

Independence Day 2003

Main Street America Fights the Federal Government's Insatiable Appetite for New Powers in the Post 9/11 Era

A Special Report

by

The American Civil Liberties Union

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FOREWORD

In arguably the most important area of government -- the preservation of individual liberty in our democracy -- Main Street America has played, and will always play, the preeminent role in gaining and safeguarding American freedoms. American society has a unique ability to achieve social, economic and political progress through spontaneous grassroots movements that begin in neighborhoods, towns and cities and grow into national movements, which, more often than not, actually produce meaningful change in government.

Consider movements that brought about the abolition of slavery, voting rights for women, labor rights, and more recently, civil rights for African Americans in the 1950s and 1960s. Indeed, even our birth as a nation began with a whisper of discontent as colonists threw tea into the Boston Harbor as an act of protest, and grew into a thunderous declaration of our fundamental rights and freedoms. The result? The creation of a nation with ideals of freedom, liberty and respect for the individual as the fundamental core of its foundation.

“I have come to the conclusion that politics are too serious a matter to be left to the politicians.”
--Charles de Gaulle

Today, a new chapter in this history of political mobilization is being written. In the latest example of Americans fulfilling their civic entitlements in a free society and of our tradition of rejecting intrusive and offensive government policies, communities are banding together to repudiate congressional and Administration efforts to undermine and in some cases eliminate certain liberties as the price of securing safety after the tragic events of September 11, 2001.

All across the country, Americans are challenging the notion that the very liberties that make our nation unique should be sacrificed for the sake of new measures that are of questionable effectiveness in assuring our safety. These communities are standing up to say that while concerned about safety in these difficult times, they believe strongly that our nation can be both safe *and* free. Their message is one that resonates particularly strongly on Independence Day, a day when the nation pauses to reflect on its founding charter and the men who wrote it more than 200 years ago.

To date, more than 130 American communities -- of all shapes, sizes, and ideological persuasions -- have adopted pro-civil liberties resolutions and laws rejecting federal policies that threaten our basic constitutional rights. Dozens more are considering such initiatives. By all accounts, this grassroots reaction to excessive government policies is only beginning.

What is invoking the ire of Republicans and Democrats alike in these communities? Overbroad federal policies such as the USA PATRIOT Act, new FBI domestic spying guidelines, misguided anti-immigration laws, indefinite imprisonment of American citizens in a manner that strips them of fundamental due process rights, and the failed Operation TIPS program -- which would have recruited neighbor to spy on neighbor -- are but only a few.

Although the Justice Department is actively seeking to downplay the resolutions by inaccurately characterizing them as the product of “liberal college towns,”¹ these resolution campaigns are cropping up in such places as the Republican-controlled state Legislature of Alaska to the conservative American heartland in places like Oklahoma City to liberal Democratic communities like Santa Cruz, CA and Cambridge, MA.

The Justice Department’s summary dismissal of the resolution movement is particularly interesting given how closely it mirrors what federal government officials said about the political movements of the past that challenged their authority. FBI Director J. Edgar Hoover, for example, often characterized the Rev. Dr. Martin Luther King Jr. as a troublemaker and an agitator whose movement, while annoying, did not merit much serious consideration.² Yet, when the civil rights movement really started gaining steam, the government sought to discredit, defame and then suppress it.

The Justice Department’s attempt to discredit the resolution campaign are in sync with the words of Attorney General Ashcroft, who in the days after the 9/11 attacks, characterized those who speak up to protect their freedoms and criticize government policies as un-American and unpatriotic. Testifying before Congress, Ashcroft said: “Those who scare peace-loving people with phantoms of lost liberty, my message is this: your tactics only aid terrorists.”³

A year and a half later, faced with the fact that communities in more than half the states have passed resolutions that directly challenge anti-liberty government policies, the federal government is beginning to turn from ignoring this movement to seeking to discredit and combat it. Indeed, the Justice Department has deployed U.S. Attorneys and FBI agents in various localities to counter the resolution drives. These measures have ranged from trying to mislead the media in Maine to making false statements about the provisions in the PATRIOT Act in a hearing before the Alaska Legislature.

The civil liberties resolutions movement is a vindication of the intense concerns the ACLU raised about the welfare of our freedoms in the post-9/11 era. In the hopes of detailing just how this popular revolt developed and where it stands today, the following special report documents the resolution movement, its growing momentum and the scope of its impact. While the details are new, the story is as old as our nation -- a story of individuals working at the community level to protect civil liberties.

This report is the latest in a series of special reports issued by the ACLU on government actions since 9/11 that threaten our fundamental rights and freedoms without making us safer. These special reports include: *The Dangers of Domestic Spying By Federal Law Enforcement* (January 2002), *Insatiable Appetite* (April 2002), *Civil Liberties After 9/11* (September 2002), *Bigger Monster, Weaker Chains* (January 2003), *Freedom Under Fire: Dissent in Post-9/11 America*

¹ “Morning Edition.” NPR, “Many Americans criticizing USA Patriot Act as Attorney General John Ashcroft asks for expanded powers,” 06/09/2003

² Mary Zepernick, “About a most dangerous man,” *Cape Cod Times*, 01/14/2000, Available at: <http://www.peace.ca/dangerousman.htm>

³ Testimony of The Honorable John Ashcroft Attorney General, United States Department of Justice, Before the Senate Judiciary Committee Hearing on “DOJ Oversight: Preserving our Freedoms While Defending Against Terrorism,” December 6, 2001. Available at: http://www.senate.gov/~judiciary/testimony.cfm?id=121&wit_id=42

(May 2003). Taken together, all of these reports document policies that underlie this local discontent with the state of liberty today.

I urge members of communities interested in passing their own resolutions to contact the nearest ACLU affiliate, or to visit our Web site (www.aclu.org/resolutions), for sample resolutions and strategies for getting them passed. Every resolution sends a message to the President, Justice Department and Congress that we can be both safe *and* free.

The growing resistance to intrusive government policies is a reminder that Americans remain committed to liberty and democracy. What was true in 1776 remains true today; Americans will not tolerate infringements on our core freedoms.

Laura W. Murphy, Director
ACLU Washington Legislative Office

HOW IT ALL STARTED...

A week after the September 11 terrorist attacks, Attorney General Ashcroft submitted to Congress a package of legislative proposals ostensibly designed to combat terrorism in the United States. Formulated by the Department of Justice in part from proposals previously rejected by Congress, the package came with an ominous warning: pass these quickly because we need these new powers immediately to prevent other attacks.

