

November 5, 2007



NFL PLAYERS
ASSOCIATION

BY HAND DELIVERY

Honorable John Conyers, Jr.
Honorable Lamar S. Smith
Honorable Linda T. Sanchez
Honorable Christopher B. Cannon
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressmen and Congresswoman:

The NFL Players Association ("NFLPA") is pleased to provide the enclosed answers and documents in response to your joint letter of October 12, 2007. Please keep in mind that none of the player benefits you listed are administered by the NFLPA, and much of the information you seek is not in our possession. In such instances we have identified who has this information and therefore should be able to provide it to the Committee.

We believe that the Committee was given a great deal of misinformation at the June 26 hearing, and may have been mistakenly led to believe that the NFLPA is in charge of and administers all benefits for players. Nine of the benefits, including the disability and retirement benefits, are administered by joint boards, to which the NFLPA and the NFL each appoint three voting members. The day-to-day administration of these jointly-trusted benefits occurs at the "Plan Office" in Baltimore Maryland, and the Plan Office should have the records for those benefits. Two types of benefits (group insurance (including post-career health insurance), and severance pay) are administered solely by the NFL. The NFL should have the records for those benefits. The remaining benefits are to be administered by the new NFLPA/NFL Alliance announced on July 25.

The NFLPA is proud to have negotiated this extensive array of excellent benefits for active and former NFL players. We believe that, as a whole, these benefits equal or exceed those in any other professional sport, and compare favorably to any major business in the United States. The NFLPA is committed to the just and efficient implementation of these benefits and to their future expansion through collective bargaining.

We also enclose a copy of our "White Paper" on benefits for NFL Players as Exhibit A. This document contains general information about many of these benefits. If

you need any further information, please call Carl Francis (202-756-9169) here at the NFLPA.



Sincerely,

A handwritten signature in black ink, appearing to read "Eugene Upshaw".

Eugene Upshaw

NFL PLAYERS
ASSOCIATION

Enclosures

Response to Questions of October 12, 2007**NFL PLAYERS**
ASSOCIATION**1. What organization or office is responsible for administering each of the above benefits or programs? What is the date on which each benefit or program was established?**

As you know, federal law currently prohibits all unions, including the NFLPA, from controlling or administering the benefit plans the union is able to negotiate for its members. Thus, not one of this impressive array of benefit programs is administered by the NFLPA.

The most federal law permits is for a union to negotiate for a benefit plan to be run by a joint board, to which the union is allowed to appoint one-half of the voting members.¹ The NFLPA has achieved this federal "maximum authority" in the case of the Bert Bell/Pete Rozelle NFL Player Retirement Plan ("Retirement Plan"), which provides retirement, death, and disability benefits; the NFL Player Supplemental Disability Plan ("Supplemental Disability Plan"); the NFL Player Second Career Savings Plan ("Savings Plan"); the NFL Player Annuity Program ("Annuity Program"); the NFL Player Health Reimbursement Account Plan ("HRA Plan"); and the 88 Plan. The day-to-day administration of each of these jointly-trusted plans occurs at a "Plan Office" in Baltimore, Maryland. The Plan Office has a toll-free number and an internet site to assist Players. The contact information for the Plan Office is:

¹ This is true even though the collective bargaining agreement between the NFLPA and the NFL provides for the cost of all benefits to come from the player's share of revenues. For example, even though all disability benefits reduce the salaries of active players and to not reduce the portion of total revenue allocated to the NFL Clubs, the NFLPA-appointed "Player Trustees" must obtain the consent of the NFL-appointed "Management Trustees" to grant disability benefits.

Bert Bell/Pete Rozelle NFL Player Retirement Plan
200 St Paul Place, Suite 2140
Baltimore, MD 21201
(800) 638-3186.

The following table provides the information requested, and lists the benefit plans or programs according to the date they were established. The NFLPA is proud of its success in negotiating new benefits for its members.

One important benefit program for which information was not requested is Workers Compensation. Last year alone the active players gave up \$34.1 million for this very important benefit.² Workers Compensation is generally administered by the states. The NFLPA has negotiated for all players to be covered by workers compensation insurance, even if their NFL Club is located in a state that does not have a state workers compensation program.

Please note that there currently is no assisted living program; the NFLPA/NFL Alliance has committed to consider such a program in the future.

Plan/Program	Responsible Office	Date Established
Retirement Benefits (Retirement Plan)	Plan Office	September 19, 1962
Death Benefits (Retirement Plan)	Plan Office	September 19, 1962
Total and Permanent Disability Benefits (Retirement Plan)	Plan Office	April 1, 1970
Line-of-Duty Disability	Plan Office	April 1, 1970
Group Insurance ³	NFL Management Council	March 1, 1977
Severance Pay	NFL Management Council	November 16, 1982
Retiree Medical	NFL Management Council	May 6, 1993

² In other words, amounts payable as current compensation to active players were reduced under the salary cap by \$34.1 million to fund Workers Compensation coverage and benefits.

³ For active players, group insurance includes life, medical, and dental benefits. For former vested players, group insurance includes medical and dental benefits for five years after their NFL careers end.

