Journal of Urban Affairs
The Journal of the Urban Affairs Association

ECOLOGICAL DETERMINANTS OF LOCAL GOVERNMENT OPPOSITION TO FEDERAL POLICY

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ABSTRACT: *Public protest is usually conceived as challenge to the state, overlooking protest performed by governments within state structures. We identify local government opposition to federal policy decisions as a combination of contentious politics and policy innovation. This theoretical framework highlights the role of social structural conditions, political culture, and contextual pressures, which we examine using local government opposition to the USA PATRIOT Act as a case study. We employ multilevel mixed models on a merged data set constructed from (1) a list of places that opposed the Patriot Act, (2) the U.S. Census 2000, and (3) aggregated CBS News/New York Times national polls. We find that social and political variables at the community and at the state levels substantively impact the odds that local government entities express dissent to the Patriot Act. Results also show that prior instances of protest within a state carry significant weight for the process of remonstration.*

Opposition performed by governments within state structures is a rare yet emergent phenomenon in the nexus of protest and policy. It invites social scientists to extend the research on protest behavior, traditionally defined in terms of open conflict with state structures, to new sites of contestation (Taylor & van Dyke, 2004) and to nonroutinized performances (Della Porta & Miani, 2006). Local government opposition to federal law, enacted through resolutions, proclamations, and ordinances, meets this extended definition of protest. We agree with the claim that as postindustrial societies become more diversified, opposition within state structures has a better chance to spread (McCarthy & McPhail, 1998; Meyer & Tarrow, 1998; Taylor, 2000; see also Santoro & McGuire, 1997). Considering power inequality between hierarchically ordered administrative units, the practical impact of local government action is an open empirical question. At its core, this action breaks the silence, and carries considerable symbolic weight (Hill, 1979); it expresses public sentiment and a sense of efficacy with respect to a contentious policy.

The most fundamental issue concerns the ecological conditions that give rise to local government protests of federal law. Yet, to date, theoretical and empirical research on this is scant. To address this issue, we analyze local opposition to the USA PATRIOT Act (*United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001*, hereafter Patriot Act). This bill came as a direct response to the September 11, 2001 terrorist attacks and was signed into law on October 26, 2001.[1] Then-President George W. Bush promised that, while

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JOURNAL OF URBAN AFFAIRS, Volume 00, Number 0, pages 1–18.

ISSN: 0735-2166. **DOI: 10.1111/juaf.12049**

the Patriot Act will protect constitutional rights, "this government will enforce this law with all the urgency of a nation at war" (as cited in McFeatters, 2001, p. A6). Although federal lawmakers included a sunset provision to dissolve the bill at the end of 2005, the U.S. Congress has repeatedly extended it; in May 2011, President Barack Obama signed yet another extension of the Patriot Act.

On January 7, 2002, the city council of Ann Arbor, Michigan, passed a resolution condemning aspects of the Patriot Act and, among other things, urged local law enforcement officials to not enforce parts of the law that seemed in violation of constitutionally guaranteed civil liberties. The resolution stipulated that a copy be distributed to President Bush, U.S. Attorney General John Ashcroft, and Michigan's members of Congress. Two and a half months later, the city council of Denver, Colorado passed a similar resolution. Within four months of Denver, seven local governments from a diverse group of states, including Massachusetts and North Carolina, took similar actions. As of March 2005, close to 300 places (as defined by the Census), 45 counties, and four states passed some form of resolution regarding perceived negative aspects of the Patriot Act. This makes it one of the largest-scale local government protests against a singular federal action in U.S history.

While there is little research in the area of opposition within state structures, there are two notable exceptions. The first is Dubrow and Tomescu (2004), which explores how a policy innovation framework usefully locates this phenomenon and explains local government political opposition to the Patriot Act. The second is the study by Vasi and Strang (2009), which also looks at Patriot Act opposition and places it in the social movement organization (SMO) framework. In examining ecological conditions, Vasi and Strang (2009) cover much of the same ground and obtain much the same results as Dubrow and Tomescu (2004), although they include religious aspects of civil society but not racial and ethnic determinants. Vasi and Strang (2009) also show how local social movement organizations (SMOs) facilitated passage of symbolic resolutions in four large cities.

We argue that the phenomenon of local government opposition, including where it is likely to arise, will best be understood once researchers broaden the theoretical framework beyond social movements to include the policy literature. SMOs and local governments influence each other (Gray, Lowery, Fellowes, & McAtee, 2004). However, the assumption that local governments speak up against federal government primarily because of social movement pressure is too restrictive, and empirical evidence shows that the influence of interest groups and SMOs on public policy is often overstated (Burstein & Linton, 2002; see also Giugni, 2007). While the policy literature has not seriously entertained the idea that governments are both policymakers and protestors, their varied explanations of how policies are formed and adopted offer a context for developing a more comprehensive theoretical model of local government behavior than the SMO-only approach (see Gormley, 2007 for a review). Local government resolutions challenge federal law and they express, in a symbolic manner, policy stances. We argue that the contentious politics approach *in combination* with the policy innovation approach provides the tools for explaining this process and where it is likely to happen.

HISTORY OF LOCAL GOVERNMENT PROTEST TO FEDERAL POLICY

The practice of denouncing federal policy decisions goes back to the nineteenth century, when local communities, primarily in the agricultural West and Southeast, expressed their discontent with national policies that favored railroad companies and bereft those regions of credit (see Schroedel, 1994).[2] However, the last four decades provide the most profound instances of local government protest. In 1972, the Board of Supervisors of Santa Cruz County, California, passed a resolution 3–1 condemning U.S. actions in Vietnam (Lydon, 2005). In the 1980s, 368 city and county councils, 444 town meetings, and 17 state legislatures endorsed principles of the Nuclear Freeze Movement (Zinn, 2003, p. 604); over 40 local governments across the United States, helped along by the religion-inspired Sanctuary Movement, passed ordinances and resolutions opposing federal immigration law (Wiltfang & McAdam, 1991; Savage, 2010). During the 1990s and 2000s, in direct opposition to the federal government's refusal of the Kyoto Protocol treaty, over 950 cities endorsed resolutions affirming their desire to reduce greenhouse gases (Krause, 2010). In 2003, the city of Pittsburgh condemned the Gun Industry Immunity Bill being debated in the U.S. Senate (the bill was later defeated). In April 2007, the state of Vermont passed a resolution calling for

