

July 7, 2003

R-295-7-03 APPROVED AS AMENDED

RESOLUTION TO PROTEST THE ERODING OF CIVIL LIBERTIES UNDER THE USA PATRIOT ACT (PUBLIC LAW 107-56) AND RELATED FEDERAL ORDERS SINCE 9/11/01

Council Member Groome moved, seconded by Council Member Herrell that the resolution be adopted.

Council Member Reid moved, seconded by Council Member Lowenstein to amend the resolution as follows:

REMOVE 5th RESOLVED CLAUSE:

..RESOLVED, That the City Administrator is directed to seek semi-annually, by form letter, from federal authorities the following information on behalf of the residents of the City of Ann Arbor:

- 1. The names of all residents of the City of Ann Arbor 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, lodges against each detainee; the name of counsel, if any, representing each detainee;**
- 2. The number of search warrants that have been executed in the City of Ann Arbor without notice to the subject of the warrant pursuant to Section 213 of the USA PATRIOT Act;**
- 3. The extent of electronic surveillance carried out in the City of Ann Arbor under powers granted in the USA PATRIOT Act;**
- 4. The extent to which federal authorities are monitoring political meetings, religious gatherings or other activities protected by the First Amendment within the City of Ann Arbor;**
- 5. The number of times education records have been obtained from public schools and institutions of higher learning in the City of Ann Arbor under Section 507 of the USA PATRIOT Act;**
- 6. The number of times library records have been obtained from libraries in the City of Ann Arbor under Section 215 of the USA PATRIOT Act;**
The number of times that records of the books purchased by store patrons have been obtained from bookstores in the City of Ann Arbor under Section 215 of the USA PATRIOT Act;...

On roll call, the vote was as follows:

Yeas, Council Members Lowenstein, Reid, Higgins, 3;

Nays, Council Members Carlberg, Herrell, Teall, Easthope, Woods, Groome, Johnson, Mayor Hieftje, 8;

The Mayor declared the motion failed.

Council unanimously agreed to amend the resolution by adding the word General in front of Ashcroft's name so that it reads Attorney General Ashcroft.

Council Member Reid moved, seconded by Council Member Lowenstein that the resolution be amended as follows:

Remove 5th RESOLVED Clause Section 4:

..RESOLVED, That the City Administrator is directed to seek semi-annually, by form letter, from federal authorities the following information on behalf of the residents of the City of Ann Arbor:

..4. The extent to which federal authorities are monitoring political meetings, religious gatherings or other activities protected by the First Amendment within the City of Ann Arbor;...

On roll call, the vote was as follows:

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Yeas, Council Members Lowenstein, Reid, Higgins, Mayor Hieftje, 4;

Nays, Council Members Groome, Johnson, Carlberg, Herrell, Teall, Easthope, Woods, 7.

The Mayor declared the motion failed.

The question being the resolution as originally presented, on a voice vote, the Mayor declared the motion carried.

The resolution reads as follows:

R-295-7-03

RESOLUTION TO PROTEST THE ERODING OF CIVIL LIBERTIES UNDER THE USA PATRIOT ACT (PUBLIC LAW 107-56) AND RELATED FEDERAL ORDERS SINCE 9/11/01

Whereas, The City of Ann Arbor is proud of its long and distinguished tradition of protecting the civil rights and liberties of its residents and knows that these rights and liberties are essential to the well-being of a democratic society;

Whereas, The City of Ann Arbor has a diverse population, including recent immigrants and students from other nations, whose contributions to the community are vital to its economy, culture and civic character;

Whereas, The Ann Arbor City Council adopted Resolution R-18-1-02, publicly affirming Ann Arbor's support of the due process rights of all who reside in the City;

Whereas, The Board of Trustees of the Ann Arbor District Library unanimously adopted the American Library Association Resolution on the USA Patriot Act and Related Measures That Infringe on the Rights of Library Users on June 16, 2003 and stated that the situation created by the USA Patriot Act "presents a clear and present problem to the Library and the public";

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 deliberate fashion to ensure that any new security measure enhances public safety without impairing constitutional rights or infringing on civil liberties;

Whereas, The US Attorney General has stated that the federal government may ask local police departments to enforce federal immigration law;

Whereas, The City Council is concerned that the adoption of the USA PATRIOT Act (Public Law 107-56) and related executive orders, federal policies, regulations and actions adopted since September 11, 2001 threaten fundamental rights and liberties in the following ways:

__ Under the provisions of Section 412 of the Act, non-citizens may be incarcerated for 7 days without charge and continue to be incarcerated for six month periods indefinitely, without access to counsel, under the order of the United States Attorney General if he determines release would endanger the security of the country or of a specific person, which decision is subject to limited judicial review.

__The provisions of Section 216 of the Act eliminate judicial latitude in issuance of electronic surveillance orders when the state has met its procedural burden.

__The provisions of Section 213 of the Act allow federal searches to be conducted and delayed notice to be given to the subject of the search when it has been judicially determined there would be an adverse effect if concurrent notice was given, involving searches for information not protected by the First Amendment. The subject of the search may never be given notice that a search was conducted if criminal proceedings are not initiated after the search.

