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Sports Medicine: Doping, Disability & Health Quality: Keynote Address

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**SPORTS MEDICINE:
DOPING, DISABILITY & HEALTH QUALITY**

KEYNOTE ADDRESS

RICHARD W. POUND*

Thank you for your very kind invitation to participate in this year's Symposium and to be able to deliver this address on an important topic relating to sport. I would like to speak today, in both general and specific terms, about what I consider to be the biggest danger facing sport today. This is the loss of integrity that comes from cheating.

Cheating in sport can, and does, take many forms. It can involve the use of performance-enhancing substances and methods. The practice is referred to internationally as "doping,"¹ to distinguish the use of drugs in sport from the more general social usage that has no connection with sports and which certainly does not improve performance, other than, perhaps, in the addled minds of the users. It can involve cheating by athletes, by sports officials, by medical doctors and scientists. It can even involve governments.

Let me do something of a set-up for the topic. Sport, as part of the games-playing matrix that is peculiar to the human character or psyche, is a fundamental characteristic of the human race. If, at this moment, our collective memories were to be wiped out, so that we were to have no recollection whatsoever of any game or sport, it would be a matter of hours, or days at most, before someone would pick up a stone and throw it at another object, to see if he could hit it. Or someone would try to run faster than someone else. Or hit an object with a stick. Or lift a heavy weight.

Conventions would emerge as to what was OK and what was not. Games would be developed, with a series of rules and regulations for each. Someone would write them down so that everyone would know. Others would agree to act in order to make sure that everyone followed the rules. Competitions would spring up between groups and, eventually, we would get back to where

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1. STEDMAN'S MEDICAL DICTIONARY 517 (26th ed. 1995) (defining "doping" as "[t]he administration of foreign substances to an individual; often used in reference to athletes who try to stimulate physical and psychological strength").

we are right now, with a complex international sports system, involving hundreds of millions of people and even more spectators. There would probably be an astonishing general similarity with what we now know as sports and games.

One of the most important elements of these games, including sport, is that the participants agree on the rules. The rules are, in many respects, artificial, occasionally arbitrary, but that is not the point. The point is that they are the rules. If you are participating with or competing against me, I am entitled to expect and to insist that you follow the rules. You are entitled to the same expectations of me. If all of us who play the game agree, for whatever the reason, to change the rules, that is fine. But, unless and until we do, neither of us can take the law into our own hands and unilaterally abrogate the rules. If the shot weighs sixteen pounds, I cannot hollow it out and end up with a twelve-pound shot just because I am not as strong as you. I cannot start a race before the signal because I am slower than you, or run only eleven laps instead of twelve just because I get more easily tired than you do. And so on.

The rules are, if you like, our social contract with each other. That's our deal. Unlike society in general, where you may be governed by laws with which you may not agree, or in the formation of which you may not have participated, in sport you always have the freedom of choice not to participate if you do not agree. The calculus is quite simple. You are in, or you are out.

Fast-forward now to 2005. There are lots of rules. Some of them are technical, such as for equipment, size of playing fields, number of players, measurement of success, or winning. Some are safety-driven, such as helmets for skiers, hockey players, and boxers. Some are to protect health, such as minimum ages, weight categories, medical examinations, safety nets. And so it goes.

One way or another, as an athlete or official, I have spent close to fifty-five years in the Olympic Movement. At its best, I believe the Olympic Movement, with its emphasis on sport and culture, has the potential to do more for young people throughout the world—and their countries—than almost anything else I can imagine. The combination of healthy bodies and healthy, inquiring minds that can be developed through sport leads to tremendous personal and societal resources. A principal reason for this is that the Olympic Movement is based on ethical principles that include self-respect, respect for one's competitors, respect for the rules of play, respect for the officials who ensure that the rules are followed, fair play, renunciation of violence, teamwork, and self-discipline.² Each of these values is important in sport and, equally importantly, each is readily transferable to daily participation in society at large. Leaving aside the obvious fact, albeit largely unrecognized by governments, that a

2. Olympic Charter ch. 5, Sept. 1, 2004, http://multimedia.olympic.org/pdf/en_report_122.pdf.

healthier society is more productive and cheaper to operate than one that is not, the greater the number of ambitious, goal-setting, competitive, team-working individuals who interact in a society, the more vigorous and competitive that society will become.