To win quick passage for the bill, which was to become known as the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 or the USA PATRIOT Act -- Attorney General Ashcroft and the Bush Administration told Congress that if it didn't rush the bill through immediately any further loss of life would be on lawmakers' hands. The Attorney General demanded that his bill be passed in less than a week, a speed unheard of in the deliberative world of congressional legislating.⁴

When lawmakers demurred, hoping to draft and pass more reasonable legislation than the wish-list bill the White House was trying to force into law, Ashcroft upped the pressure, using public speeches, phone calls, personal meetings and intensive lobbying on Capitol Hill. According to congressional aides, the Attorney General encouraged an atmosphere of hysteria, insisting that without this bill, new catastrophic attacks were a virtual certainty.⁵

In the end the Administration prevailed, and Congress passed the 342-page bill on October 26, 2001 with little debate and a precious few dissenting votes (66 in the House of Representatives and one in the Senate). Most Members of Congress did not even have a chance to read the bill, the final version of which was only made available to lawmakers in the House mere hours before they had to vote on it.

As it was signed into law by the President, the USA PATRIOT Act includes a hodgepodge of expanded surveillance and law enforcement powers, many of which had actually been collecting dust at the Justice Department after having been rejected previously by Congress because of privacy or civil liberties concerns.

Under the PATRIOT Act, the judiciary's role in serving as a check on certain executive branch powers was minimized, curtailing judicial oversight over wiretapping and other investigative techniques. The PATRIOT Act facilitated government secrecy while dramatically rolling back Americans' privacy rights. The Attorney General was given broad new powers to detain non-citizens and other provisions expanded the definition of "domestic terrorism," so that it could potentially encompass domestic groups such as Greenpeace, Operation Rescue, PETA and World Trade Organization protesters. It imposes severe new criminal penalties for certain types of unlawful protest.

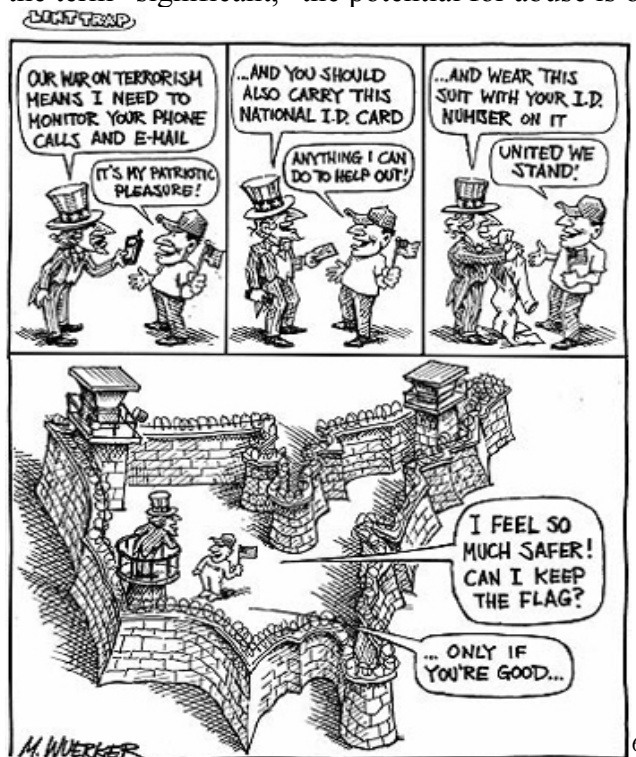
Groups on the political right and left were quick to point out those provisions of the PATRIOT Act violated basic constitutional freedoms of speech, free assembly and due process. Initially, those voices went unheeded. Yet, as national concern over these implications began to grow in intensity, the latest chapter in American political protest began to write itself.

⁴ Gail Gibson and Thomas Healy, "Broad anti-terror measures sought," *Baltimore Sun*, 09/18/2001

⁵ Robert Dreyfuss, "John Ashcroft's Midnight Raid," *Rolling Stone*, 11/22/2001

“PATRIOT” UNPATRIOTIC?

Controversial provisions in the PATRIOT Act include one that expanded the power of the Foreign Intelligence Surveillance Act (FISA) court, which meets in secret, does not ordinarily publish its decisions and only allows the government to appear before it. With passage of the bill, Congress also granted its approval for “sneak and peek” warrants, which allow federal agents to enter private homes without notifying the owner until much later. Congress also weakened the standards for intelligence wiretaps, permitting them to be used for criminal investigations so long as a “significant purpose” of the surveillance is foreign intelligence. Given the vagueness of the term “significant,” the potential for abuse is obvious.



Under the highly controversial Section 215 of the PATRIOT Act, the FBI was also granted access to highly personal “business records” – including financial, medical, mental health, library and student records -- with no meaningful judicial oversight. In other words, federal officials actually can obtain a court order for records of the books you borrow from libraries or buy from bookstores, without showing probable cause of criminal activity or intent – and the librarian or bookseller cannot even tell you that the government is investigating what you read.

The only standard for obtaining these records is that the FBI must deem them “relevant to an ongoing investigation,” after which a judge must issue the court order to seize them. And, under new information sharing provisions, the agency can provide these and other records – without adequate safeguards to prevent their harmful dissemination – to other law enforcement and intelligence agencies, including the State Department and the CIA.

⁶ Cartoon by Matt Wuerker. All Rights Reserved.

The White House's disregard for civil liberties continued after Congress passed the PATRIOT Act, as the Administration launched a flurry of executive orders, regulations, policies and new practices that, while of questionable practical use, run counter to basic American freedoms and undermine checks and balances enshrined in the Constitution and the Bill of Rights specifically to protect against potential government abuse.

Under one executive order, the government was permitted to monitor communications between people held in federal prisons—whether they are guilty or innocent—federal detainees and their lawyers, undermining the long-respected privacy of attorney-client privilege and threatening the constitutional right to effective counsel.⁷

Another presidential order paved the way for removing the right to a fair trial for citizens and non-citizens by labeling them “enemy combatants” or having them tried in front of secret military tribunals based solely on secret information and at the behest of the President or Secretary of Defense.⁸ Nor do these new tribunals adhere to the principles of justice in the traditional courts, including martial courts to which American soldiers are subject, but instead follow rules that fail to meet even minimal international standards.

Since its passage, average Americans, in communities across the country, are steadily gaining an appreciation for the threats to civil liberties in the USA PATRIOT Act and other new policies approved by Congress and the Administration. And in the grandest of American traditions, they are not standing idly by—they are organizing, speaking up and making their voices heard. Their response and that of their elected representatives and community leaders sends a resounding message to the White House, Department of Justice and Congress that our safety need not come at the expense of the freedoms that make this country great.

The main thrust of this popular backlash is the passage of community resolutions that, taken together, sound a resounding note of protest against the government's seeming inability to prosecute the “war on terrorism” in a way that makes us both safe and free. One after another, these communities – from tiny Crestone, CO (with a population of only 73), to large cities like Seattle and Detroit, to entire states like Alaska, Vermont and Hawaii – are passing ordinances and resolutions expressing their opposition to the PATRIOT Act and their fundamental disagreement with intrusive, post-9/11 federal policies.

A MOVEMENT GROWS

While communities as diverse as Beaverhead County, MT, Albany, NY and Orange County, NC have called on their federal representatives to repeal sections of the USA PATRIOT Act and related policies of the federal government, many others have also taken matters into their own hands, opposing troubling federal measures and explicitly adopting a different policy with respect to their own communities.

