR Examination of Roger Clemens (July 31, 1998).

<sup>294</sup> Without notifying the Minority, the Democratic staff consulted Murphey. At 8:57 a.m. on February 13, 2008 – the day of the hearing – the Democratic staff emailed, "we got this in late last night – we will be using this today. He's a top expert on musculoskeletal MRI at the Armed Forces institute of Pathology and 2 radiologists referred me to him as the guy. CV attached as well if it helps." Email from Democratic staff to Republican staff, February 13, 2008, 8:57 a.m. According to their memorandum, the Democratic staff "stripped identifying information from the MRI results" and provided it to Murphey, who provided the Democratic staff with a report of his observations.

<sup>295</sup> Chief of Musculoskeletal Radiology at the Armed Forces Institute of Pathology Mark Murphey, Congressional Consult., Feb. 12, 2008.

## **XII. Testimony Regarding 2000 Use of Anabolic Steroids and HGH**

**FINDING:** *Brian McNamee testified he injected Roger Clemens with human growth hormone as many as 20 times during the summer of 2000. McNamee also testified he injected Clemens as many as 10 times with anabolic steroids during the summer of 2000. Clemens denied this at his deposition.*

The Mitchell Report stated Clemens turned to McNamee again for injections during the 2000 season. It stated:

According to McNamee, during the middle of the 2000 season Clemens made it clear that he was ready to use steroids again. During the latter part of the regular season, McNamee injected Clemens in the buttocks four to six times with testosterone from a bottle labeled either Sustanon 250 or Deca-Durabolin that McNamee had obtained from Radomski.

McNamee stated that during this same time period he also injected Clemens four to six times with human growth hormone he received from Radomski, after explaining to Clemens the potential benefits and risks of use. McNamee believed that it was probably his idea that Clemens try human growth hormone. Radomski instructed McNamee how to inject human growth hormone. On each occasion, McNamee administered the injections at Clemens's apartment in New York City.

McNamee said that he and Clemens did not have any conversations regarding performance enhancing substances from late 2000 until August 2001. McNamee did, however, train Clemens and Andy Pettitte during the off-season at their homes in Houston. Clemens often invited other major league players who lived in the Houston area to train with him.<sup>296</sup>

### **A. McNamee's Testimony**

During his deposition McNamee testified he injected Clemens with anabolic steroids and human growth hormone in 2000 in larger numbers than he originally told Senator Mitchell. McNamee estimated the total number of injections of human growth

---

<sup>296</sup> Mitchell Report at 171.

hormone was as many as 20.<sup>297</sup> Additionally, McNamee testified he injected Clemens with anabolic steroids on six to ten different occasions during the summer of 2000.<sup>298</sup>

He testified:

Q Okay. Why don't you walk us through what your recollections are of 2000, how many injections, so we can capture that universe?

A Once he asked me if I could get this stuff from Kirk, I mentioned to him that the guys were using growth, did he want to try it. He said, yeah, and that he didn't want the Winstrol anymore. Then I got the stuff from Kirk. I think I asked Kirk, what do pitchers use, and he put a bag together with a kit. And that has to be around the time of mid July ish maybe, I think, I believe. And we started right after that with the growth and the first injection of testosterone. The growth had lasted probably give or take 8, maybe, 8 to 12 times. And the testosterone which he stopped taking the growth [sic]. He didn't finish a [six] week supply of it. Then he stopped the growth . . . on his call and continued to the testosterone. The Deca or the Sustanon or the Parabolin, maybe. That lasted around either the last, towards the very end of August into maybe the very beginning of September. And that's it.<sup>299</sup>

Upon reflection, McNamee believes he may have injected Clemens with human growth hormone as many as 20 times.<sup>300</sup> McNamee explained:

[I]t was more like four to six treatments, which was the way you injected the growth hormone to him was 2 days on, 1 day off, 2 days on, 1 day off, 2 days on. So . . . it could be one could be 2 days. So four would have been eight and six would have been 12. That's more accurate to the times I might have injected him with well, I definitely injected him with the growth hormone, but that's more exact how many times he took it.

Q How many injections are in one treatment? Is a treatment a 2 day period?

A It's almost like a cycle. Like you're supposed to take it for performance enhancing benefits Monday, Tuesday, off Wednesday, Thursday, Friday, off Saturday, Sunday, and you're supposed to take it at night. This is Radomski's program. And I

---

<sup>297</sup> McNamee Deposition at 20-22.

<sup>298</sup> *Id.* at 82.

<sup>299</sup> *Id.* at 80.

<sup>300</sup> *Id.* at 22 (emphasis supplied).

think one bottle, like one treatment out of the kit would last two or four times. And I believe he took a little less than a kit, which I think there's seven or eight or six double vials in it. So one mixture I think is 2 to 4 days. And I think he either took one or two less than a full kit.

Q How many days total do you think he received HGH injections from you in 2000?

A Three to 4 weeks' worth maybe.

Q Three to 4 weeks with the pattern of 2 days on, 1 day off?

A Yes. I'm not sure how consistent he was with that.

Q And for each day how many injections?

A One day, one injection at night.

Q So the total number of injections it sounds like is significantly more than four to six. Can you give me a ballpark estimate of what you think the actual total was?

A It's just more than this. **It's eight to 12 or eight to 20.**<sup>301</sup>

Q Okay. Now, how many, to the best of your recollection, other shots of anabolic steroids, whether it be the Sustanon, the Deca Durabolin, the Parabolin, was that six to ten I think is what the number you gave us earlier?

A Yes. And it was more than I told Mitchell, Senator Mitchell. I'm just, because of I've been living this, it had to be, if he was doing it 7 to 10 days, that's all he would do it. So unless he did it earlier than I recall, it has to be like 6 to 10. Six weeks, that's 60 days, that's 2 months, you know. That's where I'm going with that. . . .

Q You did some big time minimization potentially with the HGH injections, okay, and the Mitchell Report says 4 to [six], now we're talking about as many as 20 shots?

A Yes.<sup>302</sup>

---

<sup>301</sup> *Id.* at 21-22 (emphasis supplied).

<sup>302</sup> *Id.* at 82-83.



### **XIII. Testimony Regarding 2001 Use of Anabolic Steroids**

**FINDING:** *Brian McNamee testified he injected Roger Clemens with anabolic steroids as many as 14 times during the summer of 2001. Clemens denied this at his deposition. During the summer of 2001, McNamee began saving physical evidence from these injections. McNamee told the Committee that in January 2008, he produced to federal agents used syringes, bloody gauze pads, and used ampules of anabolic steroids that he claims were used to inject Clemens. McNamee provided photographs to the Committee of the materials produced to federal agents.*

Senator Mitchell described Clemens's alleged steroid use in 2001 as follows:

According to McNamee, Clemens advised him in August 2001 that he was again ready to use steroids. Shortly thereafter, McNamee injected Clemens with Sustanon or Deca-Durabolin on four to five occasions at Clemens's apartment. According to McNamee, he again obtained these drugs from Kirk Radomski. McNamee concluded from Clemens's statements and conduct that Clemens did not like using human growth hormone (Clemens told him that he did not like the 'bellybutton shot'). To McNamee's knowledge, Clemens did not use human growth hormone in 2001.<sup>303</sup>

#### **A. The Alleged Injections**

While McNamee told Senator Mitchell about alleged shots of Sustanon and Deca-Durabolin, he added a third anabolic steroid at his deposition – Parabolin. He testified:

Q And to the best of your recollection, you can remember either Sustanon 250, the testosterone combination and you can remember Deca Durabolin? Anything else?

