

Additional Questions for the Record

The Honorable Lee Terry

- 1. You described the baseline testing initiated in 1997 for all players prior to each season. That information is used to help diagnose potential concussions and provide a standard measurement of when a player may return to play after a concussion (when their cognitive testing score returns to baseline). Has the NHL performed any longitudinal analysis to monitor players' baseline scores over the course of multiple seasons – for either all players or the subset who had suffered a concussion?**
 - a. If so, what does the data indicate and can that information be used to inform changes to further enhance player safety?**

The NHL/NHLPA Concussion Subcommittee (the "Concussion Subcommittee") determines the protocol governing the baseline testing of NHL Players under the NHL/NHLPA Concussion Program, including as to the frequency and scope of Player testing (initially upon entering the League, and re-baselined either after suffering a head injury or after an intervening period of time in which no head injury has been known to occur), as well as the analyses to be conducted with the Player baseline and post-injury data. A longitudinal analysis has recently been authorized by the Concussion Subcommittee but remains in its nascent stages and there remains insufficient data on which to draw conclusions or to inform recommendations for change.

- 2. During the hearing you described the changes the NHL has made to improve safety, include rules changes to reduce the number of unnecessary hits and fights. Have the players embraced the changes and the long history associated with the physical nature of the game? Have you seen a change in playing style for the better?**

Yes, we have observed a noticeable change in Player behavior in recent years, which we believe is attributable -- at least in part -- to changes in Playing Rules that the League has implemented, including but not limited to new Rule 48, which makes it illegal for Players to deliver a hit that results "in contact with an opponent's head where the head was the main point of contact and such contact to the head was avoidable." The incidence of fighting in our game has also been reduced substantially with the introduction of Rule 9.7, which mandates the use of face visors that must be properly affixed to Player helmets, and Rule 46.6, which provides for a minor penalty to any Player who removes his helmet prior to engaging in a fight.

We believe that changes in Player behavior have also been encouraged by, and have resulted from, the formation of the NHL Department of Player Safety, which is the first department of its kind in any major professional sports league and is dedicated to making the game on the ice as safe as it possibly can be for the Players without eliminating its inherently physical nature. The Department of Player Safety's objectives are accomplished both through its intensive education and Player outreach efforts, and also by its painstaking scrutiny of every play in every NHL game for the purpose of determining whether additional or "supplemental" discipline should be assessed to Players who violate the Playing Rules.

The fact that the game is safer today is borne out on a statistical basis as well. Specifically, with respect to fighting, fighting penalties for the 2014/15 Regular Season were down 16% over our totals for last season (2013/14), and down almost 40% from four seasons ago (2010/11). Roughly 70% of our Regular Season games are played without any fighting penalties being assessed. Similarly, in the area of what we would consider our more "violent" penalties -- e.g., Cross Checking, High Sticking, Slashing, Boarding, Roughing, etc. -- those penalties were also down this year (2014/15) from previous years virtually on an across the board basis.

3. The NHL's Department of Player Safety is comprised of former world class players. Does that help "legitimize" its role and functions with the players and public? How many supplementary fines have they assessed players each year?

Yes, we believe the identity of the League personnel making these critical decisions on Player safety matters is important to the credibility and relative "success" that the Department of Player Safety has experienced. Since its formation following the 2010/11 NHL season, the Department has been led and staffed by Hockey Hall of Fame members and former Players such as Brendan Shanahan, Brian Leetch, Rob Blake and Pat LaFontaine (Leetch and LaFontaine ranking among the best and most accomplished U.S.-born Players ever to play in the NHL). Additional elite-level former Players include current Department Head Stephane Quintal (16 NHL seasons) and future Hall of Fame Defenseman Chris Pronger (18 NHL seasons). These former Players understand every aspect of the game and their credibility among the population of current Players (as well as the general public) is beyond question or reproach.

In terms of fines and suspensions issued since the Department of Player Safety's formation in 2011, beginning with the current season (2014/15), there have been 27 Players suspended and 12 fined for on-ice transgressions during the Regular Season, with a total salary forfeiture approaching \$1.3 Million (the salary forfeited by Players for on-ice conduct is contributed to the NHL/NHLPA Emergency Assistance Fund which, in turn, makes grants to former members of the NHL family (primarily former Players) who find themselves in situations of need). In the 2013/14 NHL season, 33 Players were suspended (\$1.7 Million in forfeited salary) and 12 Players fined; in the 2012/13 NHL season, 17 Players were suspended (\$715,000 in forfeited salary) and 7 Players fined (in a 48-game Regular Season); and in the 2011/12 NHL season, 34 Players were suspended (\$2.45 Million in forfeited salary) and 34 Players fined.

