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<p>A Guide to BREATHALYZER CERTIFICATES IN CANADA Alan Pearse Release No. 5, October 2024</p>
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Publisher’s Special Release Note 2023

The pages in this work were reissued in June 2023 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the June 2023 release. We will continue to review and update the content according to the work’s publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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Highlights

● **C.F.R.S. 10(b): Right to Counsel—Informational Component—Miscellaneous Rules; Screening Demands—Author’s Opinion: “Forthwith” Means “Immediately”—Reasonable Suspicion; C.F.R.S. 9: Stopping the Accused—Articulable Cause—Generally—** At trial, the accused argued that there had not been proper grounds for an ASD, and that it had not been made immediately. The accused argued that this was a breach of CRF 8, 9, and 10(b). The court rules that there was a breach of CRF 10(b). The accused also argued that she was unlawfully detained because the demand was invalid due to the delay. The accused argued that this was a breach of CRF 9. The word “immediately” is not synonymous with “time reasonably necessary” to enable a peace officer to discharge their duty under that provision. As such, the accused was unlawfully detained during that time. The court ruled that the police had the requisite grounds to stop the accused and make an ASD demand, excluded the evidence of refusal via CRF 24(2) but convicted the accused of impaired operation. *R. v. Rajasekeran*, 2024 ONCJ 228 (Ont. C.J.).