A There was another one too. What the heck was the name of it? There was definitely another one. Testosterone like Sustanon 250. It was if I hear it, I'll know it. It was definitely there is another one. But they are all they're all similar, I think. So it was just another one that was similar to those.

Q So there is a total of 3 max?

A Yes.

Q To the best of your recollection?

---

<sup>303</sup> Mitchell Report at 172.

A Yes. No. Yes. Parabolan.<sup>304</sup>

While he described 4 to 5 injections in 2001 to Senator Mitchell, McNamee upped this number to as many as 14 at his deposition. He testified:

Q How many injections total, maximum?

A In 2001? It could have been 8. 8 to 14, 14 being the max. I'm thinking because if he was going 10 days or 7 days, that's all that would do it.

Q So what is the max?

A Probably 8 to 14. 14 maybe.

Q And the minimum is 4 to 5?

A Well, the minimum the minimum probably would be closer to 8.

Q Okay. So you have a recollection of 8 to 14 injections on Mr. Clemens in 2001?

A Yes.<sup>305</sup>

While according to McNamee's testimony, most injections allegedly occurred at Clemens's Manhattan apartment, McNamee testified one shot did happen at Yankee Stadium – near the Jacuzzi.<sup>306</sup> McNamee testified the shot administered at Yankee Stadium did not go well. McNamee testified Clemens bled and Yankees relief pitcher Mike Stanton noticed.<sup>307</sup> McNamee recalled:

I'm trying to tell you that he bled through his designer pants when we left and a player noticed it. And that's when he bought Band Aids. There wasn't a lot of blood a lot of times. But since he was wearing his dress pants, he bled through and Mike Stanton had noticed it, and made a comment. So he then he always traveled now with those little Band Aids for his butt if it bled.<sup>308</sup>

\* \* \*

---

<sup>304</sup> McNamee Deposition at 58-59.

<sup>305</sup> *Id.* at 51.

<sup>306</sup> *Id.* at 66.

<sup>307</sup> *Id.* at 67.

<sup>308</sup> *Id.*

He said something to Roger about growth hormone. I think it was when Stanton started taking growth hormone. And he said something knowing that. And I walked right into Roger just turned around to Stanton and said, hey, man, whatever I can do to get an edge. And Stanton was asking him thinking I told him that he was taking steroids or growth hormone. And it was the same day or on the same trip that Stanton duped him, because I never talked to Stanton about it.<sup>309</sup>

Stanton has denied using human growth hormone. “The reports are outrageous and unfair,” he told MLB.com.<sup>310</sup> The Committee staff did not contact Mike Stanton.

### ***B. McNamee Testified He Saved Physical Evidence***

Mistrustful of Clemens and not wanting to be “the only fall guy,”<sup>311</sup> McNamee claims he saved physical evidence from the injections. McNamee testified he saved used syringes, tapped ampules of anabolic steroids and human growth hormone, bloody gauze, and empty beer cans he stored the used needles in. At the hearing, he stated:

I recently provided physical evidence to [f]ederal investigators that I believe will confirm my account, including syringes that I used in 2001 to inject Roger Clemens with performance enhancing drugs. This evidence is 100 percent authentic, and the DNA and chemical analysis should bear this out.<sup>312</sup>

He explained his motivations as follows:

While I liked and admired Roger Clemens, I don't think that I ever really trusted him.<sup>313</sup>

\* \* \*

I just had the sense if this ever blew up and things got messy, Roger would be looking out for number one. I viewed the syringes as evidence that would prevent me from being the only fall guy.<sup>314</sup>

Even though I saved the material, I never considered using it.<sup>315</sup>

Except he did.

---

<sup>309</sup> *Id.* at 68.

<sup>310</sup> Stanton MLB.com interview.

<sup>311</sup> Hearing Tr. at 31 (statement of Brian McNamee).

<sup>312</sup> *Id.*

<sup>313</sup> *Id.*

<sup>314</sup> *Id.*

<sup>315</sup> *Id.*

McNamee testified he first met with federal agents investigating steroid use in major league baseball in May 2007.<sup>316</sup> At his deposition, McNamee testified he did not tell the federal agents about this physical evidence until eight months later – and nearly a month after the Mitchell Report was released.

For those eight months, he maintained he had no such evidence. At the hearing, he stated, “I told the [f]ederal investigators and the Mitchell people that I had no direct evidence as far as physical evidence.”<sup>317</sup> Rep. Burton asked McNamee, “you didn't tell the truth then initially to them?” McNamee acceded, “No, sir.” Rep. Burton then asked, “You lied?” and McNamee replied, “Yes, sir.”<sup>318</sup>

McNamee testified he decided to save this evidence because he “wasn't going to go down alone.” At his deposition, he explained:

I kept them well, because throughout my time with Roger Clemens, it was there was always somewhat in the back of my mind I distrusted him to a degree, and my gut feeling and my the fact that I was an ex cop, I just felt and I think there were like bits and pieces coming out in the paper. I just felt that if I was going down, I wasn't going to go down alone because I never felt good about this. I never felt comfortable about it. I didn't promote it and I felt bad about it and I kept it.<sup>319</sup>

\* \* \*

I go back to my statement with Roger Clemens. I had a gut feeling and I . . . had a feeling that Chuck Knoblauch if I got in trouble because of something I didn't feel comfortable about it, didn't want to do that they only asked me to do and I wouldn't have been involved if they didn't ask me, he wasn't going to help me and he was going I wanted him to come down with me to protect myself and my family.<sup>320</sup>

McNamee's lawyers photographed the physical evidence supplied to the federal investigators. At his deposition, McNamee described the photographs as follows:

The beer can was taken out of Roger Clemens'[s] recycling can and I usually would put the hazardous materials such as the needle in a can and bend it over to protect anyone from getting injured in the garbage and/or where I dispose of it. In the beer can, there is a

---

<sup>316</sup> McNamee Deposition at 158.

<sup>317</sup> Hearing Tr. at 71.

<sup>318</sup> *Id.*

<sup>319</sup> McNamee Deposition at 40.

<sup>320</sup> *Id.* at 64.

way with the 22 gauged needle, 22 1/2 gauged needle that you can untwist . . . and then put in the needle and then when you unzip it, it has a plastic cap on . . . that just clicks off, clicks on.

So what I did was I unscrewed it, put I put the plastic cap back in, unscrewed it after use, threw that in there with the body of the syringe, the 22 gauge. There is also, I believe, the broken ampule that was used for that injection. I believe there is a growth hormone needle in there with no maybe a cap on it. I'm not sure and maybe . . . one or two used growth hormone bottles, like the mixtures, the water and the pill thing or the powder stuff. That is probably in there.<sup>321</sup>

\* \* \*

I know that in that can there is another syringe and that is Clemens'[s] and I think there is a GH, a growth hormone syringe in there that could be Clemens'[s] or Knoblauch's. I'm not certain. But I might have kept Knoblauch's, just one, maybe. So I was thinking Knoblauch was with the Yankees in 2001 maybe one of Knoblauch's, or it could all be Roger's, or there is a diabetic type syringe in there that might be Knoblauch's.<sup>322</sup>

McNamee testified he did not trust Chuck Knoblauch either.

