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The 2011 NFL Collective Bargaining Agreement: Intentions vs. Incentives

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Claremont McKenna College

The 2011 NFL Collective Bargaining Agreement:
Intentions vs. Incentives

Submitted to
Professor Bjerk

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The 2011 NFL Collective Bargaining Agreement: Intentions vs. Incentives

The summer before the 2011 NFL season, the NFL engaged in one of the most bitter labor negotiations in its recent history. Players, owners, and league officials fought tooth and nail to make their priorities NFL law through their inclusion in the Collective Bargaining Agreement. News coverage swirled over the reactions of players to the potential of a lost season, questions over what was changing in the agreement, and primarily, why the negotiations were taking so long. Soon, conversation turned to whether there would be a need for replacement players, as was the case in 1987, or for a shortened season, as was the case in 1982.

This thesis will examine the 2011 NFL Collective Bargaining Agreement (CBA) with the benefit of hindsight, analyzing the key features of the 2011 CBA, their intended consequences, and their actual impact on the league and its players. It will also serve to forecast if/how these issues might come into play in the 2021 CBA for relevant issues. The issues of primary concern for the 2011 CBA were the distribution of league revenues between the players and the owners, the distribution of team spending on rookies versus veterans, player safety, and commissioner powers. In this negotiation, veteran players sought to augment their revenue streams by addressing the first two issues, and protect themselves through the second two. Unfortunately, the impacts of the policies that players implemented had, by in large, the opposite of the anticipated effect, harming the players at almost every turn. By creating a rookie pay scale and increasing veteran minimums, veterans may have made themselves more easily substitutable for rookies,

and by limiting the amount of practice time in the offseason, players may have increased the prevalence of conditioning related injuries.

After providing some context on the 2011 CBA, I will take a deeper look at the key takeaways. The context section will provide the reader with an understanding of how collective bargaining has taken place during previous agreements, and the general bargaining process, as well as what the intentions of CBAs generally are. Furthermore, this section will provide the reader with the background knowledge required to understand the issues of the salary cap, rookie pay scale and veteran minimums, player safety concerns, and the relationship between the players and the league. This will help clarify some of the more complicated issues in the body of the paper, in addition to allowing the reader to focus on the analysis and the current issues facing NFL players as a result of the 2011 agreement.

In order to do this, the body of the paper will analyze how the NFLPA used changes in the salary cap and salary minimums as a bargaining chip, the tradeoffs that occurred in the establishment of the current rookie wage scale and veteran minimum systems, the impact of practice time on the prevalence of player injuries since the signing of the current CBA, and how Commissioner Roger Goodell's use of disciplinary powers has impacted current players' perceptions of the league. Ultimately, it is clear that the NFLPA failed its constituents in many of the key negotiating areas in the CBA. Within the benefit of reflection, it would appear as though the upcoming 2021 negotiations will be accompanied by a holdout, which could even stretch into the NFL regular season.

Section I - Background:

A) CBAs Generally and the Bargaining Process:

Before diving into background on the 2011 CBA, context on previous NFL Collective Bargaining Agreements is crucial. In the NFL, the Collective Bargaining Agreement is the terms to which the NFL Players Association (NFLPA) and the owners of the 32 NFL teams agree to run the league under for a set period of time. This includes items ranging from the payment of rookies and the total salary cap for each season to the disciplinary power held by the commissioner and the NFL's drug policy for performance enhancing drugs (PEDs) and marijuana, and everything between. Thus, during negotiations, both sides are very defensive of the gains that they have made and aggressive in trying to bargain for things that they feel that they deserve. The CBA in football is often viewed as unique because of the violent nature of the sport that leaves former players especially vulnerable once their primary revenue stream has dried up and they begin experiencing the negative physical and mental effects of their time spent in the NFL. Thus, considerations for retirees and veteran players are often highly deliberated and were one of the focuses of the 2011 CBA.

The NFLPA has used CBAs throughout the majority of the Super Bowl Era to bargain for higher wages and as a mechanism to collectively strike. The Super Bowl Era describes the modern NFL, which combined with the rival league the AFL (American Football League) and began awarding the Super Bowl Trophy rather than the NFL Championship Trophy. The first CBA was struck in 1968, before the third season of the Super Bowl Era, when players tried to pressure the owners into providing better compensation and benefits. This led to the first NFL lockout.

A lockout is when owners do not allow players to participate in team activities, and is the mechanism that NFL owners use to make players follow their direction. A similar term, holdout, is essentially a lockout run by the players, where players do not report to mandatory NFL training until there is a satisfactory agreement reached. In the case of a lockout, owners do not pay their players because they are not allowed in the facility, while in a holdout the players do not report to team activities and therefore they chose to forgo their wage in order to negotiate for better compensation. This first lockout lasted only 11 days before the owners and players agreed to terms.¹ This is generally the same process that other CBA negotiations gone south have followed, with varying lengths of lockouts/holdouts stretching from a few days to multiple months. These can be ended amicably through good faith negotiations and bargaining, or more aggressively through litigation and strikes that sometimes impact the season.

The negotiation process for CBAs is often complicated, confusing, and fairly counterintuitive to the players, let alone for an outside observer. Thus, this paper will provide a general overview of the bargaining process, providing the steps that took place in the 2011 negotiations, some of which will likely also occur during the 2021 negotiations. One wrinkle particular to the 2011 CBA was the opt-out by the owners from the 2006 CBA. This will be discussed further in the next section, but was a key part of the 2011 CBA negotiation process that could not be left out. The 2011 CBA did not include an opt-out clause, which would allow one or both sides to back out of the agreement after

¹ Michael Schottey, "How Free Agency Changed the NFL Forever," Bleacher Report, <https://bleacherreport.com/articles/1561856-how-free-agency-changed-the-nfl-forever>.

² Adam Stites, "NFLPA Is Warning Players to Start Saving Money Now for a 2021

a certain amount of time, for the NFL owners nor the NFL Players Association after the controversy that arose from its use to end the 2006 CBA.

In 2011, the CBA negotiation process began with federal mediation.² This is fairly typical of negotiations around the CBA as well as for other negotiations between the players and the league since both want the input of a neutral arbiter. Despite mediation, little progress resulted, leading to a weeklong extension of the 2006 CBA and the continuation of negotiations between the NFL and NFLPA for a new CBA³. After a few weeks of bargaining, once it was clear that the distance between the sides was insurmountable, the NFLPA decertified as a union in order to file an anti-trust lawsuit.⁴ This is a common and intuitive practice for sports unions given anti-trust law and the monopoly power that a sports league has over the livelihood of its players. It also gave the players the legal clout that they were previously lacking as a certified union.

Historically, NFL owners have had significantly more power than individual players, and typically more influence than even a large number of players. The creation of a CBA was meant to solve this, but during the time between when the owners opted out of the 2006 CBA and a new one was implemented, the players were in very precarious position. Decertifying as a union gave the players the right to litigate separately against the NFL, thus providing much more support for the case. After a series of back and forth appeals, the granting of both temporary and permanent stays to lift the lockout (which were reversed and re-reversed), and a variety of other legal issues, the

² Adam Stites, "NFLPA Is Warning Players to Start Saving Money Now for a 2021 Lockout," <https://www.sbnation.com/2017/5/30/15712404/nflpa-cba-nfl-lockout-2021-leverage-negotiations>.

³ Ibid.

⁴ Ibid.

NFL and players continued to negotiate, mostly behind closed doors, in order to move closer toward a new CBA.⁵ After frantic discussions between the NFL and the NFLPA in order to avoid impacting the regular season, the new CBA was voted on and agreed to by the players and owners on July 25th, 2011.

