

HOUSE CONSIDERS REACTION TO TERRORIST ATTACK

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House Republican and Democratic leaders met yesterday to discuss how Congress can ensure that the government can continue to function in the event of a catastrophic terrorist attack.

House Policy Committee Chairman Rep. Christopher Cox, California Republican, and House Democratic Caucus Chairman Rep. Martin Frost, Texas, convened a panel of specialists to discuss various ways to ensure a constitutional means of keeping government in operation, even if a terrorist attack should kill or incapacitate key officials.

The two leaders said they would like to come to an agreement this year on such a policy.

"Our role now is to winnow down a lot of what's out there into something that's not only sensible and addresses the problem, but also has the support of most, if not all, of the members of the House and Senate on both sides of the aisle," said Mr. Cox.

"I would hope that we would at least formulate recommendations this year," Mr. Frost said. "Whether the House would act on those this year is another matter."

One issue is whether the policy will be implemented as federal legislation or a constitutional amendment.

"There is no really good answer, because it's a big problem if you lose lots of members [of Congress] in a terrorist attack," said House Leader Richard A. Gephardt, Missouri Democrat. "But we've got to prepare for every eventuality. If it takes a change in the law, we ought to look at that. If it takes a change in the Constitution, we ought to look at that."

The House does not have a mechanism to quickly replace members in the event that a large number are killed or incapacitated. The Constitution allows governors to immediately appoint temporary replacement senators in the event of a senator's death. But House members who die must be replaced by election, and special elections in some states can take up to six months.

"We need some expedited formula for replacing the House should catastrophe strike," said Rep. Brian Baird, Washington Democrat.

Mr. Baird has introduced a constitutional amendment that would allow governors to appoint replacement House members within seven days of a catastrophic event that kills or incapacitates one-quarter or more of House members. A special election then would be held within three months.

Sen. Arlen Specter, Pennsylvania Republican, has introduced a similar constitutional amendment.

Some scholars have suggested Congress can solve the problem by adopting a House rule to allow members to designate a successor for emergency situations.

Another concern is that if a small group of representatives were the only House members to survive a terrorist attack, they would constitute the quorum needed to conduct business and thus could come together and function as the full House. They could pass laws and even elect a speaker of the House from among themselves who could become the new president if both the president and vice president also perished in such an attack.

"I just don't think that's consistent with the intent of the Framers," Mr. Baird said, noting that three House members could choose the nation's next president.

Mr. Cox and others agreed that under this scenario, "legitimacy is cast into serious question."

Since a quorum is a majority of members "chosen, sworn, and living," another problem arises if half the House members were incapacitated in an attack. In that case, House operations would freeze until a sufficient number of members could convene.

Norm Ornstein, resident scholar at the American Enterprise Institute, said the quorum issue could possibly be addressed by changing House rules to redefine a quorum.

Some expressed concern with amending the Constitution. "There are statutory and rules changes — ways that I believe we can deal with this problem short of amending the Constitution," said Rep. Steve Chabot, Ohio Republican.

Rep. Jim Langevin, Rhode Island Democrat, suggested an "e-Congress" might be a good idea in the event of an emergency, allowing members to debate and vote either over the Internet or via video conferencing if transportation to Washington is unavailable after a catastrophic event.