File Number: 34349

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE NOVA SCOTIA COURT OF APPEAL)

BRENDAN DAVID AUCOIN

Appellant
(Appellant)

-and-

HER MAJESTY THE QUEEN

Respondent
(Respondent)

FACTUM
HER MAJESTY THE QUEEN, RESPONDENT
(Rule 42)

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PART I
OVERVIEW AND STATEMENT OF FACTS

1. Overview

1. During the course of a routine motor vehicle stop, the police officer reasonably decided to place the appellant in the rear of his police car in order to write up a summary offence ticket, and he conducted a safety pat-down search for weapons. Upon being asked to describe objects the officer could feel in his pockets, the appellant said he had drugs, and was arrested. The appellant was unsuccessful at trial and on appeal in establishing a breach of his right to be free from unreasonable search or seizure, and the drugs were admitted into evidence.

2. At issue is whether an officer, having detained a motorist for a highway traffic investigation, is authorized to place him inside the police car. Here, the trial judge and the majority of the Court of Appeal correctly determined that, on the facts of the case, the officer's actions were reasonable and therefore lawful. Beveridge J.A., in dissent, held that there was no authority for the officer to place the appellant in the police car, that the conduct amounted to a *de facto* arrest, and that the evidence should be excluded.

3. A police officer has clear authority to detain a person suspected of an offence – including a provincial highway traffic offence – until the investigation is complete, including the issuance of an offence ticket. The police must be able to control the detainee, and if the circumstances warrant this may include placing him or her in a police car, in an ambulance or under shelter.

4. There can be no bright lines in the assessment of what may be reasonable, incidental to a lawful detention. The subjective and objective reasonableness of the officer's actions during the course of the detention will turn on the circumstances at hand, as they do in any encounter between citizen and police. On the facts of this case, the officer acted reasonably within the powers of detention. No new power was required to justify his actions. The appeal should be dismissed on that basis.

2. Respondent's position with respect to the appellant's statement of facts

5. The respondent agrees with the facts as set out by the appellant in paragraphs 2 to 25 of the appellant's factum. However the context of many of those stated facts requires elaboration.

6. On Saturday, May 31, 2008, the annual Apple Blossom Festival was underway in the town of Kentville, Nova Scotia. Constable Burke of the Kentville Police Department was on general patrol, in uniform, driving a marked police car with trainee Cadet Tyler Lynk as passenger. Around midnight Constable Burke noticed a black Chevy driving on Aberdeen Street near the centre of town. Constable Burke ran a query of the Chevy's license plate, and received information that the license plate should be attached to a brown Chrysler. Constable Burke therefore stopped the black Chevy to investigate. The appellant was the driver; he had no passengers.[1]

7. On initial contact with the appellant Constable Burke requested his driver's licence, vehicle registration, and insurance, which the appellant provided. Constable Burke noted the smell of alcohol on the appellant's breath and asked whether he had had anything to drink; the appellant replied, "No, I don't think so." Constable Burke asked again, saying that he smelled alcohol or "booze" on the appellant's breath, and the appellant then answered that he had had one drink at 10:30 p.m., some ninety minutes earlier. Constable Burke observed that the appellant had "N" on his driver's license, denoting a newly licensed driver who is not permitted to have any alcohol in his system when driving,[2] and demanded that the appellant accompany him to the rear of the police car and submit to an alcohol screening device, which the appellant did.[3] This demand was authorized by provincial motor vehicle legislation.[4] Constable Burke did not specifically refer to the provincial statute in his testimony, but it is clear that he was concerned about zero tolerance for alcohol with a newly licensed driver under the provincial motor vehicle law. Although the appellant describes this course of events as an investigation into "alcohol

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[1] Appellant's factum, ¶2–3; A.R. Vol. II, p. 13, l. 16 – p. 14, l. 22.
[2] *Motor Vehicle Act*, R.S.N.S. 1989, c. 293, s. 100A(1).
[3] Appellant's factum, ¶4–5; A.R. Vol. II, p. 15, l. 1 – p. 16, l. 3. The screening device was an Alcotest 7410 GLC, an approved screening device under both the regulations to the *Motor Vehicle Act* and the *Criminal Code*.
[4] *Motor Vehicle Act*, cited above at note 2, s. 100A(2).

related driving activity",[5] there is nothing to suggest that Constable Burke was ever pursuing a criminal investigation involving impaired operation of a motor vehicle or "being over 80". Constable Burke told the appellant he was not under arrest.[6]

8. At the time the appellant provided the required breath sample he was seated in the rear of the police car, with the door open and his feet on the road for his own comfort. Constable Burke was standing directly in front of the appellant, facing him, and could observe the provision of the breath sample and monitor the appellant's actions.[7]

9. After the appellant blew 20 mg% on the alcohol screening device, Constable Burke decided that he would write up a summary offence ticket for the provincial zero alcohol offence. He testified that he was going around to the front in order to do so. Constable Burke was not asked to explain why he needed to sit in the front to write the ticket. However the trial judge found that there were "some very unusual circumstances" and said:

> For starters here, this was late at night when the officer encountered [the appellant]. The officer's writing out the ticket, and there's really no place for him to write out this ticket other than in the police car. It's late at night. There's no natural light there. It has to be written out in the police car in order that he can see what he's doing.[8]

10. Before he went to the front seat to write the ticket, Constable Burke decided to place the appellant in the rear seat of the police car. When first questioned by Crown counsel about his reasons for this decision, Constable Burke testified as follows:

> Q. And why were you putting him in your car to do up the ticket?
> A. His car was being removed so he couldn't go back to his vehicle. And it's Apple Blossom weekend. It was busy. And I felt if he was on the side of the road, possibly he could walk away. As I'm writing the ticket, he could disappear.[9]

11. It was under cross-examination that Constable Burke testified as follows:

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[5] Appellant's factum, ¶5.
[6] A.R. Vol. II, p. 15, l. 1 – p. 16, l. 20.
[7] A.R. Vol. II, p. 15, l. 1 – p. 16, l. 20; p. 35, l. 21 – p. 36, l. 14.
[8] A.R. Vol. I, p. 14, l. 16 – l. 21.
[9] A.R. Vol. I, p. 18, l. 19 – p. 19, l. 2.

A. Well, it's common when we're out, especially when it's busy, Apple Blossom ...
Q. I wasn't asking you what the common thing was. I was asking why you felt it was necessary to put him in that car with the doors locked.
A. Because it's practice for me to do that.
Q. Why?
A. Because that's what I've done. That's what I'm comfortable with.[10]
....
Q. So your practice on motor vehicle matters as a matter of course is to put people in the vehicle and close the door.
A. Alcohol-related matters...
Q. Alcohol.
A. ...which is providing on a roadside or an impaired driver.[11]

12. Once he had decided to place the appellant in the rear seat of his police car, Constable Burke testified that officer safety concerns motivated him to conduct a pat-down search of the appellant. He testified as follows:

A. When he was first in the vehicle [for the Alcotest], I was standing in front of him. I had no concerns because I can see his hands and I can see if he's doing anything. And afterwards when I was going to place him in the back of the car and shut the door, it's an officer-safety issue because I have no idea what an individual could have in his possession that could harm himself or harm me while my back is turned to him and he's in the rear of the patrol car.
Q. So when he was sitting in the car the first time with his feet out, where were you in relation to him?
A. I was standing directly in front of him.
Q. And the second time when he was going to be in the car and you were going to be writing the ticket, you were indicating that you were going to then be in the car with him?
A. I would have been in the front driver's seat, and he would have been in behind me.[12]

13. Constable Burke testified that for exactly this reason it was standard practice for him to conduct a pat down search of anyone he was placing in the rear of his police car, whether that person was under arrest or just detained.[13]

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[10] A.R. Vol. II, p. 37, l. 14 – p. 38, l. 5.
[11] A.R. Vol. II, p. 48, l. 22 – p. 49, l. 4.
[12] A.R. Vol. II, p. 18, l. 3 – l. 18.
[13] A.R. Vol. II, p. 37, l. 14 – p. 38, l. 5.

14. Constable Burke testified that as he conducted the pat-down search he asked the appellant about the objects he could feel in the appellant's pockets because he did not know what they were, and was concerned about the safety of himself and the appellant. For example:

> Q. It felt like something soft in his pocket, correct?
> A. That's why I asked the question.
> Q. You weren't threatened by something soft in his pocket, were you?
> A. I have no idea what it was.
> Q. Well, what did you think it was, officer?
> A. That's why I asked the question.
> Q. What right did you have to ask the question that day, do you know?
> A. For my knowledge to what was in his pocket.
> Q. For your knowledge, not for your safety.
> A. Well, to find out what it was because it could harm me or harm himself.
> ....
> Q. You find something soft in his pocket, and you dig into his pocket to find out what it is, right?
> A. No, I didn't dig into his pocket.
> Q. You questioned him.
> A. I asked him what was in his pocket.
> Q. Yes. And what were you expecting? What did you think was in his pocket?
> A. I have no idea. That's why I asked the question.
> Q. You had no reasonable grounds to believe there was a weapon in there, did you?
> A. I had no idea. If I knew what it was, I wouldn't have asked him.
> Q. Is it your opinion that you can search anybody no matter what you find in their pocket?
> A. I patted him down on the outside of his pants. If he would have told me it was cough drops, I probably would have believed him.
> Q. You were questioning him at that stage.
> A. I asked him what was in his pocket.
> Q. And you still think that was for officer-safety reasons.
> A. Yes.[14]

15. While Constable Burke agreed with defence counsel's suggestion that "You knew he didn't have a criminal record that you know of",[15] Constable Burke later testified that at the time he decided to place the appellant in the rear of the police car, he had not yet run a criminal record check on the appellant and did not know if the appellant had a criminal record or not, or was a

