

ROAD SAFETY COMMITTEE

Inquiry into Pedestrian Safety

Melbourne — 19 June 2006

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Witnesses

Mr D. Malcolm, Director, Breathometer,
Mr W. Viner, Managing Director, Premier Beer Systems and Services,
Senior Sergeant Henry Van Andel, Sale Police

The CHAIR—I will open the Road Safety Committee meeting. Welcome to Des Malcolm, the director of Breathometer; Wayne Viner, managing director of Premier Beer Systems and Services; and Senior Sergeant Henry Van Andel from Sale. Thank you, Henry, for coming all the way up from Sale today. We do appreciate it. As you are aware, the Road Safety Committee at this time is revisiting its pedestrian safety inquiry. We tabled the pedestrian safety inquiry in the parliament back in 1999, and this committee last year decided to revisit the inquiry to see what has been implemented and what has not been implemented from a state government perspective. As I said, we welcome the input from Des, Wayne and Senior Sergeant Henry this afternoon. Again, welcome to our meeting.

We are making a record for Hansard, so we will provide you with a copy of the transcript. Des, are you right to kick off?

Mr MALCOLM—Yes.

Overheads shown.

Mr MALCOLM—I would like to inform this committee of the names of those whose lives have been saved by using a breath test machine, but I cannot. However, I can obtain from the public record the names of those who have died because they did not use a breath testing instrument. If that seems to be flamboyant, I would like to relate two incidents that go back to 1988, when I was first putting breath test machines out. I had a call from the publican at the Birchip Hotel, and he demanded that I put a breath test machine into his premises. He was quite forceful in his suggestion. However, I said to him, 'I'm not going to go out into the middle of the Mallee and put something out. It's just too far away and your pub is too small.' Almost in tears, he said to me, 'We killed four kids last Friday night. They were drinking at my hotel. They went down the road and wrapped themselves around a tree.' He said, 'Now come and put your breath test machine in,' so I did.

The response from him was quite remarkable. He ensured that anybody at his hotel who was heading towards their car was breath tested. He made them use the instrument. If they were on the border, he gave them a cup of coffee and made them wait until it was okay to drive. If they were too far over the limit, he either got someone to drive them home or gave them a bed upstairs. If you can understand the problems with rural Victoria, it is not growing, but for a small town like Birchip to lose four young members has quite an impact.

The second incident was at the Commercial Hotel in Kaniva. I have had a breath test machine there for some years. In its last year of operation it returned me just \$60 and I could not afford to keep the instrument there, so I pulled it out. Within the same week, two kids left the Kaniva pub, went down to Horsham to have a night out, and wrapped themselves around a tree and killed themselves. Who knows: if my machine had remained there, they might have used it and it might have saved a life. These things we do not know, but it just shows the value of these machines if we put them out there.

My company pioneered breath test machines in Victoria in 1984 and we embarked upon free installation. We gave them to licensees free of charge with all costs for operations payable by my company. We wanted to work with the liquor industry. They could have free machines and we would operate them as a vending unit. As things progressed, we developed a relationship with VicRoads. We worked with them and we worked with various RoadSafe organisations, shire councils, local liquor accords, Victoria Police and, more recently, the Transport Accident Commission. My business extends right up through New South Wales and we work very closely with the RTA in New South Wales, up the Newell Highway all the way through to Moree and Narrabri, where our machines are located.

I have conducted four trials in Victoria. The first, in 1988, concerned The Efficacy and Educative Value of Coin-in-the-Slot Breath Test Machines. In 1994 we were approached by VicRoads, who had employed the Monash University Accident Research Centre to do a cost-benefit ratio on breath testers: if they were put in, would they save people's lives? The third study concerned VicRoads, who wanted to look at the findings of MUARC, whose responses were quite good. VicRoads asked us to put a few machines out in the Wodonga-Shepparton region. The fourth trial I did was a feasibility study in 2001. VicRoads commissioned my company to undertake a study into the feasibility of breath testers and to look at the alcohol problems in rural Victoria.

I am a current member of the Australian Standards Committee. I was the first manufacturer to be represented on the committee. At the time it was full of public servants who not much idea of the technical knowhow of the operation of these machines. Following the criticisms of the equipment used in the first trial, the 1988 trial—comments made by the AHA—I realised that the unit that we were using then was not good enough for market conditions, so I embarked upon manufacturing my own. We used fuel cell technology, which is probably the best technology for use in this arena. It is currently used by Victoria Police and most police forces throughout the world.

The difficulty we had with this technology is that it suffers a fatigue problem and it requires some time to recover. I went to Germany and spoke to Drager about trying to acquire some of their background knowledge as to better use of the fuel cell. They could not help me. I went to Lion at Cardiff and they could not do anything better. So we realised that we had to build a management system for the fuel cell to operate a demanding figure of one test per minute, whereas the fuel cell was designed to do a test every six to 10 minutes to overcome its fatigue problem. We conquered this and we eventually submitted the instrument to standards testing in 1994. We then patted ourselves on the back and told everybody we were good enough for Australian standards. VicRoads told us quite bluntly that we needed full standards accreditation. Then I had to get my business into a procedure where it earned the licence from the Australian standards people and we had full AS accreditation. We achieved this in 1997. Having done that, we expected that the world would open up to us, but it did not. VicRoads did not do anything.

