

**CITY OF SAN ANTONIO
CITY ATTORNEY'S OFFICE
INTERDEPARTMENTAL CORRESPONDENCE**

TIME CERTAIN
ITEM NO. 7
5:30PM

TO: Mayor and City Council

FROM: Andrew Martin, City Attorney

COPIES TO: Terry M. Brechtel, City Manager

SUBJECT: Resolution Regarding the U.S. Patriot Act

DATE: August 9, 2004

BACKGROUND

On May 27, 2004, Councilwoman Radle forwarded the attached Council Consideration Request signed by five other members of the City Council. The CCR requests council consideration of a resolution regarding the USA PATRIOT Act.

POLICY ANALYSIS:

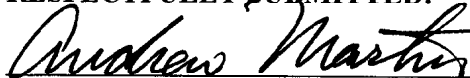
The "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001" was adopted by Congress in October, 2001. Provisions of the Act have been the focus of concern and criticism by those who contend the Act poses a threat to constitutional rights and civil liberties.

This resolution expresses the City Council's opinion on the USA PATRIOT Act and is a statement of the City's position on future legislative action by Congress related to that Act. The resolution specifically urges the Congress of the United States (1) "not to extend those portions of the Act which will automatically expire at the end of the 2005," (2) to "repeal those portions of the Act which are permanent," and (3) to "pass new legislation to prevent domestic terrorism while protecting the rights and liberties guaranteed under the Bill of Rights of the United States Constitution."

The resolution submitted with the CCR included three provisions that, respectively, directed action by the San Antonio Police Department, the Board of Trustees of the San Antonio Public Library, and the City Manager. After identifying to Councilwoman Radle the issues created by these provisions, she has modified the proposed resolution to address staff concerns.

The revised resolution proposed by Councilwoman Radle for consideration on August 12 is attached.

RESPECTFULLY SUBMITTED:



ANDREW MARTIN
City Attorney



TERRY M. BRECHTEL
City Manager

CITY OF SAN ANTONIO
OFFICE OF THE CITY COUNCIL
INTERDEPARTMENTAL CORRESPONDENCE SHEET

2004 MAY 28 PM 2: 18

TO: Mayor and Council

FROM: Patti Radle, Councilmember District 5

COPIES: City Manager; Acting City Clerk; City Attorney; Assistant to City Council; File

SUBJECT: Resolution Regarding The U.S. Patriot Act

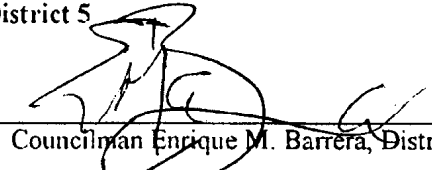
DATE: May 27, 2004

On the basis of our commitment to uphold the Constitution of the United States, and in light of the fact that over 200 U.S. cities and some entire states have taken similar action, I ask you to please join me in requesting staff to bring forth to City Council, for discussion and consideration, at a council meeting before July 2004, a resolution here attached regarding "The U.S. Patriot Act". In consideration of the many citizens who wish to address this issue, I further request that the item be time certain at 5:30 p.m.

Your consideration and support is appreciated.

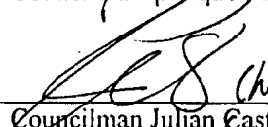

PATTI RADLE
Councilwoman, District 5

Mayor Ed Garza



Councilman Enrique M. Barrera, District 6

Councilman Roger O. Flores, District 1

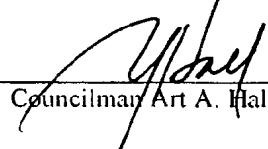


Councilman Julian Castro, District 7

(have questions re: immigration section)



Councilman Joel Williams, District 2



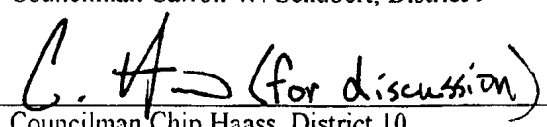
Councilman Art A. Hall, District 8

(for discussion)

Councilman Ron H. Segovia, District 3

Councilman Carroll W. Schubert, District 9

Councilman Richard Perez, District 4



Councilman Chip Haass, District 10

(for discussion)

A Resolution Concerning the USA Patriot Act

WHEREAS, the mayor and members of the City Council of San Antonio, Texas are sworn to uphold, protect and defend the Constitution of the United States of America; and

WHEREAS, the United States of America and its state and local governments are obligated to protect the public from terrorist attacks but in so doing should ensure that any security measures enhance public safety without infringing on constitutional rights and civil liberties; and

WHEREAS, some provisions of the USA PATRIOT ACT (PL. 107-56), such as those listed below, as well as related Executive Orders and Directives, pose a threat to the constitutional rights and civil liberties of citizens, immigrants and international visitors:

- Section 215 gives law enforcement authorities broad access to educational, medical, financial, sales and library records without probable cause.
- Section 209 and 215 allow the FBI to search anybody's personal records, voice mail messages, book purchases or video rentals without probable cause.
- Section 215 forbids anyone from letting the person who is the object of a USA PATRIOT ACT search know what the FBI is doing or has done.
- Section 213 allows authorities to conduct secret "sneak and peak" searches of a person's home or business, take pictures and seize items without providing timely notice of the issuance of a warrant.
- Sections 411 and 802 broadly expand the definition of terrorism so that domestic organizations which engage in certain types of civil disobedience could be labeled as terrorist.
- Sections 201 and 216 permit government agents to monitor Internet traffic and e-mail communications without probable cause and requires judges to approve a wiretap without knowing who is to be tapped or where the tap is to be place.
- Section 806 allows the government to seize the assets of an individual or an organization without prior notice or hearing.
- Sections 203 and 901 permit a vast array of information on U.S. Citizens, immigrants and visitors to be gathered and shared with the C.I.A. and other non-law enforcement officials.
- Section 412 permits indefinite incarceration of immigrants and other non-citizens on the basis of the U.S. Attorney General's certification that they fit within the broad definition of terrorist. This certification is based on the U. S. Attorney General's discretion alone, with very limited review; and

WHEREAS, the City Council believes that there is no inherent conflict between national security and the preservation of fundamental rights and liberties, and

WHEREAS, the City Council wishes to join the hundreds of communities throughout the United States which have passed resolutions which support constitutional rights and liberties, therefore be it

RESOLVED, that the City Council of San Antonio, Texas:

- AFFIRMS that any efforts to end terrorism should not be waged at the expense of constitutional rights and liberties, and
- REMINDS all city officials and employees of their obligation to respect and uphold the constitutional rights and liberties of all residents, immigrants and visitors in the City of San Antonio; and
- REQUESTS the Board of Trustees of the San Antonio Public Library to post the following notice in a prominent place in each library:

"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 federal agents have obtained records about you. Questions about this policy should be directed to Attorney General John Ashcroft, Department of Justice, Washington, DC 20530."; and

- REMINDS all City officials and employees of their obligation to conduct their duties pursuant to the Constitution of the United States and state and local laws; and
- URGES all City officials and employees to oppose unconstitutional laws and orders that would violate the rights and liberties of residents, immigrants and visitors of San Antonio; and be it further

RESOLVED, that the City Council of San Antonio, Texas urges the Congress of the United States:

- NOT to extend those portions of the USA PATRIOT ACT which will automatically expire at the end of the year 2005, and to repeal those portions of the act which are permanent; and
- TO pass new legislation to prevent domestic terrorism while protecting the rights and liberties guaranteed under the Bill of Rights of the United States Constitution.