

FREQUENTLY ASKED QUESTIONS

Below are responses to Frequently Asked Questions about the Football Players Health Study at Harvard University and our Report, *Comparing Health-Related Policies and Practices in Sports: The NFL and Other Professional Leagues*, a component of the Study's Law and Ethics Initiative.

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1. What is the Football Players Health Study at Harvard University? Is it “just another concussion study?”

Drawing on expertise from across Harvard University, the [Football Players Health Study](#) is dedicated to understanding the causes of conditions NFL players face, with the goal of improving their health and wellbeing.

The “Law and Ethics Initiative,” led by the [Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics at Harvard Law School](#), encompasses a variety of distinct projects with the primary goal of understanding the legal and ethical issues that may promote or impede player health, and developing recommendations to promote player health through structural change.

The existence of the Law and Ethics Initiative helps to differentiate the Football Players Health Study from other studies concerning NFL player health. While there have been many important studies concerning the medical aspects of player health, we are not aware of any that have conducted a comprehensive analysis of the relevant legal and ethical environment.

The present Report, *Comparing Health-Related Policies and Practices in Sports: The NFL and Other Professional Leagues*, is a component of the Law and Ethics Initiative.

For all project components, it is important to recognize that the Football Players Health Study is not “just another concussion study.” We are investigating all aspects of player health, including concussions, but also other conditions and health concerns including cardiac, musculoskeletal, chronic pain, psychological, and more. We are interested in the whole player, over his whole life.

For more information on the Football Players Health Study, see its [Frequently Asked Questions page](#).

2. What does this Report cover?

Comparing Health-Related Policies and Practices in Sports: The NFL and Other Professional Leagues seeks to improve the health of NFL players (former, current, and future) by comparing policies, and, where information is available, practices, of the NFL to other elite professional sports leagues: Major League Baseball (“MLB”); the National Basketball Association (“NBA”); the National Hockey League (“NHL”); the Canadian Football League (“CFL”); and, Major League Soccer (“MLS”). The Report includes six chapters analyzing different league policies and practices concerning player health: (1) Club Medical Personnel; (2) Injury Rates and Policies; (3) Health-Related Benefits; (4) Drug and Performance-Enhancing Substance Policies; (5) Compensation; and, (6) Eligibility Rules.

We selected these leagues because of their similarity to the NFL, both structurally and legally. The MLB, NBA, and NHL are particularly good comparisons to the NFL. Each of the leagues has been operating for nearly a century (or more in the case of MLB) and is an entrenched part of the American sports and cultural landscape. They share similar structures and operational practices, at least in part because they have shared many executives, lawyers, stadiums, and fans over the years. Their revenue streams also dwarf those of any other professional sports leagues, including the CFL and MLS. For these reasons, the NFL, MLB, NBA, and NHL are commonly referred to collectively as the “Big Four” sports leagues. Where appropriate, we also adopt this moniker. The CFL was included in our analysis because it is the only other long-standing and continuous professional football league. Finally, the MLS was included because it is a major North American professional sports league.

3. What is the purpose of the Report?

This Report has four functions. First, to **identify** the various policies that do or could influence the health of players in the various leagues. Second, to **describe** the policies and their relation to protecting and promoting player health. Third, to **evaluate** the capacity of these policies to protect and promote player health, in particular, by comparing policies on similar issues. And fourth, to **recommend** changes to policies that affect NFL players, grounded in our evaluation of certain approaches taken by other leagues that appear to be more favorable.

Although our main focus is to distill key lessons and approaches from other leagues and apply them to improve NFL player health, we hope that the Report is also useful for all of the leagues to learn from one another to improve the health of professional athletes more broadly.

4. Who is the intended audience for the Report?

This Report has several key audiences. There are those that we see as the major change agents: current players; club owners; the NFL; the NFLPA; club medical staff; and, various player advisors (e.g., contract advisors, financial advisors, and family members). If change is to occur, these are the key individuals and entities that will need to effectuate it. But we live in an era where discussions about protecting and promoting player health extend far beyond these change agents. Fans, the media, the NFL's business partners, and others all have a stake in—and more importantly, some power to shape—how the policies and practices of NFL football will evolve to best protect and promote player health. Finally, while our focus is on promoting the health of NFL players, much of what we have learned and discuss here is likely useful to the other leagues as well.

