

Item From Council
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: 28
AGENDA DATE: Thu 08/14/2003
RCA TYPE: Resolution
PAGE: 1 of 1

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Posting Language: Discussion and possible action on resolution regarding the Patriot Act.

Proposed meeting date: THU 08/14/2003

Sponsor: Mayor Pro Tem Jackie Goodman

Co-Sponsor 1: Council Member Raul Alvarez **Co-Sponsor 2:** Council Member Danny Thomas

Date by which the City Manager is requested to report back to Council:

Draft Resolution/Ordinance attached:

RESOLUTION NO. 030807-37

WHEREAS, the City of Austin and its citizens are governed by the United States Constitution which includes the Bill of Rights, and the Texas State Constitution; and

WHEREAS, the City of Austin has a diverse population, including students, immigrants and non-citizens, whose contributions are vital to economy and culture and civic character; and

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

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

WHEREAS, federal, state and local governments should protect the public from terrorist attacks such as those which occurred on September 11, 2001 and should do so rationally and deliberatively, to insure that security measures shall enhance public safety without impairing or modifying constitutional rights or infringing on civil liberties; and

WHEREAS, government security measures which undermine fundamental rights do intrinsic damage to American traditions, institutions and values that residents of Austin hold dear; and

WHEREAS, there is no inherent or insurmountable conflict between national security and the preservation of liberty and that Americans can be both safe and free; and

WHEREAS, fundamental rights granted by the United States Constitution are threatened by actions taken at the federal level, notably by passage of certain sections of the “U.S.A. P.A.T.R.I.O.T. Act”, other acts and executive orders which, among other things:

Grant potential unchecked powers to the Attorney General and the U.S. Secretary of State to designate legal domestic groups as “terrorist organizations” by overly broad definitions, and implying restrictions to Constitutionally protect First Amendment rights of speech and assembly by reference, such as political advocacy or the practice of a religion; while lifting administrative regulations on covert, surveillance counter-intelligence operations;

Violate the First and Fourth Amendments to the Constitution through the expansion of the government’s ability to wiretap telephones, monitor e-mail communications, survey medical, financial and student records, and secretly enter homes and offices without customary administrative oversight or without showing probable cause;

Give law enforcement expanded authority to obtain library records, and prohibits librarians from informing patrons of monitoring or information requests;

Violate the Fifth, Sixth and Fourteenth Amendments to the Constitution in establishing secret military tribunals, and in subjecting citizens and non-citizens to indefinite detention without

being allowed an attorney, without being brought to trial, and without even being charged with a crime;

Authorize eavesdropping on confidential communications between lawyers and their clients in federal custody; and

WHEREAS, the City of Austin adheres to the principle that no law enforcement agency, or any other City agency, may profile or discriminate against any person solely on the basis of ancestry, race, ethnic or national origin, color, age, sexual orientation, gender, religion, physical or mental disability; or socio-economic status; and

WHEREAS, new legislation has been drafted by the Federal 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 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; and

WHEREAS, the City of Austin acknowledges its commitment to uphold the legal and human rights of its residents; and

WHEREAS, other communities from around the country have passed similar resolutions reaffirming and reinforcing local efforts to support and defend the legal and human rights of their residents, their civil rights and civil liberties; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN

That the City of Austin has been, and remains absolutely committed to the protection of civil rights and civil liberties for all of its residents and affirms its commitment to embody democracy and to embrace, defend and uphold the inalienable rights and fundamental liberties granted to under United States and Texas Constitutions;

BE IT FURTHER RESOLVED:

That local law enforcement continue to preserve and uphold residents' freedom of speech, assembly, association, and privacy, the right to counsel and due process in judicial proceedings, and protection from unreasonable searches and seizures, even if requested to do otherwise and infringe upon such rights by federal or state law enforcement agencies acting under powers assumed by the USA Patriot Act by Executive Order;

BE IT FURTHER RESOLVED:

That law enforcement officials, public officials and Austinites engage in and participate in community dialogue on civil liberties issues, in order to promote and preserve safety and well being for Austin;

BE IT FURTHER RESOLVED:

That our Federal legislative delegation is petitioned to actively monitor the implementation of the USA PATRIOT ACT, any new Executive Orders, or COINTELPRO-type regulations and actively work for the repeal of any and all portions that violate the guaranteed civil liberties enumerated in the Bill of Rights;

BE IT FURTHER RESOLVED:

That the Austin Police Department shall refrain from engaging in the surveillance of individuals or groups of individuals based solely on their participation in activities protected by the First Amendment to the United States Constitution, such as political advocacy or the practice of a religion without reasonable and particularized suspicion of criminal conduct unrelated to the activity protected by the First Amendment of the United States Constitution;

BE IT FURTHER RESOLVED:

That the City Manager shall report to the City Council any request by authorities that, if granted, would cause City departments or agencies to exercise powers or cooperate in the exercise of powers in apparent violation of a city ordinance or the laws or constitution of this state or the United States;

BE IT FURTHER RESOLVED:

That the City Manager direct the Director of the Library Department to post in a prominent place within the library a notice as follows:

“WARNING: Under Section 215 of the federal USA Patriot Act (Public Law 107-56), records of books and other materials you borrow from this library may be obtained by federal agents. This law also 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.”;

BE IT FURTHER RESOLVED:

That upon passage, the City Clerk, shall deliver this Resolution to all appropriate federal and state and local law enforcement agencies and to the Austin Federal legislative delegation.

ADOPTED: _____, 2003

ATTEST: _____

Shirley A. Brown
City Clerk