

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2003 Legislative Session

Resolution No. CR-78-2003
Proposed by Council Member Hendershot
Introduced by Council Members Hendershot, Shapiro, Exum, and Dean
Co-Sponsors _____
Date of Introduction November 18, 2003

RESOLUTION

1 A RESOLUTION concerning

2 USA PATRIOT Act

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

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

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

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

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

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

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

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

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

9 Freedom of speech, assembly and privacy;

10 Equality before the law and the presumption of innocence;

11 Access to counsel and due process in judicial proceedings; and

12 Protection from unreasonable searches and seizures; and

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

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

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

23 WHEREAS, federal policies adopted since September 11, 2001, including provisions in the
24 USA PATRIOT Act (Public Law 107-56) and related executive orders, regulations and actions
25 threaten fundamental rights and liberties by;

26 (a) Authorizing the indefinite incarceration of non-citizens based on mere suspicion, and
27 the indefinite incarceration of citizens designated by the President as "enemy combatants"
28 without access to counsel or meaningful recourse to the federal courts;

29 (b) Limiting the traditional authority of federal courts to curb law enforcement abuse of
30 electronic surveillance in anti-terrorism investigations and ordinary criminal investigations;

1 (c) Expanding the authority of federal agents to conduct so-called "sneak and peak" or
2 "black bag" searches, in which the subject of the search warrant is unaware that his property has
3 been searched;

4 (d) Granting law enforcement and intelligence agencies broad access to personal medical,
5 financial, library and education records with little if any judicial oversight;

6 (e) Chilling constitutionally protected speech through overbroad definitions of
7 "terrorism";

8 (f) Driving a wedge between immigrant communities and the police that protect them by
9 encouraging involvement of state and local police in enforcement of federal immigration law;

10 (g) Permitting the FBI to conduct surveillance of religious services, internet chat rooms,
11 political demonstrations, and other public meetings or any kind without having any evidence that
12 a crime has been or may be committed; and

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

16 Establishing secret military tribunals for terrorism suspects;

17 Authorizing eavesdropping on confidential communications between lawyers and their
18 clients in federal custody;

19 Lifting Justice Department regulations against covert, illegal counter-intelligence
20 operations by the FBI that in the past targeted domestic groups and individuals;

21 Limiting disclosure of public documents and records under the Freedom of Information
22 Act; and

23 WHEREAS new legislation has been drafted by the Administration entitled the Domestic
24 Security Enhancement Act (DSEA) (also known as PATRIOT II) which contains a multitude of
25 new and sweeping law enforcement and intelligence gathering powers, many of which are not
26 related to terrorism, that would severely dilute, if not undermine, many basic constitutional
27 rights, as well as disturb our unique system of checks and balances by:

28 (a) diminishing personal privacy by removing important checks on government
29 surveillance authority,

30 (b) reduce the accountability of government to the public by increasing government
31 secrecy,

1 (c) expanding the definition of "terrorism" in a manner that threatens the constitutionally
2 protected rights of Americans, and

3 (d) seriously erode the right of all persons to due process of law; and

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

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

12 Freedom of speech, assembly, association, and privacy;

13 Protection from unreasonable searches and seizures;

14 Equality before the law with the presumption of innocence until proven guilty;

15 Access to legal counsel and due process in judicial proceedings;

16 Protection from discrimination based on race, religion, gender, national origin; and

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

19 All but eliminates judicial supervision of telephone and Internet surveillance;

20 Greatly expands the government's ability to conduct secret searches without warrants;

21 Grants unchecked power to the Secretary of State to designate domestic groups as
22 "terrorist organizations";

23 Grants power to the Attorney General to subject non-citizens to indefinite detention or
24 deportation even if they have not committed a crime;

25 Grants the FBI broad access to sensitive medical, mental health, financial and educational
26 records about individuals without having to show evidence of a crime and without a court order;
27 and

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

31 NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's
32 County, Maryland, that Prince George's County affirms its commitment to embodying

1 democracy, to embracing and defending human rights and civil liberties, to avoid discrimination
2 in every function of County government, to guaranteeing the economic security required to make
3 those liberties viable for all, regardless of citizenship status, gender, racial identification,
4 religious affiliation, age, or country of origin.

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

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

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

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

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

22 a. Refrain from enforcing immigration matters that are the responsibility of the
23 Department of Homeland Security.

24 b. Refrain from engaging in the surveillance of individuals or groups of individuals based
25 on their participation in activities protected by the First Amendment, such as political advocacy
26 or the practice of a religion, without particularized suspicion of criminal activity unrelated to the
27 activity protected by the First Amendment.

