OPEN PUBLIC LETTER

JUSTICE WATCH NZ INC

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Open Public Letter to the Prime Minister and Cabinet

Monday, 27 July 2026

Rt Hon Christopher Luxon
Prime Minister of New Zealand
Parliament Buildings, Wellington

cc:
Hon Mark Mitchell, Minister of Police
Hon Chris Bishop, Minister of Transport
Members of Cabinet

Dear Prime Minister and Cabinet Ministers,

Re: Repeal of the Land Transport (Drug Driving) Amendment Act 2025 — Random Roadside Oral Fluid Testing

Justice Watch NZ Inc writes to formally request that Cabinet repeal, or urgently suspend pending independent review, the random roadside drug testing regime introduced under the Land Transport (Drug Driving) Amendment Act 2025. Our concerns are set out in full in the accompanying independent statistical and legal analysis; this letter summarises why we believe the law fails on its own terms and cannot be justified as currently designed.

Our central concern is this: an estimated 47,500 innocent New Zealanders are compelled to undergo this test every single year — roughly 95% of everyone stopped — to correctly identify approximately 2,000 genuine offenders. This is not an incidental cost of enforcement; it is the deliberate, designed effect of a suspicion less search power applied indiscriminately to the entire driving public. Stopping, detaining, and threatening tens of thousands of innocent citizens with criminal punishment each year — with no requirement that police hold any reasonable grounds or good cause to suspect wrongdoing — is not proportionate policing. It is unjustified state action against people who have done nothing wrong, and it is precisely the disproportion the Government's own Attorney-General identified as incapable of justification under the Bill of Rights Act.

This also raises a further constitutional concern: it redirects police attention away from criminal conduct and onto the public at large. A finite pool of Police capacity that could be wholly directed at the criminal supply of Class A, B, and C drugs — where every enforcement contact is with someone actually engaged in criminal conduct — is instead substantially engaged in searching the innocent driving public. Policing power in New Zealand has always been oriented around good cause to suspect wrongdoing; this

law inverts that orientation, and does so at the direct expense of capacity that could instead target the supply chain identified below.

The scheme also does not deliver the detection it promises. At its 50,000-test annual target, the regime samples roughly one in 50,000 driving trips nationally. Our modelling shows it correctly identifies an estimated 2,000 genuinely impaired drivers a year — but this figure should not be read as a meaningful safety outcome. Our crash-risk modelling shows that this entire group of 2,000, even left undetected for the full year, would collectively be expected to cause well under one fatal crash between them. The number is a statistical footnote, not a result: it is a negligible fraction of the driving population the Bill's own explanatory note cites as responsible for around 105 deaths annually, and catching it does almost nothing to address that toll.

The law was passed despite the Government's own rights assessment. The Attorney-General's section 7 report under the New Zealand Bill of Rights Act 1990 concluded that the Bill is inconsistent with the rights to be secure against unreasonable search and seizure, to not be arbitrarily detained, and to be presumed innocent until proved guilty (ss 21, 22, 25(c)) — and that this inconsistency could not be demonstrably justified. The New Zealand Law Society endorsed that conclusion. The Act nonetheless permits a detention and search and seizure with no requirement of reasonable grounds or good cause, makes refusal to test a criminal offence regardless of actual innocence, and rests an infringement on a screening result our analysis shows is only around 46% reliable.

A more effective, rights-consistent alternative already exists. Supply-side interdiction — the seizure of methamphetamine and other controlled drugs before they reach any driver — removes an estimated 50,000 doses from circulation per kilogram, using Customs' own published methodology, at zero cost to any innocent member of the public. Unlike roadside testing, seizure directly reduces the amount of the drug available in New Zealand; testing cannot achieve that outcome at any scale.

This is no longer a projection. Police's own published national figures confirm it: 4,143 roadside tests were completed between December 2025 and 30 June 2026, with a 3.2% positivity rate — lower than the assumption underlying our modelling, which means the true rate of innocent people wrongly flagged is likely higher, not lower, than our central estimate. On Police's own numbers, at least 4,009 people returned an immediate negative result for every 134 who even screened positive — a measured ratio of roughly 30 innocent people detained and searched for every 1 positive screen, before lab confirmation narrows that further.

This is what the law now demonstrably does: it authorises the state to physically interfere with the liberty of tens of thousands of innocent people as the mechanism by which it searches for a small number of offenders. Lawful state interference with a person's body or liberty has always required a justification particular to that person — good cause to suspect, or a judicial warrant. This law removes that requirement entirely. A search conducted on individualised cause remains lawful even where the person is later found innocent, because it was justified at the point it was exercised. What this law authorises is different in kind: interference with no individualised justification at all, now measured at roughly 30 confirmed-innocent interferences for every positive screen. That is the definition of arbitrary state action, and it is inconsistent with the basic boundary a democratic society places on its own coercive power.

This has a further, civic cost beyond any single stop. A state that repeatedly and routinely interferes with the liberty of people doing nothing more than ordinary lawful driving is not just conducting individual searches — it is training an entire population's expectations of what the state may do to them

without reason. This is a documented effect in the literature on state surveillance and search practices: repeated exposure to a search power normalises it, regardless of whether any single instance is justified, by making the alternative — a state that only interferes with individualised cause — feel like the unusual case rather than the ordinary expectation. At the scale this law now operates, New Zealanders are being conditioned to accept that the state may come through their life without cause, whenever it chooses, as it relates to driving. That is a very poor position for New Zealand's civic and constitutional culture to be placed in by a law whose own detection statistics do not justify the scale of the practice being normalised.

