

Kriss Worthington

Councilmember, City of Berkeley District 7
2180 Milvia Street, 5th Floor, Berkeley, CA 94704
PHONE 510-981-7170 FAX 510-981-7177 worthington@ci.berkeley.ca.us

CONSENT CALENDAR

July 23, 2002

To: Honorable Mayor and
Members of the City Council

From: Councilmember Kriss Worthington

Subject: SUPPORT RESOLUTION OPPOSING PATRIOT ACT, JUSTICE DEPARTMENT
DIRECTIVES, AND EXECUTIVE ORDERS THAT PREVENT THE PROTECTION OF
CIVIL RIGHTS AND LIBERTIES

RECOMMENDATION:

That the Berkeley City Council supports the resolution opposing the Patriot Act, Justice Department directives, and executive orders that prevent the protection of civil rights and liberties.

BACKGROUND:

Since the devastating and horrifying attacks on the United States of America on September 11, 2001, there have been many alarming actions taken by the federal government which threaten the civil rights and liberties of those citizens it intends to protect. Under the Patriot Act, some Justice Department directives from Attorney General Ashcroft, and certain executive orders, our freedoms are being challenged and undermined. As many individuals, communities, and cities around the country begin to publicly question these acts and directives of the federal government, we must affirm our commitment to the protection of civil rights and liberties for all people.

FINANCIAL IMPLICATIONS:

NONE

CONTACT PERSON:

Councilmember Kriss Worthington 981-7170.

WHEREAS, the Patriot Act greatly expands the government's ability to conduct secret searches without warrants; and

WHEREAS, the Patriot Act grants power to the Attorney General to subject non-citizens to indefinite detention without meaningful judicial review even if they have not committed a crime; and

WHEREAS, more than 1,000 people were detained in the weeks following the September 11 attacks, most without being charged, some denied the right to contact lawyers or their families; and

WHEREAS, the Justice Department, under Attorney General John Ashcroft, has issued an order authorizing federal prison officials to eavesdrop on the confidential attorney-client communications of persons in federal custody and their lawyers, without court review; and

WHEREAS, the Justice Department, under Attorney General John Ashcroft, has issued a directive limiting Freedom of Information Act (FOIA) compliance and cites the threat of terrorism as justification; this directive of limiting disclosure of public documents and records covers all government information, much of which has no national security or law enforcement connection; and

WHEREAS, the Justice Department has announced a nationwide effort to locate and interview as many as 8,000 recent immigrants—all men ages 18 to 33, primarily from Middle Eastern nations; guidelines for these interviews include inquiries into individual's political beliefs and the beliefs of families and friends, and whether or not an individual "supports" any cause that terrorists espouse; and

WHEREAS, on May 30, Attorney General John Ashcroft unilaterally and without consultation with Congress eased long standing intelligence guidelines which were put in place in 1976 as a result of gross intelligence abuses by the FBI; and

WHEREAS, the new guidelines allow FBI agents to spy on religious groups, political rallies, and organized meetings without any suspicion that the organization is involved in terrorism or any other criminal activity; and

WHEREAS, this type of unchecked intelligence gathering leads to the gross intelligence abuses of the 1960's including the attempted disruption of the civil rights movement and, as recently reported, the firing of former UC Chancellor Clark Kerr; and

WHEREAS, thirty years ago this November, California voters overwhelmingly amended the Constitution of California to provide a right to privacy, specifically to prevent "the proliferation of government snooping and data collecting [that] is threatening to destroy our traditional freedoms"; and

WHEREAS, an executive order has established secret military tribunals for terrorism suspects, which undermines the U.S. government's ability to denounce atrocities carried out in secret by military tribunals elsewhere in the world; and

WHEREAS, several law enforcement officials, including previous heads of the FBI, have decried the Patriot Act, directives from Attorney General Ashcroft, and particular executive orders as unnecessary to the prosecution of, and protection from, terrorism; and

WHEREAS, the Patriot Act, directives from Attorney General Ashcroft, and particular executive orders seem to target foreign nationals and people of Middle Eastern and South Asian descent, and anyone who may legally speak or act to oppose government policy; and

WHEREAS, we believe that the Patriot Act, Justice Department directives and executive orders threaten the framework of the Nation's Constitution and Bill of Rights; and

WHEREAS the Declaration of Independence of the United States holds as self-evident that all people are created equal and are endowed with the unalienable rights of life, liberty, and the pursuit of happiness; and

WHEREAS the First Amendment of the United States Constitution specifies that no law be made "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 declares that "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"; and

