

Statement of Lieutenant Paul Sullivan
Massachusetts State Police
And
Commercial Vehicle Safety Alliance
Before The
Subcommittee on Surface Transportation and Merchant
Marine
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I. Introduction

Mr. Chairman and Members of the Committee, my name is Paul Sullivan and I am a Lieutenant with the Massachusetts State Police, Commercial Vehicle Enforcement Section. Recently, I was elected as President of the Commercial Vehicle Safety Alliance, an organization of commercial vehicle enforcement agencies and industry representatives in the U.S., Canada, and Mexico.

We thank you for holding this hearing on bus and truck security and haz-mat licensing issues. I will confine my oral statement to the primary issue you have asked me to address – the licensing issue and problems as they relate to hazardous materials transporters. In the statement submitted for the record, I also have touched on other issues affecting the changing role of truck and bus safety and security enforcement in light of the tragic events of September 11. And I have commented on possible steps to make our borders and the country more secure through a better use of technology.

The roles of motor carrier safety enforcement agencies have changed in the last several weeks, primarily due to the assignment of officers to various security details and toward efforts to identify and protect potential terrorist targets.

I also preface my remarks this morning by saying that the other members of the enforcement agencies that belong to CVSA and I, do not hold ourselves out as intelligence experts. But, the very nature, structure and mission of the Alliance, which includes industry representation, allows us to take collective action to learn, train for, and implement whatever new procedures are necessary to deal with the national emergency and protect our highways and the traveling public. With approximately 10,000 CVSA Certified Inspectors all over North America, we can mobilize a large community on short notice and stand ready to work with the Congress and the Administration to implement any measures deemed appropriate to enhance the

security of our transportation network and those who drive on it.

Before discussing the specifics on the licensing issues, I want to point out that since the FBI notification of the potential hazardous materials transportation threat, my state and all U.S. enforcement jurisdictions have been conducting an increasing number of Level III inspections (driver-only) of hazardous materials haulers, especially those near fuel farms and in densely populated locations. In addition to a CDL check, these inspections include a more than usual interview of the driver. If, based on these actions, we feel it is warranted we do a crosscheck of the FBI's NCIC database. We also are providing what assistance we can to help the Federal Motor Carrier Safety Administration's Security Sensitivity Visits with respect to certain hazardous materials transporters.

II. Licensing Issues

We don't know all of the specific details regarding those individuals who fraudulently obtained CDLs in Pennsylvania to haul hazardous materials. We understand that the FBI investigation is still taking place. But, no matter what kind of a program is in place, dishonesty and fraud on the part of administrative personnel are always possible. The only thing any of us can do at this point is to examine the entire CDL structure and address those weaknesses that result in someone obtaining a CDL who should not be driving a commercial vehicle on our highways whether for highway safety or national security reasons.

The primary tenet of the Commercial Drivers License program, which was fully implemented in 1992, is that each commercial driver – nationwide – have only one license and one . driving record. In large part, this goal has been achieved. But as we now know, this goal is much too limited and does not meet current needs, especially in terms of what we must now do to address national security needs.

A. Examination And Testing Weaknesses – Discussion

The CDL Program is a national program and, as such, needs leadership and direction at the federal level. The CDL Program's primary focus to date has been on the administrative side, making sure customer lines are short and people are able to receive licenses with limited effort and intrusion. With few exceptions, in most states, the agencies administering commercial vehicle licensing are not the enforcement agencies (the lead MCSAP agencies). Since the enactment of the CDL law, the states, despite some federal requirements, have largely been able to execute their own approaches to implementing the various components of the CDL Program. The result has been inconsistencies in testing, examination, administration and ultimately – data.

The current requirements for federal endorsements to the CDL: double/triple trailers,

passenger, tank vehicle, and hazardous materials provide only basic guidelines on knowledge areas and suggestions for additions to the knowledge and skills tests. There are requirements for the knowledge and skills tests, but, once again, they are guidelines and address the minimums. For testing procedures, methods and examiner qualifications, they are even less prescriptive. Although there is much commonality in content, CDL licenses vary from state to state, especially in format and layout and how they meet the tamperproof requirement. To add to the confusion, states are allowed to implement their own endorsements and restrictions to the CDL if they so choose.