We ask Cabinet to: (1) repeal or suspend the random testing provisions pending an independent, published cost-effectiveness and rights review; (2) redirect the resources currently committed to random testing toward supply-side enforcement, where the evidence of impact is stronger and no innocent person bears any cost; and (3) require that any future drug-driving enforcement regime be grounded in reasonable suspicion, consistent with ordinary policing standards and with the rights the Government's own Attorney-General has already found this Act to breach.

Yours sincerely,

Andrew Major

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Chairman, Lead Investigator
On behalf of Justice Watch NZ Inc

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JUSTICE WATCH NZ INC

INDEPENDENT POLICY & LEGAL ANALYSIS

The Probability of Detecting Drug-Impaired Drivers in New Zealand

A Quantitative and Legal Analysis of the Land Transport (Drug Driving) Amendment Act 2025

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The Probability of Detecting Drug-Impaired Drivers in New Zealand: A Quantitative Model

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Executive Summary & Conclusion

This report builds a probability model of New Zealand's roadside drug driving testing regime, using the Bill's own stated targets (50,000 oral fluid tests/year), NZ Police's own device validation data, NZ crash statistics, and published crash-risk epidemiology, to test the law's stated objective of "better detecting and deterring drug-impaired drivers."

What the model finds, in brief:

- **Detection is statistically thin.** At 50,000 tests against ~3.5 million drivers and ~2.5 billion annual trips, any single trip has roughly a 1-in-50,000 chance of being tested, and even a driver who regularly drives impaired faces only about a 1-in-2,500 annual chance of being caught.
- **Accuracy is uncertain, and NZ-specific field data doesn't yet exist.** NZ Police's own validation found a 5% false positive rate on its chosen device; the central-estimate positive predictive value of a roadside-positive result is only ~46%.
- **The compliance burden falls overwhelmingly on the innocent.** ~95% of everyone compelled to test each year is innocent of the offence, and roughly 24 innocent people are processed for every 1 genuine detection. The 12-hour driving ban can hit innocent drivers before lab confirmation clears them, and the "two positive screens" safeguard is unlikely to catch the specific error mode NZ Police's own data identifies as the main source of false positives.
- **The true positives caught are a small, low-risk sample of a much larger problem.** The ~2,000 genuinely impaired drivers detected each year carry an elevated crash risk (roughly 1.5x–8x baseline), but their collective expected fatality contribution is under 1 death/year in every scenario modeled — meaning the ~105 annual deaths the Bill cites as justification must be occurring almost entirely within the vast population of impaired trips this testing volume never samples.
- **Deterrence, not detection, is the only mechanism that could plausibly justify the law's stated objective** — and it is also the least evidenced part of the Bill's own justification, with cited

literature describing the evidence as "limited and inconclusive" and only 26% of drivers currently believing they'd be caught.

- **Estimated lives saved annually span a wide range depending on mechanism.** Detection alone plausibly saves well under 1 life/year; a Victoria, Australia comparator suggests deterrence could plausibly save ~10–30 lives/year as an optimistic upper bound — a transfer estimate, not a verified NZ figure.
- **Supply-side interdiction offers a zero-innocent-burden alternative lever.** A single kilogram of seized methamphetamine removes an estimated ~50,000 doses from circulation, at no cost to any innocent driver.
- **The volatility in national seizure volumes is itself evidence of a policing failing.** Methamphetamine seizures fell 25-fold in a single year (615.5kg to 23.7kg) while estimated national consumption held broadly stable — a matter for Government to raise directly with the leadership of Police's Criminal Investigation Branch.
- **Roadside testing has no mechanical pathway to reduce drug availability at all — seizure is the only mechanism examined that does.** Testing operates entirely downstream of availability; seizure removes the physical quantity before any downstream harm can occur. This is a difference in category, not degree.
- **New Zealand's own Attorney-General found the law rights-inconsistent, and Parliament passed it regardless.** A section 7 NZBORA report concluded the Bill is inconsistent with the rights to be secure against unreasonable search and seizure, to not be arbitrarily detained, and to be presumed innocent (ss 21, 22, 25(c)) — endorsed by the Law Society.
- **Police attention itself has been redirected from the criminal supply chain to the innocent public.** A finite pool of police capacity that could be wholly directed at Class A, B, and C drug supply is instead substantially engaged in a suspicionless screening exercise where ~95% of contacts are with the innocent.
- **Real-world data since rollout points the same direction as this report's modelling — and, on the innocent-burden question, worse.** NZ Police's own published figures show 4,143 tests to 30 June 2026, 3.2% positivity — below this report's central assumption, which mathematically implies a *lower* PPV, not higher, than the ~46% central estimate. At least 4,009 confirmed-negative contacts occurred for every 134 positive screens — a real ratio of ~30:1, meeting or exceeding the modelled ~24:1 (Section 12).
- **This is now evidenced, not merely modelled, as the state physically interfering with the liberty of tens of thousands of innocent people to find a small number of offenders.** Lawful interference with a person's body or liberty has always required cause particular to that person — good cause to suspect, or a warrant. This law removes that requirement entirely; Section 13 shows what that now means in measured fact: roughly 30 confirmed-innocent interferences for every positive screen — the substance of arbitrary state action.

Conclusion: Measured strictly against its own stated purpose, the law's detection function does not deliver what its policy statement implies. Its only plausible route to achieving its stated objective is through deterrence — a mechanism the Bill's own supporting literature treats as unresolved. This is not a claim that the law has no value; it is a finding that the available public evidence cannot yet support the confidence with which the policy statement asserts its own effectiveness. The law's demand-side design also cannot, in principle, achieve what a supply-side approach is structurally built for — reducing how much of the drug is available in the country; it can only ever act on a single downstream behavioural moment, at a persistent and unavoidable cost to innocent drivers. That cost is the same cost New

Zealand's own Attorney-General identified as a rights inconsistency before the law was passed, and Parliament's sovereign law-making power — not any finding that the concern was unfounded — is the reason the law proceeded regardless. Real-world data published since rollout now confirms, rather than merely projects, that this law authorises the state to physically interfere with the liberty of tens of thousands of innocent New Zealanders as the mechanism by which it searches for a small number of offenders.