This brief account should give context as to some complications that can arise in CBA negotiations in general, as well as what specifically occurred during the 2011 CBA negotiations. Since players were unaware that there would be a lockout because owners opted out of the 2006 CBA prematurely, they were unable to appropriately plan financially. This put the owners in the driver's seat of the negotiations, since the skill of an NFL player is very difficult to translate to outside of football, whereas the owners have outside revenue streams and thus were not cripplingly financially impacted by the holdout. The 2011 CBA negotiation is known as one of the most hard fought and complex negotiations to occur in NFL CBA history. There were a variety of complications that were unique to the 2011 CBA negotiation given the context of the league and society as a whole at the time, just as there likely will be for the 2021 CBA negotiation. In order to fully understand the context of the 2011 CBA, it is crucial to understand the circumstances that led to the negotiations. The next section will provide some context first in regards to the 2006 CBA, and later with respect to some cultural issues that were prevalent at the time that influenced the 2011 CBA.

B) Ghosts of CBAs Past and NFL Free Agency:

⁵ Ibid.

The 2006 CBA is one of the shortest lived in NFL history and kicked off the 2011 CBA negotiations that ultimately ended up being one of the longest negotiating processes in NFL history. CBAs tend to have a fixed length (the length of the 2011 CBA is 10 years) but, as in the case of the 2006 CBA, they sometimes include an opt-out clause for one or both sides of the agreement. In 2006 there was an opt-out for both sides, which the NFL owners utilized in 2008.⁶ For the 2011 CBA there was a two-way opt-out clause discussed, but it was ultimately scrapped in favor of a uniform, 10-year CBA length.⁷ The 2006 CBA was actually an extension of the CBA that was initially agreed to in 1993.⁸ This CBA had been extended to 2006 through a multitude of other small extensions similar to the 2006 CBA. With each extension there were minor adjustments, but the main substance of the CBA remained consistent.

The 1993 CBA kicked off what has since been deemed the “Free Agency era”. This is because it allowed players whose contract had expired to explore their options with every team in the league by fielding contract offers from any team. This process is known as unrestricted free agency, giving the players the freedom to decide on what team they want to go to based on whatever criteria they decide. This was staunchly different from the system prior to the 1993 CBA, which had free agency, but it was severely

⁶ Ben Volin, "NFL Owners Destroyed the Players in CBA Negotiations," <https://www.bostonglobe.com/sports/2013/07/20/nfl-owners-destroyed-players-cba-negotiations/ia3c1ydpS16H5FhFEiviHP/story.html>.

⁷ Gregg Rosenthal, "Final Answer: No Opt Out Clause in CBA," <https://profootballtalk.nbcsports.com/2011/07/25/final-answer-no-opt-out-clause-in-cba/>.

⁸ "NFL Labor History Since 1968," http://www.espn.com/nfl/news/story?page=nfl_labor_history.

restricted. The earlier system gave teams the right to “protect 37 percent of their players... with the right of first refusal”, which was known as restricted free agency.⁹

Unrestricted free agency fundamentally changed the sport and the philosophy of team building. It allowed General Managers (the person generally tasked with adding and jettisoning players) more freedom to make up for bad drafting by adding proven veteran talent. It also places a finite timeline on teams and players attempting to negotiate a deal, since they can also negotiate with other teams. Additionally, unrestricted free agency places a higher value on drafting every year, creating a system where teams are only guaranteed to have the players that they drafted for the duration of their first contract. While that can be helpful for a team in the case of a draft pick that does not work out, it can be potentially disastrous for teams that have many young players that are looking for second contracts while the team does not have the financial flexibility to retain them all.

While free agency was a bit of a mixed bag from the perspective of NFL teams and owners, it was a distinct win for the NFLPA and the players. Free agency gives players the opportunity to leave a team once their contract is up without having to worry about their former team controlling their negotiating rights. It also allows players to test their value on the open market and take the best deal for them. Instead of only knowing the value that the team who drafted them places on the player, free agency allows players to negotiate with any team in the NFL and maximize their earnings potential. While positional needs and salary cap restrictions reduce this from thirty-two teams, it still gives players a much larger market for their services than they had previously enjoyed. This allows players more freedom in the location where they play, coaches that they play for,

⁹ Schotney, "How Free Agency Changed the NFL Forever."

schemes that they want to play in, etc. Free agency is especially closely tied with the salary cap. In tandem with the establishment of free agency in 1993, the NFL also introduced the salary cap, which essentially served as the owners guarantee that free agency would not create an uncapped bidding war between teams.

The NFL, in contrast to some other sports leagues around the world, utilizes a salary cap on its teams to ensure parity between teams. One of the calling cards of the NFL is the mantra “any given Sunday”, implying that any team could beat any other team in any given game, or on “any given Sunday” since games are traditionally played on Sundays. The salary cap is a key aspect of this because it provides a limit to the amount that any team can spend on its players in a year. The negotiations on the level of the salary cap are incredibly complex and require intimate knowledge of the NFL’s revenue streams such as TV deals and merchandise sales. In the 2006 CBA negotiations, the NFL and NFLPA agreed on about a sixty-forty revenue split, exempting some revenue streams from the equation all together to appease the wishes of owners concerned with their bottom line. The revenue of the NFL just over ten years ago was dramatically smaller than it is today given the ability of the current Commissioner of the NFL, Roger Goodell to maximize league profits. At the time of the 2006 CBA negotiation, however, the revenues were much smaller, so the sixty percent figure that was allocated to players was nowhere near the level that it is today at a smaller percentage (\$102 million in 2006 versus \$177 million today).¹⁰ The CBA gives guidelines for teams about how much of the salary cap they have to spend (to incentivize teams not to collude and drive player

¹⁰ "NFL Communications - Year-by-Year Salary Cap," NFL, <https://nflabor.wordpress.com/2010/02/24/year-by-year-salary-cap/>.

salaries down), the amount of the unspent cap that is carried over year-to-year, and other more intricate details.

The primary issue for owners in the 2006 CBA negotiation was revenue sharing between owners of big market teams, like the Dallas Cowboys, and small market teams, like the Cincinnati Bengals. The infighting that resulted allowed the players to seize the opportunity to maximize their revenue allocation, which is how they were able to secure sixty percent of league revenues. However, once the 2006 CBA had been implemented and the owners had accepted the new revenue sharing model among themselves, they decided to use the opt-out clause. This was partially in order to reduce the percentage of revenues shared with players, especially because of the large new TV contracts that they knew were to be negotiated in the coming years. Thus, one of the key issues for the owners in the 2011 CBA negotiations was revenue sharing between the players and the owners, which will be explored in more depth later in the analysis section of the paper.

In 2010, due to the use of the opt-out clause by the owners and the inability for the owners and NFLPA to reach an agreement on a new CBA, the league experienced its first “uncapped” year since the implementation of the salary cap in 1993.¹¹ Thus, teams were free to spend as much or as little as they desired. While most teams chose to generally follow the salary cap progression from prior years, two teams participated fully in the spirit of the uncapped year, spending money and frontloading contracts in order to take advantage of the temporary removal of the salary cap. The league penalized both teams, the Dallas Cowboys and the Washington Redskins, in 2012 and 2013 with a reduction in their salary cap because it deemed that they had inappropriately frontloaded

¹¹ John Perritano, "How Does the NFL Salary Cap Work?," HowStuffWorks, <https://entertainment.howstuffworks.com/question644.htm>.

contracts in 2010, which ultimately disrupted the competitive balance of the league.¹²

There have been allegations of collusion by the owners to drive player salaries down during 2010 in order to keep the payroll of every team regulated, but this has not been proven. The uncapped year is not directly relevant to the 2011 CBA, but does serve to provide some league context for the negotiations and the gulf between the players and owners. Furthermore, understanding the uncapped year provides a greater familiarity with the benefits of the salary cap for owners and how it regulates league parity.

The two most recent CBAs serve to provide a significant amount of league context for the 2011 CBA negotiations. While many earlier negotiations had been smoother between the NFL and the NFLPA, when Goodell became Commissioner in September of 2006, tensions between the NFL and the players rose as he exerted more of his influence on the league. Once the 2011 negotiations arrived, the two sides were so far apart that a lockout seemed almost inevitable. However, because this type of hostility had not occurred in recent CBA negotiations, players were financially unprepared.

