

B436. "Vigilant Public, Press Keep Anti-Terror Efforts From Going Too Far" USA Today, (October 28, 2003) p. 23A.

Because I feel strongly that our government should do more to protect us from the next terrorist attack, I often find myself on television debating representatives of the ACLU and archconservatives such as former congressman Bob Barr. They believe the federal government is endangering our civil liberties by going overboard in approving anti-terrorism measures.

Those concerned voices grew louder in September, when President Bush made a new plea to expand the government's powers under the Patriot Act to investigate and detain suspected terrorists. In fact, some members of Congress, Republicans among them, are pushing to tone down the existing act. Last week, the Senate Judiciary Committee held the first of several oversight hearings on terrorism legislation.

Meanwhile, on Oct. 8 Homeland Security Secretary Tom Ridge held the first of seven town hall-style meetings planned across the country. His meetings follow a 16-city tour by Attorney General John Ashcroft to defend the Patriot Act. Unlike Ashcroft, Ridge wisely says he doesn't want to defend the act as much as solicit ideas and concerns about the administration's actions in the war on terrorism.

Looking back at the past two years, I must grudgingly admit that the other side's views were not without merit. Several of the security measures critics feared most were either scaled back or killed outright as ever-larger segments of the public worried aloud that our Bill of Rights was being threatened. Others never took place. Much was done to shore up our security, but the extremist ideas are largely gone. As the Founding Fathers would have it: A free press and a vigilant public kept the government from going too far.

At a time when the president is seeking expanded powers, those same countervailing views again should keep things in check. Here is what those efforts have accomplished during the past two years:

* Library records. A Patriot Act provision allows the government to search books, records and papers. This could include searching libraries' records to determine which books an individual checked out. This clause caused a storm of protest from the American Library Association and civil rights activists who feared the government would snoop into average Americans' reading habits. Ashcroft responded by saying that the "number of times (the provision) was used to date was zero."

* Operation TIPS. It all started when Bush called for Americans to volunteer 4,000 hours during their lives. As part of the new volunteerism initiative, USA Freedom Corps was launched to provide opportunities for Americans to help protect the country from terrorists. One of the duties of the volunteers -- and other good citizens -- was to report any suspicious behavior to authorities, an idea the White House dubbed Operation TIPS.

It enraged the critics, the media and a large segment of the public. Americans feared that every mail carrier, UPS driver and meter reader would be peeking into their living rooms and that, in effect, we were being asked to spy on one another. TIPS was killed by Congress.

* Military tribunals. When Bush first announced these military panels, they were harshly criticized. The New York Times, for instance, editorialized that "Bush's plan to use secret military tribunals to try terrorists is a dangerous idea. . . . Bush is eroding the very values and

principles he seeks to protect, including the rule of law." Critics from the left and right feared the tribunals would be used to try people in secret, that defendants would be guilty until proved innocent, that they would have no chance to appeal sentences and that a simple majority would be able to impose a death sentence.

In March 2002, the Pentagon released rules for the tribunals that eased those fears. The media and public may attend unless national security is endangered; defendants are presumed innocent until proved guilty; appeals may be made; and the death penalty requires a unanimous vote. Above all, no terrorist has been tried before a military tribunal since 9/11.

* Online futures market. The Pentagon's Defense Advanced Research Projects Agency intended to launch an online futures market in which investors could buy and sell futures contracts on Middle East developments, including assassinations and terrorist attacks. The idea was that the Pentagon could predict Middle East events based on investor information.

The project was exposed, and the next day shut down, when two Democrats, Sens. Ron Wyden of Oregon and Byron Dorgan of North Dakota, held a news conference to denounce it. "The idea of a federal betting parlor on atrocities and terrorism is ridiculous, and it's grotesque," Wyden said.

We now face the acid test: Will critics concede any need to expand anti-terrorism powers? Or will they be so carried away by their success that they issue blanket complaints that could prevent the government from getting powers needed in the war on terror? The fact that Ashcroft and Ridge have to travel the U.S. to try to build support for the Patriot Act suggests that Americans again are concerned the government may go overboard -- and that they are keeping the government on its toes, just where it ought to be.

Americans can proudly note that the democratic system of checks and balances has worked. We have both prevented new attacks on the homeland -- and kept our basic rights intact.

Amitai Etzioni, a member of USA TODAY's board of contributors, is the author of *My Brother's Keeper*.