

**Canadian Association of Provincial Court Judges  
September 14 2006**

**The Reasonable Expectation of Privacy**

**Analysis Guide**

- A. Was there a search or seizure within meaning of s. 8?
  - i. By government?
  - ii. REP? given totality of circumstances?
    - 1. subjective expectation of privacy?
    - 2. objectively reasonable?
      - a. Place/subject matter
      - b. Public view
      - c. Abandonment
      - d. Third party access/control
      - e. Reasonableness of technology
      - f. Nature of information revealed by technology
- B. If REP, did police conduct violate?
  - i. prior authorization?
    - 1. authorized by law
    - 2. law reasonable
    - 3. manner of search reasonable
- C. Should evidence be excluded under 24(2)?
  - i. trial fairness
  - ii. seriousness of Charter violation
  - iii. factors escalating violation
  - iv. effect of excluding evidence