



IMPAIRED DRIVING CONFUSION

MEMBER OF PARLIAMENT



PETER GOLDRING

After over 18 months of standing up for his rights in the courts, an acquittal was given by the Alberta Provincial Court regarding the sole issue against Member of Parliament Peter Goldring that he failed to comply promptly with police directions, stemming from a suspiciously targeted roadside take-down on the evening of December 4, 2011. The reasons for the acquittal were several and varied but, specifically, Mr. Goldring had been proven to not having refused the demand to test.

Mr. Goldring has voiced his continuing concerns on the issue immediately following the decision and states that the Edmonton Police Department simply must reexamine its procedures and protocols.

We all should try to learn from this occasion to constructively try to do better for citizen's rights in Alberta. Certainly, court evidence demonstrated that it is well known by the police of the public confusion of the process of screening demands coupled with un-

certainty of what level of consumption of alcohol is permitted or not.

This confusion is exemplified by the Edmonton Police who believe that they are not mandated to educate the public about check-stop devices and specifically the manufacturer's information is not for public knowledge. Obviously, when even the police actively or passively withhold important information from the public nobody benefits and justice suffers. People have the right to be informed, particularly when their rights and freedoms are at risk!

The court also indicated that there is confusion by the police themselves as to what constituted suitable 15 minute wait period supervision in order to obtain viable breath samples. This confusion was exemplified by the totally opposite and contradictory statement in evidence by two top officers in the Edmonton

police force both of whom teach other officers the proper procedures!



Uniform equipped video cameras on patrol would allow for a record to be made of all incidents to protect both parties and save valuable court time.



This issue has been more and more disconcerting to the public because of Provincial Legislation that treats the accused as guilty, suspending of all rights upon accusation. The assumption of guilt and suspension can many times be highly questionable but too onerous for an accused person to dispute resulting in pleas of guilty when not so, to minimize these suspension period and costs just to get on with life.

“The provincial legislation in Alberta provides for the artificially empowered indiscretions by officers,” Mr. Goldring stated. “They can be careless because they are enabled to be, by a lack of procedural scrutiny that is available with tools at their disposal that would greatly assist transparency by allowing for at least some scrutinizing recording of efforts.” This is exacerbated because there is very little overall judicial oversight unless their ‘intended’ takes the issue to court to defend his right not to be falsely accused.

There are tools in the Edmonton Police Department’s hands that, if utilized, would have assisted these officers to provide much more accurate and substantive evidence in court.

The Edmonton police have a recorded radio link on their uniform for communicating with the central station but they chose to specifically use the open, unrecorded “parks channel” and unrecorded cell phones to communicate. Why?

The very roadside screening machine they test with has a clock and computer system that can record the date and time of all occurrences including refusals. Again they choose not to use this feature for recording all occurrences, including refusal to test exact date and time. Instead they hand write evidential notes that really could be written over at any time with questionable details of timing according to their choice of Timex wrist watch – timing notations.



Know your rights: If you have finished your drink just before leaving a licensed establishment, inform the constable of this and ask for the test to be conducted only after a 15 minute wait.

Other police jurisdictions have audio-visual recording devices in their police cars, or on their person to ensure transparency which record real events as they occur and actual real time. The use of this, serves to provide much greater quality assurance of evidence for testimony.

An inherent weakness within our provincial legislation has now been brought to the national spotlight. Roadside constable interactions are unrecorded, under un-substantive



except by sworn statements of constables from memory of occasion and time frame, causing considerable time in court to explore and to cross examine. Certainly most police are careful, honest and do their best to fairly give evidence, but some do not!

Most importantly, this should not be viewed solely as being isolated because confusing conduct is supported and documented by a Supervisor, and a senior constable under his command. This suggests that this might not be the first time within the impaired driving preventative unit, which might also explain why it is that the arrest ratio in Edmonton is 66% higher than the city of Calgary, per 100,000 people. In fact, the number of impaired driving arrests in Edmonton alone is more than all of British Columbia, with a population six times Edmonton's! Why?

Not very many accused would have the temerity to challenge the actions of one constable, let alone two, then carry this challenge forward to fruition in the courts. The fine for refusal is only \$1,000, if there are no other accidents or injuries.

The saving grace, however, is that this outcome will hopefully prevent many other Alber-

tans from falling victim to this weakness within the Edmonton Police Service and, indeed, all of Canada's police services. We all need to be proactive in improving the laws of Canadians to better protect our citizens from the true danger in our population but also to protect and save our rights and freedoms. As well, Mr. Goldring hopes his case will serve to ensure that, in the future, roadside constables think before they dispense roadside justice, carelessly breaching our Charter of Rights and Freedoms.

Mr. Goldring believes that, to better protect everyone's rights and freedoms and to free a great amount of court time, it is recommended that the following improvements be made:

To ensure that all police cars or officers have capabilities for

audio-visual recording of all events for the benefit of constable and accused.

Have all Edmonton Police Services radio and all phone communication be recorded for accuracy.

That the police utilize the recording capabilities of their handheld screening device to ensure accuracy of event reporting.

If police do not, then, allow drivers to utilize their cell phones' recording capabilities to record the event for accuracy.



Police can suspend your driver's licence before you are found guilty of any crime. Police can also suspend your licence and seize your vehicle with no judicial oversight.

Have all police advise drivers that the screening test is only to establish the level for suspension of the driver if the test shows a Blood Alcohol Content (BAC) over .05 or the level to demand a further test for charging purposes by more accurate central station machines if the roadside test indicates a fail or over .08 BAC.

Have all police advise all drivers that if they dispute the outcome of a screening test they may have a second test by another screening device.

Police must ask as standard procedure when you did have your last drink, and, if less than 15 minutes previous, not to test for 15 minutes.

Anti-drinking and driving lobbyists confusingly state that if you have one or two beers after work, then you will be okay to drive! This, of course, is dependent upon a screening test done properly at least 15 minutes after just finishing the last drink, or the manufacturer of the roadside screening device advises, the test can be challenged, regardless of outcome.

Police testify that the public is confused by lobbyists flip flop statements and public awareness messaging. The vast majority of police officers do a great job. However, a very small, careless number, taint all police by association.

Update: An Alberta Assistant Chief Judge suggested in June 2013 how the criminal code could be amended to help alleviate concerns for hand held screening accuracy, that the roadside handheld screening test demand be made optional but in such circumstances that the central station intoxilyzer be the mandatory test alternative and where the criminal code required mandatory testing applies.

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This brochure series is intended to highlight special issues that Member of Parliament, Peter Goldring, has been involved in. If you wish to comment, please take a moment to fill out the survey below, write or call to the address above.

Your Opinion Matters...

Q1: Do you believe that the criminal code should be amended to allow for mandatory intrusive breath testing to be done on evidential grade central station equipment? Yes No

Q2: Do you want there to be absolutely zero tolerance and severe penalties for a driver if they have consumed any amount of alcohol? Yes No

Comments: _____

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