A Primary Concern, Stated Up Front

Two connected findings deserve to be stated plainly before the detailed modelling begins, since they are this report's most serious concerns, not footnotes arrived at only after the statistics. Full detail appears in Sections 13 and 14; this states them together, because they are one problem viewed from two angles.

The first is legal and factual. Lawful state interference with a person's body or liberty has always required cause particular to that person — good cause to suspect, or a judicial warrant. This law removes that requirement entirely, and this is no longer merely modelled: NZ Police's own published figures show 4,143 roadside tests completed by 30 June 2026, 3.2% positivity, and at least 4,009 confirmed-negative contacts for every 134 positive screens — roughly 30 confirmed-innocent interferences with a person's body and liberty for every 1 positive screen. This is precisely what New Zealand's own Attorney-General already found under NZBORA section 7: inconsistency with the rights against unreasonable search and seizure and arbitrary detention, not demonstrably justified (Section 13).

The second is civic and psychological, and follows from the first. A state that repeatedly and routinely interferes with the liberty of people doing nothing more than ordinary lawful driving is not just conducting individual searches — it is training a population's expectations of what the state may do without reason. This is a documented phenomenon: repeated exposure to a search power normalises it, regardless of whether any instance is justified. Applied here, at tens of thousands of encounters a year with overwhelmingly innocent people, the concern is that New Zealanders are being conditioned to accept that the state may come through their life without cause, whenever it chooses, as it relates to driving (Section 14).

Why these are one concern: the legal finding shows the interference isn't justified; the psychological finding is what happens to a society's baseline expectations when unjustified interference of this scale becomes routine. A state does not need to win the legitimacy argument if it can make the illegitimate feel normal — a very poor position for New Zealand's civic culture to be placed in by a law whose own detection statistics do not justify the scale of the practice being normalised.

Purpose

This report builds a probability model to estimate the likelihood that a drug-impaired driver in New Zealand is detected through random roadside testing, given the scale of the driving population relative to police testing capacity. It uses publicly available figures from NZ Police, the Ministry of Transport, and government announcements on the 2025 drug driving legislation.

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1. Key Inputs

Variable	Description	Value	Source
N	Licensed drivers in NZ	~3.5 million	NZTA driver licence register data
T	Roadside drug (oral fluid) tests, annual target	50,000/year	Government Policy Statement on Land Transport 2024; Land Transport (Drug Driving) Amendment Act 2025
A	Roadside alcohol breath tests, annual	~3.3–4 million/year	NZ Police; Transporting NZ industry commentary
P	Total NZ Police staff	~10,000	NZ Police workforce figures

Alcohol testing operates at roughly **66 times** the volume of drug testing, despite drug-impaired driving contributing to a comparable share of road deaths as alcohol — around 30% of fatal crashes each (NZTA crash analysis data).

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2. Detection Probability Models

Probability a driver is tested in a year:

p_{driver} = \frac{T}{N} = \frac{50{,}000}{3{,}500{,}000} \approx 0.0143

~1.4% chance any individual driver is tested in a year — roughly 1 in 70. This overstates real detection odds, since testing happens per *trip*, not per person.

Probability a given trip is tested, using ~2.5 billion estimated annual trips (2 trips/driver/day × 365):

p_{trip} = \frac{T}{2.5\times10^{9}} \approx 2\times10^{-5}

~1 in 50,000 chance any single trip is drug-tested.

Probability a specific impaired driver is ever caught, for *k* impaired trips/year (1−(1−p_trip)^k):

Impaired trips/year (k)	Probability of detection in a year
5	~0.01% (1 in 10,000)
20	~0.04% (1 in 2,500)
50	~0.10% (1 in 1,000)
100	~0.20% (1 in 500)

Operational constraint: T/365 ≈ **137 tests/day nationally** — the entire country's quota, against a police force of ~10,000 (only a fraction on road-policing duty).

Interpretation: At current and planned volumes, random roadside testing cannot function primarily as a detection mechanism the way it does for alcohol (66x higher per-trip odds). If the policy works at all, it works through **deterrence through perceived risk**, not detection probability — and only 26% of drivers currently believe they're likely to be caught, suggesting the perceived-risk lever is weak.

Limitations: the "2 trips/day" assumption is illustrative; testing in practice isn't purely random (behavioural cues, hotspots, combined alcohol/drug protocols likely raise effective detection above pure random-sampling); repeat impaired driving is unevenly distributed; and the 50,000-test target is itself aspirational, not yet confirmed in practice.

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3. The Bill's Policy Statement, Tested Against the Model

The Bill's explanatory note frames its purpose as enabling testing to "better detect and deter drug-impaired drivers," citing ~105 deaths/year (~30% of road fatalities) attributed to drug impairment. That two-part claim does not survive contact with the model or the Bill's own text:

a) The "detect" claim doesn't survive the scale mismatch. 50,000 tests/year is ~1.5% of alcohol testing's volume (3.3–4 million/year). A regime resourced at that scale cannot claim the same detection function as drink-driving testing.

b) The Bill concedes its own core measurement problem. The explanatory note itself states devices are approved on "recent use" as a *proxy* for impairment, while acknowledging false positives/negatives and that individual drug levels can't always be detected — an admission that drug presence ≠ impairment. Saliva testing can detect drugs long after any impairment has ended, unlike alcohol.

c) The "deter" claim is asserted, not demonstrated. Legal submissions note studies describing deterrence evidence for this style of regime as "limited and inconclusive," with a documented risk that testing pushes users toward synthetic or shorter-acting drugs to evade detection.

d) The justification recycles an old rationale for a technical fix. The 2024 Bill is substantially a device-approval mechanics fix to a threshold the government's own 2022 Act set too strictly to be operable, borrowing the original 2022 crash-statistic justification for what is, in substance, a narrower amendment.

