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Chair

Mr. John Maloney

Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness

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● (0905)

[*English*]

The Chair (Mr. John Maloney (Welland, Lib.)): I would like to call the meeting to order. This is the 47th meeting of the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness.

Our witnesses this morning are Mr. Pierre Beaumier, president of Maxxam; and Mr. Barry Beyerstein, professor of psychology at Simon Fraser University.

Gentlemen, are you ready? The routine is that you would have a presentation of up to 10 minutes in length. I understand Mr. Beaumier may have some devices he would like to show us, if they appear within the hour and a half that we have set aside today. That will be followed by questions and answers from the MPs around the table, with roughly five minutes for both the question and the answer.

At this time I would ask Mr. Beaumier to proceed. At 10:30 we will cut it off, and then we'll go to housekeeping matters between 10:30 and 11 o'clock on Mr. Toews' motion and Mr. Thompson's concerns on questioning rounds.

Mr. Beaumier.

Mr. Pierre Beaumier (President, Maxxam, As an Individual): Thank you, Mr. Chairman.

I guess you have copies of my presentation. I'll summarize it for you quickly.

I want to make the committee aware of the Department of Transport system that is used in the United States, where they are monitoring drivers, especially commercial drivers, for the use of drugs that could be causing impairment in their performance. They have established cut-offs for these drugs. These are not cut-offs to be used for impairment as such; these are just cut-offs saying that if you are driving you should not have these drugs at this level in your system.

I want the committee to be aware that if Bill C-16 is enacted, there is a provision that if an alcohol screening device is showing less than impairment, but obvious observations are showing impairment, the peace officer may request a urine or saliva drug test. The committee should be aware that there are tests in development and there are testing devices today that will test saliva, and it could be done roadside. I think this is something a lot of people are not aware of, but these tests are available. I will be distributing one of these devices around the table for you to look at today.

The other issue is that we're talking about legally defensible data for the impairment charges to stand in court. This drug device will give you a screening of whether this driver who is observed being impaired has the presence of this drug, but the screening device uses an antibody for the drug that can be fooled by other drugs. For example, amphetamine or methamphetamine use is becoming a problem in Canada. We see this on the news. Phenylpropanolamine, which could be a decongestant, can give you a positive test on roadside testing. So this screening device needs to be confirmed in a laboratory. That is very important. It's only a screening device. Just like with alcohol testing, you have a screening device and you need to perform the actual legal test by an approved methodology. This saliva test needs to be confirmed in a laboratory.

The forensic laboratories across Canada are presently extremely busy. There is a terrible backlog, for example, of DNA cases. I am the president of a company that has the first private contract with the RCMP to do DNA testing. We are also accredited by the American DOT to do drug testing, and we have had Canadian accreditation on this.

I want the committee to be aware that there are presently three private sector labs in Canada that could help in the enforcement of this roadside drug testing, should it occur. I think it is important to use the private sector. Presently in Canada our urine tests are delivering negative results in 24 hours, and positive results in 48 to 72 hours. It is important, for justice to be served, to do these tests in a timely manner. Last year our company did over 100,000 tests of Canadians for drugs. We do have drugs in our system.

I also want to mention that the cut-offs being used right now have a confirmation that is done at the laboratory level that is different from the screening level. There are reasons for that. One of the principal drugs we see in Canada is marijuana, and these antibodies pick up the active ingredient in marijuana, and some of the look-alikes in marijuana, but not active ingredients. So the screening cut-offs are at one level; the confirmation the laboratory looks at is at a different level, especially in urine. It's a metabolite we look at in the urine.

● (0910)

Again, I want to emphasize that these are to confirm use of these drugs in humans, and not impairment. Impairment would be observed by the peace office who is looking at the individual.

I'm trying to also bring up that if you look at the studies that have occurred in Ontario and Quebec where they've looked at drivers and fatalities, you'll see that in a very large number of cases the class of drugs that is showing up is benzodiazepines, the Valium-type drugs. When these are mixed with alcohol, it's a very deadly mixture, and we're seeing this. I think it was the number two drug in fatalities in Ontario and Quebec, so it's important that if you're looking at setting levels for roadside tests, benzodiazepines may need to be considered as part of that system. As it happens, this roadside saliva-testing device has a capability of testing for benzodiazepines.

This roadside test is limited as to the drugs, but most of these are drugs of abuse. It's an American system. It could be designed to only look at marijuana or to look at different drugs, but it's designed for opiates, PCP, amphetamines, cocaine, and marijuana. Those are the drugs most of these devices that are available on the market today, apart from the one I'm going to show you, test for.

In essence, that was my presentation, to make the committee aware that there are private sector laboratories in Canada that are capable of helping the justice system in Canada. We are doing it today for DNA, and we could serve the justice system on the drug monitoring.

Thank you.

The Chair: Thank you.

Mr. Beyerstein.

Prof. Barry Beyerstein (Professor of Psychology, Simon Fraser University, As an Individual): Mr. Chairman and honourable members of the committee, thank you very much for the invitation to address you on this matter of vital concern to all Canadians. I appreciate the opportunity to discuss it with you.

I am, as you may know, a psychopharmacologist. I teach and do research in the area that studies the effects of psychoactive drugs, how they affect the brain and how those brain changes result in alterations of consciousness and behaviour. What I can do to be of most use to you in your deliberations is perhaps to answer some questions you may have following my presentation on the effects of the drugs themselves, they way they are detected, and so on. I look forward to hearing from you on what I might be able to help you with in that regard.

It goes without saying that we all wish to reduce the incidence of impaired driving in this country and the terrible effects it has for all Canadian citizens. The question, of course, is how best to achieve this. We need to consider first and foremost the question of overall effectiveness: what can we do to reduce the incidence of impaired driving and its consequences?

Second, we need to be concerned with the cost-effectiveness of how to achieve this—at the taxpayers' expense, of course. As my colleague Professor Neil Boyd mentioned, we need to be able to do this in a way that doesn't further burden an already overburdened court system. If there are ways of dealing with this problem more effectively without necessarily going entirely in the direction of the criminal law, then I think they are well worth pursuing.

Finally, as Ms. Stoddart, the Privacy Commissioner, has already told this committee, we want to do this in a way that's the least intrusive, that has the least consequences for the rights and privileges that are constitutionally protected in this country.

As you may have gathered, I have read some but not all of the presentations that have been made before this committee. Of the ones I have been able to peruse before coming, I would say the one that resonates with me the most is that of Mr. Therien, the president of the Canada Safety Council. The reason I say this is that in his presentation he argued that the most effective way of dealing with this problem is going to be by employing the broadest mix of criminal justice approaches with community approaches, with the highway safety codes of the various provinces, and above all, with education.

