

## MidCoast Community Council

An elected Municipal Advisory Council to the San Mateo County Board of Supervisors

*Serving 12,000 coastal residents*

Post Office Box 64, Moss Beach, CA 94038-0064

Office Fax: (650) 728-2129

March 12, 2003

Via Email & Fax: 4 Pages

To: San Mateo County Board of Supervisors:  
President Rose Jacobs-Gibson,, and  
Supervisors Mark Church, Rich Gordon, Jerry Hill and Mike Nevin  
400 County Center  
Redwood City, CA 94063  
FAX: (650) 5991027

Dear President Jacobs-Gibson and members of the Board:

At our regular meeting of March 12, 2003, the MidCoast Community Council voted 5 -1 in favor with one abstention to submit the following resolution to the San Mateo County Board of Supervisors:

The USA PATRIOT Act and the Protection of San Mateo County Residents' Civil Rights

WHEREAS, in response to the tragic events of September 11, 2001, The United States Congress passed the USA PATRIOT Act (Public Law 107-56) which was signed into law by President George Bush on October 26, 2001; and

WHEREAS, many residents of San Mateo County and other communities across the state and across the nation, while committed to homeland security, are deeply concerned that certain provisions of the USA PATRIOT Act expand government powers of secret surveillance, search and seizure and detention without due process in a manner which threatens fundamental civil rights, including:

- \* Freedom of speech, religion, assembly and privacy;
- \* The rights to counsel and due process in judicial proceedings;
- \* Protection from unreasonable searches and seizures; and
- \* Equal protection under the law;

All guaranteed by the Constitution of the State of California and the United States Constitution; and

WHEREAS, there has been no substantive showing by USA PATRIOT Act sponsors that these fundamental alterations of our civil liberties increase public safety, and subsequent investigation has shown that government powers of access to personal information prior to the events of September 11, 2001 were adequate to prevent the attacks if properly employed, with the resulting information communicated to the appropriate authorities; and

WHEREAS, the expanded powers of secret surveillance, search and seizure and detention conferred upon the federal government by the provisions of the USA PATRIOT Act herein opposed are far more likely to have a chilling effect on the free exchange of ideas and expression of disagreement with government policy, than to increase public safety; and

WHEREAS, the USA PATRIOT Act significantly reduces, and in some cases eliminates, judicial oversight of Executive Branch activities in law enforcement and intelligence gathering, greatly increasing the risk that the Executive's much wider powers will be abused, and

WHEREAS, the public's ability to monitor the actions of its government is seriously compromised by the USA PATRIOT Act's provision for the Executive Branch's secret exercise of law enforcement and intelligence powers, and

WHEREAS, examples of provisions in the USA PATRIOT Act which threaten the constitutional rights of San Mateo County residents are as follows:

1. Section 216- providing for courts to issue orders authorizing wiretapping and internet surveillance if “the court finds that the attorney for the government has certified to the court that the information likely to be obtained is relevant to an ongoing criminal investigation,” eliminating the requirement, well established by legal precedent, to show probable cause that the subject of the surveillance is involved in criminal activity. Furthermore, section 216 requires wire and electronic service providers to make any information available to government investigators which “may facilitate in the execution of the order.” Such an overly broad and vaguely defined standard virtually eliminates judicial supervision of telephone and internet surveillance.
2. Section 411- granting unchecked power to the Attorney General and the Secretary of State to designate domestic groups as “terrorist organizations” if they qualify as “a political or social group whose endorsements of acts of terrorist activity the Secretary of State has determined undermines United States efforts to reduce or eliminate terrorism,” which could include a Palestinian support group or a group opposing economic globalization.
3. Section 412- allowing the Attorney General to subject non-citizens to indefinite detention, even though they have committed no crime, if the Attorney General “has reasonable grounds to believe that the alien is engaged in any activity that endangers the national security of the United States.”
4. Sections 215, 218, 358 and 508 giving law enforcement broad access to sensitive medical, mental health, library, business, financial and other records about individuals without showing probable cause or evidence of a crime, where suspicion that the person is the agent of a foreign government is a “significant purpose” of the surveillance; and

WHEREAS, our civil rights and liberties are further threatened by orders and rules of the executive branch that:

