



THE “COMMUNITY-ORIENTED” APPROACH: RESPECTING THE SANCTITY OF SLEEP

by James Lamb, Chairman

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As a former New York Department of Transportation (DOT) Motor Carrier Investigator who used to perform *Federal Level Three Driver Inspections* throughout New York State, I am astonished to hear stories of how local law enforcement officers routinely wake up interstate drivers who are engaged in Federally-mandated rest under the *Hours of Service (HOS)* section of the Federal Motor Carrier Safety Regulations (FMCSRs) and demand identification for no legitimate reason and under color of law. In most instances, this practice essentially amounts to an unlawful vehicle stop and constitutes unwarranted harassment in violation of the trucker’s civil and due process rights.

During my years in state government DOT service, I would have never even thought to wake a driver up merely to conduct a DOT inspection. Our normal operating procedure was to stop vehicles already in motion at a weight station in the normal course of state government business and deal with them one-by-one as they rolled in. Waking drivers up was not something we were ever trained to do and it appears such a practice is being engaged in by rogue law enforcement officers in an arbitrary and capricious manner, constituting an abuse of power.

Recently, thanks to veteran professional driver & trucker advocate Allen Smith (and his partner-in-time wife Donna) of *Truth About Trucking*, this issue has been getting special attention in the context of the more broad issues being discussed by members of the Industry such as: safe truck parking, driver pay, HOS, driver harassment, and E-logging proposals. Indeed, drivers are quick to point out the sheer hypocrisy of a police officer waking a driver up in the middle of their sleep period to perform such a DOT inspection to determine if the driver is in compliance with HOS.

Imagine, if you will, how that conversation must go:

Officer: "OK, boy, rise and shine... time for a DOT Inspection."

Trucker: "What? Now? I'm in the middle of sleeping"

Officer: "That's right, son, it's inspection time... so break out that log book so I can see if you are in compliance..."

Trucker: "Well, I WAS in compliance... until you woke me up! Now I'm in violation because I am talking to you."

Sometimes, it's not so toned down and there are downright verbal confrontations... and in certain instances, the trucker even gets arrested for "obstruction of justice" if he protests the timing of the enforcement action. That's "justice" you ask? Well, not really. But usually either the courts or the more reasonable administrators of police agencies have a way of sorting things out and setting things right... but only after much unnecessary stress and frustration that could have been easily avoided with a little common sense and, well, courtesy. It's an understatement to say addressing this issue is a long time coming...

As most of us in the Industry know—especially the professional OTR truck driver, under 49 CFR Part 395, operators of property-carrying commercial motor vehicles (CMVs) over 10,000 lbs, with certain exceptions, may not lawfully drive a CMV more than 11 hours following 10 consecutive off duty hours and they may not drive after having been on duty for more than 14 hours. The HOS rules have been in a state of flux for years but this has been the essence of HOS for some time now.

Police officers reading this article should be familiar with the concept of "Community-Oriented Policing," which has been around for a few decades now. According to the U.S. Department of Justice:

*"Community Policing is a philosophy that promotes organizational strategies, which support the systematic use of **partnerships** and problem-solving techniques, to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime (see: <http://www.cops.usdoj.gov/pdf/vets-to-cops/e030917193-CP-Defined.pdf>; emphasis added)."*

Essentially, it's a kinder, gentler, friendlier form of policing that makes police and citizens partners in addressing the underlying causes of society's problems. So, if we can do this in policing, then why not apply this to trucking to address industry problems? SBTC thinks WE CAN!

Accordingly, SBTC is pleased to introduce into the Transportation Industry the phrase “**Community-Oriented Parking,**” (**COP**), part and parcel of a more broad term we are coining called: “**Community-Oriented Trucking,**” (**COT**) based on forming similar partnerships. With respect to an issue like safe truck parking, then, what we are essentially saying is we need more “COP” in the equation.

Now, what do we really mean by Community Oriented Parking? Well, it's simply a matter of forming partnerships between police and truckers to defeat the real enemy, namely, driver fatigue that is the culprit behind *some* (not all, but some) CMV-related motor vehicle accidents. As Allen Smith and other drivers report, the answer to driver fatigue is very simply “sleep.” And if sleep is the answer... then anything and anyone who interferes with sleep is, well, part of the underlying problem. Case-in-point: not being able to find a safe parking area interferes with sleep.

To embrace the ‘community-oriented’ approach, first, both police officers and drivers need to be involved and committed to the program. On the one hand, officers need to be sensitive to-- and exercise restraint out of respect for-- the driver's need for sleep to defeat driver fatigue. In turn, drivers need to respect the property they are on and the other members of the community around them. Keyword: “**respect.**” Indeed, *mutual* respect is the key ingredient. It's a pretty simple concept and is the right formula for improving driver-officer relations and driver-community relations in general.

As the Chairman of the new Small Business in Transportation Coalition (SBTC), I am therefore calling on law enforcement agencies and law enforcement management groups throughout the United States to institute sensitivity training when it comes to taking enforcement action that unnecessarily and unreasonably interferes with CMV drivers' sleep. Just like the “*texting can wait*” campaigns we see currently in progress in some states like New York these days, SBTC suggests that “*enforcement can wait*”. That driver's log book will still be there when he or she wakes up.

We are also asking law enforcement benevolent organizations to embrace this call for deference to the need to sleep as a matter of promoting public safety and mitigating officer liability. If that driver gets awoken, stressed out over a ticket, and then can't fall back to sleep as a result then the police agency and the officer could be held liable for a resulting accident later that day if it can be proven that the driver fatigue was actually caused by the enforcement action!

We therefore ask organizations that look out for the welfare of officers to similarly put out the call for officers to respect the sanctity of sleep for the operators of long haul, over the road truck drivers. What's more, we think respect for driver sleep should be formally codified in law, rules, and police departmental policies to ensure rouge officers

who knowingly and willfully violate the sanctity of sleep are held accountable for such violations as matters of law and justice.

SBTC is currently working with FMCSA in the spirit of industry-government partnership to identify and solve industry problems and their underlying causes. Safe parking is at the top of our list. How can truckers help? By taking individual responsibility in the form of how they conduct themselves in public and how they interact with fellow drivers and members of the communities they are guests in. Only through driver accountability are we to successfully convince shippers and receivers to assume a role in driver safety.

For more on this, look for the SBTC's new "Trucker Watch" program in coming months (currently under development) geared toward simultaneously enhancing and promoting safe parking scenarios for drivers, improving drivers' image and reputation in the eyes of both law enforcement and the public, and *"proactively address(ing) the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime."*

Haven't heard much about the SBTC yet? Well, you will... We are the up-and-coming new small business oriented trade group for "the little guys" in the transportation industry who believe we-- as truckers, carriers, brokers, and shippers-- are all working in partnership on the same supply chain team. If you are looking for an alternative to OOIDA to represent your interests, one that offers a professional, common-sense, no-nonsense and positive approach to industry problems-- and you believe in forming partnerships rather than inciting negativity and promoting conflict, then SBTC is the right group for you. Visit us online at <http://www.smalltransportation.org> .