

Presented by: HRC
Introduced: 04/28/2003
Drafted by: HRC

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2201

A Resolution Establishing Assembly Policy With Respect to Federal Antiterrorism Legislation.

WHEREAS, CBJ denounces terrorism and appreciates and supports those who defend us from terrorism and terrorist attacks: the men and women serving in our armed forces, federal, state, and local law enforcement officers, firefighters, and health service professionals, and

WHEREAS, CBJ is committed to the protection of civil rights and liberties for all people as expressed in the United States and the Alaska Constitutions, and

WHEREAS, the First Amendment to the United States Constitution states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances”, and

WHEREAS, the Fourth Amendment states, “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized”, and

WHEREAS, the Fifth Amendment states that “No person . . . shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law”, and

WHEREAS, the Sixth Amendment guarantees defendants, “the right to a speedy and public trial, by an impartial jury”, the right “to be informed of the nature and cause of the accusations”, the right “to be confronted with the witnesses against him”, and the right “to have the assistance of counsel for his defense”, and

WHEREAS, the Eighth Amendment states that “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted”, and

WHEREAS, the Fourteenth Amendment states, “. . . nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws”, and

WHEREAS, the Assembly recognizes Juneau’s diverse population, including citizens of other nations, whose contributions to the community are vital to its character and function, and

WHEREAS, in response to the terrorist attacks of September 11, 2001, the U.S. Congress passed the USA PATRIOT Act of 2001 and the Homeland Security Act of 2002, and the executive branch has issued various Executive Orders, and

WHEREAS, due to the press of time, the USA PATRIOT Act and the Homeland Security Act did not receive the level of scrutiny that most Acts of Congress receive, and

WHEREAS, the USA PATRIOT Act at Section 412 authorizes the indefinite incarceration or deportation of non-citizens even if they have not committed a crime, and

WHEREAS, the USA PATRIOT Act at Section 216 reduces judicial supervision and civil liberties protections related to the use of devices which identify the caller, routing, and recipient of telephone and internet communications, and

WHEREAS, the USA PATRIOT Act at Section 214 expands the authority of federal courts to issue delayed-notice warrants authorizing secret searches so that the subject of a search warrant is unaware that the property has been searched, and

WHEREAS, the USA PATRIOT Act at Sections 215, 218, 219, 358, 507, and 508 grant law enforcement and intelligence agencies broader access to medical, mental health, library, business, financial, educational, and other records about individuals without first showing probable cause or evidence of a crime, and in some cases prohibits a person from disclosing to the individuals that such records have been searched, and

WHEREAS, the USA PATRIOT Act at Sections 411 redefines “terrorist activity” and “terrorist organization” so broadly that it could have a chilling effect on free speech, and

WHEREAS, the Code of Federal Regulations has been amended at 28 CFR 501.3 to allow eavesdropping on conversations between terrorist suspects and their lawyers, and

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WHEREAS, the President's Military Order of November 13, 2001 provides for trial of alien terrorist suspects by military commission, and pending such trial allows the Secretary of Defense to indefinitely detain the suspect within the United States or elsewhere without express limitation or condition except with regard to food, water, shelter, clothing, medical treatment and religious exercise.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Affirmations.

- a. CBJ affirms its strong opposition to terrorism, but also affirms that efforts to end terrorism should not be waged at the expense of the fundamental civil rights and liberties of the people of CBJ, the United States, and the world.
- b. CBJ affirms the rights of all people living within CBJ to be treated in accordance with the Bill of Rights and the Fourteenth Amendment of the U.S. Constitution.

Section 2. Action Items.

- a. CBJ respectfully requests that the U.S. Congress formally review, and if necessary amend, the USA PATRIOT Act and the Homeland Security Act to ensure that they are consistent with the civil liberties which so many Americans have fought to preserve; Congress is also requested to review the executive orders adopted in response to the events of September 11, 2001 to ensure they also are consistent with those fundamental civil liberties.
- b. CBJ recognizes that its police officers, librarians, school officials, health workers, and other employees may receive requests for information under provisions of the USA PATRIOT Act or the Homeland Security Act and encourages CBJ employees to consult with the City Attorney's office if they have any doubts about the propriety of divulging information. The City Attorney is directed to train CBJ employees so that they are aware of their rights and responsibilities under the U.S. Constitution, the USA PATRIOT Act, and the Homeland Security Act.
- c. The CBJ Human Rights Commission is requested to report to the Assembly, insofar as its duty of confidentiality permits, whenever it receives a complaint that a citizen's civil rights or liberties have allegedly been infringed due to action authorized by the USA PATRIOT Act or the Homeland Security Act.

- d. The United States Attorney for the District of Alaska is requested to provide the City Manager with an annual summary limited to the number of investigations, warrants, orders, subpoenas, and arrests carried out within the City and Borough under the authority of the USA PATRIOT Act, the Homeland Security Act, and related executive orders. The City Manager shall make such information available to the public.
- e. The Clerk is directed to distribute copies of this resolution to the federal and state legislative delegations and to the United States Attorney for the District of Alaska.

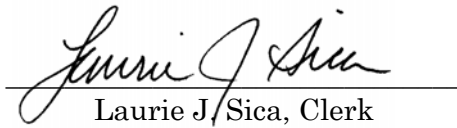
Section 3. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 28th day of April, 2003.



Sally Smith Mayor

Attest:



Laurie J. Sica, Clerk

Vote: Aye - Smith; Powell; Wheeler; Johnson; Ridgeway; Sanford
Nay - Wanamaker
Absent - Koelsch; Anderson