28 c. Refrain from utilizing racial profiling or religious profiling as factors in selecting
29 which individuals to subject to investigatory activities except when seeking to apprehend a
30 specific suspect whose race, religion, ethnicity or national origin is part of the description of the
31 suspect.

1 d. Refrain, whether acting alone or with federal or state law enforcement officers, from
2 collecting or maintaining information about the political, religious or social views, associations
3 or activities of any individual, group, association, organization, corporation, business or
4 partnership unless such information directly relates to an investigation of criminal activities, and
5 there are reasonable grounds to suspect the subject of the information is or may be involved in
6 criminal conduct.

7 e. Refrain from undertaking or participating in any initiative, such as the Terrorism
8 Information and Prevention System (TIPS) that encourages members of the general public to spy
9 on their neighbors, colleagues or customers.

10 f. Refrain from using racial profiling to stop drivers or pedestrians for the purpose of
11 scrutinizing their identification documents without particularized suspicion of criminal activity.

12 g. Report to the County Council any request by federal authorities that, if granted, would
13 cause agencies of the County to exercise or cooperate in the exercise of powers in apparent
14 violation of any County law or ordinance or the laws or Constitution of Maryland or the United
15 States.


16 BE IT FURTHER RESOLVED that the Board of Trustees of the Prince George's
17 Memorial Library System is requested to post in a prominent place within each library a notice to
18 library users as follows:

19 "WARNING: Under Section 215 of the federal USA PATRIOT Act (Public Law 107-
20 56), records of the books and other materials you borrow from this library may be obtained by
21 federal agents. That federal law prohibits librarians from informing you if federal agents have
22 obtained records about you. Questions about this policy should be directed to: Attorney General
23 John Ashcroft, Department of Justice, Washington, DC 20530".

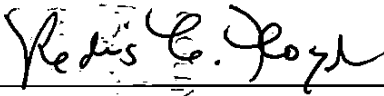
24 BE IT FURTHER RESOLVED, that the Clerk of the Council shall transmit this
25 resolution to the County Executive, the Governor and the Attorney General of the State of
26 Maryland, to all members of the Maryland Congressional delegation, the United States Attorney
27 General, and the President of the United States of America.

Adopted this 25th day of November, 2003.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: 
Peter A. Shapiro
Chairman

ATTEST


Redis C. Floyd
Clerk of the Council

**PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 11/25/2003

Reference No.: CR-78-2003

Proposer: Hendershot

Draft No.: 1

Sponsors: Hendershot, Shapiro, Exum, Dean

Item Title: A Resolution 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

Drafter: Ralph E. Grutzmacher
Legislative Officer

Resource Personnel: Carol B. White
Legislative Aide

LEGISLATIVE HISTORY:

Date Presented: __/__/__

Executive Action: __/__/__

Committee Referral: 11/18/2003 PSFM

Effective Date: __/__/__

Committee Action: 11/20/2003 FAV

Date Introduced: 11/18/2003

Public Hearing: __/__/__ :__ __

Council Action: 11/25/2003 ADOPTED

Council Votes: PS:-, MB:A, SHD:A, TD:A, CE:A, DCH:-, TH:A, TK:A, DP:A

Pass/Fail: P

Remarks: _____

PUBLIC SAFETY & FISCAL MANAGEMENT COMMITTEE REPORT Date: 11-20-03

Committee Vote: Favorable, 4-0, (In favor: Councilmembers Exum, Bland, Hendershot and Peters.)

This resolution will express the policy of the County to preserve the constitutional rights of residents and employees of the County whenever those rights are in conflict with the USA Patriot Act.

Woody Woodruff expressed support of the resolution and was concerned about the Patriot Act being nothing but another profiling law.

Flavia Jimenez of CASA of Maryland, Inc., supports the legislation. CASA feels that if the County police expend time inquiring into immigration matters it would reduce their ability to carry out

their primary duty of insuring the health and safety of the community.

Lowell Owens of the Prince George's Bill of Rights Defense Coalition stated that the Coalition welcomes this resolution. To a great extent, this legislation incorporates the substance of a strong civil liberty resolution which they were planning to present to the County Council. Also, they are pleased to see Prince George's County joining with the growing nationwide roster of local governments on record against the unconstitutional excesses of the US Patriot Act and related federal rules and orders.

Rev. Bruce Eberhardt also expressed his support for this resolution.

June White Dillard, President of the Prince George's County's branch of the NAACP submitted a statement supporting CR-78-2003. She stated that the causes of terrorism must and should be addressed but measures to limit and prevent terrorism must not abridge our basic constitutional rights.

There should not be any negative fiscal impact on the County as a result of adopting CR-78-2003.

BACKGROUND INFORMATION/FISCAL IMPACT

(Includes reason for proposal, as well as any unique statutory requirements)

CODE INDEX TOPICS: