

**RANDOM BREATH TESTING (RBT):
A REVIEW OF THE EVIDENCE
July 2, 2009**

R. Solomon, Professor, Faculty of Law, University
of Western Ontario, and National Director of
Legal Policy, MADD Canada

E. Chamberlain, Professor, Faculty of Law,
University of Western Ontario

S. Chiodo, J.D. Candidate, 2011,
Research Associate, MADD
Canada

(A) The Need for RBT in Canada

1. Impaired driving remains the single largest criminal cause of death in Canada,¹ with impairment-related crashes claiming 1,278 lives in 2006,² or more than twice as many lives as all types of homicide combined.³ Moreover, impaired driving took a disproportionate toll among 16-25 year olds, who constituted only 13.2% of the population but 33.4% of Canada's alcohol-related traffic deaths.⁴
2. Despite increasingly onerous criminal penalties and other federal amendments, progressive provincial legislation, the frequent use of sobriety checkpoints, and countless awareness campaigns, designated driver initiatives and treatment programs, impaired driving has proven a persistent and serious problem in Canada. Indeed, the number and percentage of impairment-related crash deaths and injuries have been rising and in 2006 exceeded 1999 levels.⁵
3. Millions of Canadians continue to drink and drive⁶ because they can do so with little fear of being stopped, let alone charged and convicted. Charge and conviction statistics, and survey results, indicate that a person can drive drunk, on average, once a week for more than 3 years before being charged with an impaired driving offence, and for over 6 years before ever being convicted.⁷ Other survey data suggest that even these low charge and conviction rates may be significantly overstated.⁸
4. Unless a driver admits to drinking, the police currently need visible signs of impairment in order to demand a roadside breath test on a screening device. American research indicates that using these enforcement techniques, the police failed to detect more than 60% of legally impaired drivers (BACs \geq .08%) stopped at sobriety checkpoints.⁹ An earlier Canadian study estimated that 95% of legally impaired drivers go undetected at checkpoints.¹⁰
5. Canada's federal impaired driving legislation is so technical, time-consuming and frustrating to enforce that it discourages police from laying criminal charges. For example, a British Columbia police survey indicated that almost half of the officers would not lay *Criminal Code* impaired driving charges, even if they concluded that the driver was legally impaired.¹¹ This *de facto* decriminalization of impaired driving partially explains why the 2006 Canadian charge rate for impaired driving, per 100,000 licensed drivers, was less than 38% of the American rate.¹²
6. Canada has one of the poorest impaired driving records among comparable developed democracies, even though most of those countries have far higher rates of per capita alcohol consumption.¹³ For example, a 2001 Transport Canada study found that Canada had the highest rate of impairment among fatally-injured drivers of eight OECD nations.¹⁴

(B) International Experience

1. Faced with similar enforcement challenges, many countries around the world have introduced RBT¹⁵ to improve apprehension rates and thereby strengthen the deterrent impact of their impaired driving laws.¹⁶ The Scandinavian countries introduced RBT in the mid-1970s, followed by most Australian states by the mid-1980s, and then New Zealand and most European Union countries.
2. Although the exact estimates vary, the great majority of developed and more developed democracies have comprehensive RBT legislation. For example, a 2007/08 study of 50 countries reported that 72% had a national RBT program. This 72% figure underestimates the prevalence of RBT, as Australia and some other countries have comprehensive RBT programs which are established at the state and/or territorial level.¹⁷