The CHAIR—What do you mean, VicRoads did not do anything?

Mr MALCOLM—I hoped we would get their public support, which might have manifested itself if industry had accepted these instruments. It is not a criticism; it is just what happened. The instrument has evolved through a number of designs, and we realised that we were not going anywhere by just hanging a breath test machine on the wall and hoping that it would work. So we designed our own marketing, we built in our own marketing format and we added an

illuminated advertising component, on which we placed our own messages to encourage the use of the instruments in licensed premises. This works very well for us. We maintain a high profile with these machines, and they meet the required performance level of market expectation. So I think we have achieved the right formula.

In the design of the instruments, the instruction panel was a problem. We had to be able to get the message cross to people to wait 10 minutes to use the instrument correctly, otherwise they would not get a correct test. So I employed the University of New South Wales Psychology Department. They studied the format for my facia panel over a six-month period and they came up with a very successful but simple solution. We used international terminology of figures and simple words. Now we realise that at 3 o'clock in the morning people who have had a skinful can still use the machine satisfactorily. In fact, the facia has now become the signature of our breathometer instrument.

In subscribing to the Australian standards, we have achieved reliability and accuracy that is probably unsurpassed by most equipment. In fact, our instruments are as good as police equipment, except that we go one better: we have to put them into a rough environment. We have an instrument measuring alcohol at the rate of two parts per million of exhaled air, we have to get that instrument to work plus or minus 10 per cent—the narrow confines of the Australian standards—and we have to be able to hold that accuracy for a 35-day period, which we do.

However, if we do not calibrate our instrument within that 35-day period, it is programmed to shut itself down. We have a real time clock, a microprocessor which controls every function within the instrument. But to gain the confidence of the public, the industry and government, we have set a demanding task for ourselves, as we subscribe to Australian standards, and we have made it a task for ourselves that we have to go out and service these machines within a 35-day period. There are complexities with the fuel cells. They are a very sensitive piece of equipment but they are very accurate, and they are the best for this job. We could look at infra-red technology, but we would quadruple the cost of an instrument, which it takes it out of the reach of everybody. The problem with infra-red is that its turnaround time in between tests can be up to three to four minutes, which is too slow.

As to machine management, we are aware of the weakness in the Australian standard. It is weak on calibration procedures. The Australian standard does not mention that you have to get out and calibrate your machine. However, in its testing procedures we have to test it to a 35-day period, and on the 36th day the same test as is done on the first day is repeated. If the results are the same, we have survived it. But the standard does not say that after that point you have to service your machine. I have approached the committee on a number of occasions to say they should change it, but they do not choose to do so. So I have written into my quality assurance procedures a regime for calibration. When my production is audited by Standards Australia's auditors, they will come out in the field and test my machines. They have to be accurate at that point, otherwise I lose my licence. So we have made a noose for our own neck, so to speak. It puts up the cost of the operation of our machines, but we can guarantee that we have accurate instruments in the field at all times. It adds to Wayne's problems if someone rings up and he has to go out to service a machine two weeks after he has just been there.

However, if we have a calibration problem or the instrument decides that it cannot give an accurate reading, it will shut itself down, so we have to go back out to the instrument. If we do not,

we are the ones that lose money. We do not get the coin receipts from the machine. Nobody loses except us. However, we can at all times provided audited records for the servicing of each and every one of our breath test machines. Our records are indeed audited when we do a factory audit subject to Australian standards conditions.

Another thing that is of note: we sought legal advice to put through the 1988 trial on the efficacy and educative value of coin-in-the-slot breath test machines. Before the AHA would subscribe to that trial, we had to get insurances in place and we had to get legal opinion which covered the members of the AHA. Barrister Colbran advises:

Regular servicing and testing of machines and the maintenance of service and testing records will limit even further any exposure to liability on the part of publicans.

That was the key point of our writing our quality assurance procedures: if we are checked, at any given point we can provide audited records. With this in mind, the company's calibration procedures were written to ensure total confidence in each machine.

We are often prompted about the legal status of these things. I have had publicans ask me to put machines in because they do not want to be sued. I have had publicans, as Wayne has, saying there are problems with these things, perceived legal liabilities. It is something that we do not agree with. As a result of the 1988 trial, the AHA demanded full protection for their members, so the Road Safety Act 1986 was amended. Section 84A states that the readings from these instruments cannot be used in any civil or criminal court case. It is fairly black and white. Sometimes the argument is thrown up that there are perceived legal liabilities, but how can that be from the use of a machine that is clearly protected by state legislation? Further, Barrister Colbran wrote in his opinion to convince the trial to go through:

The law would not permit an action of this nature against a publican or a licenser.