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[14] A.R. Vol. II, p. 39, l. 6 – p. 45, l. 5, underlining added; see also p. 47, l. 6 – l. 14.
[15] A.R. Vol. II, p. 39, l. 2 – l. 4; appellant's factum, ¶17.

known criminal with a violent record. He agreed that he did not know the appellant "from a hole in the wall".[16]

16. Constable Burke testified that the appellant would remain detained until he had finished writing up the summary offence ticket and issued it to the appellant, and only then would the appellant be free to leave.[17]

17. Constable Burke was accompanied throughout by trainee Cadet Tyler Lynk, who was on his first day of on-the job training after completing five months of courses at the local police academy. Cadet Lynk was with Constable Burke purely for training purposes: his main role was to observe, not to be involved, though he did examine the interior of the appellant's vehicle with a flashlight from roadside, looking for weapons or contraband in plain view. Constable Burke testified that Cadet Lynk probably didn't even know how to work the radio. During Constable Burke's interaction with the appellant, Cadet Lynk stayed with the appellant's vehicle, some two or three car lengths away.[18] As the majority of the Court of Appeal put it, at this point Constable Burke had essentially no back up.[19]

18. There was a dispute at trial about when Constables Andrews and Allen arrived at the scene, and specifically whether they had arrived before or after Constable Burke was conducting the pat-down search of the appellant. The trial judge found in fact that the additional officers arrived after Constable Burke had done the pat-down search, had found the drugs in the appellant's pocket and arrested him, and had requested that he stand behind the police car with his hands on the trunk.[20] This finding is not in dispute in this appeal.

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[16] A.R. Vol. II, p. 45, l. 21 – p. 46, l. 15.
[17] A.R. Vol. II, p. 37, l. 11 – l. 13.
[18] A.R. Vol. II, p. 46, l. 16 – l. 18; p. 71, l. 14 – p. 72, l. 3; Reasons for judgment of Hamilton J.A., ¶3, 16, A.R. Vol. I, pp. 28, 32.
[19] Reasons for judgment of Hamilton J.A., ¶26, A.R. Vol. I, p. 36.
[20] Reasons for judgment of the trial judge, A.R. Vol. I, p. 9, l. 9 – l. 21.

PART II
RESPONDENT'S POSITION WITH RESPECT TO APPELLANT'S QUESTIONS

19. The appellant's questions are as follows:

1) Were there lawful grounds to detain the appellant in the back seat of the police car?

2) If so, were there lawful grounds to search the appellant prior to placing him in the back seat of the police car?

3) If so, was the search of the appellant reasonably carried out?

20. The respondent's position with respect to these questions is as follows:

1) The question is incorrectly stated. The right question is whether the officer's decision to place the appellant in the rear of the police car was objectively reasonable, in all of the circumstances, in furtherance of the detention of the appellant. The appellant was subject to an ongoing detention which started with a vehicle stop concerning an irregular license plate; the detention continued into an investigation into a provincial drink-driving infraction; the officer determined to issue a summary offence ticket under provincial highway traffic law; to that end he decided to place the appellant in the back seat of the police car; the detention would not end until the ticket was written and issued. There was never a new detention requiring independent justification.

2) Yes. The pat-down search was justified on objectively reasonable grounds related to officer safety; any lawful detention carries this incidental power of a pat-down search.

3) Yes. The respondent agrees that the questioning amounted to a search within s. 8 of the *Charter*. The questioning was motivated by officer safety concerns. It was directed at determining whether the unknown objects the officer felt in the appellant's pockets during the pat-down search could pose a danger while the appellant was in the rear seat of the police car behind the officer. The questioning was less intrusive than a pocket search. It was done to establish safety, not to obtain evidence.

21. The appellant also says that the evidence of pills, cocaine and cash should be excluded pursuant to s. 24(2) of the *Charter*, for the reasons given by Beveridge J.A., dissenting in the Court of Appeal below.[21] The respondent's position is that if this Court reaches s. 24(2) the evidence should be admitted.

[21] Appellant's factum, ¶56; Reasons for Judgment of Beveridge J.A., ¶82–100, A.R. Vol. I, pp. 59–65.

PART III
ARGUMENT

A. THERE WAS NO BREACH OF SECTION 8: THE PAT-DOWN SEARCH WAS AUTHORIZED BY LAW

1. The appellant was detained for the investigation of motor vehicle infractions; this was not an "investigative detention" as authorized by *Mann*

22. The case on appeal concerns the scope of police powers incidental to the lawful detention of a driver for an investigation into evident provincial motor vehicle offences. The investigation started with the officer's observation of an irregular license plate and moved into his belief that a newly licensed driver had alcohol in his system contrary to provincial "zero alcohol" law. The investigation crystallized into a determination on reasonable grounds that the latter provincial summary offence had been committed, and a decision to issue a ticket for that offence. In this case the police never got to the point of investigating a criminal offence, or of engaging *Criminal Code* powers.

23. This appeal does not call into question the scope of police powers incidental to an investigative detention based on reasonable suspicion, or the detention of pedestrians and other non-drivers. Nor does the case on appeal engage police powers arising from arrest.

2. Police authority to detain drivers, and police powers incidental thereto, derive from a mix of statutory and common law authority

24. When detaining a motor vehicle driver, police derive their powers from the interplay of statutory authority and the common law. Invariably provincial motor vehicle laws are engaged. The precise mix of police powers will vary slightly from one province to another. In *Orbanski* (2005),[22] Charron J. for the majority of this Court observed that in this context:

> ...it is important to recognize that the need for regulation and control is achieved through an interlocking scheme of federal and provincial legislation. The provincial legislative scheme includes driver licensing, vehicle safety and highway traffic rules. At the federal level, the primary interest lies in deterring and punishing the commission of criminal offences involving motor vehicles. Control of drinking and driving is not confined exclusively to the laying of criminal charges after a criminal offence has been committed. Roadside screening techniques contemplated by provincial legislation provide a

[22] *R. v. Orbanski; R. v. Elias*, 2005 SCC 37.

> mechanism for combatting the continuing danger presented by the drinking driver, even if the driver may not ultimately be found to have reached a criminal level of impairment.[23]

25. If the appellant and the dissenting judge in the Court of Appeal are correct in proposing that existing law cannot authorize the officer's decision to place the appellant in the rear seat of the police car, it follows that any national effort to address that *lacuna* would require the action of Parliament and all provincial and territorial legislatures. This is not just undesirable in principle, it is also unworkable. As Charron J. further noted in *Orbanski*:

> The screening of drivers necessarily requires a certain degree of interaction between police officers and motorists at the roadside. It is both impossible to predict all the aspects of such encounters and impractical to legislate exhaustive details as to how they must be conducted. .... In this context, it becomes particularly important to keep in mind that any enforcement scheme must allow sufficient flexibility to be effective. The police power to check for sobriety, as any other power, is not without its limits; it is circumscribed, in the words of the majority of this Court in *Dedman* by that which is "necessary for the carrying out of the particular police duty and it must be reasonable, having regard to the nature of the liberty interfered with and the importance of the public purpose served by the interference" (p. 35).[24]

26. Each province and territory has a slightly different statutory provision relating to vehicle stops.[25] For example in Nova Scotia, where the case on appeal originated, s. 83(1) of the *Motor Vehicle Act*[26] obliges a driver to obey a peace officer's directions. The courts have interpreted this provision as empowering a peace officer to give directions to a driver (e.g. to pull over and stop), and to detain the driver for further investigation.[27] This is precisely what occurred here.

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[23] *Orbanski*, per Charron J., at ¶27.
[24] *Orbanski*, per Charron J., at ¶45, underlining added.
[25] **Alberta**: *Traffic Safety Act*, R.S.A. 2000, c. T-6, s. 166; **British Columbia**: *Motor Vehicle Act*, R.S.B.C. 1996, c. 318, s. 73; **Manitoba**: *Highway Traffic Act*, C.C.S.M. c. H60, s. 76.1; *Code de la route*, C.P.L.M. ch. H60, art. 76.1; **New Brunswick**: *Motor Vehicle Act*, R.S.N.B. 1973, c. M-17, ss. 104, 105.1; *Loi sur les véhicules à moteur*, L.R.N-B. 1973, ch. M-17, art. 104, 105.1; **Newfoundland**: *Highway Traffic Act*, R.S.N.L.1990, c. H-3, s. 201.1; **North West Territories**: *Motor Vehicles Act*, R.S.N.W.T. 1988, c. M-16, s. 116.1; *Loi sur les véhicules automobiles*, L.R.T.N.-O. 1988, ch. M-16, art. 116.1; **Nunavut**: *Motor Vehicles Act*, R.S.N.W.T.(Nu) 1988, c. M-16, s. 285; *Loi sur les véhicules automobiles*, L.R.T.N-O.(Nu) 1988, ch. M-16, art. 285; **Ontario**: *Highway Traffic Act*, R.S.O. 1990, c. H.8, s. 216; *Code de la route*, L.R.O. 1990, ch. H.8, art. 216; **Prince Edward Island**: *Highway Traffic Act*, R.S.P.E.I. 1988, c. H-5, s. 253; **Québec**: *Highway Safety Code*, R.S.Q., c. C-24.2, s. 636; *Code de la sécurité routière*, L.R.Q., ch. C-24.2, art. 636; **Saskatchewan**: *Traffic Safety Act*, S.S. 2004, c. T-18.1, s. 209.1; **Yukon**: *Motor Vehicles Act*, R.S.Y. 2002, c. 153, s. 106; *Loi sur les véhicules automobiles*, L.R.Y. 2002, ch. 153, art. 106.
[26] Cited above, note 2.
[27] See: *R. v. Cooper*, 2005 NSCA 47, at ¶36–37, applying *R. v. Wilson*, [1990] 1 S.C.R. 1291.

3. There can be no question that the appellant was lawfully detained throughout

27. Based on his observation of the mismatched license plate Constable Burke was unquestionably authorized to stop the appellant's vehicle and investigate. He did so. From that moment on the appellant was lawfully detained until Constable Burke's investigation was complete. The investigation quickly revealed evidence of a newly licensed driver operating a motor vehicle with alcohol in his system, contrary to the "zero alcohol" provincial motor vehicle law. So while the ***reasons for*** the detention of the appellant under the *Motor Vehicle Act* changed, its ***lawfulness*** persisted throughout.

28. One period of detention can properly reflect different investigative grounds and objectives which may change over the course of the detention.[28] Thus many routine motor vehicle investigations commence with a random stop, or an inquiry into a traffic offence (such as the license plate mismatch in the case at bar), turn into a criminal investigation (e.g., impaired driving) and sometimes revert back into a traffic offence investigation.[29] The authority to detain does not change. If the detainee's jeopardy changes the police officer's constitutional obligations may vary, but the detainee is still not free to leave.

29. Constable Burke explained that the appellant would not be free to leave the scene until he had written up and issued to the appellant the appropriate summary offence ticket. This position is eminently sensible, and abundantly reasonable. It would be illogical if a driver, stopped for speeding on a remote section of the Trans Canada Highway, should be free to drive away as soon as the investigating officer had finished exploring the basic facts – including license, registration and insurance issues – and was about to write up a speeding ticket.

4. It makes no difference that the detention was for the investigation of a provincial motor vehicle summary offence, instead of a criminal offence

30. Here, Constable Burke never engaged criminal law or *Criminal Code* powers. But this fact does not undermine the lawful authority of his detention of the appellant, or denigrate from his ability to complete his investigation.

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[28] *R. v. Nolet*, 2010 SCC 24, *per* Binnie J. at ¶28–29, 32–41.
[29] *R. v. Brittain*, 2000 SKQB 242, at ¶22–24.

31. The appellant observes that the investigation did not involve "ongoing criminality" such as an impaired operation offence.[30] Beveridge J.A., dissenting below, considered it important that the appellant could not be arrested for a motor vehicle act offence, and in that vein characterized the officer's decision to place the appellant in the rear seat of the police car as a *de facto* arrest.[31]

32. The mere fact that the officer was investigating not a crime but only a minor motor vehicle infraction, and may or may not have had a power of arrest, should not dilute the basic powers the officer had incidental to the appellant's lawful detention. In *Macooh* (1993),[32] this Court held that in the context of the police power of entry into a private residence in order to perform an arrest under the doctrine of "hot pursuit", it was not the categorization of the predicate offence as indictable versus summary that mattered. Rather, in that context it was whether the offence entailed a power of arrest without warrant. The case involved a driver's failure to obey a stop sign, and his ensuing failure to stop for police in pursuit. This Court said, *per* Lamer C.J.:

> There are strong policy considerations against retaining the distinction between indictable offences and other categories of offence in determining the spatial limits on the power of arrest in hot pursuit. Unlike the division which existed at common law between felonies and misdemeanours, the division which currently exists in our law between indictable offences and other categories of offence only very imperfectly reflects the severity of the offence. Most importantly, there is no logical connection between the fact that an offence falls in one or other of these categories and the need there may be to make an arrest in hot pursuit in residential premises.[33]

33. In similar fashion this Court should not restrict the powers of a police officer over a person lawfully detained to the point of prohibiting any officer from placing any detainee in the rear of a police car, just because the investigation involves a provincial summary offence. The perceived seriousness of the offence under investigation will always inform the assessment of

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[30] Appellant's factum, ¶37.

[31] Reasons for judgment of Beveridge J.A., ¶56–57, 69–76, A.R. Vol. I, pp. 50–51, 55–57. In the Court of Appeal the respondent expressly acknowledged in his factum that the appellant could not be arrested under the Nova Scotia statute for exactly the reasons advanced by Beveridge J.A. at ¶57. This may be incorrect in light of *R. v. Cluett* (1982), 3 C.C.C. (3d) 333 (NSCA), at 354–355, rev'd. on other grounds [1985], 2 S.C.R. 216, and s. 261(1) of the *Motor Vehicle Act*. The respondent however says that whether there was a power of arrest is immaterial as in this case the officer never purported to arrest the appellant.

[32] *R. v. Macooh*, [1993] 2 S.C.R. 802.

[33] *Macooh*, at p. 819.

whether the investigating officer's actions in furtherance of the detention were reasonable. But it cannot be the only criterion. As Lamer C.J. went on to explain in *Macooh*, still concerning the power of entry in hot pursuit:

> Denying the existence of this power in the case of all offences which are not indictable, and consequently in the case of all provincial offences, would in my opinion be an excessive and unwarranted limitation on police powers, and that is why I feel that the distinction between indictable offences and other types of offence should not be retained in this context.[34]

34. What matters is not the precise type of offence for which the person was detained, but whether what the police officer did in the course of the detention was reasonable.

5. Placing the appellant in the rear of the police car did not involve a new detention, nor require the invocation of fresh authority from a different police power

35. The trial judge and the majority of the Court of Appeal do not purport to establish any new police power. They emphatically do not recognize a new power of "process detention", as the appellant calls it, under the *Waterfield* doctrine.[35] Markedly, neither the trial judge nor Hamilton J.A. for the majority of the Court of Appeal even cite *Waterfield.* It is Beveridge J.A. in dissent below and the appellant in the appeal to this Court who refer to the *Waterfield* doctrine and who, having invoked it, go on to say that the doctrine cannot successfully be applied.

36. The appellant's position rests on the misplaced premise that any change in the restriction of the liberty of a person lawfully detained amounts to a new detention that must find fresh lawful authority from a different police power.[36] Thus the appellant frames his first question in this appeal as follows: "Were there lawful grounds to detain the appellant in the back seat of the police car[?]" The appellant then argues that there is no authority under *Waterfield* for a "process

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[34] *Macooh*, at pp. 819–820.

[35] Appellant's factum, ¶28–33, 55. See, generally, James Stribopoulos, "Sniffing Out the Ancillary Powers Implications of the Dog Sniff Cases" (2009), 47 S.C.L.R. (2d) 35.

[36] Appellant's factum, ¶27(1), 35–36, 55. Support for his position may be found in *R. v. Anderson*, 2011 SKCA 13, at ¶14–15; *R. v. Timmer*, 2011 ABQB 629, at ¶9–12.

detention", i.e. a detention imposed solely in order to issue a summary offence ticket at the conclusion of an investigation.[37]

37. The respondent does not ask this Court to employ *Waterfield* analysis in order to establish any new police power(s) to support the lawfulness of the officer's actions in this case. The respondent says that Constable Burke's actions were authorized under existing law throughout: he acted reasonably at all times in furtherance of the lawful detention of the appellant, a detention which he commenced and which he had to complete.

38. It is true that when the officer decided to put the appellant into the rear of the police car so that he could write up the summary ticket in the front, this created an officer safety issue which then motivated the protective pat-down search of the appellant. But it is equally true that there was ***no new detention*** at that point. The officer placed the appellant in the rear of the police car consequent upon the original and ongoing detention, having decided that in order to complete the investigation this was the best place to put the appellant given all of the circumstances. There is no need to look for fresh authority to take this step, under a different police power, and ask whether that fresh authority supports what the officer did.

39. The right question to ask is this: as new evidence emerged (alcohol in the system of a newly licensed driver) and a new investigative approach coalesced (to issue a summary offence ticket), did the original and ongoing power to detain the appellant reasonably support the investigating officer's decision to place the appellant in the rear of the police car? The same question would apply equally had the officer decided to tell the appellant to sit on the side of the road, or to stand behind the police cruiser with his hands on the trunk, or to show his hands, or to submit to handcuffing.

40. Asking whether this decision is reasonable, compared to asking the more layered question whether it is authorized under a separate, new police power as the appellant suggests, also has the advantage that the police officer can more easily determine the correct scope of his

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[37] Appellant's factum, ¶27(1), 35–36, 55. Support for his position may be found in *R. v. Anderson*, 2011 SKCA 13, at ¶14–15; *R. v. Timmer*, 2011 ABQB 629, at ¶9–12.

authority. The simpler the question the more likely it is that a duty officer, making a fast decision in the face of changing circumstances, will get it right. In the case of a detainee who is about to be subjected to enhanced restrictions on his or her liberty for police investigative purposes, the officer should be able to ask him- or herself the question, "How will I explain later what I am about to do next?" The answer to that question should be simple, and cogent.

41. While the exercise of police powers will always be reviewable in hindsight according to legal standards including constitutional norms, it is exceedingly important that the officer on the street engaged in a real time interaction with a detainee can determine immediately what his or her powers are. This is not to suggest that the law relating to police powers incidental to a lawful detention should be "dumbed down" at the expense of constitutional accuracy. It is simply a recognition that bright lines can never be drawn when the reality is that police interaction with drivers reveals an infinite variety of circumstances. All that is suggested is that the law should be as simple and as clear as possible. Concerning the misuse of police powers, there is no better cure than prevention.[38]

6. Applying a simple test of reasonableness: placing the appellant in the rear of the police car was reasonable in the circumstances of this case

42. Accepting (as the respondent says one must) that the appellant was lawfully detained from the start and that his detention would continue until the officer had finished dealing with him, the officer's decision to place the appellant in the rear of the police car was objectively reasonable.