Fair countervailing view: deterrence doesn't require high detection odds — modest, well-publicised enforcement could still shift perceived risk upward even from a low base, and comparable Australian regimes report measurable road-toll reductions. Whether 50,000 tests/year, at NZ's population scale, crosses the threshold needed to move perceived risk at all is an open empirical question the policy statement doesn't quantify.

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4. Test Accuracy and the Innocent-Driver Burden

4.1 Device accuracy

NZ Police uses the **Securetec DrugWipe 3 S**, detecting THC, methamphetamine, MDMA, and cocaine. Police's own validation found a **5% false positive rate** — but every one of those cases involved genuine drug presence below the legal threshold, not zero-presence errors. Comparable published devices show wider ranges:

Study / Device	False positive rate	False negative rate
NZ Police's own DrugWipe 3 S validation	5% (near-threshold presence)	Not published
Comparable "drug wipe," THC, 10ng/mL cutoff	5%	16%
Dräger DrugTest 5000, THC, same study	10%	9%
Vermont evaluation (Logan & Mohr, 2015)	<1%–4%	Not isolated
EU DRUID project (8 devices)	3 of 8 exceeded 80% sensitivity *and* specificity	—
2013 US National Roadside Survey, THC vs. blood	Specificity 98.3%	Sensitivity 79.4% (~21% false negative)

4.2 Turning error rates into real numbers

Positive predictive value (PPV) — given a positive test, the probability it's a genuine case — depends on prevalence, which is unknown for NZ's general driving population. **Central scenario** (5% prevalence, 80% sensitivity, 95% specificity, 50,000 tests):

Group	Count
Actual recent qualifying-drug users tested	2,500
— correctly flagged (true positives)	2,000
— missed (false negatives)	500
Actual drug-free/sub-threshold drivers tested	47,500
— correctly cleared (true negatives)	45,125
— wrongly flagged (false positives)	2,375
PPV (chance a flagged driver is a genuine case)	**~46%**

Sensitivity across scenarios: PPV ranges from **~12%** (low prevalence 2%, weaker device) to **~89%** (high prevalence 8%, strong device) — the true NZ figure is unknown, since the regime only began rolling out December 2025 with no published field data yet.

4.3 The innocent-burden numbers

- **~95% of everyone compelled to test each year is innocent** of the offence (46,000–49,000 across low/high scenarios; 47,500 central), broken into **45,125 cleared immediately** and **2,375 wrongly flagged**.
- **~24 innocent interactions per 1 genuine detection** (47,500 ÷ 2,000).
- **~1.19 false positives per true positive** (2,375 : 2,000) — among people who fail a roadside screen, false alarms slightly outnumber genuine cases.

This is a structural feature of screening a low-prevalence population at random, not a flaw unique to this device — but the Bill's policy statement neither acknowledges nor quantifies it.

4.4 The 12-hour ban and why the "two-screen" safeguard is weak

A positive roadside screen triggers a **second screening test**; two positives trigger an immediate **12-hour driving prohibition**, before any lab confirmation. Since NZ Police's own reported false positives are driven by genuine drug presence sitting just below threshold — a property of the sample, not the device — a second test on the same physiological state is likely to **replicate the first result** rather than catch the error. The safeguard mainly filters random equipment glitches, not the near-threshold cases identified as the main error source.

Estimated impact: ~2,375 drivers/year (range ~460–4,900) could face the 12-hour ban despite not being over the legal threshold, all needing lab confirmation to be cleared — and NZ Police's own data suggests this group is disproportionately recent-but-legal or borderline users, not random members of the public. No independent real-world NZ accuracy data yet exists; an OIA request (via FYI.org.nz) is already challenging NZ Police for exactly this data.

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5. Crash and Fatality Risk Among the True Positives

5.1 Relative risk by drug

Drug	Reported odds ratio (OR) range
Cannabis (THC)	~1.26 (bias-adjusted) to 2.66 (pooled meta-analysis); up to 4.7 at high concentrations
Amphetamines/methamphetamine	Cited up to 10-fold in one systematic review; widest uncertainty
Cocaine	~1.5–3x
MDMA	Limited data; generally grouped with stimulants

Three scenarios used: **Low (RR 1.5)**, **Central (RR 3)**, **High (RR 8)** — cannabis-dominant to methamphetamine-weighted.

5.2 NZ baseline and absolute risk

NZ baseline: ~30,500 crashes/year, ~289–341 deaths/year, ~2.5 billion trips/year → p(crash) ≈ 1.22×10^{-5}/trip; p(fatal) ≈ 1.2×10^{-7}/trip.

Scenario	Crash probability/impaired trip	Fatality probability/impaired trip	Annual fatal-crash probability (k=20 trips)
Low	~1 in 54,600	~1 in 5.6 million	~1 in 278,000
Central	~1 in 27,300	~1 in 2.8 million	~1 in 139,000
High	~1 in 10,250	~1 in 1.04 million	~1 in 52,000

5.3 Aggregating across the 2,000 detected true positives

Scenario	Expected fatalities/year across the 2,000-person group
Low	~0.007
Central	~0.014
High	~0.038

Even at the high-risk end, this specific group would collectively cause well under one fatal crash a year. This isn't a claim that drug-impaired driving is low-risk generally — fatal crashes are rare tail events, and 2,000 people is too small a sample for the expected count to exceed one, given only 50,000 of 2.5 billion annual trips are tested at all.

