

# COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

## RESOLUTION CR-78-2003

Proposed by Council Member Hendershot, and sponsored by Council Members Hendershot, Shapiro, Exum and Dean

Favorably Voted, 4-0 by the Public Safety and Fiscal Management Committee (Councilmembers Exum, Bland, Hendershot and Peters voting in favor)

A RESOLUTION concerning the

### USA PATRIOT Act

For the purpose of expressing the policy of the County to preserve the Constitutional rights of residents and employees of the County whenever those rights may be in conflict with the USA PATRIOT Act.

WHEREAS, the County Council and the residents of Prince George's County wish to honor the memory of all those who have died as a result of the terrorist attacks of September 11, 2001, and the subsequent military actions to combat terrorism around the world; and

WHEREAS, the County Council affirms its strong opposition to any form of terrorism against humanity, recognizes the increased security risks faced by our nation as a result of terrorist acts, and supports increased Federal government attention to limit and prevent the impacts of terrorism on this nation and the world; and

WHEREAS, the County Council recognizes the Constitution of the United States of America to be the supreme law of the land and that all elected officials and public officers of the County are sworn to uphold the Constitution of the United States of America in discharging their duties; and

WHEREAS, the County Council understands that the security of our nation must be achieved in ways that also insure the protection of civil rights and liberties enshrined within the Constitution of the United States; and

WHEREAS, the Prince George's County proudly houses a diverse racial and ethnic population, including citizens from other nations, whose contributions to the community are vital to its economy, culture, and character; and

WHEREAS, the Prince George's County operates a Foreign Trade Zone, an international port entry, and recognizes its unique position to maintain prosperous relationships with all nations; and

WHEREAS, the first ten amendments to the Constitution were jointly ratified in what is known as the Bill of Rights in order to protect citizens from the potential of government to abuse the rights and liberties of our citizens; and

WHEREAS, the Bill of Rights of the United States Constitution and the Maryland Declaration of Rights guarantee those living in the County the following rights:

Freedom of speech, assembly and privacy;

Equality before the law and the presumption of innocence;

Access to counsel and due process in judicial proceedings; and

Protection from unreasonable searches and seizures; and

WHEREAS, the County Council believes that there is no inherent conflict between national security and the preservation of liberty; and

WHEREAS, it is in the purview of local government to take a stand in support of our Bill of Rights because any weakening of those rights threaten the broad range of political expression that is vital to our democracy at the local, state, and federal levels; and

WHEREAS, the County Council recognizes that government security measures that undermine fundamental rights do damage to the American institutions and values and that an infringement of the constitutionally guaranteed rights of any person, under the color of law, is an abuse of power, and a breach of the public trust, a misappropriation of public resources, a violation of civil rights and is beyond the scope of governmental authority; and

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 peak" 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 or any kind without having any evidence that a crime has been or may be committed; and

WHEREAS, Federal Executive Orders issued since passage of the USA PATRIOT Act may further endanger the rights and security of both citizens and non-citizens who speak and act legally in opposition to government policies through:

- Establishing secret military tribunals for terrorism suspects;
- Authorizing eavesdropping on confidential communications between lawyers and their clients in federal custody;
- Lifting Justice Department regulations against covert, illegal counter-intelligence operations by the FBI that in the past targeted domestic groups and individuals;
- Limiting disclosure of public documents and records under the Freedom of Information Act; and

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; and

WHEREAS, information provided to the Prince George's County Council by members of the informed citizenry of this County, along with the work of prominent legal organizations, has caused the Board to believe that portions of the USA PATRIOT Act, as well as portions of the Homeland Security Act, along with certain Presidential executive orders and rulings of the United States Attorney General comprise an assault upon the Constitutional rights of the residents Prince George's County and its workforce; and

WHEREAS, Constitutional guarantees believed to have been weakened by the legislative and executive actions of the federal government cited above include:

- Freedom of speech, assembly, association, and privacy;
- Protection from unreasonable searches and seizures;
- Equality before the law with the presumption of innocence until proven guilty;
- Access to legal counsel and due process in judicial proceedings;
- Protection from discrimination based on race, religion, gender, national origin; and

WHEREAS, the County Council believes these civil liberties are precious and are now threatened by the USA PATRIOT Act that:

- All but eliminates judicial supervision of telephone and Internet surveillance;
- Greatly expands the government's ability to conduct secret searches without warrants;
- Grants unchecked power to the Secretary of State to designate domestic groups as "terrorist organizations";
- Grants power to the Attorney General to subject non-citizens to indefinite detention or deportation even if they have not committed a crime;
- Grants the FBI broad access to sensitive medical, mental health, financial and educational records about individuals without having to show evidence of a crime and without a court order; and

WHEREAS, the cited legislative and executive actions of the federal government directly impact the work of County employees who may be put into positions of constitutional jeopardy without adequate understanding of their rights.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's County, Maryland, that Prince George's County affirms its commitment to embodying democracy, to embracing and defending human rights and civil liberties, to avoid discrimination in every function of County government, to guaranteeing the economic security required to make those liberties viable for all, regardless of citizenship status, gender, racial identification, religious affiliation, age, or country of origin.

BE IT FURTHER RESOLVED that the Prince George's County Council will continue in its outreach and shall educate its citizens on its policies of tolerance and respect for the diversity of its residents.

BE IT FURTHER RESOLVED, that the Prince George's County Council joins communities across the nation in expressing concerns regarding provisions in the USA PATRIOT Act (Public Law 107-56), related executive orders, regulations and actions threaten fundamental rights and liberties guaranteed under the United States Constitution.

BE IT FURTHER RESOLVED that the Prince George's County Council affirms its strong support for our constitutionally guaranteed rights and liberties, affirms its opposition to any and all federal measures which would weaken or violate those rights and liberties, and supports the repeal of those sections of the USA Patriot that infringe upon civil liberties.

BE IT FURTHER RESOLVED that the prince George's County Council directs the County Attorney to monitor legal challenges which may be undertaken to ascertain the constitutionality of the cited legislation and to provide the Council with a recommendation as to whether to participate in amicus briefs or other acts of support should such challenges take place.

BE IT FURTHER RESOLVED that the Chief of Police and each member of the Prince George's County Police Department is directed to:

- a. Refrain from enforcing immigration matters that are the responsibility of the Department of Homeland Security.
- b. 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.
- c. Refrain from utilizing racial profiling or religious profiling as factors 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.
- d. 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.
- e. 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.
- f. Refrain from using racial profiling to stop drivers or pedestrians for the purpose of scrutinizing their identification documents without particularized suspicion of criminal activity.
- g. Report to the County Council any request by federal authorities that, if granted, would cause agencies of the County to exercise or cooperate in the exercise of powers in apparent violation of any County law or ordinance or the laws or Constitution of Maryland or the United States.

BE IT FURTHER RESOLVED that the Board of Trustees of the Prince George's Memorial Library System is requested to post in a prominent place within each 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