For example, responding to federal dragnets in the aftermath of 9/11 in which hundreds of innocent people were rounded up largely because of their color, religion or national origin,

⁷ 66 Fed. Reg. 55062 (October 31, 2001)

⁸ 66 Fed. Reg. 57831 (November 16, 2001)

communities like Carrboro, NC, Hartford, CT and Fairfax, CA passed resolutions calling upon their police not to engage in racial profiling.

Other communities, including Rio Arriba County, NM, Detroit, MI and Takoma Park, MD, wanting to ensure that the “war on terrorism” does not become a war on immigrants, instructed local police to “refrain from participating in the enforcement of federal immigration laws.”

Reports of FBI spying on religious or political activities without indication of criminal activity has led communities like Baltimore, MD, New Haven, CT and Berkeley, CA to pass resolutions that direct local police not to participate in investigations involving activities protected by the First Amendment.

And across the country -- from Minneapolis, MN to Alachua County, FL -- communities have protested against secret arrests, detentions, wiretaps and document seizures by instructing local officials to demand that federal authorities reveal details of these intrusive actions.

The USA PATRIOT Act *does not* require local law enforcement to follow the federal government’s bad example by engaging in abuse. Local municipalities have the legal right not to participate in joint federal, state and local terrorism task forces, not to enforce federal immigration law, which requires detailed legal training before it can be fairly enforced, and not to engage in racial profiling. They also have a right not to participate in any investigation, detention or surveillance unless it is based on *individualized* suspicion of criminal activity.

What we are seeing is a sweeping national movement in which localities are choosing to respect their citizens civil rights even if the federal government will not. Local municipalities are passing these resolutions both to protect the civil liberties of local residents and to pressure federal legislators to roll back intrusive sections of the PATRIOT Act.

ALL ROADS LEAD BACK TO...ANN ARBOR

How did this grassroots movement against federal authority begin? Shortly after 9/11, many people were cautiously supportive of the PATRIOT Act and disinclined to overtly criticize the Bush Administration. But, as time went by, questions started to emerge that perhaps Congress and the White House had taken away too many of our civil liberties in implementing new national security policies.

On January 7, 2002, the city of Ann Arbor, Michigan, became the first city in the country to pass a resolution in direct response to the PATRIOT Act and new federal government policies.⁹ The resolution praised the importance of due process, civil liberties and human rights – important concerns given that the nearby Detroit area contains one of the largest concentrations of Middle Easterners, especially Iraqis, in the country.

movement (n.)
mōv'mənt. **a.** A series of actions and events taking place over a period of time and working to foster a principle or policy: *a movement toward world peace.* **b.** An organized effort by supporters of a common goal

⁹ Text of Ann Arbor, MI Resolution. <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=11286&c=207>

“We’re very concerned about civil rights and about the potential discrimination,” City Councilwoman Heidi Herrell told ABC News. “We spent a lot of time since September 11 making sure that the Muslim members of our community felt safe.”¹⁰

The very next city to pass a resolution was Denver, CO, which, unlike Ann Arbor, is not normally considered a “liberal college town.” Its resolution drive came after the ACLU of Colorado discovered that before 9/11, Denver police had collected 3,400 secret files on protestors over a period of several years. Most of the subjects of these secret dossiers were actually peaceful social activists who had never been in trouble with the law. In one case, the Denver police department actually labeled a venerable Quaker organization and a 73-year-old nun “criminal extremists.”¹¹

Significantly, the resolution states that the Denver police should not gather information on individuals' First Amendment activities unless the information relates to criminal activity and the subject is suspected of criminal activity.¹²

“We were concerned about the abridgement of free speech because of national security concerns,” said Councilwoman Kathleen MacKenzie. “As awful as we felt about September 11 and as concerned as we were about national safety, we felt that giving up the right to dissent was too high a price to pay.”¹³

The next community to resist the PATRIOT Act and the new Administration policies was Amherst, MA. On April 24, 2002, the town council voted overwhelmingly in favor of a resolution defending civil rights and civil liberties. The preamble to the resolution stated, “The citizens of Amherst are concerned that actions of the Attorney General of the United States and the U.S. Justice Department since the September 11, 2001 attacks pose significant threats to constitutional protections in the name of fighting terrorism. Such undermining of basic civil rights and liberties run the serious risk of destroying freedom in order to save it.”¹⁴

“The Attorney General asserted before the Senate Judiciary Committee that civil libertarians who criticized the Department’s policies aid terrorists ‘...erode our national unity and diminish our resolve.’ We disagree,” the preamble continued. “We believe that respect for Constitutional rights is essential for the preservation of democratic society.”¹⁵

“...LEERY OF CHANGING THE LYRICS”

Two days later, the nearby town of Leverett, MA, a rural community with a population of 1,663, passed its own resolution. Following the vote, the citizen who submitted the resolution to the town’s Select Board said, “It is truly Orwellian double-speak to call such unpatriotic efforts a ‘PATRIOT Act.’ If the American people do not speak out against such anti-democratic efforts,

¹⁰ Dean Schabner, “Patriot Revolt?”, ABCnews.com, 07/01/2003

¹¹ Mayor Wellington Webb's Press Statement, 03/13/2002, <http://www.aclu-co.org/spyfiles/Documents/webbstatement.htm>

¹² <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=11482&c=207>

¹³ Dean Schabner, “Patriot Revolt?”, ABCnews.com, 07/01/2003

¹⁴ Civil Rights and Civil Liberties, Amherst Town Meeting Warrant Article, 04/24/2002

¹⁵ *ibid.*

they will only have themselves to blame when they, their children and grandchildren wake up in a totalitarian police state.”¹⁶

The City Council of the college town of Northampton, MA, unanimously passed a resolution on May 2 calling on local, state and federal officials to monitor any abuses of civil liberties that might result from the USA PATRIOT Act. “This was done in terms of supporting the freedoms that we have and that we cherish,” Council President Michael R. Bardsley said at the meeting¹⁷.

Energized by their experience with this effort, several Northampton activists were spurred to set up the Bill of Rights Defense Committee, which, along with the ACLU, has served as a clearinghouse for resolution activities.

By September 2002, only nine communities around the country had passed resolutions opposing the PATRIOT Act. In December, six more communities had passed resolutions, including the cities of Flagstaff, AZ and Detroit, MI. Art Babbott, the Flagstaff City Council member who sponsored the resolution, said, “We’ve been singing the same song in this country for more than 200 years. It’s a very good song, and I want to keep singing it. I’m very leery of changing the lyrics.”¹⁸

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-- Art Babbott,
Flagstaff City Council

By February 2003, the national resolution drive was picking up speed. In that month alone, 22 additional communities passed resolutions.¹⁹ As word spread, the number of communities continued to multiply.

To date, more than 130 communities in 26 states have joined the movement, including many large municipalities like Philadelphia, Minneapolis, Oakland and Broward County in Florida, which contains Fort Lauderdale. (See appendix A for a full list of communities).