5.4 Reconciling with the "105 deaths" figure

The 105-deaths figure comes from retrospective toxicology on crash-involved drivers — a different measurement from this prospective per-trip model. Back-solving the central scenario against 105 deaths implies an implausibly large number of national impaired trips, a genuine gap in available NZ data (likely reflecting some mix of higher real-world relative risk, under-detection in toxicology, and/or drugs being present-but-not-causal in some "30%" cases). **The bulk of the harm the Bill cites as justification is necessarily occurring within the vast population of impaired trips this testing volume never samples.**

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6. Summary Table

Metric	Estimate
Chance any driver is tested in a year	~1.4%
Chance any single trip is tested	~1 in 50,000
Chance a driver with 20 impaired trips/year is caught	~1 in 2,500

Metric	Estimate
National daily test capacity	~137 tests/day
Drug tests vs. alcohol tests (annual)	50,000 vs. ~3.3–4 million (~1.5%)
NZ Police's own reported device false positive rate	5% (near-threshold presence, not zero-presence)
Positive predictive value of a roadside-positive result (central)	~46% (range ~12%–89%)
Innocent drivers cleared immediately (central)	45,125/year (90.25%)
Innocent drivers wrongly flagged, facing a 12-hour ban (central)	2,375/year (4.75%)
Genuinely impaired drivers correctly detected (central)	2,000/year (4.00%)
Genuinely impaired drivers missed entirely (central)	500/year (1.00%)
False positives per true positive	~1.19 : 1
Innocent interactions per genuine detection	~23.75 : 1
Relative crash risk of a detected impaired driver vs. baseline	~1.5x–8x (drug-dependent)
Annual fatal-crash probability for one detected individual (central)	~1 in 139,000
Expected fatalities/year across the whole 2,000-person true-positive group (central)	~0.014

Random roadside drug testing, at its planned scale, is best understood as a **deterrent signaling tool** rather than a **statistically reliable detection system**. The *detect* claim is unsupported by the resourcing scale; the *deter* claim rests on contested evidence; and the Bill's own explanatory note already concedes the central measurement problem (drug presence vs. actual impairment) undercutting both. Enforcement contact falls overwhelmingly on innocent drivers relative to genuine detections — a structural reality of low-prevalence random screening the Bill's policy statement does not acknowledge or quantify.

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7. Estimated Lives Saved Annually

Through detection alone (from Section 5): well under 1 life/year (0.007–0.038 across scenarios) — catching a driver removes their risk only for the enforcement window, not the year, and 2,000 people is too small a sample to clear a single life.

Through deterrence — the Victoria, Australia comparator: Victorian research found increasing roadside drug tests from 42,000/year (1% of licensed drivers) to 100,000/year (2.2%) saved an estimated 33 fatal crashes and 80+ serious injury crashes/year — roughly **1 life saved per ~1,760 additional tests**.

Metric	Victoria	New Zealand
Annual roadside drug tests	100,000 (from 42,000)	50,000 (target)
Share of licensed drivers tested	2.2% (from 1%)	~1.43%
Tests per million people	~21,700	~9,400
Testing approach	Random **and** targeted (hotspots)	Stated as random only

NZ's 1.43% coverage sits **inside** Victoria's studied range, suggesting a plausible upper-bound estimate of **~10–30 lives/year** if the same dose-response held — but Victoria's effect specifically credits *targeted* testing, NZ tests at under half Victoria's per-capita rate, and no NZ-specific before/after data exists yet.

Method	Estimated lives saved/year
Detection alone	Well under 1
Deterrence, Victoria-comparator upper bound (optimistic)	~10–30

The width of this range is the finding, not a flaw: the entire policy case rests on an unverified deterrence effect, not a defensible detection-based body count.

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8. An Alternative Policy Lever: Supply-Side Interdiction

Every mechanism above is demand-side. This section examines **supply-side interdiction** — seizing the drug before it reaches any driver.

8.1 What a seizure removes

Customs/NDIB assessed a 67kg methamphetamine seizure as ~3.4 million doses, worth ~24 million street value, preventing ~74 million in drug harm — implying **~50,700 doses/kg** and **~$1.1 million/kg harm prevented**. A separate academic range (15–150mg/dose) brackets this at roughly 6,700–66,700 doses/kg.

8.2 Zero innocent-driver burden

Every roadside test is an enforcement contact, ~95% with the innocent. A seizure carries **no equivalent cost** — removing 1kg of methamphetamine requires no testing, screening, or detaining of any member of the public. The "innocent interactions per detection" ratio for interdiction is, definitionally, zero.

8.3 Scale check against national consumption

NZ wastewater testing estimated national methamphetamine consumption at ~515–760kg/year. In one enforcement year, Police seized 615.5kg — comparable to or exceeding an entire year's estimated consumption. The following year, seizures fell to just 23.7kg — a 25-fold swing.

8.4 Direct comparison

Dimension	Random roadside testing	Supply-side interdiction
Innocent people affected per unit of enforcement	~24 innocent per 1 detection	0
Government's own harm-prevented estimate	Not published for testing	~$1.1 million/kg
Scale vs. underlying problem	50,000 tests vs. ~2.5 billion trips	615.5kg vs. ~515–760kg annual consumption
Consistency of resourcing	Fixed annual target	Volatile (23.7kg to 615.5kg year-on-year)
Existing government effectiveness costing	Not separately costed	Per-kg figure already published

8.5 Fair counter-considerations

Organised supply chains generally absorb seizure losses absent sustained high-rate interdiction; some supply is domestically manufactured (border interdiction doesn't reach this); price rises from seizure may curb casual use more than the entrenched use linked to repeat impaired driving; methamphetamine harm reduction serves broader goals beyond road safety, so the comparison isn't perfectly like-for-like; and the two levers are complementary, not substitutable — interdiction doesn't stop someone who already possesses the drug from choosing to drive.