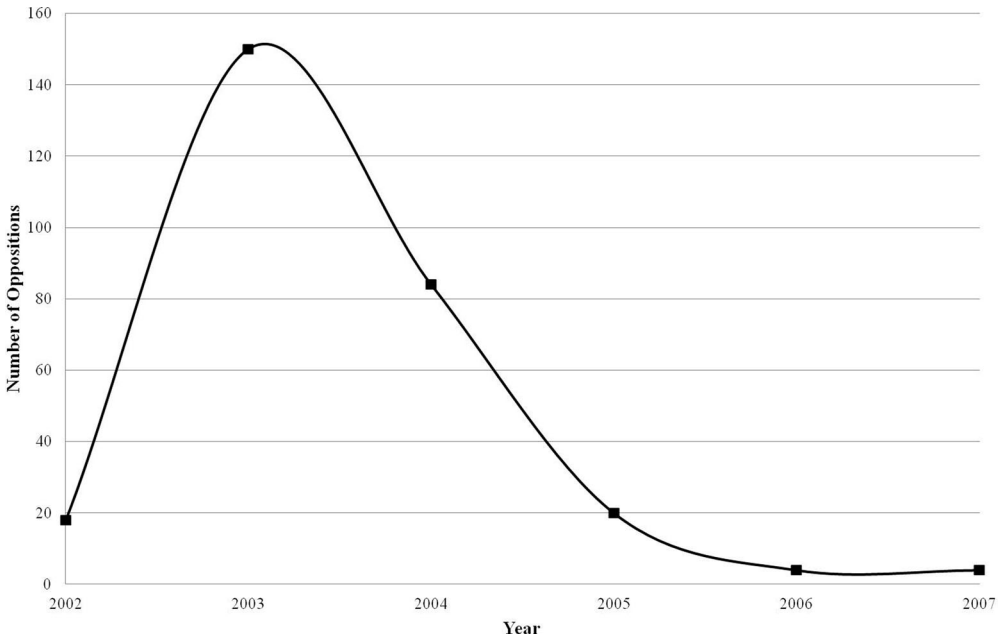

FIGURE 1

Frequency of Protest of USA Patriot Act by Local Governments, 2002–2007

Note: Last year of recorded protest was 2007.

the impeachment of President Bush because of his foreign policies (Sneyd, 2007). With regard to the War on Terror, in 2002–2003 over 150 local governments passed resolutions that criticized the federal government's policy of pre-emptive war in Iraq and called for diplomatic solutions (Slevin & Cillizza, 2005).

Opposition to the Patriot Act by politicians, nongovernmental organizations, or the media remained minimal for a few months after it became law, with rare exceptions. Senator Russ Feingold (D-Wisconsin) noted that, "This is not a bill that is carefully tailored to the terrorism problem. The whole tenor of the debate was 'Let's grab as much as we can' given the fear of terrorism" (Pierre, 2001). Some media outlets reported that the American Civil Liberties Union (ACLU) expressed concern over potential violation of civil liberties. A few newspaper editorials quoted constitutional scholars who claimed curtailment of civil liberties: "The USA Patriot Act . . . has already torn holes into [the constitution] by radically expanding electronic surveillance and secret physical searches of homes and offices" (Hentoff, 2001, p. 4; see also Hentoff, 2003). Before a year had passed, a handful of New England towns had expressed dissent to the Patriot Act. Thereafter, the instances of local government protest rose sharply, and peaked in 2003 (see Figure 1). They took the form of city council resolutions, ordinances, and proclamations condemning all or parts of the bill. Since the vast majority of local governments acted through resolutions, either officially voted on, or in the form of a letter to all three branches of the federal government (depending on the option legally available to the decision-making body), for reasons of simplicity we will refer to all of these initiatives as resolutions. After 2003, protest frequency dropped dramatically. Although technically local governments could still speak out against the Patriot Act, after 2005 this rarely happened. The last recorded opposition was in 2007.

THEORETICAL APPROACHES

In classifying local government opposition to national policy as remonstration against federal action, we take into account specific features of government protest behavior explicitly or implicitly

considered within the contentious politics (Tilly & Tarrow, 2007; see also Lichbach, 1998) and policy innovation (Berry & Berry, 1990, 1999; see also Kingdon, 1997) approaches in what we call "contentious policy" (see also Dubrow & Tomescu, 2004). Similar to previous attempts (e.g., Imig & Tarrow, 2001) to bridge these two perspectives, we focus on areas of theoretical overlap and on specific contributions.

Combining Contentious Politics and Policy Innovation

The contentious politics approach focuses on the struggle between two or more political actors over political programs and investigates "interactions in which actors make claims bearing on someone else's interests, leading to coordinated efforts on behalf of shared interests or programs in which governments are involved as targets, initiators of claims, or third parties" (Tilly & Tarrow, 2007, p. 4). In the case of opposition to the Patriot Act, we assume that protesting local governments are the actors; the shared interests pertain to the defense of civil liberties; the coordinated efforts refer to passing resolutions; and the governments are the initiator of the claim. While Patriot Act protests by local governments are not program claims in the conventional sense of the term—that implies ongoing protest performances—contention is sustained since the resolutions themselves are enduring documents specifying a policy that is to be followed until the goal is achieved.[3]

Policy innovation, as defined by Berry and Berry (1999), is the adoption by a legislative unit of someone else's policy idea to deal with a problem of its own. Much of policy innovation research has been at the level of states, but since the so-called "devolution revolution" of the 1990s, a growing number of studies examine instances in which local governments adopt policy (Dubrow & Tomescu, 2004; Godwin & Schroedel, 2000; Krause, 2010; Shipan & Volden, 2006).

In applying the policy innovation approach to opposition to federal law, we address two questions. First, can resolutions by local governments be considered policies? Informed by the political communication literature, we argue that they can. Although resolutions have little instrumental value, condemnation of federal law becomes a form of disapproval with considerable exemplary weight. Thus, if policy is understood as a deliberate plan of action to guide decisions and achieve some specific outcomes, then resolutions can be regarded as policies, essentially of symbolic value. Patriot Act resolutions, like other local government initiatives such as anti-smoking laws (Shipan & Volden, 2006), gun control ordinances (Godwin & Schroedel, 2000) and climate change resolutions (Krause, 2010), represent substantive divergences from federal policy.

Second, what makes these policies innovative? We note that innovations in collective action arise when unequally resourced actors oppose one another (Koopmans, 1993). Unable to repeal federal law or enact policy that directly contradicts the federal government, local governments who want to oppose decisions that are constitutionally within the scope of national government have to find means to do so. In the context of power inequality between local and federal actors, symbolic resolutions criticizing the Patriot Act become policy innovations by their novelty and rareness.[4]

The contentious politics and policy innovation approaches overlap most in their discussion of the ecological conditions necessary for the occurrence of protest behavior. The contentious politics approach stresses the necessity to identify the social, economic, and political conditions on the macro level that trigger claims-making (for a review of studies on the relationship between macrostructural conditions and protest behavior, see Meyer, 2004). By these conditions, Tilly and Tarrow (2007) understand the characteristics of the sites where contentious politics take place, suggesting that certain sites' contexts make protest more probable.[5] Similarly, within the policy innovation approach, Berry and Berry (1990) argue that *internal determinants models* guide researchers in understanding the ecological conditions in which policies are adopted.[6] The theory emphasizes social and political characteristics of adopter environments to address the question of who is more likely to innovate. Thus, both the contentious politics and policy innovation approaches can be integrated in formulating specific hypotheses.

