

WASHINGTON LEADERS RUMINATE OVER WHAT TO DO IF AN ATTACK WIPES THEM OUT

By Kevin Murphy
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WASHINGTON - In the minds of many people, there is something Washington has overlooked in preparing for a major terrorist attack: how to govern.

More than 200 members of the U.S. House are so concerned they are calling for a congressional review of how to avert chaos if an attack wipes out most of the legislative and executive branches.

"The tragedy is you would have the most profound challenges to ever confront our nation arising at precisely the time that individuals and bodies designed to deal with them are themselves eliminated," said Rep. Brian Baird, a Washington state Democrat and sponsor of a resolution to address the problem.

The chief concerns are with the House of Representatives and the presidency, said Baird, one of 200 members of Congress who signed a letter to House leaders last week asking that a special panel study the issue.

If catastrophe struck, the Senate could be restored quickly because governors would appoint new members. But the House could face problems for months because seats can be filled only through special elections.

An attack also killing the president and vice president would trigger disconcerting line-of-succession issues, depending on who died in congressional leadership and the Cabinet.

The possibility of an attack depleting the House or Cabinet is no longer viewed as

far-fetched, given that the hijacked plane that crashed in Pennsylvania on Sept. 11 was believed bound for the Capitol or White House.

"It's not as if an attack on Washington is imminent, but we know we literally dodged a gigantic supersonic bullet on Sept. 11," said Norman Ornstein, a scholar at the American Enterprise Institute in Washington.

Passengers overpowered hijackers before the Pennsylvania crash because they were aware of the other hijackings. Had the plane not been 41 minutes late taking off, hijackers might have succeeded in reaching their Washington target about the same time as the Pentagon was struck.

"We know the Capitol was pretty crowded with members at the time," Ornstein said. "At a minimum, we'd have had a paralyzed Congress for months, given the nature of the Constitution."

Baird favors a constitutional amendment to permit governors to appoint House members from their states if at least 25 percent of the House dies or becomes incapacitated. The appointees would serve until a special election about 90 days later.

Some lawmakers oppose that approach, believing they serve in "the people's House" and should not be replaced by appointees. There is also concern that appointees could be of a different political party.

What's more, passing any constitutional amendment requires approval of two-thirds of Congress and three-fourths of state legislatures, a process that takes years to accomplish.

A more expedient plan, said former House Speakers Newt Gingrich and Tom Foley in a recent Washington Post op-ed piece, would be to have each House member designate a

successor in the event they cannot serve.

That change could be accomplished through a House rule change and could be in place pending approval of a constitutional amendment, they wrote. The designee would serve until a special election.

Some lawmakers believe that designating a successor also is unconstitutional and that amending the Constitution is unwarranted, given the chances an attack would wreak havoc on the House.

"One, the possibility seems remote," said Rep. Barney Frank, a Massachusetts Democrat. "Secondly, if it happens, we could get by for a couple of months."

The president could make decisions, such as waging war, and get congressional ratification later, agreed Harold C. Relyea, specialist in American government for the Congressional Research Service. President Lincoln assumed significant authority as states seceded from the union in 1861, he noted.

Frank said he would prefer Congress wait until an attack occurs to decide how to respond.

"It's hard to predict something like that," Frank said. "It's something other people have to worry about after I'm dead."

Baird had the reverse view: "I climb mountains and I don't like to try to tie my rope on after I'm falling."

The House could still operate, presumably, even if only a few members survived. A quorum needed to do business is defined as the majority of living members, but Baird said that could put a lot of power in a few hands.

Those powers could include election of a new speaker if the leadership was wiped out. And that could be especially important if the

president and vice president were also dead. Under the presidential succession law that President Harry S. Truman pushed through Congress in 1947, the House speaker, followed by the senior member of the majority party in the Senate, is next in line for the presidency.

Next is the secretary of state, then other Cabinet members. But any member of the Cabinet would only serve until a new House speaker is chosen, legal experts said, though they agreed that could be challenged.

"At some point you have to ask yourself who has the football, who has the nuclear football, who is commander-in-chief, what checks does Congress have over their conduct?" Baird said.

Congress should address the presidential succession issue at the same time as it deals with refilling House seats to leave no doubt who is in charge, Baird said.

Another concern about presidential succession is that the speaker of the house or senior Senate member could be of a different party than the president, leading to a revamping of the executive branch.

Rep. Brad Sherman, a California Democrat, has introduced a bill to give the president the choice of designating the minority leader of the House or Senate as next in line.

Some lawmakers question having the senior senator in the majority party as fourth in line for the presidency. That is now Robert Byrd of West Virginia, age 84. When Republicans controlled the Senate early last year, it was Strom Thurmond of South Carolina, then 98.

"No one could argue that it would have been a good idea to have Strom Thurmond as president of the United States," said Frank, who would rather have the majority leader take that post.

President Bush has not spoken out on

presidential succession, but "he takes it very seriously, and extra precautions have been taken since Sept. 11," White House spokesman Scott Stanzel said.

Bush and Vice President Dick Cheney are not often together and at least one Cabinet member is always kept in a secure location.

It is unclear how promptly, if at all, Congress will act on the House and presidential succession issues. Speaker Dennis Hastert has reservations about appointing House members or designating successors, his spokesman John Feehery said Wednesday. But Minority Leader Richard Gephardt told reporters recently he didn't think Congress had done enough to assure continuity of government.

Baird said, "I'm not saying my amendment is perfect. What I am absolutely certain of is that the status quo is unacceptable."