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September 16, 2004

The Honorable Glenn Fine
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Fine:

I am writing to request that your office initiate an investigation into possible violations of the Fourth Amendment, specifically protection from illegal search and seizure and potential violations of a court order by U.S. Department of Justice (DOJ) officials. Information obtained by staff indicates that DOJ allowed private citizens contracted through a non-governmental entity, the United States Anti Doping Agency (USADA), to participate in the investigation and search of Bay Area Laboratory Co-Operative (BALCO). Additionally, my staff has been advised that DOJ forwarded documents obtained during the execution of a sealed search warrant to USADA; and also that USADA may have received federal grand jury testimony. If these incidents were proven to be true they would violate criminal law, in addition to official DOJ policies.

I certainly appreciate the importance of preventing and uncovering doping violations; however, information in recent press reports and information received by my staff reveal that DOJ has engaged in activities which violate criminal law in addition to DOJ policy. If this information is true, it appears that DOJ and USADA have engaged in a conspiracy to deny due process and fairness of athletes associated with the BALCO investigation.

On July 21, 2004, a high ranking USADA executive advised House Judiciary Committee staff that in 2002 USADA's involvement in the BALCO investigation began when USADA received a syringe, containing material reported to be an undetectable designer steroid, anonymously mailed to the agency. The syringe contained traces of THG, which was later discovered by the head of the Olympic Analytical Laboratory at the University of California, Los Angeles (UCLA) Don Catlin as a steroid. UCLA's Olympic Analytical Laboratory provides the scientific doping research and tests for USADA.

Upon receiving the syringe, USADA began an investigation of BALCO and discovered that their investigation may have criminal implications. The executive explained that at that point USADA staff met with "Attorney General Ashcroft's office" and was advised that the United States Attorney's Office (USAO) in San Francisco was working on a criminal case involving BALCO and USADA was advised to contact the USAO in San Francisco. The executive explained that USADA contacted the USAO and the USAO sought USADA's cooperation in the criminal investigation.

The executive added that in September 2003, DOJ "invited" Catlin to participate in the "raid" of BALCO along with agents from the Internal Revenue Service, Drug Enforcement Agency, San Mateo County Task Force, and Federal Bureau of Investigation. The USAO forwarded materials obtained during the search to USADA for analysis. The documents and materials USADA received from the USAO were described as approximately 12-15 pages of lab reports and ledgers which contained athletes names.

In addition to using your judgement and discretion to investigate these actions, I would ask that your investigation include the following:

1) determine what was the nature of USADA's involvement in the criminal investigation and what documents USADA received from DOJ as a result of their involvement;

2) determine why the DOJ did not use a government lab to conduct analysis of lab reports and materials obtained during the search of BALCO;

3) determine if DOJ sought the cooperation of a government lab to conduct analysis to confirm Dr. Catlin's finding that THG is a steroid? If not, why?

Please reply to our request through Perry Apelbaum or Ted Kalo of the Judiciary Committee staff, 2142 Rayburn House Office Building, Washington, DC 20515 (tel: 202-225-6504; fax 202-225-4423).

Sincerely,

John Conyers, Jr.
Member of Congress

cc: The Honorable F. James Sensenbrenner, Jr.
Chairman, U.S. House Committee on the Judiciary