

UPCOMING TRAININGS & CONFERENCES

NDA A is making its National Courses available virtually in light of health and safety concerns over COVID-19. Check out a full list of NDA A's virtual learning sessions at ndaa.org/training-courses/.

Commercial Driver's License Violations Conference
June 22-24, 2021 (See page 5 for additional details.)

NDA A's Mastering Masking Digital Course/ On Demand Training (CLE Available)
ndaa.org/training/mastering-masking-2/

NDA A's Human Trafficking and the Impact on Commercial Driver's Licenses/On Demand Training
ndaa.org/training/human-trafficking-and-the-impact-on-commercial-drivers-licenses/

NDA A's Prosecuting DUI Cases Online Course/ On Demand Training (CLE Available)
ndaa.org/training/prosecuting-dui-cases/

Ethical Issues in Developing Appropriate Sentencing Recommendations
June 22, 2021 @ 1:00-2:00 p.m. (ET)

Back to Basics: Trial Advocacy Skills
June 15-29, 2021 @ Varied Times

NDA A's Summer Summit
July 18-20, 2021, Virginia Beach, VA

RESOURCES

Impaired Driving Resources
ndaa.org/programs/ntlc/

CDL-Related Resources
ndaa.org/programs/ntlc/commercial-drivers-license/

NDA A STAFF

Executive Director Nelson O. Bunn, Jr.
Chief Operating Officer Christine Mica

THE NATIONAL TRAFFIC LAW CENTER

Director
Joanne E. Thomka jthomka@ndaajustice.org

Senior Attorneys
M. Kimberly Brown mkbrown@ndaajustice.org
Jim Camp jcamp@ndaajustice.org

Staff Attorney
Erin Inman erinman@ndaajustice.org

Project Coordinator
Courtney Jan cjan@ndaajustice.org

The National Traffic Law Center is a division of the National District Attorneys Association. This document was prepared under Cooperative Agreement Number 693JJ91950010 from the U.S. Department of Transportation National Highway Traffic Safety Administration. Points of view or opinions in this document are those of the authors and do not necessarily represent the official positions or policies of the Department of Transportation or the National District Attorneys Association.



Volume 29, Issue 6 | June 2021



Operation Sober Handle

Changing Behaviors and Increasing Public Safety, One Truck Stop at a Time

By Miriam Norman, WA TSRP

Ask a patrol officer if he/she has ever *willingly* stopped a Commercial Motor Vehicle (hereinafter termed "CMV") and most will say, "No." There are a multitude of understandable reasons why not, including,

- Where and how do I pull it over?
- What about officer safety? I cannot see inside, how do I account for all the people inside? Are those people supposed to be in there?
- Can I open the door?
- How do I talk to the operator?
- What about all the regulations around CMVs/CMV operators?
- How do I know if they need a CDL (commercial driver's license) or not?
- What paperwork are they required to carry, and how do I know if they have it?
- I do not know what a logbook looks like, nonetheless what to check for; how do I navigate this?
- What about medical certificates?
- What is a medical certificate?

Operation Sober Handle: Changing Behaviors and Increasing Public Safety

Within the law enforcement community, it is well-known that most patrol officers do not stop CMVs. Unfortunately, this is also well-known in the trucking industry. As a result, some CMV operators drive poorly and feel emboldened to drive in such a fashion.

The statistics on fatalities directly related to CMVs are sobering: Trucks and buses represent 5% of the registered vehicles in the United States,¹ however, they represent 10% of the vehicle miles traveled, 12% of the fatal crashes, and 13% of the traffic fatalities.² CMVs account for 22% of all passenger vehicle occupant deaths in crashes of two or more vehicles.³ Given the larger size of CMVs, crashes involving them all too often have fatal consequences. CMVs are disproportionately involved in motor vehicle crashes and fatalities every year.⁴ CMVs are in more fatal crashes per mile.⁵ In two-vehicle crashes involving a CMV and a passenger vehicle, 98% of those killed are riding in the passenger vehicles, not the CMV.⁶ These statistics made me realize we are wasting an opportunity to positively impact traffic safety when an officer declines to stop a CMV for observed equipment or traffic violations. This way of thinking needs to change, but how?



A 2019 study about the prevalence of drug use by CMV operators ignited my motivation to solve this problem. This study, *Psychoactive Drug Consumption Among Truck-Drivers: A Systematic Review of the Literature With Meta-analysis and Meta-regression*,⁷ revealed the prevalence of drug consumption by CMV operators was 27.6% of the population questioned.⁸ There was a particularly high prevalence of illicit central nervous system (CNS) stimulant consumption (*i.e.*, amphetamine consumption of 21.3% and cocaine consumption of 2.2%) compared to the estimated global prevalence of consumption in the general population.⁹