I believe firmly in these values. They have been important to me throughout my life and I am convinced that whatever success I may have enjoyed in the things I have done can be traced to those values. Now, I am not here to say that the Olympic values are the only set of ethical principles that can lead to a healthy person and a healthy society, but they have the advantage of being relatively simple and they can be applied to everyone, no matter how successful they may, or may not, be in sport. The underlying values are not tied to the level of performance on the field of play, but they are inseparable from the quality of the experience. No matter at what level you may participate (at intramural, intercollegiate, state, national, or international), the experience will be unsatisfactory if another competitor or team cheats or otherwise impinges on the concept of fair play.

I don't know about you, but I can accept a loss in a sporting event if someone is better than I am, whether generally or on the particular day. That is all part of the challenge and the excitement of sport—to see who can accomplish the agreed-upon particulars the best. There will be days when you win and others when you do not. That is the risk you take when you put yourself forward as a competitor. But the experience can easily be soured when someone cheats.

In swimming, where I was fortunate enough to win more often than I lost—a loss was never something I enjoyed—I was trying to win and invested a good deal of time and effort to increase the odds of doing so. But I knew that, from time to time, because someone was better than I was, or because I may have made a tactical mistake, I would certainly lose. That was quite different from when I saw false starts, failure to touch the wall on turns (I am old enough that we had to touch each wall on each turn with our hands), or a premature take-off on a relay exchange. I knew at once, as would everyone, that results achieved that way were unfair. If such conduct were allowed to proliferate, sport would lose its meaning and value. If the ethical underpinning of sport evaporates, so too will its value as a social and educational tool.

One of the rules in national and international sport is that doping is prohibited.³ The original anti-doping rules were adopted out of health and safety concerns, but they have evolved into a desire to protect the ethical platform underlying sport, the inherent humanistic values of sport, as well as to protect the health of the athletes.⁴ The prohibited substances and methods have

3. See, e.g., WORLD ANTI-DOPING CODE art. 2 (2003), http://www.wada-ama.org/recontent/document/code_v3.pdf.

4. See *id.*, introduction.

varied over time, as scientific knowledge has expanded. Some drugs, once thought to be performance-enhancers or dangerous, have now been found to be harmless and with no enhancing features. Others have been added to the list as scientists have become aware of their use and their effects and side effects.

If there is a defining feature of the human condition, it is that we are not perfect. Notwithstanding rules that are clear and freely agreed upon, there are those who are quite willing to ignore them and to seek an unfair advantage over the other competitors. They are the sociopaths of sport, who care nothing for their own promises, who do not respect their fellow competitors, who do not respect the game they are playing, and who do not even respect themselves. All that matters to them is a transitory apparent victory, the means of achieving of which must never be acknowledged.

To continue the focus on doping for a moment, in most cases it is not athletes acting alone to defeat everything for which they should stand. They are assisted, counseled, sometimes tricked, and occasionally forced into the downward spiral of cheating. Coaches, trainers, medical doctors, scientists, sports administrators, even some misguided parents—all of whom know better and who have a professional or moral responsibility to the young people under their charge—conspire to destroy the value of what the athletes are trying to do and to put their health in jeopardy. Even more, some of the worst offenders in this regard have been governments,⁵ whose distorted sense of national achievement is such that they take reflected glory in wins achieved by their own cheating.

Why should the vast majority of athletes—my children, your children, or your neighbors', or, for that matter, anyone—be forced to become chemical stockpiles, simply because there are some who are themselves willing to do so, in full knowledge that they are cheating, with all of the risks of disgrace and disease that may follow? There is an easy answer to this question: they should not.

Doping is very seldom accidental. The occasional athlete may take a cold tablet by mistake or ingest tainted nutritional supplements without any intention of doping, but these cases are few and far between. Taking anabolic steroids is not accidental. Taking THG⁶ is not accidental. Taking EPO⁷ is not accidental. Blood transfusions are not accidental. Genetic doping, when it becomes a reality, is not accidental. Inserting a device in your anus or vagina and filling it with catheterized urine to avoid providing your own sample is not accidental.

