

Introduced by: Glick, Martin  
Date: 05/20/03  
Action: Adopted as Amended  
Vote: 9 Yes, 0 No

**KENAI PENINSULA BOROUGH  
RESOLUTION 2003-043 (GLICK, MARTIN) SUBSTITUTE**

**A RESOLUTION TO ESTABLISH KENAI PENINSULA BOROUGH POLICY IN  
DEFENSE OF THE BILL OF RIGHTS WITH RESPECT TO FEDERAL ANTI-  
TERRORISM ACTS, LEGISLATION, AND ORDERS**

**WHEREAS,** the Kenai Peninsula Borough denounces terrorism, and appreciates and supports those who defend us from terrorism and terrorist attacks, the men and women serving in our armed forces, federal, state and local law enforcement officers, firefighters, and health service professionals; and

**WHEREAS,** the Kenai Peninsula Borough recognizes its diverse population, including citizens of other nations, whose many and valued contributions to the community are vital to its character and function; and

**WHEREAS,** the Kenai Peninsula Borough avows and is sworn to the full protection of the civil rights and civil liberties for all people as expressed in both the Alaska State Constitution and the United States Constitution, which so many have made grave sacrifices to initiate and protect; and

**WHEREAS,** the First Amendment to the United States Constitution states Congress shall make no law, respecting an establishment of religion or prohibiting the free exercise thereof, or to abridge the freedom of speech or the press, or of the right of the people to peaceably assemble and to petition the Government for a redress of grievances; and

**WHEREAS,** the Fourth Amendment states the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, and shall not be violated; that no warrants shall be issued, 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, Sixth, and Eighth Amendments prohibit compelling a person in any criminal case to be a witness against himself depriving a person of life, liberty, or property without due process of the law, or requiring excessive bail or fines, or the infliction of cruel and unusual punishments, and guarantee defendants the right to a speedy and public trial by jury, to be informed of the accusation and to be confronted with the witnesses against him, and the right to have the assistance of counsel for his defense; and

- WHEREAS,** the Fourteenth Amendment prohibits any State from depriving any person of life, liberty, or property without due process of law, or denying to any person within its jurisdiction, the equal protection of the law; and
- WHEREAS,** in response to the terrorist attacks of September 11, 2001, the United States Congress passed the ‘Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001’, the ‘Homeland Security Act of 2002’, and may soon rule on the United States Justice Department’s Draft ‘Domestic Security Enhancement Act of 2003’; and
- WHEREAS,** due to the extraordinary events of September 11, 2001 and the press of time, various Presidential Executive Orders, the USA PATRIOT Act, and the Homeland Security Act have not received the level of scrutiny that Presidential Orders and Acts of Congress deserve; and
- WHEREAS,** the USA PATRIOT Act at Section 412 authorizes the indefinite incarceration or deportation of non-citizens, even if they have not committed a crime; and
- WHEREAS,** the USA PATRIOT Act at Section 216 reduces judicial supervision and civil liberties protections related to the use of devices which identify the caller, routing, and recipient of telephone and internet communications; and
- WHEREAS,** the USA PATRIOT Act at Section 214 expands the authority of federal courts to issue delayed-notice warrants authorizing secret searches so that the subject of a search warrant is unaware that the property has been searched; and
- WHEREAS,** the USA PATRIOT Act at Section 215, 218, 219, 358, 507, and 508 grant law enforcement and intelligence agencies broader access to medical, mental health, library, business, financial, educational, and other records about individuals without first showing probable cause or evidence of a crime; and
- WHEREAS,** the USA PATRIOT Act at Section 411 redefines terrorist activities and terrorist organizations so broadly that it could have a repressive effect on free speech; and
- WHEREAS,** the Code of Federal Regulations has been amended at 28 C.F.R. 501.3 to allow eavesdropping on conversations between suspects and their lawyers; and
- WHEREAS,** the President’s Military Order of November 13, 2001, provides for the trial of alien terrorist suspects by military commission, and pending such trial, allows the Secretary of Defense to indefinitely detain the suspect, within the United States, or elsewhere, without express limitation, or condition, except with regard to food, water, shelter, clothing, medical treatment and religious exercise; and