What's missing: no NZ study compares cost-per-harm-averted between the two levers, or converts "doses removed" into the same lives-saved currency this report built for testing (Section 7). **That comparison is the single most valuable piece of evidence currently missing from New Zealand's public policy debate on this law.**

8.6 The deeper asymmetry: one mechanism cannot touch availability at all

Roadside testing operates entirely downstream of availability — it can only observe a drug was used before a drive, and deterring the drive does not deter the use, sale, manufacture, or importation that preceded it. Seizure removes the physical quantity before any downstream harm occurs. This is a **difference in category, not degree**: reducing how much of a drug is available in the country was never something a demand-side testing regime could achieve, at any scale.

8.7 Seizure volatility as a further indicator of inadequate policing

Consumption did not fall 25-fold when seizures did (615.5kg → 23.7kg) — demand stayed broadly stable, meaning interception *capability* collapsed, not the drug supply. This is a matter for Government to raise directly with the leadership of Police's **Criminal Investigation Branch**, not merely a budget question: a budget increase for roadside testing does nothing to explain why supply-side

capability apparently collapsed 96% in a year while demand held steady. The size of future year-on-year seizure swings is itself a usable indicator of policing adequacy — a mature, consistently-prioritised interdiction capability should not swing by a factor of 25 absent a clearly identified one-off cause. Some volatility reflects factors outside police control (intelligence tip-offs, shipment scale, criminal adaptation), so a single volatile year isn't proof of failure — but a sustained pattern of large, unexplained swings is a legitimate basis for Government to require an accounting from CIB leadership.

Net assessment: the data supports a legitimate, evidence-based argument that supply-side interdiction achieves comparable or greater scale at zero cost to innocent people, with an existing harm-prevention costing methodology the government hasn't applied to the testing regime. It falls short of a complete substitution argument only because the two levers address different parts of the problem, and because no NZ-specific study converts either into the same road-safety currency.

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9. A Further Constitutional Concern: Police Attention Redirected From the Criminal Supply Chain to the Innocent Public

This is not a claim that any specific NZBORA provision dictates police resource allocation — no such provision exists. It is a claim about the **proper constitutional orientation of coercive police power**: search and detention powers have historically been directed at people already giving good cause for suspicion, not deployed as a standing screening apparatus across the innocent public. Section 10.3 (below) establishes this law removes that suspicion threshold; this section adds the institutional consequence — a finite pool of police capacity is now substantially engaged in monitoring the innocent (~95% of contacts, Section 4.3), rather than being wholly available to target the actual criminal supply chain Section 8 shows is both more effective per unit of effort and free of the rights concerns in Section 10.

A police force's legitimacy rests substantially on its powers being exercised against conduct, not the public at large. Redirecting capacity toward suspicionless public screening inverts that ordinary orientation.

Fair countervailing view: roadside-testing officers and drug-squad/Customs specialists aren't perfectly interchangeable resources (different training, equipment, settings), and these functions have always been separately resourced within Police, so this isn't a literal one-for-one swap. The strongest, most defensible version of this concern is about **marginal resourcing choices and institutional priority-setting** — where the next dollar and recruit are directed — not a claim that existing supply-side capacity has been literally stripped.

Net assessment: even on its most modest framing, a government that funds and prioritises suspicionless public screening is making a visible institutional choice about where police legitimacy and public trust are invested, at a time when the alternative — direct action against criminal supply — is both more effective per unit of effort and free of the rights concerns below.

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10. Human Rights Implications

10.1 The rights framework engaged

This examines whether the regime is consistent with rights affirmed in the New Zealand Bill of Rights Act 1990 (NZBORA) — security against unreasonable search and seizure (s21), freedom from arbitrary detention (s22), and the presumption of innocence (s25(c)). These are the same rights New Zealand's own Attorney-General and Law Society identified as engaged by this exact Bill.

10.2 The Attorney-General's own finding

Under NZBORA s7, the Attorney-General must report on Bills that appear rights-inconsistent. For this Bill, the section 7 report concluded its provisions are inconsistent with ss 21, 22, and 25(c) — and that this could not be justified under s5 (reasonable, demonstrably justified limits). The Law Society's submission expressly endorsed this analysis. This is rare: most Bills receive no adverse s7 report at all; this one drew a finding of inconsistency with three rights simultaneously, endorsed rather than disputed by the government's own law body.

10.3 No requirement of reasonable grounds or good cause

The Ministry of Transport's own description confirms officers can stop and test any driver even without good cause to suspect drug use — framed as consistent with existing drink-driving enforcement. The NZ Council for Civil Liberties specifically recommended removing this no-suspicion provision (Land Transport Act s71A(1)(a)), leaving only the existing "good cause to suspect" ground (s71A(1)(b)), agreeing with the Attorney-General that the scheme allows arbitrary detention.

10.4 Refusal is a criminal matter, regardless of guilt

The 2025 Act inserted a new offence for failing or refusing to undergo testing. The Ministry of Transport confirms refusal draws an infringement notice and 12-hour driving ban — identical to a positive result — **independent of whether the person used any qualifying drug at all**. Innocence is no defence to the refusal offence; only compliance is.

10.5 The presumption of innocence and strict liability

Once a lab analysis returns positive, the Land Transport Act treats drug presence as **conclusively presumed** absent proof to the contrary — a strict liability offence built on the oral fluid result alone, per the Law Society's own description. This is precisely the mechanism the Attorney-General identified as engaging s25(c). Section 4.2's own modelling gives this a concrete number: a positive roadside result is only ~46% likely to reflect a genuine over-threshold case — a "conclusive presumption" barely more reliable than a coin flip in the central scenario.