By the exercise of care in the making of any representation, and by ensuring the regular servicing of the machines, publicans ought to establish that they have not been guilty of any negligence. Proper regular servicing and testing of machines and the maintenance of service and testing records will limit any further exposure to liability on the part of publicans. The risk of a publican being held responsible, even in part, because of any careless representation as to a patron's sobriety for negligent driving leading to an accident is remote indeed. A publican will be able to rely upon the evidence that he or she was not careless in making representation based upon the use of breath analysis machines.

Hence we have an audited file on every one of our machines. So we can come to the defence of any publican who has one of our machines, should the readings be challenged in any form.

Mr STONEY—As to the practicality of it, if someone who does a test and has a reading of .04 goes out and is picked up at .07 or something, how can they prove the machine's read-out? There is no printout or anything, is there?

Mr MALCOLM—No, there is not.

Mr STONEY—Do they have to have a friend there who can testify as to that?

Mr MALCOLM—It does not matter. The law says that the readings cannot be used in any civil or criminal court case.

Mr STONEY—No, but I thought we were going along the line where you machine said he was .04 and he went out and was booked at .07. He says, 'I'm going to sue the publican because the machine said it was .04.' How can he prove that the machine said he was .04?

Mr MALCOLM—He cannot, and we deliberately do not put in a printed ticket, for the reason that if I had a skinful and Wayne did not, I could pick up his ticket and then go off down the road and say, 'I'm sober.' So we deliberately move away from that. But it is unlikely that a machine would give a reading of .04 and the police would give a reading of .07 a little further down the track. If I can elaborate on that point, we calibrate our machines at an alcohol partitioning ratio of 2300 to one. That is the equivalent of 2,300 parts oxygen to one part alcohol. The reading is the same as a blood test. When we take a test with our instrument, we ask the tester to blow 1.3 litres of air into the instrument, so we are indeed measuring alcohol from the deepest part of the lung, where oxygen and alcohol, alveolar air, enters the bloodstream. Our instrument will measure the amount of air blown through it. Once it recognises that 1.3 litres have gone through, it will grab a sample. By this time the alveolar air is in somebody's mouth and they are blowing it into the machine.

Police calibrate at 2,100 to one, so there is a 9.5 per cent favour with the driver. A police reading at .045 will show a reading of .05 on my instrument. So it is highly unlikely that someone will blow into my machine at .04 and get .07 on a police instrument, unless they have had a drink after they have blown into my machine.

Mr STONEY—I was more interested in how they would challenge it anyway.

Mr VINER—There is one other point we should make too. On all our equipment we state that it is a test at that point in time. You are not aware of what that particular person has been drinking, their metabolism, weight. There are all sorts of variable issues that could cause an increase or a decrease in alcohol content at a later date.

Mr STONEY—That is the same with the official test, isn't it?

Mr VINER—But you are testing at two different points. So if someone who blows at .04 is picked up half an hour later at .07, you are not to know whether they have had four rum and Cokes in the last half hour. There could be a rising rate of alcohol. The onus is still on drinkers to be responsible in their drinking attitudes, so we give them an indication at the time of the test.

Mr MALCOLM—We give an actual test really. We are giving the same reading as a blood test, at 2,300 to one, and it is 9.5 per cent higher than a police test. No-one would have a higher reading after 10 minutes use on my machine. If they had a fair amount of alcohol, they would get a massively high reading on my breath test machine. If they had four rum and Cokes and they blew into the machine 10 minutes afterwards, their reading would be up around the .08 figure. It would be well and truly above .05 and it would not matter if there were a rising rate of alcohol after that if they were picked up by the police. But it is highly unlikely. The readings are carefully processed by our instrument. We have had to design this instrument to get around the intricacies of the fuel cell, so we almost duplicate the human lung inside our machine. We keep very strict control over our temperature at 34 degrees. By the time the exhaled air passes from the last part of the lung to the mouth, it cools from 37 degrees to 34 degrees. We keep our instruments at 34 degrees so that there is no variation in the deep lung air when it is analysed.

We have tried at all times to make sure that our instruments are probably the best, and in fact, getting over the intricacies of handling the fuel cell, our instrument is probably world-class. I do not know of anything in the world that matches the performance of our instrument. There is a whole lot of cheap sensor based instruments that respond to all sorts of things, such as cigarette smoke, medicines and any member of the ethanol family, but our instrument is indeed alcohol-specific, which is why we chose the fuel cell. It has been developed to respond purely to alcohol. When alcohol enters a fuel cell, it creates electricity. We measure the voltage and then we give off a reading.