Savings Plan	Plan Office	July 1, 1993
Total and Permanent Disability Benefits (NFL Player Supplemental Disability Plan)	Plan Office	July 1, 1993
Annuity Program	Plan Office	April 1, 1998
88 Plan	Plan Office	February 1, 2007
HRA Plan	Plan Office	March 1, 2007
Cardiovascular Health Program	NFLPA/NFL Alliance	July 25, 2007
Retired Players Medical Fund	NFLPA/NFL Alliance	July 25, 2007
Joint Replacement Surgery	NFLPA/NFL Alliance	July 25, 2007
Assisted Living Program	NFLPA/NFL Alliance	July 25, 2007

2. For players who receive T&P disability benefits, what are the types and severity of their disability? What is the date on which each benefit or program was established? Identify the number of players who experience each type of disability and, if possible, the injuries that led to these disabilities. Please provide the same information for line-of-duty disability benefits.

Total and Permanent Disability Benefits

Total and permanent disability ("T&P") benefits have been paid by the Retirement Plan since 1970. Originally there were only two types – "football" and "nonfootball." In 1993 this structure was expanded to the present four categories. Following is a description of each of these categories.

- **Active Football: Football-related, generally within six months**
 - A former player receives a minimum of \$224,000 per year if he becomes totally and permanently disabled due to NFL football generally within six months after his NFL career ends.
 - Based on a player's benefit credits, this amount could be higher.⁴
 - No vesting required – available to a player who plays in as little as one game.

⁴ The minimum amounts are higher if the sum of the player's Benefit Credits exceeds \$4,000 (Active Football, Active Nonfootball, or Football Degenerative) or \$1,500 (Inactive; for applications received on or after April 1, 2007, the minimum is \$1,750). The NFLPA White Paper on Benefits (Exhibit A) describes Benefit Credits and vesting at pages 19-20.

- **Active Non-Football: Non-football related, generally within six months**
 - A former player receives a minimum of \$134,000 per year if he becomes totally and permanently disabled from any other cause generally within six months after his NFL career ends.
 - Based on a player's benefit credits, this amount could be higher.
 - No vesting required – available to a player who plays in as little as one game.

- **Football Degenerative: Football-related, within fifteen years**
 - A vested former player receives a minimum of \$110,000 a year if he becomes totally and permanently disabled due to NFL football within 15 years after his NFL career ends.
 - Based on a player's benefit credits, this amount could be higher.

- **Inactive: Non-football related, no time limit**
 - A vested former player receives a minimum of \$18,000 a year (\$21,000 for applications on and after April 1, 2007) if he becomes totally and permanently disabled and does not qualify for one of the other categories.
 - Based on a player's benefit credits, this amount could be higher.

As of October 23, 2007,⁵ 154 players were receiving benefits in each of these categories as follows:

- Active Football: 6
- Active Nonfootball: 9
- Football Degenerative: 91
- Inactive: 48

⁵ The following data about players receiving T&P benefits is different from the data on players receiving disability benefits provided by Doug Ell in his June 26, 2007 congressional testimony in three ways. First, the data has been updated to October 23, 2007. Second, the data includes 44 players who reached age 55 while receiving Inactive T&P benefits, and whose disability benefits have "converted" to retirement benefits under the Plan. Third, this data does not include players receiving LOD benefits.

Please note that this table does not include the 70 players who have reached age 55 (the normal retirement age for the Retirement Plan) and continue to receive the same benefit as a "retirement benefit." The number of such players for each category is as follows:

- Active Football: 2
- Active Nonfootball: 3
- Football Degenerative: 21
- Inactive: 44

In all cases, T&P benefits are paid if the disability is severe enough that it "substantially prevents" the former player from earning a living.

Information on the injuries that led to these disabilities may exist in the records of the NFL Clubs. In general, we believe the Plan Office in Baltimore does not have this information.

Line-of-Duty Disability Benefits

Line-of-duty disability ("LOD") benefits are partial disability benefits paid to players who suffer a "substantial disablement." LOD benefits are available to players who play in as little as one NFL game.

To receive LOD benefits a player must apply within 48 months (4 years) after his NFL career ends. Partial disability benefits are paid for up to 90 months (7.5 years). A player's LOD benefit equals the sum of his Benefit Credits. Therefore, a player who leaves the game today with five seasons would have a monthly LOD benefit of \$2,350 (5 seasons times \$470). Regardless of the number of a player's seasons, he will receive at least \$1000 per month.

Most injuries to NFL players are orthopedic. The collective bargaining parties have adopted guidelines created by the American Medical Association to measure impairments resulting from orthopedic injuries. For orthopedic impairments, using the AMA guidelines, LOD benefits are paid if the player meets any one of the following thresholds:

- A 38% or greater loss of use of the entire lower extremity;
- A 23% or greater loss of use of the entire upper extremity;
- An impairment to the cervical or thoracic spine that results in a 25% or greater whole body impairment;
- An impairment to the lumbar spine that results in a 20% or greater whole body impairment; or
- Any combination of lower extremity, upper extremity, and spine impairments that results in a 25% or greater whole body impairment.
- Up to three percentage points may be added to the impairment ratings of a player if he experiences excess pain.

For non-orthopedic impairments, LOD benefits are paid if the player experiences a 50% or greater loss of speech or sight, or a 55% or greater loss of hearing. LOD benefits also are paid if the player's impairment is the primary or contributory cause of the surgical removal or major functional impairment of a vital bodily organ or part of the central nervous system.

3. The NFLPA has reported that, currently, there are 7,900 former players. Excluding players whose information would be included in the response to question #2, do you know how many former players suffer from injury-related or football-related (e.g., obesity) health problems? If so, provide the number of players who suffer from each type of injury-related or football-related health problem.

