

Introduction assignment

– I –

1. On the evening of November 30, 2005, the Calgary Police executed a search of Lorraine Cornell's home. The police forced entry into the house, despite knowing that the Cornell home had never hosted any drug or gang activity, and having no reason to believe that it harbored any armed or dangerous person. Henry Nguyen, the only suspected gang member, had already been arrested in an earlier raid. Ms. Cornell's mentally disabled son, Robert, was the only one present at the time and suffered tremendous harm as a result of the raid.
2. Fully armed tactical officers forced Robert to the floor, "proned [him] out" and handcuffed him with his arms behind his back. They quickly realized their mistake and called on paramedics to tend to Robert's emotional suffering. Ms. Cornell returned home to a son in distress, whom the police initially prevented her from seeing, and a house in shambles. The raid occurred despite the police failing to produce a warrant at the time of entry, contrary to Section 29(1) of the *Criminal Code*. The warrant only became available to the Cornells four minutes after the breach, upon the arrival of the Lead Investigator, Detective Bent. Robert Cornell did not manage to ask for the warrant during the search, and Ms. Cornell only saw a copy after returning home, some short time after Detective Bent's arrival.
3. The police secured the warrant earlier that day, which authorized a hard entry on account of — general and generic — concerns for public safety, possible violence and destruction of evidence; particulars were not provided. Few links existed between the Cornells and Nguyen, and those that existed fell short of criminal activity. Nguyen entered the house a mere four times, the longest occasion lasting eight minutes, and not once having anything in his possession. Further, the police could not place the Cornells and Nguyen together at the home. Peaceful alternatives to the forced entry existed but were ruled out. The harm underlying the warrant had been abated after the other warrants were executed and the prime suspect was captured.
4. At trial, the judge noted that the forced entry deviated from the standard "knock and announce" practice, but dismissed the challenge. This was an error in law. This sloppy search was unreasonable and breached Section 8 of the *Charter*.

– II –

Overview

[1] Jason Cornell appeals the trial judge's decision, who found that police had conducted a search of the Cornell house in a reasonable manner, as consistent with s. 8 of the *Charter*.

[2] Police surveillance showed two known gang members and suspected drug traffickers, Henry Nguyen and Tuan Tran, visiting the Cornell house sporadically and briefly. Knowing that a Cornell family member was associated with Nguyen and Tran, police obtained three search warrants; one regarding the Cornell house, one for a different property, and the last for a motor vehicle.

[3] Detective Bent had a copy of the warrant while the police conducted a "dynamic entry" search of the Cornell house. The search uncovered 99.4 grams of cocaine in Jason's room. The occupants of the house did not ask to see a warrant during the course of the search, however Detective Bent produced the copy to the Appellant's mother. The Crown submits that the search method used in the Cornell house was justified given the police's reasonable grounds to anticipate violence or the destruction of evidence.

– III –

1. The trial court erred in finding that the search of the Cornell family home did not violate the family's Section 8 rights under the Charter. If the Court upholds this finding, the violence Robert Cornell was subjected to at the hands of the Calgary Police Service would be vindicated. The Calgary Police Service obtained a search warrant for the Cornell family home in November 2005 after several weeks of careful investigation and observation. As sworn before a judge, the Calgary Police had been alerted to the presence of two known gang members and suspected drug traffickers, Henry Nguyen and Tuan Tran, at the Cornell family home. The subsequent investigation raised concerns that the Cornell family home was being used as a stash location for Nguyen's suspected "dial-a-dope" business.
2. The Calgary Police Service's investigation did not, however, include the Cornell family. Lorraine Cornell, a working single mother of three, had rented the house from Phuong Kim Thi Le and lived there with her three children: Ashley, her seventeen-year-old daughter; Robert, her twenty-nine-year-old mentally disabled son; and Jason, her twenty-one-year-old son. The evidence submitted did not reflect the unique characteristics of the household—a peaceful family environment responsive to the needs of a mentally disabled adult. The police pointed instead to generic concerns of possible destruction of evidence as support for the use of a "dynamic entry" upon execution of the warrants. The police officers attempted to secure a peaceful, non-violent entry by waiting until after Lorraine and Ashley had left the home; their entry, however, quickly became violent and culminated with the take down of Robert, who was alone in the home at the time. In trying to protect Calgarians from the dangers of drug trafficking, the police instead terrorized a member of one of Calgary's most vulnerable groups.