If there's one thing I've learned in my 30 years of studying drugs and behaviour, it's that if we wish to change behaviour, by far and away the best way to achieve that is by making the behaviour uncool. I think Mr. Souccar from the RCMP alluded to this in his presentation to you as well, that we've done a reasonably good job—there's more to be done, of course—in making drinking and driving uncool and in getting this message out, especially to young people. That of course is critical, and this needs to be done early.

But perhaps we haven't done as good a job as we ought to have done with respect to other impairing substances. What I would like to see is building on programs such as the one Mr. Therien described to you, the STRID program, which is already in place and apparently has reduced traffic fatalities quite significantly already. I would urge you to take his recommendations to heart, because there's certainly a place for the criminal justice approach, but these other things he emphasized are vitally important.

Moreover, my colleague from Simon Fraser University, Professor Boyd, emphasized to you that going too strongly in the criminal justice direction will exacerbate problems we already have, with overburdened court systems and the fact that many of these provisions can be challenged in court and that lawyers and other things begin to intrude on the system. This creates more problems, ones that could possibly be averted by taking Mr. Therien's suggestions of more civil approaches into consideration, namely roadside suspensions, using the provincial traffic codes, and things like that.

With respect to penalties, I understand this has already come up in your deliberations and will in your final recommendations. I'd just like to say there have been calls for ratcheting up the penalties, and indeed this may be justified. I am certainly not expert in that regard.

● (0915)

One thing I would say is that, drawing on a vast body of psychological literature, if we wish to change behaviour using punishment, the operative factor, the thing that has the most effect, is the perceived certainty of the punishment, not the magnitude of the punishment. If people think they are liable to whatever penalties might be incurred for a particular behaviour, it has a deterrent effect, whereas it doesn't matter how great the punishment might be if people subjectively do not expect that it will ever be applied to them.

As you've already heard, in the area of impaired driving and highway accidents and that sort of thing, statistics show that a disproportionately small portion of drivers are responsible for a disproportionately high percentage of the infractions, the accidents, the deaths, and so on. This is a problem that needs to be addressed. Raising the penalties is not likely to deter those kinds of individuals, in my opinion, because their rather warped psychological calculus is such that they are less likely to assume that, whatever the penalty might be, it's going to be applied to them. They manage to rationalize it in various bizarre ways. We need to address that to find ways of focusing on the relatively small portion of the driving public who are, by and large, a much greater risk to all of us.

I'd like to also mention something about the drug recognition experts. I'm familiar with these programs. If they are done properly, the personnel are carefully trained, and so on, I think they serve their purpose quite well. However, one concern I have is that I'm not entirely sure how this is going to be implemented. I have some concern with the train-the-trainers program, the snowballing approach that has been mentioned, where people are trained, they train others, and that sort of thing.

I think the reason that the DRE programs have withstood the constitutional challenges in the courts in the United States that they've been subjected to is in large part because of the rigour with which those DRE officers are trained. They are trained extensively. They are certified, and they have to undergo recertification.

I'm sorry to say that it's just not sufficient to do it on the cheap. If we're going to go this route, we need to follow that example or, as Professor Boyd warned, these people are going to be showing up in court with high-priced lawyers to challenge the conclusions made by these people. I urge you to look at that provision to see whether the proposals live up to that kind of high standard of training for these people. If they are trained in that way, their opinions stick in court, and that's what we want to see.

Mr. Therien and Professor Boyd also drew attention to some problems with the so-called three-prong approach for dealing with impaired drivers. They found no problem with the first two, nor do I. I think they're perfectly reasonable, acceptable, and likely to be effective.

The third, however, was the confirmation requiring some kind of body fluid test, whether it be urine or, more likely, some kind of blood test. As you've already heard, first of all, the difficulties are in the intrusiveness of that. Ms. Stoddart, the Privacy Commissioner, has already spoken to you on that issue. I have some of the same concerns as she has in that regard.

The main difficulty that I see is related to what Monsieur Beaumier already mentioned this morning on the legal levels, the cut-offs for the chemical tests that determine the level of the active drug ingredient in the blood. As Minister Cotler has already told you, there's not a lot of good science here to say what is an acceptable or unacceptable level for any of these chemicals in the blood vis-à-vis somebody's ability to drive safely. I think Mr. Therien called it the lack of a defensible criterion to stand up in court.

● (0920)

I understand you've been told there's work being done in Europe and perhaps in Britain on this topic. I'm sure there is. There is in the United States, as well. But I'm rather pessimistic, more pessimistic than your previous presenters in this regard. I just don't think that's going to happen, because the things that determine whether somebody is or is not impaired are so much more complicated than simply some number on a screen done on somebody's urine or blood.

Let me give you a very brief example of this. It takes me hours to explain this to my students, but very quickly, we all know that when you take a drug, from the time you take it there's a rising level in the blood. It comes to a peak, and if you don't take any more of the drug, the enzymes that detoxify the drug start to eliminate it from the body and the levels go down. It's a standard bell-shaped curve. Well, I'm sure you can see that if you have that kind of bell-shaped curve there are two points—one on the rise and one on the descending arm—that have the same value of the amount of the drug in the blood. What research has shown—perhaps this is somewhat counterintuitive—is that you are not as intoxicated in terms of the adverse effect on your consciousness and behaviour for the exact same level on the downward slope of that curve as you are on the upward slope. In other words, you're more impaired as you are getting more of the drug into your system than you are with the same level in your blood as the drug is being eliminated.

There are just so many other things I could mention if I had time. But I'm far less optimistic than some of your previous presenters that determining impairment from a blood test and a urine test and that sort of thing will be forthcoming.

In conclusion, I would like to make you aware of one other area that might be useful in your deliberations and your final recommendations that might get around this difficulty of a lack of a criterion based on some kind of blood test or something like that. That is an area called fitness for duty testing. I don't know if anybody has mentioned this to you before, but it's something that's being used fairly extensively now in industry, particularly in the United States. It has the advantage of being a behavioural test that samples the very kinds of abilities that are critical for, in this case, performance on the job. But it could be modified, and it wouldn't take a great amount of modification, I might add, to be able to use it as a roadside screen for impairment. The reason I say it's better in many ways than the chemical tests is that it samples things like reaction time, psychomotor coordination, and the ability to do divided-attention tasks, short-term memory—the very things that are critical for safe operation of a vehicle.

The nice thing about it is that this technology is now relatively inexpensive, thanks to the industry that produces these entertainment devices like Game Boy and that sort of thing. The technology is there and the protocols have already been developed. These things could be operated by personnel who require less training than the drug recognition experts, to be sure. And because they're sampling actual behaviours, I believe they would stand up well under court scrutiny. More importantly, they would pick up impairment from all causes. As you've already heard, the problem with impaired drivers is not merely with those people who use alcohol, those people who use illegal drugs, those people who use prescription drugs, but also people with emotional problems, people with various kinds of ailments, neurological diseases, people who just had a fight with their spouse. There are all kinds of things that can impair people's driving.

