

**PLANNING FOR THE
UNTHINKABLE - AMENDMENT
NEEDED IN CASE OF D.C.
CARNAGE**

By Wayne Woodlief
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A small but growing number of congressmen, led by U.S. Rep. Brian Baird (D-Wash.) and including three Massachusetts members, are thinking what once was the unthinkable: Suppose all or most of us get wiped out by a terrorist attack on the Capitol? Who will carry on? And how will these successors be chosen?

Those are valid questions, and the troubling thing is that no, repeat no, system for replacing large numbers of congressional casualties - and keeping the U.S. government from descending into chaos - is now in place.

Although tightened security makes a full-scale attack on the U.S. Capitol unlikely, we can no longer say that there's no way it can happen. And we should not start feeling secure just because Osama bin Laden is on the run (if not dead in a cave) and his al-Qaeda network is splintered.

Richard Reid's attempt to set off explosives in his sneakers and blow up an airliner with 183 passengers was a grim reminder that people who want to destroy us and are willing to give up their own lives to do so are still on the loose.

American Enterprise Institute scholar Norman Ornstein, echoing some congressmen's suspicions, said recently, "Congress literally dodged a bullet - or should we say weapon of mass destruction - on (Sept.) 11, thanks to brave passengers

and crew on United Flight 93." They rushed the terrorists and the hijacked plane crashed in Pennsylvania instead of Washington.

So we must at least consider the consequences of a new terrorist attack from the skies or a car with some heavy explosives or nuclear device that might be driven near enough to the Capitol to kill many, perhaps most, members of Congress or perhaps even justices of the Supreme Court, across the street.

"It would cause chaos, confusion and uncertainty, and that's the last thing you need in a crisis," Baird said.

If there were, say, 100 or so survivors, maybe even less, a thousand complexities and questions would emerge. How could government function without a whole Congress? Who would pass laws, raise money to assemble armies, provide homeland defense when it would be needed more than ever?

Would the few survivors legally be able to approve legislation affecting all the states, without representation from those that might have lost whole delegations? Would there be power struggles? The situation would be ripe for disputes and ugliness.

Small wonder that Baird and 85 other congressmen - including Massachusetts Democrats Michael Capuano, William Delahunt and John Olver - have filed a proposed new constitutional amendment to provide an orderly structure for quickly carrying on.

Currently, vacancies in the Senate are filled by gubernatorial appointment until the next general election. But House vacancies must be filled by special elections that often take months to set up and administer.

The amendment would allow governors to quickly appoint new members of Congress to fill vacancies after such a nightmare scenario. Then a special election would be held in 90 days for a full term for the seat. The amendment would come into play only if 25 percent or more of the House - roughly 110 members - were killed or disabled.

Some resistance to the amendment has developed, even if it is common sense to prepare for a worst case scenario:

- Critics, including National Republican Congressional Committee Chairman Tom Davis of Virginia, argue that there should be a requirement that a governor appoint a successor from the same party as the congressional casualty.

Otherwise, Davis said, the will of the voters would be mocked and partisan control of Congress could be switched too abruptly.

Massachusetts would be a case in point if some disaster occurred while the Republicans still control the Corner Office. Jane Swift, for instance, might be able to replace a delegation of 10 Democratic casualties with 10 Republicans. (Yet, in actuality, one would expect a governor to be more sensitive in a crisis and name a bipartisan delegation.)

- Some congressmen treasure the direct election tradition of the House in filling vacancies and say that the voters, not a governor, ought to make the decision.

And, indeed, though theoretically a new candidate in the special election might in 90 days defeat the person the governor had picked, the governor's choice would have a huge head start. Voters tend to prefer incumbents (unless they really stub their toe), especially during a crisis.

But the alternative - having no means to rapidly replace vast numbers of congressmen and relying on whatever new system can be cooked up in a rush - seems untenable.

Baird said he's attentive to dissidents' views and remains flexible. He could revise the amendment to require that the new congressmen be of the same party if it's necessary, he said. "But I'm a good Democrat and there are some excellent Republicans from our state (including past governors and senators) who could be appointed for the interim."

This amendment may well not pass this year, may be fortunate even to come to the floor. Few people enjoy debating the prospect of their own deaths.

Yet it does give us an opportunity to patch a huge chink in our institutional armor. And to seal off another opening terrorists could exploit.