RESEARCH HYPOTHESES

Social Structural Conditions

Contentious politics theory argues that mobilization of resources is necessary for protest to occur (Tilly & Tarrow, 2007, chapter 5; see also McCarthy & Zald, 1977). On the aggregate level, the likelihood of mobilization depends on the demographic composition of the protest site's population. Similarly, policy innovation research refers to basic demographic characteristics. Those in urban areas with greater education and higher income are more likely to innovate than those scoring lower on these measures (Berry & Berry, 1990, 1999; see also Wejnert, 2002; Rogers, 2003).

Structural conditions most favorable for protest by local governmental entities include urban and highly educated populations. Because of their size and social diversity, urban areas provide greater opportunities for organizing different social groups, a political resource necessary for goading local governments to pass specific resolutions. At the same time, on an aggregate level, local governments situated in highly educated places face constituencies that are politically more active.

These general arguments lead us to expect the following with regard to Patriot Act opposition. Holding other factors constant, *adoption of resolutions against the Patriot Act should be higher among urban centers than in non-urban areas*. This hypothesis is additionally motivated by findings on the individual level. Davis and Silver (2004) discover that after 9/11, people living in urban places were more likely to support civil liberties than any other residence category. This is consistent with findings of Wilson (1991) on the effects of the urban experience on attitudes toward tolerance and civil liberties.

Proportion of the population with college education will increase the odds that places adopt Patriot Act protest, ceteris paribus. Here we also consider the relation of education to civil liberties: in advanced democratic societies, education provides exposure to the basic tenets of democracy, which include freedom from excessive government intrusion. College-educated persons are more likely than those from any other education category to support the protection of civil liberties (Davis & Silver, 2004; Sullivan & Hendriks, 2009).

From contentious politics theory and the contentious policy literature we also know that economic resources aid both the political action of mobilization, and policy innovation. However, what influence income exercises in places where local governments potentially can oppose the Patriot Act—specifically, whether a high level of income has a positive or negative effect—seems complicated. On the one hand, extending Wilson's (1991; see also American Political Science Association, 2004) arguments on the relationship between income and tolerance, it is reasonable to expect that, other things being equal, places with high economic resources are more likely to protest the Patriot Act. On the other hand, we might expect that local governments in high-income places would see the Patriot Act as a form of protection against economic vulnerability, and be less willing to oppose it. Specifically, 9/11 disrupted or eliminated 18,000 businesses, with the largest economic impact experienced by airlines, finance, insurance, and agriculture/food distribution in particular geographic locations (Makinen, 2002). In light of these two options—positive or negative effect of income—it seems reasonable to expect that income will act differently depending on whether other variables are taken into account. As sole measure of places' resources, income is likely to increase the odds of Patriot Act protest. However, once other relevant determinants, education in particular, are included in the model, the effect of income could become negative. Other things equal, local governments in high-income places have more to lose economically than their less well-off counterparts. They would be more sensitive to the protective potential of the Patriot Act, and thus less likely to oppose it.

Political Culture

Both contentious politics and policy innovation pay attention to political culture (Grattet, Jenness, & Curry, 1998; Grossback, Nicholson-Crotty, & Peterson, 2004; Wejnert, 2002). Owing to the discord between liberals and conservatives, citizen and elite ideology that reflects traditional liberal–conservative cleavages should influence the adoption of protest. Political culture should be especially

relevant when contested federal policy is embedded within partisan battles, as was the case of the disagreements over national security issues following 9/11. Democrats were at the forefront in criticizing the Bush administration's War on Terror policies, including, belatedly, the Patriot Act of 2001. Protesting the Patriot Act is highly visible and could have been construed negatively by the Republican party–led federal administration of 2001–2009.

To test for this type of political condition, we need variation in ideology prior to the onset of the phenomenon. Erikson, Wright, and McIver (1993, 2006) provide detailed depictions of the U.S. states in terms of citizens' ideological identification, and a well established measure for state political ideology for 1996–2003.[7] Since we want to capture political culture before the first Patriot Act protest, we adjust the Erikson, Wright, and McIver measure for the period 1996–2001. Generally, *we expect places in liberal-leaning states to be more likely to oppose the Patriot Act than places in conservative-leaning states*.

Constituencies' Concerns

Explanations centered on ecological conditions are akin to interest group politics where representatives react to their constituencies, and suggest a macro–micro process. A good example of response to constituencies' concerns is the following regularity: state governments are less likely to adopt policies considered by a majority of large fundamentalist populations to be immoral, such as allowing state lotteries (Berry & Berry, 1999). Ideally, we would directly observe the link between constituencies' concerns and the responses of local government with data on the ideological composition of the local governments and their constituencies. Unfortunately, no such data exist for all places in our analyses. Still, we can examine the constituencies' concerns hypotheses on the basis of the demographic composition of places, specifically with regard to ethnicity. Because ethnic groups within a government's jurisdiction oftentimes have concerns that are different from the majority population, we assume that variation in the ethnic composition of places should explain variation in local government behavior.

Previous research of state policies suggests that policy adoption is related to the level of ethnic diversity, and that these effects vary by policy type (Hero & Tolbert, 1996). In the context of the Patriot Act, we identify two observable implications of the expectation that ethnicity is indicative of the role of constituencies' concerns. The first involves municipalities with Arab-born populations, while the second refers to ethnically homogeneous non-Hispanic white localities.

First are municipalities with Arab-born populations. As a result of 9/11, ethnic Arabs are socially and politically more visible (Cainkar, 2009). In the first years after 9/11, about 1200 Arab and Muslim males were immediately arrested and detained without charge (not one of them was found to be linked to terrorism), over 180,000 non-immigrant Arabs were subject to special registration, and untold thousands were visited and questioned by the Federal Bureau of Investigations (Cainkar, 2009). Inasmuch as the Patriot Act is a reaction to terrorists and 9/11, some local governments may want to appear sensitive to the issue of Arab racial profiling and discrimination. We expect that *local governments in municipalities with ethnic Arab populations are more likely to oppose the Patriot Act than municipalities where this population is not present*.