In a sign of the movement’s depth and reach, three state legislatures—Hawaii, Alaska and Vermont—have passed statewide resolutions as well.

LEADING THE LOWER 48...

Hawaii was the first to act, passing a resolution in late April of 2003.²⁰ The state has a large Japanese-American population and memories of government internments during World War II are still alive for many. State Rep. Roy Takumi introduced the resolution, he said, as a way to open debate. Speaking to the *Washington Post*, he said, “States have every right to consider the concerns of the federal government and voice our opinions. If a number of states pass similar resolutions, then it raises the bar for Congress, making them realize our concerns.”²¹

¹⁶ Bill of Rights Defense Committee press release, “Third Massachusetts town votes to defend Bill of Rights from threats of USA PATRIOT Act”, http://www.bordc.org/Northampton_PR.htm, 05/02/02

¹⁷ Thomas Breen, “Council OKs Civil Rights Measure,” *Daily Hampshire Gazette*, 05/3/2002

¹⁸ Michael Janovsky, “Cities Urge Restraint in Fight Against Terrorism,” *New York Times*, 12/23/2002

¹⁹ <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=11294&c=207>

²⁰ <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=12491&c=206>

²¹ Evelyn Nieves, “Local Officials Rise Up to Defy the Patriot Act,” *Washington Post*, 4/21/2003

Hawaii is a majority Democratic state, but concerns about the PATRIOT Act and related government actions span the political spectrum. The next state to pass a resolution was Alaska, which has not sent a Democrat to Congress in almost 25 years. Politically, Alaska is resolutely conservative with a strong independent streak.

In speaking of the resolution he co-sponsored in the Alaska state legislature, Republican Rep. John Coghill said, “We hope that a resolution like this, with the bipartisan support that it has, will urge Congress to re-examine the provisions of the USA PATRIOT Act that challenge the individual freedoms that make this country great.” He added, “If we sacrifice our freedom, we let terrorism win.”²²

Democratic Rep. David Guttenberg, who co-sponsored the resolution, said: “We have a concern that [the Patriot Act] could be abused. The potential for abuse is too great. America is an open state. There’s a cost to that. Where are we willing to sacrifice for that? Guys are dying on the battlefield to protect our freedoms. It’s up to us to protect those freedoms here at home.”²³

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--State Rep. John Coghill
(R-AK)

In late May 2003, Vermont joined Alaska and Hawaii with its own resolution, calling on Congress to revise the PATRIOT Act and other new policies to restore civil liberties. The Vermont effort brought together a Republican House of Representatives and a Democratic State Senate. Like the other statewide resolutions, the Vermont resolution called on Congress to fix the USA PATRIOT Act and related new policies to bring them back in line with the Constitution.²⁴

THE ATTORNEY GENERAL IS WATCHING

The local resolutions have increasingly drawn the attention of the Justice Department and many in Congress. In fact, in a sign of the government’s deepening concern about the resolutions movement, Attorney General Ashcroft acknowledged that fears about the potential for abuse of the PATRIOT Act are becoming widespread in America and called on the media to help the Justice Department explain the Act and quell those fears.

In May 2003 when the City Council of Tucson, AZ was poised to pass a resolution opposing some provisions of the Act, it received a letter from Arizona Senator Jon Kyl (R-AZ) urging it to vote down the resolution. Kyl’s letter misrepresented the legislation, implying that all the law really did was give law enforcement the authority to wiretap cellular telephones and e-mail, and

²² Dean Schabner, “Northern Revolt,” ABC News.com, 05/23/2002

²³ *ibid.*

²⁴ <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=12735&c=206>

incorrectly asserting that, prior to the PATRIOT Act, federal officials were hampered by not being able to engage in such surveillance.²⁵

In fact, the government has long possessed the power to wiretap land telephone lines, cell phones, and e-mail – after showing probable cause of a crime and obtaining a court order. What the PATRIOT Act really did was reduce oversight of wiretaps and other forms of surveillance by the courts or Congress. Kyl’s letter also claimed that only a “miniscule minority” of America’s communities had passed such resolutions, while in reality these communities represented millions of Americans. Despite Kyl’s letter, the Tucson City Council adopted its resolution.

Also in May of 2003, while the state legislature was considering Alaska’s bi-partisan resolution to defend civil liberties, Timothy Burgess, the U.S. Attorney for Alaska, made inaccurate statements about the PATRIOT Act during his testimony before the Senate State Affairs Committee. Calling on state senators to vote against the resolution, Mr. Burgess said, “I think there are a lot of misconceptions being offered about what the PATRIOT Act does or doesn’t do, and that’s one of the concerns I have. I think, for instance, there is concern that under the PATRIOT Act, federal agents are now able to review library records and books checked out by U.S. citizens. If you read the Act, that’s absolutely not true.”²⁶

In fact, Mr. Burgess’ statement is what is simply untrue. According to Section 215 of the USA PATRIOT Act, specific provisions are made for the standards under which records, including library records, of both non-citizens *and* those of U.S. citizens can be seized. The Alaska senators, unimpressed, proceeded to pass the resolution unanimously.²⁷

When the Ithaca City Council in New York passed a resolution stating concern “that the USA PATRIOT Act threatens the civil rights and liberties of citizens of the United States and other nations...” and called on federal authorities to provide monthly notification to local authorities of detentions, wiretaps, and surveillance operations undertaken in the city, it received a letter from the FBI office in Albany. The letter contained the odd suggestion that the FBI could not provide the names of those people being secretly detained to local authorities and legal support groups because that would “directly infringe upon the privacy rights” of those being investigated or detained.²⁸

What the letter failed to mention was that the Justice Department has refused to provide the names to legal service organizations like the ACLU even when detainees had no objection to having their names released.²⁹

²⁵ Letter to Mayor and Council Members of the Tucson Mayor and City Council, 05/02/2003, by John Kyl, United States Senator, <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=12572&c=207>

²⁶ Alaska Senate State Affairs Committee hearing on CSHJR 22(RLS), 05/13/2003, by Mr. Timothy Burgess, U.S. Attorney for Alaska. <http://www.ktoo.com/gavel/audio.cfm?schDay=2003-5-13>

²⁷ <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=12707&c=207>

²⁸ Letter to Julie Conley Holcomb, Ithaca City Clerk of the Ithaca City Council, on March 25, 2003, by Keith A. DeVincentis, Special Agent In Charge, Federal Bureau of Investigation, U.S. Department of Justice

²⁹ *CNSS v. U.S. Dept. Of Justice*, (D.D.C. Aug. 02, 2002) available at <http://news.findlaw.com/cnn/docs/terrorism/cnssvdoj080202ord.pdf>

LIBRARIANS TELL ASHCROFT TO QUIET DOWN

Cities, towns and states are not the only public institutions rebelling against the PATRIOT Act. Librarians are refusing to cooperate with federal authorities; they are deeply concerned about the provision of the PATRIOT Act affecting the intellectual privacy of their patrons.