CMV operators tend to favor stimulant substances to enhance performance and increase productivity; thus, increasing earning.¹⁰ Most CMV operators are paid by the miles traveled, not the hours worked.¹¹ In this study, the rate of amphetamine use among CMV operators was almost 30 times higher than the general population; the rate of cocaine use was also higher in the CMV operator population over the general population.¹² The researchers also determined there was a significant correlation between stimulant use by CMV operators who were younger and had less professional experience.¹³ In previous studies, stimulant consumption among truck-drivers was associated with night shifts, length of travel, and younger age.¹⁴ Although stimulants in low doses could improve psychomotor skills, like driving, chronic and high dose users showed poorer compliance with traffic rules and working hours regulations, with an increased risk of traffic crashes, mainly as a consequence of hypersomnolence and fatigue.¹⁵ Amphetamine use increases risk of crashes 5-times over.¹⁶ According to the study, opiate use and cannabis use, are also increased in the CMV operator population versus general population.¹⁷ Both cannabis and opiate use is a growing trend.¹⁸ This study demonstrated the dangerous prevalence of overall drug use by CMV operators: 1 in every 20 CMV operators was driving under the influence of drugs.¹⁹

The FMCSA (Federal Motor Carriers Safety Administration) statistics on positive urinalysis by CMV operators²⁰ reaffirmed the need to do something to encourage patrol officers to stop CMVs when committing infractions. Of the 56,000 positive urinalysis tests, only 1,203 were for positive for alcohol, most were for drugs (*e.g.*, cocaine, amphetamines, and cannabis).²¹ This demonstrated prevalence of drug use among CMV operators illustrates the concern that even if an officer stops a CMV, if he/she is *only* looking for alcohol, the drug impaired drivers will be missed completely.

After reviewing the 2019 study, I sent copies to several active Drug Recognition Experts (DREs) in the Washington State Patrol. Now aware of the pervasiveness of drugs in the CMV driver community, I asked the DREs if they would now begin making traffic stops of these drivers. Each responded affirmatively, if they could be taught how to do so safely.

Operation Sober Handle: Changing Behaviors and Increasing Public Safety

Although filled with good and useful information, the existing classroom-based trainings did nothing to encourage patrol officers to make the traffic stops of “big trucks.” Classroom-based training, without applied skill-based training components, was unlikely to change behavior. This inspired me to develop a training course for patrol officers in which the focus is on the specific drug impairment prevalent in the CMV population. This course also needed to convince and teach patrol officers how to safely conduct a traffic stop of a CMV. Hence, the birth of Operation Sober Handle.

Generally, patrol officers know how to make a traffic stop on a passenger car or truck, how to investigate impaired drivers, and how to detect drug impairment. On the other hand, patrol officers generally are not well-versed on the federal regulations governing CMVs. A successful new training course would necessarily be skill-based, would require patrol officers to conduct a traffic stop on a CMV in order to develop those skills, and encourage the officers to conduct multiple traffic stops of CMVs in the days following the course to solidify the new skill for future use.



The course focuses on teaching patrol officers to stop CMVs for infractions with which the officers are already familiar: impaired driving, excessive speed, seatbelt use, and distraction from cell phones, for example. For the most part, the course avoids discussing in depth the federal regulations surrounding CMVs. The exception is the lower alcohol per se standard for CMV operators.²² The course also emphasizes the most commonly used substances by the trucking population: Central Nervous System Stimulants, Narcotic Analgesics (opiates), and Cannabis. Additionally, the course is designed to demystify CMVs for the patrol officers by bringing a “big rig” to the course and allowing the officers to examine it up close, touch it, and climb into it. During this part of the training, the officers also learn how to safely make a traffic stop on a large truck and also visit a large truck weigh station to observe how it operates. The classroom lectures and this hands-on training occur on the first day of the two-day course. On the second day of the course, the officers are assigned a mentor to make traffic stops of CMVs in the field. This allows the patrol officers to develop the skill through repetition and build confidence to stop violating trucks on their own.

This training required significant investment on the part of many stakeholders in the law enforcement community. Seattle Police Department Officer Jon Huber²³ and Washington State Patrol Officer Paul Woodside, Sergeant Travis Snider, and Commercial Vehicle Enforcement Officer Supervisor Ryan Hernandez provided substantial assistance with the curriculum development, the logistics surrounding the use of a CMV for the training, and secured the participation of officers who served as mentors for the second day of the training. Officer Huber is also a DRE instructor and he, along with the Washington State DRE coordinator, Brock Haner, taught the sessions surrounding the drugs and the short review of the standardized field sobriety tests.

In order for a patrol officer to feel empowered to stop big trucks in his/her jurisdiction, it is best to conduct this training regionally, allowing the attendees to learn how to make the traffic stops in the area, geography, and environment in which they work. It also helps to keep the class size small to best accommodate the hands-on, skill-based practice of the second day. While the requirements for the course involve considerable logistical challenges, namely securing the commercial truck and planning the visit to a working weigh station, the effectiveness for the attendees is immense.