Second are ethnically homogeneous non-Hispanic white localities. Ethnic minorities, who, as a group, are more likely to collectively share unpleasant experiences with local law enforcement (Feagin, 1991), are more likely to feel threatened by perceived major expansions of law enforcement power in the post-9/11 environment. Ethnically homogeneous non-Hispanic white localities can be regarded as an opposite construct to ethnic diversity. We expect that *high proportions of White citizens* (in census terms, white only, non-Hispanic) *will stifle places' likelihood to protest the Patriot Act,* other things equal.

Contextual Pressures

Early instances of local government protest suggest the importance, for the *process* of dissent, of contextual pressures stemming from an actor's location. We are interested in the presence of two types

of prior protesters, which should exert a significant, yet qualitatively different, impact on propensity to denounce federal policy. In the first case, a local government is located within a state where other similar entities have protested early on. In line with diffusion theory (Rogers, 2003), such innovators provide incentive for further opposition, through pressuring and/or encouraging other governments to engage in similar actions.

In the second case, the higher administrative unit within which a local government is nested registers dissent and has a *suppressor effect*. We borrow from Shipan and Volden's (2008, p. 843) "coercion hypothesis" that the probability of policy adoption at the city level is reduced when the state adopts a similar policy, and argue that higher level opposition to federal policy will stifle protest at lower administrative levels because lower administrative units could reasonably consider that the symbolic message of protest has been already meaningfully conveyed (see also Krause, 2010). Hence, their subsequent action would appear redundant.

We can examine these assumptions in the context of Patriot Act opposition, through the following specific research hypotheses. First, *other things equal, the presence of local governments that protested within the first year after Ann Arbor, Michigan's protest (January 2002) in a given state increases the chances that other places within that state would oppose as well*. The words of Massachusetts 6th District representative John F. Tierney, who pushed for city councils across Massachusetts to vote for anti–Patriot Act resolutions, exemplify that operating within the same state as governments that have already protested the Patriot Act may both pressure and encourage similar actions: "The grass-roots efforts in communities like Swampscott, Marblehead, Beverly, Peabody, and Manchester illustrate that voters are paying attention and many see severe deficiencies with the Patriot Act in its current form" (quoted in Rosenberg, 2004, p. 1). There are eleven states where early adopters reside: California, Colorado, Connecticut, Maryland, Massachusetts, Michigan, New Mexico, North Carolina, Oregon, Vermont, and Wisconsin.[8] Second, *state-level opposition to the Patriot Act will stifle protest at the level of places*, other factors controlled for. During the period 2003–2007, eight state governments passed resolutions against the Patriot Act: Alaska, California, Colorado, Hawaii, Idaho, Maine, Montana, and Vermont.

We locate the phenomenon of protest within state structures in the social science literature and use data on local government opposition to the Patriot Act to examine critical *external* pressures of the social, political and economic environment—defined at the level of localities and states—that give rise to contentious policy. By rigorously testing the hypotheses about the ecological conditions of denouncing national policy decisions (using the Patriot Act as a case study), we move closer to a thorough understanding of when and why protest within state structures is likely to arise.[9]

DATA, VARIABLES AND METHODS

We focus on the opposition that local governments expressed between 2002 and 2007 through resolutions that opposed the Patriot Act. Data for this dependent variable come from the website of the Bill of Rights Defense Committee (hereafter, BORDC).[10] The BORDC is a social movement organization concerned with the state of civil liberties in the United States and provides information on the Patriot Act, including the list of places, counties, and states that opposed it, and regular updates. Its website also informs about when, and by which means, local governments protested.

Table 1 lists and describes all our variables. We use the U.S. Census 2000 to construct a data file for 25,150 places in the United States (as defined by the Census Bureau).[11] We implemented some of the independent variables, namely *Urban Area*, *Proportion of College Educated*, *Median Household Income*, *Arab presence*, and *Proportion of Non-Hispanic Whites* on the basis of the census data. Information from the BORDC website allows us to construct the contextual variables: *Location in State with Early Adopter(s)* and *Location in State that Already Passed Resolution*. For political culture we use the Erikson, Wright, and McIver (1993, 2006) data to summarize states' position on three ideological categories—liberal, moderate, and conservative—as mean positions. This is a well established measure of political ideology, which Erikson and his colleagues have developed using responses to the CBS News/New York Times polls 1976–2003 (Erikson et al., 1993, 2006). Means are calculated by assigning a score of −100 to each conservative, a score of 0 to each moderate, and

TABLE 1

Variables Used in the Logistic Regression Models

Variable Name	Coding procedure	Source of data
Opposition to the USA Patriot Act of 2001	Place identified as passing a resolution, ordinance, or ballot initiative protesting some or all of the USA Patriot Act of 2001 (2002 to 2007) = 1, those not opposing = 0.	Bill of Rights Defense Committee – website
Urbanized places	Places with urban population over 10,000 = 1, else = 0. This cutting point defines "urban places" by a sufficient number of varying services and a transportation network.	U.S. Census 2000: P5_2
College-educated	Place's proportion of residents over the age of 25 with at least a 4-year college degree, in quartiles.	U.S. Census 2000: (P37_15+P37_32)/(p37_1+1)
Median household income	Place's median household income in thousands, in logarithm form.	U.S. Census 2000: P53_1
Mean political ideology for state where place is located, 1996–2001[a]	State position on the 3 measures of political ideology (liberal, moderate, conservative) summarized as mean position.	Aggregated CBS News/New York Times national polls [electronic file] collected by Gerald C. Wright, John P. McIver, and Robert S. Erikson (http://php.indiana.edu/~wright1/cbs7603_pct.zip).
Arab presence	Any presence of persons of Arab descent in the U.S. Census defined place = 1, else = 0.	U.S. Census 2000: Pt18_1, Pt18_6
Proportion of non-Hispanic whites	Place's proportion of white, non-Hispanic residents reporting only one race.	U.S. Census 2000: P7_3/(P7_1 +1)
Location in state with early adopter(s)	Place resides within a state in which a place protested the Patriot Act within the first year of the first protest (2002) = 1, else = 0.	Bill of Rights Defense Committee – website
Location in state that already passed resolution	State adopted Patriot Act resolution prior to a place within its borders = 1, else = 0.	Bill of Rights Defense Committee – website
Number of places/state	Number of places in a given state.	U.S. Census 2000: state

[a]Correlation of the 1996–2001 and the 1976–2001 variables is 0.921 ($p < 0.001$).

a score of 100 to each liberal, and then calculating the mean (Erikson et al., 1993; for a detailed methodological discussion of the measure, including considerations of its validity and reliability, and over-time stability, see ibid., pp. 12–46). We use the data Erikson et al. collected to adjust state mean ideological identification to the period 1996–2001, from the second term of the Clinton administration to the signing of the Patriot Act. Finally, a control variable for number of places within state is drawn from census data.

