

New York City Council opposes USA Patriot Act

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On February 4, the New York City Council overwhelmingly approved a resolution denouncing provisions of the federal USA Patriot Act for infringing on civil liberties. With the 36-13 vote, New York joined nearly 250 other municipalities and three state legislatures in going on record against the Patriot Act. Just two weeks earlier, the city council in Los Angeles, the third largest US city, passed a similar resolution by a vote of 9-2. Other major cities that passed their own resolutions include Chicago and Philadelphia, the nation's second and fifth largest respectively, as well as the states of Vermont, Hawaii and Alaska.

The vote in New York City has particular significance given that it was the scene of the September 11, 2001, terrorist attacks that claimed the lives of nearly 3,000 office workers and emergency responders at the World Trade Center.

Six weeks after the attack, Congressional Democrats joined Republicans in overwhelmingly passing the so-called Patriot Act. The unprecedented rollback of democratic rights incorporated therein was presented as a necessary response to September 11, even though many of the provisions had been on the drawing board months and years earlier.

The passage of the anti-Patriot Act resolution in New York reflects the widespread anger among the city's 8 million residents over the Bush administration's attempt to exploit the events of September 11 to justify foreign and domestic policies with which they strongly disagree.

One of the witnesses at council hearings on the resolution was Adele Welty. Her son Timothy was one of the 343 firefighters who lost their lives in the collapse of the Twin Towers. She belongs to a group of family members of 9/11 victims known as "Peaceful Tomorrows." She testified: "The Patriot Act poses a serious threat to the exercise of our Constitutional rights, most particularly our rights to due process of law.... It

undermines our Fourth Amendment right to privacy and expands the ability of the government to use wiretaps and computer surveillance and to look at confidential medical, financial, business and educational records."

Ms. Welty went on to contrast the surveillance of ordinary Americans with the government's treatment of prominent Saudis, including members of the bin Laden family, who had flights out of the country arranged for them at a time when US airspace was otherwise shut down to nonmilitary traffic.

She continued, "This administration has used the tragedy of 9/11 and the deaths of our family members to push its agenda of regime change abroad and repression here at home. I see my son's death, and the deaths of every precious soul that died that day, used again and again to scare this country into war, to undermine environmental protections and to concentrate power in the hands of the executive branch in ways that abrogate far too many of our liberty interests."

Among the many objections to the Patriot Act cited in the resolution are the following: "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"; the expanded use of so-called "sneak and peek" searches, where agents need never notify the subject of the search that their property has been examined; and the authority granted to law enforcement and intelligence agencies to access "personal medical, financial, library and education records with little if any judicial oversight."

The resolution also opposes the legislation before Congress entitled the Domestic Security Enhancement Act, known as Patriot II, which would expand the government's authority under the Patriot Act even further. Finally, it calls on New York's congressional delegation to try to block passage of Patriot II, as well as

to push to repeal those sections of the Patriot Act that “unduly infringe” on civil liberties.

This appeal for Congressional action reveals the dual purpose of the resolution. First, the lead sponsor of the measure, Harlem’s Democratic councilman Bill Perkins, who is reportedly preparing to run for mayor in 2005 against the incumbent Michael Bloomberg, is seeking to tap into the strong anti-Bush sentiment in New York City to build up his political base. The resolution allows him and his co-sponsors to pose as defenders of democratic rights, without requiring them to do anything concrete.

Second, the resolution represents an attempt to channel hatred of the Bush administration into the safe avenue of appeals to various politicians and public officials.

None of resolution’s provisions have any teeth. To rely on Congress to repeal the Patriot Act can only be categorized as wishful thinking. Both of New York’s Democratic senators, Charles Schumer and Hillary Clinton, backed the measure in the 98-1 Senate vote, as did 25 of New York’s 29 Congressional representatives, including 13 from New York City itself. There is no reason to believe that a vote today would be substantially different. In fact, last year Schumer co-sponsored a bill that would extend one of the key provisions of the Patriot Act beyond its current December 31, 2005, expiration.

The Democrats have consistently endorsed the Bush administration’s “war on terror,” whatever tactical differences some may have expressed. Only last November, in passing the Intelligence Authorization Act of 2004, Congress voted to expand the FBI’s authority to secretly obtain private business records. That vote passed by a substantial 264-163 majority in the House, with the support of 55 Democrats, and by unanimous voice vote in the Senate.

The New York City resolution includes other propositions that similarly will have no effect. Its call for federal, state and local officials “to affirm and protect civil rights and civil liberties” is so general that even US Attorney General John Ashcroft could claim to support it. Likewise, no one can seriously expect a response to the resolution’s call for unnamed federal officials to report periodically (no timeframe is specified) on a whole list of items: the number of New Yorkers arrested or detained in terrorism investigations; the number of secret searches conducted; how many investigations use undercover agents to spy on “political meetings, religious gatherings or other activities protected by the First Amendment”; how many education records, library records and records of bookstore purchases in New York City have been

obtained.

No doubt, such information would be useful. However, entirely lacking in enforcement provisions, the resolution is written to ensure that it presents no real challenge to federal authorities. Compliance with its requests is left in the hands of the very same officials who are charged with implementing the Patriot Act. Essentially, the resolution consists of words for public consumption, which will be promptly relegated to the dead letter bin by government officials.

The resolution’s original wording would have prohibited New York City police from collecting information on activist groups, participating in the enforcement of federal immigration laws, or establishing an anti-terrorism database. This provision, which dealt with matters over which the council has some control, was removed, reportedly at the insistence of city council speaker Gifford Miller, another Democrat with mayoral ambitions

The NYPD has come under growing criticism for its aggressive actions against political protesters and activists. On February 11, over 50 people sued the NYPD for false imprisonment, assault and malicious prosecution, among other things, stemming from a protest on April 7, 2003. Police responded to a civil disobedience action in front of the midtown headquarters of the Carlyle Group by arresting not only those blocking access to the building, but also dozens of supporters observing the protest peacefully from the sidewalk on the other side of the street.

Protest groups are expecting the NYPD to step up their harsh and illegal treatment of demonstrators outside the Republican National Convention, due to open in New York City at the end of August.



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