Currently there are about 7,900 former players who are vested. We are not aware of any source of general data on the current health of these former players.

Out of these 7,900 players about 3,000 are currently receiving either disability or retirement benefits. (In accordance with the universal practice of all employers we are aware of, a player cannot receive both of these income replacement benefits at the same time.) Thus, about 38% of former vested players are receiving monthly benefits. This is a large percentage for a relatively young group; please keep in mind that players often leave NFL football around age 30.

The NFLPA does not agree with the suggestion in the Committee's cover letter that there are "serious questions" about the number of players receiving disability benefits. T&P benefits are awarded to any former vested player who cannot work. That is basically the same standard that the Social Security Administration applies in its disability cases.

We have previously provided the following analysis, as of June 26, 2007, of the disposition of the 1,052 claims for disability received from July 1, 1993 to June 26, 2007:

Total disability applicants	1052
Approved at initial stage	358
Denied at initial stage	675
Awaiting initial decision	19
Applicants Denied at Initial Stage who Appealed	223
Approved on appeal	69
Denied on appeal	132
Appeal Pending	22
Applicants Who have Sued	32
Retirement Board Upheld	24
Retirement Board Reversed	1
Lawsuit pending	7

Overall	
Disability applicants	1052
Cases pending	48
Benefit approved	428
Benefit denied	576

The overall approval rate of 42% is very close to the Social Security Administration's overall approval rate of 47%. The Retirement Plan, and certainly the NFLPA and the NFL, cannot be faulted for not giving benefits to players who never applied!

4. If an individual meets the definition of "player," but he is not a vested player, for which benefits or programs, if any, is he eligible?

Former NFL players who are not vested are eligible for 3 of the 5 types of disability benefits: T&P benefits in the Active Football and Active Nonfootball categories, and LOD benefits. They are also protected by workers compensation, according to the law of their state. If their state does not have a workers compensation program, their team must nevertheless provide them with equivalent workers compensation insurance from the private sector. The NFLPA continually stresses to both active and retired players that, if they file a workers compensation claim in a timely manner, they will have lifetime medical coverage for their football injuries so long as they do not "settle" their lifetime medical coverage when the workers compensation claim is resolved. NFL players are entitled to participate in the NFL Player Second Career Savings Plan in their rookie year, and to receive Club contributions under that plan beginning in their second year. Finally, former NFL players who are not vested may participate in the Cardiovascular Health Program.

All active players, even if they are not vested, participate in the NFL Players Group Insurance Plan, which provides medical, dental, and life insurance benefits for themselves and their families.

We believe that workers compensation benefits do not require a vesting period.

5. Does the NFLPA have any entity or entities that examine health problem involving active players, former players, or both?

The NFLPA does not have any “entities” that deal with player health problems. However, it does have a Medical Consultant, Dr. Thom Mayer, the president and CEO of BestPractices, Inc., the nation's premier resource in emergency medicine leadership and management, and chairman of the emergency medicine department at Inova Fairfax Hospital in Virginia. Dr. Mayer participates in various studies conducted by the NFL and helps monitor compliance with a set of medical guidelines that NFL clubs have been advised to follow regarding acclimatization, emergency medical care, heat prostration, and other medical issues. These guidelines result in part from the work of the Joint Committee on Player Safety and Welfare, which is provided for in the CBA (Article XIII) and which consists of three NFLPA members and three members representing the clubs. In addition, the NFLPA has a performance consultant, Mark Verstegen, a world-renowned expert in the area of athletic performance training and the founder and chairman of Athletes Performance in Tempe Arizona. Mr. Verstegen appears at our annual meeting and advises player reps on a variety of health-related issues, including conditioning, rehabilitation of injuries, use of nutritional supplements, and proper equipment.

The NFLPA Retired Players Department has also provided programs to assist retired players in getting needed medical care, and currently has made available to its

members the opportunity to obtain cardiovascular screenings at facilities around the country. These screenings were also made available to attendees at the recent Retired Players Convention in Atlanta, where the life of one player was saved through detection of a condition which required emergency surgery.

The NFLPA Retired Players Department has also supported and/or participated in several studies concerning the physical effects of playing professional football. Those studies include the following:

(1) “Determinants of Cardiovascular and Respiratory Risk in Elite Professional Football Players,” by Dr Arthur Roberts of the Living Heart Foundation at Monmouth University in 2004;

(2) “NFL Mortality Study” by the National Institute for Occupational Safety and Health in 1993;

(3) “Depression and Pain in Retired Professional Football Players” by Dr. Thomas Schwenk of the University of Michigan;

(4) “After the Battle: Report on Lives of Former Players” (May 1994) and “A Study of Players who Left Professional Football in the 90’s” (June 2002) by Dr. Beverly Pitts of Ball State University (May, 1994);

(5) “Life After Football: Careers and Opportunities” (September 1996), Life After Football: A Survey of Former Players (May 1989), “Aftermath of an NFL Career: Injuries” (May 1990), “Lifestyle After Football” (Spring 1994) by Dr. Mark Popovich and Dr. Beverly Pitts of Ball State University; and

(6) Studies conducted by the Center for the Study of Retired Professional Athletes at the University of North Carolina at Chapel Hill, including the “Recurrent Concussion

and Risk of Depression in Retired Professional Football Players” study done by Dr. Kevin M. Guskiewicz and others in 2006.

