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EVIDENCE

Thursday, June 14, 2007

Chair

Mr. Art Hanger

Standing Committee on Justice and Human Rights

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● (0900)

[*English*]

The Chair (Mr. Art Hanger (Calgary Northeast, CPC)): I'd like to call the Standing Committee on Justice and Human Rights to order. It is Thursday, June 14, 2007.

The committee is continuing its examination of Bill C-32, An Act to amend the Criminal Code (impaired driving) and to make consequential amendments to other Acts.

Appearing before the committee as a witness is Corporal Evan Graham, national coordinator, drug evaluation and classification program, Royal Canadian Mounted Police. Thank you for attending again, sir.

From the Canadian Society of Forensic Science, we have Ms. Marthe Dalpé-Scott, co-chair of drugs and driving committee. I understand you are replacing Ms. Treacy.

Ms. Marthe Dalpé-Scott (Co-Chair, Drugs and Driving Committee, Canadian Society of Forensic Science): I'm replacing Shirley Treacy, sir. Actually, I was here as an observer on Tuesday. I was a co-writer of the position paper that Shirley submitted on behalf of the drugs and driving committee as well.

The Chair: Thank you.

I will turn the floor over to Corporal Graham, then.

I should get the thought of the committee here, unless you just wanted to get into questions. I know, Corporal Graham, that you have testified before. Do you have something new to add?

Corporal Evan Graham (National Coordinator, Drug Evaluation and Classification Program, Royal Canadian Mounted Police): There are a couple of things. One is that the legislation currently calls for the initial breath test to be done in an approved screening device—

The Chair: I'll leave you to enter into whatever information you have there, then.

Cpl Evan Graham: Okay. Thank you.

The approved screening device is designed for enhancing suspicion to reasonable and probable grounds roadside for breath demand. For the purpose of the drug evaluation, the instrument should be an evidentiary instrument that gives us a complete, full reading of the blood alcohol concentration of the subject, so that if in fact the blood alcohol concentration is over the prohibited level, we can proceed with a charge under paragraph 253(b) of the Criminal Code. It also would fall in line with provincial sanctions, which vary from province to province, regarding the blood alcohol concentration for roadside suspensions.

Other than that, I'm basically just here to clarify whatever needs to be clarified or to answer questions.

The Chair: Thank you, Corporal.

Go ahead, Madame Dalpé-Scott.

Ms. Marthe Dalpé-Scott: Yes, good morning, everyone.

I just want to clarify that for six years of my career I have been teaching future defence counsels and crown attorneys alike at the University of Ottawa in forensic sciences, and one of the most animated lectures is always to do with impaired driving, whether it's by alcohol or drugs. So what I'd like to straighten out over these next few questions, few hours, is a parallel situation that I see very clearly in my mind with respect to paragraph 253(b), which is impairment by alcohol over 80 milligrams percent, 80 milligrams of alcohol per 100 millilitres of blood. For that purpose, a police officer can make the demand, as Corporal Graham said, for an approved screening device at the roadside. That's step one. If that result or any other suspicion without that instrument leads to reasonable grounds that it was impairment by alcohol while driving, then a demand can be made for an approved instrument, most of the time at the police station, although we will have soon some instruments that can be done at the roadside as well.

The parallel to that situation is that there is no magical box to detect drugs at the roadside. There is nothing on the market that will, in the foreseeable five to ten years, give us that magical box. So what we have instead of the approved screening device is the standard field sobriety test. That gives the first set of tests to determine that there was impairment by alcohol and a drug, a combination of both, but the drug by itself then would be able to be detected. As you know, the current legislation does not allow for the detection, or the preliminary detection, of drug-induced impairment.

After the preliminary test is done, we have the standard field sobriety test for paragraph 253(a), impairment by a drug or combination of alcohol and a drug, and that parallels the approved screening device for alcohol for paragraph 253(b). Going down from there, we then have reasonable grounds to think that there was impairment by a drug, with the standard field sobriety test. There is a demand made then for the DRE protocol, a specialized police officer who will administer the 12-step test.

So that part of that law is similar to the approved instrument for alcohol. So far we have a complete parallel.

Where we add another step with the proposed legislation that the society committee is very much supportive of is the confirmation of the DRE call by a forensic laboratory. That's where people like me come in, with my staff of 50-some of the RCMP, and there are other laboratories in the country that can perform the analysis. We would confirm the findings of the DRE. If such confirmation did not take place, there is no support for the accusation of impaired by drugs.

So from there, I'm willing to answer any questions that could help clarify the legislation or what we're supporting.

● (0905)

The Chair: Mr. Bagnell.

Hon. Larry Bagnell (Yukon, Lib.): On that confirmation you just mentioned, one of the criticisms is that you can't tell impairment by the level of drugs. So what are you confirming? You're just confirming the fact that the drug is there.

Ms. Marthe Dalpé-Scott: The drug has to be from the family of drugs that the DRE officer determined during his or her observation was the source of impairment. There are seven families. So it is not anything we find...because believe me, we're very good at finding very minute amounts of drugs in our laboratories. What we're concentrating on is confirmation. If the police officer, the DRE, thought it was a particular type of drug that was causing the impairment, that is what we will confirm or invalidate, if that is the case. It's very objective.

Hon. Larry Bagnell: The sense I got from the lawyers, the bar association, was that when you compare it to a breathalyzer, the DRE may have a harder time making it stand up in court. What are your thoughts on that?

Ms. Marthe Dalpé-Scott: The DRE is trained very systematically. I can pass this one on to Corporal Graham and he can reassure you how they are trained.

Please.

Cpl Evan Graham: When we entered the program in 1995, we anticipated, obviously, problems in court. Since that time, we've had convictions in virtually every province. We've had the courts declare the evaluator as an expert in the process, symptomatology, and determination of the drug category. It hasn't proven itself to be a problem in court, and in fact, of all the cases that have gone to court, none has ever gone to appeal.

So my take is that we're doing something right, because we haven't had anything appealed yet.

Hon. Larry Bagnell: And with those convictions, was there a blood test involved as well, to collaborate?

Cpl Evan Graham: For the most part, we've been using urine. The problem with blood is that we don't have medical practitioners or medical personnel on site in the vast majority of the lock-ups where we do the testing, so as a result we'd have to take the person out of a secure facility, and take them to a hospital to get the blood test done, where it wouldn't be a priority.

As a result, we've been using urine or oral fluid.

Hon. Larry Bagnell: So these convictions were based on the three steps: the roadside, the DRE, and the urine test. And in virtually every province, you said?

● (0910)

Cpl Evan Graham: That's right. I believe the only province where we haven't had a conviction is Quebec, and that is because there hasn't been a case go to court with the DRE yet.

Hon. Larry Bagnell: Which were the drugs involved?

Cpl Evan Graham: Primarily we're looking at prescription drugs, prescription pain killers such as oxycodone, codeine, and morphine. Cannabis is very prevalent, as well as the central nervous system depressant category or family of drugs.

But driving-wise, what we've not seen a lot of are inhalants, dissociative anesthetics, or hallucinogens.

Hon. Larry Bagnell: So most of the drugs, or a good proportion of the convictions, were on legal drugs.

Cpl Evan Graham: Prescription drugs, yes, either over the counter or by prescription.

Hon. Larry Bagnell: And did all these convictions involve bodily injury?

Cpl Evan Graham: No. Some were straight driving, some were bodily injury, and there were some as a result of crashes where fatalities were involved.

Hon. Larry Bagnell: So there weren't very many of the hard drugs like cocaine and the ones harder than that?

Cpl Evan Graham: Not to date. We have had some with methamphetamine, but for the most part we're still looking at what would be termed as the softer drugs.

The Chair: Monsieur Ménard.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Thank you.

As I see it, the reason we have asked you to come back is that we have heard contradictory testimony on the operational nature of existing technologies and on the ability to detect drugs in the body at the time the individual is supposed to be impaired by those drugs. We're told that there are residues that make it possible to detect the presence of certain drugs in the body 12 and even 15 days after they are taken. It's obviously more difficult to establish a conclusive correlation between the time when the drugs were taken and the impairment at the time the driver is at the wheel.

I don't know whether documents were tabled yesterday, since I was in the House for Bill C-59, but I would like you to explain to us in detail both how the tests work and in what they consist. For example, as regards the drug recognition experts, I would like it to be explained to us where they will be, how they will be trained and what budgets will be available for that purpose. Let's start with a fairly accurate description of the standardized sobriety test. Your colleague gave us a little information yesterday about alcohol. Then let's continue with the 12 steps for the drug recognition experts so that it's clear. I would like that information to be submitted to committee members so that it's educationally conclusive for us when we do the clause-by-clause consideration of the bill.

Ms. Marthe Dalpé-Scott: All right, Mr. Ménard.

I think that, for the first step, which is screening for the presence of a drug or a combination of alcohol and drugs that could impair faculties, under proposed paragraph 253.1(2)(a), Corporal Graham will give you the details since he teaches that part of the standardized sobriety tests. Our scientific staff supports that instruction, but it really depends on coordination.

With regard to the first step, I'll hand over to Corporal Graham.

[*English*]

Cpl Evan Graham: Initially we have to have some reason to stop a vehicle, whether it's through a road check or driving evidence. If there is any evidence that the person may be impaired, we can, with this legislation, make a demand for the person to participate in the standardized field sobriety tests. The sobriety tests are used simply to enhance suspicion and elevate it to reasonable and probable grounds that the person is impaired by a substance.

