

THE LEGISLATIVE BRANCH SHOWS SIGNS OF LIFE

When I was at the Duke conference last week, I premised a question to ACLU's Legal Director that ACLU was having more success in the courts than in Congress of late. He responded by joking about my faint praise. Perhaps I reverse jinxed him. Because we're beginning to make some progress in Congress.

Rep. Steny Hoyer (D-MD), the House Majority Leader, postponed a press conference announcing new reforms of the Foreign Intelligence Surveillance Act after progressive lawmakers banded together and said they would fight any legislation that did not include a set of eight principles on wiretapping that preserve the "rule of law."

"What's most significant is that the Progressive Caucus came together and said to the leadership that all 72 of us require that these provisions be included," said Caroline Fredercikson, Legislative Director for the American Civil Liberties Union. "This changes the dynamic significantly."

Meanwhile, back in the Executive Branch, we are making no progress, as you'd expect.

The head of the U.S. Federal Communications Commission declined to investigate reports that phone companies turned over customer records to the National Security Agency, citing national security concerns, according to documents released on Friday.

FCC Chairman Kevin Martin turned down a congressional request for an investigation as a top intelligence

official concluded it would "pose an unnecessary risk of damage to the national security," according to a letter National Intelligence Director Michael McConnell sent to Martin on Tuesday.

Frankly, Markey is the kind of person who could bulldoze these issues effectively, and Commerce could exert pressure on the phone companies in other ways too. Let's hope he follows up fully.

We might yet coax this legislative branch out of their stupor, yet.