Q How many times did you take materials from a Knoblauch injection home with you, to the best of your recollection?

A I don't even know. Home to my house to throw out?

Q Sorry. To retain for further purposes?

A If I did, it was only one time.<sup>323</sup>

\* \* \*

Q So was there a different reason for saving Knoblauch's material?

A Yeah. I mean, it wasn't similar, but I didn't trust Knoblauch either.<sup>324</sup>

---

<sup>321</sup> *Id.* at 48.

<sup>322</sup> *Id.* at 41-42.

<sup>323</sup> *Id.* at 62.

<sup>324</sup> *Id.* at 43.

## XIV. Testimony Regarding Debbie Clemens's Use of Human Growth Hormone

**FINDING:** *Brian McNamee and Roger Clemens both testified McNamee injected Clemens's wife Debbie with one shot of human growth hormone in the winter of 2002-03. According to both of them, this injection occurred at the Clemens' residence in Houston.*

*McNamee testified he was instructed by Roger Clemens to administer the injection to Debbie Clemens. McNamee testified Debbie Clemens was "into the Hollywood scene" and understood HGH to be "great" for "women and body fat and youthful appearances."*

*Roger Clemens testified McNamee injected Debbie Clemens without his knowledge.*

*Contrary to press reports, no witness testified Debbie Clemens was motivated to use human growth hormone in advance of a Sports Illustrated photo shoot.*

McNamee testified at Roger Clemens's urging, he injected Debbie Clemens with human growth hormone in the 2002-03 off-season.<sup>325</sup> McNamee described this as follows:

He called me into what I do remember is he called me when I was out in the pool house and he asked me to come into the residence. And I don't know if he met me at the door or the kitchen, but I ended up going into his wife's bedroom; and in the bathroom there was he had two mixtures, the mixture of water and the mixture of powder, of growth hormone and a syringe. But I also did notice in one of his travel bags he had other bottles of growth hormone in there, and I know his wife was asking him a lot of questions. This is probably, like, the most we ever outwardly talked about performance enhancing drugs, even more so because he wasn't getting injected at the time. And he said his wife wanted to do it. He had it and he wanted me to teach her how to do it. And I walked in and I actually taught her how to draw it, the water, and then put it into the bottle, and then you have to turn it upside down. But I told her, You have to clean both heads with an alcohol [s]wab and then you have to draw it once it is mixed. . . . [A]nd [she] said, I can't believe you're going to let him do this. And she was embarrassed because she had to lift her shirt up and she had a

---

<sup>325</sup> McNamee Deposition at 117-18.

Cesarean scar. I didn't know that. And he just looked at her and said, He injects me why, can't he inject you? And she is a short woman and I really felt uncomfortable of bending down in front of her. So I reached around with my left hand and I grabbed the fat tissue from her right belly button side, which was above the scar, and I showed her that you have to inject it, and I injected it diagonally. And that was it. And she didn't complain, she didn't say anything. But we had a conversation whether it was the next time in I asked her if she she continued to take it. And then he just said to me that she lowered her doses because she got a tingling sensation feeling in her fingers. And that was the end.<sup>326</sup>

McNamee testified about what he believed Debbie Clemens's motivation was:

Q Why did she want HGH?

A I think we had a conversation about she was very into . . . the Hollywood scene. And . . . I'm not assuming this. I just can't pinpoint I think she was finding out that people in Hollywood were taking growth hormone and how great it was for women and body fat and youthful appearances and such. So that's it.<sup>327</sup>

After his deposition, McNamee or his lawyers told the *Daily News* (NY) something completely different. The paper reported, "McNamee testified that he injected Debbie Clemens with growth hormone and believed she took the drug to get in shape before she appeared with the pitcher in Sports Illustrated's swimsuit issue in 2003."<sup>328</sup> There was no reference to Sports Illustrated at McNamee's deposition or at the hearing.

Clemens testified McNamee administered the shot to Debbie Clemens when he was not around.<sup>329</sup> McNamee, however, stated at his deposition he was never alone with Debbie Clemens in the master bedroom suite.

Q Of the times that you recall being in the master bedroom suite, how many involve Debbie, Roger, and yourself? Was that the only one?

A Maybe one other.

---

<sup>326</sup> McNamee Deposition at 119-20.

<sup>327</sup> *Id.* at 121.

<sup>328</sup> Christian Red, Michael O'Keeffe, Nathaniel Vinton, and Teri Thompson, *Source: Brian McNamee Testified Roger Clemens' Wife Took HGH*, DAILY NEWS (NY), Feb. 9, 2008.

<sup>329</sup> Clemens Deposition at 176.

Q Have you ever been alone with Mrs. Clemens in the master bedroom suite?

A No.

Q Have you ever been alone with Mrs. Clemens in the bathroom, or any bathroom in the Clemens'[s] household?

A No.<sup>330</sup>

At his deposition when Clemens was first asked if he had personal knowledge of whether any of his family members were using HGH, he answered no.

Q And did you have personal knowledge of other persons, acquaintances, people you worked with, family members who were taking human growth hormone?

A I do not.<sup>331</sup>

Later in the deposition Clemens was asked again about his knowledge of whether any family members had used HGH.

Q And you were also asked earlier whether or not any of your family to your knowledge, whether any family member has ever used HGH?

A Sure. Yeah. I thought we were asked about employees or something like that. I think it was asked to me in three or four but I didn't catch family.

Q There was a grouping, I think, in the way it was asked. So let me ask you specifically with regard to family members, do you have any knowledge of any family members using HGH?

A I do. My wife received a shot of HGH from Brian McNamee at my house.<sup>332</sup>

Despite this admission in the same deposition, the Democratic memorandum suggests that this discrepancy in Clemens's testimony shows he was lying.<sup>333</sup>

Clemens explained the circumstances of his wife's HGH use:

---

<sup>330</sup> McNamee Deposition at 135.

<sup>331</sup> Clemens Deposition at 103.

<sup>332</sup> *Id.* at 175.

<sup>333</sup> Democratic memorandum at 13-14.



My wife received a shot of HGH from Brian McNamee at my house. I think it was in our master bedroom. The year, I'm going to say 2003 possibly. I believe there was an article, from what I understand, about HGH in the USA Today that came out a couple days earlier that week. I don't know if it was the only article my wife had read. And he gave her a shot of HGH. She tells me that it happened extremely quick. He was gone after it happened, literally gone. He went to the airport, I found out. I was not present at the time. I found out later that evening. And the reason I found out, because she was telling me that something was going on with her circulation, and this concerned me. The very next day, it wasn't as bad, but I don't know if it was her feeling bad about it, or, you know, I'm not discussing too deep of detail about it with her other than that at this point she's embarrassed, she feels part of a trap that McNamee has set.

Clemens described a heated discussion he had with McNamee about the HGH shot:

I think, that night or the next . . . night and the next day, I told McNamee [about the problems she was having and] we had a pretty heated discussion about it, that I don't know enough about it, and that we don't know enough about it.<sup>334</sup>

\* \* \*

I'm almost positive he flew out to go back home or go somewhere. And I called him, and I also called him the next day, because she was still not feeling comfortable, and something about her circulation.

