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COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: DAVID MARK LITTNER

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Monday, February 11, 2008

Washington, D.C.

The interview in the above matter was held at Room
B373, Rayburn House Office Building, commencing at 8:48 a.m.

Appearances:

For THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

BRIAN COHEN, SENIOR INVESTIGATOR/POLICY ADVISER

STEPHEN CHA, PROFESSIONAL STAFF MEMBER

JENNIFER SAFAVIAN, MINORITY CHIEF COUNSEL

For THE WITNESS:

ROBERT S. McCLAREN, ESQ.

Mr. Cohen. This is an interview of Dr. David Littner conducted by the House Committee on Oversight and Government Reform. The interview is part of the committee's investigation into allegations of steroid use by Major League Baseball players.

Dr. Littner, thank you for joining us today. Could you please state your full name for the record?

A My name is David Mark Littner.

Q My name is Brian Cohen. I'm an investigator for the committee. I'm accompanied by two of my colleagues here, and I will let them introduce themselves.

Mr. Cha. This is Steve Cha, also with the majority staff.

Ms. Safavian. And Jennifer Safavian with the Republican staff.

Mr. Cohen. Before beginning with the questioning, I'd like to go over some standard instructions and explanations regarding the interview.

I will ask you questions regarding the subject matter of the committee investigations for up to one hour. When I'm finished, the minority counsel will have the opportunity to ask you questions for up to one hour as well. Additional rounds of questioning, alternating between the majority and minority staff, may follow until the interview is completed.

And I can assure you, Dr. Littner, this is not going to take several hours.

The reporter here will be taking down everything you say, and we will make a written record of the interview. Please give verbal, audible answers, because the reporter cannot record nods or gestures. You are required to answer questions from Congress truthfully.

Is there any reason you are unable to provide truthful answers in today's interview?

Dr. Littner. No.

Mr. Cohen. If you knowingly provide false testimony, you could be subject to criminal prosecution for making false statements or other related offenses. Do you understand this?

Dr. Littner. Yes, I do.

Mr. Cohen. Thanks.

You have the right to be represented by an attorney, and my understanding is that you have one present. Can your counsel introduce themselves?

Mr. McClaren. Bob McClaren, counsel for the Houston Astros.

Mr. Cohen. Thank you.

Any questions before we begin? Any questions, Dr. Littner?

Dr. Littner. No.

Mr. Cohen. Okay. Great. Let's get going.

EXAMINATION

BY MR. COHEN:

Q First, I want to talk about basic team medical procedures.

Actually, why don't you very quickly start off by telling us your background and your experience and how long you've been a team doctor with the Houston Astros.

A I'm an orthopedic surgeon. I completed my residency in 1991. I completed my fellowship in sports medicine in 1992. I worked with the Astros one -- approximately that time on a regular basis since I believe it was 1995. I've been the head team physician and medical director since 2000.

Q Okay. Can you very quickly walk us through the structure of the team's medical staff, including the physicians, the trainers and others that are on the medical staff and their roles and responsibilities?

A Yes. The medical staff consists of two orthopedic surgeons, myself and Dr. Melhoff, and an internal medicine physician, Dr. Muntz. We also have a chiropractor who's a member of the medical staff, Dr. Dana Harper. There are also two full-time athletic trainers -- I'm talking about with the Major League club. I believe you have spoken with both of them, Mr. Labossiere and Mr. Jones. They -- that's

the personnel.

We work in a collaborative fashion. Obviously, David and Rex are present every day, all day; and they serve as information gatherers and practice within the scope of athletic training. They're in regular contact with me, particularly Mr. Labossiere, in regards to medical and orthopedic issues that arise with the players.

At every home game, at least one orthopedic surgeon is present to evaluate any injuries or maladies amongst the players; and Dr. Muntz, the internal medicine doctor, is present probably one out of every two or three games and is available regularly on call.

Q Okay. Is the strength and conditioning coach part of the medical team as well?

A I believe by title an organizational chart he follows under the athletic trainers.

Q Okay. And can you walk us through -- my understanding is that, from what the trainers have told us, that they are authorized, acting as agents of the doctors, to provide medications and specifically to provide injections.

A They -- well, in Texas, the law says the trainers can act as authorized by physicians to provide oral medications and other treatments and so on as deemed appropriate by physicians. There's not a standing

authorization to provide injections. As a matter of fact, to the contrary, that's something typically, to my knowledge, is not done by our athletic trainers.

