

COMMISSION SAYS NATION NEEDS TO ADOPT A 'COLLECTIVE WILL'

By Brad Hundt

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Most of us learned in a high school civics class that the line of presidential succession starts with the vice president, speaker of the house and the president pro tempore of the Senate before descending through the cabinet.

But here's a question that no teacher has ever been able to answer with any satisfaction: What if they were all decimated in a terrorist strike, along with the Supreme Court and a good chunk of Congress? How would the massive number of vacancies be filled? Who would guide a vast federal bureaucracy and a grievously wounded nation? What kind of leadership crisis would develop if there were differing interpretations of the Constitution?

Thankfully, it's a one-in-a-million scenario. However, the attacks of Sept. 11, 2001, made that possibility seem, at least for a moment, stomach-churningly real. Even the slender chance that this nightmare could happen has driven the daytime work of John Fortier, a research associate at the American Enterprise Institute and the executive director of the Continuity of Government Commission.

"My wife works at the Capitol, so I come home and tell her all the morbid thoughts I've had all day," Fortier joked on the phone from Washington, D.C., last week. A joint project of the conservative American Enterprise Institute and the moderate-to-left-leaning Brookings Institution, the Continuity of Government Commission hopes to prod the federal government to write what *The Atlantic Monthly* called "a collective will."

If the commission's recommendations are implemented, governors would be allowed to name temporary replacements to Congress if a large number of its members are killed.

Though it hasn't released a full report yet, the commission also is likely to recommend an overhaul of the line of presidential succession and ways to replace justices on the Supreme Court.

The idea for the Continuity in Government Commission began germinating at the American Enterprise Institute shortly after the Sept. 11 attacks. It was inspired, in part, by United Flight 93, which crashed in a field near Somerset. It's believed that the plane's hijackers were targeting the Capitol before passengers stormed the cockpit.

If they had made it, there likely would have been large-scale casualties among members of Congress and their staffs.

Of course, Fortier hopes that even if the commission's recommendations become part of the Constitution that there's never a need to use them.

"We hope there are other measures taken to prevent that," he said. "But we feel we should plan for it. It's the responsible thing to do."

"And if there's some way we can plan for it and make clear our system of government is going to continue, it might make it less attractive to certain types of terrorists." The commission has attracted some criticism from both the extreme left and the extreme right. On its Web site this summer, the U.S. Socialist Party said the proposal would weaken Congress as a check on presidential power. On the other side of the spectrum, Rep. Ron Paul, a Republican from

Texas and former Libertarian Party presidential candidate, has argued that the Constitution already covers the most dire emergencies and, besides, "Congress often goes months without passing any significant legislation."

Fortier admits that he and his colleagues at the American Enterprise Institute are usually not too enthusiastic about Constitutional amendments, but the commission's recommendations would be used "in the most extreme of circumstances." He also disagrees with Paul's suggestion that Congress wouldn't be urgently needed in the wake of a devastating terrorist strike. In the aftermath of the terrorist attacks, "you had the authorization of force in Afghanistan. That wasn't just something the president did unilaterally. He had Congress authorize the passage of the Aviation and Transportation Security Act, the Patriot Act, the appropriations for rebuilding New York and the Pentagon. That was all done within a month-and-a-half of Sept. 11."

Pondering a cataclysmic attack on the United States may not seem like typical fare for a law film series. However, series coordinator Cary Jones has been eager to broaden the scope of the series to include issues of national and international importance.

"I think I've run out of lawyer movies," he said.