\* \* \*

**I wasn't happy about it. I said basically, you know, we don't know anything about this. He says it's legal. There's no laws against it. It's legal.** And I remember, you know I'm not going to talk for Deb, but I think that's what the conversation, the gist of it, was to make her feel okay about it.<sup>335</sup>

At the hearing Clemens read from what he described as a statement from his wife Debbie Clemens:

This is from Debbie Clemens, my wife, who is here in the room with me. I'm not sure of the dates but I read a news article about the benefits of growth hormone. During that same week talking

---

<sup>334</sup> Clemens Deposition at 176.

<sup>335</sup> *Id.* at 178-79 (emphasis supplied).

about the subject openly Brian McNamee, who was at our house in Houston training people, approached me to tell me about the article. She said, he said it was not illegal and used for youthfulness. The next mid morning he said . . . he had some and would be able to give me a test shot. He gave me one shot. He later left the house on his way to the airport. During that time Roger was not at home and I didn't have the opportunity to tell him about it later that evening when he arrived home. In telling Roger about that, that evening, I was also having circulation problems with itching. It happened the following night, just not as bad. I was very comfortable in trying it but it was a harmless act on my part. Also since McNamee had a Ph.D. he was a trusted good trainer. Roger said let's back off this. We need to know more about it. And she agreed. She really didn't need it. She has been broken up over this for a long time and she's said to me now she feels like a pawn amongst his game.<sup>336</sup>

Clemens maintained at the hearing that he never instructed McNamee to administer HGH to his wife.

I would have never instructed Brian McNamee to give my wife these shots. Once again, I don't know enough about growth hormone. I would suggest that young kids, kids of all ages, athletics, I don't know enough about it. It doesn't help you. But I also have heard again, different news articles where people for quality of life have used this product. I have learned more about growth hormone in the last month than I ever have known. I'm offended again that I . . . was instructed and I think he said earlier it was his instruction earlier in the day that I instructed him to give my wife growth hormone.<sup>337</sup>

There was some discussion at the hearing as to whether Clemens should have called his family doctor on behalf of his wife. He testified, "I talked to Deborah about calling our doctor, and she said she was just feeling very uncomfortable and in her words, wiggled out about it."<sup>338</sup>

---

<sup>336</sup> Hearing Tr. 165-66.

<sup>337</sup> *Id.* at 166-67.

<sup>338</sup> *Id.* at 66.

Rep. Tierney said Clemens should have made an inquiry with a doctor:

Q If you want us to believe that Mr. McNamee injected your wife without your knowledge, that she started suffering serious side effects of the drug, that you were upset enough to call Mr. McNamee and then search his luggage. But despite all that you never made inquiry of a doctor and you never even looked up to see what the effects might be, is that right?

A Mr. Congressman, I don't believe I ever said serious effects. She said she was having itching and she had some type of circulation problem that she was feeling.<sup>339</sup>

## XV. Testimony Regarding Injections of Vitamin B-12

**FINDING:** *Roger Clemens testified it was his practice to take injections of liquid vitamin B-12 over the course of the baseball season. According to Clemens, he began taking B-12 injections in 1988 on the advice of his mother. He estimated taking six to eight shots a year since 1988.*

*Officials from three of the four professional teams Clemens played for – Boston Red Sox, Toronto Blue Jays, and the New York Yankees – confirmed injections of vitamin B-12 were administered during the years in which Clemens was with the teams. One of Clemens's teammates on the Yankees, Andy Pettitte testified he too received B-12 injections as a member of the Yankees from the team physicians. The head athletic trainer for the New York Yankees Gene Monahan confirmed he has given B-12 injections. Monahan also testified the Yankees did not always keep records of B-12 injections. Clemens testified McNamee injected him with B-12 four to six times. McNamee denied this.*

Clemens testified he has taken injections of liquid vitamin B-12 since his mother recommended it in 1988.<sup>340</sup> He believes he has had six to eight injections a year since the 1988 season.<sup>341</sup> Clemens testified over the course of his career he has had injections from a multitude of people, including team doctors, team trainers, nurses, and strength trainers such as Brian McNamee.<sup>342</sup> He explained the purpose of a B-12 injection as follows: "I understood them to be healthy. If maybe a flu virus was going around on the team, you know, things of that nature."<sup>343</sup>

---

<sup>339</sup> Hearing Tr. at 69.

<sup>340</sup> Clemens Deposition at 28.

<sup>341</sup> *Id.* at 27.

<sup>342</sup> *Id.* at 28, 37.

<sup>343</sup> *Id.* at 28.

At the hearing, a lighthearted moment occurred when Rep. Braley questioned Clemens about whether he was a vegan. Not knowing what a vegan was, Clemens was puzzled. The Congressman was building to the question “why were you taking” injectable vitamin B-12. Clemens’s dialog with the Congressman is as follows:

Q Have you ever been diagnosed with anemia?

A I have not.

Q Have you ever been diagnosed with senile dementia or Alzheimer's?

A I have not.

Q Have you ever been a vegetarian?

A I am not a vegetarian.

Q Have you ever been a vegan?

A A what? I'm sorry.

Q A vegan.

A I don't know what that is. I'm sorry.

Q Well, there's a very simple explanation why I asked you those questions because the medical literature has indications for [B-12] injections because most people have [B-12] occurring naturally in their systems and ingest it all the time from other substances. And the scientific literature is very clear that it is indicated in an injection form only for patients suffering from anemia, low red blood cell counts or elderly patients who are experiencing senile dementia and Alzheimer's. And the research maintains that monthly injections of [B-12] is required to maintain adequate levels in the elderly and patients with a diagnosed deficiency. You have clearly never been diagnosed with a deficiency. So the question for you is, why were you taking it?<sup>344</sup>

This line of questioning reflects a disregard of previous work of the Committee. The Committee discovered in its investigation of Rafael Palmeiro that a number of professional baseball players use injectable vitamin B-12.<sup>345</sup>

---

<sup>344</sup> Hearing Tr. at 148-49.

<sup>345</sup> H. Comm. on Gov't Reform, Report on Investigation Into Rafael Palmeiro's March 17, 2005 Testimony Before the Comm. on Gov't Reform (109th Cong. 2005).

The Mitchell Report addressed the well-known fact professional baseball players take injections of liquid vitamin B-12. It said:

Of significance to our investigation, however, was the information learned during the course of the congressional investigation [of Palmeiro] concerning **the widespread and apparently open and obvious self-administration, using hypodermic needles, of an unregulated substance imported from the Dominican Republic labeled as vitamin [B-12].** Congressional investigators looked into the issue because Palmeiro told them that he had used injectable vitamin [B-12] provided to him by his Orioles teammate Miguel Tejada and that this might have been the reason for his positive steroid test.

According to the House Committee's report, Tejada told investigators that he generally brought injectable vitamin [B-12] with him to the United States when he returned each season from the Dominican Republic. Tejada said that he gave vitamin [B-12] to three teammates during the 2005 season, Palmeiro and Players A and B. In his own interview with the congressional investigation, Player A said that he injected Tejada with vitamin [B-12] approximately 40-45 times during the 2004 season and approximately 30-35 times during the 2005 season until July, when he decided to stop doing so.

