Republican Rift Over Wiretapping Widens
Party at Odds on Surveillance Legislation

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Deepening Republican divisions over the future of President Bush's warrantless wiretapping program may jeopardize GOP leaders' hopes of making terrorism surveillance legislation a centerpiece of their final legislative push this month.

House and Senate Republican leaders plan to focus congressional attention almost exclusively on national security, hoping to draw clear distinctions between Republicans and Democrats ahead of the November elections. Topping the to-do list is passing legislation officially sanctioning the National Security Agency's secret wiretapping of suspected terrorist communications. The eavesdropping has been carried out without warrants since the Sept. 11, 2001, attacks. A federal judge in Detroit recently ruled the program illegal.

Republican leaders have planned to produce legislation by month's end that would give the administration as much latitude as possible to continue the program. But that effort may be splintering. The Senate Judiciary Committee will consider as many as four contradictory bills on the issue tomorrow and could approve all of them. That would leave it to Senate leaders and the White House to sort out how to proceed.

Meanwhile, House Republican leaders and the chairmen of the House Judiciary and intelligence committees are coalescing around surveillance legislation that goes beyond legislation negotiated by Vice President Cheney and Senate Judiciary Committee Chairman Arlen Specter (R-Pa.).

"You need checks and balances in place to make sure future administrations or even civil servants don't get out of line," said Rep. Heather A. Wilson (R-N.M.), sponsor of the main House surveillance bill. Unlikespecter's bill, she added, "my bill was not authorized by the White House."
At issue is the balance between congressional oversight and executive-branch latitude. In July, Specter announced what he called "a major breakthrough" when he presented legislation backed by the White House that would allow the administration to submit the NSA's warrantless wiretapping program to a secret intelligence court for review of its legality. Under the bill, the secret court that now administers surveillance under the Foreign Intelligence Surveillance Act would be permitted to review the legality of the program as a whole and not individual wiretaps, which could continue without warrants.

Republican leaders rallied around the deal, apparently believing they could portray Democratic opposition as evidence that their opponents are soft on terrorism. But since then, some Republicans have moved to toughen the terms of the agreement.

Sens. Mike DeWine (Ohio), Lindsey O. Graham (S.C.), Chuck Hagel (Neb.) and Olympia J. Snowe (Maine) sponsored a competing bill that would require a court-issued warrant for wiretapping beyond 45 days, unless the attorney general certifies to Congress in writing and under oath that such a warrant could not be obtained but that the surveillance is necessary for national security. With DeWine and Graham on the Judiciary Committee, the legislation is likely to be approved tomorrow, committee staff members and Senate leadership aides said yesterday.

A House Judiciary subcommittee will hold a hearing today on six surveillance bills before the committee drafts its own legislation as soon as next week. The basis of that bill will be Wilson's bill, House Majority Leader John A. Boehner (R-Ohio) said yesterday. And that legislation also goes beyond Specter's agreement with Cheney, limiting warrantless surveillance to 60 days unless the president goes to Congress to justify continued wiretapping and requiring Congress to be kept apprised of all groups under surveillance.

"The president has argued he has inherent authority as commander in chief" to conduct warrantless surveillance, Wilson said. "Congress has inherent authority, as well. And, frankly, I think his arguments are rather weak."

The American Civil Liberties Union and top Democrats have said Wilson's and Specter's bills would gut judicial review of executive surveillance, creating so many loopholes that court warrants would become optional.