

## UPCOMING TRAININGS & CONFERENCES

- **NDAA is making its National Courses available virtually in light of health and safety concerns over COVID-19.** Check out a full list of NDAA's virtual learning sessions at <http://ndaa.org/wp-content/uploads/NDAA-Offerings-Covid19.pdf>.
- **NDAA's Mastering Masking Digital Course/On Demand Training** <https://ndaa.org/training/mastering-masking-2/>
- **NDAA's Human Trafficking and the Impact on Commercial Driver's Licenses /On Demand Training** <https://ndaa.org/training/human-trafficking-and-the-impact-on-commercial-drivers-licenses/>
- **NDAA's Prosecuting DUI Cases Online Course/On Demand Training** <https://ndaa.org/training/prosecuting-dui-cases/>
- **NDAA's Modern #Ethics for #Prosecutors: Handling Cases in a Court of Law, and the Court of Public Opinion** / January 13, 2021 @ 1:00–2:00 p.m.
- **NDAA's Galvanizing Gatekeepers: The Prosecution's Role in the Current Immigration Landscape** / January 26, 2021 @ 1:00–2:15 p.m.

## RESOURCES

- **Impaired Driving Resources—**<https://ndaa.org/programs/ntlc/>
- **CDL-Related Resources—**<https://ndaa.org/programs/ntlc/commercial-drivers-license/>



## We Do Not Know What We Do Not Know

By Jim Camp, NTLC Staff Attorney

Our mission as traffic safety professionals is saving lives. It can be hard to accomplish that mission when we do not know what we do not know. For many of us that is the case in traffic cases involving commercial motor vehicles (CMV) and commercial driver's license (CDL) holders.

I am a trial prosecutor, trainer, and motivational speaker. I strive to make a positive difference every day and believe those of us in highway safety must work to have “skin in the game” of saving lives and truly believe in the

## NDAA STAFF

**Executive Director**  
Nelson O. Bunn, Jr.

**Chief Operating Officer**  
Christine Mica

## THE NATIONAL TRAFFIC LAW CENTER

**Director**  
Joanne E. Thomka: [jthomka@ndaajustice.org](mailto:jthomka@ndaajustice.org)

**Senior Attorneys**  
M. Kimberly Brown: [mkbrown@ndaajustice.org](mailto:mkbrown@ndaajustice.org)  
Romana Lavalas: [rlavalas@ndaajustice.org](mailto:rlavalas@ndaajustice.org)

**Staff Attorneys**  
Erin Inman: [erinman@ndaajustice.org](mailto:erinman@ndaajustice.org)  
Jim Camp: [jcamp@ndaajustice.org](mailto:jcamp@ndaajustice.org)

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mission. Belief in this life saving mission, has driven me throughout most of my career in traffic safety. Unfortunately, early on in my service as an elected District Attorney there were occasions when I failed to accomplish the mission. I felt pressed for time. That pressure led to some poor decisions on my part and corners were cut. I am not proud to say it, but it is true. One of the areas where corners were cut was in traffic court, especially as it related to CDL holders. While handling those cases I agreed to enter into plea agreements to defer or dismiss speeding charges. Some of those violations were committed while the CDL holder was operating a CMV and some while operating a personal vehicle. Violations committed in both have substantial consequences for CDL holders. I did not realize that I was enabling unsafe operation of CMVs by the CDL holders that I was “giving a break.”

I also did not know that masking is prohibited by the Federal Motor Carrier Safety Regulations relative to offenses committed by CDL holders and that this was so regardless of whether they were operating a CMV or personal vehicle.<sup>1</sup> Masking includes, among other things, deferral, or diversions of CDL holder moving traffic violations including but not limited to speeding and impaired driving. A detailed explanation of this prohibition can be found in our on demand resource [Mastering Masking Digital Course](#) (CLE credit eligible in many states).

At that time, I was unaware of any real CDL resources available to prosecutors. There was no class in our state prosecutor trainings relative to these issues, nor any indication that they were even an issue. As a new DA I did not know what I did not know. Due to my lack of knowledge about CDL issues, I was not part of the solution. I was part of the problem.