43. Constable Burke made the sensible decision to use the front seat of the police car – where there was light and a place to sit[39] – in order to complete his investigation by writing up the summary offence ticket. The officer next determined that he wanted the appellant to be seated in the police car as well, behind him. This decision was reasonable. The appellant was still detained, and the officer needed to maintain control of him while he finished the investigation.

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[38] James Stribopoulos, "The Forgotten Right: Section 9 of the Charter, Its Purpose and Meaning" (2008), 40 S.C.L.R. (2d) 211, at p. 248.

[39] Reasons for judgment of the trial judge, A.R. Vol. II, p. 14, l. 16 – l. 21; Reasons for judgment of Hamilton J.A., ¶26, A.R. Vol. II, p. 36.

As the trial judge found, and as the majority of the Court of Appeal accepted, there were objectively good reasons for this next step: he could not return the appellant to his own vehicle because it was being removed, and because to do so would be to continue the offence; it was busy, with Apple Blossom Festival underway; it was late at night; the officer had essentially no back-up; the officer was worried that the appellant could have just walked off. These were the reasons cited by the officer when he was initially questioned by Crown counsel as to what he was thinking. Objectively they are good reasons.[40]

44. To be clear, the respondent is not asking this Court to condone a standard practice of always placing a detainee in the rear of a police car, even in any case involving a driver with alcohol in his or her system.[41] Police conduct based on "standard practice" or policy is by definition not responsive to individualized circumstances and therefore generally cannot achieve either subjective or objective standards of reasonableness.[42] To the extent that the officer in the case at bar supported his decision to place the appellant in the rear of the police car by reference to standard practice – and the respondent acknowledges that at times he did[43] – the respondent does not say that his decision meets the test of reasonableness. Perhaps, in the extreme case of a hot gun call, standard police practice might more reasonably justify an unflinching and automated response in the interests of public safety.[44]

45. Here, the trial judge and the majority of the Court of Appeal accepted that the officer's decision to place the appellant in the rear of the police car was not based on standard practice but rather on the specific circumstances initially identified by Constable Burke in his evidence. The officer made an individualized assessment, and his conduct was justified.

46. Finally, the respondent acknowledges that once the officer decided to put the appellant in the rear of the police car so that he himself could get in the front and write up the summary

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[40] For trial decisions where similar conduct was found to be reasonable, see, e.g.: *R. v. Bond*, 2005 NSPC 16, at ¶11–15; *R. v. Ferland*, 2011 MBPC 66, at ¶51–53. Compare: *R. v. Power*, 2001 NFCA 50; *R. v. Bercier*, 2003 MBQB 90, at ¶22.

[41] See, e.g.: *R. v. Power*, *ibid.*

[42] *R. v. Clayton*, 2007 SCC 32, *per* Abella J., at ¶52. See also the law relating to routine strip searches conducted according to standard policy or practice: *R. v. Golden*, 2001 SCC 83, *per* Iacobucci and Arbour JJ., at ¶95; for a provincial court discussion see, e.g., *R. v. Wilson*, 2006 ONCJ 434.

[43] A.R. Vol. II, p. 37, l. 14 – p. 38, l. 4; p. 40, l. 13 – l. 15; p. 48, l. 17 – p. 49, l. 4.

[44] *Clayton*, cited above at note 41, *per* Abella J., at ¶52.

offence ticket, this almost inevitably meant that the officer was going to conduct an officer safety pat-down search of the appellant. This is important because it bears on the reasonableness of the initial decision to put the appellant in the back seat of the police car. A pat-down search may not be required in every case. The core question is whether the officer exercised such a search power reasonably, having regard to all of the circumstances.

7. A pat-down search based on concern for officer safety does not require specific evidence of potential threat

47. Constable Burke candidly admitted that he had no concerns about officer safety specific to the appellant. He did not know at the time whether the appellant had a criminal record or other database entries suggesting a propensity to violence; indeed he did not know the appellant "from a hole in the wall", as defence counsel put it in cross-examination.[45] During the brief encounter the appellant had so far conducted himself appropriately, and even cooperatively. Beveridge J.A., dissenting below, reasoned that on the facts in this case *Mann* did not authorize a protective search because the officer had only "the vague concern triggered by the circumstance of having the appellant seated behind him in the vehicle"[46] and concluded:

> [79] As already indicated, Cst. Burke identified no inference, reasonable or otherwise, to trigger a need to carry out a protective search. To the contrary, he was dealing with a polite and completely cooperative young man. In my opinion, the circumstances did not justify a protective search.[47]

48. However this analysis sets the standard too high for a lawful pat-down search on safety grounds. There need not be evidence of actual danger before an officer can engage the power to conduct a protective pat-down search incidental to a lawful detention. As the British Columbia Court of Appeal correctly held in *Crocker* (2009):

> [66] With respect, I am of the view that the trial judge erred in law by requiring a higher standard of specificity for Cst. Johnson's subjective belief in the necessity for a protective safety search than that required by *Mann*. Cst. Johnson's knowledge of the Cavalier's earlier involvement in the Costco incident, his observations of the occupants of the Cavalier, and his experience as a police officer in similar situations, all of which informed his subjective belief, were considerations that were clear and focused. They were not vague, or based on a hunch or mere intuition. The additional specificity the trial judge appeared to require by his finding that this evidence was too "vague" to establish

[45] A.R. Vol. II, p. 36, l.15.
[46] A.R. Vol. I, p. 57, ¶78.
[47] A.R. Vol. I, p. 57, ¶79.

> the basis for Cst. Johnson's subjective belief amounted, in my view, to no more than an attempt to "measure with extreme nicety" or "second-guess ... with perfect hindsight" a dynamic and evolving street encounter that Cst. Johnson and Cp. Tupper were facing.[48]

49. The British Columbia Court of Appeal also said, in *Thibodeau* (2007):

> [10] With respect to *Mann*, I am not persuaded the passage quoted from para. 43 by the trial judge, and the Supreme Court's concern generally for balancing privacy expectations with concerns for officer safety, do not have application, or have very diminished application where only a *Motor Vehicle Act* offence is concerned. Certainly, the fact Constable Douglas was dealing with this type of offence as opposed to a murder or bank robbery is one of the circumstances to be considered as part of the "totality", but the fact remains that police officers may have valid safety concerns even where the offence is not a crime and even where the person detained seems polite and co-operative.[49]

50. It is true that Constable Burke had no specific concerns for officer safety individualized to the appellant. But he needed none. He was going to place the appellant in the rear seat of the police car, and then he himself was going to sit in front. He would not be able to see what the appellant was doing back there. As the officer testified:

> ...when I was going to place him in the back of the car and shut the door, it's an officer-safety issue because I have no idea what an individual could have in his possession that could harm himself or harm me while my back is turned to him and he's in the rear of the patrol car.[50]

51. As a matter of practical reality any police officer who is preparing to place a detainee in the rear of a police car, and then get in the front him- or herself, will nearly always want the ability to check the detainee for dangerous items for exactly the reasons Constable Burke testified to in this case. This brings one back to the connection between the decision to place the appellant in the rear of the police car and the decision to do an officer safety pat-down search. The two decisions are inextricably linked as explained above in paragraph 46.

8. The manner of the pat-down search was reasonable

52. The pat-down search was conducted in a reasonable manner. The main complaint of the appellant in this regard is that the police officer, while conducting the pat-down search of the

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[48] *R. v. Crocker*, 2009 BCCA 388, at ¶68-69. See also *Clayton, per* Abella J., at ¶43–44, citing comments of Doherty J.A. in the Court of Appeal judgment in that case. See also: *R. v. Willis*, 2003 MBCA 54, at ¶36; R. *v. Charlton*, 2011 BCSC 805, at ¶48.

[49] *R. v. Thibodeau*, 2007 BCCA 489, at ¶10. See also: *R. v. Duong*, 2006 BCCA 325, at ¶54.

[50] Respondent's factum, at ¶11.

appellant, located items in his pockets and asked him to identify them.[51] The officer was actually less intrusive by having the appellant describe the items located. This is illustrated by the officer's treatment of the wallet: he accepted the appellant's description of the object, and moved on. There is no evidence suggesting that the officer was attempting to by-pass the legal limits of his authority or that he was in some way attempting to trick the appellant into providing an incriminating statement.

53. Importantly, this Court in *Mann* did not go so far as to establish a "bright line" rule that a police officer can investigate only the discovery of a ***hard*** object in the pocket of a detainee in pursuit of officer safety concerns. That interpretation would ignore the principled approach taken in *Mann*.[52] Nor should *Mann* be read as limiting a safety search to only a pat-down of exterior clothing. If circumstances warrant, the officer may be well justified in shining a flashlight inside a vehicle,[53] opening a car door,[54] or asking the detainee whether he has any weapons on him prior to conducting a pat-down search.[55]

54. In *Mann*, the police officer, during the course of the officer safety search, located a soft object in the accused's jacket pocket, and removed it. This Court found that on the facts this was not a reasonable exercise of the pat-down search power incidental to the lawful detention. The officer was in control of the situation, with the accused standing in front of him having a conversation – facts remarkably similar to the moment when the appellant in this case was initially seated in the rear of the police car for the administration of the alcohol screening device.

55. Here, the police officer did not need to pat the appellant down before the initial alcohol screening because he was in a position to watch the appellant and observe all his movements. However when the decision was made to place the appellant in the police car, further means to ensure safety would be required. With the appellant sitting directly behind the officer while he wrote up the summary offence ticket, any object in the appellant's possession would be of

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[51] Appellant's factum, ¶46–52.
[52] See: *R. v. Plummer*, 2011 ONCA 350, at ¶52–58.
[53] *R. v. Mellenthin*, [1992] 3 S.C.R. 615, at pp. 623–624.
[54] *R. v. Ponech*, 2008 ABPC 265, at ¶21–25.
[55] *R. v. Harada*, 2008 BCSC 1346, at ¶12, 27.

concern, regardless of whether it was hard or soft.[56] Indeed the officer would be reckless if he did not determine the nature of every item that was being introduced into the police car. Soft objects could harm not just the police officer or the detainee, but also any other person subsequently placed in the police car if the object was left behind.