Of course, fatigue and sleep deprivation are serious problems in this regard. There are studies that show that a night's deprivation of sleep can impair performance—this is on flying simulators, the particular study I'm thinking of—about the same magnitude as a 0.08 blood alcohol level.

The nice thing about this fitness for duty testing is that it tests the very abilities that someone would have to have working to some level in order to be safe behind the wheel. In that regard we don't care what the impairing factor is. It could be any of these things. We don't want these people on the road. This kind of thing tests the ability to be safe on the road.

If anybody has any questions about those things, I'm not an expert in the details of it, but I could certainly point you to people who are, and publications and that sort of thing. I'd be more than happy to do that.

● (0925)

I'll stop at that point. Thank you for your attention.

The Chair: Thank you, Mr. Beyerstein.

Mr. Toews, for five minutes, questions and answers.

Mr. Vic Toews (Provencher, CPC): Thank you very much.

In respect to the testimony, it's very informative, Professor Beyerstein. I certainly agree with the de-emphasis on the criminal aspect and moving more to the provincial civil system. It has been very effective. I was involved in setting up that process back in the late 1980s in Manitoba, which was in fact the first province to put that into place.

Also, you're concerned about training the trainers. I share that concern, not simply because of the lack of trainers in order to do a rigorous test, but simply because of the lack of police officers generally on the street.

The other day I was speaking to a police officer in my riding, a rural riding that takes in some major highways in Manitoba—one that stretches from the international border to the city of Winnipeg. During a six-hour period, there was one police officer on duty in a 1,700-square-mile area. That's the reality. So when we're trying to do these types of tests, it's almost irrelevant. The one officer who's there simply doesn't have the time. He has many other things to do. So the issue is not simply training the trainers, but actually finding police officers. We're seeing more and more detachments shut down and response time now extending to an hour or an hour and a half. It's a serious issue.

The intrusiveness issue that you mentioned I think is important, but to some degree it was recently addressed by the Supreme Court of Canada in a decision that just came out of Manitoba, talking about the right of police officers to make these demands without informing suspects of their charter rights, that it was a reasonable infringement of their right to counsel.

The problem you identify, though, is this issue that some of these devices, these Game Boy devices, if I can use that word....

I know that's not your testimony, but—

● (0930)

Prof. Barry Beyerstein: I did in fact use that term, sir.

Mr. Vic Toews: All right, so as a shorthand term....

The problem you have identified right there is that impairment is not simply a matter of drug or alcohol, which is the impairment that is prohibited by our law, but these in fact detect impairment by emotional states or physiological conditions. Unfortunately, all those things are not illegal. We have people who are physically impaired driving a car, but it's not illegal. The impairment by drug or alcohol is illegal.

The problem I foresee as a former prosecutor is that if you bring that kind of evidence in, the individual says, “Certainly I was impaired. I was emotionally overwrought. I had just had a fight with my wife. That might be a bad thing, but it's not illegal”. So again, that puts a serious crimp in the ability to use that as an effective device. Believe me, sir, I've seen all the excuses, from “My dog died”, to “My wife threw me out of the house”, that kind of thing, but all very good evidence.

I don't know if you have an answer to all that. I think you've outlined the problems very well, and it illustrates my concern.

I do want to go to Mr. Beaumier in respect to the screening device. I assume this is the screening device. I'm holding up an object that the translator can't state. Oratect is the name of this small device. It's sort of like a large popsicle stick, but it's white and blue in colour.

Now, with alcohol, we have the Alert, which does in fact indicate a level of impairment. There is the pass, warning, and fail. That is calibrated at, I think, 0.05% blood alcohol at the pass, or is it at the fail? I'm not exactly sure. Different police do it differently. But that in fact detects a level of impairment, and then the officer, using that as his reasonable and probable grounds, goes and makes a breathalyzer demand, and the breathalyzer test is taken.

With this particular situation, we don't have evidence of impairment. We simply have evidence of the drug in the person's body. I assume this is done through saliva.

Mr. Pierre Beaumier: Yes, it's saliva.

Mr. Vic Toews: Saliva. You wouldn't have a person urinating at the side of the road.

Mr. Pierre Beaumier: No, this is a saliva sample, and the test takes less than five minutes.

Mr. Vic Toews: All right, it takes a little longer than the Alert, but is still fairly quick.

So we have this screening device, which doesn't really detect for impairment but simply detects for the presence of the drug. What do we do then? You have indicated that the officer then has to determine the symptoms or the evidence of impairment and then that is used. I guess this is simply a reinforcement that there is in fact a drug in the system, so that the accused could not stand up later and say, "I don't know what the individual's talking about. There were no drugs in my system". This would rebut that argument, but it simply does not perform any test, or beyond that.

My concern is, getting right to the point—

● (0935)

The Chair: Can you get to the question?

Mr. Vic Toews: Yes, I know, but this is all very good evidence.

The Chair: I appreciate that, but you're over your limit now.

Mr. Vic Toews: Yes, I understand that.

The point is, then, most prosecutors no longer prosecute impaired driving charges. They all go for the 0.08%, because the impaired driving is virtually impossible to prove in a criminal court. How does this screening device, together with observation that this person's impaired, do any better than in the case of the problem we're facing with impaired driving charges, through the use of alcohol, where there is no breathalyzer? How does it help us?

Mr. Pierre Beaumier: I think the issue is that there are many impaired drivers who are not impaired because of alcohol, or the alcohol level is below the 0.08%, and this would help corroborate the evidence the peace officer is seeing roadside, where he's observing impairment. He's giving a test to the individual, and this would say, yes, my observations are true; there is a drug in this system.

The one thing I didn't give in my presentation—I looked at Bill C-16, which talks about body fluids, which would be blood, saliva, or urine.... The problem with urine—we do urine now, it's number one, but saliva is coming on as a testing device—is that marijuana is going to be your number one positive on the roadside—people smoking in the car as they're driving—and in the urine it stays for a week. So what does that evidence do for you? Someone will say, four days ago I was smoking a joint, so its being in my urine is normal. With a saliva test, it's the same day.

Mr. Vic Toews: It's like a skateboarder defence.

Mr. Pierre Beaumier: Very much so. But on the saliva it's not a week later; it's the same day.

The Chair: Thank you, Mr. Toews.

Mr. Marceau.

[*Translation*]

Mr. Richard Marceau (Charlesbourg—Haute-Saint-Charles, BQ): Thank you, Mr. Chairman.

I would like to thank the witnesses for coming to meet with us today.

The reason I studied law was because I knew nothing about science and I hated it. So if my questions seem a bit naive to you, it is probably because they are.

