

No More Beating Around the Bush - Abstract

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In the recent decision of *R v Bush*, [2010 CarswellOnt 5897](#) (CA) the Ontario Court of Appeal once again revisited the issue of reasonable and probable grounds in the context of impaired driving investigations.

The Court's ruling in *Bush* should be seen as a message; given the ruling on the leave application, of this there can be little doubt.

That message sent is twofold. First, the test for RPG is not an onerous one; the analysis need go no further than whether an officer's subjective belief, founded on the information available at the time in the context of an impaired driving, is objectively reasonable.

Second, it's time to stop beating around the bush. The sterile, unduly analytical, ex-post facto consideration of subjective belief through dissection of the indicia relied upon and consideration of other possible explanations is unnecessary, unrealistic and legally erroneous