56. The test of reasonableness relating to the identification of the "something"[57] in the appellant's right pocket is not tied to whether it was a hard or soft object, but to whether in the circumstances it was reasonable for the officer to want to identify all items in the possession of the appellant, for safety purposes. The respondent submits that it was. The officer explained why he wanted to know what the appellant had in his pockets. In the first instance he accepted the appellant's explanation – "My wallet" – and moved on.

57. This Court should not forbid a police officer from asking a detainee what may be contained in his or her pockets during the course of a safety pat-down search. Such conversations frequently benefit both the detainee and the officer, and can save lives. First, questioning of this nature can serve to safely locate dangerous objects that are well hidden, such as handguns, or that are not easily identifiable, such as small knives, razor blades and needles. Second, such questions can reduce the intrusiveness of pat-down searches by minimizing physical contact with the detainee should the police officer have confidence in the answers provided. Third, the detainee's answers may completely alleviate the need for a pat-down search altogether.

58. Finally, the respondent says that the scope of authority to conduct a safety pat-down search in the case of a person detained for – and about to be charged with – a motor vehicle offence should not be narrower than in the case of a person under investigative detention based on suspicion alone.[58]

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[56] *R. v. Crocker*, cited above at note 47, at ¶72.
[57] A.R. Vol. II, p. 17, l. 20.
[58] *R. v. Ismail*, 2007 CanLII 42357 (ONSC), at ¶48.

B. ALTERNATIVELY, THE EVIDENCE SHOULD BE ADMITTED UNDER S. 24(2)

59. Should this Court determine that the search of the appellant violated s. 8 of the *Charter*, application of the principles set out in *Grant*[59] supports the admission of the cocaine, green pills and cash.

60. Having found no *Charter* violation, neither the trial judge nor the majority of the Court of Appeal addressed the admissibility issue. Beveridge J.A. in dissent would have excluded the evidence based on an application of the *Grant* factors, including his findings that there were multiple *Charter* violations and an unauthorized *de facto* arrest.[60]

61. Determining the admissibility of evidence obtained as a result of a *Charter* violation requires a court to "assess and balance the effect of the admitting the evidence on society's confidence in the justice system..."[61] This assessment, based on three broad categories of considerations, is rooted in the public interest in a long-term, forward-looking and societal perspective[62] resulting in a determination of whether the admission or the exclusion of the evidence is in the best interests of the administration of justice.

62. Application of the *Grant* test illustrates that the violation, although not trivial or fleeting, was not as serious as characterized by the dissenting judge. The impact on the accused was the intrusion on his right to privacy, albeit during the course of an otherwise lawful detention. The evidence in question was essential to the Crown's case in the prosecution of a person charged with possession of cocaine for the purpose of trafficking in a small community. The evidence should be admitted.

1. Seriousness of the *Charter*-infringing state conduct

63. The determination of the seriousness of any violation is predicated on the court's determination of the nature of the *Charter* breach. This Court may find that the officer exceeded his authority for conducting a pat-down search as he lacked reasonable grounds, or that the

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[59] *R. v. Grant*, 2009 SCC 32.
[60] Reasons for judgment of Beveridge J.A., ¶90, 98, A.R. Vol. I, pp. 61, 64.
[61] *Grant*, ¶71.
[62] *Ibid.*

manner of the pat-down search was unreasonable, or that the officer could not lawfully have placed the appellant in the police car. The first is a failure to have sufficient cause to exercise a police power; the second is carrying out a police power in an unlawful manner; the third, potentially, is the lack of police authority to act at all. Depending on this Court's findings, the weight of this component of the *Grant* test will vary.

64. The dissenting judge found multiple violations on the record and this influenced his assessment of the seriousness of the officer's *Charter* infringing conduct. With respect, he erred in so doing. Although the appellant identified other *Charter* violations in his notice at trial, in respect of the pat-down search he did not argue anything but the same s. 8 violation being presented before this Court. At trial this was the only *Charter* breach alleged by the appellant, the only breach responded to by the prosecution, and the only breach considered by the trial judge. Additionally, the trial judge was never required to make any of the necessary related factual findings that would be relevant to s. 9 or s. 10(b) of the *Charter*. The Crown did not have the opportunity to respond to these arguments on the law or on the facts either at trial or on appeal. The respondent says that by exploring the record in search of potential *Charter* violations, the dissenting judge inappropriately found unargued *Charter* breaches that in his view exaggerated the seriousness of the officer's conduct in this case and improperly influenced his determination of the s. 24(2) issue.

65. At its most serious, on the findings of the dissenting judge, the police officer deliberately searched the appellant during a road side stop without authority.[63] The dissenting judge identified the conduct as serious, but not an example of the most intrusive s. 8 violation.[64] Indeed, the extent of the unreasonable search may be as benign as asking the appellant what was in his pocket. While this may not be the least intrusive form of a personal search it is certainly at the low end of the spectrum.[65] The officer was not abusive towards the appellant and, according to the evidence, interacted respectfully with him.

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[63] Reasons for judgment of Beveridge J.A., ¶88, A.R. Vol. I, p. 60.
[64] *Ibid*, ¶88, 91, A.R. Vol. I, pp. 60–61.
[65] By comparison, where the evidence was discovered as a result of improper questioning, see *Grant* at ¶135, and *R. v. Harris*, 2007 ONCA 574, at ¶60–78.

66. The disagreement at the Court of Appeal below illustrates that the scope of the police officer's power was not as clear as the dissenting judge states.[66] While this Court may determine that the officer's conduct was unlawful, there is at least some debate whether the scope of a lawful detention included the steps taken by this officer.

67. The appellant was under lawful detention and the officer had lawfully obtained grounds to believe the appellant was in breach of the no-alcohol requirement for a newly licensed driver. In the circumstances, and where three judges have found that he acted lawfully, it cannot be said that his conduct was at the serious end of the continuum.

2. Impact of the breach on the *Charter*-protected interests

68. Any impact on *Charter* protected values favours the exclusion of evidence. However the real inquiry is the scope of the intrusion in light of all the other circumstances. Here, the appellant's right to privacy was impacted by the police officer's action and, depending on the findings of this Court, his right not to be arbitrarily detained may also be implicated. Nevertheless the degree of the impact on these interests is also at the lower end of the scale. The officer identified the contents of the appellant's pocket by asking him what they contained, rather than turning out his pockets. The arbitrary detention here relates to the potential of being placed inside the police car until the summary offence ticket is issued. While not insignificant, its effect on the appellant, who was already under detention, and about to be cited for a violation of the *Motor Vehicle Act*, is not so serious that this factor is determinative.

3. Society's interest in the adjudication of the case on its merits

69. The evidence seized from the appellant was the sole basis for the prosecution's case. Without it there would be no adjudication on the merits. The appellant was found in possession of eight baggies of cocaine for the purpose of trafficking. Although unfortunately this is no longer a significant amount of cocaine, in a small community this remains a serious offence. The appellant received a prison sentence of two years. The public interest is served both by trying this case on its merits and the deterrent value of the prosecution on those like-minded in the community. These concerns favour admission.

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[66] Reasons for judgment of Beveridge J.A., ¶88, A.R. Vol. I, p. 60.

4. Balancing the *Grant* factors

70. Although no factor automatically trumps another, it is apparent that the seriousness of the violation plays the prominent role in determining whether evidence should be excluded.[67] Here, a court had yet to hold that there was in a fact a violation. The extent of that finding will likely resolve this debate. Should this Court conclude that the officer unlawfully exceeded the scope of his powers only marginally by not having the sufficient grounds to place the appellant inside the police car or that the pat-down search was an excessive expansion of the test in *Mann*, then the seriousness of the violation will be at the minor end of the scale and considering the other factors, the evidence ought to be admitted. Either missing the requisite grounds slightly or exceeding the degree of the pat-down marginally should not be such an egregious error so to justify exclusion. Also if the violation relates to the reading down of detention powers, then likewise the officer could not be faulted for failing to anticipate a change in the law.[68]

71. Likewise, should this Court conclude that the officer's conduct was a systemic violation of the appellant's right to be free from unreasonable search and seizure or a deliberate overreach of his police powers of which he should have been aware, then exclusion of the evidence would be the likely result.

72. However the findings of the trial judge and the review by the majority of the Court of Appeal reveal that the officer's conduct viewed objectively was not so unreasonable as to demand condemnation from this Court. Although one may view the officer's conduct negatively, as did the dissenting judge, it was not so outside the realm of acceptable exercise of police powers that it cries out for the exclusion of the evidence. Given all the circumstances, including the comparatively minimal impact on the appellant's *Charter* protected interests and the significance for the community to see a trial on the merits, the admission of the evidence would not bring the administration of justice into disrepute.

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[67] *R. v. Harrison*, 2009 SCC 34; *R. v Morelli*, 2010 SCC 8; *R. v. Beaulieu*, 2010 SCC 7.
[68] For a recent review of jurisprudence on this point, see *R. v. Caron*. 2011 BCCA 56, ¶41–42.