5. How was the Report funded?

The 2011 Collective Bargaining Agreement (CBA) between the NFL and NFLPA allocated funds for research. In 2014, the NFLPA and Harvard University entered into an agreement to create and support the Football Players Health Study using a portion of these funds. The Law and Ethics Initiative's budget is a total of \$1,257,045 over three years, which funds not only the present Report, but also several other projects referenced in Question 14. The contract governing this project protects our academic integrity as researchers; no external party (including the NFLPA and NFL) has any editorial control over our work.

6. Who are the authors of the Report?

The authors of the Report are:

Christopher R. Deubert is the Senior Law and Ethics Associate for the Law and Ethics Initiative of the Football Players Health Study at Harvard University. Previously, Deubert practiced commercial litigation, sports law, securities litigation, and labor/employment litigation at Peter R. Ginsberg Law, LLC f/k/a Ginsberg & Burgos, PLLC in New York City. His sports practice focused primarily on representing NFL players in League matters, including appeals for Commissioner Discipline, under the NFL's Policy and Program on Substances of Abuse and under the NFL's Policy on Anabolic Steroids and Related Substances (now known as the Policy on Performance-Enhancing Substances), and related litigation. Deubert also previously worked for Sportstars, Inc., one of the largest NFL-player representation firms, performing contract, statistical, and legal analysis, and he performed similar work during an internship with the New York Jets. Deubert graduated with a joint J.D./M.B.A. degree from Fordham University School of Law and Graduate School of Business in 2010, and a B.S. in Sport Management from the University of Massachusetts in 2006.

Disclosure: *Deubert's salary is fully supported by the Football Players Health Study at Harvard University. From August 2010 to May 2014, Deubert was an associate at the law firm of Peter R. Ginsberg Law, LLC f/k/a Ginsberg & Burgos, PLLC. During the course of his practice at that firm, Deubert was involved in several legal matters in which the NFL was an opposing party. Of relevance to this Report, Deubert represented players disciplined pursuant to the NFL's Policy and Program on Substances of Abuse and the Policy on Anabolic Steroids and Related Substances (now known as the Policy on Performance-Enhancing Substances). Lastly, since 2007, Deubert has provided research assistance to the Sports Lawyers Association, whose Board of Directors includes many individuals with interests related to this work.*

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Disclosure: 20 percent of Cohen's salary is supported by the Football Players Health Study at Harvard University. Cohen has no other conflicting interests to report.

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Disclosure: 30 percent of Lynch's salary is supported by the Football Players Health Study at Harvard University. Lynch has no other conflicting interests to report.

7. Did the NFL or NFLPA control the content of the Report?

No. The contents of this Report have not been directed by the NFL, NFLPA, or any other stakeholder. The Football Players Health Study is an independent research program led by investigators at Harvard University.

The Statement of Work agreed to between the NFLPA and Harvard included as one of the Law and Ethics Initiative's projects to "Conduct Comparative Sports League Analysis." More specifically, Harvard described the work to be done as follows:

We will analyze governance and stakeholder obligations in other professional sports in order to identify potential best practices and situate the ethics framework developed for professional football. This project will examine, for example, how medical practices in other leagues may result in the encouragement and tolerance of behavior that is risky to player health. The project will examine influences among health behaviors of players and team policies regarding player health.

This project description was intended to be preliminary. The actual scope of this Report developed over time, as expected, as the result of considerable research, internal discussion, and conversations with experts. Beyond agreeing to the Statement of Work, the NFLPA did not direct the scope or content of this Report.

As is typical with sponsored research, we provided periodic updates to the sponsor in several formats. Pursuant to the terms of the Harvard-NFLPA agreement, the NFLPA receives an annual report on the progress of the Football Players Health Study as well as one Quad Chart progress report each year. Additionally, on two occasions (August 22, 2014, and January 23, 2015), we presented a summary of the expected scope and content of the Report to the Football Players Health Study Executive Committee, comprised of both Harvard and NFLPA personnel. Those meetings did not result in any changes to our approach in constructing this Report, the conclusions reached, the recommendations made, or any other content of the Report.

Additional information about our communications with the NFLPA and NFL is also relevant here. During the course of our research, we had multiple telephone and email communications with both NFLPA and NFL representatives to gain factual information. As indicated where relevant in the Report, sometimes the parties provided the requested information and sometimes they did not. These communications were not about the progress, scope, or structure of our Report.