10.6 This report's statistics as evidence for reasonableness

Whether a search is "reasonable" (s21) and a limit "demonstrably justified" (s5) both turn on proportionality. This report quantifies that connection concretely for the first time: **~95% of everyone compelled to test is innocent; ~24 innocent interactions occur per genuine detection; close to half of roadside-positive results aren't over the legal threshold.** These figures postdate the Attorney-General's and Law Society's assessments, and give numerical weight to what was previously a qualitative judgment.

10.7 "Rule by law" rather than "rule of law" — precisely stated

New Zealand lacks an entrenched, supreme-law bill of rights: under NZBORA s4, courts cannot strike down an Act for rights inconsistency — Parliament remains sovereign, and the s7 report is disclosure,

not veto. So this law is not "unconstitutional" in the sense of being legally invalid. What it does mean is sharper: Parliament's own designated rights-compliance check found the Bill inconsistent with three rights and not demonstrably justified, and Parliament proceeded regardless — precisely because NZBORA's structure permits that. This is the accurate content behind a "rule by law, not rule of law" concern here: the law-making power enacted a measure its own rights-compliance mechanism had already flagged, with no external check able to stop it. Self-incrimination concerns (ss 23(4), 25(d), 27(1)) — including reference to *Taylor v New Zealand Poultry Board* (1984) — were also raised during the third reading, an issue the s7 report did not address.

10.8 The fair countervailing view

Suspicionless testing has precedent (compulsory breath testing has operated for decades on the same "minor intrusion vs. road-safety interest" logic); the Bill received real scrutiny (123 written and 14 oral submissions, three readings, the s7 report debated in the House); the two-screen/lab-confirmation safeguards were a direct response to rights concerns, even if Section 4.4 finds them weaker than intended; and the Attorney-General's own report suggested narrowing the Bill toward actual impairment (an alcohol-equivalent threshold) could resolve the inconsistency — implying this is about this Bill's specific design, not that any drug-driving regime must fail under NZBORA.

10.9 Net assessment

This critique is well-founded in New Zealand's own official rights-assessment process, not a lay reading: the Attorney-General and Law Society both concluded, before this Bill passed, that it engages and cannot demonstrably justify limiting three specific rights. The absence of a reasonable-grounds threshold, criminalisation of refusal regardless of innocence, and the conclusive-presumption structure are the Bill's own identified sources of inconsistency, not inferences drawn by this report. This report adds the quantitative weight: ~95% innocent-compelled and ~46% PPV. The countervailing view is genuine and unresolved, and NZBORA's structure means Parliament was legally entitled to proceed despite the adverse finding — which is precisely what makes "rule by law, not rule of law" an accurate description, not a rhetorical overstatement.

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11. Net Assessment: Does the Law Achieve Its Stated Objective?

Question the objective implies	What the model found
Does it detect a meaningful share of impaired driving?	No. ~2,000 correct detections/year against ~2.5 billion annual trips and an almost certainly vast pool of undetected impaired trips.
Is enforcement contact proportionate to the target population?	No. ~95% of everyone compelled to test is innocent; ~24 innocent interactions per genuine detection.
Does a positive roadside result reliably mean guilt?	Not reliably. ~46% PPV — false positives roughly match or exceed true positives.
Are innocent people harmed procedurally?	Yes, measurably. ~2,375 people/year face a 12-hour ban before lab confirmation clears them;

Question the objective implies	What the model found
	the "second screen" safeguard is unlikely to catch the identified error mode.
Does catching the ~2,000 true positives meaningfully reduce the cited 105 deaths/year?	Barely, in isolation. Collective fatality contribution is under 1 expected death/year even at the high-risk end.
Is the deterrence claim well-supported?	No. Described in cited literature as "limited and inconclusive"; only 26% of drivers believe they'd be caught.

Net verdict: the law's detection function is not doing the work its policy statement implies. The 50,000-test target, even performing exactly as intended, samples too small a slice of the driving population, catches a group whose aggregate crash/fatality risk is statistically small, and processes a large volume of innocent people relative to genuine detections. That leaves **deterrence** as the only mechanism through which the law could plausibly achieve its stated objective — precisely the half of its own justification the cited literature treats as unresolved.

This does not mean the law is without value. If real-world deterrence effects exceed the "26% believe they'd be caught" baseline, the law could still meaningfully reduce the toll even with a low detection rate — the same mechanism claimed (with mixed evidence) for random breath-testing's historical success. The Bill also authorises future volume increases, and more targeted (rather than purely random) enforcement could have outsized effect beyond what this random-sampling model captures.

The honest bottom line: the law's own explanatory note claims a detection rationale it cannot statistically deliver at this scale, while its deterrence rationale remains the least evidenced part of the policy. The net effect this report can support is: a large compliance burden on the innocent majority, a small and diffuse effect on the individuals it catches, and an unverified bet that deterrence alone is doing the real work the detection numbers cannot. Beyond the innocent-burden question, the law is a demand-side mechanism confined to a single downstream behavioural moment, and cannot, in principle, achieve what a supply-side mechanism like drug seizure is structurally built to do — reduce how much of the drug is available in the country at all. And New Zealand's own Attorney-General identified the rights cost of this design before the law was passed; Parliament's sovereign law-making power, not any finding that the concern was unfounded, is the reason it proceeded regardless.

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12. Real-World Data Since Rollout

NZ Police's own published figures allow this report's central assumptions to be checked against what has actually occurred:

Date	Cumulative tests	Positive screens	Positivity rate
~19 May 2026 (5 districts)	~1,500	52	~3.5%

Date	Cumulative tests	Positive screens	Positivity rate
~late June 2026 (Wellington pilot only)	~3,000	~100	~3.3%
30 June 2026 (full pre-nationwide period)	**4,143**	**134**	**3.2%**

Nationwide coverage began 1 July 2026; Police describe the rate as broadly comparable to alcohol testing's positivity rate, while cautioning it's too early to draw firm trends. An earlier Wellington-only figure (~300 tests, 7 infringements, 2.3%) shows screening-positive results don't all survive to a confirmed lab result; full lab-confirmation data for the 4,143-test cohort isn't yet published.