– IV –

1. Police officers provide an important service to citizens. Thus, the *Canadian Charter of Rights and Freedoms* and the *Criminal Code of Canada* demand their reasonable conduct. This appeal challenges the unreasonable police search of the family home of Lisa Cornell and her three children, Ashley, Jason, and Robert. The search was carried out as part of an ongoing investigation of a known gang member who had previously entered the Cornell house. The Cornell family themselves were not under investigation. Without criminal records or histories of violence, the family members gave no suspicion of danger or armament. Although easily done, the police failed to investigate the background of those in the house. Had they done so, they likely would not have acted so rashly.
2. Instead, the police lay in wait until Lisa Cornell and her daughter left the house. No effort was made to secure a peaceful entry. The police stormed the Cornell home wearing balaclavas and body armour. They destroyed the front door with a battering ram, broke the door frame, and ransacked the home. They attacked Lisa Cornell's mentally disabled son and, despite realizing their mistake, refused to allow her to see him. Most importantly, they failed to bring a search warrant with them, contrary to Section 29(1) of the *Criminal Code of Canada*.
3. The police discovered cocaine in Jason Cornell's bedroom. The appellant submits that this evidence should be excluded, as it was obtained from an unreasonable search contrary to Section 8 of the *Canadian Charter of Rights and Freedoms*.

– V –

1. Lorraine Cornell, lived in Calgary with her three children: Ashley 17; the appellant Jason 21; and Robert, 29 who has a mental disability. None of the Cornells had a criminal record or any history of violent behavior. After an inadequate investigation the background of the Cornell family. The Calgary Police Service executed a search warrant on their home. Instead of entering the home in a peaceful manner. The police violently forced their way into the Cornell's home. The police did not even have possession of the search warrant. During the chaos, the police destroyed the home. At the same time they manhandled and shackled Robert, who has a mental disability.

2. The main issue in this appeal is whether the police conducted the search in an unreasonable manner, and thus violated s.8 of the Charter. For the following reasons, the appellant argues that the trial judge erred in concluding that the search was reasonable:

- (a) Improper investigation by the police invalidated the search warrant
- (b) The police failed to produce the search warrant before executing the search
- (c) The police failed to employ the normal "knock-and-announce"
- (d) The police brutalized the appellant's unarmed and mentally-challenged brother with unreasonable and disproportionate force

– VI –

Overview

[1] Drug cartels imperil public safety at great cost. Cartel activity can escalate to bloody violence over ‘turf’ and product. Innocent lives are often lost in the cross-fire. Lawful search warrants are one of the most effective ways to prevent cartel violence from reaching crisis levels.

[2] The police in this case executed a search warrant of the Cornell house after a lengthy investigation and surveillance into the suspected “dial-a-dope” operation of Henry Nguyen and Tuan Tran. They had strong reason to believe the house was central to the operation. Standard “knock and announce” practices were eschewed to protect crucial evidence from being destroyed and for concern for safety given Nguyen and Tran’s particularly disturbing history of violence.

[3] The accused’s mentally disabled brother was the only person in the house. He was taken down and handcuffed, but became emotionally distressed and the cuffs were removed quickly. Entrance to the residence was time sensitive and it was impossible to anticipate which individuals, if any, might be present in the house. It was unclear whether anyone in the house had the means and opportunity to destroy evidence. Police found 99.4 grams of cocaine.

[4] The trial judge found the police’s deviation reasonable and justified. We agree. In his view, police had reasonable grounds to expect either violence by the suspects or the destruction of evidence. They had no way of knowing who was home. Thus, the manner in which they executed the search warrant did not violate s. 8 of the Charter. The trial judge’s reasons should be upheld.

– VII –

1. The appellant, Jason Cornell, appeals the trial judge's decision dismissing his s. 8 *Charter* claim. At trial, Cornell responded to drug possession charges laid by the Crown, arguing the search of his residence was unreasonable.
2. On November 30, 2005, both Cornell's front door and his s. 8 *Charter* rights were breached. Overzealous in their dynamic entry, the police failed to follow procedure and ignored opportunities for non-violent resolution.
3. The trial judge found that the police entry was reasonable in the circumstances. Cornell submits that the trial judge made an overriding and palpable error based on two grounds:
 - a. the police failed to intercept two women leaving Cornell's residence, electing to enter with speed and aggression; and
 - b. they failed to follow their own "knock and announce" practice.
4. Alternatively, Cornell submits the trial judge made an error of law by failing to consider section 29(1) of the *Criminal Code*, which requires a warrant prior to entry.
5. Cornell respectfully submits that the court allow the appeal, deem the evidence obtained during the search inadmissible, and order a retrial.