C) The Policies that Broke the Players' Trust and the State of Player Preparation

After being selected as the incoming Commissioner of the NFL just before the 2006 season, Roger Goodell inherited an NFL with many areas for improvement, from league discipline to player safety. One place that he took especially seriously was in how players conducted themselves off the field. This emphasis led to the release of a Personal Conduct Policy in 2007 that held players more strongly accountable for their

¹² Judy Battista, "NFL Strips Cowboys and Redskins of Salary Cap Room," The New York Times, <https://www.nytimes.com/2012/03/13/sports/football/nfl-strips-cowboys-and-redskins-of-salary-cap-room.html>.

actions and recognized the role that NFL players hold in our national culture.¹³ Goodell's policy was in response to multiple players being arrested repeatedly during the offseason, committing crimes often with limited legal repercussions. A phrase at the beginning of the policy soon became emblematic of its goal: "As an employee of the NFL or a member club, you are held to a higher standard and expected to conduct yourself in a way that is responsible, promotes the values upon which the league is based, and is lawful".¹⁴ This means that players could be reprimanded by the league for personal conduct violations regardless of how their actions were viewed by the justice system.

The policy immediately went into effect on a few players, leading to the imposition of a season long suspension for Adam "Pacman" Jones and a half season suspension each for Chris Henry and Terry "Tank" Johnson. Jones was accused of battery and felony coercion, Henry was accused of aggravated assault with a firearm, and Johnson was accused of unlawful possession of a firearm.¹⁵¹⁶

While the policy was initially popular with the NFL Player's Association, garnering words of support from the NFLPA President at the time Gene Upshaw, it quickly soured in the view of the players as Goodell began exerting his influence beyond where the players felt appropriate.¹⁷ Not only were these suspensions more plentiful than

¹³ Brent Jones, "Goodell Strengthens NFL Personal Conduct Policy," USA Today, http://usatoday30.usatoday.com/sports/football/nfl/2007-04-10-new-conduct-policy_N.htm?csp=34.

¹⁴ Mark Alesia, "NFL Personal Conduct Policy," <https://www.documentcloud.org/documents/1102477-nfl-personal-conduct-policy.html>.

¹⁵ Jarrett Bell, "Conduct Unbecoming: NFL Sets New Standard With Suspensions," USA Today, https://usatoday30.usatoday.com/sports/football/nfl/2007-04-10-pacman-henry-suspensions_N.htm.

¹⁶ Len Pasquarelli, "Bears Decide to Move On, Waive Tank Johnson," ESPN, <http://www.espn.com/nfl/news/story?id=2916083>.

¹⁷ Jones, "Goodell Strengthens NFL Personal Conduct Policy."

in previous years, Goodell seemed to kick-start an era of increasing accountability in the NFL as high profile players were brought into the national spotlight and significantly reprimanded.

In order to incentivize teams to buy into the disciplinary process, Goodell also sought to hold teams accountable for the actions of their players.¹⁸ The policy applied to players and coaches, as well as other team employees, owners, and officials, providing a standard set of behavioral norms for everyone involved in the NFL, but applying these conditions to many that had not had their conduct regulated by the NFL before.¹⁹ This laid the groundwork for a relationship between Goodell and the owners that has had many peaks and valleys throughout his tenure. The fact that the Personal Conduct Policy applied to everyone involved in the NFL was notable because of how the policy was employed. Action through the policy was not a result of a conviction through the justice department. This was a deviation from the past that caused much consternation in the case of “Pacman” Jones, who was the first player to be penalized by this new system to its fullest extent. He received a season-long suspension despite the fact that he was not convicted of a crime by a court of law. Initially supported for the stand that the policy represented with respect to player accountability, players and fans soon became confused by the new standard of proof required for investigation and penalization by the NFL.

Over time players became more and more frustrated with the Personal Conduct Policy, primarily because of its arbitrariness. This encompassed not only confusion with the standard of proof, but also the process by which they were investigated. Under the

¹⁸ Barry Wilner, "Goodell Strengthens NFL Conduct Policy," The Washington Post, <http://www.washingtonpost.com/wp-dyn/content/article/2007/04/10/AR2007041001050.html>.

¹⁹ Alesia, "NFL Personal Conduct Policy."

Personal Conduct Policy, the league conducted its own investigations, called witnesses, and determined its own punishments completely independent from the law of the land. However, players took significant issue with a specific line in the policy, “Upon conclusion of the investigation, the Commissioner will have full authority to impose discipline as warranted”.²⁰ While originally unnoticed, this clause gave Goodell power that surpassed any of his predecessors and allowed him to have the final say over all personal conduct policy issues for players, coaches, and owners.

As mentioned above, this policy immediately led to some of the most prominent names in the sport being held under the microscope. In addition to those listed above, this included one of the most exciting quarterbacks of the last quarter-century Michael Vick, and two-time Super Bowl champion quarterback Ben Roethlisberger. However, arguably the most prominent punishment Goodell handed out in his early years was the punishment to the New England Patriots for what has been termed “Spygate”. This was an incident in which the New England Patriots were accused of taping the practices of the New York Jets before their game in September of 2007 and stealing their sideline signals. Following an internal investigation by the NFL, the Patriots were forced to forfeit their first round draft pick, pay a fine of \$250,000, and the head coach was also fined the maximum amount of \$500,000.²¹ This was especially significant because it was enforced against the Patriots, with whom Goodell was thought to have had a particular strong relationship, specifically with the owner Robert Kraft. Furthermore, the Patriots were led

²⁰ Ibid.

²¹ "NFL Fines Belichick, Strips Patriots of Draft Pick," NFL.com History, <http://www.nfl.com/news/story/09000d5d80251b7e/article/nfl-fines-belichick-strips-patriots-of-draft-pick>.

by one of the greatest quarterbacks and coaches in the NFL, in the midst of a dynasty never before seen in the modern NFL. This was not the last time that Goodell would butt heads with Belichick and the Patriots.

Goodell clearly amassed a significant amount of ill will during his first few years as Commissioner, leading to very tense conversations surrounding the CBA as negotiations grew nearer. Not only did Goodell alienate some players through his enforcement of the Personal Conduct Policy, but he also confronted coaches and owners that had previously seemed untouchable. Given the tension between Goodell and the players, there was clearly the potential for players to hold out of the season, but unfortunately they did not successfully prepare financially. Many highly paid players in the league were forced to take high interest loans as a result of their loss in compensation from the holdout.²² Because the players had not successfully saved and had a certain lifestyle expectation, some were taken advantage of by these high interest loans that led to huge issues when their playing careers were over. In an attempt to avoid this, the NFLPA took out a \$44 million insurance policy before negotiations began, which comes to roughly \$200,000 per player for the year.²³ However even this was not enough for some players to meet their financial obligations and continue to live their preferred lifestyle.²⁴

While not a very complicated issue, the potential for players to miss game checks that would set them further back financially set a pseudo-time constraint on the players

²² Adam Stites, "NFLPA Is Warning Players to Start Saving Money Now for a 2021 Lockout," SBNation.com, <https://www.sbnation.com/2017/5/30/15712404/nflpa-cba-nfl-lockout-2021-leverage-negotiations>.

²³ Ibid.

²⁴ Ibid.

that the owners were not concerned with. This has, however, impacted how the current crop of NFL players has prepared for the upcoming CBA negotiations. Veteran players that were a part of the last round of negotiations, as well as the NFLPA, have been warning younger players to begin saving years in advance for what could be another difficult set of negotiations for both parties.²⁵ Without the ability to support themselves financially, the players would enter the negotiations at a disadvantage again, something the NFLPA is looking to avoid.

Given the complicated nature of many of the issues tackled in a CBA, the above background section is fairly robust in its explanations of some of the minutia involved in past CBA negotiations. However, all of this context is crucial in understanding why the 2011 CBA is the way that it is, the incentives for each party to engage in certain tradeoffs, and how these incentives will play into future CBA negotiations, specifically in 2021.