Larry Bigbie, a former Orioles player who we interviewed in our investigation, confirmed that he observed Tejada injecting himself with vitamin [B-12] in the clubhouse restroom.<sup>346</sup>

At his deposition and the hearing, Clemens stated McNamee injected him with liquid vitamin B-12. Clemens testified at his deposition:

Q You have said that Mr. McNamee gave you [B-12] shots. I want to ask you about that. Let me just start with how many times Mr. McNamee would have injected you with [B-12]?

A I mean again, I am going to guess, because I have had so many. McNamee would have been somewhere between four and six times of [B-12].<sup>347</sup>

At the hearing, Clemens stated, "Brian McNamee gave me shots on four to six occasions of [B-12]. It is red or pink in color."<sup>348</sup> According to Clemens, he did not have a prescription for the B-12 McNamee injected.<sup>349</sup>

---

<sup>346</sup> Mitchell Report at 104-05 (emphasis supplied).

<sup>347</sup> Clemens Deposition at 37.

Clemens is not the only witness that testified McNamee obtained prescription medication without a prescription. Former major leaguer, C.J. Nitkowski told Committee staff on at least one occasion, McNamee obtained prescription medication without a prescription for him. In the case of Nitkowski, it was an anti-inflammatory Medrol dose pack.<sup>350</sup> The Committee staff also took testimony from witnesses that McNamee obtained human growth hormone for Andy Pettitte and Chuck Knoblauch without a prescription.<sup>351</sup>

McNamee testified he never gave Clemens a shot of liquid vitamin B-12:

Q As you may know, Mr. Clemens has stated publicly that you never injected him with steroids or HGH and he did say, however, that he did receive injections from you and he identified two substances [v]itamin [B-12] and lidocaine. Did you ever inject Mr. Clemens with [v]itamin [B-12]?

A No.

Q Did he ever ask you to inject him with [v]itamin [B-12]?

A No.<sup>352</sup>

The Committee staff interviewed doctors and athletic trainers from every team Clemens played on. Each was asked about their ballclub's policies with respect to injectable vitamin B-12.

Former Red Sox Medical Director and orthopedic specialist Arthur Pappas stated, "Occasionally people would come in and have prescriptions from another doctor requesting a [B-12] shot."<sup>353</sup> Pappas explained in instances where a player had a prescription, approved medical personnel would administer an injection.<sup>354</sup>

Former Blue Jays head athletic trainer Tommy Craig told Committee staff if players asked for B-12 shots, they would be referred to the team doctor.<sup>355</sup> In his interview, Craig recalled Clemens asking for them, and he remembers referring Clemens to Dr. Taylor. Craig testified, "I don't know, I can't tell you how many times or how often or but I don't remember anybody, really, asking a lot. . . . We kept it on hand, but it wasn't like an everyday occurrence."<sup>356</sup>

---

<sup>348</sup> Hearing Tr. at 102.

<sup>349</sup> Clemens Deposition at 39.

<sup>350</sup> Nitkowski Interview at 64.

<sup>351</sup> McNamee Deposition at 31; Pettitte Deposition at 17-18; and Knoblauch Interview at 12-14.

<sup>352</sup> McNamee Deposition at 110.

<sup>353</sup> Pappas Interview at 6-7.

<sup>354</sup> *Id.*

<sup>355</sup> Craig Interview, Feb. 4, 2008 at 16.

<sup>356</sup> *Id.*

Craig also recalled being in the room when Clemens received a B-12 shot as a member of the Blue Jays.<sup>357</sup> Blue Jays assistant athletic trainer Scott Shannon provided similar testimony, “I know there were definitely circumstances where a physician, Dr. Taylor, may give somebody a B-12 shot.”<sup>358</sup> In his interview, Shannon specifically recalled Blue Jays pitcher David Wells getting B-12 shots.<sup>359</sup> Shannon also testified “a lot of Latin players would get a B-12 shot.”<sup>360</sup>

Andy Pettitte told Committee staff the Yankees’ physicians gave B-12 shots.<sup>361</sup> At his deposition, when asked if he believed Clemens received B-12 shots while on the Yankees, Pettitte replied, “I think so, yes.”<sup>362</sup> Pettitte testified while a Yankee, he had plenty of B-12 shots “over the years.”<sup>363</sup> Pettitte testified:

Q What's the purpose of getting [B-12] injections?

A Supposedly if you're sick, it makes you feel good. I think well, the Astros doctors tell me it's all in your mind. But the Yankees' doctor definitely believe[s] that it could help because . . . we did it . . . in New York. If I started feeling tired or I felt like I was getting sick . . . it was like, I have to go get a [B-12] shot, man. So go to the training room.<sup>364</sup>

Pettitte testified the Yankees’ team trainer administered the B-12 shots:

Q And do you remember I thought you said you remembered a time when a trainer for the team may have given a [B-12] shot, and I wasn't sure if I misunderstood that or you did remember a time.

A Yeah. The [B-12] shots that I got with the Yankees were administered to me by our trainer, not by our team doctor.<sup>365</sup>

Yankees head athletic trainer Gene Monahan testified:

Q Now are both the head and the assistant athletic trainer, are they both authorized to provide [B-12] injections?

A When authorized by the physician, yes, sir.<sup>366</sup>

---

<sup>357</sup> Craig Interview, Feb. 4, 2008 at 17.

<sup>358</sup> Shannon Interview, Jan. 31, 2008 at 13.

<sup>359</sup> *Id.* at 18.

<sup>360</sup> *Id.*

<sup>361</sup> Pettitte Deposition at 43.

<sup>362</sup> *Id.*

<sup>363</sup> *Id.*

<sup>364</sup> *Id.* at 44.

<sup>365</sup> *Id.* at 93.

\* \* \*

In general it would be a combination of the team physician and the head athletic trainer generally.<sup>367</sup>

Monahan testified B-12 injections were not always recorded:

Q But for all prescription medications, would there be records retained?

A Generally medications that are prescriptive in nature are always, always listed and recorded. Yes, sir.

Q Okay. And would that be true of all injectable medications?

A That is correct.

Q **Okay. And specifically would that be true of [B-12] shots?**

A **No.**

Q **No record is kept[?]**

A **Not specifically. In general terms, to the best of my recollection, they are and can be noted, but by and large not at all times, not every time, no.**<sup>368</sup>

\* \* \*

Q Just quickly, you mentioned just a few minutes ago that you said that a record is kept of all injections, although that's not always the case with regard to [B-12]. Is that correct?

A To my recollection, yes. That's pretty accurate.

Q And why is that? Since we're talking about injectable [B-12], why the distinction?

A Well, sometimes the doctor keeps the record and that's records that are private medical records that he keeps in his office.

---

<sup>366</sup> Monahan Interview at 10.

<sup>367</sup> *Id.* at 12.

<sup>368</sup> *Id.* at 9 (emphasis supplied).



And at times when there are cases where there are an influx or a lot of upper respiratory infections or other kinds of illnesses, they go through the team and it's relatively routine to help those players feel better. That would occur and sometimes that would not be noted because it was such policy.<sup>369</sup>

\* \* \*

Q I'm asking if you know . . . that's happened. It sounds like you keep this medication under lock and key and you're the one that, you know, gets it ready. So have you ever been in a situation where you have memory, recollection of a player receiving a [B-12] shot say every week?

A No, ma'am.

Q Once a month?

