

FOOTNOTES PROVIDED AS BACKGROUND MATERIAL FOR

The Case for Random Breath Testing (RBT) in Canada: Reviewing the Evidence and Challenges Teleconference

March 30, 2010

- ¹ It was estimated that 1,278 Canadians were killed in alcohol and/or drug-related traffic crashes in 2006. See G. Mercer, *Estimating the Presence of Alcohol and Drug Impairment in Traffic Crashes and their Costs to Canadians: 1999 to 2006* (Vancouver: University of British Columbia, 2009) at 3 [Mercer]. Given certain inherent limitations in the coroners' data upon which this estimate is based, they likely significantly understate the total number of impairment-related deaths in Canada. Those responsible for maintaining the coroners' traffic death data have acknowledged the significant underreporting of impairment-related deaths in these situations. H. Simpson, *Drinking-Driving in Canada: Does anyone really know how big the problem is?* (Ottawa: Traffic Injury Research Foundation (TIRF), 1997) at 53-56.
- ² Mercer, *ibid.* at 8. In contrast to the 1,278 impairment-related traffic fatalities in 2006, there were 605 homicides in Canada. The term "homicide" includes the offences of murder, manslaughter and infanticide. G. Li, *Homicide in Canada, 2006* (Ottawa: Statistics Canada, 2007), Juristat Catalogue no. 85-002-XIE, vol. 27, no. 8 at 1.
- ³ Traffic Injury Research Foundation (TIRF), *The Alcohol-Crash Problem in Canada: 2006* (Ottawa: TIRF, 2009) at 14 [TIRF 2009].
- ⁴ These alcohol-related crash deaths help to explain why 16-19 year olds are almost 15 times, and 20-24 year olds are more than 9 times, more likely to die per kilometre driven than their parents. P. Emery, D. Mayhew & H. Simpson, *Youth and Road Crashes: Magnitude, Characteristics and Trends* (Ottawa: TIRF, 2008) at 15.
- ⁵ TIRF 2009, *supra* note 3; and Statistics Canada, *CANSIM Table 051-0001, Population by Age and Sex* (Ottawa: Statistics Canada, 2008), in R. Solomon *et al.*, *Alcohol, Trauma and Impaired Driving* (Oakville: MADD Canada, 2009) at 68.
- ⁶ In 1999, there were 73,579 impairment-related crash injuries, constituting 18.8% of total crash injuries. By 2006, this number had risen to 75,374, representing 20.5% of total crash injuries. Mercer, *supra* note 1 at 8-9.
- ⁷ *Ibid.*
- ⁸ *Criminal Code*, R.S.C. 1985, c. C-46, s. 254(2).
- ⁹ J. Wells *et al.*, "Drinking Drivers Missed at Sobriety Checkpoints" (1997) 58 J. Stud. Alcohol 513 at 516.
- ¹⁰ S. Ferguson, J. Wells & A. Lund, "The role of passive alcohol sensors in detecting alcohol-impaired drivers at sobriety checkpoints" (1995) 11 Alcohol, Drugs and Driving 23 at 23-30; and I. Jones & A. Lund, "Detection of alcohol-impaired drivers using a passive alcohol sensor" (1986) 14 J. Police Sci. Administration 153 at 153-160. This earlier study found that 52% of legally intoxicated drivers interviewed by police officers at sobriety checkpoints were not apprehended.
- ¹¹ E. Vingilis, E. Adlaf & L. Chung, "Comparison of Age and Sex Characteristics of Police-Suspected Impaired Drivers and Roadside-Surveyed Impaired Drivers" (1982) 14 Accid. Anal. and Prev. 425 at 425-430 [Vingilis]. See also E. Vingilis *et al.*, "Psychosocial Characteristics of Alcohol-Involved and Nonalcohol-Involved Seriously Injured Drivers" (1994) 26 Accid. Anal. and Prev. 195 at 203.
- ¹² Police Services Division, *Safe Roads, Safe Communities* (Victoria: Ministry of the Attorney General, 2000) at B-4. Similarly, about 30% of officers in the 10 jurisdictions that had administrative licence suspensions acknowledged that they frequently or sometimes imposed a provincial licence suspension rather than laying a criminal charge. About 29% of officers indicated that they frequently or sometimes took measures other than laying a criminal charge or imposing a short-term suspension, such as allowing a sober passenger to drive the