Q Okay. So in almost -- so, in almost all cases, to the extent that injections are provided, they are provided by the doctors, rather than trainers?

A I guess I would rephrase that. I would not say "in almost all cases". I would say in all cases.

Q In all cases. Okay. Can you remember any exceptions to that?

A I'm thinking. No, I don't remember any exceptions.

Q Okay. Is the team strength and conditioning coach authorized to provide any medications or injectable medications?

A No.

Q Is this something the players understand pretty well? Have you ever had a case where a player has been under the impression that the -- that the team strength and conditioning coach can provide medications?

A I believe, Brian, you are asking me to know what the players are thinking; and I can't address that. I can tell you that I'm unaware of the players thinking such.

Q Okay. Let me ask that a slightly different way.

If a player were to come to the strength and conditioning coach for an injection, under team policy would

that coach then presumably have to send the player to you?
Is that the way it would work?

A Yes. Any injection would need to be reviewed and authorized and performed by me.

Q And have you ever had a case where the team strength and conditioning coach has sent a player to you because that player has come to him for a shot, an injection?

A Brian, I don't know specifically. I know there have been times when the strength and conditioning coach has been concerned about, say, shoulder pain in an athlete and thought that I should check him --

Q Uh-huh. Okay.

A -- referred to me for an injection by the conditioning coach.

Q I'm sorry. I missed that last part.

A To my recollection, I've never had a player referred to me specifically for an injection by the strength and conditioning coach.

Q Okay. Very quickly, on team policies for treating and tracking injuries, can you walk us through how the team treats and tracks injuries and keeps track of medical treatments?

A Sure. The general overview is that trainers typically are the first contact by the players, and they will discuss what seems to be bothering the player.

Let's just say, for example, an injury to the shoulder. The athletic trainer will do their evaluation as they're trained and authorized to do and then discuss with me either by telephone or in person. Depending upon the circumstances, I may see the patient that day or the player that day or as soon as was logistically feasible and if treatment will be initiated, whether it's medications or physical therapy type treatments or whatnot.

Record keeping is kept in a daily log by Dave Labossiere; and it involves logging the diagnosis of player -- name, of course, diagnosis, treatment plans and treatment administration.

When I see the player or one of the other doctors sees the players, we enter a separate medical note under the doctors' section of the Astros' medical record.

Q Okay. And is that a pretty granular set of records? If a player comes in -- I don't quite know how to differentiate between ordinary aches and pains and an injury that would be significant enough for a player -- to potentially affect a player's ability to play, is that the threshold for reporting it in your records for the trainer?

A On my records? Or in the trainer's records?

Q In the trainer's records.

A In the trainer's records. I think the threshold, as you might imagine, varies per individual. You know as well

as I that people may perceive aches and pains differently. The records are very thorough, will indicate essentially any complaints that the player has that is anything beyond very minor; and then we'll note the status of that complaint, whether it impacts their ability to play or not.

Q Okay, with regard to your treatment of Mr. Clemens, my understanding is that Mr. Clemens has not provided you with the appropriate authorization to speak to us about those records, is that correct?

Mr. McClaren. This is Bob McClaren. That is correct.

BY MR. COHEN:

Q Okay. Are you authorized to speak about treatments provided by the team trainers?

A Yes.

Mr. McClaren. Yes.

BY MR. COHEN:

Q Are you aware of any of the players ever providing injectable medications to Mr. Clemens?

A I am not.

Q And am I correct that, had they provided any medications, that would have been -- those would have been noted in team records?

A Correct.

Q Okay.

A I mean, just -- Brian, the records that

Mr. Labossiere keeps are exhaustive and extremely detailed. I really don't know how to convey it other than to say I've worked with a number of professional teams; and, by far, the organization of record keeping, really everything within the athletic training room is by far the best that I've seen.

Q Okay. All right. Are you aware of the trainers providing treatment to Mr. Clemens for any back problems?

A Yes.

Q Can you describe that?

A Mr. Clemens has back issues now and then that's documented in the trainers' records. And going through the trainers' records in front of me is stemming from -- I see references in 2004 and so on. So, yes, I've seen the treatments here as documented, having, let's see, medications such as anti-inflammatory, oral anti-inflammatory medications and so on.

Q Okay. And that was beginning in 2004. So those are throughout Mr. Clemens' tenure with the Astros?

A Let's just say intermittent. I see a record in 2004 going to 2005. I know he had issues with his back in -- as documented in the trainers' records in July of 2005, also. It's not a daily thing with him, but I would say intermittent.