3. The introduction of RBT has consistently resulted in significant reductions in impaired driving deaths and injuries. For example, in Queensland, RBT was estimated to have reduced total fatal crashes by 35% between 1988 and 1992, preventing an estimated 789 fatal crashes in that period.¹⁸ New South Wales' RBT program was estimated to have prevented 522 serious, 204 fatal, and 686 single-vehicle nighttime crashes in its first year.¹⁹ Another study reported that the number of fatally-injured drivers with illegal BACs ($> .05\%$) in New South Wales fell by 36% in the four years after RBT was introduced.²⁰ Ireland's introduction of RBT in July 2006 was found to have reduced total annual road fatalities by 19% from the preceding 12 months.²¹
4. Various reviews of the research literature consistently report that RBT is one of the most effective impaired driving strategies.²² A 2001 review which included 12 RBT studies found that the introduction of RBT led to a median decrease of 22% in total fatal crashes.²³ A 2005 review stated that the Australian RBT programs resulted in "as much as a 24% reduction in nighttime crashes, especially in metropolitan areas" and that Finland's RBT program resulted in "an even more striking decrease of 50% in drinking and driving rates."²⁴
5. An Australian study found that RBT was significantly more effective than selective sobriety checkpoints (*i.e.* where testing is based on reasonable suspicion or belief). For example, in Queensland, RBT was reported to have resulted in a 35% reduction in fatal crashes, compared to a 15% reduction associated with selective checkpoints.²⁵ The studies documenting the large percentage of impaired drivers who are missed at sobriety checkpoints help to explain RBT's greater deterrent impact.²⁶
6. There is broad public support for RBT. For example, a 2006 Irish survey reported that 87% of participants strongly endorsed RBT.²⁷ In a 1996 Australian national study, 87% of participants strongly agreed with RBT.²⁸ Similarly, while 60% of New South Wales voters favoured RBT before it was enacted, 90% favoured it one year later.²⁹ Currently, 66% of Canadians support giving the police authority to randomly test all drivers.³⁰
7. RBT checkpoints result in minimal delays. A Finnish study reported that, on average, drivers subject to RBT were detained for just seconds.³¹ A more recent New Zealand study indicated that drivers were typically waved through when queues develop, so that most drivers were delayed for no more than 2 minutes.³²
8. RBT is generally recognized as one of the most cost effective road safety measures. For example, a 2004 World Health Organization study reported that each dollar spent on RBT results in a cost saving of \$19.³³ Similarly, a New Zealand study found the cost-benefit ratio was 1:14.4 for RBT alone, 1:18.8 for RBT coupled with a media campaign, and 1:26.1 for RBT with both a media campaign and "booze buses" (large, specially equipped vehicles used for evidentiary breath testing, which are typically very distinctive in order to attract the attention of nearby road users).³⁴

(C) RBT and the Charter

1. In the Canadian legal context, RBT would be used solely as a preliminary screening measure to determine whether there are grounds to demand evidentiary breath tests. RBT would be conducted on approved screening devices at roadside, thereby minimizing costs and inconvenience to motorists.
2. As invariably occurs when new enforcement measures are introduced, RBT would be challenged under the *Canadian Charter of Rights and Freedoms*.³⁵ The most likely grounds for challenge would be section 8 (unreasonable search and seizure) and section 9 (arbitrary arrest and detention). While RBT

legislation would probably be found to violate these sections, the courts should uphold it as a reasonable and justifiable limit under section 1 of the *Charter*.

3. Canadians are routinely subject to random detention and search in their daily lives. Canadians cannot board a plane, enter many courtrooms³⁶ or government buildings, or observe Parliamentary proceedings without being scanned and/or subject to a random physical search of their person and belongings. If random search is warranted and justified in these circumstances, then a more compelling case can be made for RBT, which addresses a far more widespread safety risk.
4. Driving is a heavily regulated, licensed activity occurring on public roads.³⁷ Drivers are already required by common law and legislation to stop and provide documentation when requested to do so by police, and expect to be asked routine questions about their licences, insurance and sobriety. The Canadian courts have consistently upheld the constitutionality of this random stopping, searching and questioning of drivers,³⁸ emphasizing the diminished expectation of privacy applicable to motorists.³⁹ The introduction of RBT is merely an extension of these routine interventions.
5. The primary goals of the impaired driving legislation are to deter impaired driving and apprehend offenders before they cause a crash. The *Criminal Code* and provincial/territorial traffic legislation give the police authority to use various investigatory techniques to detect drivers who may be impaired. While these techniques inevitably encroach on drivers *Charter* rights, they have generally been upheld under section 1 as being “demonstrably justified in a free and democratic society.”
6. Impaired driving has repeatedly been found to be a “pressing and substantial” concern as required by the section 1 of the *Charter*.⁴⁰ Most recently, the Supreme Court of Canada stated in *R. v. Orbanski; R. v. Elias*:⁴¹ “There is no question that reducing the carnage caused by impaired driving continues to be a compelling and worthwhile government objective.”
7. The Supreme Court of Canada also upheld the constitutionality of random checkpoints, both at common law⁴² and pursuant to statute.⁴³ Although random stops are “arbitrary,” in that there are no criteria for selection, they have been upheld under section 1 of the *Charter* because of their importance in promoting highway safety. Without the ability to stop drivers at random, police would only be able to detect impaired drivers in the most obvious cases of erratic driving or, worse, after a crash had occurred.
8. As long as RBT is conducted with minimum inconvenience and delays, and its purpose is restricted to roadside screening of drivers, there is every reason to believe that it will be justified under section 1 of the *Charter*.