If there is sufficient issue to warrant a breath demand, the breath demand will be made. But if the person claims they haven't had anything to drink, there is no odour of liquor on the person's breath —

[*Translation*]

Mr. Réal Ménard: That's not the legal sequence. I know the legal sequence and the process. What does the standardized sobriety test consist of for drugs? What is checked? How is it administered?

[*English*]

Cpl Evan Graham: Well, the sobriety tests are done the same, whether it's for alcohol, drugs, a medical problem, or fatigue. The tests were evaluated in the United States to a blood alcohol concentration of 80 milligrams percent, or 0.08, but the effects of the impairment are the same, depending on what drug it is, because drugs affect people differently.

For example, the depressant category, which alcohol falls under, you'd find the indicia being virtually the same as for somebody who'd had too much to drink. Cannabis, on the other hand, is more mentally impairing than physically impairing, so each category has different things that we're looking for. Although we look at the totality of the evaluation, if the person has problems with the validated clues, then that raises our suspicion that the person is impaired.

● (0915)

[*Translation*]

Mr. Réal Ménard: Once again, that's not my question. Let's suppose you arrest me on the road because you have reason to believe that I have taken drugs, regardless of which drug, but let's make it as simple as possible: let's say it's cannabis. What are you going to check? Is it my teetering, the coordination of my movements, the way I touch my nose? Are you going to ask me to walk a straight line? I want to understand how the tests are conducted, because everything starts with that, in a way. What do you do? Take me as a guinea pig. I'm arrested and I've smoked cannabis. What are you going to check with the standardized sobriety tests? What are those tests? And then, what are the 12 steps? That's what I want to understand.

[*English*]

Cpl Evan Graham: Well, the sobriety tests themselves are divided attention tests. They don't mimic what you do driving, but they divide your attention between what your mental process is and the physical tests that are being done. As with driving, you're multi-tasking. These tests are simply to have you multi-task. If you can't multi-task, then you probably shouldn't be driving.

The indicators that we look for are different from test to test. We can't categorize drugs based on the sobriety test. All we can do is say the person is either impaired or not impaired, or believed to be impaired. In order to say whether it's drugs, alcohol, fatigue, a medical issue, we have to go through the entire evaluation. There are four drug categories that affect the eyes in one way, three that don't —how people react to light, their pulse rate is different for different categories, their blood pressure is different, body temperature, and the person's muscle tone.

Ms. Marthe Dalpé-Scott: If I may intervene, if I'm not mistaken, I think there may be a translation issue here. I think Monsieur Ménard wants to know at the various roadsides exactly what standard field sobriety tests will be administered. What you're describing is back at the DRE stage.

I'm sorry, I simply wanted everybody to be clear.

Cpl Evan Graham: My apologies.

There are three tests. The first is horizontal gaze nystagmus. Horizontal gaze nystagmus is the involuntary jerking of the eyes. Everyone has it, but some drugs enhance it to the point at which it's readily visible.

The second test is a walk and turn test. That's walking a line heel to toe, nine steps up the line, nine steps back down the line, making a turn in a prescribed fashion while watching your feet, counting out loud and not stopping until the test is completed.

The third test is a one-leg stand, where the person stands on one leg with the other one raised, with the foot elevated approximately six inches off the ground, the toe pointed. The subject looks at their foot and counts out loud, “One-thousand-one, one-thousand-two, one-thousand-three”, until 30 seconds has elapsed.

[*Translation*]

Mr. Réal Ménard: I don't want to impose on the committee's time, but I wonder whether we should vote for a bill that will make it possible to charge people for driving with faculties impaired by drugs, when there are significant weaknesses in the detection technologies. You understand that we have a responsibility as parliamentarians. Now I have a better understanding of the standardized sobriety tests. What are the 12 steps for recognizing drugs?

[*English*]

Cpl Evan Graham: The steps for drug recognition evaluation are as follows.

First, we take a breath sample to rule out alcohol as the primary cause of impairment. We then speak to the arresting officer to find out what the arresting officer saw at the scene.

Generally speaking, we're looking at half an hour to an hour before we get the subject before us, and the indicia may have changed. We then do a preliminary examination, where we take a pulse, estimate the size of the pupils, and see if the pupils track together to rule out a medical problem.

The fourth step is checking for horizontal gaze nystagmus again.

Now we're in a controlled environment where there are not going to be any distractions from traffic or persons. We go through the divided attention test again, that being the walk and turn, and standing on one leg.

We also add a test that's called a modified Romberg balance test, where you put your feet together, close your eyes, tilt your head back, and estimate the passage of 30 seconds.

The last is a finger-nose test, where the subject touches the tip of their finger to the tip of their nose, using instructions from the evaluator.

The sixth step is checking for clinical indicators, that is pulse again, blood pressure, and body temperature. We then move to a room that is capable of being darkened, so we can check the pupil size in room light, near total darkness, and then in direct light, by shining a penlight right in the pupil to see how it reacts and what size it constricts to. During that test, we check the oral cavity to see if there are any signs of ingestion, and also the nose. At the conclusion of that, we check for muscle tone, basically from the shoulder to the wrist, to see if the person is an injection drug user. During that, we'll take a third pulse.

At the conclusion of this, we can put the person into one or more of seven drug categories, or rule out drug impairment as the cause. If we believe the person is impaired by drugs, we will then interview the subject, pointing out what we've seen. In 99% of the cases, they admit to what we've called.

We then render an opinion and obtain the toxicology sample for forwarding to the lab for confirmation of the evaluation.

● (0920)

The Chair: Thank you, Mr. Ménard.

Mr. Comartin.

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

Thank you, witnesses, for being here.

Corporal Graham, I have a quick point so that we're clear. In terms of stage one, the roadside analysis, under the existing provisions of the code, you can do that without permission. Basically, under the impairment section of the code, you are entitled to make those types of assessments of an individual.

Cpl Evan Graham: We can, as long as they're voluntary. The person can refuse to do them, and we have no recourse.

There is a Supreme Court of Canada ruling that we can ask the person to do them, not tell them that they're voluntary, obtain the results, and then use them for elevation of suspicion to reasonable and probable grounds.

If we're trying to tie it into impairment, then the person has to be given their right to counsel beforehand.

Mr. Joe Comartin: But it's clear that at stages two and three—the DRE stage and then the toxicology assessment stage, or taking the sample—you can't do that under the existing law.

Cpl Evan Graham: We can, but again, if it's voluntary.

Mr. Joe Comartin: If it's voluntary, okay.

If your initial suspicion is unclear as to whether it's alcohol or drugs, would the sobriety test that you apply at the side of the road be the same?

Cpl Evan Graham: The sobriety tests are the same, regardless of what substance or condition is causing the perceived impairment.

Mr. Joe Comartin: Again, under existing law, if it is alcohol, the person still has the right to refuse to do the test.

Cpl Evan Graham: That's correct.

Mr. Joe Comartin: The difference is that if you suspect alcohol, you can demand the breath sample.

Cpl Evan Graham: That's right.

Mr. Joe Comartin: With regard to the court cases you mentioned, which were asked about earlier, were any of the cases that actually went to trial reported?

Cpl Evan Graham: To be honest, I'm not sure. I can check with some of the crowns who have dealt with them. B.C., in particular, would have an idea, but I can't say for sure.

Mr. Joe Comartin: Do you know how many cases have gone to trial in Canada?

Cpl Evan Graham: I know that over two dozen of the trained officers have been declared experts by the courts. Overall, and I'm guesstimating here, 150 or so would have gone to trial.

Mr. Joe Comartin: Could you make an inquiry and let the clerk of the committee know, one way or the other, if there have been any reported decisions? What I'm looking at, in particular, is whether we have any analysis from the judiciary on the DRE process, all stages.

With regard to the training, Corporal, I think there's been some criticism of its adequacy, and I think a newspaper article was critical of the training and I haven't been able to find it. I don't know if that was restricted to what we're doing in Canada or internationally. Have you seen any criticisms? Is there additional work we should be doing around training our officers?

● (0925)

Cpl Evan Graham: I don't think so. I believe the article you're talking about was out of Edmonton last November.

Part of the training is testing people who are under the influence of drugs, and after a course in Edmonton last November, we partnered with the Métis Child & Family Services Society in Edmonton, whereby they had volunteers who are drug users come in under the influence. They were told in advance that we obviously don't condone drug use, but if they're going to use it anyway and want to help us out, we'd be pleased to have their assistance, but also that if they came in with drugs on their person, they would be dealt with according to law.

A reporter picked up the story and didn't have all the facts and reported it, and as a result, we had an interesting day. But that story died off very quickly. We've been back at that same facility three or four times since then, and it hasn't been an issue

Mr. Joe Comartin: In the training program we've put our officers through, are there any proposals to change it, upgrade it, or anything like that, or is the same educational program being used right across the country now?

Cpl Evan Graham: This program is being used right across North America. It falls under the auspices of the International Association of Chiefs of Police. They have a drug recognition expert section which, in turn, has a technical advisory panel. The technical advisory panel is composed of police officers, members of the bar, toxicologists, physicians, and ophthalmologists.

So we have subject matter experts to make recommendations to change the program, and every two years the program undergoes some changes. So it's constantly being made better as new technologies or new evidence comes forward to warrant a change.

Mr. Joe Comartin: Those are all the questions, Mr. Chair. Thank you.

The Chair: Thank you, Mr. Comartin.

I have a question on the process. A police officer stops an individual, who gives every appearance he's impaired by alcohol. He's given the roadside test, which indicates he's got alcohol in his system, and he's brought to the station and he's put on the Intoxilyzer —

Cpl Evan Graham: Intoxilyzer or DataMaster, yes.