4. You stated that since 1997, all helmets have to be certified. Yet the league advises players to replace their helmets frequently to avoid the effects of degradations of aging helmets. Is that decision to replace determined only by the player? Is there a standard or limit to the age of helmets players can wear?

Helmet manufacturers currently do not provide a designated "shelf life" or total number of recommended uses for their certified helmets. Beginning, initially in 2001, and continuing on a regular basis since, the NHL and the NHLPA have jointly communicated important information to Clubs and Players that has advised regarding the need to regularly maintain and where appropriate replace helmets in order to address and combat the aging and potential

degradation of helmet materials which may be related to their frequent use and the conditions under which NHL Player equipment is transported and utilized. These communications have included recommendations that Players replace their "home helmets" (helmets worn primarily with home game uniforms) for the start of every new season, and that they replace their "away helmets" (helmets worn primarily with away game uniforms) both at the start of every season and one additional time during the season. The information communicated by the NHL and NHLPA has also recommended immediate replacement of helmets that become badly scratched or gouged, or that otherwise have been involved in plays that do or may damage their structural integrity.

The Honorable Jan Schakowsky

1. The National Hockey League (NHL) has taken important steps to address head injuries in professional hockey, but there is still room to make the game safer. I understand one area that the league has examined is equipment safety.

a. Over the last decade, rules have been adopted requiring smaller and softer shoulder and elbow pads. What sort of results have these requirements produced?

The Rule requiring "all plastic surfaces that could come in contact with an opponent must be covered with a foam material" was adopted effective for the 2003/04 NHL season. The rule requiring that shoulder pad surfaces be covered with a foam material that is at least one-half (1/2) inch thick was adopted effective for the 2010/11 NHL season. While it is difficult to measure on-ice results with any material degree of accuracy given the multiple variables involved, we believe that all of the changes we have made (and are continuing to make) to "soften" the playing environment in which our Players perform (both equipment-related and otherwise) are, ultimately, beneficial to Player welfare and safety, and are reducing our Players' exposure to unnecessary injury (including head injury).

b. Has the league or have individual NHL officials investigated expanding these rules or making any further changes to shoulder, elbow or shin pads?

The 2012 Collective Bargaining Agreement with the Players provided for the creation of an NHL/NHLPA Protective Equipment Subcommittee, whose mandate is to "study and make recommendations with respect to the standards for protective equipment utilized by NHL Players to address the health and safety of the Players, as well as their opponents, and related issues at the direction of the [Joint Health and Safety Committee], while maintaining the integrity of the game." This Subcommittee currently is exploring whether further standards should be introduced with respect to the characteristics of shoulder pads and has engaged an independent engineer to provide guidance and expertise to the Subcommittee in connection with the project. The Subcommittee met most recently in January 2015, at which time it discussed other potential equipment projects and initiatives, and resolved to form new working task groups focusing on lacerations; foot and ankle injuries; and hand and wrist injuries.

2. There tend to be a lot of collisions in the sport of ice hockey. There is no “out of bounds” – only boards and glass. It is intentionally played on a slippery surface. And all skaters are trying to gain and keep control of a very active, three-inch-wide disk made of vulcanized rubber. So there are lots of collisions. What I would like to address in this series of questions is how to prevent these collisions from resulting in brain injury to players.

a. In written testimony submitted for the Subcommittee hearing on March 13, 2014, you stated that “the League has supported federal and state legislative efforts aimed at the establishment of concussion safety guidelines.” Do you support making state concussion laws more protective of player health than those state laws recently enacted, and if so, in what ways? What specific federal legislation do you support?

The state legislation we have supported typically contain three fundamental components: (1) it provides for mandatory education on concussions to student athletes, parents and coaches; (2) it mandates immediate removal from play for all student athletes suspected of sustaining a concussion; and (3) it requires that return to play decisions be made by a licensed health care professional. In some states, proposed legislation speaks only to mandatory education for coaches and medical professionals; we believe, however, that this type of legislation is better directed at a broader audience, and we certainly support legislation that requires additional educational efforts be directed toward the student athletes themselves, as well as to their parents. We also feel strongly about the inclusion of a requirement that all return to play decisions be made by a licensed health care professional, an aspect that appears absent from some existing state legislation in this area.

In terms of federal legislation, we have supported the Protecting Student Athletes from Concussions Act, introduced by Senator Durbin; the Youth Sports Concussion Act, introduced by Senator Udall; and the Concussion Treatment and Care Tools Act introduced by Senator Menendez.

b. There are several states where youth concussion laws cover only high school athletes, not those in younger grades or in extracurricular recreational leagues. Do you support the expansion of these laws to cover youth sports regardless of whether the athlete is participating on a high school team or another kind of team?