(D) Conclusion

1. As indicated, despite concerted legislative, awareness and other initiatives, impaired driving remains Canada’s leading criminal cause of death. Canada’s poor record and lack of progress in the last ten years highlight the need for RBT.
2. RBT is widely acknowledged to be one of the most cost effective means of deterring impaired driving and dramatically increasing police apprehension rates. Comprehensive RBT programs have been enacted in the great majority of comparable democracies, where they have garnered widespread public support.
3. MADD Canada believes that the public interest in protecting road users from the ongoing risks of impaired driving more than justifies the minor inconveniences posed by RBT.
4. While RBT legislation would be challenged under the *Charter*, this should not discourage Parliament from introducing a measure that has dramatically reduced alcohol-related crash deaths around the world.

ENDNOTES

- ¹ It was estimated that 1,278 Canadians were killed in alcohol and/or drug-related traffic crashes in 2006. See G. Mercer, *Estimating the Presence of Alcohol and Drug Impairment in Traffic Crashes and their Costs to Canadians: 1999 to 2006* (Vancouver: University of British Columbia, 2009) at 3 [Mercer]. Given certain inherent limitations in the coroners' data upon which this estimate is based, they likely significantly understate the total number of impairment-related deaths in Canada. For example, if an impaired driver survives a crash in which he or she kills the sober driver of another vehicle and its two passengers, it is only the dead driver's BAC that would be reported in the coroner's fatality data. Unless the police recorded the crash as being due to the surviving driver's impairment, all three deaths would be recorded as being non-alcohol related. Similar problems arise when impaired drivers survive crashes in which they kill sober passengers, pedestrians or bicyclists. Those responsible for maintaining the coroners' traffic death data have acknowledge the significant underreporting of impairment-related deaths in these situations. H. Simpson, *Drinking-Driving in Canada: Does anyone really know how big the problem is?* (Ottawa: Traffic Injury Research Foundation (TIRF), 1997) at 53-56.
- ² Mercer, *ibid.* at 8.
- ³ In contrast to the 1,278 impairment-related traffic fatalities in 2006, there were 605 homicides in Canada. The term "homicide" includes the offences of murder, manslaughter and infanticide. G. Li, *Homicide in Canada, 2006* (Ottawa: Statistics Canada, 2007), Juristat Catalogue no. 85-002-XIE, vol. 27, no. 8 at 1.
- ⁴ TIRF, *The Alcohol-Crash in Canada: 2006* (Ottawa: TIRF, 2009) at 14; and Statistics Canada, *Age Groups and Sex... 2006 Census* (Ottawa: Statistics Canada, 2008).
- ⁵ Mercer, *supra* note 1 at 8.
- ⁶ The percentage of Canadians who reported driving after drinking in the past 30 days rose from 14.7% in 2005 to 18.1% (representing over 4 million Canadians) in 2008. TIRF, *The Road Safety Monitor 2008: Drinking and Driving – National* (Ottawa: TIRF, 2008) at 8 [RSM 2008].
- ⁷ An estimated 10.2 million impaired driving trips were made in 2006, and Statistics Canada reported that 60,402 individuals were charged in that year and that 32,594 were convicted of an impaired driving offence in the 2006/07 reporting year. See respectively, W. Vanlaar *et al.*, *The Road Safety Monitor 2006: Drinking and Driving* (Ottawa: TIRF, 2006) at 7; Statistics Canada, *CANSIM Table 252-0014 – Adult and youth charged, by detailed offences for Canada, provinces and territories, annual* (Statistics Canada: Ottawa, 2008) [Table 252-0014]; and Statistics Canada, *CANSIM Table 252-0046 – Adult criminal... annual* (Statistics Canada: Ottawa, 2008).
- ⁸ Another study using national survey data estimated that Canadian drivers made over 20 million trips within one hour of consuming two or more drinks in the past 12 months. D. Beirness & C. Davis, "Drinking After Driving in Canada: Findings from the Canadian Addiction Survey" (2007) 98(6) C.J.P.H. 476 at 477.
- ⁹ J. Wells *et al.*, "Drinking Drivers Missed at Sobriety Checkpoints" (1997) 58 J. Stud. Alcohol 513 at 516. The authors also indicated that almost 90% of drivers with BACs of .05% to .079% also go undetected. Other American studies suggest that the police miss about 50% of drivers with BACs of .10% or higher, and about 75% of drivers with BACs of .05% to .099% who are stopped and questioned at sobriety checkpoints. These studies involved roadside surveys conducted "downstream" from police checkpoints. Presumably, some of these undetected drivers had developed a tolerance for alcohol and failed to exhibit visible signs and symptoms of impairment, or had otherwise learned to avoid raising police suspicions. See S. Ferguson, J. Wells & A. Lund, "The role of passive alcohol sensors in detecting alcohol-impaired drivers at sobriety checkpoints" (1995) 11 Alcohol, Drugs and Driving 23; and I. Jones & A. Lund, "Detection of alcohol-impaired drivers using a passive alcohol sensor" (1986) 14 J. Police Sci. Administration 153. This earlier study found that 52% of drivers with BACs \geq .10% interviewed by police officers at sobriety checkpoints were not apprehended.
- ¹⁰ E. Vingilis, E. Adlaf & L. Chung, "Comparison of Age and Sex Characteristics of Police-Suspected Impaired Drivers and Roadside-Surveyed Impaired Drivers" (1982) 14 Accid. Anal. and Prev. 425. See also E. Vingilis *et al.*, "Psychosocial Characteristics of Alcohol-Involved and Nonalcohol-Involved Seriously Injured Drivers" (1994) 26 Accid. Anal. and Prev. 195 at 203.