– VIII –

1. While the Charter is undeniably an important shield against human right violations, our legislatures did not intend for it to be used as a sword against public authorities. On the contrary, our legislatures recognized the importance of balancing Charter rights and public safety. They inserted sections 1 and 24, creating internal limitations to Charter rights and providing a framework for courts to balance individual rights with those of the public. This case is about balancing – balancing intentional acts of the accused against incidental errors of the police. It asks: should Charter rights be applied so stringently that they paralyze public servants when they make frivolous mistakes in the course of their duty? In other words, should individuals be allowed to hide behind minor police mistakes?

2. The police in this case conducted themselves as expected - they investigated a potential crime and sought to rectify the situation. This investigation, in particular, called for additional caution, as it involved drugs and gangs. Gangs pose a serious threat to the Canadian public and are often associated with bloody violence. This concern demanded that they make tactical decisions during their investigation. The gravity of the situation necessitated the police's unannounced, forceful entry. It was in executing this greater duty that the police failed to meet the smaller requirement of being able to immediately produce a warrant.

– IX –

[1] This appeal, if granted, will preserve Jason Cornell's rights under the Canadian Charter of Rights and Freedoms. Section 8 of the Charter protects Canadians from unreasonable search and seizure. The facts of the case demonstrate that the police entry was unreasonable. Given the unnecessary hard entry, the reactionary takedown of Cornell's brother Robert, and the destruction to the family home, the court must find that the appellant's fundamental rights have been violated.

[2] At trial, Jason Cornell challenged the constitutionality of the search based on the police officers' unreasonable conduct. The trial judge dismissed the section 8 challenge, holding that the police conducted themselves reasonably given the anticipated use of violence or destruction of evidence. Jason Cornell disagrees and appeals.

[3] There is one fundamental issue on appeal: whether the trial judge erred in finding that the police carried out their search of the Cornell home reasonably.

[4] The trial judge made a reviewable error: the search was unreasonable. The police surveillance prior to the officers' entry was inadequate and there were not sufficient grounds for the police to believe that the home housed a dial-a-dope operation. However, the police violently entered and searched the Cornell's family home for evidence of such an operation, disrupting the lives of a mother and her three children. Nine police officers charged into the home unannounced, armed with weapons, body armour, and a battering ram. They encountered Robert Cornell - alone, unarmed, and mentally challenged - and forcibly took him down. They ransacked the home and left it in shambles.

[5] This hard entry was fruitless and excessive. The police efforts uncovered less than 100 grams of cocaine in Jason Cornell's room and no evidence of a drug operation.

[6] A section 8 violation should be found, and the evidence procured from Jason's room excluded.

– X –

Introduction

1. On the evening of November 30th, 2005, the Cornell residence was raided by police. After a brief period of observation, nine balaclava-clad police officers stormed the unassuming family home with a battering ram, weapons pointed. Locks were broken. Doors were smashed. Robert, the Cornell's mentally disabled son, was pushed to the floor, "proned out", and handcuffed.
2. The situation that the police found themselves in was not one of urgency. The Cornell household was not a gang house or a drug house frequented by addicts or users. The members of the Cornell family had no criminal record or history of violent behaviour. At the time of the search, the only suspect ever seen entering the Cornell house was in custody.
3. The haste-driven actions of the police were preceded by a series of missed opportunities. The officers failed to research the character or background of those in the house. The officers made no attempt to intercept Loraine and Ashley Cornell as they left the property. In all, the officers made no effort to secure a peaceful, non-violent entry into the Cornell household.
4. The issue in this appeal is not whether the police were correct in their suspicions that the Cornell house was connected to their investigation. At issue is one of the most fundamental rights guaranteed by the *Charter*—the right to be secure against unreasonable search and seizure.

– XI –

Introduction

1. Police executed a warrant to search Jason Cornell's house based on information that members of a notorious local gang ran a 'dial-a-dope' operation there. Because of the involvement of a violent gang, and because they expected to find easily disposable drugs, police chose a tactical entry as the best way to preserve evidence and protect officers and the public. Police executed the entry and secured the house within only four minutes - less time than it takes to fry an egg. A thorough search revealed 99.4 grams of cocaine in a box labeled "Jason's Stuff". Cornell admitted the cocaine belonged to him and he planned to sell it.
2. Cornell now wants this evidence excluded, claiming the search violated section 8 of the *Charter*. He relies on minor damage to the house and his brother's less than four-minute detention. Cornell argues that the police needed to expend more time and public resources to find a more accommodating entry method. The trial judge dismissed these arguments. He found as facts that the police had reasonable grounds to anticipate violence or the destruction of evidence, and had no way to know who was in the house before executing the warrant. No palpable and overriding error exists in his finding of these facts; the police executed a reasonable search, consistent with section 8.