A It's possible. On occasion.<sup>370</sup>

Monahan denied ever giving Clemens a B-12 shot.<sup>371</sup> Over the course of his career, Monahan estimates he has administered about a “dozen” B-12 shots.<sup>372</sup>

Officials with the Houston Astros told Committee staff in transcribed interviews the team's policy is not to give B-12 injections.<sup>373</sup> Team doctor David Lintner testified, “B-12, to my knowledge, doesn't work. So there's no reason to give any injection. It's also, as most vitamins, easily taken orally. If the athletes feel they want to take B-12, they can certainly do that orally.”<sup>374</sup> Head athletic trainer David Labossiere testified, “our medical staff doesn't believe in their efficacy.”<sup>375</sup> Andy Pettitte also testified the Astros did not administer B-12 injections.<sup>376</sup>

In 2005, while investigating whether Rafael Palmeiro committed perjury before the Committee during a March 2005 Committee hearing about steroid use in baseball, the Committee staff interviewed officials with the Texas Rangers medical staff. Vitamin B-12 injections were provided from time to time by the Rangers.

---

<sup>369</sup> *Id.* at 13-14.

<sup>370</sup> *Id.* at 20.

<sup>371</sup> *Id.* at 27.

<sup>372</sup> *Id.* at 28.

<sup>373</sup> Lintner Interview at 11-12; Labossiere Interview at 12.

<sup>374</sup> Lintner Interview at 12.

<sup>375</sup> Labossiere Interview at 17.

<sup>376</sup> Pettitte Deposition at 43-44.

The Committee's Report stated:

[Former Rangers team doctor] B.J. Mycoskie stated that it was common to administer B-12 shots to players. He indicated that the shot would always be recorded, indicating who received it, how much was injected, and where the shot was injected. Dr. B.J. Mycoskie stated that B-12 is not used for performance-enhancement. Dr. B.J. Mycoskie said B-12 can be helpful for those who are tired, 'washed out,' irritable, or suffering from chronic fatigue syndrome. Dr. Mycoskie stated that he performed an annual spring training physical of the players, but did not conduct any other evaluation prior to prescribing B-12 to players. Dr. B.J. Mycoskie stated B-12 shots were not given very often to players, maybe three to six times per season, and that fewer than 12 players in a year would receive them.<sup>377</sup>

In addition to Dr. B.J. Mycoskie, the Committee staff interviewed the Rangers' orthopedic surgeon, Dr. Mike Mycoskie, team internist Dr. David Hunter, head athletic trainer Jaime Reed, and assistant athletic trainer Dan Wheat. Each of these officials testified about their knowledge of B-12 injections.<sup>378</sup> Wheat, for example, testified B-12 shots were frequently administered to players.<sup>379</sup> Mike Mycoskie testified he provided shots to players, a couple times a year.<sup>380</sup> Hunter explained players periodically received B-12 shots.<sup>381</sup>

The Democratic memorandum omits information obtained through the course of its investigation with respect to vitamin B-12 injections.<sup>382</sup> The Democratic staff stated Clemens's testimony about B-12 shots is implausible because there was no record of these shots produced to the Committee.<sup>383</sup> The memorandum, however, makes no mention of the fact Blue Jays trainer Tommy Craig recalled Clemens asking for them.<sup>384</sup> It makes no mention that Tommy Craig remembered being in the room for one.<sup>385</sup> That Blue Jays team doctor Ron Taylor specifically remembers giving Clemens a B-12 shot.<sup>386</sup> That Andy Pettitte believed Clemens had B-12 shots while with the Yankees.<sup>387</sup> That the Yankees head athletic trainer Gene Monahan acknowledged the Yankees did not document B-12 shots.<sup>388</sup>

---

<sup>377</sup> Palmeiro Report at 34-35 (footnotes omitted).

<sup>378</sup> Mike Mycoskie Interview; Hunter Interview; Reed Interview; and Wheat Interview.

<sup>379</sup> Wheat Interview.

<sup>380</sup> Mike Mycoskie Interview.

<sup>381</sup> Hunter Interview.

<sup>382</sup> Democratic memorandum at 12-13.

<sup>383</sup> *Id.* at 12.

<sup>384</sup> Craig Interview, Feb. 4, 2008 at 16-17.

<sup>385</sup> *Id.* at 17.

<sup>386</sup> Taylor Interview at 14.

<sup>387</sup> Pettitte Deposition at 43.

<sup>388</sup> Monahan Interview at 9.

## XVI. Testimony Regarding Lidocaine Injection

**FINDING:** *Roger Clemens testified Brian McNamee administered one injection of lidocaine in 1998. The Committee staff interviewed medical professionals from the four teams Clemens played for. Each official testified lidocaine injections are performed solely by orthopedic specialists due to the inherent dangers of the numbing agent.*

*The Astros team orthopedist David Lintner testified the procedures required for administering a lidocaine injection sometimes require the injection to occur with the assistance of x-ray technology. Lintner did, however, testify a lidocaine injection to the muscles of the lower back region is not particularly dangerous.*

*Brian McNamee denied injecting Clemens with lidocaine.*

Clemens testified McNamee administered one injection of the numbing agent lidocaine. Clemens testified, “He gave me one shot of Lidocaine in my lower back, and that happened in Toronto.”<sup>389</sup> Asked whether it worked, Clemens replied, “It did. It gave me some comfort for about 2 days. It was a numbing effect, and it was in my lower . . . back.”<sup>390</sup> According to Clemens, McNamee administered the lidocaine shot in the Blue Jays training room.<sup>391</sup> Clemens was unaware lidocaine can be very dangerous. Clemens testified:

Q Did you ever have any concerns with lidocaine, with an injection of lidocaine, that it could if it was not injected properly or in the right place, that it could cause severe health problems for you?

A I didn't know that.

Q So you never had any concerns when McNamee was giving you that lidocaine shot that there might be a problem afterwards?

A No. And again, I would think that yeah, I had no idea. I don't no.<sup>392</sup>

Astros team doctor David Lintner testified:

Lidocaine . . . is a local anesthetic used to numb up tissues, soft tissues, muscles, skin and so on. We use it mainly to numb up an

---

<sup>389</sup> Hearing Tr. at 102.

<sup>390</sup> Clemens Deposition at 44.

<sup>391</sup> *Id.* at 48.

<sup>392</sup> *Id.* at 166.

area before providing, say, a cortisone injection or as mixed with a cortisone injection to decrease the discomfort associated with the injection. Also, it may rarely be used to numb up a bruised area so it's less painful to be active.<sup>393</sup>

Lintner explained the ordinary precautions undertaken when these shots are administered:

Those are done only under at least according to under our team's algorithms, **those injections are only done by an expert in injections of local anesthetic around the lower back and done only in a medical treatment center.**<sup>394</sup>

\* \* \*

The precautions are due to the nature of the injection and where you are trying to inject it. To treat the lower back with a cortisone injection around the lower back, you must place the injection in a very precise location adjacent to nerves that are exiting the spine. You just cannot do that accurately without the . . . x ray equipment, excuse me. As it is the need for the x ray equipment that requires the use of the procedure center.<sup>395</sup>

\* \* \*

Q And what were to happen if you were not to get it in that precise location? What are some possible side effects that might occur?

A **A possible side effect can be nerve damage.** That would be the main one we'd worry about. Or I guess if you would consider this a side effect, if you don't get the injection in the right spot, the injection won't work.<sup>396</sup>

Lintner did, however, testify that a lidocaine injection could be harmless if injected into the muscles of the lower back region. He testified:

Well, I guess you'd need to be a little more specific as to what exactly was being done. If someone is attempting to inject around a nerve, around the spine, I would think that'd be dangerous to do in any other circumstance than that which I have described.