The Chair: —and he blows twice the limit. The officer feels the individual might have drugs in his system; can he carry it that next step?

Cpl Evan Graham: He could, but there's really no point in doing so. If we have the evidence for a charge under paragraph 253(b), being over 80 milligrams percent, then there's no need to go through the drug evaluation.

The Chair: So that same scenario, but a bag of weed is found in the car, and he gives the appearance of alcohol in his system, possibly in combination with the marijuana. Is it the same scenario?

Cpl Evan Graham: Yes, as long as the person's blood alcohol concentration is over the legal limit, we would go with the alcohol impaired driving charge.

The only way we wouldn't is if the blood alcohol level is either right at the 0.08 or 80 milligrams percent, and that's just because the courts have a hard time accepting 80 as the actual number for charging, or if the end issue was so grossly inconsistent with the blood alcohol concentration.

The Chair: So it's going to be a judgment call on the part of the officer to decide whether or not he wants to carry it further—or who, the DRE?

Cpl Evan Graham: Again, if it's over 0.08 they generally go straight to it. If it's close or borderline, then it would be either the officer—if he's had some training in drug impairment—or the DRE who would make that call, yes.

● (0930)

The Chair: Monsieur Petit.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Thank you.

Thank you for coming, Mr. Graham. I was able to consult a document that was sent to us and is entitled, “The Development of an Evaluation Framework for the Drug Recognition Expert Program”. That was presented to the Royal Canadian Mounted Police, and it was Douglas Beirness, who came and testified before us a few days ago, who presented it.

First, I'm very pleased because this document describes the steps for us. I am a lawyer, I previously worked on cases of this type, and I find this excellent. At least I understand. Even though I am on the government side, I was afraid that, at the roadside, because that's where most defences are developed... You remember that, in the case of the breathalyzer test, when the police officer had a suspicion, he arrested the individual. You know as well as I do that, in the case of certain tests, which are now called standardized sobriety tests, the Supreme Court held that, if the person arrested was not warned, the tests could not be used to incriminate him because it did not want him to incriminate himself. You know the rule that you cannot incriminate yourself.

The question I ask myself concerns the sobriety test. When you are at the roadside, there is a suspicion. A police officer asks the person to stop. The officer has to gather evidence gradually in order to continue the effort to take him to the police station. He doesn't know at that point whether it's alcohol or drugs. All he knows is that there is an indicator or a suspicion of impaired faculties. Naturally, it's easier in the case of alcohol, because the police officer has in his car a device called a Dragger into which he has the person breathe. If the device indicates *fail*, he takes the individual to the police station for more tests. Naturally, we know that, if that's what the police officer does, there won't be any problem because we know the sequence in the types of alcohol levels.

Mr. Ménard's question is very relevant. In the case of drugs, is the sobriety test administered at the roadside, like those I've previously known? The citizen is asked to get out of his car, the police officer stands behind him to see if he is staggering or if he smells alcohol directly, but the car's interior may smell of alcohol. After that, there are certain tests—Mr. Ménard said that—such as putting one's finger on one's nose, etc. Is that in fact what you prefer so that your suspicions gradually give you the opportunity to move toward the 12 steps? That's at the roadside. You must understand that, in Quebec, like everywhere else in Canada, it's not easy to conduct the roadside walking test at -30 degrees Celsius in the winter. You're beside Highway 20, you're having trouble, the roads are not completely straight. A good lawyer could overturn your case right away. The point is to clearly understand whether that's what you mean when you talk about standardized tests. Are you talking about those that I am familiar with—perhaps there are others—that you conduct for alcohol when you don't have a Dragger in your car? You say: “Walk, heel to toe, etc.” Is that what you're talking about when you refer to roadside tests?

[*English*]

Cpl Evan Graham: Yes, it is. The tests are done roadside to elevate suspicion to reasonable and probable grounds.

As far as the Supreme Court ruling on whether or not it's incriminatory is concerned, if we're using it just to elevate the suspicion to grounds for a breath demand, we're not required to provide the charter warning. If we're trying to equate what we're seeing with a level of impairment, then the person has to be given the right to counsel, because it become incriminatory or self-incriminatory.

Weather-wise, it's certainly an issue in Canada, because of our climate. But of the studies done in the United States, one was done in Colorado year round. So they ran into exactly the same problems we'd run into here with snow, uneven road surfaces and inclement weather. And despite the poor weather conditions on some nights, the tests were still validated; they still showed that they worked.

And again, we're talking about elevating suspicion to reasonable and probable grounds for a breath demand. If the person comes back and either blows under the legal limit or there's no alcohol involved at all, then the person would be released.

● (0935)

[*Translation*]

Mr. Daniel Petit: Thank you.

[*English*]

The Chair: Thank you.

Madam Jennings.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Thank you very much for your presentation. I think it's quite clear.

I want to go back to something. You've explained the road sobriety test; you've explained the DRE. What I would like to know is, clearly, if an officer sees a car in motion, and it's weaving or it's gone through a stoplight or it hasn't made a complete stop when turning a corner, then that could raise suspicions that possibly the driver is impaired. However, there are many occasions where the driver is actually stopped for a completely different reason—for example, the licence plate has not been renewed, a tail light is broken—what most people would consider to be a minor infraction.

At that point, the police officer has no reason to believe that the individual who's behind the wheel is impaired; however, things could happen while the officer is conducting his normal police routine, which is getting the licence, the driver's permit, the car registration, in order to fill out the ticket, and at some point he may become suspicious that the driver is impaired.

Unless we're talking about the individual being stopped because of the actual way in which the car is being driven or because a call has come in saying, “I saw a car weaving”, or whatever, if the car has been stopped for nothing to do with impairment, on what basis would a police officer be legally permitted to ask the driver to step out of the car and to submit that driver to the road sobriety test, first, under alcohol, and second, under the case of suspicion of drug impairment or some form of impairment?

Cpl Evan Graham: The Supreme Court of Canada has ruled that although arbitrary stops are a violation, the police have the authority to stop a vehicle to check vehicle fitness and driver fitness at any time. That really falls under the scenario you're giving, that we've stopped a person because of a licence plate you can't read, or it's just a simple road check where we're running vehicles through, but by the time the person gets to you, they may have been twelfth to thirteenth in line, and we'd have no driving evidence.

If we have some kind of suspicion that the person may have consumed alcohol—and that actually goes back to another Supreme Court ruling. During the road check the common stuff we do is pull somebody over, and when they come up to you, ask them, “Have you been consuming alcohol tonight?” If they admit to consuming alcohol, we ask them a few more questions, and if during that conversation we feel that a person should be checked to see if they're fit to drive, we have that authority to do so.

Again, it's on a voluntary basis currently.

Hon. Marlene Jennings: Yes, but my question is not when you're doing a systematic roadside check operation. We see that a lot, like before the Christmas holidays. I'm talking about when the SQ or the QPP are patrolling highway 40—that's normal—and they see a car with a broken tail light. Correctly and legally, they intercept the car and ask for the driver's permit and registration for the car in order to issue a citation, a warning, whatever, and at some point they decide to conduct a roadside sobriety test.

What would give rise to sufficient suspicion on the part of the officer to legally permit him to do that?

Cpl Evan Graham: It could be something as simple as the odour of alcohol on the person's breath or coming from the vehicle, empty containers.

Hon. Marlene Jennings: Let's say there's no alcohol.

● (0940)

Cpl Evan Graham: Ultimately, it falls back on the officer being able to articulate in court why he took whatever action he took.

Hon. Marlene Jennings: I don't want to be facetious, but you seem to have difficulty articulating specific characteristics or behaviour that would raise suspicion in the mind of an officer, who one would assume is properly trained, that the driver is impaired when there is no evidence of alcohol.

Cpl Evan Graham: We could look at the person's eyes. Are they watery or bloodshot? Is the white of the eye pink? Is it bloodshot? Are the pupils dilated in bright sunshine? Are they constricted in darkness? Is the person fumbling with his documents? What is his speech like? Is the person answering questions in what we consider to be proper fashion?

There are a thousand different scenarios. We look at everything when we stop a vehicle. We check for, obviously, safety as one of them, but we also check to see if the driver is fit. Based on whatever indications you have, if you can tie it together and come to the conclusion that the person may not be fit to drive, that's when you would ask him to participate in a sobriety test.

The Chair: Thank you, Madam Jennings.

Madam Freeman.

[*Translation*]

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): The training to become a DRE, a drug recognition expert, is said to involve a number of steps, that is conducting 12 evaluations and taking eight exams and two practical tests. Exactly what does that training consist of? To be able to observe and assess the pupils, you nevertheless have to have scientific training. Who gives that training?

[*English*]

Cpl Evan Graham: The training was done by police officers who have been trained as trainers.

The first phase of the training is the standardized field sobriety test. During that time, the officers learn about the effects of alcohol and about how to administer and interpret the test. Then they participate in two alcohol correlation workshops. We bring in people and give them alcohol to the point that they are impaired. We then have the students test them under the supervision of an instructor to see if in fact the students are picking up the correct clues and are able to interpret those clues and put them at a blood alcohol concentration of over 80 milligrams percent.

When that course is complete, ideally we want them to go out into the field and utilize those skills to hone them, to get better at them.

Then they come back for the drug recognition expert training program. That consists of two weeks of classroom time. There are another two workshops during which they do more testing. During the second group of workshops, they check pulse and blood pressure as well as do the divided attention test. When that's all complete, they go out and actually test people who are under the influence of drugs.