Finally, and at the NFLPA’s insistence, the current CBA also requires the NFL Clubs to provide players with workers compensation benefits equivalent to that of other employees in their respective states, and the NFLPA has a panel of workers compensation attorneys from the various team cities who stand ready to assist active and former players in the filing of claims. The NFLPA continually stresses to both active and retired players that, if they file a workers compensation claim in a timely manner, they will have lifetime medical coverage for their football injuries so long as they do not “settle out” their lifetime medical coverage when the workers compensation claim is resolved.

Assuring player access to medical records was an important collectively-bargained right, as was assuring the right to a second medical opinion and to select surgeons.

6. How many players retired because of an injury or injuries? What types of injuries did these players sustain?

The NFLPA does not have data on the number of players who retired because of an injury or injuries. Please keep in mind that, in many instances, this is a grey area because players may leave the game for several reasons. Statistics about why NFL players retire can be misleading. Most careers are not affected by a muscle or bone problem that causes a person to be one-half of a second slower in the 40-yard dash. In the NFL, that half-second could cost a player his job. The vast majority of players who leave the NFL, including those who leave because of injury, are in most respects quite healthy and capable of other employment.

7. What is the average annual amount of each type of benefit (e.g., T&P disability, pension, line-of-duty disability, annuity program) paid to players in each year, 1950-2007? For each year, provide the number of players who received benefits, the average amount of the benefit per player, and the total amount of each type of benefit paid.

As noted in the response to question number 1, the NFLPA does not administer any of the listed benefit plans or programs. The day-to-day administration of the jointly-trusted benefit plans occurs at the Plan Office in Baltimore, Maryland. We believe the Plan Office possesses the data requested by question 7 for the jointly-trusted benefit plans and programs it administers.

8. During the period (1989-1993) that the NFLPA and the NFL each administered a retirement plan, how did the plans work? That is, were the individuals who retired during this period able to choose which plan to use for retirement? If not, how was participation in each plan determined?

It is accurate that during the period 1989 to 1993 there were two retirement plans covering NFL players. It is not accurate that one of them was ever administered by the NFLPA. That would have violated federal law, which bars a union from controlling the plans it negotiates in collective bargaining for its own members. The NFLPA has asked Congress to eliminate this barrier at least in part and allow the trustees appointed by the NFLPA to have the sole responsibility to decide applications for disability benefits. This will avoid deadlocks and expedite payments.

The original retirement plan for NFL players – the Bert Bell NFL Player Retirement Plan ("Bert Bell Plan") – was established in 1962. Players receive "Benefits Credits" according to the collective bargaining agreement ("CBA") for each "Credited Season." After the 1982 CBA expired in 1987, the owners agreed to allow continued Benefit Credits at the then rate of \$150 per Credited Season. But beginning in 1989 they refused to allow continued accruals. Instead, they created their own plan, which they

named the Pete Rozelle NFL Player Retirement Plan ("Pete Rozelle Plan"). This Plan was similar to the Bert Bell Plan, except that it was run totally by the owners and had no player trustees. All decisions on pension and disability benefits, and all investment decisions, were made solely by the owners.

The Bert Bell Plan continued to exist and to be administered by the six voting members of the Retirement Board. Three voting members had been appointed by the NFLPA and three by the NFL. The union-appointed trustees were placed in a difficult situation in 1989 when the NFLPA decertified. Without a union to back them up, these trustees faced the prospect of enormous personal liability. It is to their credit that they did not resign during this difficult period.

Players who earned Credited Seasons prior to 1989 remained participants of the Bert Bell Plan. But they could not earn further Benefit Credits under that Plan. Players who earned Benefit Credits in 1989, 1990, 1991, and 1992 became participants in the Pete Rozelle Plan. So during this period some players (with no Credited Seasons after 1988) participated in only the Bert Bell Plan, some players (with Credited Seasons both before 1989 and after 1988) participated in both plans, and some players (with only Credited Seasons after 1988) participated in only the Pete Rozelle Plan.

After the 1993 CBA, the Bert Bell Plan was amended to substantially increase Benefit Credits. In March of 1994, after necessary government approvals were obtained, the two plans were merged to create the present Bert Bell/Pete Rozelle NFL Player Retirement Plan.

9. A July 25, 2007, NFLPA media release announced several new benefit initiatives and mentioned improved disability benefits procedures. Please provide additional, detailed information about these initiatives, including the actual or anticipated effective date of each program, as appropriate.

The referenced press release announced the creation of an alliance including the NFL and the NFLPA to assist former players with medical and other problems. Under discussion was creation of a foundation to fund a Retired Players Medical Program, a Cardiovascular Health Program, Assisted Living, and Improved Post-Retirement Health Insurance. Since July 25 there has been one additional meeting of the Alliance and another meeting is being scheduled this year. At the second meeting held on September 26, 2007 in New York, the Alliance members were updated on arrangements for joint replacements at various medical facilities with part of the costs paid by a newly negotiated employee benefit plan, and for former players without insurance or resources, a newly established foundation would pay part or all of the remainder. The group also discussed a cardiovascular program which would combine efforts and make cardiovascular screenings available to players in all team cities and potential arrangements with assisted living providers. Funding of the programs was also discussed, and it is expected that the necessary initial funding of the new foundation will be provided in the near future, in time for a prompt start of these new benefit programs. Initial funding was \$7 million, and the League has just announced the addition of \$10 million to the fund. The effective date of the joint replacement benefit will likely be announced at the next meeting, with others to follow.