**If you're talking about somebody just injecting into the muscles of the lower back region, then it's not where I would**

---

<sup>393</sup> Lintner Interview at 14.

<sup>394</sup> *Id.* (emphasis supplied).

<sup>395</sup> *Id.* at 16.

<sup>396</sup> *Id.* (emphasis supplied).

**choose to inject anything or not a procedure I would choose to perform, but it's not particularly dangerous.**<sup>397</sup>

McNamee denied ever providing Clemens a shot of lidocaine:

Q Did you ever inject Mr. Clemens with lidocaine?

A Never.

Q Did he ever ask you to do that?

A No.

Q Have you ever injected anyone with lidocaine?

A Never.

Q Aside from the steroid and HGH injections that we've discussed today, did you ever inject Roger Clemens with any other substance?

A Never.<sup>398</sup>

Blue Jays team doctor Ron Taylor provided similar testimony about lidocaine:

Q As you've probably heard, Mr. Clemens, when he gave an interview to 60 Minutes, he referred to having been injected with lidocaine by Mr. McNamee.

A I don't know about that. Lidocaine is a local anesthetic.

Q Did you ever provide Mr. Clemens with a lidocaine shot?

A Never.

Q Were you aware of any lidocaine shots he received when he was with the Blue Jays?

A No, I was not.

---

<sup>397</sup> *Id.* at 17 (emphasis supplied).

<sup>398</sup> McNamee Deposition at 111.

Q Have you ever provided a lidocaine injection for any player?

A **I don't do lidocaine injections. If they're done, they're usually done by the orthopedic surgeon.**<sup>399</sup>

Blue Jays assistant athletic trainer Scott Shannon also testified lidocaine injections are only handled by orthopedic specialists.

And lidocaine would have been done through the orthopedic side. It's not something that, like, Ron Taylor would put upon himself. We had trained orthopedic guys do that, so he wouldn't have done that.<sup>400</sup>

Shannon testified lidocaine was always locked up in the team's medicine cabinet. Only doctors could access it.

Well, what would happen with us in Toronto is we would have lidocaine locked up for the doctors to use. It would be prescribed by a physician in the sense that it would be the physician who was doing the lidocaine, he wouldn't actually write a script and say, 'Scott or Tommy, can you go get me some lidocaine?' We would have lidocaine with us. We travel with it and, as well, we would store it in our locked medical cabinet at our facility here in Toronto.<sup>401</sup>

Astros head athletic trainer David Labossiere also told Committee staff lidocaine is a dangerous substance only to be injected by orthopedic surgeons.<sup>402</sup> Labossiere was asked:

Q Would it be potentially dangerous for an untrained medical professional to be injecting lidocaine?

A Absolutely.<sup>403</sup>

---

<sup>399</sup> Taylor Interview at 35 (emphasis supplied).

<sup>400</sup> Shannon Interview, Jan. 31, 2008 at 13.

<sup>401</sup> *Id.* at 18.

<sup>402</sup> Labossiere Interview at 19-20.

<sup>403</sup> *Id.* at 22.

## XVII. Evidence Regarding a Meeting Between Jim Murray and Brian McNamee

**FINDING:** *Brian McNamee testified he alerted Jim Murray, one of Clemens's sports agents, to the possibility of Clemens failing a drug test in 2003. McNamee testified he met with Murray in 2003 or 2004 in a coffee shop in Manhattan to raise this prospect. According to McNamee, Murray took "note after note and asked question after question about Roger's steroid use."*

*Jim Murray did not remember it this way. Murray testified he met McNamee once in a Manhattan coffee shop to discuss whether Murray's agency, Hendricks Sports Management LP, would be willing to hire McNamee. Murray also remembers "something about [McNamee] having knowledge [of] drug test results." When asked whether McNamee mentioned Clemens in connection with the drug test results, Murray testified, "No."*

Jim Murray is an agent with Hendricks Sports Management LP. Since 2001, Murray has handled Clemens's marketing-related business for the agency.<sup>404</sup>

At his deposition, McNamee described a meeting in 2003 or 2004 where he testified he tipped Murray off to Clemens's use of steroids.

Q Did you have any concerns and there has been some media reports that maybe you did that the 2003 survey test that they, that all Major Leaguers took, was supposed to be anonymous?

A Yes.

Q Did you have any fears or concerns that Roger might test positive?

A Yes.<sup>405</sup>

\* \* \*

Q And what were those concerns based on?

A Just the stories about people that took all of this testosterone for either once, or even infrequently over time, would test positive up to 18 months later.<sup>406</sup>

---

<sup>404</sup> Murray Interview at 7-8.

<sup>405</sup> McNamee Deposition at 144.

Due to his fears about a positive test result, McNamee testified he asked Jim Murray for a meeting.

So it wouldn't it wasn't unusual for me to call [Jim Murray]. So I called him after contemplating this for about a week. I said, Listen, can we meet and talk? He said, Sure. And he said, Let's meet at the Starbucks on the corner of Roger's house. And I the Yankees were not in town at the time of the talk. He showed up in Starbucks. I sat at my normal table.<sup>407</sup>

\* \* \*

He sat down. He had his like a yellow pad like this, but it was a little mini; and he sits there and he writes real small, and he just took note after note and asked question after question about Roger's steroid use. And one of the comments he wasn't shocked by it.<sup>408</sup>

\* \* \*

Q Now, how many times have you met with Murray at that Starbucks?

A That was it.<sup>409</sup>

\* \* \*

Murray remembered McNamee asking for what he described as a job.<sup>410</sup> McNamee did not deny this.

Q Did you ever have any conversations with Murray about whether the sports agency might be able to help you out as a trainer and set up relationships with other players and maybe work a business arrangement where you get [paid] a percentage . . . [of an amount collected by the sports agency]?

A We definitely talked about that. It was going on. But the Hendricks was sending guys to me for nothing, you know.

\* \* \*

---

<sup>406</sup> *Id.* at 145.

<sup>407</sup> *Id.* at 148.

<sup>408</sup> *Id.* at 149.

<sup>409</sup> *Id.* at 151.

<sup>410</sup> Murray Interview at 26.



So, yeah, I talked about it . . . . And I expressed that to Jimmy, I think, that it would be a great idea, you know, because at that time, I mean, obviously before this happened, it would have been advantageous for to have a guy like me who was training Roger and Andy. You know, everybody wanted me to train them; nobody wanted to pay me. So it would have been great. . . . So, yeah, we definitely had that.<sup>411</sup>

Jim Murray testified that he did not remember whether McNamee discussed the possibility that Clemens failed a drug test for anabolic steroids. While, he says he remembers meeting McNamee in a Manhattan coffee shop, Murray recalled McNamee discussing his hopes for a job with the Hendricks agency. While Murray has some recollection of McNamee raising the topic of drug test results, he has no recollection of McNamee bringing up the name Roger Clemens in connection with the “drug test results.”<sup>412</sup>

The Democratic memorandum, asserts that because Murray recalled discussing drug test results in a coffee shop with McNamee, Murray “confirmed many details of this meeting.”<sup>413</sup> **In fact, Murray did not have a strong recollection of this meeting and did not confirm “many details,” especially the most important one – that the biggest client of the Hendricks firm may have tested positive for steroids.**<sup>414</sup>

The Democratic memorandum states:

On January 31, 2008, Committee staff conducted an interview of Mr. Murray, in which Mr. Murray confirmed many details of this meeting. Although Mr. Murray could not remember certain details, he stated that he remembered Mr. McNamee calling to set up the meeting, remembered that it occurred in a coffee shop in New York, and remembered Mr. McNamee ‘saying something about drug test results, having knowledge of the drug test results.’<sup>415</sup>

---

<sup>411</sup> McNamee Deposition at 155.