8. Did the Leagues and Unions review the report prior to publication?

Yes. After this Report underwent review by the Football Players Health Study team at Harvard, we subjected it to review by experts and the leagues before publication. We offered each of the leagues and their respective players unions the opportunity to review the report and provide comments. They provided varying degrees of cooperation:

- The NFL provided documents and information relevant to our prior report, [*Protecting and Promoting the Health of NFL Players: Legal and Ethical Analysis and Recommendations*](#), as well as this Report. However, the NFL declined our invitation to review this Report.
- The NFLPA provided documents and information relevant to our prior report, *Protecting and Promoting the Health of NFL Players: Legal and Ethical Analysis and Recommendations*, as well as this Report. The NFLPA was also provided with a draft of this Report to review pursuant to the Harvard-NFLPA Football Players Health Study agreement, but the NFLPA did not provide comments.
- MLB provided documents and information that we requested, reviewed the Report, and provided comments.
- The MLBPA declined our invitation to review the Report.
- The NBA provided documents and information that we requested, reviewed the Report, and provided comments.
- The NBPA was provided with a draft of this Report to review but did not provide comments.
- The NHL reviewed the Report but declined to provide specific comments. The NHL stated “[w]ith respect to NHL-related information contained in the draft report, there are numerous factual and data-related inaccuracies. By way of example, the report references and relies upon certain outdated/superseded NHL/NHLPA policies and procedures. In addition, certain of the cited analytical data appears to be inaccurate. As a result, analysis of and conclusions drawn from such policies, procedures and data are flawed.” In response to this statement, on multiple occasions we requested additional information or specification about those items the NHL believed were inaccurate. The NHL did not respond.

In addition, the NHL declined to provide copies of the following requested documents: (1) the NHL/NHLPA Authorization Form for Health Care Providers to Release Health Information; (2) the NHL/NHLPA Concussion Program Authorization Form; (3) the Authorization for Management and Release of Neuropsychological Test Results; (4) the Substance Abuse and Behavioral Health Program; (5) the Prohibited Substances List for the Performance Enhancing Substances Program; and, (6) the NHL Concussion Protocol.

- The NHLPA reviewed the Report and provided comments and relevant documents. The NHLPA requested that the following statement appear in the Report to explain its involvement:

The NHLPA is pleased to have been able to respond to the authors’ request for comments regarding a late draft of the study, and to provide certain of the information requested. The information and comments were provided to the authors of the study on the strict understanding that they were not to be attributed to the NHLPA in the text of the study, either directly or by implication. Nothing in the study, including the study’s decision not to address a question or issue, is to be construed as reflective of the position of the NHLPA.

- MLS declined our invitation to review the Report and declined to provide relevant documents, including a Medical Policies and Procedures Manual and MLS’ injury reporting policy.
- The MLSPU provided documents and information that we requested, reviewed the Report, and provided comments.

- The CFL provided some degree of cooperation by providing some information during a telephone call. However, after that call, the CFL declined to provide additional information or documents and declined our invitation to review the Report.
- The CFLPA provided documents and information that we requested, and was provided a draft of the Report to review but did not provide comments.

Summary of League and Union Involvement

League/Union	Provided Documents/ Information	Accepted Invitation to Review Draft Report	Provided Comments
 NFL	✓	✗	✗
	✓	✓	✗
 MLB	✓	✓	✓
	None requested	✗	✗
 NBA	✓	✓	✓
	None requested	✓	✗
 NHL	✗	✓	Yes, but no details
	✓	✓	✓
 CFL	✓	✗	✗
	✓	✓	✗
 MLS	✗	✗	✗
	✓	✓	✓

As a result of the varying degrees of cooperation from the leagues and unions, we were not able to explore certain issues as deeply as we would have liked, in particular the relationships among clubs, club medical staff, and players. We again highlight this and other practices as areas calling for further research, provided the leagues provide the necessary access and information.

Importantly, while the leagues and unions had the opportunity to comment, and their comments in many instances did inform the content of this Report, we retained control over the final content of the Report. We carefully considered the comments from the leagues and unions and made changes we determined were appropriate but no reviewer had

the authority to demand that any change be included. Thus, review should not be considered an individual endorsement of the final Report.