5. See, e.g., Michael Janofsky, *Coaches Concede That Steroids Fueled East Germany's Success in Swimming*, N.Y. TIMES, Dec. 3, 1991, at B15.

6. THG stands for the performance-enhancing drug, tetrahydrogestrinone.

7. EPO stands for the performance-enhancing drug, erythropoietin.

In concept, it is not unlike society in general, of which sport is merely a subset. We are all too familiar with the systemic failures in business, in politics, in the media, in organized religion, in academia, in the professions. It is not surprising, therefore, that such conduct has spread to sport, as well. Not surprising, perhaps, but equally unacceptable.

In society, we recognize that there will always be those who act outside the law. That is why we have police, a court system, and where necessary, a prison system. Just as in society in general, some athletes cheat. Some officials cheat. Some medical doctors and scientists cheat. Some coaches cheat. And here is where the need to ensure a level playing field comes in. Someone must act to protect those who play fair.

The athletes who cheat destroy the whole purpose of what they set out to do, which was to see how far their natural talents could take them in competition with others, playing by freely agreed-upon rules. Instead of something that should be a triumph of the human spirit, their achievements become dirty, and must be hidden from view, in fear of exposure and the disgrace that will follow. It brings to mind the Oscar Wilde story of *The Picture of Dorian Gray*,⁸ where the public façade of respectability was contrasted so starkly by the hidden picture that showed the disgusting reality of Gray's character.

The officials who cheat make a mockery of their responsibilities and trivialize the years of training and dedication of the trusting athletes whom they betray. Canadian figure skaters Jamie Salé and David Pelletier were betrayed by figure skating officials and judges during the Salt Lake City Olympic Winter Games in 2002, who were fixing results to further their tawdry personal ambitions.⁹

Medical doctors and scientists conspire to assist athletes and others to cheat by developing and administering performance-enhancing drugs. They know that what they are doing is contrary to the rules of sport and that the drugs are potentially harmful to the athletes who use them. In many cases the side effects are little known, perhaps unknown, yet they are administered. THG went directly from the laboratory bench into the systems of the athlete users. The Hippocratic Oath¹⁰ sworn by all medical doctors includes the undertaking to do no harm. Do no harm, indeed!

And, as to coaches, in my view, there is no coach worthy of the description who can be unaware of drug use by athletes under her or his care. It is in the

8. OSCAR WILDE, *THE PICTURE OF DORIAN GRAY* (Isobel Murray ed., Oxford Univ. Press 1981) (1891).

9. See Richard Sandomir, *Olympic Skating Scandal Spurs 5-Count Indictment*, N.Y. TIMES, Aug. 22, 2002, at D6.

10. LUDWIG EDELSTEIN, *THE HIPPOCRATIC OATH: TEXT, TRANSLATION AND INTERPRETATION* 3 (Henry E. Sigerist ed., 1943).

crucible of the relationship between coach and athlete that great performances are born. There is a special responsibility incumbent upon the coach to develop, and not to destroy, the health and character of those under his or her tutelage. Coaches often have more influence on young athletes than their parents and they must never underestimate the impact they will have on their charges. The role of the coach is not simply to produce better athletic performance, but to develop the athlete as a complete human being. We have not been sufficiently stringent in pursuing the coaches of athletes who use performance-enhancing drugs. That is going to change.

One of our missions at WADA¹¹ is to make sure that it is not only the athletes who are sanctioned for doping offences. Athletes are, of course, the instruments in which the doping occurs, but often they are less to blame than the coaches, doctors, and others around them. The IOC¹² Athletes Commission had a useful suggestion for us to consider and we have adapted our protocols to use it. Their suggestion was that the doping control forms signed by athletes who are tested be amended to include the names of the athlete's coach and doctor.¹³ Then, in case of a positive result, all three may be liable to sanctions. These are problems that have been allowed to develop in sport, much as similar deficiencies have developed in business and elsewhere. Here, too, there has been a failure of governance. Too many people in a position to have stopped the improper behavior looked the other way, or worse, were complicit in the early stages of the decay.

