



Legislation Text

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Res. No. 909-A

Resolution calling upon federal, state and local officials, and upon New York City agencies and institutions, to affirm and uphold civil rights and civil liberties.

By Council Members Perkins, Barron, López, Monserrate, Seabrook, Vann, Yassky, Baez, Clarke, Comrie, Gerson, Jennings, Koppell, Liu, Quinn, Reed, Rivera, Sanders, Jackson, Brewer, Espada, Moskowitz, Reyna, Serrano, de Blasio, Weprin, Stewart, Foster, Gonzalez, Dilan, James and Martinez

Whereas, The protection of civil rights and civil liberties is essential to the well being of a free and democratic society; and

Whereas, The City of New York has a diverse population, including immigrants and students, whose contributions to the city are vital to its economy, culture and civic character; and

Whereas, The members of the Council of the City of New York believe that there is no inherent conflict between national security and the preservation of liberty -- Americans can be both safe and free; and

Whereas, Government security measures that undermine fundamental rights do damage to the American institutions and values that the residents of the City of New York hold dear; and

Whereas, Federal, state and local governments should protect the public from terrorist attacks, such as those that occurred on September 11, 2001, but should do so in a rational and deliberative fashion in order to ensure that security measures enhance the public safety without impairing constitutional rights or infringing on civil liberties; and

Whereas, Certain federal policies adopted since September 11, 2001, including certain provisions in the USA PATRIOT Act (Public Law 107-56) and related federal actions, unduly infringe upon fundamental rights and liberties; and

Whereas, These new policies include the power to authorize the indefinite incarceration of non-citizens based on mere suspicion of terrorist activity, and the indefinite incarceration of citizens designated as "enemy combatants" without access to counsel or meaningful recourse to the federal courts; limitations on the traditional authority of federal courts to curb law enforcement abuse of electronic surveillance in anti-terrorism investigations and ordinary criminal investigations; the expansion of the authority of federal agents to conduct so-called "sneak and peek" or "black bag" searches, in which the subject of the search warrant is unaware that his property has been searched; grants to law enforcement and intelligence agencies of broad access to personal medical, financial, library and education records with little if any judicial oversight; and

Whereas, These new policies may undermine trust between immigrant communities and the government and, in particular, pose a threat to the civil rights and liberties of the residents of our city who are or who appear to be of Arab, Muslim or South Asian descent; and

Whereas, The federal government has drafted new legislation entitled the Domestic Security Enhancement Act (DSEA) (also known as PATRIOT II), which may further compromise constitutional rights and our government's unique system of checks and balances; and

Whereas, Three states and more than 200 communities throughout the country have enacted resolutions that reaffirm support for civil rights and civil liberties and that demand accountability from law enforcement agencies regarding the exercise of the extraordinary new powers referred to herein; now, therefore, be it

Resolved, That the Council of the City of New York calls upon federal, state and local officials, and upon New York City agencies and institutions, to affirm and protect civil rights and civil liberties; and be it further

Resolved, That the Council of the City of New York affirms its strong support for the rights of immigrants and opposes measures that single out individuals for legal scrutiny or enforcement activity based primarily upon their country of origin; and be it further

Resolved, That the Council of the City of New York affirms its commitment to uphold civil rights and civil liberties, and therefore expresses its opposition to:

(a) investigation 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 reasonable suspicion of criminal activity unrelated to the activity protected by the First Amendment;

- (b) racial, religious or ethnic profiling;
- (c) participation in the enforcement of federal immigration laws, except as directed by New York City Executive Order 41;
- (d) deployment of biometric identification technology that is unreliable;
- (e) establishment of a network of general surveillance cameras unless such a network is subject to regulations that provide reasonable and effective protections of privacy and due process rights of individuals who appear in recorded material; and
- (f) "sneak and peek" searches, pursuant to Section 213 of the Patriot Act, unless the search is authorized and conducted in accordance with New York State law; and
- (g) establishment or maintenance of an anti-terrorism reporting system that creates an electronic record on an individual unless subject to regulations that provide for the protection of individuals who are the subject of unfounded reports; and be it further

Resolved, That the Council of the City of New York opposes requests by federal authorities that, if granted, would cause agencies of the City of New York to exercise powers or cooperate in the exercise of powers in apparent violation of any city ordinance or the laws or Constitution of this State or the United States; and be it further

Resolved, That the Council of the City of New York opposes the secret detention of persons and the detention of persons without charges or access to a lawyer; and be it further

Resolved, That the Council of the City of New York urges each of the City's public libraries to inform library patrons that Section 215 of the USA PATRIOT Act gives the government new authority to monitor book-borrowing and Internet activities without patrons' knowledge or consent and that this law prohibits library staff from informing patrons if federal agents have requested patrons' library records; and be it further

Resolved, That in order to assess the effect of antiterrorism initiatives on the residents of the City of New York, the City Council calls upon federal officials to make periodic reports, consistent with the Freedom of Information Act, that include:

- (a) the number of New York City residents who have been arrested or otherwise detained by federal authorities as a result of terrorism investigations since September 11, 2001;
- (b) the number of search warrants that have been executed in the City of New York without notice to the subject of the warrant pursuant to section 213 of the USA PATRIOT Act;
- (c) the number of electronic surveillance actions carried out in the City of New York under powers granted in the USA PATRIOT Act;
- (d) the number of investigations undertaken by federal authorities to monitor political meetings, religious gatherings or other activities protected by the First Amendment within the City of New York;
- (e) the number of times education records have been obtained from public schools and institutions of higher learning in the City of New York under section 507 of the USA PATRIOT Act;
- (f) the number of times library records have been obtained from libraries in the City of New York under section 215 of the USA PATRIOT Act; and
- (g) the number of times that records of the books purchased by store patrons have been obtained from bookstores in the City of New York under section 215 of the USA PATRIOT Act; and be it further

Resolved, That the Council of the City of New York calls upon our United States Representatives and Senators to monitor the implementation of the USA PATRIOT Act and related federal actions and to actively work for the repeal of those sections of the USA PATRIOT Act and related federal actions that unduly infringe upon fundamental rights and liberties as recognized in the U.S. Constitution and its Amendments; and be it further

Resolved, That the Council of the City of New York calls upon our United States Representatives and Senators to take a lead in Congressional action to prohibit passage of the Domestic Security Enhancement Act, known as "Patriot II"; and be it further

Resolved, That the Council of the City of New York calls upon Governor George Pataki, Senate Majority Leader Joseph Bruno and Assembly Speaker Sheldon Silver and the members of the State Legislature to ensure that state anti-terrorism laws and policies are implemented in a manner that does not infringe upon fundamental rights and liberties as recognized in the U.S. Constitution and its Amendments and in the New York State Constitution.

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