At all times we are mindful of the fact that our instruments must be accurate to win the confidence of government and of the liquor industry. We have written our calibration procedures around proper maintenance and care, mindful of Barrister Colbran's opinion. However, we do have some difficulties with some licensees. To quote a letter from a licensed club where we were asked to put in a machine recently, the response came back:

After seeking advice from our club solicitor and industry peers, we have decided not to proceed with installation. In short, the advice we received was that the club had no real gain, with the possibility of being drawn into litigation despite assurances that the club would not assume responsibility.

Everything that we explained to these people went out the window, even Michael Colbran's interpretation: that a breath test machine on the premises will protect the licensee if somebody has too much to drink, goes out on the road, and has a smash, and they have no insurance and neither has the driver of the vehicle they have struck. If there are two vehicles there, the fellow who is excess of .05 is responsible for the damage to both vehicles. He has no insurance, so he seeks legal aid. The legal situation is that the solicitors acting on behalf of the offender will seek damages from the licensee because this fellow was probably overserved with alcohol. If our machine happened to be on those premises, properly serviced and maintained as Barrister Colbran interprets and as our Australian standards indicate, we can come to the defence of the licensee: a properly maintained instrument was on site. If the fellow ignored the machine or the advice given by the machine, it is not the responsibility of the licensee. He has done everything possible to ensure that somebody in excess of the drink-driving limit does not go out onto the road.

The CHAIR—Des, who promotes or advocates the use of the machine in the premise itself? Is it initiated by the customer or does the licensee take a proactive approach to tasking customers to use the machine?

Mr MALCOLM—Many publicans or licensees, nightclub operators, et cetera, ask for our machines, and they do take care. They encourage use by their patrons. But the instrument has been designed to be self-marketing. We realise it is not good enough just to hang a machine on the wall and hope that the thing works. We have put in an illuminated panel to attract interest. We try to put these instruments into a high-profile position so that people act on impulse, although we have of late started to employ on-site local advertising, such as on drink coasters and the like. The TAC has started to issue drink coasters to encourage people to use the machines if they are out of the way.

Mr BISHOP—Des, I am conscious of the time. One of the issues I wanted to explore with you guys is the cooperation you have from the TAC and the community. That was certainly my interest, and I do not want that cut off by the time lines.

Mr MALCOLM—Let's go to that straightaway. In Shepparton in 1999 we put breath test machines out over the Easter weekend. The problem was that there were two big hotels in town. Fighting for the student dollar, they were issuing cheap drink tickets. It was a problem for the police because they had kids on the street early in the morning, especially over the weekend, and they wanted to address this problem. At the same time over Easter there was a Summernats weekend when the kids came into town in the cars for a promotion. The Road Safety Council asked me to put breath test machines in all licensed premises and they were promoted. The result from the TOG at Euroa was that there were 769 traffic offences for that period, of which only three were for driving in excess of .05. The issues on the streets were curbed and police were happy with the result.

More recently, in Echuca in February this year, the Campaspe Shire Council promoted the Southern 80 ski race. Breath test machines were put into every licensed premises and promoted, and additional police were put into town, because the shire council did not want a repeat of the drunkenness and antisocial behaviour of the previous year. We put our machines out; they were promoted. The mayor made a public statement and the instruments adopted a high profile. The results from police were that of the 2800 random breath tests, 10 drivers were in excess of .05—one in 280—where the average figure from police for 2004.05 is one in 70. Further, as to drunkenness on the streets, 252 people were arrested in 2005. This year I think there were 86, a reduction of 60 per cent. The antisocial behaviour was curbed, and the result was that the Southern 80 boat race was a far more civil operation.

I received a letter from Senior Sergeant Ralph Willingham, who, as the chairman of RoadSafe Victoria's Alcohol and Drugs Subcommittee, stated:

We are grateful for the machines. This shows clearly that the installation of the breath test units, supported by clear drink-driving messages, in all licensed premises can have an immediate and positive impact on the behaviour of the public in general and in particular in reducing road trauma.

That would relate to pedestrians. We have curbed the incidence of people, kids, playing up on the street. That has been reduced. With that sort of support, police recognition, RoadSafe's recognition, the marketing of our instruments, together with a clear message, indicates that they can have a positive impact on social behaviour. Clearly, that is what this hearing is about. How do you reduce pedestrian statistics? I would say that the implementation of breath test machines in hotels with an educative message would certainly address that issue for you.

Mr BISHOP—What about the Transport Accident Commission? How do they get involved? Where is the link there?

Mr MALCOLM—They are doing a pilot program at the moment. It might be best at this time to hand over to Wayne, who was actively involved with that.

Mr VINER—I became involved with Des about two years ago. One of the things we identified at the time was that we needed to get more involved with bodies such as VicRoads, TAC, et cetera.

The CHAIR—Sorry, Wayne, what is your role?

Mr VINER—My background is in the hotel industry as an equipment supplier. We install service equipment. I was interested to see that a number of the outlets that I looked after did not have breathalysers. Having used one myself years ago, I was intrigued as to why more of them were not around. I literally came across Des's phone number one day in the *Yellow Pages* and thought, 'I'll make call.' We got together after that.