Mrs. Carole Freeman: Who's giving the test?

Cpl Evan Graham: Again, all the tests are administered by the police.

[*Translation*]

Mrs. Carole Freeman: Who gives the training?

[*English*]

Cpl Evan Graham: The training is being done by trained police officers. This program was basically designed by the police. With a standardized lesson plan, specific instructors go and do the training.

[*Translation*]

Mrs. Carole Freeman: If I understand correctly, you're saying that police officers give DRE training. They teach how to take the pulse, blood pressure, and so on.

[*English*]

Cpl Evan Graham: Yes, they do.

[*Translation*]

Mrs. Carole Freeman: It's police officers who give DRE training. They teach how to observe and assess the pupils and everything.

[*English*]

Cpl Evan Graham: That is correct. The lesson plan for that has been developed in conjunction with medical practitioners to ensure that the things we're looking for are well within the capabilities of the police officer. That is to say, for pupil size, we use a card called a pupillometer. It has dots on it in half-millimetre increments. You simply put the card beside the person's eye until you line up the pupil size to match the dot on the card. That gives you the size of the pupil.

[*Translation*]

Mrs. Carole Freeman: Earlier you said that DRE training came from the United States. I'm trying to understand. You say that police officers give the training, but it must come from somewhere. It must have a scientific basis. Police officers didn't create the tests. Surely there are people from a number of disciplines who contributed to that, whether it be doctors, ophthalmologists or chemists. A lot of scientists must have contributed to that.

You're not answering my question when you say that police officers will train the DREs. It's the training as such that I need to understand, the training that you give in order to become a DRE.

● (0945)

[*English*]

Cpl Evan Graham: The program originated in California in the late seventies, where two traffic officers from the Los Angeles Police Department were encountering more and more drivers who were impaired by substances other than alcohol. They spoke with some of their colleagues in their drug branch who had contacts in the medical community, and they developed a very rudimentary process. That process was initially studied at Johns Hopkins University in Baltimore and evolved over the years to the program we're using now.

The whole program falls back under the technical advisory panel, where we have medical doctors, ophthalmologists, toxicologists, lawyers, and police officers to put the program in such a fashion that trained DREs who've taken specific training to deliver the program as instructors can go out to train other police officers.

The Chair: Thank you, Madam Freeman. Thank you, Corporal Graham.

Mr. Thompson.

Mr. Myron Thompson (Wild Rose, CPC): Thanks for being here.

I have an age-old problem in regard to all of this thing. I'll give you a true story, and I'd like you to respond to how it's different now and how Bill C-32 would make a difference to this particular scenario.

Caroline Bergeson was sitting on a two-lane highway, signalling to turn left. She had her signal lights on; unfortunately, she also had her wheels turned to go left. She was rear-ended by another vehicle, which knocked her in front of a gravel truck, which...I don't have to tell you the outcome of that collision.

The volunteer fire department, which is in a small rural community where this happened, was on the scene, waiting for the ambulances to appear. The driver of the second vehicle that hit Caroline was slightly injured, and they, the volunteer fire department rescue truck, drove him into the closest hospital.

A couple or three days later, the parents of Caroline were informed that after testing and checking of the body, there was no impairment whatsoever, no drugs, no alcohol in Caroline, so that would give them some peace of mind that she didn't have them. That wasn't a problem in terms of what had happened. The parents asked, “What about the driver of the second vehicle?” Testing was never done.

Today, would testing be automatic? Would testing be required of the second driver?

Cpl Evan Graham: No. This legislation would require that there be some indicators to show that the person may be impaired in order to follow through with an evaluation. Unfortunately, we don't have mandatory testing for persons involved in crashes, so without that component—Unless, again, there was something that would indicate the driver was impaired, they probably wouldn't have been tested.

Mr. Myron Thompson: He probably wouldn't have been tested, yet today, five or six years later—I can't recall exactly—the Berguson family is still wondering if the guy who ran into their daughter and killed her was under the influence of a drug or alcohol. They'll never know.

This individual had the right to be protected from being examined for that purpose. Why?

● (0950)

Cpl Evan Graham: Well, I can't say he had the right to be protected from it. Again, it would be up to the investigating officer to ascertain if in fact there are some indicators a person may be impaired. If that were the case, then an investigation would commence to see if in fact the person was impaired.

Oftentimes, especially in the case of a crash where the driver is injured, we can go back to the hospital records to check the samples that they took and in fact get a warrant to get them tested for alcohol or drugs. With the legislation in Canada, we still have to have some grounds to demand that or to follow through to investigation.

Mr. Myron Thompson: So in that particular scenario, evidently they're saying they had no grounds, yet the volunteer firemen who were first on the scene have repeated to me constantly that in their way of thinking there was every reason in the world why this guy could have been under the influence of some kind of a drug. The police were—

Cpl Evan Graham: That in itself would be a possibility.

Mr. Myron Thompson: —a little later getting there than that, but they rushed this guy off to the hospital. Although his injuries were not fatal, he was injured, and they wanted to get him to the hospital.

In my office I have a number of people who have responded to me about their fear of Bill C-32 being so intrusive on the rights of individuals. Do you feel this bill is intrusive?

Cpl Evan Graham: No, I don't. I think Bill C-32 will make the roads safer for the vast majority of people.

If it goes to court, will it be deemed to be a violation of their rights? Probably, but one that I hope would be acceptable, just the same as a breath test is. Because really all we're doing with the drug evaluation is paralleling the evidence that we gain through a breath test, the difference being that instead of using an instrument to obtain a breath sample for the blood alcohol concentration, we're using a trained police officer to gain the evidence of drug impairment.

Mr. Myron Thompson: I agree with that scenario, but my biggest fear is the cry from that group of individuals who always seem to make a very loud noise about the rights of the second driver—for example, in my scenario—versus the rights of the deceased. I'm really concerned about that whole scenario, and I want a bill that would strongly indicate that it's essential that these tests take place whenever there's the slightest reason to believe they should be.

Ms. Marthe Dalpé-Scott: On this question of yours, sir, perhaps I may add something about this fear that somebody in the public could be wrongly accused of anything. As a professional forensic toxicologist for 23 years, I can assure you that.... Mr. Ménard started this line of questioning, and we never got to finish the third step, which was the lab.

If a person had smoked marijuana, but the police officer DRE did not suspect that category being marijuana, or cannabis, the lab, if they happen to find residual marijuana metabolites—breakdown products in the urine—cannot support anything just by the sheer findings. What I am saying is that the observation of impairment, the symptomatology, the clinical symptoms, and the corroboration in the lab by very highly specialized instruments all have to fall in line. So it is not every incidental finding of a pharmaceutical preparation or an illicit preparation; it has to be consistent completely with the physical symptomatology that was observed by the DRE.

There was a concern, Mr. Ménard, and I just want to assure you that it's not because we can find everything under the sky that is a cause for impairment. The lab is only corroborating what is observation. It may not be as strong as what you're wishing for, sir, but I can tell you that we don't go beyond simply supporting or refuting the findings put to us at the lab.

The Chair: Thank you, and thank you, Mr. Thompson.

I have one question on RCMP policy, and I thought this was generally a point across all police agencies in the country. Are there not strong policies or requirements in place that wherever there's a fatality tests are taken right around?

● (0955)

Cpl Evan Graham: No, there is not, actually. The coroners will do testing of persons who are deceased. We look at any fatality or serious crash to try to get as much evidence as we can to see if in fact there is some impairment or what the cause of the crash is, as we would with any investigation. But to say that there's a policy that we can actually test people—we still have to fall under the Criminal Code, and in order for us to go forward with an impairment investigation, there have to be some indicators that the person may be impaired. And that may be something as simple as having a paramedic say they smell liquor on the person's breath or that when they were putting them in a gurney they found illicit drugs on them. If we can tie any indicia into that to corroborate it, that enhances our investigation and we can go forward, but if there's nothing, unfortunately our hands are tied.

The Chair: In an ideal world, how long would it take, after a police officer brought a suspect before the DRE, to have all those tests done?

Cpl Evan Graham: The tests should take no more than 30 minutes. It may be up to 45 minutes, depending on the physical condition of the person, but it's not an overly long process. We can go from start to finish in a little over half an hour.

The Chair: In a rural area you might stop a driver; it might take half an hour to drive to a station, with the anticipation that the DRE is going to be free, and you have to have all this done within a two-hour period.

Cpl Evan Graham: No. The demand will have to be made within a set period of time; the actual evaluation will be like a breath evaluation. We've got two hours to get it done. There are more factors than that, even for delays. Obviously right to counsel is what we find to be the biggest problem hindering investigations, or holding them up.

Availability of somebody to do the evaluation is probably going to be the biggest impediment we have. Capacity right now is an issue. Since we're still a relatively young program, we're going to be facing that for a couple of years, but eventually we should be in a position for it not to be as major an issue.

The Chair: Thank you.

Mr. Dykstra is next.

Mr. Rick Dykstra (St. Catharines, CPC): I wouldn't mind getting your opinion on one of the points that we're trying to come to a conclusion on; it's the whole issue around the drug impairment and the ability to define at a certain point in the beginning of the process if there is a concern around whether the individual is impaired to the point that they shouldn't be driving a vehicle. From an experience perspective, you mentioned earlier that there certainly have been times when officers have definitely felt that and have gone through the process based on that suspicion.

How does that process work in terms of, in the past, being able to say we get 60% or 70% of the...? You have determined and confirm that the individual definitely had an amount of drug in their system that did definitely impair their ability to drive. Were they actually then convicted?