The CDL knowledge and skills test requirements provide a performance benchmark for what is to be expected of a new commercial driver and there are efforts to tighten this up. On this point, however, there is a disconnect between the knowledge and skills tests and the training and instruction being delivered at the driver training schools. Because the tests don't necessarily reflect the real world, training schools often have difficulty in structuring their curricula – do we teach to pass the test or teach to operate the vehicle? Additionally, there are some variances around the country for delivering the skills and road tests because of physical facility limitations. And, in many cases there are valid reasons for this. However, the location of facilities sometimes seems to be determined by economics more than safety. We also feel that the federal guidelines on the various endorsements do not go far enough to properly gauge whether a driver can, or should be, driving these types of vehicles, especially a newly licensed CDL driver.

Thus, the CDL problems primarily exist: 1) in the ways the tests are administered, 2) the examiners, and 3) the aftermath of the license issuance as it relates to data collection, judicial actions and information sharing among jurisdictions, which will be discussed in more detail in the post-testing section of this statement.

The states, federal government, industry, and the Congress have had a heightened awareness of some inadequacies in the system, most of which are known quantities and led to many of the CDL-related provisions in the Motor Carrier Safety Improvement Act of 1999. More resources have been allocated to deal with these issues at both the state and federal levels and the federal government has begun to take a more visible role. Unfortunately, many of the MCSIA provisions have not yet been implemented and most of the deficiencies remain.

For specific recommendations addressing the above licensing weakness in the CDL program, especially with respect to hazardous materials endorsements, see Section IV.

**B. Post-testing program weaknesses lead to safety and security weaknesses---
Discussion**

The process and administrative inconsistencies do not ensure the safety and security we need, particularly in light of the September 11 events and in the days

since. These inconsistencies manifest themselves in ways that degrade safety and security. Evidence of this fact is found in a pilot project the Commonwealth of Massachusetts just completed with CVSA with funding support provided by FMCSA. This project, the CDL State Self Assessment, evaluated compliance with laws and regulations governing the issuance and management of commercial driver licenses through analysis of data in our information systems. It also measured the linkage between the records of licensing and enforcement actions to records of commercial drivers' crashes. The following are a few examples of results from the Massachusetts pilot:

- Some states are posting fewer than 50% of the serious and disqualifying convictions sent to them by Massachusetts via CDLIS.
- License numbers are improperly transcribed more than 10% of the time on inspections and citations.
- There were uneven responses from driver history queries requested from other states (ranged from 53% to 95% in the states checked).
- The Commonwealth achieved much lower conviction rates for the most serious (and most dangerous) violations than for less serious violations.
- The 1% of drivers who were driving while suspended accounted for 5% of at-fault crashes.
- Drivers who were convicted of serious offenses were involved in at-fault crashes almost 40% more often than the baseline drivers were.

These results indicate: 1) problem drivers are getting involved in more crashes than the average driver, and 2) much of the data necessary to identify these drivers is not making its way through the system. CVSA hopes for continued support from FMCSA to conduct more Self-Assessments with the states in order to gather more data and to help our members identify areas that focus their resources more effectively.

The world has become more reliant on technology. As a result of compartmentalized and non-uniform approaches in CDL processes, administration, and technology application, effective data collection, exchange and utilization have become problematic. The information systems and linkages that have been set up to gather and distribute this data (and at a minimum level) are patched together and not as robust as they need to be for several reasons:

Information technology is not what it should be.

1. There is not a single source that is able to consolidate and distribute all information on commercial drivers. The information resides in multiple systems, and a human does the only actual integration of sources. This could be a police officer by the side of the road or in an inspection station, or a judge making a sentencing decision, or by a company making an employment decision.
2. The number of information systems and linkages, as well as the multiple data entry and format approaches, results in

- less reliability and accuracy of the data;
 - opportunity for errors and for intrusion; and
 - more costs for maintenance and upkeep.
3. The ability of accurate and timely data to be transmitted over such systems is not acceptable, both from a systems and communications perspective

Administrative weaknesses abound.

