

Elevating the Education of the CDL in New York State

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In the mid-1990's, a pilot program known as the Commercial Vehicle Enforcement Judicial Outreach Program (CVEJOP) was created. The project was started as a partnership project between the Federal Highway Administration (FHA), the New York State Police (NYSP), and the NY Department of Motor Vehicles (NYDMV). As Staff Inspector David McBath of the NYSP, and Judge W. Meyers of the NYSDMV recall:

“Initially, in the 1980's a form of this training was created by NYSP members in response to the NY State Court Clerk Association's numerous requests for NYSP members to speak to them about Transportation Law tickets. FHA provided the grant money to acquire education materials and equipment to establish and conduct a pilot JOP training program in NY.

When this pilot program was created in the 1990's, NYSP had also started receiving requests to speak to the NY State Magistrates Association (NYSMA) members on this topic as well. However, the Office of Court Administration (OCA) in New York deemed that there had to be a defense attorney present when the presentations were given to add "balance" to this magistrates training (no such requirement existed for the court clerks training). Lawyer members of the NYSMA (town and village justices), City Court Judges and regional bar association members were then added to the FHA/DMV/NYSP training team to meet this OCA requirement. This group of instructors then conducted numerous offerings of the program around the state for magistrates and court clerks alike, and it was very well received.”

The goal of that program was to educate the courts about what was happening on the roadside with trucks, specifically:

- Inspection procedures,
- Inspector training,
- Inspector certifications,
- Uniformity of the program nationwide,
- How these efforts were saving lives via crash reduction, etc.

Secondly, the program was to educate the courts on the legal aspects related to the common roadside issues, specifically:

- Adoption of the Federal regulations in NY state law,
- Broader understanding of transportation and tax law ticket prosecutions,
- Fine structures,
- Existing case law, and,
- How “Out of Service” criteria is applied.

The training was very successful; however, as the program progressed, more important curriculum was added to the annual program which decreased time spent on the initial program objectives. As enforcement was increased by way of roadside inspections, the courts found themselves without an adequate resource for improving their knowledge base. Similarly, both prosecutors and defense counsel alike were at a disadvantage when it came to understanding this subject, and as a result, CDL case disposition rates remained longer than optimal.

Early in 2003 a flyer was forwarded to me from NYSMA about a Commercial Drivers License Faculty Development Course being held at the National Judicial College in Reno, Nevada. This course was funded on a grant through the Federal Motor Carrier Safety Administration (FMCSA). Later in 2003, I was selected to be a participant in that year's program. The only condition of acceptance to the course was that each student was required to make a presentation back in their home state and report back to the National Judicial College upon completion of that presentation.

From the NYSMA Flyer (2003) - *Each year the New York State Magistrate's Association offers many types of educational classes at its annual conference. This year in Saratoga the program was changed somewhat to provide for some hands on training dealing with commercial motor vehicles. In cooperation with Vice President Thomas Dias and Program Chairman Mark Farrell an idea was instituted to provide both the judges and court clerks with a live demonstration of a commercial motor vehicle inspection. The purpose of this demonstration was to allow the attendees to view up close and ask questions about a variety of items on the truck itself. Licensing concerns that affect commercial drivers license holders were also addressed in this forum. This approach will better enable the court staff to understand what types of violations they have filed in their respective courts. To assist in the demonstration a tractor-trailer combination was donated by Teal's Express, Watertown, N.Y. This is the third such demonstration that Teal's participated in, having assisted at the SMA conference in Buffalo and again for a multi-county class for the Genesee and Wyoming County Magistrates' Associations. Trooper Michael O'Donnell, (SP Loudonville) a member of Troop G's Commercial Motor Vehicle Unit demonstrated the steps of a roadside inspection. The fifty people that were in attendance were shown under the hood items (i.e.: steering and brake mechanisms) and a trip around the vehicle identifying many other items included in the inspection. At the conclusion of the demonstration many questions were asked of Trooper O'Donnell and Darien Town Justice Gary A. Graber. The types of questions asked illustrated the need for this type of training. Look for more in the future.*

Unfortunately, after these sessions, there were few opportunities for training and courts handling CDL cases continued to have difficulty disposing of them. Without a uniform guide to assist judges and clerks, courts lacked an aid which could help them in both understanding the violations, and making plea or sentencing decisions. The problem was not limited to the bench, as both prosecutors and defense attorneys lacked the experience to properly conduct their cases. Various charts were distributed through the Office of

Court Administration and law enforcement agencies began coming up with their own versions as well. However, unfortunately the charts provided were not consistent or uniform in their content, and confusion surrounding CDL issues persisted. Increasingly it was observed that many of the courts were beginning to rely on law enforcement agencies for the answers.

Late in 2006, while sitting as Darien Town Justice, I began developing two flow charts (Hazardous and Non Hazardous) that would aid the courts in the process. With the assistance of Sgt. Edmund Schramm, a Commercial Motor Vehicle Supervisor with the New York State Police, and Robert Davidzik, an Intermodal Transportation Specialist with the New York State Department of Transportation, the charts were reviewed for errors and submitted to the New York State Town and Village Resource Center which was completed shortly thereafter.

Fiscal constraints at the time limited travel and reduced opportunities for a much needed outreach program relating to this subject. Later, approval was authorized by the Office of Justice Court Support for me to provide a curriculum and coordinate various training locations across the state. The New York State Magistrates Association adopted the program as an outreach program that would allow Judge Judy Conger, Village Justice for Pulaski, NY and I to facilitate the program at designated locations.

In January 16, 2008 the outreach program began at Main Tire Exchange in Dansville, NY. In most locations a tractor-trailer was provided to demonstrate a roadside inspection by a local troop member of the New York State Police. The remainder of the programs were as follows:

- 2/16/08 – Teals Express, Marcy, New York
- 3/1/08 – Ryder Truck Rental, Syracuse, New York
- 4/19/2008 – Jamestown Community College, Olean, New York
(power point for Court Clerks only)
- 05/10/08 – Leroy Holdings, Albany, New York
- 05/31/08– Teals Express (NYSP) Carthage, New York
- 07/28/08 – Teals Express, SUNY Potsdam, New York
- 09/22/08 – Teals Express, NYSMA Conference, Niagara Falls, New York

In total 160 judges and 47 clerks from Town, Village, and City Courts participated in the training at the various sites. As a result, there has been increased understanding of how to apply the flow charts to the cases courts hear. Further, the program is conducted independently without the assistance of a member of the executive branch of government.

In summarizing it should be noted that the Commercial Drivers license (CDL) continues to be a challenge to all of those that encounter it in all parts of the criminal justice system. Commercial Drivers License holders are held to a higher standard in many phases of their duties. The courts are the final gatekeepers in insuring that only the safe drivers are allowed to continue to hold the privilege that is their CDL license. Continued recognition of the effects of plea bargaining, awareness of the masking issues, serious traffic

violations and impaired driving consequences remain top focal points for the courts to understand.

As briefly mentioned earlier, honorable mention certainly goes to the National Motor Carrier Safety Administration and the United States Department of Transportation for providing the funding for these outreach programs, Hundreds of judges from around the country have been able to participate in a workshop at the National Judicial College, Reno, Nevada and go back to their home states and further that curriculum. Since that time other sources like the website that the National Center for State Courts provides will only elevate the education needed to improve the public's perception of the courts.

-Gary Graber
January 2013