– XII –

1. This appeal raises a question of mixed fact and law regarding whether the police used reasonable tactics while executing a warrant. The trial judge erred for the following reasons:

- The police officers did not carry a warrant at the time of the break-in
- The Crown did not provide evidence for why it was unfeasible for the police officers to not carry a warrant as required by section 29(1) of the Criminal Code
- The police officers did not have reasonable grounds to anticipate the use of violence and should not have arrested Robert
- The police did not reasonably formulate their decision to use forced entry because other peaceful alternatives were available.

2. On November 30 at 6 PM the police entered the Cornell house and executed a search without a warrant present. They entered the house without announcing that they had a warrant. The warrant arrived 4 minutes after the police entered the home. This is in contravention to s. 29(1) of the Criminal Code which puts the onus on the police to carry a warrant when entering premises to execute a search warrant.

3. When police do not carry a warrant when searching a premise, the Crown must explain why it was unfeasible to carry the warrant. In this case, the Crown has not provided any evidence as to why the warrant was not carried during the time of the search. The house was under surveillance by the police officers since morning until 6 PM on November 30th suggesting there was ample time for the police to bring the warrant to the premises before any entry was made. The police officers waited for the Cornell's to leave the premises before entering but could not wait an additional 5 minutes for the warrant to arrive. There was no reasonable explanation for why the warrant was not available at the time of entry.

4. Prior to executing the warrant, the police officers did not do a thorough background check to identify the other occupants in the home. The Cornell's home had been under investigation for several weeks but no effort was made to learn the background of each occupant. Had such a background check been conducted the police officers would have learned that Robert was a mentally disabled. Due to his disability, Robert experienced emotional distress and was unable to ask for a search warrant. Executing a search warrant when the only occupant present is mentally disabled, and alternative options were available, would allow police to take advantage of vulnerable individuals in society.

5. Lastly, the police officers use of “dynamic entry” was an excessive use of force. The police officers never saw any weapons being carried into the Cornell house. Nguyen, who frequented the house, was already in police custody and Tuan had never entered into the Cornell home. If a background check was done, the police would have concluded that none of the remaining occupants had violent past or had any reasonable reason to be scared of them. The police officers could have waited until Lorraine Cornell returned to the house to allow for a more peaceful entry but waited till she left the home. Lastly, the police entered premise knowing that Robert still remained inside the home but did not make any attempt to enter the house peacefully. Therefore, it was not reasonable for the police officers to assume that a violent entry into the Cornell house was necessary and they failed to inform themselves despite having ample time to do so.

– XIII –

[1] Jason Cornell has endangered his family and community by recklessly involving himself with known gang members and drug traffickers. Thanks to the prompt actions of the police, no further harm occurred. The police's investigation of the Cornell house revealed Jason's connection with Henry Nguyen and Tuan Tran; members of a violent criminal gang. Their gang is currently embroiled in a war with a rival gang, increasing the danger to the community under the police's protection.

[2] The court should not compel police officers to compromise their safety to execute their duty. Officers conducted a judicially authorized search of the Cornell house in a manner that was reasonable and consistent with s. 8 of the *Charter* in light of the danger posed by Cornell's associates. The police also had great urgency to enter the house—there was a risk that evidence would be destroyed and the community endangered— a risk that was increased when police arrested Nguyen shortly before the search.

– XIV –

[1] Lorraine Cornell's home was raided by the police in a brazen display of excessive force. The police crashed through the door with a battering ram and entered the premises with weapons drawn. Ms. Cornell's mentally challenged son, Robert (29), was the only person in the home. Robert was violently pinned down and the police began comforting him after four full minutes of distress .

[2] This appeal's issue is whether the police search detailed above is a violation of Section 8 of the *Charter*. The Appellant submits that the trial judge erred in finding that:

1. the police action was a justified deviation from the standard procedure of "knock and announce"; and
2. the police made a reasonably informed decision to use a forced entry.

