TESTIMONY OF

GENE UPSHAW, EXECUTIVE DIRECTOR
NATIONAL FOOTBALL LEAGUE
PLAYERS ASSOCIATION

BEFORE
THE COMMITTEE ON GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES

On

USE OF PERFORMANCE-ENHANCING DRUGS

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Mr. Chairman and Members of the Committee:

My name is Gene Upshaw and I am the Executive Director of the NFL Players Association, the labor union that represents all NFL players in collective bargaining. I also played in the NFL for 15 seasons with the Oakland and Los Angeles Raiders. For my accomplishments as a player, I have been honored by induction into the Pro Football Hall of Fame.

There are numerous issues on which management and labor disagree, and we are presently involved in a difficult round of collective bargaining negotiations. But there is complete agreement on this: steroids and other performance-enhancing substances have no place in our game, or anywhere in sports. For many years, we have been committed to keeping them out of the NFL, and we will continue to work with the League, and with government and private parties, to help remove them from American life.

In recent weeks, this subject has again received renewed attention, and there has been a sharp focus on the use of performance-enhancing substances in sports. Many

observers have come to recognize that this is both an ongoing challenge and one that is likely in coming years to be more complex and difficult to address successfully.

In the NFL, we have been focused on performance-enhancing substances since the late 1980s. The League's then-Commissioner, Pete Rozelle, instituted both educational and disciplinary programs in the late 1980's to deter the use of performance-enhancing substances by NFL players and to eliminate them from our game.

Educational efforts have led both our teams and our players to support strong measures, developed jointly by the League and the Players Association, to eliminate these illicit substances from NFL football – and to send a message to others in football at the intercollegiate, high school and youth levels that the use of performance-enhancing substances is not the way to play or succeed in football.

Our collectively-bargained Policy and Program on Anabolic Steroids and Related Substances has been in place for more than a decade, and is the most comprehensive in professional sports today. Our results confirm that the program is very effective. It reflects a strong and ongoing commitment on the part of both management and our union, backed by substantial financial investments, top scientific resources, and more than a few tough decisions.

The NFL began testing players for steroids in 1987; started suspending violators in 1989; and instituted in 1990 a year-round random testing program, including during the off-season, backed by suspensions without pay for violations. The program has

strong features to deter evasion, including suspension for players testing positive for masking agents or who attempt to dilute their urine to beat the tests. Players who test positive are subject to up to 24 unannounced tests per year, including during the off-season. They remain subject to this frequent, year-round testing for the remainder of their careers.

We also recognize the importance of staying current, and have consistently expanded our own list of prohibited substances – in the past three years, nearly 20 additional substances have been added to the banned list. Those included ephedra, which we prohibited three years ago. As the Committee knows, the federal government's ban of that dangerous supplement was just limited by a District Court Judge. Nonetheless, ephedra will remain a prohibited substance in the NFL because of the risks it continues to present to our player population.

This process of ongoing review is one of the most important aspects of our Program. The League and the players meet on a quarterly basis to review the operation of the Program and discuss issues. Every year the Policy is re-written – hopefully for the better. We have just concluded that process for 2005 and will shortly publish the revised Policy and distribute it to all the players. We will provide the Committee with the new version, but I can highlight a couple of changes today.

First, we have reduced the threshold for a testosterone positive. While a player formerly had to have a t:e ratio greater than 6:1 for a positive test, that ratio will now be 4:1.

Second, we have increased the maximum number of off season tests from 2 to 6 per player. Thus, at a time when other drug testing organizations both in this country and around the world are sharply reducing their "out of competition" testing, we are sending the message to our players that steroid use is inappropriate at any time – in-season or out.

Why has this issue been among the highest priorities of the NFL and its players?

First, these substances threaten the fairness and the integrity of the game on the field. To allow the use of steroids and banned stimulants would not only condone cheating, but also compel others to use them to remain competitive. Our own players want to rid the League of these substances so they can compete on a level playing field.

Second, we have a responsibility to protect our players from the demonstrated adverse health effects of steroids and other banned substances. Medical literature is replete with research linking the use of these substances to a wide range of serious health problems.

Third, we take seriously our role in educating and leading young people. As President Bush said, the use of performance-enhancing drugs is dangerous and sends the

wrong message that there are shortcuts to success and that performance at any price is more important than integrity. Our players regularly meet with young people – both athletes and non-athletes, girls as well as boys – in a wide variety of settings, including our "Pipeline to the Pros" sessions. We consistently emphasize that steroids or other drugs are the wrong course for players. They are dangerous. They are unfair. They are wrong.