Section 215 of the Act allows the FBI to request a court order for any “tangible thing [including books, records, papers, documents and other items] for an investigation to protect against international terrorism or clandestine intelligence activities.”

In practice, the FBI can force libraries to reveal what books you are checking out, what chat rooms and websites you are visiting and what e-mails you have sent. Likewise, bookstores can be forced to reveal what books you are buying. Astonishingly, Section 215 even contains a gag order that prevents any librarian or bookseller from telling anyone including you, that the FBI has asked for this information.

Section 215 violates the First, Fourth and Fifth Amendments, and the ACLU is considering a legal challenge seeking to have it declared unconstitutional. In the meantime, however, grassroots resistance to Section 215 has sprouted up around the country in conjunction with the resolutions campaign.

Dozens of state library associations have passed their own anti-PATRIOT Act resolutions and the American Library Association has issued a stern warning in its national resolution stating, “sections of the USA PATRIOT Act are a present danger to the constitutional rights and privacy rights of library users...”³⁰

“PLEASE ACT APPROPRIATELY”

Some libraries, including libraries in Killington, VT, and Skokie, IL are posting signs warning patrons that the FBI can now monitor their reading habits and Internet use. “We’re sorry,” wrote the librarians in Killington. “Due to national security concerns, we are unable to tell you if your Internet surfing habits, passwords and e-mail content are being monitored by federal agents. Please act appropriately.”³¹

The public library in Santa Cruz, California, has gone one step further. Every night, the librarian shreds the day’s records, handwritten requests for reference books, logs of people who signed up for the library’s Internet stations and more.³²

³⁰ “Resolution on the USA Patriot Act and Related Measures That Infringe on the Rights of Library Users”, on 01/29/2003, adopted by American Library Association Council. Available at http://www.ala.org/Content/NavigationMenu/Our_Association/Offices/Intellectual_Freedom3/Statements_and_Policies/IF_Resolutions/Resolution_on_the_USA_Patriot_Act_and_Related_Measures_That_Infringe_on_the_Rights_of_Library_Users.htm

³¹ Judith Graham, “Libraries protest potential snooping,” *Chicago Tribune*, 04/04/2003

³² Dean E. Murphy, “Librarians Use Shredder to Show Opposition to New F.B.I. Powers,” *New York Times*, 04/07/2003

As soon as books are returned at the Santa Cruz, CA and Spokane, WA libraries, the record of who checked them out is purged from library computers. Every night, librarians at the Berkeley, CA library delete all information about the days activities from 50 Internet terminals. Once a month, the names of anyone who took out a particular book are purged.³³ Said one library patron recently: “Yes, I would care if they looked at my records. I came here from Colombia 28 years ago. There they can do anything – stop you when they want, search you when they want. Now, it’s getting like that here.”³⁴

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--library patron

Because of the secrecy provisions of the law, no one outside the federal government knows how many times Section 215’s powers have been invoked or whose book-buying or library habits have been investigated. However, in a news conference, Assistant Attorney General Viet Dinh said the Justice Department had visited libraries about 50 times, but declined to say whether those visits were based on Section 215 authority.³⁵

In Congress, Rep. Bernie Sanders (I-VT) has introduced the Freedom to Read Protection Act (H.R. 1157), which would exempt libraries and bookstores from Section 215. As of the date of this report’s release, the bill has 122 co-sponsors, including many Republicans. Under the bill, federal agents could still seek bookstore and library records, but only with a criminal subpoena or search warrant based upon probable cause. U.S. Sen. Barbara Boxer (D-CA) has introduced a companion bill in the Senate.

“What freedom is about is having the right to read anything you want and search for any information you want without the government peering over your shoulder,” Sanders says. “The PATRIOT Act goes much, much too far in interfering with those rights, which are a cornerstone of our democracy.”³⁶

Both Barnes & Noble and Borders – the country’s two largest booksellers – have backed Sanders’ Freedom to Read Protection Act, as has the American Booksellers Foundation for Free Expression. According to the foundation’s President, “The book community is united in believing that Section 215 of the PATRIOT Act threatens First Amendment freedom by making people afraid that their purchase and borrowing records may be monitored by the government.”³⁷

Like community resolutions, the efforts by some libraries to warn patrons have drawn the scrutiny of the federal government. In April 2003, the *Bangor Daily News* of Bangor, ME

³³ Judith Graham, “Libraries protest potential snooping,” *Chicago Tribune*, April 4, 2003

“Libraries keep patrons’ habits private,” *The Olympian*, April 19, 2003. Available at:

<http://www.theolympian.com/home/news/20030419/southsound/45821.shtml>

Privacy Statement of Spokane County Library District. Available at: <http://www.sclld.lib.wa.us/privacy.htm>

³⁴ Al Winslow, “Library Bristles at Patriot Act,” *Berkeley Daily Planet*, 04/25/2003

³⁵ Statement of Barbara Comstock, Director of Public Affairs, United States Department of Justice, “DOJ Testimony Regarding Libraries,” 06/02/2003. Available at: http://www.usdoj.gov/opa/pr/2003/June/03_opa_323.htm

³⁶ Judith Graham, “Libraries protest potential snooping,” *Chicago Tribune*, 04/04/2003

³⁷ David Gorgan, “Book Industry Issues Statement of Strong Support for Sanders’ Freedom to Read Bill,” *Free Expression*, 05/15/2003. Available at: <http://news.bookweb.org/freeexpression/1457.html>

reported that the public library in Calais, ME, a small town on the Canadian border, was urging its patrons to support Sanders' bill.

"Public libraries are synonymous with freedom, especially freedom of speech," the town librarian said in a statement. "We do not take this freedom lightly. We are defenders of this right for everyone who enjoys checking out books ... I do not think many people realize that their right to check out books without government scrutiny is even an issue. Sadly, it is, however."³⁸

The newspaper article prompted a high official at the Justice Department to contact the *Bangor Daily News*, denying it was interested in the reading habits of Americans citizens and asserting that critics of the PATRIOT Act were "completely wrong." The Justice official went so far as to claim that efforts to warn library patrons amounted to a "propaganda campaign."³⁹

In fact, the Justice Department again had misrepresented the PATRIOT Act, prompting the *Bangor Daily News* to editorialize that the official's characterization of the Act, "... 'completely' overstates the department's limitations; and 'wrong' is also less than accurate."

The editorial went on to support the Calais librarian: "Supporters of the Sanders legislation and those generally suspicious of anything that interferes with free inquiry are worried that the public will not know about the effects of the Patriot Act until it is too late. They are right to strongly question the potential abuse of the act and right to make their concerns known publicly."⁴⁰

³⁸"Following Calais' Lead," *Bangor Daily News*, 04/05/03

³⁹ Diana Graettinger, "Official counters Patriot Act critics," *Bangor Daily News*, 04/04/2003

⁴⁰ Patriotic Reading, Editorial, *Bangor Daily News*, 04/09/2003

CONCLUSION

And so, what began with one town, Ann Arbor, MI, adopting a resolution opposing the USA PATRIOT Act has become a nationwide campaign from the bottom up; encompassing towns, cities, public libraries, counties, states and now Congress. And as word spreads, more communities are joining, and the movement shows no signs of slowing or stopping.