Prior to the July 25, 2007 press release, it was announced that the NFLPA and the NFL have agreed to simplify the application process for disability benefits. If a player

qualifies for Social Security disability benefits, he now automatically qualifies for total and permanent disability benefits from the Retirement Plan. This has helped some players, and it provides an alternate route to establish inability to work. It also responds to suggestions that Plan doctors apply too high a standard; if a player demonstrates to the satisfaction of the Social Security Administration that he cannot work, the Retirement Plan will automatically accept that finding, even if a Plan doctor had previously stated that the player could work. Of course, this improvement in no way limits the Plan's normal procedures for granting disability benefits. Because Plan decisions are generally made considerably faster than Social Security decisions, it is expected that most players will continue to become qualified through the Plan's normal procedures.

10. A former player may receive a pension, or a disability benefit (assuming he is eligible), but not both. Are there any other types of benefits or programs that have the same, or a similar, restriction (i.e., if a player receives benefit A, he cannot receive benefit B)?

It is accurate that a former player who has already elected to begin receiving his pension may not also receive disability benefits.⁶ To our knowledge, this practice is universal among all employers. Both pension and disability benefits are income replacement benefits.

The Retirement Plan has two types of death benefits for surviving spouses. An eligible widow may choose which benefits to receive.⁷

⁶ When a disabled player who is receiving T&P benefits reaches the Retirement Plan's normal retirement age, his benefit is not reduced; it basically becomes his retirement benefit.

⁷ One benefit is the widow's and surviving children's benefit, which pays larger amounts that continue until the widow remarries or dies. The other benefit is the spouse's pre-retirement death benefit, which does not stop if the widow remarries.

A player may not obtain reimbursements for medical expenses from his account in the HRA Plan while he is receiving the five years of free health insurance following the end of his NFL career.

11. What is the rationale for making a distinction between total and permanent disabilities that manifest themselves before an individual reaches the age of 45 or within 12 years after the end of his last credited season, whichever is later; and total and permanent disabilities that manifest themselves after an individual reaches the age of 45 or 12 years after the end of his last credited season, whichever is later? Specifically, what is the rationale for the difference between monthly T&P disability payments (\$4,000) for players in the former category (football degenerative) and monthly payments (\$1,500 for players in the latter category (inactive)? Additionally, what is the rationale for providing benefits under the NFL Player Supplemental Disability Plan to individuals in the categories of "active football," "active nonfootball," and "football degenerative," but not providing these benefits to the players in the "inactive" category?

This paragraph appears to refer to the standard of obtaining T&P benefits in the "Football Degenerative" category. That standard was changed in September 2006; at present a player receives Football Degenerative T&P benefits if his disability arises out of NFL football activities, and results in total and permanent disability within 15 years after the end of the player's last Credited Season.

This benefit was created, and amended, as part of collective bargaining. As described in the response to question 2, it is one of four T&P benefits. The criteria for all of these T&P benefits were forged in collective bargaining. Which category applies in a specific case generally depends on (1) the cause of the disability and (2) the length of time between a player's NFL career and his inability to work. In the view of the NFLPA, it is appropriate for the benefit to be greater where NFL football was the cause and it is appropriate that the payment amount may depend in part on the length of time between the player's NFL career and his inability to work. The NFLPA is proud of the generosity of these plans. An employee of a corporation like IBM or General Motors does not

expect to get – and does not get – disability benefits if he or she becomes unable to work decades after leaving the job.

The monthly benefit payable in these four T&P categories is generally as follows:

<u>Category</u>	<u>Minimum Retirement Plan Benefit</u> ⁸	<u>Supplemental Plan Benefit</u>
Active Football	\$4,000	\$14,670
Active Nonfootball	\$4,000	\$7,167
Football Degenerative	\$4,000	\$5,167
Inactive	\$1,500 (\$1,750 for applications received on and after April 1, 2007)	N/A

As you can see, the Supplemental Disability Plan exists to pay benefits to players in the top three categories. This is pursuant to federal law, which, under the Internal Revenue Code, limits the maximum disability benefit a pension plan may pay. Because the total benefit in the top three T&P categories is so generous, a "supplemental" plan had to be created to pay part of the benefit.

12. It appears that the types of benefits available to players from different eras varies, depending upon the CBA(s) that were in effect during the years they played football. Provide a list of all benefit programs (including current program; programs that were offered previously, but no longer exist, if any; and new programs, such as the Retired Players Medical Fund), and indicate which group of players – by the dates they played in the NFL – may participate in each type of benefit. For example,

Second Career Savings Plan	2006-present
Group Insurance	1998-present
Retirement Benefits	1950-present

⁸ Depending on the Benefit Credits a player has accrued, this benefit may be higher.

The following table shows which group of players, by date of service, may participate in the following plans or programs:

Plan/Program	Applicable to Players in Dates
88 Plan	All NFL players
Retiree Medical	1993 forward
Cardiovascular Health Program	All NFL players
Death Benefits (Retirement Plan)	All NFL players
Group Insurance	1993 forward
Line-of-duty disability	All NFL players within four years of retirement
NFL Player Health Reimbursement Account Plan	2004 forward
NFL Player Annuity Program	1998 forward
Retired Players Medical Fund	All NFL players
Retirement Benefits (Bert Bell/Pete Rozelle NFL Player Retirement Plan)	All NFL players
Severance Pay	1982 forward
NFL Player Second Career Savings Plan	1993 to present
Total and Permanent Disability Benefits – Bert Bell/Pete Rozelle NFL Player Retirement Plan	All NFL players
Total and Permanent Disability Benefits – NFL Player Supplemental Disability Plan	1993 forward
Workers Compensation	All NFL Players

As described in response to the questions in paragraph 8, the former Bert Bell NFL Player Retirement Plan and the former Pete Rozelle NFL Player Retirement Plan no longer exist; they were merged in 1994 to create the present Bert Bell/Pete Rozelle NFL Player Retirement Plan.

13. For each benefit plan or program and for each year, show how many players submitted an application, and provide a breakdown of the disposition of the applications. The disposition breakdown should show the number of applications approved, the number denied, and, if there is an appeals process, the disposition of cases that were appealed. Also, include the reasons that applications were denied, and, if applicable, the disposition of any lawsuits filed by applicants.

As noted in the response to question number 1, the NFLPA does not administer any of the listed benefit plans or programs. Day-to-day administration of the jointly-

trusteed plans occurs at the Plan Office in Baltimore, Maryland. We believe the Plan Office possesses the data requested by question 13 for the jointly-trusted benefit plans and programs it administers.

14. Under Article 5 of the Bert Bell/Pete Rozelle NFL Player Retirement Plan, a former player who has applied for total and permanent disability benefits may be required to submit to an examination by a physician or physicians selected by the Retirement Board or the Disability Initial Claims Committee (DICC). Under what circumstances would a player not be required to submit to an examination? How many players, if any, have not been required to submit to at least one medical examination? How many players have had to submit to two examinations, three, four, etc.? How many players have been seen by one physician, two, three, etc.?

As noted in this question, a former player who has applied for disability benefits may be required to submit to an examination by a Plan neutral physician. Most players who apply for T&P benefits are required to submit to an examination. Under the following circumstances, players typically will not be referred to an examination: (1) the player is not vested, and therefore is not eligible for T&P benefits; (2) the player is receiving retirement benefits, and therefore is not eligible for T&P benefits; or (3) the player has indicated that he is currently employed, and therefore may not qualify for T&P benefits. In these cases, the player's application is presented to the Disability Initial Claims Committee ("Committee"), which determines whether to deny the application, refer the player to a medical examination, or take other action.

In cases where a player does see a Plan neutral physician, there are different situations which may require the player to see more than one Plan neutral physician. For example, it is common for a player to apply for T&P benefits based on multiple impairments, such as orthopedic and cardiovascular impairments, or a combination of orthopedic, cardiovascular, and psychiatric impairments. In these cases, it is the Plan's practice to refer the player to a neutral physician who specializes in each of these areas.

So, a player who lists multiple types of impairments may be examined by more than one Plan physician.

The Department of Labor requires that, if a T&P application is denied for medical reasons, on appeal the Retirement Board must consult with a different physician than the one consulted by the Committee. Thus, on appeal, a player is automatically referred to a second Plan neutral physician.

A player may be required to see a third neutral physician if the Retirement Board is deadlocked on whether he is totally and permanently disabled. In such cases, the Retirement Board may refer the player to the Medical Advisory Physician for a final and binding determination on the player's medical condition.

We note that, in accordance with the terms of the Retirement Plan, players receiving T&P benefits are periodically examined by a Plan neutral physician to determine whether they continue to be unable to work.

We believe the Plan Office possesses data on the number of players who applied for T&P benefits but were not referred to a Plan neutral physician, and on the number of Plan physicians each applicant has seen.

15. How are physicians selected to serve as "neutral Physicians"? What are the criteria for hiring the physicians? Who pays for their services?

Neutral physicians are selected by the Retirement Board. The Retirement Board uses two prominent orthopedic surgeons, who are not neutral physicians, to recommend Board-certified orthopedists of exceptional quality who have substantial experience with the orthopedic problems of athletes. If a non-orthopedic neutral physician is needed in a particular location, then, pursuant to a procedure set up by the Retirement Board, the

closest orthopedic neutral physician is asked to recommend a highly qualified physician with the needed medical specialty in that area.

The Plan pays the full cost of all required medical examinations, plus any travel expenses. The Plan requests and expects a very thorough and high quality medical review. Neutral physicians are paid \$2,000 to conduct an initial medical exam, and \$1,500 to conduct the continuation exam of a player receiving benefits.

16. How are physicians selected to serve as medical advisory physicians (MAPs)? What are the criteria for hiring the physicians? Who pays for their services?

Medical Advisory Physicians are selected by mutual agreement of the NFLPA and the NFL Management Council, pursuant to section 11.4(a) of the Retirement Plan. The Retirement Plan pays the full cost of all medical examinations provided by the Medical Advisory Physicians, plus any travel expenses. Medical Advisory Physicians are paid \$2,500 or more to conduct a very thorough and complete medical exam.

17. When the Retirement Board requires a player to see one or more neutral physicians, how are the physicians selected? Who pays for the former player's travel expenses to see the physicians?

When the Retirement Board refers a player to one or more neutral physicians, it takes into account the specialty required by the player's impairment, the player's geographic location, and the player's history with a physician (for example, a player will not be examined by the same physician twice during the same administrative procedure). Again, the Retirement Plan pays the full cost of all medical exams, plus any travel expenses.

18. When the Retirement Board requires a player to see a MAP, how is the physician selected? Who pays for the former player's travel expenses to see the physician?

The Retirement Plan maintains three orthopedic MAPs. One is located on the east coast, one on the west coast, and one in Chicago. Each is a highly-respected Board-certified orthopedic surgeon with outstanding credentials and many years of experience in sports injuries. If the player's impairments are orthopedic in nature and he has been referred to a MAP, the player normally will see the closest of these three physicians, and the Retirement Plan pays all travel costs. If the player's impairments relate to a different medical specialty, the Plan will ask for a recommendation from one of Plan's existing MAPs.

19. What instructions does the DICC or the board provide to neutral physicians? MAPs?

Plan neutral physicians and MAPs are asked to complete the Retirement Plan's Physician Report Form and to supply a detailed narrative report of the examination. The Retirement Plan's three Physician Report Forms are attached as Exhibit B. One form is used when a player applies for LOD benefits, the second is used when a player applies for T&P benefits, and the third is used when the player applies for both LOD and T&P benefits.

20. May a player also submit to the board or the DICC information from an examination conducted by a physician or physicians whom he has selected?

Of course. Not only is this permitted, but players are repeatedly invited to submit any information that they would like the Retirement Plan to consider.

21. Who are the members of the Disability Initial Claims Committee?

The members of the Disability Initial Claims Committee are Chris Smith and Mary-ann Fleming. Chris Smith was appointed by the NFLPA and Mary-ann Fleming was appointed by the NFL.

22. If the board or the committee already has determined that an individual suffers from a total and permanent disability, why would he be required to submit, subsequently, to periodic physical examinations? For all of the players who have received total and permanent disability benefits under Article 5 of the retirement plan, how many have had to submit to periodic re-examinations? How many of these players have had their T&P benefits rescinded or reduced? Have any members of this group re-applied for T&P benefits, and what was the disposition of their cases?

The initial answer is that the Retirement Plan generally requires periodic reexaminations. Federal law requires the Retirement Board to follow the terms of the Plan.

A deeper answer is that this is standard industry practice, and is intended to preserve Plan assets for the benefit of retirees and persons who remain unable to work. Before a player is awarded T&P benefits, the Plan determines that he is not likely to get better soon. Fortunately, in a few cases players do recover and return to some type of full-time employment. Reexaminations help ensure that T&P benefits are paid only to players who remain unable to work.

We believe it is standard practice to reexamine persons receiving T&P benefits. For example, the website of the Social Security Administration states that "All people receiving disability benefits must have their medical conditions reviewed from time to time." See <http://www.ssa.gov/pubs/10153.html#6>.

The NFLPA does not have the requested data.

23. How are players informed about benefits programs available to them, including any changes in benefits? How often are players informed about benefits and programs?

The NFLPA strives in many ways to inform all players of their benefits and of any changes. For example:

- The NFLPA discusses benefits during team meetings with active players, at least once each season for each NFL Club;
- Benefit issues and changes are highlighted in NFLPA publications, including the Audible, the Touchback, the NFLPA Player Planner, and a variety of different booklets;
- Benefit information is on the NFLPA website; and
- Benefit issues are presented at chapter meetings of the NFLPA Retired Players organization, and at the annual NFLPA Retired Players Convention.

Of course, the Plan Office in Baltimore, Maryland is a tremendously valuable source of information on the jointly-trusted benefits it administers. The Plan Office has a toll-free phone number, and each business day dozens of players and their beneficiaries call for help and information. Players can ask for and obtain plan documents and summary plan descriptions at any time. The Plan Office maintains a web site with detailed information on each of the plans it administers, including all forms. For example, a player who wants to apply for any benefit, including disability benefits, can download the necessary form, complete it, and send it in. The Plan Office sends out, on a regular basis, account statements, investment information, summary plan descriptions, and similar materials.

24. When was the Retired Players Department established? What is the purpose or role of the department? Since its inception, what has the department accomplished?

The Retired Players Department within the NFLPA was formed in 1984 to provide an active voice for former players of all ages. Membership is open to all players

who signed an NFL contract. There are 33 chapters nationwide with organized leadership and regular meetings. The objectives of the organization include:

- To establish more local chapters;
- To increase the future pension and benefits for all players;
- To establish a formal line of communication between active and retired players;
- To build a network of retired players for business contacts and second careers;
- To help build the image of the game and promote it to the benefit of players; and
- To raise funds for the Players Assistance Trust (PAT).

Since its inception, the Retired Players Department has accomplished many things including:

- Assistance in gaining pension and disability benefit increases;
- Administration of the PAT Fund, resulting in over \$5 million in payments on behalf of former players in need;
- Assistance in networking between former players and potential employers;
- Helping former players take advantage of workers compensation benefits under state law; and
- Providing the services of medical professionals in various areas including orthopedic and cardiovascular.

25. One of the objectives of the Retired Players Department is “to increase the future pension and benefits for all players? What has the department done to achieve this objective?

The Retired Players Department has helped former players communicate their desire for increased pensions and other changes. As a result, the 1993 Collective Bargaining Agreement and several of its extensions, including the most recent extension in 2006, have included large, retroactive pension increases.

26. What is the relationship between the Retired Players Department and the Benefits Department?

They are both departments within the NFLPA. They work together closely in a number of ways, including:

- Getting answers to former players' questions as to eligibility for various benefits, including LOD and T&P Benefits under the Retirement Plan;
- Having representatives of the Benefits Department appear at local chapter meetings and the annual NFLPA Retired Players Convention to provide information and answer questions about benefits; and
- Helping players referred by the Benefits Department who have need for financial help from the PAT Fund.

27. How many T&P disability claims were denied because it was determined that the disabilities did not result from playing football. What types of injuries and disabilities were included in claims that were denied; claims that were approved initially; and claims that were denied initially, appealed, and eventually approved?

None. An outstanding feature of the disability benefits the NFLPA has negotiated is that T&P benefits are paid, in at least the Inactive category, if an eligible player becomes unable to work for any reason. We are not aware of any other disability program that is so generous. For example, a vested player who cannot work because of cancer or an automobile accident receives T&P benefits, even if his cancer or automobile accident occurs 20 years after his NFL career ends.

28. Provide a breakdown that shows, since the inception of the fund, the number of players who have received a Players Assistance Trust (PAT) Fund grant for health reasons, education/career transition and catastrophic events, and the amount that each player received.

The requested breakdown is attached as Exhibit C. The breakdown details 861 individual grants made to 662 different players and their widows. To protect the privacy of the individuals who have received these charitable grants, we have not included names.

29. Describe the process used for funding the Retirement Plan and other benefits programs. Who contributes funds, and how are the funds allocated among the Retirement Plan, other benefits programs, and all other expenses (for example, players' salaries)?

The NFL Players Association and the NFL agree in collective bargaining on the benefits to be provided. Benefit costs reduce the revenue available for active players under the Collective Bargaining Agreement ("CBA").

The amount necessary to fund the Retirement Plan is calculated actuarially, in accordance with federal law. The contribution to the Retirement Plan for the 2006 Plan Year was \$125.9 million -- \$96.5 million for retired player benefits, and the remainder for active player benefits and administrative expenses. The contribution to the HRA Plan is also computed actuarially. The contribution to the HRA Plan for the 2006 Plan Year was \$75 million.

The contribution necessary to fund the other benefit plans is more simply calculated as the total of the benefits provided plus all costs of administration. For the new 88 Plan, the consultants estimated an initial contribution of \$1.88 million, all to benefit retired players.

The CBA allocates a percentage of the League's revenues for player salaries and player benefits (currently 60%). The costs of benefits to former players come from the active players' side of the table. In other words, all of the CBA benefits, including the cost of benefits for players no longer active, reduce the amount available for salaries and benefits of active players.

From April 2006 to March 2007 -- the active players gave up approximately:

- o \$96.5 million to fund retirement benefits for retired players;
- o \$31 million to fund medical benefits for retired players;

- \$18 million in contributions to health reimbursement accounts
- \$2 million to 88 Plan for Dementia
- \$11 million for five years post-retirement fully paid health care
- \$20 million to fund disability benefits for former players; and
- \$34.1 million to fund workers compensation coverage.

30. Please provide copies of the following:

- a. Retirement Plan annual Reports (Form 5500 Series) for the past five years.**
- b. All of the studies and surveys that the NFLPA has conducted, been involved in, or has hired someone else to conduct, involving players' injuries, disabilities, and health problems (e.g., obesity). In addition, please provide a list of ongoing and planned studies, if any, including, for each study, the names of the authors, their organizational affiliations, the purpose of the study, and the expected date of completion. For example, provide information about the agreement to fund research on dementia, which was mentioned in the July 25, 2007, media release. How has the union used the data and studies?**
- c. Applications for disability benefits and any other plans and programs that require an application.**

(a) The requested Form 5500s are attached as Exhibit D. Schedule SSA, which lists the name, Social Security number, and benefit of players receiving benefits under the Retirement Plan, is not included to protect the privacy of players.

(b) The requested studies and surveys are attached as Exhibit E.

(c) The requested applications are attached as Exhibit F.

31. If the NFLPA conducts an education program for players on injuries and the short-term, as well as long-term, benefits and risks of common treatments for injuries and pain associated with injuries, provide information about this program, including copies of the materials, if any, that are provided to players.

The NFLPA does not conduct any formalized educational program for players concerning injuries, their treatment, or rehabilitation. Under the standard NFL Player Contract form, Club medical staff has full discretion on the treatment of injuries, subject

to the player's right to a second opinion and the right to choose his own surgeon should surgery become necessary. However, the NFLPA provides free legal representation to players for injury grievances and other grievances involving injury issues, and also provides a panel of workers compensation attorneys in the Team cities to represent them in their workers compensation claims. Also, our annually published NFLPA Player Planner (Exhibit G) provides information on injury grievances and related topics, and provides space for an injury diary on the daily pages. We further provide a list of recommended second opinion physicians, and we raise issues concerning injuries and their treatment through our representatives on the Joint Committee on Player Safety and Welfare.

32. Please provide information about the NFL Alumni Association's Dire Need Fund, the Hall of Fame Enshrinee Assistance Fund, and any other funds or organizations of which you are aware that provide financial or medical assistance to former players. Indicate which funds or organizations, if any, are affiliated with the players association.

The NFLPA is not privy to the governing documents regarding the NFL Alumni Association Dire Need Fund or the Hall of Fame Enshrinee Assistance Fund. However, we believe those two funds generally provide financial help on a limited basis to former players, with the Hall of Fame limited to Hall of Fame inductees who need assistance. To assist the Committee, we have enclosed a copy of relevant information from the NFL Alumni Association website and also from the Hall of Fame Enshrinee Assistance Fund as Exhibit H.