

**RESOLUTION NO. \_\_\_\_\_**  
**RESOLUTION TO OPPOSE THE "USA-PATRIOT ACT" (Uniting and Strengthening  
America by Providing Appropriate Tools Required to Intercept and Obstruct  
Terrorism Act of 2001), JUSTICE DEPARTMENT DIRECTIVES, AND EXECUTIVE  
ORDERS THAT VIOLATE CONSTITUTIONALLY GUARANTEED CIVIL RIGHTS AND  
LIBERTIES**

WHEREAS, following the terrorist attacks on the United States of America on September 11, 2001, the Congress passed the USA-PATRIOT Act (PL 107-56) on October 26, 2001; and

WHEREAS the citizens of **Nevada City, California** are concerned that some executive orders and the resulting actions of the Attorney General of the United States and the U.S. Justice Department since the September 11th attacks pose significant threats to Constitutional protections, and

WHEREAS we as a city believe that respect for constitutional rights is essential for the preservation of a democratic society, and

WHEREAS, in a time of concern over terrorism, our country must provide security for its people without compromising their constitutional rights and civil liberties, and

WHEREAS several actions recently taken by the federal government, including the adoption of sections of the USA-PATRIOT Act and several executive orders which threaten these fundamental rights and liberties, including freedom of speech, religion, assembly and privacy; the rights to due counsel and process in judicial proceedings; and protection from unreasonable searches and seizures, all of which are guaranteed by the United States Constitution and its Bill of Rights and the California Constitution; and

WHEREAS the USA-PATRIOT Act defines "domestic terrorism" so broadly as to apply to certain acts of civil disobedience that may include lawful advocacy groups such as Operation Rescue or Greenpeace as terrorist organizations and may subject them to invasive surveillance, wire tapping, harassment, and may criminally penalize them for protected political advocacy; also the USA-PATRIOT Act grants unchecked power to the Secretary of State to designate domestic groups as "terrorist organizations"; and

WHEREAS the USA-PATRIOT Act gives the FBI and CIA greater rights to wiretap phones, monitor e-mail, survey sensitive medical, mental health, financial and educational records without having to show evidence of a crime and without meaningful judicial review, and break into homes and offices without prior notification; and

WHEREAS the USA-PATRIOT Act expands the government's ability to conduct secret searches without warrants, and

WHEREAS the USA-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 immediately after September 11th, hundreds of people were detained without being charged and some were denied the right to contact lawyers or even 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 without judicial review; and

WHEREAS the Justice Department, under Attorney General John Ashcroft, has issued a directive limiting Freedom of Information Act compliance and cites the threat of terrorism as justification, even though said directive covers all government information, much of which has no national security or law enforcement connection, and

WHEREAS on May 30, 2002, 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 organizations are involved in terrorism or any other criminal activity; and

WHEREAS over thirty years ago, Californians voted overwhelmingly to amend 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 a secret military tribunal for terrorism suspects, while the United States Government has long denounced secret tribunals in other countries, such as Iraq, China, and the former Soviet Union; and

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

WHEREAS the USA-PATRIOT Act, certain directives from Attorney General Ashcroft and particular executive orders seem to target foreign nationals and people of Middle Eastern and South Asian descent and seem directed at persons who may legally speak or act to oppose government policy; and

WHEREAS the Declaration of Independence of the United States holds as self-evident that all people are created equal and are endowed with 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 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 a defendant "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 (Section I) to the United States Constitution guarantee certain due process and equal protection rights to all people in 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 that "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 city law enforcement policies require 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 persons and/or property 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 Nevada City is home to a diverse community of elders, working families, and students, including resident non-citizens, whose contributions to the community are vital to its character and function;

NOW THEREFORE, in keeping with the spirit and history of our community, BE IT RESOLVED THAT:

1. Nevada City affirms its strong opposition to those parts of the USA-PATRIOT Act, Justice Department directives, and Executive Orders, current and future, that weaken or destroy our constitutional rights and civil liberties.
2. Nevada City has been and remains firmly committed to the protection of constitutional rights and civil liberties for all people including those who are citizens of other nations. We affirm this commitment to the ideals upon which this country was founded, to embracing and defending the human rights and civil liberties now under siege, to making those liberties viable for all, regardless of age, ethnicity, gender, sexual orientation, racial identification, color, religion, citizenship status, or country of origin.
3. Nevada City calls upon its private citizens, including residents, employers, educators, business owners and peace officers, 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. 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.

Stops or arrests may be made only after establishing reasonable suspicion or probable cause that a crime has been committed or is about to be committed.

4. Nevada City and the Nevada City Police Department reaffirm their commitment to unbiased policing and endorse the principle that no law enforcement or other county agency may profile or discriminate against any person on the basis of age, ethnicity, gender, sexual orientation, racial identification, color, religion, citizenship status, or country of origin. To the extent legally possible, no Nevada City employee or department shall officially assist or voluntarily cooperate with investigations, interrogations, or arrest procedures, public or clandestine, that violate the constitutional rights or civil liberties of people as specified in the above Amendments of the United States Constitution. Organizations should not be monitored based on their religious or political views. 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.
5. Nevada City requests that the U.S. Attorney's Office, the Office of the Federal Bureau of Investigation, the California Highway Patrol, and local law enforcement authorities and county departments regularly and publicly report to the Nevada City Council, the extent and manner in which they have acted under the USA-PATRIOT Act, Executive Orders and Directives cited above, including the names of any detainees held in Northern California or any Nevada City resident detained elsewhere as an "enemy combatant."
6. Nevada City shall use all possible leverage to ensure that local, State and Federal law enforcement officials acting within the city work in accordance with the policies of the Nevada City Police Department and in cooperation with the Department, and request that they not engage in law enforcement activities that threaten the constitutional rights and civil liberties of the people of Nevada City, including surveillance, wiretaps, and securing of private information, authorized by the USA-PATRIOT Act, Executive Orders and Directives cited above.
7. Nevada City requests that our United States Congressional representatives monitor the implementation of the USA-PATRIOT Act, Executive Orders and Directives cited above and actively work toward the reversal of those items that violate fundamental rights and liberties as stated in the Constitutions of the State of California and the United States.
8. Nevada City shall send copies of this resolution to the following: the Nevada County Board of Supervisors, and all county and state elected representatives; the Chief of Police of Nevada City, the Sheriff of Nevada County, and the City Councils and Chiefs of Police of Grass Valley and Truckee; the Nevada County Librarian; the President of Sierra College; the Governor and Attorney General of the State of California; California's Congressional and Senate representatives; the U.S. Attorney General; and the President of the United States.