Because much of this fight is a work in progress, it is difficult to know where to stop in a description of both the doping problem and the eventual solutions to it. For me, the main challenge is not to let equivocation dull the sharp edges of the problem. Doping is cheating and, in many cases, dangerous cheating. It has no part in sport. The rules must be interpreted in a purposive manner, to protect the overwhelming majority of athletes who play fairly. They must not be interpreted to allow cheaters to go on cheating.

Doping in sport is not a criminal activity (depending on the substances), but one that should be handled within the context of sport as a sport offence, to be dealt with by the rules of sport. There should be no question about strict liability—it is not necessary to prove either intent or successful application of the substance or method. The mere presence of the drug in the system of the athlete constitutes the offence. There is no criminal burden of proof to be met—the proof beyond all reasonable doubt. Meeting the comfortable satisfaction of the hearing body is sufficient. These are regulatory provisions

11. World Anti-Doping Agency.

12. International Olympic Committee.

13. See International Olympic Committee Athletes Commission, *Is There Life After Sport?*, http://www.olympic.org/uk/organisation/commissions/athletes/full_story_uk.asp?id=1356.

and all athletes must be ready to show that they are in compliance with the rules, whether it be regarding age, equipment, or doping.

There should be no hiding behind purported privacy considerations. An athlete in competitive sport knows that he or she can be subject to testing at all times and without notice and that, if a positive sample is produced, there will be a disciplinary process. There must be transparency in this process and assurance of the necessary independence of those who decide, as well as due process. But, to purport to seek refuge in alleged privacy laws, as the USATF¹⁴ did in respect of Jerome Young and twelve others who had positive test results prior to the Olympic Games in Sydney in 2000,¹⁵ is an abuse of that process and a disservice to all athletes and the public.

We must also resist attempts to make the whole question of doping banal. You have all heard some of these efforts. Everybody is doing it. Let the athletes do what they want. You will always be behind the cheaters, so why bother? The cost of catching the cheaters is too high, so don't waste your money. Why bother with doping in the first place?

The contribution that the World Anti-Doping Agency makes to the leveling of the playing field is that it performs an absolutely independent service in making it possible to contemplate an environment for sport that is doping-free. We bring together the sports movement and the governments of the world and put them at the same table, at the same time, with the same objective—that of restoring the integrity of sport, to give every athlete an equal chance of doing his or her best, without having to cheat.

Those of us in a position to help prepare our youth for useful roles in society have a duty to do whatever we can to ensure that their guidance is positive, to win their confidence that the values we assert are the values we practice, that we support, and that we will protect for their benefit. It is a huge responsibility, particularly in a world that is struggling to find its way, and in which the remarkable pace of change has produced a tendency to believe that whatever may come from the past is passé and of no value.

There is nothing passé about trying to do your best, within the limits we must all accept as members of civilized society, whether on the field of play in sport, or on the general field of play within society. There is nothing passé about ethical principles, about respect for yourself and for others. The alternative is chaos and, ultimately, a return to lawlessness. As the political philosopher Thomas Hobbes observed, life in a state of nature is “solitary, poor, nasty, brutish and short.”¹⁶

14. USA Track and Field.

15. See Agence France-Presse, *Sports Briefing: Track and Field: Young Finally Named in Doping Case*, N.Y. TIMES, Feb. 2, 2004, at D11.

16. THOMAS HOBBS, *LEVIATHAN* 89 (Richard Tuck ed., Cambridge Univ. Press 1996) (1651).

Let us, instead, embrace the positive values of understanding who we are, doing what is morally right and rejecting what is morally wrong, not because someone else tells us to do so, but because we know, at the center of our beings, what is right and what is wrong. Bishop Fulton Sheen once noted that wrong is wrong, even if everybody is doing it, and right is right even if nobody is doing it.¹⁷

17. See Stan Main's Favorite Quotes, <http://www.stanmain.com/quotes.html> (last visited Nov. 22, 2005).