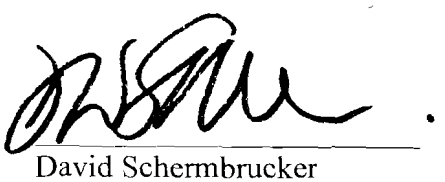
PART IV
SUBMISSIONS CONCERNING COSTS

73. The respondent does not seek any order as to costs and makes no submissions in that regard.

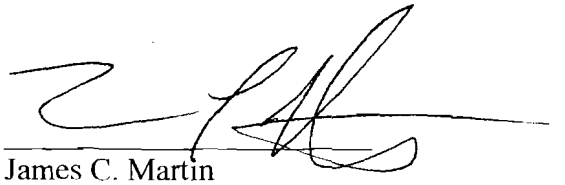
PART V
NATURE OF ORDER REQUESTED

74. The respondent asks this Court for an order dismissing the appeal without costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 30TH DAY OF NOVEMBER, 2011.



David Schermbrucker



James C. Martin

Co-counsel for the Respondent
Halifax, Nova Scotia

PART VI
TABLE OF AUTHORITIES

Cases Cited **PARA**

Other References

PART VII
STATUTORY PROVISIONS

Canadian Charter of Rights and Freedoms 8. Everyone has the right to be secure against unreasonable search or seizure.		**Charte canadienne des droits et libertés** 8. Chacun a droit à la protection contre les fouilles, les perquisitions ou les saisies abusives.
9. Everyone has the right not to be arbitrarily detained or imprisoned.		9. Chacun a droit à la protection contre la détention ou l'emprisonnement arbitraires.
10. Everyone has the right on arrest or detention (b) to retain and instruct counsel without delay and to be informed of that right; and		10. Chacun a le droit, en cas d'arrestation ou de détention: b) d'avoir recours sans délai à l'assistance d'un avocat et d'être informé de ce droit;
24.(2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.		24.(2) Lorsque, dans une instance visée au paragraphe (1), le tribunal a conclu que des éléments de preuve ont été obtenus dans des conditions qui portent atteinte aux droits ou libertés garantis par la présente charte, ces éléments de preuve sont écartés s'il est établi, eu égard aux circonstances, que leur utilisation est susceptible de déconsidérer l'administration de la justice.
Nova Scotia: *Motor Vehicle Act*, R.S.N.S. 1989, c. 293, s. 83, 100A(1) Direction of peace officer or traffic sign or signal 83 (1) It shall be an offence for any person to refuse or fail to comply with any order,		

signal or direction of any peace officer. Consumption of alcohol by certain drivers 100A (1) Any person who (a) is a licensed learner; (b) is a newly licensed driver; or (c) has been issued a driver's license prior to the coming into force of this Section but has less than two years of experience as the holder of a class 1, 2, 3, 4, 5 or 6 driver's license as set out in regulations made pursuant to Section 66, operating or having care and control of a motor vehicle, whether it is in motion or not, having consumed alcohol in such a quantity that the concentration in the person's blood exceeds zero milligrams of alcohol in one hundred millilitres of blood is guilty of an offence. 100A (2) Where a peace officer believes on reasonable and probable grounds that a person is committing, or at any time within the preceding two hours has committed, as a result of the consumption of alcohol, an offence under subsection (1), the peace officer may, by demand made to that person forthwith or as soon as practicable, require that person to provide then or as soon thereafter as is practicable (a) such samples of the person's breath as in the opinion of a qualified technician; or (b) where the peace officer has reasonable and probable grounds to believe that, by reason of any physical condition of the person, (i) the person may be incapable of providing a sample of his breath, or (ii) it would be impracticable to obtain a		

sample of the person's breath, such samples of the person's blood, under the conditions referred to in subsection (3), as in the opinion of the qualified medical practitioner or qualified technician taking the samples, are necessary to enable proper analysis to be made in order to determine the concentration, if any, of alcohol in the person's blood, and to accompany the peace officer for the purpose of enabling such samples to be taken. Arrest without warrant 261 (1) A peace officer may arrest without warrant a person whom he finds committing an offence or has reason to believe has recently committed an offence against this Act.		

Alberta: *Traffic Safety Act*, R.S.A. 2000, c. T-6, s. 166 Stopping for peace officer 166(1) For the purposes of administering and enforcing this Act or a bylaw, a peace officer may (a) with respect to a vehicle, (i) signal or direct a driver of a vehicle to stop the vehicle, and (ii) request information from the driver of the vehicle and any passengers in the vehicle, and (b) with respect to a pedestrian using or located on a highway, request information from that pedestrian. (2) When signalled or directed to stop by a peace officer who is readily identifiable as a peace officer, a driver of a vehicle shall (a) forthwith bring the vehicle to a stop, (b) forthwith furnish to the peace officer any information respecting the driver or the vehicle that the peace officer requires, and (c) remain stopped until permitted by the peace officer to leave. (3) At the request of a peace officer who is readily identifiable as a peace officer, a passenger in a vehicle who is acting in a manner that is contrary to this Act or a bylaw shall forthwith furnish to the peace officer the passenger's name and address. (4) At the request of a peace officer who is readily identifiable as a peace officer, a pedestrian using or located on a highway in a manner contrary to this Act or a bylaw shall forthwith furnish to the peace officer the pedestrian's name and address.		

British Columbia: *Motor Vehicle Act*, R.S.B.C. 1996, c. 318, s. 73; Failing to stop and state name 73 (1) A peace officer may require the driver of a motor vehicle to stop and the driver of a motor vehicle, when signalled or requested to stop by a peace officer who is readily identifiable as a peace officer, must immediately come to a safe stop. (2) When requested by a peace officer, the driver of a motor vehicle or the person in charge of a motor vehicle on a highway must state correctly his or her name and address and the name and address of the owner of the motor vehicle. (3) A person who contravenes subsection (1) or (2) commits an offence and is liable to a fine of not less than $100 and not more than $2 000 or to imprisonment for not less than 7 days and not more than 6 months, or to both.		
Manitoba: *Highway Traffic Act*, C.C.S.M. c. H60, s. 76.1 Peace officer may stop vehicles 76.1(1) A peace officer, in the lawful execution of his or her duties and responsibilities, may require the driver of a vehicle to stop, and the driver of the vehicle, when signalled or requested to stop by a peace officer who is readily identifiable as such, shall immediately come to a safe stop and remain stopped until permitted by the peace officer to depart.		**Manitoba**: *Code de la route*, C.P.L.M. ch. H60, art. 76.1; Arrêt des véhicules 76.1(1) L'agent de la paix qui agit dans l'exercice légitime de ses fonctions peut ordonner au conducteur d'un véhicule de s'arrêter. Le conducteur du véhicule à qui un agent de la paix aisément identifiable signale ou demande de s'arrêter est tenu de le faire immédiatement et de ne repartir qu'avec la permission de l'agent de la paix.
New Brunswick: *Motor Vehicle Act*, R.S.N.B. 1973, c. M-17, ss. 104, 105.1 104 No person shall wilfully fail or refuse		**New Brunswick**: *Loi sur les véhicules à moteur*, L.R.N-B. 1973, ch. M-17, art. 104, 105.1 104 Nul ne doit volontairement manquer

to comply with any order or direction of a peace officer given in respect to the direction, control or regulation of traffic.		ou refuser de se conformer à un ordre ou une instruction donnés par un agent de la paix en ce qui concerne la direction, le contrôle ou la régulation de la circulation.
105.1(1)Every driver who, having been signalled or requested by a peace officer to bring his vehicle to a stop, (a)fails to stop, and (b)wilfully continues to avoid a peace officer who is recognizable as such and who is pursuing him commits an offence.		105.1(1)Tout conducteur auquel un agent de la paix a fait signe ou a demandé de s'arrêter et qui a)ne s'arrête pas, et b)continue volontairement d'éviter un agent de la paix qui est identifiable comme tel et qui est à sa poursuite, commet une infraction.
105.1(2)Subject to subsection (2.1), when a person is convicted of an offence under subsection (1) the judge shall, in addition to any other penalty imposed, make an order revoking the licence and suspending the driving privilege of the person for a period of one to three years or, if the person does not hold a licence, suspending the person's driving privilege for a period of one to three years, and the suspension shall be in addition to any other period for which the driving privilege is already suspended and consecutive thereto.		105.1(2)Sous réserve du paragraphe (2.1), lorsqu'une personne est déclarée coupable d'une infraction en vertu du paragraphe (1), le juge doit, en plus de toute autre peine imposée, rendre une ordonnance révoquant le permis et suspendant les droits de conducteur de la personne pour une période d'un an à trois ans ou, si elle n'est pas titulaire d'un permis, suspendant ses droits de conducteur pour une période d'un an à trois ans, en sus de toute autre période de suspension en cours consécutive à celle-ci.
105.1(2.1)When a person is convicted of an offence under subsection (1), the judge shall not make an order revoking the licence and suspending the driving privilege of the person, or an order suspending the driving privilege of the person, unless the prosecutor satisfies the judge that the person, before entering a plea, was notified of all penalties that could be incurred as a consequence of conviction including revocation of licence and suspension of driving privilege.		105.1(2.1)Lorsqu'une personne est déclaré coupable d'une infraction en vertu du paragraphe (1), le juge ne peut rendre une ordonnance révoquant le permis et suspendant les droits de conducteur de la personne, ou une ordonnance suspendant les droits de conducteur de la personne, sauf si le procureur convainc le juge que la personne, avant d'enregistrer un plaidoyer, a été avisée de toutes les peines qui peuvent être encourues par suite d'une déclaration de culpabilité y compris la révocation du permis et la suspension des droits de conducteur.
105.1(2.2)A person may be notified under subsection (2.1) by serving the person with a notice in the form prescribed by regulation and the notice may be served and service of the notice may be proved in accordance with the Provincial Offences		105.1(2.2)Une personne peut être avisée