Doctor Beaumier, I am trying to understand the little test that looks something like what you see on the television show *Voilà*. At first glance, it looks a bit like a pregnancy test. Under the bill before us, tell me whether, in concrete terms, things would happen as follows if this test were used. The police officer sees someone whose driving is erratic and stops him, and puts him through some tests, asking him to touch his nose, to walk straight, etc. Something is clearly not right with the individual in question. The police officer asks him to open his mouth and say "ah", swabs his tongue, and in the space of five minutes, you say, it could be shown that the person had taken drugs.

Mr. Pierre Beaumier: It would show whether he had taken one of the drugs that the instrument can detect.

Mr. Richard Marceau: I see "Me", "Th". Can you tell me what drugs the instrument can detect?

Mr. Pierre Beaumier: The letter "C" is for cocaine, "Am" is for amphetamine, "Op" is for opiate, "Me" is for methamphetamine, "Th" is for THC and "Co" is for cocaine.

Mr. Richard Marceau: The letter "C" is for cocaine and so is "Co"?

● (0940)

Mr. Pierre Beaumier: For cocaine, it is "Co".

Mr. Richard Marceau: What is the "C" at the top for?

Mr. Pierre Beaumier: I am not sure. I just got that. It is being tested in our laboratory and has been found to be something very useful that produces results in five minutes or less.

Mr. Richard Marceau: How reliable is the test? Would it be 100 per cent reliable in court, as reliable as a breathalyzer?

Mr. Pierre Beaumier: The letter "C" in the upper left and right is a control. If the control is working, that means that the antibodies that detect the presence of drugs are working. When a sample is sent to a hospital laboratory for a drug test, the laboratory workers use the same antibodies as this instrument.

Mr. Richard Marceau: How much does it cost?

Mr. Pierre Beaumier: Twenty dollars.

Mr. Richard Marceau: I have never been stopped, except for speeding, so I do not know how it works. On a typical night at a road block, how many cars are usually stopped? Do you know?

Mr. Pierre Beaumier: I do not know.

I know that in Quebec, a study was done in which drivers were stopped for drug test. The purpose was not to prosecute them, but just to compile statistics. I think the study showed that between 10 and 12 per cent of drivers had marijuana in their system. That is a relatively high percentage.

Mr. Richard Marceau: Let's go back to the parameters of the bill before us. There are three stages: first, the person is weaving all over the road; second, he is put through a roadside test; third, a toxicology test is administered at the police station and sent to a lab.

Are you telling me that with this little gadget, the third stage as defined in the bill before us would be redundant because this instrument would produce the same result?

Mr. Pierre Beaumier: It would produce the same result 90 or 95 per cent of the time. The lab would be able to confirm that drugs were detected in the driver's body. However, that would have to be confirmed by a lab with the instruments required to provide a drug fingerprint.

Mr. Richard Marceau: Okay.

Professor Beyerstein, you are already not too keen on the third stage provided for in the bill; you find it too intrusive, if I understood correctly.

Would Dr. Beaumier's suggestion satisfy you? If the test were done with a little gadget like that on the roadside, would that take care of the intrusiveness factor? Would that be a reasonable alternative? According to your scientific knowledge, because you are here as a scientist, is that a test that could work and that you, as a scientist, would recommend we adopt as lawmakers?

[*English*]

Prof. Barry Beyerstein: No, I think you would still have the same problem. Mr. Beaumier and I were just speaking about this before the committee commenced. On the technology in this test, it's a good screen and it's on the right track, but it would still suffer from the same problem.

The technology that identifies the active substance is an immunological screen, and there's difficulty with what's called cross-reactivity. That means certain innocuous substances, using this technology, could spike a hot test, as though it were some illegal substance or something like that. It's also not quantifiable in the way I think you need in order to withstand any kind of challenge in court. So it would still have those problems.

● (0945)

The Chair: Thank you.

Mr. Comartin is next.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair.

Thank you for coming.

Mr. Beaumier, on the second page of the written material you've provided to us, you've set out certain numbers, parts per billion, for the various drugs. From everything we've heard up to this point, I don't think this is any different, but I just want to confirm. The numbers that are there would not withstand a challenge in the courts in terms of a causal connection. That is, if you had 300 parts per billion of cocaine in your bloodstream, there's no way of being able to say scientifically that it automatically makes you impaired. Am I correct in that?

Mr. Pierre Beaumier: I think that's correct. What I think I'm proposing is that this helps verify the observation of the police officer who stops someone on the side of the road. The breathalyzer is giving you negative results; this is giving you positive, so there is a drug affecting the behaviour of the individual. As I think we discussed before this meeting, to come up with a level of impairment on a drug, first, could only be done using blood; it would not be done using urine, and it would take probably 20 years of research to do one drug. I'm still seeing research papers coming out on breath alcohol today. That's been undergoing research for a long time.

I think we're being naive if we think we can come up with levels of these drugs that would be measured and give you impairment. I think what we are saying is that if the police officer is observing a behaviour, it's not being caused solely by alcohol. Quite often, it'll be mixtures. It'll be cocktails. It could be several of these drugs mixed together. The police officer has observed impairment. This would help prove his case that these drugs were present at the time of the infraction.

Mr. Joe Comartin: I understand the purpose for which we take these—assistance to the police in confirming their physical observation. The problem I'm having is that I don't know what it means. If someone has 300 parts per billion of cocaine in the bloodstream, and I'm sitting there as the judge, what does it tell me about what impact it's had on this individual who's accused before me, as opposed to having 600 parts per billion or 100 parts per billion?

Mr. Pierre Beaumier: When we talk about 300, that's the bottom cut-off. If it's 290, it's a negative.

Mr. Joe Comartin: It's a cut-off for what?

Mr. Pierre Beaumier: For the presence of this drug in someone's system.

Mr. Joe Comartin: So that's for testing purposes; it has no connection to the impact on the person's ability to drive.

Mr. Pierre Beaumier: That's for testing purposes. These roadside tests would give you a reading on 300 or more. The laboratory would give you an accurate number, if you were looking for an accurate number, if you wanted to try to extrapolate this into some sort of impairment. I've seen marijuana levels of 20,000, 30,000, 40,000. That level you would get from the laboratory, not from these devices. These devices are only telling you that you're above a certain threshold.

Mr. Joe Comartin: Does it tell you how much they've consumed?

Mr. Pierre Beaumier: No, and it does not tell you when they consumed it, but being saliva, it's a closer relationship to blood than urine would be.

The other stage in this process, as I said, is sending a sample to a recognized laboratory to have this analysis done. That sample has to be preserved. It's a chain of evidence. It has to go with that sample so that if you're using this evidence in court, it's legally defensible.