Bivariate analyses involving odds ratios provide the foundation for understanding the effects of each factor separately on propensity to protest. To assess whether the stipulated relations hold in both the substantive and the statistical sense, we first analyzed the data taking into account distributional constraints that rare events impose, using an algorithm that King and Zeng developed (1999a,b).

TABLE 2

Characteristics of Places and Percent of Those That Opposed the Patriot Act, with Odds Ratios and *Z*-tests

Characteristics of places[a]	Categories and numbers of places	Percent opposing the Patriot Act	Odds ratios	*Z*-test
Urban area	Yes, $N = 3{,}472$	5.59	14.859	20.62
	No, $N = 21{,}678$	0.40		
College-educated	Highest quartile, $N = 6{,}282$	3.30	3.713	14.33
	Lowest quartile, $N = 6{,}288$	0.10		
Median household income	Highest quartile, $N = 6{,}438$	1.71	2.329	6.18
	Lowest quartile, $N = 6{,}272$	0.57		
Mean political ideology of state where place is located	Highest quartile, $N = 6{,}365$	2.45	1.101	4.79
	Lowest quartile, $N = 6{,}694$	0.22		
Arab presence	Yes, $N = 8{,}346$ No, $N = 16{,}761$	2.84	11.363	14.61
		0.26		
Proportion of non-Hispanic whites	Highest quartile, $N = 6{,}451$	0.22	0.247	−7.46
	Lowest quartile, $N = 6{,}259$	2.25		
Location in state with early adopter(s)	Yes, $N = 4{,}683$ No, $N = 20{,}467$	3.12	4.883	13.13
		0.65		
Location in state that already passed resolution	Yes, $N = 2{,}488$ No, $N = 22{,}662$	0.44	0.370	−3.23
		1.19		

[a]For the definition of variables and sources of data, see Table 1.

The data we employ have a hierarchical structure: places are nested within states. Hence, errors within each state are likely correlated (see Rabe-Hesketh & Everitt, 2003; Hox, 2010). For most of the analyses, we use multilevel logistic regression, with state as the grouping variable. This technique allows us to account for nonindependence of errors and to assess the overall fit of the mixed-effects models that test the significance of place and of state characteristics for likelihood of Patriot Act protest. We discuss the regression coefficients in terms of well interpretable odds ratios.

FINDINGS

The gross effects of all characteristics that we expect to influence Patriot Act protest are very differentiated (see Table 2). The impacts of all variables are statistically significant ($p < 0.05$). As expected, *Urban Area*, *Arab Presence*, *College Education*, *Mean Political Ideology of the State where Place is Located*, and *Location in a State with Early Adopter(s)* have strong positive effects. It is worth restating that the political culture indicator, *Mean Political Ideology of State where Place is Located*, expresses relative percentage point difference between liberals and conservatives. This variable ranges from −28.9 to 16.3, with a mean of −14.3 and a standard deviation of 8.19. *Proportion of Non-Hispanic Whites* and *Location in a State that Has Already Passed Resolution* have strong negative effects. In the absence of other factors,higher median income at the place level increases the odds that places oppose the Patriot Act.

Table 3 deals with the social structural conditions, political culture, and constituencies' concerns hypotheses.[12] We consider the differences across states and the similarity within states by estimating two-level logistic regression models that predict places' odds of opposing the Patriot Act as a function of place-level and state-level determinants.

The social structural conditions hypothesis is definitely supported by the data: urban and college education have, as predicted, strong positive effects. The impact of income is significant, but negative. The change in the direction of its effect, compared to the bivariate regression result reported in Table 2, occurs due to the presence of education. That is, education is the condition under which higher median household income lowers places' likelihood of Patriot Act opposition.

TABLE 3

Mixed-Effects Logistic Regression of Protest Against the Patriot Act on Characteristics of Places and States: Initial Models[a]

	Protest of the Patriot Act DV = log (p / 1 − p)		
Independent variables	*B*	*S.E.*	Exp(B)
Fixed effects			
Urban area	1.678***	0.173	5.336
College-educated	1.425***	0.112	4.157
Median household income (*ln*)	− 1.830***	0.208	0.160
Mean political ideology of state, 1996–2001	0.078***	0.017	1.082
Arab presence	0.986***	0.223	2.680
Proportion of non-Hispanic whites	− 1.886***	0.323	0.152
No. of places/state	− 0.010**	0.004	0.990
Constant	− 1.026	0.759	
Random effects	Variance		*S.E.*
Constant	0.777		0.250
Fit statistics Wald chi[2]	438.06(*df* = 7)		
Deviance[b]	2128.60 (*df* = 9)		
AIC	2146.60		
BIC	2219.77		
No. of observations	25,103		
No. of groups	51		

[a] The models are estimated using the multilevel mixed-effects xtmelogit procedure in STATA.
[b] Deviance is obtained by converting the log-likelihood according to the formula -2^{*} *log likelihood.*
$^{***}p < 0.01$; $^{**}p < 0.05$.

The political culture hypothesis also receives strong support. Other things equal, a one percentage point increase in the relative difference between liberals and conservatives at the state level brings a 10% increase in the odds that a place located in that state will record opposition. In other words, places in liberal-leaning states are significantly more likely to pass resolutions against the Patriot Act than are municipalities in states that are conservative-leaning.

The two political motivation variables related to the constituencies' concerns hypothesis work as predicted. Net of other factors, the conditional odds of Patriot Act protest for municipalities with an Arab presence are more than two and a half times those of places without this minority; the more racially homogeneous places are in terms of white-only non-Hispanic membership, the lower the odds that these communities would denounce the Patriot Act.

In addition, we use a variable that measures number of places within a given state for controlling purposes.[13] The argument is that in some states with a smaller number of municipalities—such as Alaska and Montana—local government entities have larger propensity to protest because of a special type of political ideology, conservative-libertarian, for which we do not have a direct measure. Indeed, this variable has a significant negative impact.

The regression model in Table 4 extends the analysis to a contextual pressure of great importance for understanding *the process* of local government protest, namely the presence of early protesters in a given state. We find that the presence of early adopter(s)—in this case study, local governments that protested the Patriot Act within the first year after Ann Arbor, Michigan—significantly increases the chances that other localities within given state oppose as well, above and beyond the effects of other factors (the odds ratio for this variable is 2.01).

