



Eastern Region Office  
PO Box 40008  
Philadelphia, PA 19106  
215-592-1513 T  
215-592-1343 F

Central Region Office  
PO Box 11761  
Harrisburg, PA 17108  
717-238-2258 T  
717-236-6895 F

Western Region Office  
313 Atwood St.  
Pittsburgh, PA 15213  
412-681-7736 T  
412-681-8707 F

## MEMORANDUM

**TO:** House Judiciary Committee

**FROM:** Andy Hoover, Legislative Director

**DATE:** April 20, 2009

**RE: OPPOSITION TO HOUSE BILL 306**

On Tuesday, the House Judiciary Committee is scheduled to consider House Bill 306. This bill would expand the power of law enforcement to conduct searches without cause of persons on parole for certain offenses. This legislation eviscerates privacy rights and exposes innocent people to unreasonable searches. The American Civil Liberties Union of Pennsylvania opposes HB 306. On behalf of the 15,000 members of the ACLU of PA, I ask you to please vote “no” on this legislation.

Both the United States Constitution and the Pennsylvania Constitution are clear that the people have a right to be free from unreasonable searches and seizures. State case law reinforces this right. But HB 306 knocks down that protection. By allowing searches without cause of some parolees by local police, the parolees’ loved ones will all be affected. Spouses, partners, parents, and children of these parolees will be vulnerable to unreasonable searches at any time of day or night.

The commonwealth asks recently released inmates to reintegrate into the community and lead a law abiding life, but policies like HB 306 create barriers to that reintegration. Data-driven research by the National Institute of Corrections and other respected organizations recommends reintegrating former prisoners into home, family and work, addressing issues of substance abuse, and lowering the case load of probation and parole officers. There is no evidence supporting the concept that we can reduce recidivism by expanding police power to search not only parolees but their families and friends.

Unfortunately, history shows us that when government is given expanded powers, that power is abused. Most police officers want to do their job well and follow the law, and HB 306 states that is not the intent of the legislation to be used as a tool for harassment. But it is inevitable that it will be used in an unreasonable manner. In the past, I have cited a *Philadelphia Inquirer* investigative series from 2007 that revealed that suburban police officers use nuisance laws in a discriminatory fashion. If HB 306 becomes law, it will be used the same way. The commonwealth and its municipalities should be prepared to pay the cost of litigation when that occurs.

Supporters of HB 306 cite the *Samson v. California* case, in which the United States Supreme Court upheld a similar law in that state. California's criminal justice system is not a model for other states. Its prison system is bloated, to the point that the governor is considering the release of massive numbers of inmates to give its prisons some relief. Much like Pennsylvania, California's corrections budget is a drag on state coffers and plays a role in the state's massive budget shortfall.

If enacted, HB 306 will set back basic privacy rights of many Pennsylvanians. It will lead to wrongful searches of innocent people who care for and care about the parolees the bill targets, including their children. With an overflowing prison system in the commonwealth, it is clear by now that punitive approaches toward criminal justice do not work. Please vote "no" on HB 306.