In fact, as with the growth of past grassroots movements in America, the current protest against the Justice Department and the White House will continue to gain strength until the policies that fuel its growth are repealed or modified.

Just as it is possible to remain both safe and free as we meet a new and uncertain era, it is also possible to stand on principle as we take concrete and practical new security measures. For 230 years, our country has faced an array of challenges to our security and we have learned from past mistakes that we must meet these new challenges with fortitude and the willingness to stand on principle, even when it seems expeditious not to do so.

Nothing is more precious in a democracy than freedom of speech and free access to information without government intrusion. The American people seem to understand that, even if Attorney General Ashcroft does not.

Appendix A: Communities With Resolutions

As of July 2, 2003, resolutions have been passed in 135 communities in 26 states, including three statewide resolutions. These communities represent approximately 16.3 million people who oppose the USA PATRIOT Act.

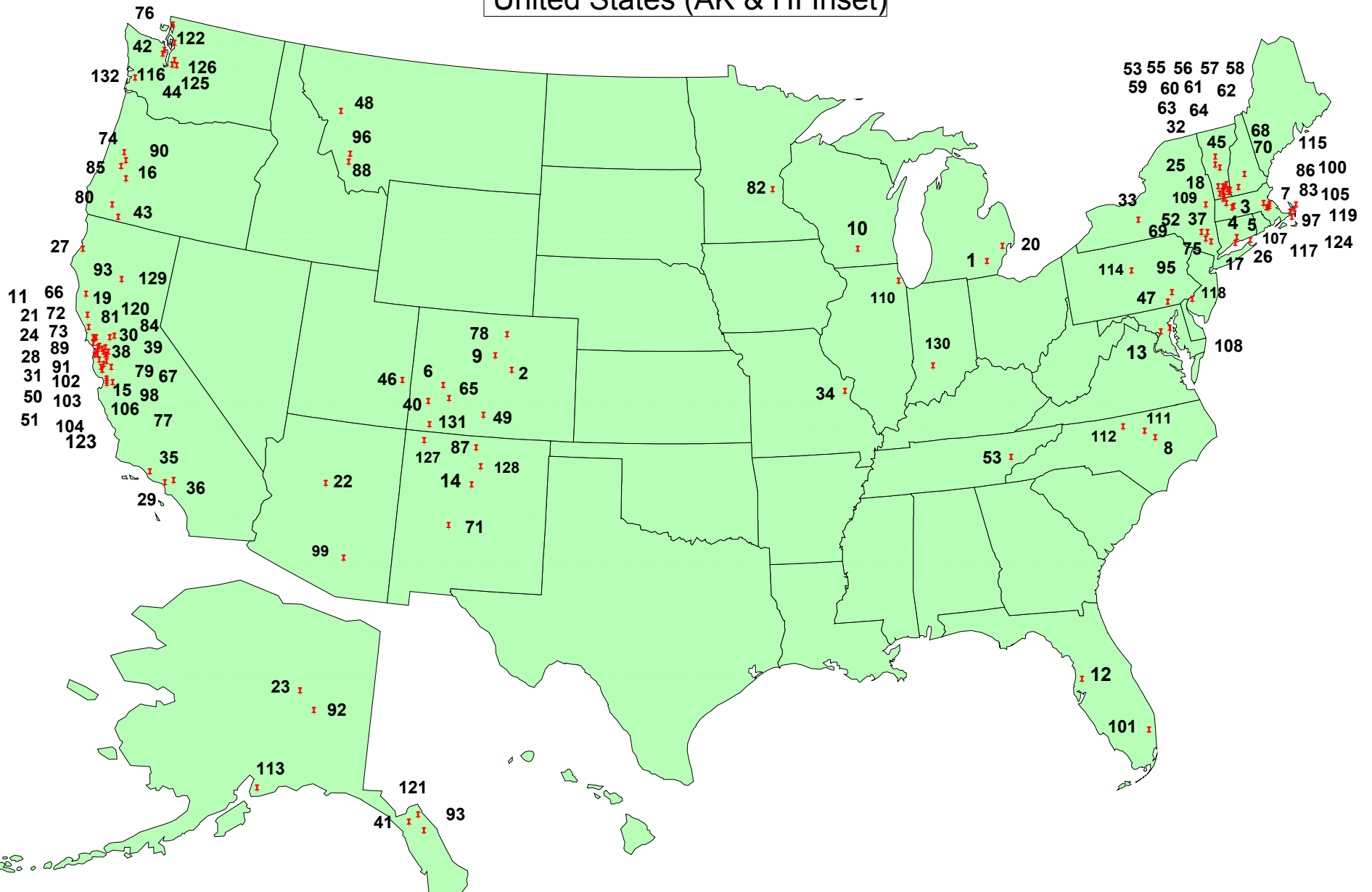
132. Lane County, OR	July 1, 2003	State of Hawaii	April 25, 2003
131. Durango, CO	July 1, 2003	93. Mendocino County, CA	April 22, 2003
130. Bloomington, IN	June 26, 2003	92. North Pole, AK	April 21, 2003
129. Tehama County, CA	June 17, 2003	91. Albany, CA	April 21, 2003
128. Taos, NM	June 17, 2003	90. Corvallis, OR	April 21, 2003
127. Aztec, NM	June 17, 2003	89. Dublin, CA	April 16, 2003
126. Port Townsend, WA	June 16, 2003	88. Dillon, MT	April 16, 2003
125. San Juan County, WA	June 11, 2003	87. Rio Arriba County, NM	April 10, 2003
124. Arlington, MA	June 10, 2003	86. Provincetown, MA	April 9, 2003
123. Palo Alto, CA	June 9, 2003	85. Gaston, OR	April 9, 2003
122. Jefferson County, WA	June 9, 2003	84. Mill Valley, CA	April 7, 2003
121. Skagway, AK	June 5, 2003	83. Lincoln, MA	April 5, 2003
120. Contra Costa County, CA	June 3, 2003	82. Minneapolis, MN	April 4, 2003
119. Brookline, MA	May 30, 2003	81. Ukiah, CA	April 2, 2003
118. Philadelphia, PA	May 29, 2003	80. Talent, OR	April 2, 2003
117. Wendell, MA	May 29, 2003	79. Pinole, CA	April 1, 2003
State of Vermont	May 28, 2003	78. Fort Collins, CO	March 26, 2003
116. Bainbridge Island, WA	May 28, 2003	77. Watsonville, CA	March 25, 2003
115. Shutesbery, MA	May 27, 2003	76. Bellingham, WA	March 24, 2003
State of Alaska	May 21, 2003	75. Woodstock, NY	March 18, 2003
114. Lansdowne, PA	May 21, 2003	74. Benton County, OR	March 18, 2003
113. Kenai, AK	May 20, 2003	73. Los Gatos, CA	March 17, 2003
112. Greensboro, NC	May 20, 2003	72. El Cerrito, CA	March 17, 2003
111. Orange County, NC	May 20, 2003	71. Socorro, NM	March 17, 2003
110. Evanston, IL	May 19, 2003	70. Petersborough, NH	March 15, 2003
109. Albany, NY	May 19, 2003	69. Rosendale, NY	March 12, 2003
108. Baltimore, MD	May 19, 2003	68. Marlborough, NH	March 11, 2003
107. Hartford, CT	May 15, 2003	67. Union City, CA	March 11, 2003
106. Salinas, CA	May 13, 2003	66. Sonoma, CA	March 5, 2003
105. Orleans, MA	May 13, 2003	65. Telluride, CO	March 4, 2003
104. Sausalito, CA	May 6, 2003	64. Waitsfield, VT	March 4, 2003
103. Marin County, CA	May 6, 2003	63. Westminster, VT	March 4, 2003
102. San Mateo County, CA	May 6, 2003	62. Windham, VT	March 4, 2003
101. Broward County, FL	May 6, 2003	61. Putney, VT	March 4, 2003
100. Eastham, MA	May 5, 2003	60. Newfane, VT	March 4, 2003
99. Tucson, AZ	May 5, 2003	59. Marlboro, VT	March 4, 2003
98. Santa Cruz County, CA	April 30, 2003	58. Jamaica, VT	March 4, 2003
97. Wellfleet, MA	April 29, 2003	57. Guilford, VT	March 4, 2003
96. Beaverhead County, MT	April 28, 2003	56. Dummerston, VT	March 4, 2003
95. Reading, PA	April 28, 2003	55. Athens, VT	March 4, 2003
94. Juneau, AK	April 28, 2003	54. Warren, VT	March 4, 2003