4. The CDL administrative processes and requirements are not uniform across the states, thereby leaving open too many opportunities for error and unwanted penetration, as well as oversight difficulties (especially for Third Party Testing and Examination)
4. Legal obstacles exist to accessing certain pieces of information on individuals, most notably for privacy protection purposes. This limits the ability of people who could use the information for important security uses, such as potential employers, from having access to critical safety and security information.
5. The number of institutions involved is staggering and is not being coordinated in a manner that puts proper emphasis on safeguards for safety and security

We believe the American Association of Motor Vehicle Administrators has done the best it could in developing recommended standards, procedures, and guidelines for use by licensing organizations in their member jurisdictions, given the fact that these procedures and standards are not promulgated by law or regulation. In fact, except for making sure that State information systems perform core data processing functions, there is no program to either enforce or verify compliance with these AAMVA standards, procedures, and guidelines. The approach to date has not been able to properly service the community's needs for safety and security.

For specific recommendations addressing the above post-testing and information sharing weakness of the CDL program, see Section IV.

III. Other Safety and Security Considerations

A. Increased Role of Motor Carrier Safety Enforcement

As I mentioned earlier, most CVSA enforcement member jurisdictions have undertaken additional responsibilities since September 11 that are over and above the usual motor carrier safety activities. Many are using their personnel to guard airports, water supplies and other federal and state government facilities, not to mention increasing their basic motor carrier safety activities with respect to hazardous materials haulers. As an example of some of the additional initiatives being implemented, many of our members are conducting Level III inspections (driver-only), and, upon enhanced interrogation if it is warranted, cross checking the CDL with the FBI's NCIC database.

B. Better Use of Technology and Federal Agency Information Coordination

In addition to tightening up requirements within the CDL Program, a major tool to ensure greater safety and security of truck and bus transportation will be the use of information technology with respect to the driver, the vehicle, the carrier and its ownership, and the cargo including information on the shipper. Only with technology can we achieve these goals and yet maintain the efficiency of our commercial transportation system.

For the driver, this could mean more consideration for the use of a "smart" CDL to store more than the just the basic information it has to date. A "smart" CDL could include more detailed information on the driver as well as information on the cargo. We also need to make greater use of the biometric identifiers (retina scan, thumbprint, digital photographs, and signature/voice recognition). The costs and, in some cases, reliability of such technologies has thus far been a deterrent to adoption.

Further, consideration should be given to better use of the existing safety and security data, including;

- A method to rapidly deliver easy-to-use, more complete information about the driver to the police officer on the road;
- A method to more easily deliver a complete view of the appropriate safety and security information to a potential employer; and
- It also would be appropriate to deliver more timely, complete, and readable information about a driver's record to judges and prosecutors.

For better information on the shipper, the motor carrier and the cargo itself, the use of an electronic freight bill can be used along with a unique numbering and verification system (such as bar coding) for tracking/tracing capabilities.

For the vehicle, there could be devices installed that would facilitate vehicle identification, tracking and communication. Sensors can be integrated to identify potential security and/or integrity breaches, and communicate in real-time with the driver, carrier and shipper. However, we do need to be sensitive to the fact that information about cargo, origins, destinations, and location of vehicles is considered sensitive business information and needs to be treated with appropriate respect.

To act on security breaches and/or mitigate hazardous materials and other incidents, emergency responders, medical and law enforcement personnel can be connected to this network and be notified in real time of problems and of the necessary equipment and personnel to deploy

All of these technologies, to one degree or another, are being used or have been

tested by either the DOD, INS, CUSTOMS, or DOT (FMCSA, FRA, FTA, FAA, RSPA, and FHWA) as well as some motor carriers and shippers who now use electronic freight bills, GPS systems, transponders and other related technologies. It is now important to link these technologies and share the relevant information among appropriate federal and state enforcement agencies for safety and security purposes. The side benefit of such a technology approach would be to facilitate border operations at land and sea crossings to address the safety and security transportation and immigration concerns revolving around NAFTA.

The issue then arises as to who will have the authority to mandate, or implement, the use of the above technologies, not to mention the coordination and sharing of the information. Perhaps this will be the role of the new Office of Homeland Security? Without a regulatory body such as the ICC, it would appear that FMCSA and the state motor carrier safety enforcement agency personnel as represented in CVSA are the only groups available to reach truck and bus companies as well as the driver for both safety and security purposes.