- ¹¹ Police Services Division, *Safe Roads, Safe Communities* (Victoria: Ministry of the Attorney General, 2000) at B-4. Similarly, about 30% of officers in the 10 jurisdictions that had administrative licence suspensions acknowledged that they frequently or sometimes imposed a provincial licence suspension rather than laying a criminal charge. About 29% of officers indicated that they frequently or sometimes took measures other than laying a criminal charge or imposing a short-term suspension, such as allowing a sober passenger to drive the impaired driver home. B. Jonah *et al.*, “Front-line police officers’ practices, perceptions and attitudes about the enforcement of impaired driving laws in Canada” (1999) 31 *Accid. Anal. and Prev.* 421 at 426.
- ¹² Transport Canada, *2006 Canadian Motor Vehicle Traffic Collision Statistics* (Ottawa: Transport Canada, 2007) at 7; Table 252-0014, *supra* note 7; and National Highway Traffic Safety Administration (NHTSA), *Traffic Safety Facts, 2007 Data, Overview* (Washington, D.C.: NHTSA, 2008) at 5.
- ¹³ For example, while Germans consumed 64% more alcohol per capita than Canadians in 1998, Transport Canada reported that only 11% of Germany’s fatally-injured drivers were legally impaired, as defined by having a BAC of .05% or higher. In contrast, 32% of Canada’s fatally-injured drivers were legally impaired, as defined by having a BAC in excess of .08%. See respectively, World Health Organization (WHO), *Adult Per Capita Alcohol Consumption* (Geneva: WHO, 1998), online: <http://www3.who.int/whosis/alcohol/alcohol_apc_data.cfm?path=whosis,alcohol,alcohol_apc,alcohol_apc_data&language=english>; and Transport Canada, *Road Safety Forum: Beyond 2001*, CD-ROM (Ottawa: Minister of Public Works and Government Services, 2001) [Transport Canada].
- ¹⁴ Transport Canada, *ibid.*
- ¹⁵ See generally K. Stewart, *On DWI Laws in Other Countries* (Washington, D.C.: NHTSA, 2000) at 20-44; E. Townsend, F. Achterberg & T. Janitzek, *Traffic Law Enforcement across the EU: An Overview* (Brussels: European Transport Safety Council (ETSC), 2006), online: <http://www.etsc.eu/documents/Countrys_Compndium.php>; and Worldwide Brewing Alliance (WBA), *2008 Drinking and Driving Report, 8th edition* (WBA: United Kingdom, 2009), online: <http://www.brewers.ca/Userfiles/BI_DrinkDriverRpt08_6_LR.pdf> [WBA]. In 2003, the European Commission recommended that all member states introduce comprehensive RBT legislation. European Commission, Press Release, IP/03/1436, “Commission calls for better enforcement of road safety rules” (22 October 2003).
- ¹⁶ For example, in New South Wales, which has a comprehensive RBT program, 90% of drivers surveyed thought that they might be breath tested. Solicitor General for Alberta, *Impaired Driving Program (Briefing Paper)* (Edmonton: Department of the Solicitor General, 1989). It was estimated that in Queensland every increase of 1,000 in the number of daily tests corresponded to a decline of 6% in all serious crashes, and 19% in single-vehicle nighttime crashes. J. Henstridge, R. Homel & P. Mackay, *The Long-Term Effects of Random Breath Testing in Four Australian States: A Time Series Analysis* (Canberra: Federal Office of Road Safety, 1997) at 50 [Henstridge]. Other studies have found that increasing either the number of random breath tests performed or the proportion of drivers tested significantly reduced the number of serious crashes. R. Tay, “General and Specific Deterrent Effects of Traffic Enforcement” (2005) 39 *Journal of Transport Economics and Policy* 209. See also B. Watson & J. Freeman, “Perceptions and Experiences of Random Breath Testing in Queensland and the Self-Reported Deterrent Impact on Drunk Driving” (2007) 8 *Traffic Injury Prev.* 11.
- ¹⁷ WBA, *supra* note 15 at 13.
- ¹⁸ Henstridge, *supra* note 16 at 102, Table 6.9. This rigorous time-series analysis found that RBT significantly reduced serious collisions in each of the four Australian states in which it was introduced. Since all four states introduced RBT during the 1980s, the authors had a lengthy follow-up period in which to observe the long-term effects of RBT. Moreover, the authors statistically controlled for variables such as season, time of day, day of week, weather, road usage, and the effects of .05% BAC laws. *Ibid.* at 104, Table 7.1.
- ¹⁹ *Ibid.*
- ²⁰ R. Homel, “Random Breath Testing and Random Stopping Programs in Australia” in R. Wilson & R. Mann, eds., *Drinking and Driving: Advances in Research and Prevention* (New York: Guilford Press, 1990) at 175.
- ²¹ Road Safety Authority (RSA), *Road Safety Strategy 2007-2012* (County Mayo, Ireland: RSA, 2007) at 7, online: <http://www.rsa.ie/publication/publication/upload/822_RSA_Strategy_ENG.pdf>.