It is important to know that CMV drivers, *i.e.*, CDL holders, require special skills. CMV drivers must undergo extensive training that includes detailed review of traffic regulations and the adverse effect violations of those regulations will have on their CDL. After all, CMVs are defined in part as having a gross weight rating of 26,001 pounds.<sup>2</sup> Some are vehicles that are designed to transport 16 or more passengers including the driver<sup>3</sup> or a vehicle used to transport hazardous materials.<sup>4</sup>

Most CDL holders are safe, responsible, skilled professionals. However, some unsafe CDL holders are also on the road. In 2018, 4,630 large trucks and buses were involved in fatal crashes<sup>5</sup>, and 121,000 large trucks and buses were involved in injury crashes.<sup>6</sup> Considering these statistics, law enforcement officers and prosecutors must believe in the mission of improving highway safety relative to CMVs and CMV operators and must be dedicated to

accomplishing that mission. To do this we must be vigilant and well versed in the law regulating CMVs and CDLs. Senior Attorney Romana Lavalas and I are here to ensure that preparation and help you accomplish the mission.

Over the next year you can expect to find us:

- Authoring articles like this one for *Between the Lines* and other traffic safety newsletters.
- Posting useful CDL information blasts and videos on social media.
- Providing answers to your CDL technical assistance inquiries.
- Teaching existing webinars and live conferences (once COVID-19 is under control), on the following topics:
  - Mastering Masking, Legal and Ethical Consequences of Plea Negotiations Involving Commercial Driver's Licenses
  - Human Trafficking and the Impact on Commercial Driver's Licenses
  - Annual CDL Conference — Commercial Driver's License Violations: Enforcement, Prosecution, and Reporting

The following links to on demand training are available on the National Traffic Law Center [Website](#) to watch at your leisure:

- [Mastering Masking, Legal and Ethical Consequences of Plea Negotiations Involving Commercial Driver's Licenses](#)
- [Human Trafficking and the Impact on Commercial Driver's Licenses](#)
- [Mastering Masking Digital Course](#) (CLE credit eligible in many states)

These Links to other lifesaving CDL related resources are also available:

- [Between the Lines Newsletter](#) (July 2019) Masking Issue
- [CDL Monograph](#)
- [CDL Quick Reference Guide](#)
- [Distracted Driving CDL Enforcement for Prosecutors and Law Enforcement](#)

- [Large Truck Crash Reconstruction for Prosecutors Monograph](#)
- [Masking Laws State by State](#)
- [Masking Quick Reference Guide](#)

We are also in the process of creating a new and engaging video vignette series training tool, due later in 2021, that will follow a CDL violation from the initial traffic stop through conviction, to the filing of a traffic record, while examining the consequences of not holding CDL holders accountable.

In addition, Ms. Lavalas and I are available to present both live and remote trainings at prosecutor's offices, statewide prosecutor trainings, law enforcement and Traffic Safety Resource Prosecutor conferences, including trainings that are tailored to the needs of your office covering a variety of CDL topics. From learning CDL basics to more substantive trainings such as Masking and Disqualification, our team is here to assist you.

I encourage all of you to reach out to me, Jim Camp ([jcamp@ndaajustice.org](mailto:jcamp@ndaajustice.org)), 703.519.1650, and Romana Lavalas ([rlavalas@ndaajustice.org](mailto:rlavalas@ndaajustice.org)), 703-519-1674, with your CDL/CMV related training and technical assistance requests. For updates to resource materials and trainings, please watch our website <https://ndaa.org/programs/ntlc/>, our Facebook page and Twitter feed, both @ndaajustice, as well as my Twitter feed @flylegal, and Facebook page @JCDMessages.

The more we know, the better we are equipped to accomplish the mission of saving lives. We at the National Traffic Law Center are here to help.

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<sup>1</sup> 49 C.F.R. § 384.226

<sup>2</sup> 49 C.F.R. § 383.5

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> U.S. Dep't of Transp., Federal Motor Carrier Safety Administration, *2020 Pocket Guide to Large Truck and Bus Statistics*, 34, (Oct. 2020), <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-10/FMCSA%20Pocket%20Guide%202020-v8-FINAL-10-29-2020.pdf>

<sup>6</sup> *Id.* at 35.

