

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE JOINT MEMORIAL 40

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

A JOINT MEMORIAL

AFFIRMING CIVIL RIGHTS AND LIBERTIES; DECLARING OPPOSITION TO
FEDERAL MEASURES THAT INFRINGE ON CIVIL LIBERTIES.

WHEREAS, the state of New Mexico is proud of its long and
distinguished tradition of protecting the civil rights and
liberties of its residents; and

WHEREAS, New Mexico has a diverse population, including
immigrants and students, whose contributions to the community
are vital to its economy, culture and civic character; and

WHEREAS, the preservation of civil rights and liberties is
essential to the well-being of a democratic society; and

WHEREAS, federal, state and local governments should
protect the public from terrorist attacks such as those that
occurred on September 11, 2001 and should do so in a rational
and deliberative fashion to ensure that new security measures

1 will enhance public safety without impairing constitutional
2 rights or infringing on civil liberties; and

3 WHEREAS, government security measures that undermine
4 fundamental rights do damage to American institutions and
5 values that the residents of New Mexico hold dear; and

6 WHEREAS, the legislature believes that there is no
7 inherent conflict between national security and the
8 preservation of liberty and that Americans can be both safe and
9 free; and

10 WHEREAS, federal policies, laws, executive orders,
11 regulations and actions threaten fundamental rights and
12 liberties by:

13 A. expanding the authority of federal agents to
14 conduct so-called "sneak and peek" or "black bag" searches, in
15 which the subject of the search warrant has not been notified
16 that his or her property has been searched;

17 B. granting federal law enforcement and
18 intelligence agencies broad access to personal, medical,
19 financial, library and educational records with little, if any,
20 judicial oversight;

21 C. driving a wedge between immigrant communities
22 and the police that protect them by encouraging involvement of
23 state and local police in the enforcement of federal
24 immigration law;

25 D. limiting the authority of federal courts to

1 monitor law enforcement use of electronic surveillance in anti-
2 terrorism and ordinary investigations; and

3 E. allowing the federal bureau of investigation to
4 conduct surveillance of community groups, internet chat rooms,
5 political demonstrations and public meetings without evidence
6 that a crime has been or may be committed; and

7 WHEREAS, other communities throughout the country have
8 enacted resolutions reaffirming support for civil rights and
9 civil liberties and have sought accountability from law
10 enforcement agencies regarding their use of these new powers;

11 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
12 STATE OF NEW MEXICO that it:

13 A. affirm its strong support for fundamental
14 constitutional rights and its opposition to federal measures
15 that infringe on these rights and liberties;

16 B. affirm its strong support for the rights of
17 immigrants and oppose measures that single out individuals for
18 legal scrutiny or enforcement activity based on their country
19 of origin;

20 C. direct the department of public safety to
21 discourage the New Mexico state police from:

22 (1) engaging in the surveillance of
23 individuals or groups of individuals based on their
24 participation in activities protected by the First Amendment to
25 the United States constitution, such as political advocacy or

. 146589. 2

underscored material = new
[bracketed material] = delete

1 the practice of a religion, without reasonable and
2 particularized suspicion of criminal conduct unrelated to the
3 activity protected by the First Amendment to the United States
4 constitution;

5 (2) using race, religion, ethnicity or
6 national origin as a factor in selecting who is subject to
7 investigatory activities unless race, religion, ethnicity or
8 national origin is part of the description of a specific
9 suspect to be apprehended;

10 (3) whether acting alone or with federal law
11 enforcement officers, collecting or maintaining information
12 about the political, religious or social views, associations or
13 activities of any individual, group, association, organization,
14 corporation, business or partnership unless such information
15 directly relates to an investigation of criminal activity and
16 there are reasonable grounds to believe that the subject of the
17 information is or may be involved in criminal conduct;

18 (4) the practice of stopping drivers or
19 pedestrians for the purpose of scrutinizing their
20 identification documents without reasonable and particularized
21 suspicion of criminal activity; and

22 (5) involvement in searches and seizures
23 unless consistent with New Mexico laws and rules of court;

24 D. direct public schools and institutions of higher
25 education to provide notice to individuals whose education

underscored material = new
[bracketed material] = delete

1 records have been obtained by law enforcement agents pursuant
2 to Section 507 of the USA Patriot Act;

3 E. direct public libraries to post in a prominent
4 place within the library a notice as follows: "WARNING: Under
5 Section 215 of the federal USA Patriot Act (Public Law 107-56),
6 records of books and other materials you borrow from this
7 library may be obtained by federal agents. This law also
8 prohibits librarians from informing you if records about you
9 have been obtained by federal agents. Questions about this
10 policy should be directed to Attorney General John Ashcroft,
11 Department of Justice, Washington, DC 20530."; and

12 F. direct the state official in charge of homeland
13 security for New Mexico to seek periodically from federal
14 authorities information in a form that facilitates an
15 assessment of the effect of federal antiterrorism efforts on
16 the residents of the state of New Mexico and provide to the
17 legislature and the interim corrections oversight and justice
18 committee, no less than once every six months, a summary of the
19 information obtained, and to make this report available to the
20 public; and

21 BE IT FURTHER RESOLVED that copies of this memorial be
22 transmitted to Senators Jeff Bingaman and Pete Domenici and
23 Representatives Tom Udall, Heather Wilson and Steve Pearce; and

24 BE IT FURTHER RESOLVED that copies of this memorial be
25 transmitted to President George W. Bush and Attorney General

. 146589. 2

1 John Ashcroft; and

2 BE IT FURTHER RESOLVED that a copy of this memorial be
3 transmitted to the state official in charge of homeland
4 security for New Mexico; and

5 BE IT FURTHER RESOLVED that copies of this memorial be
6 transmitted to the department of public safety, the New Mexico
7 state police and to all public schools, institutions of higher
8 education and public libraries within the state of New Mexico.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

underscored material = new
[bracketed material] = del ete