Results in Table 4 are comprehensive and warrant more detailed evaluation. Some argue that a "history of activism" influences likelihood of protest (Van Dyke, 1998). Thus, we also considered the possibility that our result might be biased by particular outliers: places that repeatedly engage in contentious policy. We identify two different federal government policies that have raised substantial opposition, namely the 2003 War with Iraq (Slevin & Cillizza, 2005) and the 2005 Mayors for Peace

TABLE 4

Mixed-Effects Logistic Regression of Protest Against the Patriot Act on Characteristics of Places and States: Presence of Early Adopters[a]

	Protest of the Patriot Act DV = log (p / 1 − p)		
Independent variables	*B*	*S.E.*	Exp(B)
Fixed effects			
Urban area	1.675***	0.173	5.320
College-educated	1.424***	0.112	4.198
Median household income (*ln*)	−1.835***	0.208	0.156
Mean political ideology of state, 1996–2001	0.068***	0.018	1.077
Arab presence	0.978***	0.223	2.645
Proportion of non-Hispanic whites	−1.866***	0.324	0.150
Location in state with early adopter(s)	0.617*	0.352	2.007
No. of places/state	−0.009**	0.003	
Constant	−1.682	0.767	
Random effects	Variance		*S.E.*
Constant	0.689		0.232
Fit statistics Wald chi[2]	439.80 (*df* = 8)		
Deviance[b]	2125.66 (*df* = 10)		
AIC	2145.66		
BIC	2226.97		
No. of observations	25,103		
No. of groups	51		

[a]The model is estimated using the multilevel mixed-effects xtmelogit procedure in STATA.
[b]Deviance is obtained by converting the log-likelihood according to the formula −2* *log likelihood.*
***$p < 0.01$; **$p < 0.05$; *$p < 0.10$.

statement for the non-proliferation of nuclear weapons (Mayors for Peace, 2007). We check how many cases in our sample are *repeat protesters,* that is, have engaged in both instances of opposition prior to protesting the Patriot Act. Of the 280 Patriot Act protesters, 19 places (7%) belong to this category. We removed these cases from the analysis and re-ran the corresponding models on the new subsample of Patriot Act opponents. The basic relationships between our variables remain the same, both substantively and statistically.[14]

Regarding contextual effects, we have also postulated that dissatisfaction registered by higher level administrative units should suppress protest of lower level actors who are nested within these units. If we are right, we should find that municipalities' odds of protesting the Patriot Act are significantly lower in states that have themselves protested this bill.

The cross-tabulation of the variable measuring places' location in a state that has already passed a resolution shows strong, negative effects of this variable on Patriot Act opposition. Indeed, in places located in the states that voiced opposition toward Patriot Act, the chances of opposition on the lower administrative level are close to one third of those in other places. We add this variable to the model in Table 5.

Table 5 shows that state-level opposition to the Patriot Act practically blocks the protest at lower administrative levels if other relevant variables are controlled. Since we assumed that both variables defined at the state-level—*Location in State with Early Adopter(s)* and *Location in State that Already Passed Resolution*—could compete with each other, we provide two solutions. Model I in Table 5 shows that *Location in State that Already Passed Resolution* has a powerful negative effect if *Location in State with Early Adopter(s)* is not included. Model II retains this effect, but renders *Location in State with Early Adopter(s)* nonsignificant. In both models, the effects of the other variables closely resemble those in Table 4, indicating that results are robust. The control variable for number of places per state loses significance, although its correlation with *Location in State that Passed Resolution* is weak ($r = -0.130$, $p < 0.001$).

TABLE 5

Mixed-Effects Logistic Regression of Protest Against the Patriot Act on Characteristics of Places and States: Presence of State-Level Protest[a]

	Protest of the Patriot Act DV = log (p / 1 − p)					
	Model I			Model II		
Independent Variables	*B*	*S.E.*	Exp(B)	*B*	*S.E.*	Exp(B)
Fixed effects						
Urban area	1.703***	0.201	5.492	1.703***	0.201	5.491
College-educated	1.441***	0.129	4.223	1.440***	0.129	4.223
Median household income (*ln*)	− 2.087***	0.246	0.124	− 2.086***	0.246	0.124
Mean political ideology 1996–2001	0.212***	0.053	1.237	0.203***	0.057	1.226
Arab presence	1.052***	0.266	2.864	1.052***	0.268	2.864
Proportion of non-Hispanic whites	− 2.746***	0.396	0.064	− 2.744***	0.396	0.064
Location in state with early adopter(s)	—	—	—	0.666	1.223	1.718
Location in state that already passed resolution	− 10.140***	0.995	0.000	− 10.106***	1.001	0.000
No. of places/state	− 0.010	0.012	0.980	− 0.019		0.981
Constant	3.401	1.312		3.133	1.429	
	Model I			Model II		
Random effects	Variance		*S.E*	Variance		*S.E*
Constant	9.945		2.777	9.860		2.763
Fit statistics Wald chi^2	393.830 ($df = 8$)			394.340 ($df = 9$)		
Deviance[b]	1653.190 ($df = 10$)			1652.980 ($df = 11$)		
AIC	1673.190			1674.980		
BIC	1754.490			1764.420		
No. of observations	25,103					
No. of groups	51					

[a] The models are estimated using the multilevel mixed-effects xtmelogit procedure in STATA.
[b] Deviance is obtained by converting the log-likelihood according to the formula -2^* *log likelihood.*
***$p < 0.01$.

CONCLUSION AND DISCUSSION

Local government opposition to federal decisions involves simultaneous protest and policy. By registering their dissent, local governments raise a symbolic objection designed to challenge federal law; at the same time, they take a policy stand. The theoretical model that we propose to explain this understudied form of protest combines contentious politics and policy innovation. Our hypotheses—social structural conditions, political culture, constituencies' concerns, and contextual pressures—specify the *external* pressures of the social, political. and economic environment, defined at the level of localities and states, which should impact local government's propensity to oppose federal government decisions. We examined the postulated relationships in the context of opposition to the U.S. Patriot Act.

The resource-related variables *Urban Area*, *Proportion of College-Educated Population*, and *Median Household Income* measured at the municipality level prove to be powerful predictors of local government protest. Thus the social structural condition hypothesis is fully supported. So is the political culture hypothesis: net of other factors, the more liberal-leaning the states where places are located, the higher the odds that places will pass resolutions condemning the Patriot Act. The political motivation variables related to the constituencies' concerns hypothesis, measured at the place-level, impact local government behavior above and beyond the effects of other determinants. Regarding contextual pressures, it is very important to account both for the presence of other opposing actors, as well as for their relative position vs. potential protesters. Location in a state where local government entities of similar administrative standing have already spoken out against federal law is a strong incentive for opposition, by pressuring and/or encouraging other governments to engage in similar

actions. State-level resolutions, on the other hand, block further protest by lower-level administrative units nested within that state. This happens, we contend, because local governments could reasonably perceive their action as redundant once the symbolic message has been meaningfully conveyed, by a more visible, powerful, actor —the state.