## AUTHOR BIO

**Jim Camp** is a nationally known motivational speaker and trainer of law-enforcement officers and prosecutors with over sixteen years of experience as an elected district attorney in Wisconsin, and nine years as Traffic Safety Resource Prosecutor for Tennessee. He is currently a Staff Attorney at the National Traffic Law Center.

## APPRECIATION: DIANE WIGLE

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With great thanks and appreciation, the National District Attorneys Association (NDAA) extends our sincerest congratulations to the National Highway Traffic Safety Administration's (NHTSA) Impaired Driving Division Chief **Diane Wigle** on her retirement. With over 30 years of traffic safety experience, Diane has worked with and counseled thousands of traffic safety professionals on developing and implementing safety programs and countermeasures to reduce impaired driving, serious injuries, and fatalities on our Nation's roadways. Diane has been instrumental in the growth and development of NDAA's National Traffic Law Center mission and the products and services we have developed to educate and train our Nation's prosecutors, law enforcement and other traffic safety professionals. Diane also worked to create and implement the Traffic Safety Resource Prosecutor (TSRP) Program, the Judicial Outreach Liaison Program and the Law Enforcement Liaison Program. As a result of Diane's passion and commitment, so many lives have been saved. Again, our heartfelt thanks and best wishes.

## APPRECIATION: SELDEN FRITSCHNER

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The National District Attorneys Association offers its sincere congratulations, thanks and best wishes to Federal Motor Carrier Safety Administration (FMCSA) Senior Transportation Specialist **Selden Fritschner** on his retirement after a stellar career in public and private service in the pursuit of saving lives on America's roadways. Prior to joining FMCSA, Selden served in the United States Navy, was a sworn law enforcement officer, and a former executive at the American Association of Motor Vehicle Administrators (AAMVA). His innate ability to turn vision into reality has helped foster relationships between members of the traffic safety community to make effective changes. As a result of Selden's guidance and his commitment to the FMCSA Commercial Driver's License (CDL) Division's mission of "One Driver, One License, One Record," the National Traffic Law Center's CDL Unit has developed exemplary resources for prosecutors, law enforcement and other traffic safety professionals which help ensure CDL drivers are properly licensed and operating safely. NDAA extends its gratitude and thanks to Selden for his commitment and partnership and wishes him the best in his future endeavors.



## Updated *Cops in Court* Curriculum

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NTLC is pleased to announce the release of the newly updated *Cops in Court* curriculum. This is a *Trial Testimony Skills Course* designed for law enforcement officers with a wide variety of trial testimony experience. This course includes discussion and instruction on all aspects of trial preparation and courtroom testimony utilizing a drug impaired driving case scenario. Experts in the fields of law enforcement and prosecution present the curriculum to law enforcement officers, allowing the participants to learn firsthand the challenges and difficulties in these cases. This course is designed to be taught in one day and includes direct and cross-examination exercises and an optional mock trial presentation/exercise. Additional potential topic areas are discussed throughout the Instructor Manual and may be implemented in the training course to expand the curriculum if so desired. Segments of this training include:

- **Module 1** — Introduction
- **Module 2** — Roles, Rules & Routines - the roles of the different personnel in a courtroom, what their responsibilities include, and courtroom /trial operations
- **Module 3** — Details, Details, Details - the importance of a detailed police report and how to improve report writing skills
- **Module 4** — Direct Examination
- **Module 5** — Cross Examination
- **Module 6** — Take the Stand

This update is the result of the great work of our Subject Matter Expert Working Group: West Virginia TSRP Nicole Cofer, Kentucky TSRPs Aaron Ann Cole and Tom Lockridge, Maine TSRP Scot Mattox, Idaho TSRP Jared Olson, Kansas Highway Patrol Lt. Matt Payne, and NHTSA's Linda Fisher and Christine Frank. The curriculum is again designed in module format which can be adapted to individual state specific needs or timetables. It includes an Administrator Guide, Instructor Guide, Student Manual, PowerPoints, and brand new videos for use as needed throughout the curriculum.

The updated curriculum materials are free and available through the National Traffic Law Center by contacting Senior Attorney M. Kimberly Brown or Staff Attorney Erin T. Inman.