

grounds to arrest a suspect and if they announced themselves before entering a home. In the trailer, the cops found Feeney passed out, spattered with blood and with a wad of money stuffed into his mattress. The case was nailed shut when McFeeney's bloody fingerprints were found in Boyle's home; Feeney was convicted of second-degree murder and sentenced to life in prison.

But on May 22, the Supreme Court of Canada overturned the conviction because the police had entered Feeney's home without a search warrant, violating his privacy rights. In a 5-4 judgement, the court said police need



Crime expert Thompson:
Police should just say no.

a warrant before forcibly entering a home unless they are in "hot pursuit" of a suspect.

Last week, the B.C. Attorney General announced that Feeney can expect a new trial; so, too, may thousands of other prisoners imprisoned under similar circumstances. Justice ministers in Alberta, B.C. and Ontario are asking the court to suspend its ruling for six months so Parliament can close the loophole with an amendment to the Criminal Code. "We feel that when you're looking at an

issue of this nature, you really should be cautious in restricting the police in doing their jobs," Alberta Justice Minister Jon Havelock

told reporters.

Edmonton lawyer Tom Engel supports the court's decision. "Police can still enter a house without a warrant if they have grounds to believe that evidence is being destroyed or someone is in danger," he says. "The police have to have a reason to go into your home. If they don't have a reason, why can't they wait and get judicial authority? I think that's a good limit on their power. As a citizen and a lawyer, I see how the more power you give to the police, the more power they have to trample on people's rights." *Canadian Lawyer* columnist Karen Selick, an attorney from Belleville, Ont., says the same thing about the Narcotics Control Act changes: "I find it quite amusing that the state is going into business selling something they deny everybody else."

—Davis Sheremata

Applying for welfare in court

An Albertan appeals her welfare disqualification in Queen's Bench

It is often said that a society's level of civilization is best measured by how it treats its weakest members. For some Canadians, this has come to mean how accessible and comfortable welfare benefits are. Until now, these have been determined by provincial governments, usually in concert with federal guidelines. Now, apparently for the first time in Alberta, the courts are being asked to get involved, so that what was in the past a matter of political discretion becomes a legal right defined by judges.

In Edmonton on June 19, Theresa McBryan and her lawyer, Shirish Chotalia, a former commissioner of the Alberta Human Rights Commission, held a news conference to announce their intention to appeal the province's decision to end Ms. McBryan's welfare benefits. They contend that the decision was a result of the inflexible and unfair application of a government policy that punishes people for needing help.

The provincial procedure for terminating welfare benefits is standard, according to Bob Scott, spokesman for the Department of Family and Social Services. "Before a client receives benefits, he or she works out a plan with a social worker of how to get off welfare." The caseworker may decide to terminate benefits, and that decision is reviewed by the worker's supervisor and the local office manager. The client may appeal to the Citizen's Appeal Committee, which sets up a three-person panel.

Ms. McBryan, 51, is a single mother of grown children. After going on welfare last December, her benefits were cut off be-

cause she was held to be refusing to attend a job training program at Goodwill Industries in Edmonton. This magazine sought an interview with Ms. McBryan, but her friend, Penny Frazier, said that Ms. McBryan has been keeping to a hectic schedule since the news conference and will not be speaking to the media again until after July 7. How-



ESPC's Bechtel: More clarity needed.

ever, Ms. McBryan has said that she has been forced to move from her apartment into Ms. Frazier's garage in Bon Accord, north of Edmonton, and will be selling her paintings and sculpture to raise money to live on and pay legal costs.

Ms. McBryan has also said that she was absent from the training program because of illness. After attending for the first month, she developed back problems and a sinus infection and then succumbed to the flu. The

appeal panel was not satisfied that these explained all of her absences.

Describing her reasons for appealing, Ms. McBryan said: "I'd like to see what a real judge thinks of this situation and I'd like to find out what the people who elect our representatives think about it."

The people of Alberta could be said to have voted in favour of welfare cuts in the provincial election this past March. In fact, welfare cuts have been enormously popular since they began in 1993. However, Brian Bechtel, executive director of the Edmonton Social Planning Council (ESPC) and a supporter of Ms. McBryan, counters: "Welfare policies have been popular because people think it is able-bodied people who are taken off welfare. From our anecdotal experience, a lot of people who need welfare have been cut off for very minor reasons."

Mr. Bechtel says the department's benefits decisions are often arbitrary and inconsistent. "My hope is that the judge will say that there is not enough clarity in the government's welfare policy...and require it to tighten the policy and establish official protection." Mr. Scott counters that the decision of the appeal committee is "final and binding," and he doubts that there is much a Queen's Bench justice can do to change it.

Although welfare activists may have been heartened in the last few years by provincial human rights codes, such as Ontario's and B.C.'s, making income an illegal ground for discrimination, last week the Ontario government signalled a new direction. It has introduced legislation which would once more make it possible for landlords to ask potential tenants about their sources and amounts of income.

—Lauri Friesen