- impaired driver home. B. Jonah *et al.*, “Front-line police officers’ practices, perceptions and attitudes about the enforcement of impaired driving laws in Canada” (1999) 31 *Accid. Anal. and Prev.* 421 at 426.
- ¹³ Transport Canada, *Canadian Motor Vehicle Traffic Collision Statistics, 2006* (Ottawa: Transport Canada, 2007) at 7; Statistics Canada, *CANSIM Table 252-0014, Adult and youth charged ... annual* (Ottawa: Statistics Canada, 2007) [Table 252-0014]; and National Highway Traffic Safety Administration (NHTSA), *Traffic Safety Facts, 2007 Data, Overview* (Washington, D.C.: NHTSA, 2008) at 5.
- ¹⁴ The estimated 10.2 million alcohol-impaired driving trips made in 2006 resulted in only 60,402 individuals being charged and 32,594 being convicted of an impaired driving offence in the 2006/07 reporting year. See respectively, W. Vanlaar *et al.*, *The Road Safety Monitor 2006: Drinking and Driving* (Ottawa: TIRF, 2006) at 7; *Table 252-0014, ibid.*; and Statistics Canada, *CANSIM Table 252-0046, Adult criminal... annual* (Ottawa: Statistics Canada, 2008).
- ¹⁵ Another study using national survey data estimated that Canadian drivers made over 20 million trips within one hour of consuming two or more drinks in the past 12 months. D. Beirness & C. Davis, “Drinking after Driving in Canada: Findings from the Canadian Addiction Survey” (2007) 98(6) *C.J.P.H.* 476 at 477.
- ¹⁶ For example, while Germans consumed 64% more alcohol per capita than Canadians in 1998, Transport Canada reported that only 11% of Germany’s fatally-injured drivers were legally impaired, as defined by having a BAC of .05% or higher. In contrast, 32% of Canada’s fatally-injured drivers were legally impaired, as defined by having a BAC in excess of .08%. See respectively, World Health Organization (WHO), *Adult Per Capita Alcohol Consumption* (Geneva: WHO, 1998); and Transport Canada, *Road Safety Forum: Beyond 2001*, CD-ROM (Ottawa: Minister of Public Works and Government Services, 2001) [*Road Safety Forum*].
- ¹⁷ *Road Safety Forum, ibid.*
- ¹⁸ M. Johnson & E. Howard, *Road Safety Vision 2010: Mid-Term Review, Final Report* (Burnaby, BC: Canadian Traffic Safety Institute, 2007), at ES-2.
- ¹⁹ P. Gutoskie, *Road Safety Vision 2010, 2006 Update* (Ottawa: Canadian Council of Motor Transport Administrators, 2008) at 36.
- ²⁰ Statistics Canada, *CANSIM Table 105-0431, Frequency of Drinking in the past 12 months...2005* (Ottawa: Statistics Canada, 2005).
- ²¹ Traffic Injury Research Foundation (TIRF), *The Road Safety Monitor 2008: Drinking and Driving – National Survey* (Ottawa: TIRF, 2008) at 1 [TIRF 2008].
- ²² A recent study of 50 countries reported that 72% had a national RBT program. This is an underestimate, as Australia and some other countries have comprehensive RBT programs that are established at the state and/or territorial level. Worldwide Brewing Alliance (WBA), *2008 Drinking and Driving Report, 8th edition* (London: WBA, 2009) at 13 [WBA]. In 2003, the European Commission recommended that all member states introduce comprehensive RBT legislation. European Commission, Press Release, IP/03/1436, “Commission calls for better enforcement of road safety rules” (22 October 2003) [EC Press Release].
See also K. Stewart, *On DWI Laws in Other Countries* (Washington, D.C.: NHTSA, 2000) at 20-44 [Stewart]; and E. Townsend, F. Achterberg & T. Janitzek, *Traffic Law Enforcement across the EU: An Overview* (Brussels: European Transport Safety Council, 2006) [*EU Traffic Law*].
- ²³ WBA, *ibid.*; World Health Organization (WHO) Regional Office for Europe, *Individual Country Alcohol Profile* (Geneva: WHO, 2009) at 71 [WHO Profile]; and *EU Traffic Law, ibid.*
- ²⁴ WBA, *ibid.*, Stewart, *supra* note 22, *EU Traffic Law, ibid.*, and WHO Profile, *ibid.*
- ²⁵ J. Henstridge, R. Homel & P. Mackay, *The Long-Term Effects of Random Breath Testing in Four Australian States: A Time Series Analysis* (Canberra: Federal Office of Road Safety, 1997) at 104 (Table 7.1) [Henstridge].

- ²⁶ *Ibid.*
- ²⁷ *Ibid.*
- ²⁸ *Ibid.*
- ²⁹ M. Mathijssen, “Drink driving policy and road safety in the Netherlands: a retrospective analysis” (2005) 41(5) *Transportation Research Part E: Logistics and Transportation Review* 395 at 395.
- ³⁰ J. Dunbar, A. Penttila & J. Pikkarainen, “Drinking and driving: success of random breath testing in Finland” (1987) 295 *British Medical Journal* 101 at 102 [Dunbar].
- ³¹ Road Safety Authority (RSA), *Road Safety Strategy 2007-2012* (County Mayo, Ireland: RSA, 2007) at 7.
- ³² R. Shults *et al.*, “Reviews of Evidence Regarding Interventions to Reduce Alcohol-Impaired Driving” (2001) 21(4S) *Am. J. Prev. Med.* 66 at 75-76 [Shults].
- ³³ J. Grube, “Preventing Alcohol-Related Problems: Public Policy Strategies” in Transportation Research Board (TRB), *Implementing Impaired Driving Countermeasures: Putting Research in Action* (Washington, D.C.: TRB, 2005) at 104 [Grube].
- ³⁴ A. Erke, C. Goldenbeld & T. Vaa, “The Effects of Drink-Driving Checkpoints on Crashes – A Meta-Analysis” (2009) 41 *Accid. Anal. and Prev.* 914 at 919 [Erke].
- ³⁵ Henstridge, *supra* note 25 at 85 (Table 5.8) and 102 (Table 6.9).
- ³⁶ Erke, *supra* note 34 at 919.
- ³⁷ B. Watson & J. Freeman, “Perceptions and Experiences of Random Breath Testing in Queensland and the Self-Reported Deterrent Impact on Drunk Driving” (2007) 8 *Traffic Injury Prevention* 11 at 14.
- ³⁸ Alcohol Action Ireland, *Alcohol in Ireland: time for action. A Survey of Irish attitudes* (Dublin: Alcohol Action Ireland, 2006) at 19.
- ³⁹ Ekos Research Associates Inc., *Impaired Driving Survey for Transport Canada/MADD Canada: Final Report* (Ottawa: Transport Canada, 2007) at 23.
- ⁴⁰ TIRF 2008, *supra* note 21.
- ⁴¹ I. Kearns *et al.*, “An Overview of the Random Breath Testing Trial in New South Wales” (1987) 86 *Alcohol, Drugs and Traffic Safety* 429 at 431; and R. Homel, “Random Breath Testing and Random Stopping Programs in Australia” in R. Wilson and R. Mann, eds., *Drinking and Driving: Advances in Research and Prevention* (New York: Guilford Press, 1990) 159 at 177 [Mann].
- ⁴² R. Homel, *Policing the Drinking Driver: Random Breath Testing and the Process of Deterrence* (Canberra: Federal Office of Road Safety, 1986) at 59 [Homel 1986].
- ⁴³ W. Harrison, S. Newman, M. Baldock & J. McLean, *Drink-Driving Enforcement: Issues in Developing Best Practice* (Sydney: Austroads, 2003) at 5 [Harrison]. Other Australian surveys yielded similar results. See M. Armour, W. Harrison and D. South, “Random Breath Testing in Victoria” (1987) 86 *Alcohol, Drugs and Traffic Safety* 433 at 438; and R. Homel, “Random Breath Testing the Australian Way: A Model for the United States?” (1990) 14 *Alcohol Health and Research World* 70 at 75 [Homel 1990].
- ⁴⁴ M. Peden, *World Report on Road Traffic Injury Prevention* (Geneva: World Health Organization, 2004) at 130. See also T. Miller, M. Blewden & J. Zhang, “Cost savings from a sustained compulsory breath testing and media campaign in New Zealand” (2004) 36 *Accid. Anal. Prev.* 783 at 792 [Miller].

