

**Federal Motor Carrier Safety Administration's
Compliance Safety Accountability (CSA) Program:
Separating CSA Fiction from the Facts**

Background:

To address the unacceptable number of annual truck crashes which claimed the lives of nearly 3,700 people and injured 80,000 more in 2010 alone,¹ the FMCSA replaced its SafeStat program with the Compliance Safety Accountability (CSA) program to utilize data more quickly in order to focus on intervention and prevention.

Fiction: Crashes shouldn't be counted in the Crash BASIC if the trucking company is not at fault.

FACT: Involvement in previous truck crashes, in and of themselves and regardless of fault, is an accurate predictor of involvement in future truck crashes. The American Transportation Research Institute (ATRI) determined that a past truck crash increased the likelihood of a future crash by 87 percent.² Again, this is regardless of who was at fault and whether or not the crash was preventable.

Fiction: Police accident reports are reliable tools for determining fault in a crash.

FACT: Not all police accident reports determine fault and may not be accurate or complete. Police officers do a tremendous job at the scene of crashes, but their duties at a crash scene include: securing the scene; managing traffic to prevent further collisions; checking for injuries; providing basic care to the injured; identifying immediate hazards; and, summoning additional assistance, if needed. These duties may interfere with getting all the information needed for the accident report, and hinders the ability of the responding officer to investigate beyond getting basic information. A recent study conducted by the Illinois Department of Transportation found that more than 70 percent of crash reports filled out by Chicago Police Department officers were missing data and 30 percent had errors.³

Missing and incomplete information also results when the truck driver is the only surviving witness in a crash. In crashes involving both a truck and a passenger vehicle, 97 percent of the deaths are suffered by occupants of the passenger vehicle who cannot speak for themselves at the scene of the crash. Seriously injured passenger vehicle occupants are also often unable to be interviewed at the crash scene. As a result, only when all the evidence regarding a crash, including accident reconstruction investigations are fully considered can the accuracy of the initial accident report be determined.

Fiction: "Not-at-fault" is equivalent to "non-preventable."

FACT: Police officers generally do not determine who is at fault in a crash. If a violation of law has occurred, the police will issue a summons but that does not determine fault. Even in cases

¹ Traffic Safety Facts 2010 Data: Large Trucks, National Highway Traffic Safety Administration (NHTSA), DOT HS 811 628, last accessed on Sep. 7, 2012, available at <http://www-nrd.nhtsa.dot.gov/Pubs/811628.pdf>

² Predicting Truck Crash involvement: Developing a Commercial Driver Behavior-Based Model and Recommended Countermeasures; ATRI, last accessed on Sep. 7, 2012, available at <http://www.atri-online.org/research/results/One-Pager%20CMVE.pdf>

³ Chicago police crash reports are full of errors, study finds, Chicago Tribune, Apr. 23, 2012, last accessed on Sep. 7, 2012, available at http://articles.chicagotribune.com/2012-04-23/classified/ct-met-getting-around-0423-20120423_1_crash-reports-red-light-cameras-data

where a truck driver is found “not-at-fault” in a police accident report that does not mean that the crash was “non-preventable.” “Not-at-fault” is NOT equivalent to “non-preventable.” Many situations exist in which the motor carrier or its driver could have taken reasonable steps such as setting up flares and additional reflectors or choosing not to drive in windy conditions, to have avoided the crash, but which would not result in their being found “at fault” in the crash. “Fault” and “preventability” are related but not identical concepts and it cannot be assumed that one proves the other.

Fiction: Police Accident Reports accurately determine which crashes are “non-preventable.”

FACT: The FMCSA cannot rely on police accident reports to determine which crashes are “non-preventable.” Police accident reports may lack complete information or contain incorrect information and should not be used to try to determine “preventability” in truck crashes. In addition, the police do not investigate “preventability”. A police investigation looks for violations of traffic laws and there is no section in a standard accident report that specifically addresses the question of “preventability.” The information in a police accident report is inadequate to answer the questions of why or how a crash occurred above and beyond what has been reported by the survivors that could be interviewed, and is not a reliable basis for a determination of crash “preventability.”

Fiction: FMCSA should establish a method to determine whether a crash was “non-preventable.”

FACT: The only fair system for making determinations of fault or “preventability” in crashes is the civil court system in each state. If FMCSA were to attempt to undertake this responsibility, the agency process would need to adopt the same standard of care for the level of investigation as is required for court adjudications. The agency procedures would have to allow for expert witnesses, eyewitness statements, review of pertinent documents, necessary investigation and, potentially, protection of due process rights. Such a mechanism would be prohibitively expensive.

Fiction: CSA severity weightings are inadequate and unfair.

FACT: CSA Violations are weighted to reflect the association with crash occurrence and crash consequences. Weights are prescribed only within a given BASIC, meaning that the weights are assigned in comparison to other relevant violations within a BASIC and not among or between violations in other BASIC categories. CSA also accounts for the relative recentness of violations by including a time weighting factor which penalizes companies for recent infractions more than for older infractions.

Fiction: The CSA BASIC system is biased against small carriers.

FACT: The CSA Program is designed to identify high risk motor carriers for intervention and improved compliance. Compliance has improved while being less intrusive and time consuming for all motor carriers, both large and small. The fact is that 93 percent of small carriers do not score poorly in any area of the CSA Safety Measurement System (SMS).⁴The CSA Program makes additional efforts to maintain fairness by only comparing small carriers to other small carriers.

⁴ Statement of William A. Bronrott Before the House Committee on Small Business, Jul. 11, 2012, last accessed on Sep. 7 2012, available at http://smallbusiness.house.gov/uploadedfiles/7-11_bronrott_testimony.pdf

Fiction: Once a carrier receives unfavorable scoring, it is near impossible for them to avoid bias in the future.

FACT: Since CSA BASIC scores are based on only the last two years of violation data which are updated continuously, companies can quickly improve their CSA BASIC scores simply by operating within the law.

Fiction: Overturned citations stay on the record and are used against motor carriers and drivers.

FACT: FMCSA currently provides a system, known as DataQs, for carriers and drivers to dispute items in their safety records and have their records corrected as appropriate. Incorrect data from inspections or crashes can be addressed through this system. If a violation was cited erroneously, then the record could be removed from the motor carrier and driver's inspection file, and would be reflected in the CSA BASIC score.

Additionally, the CSA BASIC score is based wholly on data from the SMS system which includes inspection violations and records of crash incidents.

Fiction: Carriers with no rating are not in the system at all resulting in a loss of business.

FACT: According to the FMCSA, only about 200,000 motor carriers (out of 525,000) have a sufficient number of inspections or crashes on their record to receive a rating in the SMS in 2011.⁵ This is less than half of all active operating motor carriers. There is no evidence that companies that have not received SMS ratings are suffering financially as a result.

⁵ Improvement to the Compliance, Safety, Accountability (CSA) Motor Carrier Safety Measurement System (SMS), Notice; Request for Public Comment, Mar. 27, 2012, 77 Federal Register 18298, last accessed on Sep. 7, 2012, available at <http://www.gpo.gov/fdsys/pkg/FR-2012-03-27/pdf/2012-7360.pdf>