Procedure Act. 105.1(3)A revocation and suspension or a suspension ordered under subsection (2) shall commence on conviction and the judge shall (a)if the convicted person is present in court, require the surrender to the judge of all licences held by the person under this Act, and (b)forward to the Registrar a record of the conviction, revocation and suspension, or of the conviction and suspension, together with any licences surrendered to the judge under paragraph (a). 105.1(3.1)Upon receipt of a record referred to in paragraph (3)(b), the Registrar shall (a)give the convicted person written notice of the revocation and suspension or of the suspension, and (b)if the Registrar has not received all licences of the person under paragraph (3)(b), give the person written notice requiring the surrender to the Registrar of all licences held by the person under this Act. 105.1(3.2)Any person who receives notice from the Registrar under paragraph (3.1)(b) shall immediately comply with the notice. 105.1(4)Where an order is made under subsection (2) imposing a revocation and suspension, or a suspension, that is longer than one year in duration, an appeal may be taken from the order in respect of the period of revocation or suspension that exceeds one year in the same manner as an appeal may be taken from a conviction or acquittal in respect of an offence under this Act. 105.1(5)When an appeal is taken from an order under subsection (2), the court being		en vertu du paragraphe (2.1) par signification qui lui est faite d'un avis au moyen de la formule prescrite par règlement et l'avis peut être signifié et la signification de l'avis prouvée conformément à la Loi sur la procédure applicable aux infractions provinciales. 105.1(3)Une révocation et une suspension ou une suspension ordonnées en vertu du paragraphe (2) sont en vigueur dès la déclaration de culpabilité et le juge doit a)si la personne déclarée coupable est présente en cour, exiger la remise au juge de tous les permis détenus par la personne en vertu de la présente loi, et b)transmettre au registraire le dossier de la déclaration de culpabilité, de la révocation et de la suspension ou de la déclaration de culpabilité et de la suspension, ainsi que les permis remis au juge en vertu de l'alinéa a). 105.1(3.1)Dès réception du dossier visé à l'alinéa (3)b), le registraire doit a)donner à la personne déclarée coupable un avis écrit de la révocation et de la suspension ou de la suspension, et b)si le registraire n'a pas reçu tous les permis de la personne en vertu de l'alinéa (3)b), donner à la personne un avis par écrit lui demandant de remettre au registraire tous les permis qu'elle détient en vertu de la présente loi. 105.1(3.2)Toute personne qui reçoit un avis du registraire en vertu de l'alinéa (3.1)b) doit immédiatement s'y conformer. 105.1(4)Lorsqu'une ordonnance est rendue en vertu du paragraphe (2) ordonnant la révocation et la suspension, ou la suspension, pour une durée de plus d'un an, un appel de l'ordonnance peut être interjeté à l'égard de la durée de la

appealed to may direct that the order being appealed from shall be stayed pending the final disposition of the appeal or until otherwise ordered by that court. 105.1(6)In this section "driving privilege" has the same meaning as it has in section 294. 105.1(7) Repealed: 1988, c.24, s.2. 105.1(8)The Lieutenant-Governor in Council may by regulation prescribe a form for the purposes of subsection (2.2).		révocation ou de la suspension excédant un an de la même manière qu'un appel peut être interjeté d'une déclaration de culpabilité ou d'acquittement à l'égard d'une infraction en vertu de la présente loi. 105.1(5)Lorsqu'il est interjeté appel d'une ordonnance en vertu du paragraphe (2), la cour saisie de l'appel peut ordonner que l'ordonnance portée en appel soit suspendue en attendant la décision finale de l'appel ou jusqu'à ce que cette cour en ordonne autrement. 105.1(6)Dans le présent article, l'expression « droits de conducteur » a la même signification qu'à l'article 294. 105.1(7) Abrogé : 1988, c.24, art.2. 105.1(8)Le lieutenant-gouverneur en conseil peut prescrire par règlement la formule pour les fins du paragraphe (2.2).
Newfoundland: *Highway Traffic Act*, R.S.N.L.1990, c. H-3, s. 201.1 Peace officer may stop vehicles 201.1 (1) A peace officer, in the lawful execution of his or her duties, may require the driver of a motor vehicle to stop, and the driver of the motor vehicle, when signaled or requested to stop by a peace officer who is readily identifiable as such, shall immediately come to a safe stop and remain stopped until permitted by the peace officer to depart. (2) A peace officer may, at any time when a driver is stopped, (a) require the driver to give his or her name, date of birth and address to the officer; (b) require the driver to produce his or her licence, and the vehicle's insurance certificate and registration and another document		

respecting the motor vehicle that the peace officer considers necessary; (c) inspect an item produced under paragraph (b); (d) request information from the driver about whether and to what extent the driver consumed alcohol or drugs before or while driving; (e) require the driver to go through a field sobriety test; (f) request information from the driver about whether and to what extent the driver is experiencing a physical or mental condition that may affect his or her driving ability; and (g) inspect the motor vehicle's mechanical condition and request information from the driver about it. (3) For the purpose of enforcing a provision of this Act or the regulations, a peace officer may require a vehicle's passenger to give his or her name, date of birth and address to the officer. (4) A peace officer is not required to inform a driver or passenger of his or her right to counsel, or to give the driver or passenger the opportunity to consult counsel, before doing anything subsection (2) or (3) authorizes. (5) Nothing in this section limits or negates a peace officer's authority to request information from a driver or passenger or to make observations of a driver or passenger that are necessary for the purpose of road safety enforcement.		
North West Territories: *Motor Vehicles Act*, R.S.N.W.T. 1988, c. M-16, s. 116.1 116. (1) In this section, "driver's licence" includes a driver's licence issued under the laws of a jurisdiction other than the Territories.		**North West Territories**: *Loi sur les véhicules automobiles*, L.R.T.N.-O. 1988, ch. M-16, art. 116.1; 116. (1) Dans le présent article, « permis de conduire » s'entend en outre des permis de conduire délivrés en conformité avec les lois d'une autre

		autorité compétente que les territoires.
Nunavut: *Motor Vehicles Act*, R.S.N.W.T.(Nu) 1988, c. M-16, s. 285 Power to stop vehicles 285. (1) An officer may direct a person operating a vehicle on a highway to stop and park the vehicle to determine if the person operating the vehicle and the vehicle and its equipment comply with the requirements of this Act and the regulations. Duty to stop vehicles (2) A person operating a vehicle on a highway who is directed to stop and park the vehicle by an officer under subsection (1) shall comply with the direction.		**Nunavut**: *Loi sur les véhicules automobiles*, L.R.T.N-O.(Nu) 1988, ch. M-16, art. 285; Pouvoir d'arrêter des véhicules 285. (1) Un agent peut ordonner à une personne qui conduit un véhicule sur la route d'arrêter et de stationner le véhicule afin de déterminer si celle-ci se conforme, ainsi que le véhicule et son équipement, aux exigences de la présente loi et des règlements. Obligation d'arrêter (2) La personne conduisant un véhicule sur la route à qui un agent ordonne d'arrêter et de stationner le véhicule en vertu du paragraphe (1) se conforme à cet ordre.
Ontario: Highway Traffic Act, R.S.O. 1990, c. H.8, s. 216 Power of police officer to stop vehicle 216. (1) A police officer, in the lawful execution of his or her duties and responsibilities, may require the driver of a motor vehicle to stop and the driver of a motor vehicle, when signalled or requested to stop by a police officer who is readily identifiable as such, shall immediately come to a safe stop. R.S.O. 1990, c. H.8, s. 216 (1). Offence (2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable, subject to subsection (3), (a) to a fine of not less than $1,000 and not more than $10,000; (b) to imprisonment for a term of not more than six months; or		**Ontario**: *Code de la route*, L.R.O. 1990, ch. H.8, art. 216; Pouvoir d'un agent de police 216. (1) Un agent de police, dans l'exercice légitime de ses fonctions, peut exiger du conducteur d'un véhicule automobile qu'il s'arrête. Si tel est le cas, à la suite d'une demande ou de signaux, le conducteur obéit immédiatement à la demande d'un agent de police identifiable à première vue comme tel. L.R.O. 1990, chap. H.8, par. 216 (1). Infraction (2) Quiconque contrevient au paragraphe (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, sous réserve du paragraphe (3), selon le cas : a) d'une amende d'au moins 1 000 $ et d'au plus 10 000 $;

(c) to both a fine and imprisonment. 1999, c. 13, s. 1 (1).	b) d'un emprisonnement d'au plus six mois;
	c) d'une amende et d'un emprisonnement. 1999, chap. 13, par. 1 (1).
Escape by flight (3) If a person is convicted of an offence under subsection (2) and the court is satisfied on the evidence that the person wilfully continued to avoid police when a police officer gave pursuit,	Fuite (3) Si une personne est reconnue coupable d'une infraction prévue au paragraphe (2) et que le tribunal est convaincu, sur l'ensemble de la preuve, que cette personne a continué volontairement de se soustraire à la police lorsqu'un agent de police la poursuivait :
(a) the person is liable to a fine of not less than $5,000 and not more than $25,000, instead of the fine described in clause (2) (a);	a) la personne est passible d'une amende d'au moins 5 000 $ et d'au plus 25 000 $, plutôt que l'amende indiquée à l'alinéa (2) a);
(b) the court shall make an order imprisoning the person for a term of not less than 14 days and not more than six months, instead of the term described in clause (2) (b); and	b) le tribunal ordonne l'emprisonnement de la personne pendant une période d'au moins 14 jours et d'au plus six mois, plutôt que la période indiquée à l'alinéa (2) b);
(c) the court shall make an order suspending the person's driver's licence,	c) le tribunal ordonne la suspension du permis de conduire de la personne :
(i) for a period of five years, unless subclause (ii) applies, or	(i) pendant une période de cinq ans, sauf si le sous-alinéa (ii) s'applique,
(ii) for a period of not less than 10 years, if the court is satisfied on the evidence that the person's conduct or the pursuit resulted in the death of or bodily harm to any person. 1999, c. 13, s. 1 (1).	(ii) pendant une période d'au moins 10 ans si le tribunal est convaincu, sur l'ensemble de la preuve, que les actes de la personne ou la poursuite ont causé la mort ou une blessure corporelle à quiconque. 1999, chap. 13, par. 1 (1).
Lifetime suspension (4) An order under subclause (3) (c) (ii) may suspend the person's driver's licence for the remainder of the person's life. 1999, c. 13, s. 1 (1).	Suspension à vie (4) L'ordonnance prévue au sous-alinéa (3) c) (ii) peut prévoir la suspension du permis de conduire de la personne pour le reste de sa vie. 1999, chap. 13, par. 1 (1).
Suspension in addition (4.1) Except in the case of a suspension for the remainder of the	Cumul des suspensions (4.1) Sauf en cas de suspension du permis pour le reste de la vie de la

person's life, a suspension under clause (3) (c) is in addition to any other period for which the person's licence is suspended and is consecutive to that period. 1999, c. 13, s. 1 (1).