[3] The police made an insufficient effort to investigate those in the house. A full investigation would have been straightforward and would have shown that force was unneeded. Nor did the police make any attempt to intercept Ms. Cornell when she left her residence in order to secure a peaceful resolution. The police made a deliberate decision to let Ms. Cornell drive by and forcefully entered into the premise 15 minutes later. Adding to their comedy of errors, the police did not physically possess the warrant when they conducted this raid — contrary to section 29(1) of the *Criminal Code*.

[4] The police's conduct in both the preparation and execution of the search was unreasonable. The inadequate investigation and choice to use excessive force was a violation of the Cornell's Section 8 rights.

– XV –

1. The Appellant argues that the Calgary police violated s. 8 of the Canadian Charter of Rights and Freedoms (“the Charter”) by unjustifiably searching his home. On November 30, 2015 the Calgary police executed a search warrant of the Appellant’s home based on allegations of drug trafficking (“the Search”). While executing the Search the police inflicted sizable property damage and assaulted Robert Cromwell - the Appellant’s mentally disabled brother - causing him considerable distress and anxiety.

2. The trial judge erred by finding that the Search did not violate the Appellant’s s. 8 Charter rights. The standard of review for facts is palpable and overriding error. The police’s disregard and ignorance of the circumstances inside the Cromwell residence does not justify their failure to comply with required standard search and seizure procedures. The Appellant argues that the police’s failure to follow proper procedures lead to the unacceptable property damage and his brother’s assault. The Appellant submits that the Calgary police’s actions constitute unreasonable search and seizure in violation of s.8 of the Charter, and asks for a reversal of the trial judge’s decision.

– XVI –

1. Introduction: Preservation of Evidence is Vital to Ensure Proper Conviction in Protecting the Public

1. The trafficking of illicit drugs in Canada has increased at an alarming rate over the past decade. Gangs and bloody violence often center around the trafficking of illicit drugs. As a result, government officials implemented precautionary steps to mitigate the risks associated with trafficking by dangerous criminal groups, including the careful surveillance and investigation of suspects.

2. In this case, the police surveilled two established gang members, Henry Nguyen (“Nguyen”) and Tuan Tran (“Tran”), for several weeks. Nguyen and Tran’s conduct over this investigation convinced police that these men ran a cocaine operation. In addition to the public safety concerns posed by this operation, police believed Nguyen and Tran’s gang waged a war with another criminal gang, resulting in many shootings and violent deaths.

3. Lorraine Cornell, along with her three children, Ashley, Jason, (the “Appellant”), and Robert, occupied the residence that police believed Nguyen and Tran used for their drug operation. The police obtained a warrant under section 11 of the *Controlled Drugs and Substances Act* (the “CDSA”) to search the residence, and promptly executed it.

4. Authorities must delicately assess the proper procedure used for the drug search of a home, as it can have an enormous impact on the results of an investigation. The law requires that police do what is necessary, upon reasonable grounds, to obtain evidence for a proper conviction and ensure the safety of the public. Standard protocol must be balanced against the potential for the destruction of evidence and the potential for violence, which can justify more aggressive search procedures.

5. When executing the warrant, the police deviated from the standard practice of “knock and announce”. However, the immediate risk of violence by the residents of the home together with the high likelihood of destruction of valuable evidence rendered the “knock and announce” approach an unviable option. These risks justified the “dynamic entry” into the Cornell house.

6. The police searched the house and successfully confiscated 99.4 grams of cocaine hidden by the Appellant, causing minimal damage to the home and its occupants in the process. The police briefly apprehended the single occupant at the time, Robert, but released him in a matter of minutes and quickly took steps to calm him. Shortly thereafter, upon his arrest at work, the Appellant confessed to possessing these drugs for the purposes of trafficking.

7. The issue before the trial judge was whether the police conducted the search of the Cornell house in a reasonable manner, consistent with section 8 of the *Canadian*

Charter of Rights and Freedoms (the “*Charter*”). The police had reasonable grounds to deviate from protocol and execute an unannounced, forced entry, and therefore did not violate the Appellant’s *Charter* rights. The search to obtain the evidence for his conviction was lawfully authorized and reasonably conducted.

8. Accordingly, no violation of section 8 rights occurred, and the trial judge properly rejected the section 8 *Charter* challenge. As the standard of review is mixed fact and law, the trial judge did not commit a palpable and overriding error and thus, his decision should be upheld and the Appellant’s appeal should be dismissed.