5. establish secret military tribunals for terrorism suspects (Military Order, Nov. 13, 2001)
6. permit wiretapping of conversations between federal prisoners and their lawyers (28 Code of Federal Regulations 501.3)
7. limit the disclosure of public documents and records under the Freedom of Information Act (Memorandum of Attorney general to Heads of all Federal Departments and Agencies, October 12, 2001); and

WHEREAS, communities across our state and across the country have passed resolutions opposing those sections of the USA PATRIOT Act and associated executive orders that threaten our civil liberties; and

WHEREAS, the MidCoast Community Council affirms its strong opposition to terrorism, but also affirms its

commitment to upholding the civil rights and liberties of all persons residing in San Mateo County, as expressed in the Constitution of the United States and State of California.

NOW THEREFORE BE IT RESOLVED BY THE MIDCOAST COMMUNITY COUNCIL that the Unincorporated MidCoast Communities affirm the civil rights granted to all of its residents-U.S. citizens and citizens of other nations alike - in accordance with the Bill of Rights and the Fourteenth Amendment of the United States Constitution; and

BE IT FURTHER RESOLVED that the MidCoast Community Council supports the efforts of individuals and organizations who have challenged various provisions of the USA PATRIOT Act in Federal and State courts; and

BE IT FURTHER RESOLVED that the MidCoast Community Council encourages all other municipal, advisory, and city councils in San Mateo County to adopt resolutions protecting the legal and constitutional rights of citizens within their jurisdiction, and throughout San Mateo County by petition to the County Board of Supervisors, and

BE IT FURTHER RESOLVED THAT THE MIDCOAST COMMUNITY COUNCIL ADVISES THE SAN MATEO COUNTY BOARD OF SUPERVISORS TO ADOPT A RESOLUTION AFFIRMING THE FREEDOMS, CIVIL RIGHTS, AND LIBERTIES OF THE RESIDENTS OF SAN MATEO COUNTY, AND ADVISES THE BOARD TO:

1) Encourage the San Mateo County Sheriff's Department to continue & strengthen its policies of:

- Σ Respecting and protecting freedom of speech;
- Σ Guaranteeing the right to counsel and due process in judicial proceedings;
- Σ Prohibiting unreasonable searches and seizures; and

2) Request that federal and state law enforcement officials working within the County work cooperatively with the San Mateo County Sheriff's Department, and abide by the Department's policies prohibiting racial profiling and detentions without charges, and regularly and publicly report to the County the extent and manner in which they have acted under the USA PATRIOT Act or the associated orders and rules of the executive branch, including the names of detainees held in the region or any Sonoma residents detained elsewhere; and

3) Urge employees and department heads to follow their consciences as to whether or not they wish to assist or voluntarily cooperate with investigations, interrogations, or arrest procedures, public or clandestine, that are in violation of individuals' civil liberties as specified in the above Amendments to the United States Constitution e.g. personnel conducting surveillance on or gathering information on religious or political meetings or rallies in the absence of evidence that the organization is involved in terrorism or some other illegal activity; and

4) Urge law enforcement officials, public officials, and residents of San Mateo County engage in and participate in community dialogue on civil liberties issues, in order to promote the safety and well being of the communities of San Mateo County; and

5) Actively petition our Federal legislative delegation to actively monitor the implementation of the USA PATRIOT Act and associated executive orders and actively work for repeal of those provisions which violate the guaranteed civil liberties enumerated in the Bill of Rights; and

6) That upon passage, the County Clerk shall deliver the Board's Resolution to the President of the United States, the Attorney General, all federal and state law enforcement agencies, the Governor's office, and to the California federal legislative delegation.

Respectfully,

Sandy Emerson  
Chair, MidCoast Community Council

cc: President George W. Bush  
U.S. Attorney General John Ashcroft  
U.S. Senator Diane Feinstein  
U.S. Senator Barbara Boxer  
Honorable Tom Lantos, U.S. Congress  
Honorable Anna Eshoo, U.S. Congress  
San Mateo County Supervisor Rich Gordon  
San Mateo County Sheriff Don Horsley  
City Council of Pacifica  
City Council of Half Moon Bay