

**DRAFT: UNIVERSITY RESOLUTION TO PROTECT CIVIL LIBERTIES**

**WHEREAS** the University of \_\_\_\_\_ is proud of its long and distinguished tradition of protecting the civil rights and liberties of its students, faculty and employees;

**WHEREAS** the University of \_\_\_\_\_ has a diverse population, including many foreign students and faculty, whose contributions are vital to the culture, character, and learning environment of our University;

**WHEREAS** the preservation of civil rights and liberties is essential to the well-being of a democratic society and an academic environment;

**WHEREAS** federal, state, local and campus governments should protect the public from terrorist attacks such as those that occurred on September 11, 2001, but should do so in a rational and deliberative fashion to ensure that any new security measure enhances public safety without impairing constitutional rights or infringing on civil liberties;

**WHEREAS** government security measures that undermine fundamental rights do damage to the institution of academia and values that the students, faculty and employees of the University of \_\_\_\_\_ hold dear;

**WHEREAS** the Administration of the University of \_\_\_\_\_ believes that there is no inherent conflict between national security and the preservation of liberty -- we can be both safe and free;

**WHEREAS** federal policies adopted since September 11, 2001, including provisions in the USA PATRIOT Act (Public Law 107-56) and related executive orders, regulations and actions threaten fundamental rights and liberties by:

- (a) authorizing the indefinite incarceration of non-citizens based on mere suspicion, and the indefinite incarceration of citizens designated by the President as "enemy combatants" without access to counsel or meaningful recourse to the federal courts;
- (b) limiting the traditional authority of federal courts to curb law enforcement abuse of electronic surveillance in anti-terrorism investigations and ordinary criminal investigations;
- (c) expanding the authority of federal agents to conduct so-called "sneak and peek" or "black bag" searches, in which the subject of the search warrant is unaware that his/her property has been searched;
- (d) granting law enforcement and intelligence agencies broad access to personal medical, financial, library and education records with little if any judicial oversight;
- (e) chilling constitutionally protected speech through overbroad definitions of "terrorism";
- (f) driving a wedge between immigrant communities and the police that protect them by encouraging involvement of state, local and campus police in enforcement of federal immigration law;
- (g) permitting the FBI to conduct surveillance of religious services, Internet chat rooms, political demonstrations, and other public meetings of any kind without having any evidence that a crime has been or may be committed;

**WHEREAS** these new powers pose a particular threat to the civil rights and liberties of the residents of our University who are Arab, Muslim or of South Asian descent;

**WHEREAS** new proposed federal legislation seeks to further limit the civil liberties of our University community and further endanger the rights of our students, faculty and employees; and

**WHEREAS** many other cities and Universities throughout the country have enacted resolutions reaffirming support for civil rights and civil liberties in the face of government policies that threaten these values, and demanding accountability from law enforcement agencies regarding their use of these new powers;

**THEREFORE BE IT RESOLVED THAT THE GOVERNING BODY OF THE UNIVERSITY OF \_\_\_\_\_:**

1. **AFFIRMS** its strong support for fundamental constitutional rights and its opposition to federal measures that infringe on civil liberties and academic freedoms.
2. **AFFIRMS** its strong support for the rights of all students, faculty and employees and opposes measures that single out individuals for legal scrutiny or enforcement activity based on their race, religion, ethnicity, gender, age or country of origin.
3. **FORBIDS** any campus agency, entity, or employee from turning over any information or cooperating in any way with Federal Authorities unless legally compelled to do so.<sup>1</sup>
4. **DIRECTS** the Campus Police Department<sup>2</sup> of the University of \_\_\_\_\_ to:
  - a. refrain from participating<sup>3</sup> in joint terrorism task forces<sup>4</sup>;
  - b. seek adequate written assurances from federal authorities that students at the University of \_\_\_\_\_ who are placed in federal custody will not be subjected to military detention; secret detention; secret immigration proceedings; or detention without access to counsel, and refrain from assisting federal authorities in obtaining custody of such individuals absent such assurances;
  - c. refrain from engaging in the surveillance of individuals or groups of individuals based on their participation in activities protected by the First Amendment, such as political advocacy or the practice of a religion, without particularized suspicion of criminal activity unrelated to the activity protected by the First Amendment;
  - d. refrain from racial profiling. The Campus Police shall not use race, religion, ethnicity or national origin as a factor in selecting which individuals to subject to investigatory activities except when seeking to apprehend a specific suspect whose race, religion, ethnicity or national origin is part of the description of the suspect;
  - e. refrain, whether acting alone or with federal or state law enforcement officers, from collecting or maintaining information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct;
  - f. refrain from: engaging in video surveillance unless the police have reasonable suspicion that the subjects of the video surveillance have or are about to commit a crime, establishing a general surveillance network of video cameras, deploying facial recognition technology or other unreliable biometric identification technology within the University of \_\_\_\_\_;
  - g. provide advance or simultaneous notice of the execution of a search warrant to any student at the University of \_\_\_\_\_ whose property is the subject of such a warrant, and refrain from participating in a joint search with any law enforcement agency absent assurances that such notice will be provided to such individuals during the search;
  - h. refrain from the practice of stopping students for the purpose of scrutinizing their identification documents without particularized suspicion of criminal activity ;

i. report to the University administration any request by federal authorities that, if granted, would cause agencies of the University of \_\_\_\_\_ to exercise powers or cooperate in the exercise of powers in apparent violation of any University ordinance or the laws or Constitution of this State or the United States;

5. **DIRECTS** all libraries at the University of \_\_\_\_\_ to take steps to educate members of the university community that, under Section 215 of the USA PATRIOT Act (Public Law 107-56), records of the books and other materials borrowed from the libraries, and records of electronic communications and transactions may be obtained by federal agents, and that, if these records are sought under authorities granted under the USA PATRIOT Act, the library is prohibited from informing the members of the community.