The key provisions of our policy are:

- An annual test for all players plus unannounced random testing in and out of season. We test players on all teams each week of the season, conducting more than 9,000 tests a year for steroids and related substances.

- A list of more than 70 prohibited substances, including anabolic steroids, steroid precursors, growth hormone, stimulants and masking agents. This list is continually revised and expanded.

- A mandatory four-game suspension (25 percent of the regular season schedule) without pay upon a first violation. A second violation would result in a six-game suspension and a third would ban a player for a minimum of one year. Players cannot return to the field after a suspension until they test clean and are cleared for play.

- Strict liability for players who test positive. Violations are not excused because a player says he was unaware that a product contained a banned substance.

- Education of players and teams about the program through literature, videos, a toll-free hotline and mandatory meetings.

The consistent application of these core tenets has resulted in the recognition by experts in the field of the NFL's policy as the most effective in professional sports. Over the past five seasons, less than 1 percent of our players have violated our steroid program and been suspended. In short, virtually all of our players get the message and participate in the NFL without using anabolic steroids or other performance-enhancing substances.

In considering the effectiveness of our program, the comments of current players and coaches are instructive:

> ***"I'm not sure how much more we can do with our steroid policy. It is already the most comprehensive testing in professional sports. If you are doing steroids now, you've got some kind of death wish because I doubt very much there are many players taking steroids now in the NFL." Rob Konrad, Oakland Raiders, Boston Globe, March 31, 2005.***

> ***"I was drug tested for steroids just last week and I was drug tested through the season. I just have a hard time believing that people can do it and beat the system the way it is." Sean O'Hara, New York Giants, Newsday, April 1, 2005.***

> ***"The NFL has been very clear about steroids and that feeling permeates every locker room. So it is considered bad to do anything like that, not only from an organizational standpoint, but a player-to-player***

standpoint. You will be frowned upon if another player found out you were taking steroids. I think there is a very small percentage of guys in the NFL doing it. Very small." Jerome Bettis, Pittsburgh Steelers, New York Daily News, April 21, 2005.

"I coached in the League before there was [a steroid policy]. I can see the difference. That's how far our professional sport has come. I think it is the cleanest professional organization in the world." Dick Vermeil, Head Coach, Kansas City Chiefs, Florida Today, May 16, 2004.

At the same time, we would be naïve if we did not understand that there are temptations and pressures to succeed facing football players that require us to make education and deterrence of substance abuse a constant priority.

When our steroid testing lab – the U.C.L.A. Olympic Analytical Laboratory – informed us in 2003 of the new designer steroid called THG, we immediately added it to our banned substance list.

Going forward, we will continue to be vigilant. The NFL spends $10 million a year on our steroid and drug programs, including the funding of research to identify new substances and improve testing. To date, close to $100 million has been invested on this initiative. And we are prepared to do more if necessary.

Despite the efforts that we and others in sport have made to eliminate anabolic steroids and other performance-enhancing drugs from our athletic competitions, there are those in America and elsewhere who will seek to beat the system by designing and producing illicit substances that inappropriately affect athletic performance while escaping detection.

We are proud of this Program and what it has accomplished. Is it perfect? Does it catch everyone? No. But the players overwhelmingly support the program, recognize its value, and believe that it applies to all players in a fair and even-handed way.

In that respect, this Program is different from any other drug testing program the Committee's likely to examine. It has not been imposed by management or by a sports federation or other governing body. And the players were not dragged unwillingly to the bargaining table. In the NFL, players and teams recognized the problem and reached a common consensus that these substances had to get out of the game and that testing and tough discipline for violators were the key elements of an effective program. For more than a decade, as thousands of players have entered the League, this Program has continued to have extraordinary support from players.

One simple but powerful fact will be of interest to the Committee: I constantly spend a great deal of time with current NFL players, and I cannot recall an occasion in more than ten years in which a player who used steroids was defended by his teammates or any other player. NFL players know what cheating is and they do not want cheating or cheaters in our game.

I hope that as it continues its review, the Committee will understand the importance of this level of player support, and will respect the process by which it has been achieved and maintained.

Today new challenges are being presented to our society by the improper use of human growth hormone and the continuing advance of gene therapy and genetic manipulation.

Both the government and private sectors must aggressively address these challenges. If not, the secret designers of new illicit substances will slog on, and the future will bring more high-profile grand jury investigations, health risks to young people and dishonor to sports. NFL players are prepared to do their part, as they have for more than 15 years.

Mr. Chairman, we in the NFL thank you for your leadership on this issue, and we appreciate the opportunity to testify today.