Testing the model: Section 4's central scenario assumed 5% prevalence, implying an 8.75% roadside-positive rate. The observed 3.2% rate is substantially lower — and under the same Bayesian relationship, lower prevalence mathematically produces a *lower* PPV, not higher. This points toward this report's own low-prevalence scenario (2%, PPV ~12%) as more plausible than the central 46% estimate.

A real-data version of the innocent-interaction ratio: 4,143 − 134 = **4,009 confirmed-negative contacts against 134 positive screens ≈ 29.9 : 1** — a minimum figure (since not all 134 will be lab-confirmed), meeting or exceeding this report's modelled ~24:1 estimate.

Limitation: this is early, staged-rollout data (7 months, not a mature national year), and Police caution against firm trend conclusions yet — but on both figures it speaks to, it points the same direction as this report's modelling, and on the innocent-burden question, toward the concern being understated rather than overstated.

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13. The State's Burden to Justify Interference with Liberty

Lawful state interference with a person's body or liberty has always required a justification particular to that person — good cause to suspect, or a judicial warrant. This is the foundational boundary distinguishing lawful policing from arbitrary state power, predating NZBORA itself. Sections 4.4 and 10.3 already establish this regime requires no reasonable grounds or good cause before a stop and test; Section 12 now shows what that means in measured fact, not projection: **at least 4,009 people were stopped and physically required to provide a bodily sample and returned an immediate negative result, for every 134 who even screened positive.**

This is not a side effect of the law's operation — it is the operation of the law. A search conducted on individualised good cause remains lawful even if the person is later found innocent, because it was justified at the point it was exercised. What this law authorises is different in kind: interference with no individualised justification at all, at a measured scale of roughly 30 confirmed-negative interferences per positive screen. Interference untied to any cause particular to the person is the definition of arbitrary state action — and this is precisely what the Attorney-General's own section 7 report already found (Section 10.2): inconsistency with the rights against unreasonable search and seizure (s21) and arbitrary detention (s22), not demonstrably justified.

Fair countervailing view: compulsory alcohol testing has also long operated without individualised suspicion. The material difference is scale and proportion: alcohol testing operates at near-universal

coverage (~66x this regime's volume), functioning closer to a universal safety check than a targeted search. This regime's real-world ~30:1 innocent-to-positive ratio is a much closer analogy to a targeted search for a small minority — conducted with the search powers of a universal check but the individualised justification of neither.

Net assessment: the legitimacy of state coercion has always rested on cause. This law, now evidenced by New Zealand's own published data rather than projection alone, discards that requirement and interferes with the liberty of tens of thousands of innocent people as the operating mechanism by which it searches for a small number of offenders — the substance of arbitrary state action, a conclusion this report reaches independently and one New Zealand's own Attorney-General had already reached through the formal rights-assessment process. That Parliament remained legally entitled to proceed regardless is a fact about New Zealand's constitutional structure, not an answer to whether the interference itself is justified.

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14. Psychological Conditioning: Normalising the Acceptance of Rights Violations

Section 13 established that this law authorises the state to interfere with liberty without individualised cause, at a scale now measured rather than projected. This section examines a distinct concern: what repeated, routine exposure to that kind of contact does to a population's baseline expectations of their own rights.

The mechanism, and its limits: there is a well-documented phenomenon in the surveillance and search-practice literature — **normalisation**, or habituation to state intrusion — where repeated exposure to a search practice shifts what a population perceives as ordinary state behaviour, independent of whether the practice is individually justified. The same mechanism underlies concerns about CCTV expansion, mass data retention, and stop-and-search regimes overseas: each encounter is brief, but the cumulative effect is to lower the threshold at which unprompted state intrusion feels acceptable — without anyone consciously deciding to accept it. It's important to be precise: the general mechanism is well-established; that this specific law is producing it in New Zealand, to any measured degree, is a reasoned inference from the regime's design, not a proven NZ-specific finding — the national regime has only operated since 1 July 2026.

Why this law is a strong candidate: it is high-frequency and explicitly modelled on the already-normalised drink-driving regime, inheriting rather than building its own social licence; it is applied overwhelmingly to ordinary lawful conduct (Section 12: ~30 confirmed-innocent contacts per positive screen); and it extends into a more intimate form of bodily sampling (oral fluid vs. breath) while relying on the "just like drink-driving" framing to carry over accumulated acceptance into a domain that hasn't independently earned it.

The connection to this report's other findings: this sits between Section 13's liberty-interference finding and Section 3/Section 10's observation that only 26% of drivers believe they'd be caught. Section 13 asks whether the interference is justified; this section asks what happens to a population's expectations when unjustified interference of this frequency becomes routine. A population conditioned to *accept* suspicionless stops while not yet perceiving them as *likely* sits in a genuinely poor position for the law's own deterrence goal — the conditioning cost is being paid without the behavioural benefit the policy statement claims to pursue.

Net assessment: this is a genuine civic concern, distinct in kind from this report's legal and statistical findings — psychological rather than doctrinal or arithmetic. The mechanism is well-established; its application to this specific law is reasoned inference, not measured fact, and should be read accordingly. What can be said with confidence: a state that trains its population, through tens of thousands of encounters a year, to expect it may search their person without cause simply because they are driving, is teaching a lesson about the citizen-state relationship that outlasts any single stop — directly counter to the boundary Section 13 identifies as the foundation of legitimate state power, and a very poor position for New Zealand's civic culture to be placed in by a law whose own detection statistics do not justify the scale of the practice being normalised.