While we understand the logistical challenges (and cost) that may be associated with introducing extra safeguards to "lower levels" of sport, the National Hockey League does support the expansion in scope of concussion laws to all levels of organized sport. We support this particularly in a sport like hockey, where a large percentage of youth Players in the United States learn and hone their skills in youth programs unrelated to their schools. We also believe that such an expansion is appropriate given what we understand to be a higher risk level for mild traumatic brain injury among youth participants than among adult athletes.

- c. **I understand the NHL has partnered with Canadian junior hockey leagues to develop comprehensive new concussion education programs for its players. Will you, or have you, done the same with U.S. junior leagues, such as the USHL and Tier 2 and 3 leagues?**

It is true that in our most recent Agreement with the Canadian Hockey League (operating as three constituent leagues -- the Ontario Hockey League, the Quebec Major Junior Hockey League and the Western Hockey League, with franchises in both Canada and the United States), we required the CHL -- the highest level junior hockey organization currently operating in North America -- to "engage professionals to provide education to its Players on the diagnosis and treatment of concussions, including the importance of reporting symptoms and the dangers associated with head injuries generally." The NHL is uniquely positioned to champion this initiative at the CHL level because of the nature of our longstanding contractual relationship with the CHL, pursuant to which we make financial payments directly related to the Players that our Clubs draft and sign from those junior leagues. The NHL's relationship with junior level hockey in the United States is not as direct in nature. Junior leagues in the United States (including the USHL and all Tier 2 and Tier 3 Programs) are governed and regulated exclusively by USA Hockey -- the body responsible for overseeing all youth and amateur hockey in the United States, including the national teams that represent the country in international competition. The NHL and our Member Clubs make an annual grant to USA Hockey to help fund and support their many initiatives in furtherance of growing and developing the sport of hockey in this country, but the development and implementation of those initiatives is largely left to the discretion of the USA Hockey organization. Having said that, and as I indicated at the hearing on March 13 as well as in my written testimony, we are very comfortable with the steps that USA Hockey has taken (both through rules implementation and educational initiatives) to make the sport of hockey safer, and to emphasize to everyone involved in the sport the paramount importance of Player health and safety.

- d. **In your written testimony, you mentioned that "a defining characteristic of the NHL/NHLPA Concussion Program is that it has functioned in a centralized manner since its inception." What drawbacks would you expect to see in programs that are not centralized like this?**

The NHL/NHLPA Program has been set up as a centralized, League-wide program since its inception, with participation by and application to all NHL Clubs and all NHL Players. The advantage of a centralized system is that it enables all data to be stored in and accessed from a single location. Our team neuropsychologists function under the auspices of the League-wide Program and not under the direction or control of the individual Clubs. As a result, all Players are subject to the same concussion management protocol and education, irrespective of which Club they may be employed by at any particular time. In addition, because Players' data is maintained in a central database, when Players move from Club to Club (which can be quite frequently in our industry), their data follows them and is available to medical care professionals who treat them for later injuries incurred while working for different employers. Programs that are not centralized in nature, generally do not allow for the same amount and scope of data transfer and sharing; do not allow for centralized data collection and analysis; and do not allow for the same level and consistency of care and treatment.

- e. **A January 2014 study released by St. Michael's Hospital in Toronto found that over three recent seasons, the NHL's teams collectively paid an average of \$218 million per season to players sidelined by injury. The author of the study said that "N.H.L. owners need to do a better job of protecting their athletes — if not for their players, then for their own pocketbooks." The study's researchers estimated that concussions were among the most financially costly injuries, totaling almost \$43 million of the \$218 million average total. The medical and personal well-being of players should come first, of course. But I found it interesting that it may make good financial sense for the NHL to reduce concussions as well. Does the NHL believe that reducing concussions is in its best financial interests?**

As an initial matter, it is important to note that the information cited in the St. Michael's study is not consistent with the data collected and maintained internally by the NHL, and, as a result, we neither agree with nor are willing to adopt or endorse the study's main conclusions. Having said that, we do agree that a reduction in the incidence of head injuries (and indeed all other Player injuries in our sport) is an objective that is shared collectively by the NHL, the NHLPA, all NHL Clubs and all NHL Players. That shared objective drives us constantly to examine and analyze injuries in our game -- including how, where, when and why they happen -- and to develop ways in which the overall number of injuries can be reduced, and their severity minimized. Concussions are one type of Player injury that is "costly" to our Clubs, in terms of both the Clubs' ability to ice competitive teams and in terms of the financial impact associated with having to continue to pay Players who are unable to perform due to injury (Player contracts in the NHL, unlike in a number of other professional sports, are 100% guaranteed for non-performance due to Player injury). This certainly is a compelling reason -- if not the most compelling reason -- for the NHL to continue its unrelenting efforts to reduce head injuries in our game.