- ⁴⁵ ‘Booze buses’ are large, specially equipped vehicles used for evidentiary breath testing, which are typically very distinctive in order to attract the attention of nearby road users. Miller, *ibid.* An analysis of road safety policy in Norway reported that the cost-benefit ratio for RBT was only 1:1.8, and recommended a fivefold increase in testing in Norway. European Road Safety Observatory (ERSO), *Promising road safety measures based on cost-benefit analyses* (Brussels: ERSO, 2007).
- ⁴⁶ Dunbar, *supra* note 30 at 101.
- ⁴⁷ Miller, *supra* note 44 at 788.
- ⁴⁸ H. Netau, “Random Breath Test – Streets of the Whitsundays” (2008), online: YouTube <<http://www.youtube.com/watch?v=SIviKmdOjBU>>.
- ⁴⁹ Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 [*Charter*].
- ⁵⁰ Other impaired driving initiatives that have been subject to *Charter* challenge include: Standard Field Sobriety Testing (SFST) (*R. v. Saunders* (1988), 27 O.A.C. 184 at 204-205 [*Saunders*], in which SFST was held to violate s. 10(b) (the right to counsel) but was justified under s. 1 of the *Charter* because of ‘the potential for immediate harm to the public from an impaired driver’ at 9); and A.L.E.R.T. devices, a form of approved screening device (ASD) (*R. v. Seo*, 1986 CanLII 109 (Ont. C.A.) at 24-26 [*Seo*], in which the use of the ASD to perform a breath test without advising the driver of the right to counsel was held to violate s. 10(b), but was held to be justified under s. 1 because of the importance of ensuring the safety of travelers on the highways).
- As in these examples, almost all of these enforcement initiatives have been upheld. Some of the initiatives were upheld because they did not infringe the *Charter* right in question (as in *R. v. Ladouceur*, [1990] 1 S.C.R. 1257 at 1260 [*Ladouceur*], where a random stop for the purpose of questioning the driver about his or her licence, insurance and/or sobriety was held not to violate s. 8 (unreasonable search and seizure) because it did not constitute an intrusion on a reasonable expectation of privacy, but was merely a lawful condition of the exercise of the privilege of driving, at 1280). While a larger number of the impaired driving measures were held to have infringed a *Charter* right, they were upheld under s. 1 of the *Charter* as being demonstrably justified in a free and democratic society (as in *Saunders* and *Seo*, *supra*).
- ⁵¹ While there is little question that RBT will be found to violate s. 9 (arbitrary arrest or detention) and 10(b) (the right to legal counsel) of the *Charter*, it may not be found to infringe s. 8 (unreasonable search and seizure). In *R. v. Simmons*, [1988] 2 S.C.R. 495 at 499 and 535, for example, routine security screening, search and questioning at customs was held to be reasonable, and therefore not a violation of s. 8, because of the significantly lowered expectation of privacy at national borders. In addition, because every traveler at Canada’s border is subject to these searches, there was held to be no stigma in undergoing security screening (at 522).
- Interestingly, the court distinguished the customs search in *Simmons* from the roadside breath test in another case, *Chromiak v. The Queen*, [1980] 1 S.C.R. 471. While the customs search was held to be “a far more serious intrusion into a person’s dignity and privacy than the breath test contemplated in *Chromiak*” (at 516), it was held to be reasonable and not a violation of s. 8. Random breath testing (like customs searches, at 534) involves a state interest in protecting the public and a lowered expectation of privacy, so there is a strong possibility that it would also be seen as reasonable.
- ⁵² See, for example, *R. v. Lewis* (1998), 122 C.C.C. (3d) 481 (Ont. C.A.) at 496, in which there was held to be a lowered expectation of privacy for passengers in an airport who are intending to board an airplane. *Per* Doherty, J.A.: “The respondent had to know that his luggage could be examined and search at random by state authorities for security purposes before it was placed or taken on the airplane.... In my view, the only reasonable inference is that he intended to board the airplane and subject his luggage to the kind of state scrutiny which a traveler accepts as part and parcel of modern day air travel.”
- ⁵³ For a case upholding random searches and x-ray scans prior to entering a courtroom or courthouse, see *R. v. Campanella* (2005), 75 O.R. (3d) 342 (C.A.) at 348-349. The legislation upholding the warrantless search was held to be reasonable, and therefore in compliance with s. 8 of the *Charter*, because of the importance of the government objective in ensuring the safety of courtrooms; because the searches were not conducted for the purposes of a criminal investigation; because the reasonable expectation of privacy when entering a courthouse

