

Forensic reliability 'starting point' for drug-screening devices

By AdvocateDaily.com Staff



While new drug-screening devices to test drivers during roadside traffic stops may work well from the standpoint of law enforcement, more needs to be done to prove their forensic reliability, Toronto criminal lawyer [Jacob Stilman](#) tells [The Lawyer's Daily](#).

As the article notes, Public Safety Canada and the RCMP, in collaboration with the Canadian Council of Motor Transport Administrators, conducted a [pilot project](#) over the winter to test the oral fluid drug-screening device, with police collecting more than 1,100 fluid samples across Canada.

The purpose of the project, says [The Lawyer's Daily](#), was to inform law enforcement training guidelines for using the Securetec DrugRead and the Alere DDS-2 devices, which are able to detect drugs in an individual's saliva, and to see how the devices perform in Canada's diverse climate.

The final report noted that: "Of the samples taken in the pilot project, approximately 15 per cent registered a positive drug reading, and 43 of the 53 officers involved in the pilot project collected at least one drug-positive sample for any drug."

Stilman, partner with [Lo Greco Stilman LLP](#), says the fact that the police believe these devices work well is one element of determining their efficacy and suitability as a law enforcement device.

However, he adds, that is a "far cry" from establishing that they are forensically reliable instruments.

"These are products ... everyone and his brother are trying to get these things to market. It's a huge growth industry that's been a product of cannabis legalization in a number of jurisdictions in the U.S., which clearly does raise a legitimate road safety and criminal justice concern. But at the same time these are professional marketers who are trying to get their devices on the road," Stilman says in the article.

"[The forensic reliability of the instrument] doesn't appear to be, certainly as I read that report, I don't see any real drilling down by the government into that issue. And that should be the starting point, not whether cops on the beat like using these instruments.

"The other thing is these are presumptive tests, so they're still really just testing for the presence of the substance. They can't determine concentration. Although they do say that they have a minimum threshold concentration. ... It seems to me that right now there are just so many unknowns about the essential question, which is what are they really measuring?" he adds.