The CHAIR—So you install the machines?

Mr VINER—Yes. I currently operate the machines in conjunction with Des in Victoria. We are out there doing the marketing and sales for the likes of TAC and then getting them taken up by the various venues. Our approach was made to the TAC. Between six and nine months later they got back to us and said, 'We'd like to have a talk. We are now prepared to look at running a program.' The program they are currently running is called *Right to Drive*. Its main focus is on drink-driving, but they also look at other issues revolving around alcohol within venues. At the moment we are looking at the eastern suburbs of Melbourne, focusing from the inner to some of the outer rural areas, as far as away as Launching Place, Healesville, et cetera. We are placing 75 machines, and over the next 12 months they will evaluate the use of the machines.

It is not so much to see if the machines work. They are more than happy with the fact that they are accurate, well-maintained, et cetera. Their focus is on how best to present the machines within venues and increase their usage. They realise this has to be done by advertising, so we are looking at a range of in-house advertising as well as external advertising through newspapers. We are also getting involved in the education side of things. We are doing advanced RSA courses for people involved in the program. So it is through a combination, which is really what we are about. It is a chance to try to educate people within a venue as well as inviting them to do a test, and once that test is done, they have to make a decision, obviously dependent on the result. It is that participation that we have some success with. There is a conscious decision made on patrons' behalf.

The CHAIR—In the promotion of those machines at pubs, is the focus on people who are actually driving or on just the general customers that happen to be in the pub at the time?

Mr VINER—To be honest, it has evolved quite a bit from what I initially thought it would. Our initial focus was on, as we call the campaign, *Right to Drive*. But its application within the hotels is deemed to be a lot wider. We are saying to the hoteliers now that they can use it as a management tool. For instance, I deal with a hotel in Ferntree Gully that holds under-age nights for kids once a month. They have many children coming in having drunk at home, and the machine gives them an opportunity to vet people as they come through the door. From experience, there is nothing than worse having a drunk at the bar arguing that they are not that drunk and should be served. We can act as an independent umpire. The hotelier has a chance to say what the house rules are. They can pick a figure—.01, .02—'If you're above that, I'm afraid we can't serve you.' Again, they can use the machine for a vetting purpose.

Another common problem is that people will go from one hotel in a region to another. Often when they are kicked out they will go across the road to the next venue. Security staff on the door, if they suspect that the people might be intoxicated, then have the opportunity to do a test. It is up to them basically to set the parameters, but this gives them a more defined view of what is happening.

The CHAIR—More objective.

Mr VINER—So we have broadened the scope. I know the focus of this inquiry is on pedestrians but, as we were discussing, all drivers and their passengers are pedestrians at some point when they are leaving a venue, so that same focus will follow through to anybody within the venue itself. Currently we are not only working with TAC but also have other projects under way. We were approached recently by the Frankston Council. Their road safety officer, Bob George, is now using our machine as an initiative for the Frankston area initially, and hopefully within a couple of months he will be looking at broadening it into the Mornington Peninsula, taking in all areas: sporting clubs, even wineries, where I know he has been recently doing some work.

The thing we find is working the best for us is addressing many of our issues through the local liquor accords. It is a grassroots approach. We are talking directly with the different licensees, becoming involved with road safety officers and police and trying to be a part of that campaign. We find that the people covered by the liquor accords tend to be more committed, possibly, than others. They are very mindful of their RSA responsibilities, and to date we have had great support from them.

Dr HARKNESS—I have a couple of questions. What is the cost that must be borne by the publican or the hotel, and what is the relationship between yourselves and the hotel association?

Mr VINER—That covers two issues. We have a preferred model that we have found works very well. We initially place the machines into a venue at no cost to the licensee. Our units

are operated by coin receipts, which helps fund our operation. One of the problems we encounter is that you get such a variation between venues. We see the need as the same, whether we are putting a unit into a local football club or a busy nightclub, but obviously the local football club will probably not cover our costs, whereas the nightclub will. So we try to regionalise things—that is why we are working with liquor accords—and we will amortise our costs within a region.

The other fundamental thing for us is that, as we are operating in conjunction with the TAC, they are supporting us in the form of advertising. We have two elements to our machines, as I said earlier: the educational aspect and the testing in-house. The added advertising support basically lets us put the machines out, and we are assured that we will not run in a loss situation. In that sort of scenario, we can put as many machines out there as required.

As far as the AHA is concerned, that is basically a lobby group for the industry. We are happy to work with any industry group as long as it can be constructive. We have had an instance in the past when we know they gave evidence to another commission hearing. On the one hand they said they were more than happy for these units to be out in the marketplace—this is prior to me coming on board—but Des had the experience that within a couple of weeks in the same month they sent a letter to all venues saying that there were possible perceived legal problems and advising them to take the units out. We do not want to get back into that sort of situation. We think we are in a much stronger position now.