is considerably diminished; and because the persons being searched are the beneficiaries of the process, as it is their safety that is also at stake.

In Ontario, the *Police Services Act*, R.S.O. 1990, c. P.15, s. 137, provides statutory authority for perimeter security programs in courtrooms and courthouses.

⁵⁴ As Cory, J.A. stated in *Saunders*, *supra* note 50 at 191: “It is hard to imagine a greater danger to society than the drinking driver. There can be little doubt that this crime causes more deaths, serious injuries, heartaches and social problems than almost any other crime.”

⁵⁵ This has been recognized by the Canadian courts. See for example, *R. v. Pontes*, [1995] 3 S.C.R. 44 at 59, where the court stated that those engaging in the regulated activity of driving should be deemed to have accepted certain terms and conditions, such as the compliance with a minimum standard of care. See also *R. v. Smith*, 1996 CanLII 1074 (Ont. C.A.) [*Smith*], per Doherty, J.A. at 32: “Drivers expect to be stopped and questioned by the police concerning matters relating to the operation of their vehicles. That expectation is part and parcel of the privilege of operating a motor vehicle.”

⁵⁶ *R. v. Dedman*, [1985] 2 S.C.R. 2 at 2 [*Dedman*].

⁵⁷ The majority of Canada’s provinces and territories give the police explicit statutory authority to stop vehicles at random and ask the drivers to identify themselves and provide documentation. See for example, Ontario’s *Highway Traffic Act*, R.S.O. 1990, c. H.8, s. 216 (1) (random stopping), s. 33(1) (provision of documentation), and s. 33(3) (drivers must identify themselves if unable or unwilling to provide a licence) [Ontario *HTA*].