Section II - The Reality of the 2011 CBA:

Given the above context, it is clear that there were a lot of issues brewing below the surface that came to a head during the 2011 CBA negotiations. Moving on from internal squabbles in earlier negotiations, the owners united in their feeling that they were not getting their share of profits as compared to the players. After the owners opted-out of the 2006 CBA, it was clear that they were preparing for war, which the players did not recognize quickly enough to financially prepare. The players, in turn, focused more on their safety, as research continued to be released about the harmful effects of football on

²⁵ Ibid.

the brain and the NFL dealt with continued lawsuits from former players suffering from the horrific physical and mental trauma of their playing years. Finally, Roger Goodell was participating in his first CBA negotiations as NFL Commissioner, and it appears as though he sought to begin his reign as a shrewd negotiator with a no-nonsense attitude, as he amassed never before seen punitive powers.

The combination of these factors resulted in three major types of changes in the 2011 CBA. These addressed financial concerns, as emphasized by the owners, player safety concerns, as emphasized by the players, and Commissioner powers, as sought by Goodell. All of the sides came in with different intentions, leading to a CBA with a very different flavor than its predecessors. Each of the areas of focus for the negotiating parties resulted in unintended consequences for everyone involved, ultimately completely altering the incentive structure for players and owners financially, as well as behaviorally. Furthermore, for each point of emphasis for the players, owners, and NFL, there was also a negotiating point that they were willing to lose ground on. Thus, there was a system of tradeoffs that could result in a mutually beneficial allocation, but the issue was in finding it. Unfortunately for the players, the system that was eventually agreed did not appear to be in their best interest.

A) Financial Concerns:

While every aspect of the CBA is considered and painstakingly negotiated for or against by every party, each of the groups entered the negotiations with specific goals on how they wanted the 2011 CBA to be different from those previous. As discussed above, the 2006 CBA negotiations caught the NFL owners at a time when infighting and revenue

sharing between owners was a larger issue than revenue sharing between owners as a whole and players. When the owners recognized that they could have done better, they scrapped the deal and entered the 2011 CBA negotiations with a one-track mind. Thus, this section will focus on the financial considerations of the owners and players and how these impacted the resulting incentives of the 2011 CBA. This will be done through the exploration of two key items in the CBA, namely the salary cap/floor and changes in the rookie pay scale in conjunction with an increase to the veteran minimum salary. Both of these issues highlight areas where the owners sought to control the earning potential of players, and where the players were forced to consider trade-offs between monetary and other benefits. Here, players successfully obtained financial security through salary cap negotiations, but ultimately may have pushed veterans out of the league by cheapening rookie contracts and making veteran minimum contracts prohibitively large.

1) *The Salary Cap*

The salary cap is often a contentious issue in CBA negotiations and is thus a great place to start an analysis. Given the history of the salary cap as described above and the rationale behind it, players have accepted its existence in the NFL landscape and the owners rely upon it in order to control the influence that players can wield within their teams. However, the size of the salary cap is where players and owners deviate. Previous CBA negotiations had changed the percentage of NFL revenues that were allocated to the salary cap, which was often used as a tradeoff by both players and owners to secure other benefits. Specifically, as mentioned above, the owners were unhappy with how the 2006 CBA allocated the salary cap and was the primary driver behind their opt-out. Thus, the

salary cap was clearly a priority for the owners while it had taken a backseat for the players.

An added wrinkle in negotiations regarding the salary cap is what exactly the salary cap is a percentage of. While for a casual observer “NFL revenues” is a sufficient metric, but when one actually looks at the numbers that term leaves a significant amount of wiggle room. Clear revenue streams such as multi-billion dollar TV deals provide a significant floor, but ticket sales, merchandise sales, advertisement sales in different markets, sales from league stores, uniform endorsements, etc. each provide a unique challenge in their addition to the total. Furthermore, the owners often seek to exclude portions of NFL revenues from salary cap considerations. Currently, the NFL considers all streams of revenue when calculating the salary cap, while previously metrics such as gross revenue have been used.²⁶ The result of the 2006 CBA negotiations was the players leaving with 59.6% of NFL revenues following a \$1 billion credit to the NFL owners.²⁷ After renegotiation, in which players did receive increases to their pensions and acquisitions in player safety, the players left the 2011 CBA negotiations with between just 47-48% of all revenue, which was estimated at about 4% less than the previous agreement when the CBA was signed when considering the re-addition of the \$1 billion that had previously been credited to the owners.²⁸

²⁶ Perritano, "How Does the NFL Salary Cap Work?."

²⁷ Gary Myers, "NFL Collective Bargaining Agreement Includes No Opt-Out, New Revenue Split, Salary Cap, Rookie Deals," *Nydailynews.com*, <http://www.nydailynews.com/sports/football/nfl-collective-bargaining-agreement-includes-no-opt-out-new-revenue-split-salary-cap-rookie-deals-article-1.162495?barcprox=true>.

²⁸ *Ibid.*

To see what this numerically means, the salary cap in 2009 (2010 was uncapped) was \$123 million, while the salary cap for 2011 was \$120.3 million.²⁹ In 2012, this increased by only \$300,000 to \$120.6 million, which made many players skeptical of the new CBA with respect to players' earnings. Since then, a new TV deal has been signed and league revenues have continued to increase, which has in turn increased the salary cap by about \$10 million per year.³⁰ This is a much higher rate than anyone had projected immediately following the CBA. Clearly Goodell validated the owners' trust by continuing to increase league revenues despite global economic hardship and social pressure, while the players enjoyed increasingly large salary caps despite a decreased percentage of the total revenue, which they had used to gain ground in other areas of negotiation. A full breakdown of the NFL salary caps over the last 15 years is included in Appendix A. The salary caps listed are the league standard salary caps. Salary caps utilize a variety of roll over strategies to incentivize teams to spend freely, which causes each team's yearly cap to slightly differ from one another. However, given that the focus of the analysis is on league trends, salary caps will be understood as the standard league salary cap.

The last important bargaining issue in regards to salary caps is minimum spending. While the fans eyes might gravitate towards the big signings and high spending teams, players are most concerned with teams spending too little and hurting the demand for their services. Thus, one of the benefits players received from decreasing the percentage of league revenues allocated to the salary cap was in regards to the minimum

²⁹ Gregg Rosenthal, "The CBA in a Nutshell," ProFootballTalk, <https://profootballtalk.nbcsports.com/2011/07/25/the-cba-in-a-nutshell/>.

³⁰ "Salary Cap Space," Over the Cap, <https://overthecap.com/salary-cap-space>.

spending of the salary cap.³¹ The minimum salary cap spending is calculated in two ways, minimum league-wide spending, and minimum team spending.³² This addresses the two main concerns that players had with spending by teams.

Their first concern, that having only a minimum spending requirement per team would allow teams to create a lower salary cap in practice by depressing wages from within, is avoided with the league-wide minimum spending requirement. For the 2011-2012 seasons, the league-wide minimum spending was set at 99% of the salary cap (99% of the league's salary cap) over those 2 years.³³ For the 2013-2016 seasons and 2017-2020 seasons, the league wide minimum spending was set at 95% of the salary over each of those four-year spans independently.³⁴ This gave the owners some leeway within a particular year to have relatively lower wages that may have been caused by an outside factor, but still holds them accountable for keeping players gainfully employed.

Players also sought to avoid the issue of a single team with too small of a payroll, which is solved by minimum team spending rules. For 2011-2012 there were not minimum team spending rules given the 99% in league-wide spending.³⁵ However, during the two four-year spans of 2013-2016 and 2017-2020 there was a minimum team spending requirement of 89% of their salary cap.³⁶ This again allows teams to deviate in a given season if they are unable to attract the talent that they are looking for or are building with young players that are not highly paid, but still ensures that no team takes

³¹ Rosenthal, "The CBA in a Nutshell."

³² "NFL Collective Bargaining Agreement," <https://nflabor.files.wordpress.com/2010/01/collective-bargaining-agreement-2011-2020.pdf>, page 84.

³³ Ibid, page 84.

³⁴ Ibid, page 84.

³⁵ Ibid, page 84.