Q Okay. Give us one second here.

Dr. Littner, can you tell us the team policies about

providing B12 shots to players?

A We don't.

Q And for how long have you not done that?

A How long have I not done that?

Q Let me rephrase that. How long has that been team policy?

A As far as I know, forever. As long as I've been involved with the team.

Q Okay. And why is that your team policy?

A I'm sorry?

Q Why is that your team policy?

A I'm having trouble having hearing the first part of that.

Q What is the reason for that team policy?

A B12, 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 B12, they can certainly do that orally.

EXAMINATION

BY MS. SAFAVIAN:

Q Just a quick question -- this is Jennifer Safavian -- a quick question on that point.

Have you had players come to either you or the trainers and ask about a B12 shot? Because, you know, they do believe that it has some positive effect on them and

because other teams, you know, readily provide B12 shots to their players?

A I believe, to the best of my recollection, over the last 10 or 12 years, we've had probably one or two players ask about it.

Q So it's pretty well-known among the players that that you just -- that the Astros do not provide B12 shots?

A You're asking me to look inside their -- the players' minds. I can't say that. I can only say that they don't ask me.

Q And is there some written policy or something put out to inform the players that, you know, B12 shots are not provided?

A Not that I know of.

Ms. Safavian. Okay. Thank you.

Mr. Cha. Dr. Littner, this is Steve Cha. Hi. How are you doing?

Dr. Littner. Hi Steve.

EXAMINATION

BY MR. CHA:

Q I wanted to ask a couple questions about the use of lidocaine, general team policy and with regard to trainers.

What is the team policy with regard to lidocaine injections?

A As with any injection, the physicians will decide

when and if they are indicated and will also perform them if they are indicated.

Q And what kinds of things would you give a lidocaine shot for?

A Lidocaine, as you probably know, is a local anesthetic used to numb up tissues, soft tissues, muscles, skin and so on. We use it mainly to numb up an 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.

Q And are these injections risky?

A Any injection carries at least a small risk. The main risk would be -- well, I guess you're not asking me that. So let's say minimal risk.

Q And what about injections for the low back, specifically?

A Injections for the low back -- are you talking about lidocaine injections for the low back?

Q Correct.

A 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.

Q So it sounds like injections for the lower back, as

compared to other injections of lidocaine, are more risky if you're taking more precautions. Is that an accurate assessment?

A Steve, that depends entirely on what part you're injecting. Lidocaine injections in the lower back are done in an area that is more risky than wherever you would inject lidocaine for other injuries.

Q Let me ask the question in another way.

Why do you have them only done by an expert in anesthesia in a medical facility? What's the purpose for those sorts of precautions?

A For a lidocaine injection in the lower back -- let me back up one step there. A lidocaine injection for the treatment of the lower back is done only in conjunction with the injection of cortisone. So it falls under the category of mixing the lidocaine with the cortisone so that the injection process itself is less painful. So the purpose of the lidocaine is to allow you to perform a cortisone injection around the nerves as they exit the lower spine, the lumbar spine. The lidocaine injections, not the treatment, is simply part of performing the major part of the treatment.

Does that make sense.

Q Sure. But you mentioned also that you're taking extra precautions in terms of making sure that it's an

expert in a medical facility. And, by the way, are these also done under x-ray?

A Yes, they are.

Q Okay. That's a lot of precautions. And I understand that the purpose of the lido is to give the cortisone. What's the purpose of all those precautions, particularly, you know, exposing a patient to x-ray and radiation?

A 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 -- the x-ray equipment, excuse me. As it is the need for the x-ray equipment that requires the use of the procedure center.

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.

BY MR. COHEN:

Q What would your reaction be to this kind of

procedure being done by a nonmedical professional in a nonmedical facility?

A What procedure?

Q A lidocaine shot to the lower back.

A 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 choose to inject anything or not a procedure I would choose to perform, but it's not particularly dangerous.

That distinction is very important, by the way.

BY MR. CHA:

Q And in both of those cases, if it was lidocaine alone, how long would you get relief from these injections?

A That varies between individuals. But on the order of a few hours, maybe as long as 3 or 4 hours.

Q So you're saying the outer limit of the relief provided would be 3 or 4 hours?

A Yes.

Mr. Cohen. Okay, Bob. I think we're done. We'll go off the record now.

[Whereupon, at 9:15 a.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name