To date, this course has been conducted twice in Washington state. In the most recent Seattle class, attendees investigated two CMV drivers for impaired driving, conducted two drug recognition evaluations, placed one truck out of service, seized several illegal substances, arrested one passenger on an outstanding warrant, stopped numerous CMVs, and positively impacted public safety. The deterrent effect of this operation is hopefully not just limited to CMV operators as the high visibility of these traffic stops has a positive impact on the drivers of passenger vehicles, too. To incentivize the continued use of this new skill set, instructors are encouraged to follow up with the attendees and ask them to report on the CMV enforcement conducted

since attending the class. This information includes the number of CMV traffic stops made, the types of CMV investigations conducted (e.g., impaired driving), the number of arrests made as a result of the CMV stops, and the number of CMVs placed out of service. This course has already made an impact with the officers who have participated. Officers who previously never conducted a traffic stop on a CMV gained the confidence by attending the course and learning the safe way to do it. The hope and goal of the course is creating a solution to the danger posed by impaired truckers.

In Washington, this course would not be possible without the assistance of many others and thanks to the support of the Washington State Patrol, City of Seattle, Washington Traffic Safety Commission, Reponsibility.org, Governor's Highway Safety Administration, XPO Trucking, and local agencies and stakeholders who provided grant funds to support the regional classes and access to trainers/trucks.

If you are interested in observing this class or learning more information about conducting this training, please feel free to reach out. It is a logistically challenging course to coordinate, but it is most certainly worth the effort. We are changing behaviors and increasing public safety, one OSH (Operation Sober Handle) class and truck stop at a time.

For more information about Operation Sober Handle, please contact Miriam Norman, Washington Traffic Safety Resource Prosecutor, at 206-850-5260 or ► miriam.norman@seattle.gov.

¹ Federal Motor Carrier Safety Administration. (2017, June). *2017 Pocket Guide to Large Truck and Bus Statistics*. (FMCSA National Training Center); Washington, DC: Author. Available at www.fmcsa.dot.gov/safety/data-and-statistics/2017-pocket-guide-large-truck-and-bus-statistics.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Dini, G., et al., *Psychoactive Drug Consumption Among Truck-Drivers: A Systematic Review of the Literature With Meta-analysis and Meta-regression*, J PREV MED HYG 2019; 60: E124-E139; www.ncbi.nlm.nih.gov/pmc/articles/PMC6614564/pdf/jpmh-2019-02-e124.pdf (last visited November 25, 2019).

⁸ *Id.* at E128.

⁹ *Id.* at E127.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at E129.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at E131.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Federal Motor Carrier Safety Administration. (2021, February). *FMCSA Clearinghouse Records More Than 56,000 Truck Driver Violations in 2020*. (FMCSA National Training Center); Washington, DC: Author. Available at: [FMCSA Clearinghouse Records More Than 56,000 Truck Driver Violations in 2020 | Transport Topics \(ttnews.com\)](https://www.transportation.gov/press-release/fmcsa-clearinghouse-records-more-than-56000-truck-driver-violations-in-2020)

²¹ *Id.*

²² The FMCSA has established 0.04% as the blood alcohol concentration (BAC) level at or above which a CDL commercial motor vehicle operator who is required to have a CDL, and is operating a commercial motor vehicle, is deemed to be driving under the influence of alcohol and subject to the disqualification sanctions in the Federal regulations.

²³ Officer Huber is the Impaired Driving Enforcement Training Coordinator for the Seattle Police Department.

About the Author

Miriam Norman is a Traffic Safety Resource Prosecutor for Washington State. As a TSRP, she is a resource to all prosecutors and law enforcement officers in the state of Washington handling impaired driving cases. She conducts training courses, provides legal advice and trial assistance to prosecutors and officers, and assists in drafting legislation. Ms. Norman also speaks as requested to interested stakeholders and community members.

Prior to becoming a TSRP, Ms. Norman was the lead DUI Prosecutor for the City of Seattle. As the Lead DUI Prosecutor, she acted as a liaison between prosecutors and law enforcement, community groups, and other stakeholders in the fight against impaired driving in addition to trainings. Ms. Norman is a career prosecutor with a focus on traffic crime.



COMMERCIAL DRIVER'S LICENSE VIOLATIONS: ENFORCEMENT, PROSECUTION, & REPORTING

This course is designed to assist prosecutors, law enforcement personnel, judges, court clerks, motor vehicle administrators, and other allied professionals with vested interests in Commercial Driver's License (CDL) enforcement and public safety, overcome the challenges involved throughout all stages of Commercial Motor Vehicle safety enforcement.

CLE credit available

2021 CDL CONFERENCE JUNE 22-24, 2021 VIRTUAL

► [CLICK HERE TO REGISTER NOW](#)

HOSTED BY: National District
Attorneys Association's
National Traffic Law Center



KEYNOTE:
**FMCSA DEPUTY
ADMINISTRATOR
MEERA JOSHI**



FOR MORE INFORMATION, PLEASE CONTACT:

Joanne Thomka | NTLC Director, NDAA | jthomka@ndaajustice.org

Jim Camp | Senior Attorney, NDAA | jcamp@ndaajustice.org

Courtney Jan | Project Coordinator, NDAA | cjan@ndaajustice.org