³⁶ Ibid, page 84.

advantage of its monopsony power over the employment of players to artificially depresses wages.

The salary cap was put in place by the owners to serve as a check on the increase in leverage provided to players by free agency. In order to control the amount of bidding that could occur on individual players, the salary cap provides owners a reason to keep player wages relatively stable over time. Thus, while the salary cap does not benefit the players, it provides a counter balance to free agency that allows many players to financially prosper. Furthermore, the salary cap provides a negotiating platform for spending minimums, which are very beneficial to players. In the case of the salary cap, players have continued to have success in negotiations, securing a fair percentage of the total league revenues, while also enjoying the benefits of free agency in addition to league and team spending floors.

The salary cap also provides room for negotiation with respect to other items, serving as an area that the NFLPA will often use as a negotiating strategy. During the 2011 negotiations, players were able to secure benefits to their long-term health with the creation of a \$1 billion fund, \$620 million of which was used to create the Legacy Fund.³⁷ The Legacy Fund is used for the pensions and health benefits for former players, a great tradeoff for a small percentage of the players' share of league revenues. This was a successful gamble by the NFLPA, since league revenues have continued to increase over the life of the CBA, ensuring that player salaries continue to grow despite the smaller percentage of league revenues allocated to players. Therefore, players were able to secure the best of both worlds, with more money than ever going towards player

³⁷ Rosenthal, "The CBA in a Nutshell."

salaries in addition to the existence of a well-endowed Legacy Fund, which benefits their long-term health and financial stability. While players may have secured a victory with respect to the salary cap, other successes in the 2011 negotiations appear to be few and far between.

2) Rookie Pay Scale and Veteran Minimum

The Rookie Pay Scale was established in the 2011 CBA as a way to control outsized rookie contracts. While, over the history of the league, rookies have tended to be compensated lower than veterans, that gap began to narrow as football continued to gain national prominence. Furthermore, with college football's increasing popularity, players began coming into the league with increasing levels of skill and popularity. Because of this, rookie contracts, when unregulated, reached levels that were unsustainable. This was especially true since, despite increased level of college competition, rookies still come into the NFL as an unknown commodity. Franchises were continually hamstrung by locking themselves into long, high paying contracts with rookies that did not always produce at a high level in the NFL. However, since rookies ultimately have the ability to not sign their contract until they are satisfied with the terms, and a team's first round pick is so crucial to a team's success, the deals continued getting larger. Veteran salaries were impacted as well because of the zero-sum nature of the salary cap. When rookies signed long-term outsized contracts, this left less money for veterans around the league, and left fewer teams with the flexibility to pursue them. These issues are permanently linked because of the finite resources of the salary cap, which is why players bargained for these issues with the other in mind.

In 2009, the Detroit Lions spent \$90 million on rookie contracts out of a salary cap of \$123 million according to Forbes.³⁸ This number might seem startlingly high, but after drafting in the top 5 for multiple years, players continue to seek higher paying contracts with no real limits on their negotiating ability. Upon the implementation of the rookie pay scale in 2011, Detroit's spending on rookies decreased by two-thirds.³⁹ Under the new system, rookies receive slotted contracts based on where they are drafted.

Rookie contracts are locked in for three years, meaning that regardless of the circumstance they cannot renegotiate until after their third year for first round picks.⁴⁰ First round contracts are a total of four years, with a fifth year team option that they can choose to exercise, other drafted players have a four year contract, and undrafted players can sign a three year contract.⁴¹ These contracts are all predetermined based on a formula agreed to by the NFL and NFLPA, which is not public knowledge.⁴² The first year salary is determined by this formula, and it is up to the teams and the players to negotiate the terms of the following years within the restrictions supplied by the NFL, the most important being that a rookie's salary cannot increase by more than 25% per year. This formula was created in order to control the total amount of the league wide salary cap that is allocated to rookie contracts.⁴³ Veterans fought for this condition because they felt as though it was unfair to have rookies making some of the highest salaries in the league, with no controls on their total amount of guaranteed money while veterans were often

³⁸ David Lariviere, "NFL Rookie Contracts Show Owners Were The Winners In CBA," Forbes, <https://www.forbes.com/sites/davidlariviere/2012/07/04/nfl-rookie-contracts-show-owners-were-the-winners-in-cba/#703ad9e852b>.

³⁹ Ibid.

⁴⁰ "NFL Collective Bargaining Agreement," page 28.

⁴¹ Ibid, page 24.

⁴² Ibid, page 23.

⁴³ Ibid, page 23.

playing under contracts with much smaller guarantees that were usually shorter term.⁴⁴

Rookies drafted outside of the first round also have slotted salaries, with players drafted in the third through seventh round slotted between \$400,000 and \$500,000 and second round picks coming in between \$1 million and \$500,000, depending on where in each round they were drafted.⁴⁵

Veterans were able to make this trade-off in exchange for an increase in their own minimum salary. First, veterans secured their right to unrestricted free agency after four accrued seasons in the NFL, which was also the case during the 2006 CBA but was increased to six credited seasons during the uncapped year.⁴⁶ Credited seasons are essentially the number of seasons active in the NFL and are not different enough to merit explanation. Appendix C contains the veteran minimum salaries for each year of the 2011 CBA. Increasing the veteran minimum was a major priority for the NFLPA as they were negotiating, given the increased publicity and studies that have been done on the prevalence of CTE and other health issues with football players after their retirement, as well as while they are playing. There was specifically a priority placed on the compensation of older veterans, which is reflected in the values displayed in the minimum salary table. Some specific numbers worthy of note; in 2011, these minimums were \$685,000 for players with 4-6 credited seasons, \$810,000 for players with 7-9 credited seasons, and \$910,000 for players with 10+ credited seasons.⁴⁷ This was largely

⁴⁴ Lariviere, "NFL Rookie Contracts Show Owners Were The Winners In CBA."

⁴⁵ Volin, "NFL Owners Destroyed the Players in CBA Negotiations."

⁴⁶ Myers, "NFL Collective Bargaining Agreement Includes No Opt-Out, New Revenue Split, Salary Cap, Rookie Deals."

⁴⁷ "NFL Collective Bargaining Agreement," page 146.

viewed as a tradeoff specifically between veterans and rookies, however it introduced issues that might not have been fully considered during bargaining.

The implementation of higher veteran minimums at the cost of the creation of a rookie pay scale brings to the forefront the issue of bargaining for future generations. Similar to the current attitude of older generations toward global warming, NFL players that had already experienced, and benefitted from, the lack of a rookie pay scale when they were on their rookie deals then implemented this slotted system on future generations. Since its implementation, players on their rookie deals have been speaking publicly about the many issues with the rookie pay scale, with many primarily focused on the issue of renegotiation being limited to after a player's third credited season. At the time of the negotiations, veterans were disgruntled with the increasing size of rookie contracts and correspondingly decreasing size of their own contracts. These policies were meant to solve that issue, however some studies indicate that it may have instead created a new issue of larger veteran contracts, but for fewer players. Intuitively this might not immediately make sense, given that veterans were now mandated to make higher wages and rookies to make lower wages. However, what veterans failed to factor in was the impact of substitution.

Rookies are very good substitutes for NFL veterans, and are typically younger and healthier making them preferable in some ways.⁴⁸ The implementation of these two policies were meant to secure a larger piece of the salary cap for veterans, but may actually have resulted in many veterans being pushed out of the league because of prohibitively high salaries with respect to rookies. Forcing veteran contracts higher did

⁴⁸ Volin, "NFL Owners Destroyed the Players in CBA Negotiations."

not actually benefit veterans that were already highly paid, and may have served to exclude veterans on the margins of rosters. Rookies, who could often fill these periphery roster spots at a similar level to veterans, make less than half of the veteran minimum for players in the 4-6 credited season range, and even less than players with more credited seasons.