See also British Columbia’s *Motor Vehicle Act*, R.S.B.C. 1996, c. 318, s. 73(1) (random stopping), s. 71 (provision of documentation), and s. 73(2) (drivers must identify themselves) [BC *MVA*]; and Manitoba’s *Highway Traffic Act*, C.C.S.M. c. H60, s. 76.1(1) (random stopping), s. 76.1(4)(b) and (c) (provision of documentation), s. 76.1(4)(a) (drivers must identify themselves), and s. 76.1(4)(d)-(g) (questioning of drivers) [Manitoba *HTA*].

⁵⁸ *Ladouceur*, *supra* note 50 at 1289, where the court stated that police officers may stop vehicles at random for reasons related to driving a car (such as checking licence and insurance, the sobriety of the driver and the mechanical fitness of the vehicle), and can ask questions related to driving offences.

⁵⁹ *R. v. Orbanski*; *R. v. Elias*, [2005] 2 S.C.R. 3 at 34. See also *Smith*, *supra* note 55 at 9; *R. v. Hufsky*, [1988] 1 S.C.R. 621 at 638; *R. v. Thomsen*, [1988] 1 S.C.R. 640 at 658 [*Thomsen*]; and *Ladouceur*, *supra* note 50 at 1260.

⁶⁰ *Hufsky*, *ibid.* 62 at 636-637 (where checkpoints for licences and the mechanical fitness of vehicles were held to be reasonable and therefore not a violation of s. 8, and, although they violated s. 9 of the *Charter*, were saved by s. 1 because of the pressing and substantial objective of ensuring highway safety); *Ladouceur*, *supra* note 50 at 1260-1261 (where the court held that the random stopping and questioning of drivers without suspicion was not a violation of s. 8 because of the lowered expectation of privacy on public roads; and that, although it violated s. 9, was justified under s. 1 because it minimally impaired the rights of drivers and had the important objective of deterring dangerous driving); and *Orbanski*, *ibid.* at 12 (where the court held that SFST violated the driver’s s. 10(b) right to counsel, but was saved under s. 1 because of ‘the strong public interest in combating the social evil of drinking and driving’).

⁶¹ *Supra* note 59.

⁶² *Thomsen*, *supra* note 59 at 653; and *Orbanski*, *supra* note 59 at 3.

⁶³ Homel 1986, *supra* note 42 at 140; R. Homel, “Random breath testing in Australia: Getting it to work according to specifications” (1993) 88 *Addiction* 27S at 30S [Homel 1993]. In France, the dissipation of the effect of RBT just 8-10 months after its introduction was largely attributed to the low number of tests conducted – just 335,449 tests in the first six months of RBT, in a population of over 40 million. H. Ross *et al.*, “Deterrence of Drinking and Driving in France: An Evaluation of the Law of July 12, 1978” (1981) 16 *Law Soc Rev* 345 at 366. See also K. Beck, J. Fell, A. Yan, “A Comparison of Drivers with High Versus Low Perceived Risk of Being Caught and Arrested for Driving Under the Influence of Alcohol” (2009) 10 *Traffic Injury*

Prevention 312 at 313-315. This study reported that drivers who had a higher perceived likelihood of being stopped by the police for impaired driving, and of being arrested once stopped, were less likely to drink and drive. Similarly, such drivers were less likely to commit other traffic-related offences.

⁶⁴ Homel 1986, *supra* note 42 at 93 and 126; Henstridge, *supra* note 25 at viii and 40; Harrison, *supra* note 43 at 5; and R. Homel *et al.*, “The Impact on Accidents of Random Breath Testing in New South Wales: 1982-1992” in C. Kloeden and A. McLean eds., *Alcohol, Drugs and Traffic Safety*, vol. 2 (Australia: National Health and Medical Research Council, Road Accident Research Unit, 1995) at 849.

⁶⁵ Homel 1990, *supra* note 43 at 74.

⁶⁶ *Ibid.*

⁶⁷ Harrison, *supra* note 43 at 6-8.