WHEREAS the Sixth Amendment guarantees defendants "the right to a speedy and public trial, by an impartial jury..., and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and 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 due process and equal protection clauses of the Fifth and Fourteenth Amendments to the United States Constitution guarantee certain due process and equal protection rights to all residents of the United States regardless of citizenship or immigration status; and

WHEREAS the Fourteenth Amendment prohibits the government from denying any person equal protection by stating "no state shall 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 its laws," and pursuant to that clause, human rights and due process must be afforded to all people in the United States regardless of citizenship or immigration status; and

WHEREAS, the policy of the Berkeley Police Department is that all detentions or stops must be supported by reasonable suspicion that a crime has been committed or is about to be committed, and that all arrests and searches of person and/or property by officers in Berkeley must be based on a showing of probable cause, as required by the Fourth Amendment of the U.S. Constitution and the California Constitution; and

WHEREAS, the City of Berkeley has a long and distinguished history of promoting and enforcing civil rights and civil liberties, especially during times of domestic and international conflicts; and

WHEREAS, City of Berkeley includes a diverse community of students and working families, including non-citizens, whose contributions to the community are vital to its character and function; and

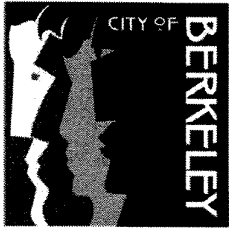
WHEREAS, the City Council of Berkeley, motivated by the commitment to “create a world community in which the relations between people are based on equality, respect for human rights, and the abhorrence of exploitation and all forms of oppression,” passed an ordinance in 1998 which established the Peace and Justice Commission of the City of Berkeley; and

WHEREAS, the City Council of Berkeley adopted the Human Rights Ordinance (Ordinance no. 5985) in 1990, specifically committing the city to carry out the United Nation Charter Human Rights Provisions; and

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley acting in the spirit and history of our community, do hereby request that:

1. The City of Berkeley affirms its strong opposition to the Patriot Act, Justice Department directives, and executive orders that weakens or destroys our civil rights and liberties.
2. The City of Berkeley has been, and remains, firmly committed to the protection of civil rights and civil liberties for all people including those who are citizens of other nations. We affirm this commitment to embody the spirit of democracy, to embracing and defending the human rights and civil liberties now under siege, to make those liberties viable for all, regardless of citizenship status, gender, racial identification, religious affiliation, age, or country of origin.
3. The City of Berkeley calls upon all private citizens-including residents, employers, educators, and business owners-to demonstrate similar respect for civil rights and civil liberties.
4. The City of Berkeley calls upon local law enforcement to join the city in affirming the following principles: Every person has the right to freedom of speech and association. Every person has the right to freedom of religion. Every person has the right to assembly and privacy. Every person has the right to due process in judicial proceedings. Every person has the right to counsel and attorney-client privilege. Every person has the right to be free from unreasonable search and seizure. Stops or arrests may not be made without establishing reasonable suspicion or probable cause that a crime has been committed or is about to be committed. Every person has a right to equal protection under the law and the right not to be deprived of life, liberty or property without due process of law.
5. To the extent legally possible, no City of Berkeley employee or department shall officially assist or voluntarily cooperate with investigations, interrogations, or arrest procedures, public or clandestine, that are judged to be in violation of individuals' civil rights or civil liberties as specified in the above Amendments of the United States Constitution. Also, request that no Berkeley Police officer shall spy on or gather information on religious or political meetings or rallies in the absence of some evidence that the organization is involved in terrorism or some other illegal activity.

6. The City of Berkeley reaffirms its commitment to unbiased policing as expressed in the policies of the Berkeley Police Department and endorses the principle that no law enforcement or other city agency may profile or discriminate against any person on the basis of ancestry, race, ethnicity, national origin, color, age, sex, sexual orientation, marital status, physical or mental disability or religion.
7. The City of Berkeley requests Federal and State law enforcement officials acting within the City work in accordance with the policies of the Berkeley Police Department, and in cooperation with the Department, that they not engage in or permit detentions without charges or racial profiling in law enforcement.
8. The U.S. Attorney's Office, the Office of the Federal Bureau of Investigation and California Highway Patrol, and local law enforcement authorities and city departments regularly and publicly report to the City Council and the Berkeley Commission on Peace and Justice the extent and manner in which they have acted under the Patriot Act, new Executive Orders, or COINTELPRO-type regulations, including disclosing the names of any detainees held in western California or any Berkeley residents detained elsewhere as an "enemy combatant".
9. The City of Berkeley uses all possible leverage to ensure that Federal and State law enforcement officials acting within the City work in accordance with the policies of the Berkeley Police Department, and in cooperation with the Department, and request that they not engage, to the extent legally permissible, in law enforcement activities that threaten civil rights and civil liberties of the people of Berkeley, such as surveillance, wiretaps, and securing of private information, which the Patriot Act and Executive Orders authorize. Organizations should not be monitored based on their religious or political views. Also, request that no information about political, religious or social views, associations, or activities should be collected unless the information relates to public safety concerns or establishes suspicion of criminal activity or the potential for criminal activity.
10. Our United States Congress representatives monitor the implementation of the Patriot Act, directives from Attorney General Ashcroft, and executive orders cited herein and actively work for the repeal of the parts of that Act and withdrawal of those Justice Department directives and executive orders that violate fundamental rights and liberties as stated in the Constitutions of the state of California and the United States and in the UN Charter and the ratified International Covenant on Civil and Political Rights, the Convention Against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on Elimination of Racial Discrimination.
11. The City of Berkeley sends copies of this resolution to the President of the United States and the United Nations High Commissioner for Human Rights in Geneva, Switzerland.