- ²² See for example, C. Peek-Asa, “The Effect of Random Alcohol Screening in Reducing Motor Vehicle Crash Injuries” (1999) 16 (1S) *Am. J. Prev. Med.* 57; European Transport Safety Council (ETSC), *Police Enforcement Strategies to Reduce Traffic Casualties in Europe* (Brussels: ETSC, 1999) at 7; T. Babor *et al.*, *Alcohol: No Ordinary Commodity* (Oxford: Oxford University Press, 2003) at 160-62 [Babor]; D. Morrison, M. Petticrew & H. Thomson, “What are the most effective ways of improving population health through transport interventions? Evidence from systematic reviews” (2003) 57 *J. Epidemiol. Community Health* 327 at 330-31; World Health Organization (WHO), *World Report On Road Traffic Injury: Summary* (Geneva: WHO, 2004) at 30; R. Room, T. Babor & J. Rehm, “Alcohol and Public Health” (2005) 365 *Lancet* 519 at 526; D. Brand *et al.*, “Comparative Analysis of Alcohol Control Policies in 30 Countries” (2007) 4(4) *PLoS Medicine* 0752 at 0753; and P. Anderson, D. Chisholm & D. Fuhr, “Effectiveness and cost-effectiveness of policies and programmes to reduce the harm caused by alcohol” (2009) 373 *Lancet* 2234 at 2238 and 2242 [Anderson].
- ²³ R. Shults *et al.*, “Reviews of Evidence Regarding Interventions to Reduce Alcohol-Impaired Driving” (2001) 21(4S) *Am. J. Prev. Med.* 66 at 75-76.
- ²⁴ J. Grube, “Preventing Alcohol-Related Problems: Public Policy Strategies” in Transportation Research Board (TRB), *Implementing Impaired Driving Countermeasures: Putting Research in Action* (Washington, D.C.: TRB, 2005) at 104.
- ²⁵ Henstridge, *supra* note 16 at 102, Table 6.9. The authors also reported that Western Australia’s *de facto* RBT program (*i.e.* selective checkpoint program) resulted in a 9% reduction in all serious crashes, and in Perth a 17% reduction of single-vehicle nighttime crashes, whereas RBT resulted in a 13% and a 25% reduction in these categories. *Ibid.* at 85.
- ²⁶ See *supra* notes 9 and 10. It is for this reason that most studies view RBT as preferable to selective checkpoints. See for example, H. Ross, *Deterring the Drinking Driver: Legal Policy and Social Control* (Lexington, MA: Lexington Books, 1982); R. Homel, *Policing the Drinking Driver: Random Breath Testing and the Process of Deterrence* (Canberra: Federal Office of Road Safety, 1986) at 100; and Babor, *supra* note 22.
- ²⁷ Alcohol Action Ireland, *Alcohol in Ireland: time for action. A Survey of Irish attitudes* (Dublin: Alcohol Action Ireland, 2006), online: <<http://www.ndc.hrb.ie/articles.php?drart=175&issid=13>>.
- ²⁸ P. Mitchell-Taverner, K. Adams & S. Hetjmanek (1997) “Community Attitudes to Road Safety: Community Attitudes Survey,” cited in K. Smith, *Road Safety: Past, Present and Future*, Keynote Address at the Australian Institute of Traffic Planning and Management Conference in 2000, online: <<http://www.acrs.org.au/srcfiles/ken-smith's-aitpm-keynote-address.doc>>. Other Australian surveys yielded similar results. See A. Beel and T. Stockwell, *The impact of Western Australia's .05 legislation on drivers' attitudes, perceptions and behaviours* (Perth: National Centre for Research into the Prevention of Drug Abuse, 1995), who reported that up to 97% of respondents in a household survey of two Australian states supported RBT.
- ²⁹ R. Arthurson, *Evaluation of Random Testing* (New South Wales: Traffic Authority of New South Wales, 1985) at 24-31.
- ³⁰ Ekos Research Associates Inc., *Impaired Driving Survey for Transport Canada/MADD Canada: Final Report* (Ottawa: Transport Canada, 2007) at 23.
- ³¹ J. Dunbar, A. Penttila & J. Pikkarainen, “Drinking and driving: success of random breath testing in Finland” (1987) 295 *BMJ* 101 at 101.
- ³² T. Miller, M. Blewden & J. Zhang, “Cost savings from a sustained compulsory breath testing and media campaign in New Zealand” (2004) 36 *Accid. Anal. Prev.* 783 at 788 [Miller].
- ³³ M. Peden, *World Report on Road Traffic Injury Prevention* (Geneva: World Health Organization, 2004) at 130. See also Anderson, *supra* note 22 at 2241.
- ³⁴ Miller, *supra* note 32 at 792.
- ³⁵ Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 [Charter].

