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## **PAX-sponsored Resolution, PASSED @ Town Meeting, 164-24, 5/29/03**

### **VOTED: That the Town adopt the following resolution:**

"They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety." ^ Benjamin Franklin, Historical Review of Pennsylvania, 1759

"You need only reflect that one of the best ways to get yourself a reputation as a dangerous citizen these days is to go about repeating the very phrases which our founding fathers used in the struggle for independence." ^ Charles Austin Beard

WHEREAS: United States law is founded in the Declaration of Independence, the United States Constitution, and the Bill of Rights; and

WHEREAS: Brookline is a politically diverse and democratic community whose residents are committed to preserving the human rights and civil liberties enunciated in these founding documents; and

WHEREAS: Acts of terrorism against the United States on September 11, 2001, prompted President George W. Bush to declare a "war on terrorism," many aspects of which, in its domestic implementation, constitute an assault with few precedents on the following constitutional amendments:

The First Amendment, which provides that no law shall be made "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";

The Fourth Amendment, which declares, "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";

The Fifth Amendment, which 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";

The Sixth Amendment, which 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 defence";

The Eighth Amendment, which states, "Excessive bail shall not be required, nor excessive

fines imposed, nor cruel and unusual punishments inflicted'; and

The Fourteenth Amendment, which prohibits the government from denying "to any person within its jurisdiction the equal protection of the laws"; and

WHEREAS: We believe these inalienable rights are now directly threatened by:

A. The USA PATRIOT Act, whose ambiguities and vast scope greatly strengthen the government's power to invade and control the everyday lives of citizens and noncitizens alike. This Act:

- Inhibits constitutionally protected speech through vague and overly broad definitions of "terrorism" and creation of the new crime of „domestic terrorism," the interpretation of which resides exclusively in the hands of the Attorney General and the President (Sections 411, 412, 802, 808);
- Virtually eliminates judicial supervision of telephone and Internet surveillance (Sec. 216);
- Greatly expands the government's authority to conduct secret searches (Sections 209, 213, 215, 218-220);
- Grants the FBI broad access to individual medical, mental health, financial, employment, and educational records without having to show evidence of a crime and without a court order; and
- Permits the FBI to track individual book borrowing in libraries and book purchases and video rentals in stores and makes it a crime for librarians and vendors to reveal their knowledge of such tracking (Sec. 215);

B. Federal Executive Orders and governmental actions since September 11, 2001, which

- Permit wiretapping of conversations between federal prisoners and their lawyers;
- Eliminate Justice Department regulations against illegal COINTELPRO-type operations by the FBI (covert activities that in the past targeted domestic groups and individuals);
- Establish secret military tribunals for terrorism suspects, including both citizens and non-citizens;
- Permit thousands of men, mostly of Arab and South Asian origin, to have been held for many months in secret custody, most without any charges filed against them, without publication of their identities and location in defiance of repeated congressional requests and court orders; and

- Limit the release of public documents and records in many subject areas under the Freedom of Information Act (FOIA); and

C. The Homeland Security Act, which violates fundamental principles of open governance by:

- Exempting the Department of Homeland Security from FOIA disclosure, thereby drastically restricting its responsibility to answer public questions;
- Empowering the Secretary of the Department to waive the safeguards contained in the federal Whistleblower Protection Act; and
- Empowering the Secretary of the Department to require vaccinations of the entire population with no exemptions (Sec 304c); and

WHEREAS: The provisions of the Constitution apply in wartime as in peace; and to violate or depart from them, under the plea of necessity or any other plea, is subversive of good government; and

WHEREAS: United States laws that pre-existed 9/11 would, if competently and effectively implemented, be sufficient to investigate terrorists and bring them to justice;

NOW, THEREFORE, BE IT RESOLVED: That the TOWN OF BROOKLINE, MASSACHUSETTS, in its 2003 Annual Town Meeting assembled:

1. declares and affirms that the USA PATRIOT ACT, the Homeland Security Act, and a number of recent federal Executive Orders contain provisions which, taken together, constitute an assault with few historic precedents upon the civil liberties and human rights established for the citizens of the United States of America;
2. maintains that its officials and employees must be permitted to hold the United States Constitution, including the Bill of Rights, as the ultimate legal authority whenever its provisions conflict with those of the USA PATRIOT Act, the Homeland Security Act, or federal Executive Orders, thereby upholding all constitutional rights, including due process, equal protection of the laws, and the freedoms of speech, religion, assembly, and privacy of all Brookline residents;
3. urges that the Governor of Massachusetts, all Massachusetts state and federal legislators, jurists, law enforcement officers, and officials, and the citizens of Massachusetts take all legally appropriate action to seek the revocation and elimination of those provisions of the USA PATRIOT Act, the Homeland Security Act, and recent federal Executive Orders that diminish the civil liberties and human rights of the residents of the Town of Brookline and the Commonwealth of Massachusetts in contradiction of the Constitution of the United States;
4. declares that the actions of the federal government under the USA PATRIOT Act, the Homeland Security Act, and recent Executive Orders in holding US citizens and residents secretly and without due process of law, in secretly investigating and compiling information

on its own citizens without probable cause, and in impairing freedom of association are among the very abuses that led to the formation of our nation and adoption of the Constitution and Bill of Rights, and it therefore urges the federal, state, and local governments to regularly make public and available to the Board of Selectmen at least the following information relevant to the abovereferenced Acts and Executive Orders:

the names of any detainees held within the Commonwealth of Massachusetts and of any Brookline residents detained within the Town or elsewhere; the circumstances that led to each detention; the charges, if any, lodged against each detainee; and the name of counsel, if any, representing each detainee;

the number of search warrants that have been executed in the Town of Brookline without notice to the subject of the warrant pursuant to section 213 of the USA PATRIOT Act;

the extent of electronic surveillance carried out in the Town of Brookline under powers granted in the USA PATRIOT Act;

the extent to which federal authorities are monitoring political meetings, religious gatherings, or other activities within the Town of Brookline that are protected by the First Amendment;

the number of times education records have been obtained from public schools and institutions of higher learning in the Town of Brookline under section 507 of the USA PATRIOT Act; and

the number of times individual borrowing records have been obtained from libraries and purchasing records have been obtained from book and video stores in the Town of Brookline under section 215 of the USA PATRIOT Act; and

5. requests that the Town Clerk and the Board of Selectmen jointly endeavor to publish this resolution and post it in public places, e.g., kiosks, bulletin boards, and the lobbies of Town Hall, the libraries and the public schools; and that the Town Clerk send a copy of this resolution to the Norfolk County District Attorney, the Massachusetts State Police, the Massachusetts Congressional and Statehouse delegations, the Attorney General and the Governor of the Commonwealth of Massachusetts, the local United States Attorney, the United States Attorney General and the President of the United States.

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