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Seven Years after 9/11, U.S. Still Lacks Good Continuity Plan

By Norman J. Ornstein

Seven years after the attacks of September 11, 2001, the U.S. government still lacks a succession plan in the case of another major catastrophe or terrorist attack. As the January inauguration approaches—the most vulnerable day for our constitutional government—the fact that the government has done nothing to protect our elections, our legislative branch, our presidential succession process, or our Supreme Court is troubling and shameful.

Earlier last month was the seventh anniversary of the horrific events of September 11, 2001. After appearing with Senator Barack Obama in New York, Senator John McCain visited Shanksville, Pennsylvania, where one of the hijacked planes crashed after the passengers blocked the terrorists from reaching their target. McCain said, “It is believed that the terrorists on United Flight 93 may have intended to crash the airplane into the United States Capitol. Hundreds, if not thousands, of people would have been at work in that building.”

McCain is absolutely right. Among the hundreds or thousands would have been substantial numbers of U.S. congressmen, who would have been killed, seriously injured, or left missing in the rubble, leaving Congress without a quorum and without the ability to do any official business for many months. That would have left the United States to operate under a form of martial law, with President George W. Bush, Vice President Dick Cheney, Secretary of Defense Donald Rumsfeld, and U.S. Attorney General John Ashcroft making unilateral decisions about taking military action,

sending support to the sites of the attacks, drafting and implementing the Patriot Act, and many other things.

In the weeks that followed September 11, America was gripped by another story—the deadly anthrax attacks on Senate offices, television anchors, and others that left several people dead and others seriously injured and created panic around the Capitol. Seven years after that nightmare, we *may* have uncovered the progenitor of the anthrax attacks. But if indeed it was one rogue scientist perpetrating the deeds, it makes it even more frightening; if that high-grade anthrax had been injected into the Senate’s ventilation system, we might have had sixty or seventy senators dead or in intensive care for weeks or months, leaving the Senate unable to meet or act.

Seven years is a long time, but the enormity and depravity of the acts are fresh. Nonetheless, one would think that seven years is enough time for even a slow-moving political system to create basic insurance to prevent the kind of chaos and injury to the American constitutional system that would come with another, more successful, attack on official Washington.

In one of the more shame-worthy lapses in our dysfunctional government—especially in Congress—

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nothing constructive has been done to protect our elections, our legislative branch, our presidential succession process, or our Supreme Court from the consequences of the kind of terrorist attack that every expert believes is quite likely to occur in the future.

We know that al Qaeda acted directly to disrupt and influence the elections in Spain a few years back. We have no plan in place if something happens at one or more sites on November 4 that could throw the results of this consequential presidential election into the air. There have been no serious hearings on what might be done, and no actions have been taken, except in some states by individual secretaries of state.

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We have had no deliberation over what happens if attacks occur on the presidential or vice presidential candidates at different stages of our complicated political process—between the conventions and the election, after the election but before the electors meet to cast

their ballots, after the electors meet but before Congress acts to certify the electoral votes, after Congress acts but before the inauguration.

There has been no significant action to ensure that if Congress is wiped out or left without a constitutionally mandated quorum, it can be reconstituted quickly. The previous Republican Congress passed a woefully inadequate, poorly drafted bill to expedite special elections that is almost farcical; the Democratic Congress has neither repealed it, amended it, nor offered any realistic alternative. The Republican House jammed through a clearly unconstitutional rule unilaterally changing the constitutional definition of a quorum, a change that was rejected by every major constitutional scholar who was asked; the Democratic Congress inexplicably left it in place.

The Presidential Succession Act of 1947 has no relevance to the challenges and potential disasters of 2008 and beyond. But we have had a single hearing of relevance over the past seven years, and no action whatsoever. The Supreme Court has no succession plan at all in place—despite the fact that if there were a disaster and real questions were raised about what is appropriate and constitutional, the court would or should play a critical role as arbiter. Once again nothing has been done over seven years.

We are approaching an inauguration that will be historic in many ways—and also the single most vulnerable day for our constitutional system. The plans to ensure that the worst-case scenario will not turn into an even worse scenario for the country and its future? Zero. Happy seventh anniversary.

Also by Norman J. Ornstein:

Article in *Roll Call*

Defending the Insiders

September 15, 2008

I am a card-carrying Washington insider, just the kind of guy Republican vice presidential nominee Sarah Palin says she disdains. To be sure, I am not a member of the inner circle. But I am no fringe element either.

I have spent thirty-nine years immersed in the politics, media, and culture of the nation's capital—teaching, writing, testifying, working on the Hill, helping craft legislation and reforms, even cochairing a presidential advisory commission. Over that time, I have developed relationships with most of the members of the political and journalistic establishments.

Voters have scorned Washington insiders since there has been a Washington, and politicians seeking to come to Washington have run against them for just as long. The situation here is certainly worse today than it has been in a long time. Change certainly is needed, and not of the incremental variety. . . .

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