

RESOLUTION NO. 030925-66

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

WHEREAS, the City of Austin has a diverse population, including students, immigrants and non-U.S. citizens, whose contributions are vital to cultural and civic character, as well as the economy;

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

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 which occurred on September 11, 2001 and should do so in a rational and deliberative fashion, to ensure that security measures shall enhance public safety without impairing or modifying constitutional rights or infringing on civil liberties;

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

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;

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;

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

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

A. limiting the authority of federal courts to curb law enforcement abuse of electronic surveillance in anti-terrorism and ordinary criminal investigations;

B. 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 has not been notified that his or her property has been searched;

C. granting federal law enforcement and intelligence agencies broad access to personal, medical, financial, library and educational records with little, if any, judicial oversight;

D. 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;

E. chilling constitutionally protected speech through overly broad definitions of "terrorism";

F. permitting the federal bureau of investigation to conduct surveillance of religious services, internet chat rooms, political demonstrations and public meetings of any kind without evidence that a crime has been or may be committed;

G. granting potential unchecked powers to the Attorney General and the U.S. Secretary of State to designate legal domestic groups as "terrorist organizations" by broadly defining "domestic terrorism" to include activities that "appear to be intended to intimidate or coerce a civilian population," thus possibly categorizing acts of civil disobedience as domestic terrorism;

H. granting law enforcement expanded authority to obtain library records, and prohibiting librarians from informing patrons of monitoring or information requests; and

I. authorizing eavesdropping on confidential communications between lawyers and their clients in federal custody; and

WHEREAS, new legislation has been drafted by the Federal Administration entitled the Domestic Security Enhancement Act of 2003 (DSEA, also known as Patriot Act 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. radically expanding law enforcement and intelligence gathering authorities;
- B. reducing or eliminating judicial oversight over surveillance;
- C. authorizing secret arrests;
- D. creating a DNA database based on unchecked executive 'suspicion;'
- E. creating new death penalties; and
- F. expatriating and removing citizenship from Americans who belong to or support disfavored political groups; 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 citizens under the United States and Texas Constitutions;

BE IT FURTHER RESOLVED that local law enforcement continue to preserve and uphold residents' and visitors' freedom of speech, assembly, association, and privacy, the right to counsel and due process in judicial proceedings, and protection from unreasonable searches and seizures;

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 the Council calls on our United States Representatives and Senators to monitor the implementation of the Act and related Executive Orders and actively work for the repeal of the Act or those sections of the Act including Executive Orders that violate fundamental rights and liberties as stated in the United States Constitution and its Amendments, and to oppose passage of Patriot Act II;

BE IT FURTHER RESOLVED that the Austin Police Department shall continue their policy of not conducting surveillance of individuals or groups of individuals based 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;

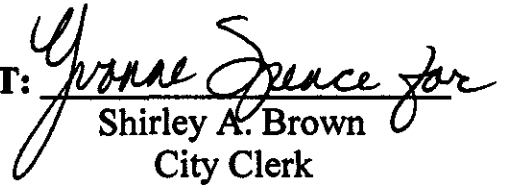
BE IT FURTHER RESOLVED that the City Manager direct the Director of the Library Department to post in a prominent place within the library a notice as follows:

"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;" and

BE IT FURTHER RESOLVED that upon passage, the City Clerk shall deliver this resolution to all appropriate federal, state and law enforcement agencies and to the Austin Federal legislative delegation.

ADOPTED: September 25, 2003

ATTEST:


Shirley A. Brown
City Clerk

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