⁶⁸ B. Watson, J. Freeman and S. Hart, *A Survey of Operational Police Involved in the Delivery of Random Breath Testing (RBT) in Queensland, Australia* (Carseldine, Queensland: Centre for Accident Research and Road Safety – Queensland (CARRS-Q), 2007) at 1 [Watson].

⁶⁹ When RBT was introduced in New South Wales, about 200 extra police were recruited for highway patrol work. One million breath tests were conducted in the first 12 months of RBT, and this high number of tests was associated with a 48% reduction in fatal crashes and a 26% reduction in single-vehicle nighttime crashes. Mann, *supra* note 41 at 172, and Henstridge, *supra* note 25 at 104 (Table 7.1). Compare this with RBT in the state of Victoria, where no new officers were recruited upon the introduction of RBT in 1976, and fewer than 20,000 tests were conducted in RBT’s first full year. This resulted in a minimal impact on crash figures, with the proportion of drivers killed in crashes with a BAC above the legal limit of .05% remaining at 50% in 1977.

In 1989, RBT was restructured in Victoria with a strike force of Probationary Constables in Training (PCITs) and 13 new highly visible ‘booze buses’ to facilitate roadside evidentiary testing. As a result of ‘restructured’ RBT, the number of drivers tested almost doubled and the proportion of drivers killed in crashes with illegal BACs fell to 21% by 1992. M. Cameron, A. Cavallo, G. Sullivan, *Evaluation of the Random Breath Testing Initiative in Victoria 1989-1991* (Melbourne, Australia: Monash University Accident Research Centre, 1992) at ii and 1; Harrison, *supra* note 43 at 5; and Mann, *supra* note 41 at 178.

⁷⁰ Leading scholars have indicated that, when the authorities overseeing RBT lose sight of the central goal of deterrence and focus instead on apprehension, random breath tests become targeted and begin to resemble sobriety checkpoints. This approach does not have the deterrent impact of RBT, because most impaired drivers believe they can drive well enough to avoid detection. See Mann, *supra* note 41 at 179.

Watson, *supra* note 68 at 4-5. According to this study, even after 20 years of RBT, most surveyed officers in Queensland felt the program should be focused on apprehension rather than deterrence. An earlier study by the same authors also found a police culture geared towards apprehension. See S. Hart, B. Watson and R. Tay, “Barriers and Facilitators to the Effective Operation of RBT in Queensland” in *2003 Road Safety Research, Policing and Education Conference – From Research to Action: Conference Proceedings (Peer Reviewed)* (Sydney: NSW Roads and Traffic Authority, 2003) 137 at 140-141.

⁷¹ Civil liberties organizations in New South Wales opposed RBT when it was introduced there. However, although the Council for Civil Liberties adopted a hostile stance, it subsequently said it would accept RBT if it could be shown to really reduce the road toll. See Homel 1993, *supra* note 68 at 30S.

⁷² E. Therien, Former President, Canada Safety Council, “Frivolous criminalization won't protect the public,” article in *The Windsor Star*, June 24, 2009.

⁷³ The daily newspapers in New South Wales and South Australia opposed the introduction of RBT in those states. *The News* in Adelaide, South Australia, was so strongly opposed to the law that it referred to the first offender apprehended as a ‘victim.’ See Mann, *supra* note 41 at 182.

Similarly, *The Sydney Morning Herald* maintained a policy of opposition to RBT right to the date of implementation. See Homel 1993, *supra* note 63 at 30S.

⁷⁴ See generally C. Peek-Asa, “The Effect of Random Alcohol Screening in Reducing Motor Vehicle Crash Injuries” (1999) 16 (1S) Am. J. Prev. Med. 57 at 59 and 63; Shults, *supra* note 32; T. Babor *et al.*, *Alcohol: No Ordinary Commodity* (Oxford: Oxford University Press, 2003) at 160-62; R. Room, T. Babor & J. Rehm, “Alcohol and Public Health” (2005) 365 Lancet 519 at 526; and Grube, *supra* note 33.