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Presentation to the Senate Standing Committee on Legal and Constitutional Affairs

Bill S-230 - An Act to amend the Criminal Code (drug-impaired driving)

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- Distinguished members of this Committee, I was delighted to accept your invitation and I am here today as the Co-Chair of the Traffic Committee of the Canadian Association of Chiefs of Police (CACP) and pleased to be speaking on behalf of our President, Directeur Mario Harel and CACP members from across the country.
- The mandate of the CACP is “safety & security for all Canadians through innovative police leadership”. This mandate is accomplished through the activities and special projects of a number of committees and through active liaison with various levels of government and departmental ministries having legislative and executive responsibility in law and policing.
- Police services across the country have been noting an increase in the number of incidents of impaired driving after the utilization of illicit and prescription drugs by the driver.
- Of great concern to police services is the increasing number of fatally injured drivers who have tested positive for drugs.
- Although, recent studies in both British Columbia and Ontario have shown that marijuana is the drug of choice, a full range of drugs such as cocaine, heroin and methamphetamines, are being detected.
- With the anticipated legislative change in relation to the recreational use of marijuana, the impact on road safety is worrisome.

- The CACP welcomes legislation that addresses improvements in road safety which brings me here today to discuss oral fluid devices that detect drugs in a person's body which the CACP had asked the Government of Canada to approve for use through a 2014 resolution.
- To be clear, the CACP supports this bill put forward by Senator Carignan. I will briefly address some suggestions to further improve the proposed legislation that will benefit front line policing;
- Within section 2 sub (1), the definition of approved screening device, wording has been added to ascertain the presence of "drugs in the blood of a person". Currently oral fluid devices cannot ascertain the presence of drugs in the blood of a person; they can only ascertain that drugs are present in a person's body.
- Within section 254 sub (2), all references to "peace officer" should be preceded with "a" as opposed to "the" as demands may be made by other than the original officer.
- Turning to section 254 sub (3.4) this refers to the collection of bodily substances such as saliva, urine or blood.
- As you can appreciate, any demands for bodily substances are intrusive by the very nature of the request with stronger grounds required as the level of intrusiveness increases to ensure that the rights of

individuals granted under the Charter of Rights and Freedoms are protected.

- As a result it is our respectful submission that in this section any references to “peace officer” be replaced with “evaluating officer”. These officers are qualified under the regulations to conduct evaluations after having undergone significant additional training to observe and detect indicia of impairment by drugs.
- Further within subsection (3.4) the results of the physical coordination tests (paragraph 2(a)), the results of the analysis (paragraph 2(b)) or the evaluation conducted (subsection (3.1)) should be separated by “or” as opposed to “and”.
- “and” as currently written suggests that the peace officer would require both the failure by the driver of the physical coordination tests and a positive drug screen before being authorized to make a demand for bodily substances.
- This is problematic should the drug ingested by the driver not fall within the pallet, generally 5-7 of the most common drugs, which would not result in a positive drug screen, nor as written, the ability to make a further demand for bodily substances.
- Finally, as I am sure the Committee is aware, there are a number of road safety bills presently in varying stages of consultation including; Bill C-247, An Act to amend the Criminal Code (passive detection device), Bill C-226, An Act to amend the Criminal Code (offences in relation to conveyances) and of course the Bill to which

I am speaking this morning. I would respectfully ask the Committee to consider combining the road safety bills in order to streamline legislation for the front line police officers.

- Prosecution of the impaired driver over the years has been one of, if not the most technically based and difficult prosecution that a front line police officer will encounter over their careers.
- As we continue to prepare/adapt for the drug impaired driver, it is critically important that the tools and processes are available to the front line police officer to hold drivers accountable for any poor decisions that they may make.
- On behalf of the CACP, I would like to thank Senator Carignan and the Committee for advancing road safety across the country.
- Pending any questions from the Committee this concludes my remarks this morning.
- Thank you.