**WHEREAS,** the United States Justice Department proposes to enact the Draft Domestic Security Enhancement Act of 2003, which together with the aforementioned Acts and Presidential Orders, could further suspend or repress freedoms granted in the United States Constitution and the Bill of Rights; and

**WHEREAS,** many other communities' governing bodies throughout our nation have enacted resolutions reaffirming protection of civil liberties and civil rights for all people as granted in the United States Constitution and the Bill of Rights;

**NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1. Affirmations.**

- A. The Kenai Peninsula Borough affirms its strong opposition to terrorism, and also strongly affirms that efforts to end terrorism should not be waged at the expense of the inalienable rights, fundamental civil rights and civil liberties of the people of the Kenai Peninsula Borough.
- B. The Kenai Peninsula Borough affirms the rights of all people to be treated in accordance with the full protections granted in the United States Constitution and the Alaska State Constitution.
- C. The Kenai Peninsula Borough strongly affirms that the rights of all people shall not be abridged due to race, ethnicity, country of origin, or association without due process of law as granted in the United States Constitution and the Bill of Rights.

**SECTION 2. Action Items.**

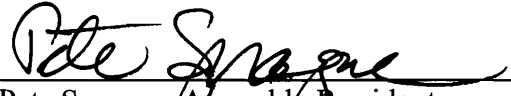
- A. The Kenai Peninsula Borough respectfully requests the President of the United States, the United States Attorney General, the Director of Homeland Security, and the United States Congress formally review, and as necessary amend various Presidential Executive Orders adopted in response to the events of September 11, 2001, the USA PATRIOT Act, the Homeland Security Act, and the Draft Domestic Security Enhancement Act of 2003 to ensure that they are consistent with constitutionally protected civil rights and fundamental civil liberties.
- B. The Kenai Peninsula Borough recognizes that its administrative officers, school librarians, school officials, health workers, and other employees may receive requests for information under provisions of the USA PATRIOT Act, the Homeland Security Act, various related Executive Orders, and the proposed Domestic Security Enhancement Act. Kenai Peninsula Borough employees shall consult with the borough attorney's office if they have any doubts about the propriety of divulging requested information.
- C. The Borough Attorney's office is requested to instruct Kenai Peninsula Borough employees about their rights and responsibilities in their jobs under the United States and

Alaska Constitutions in regards to the USA PATRIOT Act, the Homeland Security Act, various related Presidential Executive Orders, and the proposed Domestic Security Enhancement Act if enacted.

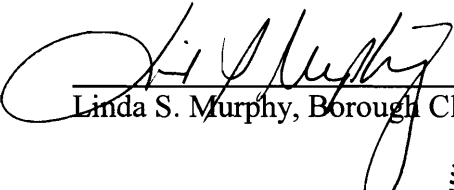
- D. The United States Attorney for the District of Alaska is requested to provide the Kenai Peninsula Borough Assembly with an annual summary of the number of investigations, warrants, orders, subpoenas, and arrests carried out within the Kenai Peninsula Borough under the authority of the USA PATRIOT Act, the Homeland Security Act, various related Executive Orders, and the Domestic Security Enhancement Act if enacted. The Kenai Peninsula Borough shall make such information available to the public.
- E. Copies of this resolution of the Kenai Peninsula Borough shall be distributed to the President of the United States, the United States Attorney General, the Director of Homeland Security, the United States Congress, the Alaska State Legislature, the Alaska State Troopers, the United States Attorney for the District of Alaska, and to the various local law enforcement agencies located in the Kenai Peninsula Borough.

**SECTION 3.** This resolution shall be effective immediately upon its adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF MAY 2003.**

  
Pete Sprague, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk

