

NFL admits connection between concussions and degenerative brain disease

By Alan Gilman
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During a House Energy and Commerce round-table discussion concerning concussions and football held last Monday in Washington, D.C., Jeff Miller, the National Football League's (NFL) senior vice president for health and safety policy, admitted that there is a link between American football and degenerative brain disorders like chronic traumatic encephalopathy (CTE).

Until Miller's testimony the official NFL policy which it had maintained for decades was that football-related concussions have no long-term health effects. To support this position the NFL mirrored the methods of the tobacco industry, which had for years denied that smoking had any adverse health effects.

Miller's admission came after a leading CTE researcher, Dr. Ann McKee, had presented her findings, showing that nearly 200 former NFL players who had died were afflicted with the disease.

Dr. McKee, a Boston University neuropathologist, has diagnosed 176 CTE cases over the past five years, including 90 out of 94 former NFL players whose brains were examined; 45 out of 55 college players; and six out of 26 high school players. During Monday's Congressional panel, McKee warned, "It cannot be rare. In fact, I think we are going to be surprised at how common it is" in football players.

The NFL's sudden reversal last week from its long held position, however, has little to do with accepting responsibility for the horrific damage this multi-billion dollar industry has wrought upon its players, but instead has everything to do with protecting its immense wealth from future lawsuits. The official admission that football-related concussions cause CTE will now make it harder in the future for players to accuse the league of concealing the dangers of the sport.

"Strategically, the NFL's admission makes a world of sense," said Jeffrey A. Standen, the dean of the Chase College of Law at Northern Kentucky University. "The league has paid a settlement to close all the claims previous to 2015. For future sufferers, the NFL has now effectively put them on notice that their decision to play professional football comes with the acknowledged risk of degenerative brain disease."

The multi-billion dollar NFL, like "Big Tobacco," utilized its well-paid "experts" to promote the claim that football-related concussions had only minimal short-term effects and were otherwise harmless. The same well-paid shells would also work to discredit and intimidate anyone who stated otherwise.

This strategy was epitomized in the NFL's attacks on Dr. Bennet Omalu, a neuropathologist employed by the Pittsburgh Coroner's Office who had made the initial finding connecting football with CTE.

Dr. Omalu had performed the autopsy on Pittsburgh Steeler Hall of Fame center Mike Webster, who died in 2002 at age 50 after experiencing prolonged emotional and cognitive decline. Dr. Omalu concluded that Webster had died of CTE and found that "this case highlights potential long-term neurodegenerative outcomes in retired professional NFL players subjected to repeated mild traumatic brain injury." Dr. Omalu's findings were subsequently published in the journal *Neurosurgery*.

The NFL's concussion committee responded to these findings by writing to the journal claiming that Dr. Omalu's paper had "serious flaws" and demanded its retraction—a request that was denied. The committee similarly attempted to discredit two subsequent reports of CTE that Dr. Omalu had diagnosed in other deceased former players.

The NFL also attempted to have Dr. Omalu fired by

the Coroner's Office, and engaged in further acts of threats and intimidation against him. These events were depicted in the 2015 film *Concussion*.

In 2011, in response to these findings and to the decades-long denial by the NFL of any connection between repeated concussions sustained by players and the high incidence of brain disorders sustained by former players, a class action was filed by several hundred former players against the NFL.

By then it had become common knowledge that many former players were suffering from early onset of dementia. Many others were committing suicide at alarming rates. Among those were: Terry Long in 2005; Andre Waters in 2006; and Junior Seau, Dave Duerson and Ray Easterling in 2012. The families of these players insisted that the brains of these players be autopsied for brain damage, and all were subsequently diagnosed CTE.

With so many former players suffering from dementia and the repeated findings of CTE in deceased players—34 out of 35 in 2012—the NFL owners determined it was to their financial benefit to limit the financial damages. Consequently in 2013 the league reached a tentative \$765 million settlement over concussion-related brain injuries among its 18,000 retired players. One of the principal terms of the settlement was that the agreement “cannot be considered an admission by the NFL of liability, or an admission that plaintiffs’ injuries were caused by football.”

Many players objected to this settlement because they correctly understood that it would not cover the enormous costs that are associated with caring for brain-damaged players. Consequently the court was compelled to later reject this initial settlement proposal.

In September 2014 during hearings on proposals to attempt again to settle this case the NFL admitted in court documents that it expects nearly one-third of retired players to develop long-term cognitive problems and that these conditions are likely to emerge at “notably younger ages” than in the general population.

In April 2015 the court approved a settlement for all players who have sustained serious medical conditions associated with head trauma. It only, however, applied to players who retired before July 2014 as well as family members of players who died before that date. More than 200 former players, however, opted out of

the settlement, believing it to be inadequate, and can now sue the NFL separately.

During Super Bowl week this year the NFL continued to deny any connection between CTE and football. Dr. Mitch Berger, who leads the league's subcommittee on former players and long-term effects of brain and spine injury, repeatedly asserted that there is no proven link between football and CTE.

Now, by publicly acknowledging such risks, the NFL will attempt to absolve itself from any future claims for liability by asserting that its players knowingly assumed the risks of sustaining brain injuries by agreeing to play football.

The author recommends:

Concussion: Highlighting the perils of American football

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