Notice of suspension

(4.2) Subject to subsection (4.3), in a proceeding for a contravention of subsection (1) in which it is alleged that the person wilfully continued to avoid police when a police officer gave pursuit, the clerk or registrar of the court, before the court accepts the plea of the defendant, shall orally give a notice to the person to the following effect:

> "The Highway Traffic Act provides that upon conviction of the offence with which you are charged, in the circumstances indicated therein, your driver's licence shall be suspended for five years".

1999, c. 13, s. 1 (1).

Same: death or bodily harm

(4.3) In a proceeding for a contravention of subsection (1) in which it is alleged that the person wilfully continued to avoid police when a police officer gave pursuit and that the person's conduct or the pursuit resulted in the death of or bodily harm to any person, the clerk or registrar of the court, before the court accepts the plea of the defendant, shall orally give a notice to the person to the following effect:

> "The Highway Traffic Act provides that upon conviction of the offence with which you are charged, in the circumstances indicated therein, your driver's licence shall be suspended for not less than 10 years and that it may be suspended for the remainder of

personne, la suspension visée à l'alinéa (3) c) s'ajoute à toute autre période pendant laquelle le permis de la personne est suspendu et y est consécutive. 1999, chap. 13, par. 1 (1).

Avis de suspension

(4.2) Sous réserve du paragraphe (4.3), dans une instance pour contravention au paragraphe (1) dans laquelle il est allégué que la personne a continué volontairement de se soustraire à la police lorsqu'un agent de police la poursuivait, le greffier du tribunal, avant que le tribunal accepte le plaidoyer du défendeur, donne à ce dernier un avis verbal qui a la portée de ce qui suit :

«Le Code de la route prévoit que sur déclaration de culpabilité pour l'infraction dont vous êtes accusé dans les circonstances qui y sont indiquées, votre permis de conduire soit suspendu pendant cinq ans.»

1999, chap. 13, par. 1 (1).

Idem, décès ou blessure corporelle

(4.3) Dans une instance pour contravention au paragraphe (1) dans laquelle il est allégué que la personne a continué volontairement de se soustraire à la police lorsqu'un agent de police la poursuivait et que les actes de la personne ou la poursuite ont causé la mort ou une blessure corporelle à quiconque, le greffier du tribunal, avant que le tribunal accepte le plaidoyer du défendeur, donne à ce dernier un avis verbal qui a la portée de ce qui suit :

«Le Code de la route prévoit que sur déclaration de culpabilité pour l'infraction dont vous êtes accusé dans les circonstances qui y sont indiquées, votre permis de conduire soit suspendu pendant au moins 10 ans et qu'il peut être suspendu pour le reste de votre vie.»

your life". 1999, c. 13, s. 1 (1). Idem (5) The suspension of a driver's licence under this section shall not be held to be invalid by reason of failure to give the notice provided for in subsection (4.2) or (4.3). R.S.O. 1990, c. H.8, s. 216 (5); 1999, c. 13, s. 1 (2). Appeal of suspension (6) An appeal may be taken from an order under clause (3) (c) or a decision to not make the order in the same manner as from a conviction or an acquittal under subsection (2). R.S.O. 1990, c. H.8, s. 216 (6); 1999, c. 13, s. 1 (3). Stay of order on appeal (7) Where an appeal is taken from an order under subsection (6), the court being appealed to may direct that the order being applied from shall be stayed pending the final disposition of the appeal or until otherwise ordered by that court. R.S.O. 1990, c. H.8, s. 216 (7); 1999, c. 13, s. 1 (4).		1999, chap. 13, par. 1 (1). Idem (5) Le fait de ne pas donner l'avis prévu au paragraphe (4.2) ou (4.3) n'a pas pour effet d'annuler la suspension du permis de conduire imposée aux termes du présent article. L.R.O. 1990, chap. H.8, par. 216 (5); 1999, chap. 13, par. 1 (2). Appel de la suspension (6) Appel peut être interjeté de l'ordonnance visée à l'alinéa (3) c) ou d'une décision visant à ne pas rendre l'ordonnance, de la même façon que pour une condamnation ou un acquittement en vertu du paragraphe (2). L.R.O. 1990, chap. H.8, par. 216 (6); 1999, chap. 13, par. 1 (3). Suspension de l'ordonnance (7) S'il est fait appel d'une ordonnance en vertu du paragraphe (6), le tribunal saisi de l'appel peut ordonner que l'ordonnance dont il est fait appel soit suspendue jusqu'à ce que l'appel fasse l'objet d'une décision définitive ou que le tribunal en décide autrement. L.R.O. 1990, chap. H.8, par. 216 (7); 1999, chap. 13, par. 1 (4).
Prince Edward Island: *Highway Traffic Act*, R.S.P.E.I. 1988, c. H-5, s. 253; 253. (1) A peace officer, in the lawful execution of his or her duties and Powers of peace officer responsibilities, (a) may require the driver of a motor vehicle to stop; (b) may direct traffic in accordance with this Act and the regulations in the event of a fire or other emergency or to expedite the movement of traffic or to ensure safety on a highway;		

(c) may require the driver of a motor vehicle, on request, to produce for inspection his or her driver's license and the registration permit for the vehicle; and (d) may require an accompanying driver in a motor vehicle driven by a newly licensed driver, on request, to identify himself or herself and produce for inspection his or her driver's license, and the accompanying driver of whom the request is made shall give the peace officer his or her correct name, address and driver's license for inspection. (2) The driver of a motor vehicle when signalled or requested to stop by a peace officer shall immediately come to a safe stop. (3) The driver of a motor vehicle, on request by a peace officer, shall produce for inspection his or her driver's license and the registration permit for the vehicle.		
Québec: *Highway Safety Code*, R.S.Q., c. C-24.2, s. 636 636. Every peace officer recognizable as such at first sight may, in the performance of his duties under this Code, agreements entered into under section 519.65 and the Act respecting owners, operators and drivers of heavy vehicles (chapter P-30.3), require the driver of a road vehicle to stop his vehicle. The driver must comply with this requirement without delay.		**Québec**: *Code de la sécurité routière*, L.R.Q., ch. C-24.2, art. 636; 636. Un agent de la paix, identifiable à première vue comme tel, peut, dans le cadre des fonctions qu'il exerce en vertu du présent code, des ententes conclues en vertu de l'article 519.65 et de la Loi concernant les propriétaires, les exploitants et les conducteurs de véhicules lourds (chapitre P-30.3), exiger que le conducteur d'un véhicule routier immobilise son véhicule. Le conducteur doit se conformer sans délai à cette exigence.

Saskatchewan: *Traffic Safety Act*, S.S. 2004, c. T-18.1, s. 209.1; Authority of peace officer to stop and request information 209.1(1) A peace officer may require the person in charge of or operating a motor vehicle to stop that vehicle if the peace officer: (a) is readily identifiable as a peace officer; and (b) is in the lawful execution of his or her duties and responsibilities. (2) A peace officer may, at any time when a driver is stopped pursuant to subsection (1): (a) require the driver to give his or her name, date of birth and address; (b) request information from the driver about whether and to what extent the driver consumed, before or while driving, alcohol or any drug or other substance that causes the driver to be unable to safely operate a vehicle; and (c) if the peace officer has reasonable grounds to believe that the driver has consumed alcohol or a drug or another substance that causes the driver to be unable to safely operate a vehicle, require the driver to undergo a field sobriety test. (3) No person in charge of or operating a motor vehicle shall, when signalled or requested to stop by a peace officer pursuant to subsection (1), fail to immediately bring the vehicle to a safe		

stop. (4) No person in charge of or operating a motor vehicle shall fail, when requested by a peace officer, to comply with the requests of a peace officer pursuant to subsection (2).		
Yukon: *Motor Vehicles Act*, R.S.Y. 2002, c. 153, s. 106 Stopping for peace officer 106 Every driver shall, on being signalled or requested to stop by a peace officer in uniform, immediately (a) bring their vehicle to a stop; (b) furnish any information respecting the driver or the vehicle that the peace officer requires; and (c) remain stopped until they are permitted by the peace officer to leave.		**Yukon**: *Loi sur les véhicules automobiles*, L.R.Y. 2002, ch. 153, art. 106. Pouvoirs d'arrêter un véhicule 106 Le conducteur est tenu, dès qu'un agent de la paix en uniforme le lui demande ou lui en fait signe : a) d'arrêter son véhicule; b) de donner à l'agent de la paix tous les renseignements que celui-ci lui demande à son égard ou à l'égard du véhicule; c) de ne repartir que lorsque l'agent de la paix lui en donne la permission.