Mr. Joe Comartin: Is there a chemical in the swab at the end of this device you've brought today? Is that how it detects it?

Mr. Pierre Beaumier: The swab has a bit of a minty taste. Basically, it's more to get saliva produced. It's just the wick. The saliva will go up it and into the actual testing device that has the antibodies for these drugs.

● (0950)

Mr. Joe Comartin: So they are inside?

Mr. Pierre Beaumier: They're inside.

Mr. Joe Comartin: Do you know if this device has been tested in a courtroom?

Mr. Pierre Beaumier: I know that several states are starting to use oral fluids as a testing device. This actual device is second generation. The first generation was tested in Europe against roadside testing. The wick was longer, and there were complaints about that, so this is the next generation.

On the results of one of these, I did this on Friday. I recently received this, and I'm quite excited about its capabilities. This can help our system.

Mr. Joe Comartin: Are there any published papers in those states where they have been using it more extensively?

Mr. Pierre Beaumier: I have some published papers on the performance of this, and I can submit them to the committee.

Mr. Joe Comartin: Could you do that? Just pass it to the staff.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Comartin.

Mr. Macklin.

Hon. Paul Harold Macklin (Northumberland—Quinte West, Lib.): Thank you, Chair.

Thank you, witnesses, for being with us today.

I'm coming back to the bill itself, in light of your testimony. I'm trying to find out, at least initially, if there is a place for your device in the scheme we're setting up. I can see that there is a position or a place for that device in random testing, shall we say, or in the equivalent of what we would have as a RIDE program in Ontario, to see the incidence of drugs within a certain group. Mind you, at $20 apiece, it's a very expensive proposition in terms of sampling the public, as I would see it.

But at the end of the day, what do we establish? I think your evidence appears to be that a lab sample, in the end, is the best way to test to see if there are active drugs within a person's system. That being said, I'm then not sure that device tends to fit within the regime that we're proposing under Bill C-16. Can you give me a reason why I should be looking at your device as fitting into the proposed regime and being of assistance?

Right now, if there's impairment, we do field sobriety tests after making the demand. We then do the DRE, which further expands the information we've gathered, and then ultimately, we get the blood/urine sample, and it goes for a toxicology review. Where would your device help us in this whole process, Mr. Beaumier? I'm really lost a bit on that process. Can you help me with that?

Mr. Pierre Beaumier: I believe it's a device that could be useful for the DRE to use. It's a screening device, and ultimately, if there are going to be legal proceedings against an individual, you need confirmation of what the screening device is doing, in the same way as you have the roadside Alert system.

I think it could be used in the same manner as the Alert system is being used today. If an officer has a suspicion of impairment, he's entitled to use an Alert system. He should be entitled to use a screening device. Possibly prior to DRE, if this is showing positive and alcohol is negative, then it can go to a DRE to look for impairment. The DRE would then take an official sample to be sent to the laboratory.

Hon. Paul Harold Macklin: But you're still advocating that the ultimate test is the lab test.

Mr. Pierre Beaumier: Yes, I am.

Hon. Paul Harold Macklin: Okay. You'd never see this as supplanting that testing.

Mr. Pierre Beaumier: No.

Hon. Paul Harold Macklin: Okay. With respect to Professor Beyerstein, I guess the question on education is a very important one. I think all of us agree that education is extraordinarily important in the overall process of dealing with and changing the habits of the public as they look at various types of drug ingestion.

The question for me, though, is this. Short of becoming a pharmacologist, how do you convey to the public the effects generally, and the cross-effects of mixing drugs together, in particular, in a way that is meaningful and in a way that the public would be able to accept and understand? I see it as an extraordinarily complicated area that we can't seem to define in meaningful terms today. We can't always understand the experts. Some of the experts have trouble conveying what happens when you take an over-the-counter drug or a prescription drug and mix it with alcohol, cocaine, or something else.

How should we go about this process of educating the public, if education is so important, so that they understand when they have done something wrong or are about to participate in something that would clearly cause impairment in their ability to drive an automobile?

● (0955)

Prof. Barry Beyerstein: You're quite right, of course, that it's a very complicated field. I'm not an expert in drug education, but there certainly are people who make a career out of that. Good science writers are extremely valuable people. They are the people in our local newspapers, preparing documentaries, and that sort of thing, who can take the jargon of the scientific world and restate it in ways that are meaningful to people with less specific education in those fields. There certainly isn't a lack of expertise in the ability to do that. I think there's a need for the will to do it, and of course the financing to do it.

Another thing that I think is important—as I and earlier speakers to your committee mentioned—is to do this early on. The gentleman from the RCMP was saying that his son, who's a young adult now, wouldn't think of drinking and driving. We've got that message through. We started it early in their lives and reinforced it along the way. It's just second nature.

These are the kinds of things that really do control behaviour. As Mr. Toews said, there aren't enough police officers around to look over our shoulders all the time, so we need to get people to internalize these things and just make it unthinkable that somebody would endanger themselves or other people in this way.

Television and that sort of thing is marvellous for getting these things across, if we don't preach at people—that's a very bad way of doing it—and do it in ways that are engaging and informative. Obviously this is my field and I find it fascinating, but I really enjoy trying to fascinate my students in the same way. Many of them think it's really neat. If you can get people at that level, the message comes along about why it does that, and why you shouldn't do certain things because it does this.

I think we might be able to achieve more in this area. There are good educators out there who have the skills I'm not expert in and can do that.

The Chair: Thank you, Mr. Macklin.

Mr. Thompson, please.

Mr. Myron Thompson (Wild Rose, CPC): Thank you both for being here.

It seems to me, as we put this bill together, legislation is going to help the serious problem that exists today, where there are just too many people dying and being injured on our highways due to impairment of one kind or another.

I see the education part of it that my colleague was just talking about as being essential. We know there are education programs telling people not to get behind the wheel if they're going to be engaged...but we also know they still do that. We're trying to put legislation together that will help better the situation. Along with legislation, once it gets finished, there's hopefully going to be a budget earmarked to enhance this bill—spending money where it needs to be spent. I see that equipment is certainly one thing. I also see that training is essential, and we're going have to put some money toward that to make a very solid plan behind the legislation.

I also know we're going to need more police eventually. It's pretty sad out there today. In my riding I find it very unusual to come across a police car patrolling highways as often as they used to. I know they are being cut back, and population increases and all that are making it more difficult. We know all these things, but our mission is to get legislation together that we hope will make the situation better, along with a plan. There has to be a plan that goes with it to accomplish this mission.

I want to tell you about a plan that in 1960 cut impaired driving to almost nothing. It was a county in the state of Colorado, where I lived in the days when I was a young college guy. The penalty for impaired driving was confiscation of the vehicle. Upon conviction you lost the vehicle; it became the property of the county. It didn't matter if it was your dad's vehicle, a company vehicle, or whatever. That was the punishment. When people learned that the vehicle would be lost, and to get it back they would have to buy it at market value from the county, I can't tell you what a huge decrease in convictions they had.