Cpl Evan Graham: Of all cases going to court using the DRE protocol, in only two that I'm aware of have we not registered a conviction. In both cases it was not issues related to the evaluation that caused the case to be lost, but charter arguments. That said, we've been judicious about which cases go to court. We know they're going to be fairly solid, because we don't want that case lost. But overall we've had very good success in court.

Mr. Rick Dykstra: Would Bill C-32 give you the tools you need to be able to take that side of this issue to the next level, in terms of being able to feel more comfortable and also to feel you have the tools within a piece of legislation that allow you to proceed on a more regular basis with individuals you believe are impaired based on their intake of a drug?

Cpl Evan Graham: Very much so.

We currently are running into a problem, particularly in British Columbia, because we've had the program there for so long. The person speaks to a lawyer, gets off the phone, and says, “I'm not doing this.” Basically B.C. is fortunate in that they've got a 24-hour prohibition for suspected drug usage, but they walk. They can be grossly impaired, but if we can't prove what the impairment is, our position for laying a charge is very difficult.

This legislation would make the police job a whole lot easier with drug-impaired drivers. Quite frankly, I sit on this technical advisory panel of the IACP, and if this legislation passes, we'll be the envy of every agency involved in this program, which is basically every state.

● (1000)

Mr. Rick Dykstra: Thank you very much.

The Chair: Thank you, Mr. Dykstra.

Mr. Moore is next.

Mr. Rob Moore (Fundy Royal, CPC): That's fine, thanks, Mr. Chair.

The Chair: Mr. Bagnell, go ahead.

Hon. Larry Bagnell: Thank you.

Following up on Mr. Thompson's question, wouldn't the fact that the guy ran into the car in front of him be enough evidence to suggest that there might have been a problem?

Cpl Evan Graham: That's not necessarily so. He could have had mechanical failure, or it could have been driver inattention—talking on a cell phone, daydreaming, falling asleep. You don't know.

To parallel it in court, when I was doing impaired drivers on a very regular basis and mentioned watery bloodshot eyes, the first thing that came out of the defence was a question about how smoke could cause watery bloodshot eyes, or how being tired could cause watery bloodshot eyes, or how allergies could cause watery bloodshot eyes. The answer is that certainly a whole lot of things can cause watery bloodshot eyes; by itself it's just a clue, but if you tie it with everything else, then it becomes a building block that allows us to go forward with a charge.

Hon. Larry Bagnell: The bar association suggested that what should be added to the process is mandatory filming. Do either of you have any comment on that?

Cpl Evan Graham: I think it would be a nightmare. We have videos that we use for training, and the problem we have with those is that we're talking about a two-dimensional view. For example, with the walk and turn, if the camera is behind the subject, you can't see if the person actually touches their heel to toe. If you put the camera so you can see the heel to toe, you can't see if they are looking at their feet, what their arms are doing. You have to have a cameraman following the subject, and multiple angles, in order to capture everything that we're gathering during the evaluation. At roadside, I've worked with the in-car cameras in the past, and they don't pick up very much because of the angle they're placed at. In a police station, there are so many things you're not going to see. You'd actually miss more than you'd capture. Then you run into the keeping of the videos, where the video is edited, because of course they'll be digital now with the technology. Many police departments simply could not afford to go with that technology.

In theory, it's a nice idea, but overall, the reality is very impractical and I don't think we'd gain anything. In fact, I believe we would have far more questions from trying to watch a video than we would have answered by seeing that same video.

Hon. Larry Bagnell: On the DRE, you pointed out that all people aren't the same. I imagine an elderly person may have a hard time—I'm not sure if I would—standing on one foot for 30 seconds, or walking heel to toe in a straight line. Is that taken into account in these types of tests?

Cpl Evan Graham: It is. During the validation studies for alcohol, the parameters were age 65 and more than 50 pounds overweight. That was simply because they didn't have anybody over age 65 and nobody who was more than 50 pounds overweight participating in the validation studies.

With the alcohol workshops that we have done over the years, we've had people who are far older than 65. We've had people who are much heavier than 50 pounds overweight. The tests still work. There will be individuals who can't do them, even though they would fall under what would be the normal parameters, where they're fit, but for whatever reason they can't stand on one leg. When you look at these as being used to elevate suspicion to reasonable and probable grounds, the fact that somebody can't do one test is not a big issue. Overall, the general population can do them. But the mere fact that some individuals may not be able to simply means we'd have to do something else if we believe the person is impaired.

Hon. Larry Bagnell: Thank you.

The Chair: Thank you, Mr. Bagnell.

Mr. Petit.

[*Translation*]

Mr. Daniel Petit: Mr. Graham, my question is for you and perhaps Ms. Scott as well.

Earlier we talked about the costs that you perhaps had not evaluated.

With regard to blood alcohol levels, you know as well as I do that, when the qualified technician is at the police station, he completes a form. He prepares two columns. He enters the blood alcohol level and all the steps he has taken to show that the breathalyzer is accurate and may be filed in evidence in court.

At first, we lawyers saw a problem in this, that is to say that we brought in the qualified technician to testify. But we subsequently realized that that cost the government a lot of money and immobilized all, or nearly all the police stations. There are places where there were perhaps 20 blood alcohol cases, but it wasn't necessarily the same police department that was involved. Subpoenas were issued in order to question the qualified technicians, and that paralyzed the entire police system. It started to cost a lot of money, and I'm not kidding.

The problem was solved when permission was given to file the qualified technician's certificate. So we received the evidence beforehand, and, if we didn't agree, we informed the court or the Crown prosecutor that we intended to challenge the certificate. In that case, the technician came to court to explain that everything had gone well.

Will all the steps the DREs take be compiled in a kind of log that we can file in court? Don't forget that there are 12 steps. Imagine, 12 steps! As a lawyer, I can subpoena you on each of the 12 steps to say that it wasn't properly conducted, that you made errors and so on.

Did you examine that? You said you had had an experience like that in British Columbia. Will the technicians, the DREs be called as witnesses more often? Will they be able to file a report that will be accepted by the court? It should not be forgotten that this is a matter of evidence. If everything is well done, if we can't have the evidence accepted, it won't work.

In your experience in British Columbia, did you look into that?

● (1005)

[*English*]

Cpl Evan Graham: Yes, the evaluation report that the DRE completes is standardized right across the country. Every step of the evaluation is documented on a phase sheet, right down to the sobriety test, where the scoring is done right there. That document is included with a disclosure package.

Currently the DRE is going to court, just the same as they would if you were charging somebody for alcohol-impaired driving without a breath test, because really that's what we're talking about—just straight impaired driving.

I would expect that as the program evolves and becomes more accepted by the courts in Canada, the phase sheet will probably suffice without having to call the DRE in, unless there are circumstances that would warrant their being called. That is the case in many U.S. jurisdictions, including California and Arizona, where they have very large numbers of DREs.

But initially, for the first year or two, we're going to have the DREs in court a lot just because they have to educate the court as to the process.

[*Translation*]

Mme Marthe Dalpé-Scott: I'd like to give the laboratories' point of view, Mr. Petit. We can take the example of the services of our DNA labs. When this started, everyone went to court. Twenty-two employees received subpoenas to testify in court. Obviously, our labs were empty. However, after that experience of several years, the courts made sure that the scientific reports were standardized. We're part of a system of labs accredited in accordance with Canadian standards.

We told DRE system police officers that we would probably be called as witnesses as well. In our case, our staff is already prepared. We frequently testify in all impaired driving investigations of all kinds and in other criminal investigations. At first, our task will be to assure the courts that the process is standardized and that the reports are standard across the country and available in both official languages without any difficulty.

I amthe manager of the RCMP's toxicological services program, and I can assure you that that's being done.

Mr. Daniel Petit: You reassure me about costs. The first breathalyzer tests conducted by qualified technicians cost the government a fortune, at least in Quebec. They paraded these technicians into court, which lost a lot of money, but that was part of my former life.

Mr. Graham, you raised a point that intrigues me and that I want to clarify. In Quebec, under section 125 of the Highway Code, if an individual runs a red light, we have the right to arrest him, then proceed with the test. A person may refuse to submit to it. In the case of the breathalyzer test, we know roughly at what point we can control a refusal. If the police officer orders the person to submit to it and that person refuses, he will be charged under another section of the Criminal Code, with refusing to submit to a blood alcohol test.

You described the 12 steps of the DRE program in detail, and I find that fantastic because I understood absolutely none of it, even as a lawyer. Now I understand the process very well and I find it excellent. However, in the case of refusals, at the very start of your document, as in the case of blood alcohol levels, a person arrives at the police station and has another opportunity to refuse because, very often, the police officer has warned him, but he may refuse again. In the course of operations, let's say that you have already done three and nine remain to be done. Is there another possibility of a refusal? At one point, the citizen could decide to stop there. Would you have a right to summon him? In your opinion, is there a possibility that the accused can refuse within the unfolding of the 12 steps?

I know it's possible at the outset. We draw an analogy with blood alcohol levels, but does this possibility exist in the case of the DRE? As you said, the accused winds up in a dark room so that it can be checked whether his pupils are dilated. They want to conduct all sorts of tests. If the accused refuses to be touched, at that point, do you have the opportunity to file an application and tell him that, if he refuses, you will prosecute him for something else, that is to say for his refusal? If there is a refusal at step 6, you can never get to court with that. Do you think the text of the act provides for this possibility?