The state suppressor effect has strong implications for choice of protest strategy. If the BORDC's goal was to have as many distinct governments as possible protest the Patriot Act, appealing to state governments early on was counterproductive. If, however, the BORDC was especially interested in more visible actors that would enhance the validity and scope of the movement, then appealing to state governments was beneficial. In any case, the effects of state-level action must be seriously considered when discussing protests at lower administrative levels.

In this article, we presented different models linked to specific substantive hypotheses. We aimed at realistic objectives under which "the inference goal ought to be that of obtaining best predictive inference or best inference about a parameter in common to all models, rather than 'select the true model'" (Burnham & Anderson, 2004, p. 288). In our analyses, using criteria of predictive inference and best inference leads to similar results. In all models the place-defined variables – *Urban Area, College-Educated, Median Household Income, Arab Presence*, and *Proportion of Non-Hispanic Whites* – have very robust effects. So does the indicator of state-level political culture. We have also shown that two other state-level variables—*Location in State with Early Adopter(s)* and *Location in State that Already Passed Resolution*—compete with each other. In terms of predictive inference, the model with *Location in State that Already Passed Resolution* is preferable. Nonetheless, we do not advocate ignoring the models with *Location in State with Early Adopter(s)*. Less than 10% of places are located in states that already opposed the Patriot Act. If the data are restricted to 2002–2004, the impact of *Location in State with Early Adopter(s)* is even stronger than for the entire period (2002–2007). This shows that early adoption is particularly important for explaining local government opposition at the beginning of the process.

The totality of these findings—including political culture and state suppressor effects—have important implications for modeling diffusion of protest within state structures across the United States. In the age of ultra-rapid social and political communication, contentious policymakers can be more kindred in ideology than in physical proximity. Hence, a sound measure of diffusion should capture more than actors' geographic proximity (e.g., Vasi & Strang, 2009).

We note that, while local governments and social movement organizations can, at times, express similar sentiments, the "how and why" of their protest is fundamentally different. SMOs are, by definition, government outsiders who target policymakers; their position as exogenous pressure-builders allows them to legally organize their membership to take to the streets, sign petitions, and gather money for their cause. In contrast, local governments operate within a far stricter chain of command that constrains how they protest. Local governments pass resolutions condemning the actions of state organizations outside of their jurisdiction or, at the risk of running counter to constitutional law, enact local ordinances that directly challenge laws ratified further up the bureaucratic chain. Their actions involve, as the case of opposition to the Patriot Act shows, both remonstration and policy: resolutions are designed to challenge federal law, but they also express stances regarding values. Thus, while for SMOs contentious politics is government-targeting, for governments it is symbolic policy. Stressing this difference, we also acknowledge that SMOs can influence local governments' protest actions. In the case of the Patriot Act protests, such an influence would require a separate investigation, for which Vasi and Strang (2009) have accomplished the background.

A new line of research this study could generate pertains to the consequences of contentious policy. The protest that local governments mount against national policy is political, public and visible. As a symbol, it signals ideological solidarity with their constituents and like-minded local governments (Edelman, 1964). Under these signaling conditions, at the micro level protest may benefit the protester. By supporting or opposing the action—for example, dissenting city council members questioned whether it was appropriate to use city taxpayer money to pay for the time it took to write and vote on the resolution against the Patriot Act—politicians distinguish themselves in their constituents' eyes, which could benefit their re-election.[15] Our understanding of the mechanisms that trigger protest behavior by political institutions would be enhanced by researching the link between

politicians' individual gains and their association with the protest, even though protest is "only" symbolic.

ACKNOWLEDGMENTS: Most of this research was conducted at the Department of Sociology, The Ohio State University (OSU) with the assistance of a research grant from the Mershon Center for International Security Studies at OSU. We gratefully acknowledge jimi adams, Sara Bradley, Ed Crenshaw, William Form, Paul T. von Hippel, Marta Kolczynska, Jim Moody, Pamela Paxton, Goldie Shabad, Jerzyna Slomczynska, Craig Volden, the participants of the Political Sociology roundtable at the American Sociological Association meetings in San Francisco in 2004, and the Social Structure Research Group in the Department of Sociology of OSU for their helpful comments and suggestions on previous drafts. We thank the anonymous reviewers of this journal for their insightful comments. We also thank Colin Odden for his computer assistance and especially Mary "Merlin" Marshall of OSU Department of Sociology's Population Initiative for her invaluable help with the U.S. Census 2000 data set. All the usual disclaimers apply.

ENDNOTES

1 Roll call votes indicate that passage for the Patriot Act was strong, with some partisanship in the House of Representatives, where the bill passed at 337 to 79. Of the 337 who voted yes, 61 percent were Republicans while 38 percent were Democrats. Of the 79 who voted no, 4 percent were Republicans and 95 percent were Democrats. Only one U.S. Senator voted against it (Russ Feingold D-Wisconsin). For a legislative history, see Wong (2006).

2 We thank one of the anonymous reviewers of the *Journal of Urban Affairs* for this valuable reference.

3 For example, the program claim the San Francisco city council made was (a) to call for all city employees and citizens to not comply with parts of the Patriot Act that are in contradiction to civil liberties guaranteed in the U.S. constitution, and (b) for U.S. government representatives to "actively work for the repeal of the Act and those Orders that violate fundamental rights and liberties as stated in the United States Constitution and its Amendments" (see the appendix). As of now, the policy is still in force.

4 Considering that, among 25,150 cases, only in about 1 percent did local governments protest the Patriot Act, we treat all that adopted resolutions as innovators. At the height of the protest, over 40 million people, or 13.5 percent of the 2005 U.S. population, lived in places where such an event occurred.

5 We assume that local governments work to meet their constituencies' concerns; at the same time, they can be treated as nested in ecological units, whose characteristics determine their actions, including protest of the Patriot Act. Ultimately, it is people who pursue the protest campaigns and pressure local governments and it is individual government officials who decide to respond to their constituency's concerns. Where appropriate, we make the links between these levels explicit, but due to data restrictions we cannot directly observe the micro-level mechanisms. Nor are there data available that will allow us to account for the possible influence of political structures of the local government, and/or of social movements at the place level.

6 Berry and Berry (1990) strongly advocate combining internal determinants and diffusion to provide the fullest possible explanation for policy innovation. While the majority of policy innovation research since Berry and Berry (1990) concerns policy diffusion, all treat the social, economic, and political characteristics of the innovators and their environments as crucial variables in explaining policy adoption. We treat diffusion as a related yet analytically distinct aspect of policy innovation. For a discussion on how Patriot Act opposition diffused, see Vasi and Strang (2009).