You alluded to the tail end of it. I agree that all of the education, planning, and training has to happen, but we need to have a deterrent in terms of punishment. I don't know if both of you alluded to it, but I know one of you did; I just caught a bit of it. Would you like to expand on that a little further? I personally believe we are too lenient on the people we catch on the highways who should not be on the highways. We want to get them off before they kill someone. That's our intent.

● (1000)

Prof. Barry Beyerstein: If I remember correctly, my colleague Professor Boyd said in his presentation that perhaps the penalties in this country for impaired driving were less stringent than they ought to be. I'm not arguing against stringent penalties at all. If we make them stringent—and it sounds like the example you've just given us fits into this—the factor that really counts in terms of changing people's behaviour is the certainty that the penalty will be applied. It will be rapid and will happen.

I'm not familiar with that particular example, but it sounds like it was cut and dried, from the way you described it. That's what had the desired effect, as much as perhaps the level of the penalty. So as in all cases of criminal law, we should make the punishment commensurate with the harm the crime entails. I have no problem with that.

I was just saying that simply raising the penalties might be a good thing. You people are much more expert in that than I am. We want to make sure, if they are changed or even left the same, people get the idea that the consequences are going to be automatic and swift. That seems to be more important in terms of the deterrence effect in the long run; at least that's what the research I'm familiar with says.

The Chair: Thank you, Mr. Thompson.

Mr. Ménard.

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Mr. Beaumier, would it be possible, when taking a sample from a person on the roadside or at the police station, to put another sample in a flask that would be given to the individual so that he or she could have it analyzed by an independent lab?

Mr. Pierre Beaumier: Yes. I have here a kit for taking samples that can be sent to a lab. It is the most commonly used kit in the United States these days. It is for sending saliva samples to labs.

Mr. Serge Ménard: I would like to know whether there could be two saliva samples: one that the police would send to a lab, and another that would be given to the individual so that he or she could, if he or she doesn't trust the police lab, have it analyzed by an independent lab.

Mr. Pierre Beaumier: There is no problem there, two samples can be taken.

Mr. Serge Ménard: I understand that there is not a lot of saliva in a sample.

Mr. Pierre Beaumier: I might add, however, that if you give someone a sample, you don't know what he or she is going to do with it. It is preferable to have the police keep both samples in a sealed container. If the individual wants to have a sample in order to have it analyzed by another lab, it can be sent to that lab.

● (1005)

Mr. Serge Ménard: Yes. It can be delivered in a sealed container, and the lab will see whether it is sealed or not.

That brings me to my next question. Are there specific storage requirements for samples? For example, is it better to keep them in the fridge, to freeze them, or can they be kept at room temperature, which may go up at times in the summer?

Mr. Pierre Beaumier: When you look at the analyses, you see that drug instability is a problem. One of the least stable drugs is marijuana. That means that when a sample is taken, it has to be sent to the lab as quickly as possible, within a 24 to 36-hour period. If you wait one or two weeks, the active agent in marijuana, THC, decomposes.

Mr. Serge Ménard: Okay. So the lab has to analyze it in the next few days.

Mr. Pierre Beaumier: The lab has to receive the sample within 36 to 48 hours.

Mr. Serge Ménard: You say "receive". Does the lab have to analyze the sample within that time?

Mr. Pierre Beaumier: The lab usually analyzes samples within a few hours of receiving them.

Mr. Serge Ménard: That may be true for your company, but I'm not sure things work the same way in government.

You mentioned that in the United States, I believe, tests have been developed for prohibited drugs.

Mr. Pierre Beaumier: That's right.

Mr. Serge Ménard: But a lot of authorized drugs also cause impairment.

Mr. Pierre Beaumier: Well, we don't have a test that will detect the presence of every drug that could be found in a driver's body. That's impossible.

Mr. Serge Ménard: Okay.

I see you are bilingual.

Mr. Pierre Beaumier: A bit.

Mr. Serge Ménard: A bit like me. I speak English as well as you speak French. You know that words that look the same in two languages can mean very different things. For example, one billion in English is "*un milliard*" in French.

When you say "4 ppb" in your text...

Mr. Pierre Beaumier: That's four parts per billion.

Mr. Serge Ménard: That's right, not four parts per trillion. In French, "*un billion*" is 10^{12}, whereas in English, it's 10^{9}.

Mr. Pierre Beaumier: I should say something about the four parts per billion. Other drugs come from the blood and transfer into the saliva. When it comes to marijuana, it's not the same. The sample comes from marijuana in the mouth. However, since the mouth gets rinsed quite often, that means that the traces of marijuana don't last long.

Mr. Serge Ménard: Okay.

There are substances in the kits that would be given to police officers for roadside tests to detect drugs in a driver's body. What is the approximate shelf life of those substances?

Mr. Pierre Beaumier: One year. We are talking about the kit I have here.

Mr. Serge Ménard: Actually, I'm not sure if that is what we are talking about. For now, from where we sit, this is a theoretical discussion.

Mr. Pierre Beaumier: I believe the substances are good for one year.

Mr. Serge Ménard: Okay.

So that means the equipment given to police officers has to be changed every year. You have to have a system so that at the end of the year, you empty out the car and change...

Mr. Pierre Beaumier: It may be one or two years, I'm not sure. Maybe it's two years.

Mr. Serge Ménard: Well, it's something along those lines.

Mr. Pierre Beaumier: Yes.

Mr. Serge Ménard: That's what I wanted to know.

My next question is for both witnesses. If I understand correctly, Mr. Beyerstein, it is very hard, for substances other than alcohol, to determine what quantity impairs a person to the point that he or she shouldn't drive.

Am I right that the most reliable test for determining whether a person is impaired by drugs to the point that he or she shouldn't drive is still the reflex test?

[*English*]

Prof. Barry Beyerstein: Monsieur Ménard, I agree with you completely. That's exactly what I was saying. In fact, as members of the committee probably know, even with alcohol it's not that straightforward. In some ways the 0.08 is a legal fiction. Some people are impaired with less than that, and people who acquire a tolerance and so on can be relatively little impaired at many times that.

● (1010)

[*Translation*]

Mr. Serge Ménard: We don't have much time. I understand your confirmation. Now, I'd like to raise another point.

Among the objective tests, there are some that are necessarily subjective, because the nervousness caused by being stopped and put through a test varies from person to person and may affect the results.

The committee has been told about tests in which a person's nervousness would have no effect on the results. I believe it has to do with eye tests. Could you tell us about that? If we wish to have a test that is valid for everyone, I think that's the one we should use. Do you follow?