● (1010)

[*English*]

Cpl Evan Graham: It is. Again, it's the same as for alcohol-impaired. The person may provide a breath sample with alcohol and then after the first sample say they're not going to do another one, at which point they'd be charged with refusal. With the drug evaluation, at any point that the subject decides they no longer want to participate, we would terminate and explain that the penalties for refusing are the same as for carrying through. But if they don't want to do it, that's fine; they'd be charged with refusing.

The Chair: Thank you.

Cpl Evan Graham: Again, the parallel between the two, alcohol and drug impairment, is that investigations will be almost identical.

The Chair: Thank you, Corporal Graham.

Thank you, Mr. Petit.

Monsieur Ménard.

[*Translation*]

Mr. Réal Ménard: I have a request and a question. I don't know whether the government still intends to call a vote on the bill next week, but would it be possible, in the next few days, for our research service to have us read what the Supreme Court has said about alcohol and drugs? Without appending all the judgments, they could prepare a brief summary of the judgments by the Supreme Court and other appeal courts. That kind of document would be useful.

I have a question for Mr. Graham or Ms. Dalpé-Scott. There will be a training process, and there will be available budgets—we hope so, and I am sure you hope so even more intensely than I do. How is the territorial availability of the drug recognition experts established? Are there any in Quebec, or are there any in the Royal Canadian Mounted Police? This second step is more complex.

You've referred to 30 minutes. I understand that this may be a little longer for persons who are a little older or have reduced mobility. However, to what extent will staff be present to administer these DRE tests?

[*English*]

Cpl Evan Graham: The DREs trained in Canada are not just RCMP. Our current funding is through Canada's drug strategy. When we began, Treasury Board actually was looking at just training the RCMP, but we took the stance that it's a policing problem, not just an RCMP problem, so the courses have been opened up to police officers from all provinces and all agencies.

We currently have actually more non-RCMP DREs than we do those who are in the RCMP, despite the fact that the money is actually being allocated to the RCMP. We're spending it for all police agencies.

Quebec, as I said on May 30, currently has one DRE, and that's because the people who have taken the training haven't followed through. And currently the provincial government has taken the stance that until the legislation is in place, the police agencies are not to participate in this program.

● (1015)

[*Translation*]

Mr. Réal Ménard: Thank you. That reassures me. So it would be possible to increase staff in Quebec.

Note that this isn't the aspect that concerns me the most, but one of the controversial aspects of this bill is the “two-beer defence”. We have heard submissions on the subject, because we are removing a ground of defence.

What can you tell us about the reliability of these tests? The fact that they are standardized and that written documents can be filed in court is one thing. How do you assess their reliability in one case as in another?

Ms. Marthe Dalpé-Scott: You're talking about the tests—

Mr. Réal Ménard: I'm talking about the sobriety and DRE tests.

Ms. Marthe Dalpé-Scott: That's obviously related once again to what Corporal Graham said in his testimony. It's already based on a very well tested system and on a number of court experiences in the United States. If, on the police side, these tests are well established and everything is well done, I can assure you that, on the laboratory side, it's not a problem either, since they're already conducting analyses in the case, for example, of victims—

Mr. Réal Ménard: The standardized sobriety tests don't go to the lab. Is that correct?

Ms. Marthe Dalpé-Scott: No, they don't go to the lab.

Mr. Réal Ménard: The police officer's acuity at mastery and the efficacy of the neurological tests—as they say in medicine—all that means that detecting these indicators is really centred on the human character of the assessment of the test. That's what troubles me. I'm not questioning the police officers' competence. This morning we heard testimony to the effect that a number of lawyers were capable of being very procedural in a former life, still at $250 an hour, corporate rate, Mr. Petit.

That said, I'm not questioning the police officers' competence, but this disturbs me to the extent that we are taking a defence away from citizens. We are relying to a great extent on the fallible or human character of the first test, but not for the second, I understand. That's what troubles me.

[*English*]

Cpl Evan Graham: Each one of the tests in the standardized field sobriety test—the three-test battery—has specific validated clues. So it's not a matter of my saying, I want you to do this test and I'm going to use my criteria. The criteria are set out. For example, a walk and turn test has eight validated clues. If you show two or more, then the validation studies have shown that the probability of your blood alcohol concentration being over 80 milligrams is 72%. Then there's the other 28%; but based on the fact that we're talking about suspicion to reasonable grounds, we would go to the breath demand.

[*Translation*]

Mr. Réal Ménard: You made an interesting extra-judicial admission. You referred to 72% of cases. So the test could be fallible in 28% of cases.

[*English*]

Cpl Evan Graham: True.

However, that's just to get you to an evidentiary instrument, and that evidentiary instrument will either confirm or disprove the fact that a person is actually over 80 milligrams percent. We're not looking at 100%, because that's impossible. The sobriety tests are just there to get you suspicious to read a breath demand. You would not be able to charge somebody based strictly on the sobriety test, because there's not enough evidence there—unless you've charted the person. Then you have something else.

The Chair: Thank you, Mr. Ménard.

Mr. Thompson.

Mr. Myron Thompson: As a final comment, I just want your opinion, going back to the situation I was talking about.

In the case of an accident and a fatality, I heard you say that the coroner's report would be thorough in regards to reporting the possibility of drugs or any foreign substances in the deceased.

Should that not be a mandatory requirement of the other individual, if they survive? Should it not just be automatic that if there's a fatality or a major crash, all drivers would immediately be required to go for testing, without any idea from the policeman on the site determining if there is a reason, or whatever? Just do it.

● (1020)

Cpl Evan Graham: There are jurisdictions with legislation similar to that. It's an implied consent law, that by virtue of holding a driver's licence for, say, the province of Ontario, I have consented to providing a sample, whether it's blood, urine, breath or oral fluid.

But we don't have that in Canada. In an ideal world, it would be very nice to have, but—

Mr. Myron Thompson: Why can't Canada be part of an ideal world? Let's do it.

Cpl Evan Graham: I can't answer that.

Some hon. members: Oh, oh!

Mr. Myron Thompson: Okay.

The Chair: Ms. Dalpé-Scott.

Ms. Marthe Dalpé-Scott: I just wanted to add, Mr. Thompson, that you're preaching to the converted right now—

Mr. Myron Thompson: I realize that, but—

Ms. Marthe Dalpé-Scott: —and I am not the person who can bring that about. We just belong to a scientific organization, either as a peace officer or as a scientist, to support the Department of Justice of Canada in their endeavours. So you really are preaching to the converted.

Mr. Myron Thompson: Well, I realize that, but you are human beings and you have thoughts, and I think your thoughts are every bit as important as anybody else's on this panel.

The Chair: Thank you very much, Mr. Thompson, for your philosophical questions. I think they're important too in the big scheme of things.

Mr. Myron Thompson: On a point of order, that's not philosophical; that's common sense.

The Chair: Yes, well, it's still philosophical.

Madam Jennings.

Hon. Marlene Jennings: I'd just like a clarification.

In response to Mr. Ménard's question about the reliability or accuracy of the standardized road sobriety test, you said that in cases where the officer suspected impairment from alcohol and conducted the road sobriety test, subsequent examination showed in 72% of those cases that the driver was in fact impaired by alcohol consumption.

Cpl Evan Graham: That's based on one test: the walk and turn. When you combine the tests, the percentages go up. So with the entire test battery, if they show clues in all three, the probability is up at about the 84% mark.

Hon. Marlene Jennings: What is the accuracy or reliability when the officer suspects impairment due to drug consumption?

Cpl Evan Graham: With the total drug evaluation—

Hon. Marlene Jennings: No, I want each one. The officer suspects an impairment, uses his legal authority to ask the driver to step out of the car and to undergo the roadside sobriety test. What is the accuracy in that case?

Cpl Evan Graham: There have been no studies to correlate the sobriety test roadside to an overall percentage of people who are actually failing the drug evaluation afterwards, because we don't have a presumptive level, as we do for alcohol. We have to go through the whole evaluation, at which point we're 98.6% accurate with the drug evaluation in Canada. So I guess you'd basically look at 1.4% as those who have been brought in and passed.

Hon. Marlene Jennings: Okay. I'm not a scientist. If an officer stops 200 people for a variety of reasons, in 100 of them he suspects impairment; and in 50 of those 100 he suspects alcohol or alcohol and drug impairment, and in the other 50 he suspects drug impairment. He then asks those 100 drivers to undergo the roadside sobriety test.

What you explained to Mr. Ménard was that in the 50 in which he suspected alcohol alone or alcohol and drug impairment, the roadside sobriety test confirmed an impairment in 72% of the cases, meaning that at that level—just at that level—the officer was right in 72% of the cases. He then goes on to do the breathalyzer, etc., and the percentages, from what you have said, go up.

In the case of suspicion of drug impairment, with 50 drivers, the officer conducts the roadside sobriety test. Do you have any studies about what percentage the officer then goes on to require be further tested, through the DRE? Is it 25 out of the 50? Is it 45 out of the 50? Is it 10? Has any study been done on that?

● (1025)

Cpl Evan Graham: There have been no studies. Based on anecdotal evidence and my own evidence from dealing with drivers, I would suggest you're talking about 85% to 90% of the people who do sobriety tests, whether it's for alcohol or drugs, going back to the police station for further investigation.

The numbers of people who do sobriety tests and totally pass them are very slim, because you've got something there to start with to get them to come out and do the tests. We're not just stopping people and randomly saying, “I want you to do these tests.” There has to be something there to start with.

