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House of Representatives  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

Handouts

COMMITTEES

JUDICIARY, CHAIRMAN  
MAJORITY POLICY COMMITTEE

AGENDA

JUDICIARY COMMITTEE PUBLIC HEARING  
REGARDING  
HB 1502 SEARCH WARRANTS

JULY 26, 1993  
10:00 AM  
ROOM 140 MAIN CAPITOL

Prime Sponsor of the Bill  
Representative Christopher R. Wogan

Pennsylvania District Attorney's Association  
Honorable Richard A. Lewis  
Dauphin County District Attorney

Public Defenders Association  
Peter Rosalsky, Esq.

American Civil Liberties Union  
Larry Frankel, Esq.



HOUSE OF REPRESENTATIVES  
DEMOCRATIC COMMITTEE

BILL ANALYSIS

BILL NO. HB1502 P.N. 1677 SPONSOR: Wogan  
COMMITTEE: Judiciary DATE: May 26, 1993  
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Proposal: To amend the Constitution of the Commonwealth to prohibit the suppression of evidence in a criminal case if obtained in objectively reasonable reliance upon a subsequently invalidated search warrant.

Existing Law: Article I, Section 8 of the Pennsylvania Constitution reads as follows:

"The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant."

In Commonwealth v. Edmunds, 586 A. 2nd 887 (PA Supreme Court 1991), the Supreme Court of the Commonwealth ruled that in interpreting a provision of the Pennsylvania Constitution, it was not bound by decisions of the U. S. Supreme Court which interprets similar, yet distinct, Federal Constitutional provisions--that the U. S. Constitution establishes certain minimum levels which are equally applicable to an analogous state constitutional provisions, but each state, including Pennsylvania, has the power to provide broader standards protecting citizens charged with crimes, and to go beyond the minimum floor of protection which is established for citizens by the U. S. Constitution. Accordingly, our Supreme Court in Edmunds concluded that Article I Section 8 of the Pennsylvania Constitution protecting citizens from illegal searches and seizures, required that evidence against a criminally charged defendant be suppressed even if it had been obtained in objectively reasonable reliance upon a subsequently invalidated search warrant issued by a neutral and detached issuing authority. The court stated that the purpose underlying the exclusionary rule in Pennsylvania, as indicated by the strong notion of privacy embodied in the Constitutional provision prohibiting unreasonable searches and seizures, is quite distinct from the purpose underlying the exclusionary rule under the Fourth Amendment to the U. S. Constitution, i.e., To deter police misconduct. The court ruled that under Article I, Section 8 of the Pennsylvania Constitution, there is no "good faith" exception to the exclusionary rule and accordingly declined to follow the U. S. Supreme Court interpretation of the Fourth Amendment to the U. S. Constitution rendered in the United States v. Leon, 468 U.S. 897, 104 S.Ct. 3405 (1984).

Analysis: HB1502 proposes a Constitutional amendment to Article I, Section 8 providing that, "No evidence shall be suppressed if it has been obtained in objectively reasonable reliance on a subsequently invalidated search warrant issued by a neutral and detached issuing authority."

Of course, should the U. S. Supreme Court someday overturn United States v. Leon, then such would require that the Federal standard be applied in suppression of evidence issues in Pennsylvania criminal proceedings, and any amendment of Article I, Section 8 initiated by HB1502 would not control.

Prepared by: Edward A. Mihalik, Esq.  
House Judiciary Committee

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1502 Session of  
1993

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INTRODUCED BY WOGAN, FAJT, PICCOLA, HECKLER, BIRMELIN, GEIST,  
PETRONE, GLADECK, FARGO, PITTS, BELARDI, D. W. SNYDER,  
J. TAYLOR, KENNEY, O'BRIEN, TIGUE, SCHULER, SCHEETZ, LYNCH,  
MELIO, PLATTS, ARGALL, GODSHALL, TRELLO, DEMPSEY, MERRY,  
NYCE, DeLUCA, NAILOR, M. N. WRIGHT, FLEAGLE, SAURMAN, NICKOL,  
ULIANA, S. H. SMITH, FLICK, SATHER, MILLER, FARMER, EGOLF,  
E. Z. TAYLOR, BATTISTO, SEMMEL, KING, DENT, CLARK, CIVERA,  
LEH, MCGEEHAN, GANNON, TANGRETTI, GERLACH, GAMBLE, MAYERNIK  
AND CESSAR, MAY 3, 1993

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REFERRED TO COMMITTEE ON JUDICIARY, MAY 3, 1993

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A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth  
2 of Pennsylvania, further providing for certain evidence  
3 obtained under search warrants.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby resolves as follows:

6 Section 1. The following amendment to the Constitution of  
7 Pennsylvania is proposed in accordance with Article XI:

8 That section 8 of Article I be amended to read:

9 § 8. Security from searches and seizures.

10 The people shall be secure in their persons, houses, papers  
11 and possessions from unreasonable searches and seizures, and no  
12 warrant to search any place or to seize any person or things  
13 shall issue without describing them as nearly as may be, nor  
14 without probable cause, supported by oath or affirmation

1 subscribed to by the affiant. No evidence shall be suppressed if  
2 it has been obtained in objectively reasonable reliance on a  
3 subsequently invalidated search warrant issued by a neutral and  
4 detached issuing authority.