- ³⁶ For cases upholding random searches and x-ray scans prior to entering a courtroom or courthouse, see *R. v. Campanella* (2005), 75 O.R. (3d) 342 (C.A.); *R. v. S.S.* (2005), 78 O.R. (3d) 744 (S.C.J.); and *R. v. Riley* [2008] O.J. No. 2116 (S.C.J.)(QL).
- ³⁷ This has been recognized by the Canadian courts. See for example, *R. v. Pontes*, [1995] 3 S.C.R. 44; and *R. v. Smith* (1996), 28 O.R. (3d) 75 (C.A.) [*Smith*].
- ³⁸ *R. v. Dedman*, [1985] 2 S.C.R. 2; *R. v. Hufsky*, [1988] 1 S.C.R. 621 [*Hufsky*]; *R. v. Ladouceur*, [1990] 1 S.C.R. 1257 [*Ladouceur*]; and *R. v. Orbanski*; *R. v. Elias*, [2005] 2 S.C.R. 3 [*Orbanski*].
- ³⁹ For example in *R. v. Wise*, [1992] 1 S.C.R. 527, the Supreme Court of Canada stated, at paras. 5-7: “For the safety and well-being of society, motor vehicles and their drivers are subject to a great many statutory requirements, conditions and regulations. Almost every aspect of the use of a motor vehicle is controlled... These inspections and tests and this supervision do not constitute unreasonable breaches of basic civil liberties... Reasonable surveillance of vehicles and their drivers are essential... Although there remains an expectation of privacy in automobile travel, it is markedly decreased relative to the expectation of privacy in one’s home or office.”
- ⁴⁰ *R. v. Oakes*, [1986] 1 S.C.R. 103.
- ⁴¹ *Orbanski*, *supra* note 38 at para. 55. See also *Smith*, *supra* note 37 at para. 12; *Hufsky*, *supra* note 38 at paras. 16-17; *R. v. Thomsen*, [1988] 1 S.C.R. 640 at para. 21-22; and *Ladouceur*, *supra* note 38 at para. 50.
- ⁴² *Dedman*, *supra* note 38 at para. 69.
- ⁴³ *Hufsky*, *supra* note 38 at para. 20; *Ladouceur*, *supra* note 38 at para. 62; and *Orbanski*, *supra* note 38 at para. 3.