Dr HARKNESS—How long ago was that?

Mr VINER—How long ago was that, Des?

Mr MALCOLM—1991-92.

Dr HARKNESS—But the machine will have evolved over that period, won't it, in terms of technology?

Mr MALCOLM—Yes, it has. Still, the basic concept was that we gave free machines to AHA members and, after we thought we had their support, we found we did not.

Mr VINER—That is possibly why we are making what we call our grassroots approach by working directly with the people in the field. They then understand all the issues, and, as I said, we are getting very good support from them. Something I would like to allude to: there are other programs around. Henry has come from Sale to elaborate on a new initiative of the Sale Police. We were involved with them a couple of weeks ago in a program for training both the public and hotel operators. It has been very well received. I hand over to Henry.

The CHAIR—Just one question before I forget: do the machines have an upper limit that they show? We have heard stories of fellows in a pub who have had a few beers and decide they will go for the record, to see if they can blow the machine off the wall.

Mr MALCOLM—The instrument will shut itself down at .999, but that is an Australian standards requirement. If there were to be any change to that, we would have to go back and change the Australian standards.

Mr BISHOP—You would not get anyone drinking to that level, would you?

Mr MALCOLM—What they do is take a mouthful of alcohol and just blow into the instrument. They just play games on it. I do not mind them doing that, provided they do not drive, and that is always the message that we carry on our machines. But it is rare that this happens now. When we load down the information on how our machines are performing, we are not getting those sorts of readings any more. There is a far more responsible approach to the use of these instruments.

Mr VINER—There are a couple of issues. One of the reasons we have a testing cost is that it stops people playing with the machines. If we had them out there for free, they would just keep pressing the button and mucking around. With the TAC project, we are charging \$1 per test. With our normal machines out in the field, we charge \$2. We find that, at \$2, people do not want to keep playing with it. Also, I find that most of the younger people are pretty responsible. If they are out to have a big night, they will play with the machine, but we think we are still getting that educational message through. They are aware that the units are there. Sure they will get some high readings, but we hope that when they come to drive they will test themselves and be more responsible. Sorry, Henry.

Senior Sergeant VAN ANDEL—That is okay. Thanks very much for the opportunity. I want to give you a very quick snapshot of Sale and what we are doing at Sale in relation to trying to combat antisocial behaviour and amenity issues in and around licensed venues. About 12 months ago the Wellington Central liquor accord was reinvigorated. We got together with all the licensees down there and said, 'Come on, guys, let's really work together here,' because we were getting flogged with drunks who were being tipped out at the end of the night and caving themselves in, and also doing untold damage in and around the nightclubs. I said, 'Let's come together and, as a group, try to come up with some strategies.' This is all about local solutions to local problems. Wayne spoke earlier about how people would go to one hotel and, finishing there, go to the next, and just start hopping and popping. We have one hotel there that is licensed until 7 am, but typically about 3 o'clock or 4 o'clock in the morning is when they would start to be tipped out, and that is when we would be seeing different assaults in and around the clubs there.

As I said, we got together with the licensees and started to talk about being responsible on both sides of the bar: being responsible in the sense of responsible service of alcohol, but also being responsible about people's consumption of liquor. Out of that was born a program known as *Being Safe, Not Sorry*. That tackles two ends of the spectrum. It tackles the drinking drivers of our town and the responsibility of licensees and hotel and club staff for the responsible service of alcohol.

The RSA course is a very basic course. What we want to do is give people better skills in dealing with people who are in different states of intoxication. You can be pulling beers, or light beer, all night. As soon as people start to mix their drinks, the young girls predominantly who are working behind the bar—this is a new experience for them—have to deal with the behavioural changes that occur, particularly late at night. They are lacking skills.

In consultation with the accord we developed this program known as *Being Safe, Not Sorry*, which is interactive, fun and in a controlled, safe environment. In a nutshell, it brings together a group of no more than 15 people who, during allocated times, are given certain types and quantities of liquor to consume. We start off at 6.30 in the evening and for that first hour they are given four drinks to consume. At 7.30 they stop, wait for 15 minutes for all of the alcohol in their mouths to disappear, and are given a breath test. Then at 8.30 the same thing, and at 9.30 we close up shop and have a debrief. The impact of consuming wine has been highlighted particularly to the women who have been attending these programs. When you go out to a hotel or a nightclub and ask for a glass of wine, do you get a standard drink? No. It is more two, two and a half times. So, with the current advertising, people think, 'Okay, I'll have my glass of wine,' but it is really two standard drinks. We are seeing significant results in people after the first hour of consuming glasses of wine, and so on and so on through the evening.

I have some statistics here. At the *Being Safe, Not Sorry* evening that we conducted a couple of weeks ago, one young lady, whose experience we tabled over the media—we were a bit strategic about that—after consuming her first two drinks, was already over .05. She had a reading of .054 after consuming two glasses of wine.

Mr STONEY—Two standard glasses?