7 We thank the anonymous reviewers of the *Journal of Urban Affairs* for suggesting the Erikson et al. (1993, 2006) measure of state political ideology as an indicator for political culture; it provides a very useful operationalization for the concept. In previous versions of the article, as proxies for political culture we used a dichotomous variable of whether a place was located in a state where Al Gore won the Electoral College vote in the 2000 = 1, else = 0, and variables for Census-defined regions. We also used an interaction term between college education at the place level, and Gore-won State as indicator for liberal ideology, which we called "liberal-intelligentsia." The correlation between the measure of state mean political ideology taken from Erikson et al. (1993) and the Gore-won State = 0.73, and with liberal-intelligentsia = 0.69.

8 These 11 states are the same whether the cutoff point for "early adopters" is January 31, 2003, or the earlier date of December 2002.

9 For the range of places we consider in this study, there simply are no data available that would allow us to also account for the possible influence of political structures within local government, social movements at the place level, or the motivations of people involved in protest behavior at individual or aggregate levels.

10 Although a similar list was maintained by the American Civil Liberties Union (2005), we use the BORDC because it keeps the most extensive protest records from its beginning and, possibly, to places that have yet to enact it. Many of the resolutions follow the same format and wording (see the appendix), which is not surprising considering that BORDC provided sample resolutions and offered tips on how to organize this form of protest (see also Vasi & Strang, 2009). It is important to note that, while most resolutions protesting the Patriot Act mention this law specifically, some do not. For example, State College, Pennsylvania, passed "A Resolution Reaffirming the Commitment of the Borough of State College to the Freedoms Guaranteed by the U.S. and Pennsylvania Constitution." This piece does not mention the Patriot Act by name; however, its identification with the anti–Patriot Act movement is clear: the borough council joins "nearly 400 communities and seven states across the nation in expressing concern that proposed laws to fight terrorism may threaten civil rights and liberties guaranteed under the United States Constitution." BORDC includes this resolution in its records.

11 The units of analysis do not include Class T-Active Minor Civil Divisions (MCDs) and Class Z-Inactive or Nonfunctioning County Divisions. The main reason for not including these units is that some states do not have them (we use state variables in our statistical models). The analysis of MCDs would be restricted to 28 states and the District of Columbia. Excluding these units provides more conservative tests of our hypotheses since MCDs who protested the Patriot Act are primarily located in the New England and Northeast states. These are the states which on the average have localities whose characteristics are most favorable to adopting protest.

12 Since protest of the Patriot Act is a rare event, we first estimated the regression model using the relogit procedure for rare events data in STATA (King & Zeng, 1999a,b), clustering on states, since observations are not independent within groups (i.e., states) and using the weight-correction option *wc* (0.01) and *wc* (0.02). All effects are statistically significant at $p < 0.01$, and in the hypothesized direction. Results are available upon request.

13 This variable has been divided by 10 for ease of interpretation of regression coefficients in all models.

14 Results are available upon request.

15 For instance, after an acrimonious Chicago City Council discussion that included comparisons between the Patriot Act and the policies of Nazi Germany, Republican City Councilman Brian Doherty said the resolution was an "'innocuous piece of rhetoric' with only one purpose: 'to embarrass' the Bush administration" (Spielman, 2003).

16 From the Bill of Rights Defense Committee, http://bordc.org/san-francisco-res.htm, accessed July 4, 2004.

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APPENDIX

Example of a Resolution[16]

San Francisco, California

Resolution Passed January 21, 2003, by San Francisco's Board of Supervisors, 9–1

San Francisco Resolution opposing the USA PATRIOT Act and related Executive Orders

WHEREAS, the City of San Francisco houses a diverse population, including citizens of other nations whose contributions to the community are vital to its character and function; and

WHEREAS, the United States Constitution guarantees all persons living in the United States fundamental rights including freedom of religion, speech, assembly and privacy; protection from unreasonable searches and seizures; due process and equal protection to any person; equality before

the law and the presumption of innocence; access to counsel in judicial proceedings; and a fair, speedy and public trial; and,

WHEREAS, the USA PATRIOT Act signed by President George W. Bush on October 26, 2001 has a number of provisions that contradict the above mentioned inalienable rights and fundamentally alters the nature of our civil liberties while doing little to increase public safety; and,

WHEREAS, examples of the provisions of the USA PATRIOT Act and Executive Orders that may violate the Constitution and the rights and civil liberties of San Francisco residents are as follows:

- Significantly expands the government's ability to access sensitive medical, mental health, financial and educational records about individuals, and lowers the burden of proof required to conduct secret searches and telephone and internet surveillance
- Gives law enforcement expanded authority to obtain library records, and prohibits librarians from informing patrons of monitoring or information requests
- Gives the Attorney General and the Secretary of State the power to designate domestic groups, including religious and political organizations as "terrorist organizations"
- Grants power to the Attorney General to subject citizens of other nations to indefinite detention or deportation even if they have not committed a crime
- Authorizes eavesdropping of confidential communications between attorneys and their clients in federal custody
- Limits disclosure of public documents and records under the Freedom of Information Act; and

WHEREAS, Department of Justice interpretations of this Act and these Executive Orders particularly target Muslims, persons of Middle Eastern and South Asian descent and citizens of other nations, and thereby encouraging racial profiling by law enforcement and hate crimes by individuals in our community; now, therefore, be it

RESOLVED, that the City of San Francisco affirms its strong opposition to terrorism, but also affirms that any efforts to end terrorism not be waged at the expense of the fundamental civil rights and liberties of the people of San Francisco, the United States and other countries; and, be it

FURTHER RESOLVED, that the City of San Francisco affirms the rights of all people, including United States citizens and citizens of other nations, living within the City in accordance with the Bill of Rights and the Fourteenth Amendment of the U.S. Constitution; and, be it

FURTHER RESOLVED, that, to the extent legally possible, no City employee or department shall officially assist or voluntarily cooperate with investigations, interrogations, or arrest procedures, public or clandestine, that are in violation of individuals' civil rights or civil liberties as specified in the above Amendments of the United States Constitution; and be it

FURTHER RESOLVED that the San Francisco Board of Supervisors calls upon all private citizens and organizations, including residents, employers, educators, and business owners, to demonstrate similar respect for civil rights and civil liberties, especially but not limited to conditions of employment and cooperation with investigations; and be it

FURTHER RESOLVED that the City and County of San Francisco call on our United States Representatives and Senators to monitor the implementation of the Act and Orders cited herein and actively work for the repeal of the Act and those Orders that violate fundamental rights and liberties as stated in the United States Constitution and its Amendments.