Police Review Commission

COUNCIL INFORMATION

September 10, 2002

To: Honorable Mayor and
Members of the City Council

From: Police Review Commission

Subject: SUPPORT OPPOSITION TO THE PATRIOT ACT

STATUS:

The PRC has submitted the attached letter in support of Councilmember Worthington's Council Item, "Resolution Opposing the Patriot Act, Justice Department Directives, and Executive Orders that Prevent the Protection of Civil Rights and Liberties" and urges Council to adopt this resolution at the September 10, 2002 meeting.

FINANCIAL IMPLICATIONS: (if applicable)

None

CONTACT PERSON:

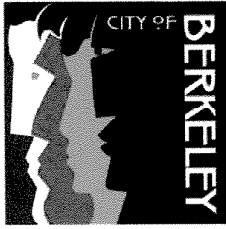
Barbara Attard—981-4960
PRC Officer

Approved:

A handwritten signature in black ink, appearing to be "B. Attard", written over a horizontal line.

Barbara Attard, PRC Officer

**POLICE REVIEW COMMISSION OFFICES: 1900 Addison Street #300, Berkeley, CA 94704
510.981-4950 TDD: 510.981.6903 FAX: 510. 981-4955
e-mail: prc@ci.berkeley.ca.us [http:// www.ci.berkeley.ca.us/prc/](http://www.ci.berkeley.ca.us/prc/)**



Police Review Commission

August 19, 2002

FOR COUNCIL INFORMATION

Honorable Mayor
Members of the City Council
2180 Milvia Street
Berkeley, CA 94704

Dear Mayor Dean and Members of the Council:

The Police Review Commission (PRC) supports Councilmember Kriss Worthington's Council Item, "Resolution Opposing the Patriot Act, Justice Department Directives, and Executive Orders that Prevent the Protection of Civil Rights and Liberties" and urges Council to adopt this resolution at the September 10, 2002 meeting. Councilmember Worthington's resolution delineates items in the Patriot Act and directives and orders from various branches of the federal government that pose serious threats to the liberties and freedoms guaranteed in the Constitution of the United States, and to democracy as we know it.

The PRC has been concerned about U.S. Department of Justice tactics developed for investigations and protection of homeland security after the devastating attacks on the United States on September 11. While the PRC understands the extreme gravity of our situation, undermining freedom in order to protect it is not an acceptable solution. Targeting large groups of people for questioning absent evidence linking such individuals to specific criminal acts constitutes racial profiling. Not only is this practice discriminatory and an ineffective means of combating crime, but it threatens to disrupt police community relations, as well. Directives from the Justice Department to ease intelligence-gathering and wire-tapping guidelines instituted to combat past abuses by law enforcement groups opens the door to a dangerous breach of personal security on a national scale, and constitutes a serious affront to liberty.

The PRC appreciates Councilmember Worthington's efforts to take action on these important issues. PRC action on this item: DeBose/Sternberg (Moved/Seconded) to request staff to draft a letter from the PRC to Council supporting Council member Worthington's Resolution Opposing the Patriot Act. Passed with Clark, DeBose, Mapps, Ritchie, and Sternberg affirming and White abstaining. There were no votes in opposition.

Sincerely,

A handwritten signature in black ink, appearing to read "David Ritchie". The signature is fluid and cursive, written over a faint, larger version of the same signature.

David Ritchie
Chair, PRC

POLICE REVIEW COMMISSION OFFICES: 1900 Addison Street #300, Berkeley, CA 94704
510.981-4950 TDD: 510.981.6903 FAX: 510.981-4955
e-mail: prc@ci.berkeley.ca.us http:// www.ci.berkeley.ca.us/prc/