__The provisions of Sections 203 and 215 of the Act, expand federal data collection procedures to now include personal medical, financial, library, and education records and to allow surveillance of religious services, political demonstrations and other public meetings. Also grants ability for federal law enforcement and intelligence agencies to share and maintain the data regardless of whether the individual has committed, is alleged to have committed or is suspected of possible future acts of terrorism.

__The provisions of Sections 411 and 802 broadly define acts of domestic or international terrorism, potentially chilling constitutionally protected speech;

Whereas, These new powers pose a threat to the civil rights and liberties of all who reside in our City but particularly those who are Muslim and/or those of Arab or South Asian descent and other immigrant populations;

Whereas, The Ann Arbor Police Department has undertaken numerous efforts to build police and community trust in its enforcement actions and the USA PATRIOT Act and its related executive orders and regulations as adopted and implemented have the potential to drive a wedge between immigrant communities and the police who protect them; and

Whereas, Further federal legislation may be proposed and the Ann Arbor City Council is concerned about any further undermining of civil liberties and freedoms across the United States;

RESOLVED, That the Ann Arbor City Council reaffirms its strong support for fundamental constitutional rights and its opposition to federal measures that infringe on civil liberties;

RESOLVED, That the Ann Arbor City Council affirms current Ann Arbor Police Department commitment to non-discriminatory policing in criminal investigation and supports the Ann Arbor Police Department in conducting its work so that race, religion, ethnicity or national origin is used as a factor only when investigating or seeking to apprehend a specific suspect whose aforementioned characteristics(s) is part of the description of the suspect, but otherwise refrains from relying on such criteria in all policing functions;

RESOLVED, That the Ann Arbor City Council strongly supports the rights of immigrants and opposes measures that single out individuals for legal scrutiny or enforcement activity based solely on their country of origin and/or religion;

RESOLVED, That the Ann Arbor City Council, as a matter of public policy, directs the Ann Arbor Chief of Police, to the extent permitted by law, to:

1. Continue to limit local enforcement actions with respect to immigration matters to penal violations of federal immigration law (as opposed to administrative violations) except in cases where the Chief of Police determines there is a legitimate public safety concern and in such public safety instances, to report the situation to the City Council no later than 60 days after the incident.

2. Continue to refrain from covert surveillance of and/or collection and maintenance of information on individuals or groups based on their participation in activities protected by the First Amendment, such as political advocacy or the practice of a religion, without a particularized suspicion of unlawful activity.

3. Affirm the existing practice, as required by Michigan state law, of providing simultaneous notice of the execution of a state court search warrant to any resident of the City of Ann Arbor whose property is the subject of such a warrant, except in cases of anticipatory search warrants.

4. Report to the City Council any request made by federal authorities for the Ann Arbor Police Department to participate in any activity under the USA Patriot Act, to the extent the Chief of Police has knowledge of such request.

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5. Refrain from participating in informational interviews conducted by federal authorities similar to those conducted by the Federal Bureau of Investigation (FBI) in early 2002 in Ann Arbor of individuals not suspected of criminal activity, unless the interviewee has specifically requested the presence of an AAPD official;

RESOLVED, That the City Administrator be directed to seek semi-annually, by form letter, from federal authorities the following information on behalf of the residents of the City of Ann Arbor:

7. The names of all residents of the City of Ann Arbor 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, lodges against each detainee; the name of counsel, if any, representing each detainee;

8. The number of search warrants that have been executed in the City of Ann Arbor without notice to the subject of the warrant pursuant to Section 213 of the USA PATRIOT Act;

9. The extent of electronic surveillance carried out in the City of Ann Arbor under powers granted in the USA PATRIOT Act;

10. The extent to which federal authorities are monitoring political meetings, religious gatherings or other activities protected by the First Amendment within the City of Ann Arbor;

11. The number of times education records have been obtained from public schools and institutions of higher learning in the City of Ann Arbor under Section 507 of the USA PATRIOT Act;

12. The number of times library records have been obtained from libraries in the City of Ann Arbor under Section 215 of the USA PATRIOT Act;

13. The number of times that records of the books purchased by store patrons have been obtained from bookstores in the City of Ann Arbor under Section 215 of the USA PATRIOT Act;

RESOLVED, That the City Administrator transmit to the City Council as an information item at a City Council regular session no less than once every six months a summary of the information obtained pursuant to the preceding paragraph;

RESOLVED, That the City Clerk be directed to transmit a copy of this resolution to President Bush, U.S. Attorney General Ashcroft, U.S. Senator Levin, U.S. Senator Stabenow and U.S. Congressman Dingell, Governor Granholm and State Senator Brater

and State Representative Kolb accompanied by a letter urging them to monitor federal anti-terrorism tactics and to work to repeal provisions of the USA PATRIOT Act and other laws and regulations that infringe on civil rights and liberties;

RESOLVED, That upon the passage of additional anti-terrorism legislation that the Ann Arbor City Council believes undermines civil liberties, this resolution may be amended; and

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 Michigan 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.