[*English*]

The Chair: Thank you, Mr. Ménard.

Prof. Barry Beyerstein: Yes. In fact, that's exactly why I was advocating more in the way of behavioural testing, because it doesn't ask what's causing this. It just says, is this person, at this time, in a state that is compatible with safe operation of their vehicle? I think many of the things the DRE officers look for are what you just described, and for that reason they are more objective.

The behavioural tests, in a way, are even more objective than that, because they ask people to do little samples of the very behaviours, the very capacities or abilities, that are necessary for safely operating a vehicle. So if you measure those and people fail, you have an objective way of saying this person should not have been driving. Then you can go to the various tests and determine that there was alcohol or drugs involved.

The Chair: Thank you, Mr. Ménard.

Next on the Liberal side is Ms. Neville.

Ms. Anita Neville (Winnipeg South Centre, Lib.): Thank you, Mr. Chairman, and thanks to both of you. I apologize for coming in late. I got caught in the office.

I have two different lines of questioning, and I'm going to ask them both because I'm watching the clock.

Dr. Beaumier, obviously you have an interest, but I wonder if you could expand on your comments on the private labs, and the fact that Bill C-16 should allow private labs to be involved. I'm interested in knowing whether you have any sense as to whether there would be additional costs in using private labs, and what the benefits would be of private labs. I've certainly read what you've written here.

Professor Beyerstein, I was struck by your comment—I don't know whether it was in response to a question—about cross-reactivity, and the fact that there's a different impact from drugs depending on where it is on the scale of use. I'm wondering if you could expand on that a little bit. I found that an interesting comment. It makes the whole issue even more complicated than it is at the present time.

Prof. Barry Beyerstein: Ms. Neville, the two things you raise are two separate things. Cross-reactivity refers to the fact that there are tests of different specificity. The quicker, the cheaper, the more easily administered tests are the ones that are most likely to give the same result for a banned substance and for various non-illegal substances.

Ms. Anita Neville: Okay. I'm sorry; I missed that.

Prof. Barry Beyerstein: The example I gave you was just one of many that I could have given to exemplify the difficulty we have in arriving at a hard and fast relationship between the level of a drug in someone's system and the degree of impairment that he or she might experience. I just gave you that one because it's sort of a dramatic thing: people have exactly the same amount of the substance in their blood, and in one case they're more affected than in the other.

Another example could be a person taking a drug in the morning, when he or she has just had a good night's sleep and is full of vim and vigour and ready to face the world. The same amount of drug is going to be less debilitating for him or her then, in the morning, than it would be after a hard day's work, or driving all day in a vehicle, or staying up late at night, or something like that.

So a drug always works in the context of what's happening in the surroundings of the individual and in the brain of the individual. The term we in psychopharmacology use is “set and setting”, which refers to the characteristics of the individual and the characteristics of the situation—social, psychological, and even physical—that he or she takes the drug in.

For that reason, drug effects can be extremely variable. When I testify in court, the question I hate most is, “Tell me, Professor, what is *the* effect of LSD?” Well, I have to know who took it, how old they are, how much they took, under what situation, and on and on. All of those things affect the magnitude and sometimes even the quality of the effect that has on somebody's consciousness and behaviour.

For that reason, no matter how much research we put into it, I sort of despair of ever arriving at any kind of hard and fast rule that says, “You have 0.00 parts per billion in your urine or your blood, and therefore you're impaired”. It just doesn't work that way, unfortunately. I wish it were otherwise; it would make all of our tests a lot easier.

● (1015)

Ms. Anita Neville: You're shaking your head, Dr. Beaumier.

Mr. Pierre Beaumier: No, I agree with him, I agree with him.

You asked about use in the private sector. I think it's important for government to understand that the quality is in the system in the private sector labs. We are inspected, audited, and accredited. And because of the efficiencies we put into our system, the costs are usually lower than you get in the public system.

As an example, if you read the press these days, your Auditor General is doing an audit on the RCMP time for DNA analysis. We are doing overflow work for the RCMP at this point, and we're turning these samples around in 30 days or less. I think that's the kind of turnaround you need for the justice system to operate properly.

If this drug testing becomes part of legislation, and samples start to flow into public forensic labs, where it takes six months for an analysis, I don't think we're serving the public the way we could be. Most of the samples in our labs are out the same day they come in. We have efficiencies, and we are audited to make sure they're forensically defensible. Every step of the way is recorded.

Ms. Anita Neville: Are you saying these efficiencies are not present in the public labs, or in the RCMP labs?

Mr. Pierre Beaumier: I would say they're not present in most public labs. It's just a different mindset.

Ms. Anita Neville: Thank you.

The Chair: Mr. Toews and Mr. Breitkreuz, are you sharing time?

Mr. Toews, go ahead.

Mr. Vic Toews: Thank you very much.

On the concern indicated by you, Professor Beyerstein, regarding the actual impact of any particular drug on an individual, I noted your frustration. You essentially need expert evidence in every case now in order to determine the impact of that drug on that individual. It's not simply a cut-and-dried physiological reaction, it's also psychological or otherwise. That's correct?

Prof. Barry Beyerstein: That is correct, sir.

Mr. Vic Toews: You indicated your frustration in the context of LSD, for example. Let's focus this a little more. Essentially Bill C-16 is a cover bill for Bill C-17 and the legalization of marijuana. This is essentially being brought forward by the government in order to justify the legalization of marijuana and at the same time to say that we're addressing the issue of public safety. I think, for our purposes, what we need to do is focus on marijuana.

In that context, is it somehow easier to determine, physiologically or objectively, the impact of marijuana in terms of impairment, in the same way as we measure impairment of alcohol on a person?

Prof. Barry Beyerstein: It's certainly possible to measure the impairment. We still are faced with exactly the same problem as we've come across in many of your questions already, which is that the scientific research shows that there isn't a very good correlation between the level of tetrahydrocannabinol, the active ingredient, in the blood and how impaired any given individual is. This makes it difficult to frame a law that says, if you have this level, you're guilty; if you're below it, you're acquitted.

Neither I nor anybody else could stand up and truthfully give you a number that tells you this person is going to be impaired and this person isn't. Of course, we could have the extremes. I mean, somebody at this level obviously would probably have trouble standing up, or conversely, the level could be so low that nobody would think it would be damaging. Of course, it's the grey area in between that's always the difficulty.

I think there is sufficient work done now on blood levels of tetrahydrocannabinol and various indices of performance to indicate that there are huge individual differences in the population at large, and even within the same individual—in answer to Ms. Neville's question—at different times of the day or in relation to different aspects of the individual's psychological well-being at the time, and things like that. I'm all for doing research because that's what I like to do, but I don't think we're ever going to come to a time where we can have confidence that there's going to be a number about which we could say that, above this, a person is going to be impaired, and below it, the person is not going to be.