Hon. Marlene Jennings: Well, not quite, because my first question to you was about an officer in the normal course of his duties seeing a car, having no reason to believe that the driver is impaired, but having a legal reason—enforcement of the provincial highway safety code, for instance, if the tail light is off—to stop the driver and ask him, “Did you know your tail light is off? I'm going to give you a 48-hour warning to go and get it fixed”, for instance. Or, “Your muffler has partially detached”. It's in the course of doing this that the officer gains some suspicion that possibly this is a driver who is impaired. And then all of the other steps follow.

Cpl Evan Graham: Right, and for us it's the totality of the driving evidence or lack thereof and the face-to-face contact with the person. Then at that point we combine those two, and we may ask the person to step out. We don't look at them in isolation.

Hon. Marlene Jennings: Okay. Thank you.

I don't have any other questions. I'd just like to add to the instructions to our researchers, so I can do that afterwards, if you wish.

The Chair: What might that be, Madam Jennings?

Hon. Marlene Jennings: Mr. Ménard asked for further information from our researchers, and I just wanted to add to that.

The Chair: Okay. It's been noted.

Hon. Marlene Jennings: So can I give the instructions that I'd like to add right now, or do you wish me to wait until we're at the business of the committee?

The Chair: What would you like to add?

Hon. Marlene Jennings: When you're looking at the case studies on impairment, can you please determine whether or not the courts have determined the criteria that can reasonably raise suspicion of impairment in the officer's mind when we're not talking about alcohol impairment?

The Chair: Mr. Moore.

Mr. Rob Moore: Thank you, Mr. Chair.

I appreciate both of you for being here.

Normally we have a larger panel of witnesses and longer speeches. You've endured, I would guess, five times more questions than a witness would normally have. We appreciate your expertise and your being here to clarify the law and some of the practical aspects, as well as the steps. I think you've helped to address what some may have had concern about with the safeguards in the number of checks and balances that have developed in this system and that we're putting in on the drug-impaired driving side with this bill.

In a recent year there were 1,257 fatalities from impaired driving and 47,000 injuries involving 245,000 vehicles, at a cost estimated at $11 billion, not to mention the emotional cost to families and so on in these accidents. When people talk about the cost, it's important to measure the societal cost if we didn't take action.

This has been a theme in a number of our initiatives. There's always going to be litigation—we know that with a certainty—on these things. There are always going to be challenges. There are always going to be costs, whether it's costs in the courtroom, to the police, or in some cases, costs of incarceration. But we have to look at the cost, too, of not taking action when it comes to people's lives, when it comes to property damage, and when it comes to having safe streets and a safe community.

To summarize, we've gone into a lot of the technical aspects of this. We've had alcohol-impaired driving for years. We know that drug-impaired driving is becoming an increasing problem. We're trying to address that.

Could you explain the challenges that police are facing right now in getting drug-impaired drivers off the streets, and how this bill will help to address that?

● (1030)

Cpl Evan Graham: The legislation prohibiting driving while under the influence of drugs has been in place since the 1920s. The problem is that there has been no mechanism in place to detect it, short of a body fluid sample that we could only get as the result of a crash. With this legislation and the ability to demand that a person undergo an evaluation to ascertain if in fact they are impaired by drugs, quite frankly that's the best of both worlds.

The technology is not there yet. This program is not perfect. It's constantly under revision to ensure that it's the best we can have. Right now it is the best that's out there. But if we get this legislation, we are going to be light-years ahead of any other jurisdiction in North America.

Even though jurisdictions outside of Canada—those being the U.K. and Australia—have drug testing as part of their motor vehicle acts, we'll be ahead of them as well. They can test for specific drugs. In the case of the U.K., they can go through a doctor, who uses his own criteria to determine impairment. He has no formal training in what he's looking for other than to say the person is not well and maybe it's because of drugs.

This is the only program that ties in impairment, drug categories, and driving. If we get this, we're going to be the envy of the world.

Ms. Marthe Dalpé-Scott: All that I want to add to Evan's conclusion is that on the laboratory challenge that they would have liked a roadside device for drugs, the reason we do not want the scientists to support launching any cheap old unreliable piece of instrumentation is that you'll end up with as many false positives as false negatives. That's our honest belief at the moment.

Furthermore, it would be restricted to oral fluids, because that's all you could ask a person at the roadside to give. The problem is, and I give this example, if you just smoked marijuana, you still have the remainder of that substance in your mouth, but it has nothing to do with your impairment because it's really not absorbed yet. You just smoked it five minutes ago and it hasn't really gone up in the bloodstream. I'm not advocating anything as to what you should do in your private life, but I do not want anybody to be wrongly accused of a substance because of a detection device at the roadside.

What I'm saying is that those devices are not ready yet. We are encouraging research for sure, but there's limitation at the moment in detection of various drugs that are at so low a level to be active in the system. I challenge anybody here.... The instruments we're using are from $100,000 to $500,000 to make sure we do our job right in an accredited laboratory. How are you going to have something at the roadside on the drug side at the moment? That's why I said it may come later.

I think at the moment the best we can offer society is the three steps: a standard field sobriety test at the level of suspicion of impairment, corroboration with the full 12-step test by the DRE, and corroboration with an accredited forensic laboratory. That is all in keeping and that's the best we can offer right now. I hope we can offer more in another five to ten years as far as magical boxes go.

The drugs, by the way, are not volatile. Volatile means that it evaporates from the blood to the air in the lungs and can be given to an instrument. The drugs are not like that. They're big huge monsters and they like to stay in the blood; they don't go in the air, and so there is nothing that you can get on the breath—except for alcohol.

I hope I haven't oversimplified that.

Thank you.

● (1035)

The Chair: Thank you very much, Madam Dalpé-Scott. That was quite a description, and I think we get the picture.

Mr. Petit.

[*Translation*]

Mr. Daniel Petit: Thank you.

I have a question to ask Mr. Graham so I can be sure I have understood. You heard a number of persons mention earlier that, when there is an accident, the problem was knowing whether you could get blood samples and so on.

You remember the case of police officer St-Germain in Quebec: there were four deaths at the same time, and there was some question of a telewarrant. I imagine the telewarrant will be retained in order to obtain blood samples because it's provided for in the code.

What I want to know concerns the DRE and the 12 assessment steps. For example, there is a car accident, the person is unconscious and is transported to the hospital. You know that in the case of high blood alcohol levels, the physician in charge and the nurse currently must know whether consent has been given, and, after that, they take a blood sample, which they send to the lab in Montreal, where it is examined, and the results follow.

As some cases are serious, as it isn't always simply an ordinary citizen at the roadside, based on your reading of the bill, is this possibility of taking a blood sample, where there has been a serious accident and the individual is transported to the hospital, without there necessarily being any suspicion that alcohol is involved, being removed?

[*English*]

Cpl Evan Graham: No, not all. In fact, the bill will complement that, because we can deal with drivers who are capable of doing the test. A DRE would not be going to a hospital and testing somebody who is injured. We'd fall back under the current legislation, where a blood sample may be obtained if a person was involved in a crash where somebody was critically injured or killed. This legislation doesn't affect the current legislation at all.

[*Translation*]

Mme Marthe Dalpé-Scott: I mentioned to you, Mr. Petit, that I was the toxicologist who was the expert witness in Mr. St-Germain's investigation.

Mr. Daniel Petit: So you know what I'm talking about.

Ms. Marthe Dalpé-Scott: Exactly. That's an investigation in which members of the teaching staff at the Montreal breathalyzer test lab were involved. To show they were objective, they asked someone from outside the lab to come and examine the evidence and to testify.

So, yes, I handled that for a longer period of time than I am spending here today, to respond to Mr. Moore's comment. Today is absolutely nothing, if we compare the two. It is essential to spend the required time. It is not time wasted; it is time invested.

[*English*]

The Chair: Thank you very much, Mr. Petit.

I would like to thank the witnesses, Madam Scott and Corporal Graham, for their attendance here again. We really appreciate it.

That brings to a conclusion our presentations. The committee does, however, have some business to deal with, so I will suspend for one minute.

● _____ (Pause) _____ ●

● (1040)

The Chair: I call the meeting to order.

Committee members, we do have a couple of items of business to deal with: one is a motion put forward by Mr. Larry Bagnell. I'll get to that in a moment. But starting next Tuesday, June 19, should we still be sitting, and Thursday, June 21, likewise, we will begin our clause-by-clause. That's to inform everyone, if we go that far, that's what we will be doing.

Mr. Bagnell, your motion.

[*Translation*]

Mr. Réal Ménard: Mr. Chairman, before we study the motion, would Mr. Bagnell allow me to take 30 seconds?

Before we study the motion, I simply want to consult the government members out of a concern for honesty. Our leaders are confident that the session will adjourn on Monday. You know how everything is unpredictable at the end of a parliamentary session: that's an assumption. I'm ready to vote. My doubts have been resolved this morning. We are in favour of the bill. We will probably have an amendment to submit.

If ever the government wanted... I don't know what my colleagues think; I only consulted Ms. Freeman. I think there's some flexibility among my Liberal colleagues. If there were a risk that we could not meet on Tuesday, and if the committee gave us permission to meet on Monday, I would be ready to do so. I tell you that because our leader believes that the session will be adjourned on Monday, because the budget has been passed. There's not a lot of unfinished business, and our leaders believed that the adjournment will be Monday evening.

If ever the government wants to close this file, I can say that I am pleased with the answers I have obtained this morning. I hope to read the memo as soon as possible. If ever there were a consensus, I would not object to the committee meeting perhaps Monday afternoon, because there are people coming from other ridings. I'm two hours from Montreal. If ever the session is not adjourned and the government just wants to continue the work in September, there's no problem. I'm telling you what my leader told me Monday evening.