<sup>412</sup> Murray Interview at 27.

<sup>413</sup> Democratic memorandum at 3.

<sup>414</sup> *Id.*

<sup>415</sup> *Id.*

Jim Murray actually testified that he did not have a strong recollection of this meeting.

Q McNamee said he met with you in a Starbucks store in Manhattan. Does that refresh your recollection at all? Did you ever meet with McNamee in a coffee shop?

A Yes, I did.

Q When was that?

A I don't remember. I have no recollection of when that was.

Q Can you give me an approximate year?

A I know he said 2003 or 2004. I don't . . . recall. It could have been.

Q How many times have you met with him in a coffee shop in New York?

A That's the only time I can remember.<sup>416</sup>

\* \* \*

Q Why did you meet with him? . . . .

A My recollection of the meeting is he was asking for a job. And I remember him talking about making a percentage of players that he would train. He also brought up something about having knowledge [of] drug test results.

Q Can you tell me more about that? What was he talking about with respect to drug test results?

A I don't recall.

Q What do you recall him saying?

A I remember him saying something about drug test results, having knowledge of the drug test results. I don't recall I couldn't tell you when the conversation happened or I don't remember much about the conversation.

---

<sup>416</sup> Murray Interview at 24-45.

Q Did you did you understand what he meant when he said that?

A No.

Q Did you ask?

A I don't remember.

Q Was it your impression that he was talking about his own drug test he had taken or that someone else had taken?

A I don't remember.

Q Did he ever mention Rogers Clemens?

A No.<sup>417</sup>

\* \* \*

Q In connection with this drug test he was talking about?

A I don't recall him saying anything about Rogers Clemens.

Q Why was he raising that issue with you?

A I have no idea.

Q Did he ask you to do anything?

A Not that I remember.

Q Did he ask you to convey any information to anybody?

A Not that I remember.<sup>418</sup>

McNamee's testimony about what he told Jim Murray in 2003 or 2004 conflicts with communications between McNamee and Murray in 2006 and 2007. In June 2006, McNamee emailed Murray to assuage concerns raised by the affidavit concerning the search warrant for Jason Grimsley's residence.<sup>419</sup> McNamee was named<sup>420</sup> in the

---

<sup>417</sup> *Id.* at 26.

<sup>418</sup> *Id.* at 27.

<sup>419</sup> Email from Brian McNamee to Jim Murray (June 15, 2006 4:19 p.m.) (JJM 178) ("FYI, I have been informed by Willie Weinbaum of ESPN that their source has IDed me as the fitness trainer who gave Grimsely [sic] a phone number for a person who supplied him with anphetamines [sic]. . . . If this is true . . . which it may, I might have given him a number but it was never for that purpose which I can explain later and this will be a complete shock but I will handle it when and if needed."); *See also*, Email from Brian

Grimsley affidavit as the individual who referred Grimsley to Radomski for the purposes of obtaining performance enhancing drugs.<sup>421</sup> In the email, McNamee wrote:

I just wanted you to know that there is NOTHING to be concerned about other than being aware of a situation that may or not be made public. I hope on the side of better judgement [sic] that the ESPN people considered the source of my so called involvement in Grimsely [sic] and his drug use, true or not, and I can not help what people say.<sup>422</sup>

In December 2007, McNamee called Murray to alert him that Clemens was named in the Mitchell Report. According to a transcript of the call, Murray told McNamee he was shocked to learn that Clemens is named in the Mitchell Report. On the call, Murray stated, “This comes as a – a complete shock . . . .”<sup>423</sup> In the December 2007 call, McNamee did not remind him of their earlier conversation about what McNamee testified was Clemens’s use of anabolic steroids and HGH. Had McNamee’s claims in the meeting with Murray in the Manhattan coffee shop in 2003 or 2004 made an impression on Murray, he would not have been shocked in 2007.

---

McNamee to Jim Murray (Jan. 3, 2007 09:05 a.m.) (JM 193) (“‘Jeff Novitki, [sic] the FBI/IRS agent that interviewed Grimsley said’ [sic] I am Not [sic] the trainer in the report and was [the] main reason for there [sic] statement of Gross [sic] inaccuracies [sic] regarding the names, they actually feel sorry for me and that I have nothing to worry about regarding anything.”).

<sup>420</sup> SI.com wrote about the Grimsley affidavit in November 2006. At the time, McNamee denied his involvement. See Jon Heyman, *The Sixth Man: Clemens’ Trainer Denies Link to Grimsley Drug Probe*, SI.com, Nov. 14, 2006 [http://sportsillustrated.cnn.com/2006/writers/jon\\_heyman/11/10/mcnamee.trainer/index.html](http://sportsillustrated.cnn.com/2006/writers/jon_heyman/11/10/mcnamee.trainer/index.html) (“In a report that ‘shocked’ him, McNamee read an L.A. Times story on the Internet that said his name supposedly appeared in the search-warrant affidavit of IRS agent Jeff Novitzky. . . . I have no idea why I’d be mentioned in the same breath with Grimsley, other than that he was a relief pitcher on a team with Clemens and Pettitte,” McNamee said. “I barely even knew Grimsley. . . . In recollecting his dealings with Grimsley, McNamee says all he can come up with are two conversations, neither of which he recalled involving amphetamines nor anything stronger. “There was no inkling of trying to get amphetamines from anybody,” McNamee said.”).

<sup>421</sup> Affidavit of IRS-CI Special Agent Jeff Novitzky in Support of Search Warrant on the Residence of Jason Grimsley, May 31, 2006.

<sup>422</sup> Email from Brian McNamee to Jim Murray (June 15, 2006 4:19 p.m.) (JJM 178).

<sup>423</sup> Transcript of Telephone Conversation between Brain McNamee and Jim Murray (Dec. 5, 2007) at 16.

## **XVIII. Conclusion**

On February 28, 2008 – one day after the Chairman and Ranking Member’s letter to the Attorney General – the Justice Department announced it had commenced an investigation into Clemens’s congressional testimony.<sup>424</sup>

Congress cannot perform its oversight function if its witnesses do not tell the truth. Perjury and false statements are crimes that seriously undermine the integrity of congressional inquiries.

The testimony of Roger Clemens and Brian McNamee is incompatible. One witness is lying – and doing it spectacularly. The ultimate question for the Justice Department remains: did he or did he not use anabolic steroids and human growth hormone?

Based on the evidence before the Committee, the Ranking Member concluded the only responsible course was to refer this matter to the appropriate authorities for a careful determination of whether laws were broken.

---

<sup>424</sup> Lara Jakes Jordan and Howard Fendrich, *FBI Opens Investigation of Roger Clemens*, AP, Feb. 28, 2008.