IV. Recommendations

Based on the above and the collective wisdom of the Alliance members, we offer the following recommendations to the Congress and the Administration

1. Streamline the CDL Program and institute more rigorous and uniform federal standards for testing, examination, administration, data definitions, collection and archival.
2. Commercial vehicle enforcement (the lead MCSAP agency in each state) needs to be at least on an even keel with the Motor Vehicle Administration in the state. Customer convenience is important. And so is safety and security. These two functions need to be balanced and integrated as much as possible to ensure for seamless program administration and implementation.
3. Accelerate implementation of MCSIA commercial driver provisions, but make sure adequate resources are provided to the states and federal government for implementation.
4. Have state licensing personnel perform criminal background checks on the spot on drivers attempting to acquire CDLs with hazardous materials or passenger endorsements. Couple this with a photo ID requirement as well.
5. Create an authoritative information consolidated data base (a new national central data base to supplant or augment CDLIS) for commercial driver information and provide the means to deliver this information to the appropriate users, enforcement and employers alike.
6. Provide a means for the industry to help police itself by making certain information available to motor carrier employees responsible for making personnel decisions. Encourage motor carriers to investigate new customers, work with and monitor their shipper's practices for ensuring safety and security.
7. Develop a strategy for addressing the security concerns in the rental and leasing

business. Anyone can buy materials from a local hardware store and rent a truck at the local gas station to create a situation on the highway that is similar to September 11.

8. Create a “watch list” for CDL drivers with hazardous materials and passenger endorsements. This list would track wanted criminals and others on national, state, and local FBI wanted lists and send a red flag to commercial vehicle enforcement personnel when such drivers are encountered at the roadside. Ideally, it would integrate NCIC data and other FBI and intelligence information relevant to terrorist activities.
9. Provide commercial vehicle law enforcement personnel with the appropriate resources for the technology, training, and personnel to do their job effectively. We are not intelligence experts, but we need to be equipped with the proper knowledge and tools to assist those who are.
10. Implement appropriate measures and provide persons coming in contact with drivers the appropriate training to look for and identify identity and document fraud.
11. Make sure the Homeland Security Office has strong representation from the transportation sector and is afforded the proper authority, in consultation with state and local authorities, to implement appropriate measures to protect our transportation network against future terrorist acts.
12. Implement a surface transportation technology safety and security strategy for entry into the country through seaports and land crossings that address both prevention and response and include the monitoring of hazardous materials and passenger movements and mitigating problems in the event of an incident or attack. Such a strategy would include:
 - Verification/certification of load and driver at the time of departure and throughout the shipment lifecycle;
 - Integrate biometric identifiers with the CDL and provide technologies with reading capability to enforcement. Work with industry to develop a strategy for providing this capability to consignees—to verify load and driver at the time of arrival
 - Monitoring and tracking capability of vehicles and drivers enroute to the fleets and shippers;
 - Exception-based reports to law enforcement in the event of a security breach, package integrity problem (i.e. hazardous materials release), and if a driver strays from the intended route of travel;
 - Integrate emergency response and automated collision notification information (E-911) in the event of an incident or accident; and
 - Wireless network and centralized data center for real-time data capture and communications capability – access made available on a need to know basis to both industry and enforcement
13. Develop and implement a nationwide public education and outreach campaign to make people more aware of these issues and how best to deal with any problems they may encounter. The same should be done for those involved in the transportation industry.

We understand that there are clear economic ramifications to what we are suggesting and that many competing ideas are on the table. We also understand that as a nation we have to be measured in our responses. Along with the airline industry, the truck and bus industries are the lifeblood of our economy. Most drivers who hold a commercial driver's license truly are professionals and as such, should be treated with the respect and dignity they deserve. As a nation we need to do more to protect and promote this professionalism. Tightening up the CDL Program is a very big and important first step.

Thank you Mr. Chairman and members of the committee. CVSA appreciates the opportunity to be invited to present our views and suggestions. It is our strong belief that the most effective way to increase both transportation safety and security on our nation's highways is to focus on those who are most able to effect change – the drivers and law enforcement personnel on the ground in cooperation with motor carrier management and, hopefully, shippers.