Senior Sergeant VAN ANDEL—No, two glasses that were served.

Mr STONEY—Two glasses that were bigger than standard, yes.

Senior Sergeant VAN ANDEL—That was at 7.30. At 8.30 she was at .084. She had had, I think, one glass more in that hour. At the end of the evening she had consumed four glasses of wine and she was up to .169. That is staggering. She was gobsmacked to find that she had a very high reading from consuming the same amount of alcohol that she would in a normal night out. Of course, she had to attend work the following day, and as part of our debrief we make sure not only that people are very mindful of their alcohol elimination rates, but also that they safe transport back to their home by mini-bus.

As part of the feedback that we were getting from that, one young lady that attended the course in the first session said that during the afternoon she would have a couple of glasses of wine before she went to pick the kids up from school. She was up to .09 per cent prior to going to pick the kids up, and for her that was normal, everyday practice. With this sort of interactive education we reckon we are on a real winner here, because it is creating a lot of talk in the local community. We have had significant media results about it on the local TV and in the local paper. It has been

talked up. The benefit of this to our local community is that people can come along and have a breath test on one of these guys' breathometers and it is used as a screen for them. On Saturday and Sunday mornings we will have people coming to the police station and, as a precaution for them as part of their driving, ask to have a go on our PBT. We will oblige, but if we had these breathometers in the club, they could go there and do the same type of breath test.

Mr EREN—How long would the lady that was on .169 have to wait before she was .00?

Senior Sergeant VAN ANDEL—We are looking at an elimination rate of .01 per hour. There are a lot of variables in there. She got to .169, so it will be 16 hours by the time she is .00.

Mr EREN—Many of the young people on P-plates would probably not know that.

Senior Sergeant VAN ANDEL—No.

Mr STONEY—And there is no way of testing them either. Without these machines, there is absolutely no way people know what their body does.

Senior Sergeant VAN ANDEL—Taking one of the danger flags for us also, I refer to a media release dated 24 May, where Mr Brumby was talking about how one industry aims to achieve \$1.8 billion in sales by 2010. That is fantastic for the wine industry. I am very mindful of the impact that this may have on our roads, particularly in the area of wine consumption and drivers and pedestrians. They will be filling up and leaving the hotels, and there may very well be a spike in road collisions and trauma as a result of this.

Mr STONEY—Have you done any control tests on light beer?

Senior Sergeant VAN ANDEL—Yes. Light beer is definitely the way to go, and I have some results here which I can make available.

Mr STONEY—Sure.

Senior Sergeant VAN ANDEL—There are a lot of variables in there. We had two different subjects who both consumed eight pots. One was consuming light beer, one was consuming heavy beer. At the end of the night, at 3.30, when we called it quits, the guy who had consumed the light beer had a reading of—can anyone hazard a guess—.044 per cent. The guy that was drinking heavy beer had a reading of .099.

Mr STONEY—So it is true, then: they say you cannot drink enough light beer to go over .05. The old adage would almost confirm that.

The CHAIR—I think you can. I think you have to be careful.

Senior Sergeant VAN ANDEL—Yes, you have to be careful.

The CHAIR—You said eight pots, didn't you?

Senior Sergeant VAN ANDEL—Eight pots.

The CHAIR—That is a fair bit.

Mr BISHOP—Have you had any experience of the machines being in there and people wanting to use them, from your experience as an officer?

Senior Sergeant VAN ANDEL—It is a good question. Wayne came down and gave a liquor licence accord meeting address—

Mr VINER—Six weeks back.

Senior Sergeant VAN ANDEL—Yes, and that generated a lot of interest. We conducted this program two weeks ago, and the day after there was a lot of interest among the licensees. I am not sure what the coverage is.

Mr VINER—To give you an idea—and this is partly because of the support of the guys at Sale—we targeted 12 venues within the immediate Sale area, ranging from nightclubs to hotels and the greyhound track, which turned out to be a fairly big premise, and achieved 11 licensees wanting to put them in. There was very little arm-twisting. In fact, I was surprised in that many of them said, 'Great idea. How quickly can you do it?' Within two days we have installed about eight machines and we have another three to go.

Mr EREN—Apart from the 75 that the TAC is helping with, how many machines would you have installed around Victoria?

Mr MALCOLM—135.

Mr VINER—They are going in literally every day at the moment. We are up to about 137 operating in Victoria now, with approximately another 86 earmarked to go in in a couple of different regions.

Mr EREN—Are they spread evenly across Victoria?

Mr VINER—No. We are working in areas. At the moment we are working at Sale, which has been very good for us. I have another six to go in Traralgon. We are looking at the Mornington Peninsula at the moment. We have to finish our quota for the eastern suburbs and for the outer eastern area. Des has units in Ballarat, Bendigo, Geelong, Echuca—a fairly strong point for us—Shepparton, Wangaratta and a few other dispersed areas.

