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# Broad challenge to USA Patriot Act underway

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## Broad challenge to USA Patriot Act underway

By DANIEL STURM

Meridian Township is just the first target of an effort by civil liberties groups to limit local police compliance with the USA Patriot Act.

In a public hearing of the Meridian Charter Township board Aug. 19, Stacy Hickox, who chairs the Capital Area Freedom Defense Coalition, presented a resolution to protect civil liberties.

Similar resolutions are expected to be presented to the Lansing and East Lansing City Councils and the Ingham County Board of Commissioners

The coalition is asking the Meridian Township Police Department to provide advance notice when executing a search warrant; to refrain from stopping drivers to investigate without particular suspicion; to refrain from utilizing religion, ethnicity or national origin as a factor in selecting suspects; and to assist with federal immigration matters "only when such law enforcement would further local law enforcement goals."

Across America 154 cities, towns and counties have passed similar civil liberties resolutions, including Detroit in December 2002 and Ann Arbor in January 2003.

Hickox said the group chose Meridian Township because of the "alarming" level of secrecy about stopping, interrogating and arresting persons who would not otherwise be legally subject to a search warrant, as well as policies regarding racial and religious profiling.

In May 2003, Hickox met with Meridian Township Police Chief Gary Gibbons to examine police profiling ordinances. "He assured me that there were ordinances that protected civil liberties. But when I asked to see those policies, he didn't show me any," the Okemos attorney said.

The Lansing branch of ACLU filed a Freedom of Information Act request on behalf of the coalition for more information about police enforcement of the Patriot Act. The request was denied by Cindy Cummings, the township's FOIA coordinator, who wrote that satisfying the request would disclose law enforcement techniques. In a letter to the ACLU, Cummings quoted a section of the Michigan Freedom of Information Act to support the refusal.

The ACLU argues that the township has cited the exemption provision incorrectly, since the ACLU didn't request any "investigation records" but only asked for "policies." In a letter protesting the denial, Hickox and Henry Silverman, president of the ACLU Lansing branch, replied: "No public body, including a police department, has the right to exempt access to its policies from the public." Silverman said that the ACLU believes it could win a legal case against the township, but would prefer not to sue to gain access to the records. "It is such behavior on the part of police that has so alarmed citizens," he said.

The coalition and ACLU claim that federal legislation has drastically expanded the powers of government since 9/11, permitting drastic invasions of privacy, such as the FBI's surveillance of library and bookstore records and the prosecution of anyone who reveals that a search is taking place.

Hickox said that the coalition was formed in response to the Patriot Act, which defines terrorism so broadly that any political or religious organization could become subject to its surveillance, wiretapping or criminal prosecution, without notification of charges.

During last week's public hearing in the Meridian Municipal Building on Marsh Road, Hickox urged Meridian Township's seven board members to pass a resolution protecting the civil liberties of residents. "This is all about open government. You need to be open!"

Silverman added that if policies protecting citizen's civil liberties did in fact exist, "then why would anybody oppose a resolution that essentially substantiates them?"

Chief Gibbons, who also attended the meeting, said that his officers support citizens' constitutional rights. "We require officers to protect the rights of all persons by strictly prohibiting biased profiling in traffic contexts, and other discretionary actions. Stops and enforce protect the rights of all persons by strictly prohibiting biased profiling in traffic contexts, and other discretionary actions. Stops and enforcement activities must be based on conduct, and supported by reasonable suspicion," he said.

When Trustee Anne Woiwode asked Gibbons if he'd be willing to assist in drafting a resolution that addressed both the civil rights groups' concerns and the interests of law enforcement, the police chief replied, "Yes, certainly." Gibbons said his only concern was that a civil rights declaration could back police officers into a corner. "If you force them into a position where they violate either one law or the other, and there is no other option, I will speak against that."

Woiwode said the police chief has a point in that he will need to lead local law enforcement during a time when protecting the Constitution "might be at odds with following federal laws, and that our police officers might not be equipped to make that choice." Woiwode said they would work with Gibbons in the upcoming weeks to get a resolution drafted.

Dolly Schmidt, a board member of the Lansing ACLU, said she was happy about the outcome of the public hearing. "It moved beyond what I expected. I think Chief Gibbons knows that he's got to do more. We won a little victory here," the Okemos resident said.

As their next step, ACLU and the coalition plan to make their case against the Patriot Act in front of Lansing and East Lansing City Councils, and the Ingham County Board of Commissioners, possibly in September.

East Lansing's police chief, Louis Muhn, said no one has contacted him regarding a civil liberties resolution and that he hasn't heard about the Meridian civil rights resolution. Muhn declined additional comment on what he said he believed was a political issue. "The USA Patriot Act has everything to do with the federal government, but nothing to do with local law enforcement," Muhn said.

Lansing police press spokesman Ray Hall said he welcomes the ACLU's involvement in the issue. Hall argued that generally any law can be abused. "On the face of it, the USA Patriot Act is sound. If it's abused by randomly targeting citizens and violating their privacy, then we all ought to have an issue with it." Hall said he wasn't aware of any such abuse cases but said that if there were any, "the ACLU would know."

The Lansing ACLU has scanned government memos describing the new police powers, and made them available to the public on its Web site. The organization said the files, which were obtained through a Freedom of Information

Act request in March 2003, show that the FBI is conducting wiretaps and secret searches in their criminal investigations without complying with the usual probable- cause requirements and that the FBI is aggressively using trap-and-trace devices to track telephone calls and e-mails.

Hall said that Lansing police typically deal with the FBI during fugitive, homicide, rape and drug cases.

The captain said that the only time Lansing police dealt with the FBI regarding terrorist activities was shortly after 9/11, when they assisted the FBI in conducting interviews with young men, aged 18-24, who were from nations with known Al-Qaida networks in operation.

Hall said the police consulted with the ACLU prior to conducting these interviews and agreed to help the FBI only under the condition that police officers didn't have to ask questions regarding political affiliations of the interviewees and that the interviews were conducted voluntary. He said no arrests were made following the questioning, nor did the incident lead to any further investigations.

When asked about procedures regarding police cooperation in federal investigations, Hall said, "Each case has to be weighed on its own merits. In that particular case we weighed the fact that we knew Lansing was mentioned as a possible target in information obtained in Afghanistan from Al-Qaida headquarters, against the possible violation of civil liberties."

On Aug. 19, U.S. Attorney General John Ashcroft started a four-week tour of 18 cities, including Detroit, in defense of the USA Patriot Act. The ACLU criticized the tour, questioning the agency's use of public money to counter public concern about the expansion of federal surveillance powers. "An attorney general going on the road, away from his official duties, to favorably spin policies violative of civil liberties is troubling to say the least," said Laura W. Murphy, director of the ACLU Washington legislative office.

When Ashcroft spoke to about 100 members of Michigan's law enforcement community in downtown Detroit Aug. 21, 50 demonstrators rallied outside Cobo Hall. The protesters included representatives from the Michigan ACLU, the Dearborn-based Blue Triangle Network, the Detroit chapter of the antiwar coalition ANSWER, and the Michigan Emergency Committee Against the War in Iraq. Protesters chanted: "Ashcroft go home. Down with the USA Patriot Act."

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