9. Who else reviewed the Report prior to publication?

In addition to review by the leagues and unions (as discussed in Question 8), we subjected the draft Report to peer review by outside experts. We engaged two independent experts in sports law to review the Report for accuracy, fairness, comprehensibility, and its ability to positively impact the health of NFL players. These experts are [Marc Edelman](#), Zicklin School of Business, Baruch College, City University of New York, and, [Michael McCann](#), University of New Hampshire School of Law.

As with the leagues and unions, while these expert reviewers had the opportunity to comment, and their comments in many instances did inform the content of this Report, we retained control over the final content of the Report. We carefully considered the comments from the expert reviewers and made changes we determined were appropriate but no reviewer had the authority to demand that any change be included. Thus, review should not be considered an individual endorsement of the final Report.

10. What are the Report's key takeaways?

In this Report we have identified many areas in which the policies and practices of the NFL concerning player health are as least as good, and in many instances better, than the other leagues. Indeed, the NFL's player health provisions are generally the most protective of player health among the relevant comparators. Nevertheless, each of the leagues comes with its own important nuances and contexts. In some cases, the NFL's policies might be justifiably different than the other leagues and perhaps even superior, despite their apparent deficiency. Thus, it is essential that all of these differences be examined in a full and fair context.

While the NFL's policies do often appear comparatively protective of player health, we also identified several areas in which the policies and practices of the NFL concerning player health could potentially be improved by adopting approaches taken by other leagues:

1. The CFL CBA, unlike the NFL CBA, requires that pre-season physicals "to determine the status of any pre-existing condition" be performed by a neutral physician.
2. The standard of care articulated in the NHL and MLS CBAs, unlike the NFL CBA, seemingly requires club doctors to subjugate their duties to the club to their duties to the player at all times.
3. MLB, unlike the NFL, has a concussion-specific short-term injury list.
4. The other leagues' injury reporting policies, unlike the NFL, do not require the disclosure of the location on the body of a player's injury.
5. MLB and the NHL, unlike the NFL, generally offer health insurance to players for life.
6. Among the Big Four leagues, the retirement plan payments offered by the NFL are the lowest.
7. MLB and NHL players, unlike those in the NFL, are vested in their pension plans on the first day they play in the league.
8. The NBA and CFL, unlike the NFL, offer treatment to players who have violated their performance-enhancing substance policies.
9. The amount of player compensation that is guaranteed in the NFL is substantially lower than in the other Big Four leagues.
10. The NFL has the most prohibitive eligibility rule of the Big Four leagues.

In Question 11, we explain why the Report does not opine on which of the leagues policies and practices best protect player health.

11. Why does the Report not opine on which of the leagues' policies and practices best protect player health?

We did not believe it was practical or fair to opine, as a definitive matter, on which of the leagues' policies and practices in their totality best protect player health. The leagues and their games are different in many important respects, including but not limited to the demographics of the players, the number of players in the league, the typical careers in the league, the physicality of and health outcomes associated with the sport, the league's popularity, and the leagues' interplay with collegiate athletics. Consequently, it can be challenging to draw comparisons between the leagues. It is also important to understand the nuances and different contexts for each of the leagues' policies and practices. On many issues, one policy or practice might be best for player health in one league, while a different policy or practice on the same issue might be best for player health in another league.

That said, as a general matter, the Report concludes that the NFL's policies concerning player health on the whole appear as least as good, and in many instances better, than the other leagues. Nonetheless, there is still room for improvement, as indicated by the various recommendations included in the Report; there are a number of ways that the NFL can learn from other leagues and further improve player health, as discussed further in Question 10.

12. Does the Football Players Health Study have any relation to the Concussion Litigation?

No. The Football Players Health Study has no relation whatsoever to the lawsuit brought by former NFL players against the NFL, *In re National Football League Players' Concussion Injury Litigation*, 12-md-2323 (E.D. Pa.).

13. How does Harvard University benefit from conducting this Study? What's in it for the researchers?

Beyond the funds received to support the study and potential reputational or professional advancement, Harvard does not benefit from conducting the Football Players Health Study.

14. What are the other projects of the Law & Ethics Initiative of the Football Players Health Study?

Please see [Active Projects](#) for details on our research and reports on related topics.