Mr EREN—How many machines do you have in Geelong at the moment?

Mr MALCOLM—Two. It is interesting to note that, at the time of the Echuca result, one in 280 drivers breath-tested, there was a blitz on 11 March in Geelong where 1,418 drivers were tested, of whom 27 were in excess of .05. Geelong does not have breath testers at the level of intensity that Echuca has, but the difference is one in 2800 drivers caught in Echuca as opposed to one in 52 in Geelong, while the state average is one in 70.

Senior Sergeant VAN ANDEL—If I can add one thing, Sale is a small rural community. Typically we cannot get additional police to come to help us with blitzes. We have to rely on our own resources and our own networks to try to reduce the antisocial behaviour there. We are looking at different options. This is a great option for us because, with the spirit of cooperation we have with our local accord, the licensees, the clubs, are driving this. That is great news from a policing perspective.

Mr STONEY—Two questions for Des: you were telling us about the difficulties developing the machine in the earlier days. Why couldn't you just follow the technology that was available through the police breathalysers? What is the difference between yours and the police breathalysers? Can you explain why you had to reinvent the wheel?

Mr MALCOLM—Sure. Police equipment at the time was being used in roadside screening. If there was a positive result on their equipment, it was put aside and a fresh piece of equipment was brought out. I refer to the hand-held devices. My instrument is hung on the wall, where people are queuing up to use it. If we did not overcome the fatigue element of the fuel cell, we were doing one test every 10 minutes, which is not market-feasible.

Mr STONEY—The police machines would do two a minute.

Mr MALCOLM—No, not at the time. They were doing one every 10 minutes. They would have an instrument there. If it gave a positive reading, that instrument was put aside and a fresh instrument came out. The fuel cell in that instrument would take up to 10 minutes to recover and clear the alcohol residual to ready itself for the next test. We had to overcome that problem. Drager could not help us, Lion could not help us, so we had to master that ourselves, which we did, in order to pass Australian standards. The Australian standards demand a test every minute. At the time the Australian standards were written by public servants who did not understand the technology. It was only when I came aboard that we started to have our arguments, but I realised that if we were to make the instrument suitable to market conditions, we had to get it to perform at the rate of one test per minute, which we eventually achieved. But it took four years, 312 software programs and \$1.2 million worth of investment to get the thing to work. That is why I say we have a world-class instrument on our hands.

Mr STONEY—Do you know how many a minute the present police breathalyser, obviously the latest, can do?

Senior Sergeant VAN ANDEL—I do not know.

Mr MALCOLM—The current technology—the police have changed over within the last two years. They have caught up to us.

Mr STONEY—So in a way, trying to dig down, you are saying that your machine could be a little bit ahead of the official one?

Mr MALCOLM—It was from 1991 onwards.

Mr EREN—In terms of the legal ramifications for the licensee, from the statement that you just made, obviously there is a calibration issue in terms of your machines? I do not know where the police machines are manufactured but, say, a customer blows into one of your machines and had a reading of .049 and thought, 'I'm fine. I can drive,' jumps in his car, is pulled over down the road, and reads .05, what happens in that case?

Mr MALCOLM—The Road Safety Act, section 84A, says the readings from a public breath test machine cannot be used in any civil or criminal court case. There is no potential for legal action. But the incident you quote does not happen. According to the Australian standards, my instruments must read 9.5 per cent higher than police equipment, which they do. So a reading on my instrument of .05 would give a reading on police equipment of .045.

Mr EREN—So you overcalibrate?

Mr MALCOLM—No, we do not overcalibrate. We calibrate it at the medical equivalent of the blood alcohol partitioning ratio of 2,300 to one. Police down-calibrate it 2,100 to one to give a margin of error in favour of the driver.

Mr VINER—But, to be honest, if I blew .049, I would not be driving. The term 'responsible use of alcohol' still comes in. You would wait possibly half an hour, do another test and see whether you have plateaued, if you are dropping, and then you would know you were safe. It is basically marketed on the basis that it is an indication of what your level is at the time.

Mr MALCOLM—We have an instruction on our instrument, 'If in doubt retest 15 minutes later.'

The CHAIR—I will have to wind this up. Is there any more information that you would like to provide?

Mr MALCOLM—I could keep going for the next 24 hours, but no. Thank you for the opportunity.

The CHAIR—Thank you to you, Des, Wayne and Henry.

Mr VINER—Sorry, can I say in conclusion that if we can achieve increased support via advertising with those road safety or safe use of alcohol messages, we can expand our educative role at the sale point. We are an effective means of relating to the patron at the coalface. This is where the problems are occurring. Patrons can then make an informed decision as to what they should be doing. Not only can we convey a message, but we can interact with the public. Probably nothing else will work to that extent. It allows them to make a decision for their safety and the community's safety. We thank the committee for the opportunity to present and hope that we can do further work at a future date.

The CHAIR—Thank you to you three for coming along today. We found it very informative.

Hearing suspended.