

The Gumby Congress: Lawmakers backing down on civil liberties

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Recently, it appeared that Congress had finally grown the spine necessary to protect Americans' civil liberties from a White House that believes it has unlimited authority.

Turns out that spine was made of rubber.

Two months ago, a bipartisan coalition in the U.S. Senate faced down the Bush administration and delayed renewal of the USA Patriot Act. Passed shortly after the Sept. 11, 2001, attacks, the law gave the government sweeping surveillance and investigative powers.

Now, key members of that coalition have agreed to a compromise that fails to address the law's most serious flaws, including provisions that allow the government to obtain medical, business and other intimate records of U.S. citizens without first establishing their relevance to a terrorism investigation.

Just two weeks ago, there was strong congressional support for stricter regulation of President Bush's secret spying program and for an investigation of the warrantless eavesdropping. Republican and Democratic lawmakers agreed that the president's authorization of the surveillance violated federal laws requiring that warrants be obtained from a secret federal court for any domestic spying.

Now, Congress is quivering in the face of administration tough-guy tactics. They include charges that critics of its extralegal program are "soft on terrorism" and that a congressional inquiry would help terrorists plotting against America.

Meanwhile, some lawmakers who were once adamant on the need for legislation establishing judicial and congressional oversight and clear limits on surveillance are suddenly praising the administration for tossing them a few crumbs of new information about the program.

It's time for Congress to defend its prerogatives before it's too late. The White House insists that the president has the authority to do whatever he deems necessary in a time of war - conduct surveillance authorized under the Patriot Act without the approval of Congress, eavesdrop on Americans without court supervision, hold U.S. citizens as enemy combatants for the duration of an ill-defined conflict, authorize torture, establish secret prisons overseas and more. The Constitution grants the president no such powers, and even if it did, there has been no formal declaration of war on which to base such breathtaking claims of authority.

These pretensions of limitless authority must not go unchallenged. Congress should start by refusing to yield on either the Patriot Act or on warrantless surveillance. The government must not be allowed to eavesdrop on Americans without warrants, or to snoop into citizens' records without having to first establish a link to terrorism.

If - make that *when* - the Bush administration accuses lawmakers of being unpatriotic, they should reply that the Founding Fathers cared so deeply about our freedoms that they enumerated them in the Bill of Rights.

Congress needs to grow another spine - this time a real one.