● (1045)

[*English*]

The Chair: It might be wise to hear from the Liberal Party on that particular point. Is there an agreement with Mr. Ménard's position?

Mr. Derek Lee (Scarborough—Rouge River, Lib.): I appreciate Monsieur Ménard's warm and fuzzy collaboration in trying to get this business done, and I always think it's a good idea to try to do the clause-by-clause at the same time as you study it, rather than having a three-month gap when you can kind of forget.

But in this case, there is no tactical procedural advantage other than that to be gained by doing this on Monday as opposed to Tuesday. The House is simply not going to be able to get it dealt with before we come back in the fall, so I don't see any need to rush it. It would be a useful thing to have all of the members, where there are amendments, prepare them. I may have one or two myself. I find the Monday date a bit rushed for that purpose, and Tuesday would be more suited to me. If we're sitting on Tuesday, we can do it.

I appreciate the sentiment and the wishful thinking lying behind Monsieur Ménard's intervention, but I personally would rather be ready to do work. My own personal work on this, to the extent that it exists, will be ready for Tuesday or the fall or Thursday, should that eventuality mature as well.

The Chair: Mr. Moore.

Mr. Rob Moore: In light of what Mr. Lee said about doing clause-by-clause shortly after hearing testimony, I think that is the preferable route, so I'm in agreement with Mr. Ménard.

I haven't been around here too long, but I know that at this time of the year there's a lot of speculation about whether we'll be here or not. I would like to do the clause-by-clause before the summer. If there's a possibility that we'll be here on Monday, we can at least do our part as a committee. We might not wrap up everything on this bill, obviously, before the summer, but we could wrap up our work as a committee. So I support what Mr. Ménard is saying, that we hold our meeting on Monday. I think that gives us a couple of days to get ready and, if there are any amendments, to put them forward.

So I support that.

The Chair: Is there a consensus to have a meeting at 9 o'clock on Monday morning or 10 o'clock? How about after question period, so 3:30 on Monday?

Madam Jennings.

Hon. Marlene Jennings: While we would like to be able to accommodate, unfortunately, Mr. Lee has amendments that he wishes to propose, and he does not believe, given his personal work agenda, that he would be in a position to have his amendments ready for Monday, whether it be the morning or the afternoon. He had prepared his schedule predicated on our sitting and going to clause-by-clause on the Tuesday, which would have allowed him all day Monday to work on those amendments.

It's really unfortunate, because there is a desire on our part to be able to accelerate the work on this. It is unfortunate.

The Chair: Mr. Lee.

Mr. Derek Lee: I'm going to ask members to really reach out big, to live life large. If the House is sitting on Monday, it's because we have something substantive to do, and we'll be voting in the afternoon, unless everything goes on division.

I'm assuming if we're here Monday, we have both feet on the ground Monday, and if we are here Monday, what's the problem with having the Tuesday morning meeting?

Mr. Rick Dykstra: We won't be here on Tuesday.

Mr. Derek Lee: What do you mean we won't be here on Tuesday?

Mr. Rick Dykstra: I don't know. That's what somebody suggested.

We're all suggesting Monday afternoon. In the spirit of cooperation, let's move it forward. We aired everything we needed to hear. That's all this is about. It wasn't about getting into a big discussion about it.

Mr. Derek Lee: Does everybody rush off to the plane ad hoc on Monday night? I'm prepared to stay. If the House isn't sitting Tuesday, I'm still prepared to be here on Tuesday. My next week is already partly planned, and I don't see the practical need for the rush.

It actually pinches me, because I didn't anticipate having a meeting on Monday to deal with this. It was Tuesday.

● (1050)

The Chair: Mr. Moore.

Mr. Rob Moore: Maybe as a bit of a compromise, if we had scheduled Tuesday and Thursday mornings for clause-by-clause, perhaps we could book off three hours for Tuesday morning. I don't anticipate it will take three hours. I anticipate it won't take the full two hours. But I wouldn't want to get to the end of our Tuesday meeting and have one or two clauses to go, then have to carry over to Thursday.

Maybe to accommodate Mr. Ménard's and Mr. Lee's concern, we could ensure that we finish clause-by-clause, if at all possible, on Tuesday. Maybe book from 9 until 12. I'm not anticipating that we'll need the three hours, but just in case. How's that?

The Chair: Is there general agreement for Tuesday 9 a.m. to 12 noon?

[*Translation*]

Mr. Réal Ménard: If we finish the discussion earlier, so much the better.

[*English*]

The Chair: Then we're gone.

Right. Thank you, committee.

Now we have ten minutes to deal with Mr. Bagnell's motion.

Hon. Larry Bagnell: I can see the Conservatives are very enthusiastic about it.

I simply want to make three points. It may appear a little critical in the wording. First of all, it has nothing to do with the members opposite, because they are great and I enjoy working with them. They're great members, because they don't have anything to do with this part of the policy development.

The second point is that it's not meant to impede on committee time at all. I would have been happy to add extra meetings to do this. I didn't do it in my motion, though, because the last time we added a project one of the parties—

Hon. Marlene Jennings: On a point of order, Mr. Chair, are we in camera at this point? It is committee business.

The Chair: We could go in camera.

Hon. Marlene Jennings: I only wanted to know if we were in camera or not.

The Chair: We are in public right now.

Hon. Marlene Jennings: Okay, not a problem.

The Chair: All right.

Continue, Mr. Bagnell.

Hon. Larry Bagnell: It's not meant to stop the other work, and I would have been happy to add extra meetings, but the last time we had a motion to do that, one party didn't want to add extra meetings. So that could be discussed.

The primary purpose is the number of the witnesses that we had earlier, and some bills suggested that there was a major change in the policy development process that may have led to a number of the problems. It's similar to having a foundation of a house that's not exactly right; it doesn't matter how much work you have to do in the house, you should fix the foundation.

So I thought it warranted some review into how these bills have been developed from the policy level and reached us in the way they did.

The Chair: Your motion.

Hon. Larry Bagnell: That the committee embark on a study of the policy development process for the justice bills brought forward by the new government.

The Chair: Discussion, Mr. Ménard.

[*Translation*]

Mr. Réal Ménard: Mr. Chairman, I'm not opposed to the motion. I would like to understand it more. Is our colleague questioning the role of the government's priorities committee, the legislation committee, the Privy Council or, like all of us no doubt, the composition of Cabinet? I would like to know which decision-making centre he's attacking more.

Second, I believe I understood that, on our return in September, we will still have to discuss Bill C-27. We still have to debate five bills, if my count is correct. I'm not opposed to this motion, if we can do the work in two or three meetings. I'm never very much in favour of the idea of adding meetings because, obviously, there's a limit to what we can productively do in committee. Perhaps we'll have completed the consideration of Bill C-32. At least that will be done. I wouldn't be surprised if the government continued its strategy of striking other legislative committees.

Perhaps the mover could tell us what decision-making centre he's attacking. If, in his mind, that can be done in one or two meetings, I'm not opposed to the motion.

● (1055)

[*English*]

The Chair: Mr. Bagnell, I found the preamble, at least, a bit vexatious. Maybe you could explain what you mean by that, because I believe the committee has moved a lot of legislation through this committee.

Hon. Larry Bagnell: That was a good question.

The first focus would be primarily on the Department of Justice, because that's where the bills come from. I mean, everyone on the committee has the same intentions, I think, which is to reduce crime, but some of the witnesses who have come forward have said they haven't been consulted in the normal process of developing legislation. Some of the bills, a lot of witnesses have said, have come contrary to achieving the objectives that all the members of the committee want to achieve, which is reducing crime. So how did that occur and how is the legislative process that developed these bills different from how it might have been in the past, as some witnesses suggested?

My concern wasn't with having legislative committees and cabinet and all that; it was more on the process used by the Department of Justice and the government to develop these bills.

The Chair: Thank you, Mr. Bagnell.

Madam Jennings, we have five minutes to complete our deliberation on this motion.

Hon. Marlene Jennings: I support this motion, particularly in light of the explanation that Mr. Bagnell has given. His motion and the study would lie on the policy development process for justice bills within the Department of Justice in order to gain a better understanding of the normal process.

As he mentioned, we've had a number of key witnesses say that they were always part of a consultative process undertaken by the justice department when they were looking at the possibility of amending legislation or bringing forth entirely new legislation for a new policy. In many instances in the past 16 months, this normal consultation has not happened.

The Chair: Mr. Lee.

Mr. Derek Lee: Thank you.

I have three quick points.

The motion refers to the new government. I don't think it's a new government. I admit somewhat tongue-in-cheek that I think it's an old, tired, defensive and jaded government. But that wasn't my main issue.

The second issue is that this motion purports to probe the creation of legislation. In doing that, we will get into the subject of advice to minister. That is normally an area where committees do not go. We can go there, but we had better have a good reason, and we're going to be met with the usual responses. So we're not going to get much if we go to the public servants and say, how did you manage to generate this? It falls under the rubric of advice to minister.

Last, although I'm going to support the motion, notwithstanding its perceived flaws on my part, I don't think it should get in the way of our doing what's been referred to us by the House. We're a creature of the House. That work has been given to us by the House. We have an obligation to get to it.

So I'm happy to see this item in inventory. Of course, that inventory list of will always be at risk because of a possible prorogation.

Thank you.

The Chair: Thank you, Mr. Lee.

(Motion agreed to)

Mr. Myron Thompson: Is it this committee that's going to embark on this study?

An hon. member: We'll figure it out.

The Chair: Is there a motion for adjournment?

This meeting is adjourned.

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