53. Blount County, TN	February 27, 2003
52. Town of New Paltz, NY	February 27, 2003
51. Cotati, CA	February 26, 2003
50. Richmond, CA	February 25, 2003
49. Crestone, CO	February 24, 2003
48. Missoula, MT	February 24, 2003
47. York, PA	February 19, 2003
46. Castle Valley, UT	February 19, 2003
45. Rockingham, VT	February 18, 2003
44. Seattle, WA	February 18, 2003
43. Ashland, OR	February 18, 2003
42. Vashon-Maury Island, WA	February 17, 2003
41. Gustavus, AK	February 13, 2003
40. Ridgway, CO	February 12, 2003
39. Davis, CA	February 12, 2003
38. San Anselmo, CA	February 12, 2003
37. Village of New Paltz, NY	February 12, 2003
36. Claremont, CA	February 11, 2003
35. Santa Monica, CA	February 11, 2003
34. University City, MO	February 10, 2003
33. Ithaca, NY	February 5, 2003
32. Brattleboro, VT	February 4, 2003
31. Point Arena, CA	January 28, 2003
30. Yolo County, CA	January 28, 2003
29. West Hollywood, CA	January 21, 2003
28. San Francisco, CA	January 21, 2003
27. Arcata, CA*	January 15, 2003
26. Mansfield, CT	January 13, 2003
25. Montpelier, VT	January 10, 2003
24. Fairfax, CA	January 7, 2003
23. Fairbanks, AK	January 6, 2003
22. Flagstaff, AZ	December 17, 2002
21. Oakland, CA	December 17, 2002
20. Detroit, MI	December 6, 2002
19. Sebastapol, CA	December 3, 2002
18. Burlington, VT	December 2, 2002
17. New Haven, CT	December 2, 2002
16. Eugene, OR	November 25, 2002
15. Santa Cruz, CA	November 12, 2002
14. Santa Fe, NM	October 30, 2002
13. Takoma Park, MD	October 28, 2002
12. Alachua County, FL	October 22, 2002
11. Berkeley, CA	October 22, 2002
10. Madison, WI	October 15, 2002
9. Boulder, CO	July 23, 2002
8. Carrboro, NC	June 25, 2002

7. Cambridge, MA	June 17, 2002
6. San Miguel County, CO	May 20, 2002
5. Northampton, MA	May 2, 2002
4. Leverett, MA	April 27, 2002
3. Amherst, MA	April 24, 2002
2. Denver, CO	March 18, 2002
1. Ann Arbor, MI	January 7, 2002

* Arcata has also passed an ordinance.

United States (AK & HI Inset)



Appendix B: MODEL LOCAL RESOLUTION TO PROTECT CIVIL LIBERTIES

WHEREAS the City of _____ is proud of its long and distinguished tradition of protecting the civil rights and liberties of its residents;

WHEREAS the City of _____ has a diverse population, including immigrants and students, whose contributions to the community are vital to its economy, culture and civic character;

WHEREAS the preservation of civil rights and liberties is essential to the well-being of a democratic society;

WHEREAS federal, state and local governments should protect the public from terrorist attacks such as those that occurred on September 11, 2001, but should do so in a rational and deliberative fashion to ensure that any new security measure enhances public safety without impairing constitutional rights or infringing on civil liberties;

WHEREAS government security measures that undermine fundamental rights do damage to the American institutions and values that the residents of the City of _____ hold dear;

WHEREAS the Council of the City of _____ believes that there is no inherent conflict between national security and the preservation of liberty -- Americans can be both safe and free;

WHEREAS federal policies adopted since September 11, 2001, including provisions in the USA PATRIOT Act (Public Law 107-56) and related executive orders, regulations and actions threaten fundamental rights and liberties by:

- (a) authorizing the indefinite incarceration of non-citizens based on mere suspicion, and the indefinite incarceration of citizens designated by the President as “enemy combatants” without access to counsel or meaningful recourse to the federal courts;
- (b) limiting the traditional authority of federal courts to curb law enforcement abuse of electronic surveillance in anti-terrorism investigations and ordinary criminal investigations;
- (c) expanding the authority of federal agents to conduct so-called “sneak and peek” or “black bag” searches, in which the subject of the search warrant is unaware that his property has been searched;
- (d) granting law enforcement and intelligence agencies broad access to personal medical, financial, library and education records with little if any judicial oversight;
- (e) chilling constitutionally protected speech through overbroad definitions of “terrorism”;
- (f) driving a wedge between immigrant communities and the police that protect them by encouraging involvement of state and local police in enforcement of federal immigration law;
- (g) permitting the FBI to conduct surveillance of religious services, Internet chat rooms, political demonstrations, and other public meetings of any kind without having any evidence that a crime has been or may be committed;

WHEREAS new legislation has been drafted by the Administration entitled the Domestic Security Enhancement Act (DSEA) (also known as PATRIOT II) which contains a multitude of new and sweeping law enforcement and intelligence gathering powers, many of which are not related to terrorism, that would severely dilute, if not undermine, many basic constitutional rights, as well as disturb our unique system of checks and balances by:

- (a) diminishing personal privacy by removing important checks on government surveillance authority,
- (b) reduce the accountability of government to the public by increasing government secrecy,
- (c) expanding the definition of “terrorism” in a manner that threatens the constitutionally protected rights of Americans, and
- (d) seriously erode the right of all persons to due process of law

WHEREAS these new powers pose a particular threat to the civil rights and liberties of the residents of our city who are Arab, Muslim or of South Asian descent; and

WHEREAS many other communities throughout the country have enacted resolutions reaffirming support for civil rights and civil liberties in the face of government policies that threaten these values, and demanding accountability from law enforcement agencies regarding their use of these new powers;

THEREFORE BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF _____:

1. AFFIRMS its strong support for fundamental constitutional rights and its opposition to federal measures that infringe on civil liberties.
2. AFFIRMS its strong support for the rights of immigrants and opposes measures that single out individuals for legal scrutiny or enforcement activity based on their country of origin.
3. DIRECTS the Police Department of the City of _____ to:
 - (a) refrain from participating in the enforcement of federal immigration laws;
 - (b) seek adequate written assurances from federal authorities that residents of the City of _____ and individuals in the custody of the City of _____ who are placed in federal custody will not be subjected to military detention; secret detention; secret immigration proceedings; or detention without access to counsel, and refrain from assisting federal authorities obtain custody of such individuals absent such assurances;
 - (c) refrain from engaging in the surveillance of individuals or groups of individuals based on their participation in activities protected by the First Amendment, such as political advocacy or the practice of a religion, without particularized suspicion of criminal activity unrelated to the activity protected by the First Amendment;
 - (d) refrain from racial profiling. The police department shall not utilize race, religion, ethnicity, or national origin as a factor in selecting which individuals to subject to investigatory activities except when seeking to apprehend a specific suspect whose race, religion, ethnicity or national origin is part of the description of the suspect;
 - (e) refrain, whether acting alone or with federal or state law enforcement officers, from collecting or maintaining information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct;
 - (f) refrain from: engaging in video surveillance unless the police have reasonable suspicion that the subjects of the video surveillance have or are about to commit a crime, establishing a general surveillance network of video cameras, deploying facial recognition technology or other unreliable biometric identification technology within the City of _____;

(g) provide advance or simultaneous notice of the execution of a search warrant to any resident of the City of _____ whose property is the subject of such a warrant, and refrain from participating in a joint search with any law enforcement agency absent assurances that such notice will be provided to such individuals during the search;

(h) refrain from undertaking or participating in any initiative, such as the Terrorism Information and Prevention System (TIPS), that encourages members of the general public to spy on their neighbors, colleagues or customers;

(i) refrain from the practice of stopping drivers or pedestrians for the purpose of scrutinizing their identification documents without particularized suspicion of criminal activity;

(j) report to the City Council any request by federal authorities that, if granted, would cause agencies of the City of _____ to exercise powers or cooperate in the exercise of powers in apparent violation of any city ordinance or the laws or Constitution of this State or the United States;

4. DIRECTS public schools and institutions of higher learning within the City of _____ to provide notice to individuals whose education records have been obtained by law enforcement agents pursuant to section 507 of the USA PATRIOT Act;

5. DIRECTS public libraries within the City of _____ to post in a prominent place within the library a notice to library users as follows: "WARNING: Under Section 215 of the federal USA PATRIOT Act (Public Law 107-56), records of the books and other materials you borrow from this library may be obtained by federal agents. That federal law prohibits librarians from informing you if records about you have been obtained by federal agents. Questions about this policy should be directed to: Attorney General John Ashcroft, Department of Justice, Washington, DC 20530";

6. Directs the City Council Chief of Staff to:

a. Transmit a copy of this resolution to Senators _____ and _____, and Representatives _____ accompanied by a letter urging them to:

- support Congressional efforts to assess the impacts of the PATRIOT Act
- monitor federal anti-terrorism tactics and work to repeal provisions of the USA PATRIOT ACT and other laws and regulations that infringe on civil rights and liberties
- ensure that provisions of the USA PATRIOT Act "sunset" in accordance with the provisions of the Act.
- take a lead in Congressional action to prohibit passage of the Domestic Security Enhancement Act, known as "Patriot II"

7. DIRECTS the City Manager to seek periodically from federal authorities the following information in a form that facilitates an assessment of the effect of federal anti-terrorism efforts on the residents of the City of _____:

(a) The names of all residents of the City of _____ who have been arrested or otherwise detained by federal authorities as a result of terrorism investigations since September 11, 2001; the location of each detainee; the circumstances that led to each detention; the charges, if any, lodged against each detainee; the name of counsel, if any, representing each detainee;

(b) The number of search warrants that have been executed in the City of _____ without notice to the subject of the warrant pursuant to section 213 of the USA PATRIOT Act;

- (c) The extent of electronic surveillance carried out in the City of _____ under powers granted in the USA PATRIOT Act;
- (d) The extent to which federal authorities are monitoring political meetings, religious gatherings or other activities protected by the First Amendment within the City of _____;
- (e) The number of times education records have been obtained from public schools and institutions of higher learning in the City of _____ under section 507 of the USA PATRIOT Act;
- (f) The number of times library records have been obtained from libraries in the City of _____ under section 215 of the USA PATRIOT Act;
- (g) The number of times that records of the books purchased by store patrons have been obtained from bookstores in the City of _____ under section 215 of the USA PATRIOT Act;
8. DIRECTS all public libraries to have a policy that ensures the regular destruction of records that identify the name of the book borrower after the book is returned, or that identify the name of the Internet user after completion of Internet use;
9. ADVISES all persons in local businesses and institutions, and particularly booksellers, to refrain when possible from keeping records which identify the name of the purchaser, and to regularly destroy such records that are maintained, in order to protect intellectual privacy rights; and be it
10. DIRECTS the City Manager to transmit to the City Council no less than once every six months a summary of the information obtained pursuant to the preceding paragraph and, based on such information and any other relevant information, an assessment of the effect of federal anti-terrorism efforts on the residents of the City of _____;
11. DIRECTS the City Manager to transmit a copy of this resolution to Senator _____, Senator _____ and Congressman _____, accompanied by a letter urging them to monitor federal anti-terrorism tactics and work to repeal provisions of the USA PATRIOT Act and other laws and regulations that infringe on civil rights and liberties;
12. DIRECTS the City Manager to transmit a copy of this resolution to Governor _____, and appropriate members of the State Legislature, accompanied by a letter urging them to ensure that state anti-terrorism laws and policies be implemented in a manner that does not infringe on civil liberties as described in this resolution;
13. DIRECTS the City Manager to transmit a copy of this resolution to President Bush and Attorney General Ashcroft; and be it
14. FURTHER RESOLVED that the provisions of this Resolution shall be severable, and if any phrase, clause, sentence, or provision of this Resolution is declared by a court of competent jurisdiction to be contrary to the Constitution of the United States or of the State of _____ or the applicability thereof to any agency, person, or circumstances is held invalid, the validity of the remainder of this Resolution and the applicability thereof to any other agency, person or circumstances shall not be affected thereby