Patriot Act is convenient target

By Amitai Etzioni

A steady stream of revelations, and the ensuing news media reports, have portrayed a president hungry for power, doing whatever is necessary — legal or not — to protect this country. In the wake of such news, some lawmakers in Congress see weakness and an opportunity to gut one of President Bush’s vital weapons in the war on terror: the USA Patriot Act.

Congress should not hold up extending vital sections of the Patriot Act in reaction to these recently revealed power grabs. The president’s authorization of spying on Americans by the National Security Agency has nothing to do with the Patriot Act; nor do secret prisons, nor memos allowing torture. Questions over how much power the commander in chief can exercise must be sorted out by Congress and the courts, but the Patriot Act shouldn’t be held for ransom.

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Phones. Before the Patriot Act was passed, soon after 9/11, authorities had to obtain a court’s permission to tap a phone, but the warrant had to be “particularized” to a given instrument, reflecting the days when people had only one phone. Cellphones made this narrow rule obsolete. The Patriot Act changed this requirement to a suspect rather than to one of his instruments. What is wrong with that?

Libraries. Critics have been outraged by the right of the government to search the computers of public libraries. Actually, the term “library” is not mentioned in the act. The bill authorizes searches “of books, records, papers, documents and other items … to protect against international terrorism or clandestine intelligence activities.” Critics have singled out libraries because such searches evoke more public outrage than if one would refer to the actual wording of the bill.

Homes. The “sneak and peek” clause has been particularly vilified. The act grants authorities the right to search a home without notifying the owner for a period of days. But how long is enough? Sen. Russ Feingold, D-Wis., favors seven days; Republicans in the House of Representatives want 180 days. But there has been little discussion of the grubby details in such a search. How long does it take to de-encrypt a PC? To translate messages? And to find any collaborators? Once these matters are examined, it should not be difficult to come up with a compromise on notification.

Money. The clause that penalizes giving “material support” to terrorists applies only if the donor knew where the funds were headed. If clearer wording is needed to protect those who thought they were giving to a charity, so be it.

We tend to swing wildly in one direction and then in the opposite one. The Senate Church Committee, responding to the abuses such as spying on civil rights groups and public leaders by the FBI under J. Edgar Hoover, tied the agency in knots.

The initial responses to the 9/11 attacks might well have been excessive. As time has passed — without a new attack on the USA — many security measures are being questioned, as they should be. Even so, when it comes to critical components of the act, such as those listed above, minor tweaks — not massive overhauls — would make the Patriot Act work for all Americans.

The same can’t be said for the other security measures that the public has recently learned about. Those fully deserve the kind of extensive hearings to which the Patriot Act is being subjected.