● (1020)

Mr. Vic Toews: I've read some American research—the Americans seem to have done a lot on this—with respect to the impact of taking marijuana together with alcohol, for example. I understand that there seems to be a greater impairing effect. Having one joint is like having one beer, but when you mix the marijuana with the alcohol, there seems to be a multiplier effect in terms of the level of impairment. Is that your experience as well?

Prof. Barry Beyerstein: If not multiple, the effect is certainly added to. Some would say, perhaps, that the whole is greater than the sum of the parts; but yes, indeed, mixing the two is a toxic brew, and clearly the effects are increased.

There's one interesting point that I think you've already been told about one of the big differences between marijuana and alcohol, which is that alcohol tends to make the bravado aspect, the macho aspect, of people come out. People underestimate how impaired they are—it's an "oh, yeah, I can do it" kind of thing—whereas marijuana seems to work the other way around. People are more likely to overestimate how impaired they are and at least try to compensate for it, and they do so surprisingly well.

The interesting thing is that there's a study out of Britain, if I remember correctly, where they tested people with these mixtures under controlled driving conditions. Interestingly enough—and this doesn't negate any of the things I just said or the intent of your question, by the way—what it showed was that, with the combination of marijuana and alcohol, the effect in terms of that bravado, macho kind of thing was more in favour of the marijuana. It tended to make them more cautious. At least it didn't add to the negative effect of the alcohol; in fact, it tended to counteract it a little.

But it's a foolish thing to do. I think we'd all have to say that.

Mr. Vic Toews: Are you saying, then, that by using marijuana people consuming alcohol would be better able to mask the fact that they're impaired?

Prof. Barry Beyerstein: Do you mean they could better mask their impairment in terms of a test?

Mr. Vic Toews: You indicated that bravado is an indication of a person being impaired by alcohol, so an officer looking at that individual would then say, well, he didn't seem that impaired. Could that be an impact of marijuana?

Prof. Barry Beyerstein: That's a very interesting question. To be honest, I don't really know the answer. What I wouldn't expect it to do is to mask any of the effects on the behavioural tests.

Mr. Vic Toews: Physiologically it wouldn't change. It would be the ability to determine by visual symptoms.

The Chair: Thank you, Mr. Toews.

Go ahead, Professor Beyerstein.

Prof. Barry Beyerstein: I was saying that people who are using marijuana tend to drive more carefully because they recognize their impairment. They're not as badly impaired as the average social drinker at comparable levels. All I was saying was that when you mix the two, somewhat counterintuitively perhaps, the effect of the marijuana seems to override that bravado or macho aspect, and people may drive a little more carefully as a result.

I just brought that up for your own interest. It's certainly not an advertisement for mixing the two because you're safer; you're clearly not.

The Chair: Thank you.

Mr. Ménard.

[*Translation*]

Mr. Serge Ménard: I would like to come back to the last question I asked you.

We want to have a system that is scientifically rigorous, but also as simple as possible, so that it can be put into widespread use as quickly and reliably as possible. Of the regular sobriety tests, which is the most reliable, in terms of distinguishing those who are nervous from those who are not?

Some people get very nervous around police officers. And that will affect their ability to walk a straight line or their reflexes, won't it? However, without being given the details, we have been told here that some tests involving eye movement are not at all affected by nervousness.

Which tests work best for that, so that we can have a test that rules out nervousness?

● (1025)

[*English*]

Prof. Barry Beyerstein: I think what you're referring to is the Gaze Nystagmus test in the drug recognition experts' battery. I think you'd have to say those are the ones that would be least affected by the social pressures and the trauma or stress of the situation.

The performance measures I was advocating would be affected to some degree, but not as greatly as some others perhaps. I think they would have to be administered in a way that would give people time to calm down. You would explain to them that this could exonerate them as well as implicate them, and it's possible to do very well on these tests if they concentrate, and that sort of thing. With that kind of calming influence, I think the problems you raise—which I agree are real—would be ameliorated somewhat.

[*Translation*]

Mr. Serge Ménard: You referred to DNA tests; I don't know why. But since you mentioned them, I'm going to ask you how much a DNA test costs.

Mr. Pierre Beaumier: That's a good question.

Let's take one case. There are a lot of specimens, but let's take one specific case. I think the cost is $700 per specimen analyzed. That is comparable to what the RCMP told us it would cost them.

Mr. Serge Ménard: I was told that Quebec forensic labs have the best prices in Canada.

Mr. Pierre Beaumier: For DNA analysis?

Mr. Serge Ménard: Yes, for DNA tests. I was told that it was cheaper than the RCMP, at any rate, which doesn't surprise me.

Mr. Pierre Beaumier: I don't know.

Mr. Serge Ménard: It is always cheaper in the provinces than federally.

Some hon. members: Oh, oh!

Mr. Joe Comartin (Windsor—Tecumseh, NDP): We disagree.

The Chair: Have you finished, Mr. Ménard?

Mr. Serge Ménard: Yes, that's fine.

[*English*]

The Chair: Mr. Comartin.

Mr. Joe Comartin: Whether it's saliva, urine, or blood, when the test is being taken, is it always possible to have a second sample, so if the accused wants to have it tested independently it would be available?

Mr. Pierre Beaumier: With urine and blood, it's very obvious. With saliva, you can take two of these ampoules from the individual. In our laboratory we have a process where, if you have only one sample, we are not allowed to use the whole sample. We must leave some behind, take some of the sample, and reseal the container. Then it's available for the individual should he want to have the sample sent to another laboratory to confirm the results.

Mr. Joe Comartin: Has a protocol been established now in Canada, whether it's in the private labs or the public labs, as to how the sample is to be taken, and how much is to be taken?

Mr. Pierre Beaumier: I do not believe that protocol exists for saliva.

Mr. Joe Comartin: What about with regard to urine and blood?

Mr. Pierre Beaumier: I don't know.

Mr. Joe Comartin: Thank you, Mr. Chairman.

The Chair: Mr. Macklin.

Hon. Paul Harold Macklin: I just want to get a point of clarification on the record.

Despite the fact that Mr. Toews said that Bill C-17 would legalize the possession of marijuana, he's inaccurate. If it passed in the current form, it would not legalize the possession of marijuana.

The Chair: Thank you for that clarification.

Hon. Paul Harold Macklin: Thank you.

● (1030)

The Chair: Thank you very much for your testimony here this morning. We found it most interesting.

Mr. Pierre Beaumier: Thank you for your attention.

I've got one of these saliva kits, unused, if anybody wants to do a test.

Voices: Oh, oh!

The Chair: We'll now go in camera. We have Mr. Toews' motion to deal with, and we have to be out of here by 11 o'clock.

[*Proceedings continue in camera*]

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