

RESOLUTION NO. _____

A RESOLUTION AFFIRMING SUPPORT FOR THE BILL OF RIGHTS AND CALLING FOR REPEAL OF THE USA PATRIOT ACT.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAWRENCE, KANSAS:

WHEREAS, the city of Lawrence has a long and distinguished history of protecting and expanding civil rights and civil liberties, having been founded by proponents of the abolition of human slavery, and having served as a beacon for our country's citizens when essential liberties are threatened; and

WHEREAS, the city of Lawrence houses a diverse student and working population, representing many cultures and nationalities, including noncitizens, whose contributions to the community and the University of Kansas, are vital to its character and function; and

WHEREAS, government security measures that undermine fundamental rights do damage to American institutions and values that all Americans, especially the residents of the city of Lawrence, hold dear; and

WHEREAS, the Lawrence City Commission believes that there should be no inherent conflict between national security and the preservation of liberty and Americans can be both safe and free; and

WHEREAS, several recently enacted Federal laws, including the USA PATRIOT Act (Public Law 107-56), the Homeland Security Act (Public Law 107-296), numerous Executive Orders, Legislative Provisos, Homeland Security Presidential Directives, National Security Presidential Directives, and Presidential Decision Directives, and various regulations, policies and programs which implement these actions of the Legislative and Executive Branches (hereinafter referred to as Orders), now infringe upon our fundamental Constitutional rights and liberties;

WHEREAS, several proposed Federal laws and Orders, including the Domestic Security Enhancement Act of 2003 (commonly known as Patriot Act II), the Vital Interdiction of Criminal Terrorist Organizations (VICTORY) of 2003, and the Terrorism Information Awareness (TIA) program, would infringe upon our fundamental Constitutional rights and liberties;

WHEREAS, the USA PATRIOT Act:

1. Minimizes judicial supervision of federal telephone and Internet surveillance by law enforcement agencies;
2. Expands the ability of government agencies to conduct secret searches including sneak-and-peek and black bag searches;
3. Grants intelligence agencies broad access to sensitive business records including credit reports, and medical, mental health, library, and financial records without having to prove evidence of crime or show probable cause—once again removing the check and balance of judicial oversight;
4. Defines “domestic terrorism” to include acts that “appear to be intended” to “influence the policy of government by intimidation or coercion” and grants the U.S. Attorney General the unbounded discretionary power to designate political, religious, or social groups as terrorist organizations;
5. Encourages large-scale investigations of citizens for intelligence purposes, without search warrants or a showing of probable cause to believe crimes have been committed;
6. Eliminates due process for U.S. legal residents and citizens born abroad; and,
7. Authorizes the government to monitor communications between federal detainees and their lawyers, in gross violation of the canons of legal ethics and the rights to privacy and trial counsel; and

WHEREAS, over 240 other communities and three states—Alaska, Hawaii and Vermont--have enacted resolutions reaffirming support for these essential Constitutional rights in the face of these and other Federal Laws and Orders that infringe upon these essential liberties demanding that law enforcement officers abide by their sworn oath to uphold the Constitution, and that local and state law enforcement agencies are held accountable to the citizens which they serve and to those citizens alone.

WHEREAS, the U.S. Supreme Court re-affirmed as recently as 1997 (in *Printz v United States*) that local law enforcement officers cannot be compelled to enforce Federal laws nor do they have the authority to enforce Federal laws.

NOW, THEREFORE, BE IT RESOLVED THAT THE LAWRENCE CITY COMMISSION:

Section 1. AFFIRMS its strong support for fundamental constitutional rights and its opposition to government measures that infringe on civil liberties; and

Section 2. AFFIRMS its strong support for the rights of immigrants and opposes measures that single out individuals for legal scrutiny or enforcement activity based on their country of origin; and

Section 3. COMMENDS the Lawrence Police Department for continuing the tradition of respecting citizens' right to due process and upholding the standards of probable cause and directs the Lawrence Police Department to:

1. Refrain from assisting federal authorities in taking residents of the city of Lawrence or individuals in the custody of the City of Lawrence into custody if said residents or individuals will be subjected to detention without access to counsel, or any other infringements of their Constitutional rights; including the right to habeas corpus; military detention, secret federal detention, detention as a material witness for an indefinite length of time, or secret immigration proceedings.
2. Refrain from engaging in the surveillance of individuals or groups based on their participating in activities protected by the First Amendment, such as political advocacy, public or private assembly or association, or the practice of a religion, at the direction or order of a court, such as, but not limited to, the Foreign Intelligence Surveillance Act (FISA) Court, whose proceedings are held in secret;
3. Provide advance or simultaneous notice of execution of a search warrant to any resident of the city of Lawrence whose property is the subject of such warrant, and refrain from participating in a joint search with any law enforcement agency absent assurances that such notice will be provided to such individuals during the search;
4. Refrain from undertaking or participating in any initiative, such as Community Anti-Terrorism Training (CAT Eyes) or Terrorism Information and Prevention System (TIPS), that encourages members of the general public to spy on their neighbors, colleagues or customers;
5. Refrain from engaging in the surveillance of individuals or groups based on their participation in activities protected by the First Amendment, such as political advocacy, public or private assembly or association, or the practice of a religion, without probable cause to believe that criminal activity, unrelated to the aforementioned activity protected by the First Amendment, has occurred and a warrant or court order having been issued;
6. Refrain from utilizing race, religion, ethnicity or national origin as a factor in selecting which individuals to subject to investigatory activities;
7. Refrain from collecting or maintaining information about the political or religious views, associations or activities of any person, group, association, or organization, or any membership lists or databases thereof;
8. Refrain from: engaging in video surveillance unless the police have probable cause to believe that the subjects of the surveillance have committed a crime; establishing a general surveillance network of video cameras; deploying facial recognition technology or other biometric identification technology within the city of Lawrence;
9. Refrain from the practice of stopping drivers or pedestrians for the purpose of scrutinizing their identification documents; and
10. Report to the City Commission and to the public by publication in the newspaper of record any request or order from any Federal agency or from any Federal court, that, if granted or complied with, could enable or require officers or agencies of the City of Lawrence to exercise powers or cooperate in the exercise of powers in actual or apparent violation of any City ordinance, resolution or policy or the laws or Constitutions of this State or the United State unless disclosure of such information shall be prohibited by law. This report will be made within a period of three calendar days of the receipt of said request or order by an officer or agency of the City of Lawrence;

Section 5. REQUESTS the governing bodies of public libraries within the city of Lawrence to post in prominent places a notice to library patrons as follows: "NOTICE. Under Section 215 of the USA PATRIOT Act (Public Law 107-56), records of books and other materials you borrow from this library may be inspected and retained by Federal agents. Librarians are prohibited from informing you if records about you have been obtained by federal agents." This notice shall also be provided in the Spanish language. Handouts printed with the above statement may be distributed in lieu of posting notices;

Section 6. COMMENDS the governing body of the Lawrence Public Library for protecting the privacy of patrons by maintaining circulation records only as long as necessary to secure the return of materials and payment of fines and fees and requests the governing body of the Lawrence Public Library continue this policy;

Section 7. DIRECTS the City Manager, with assistance from the Chief of Police, to seek periodically, at least every six (6) months, from federal authorities the following information in a form that facilitates an assessment of the effect of federal anti-terrorism efforts on the residents of the city of Lawrence:

1. The names of all residents of the city of Lawrence who have been arrested or otherwise detained by federal authorities as a result of terrorism investigations since September 11, 2001; the location of each detainee; the circumstances that led to each detention; the charges, if any, lodged against each detainee; and the name of counsel, if any, representing each detainee;

2. The number of search warrants that have been executed in the city of Lawrence without notice to the subject of the warrant pursuant to Section 213 of the USA PATRIOT Act;
3. The extent of electronic surveillance carried out in the city of Lawrence under powers granted in the Acts and Orders;
4. The extent to which federal authorities are monitoring political meetings, religious gatherings or other activities protected by the First Amendment within the city of Lawrence;
5. The number and types of education records that have been obtained from public schools and institutions of higher learning in the city of Lawrence under Section 205 of the USA PATRIOT Act; and,
6. The number of times library records have been obtained from libraries and records of books purchased by store patrons have been obtained from bookstores in the city of Lawrence under Section 215 of the USA PATRIOT Act.

Section 8. DIRECTS the City Manager to transmit to the City Commission and to the public by publication in the newspaper of record no less than once every six months a summary of the information obtained pursuant to the preceding paragraph and, based on such information and any other relevant information, an assessment of the effect of federal anti-terrorism efforts on the residents of the city of Lawrence;

Section 9. AFFIRMS that the City of Lawrence pledges its full support, both legal and political, for any city employee who complies in good faith with the provisions of this resolution and no City employee shall be subject to disciplinary action for complying with this resolution and nothing in this resolution shall be construed as to require any City employee to violate any Federal law;

BE IT FURTHER RESOLVED BY THE LAWRENCE CITY COMMISSION:

Section 1. That the Governing Body of the City of Lawrence, Kansas, acting in the spirit and heritage of our community, hereby requests the U.S. Congress specifically repeal the USA PATRIOT Act and the U.S. Congress and President of the United States to monitor the implementation of these Acts and Orders cited herein and repeal these Acts and those Orders that have been found to violate fundamental rights and liberties as stated in the Constitution of the United States and oppose adoption of similar Acts, Orders and Provisions that violate fundamental rights and liberties of the Constitution of the United States; and,

Section 2. That when the City of Lawrence engages in public safety intelligence gathering as part of law enforcement and of national security, the City of Lawrence directs that such intelligence gathering comply with the following policy: No information about political, religious or social views, associations, or activities shall be collected; and,

BE IT FURTHER RESOLVED that engrossed copies of this resolution shall be forwarded to President George W. Bush and the Kansas congressional delegation.

ADOPTED by the Governing Body of the City of Lawrence, Kansas, this ____ day of _____, 2004.