Rookies likely became a much more attractive alternative to general managers who were receiving essentially the same good for half the price, in addition to younger players having a decreased injury risk since they often have shorter injury histories. Teams could then spend more on their star players as they filled the rest of their roster out with young players that are often not on the team beyond their rookie contracts. Knowing this also would allow teams to utilize players on their first contracts in more dangerous plays such as on special teams and trick plays. These compromises were intended to not only increase veteran pay, but also to increase player safety by removing resources from the rookies and allocating more resources to pensions and insurance policies of veterans and former players. While the players were successful in increasing their pensions, the overall result of the policy was ambiguous at best. When one considers the incentives of the policy, it is evident that owners could take advantage of low rookie contracts and push veterans out of the game with little to no impact on the performance of the team.

As of yet, there is limited evidence and research regarding whether the 2011 CBA actually pushed veterans out of the league in favor of rookies. The little research that may resolve this issue comes from a study done by the Wall Street journal, and a related follow-up study by Pro Football Outsiders, a reputable and well respected football analysis website.

The first iteration to consider is by The Wall Street Journal. The analysts at the Wall Street Journal looked at the Football Encyclopedia of Players found on Pro Football Reference with respect to the first and last year of each player's career. They used this as the length of career for players and compared the average career length of players over time. The Wall Street Journal found a decrease in the average length of players' careers from 2008-2015 from 4.99 years to 2.66 years.⁴⁹

Zach Binney, a writer for Football Outsiders, attempted to replicate this test, and was unable to achieve the same result. He pointed to a change in how Pro Football Reference tracked players, increasing the number of players that were able to be found in their index, which was tied to an increase in the number of players in the index that did not play any regular season snaps and thus had short careers.⁵⁰ In order to correct for this error, Binney conducted the same study, but instead of using all of the players included in the Encyclopedia, he considered only those players that had played in at least one regular season game.⁵¹ By doing so, Binney used a more common standard of what it means to be an NFL player, and thus produced results that were more consistent with the football community's perception. While Binney corrected for the flaws in the Wall Street Journal's methodology, he may not have fully considered the outcomes of his study.

In Binney's iteration of the study, he found a career length of between 5.8 and 6.2 years from 2007 to 2011, with that number dropping to 5.6 and 5.4 in 2012 and 2013

⁴⁹ Zach Binney, "Are NFL Careers Really Getting Shorter?," Football Outsiders, <https://www.footballoutsiders.com/stat-analysis/2016/are-nfl-careers-really-getting-shorter>.

⁵⁰ Ibid.

⁵¹ Ibid.

respectively.⁵² Unfortunately this study was done just before the 2015 season, limiting its ability to aptly consider the impact of the 2011 CBA due to the limited amount of information during the current CBA. The career length of players before 2007 ranges from 5.1 to 5.5 from 2001 to 2006, so the 5.6 and 5.4 numbers may not necessarily be the beginning of a downwards trend.

What Binney failed to consider, however, is that 2007-2011 constitutes the life of the 2006 CBA, which was widely acknowledged as better for the players. It is not inconsequential that the years before the 2006 CBA and after demonstrated a career length that was demonstrably different, if not very drastic. While it is impossible to conclude that player careers are decreasing since the implementation of the 2011 CBA with just the 2012 and 2013 results, it does still demonstrate that player's careers are impacted by CBAs. It is also worth noting that most rookie contracts in the 2006 CBA were six year contracts, while the current contracts are four years with a fifth year option. It may be a coincidence that these are about the average length of careers for players during the time of those CBAs, but is worth recognizing nonetheless.

These studies sought to determine if playing careers were shortening, and offered a few different potential explanations such as increasing injury awareness, an increasing number of players utilized by teams overall, or the new CBA.⁵³ While these are all possible explanations for the shortening career of players, the injury issue seems as though it would incentivize a few players to retire early, but likely not influence teams or the majority of players that are seeking to maximize their earnings potential with little consideration for their long-term health. Furthermore, the increasing number of regular

⁵² Ibid.

⁵³ Ibid.

season players that Binney found, 1,895 in 2007 to 1,962 in 2015, supports the idea that there were more rookies in the league as they are more often dropped and added throughout the season due to the very small guaranteed financial commitment teams have the ability to make to rookies.⁵⁴ Thus, the most likely explanation for the decreasing career length of players is the creation of the rookie pay scale. This is especially convincing since the observable trend begins right at the inception of the agreement. However, the other factors are still worthy of consideration and highlight the complex nature of the issue.

This discussion of veteran minimums, rookie pay scales, and the salary cap/floor highlights the main financial takeaways from the 2011 CBA. Players clearly sought to guard their future paychecks and protect themselves from the owners. They utilized the salary cap floors on both a team and league wide basis to prevent teams from intentionally underpaying players and prevent collusion by the owners. The players leveraged their relative success in the previous negotiation to take a smaller overall percentage of league revenues in exchange for higher team and league minimum spending requirements. Just as the salary cap provides a protection for owners against quickly inflating player wages, the salary floor provides protection for the players against the monopsony power of the owners.

The players then turned their focus to the minimum spend on veterans, which many felt was too low in relation to their rookie counterparts. However, given that only players in the league are represented at the negotiations, there were no defenders of the rookie contract. Thus, players were able to secure increased minimum salaries for

⁵⁴ Ibid.

veterans at the cost of rookie salaries, which seemed to be a success. However, the players failed to anticipate how decreasing the cost of younger players could actually hurt the prospects of veterans. Given the increased veteran minimum and decreased rookie salaries, teams have become financially incentivized to fill roster spots with younger players, having the opposite effect from the players' intentions. Perhaps including a representative for rookies in the 2021 CBA negotiation could help mitigate some of the issues that arise from the lack of perspective from rookies.

B) Player Safety Concerns

As medical research into the effects of football on the brain and body improve, current and former players continue to gain insight into how the game could be affecting them. While former players no longer have the ability to protect themselves from this harm, leading to lawsuits against the NFL with massive payouts, current players are able to better protect themselves by continuing to push for rule changes that make the game safer. This is best done through the CBA process, and player took full advantage of this in the 2011 negotiations. As mentioned above, players took a sizeable decrease in the percentage of league revenue that they had access to, partially for financial benefits, but some of the key substantive changes from the 2011 CBA were in player safety, both monetarily and in league-wide rule changes.

Player safety has not always been the NFL's priority, and many would argue that it still isn't today, but in the years the 2011 CBA the NFL has made almost yearly rule changes in an attempt to decrease the violence of the game. While some believe that violence is inherent in football, it is clear that changes can be made to incentivize teams

and players to protect the participants of the sport and reduce injuries. Since 2011, rule changes such as moving the placement of the ball to the 25-yard line, rather than the 20, in the case of a touchback, increasing the emphasis on hits on defenseless players, personal fouls, and other especially violent hits by referees, and reducing overtime length have changed the incentives of some especially dangerous plays. By placing the ball on the 25-yard line rather than the 20 in the event of a touchback, the league provided an incentive for teams to return kicks less often, which is in one of the most dangerous plays in the sport.

Given that only nine NFL teams averaged over 25 yards per kickoff the year before the rule was implemented, this is a fairly strong incentive for teams not to return most kicks.⁵⁵ After considering that most kickoffs are caught inside the end zone, necessitating the returner gain 25 yards plus however deep he was in the end zone in order to reach the 25-yard line, it becomes even less reasonable for teams to attempt to return a kick in anything other than perfect circumstances. Furthermore, conservative coaches can point to the scoring likelihood difference and choose to play the numbers, where in the season before the implementation of the rule, touchdowns were scored on 20.8% of drives starting on the 25-yard line as compared to 17.9% of the drives starting on the 20-yard line.⁵⁶ This serves the purpose of both making the game more exciting to fans looking to watch high-power offenses, and safer for the players. However, changes

⁵⁵ Adam Stites, "NFL Bumps Touchbacks to 25-yard Line for 2016," SBNation.com, <https://www.sbnation.com/nfl/2016/3/22/11269056/nfl-touchbacks-rule-change-fails-25-20-yard-line>.

⁵⁶ Judy Battista, "New Touchback Rule: Another Step Toward Eliminating Kickoffs?," NFL.com History, <http://www.nfl.com/news/story/0ap3000000648647/article/new-touchback-rule-another-step-toward-eliminating-kickoffs>.

like this do also fundamentally change the game and devalue a set of players, which some coaches and players have resisted. Clearly there is still more work to be done by the NFL, but these rule changes make it easier for supporters of the league to point to positive progress. The above rule changes were spurred by conversations around player safety that occurred during the 2011 negotiations, and are a great way to put these changes in context.

One focus in the negotiations was in making preseason activities safer for players as they began to ease back into playing shape. In previous iterations of the CBA, players were often subjected to training camps meant to quickly transition them from non-playing shape into playing shape. However, players often complained of an uptick in injuries as a result of this rapid shift from a relaxed lifestyle to an immediate highly active lifestyle. These practices had very little limits on their length, the number per day, or the amount of contact allowed. In the 2011 CBA, players hoped that by further regulating these preseason practices, it would help to limit the number of injuries that occur before the season. Therefore, the 2011 CBA implemented a system where, as reported by the New York Daily News, the “first day of training camp limited to physicals and meetings; second and third day no pads or contact; only one padded practice per day, limited to three hours; second practice can only be a walkthrough”.⁵⁷ This, players hoped, would allow them to ease into training by limiting their activity in the first few days of camp, and having only one practice per day.

Another attempt to make the game safer was through the creation of a rule limiting the number of padded practices allowed by the NFL. The CBA states that,

⁵⁷ Myers, "NFL Collective Bargaining Agreement Includes No Opt-Out, New Revenue Split, Salary Cap, Rookie Deals."

“during the regular season, padded practices for all players shall be limited to a total of fourteen, eleven of which must be held during the first eleven weeks of the regular season, and three of which must be held during the remaining six weeks of the regular season”.⁵⁸ This attempted to solve a similar issue to the limits placed on preseason practices, since players often found themselves entering games while exhausted from the week of practice. By limiting the contact in practice, players were able to limit the toll that repeated activity has on their body, in addition to reducing the number of hits that they take, especially in the head. Limiting the physical reps of players has also had the effect of emphasizing the cerebral nature of the game, pushing more practice time towards watching game film to identify the weaknesses of opponents and on play design. The goal of this policy was certainly noble, but many coaches argue that some of the declining technique observed in current players in positions such as along the offensive line can be attributed to this reduction in “real-time” reps for young players. This decline in play, along with the reported injury numbers since the 2011 CBA, have led many to question the efficacy of these rule change for their intended purpose.

A recently published study by Zachary Binney and other researchers at the Emory University Schools of Public Health and School of Medicine, goes in depth on the number of injuries suffered by players since the CBA and whether those were conditioning or non-conditioning injuries.⁵⁹ This helps to contextualize how the above player safety changes may have impacted players’ conditioning, and thus potentially caused more injuries than it prevented.

⁵⁸ “NFL Collective Bargaining Agreement,” page 143.

⁵⁹ Zachary Binney, Kyle Hammond, Mitchel Klein, Michael Goodman, and Cecile Janssens. *NFL Injuries Before and After the 2011 Collective Bargaining Agreement*. <https://arxiv.org/pdf/1805.01271.pdf>, page 1.

Binney et al examined how conditioning related injuries changed over time, where they defined conditioning injuries to be those identified by “an orthopedics and sports medicine physician with extensive experience as an NFL team physician” according to the study.⁶⁰ By reducing practice and conditioning time in preseason and the regular season, players may have put themselves at increased risk for conditioning injuries. Binney and his colleagues observed conditioning-related injuries increasing between 2007 and 2011 from 197 to 271.⁶¹ This is an incredibly large jump, but can be at least partially attributed to the 2011 offseason being shortened by the bargaining process. Since players were unsure if they would be playing that season, and since training camp was cut short because of bargaining, players did not have as much time to physically prepare as they may have wanted. Thus, the 2011 season was likely an aberration, but trends from the rest of the CBA can be observed.

For the rest of the CBA, the researchers observed a rate of 220-240 conditioning-related injuries since (in years 2012-2017), which is significantly higher than the 2007 level but also significantly lower than the 2011 level. Binney utilized a Poisson model to estimate how conditioning-related injury occurrences may have been impacted by the CBA, and ultimately found that the CBA caused an immediate 5% increase in conditioning-related injuries in the post-2011 CBA NFL.⁶² They also observed that in the pre-2011 CBA NFL, conditioning related injuries were increasing, while in the post-2011 CBA NFL the rate was consistent.⁶³

⁶⁰ Ibid, page 5.

⁶¹ Ibid, page 1.

⁶² Ibid, page 7.

⁶³ Ibid, page 7.

After looking more into the data of the study, the idea that the rate of the occurrence of conditioning-related injuries was increasing before 2011 seems to rely on an increase in 2010, which I would contend should be removed from consideration for similar reasons to 2011. While the preseason in 2010 did not suffer the same shrinking as in 2011, the differences in free agency based on accrued season and the fact that there was no salary cap caused confusion for many players. By removing 2010 and 2011 from consideration, the trend is much clearer, with slight increases before 2010 but a significant jump following the implementation of the 2011 CBA. This indicates that, while the CBA may have been intended to keep players safer, it might have actually put players in harms way by effectively underpreparing them for the season.

The intentions of the 2011 CBA were, in earnest, to make the game safer. Owners could lose their revenue streams, coaches could lose their jobs, and players could lose their lives if football is not made safer and more sustainable. However, as is often the case, the intended results of the policies in the 2011 CBA and the actual results are significantly different. While players may have sought to protect themselves by limiting the number of hits they were taking in practice, it may have actually increased their likelihood of injuries in games. Similarly, while players may have sought to ease into the preseason more effectively, they may have put themselves at an increased risk of conditioning-related injuries but limiting the amount of time that they spent getting into football shape. Coaches often point to the 2011 CBA as limiting their time with players and thus their ability to improve them via coaching, but the biggest issue with the more limited practice rules might actually be the injuries caused by the resulting under-preparation of players.

C) Commissioner Powers

Given that that the NFLPA was fighting so hard for benefits in other areas, it appears as though the negotiators did not fully consider the impact of the augmented powers provided to Roger Goodell. This has ultimately been the largest, and most consistent, point of contention between the league and the players and is the reason that the upcoming negotiations are shaping up to be as intense, if not more, than those that occurred in 2011. Many players supported increasing accountability when the first personal conduct policy was implemented, but as Goodell began to wield his powers to their fullest extent, opinions quickly changed.

In reflecting on the important take-aways from the CBA, very few articles from 2011 mention Goodell's increased discretion with respect to discipline, which is an interesting window into how priorities can change. Since then, the NFL has come under increased scrutiny for actions taken by players such as Ray Rice, Adrian Peterson, and Ezekiel Elliot, all of whom were accused of domestic violence, among other players accused of others. Many believe that Roger Goodell has acted as judge, jury, and executioner in these situations to the increasing consternation of the players, which has created a very combative relationship between them and the Commissioner. Due to the fact that, as mentioned above, NFL discipline does not require a ruling by the justice system, many players felt as though the rulings passed down by Goodell were overly harsh, unsubstantiated, or both. While the public tended to land on the opposite side of most issues, which put Goodell in a difficult position, players have become increasingly

fed-up with what they see as Goodell acting out of spite and having an undue impact on the outcome of games and teams' successes.⁶⁴

In 2014, the NFL was embroiled in a public relations crisis due to Peterson and Rice, both of whom were accused of domestic violence with just a few months. A video emerged in February 2014 of Rice striking his then fiancée, which led to criminal charges and a conviction, but after agreeing to undergo court-supervised and marrying his girlfriend in March, the charges were dropped.⁶⁵ Rice was suspended for only the first two games of the season for the incident, which caused a public outcry. However, once additional footage was released in September of Rice punching his fiancée in the face during the incident, Rice was cut by the Ravens and suspended indefinitely by the league, which he eventually appealed and got overturned. However, the negative press associated with Rice and his declining skillset ultimately ended his career following this incident.