6. **DIRECTS** the office of \_\_\_\_\_ at the University of \_\_\_\_\_ to provide notice to individuals whose education records have been obtained by law enforcement agents pursuant to section 507 of the USA PATRIOT Act.

6. **DIRECTS** all bookstores and other entities that maintain business records of purchases at the University of \_\_\_\_\_ to take steps to educate members of the university community that, under Section 215 of the USA PATRIOT Act (Public Law 107-56), records of the books and other materials purchased may be obtained by federal agents, and that, if these records are sought under authorities granted under the USA PATRIOT Act, the university is prohibited from informing the members of the community.

8. **DIRECTS** all computer laboratories or other public computer terminals on campus of the University of \_\_\_\_\_ to take steps to educate members of the university community that, under Section 215 of the USA PATRIOT Act (Public Law 107-56), any emails sent or documents used on the computers or on the \_\_\_\_\_ University Internet Service Provider (\_\_\_\_\_.edu) may be monitored and/or obtained by federal agents, and that, if these records are sought under authorities granted under the USA PATRIOT Act, the university is prohibited from informing the members of the community.

9. **DIRECTS** the University Administration to send a notice to all students, faculty and employees by mail and by email notifying them that all of their interaction on the University ISP<sup>5</sup>, as well as their library records and their bookstore records and their student files can be monitored or obtained by Federal Agents. The Administration is further directed to include a copy of this resolution with that notice.

10. **DIRECTS** all libraries, bookstores, and other entities that keep records of borrowing, purchases, or usage of the university's computer laboratories, public terminals, and/or ISP to immediately destroy all records as soon as those records are no longer necessary (i.e. as soon as a library book is returned), and to refrain, whether acting alone or with federal or state law enforcement officers, from collecting or maintaining records of purchases, borrowing, or use of electronic communications unless legally required to do so by a court order for a specific individual and, under those circumstances, to maintain them only for that individual and only for the duration specified in the court order.

11. **DIRECTS** the University administration to seek periodically from federal authorities the following information in a form that facilitates an assessment of the effect of federal anti-terrorism efforts on the students, faculty and employees of the University of \_\_\_\_\_:

a. The names of all students, faculty and employees of the University of \_\_\_\_\_ who have been arrested or otherwise detained by federal authorities as a result of terrorism investigations since September 11, 2001; the location of each detainee; the circumstances that led to each detention; the charges, if any, lodged against each detainee; the name of counsel, if any, representing each detainee;

b. The number of search warrants that have been executed on the campus of the University of \_\_\_\_\_ without notice to the subject of the warrant pursuant to section 213 of the USA PATRIOT Act;

**Comment [A1]:** I think there is a distinction between the government obtaining records under USAP, and its monitoring. This is okay if there is some explanation—as in the issues document—of the specific authorities for doing this.

- c. The extent of electronic surveillance carried out on the campus of the University of \_\_\_\_\_ under powers granted in the USA PATRIOT Act;
- d. The extent to which federal authorities are monitoring political meetings, religious gatherings or other activities protected by the First Amendment within the campus of the University of \_\_\_\_\_;
- e. The number of times education records have been obtained from the University of \_\_\_\_\_ under section 507 of the USA PATRIOT Act;
- f. The number of times library records have been obtained from the University of \_\_\_\_\_ under section 215 of the USA PATRIOT Act;
- g. The number of times that records of the books or other merchandise purchased by store patrons has been obtained from the University of \_\_\_\_\_ under section 215 of the USA PATRIOT Act;
- h. The number of times National Security Letters have been used to obtain records from the University of \_\_\_\_\_.
12. **DIRECTS** the University Administration to transmit to the [Governing Body of the University] no less than once every semester a summary of the information obtained pursuant to the preceding paragraph and, based on such information and any other relevant information, an assessment of the effect of federal anti-terrorism efforts on the students, faculty and employees of the University of \_\_\_\_\_; and further directs the Administration to publish reports of their findings each semester so that students, faculty and employees can be fully informed about such activities on the campus or to be informed of the federal government's refusal to disclose information about such activities.
13. **DIRECTS** the University to transmit a copy of this resolution to Senator \_\_\_\_\_, Senator \_\_\_\_\_ and Representatives \_\_\_\_\_, accompanied by a letter urging them to monitor federal anti-terrorism tactics and work to repeal provisions of the USA PATRIOT Act and other laws and regulations that infringe on civil rights and liberties;
14. **DIRECTS** the University Administration to transmit a copy of this resolution to Governor \_\_\_\_\_, and appropriate members of the State Legislature, accompanied by a letter urging them to ensure that state anti-terrorism laws and policies be implemented in a manner that does not infringe on civil liberties as described in this resolution.
15. **DIRECTS** the University Administration to transmit a copy of this resolution to President Bush and Attorney General Ashcroft.
16. **DIRECTS** the University Administration to transmit a copy of this resolution to other universities in the \_\_\_\_\_ Conference of Universities and urge other Universities to pass similar resolutions.