– XVII –

1. The Canadian *Charter of Rights and Freedoms* provides certainty and creates expectations in the administration of justice. Similarly, the *Criminal Code* mandates procedures for officials that ensure both the protection of vulnerable Canadians' rights and the efficient operation of the Crown. When these procedures are not followed dire consequences may follow for those impacted.
2. In this case, the Cornell family experienced an unjustified intrusion into their family home. The home - the most private and intimate place - deserves the highest degree of protection. When searching private homes, the police must be held to a high standard. The "knock and announce" approach is in place to protect individuals from unreasonable state interference. When departing from this approach, the onus is on the police to justify their actions. They have failed to do so here.
3. The decision of the trial judge must be set aside due to the unjustified forced entry and damage to the Cornell home as well as the failure of the police to comply with section 29(1) of the *Criminal Code*. The applicable standard of review is reasonableness. It was unreasonable for the trial judge to find that the violent entry and search of the house was justified in the circumstances. The execution of the warrant should be declared unlawful, and a s. 8 *Charter* violation should be found.

– XVIII –

1. Introduction

[1] This is a case of unreasonable police behaviour and brutality. The police violated Jason Cornell's section 8 *Charter* right, destroyed a beautiful family home, and mistreated his mentally disabled brother. The consequences of the police's behaviour on the Cornell family was out of proportion to the evidence before them. The police had no reason to believe anyone in the Cornell home was armed nor dangerous. The police had no reason to suspect the Cornell home was a gang house, nor a drug house. The police had no reason to engage in a "dramatic entry" into the Cornell home wearing balaclavas, with weapons drawn, battering down the front door, and leaving the home in "shambles."

[2] To succeed on this appeal, the appellant needs to show that the trial judge made a palpable and overriding error. The trial judge's failure to find that the police behaved unreasonably is such an error.

– XIX –

1. This case arises out of a successful drug bust where no more force than necessary was employed. The element of surprise ensured the success. Although harm resulted from the execution of the warrant, such harm was minimal and short term. The search led to the successful conviction of Jason Cornell and the section 8 challenge was dismissed by the trial judge.

2. This appeal will turn on whether the trial judge committed a mistake of law. The appellants will use the reasonableness standard of review to argue that the judge erroneously ruled that section 8 was not violated. The respondents argue that no such error occurred. We ask that the appeal be dismissed.

– XX –

Introduction

1. The Appellant was arrested following police surveillance of his residence on suspicion of a connection with suspected drug traffickers. The trial judge made an error of law in holding that section 8 of the *Charter* did not apply. In *Housen v Nikolaisen* the Supreme Court of Canada determined that the standard of review for an error of law is correctness. The trial judge made an error of law in the application of the section 8 test established in *Hunter v. Southam Inc.* As per the second branch of the test, the police did not conduct the search in a reasonable manner.
2. As a result of police surveillance, it was known that the Cornell family home was not a gang house. Police knew that no one in the Cornell family had a criminal record or history of violent behaviour. There was no reason to believe anyone in the house would be armed or dangerous. After obtaining a warrant, police watched Lorraine and Ashley Cornell leave the house. They did not make any efforts to speak to them or to enter the house peacefully. Instead, after the watching the women leave, nine armed police officers smashed through the front door. The officers did not have a search warrant with them. In conducting the search, the police damaged the house and traumatized Robert Cornell, a young man with a mental disability who was alone in the home.

– XXI –

[1] This appeal concerns whether police have violated s. 8 of the *Charter* and ignored relevant provisions in the *Criminal Code of Canada* when it comes to executing a search warrant. *Charter* challenges are neither new nor unique. What this appeal seeks to do is to set forward guidelines and serve as a warning to law enforcement that, unless there are extremely extenuating circumstances, police should be careful as to not infringe on the rights of Canadians, regardless of the allegations against them.

[2] The facts of the case are straightforward. The police executed a search warrant at the home of the appellants, the Cornell family, after a lengthy period of surveillance. The police became convinced that a dial-a-dope operation was taking place there. On the day of the execution of the search warrant, police monitored the home and observed two female members leaving. Shortly afterwards, instead of using the usual “knock and announce” entry tactic, they battered the door down and tore the house apart looking for evidence, which the appellants submit, violates their s. 8 *Charter* rights. Despite monitoring the house extensively, the Cornell’s disabled 29-year old son was home and was severely shaken by the search. While the police did enter the home with a warrant, as they are required to do under s. 29(1) of *The Criminal Code*, it was only brought in several minutes later. At trial, the judge found that it was a reasonable entry in the circumstances. There are two main issues at the core of this appeal. Whether the police followed the statutory requirement to have the search warrant with them upon entry and whether the police violated the Cornell family’s s. 8 *Charter* rights to reasonable search and seizure.