In a similar situation to Rice, Adrian Peterson was accused of abusing his child in early September of 2014, as pictures surfaced of his son's legs with injuries from being hit with a stick.⁶⁶ He pleaded no contest in court and was sentenced to community service by the justice system, but the NFL waited until November to rule, when they suspended Peterson for the remainder of the season without pay. Since then, Peterson has continued

⁶⁴ Bob Condotta, "Seahawk Richard Sherman Rips Roger Goodell, Officiating, Says NFL 'Isn't Fun Anymore'," The Seattle Times, <https://www.seattletimes.com/sports/seahawks/seahawk-richard-sherman-rips-roger-goodell-officiating-says-nfl-isnt-fun-anymore-and-more/>.

⁶⁵ Jamison Hensley, "Ray Rice Suspended 2 Games," ESPN, http://www.espn.com/nfl/story/_/id/11257692.

⁶⁶ Steve DiMatteo, "Timeline of the Peterson Child Abuse Case," SBNation.com, <https://www.sbnation.com/2014/9/17/6334793/adrian-peterson-child-abuse-statement-vikings-timeline>.

in the league as the issue has generally left the public's consciousness and he has continued to play at a high level. Before his suspension, Peterson was placed on the Commissioner's Exempt list, which prevented Peterson from playing but did not correspond with any sort of verdict issued by the league or the justice system.

Both of these incidents highlight the increased accountability that resulted from Goodell's power, but where players began to diverge was through the use of tools such as the Commissioner's Exempt list. Players worried that, if the Commissioner had the power to remove players from games before there has been a complete investigation, disgruntled ex-partners or family members may seek to take advantage of this. Furthermore, many players were upset with the fact that the consequences for Rice and Peterson were comparable to a first offense for smoking marijuana, and were much less severe than punishments experienced by a player such as Martavis Bryant for violating the marijuana policy multiple times. Bryant was first suspended 4 games for violating the league's policy on marijuana (2 games more than Rice's initial suspension), and following his second offense he was suspended for a full season. These punishments were based on an agreed upon system of consequences, however the relative punishments caused consternation among players, especially considering that a third violation of the marijuana policy results in an indefinite suspension.

Goodell made his biggest mistake when he sought to discipline Tom Brady and the New England Patriots for what was thought to be tampering with the game balls used in the AFC Divisional and Championship playoff rounds. When officials tested the air pressure in the balls at halftime, some were outside of the acceptable inflation range. This was enough to convince the league that the Patriots had intentionally deflated the balls in

order to gain a competitive advantage. Goodell then suspended Brady for 4 games, fined the team 1 million dollars, and took two draft picks from the team. Brady, the Patriots, and the Players Union fought this ruling by pointing to The Ideal Gas Law, which indicates that the level of deflation observed by game officials was natural given the conditions of the game. Despite the fact that this is scientifically proven and corroborated, Goodell continued his pursuit of Brady, which led to back and forth battles in court and multiple rounds of appeals over the course of the entire 2015 season. Ultimately, Brady served his 4 game suspension a full year later than it was originally intended, which he turned into a Super Bowl winning season. The lack of oversight on Goodell enraged players and the NFLPA alike, causing many to swear that Goodell would not maintain his power into the next CBA.

By prioritizing player safety and earnings, the NFLPA did not fully consider how Goodell's discretion over league discipline might impact the players on a personal level. They also failed to recognize how Goodell's discretion might impact their ability to make political statements, like the National Anthem Protests that gripped the nation last season. While the policy introduced at the beginning of the league year banning kneeling on the field during the anthem has since been rescinded, it a constant reminder of the growing divide between the players and the league. This might incentivize players to fight more for the ability to have a say in the disciplinary process, which would deeply complicate the upcoming negotiations. Players will likely need to trade some of the gains that they have made in other areas in order to decrease Goodell's discretion, which will almost certainly cause debate among the players over how to prioritize other issues. Regardless

of how the upcoming negotiations shake out, players must remain united in order to address their concern with Goodell's powers and bargain for their best outcome.

Section III - Conclusion:

Clearly CBA negotiations are incredibly complex and often have unanticipated results. From players being pushed out of the league because of prohibitively high self-imposed salaries to players being at a higher risk of injury due to decreasing practice time, the policies sought by many players in this round of negotiations may have been more harmful than beneficial. As my argument presented, the 2011 CBA as a whole may not have put in place the best policies for the players. While team owners and the league likely did not fully anticipate the outcomes of these policies either, players were the ones that were most hurt by these failures.

Financially, players prioritized the salary floor and veteran minimums, which resulted in a mixed bag of successes and distinct failures. Additionally, players sought to make the game safer, securing funds for retired players and their families, increasing benefits, and reducing practice time in an attempt to limit the physical toll on their bodies. However, this may have actually caused them to be underprepared for the season, potentially increasing conditioning related injuries. Finally, the NFLPA allowed the league to implement new personal conduct standards under the supervision of League Commissioner Roger Goodell, which has proven to be wildly unpopular with players. This failure to anticipate the real effects of policy has caused many players to unite and seek an agreement with a completely different set of incentives.

For the upcoming 2021 CBA negotiation, there has already been quite a bit of discussion around the relevant issues. Current president of the NFLPA, DeMaurice Smith, has specifically mentioned addressing commissioner powers, injury occurrence on Thursday Night Football, and increased benefits for former players, among others.⁶⁷ Little is likely to be done to address the incentive issue caused by the rookie pay scale and high veteran minimums, as there is still no medium for the advocating for future rookies, and the veterans taking part in the negotiations are still a part of the league. The salary cap/floor is always an issue that is renegotiated in each CBA, but will likely remain in a similar position. Injuries are always on the mind of players and, with increasing pressure of the NFL to protect its players, there will likely be a combined effort between the players and the league to augment the current system to address injuries. The league has already taken some steps to address this with the addition of doctors not affiliated with a team performing the concussion evaluations for players in games. Based on conversations around the league, players will be putting a high priority on decreasing the amount of power wielded by Commissioner Goodell with respect to player discipline. As the negotiation date draws closer, players are preparing for a lockout the likes of which has not been seen by the NFL in decades, and could shape the future of the league, if the players successfully anticipate the true results of their actions.

⁶⁷ Kevin Seifert, "DeMaurice Smith: NFLPA Will Approach 2021 Talks Like 'War'," http://www.espn.com/nfl/story/_/id/22291292/demaurence-smith-nflpa-approach-2021-cba-talks-war.

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Appendix

A

Year	Salary Cap (numbers in millions)
2018	\$177.2
2017	\$167
2016	\$155.3
2015	\$143.3
2014	\$133
2013	\$123
2012	\$120.6
2011	\$120.3
2010	Uncapped
2009	\$123
2008	\$116
2007	\$109
2006 (start of the 2006 CBA)	\$102
2005	\$85.5
2004	\$80.6

Adapted from: https://en.wikipedia.org/wiki/Salary_cap#cite_note-nfl.com-19

Appendix B

(a) Beginning in the 2011 League Year, the Paragraph 5 Salary of any player on a Club's Active/Inactive List at any time during the regular season will be not less than the following:

#CS	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
0	\$375	\$390	\$405	\$420	\$435	\$450	\$465	\$480	\$495	\$510
1	\$450	\$465	\$480	\$495	\$510	\$525	\$540	\$555	\$570	\$585
2	\$525	\$540	\$555	\$570	\$585	\$600	\$615	\$630	\$645	\$660
3	\$600	\$615	\$630	\$645	\$660	\$675	\$690	\$705	\$720	\$735
4-6	\$685	\$700	\$715	\$730	\$745	\$760	\$775	\$790	\$805	\$820
7-9	\$810	\$825	\$840	\$855	\$870	\$885	\$900	\$915	\$930	\$945
10+	\$910	\$925	\$940	\$955	\$970	\$985	\$1000	\$1015	\$1030	\$1045

(all amounts in thousands of dollars)

(CS = Credited Seasons)

"NFL Collective Bargaining Agreement," page 146.