

## Dems, GAO fear congressional oversight

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By Peter Brand

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House Democrats are concerned that the decision by the General Accounting Office (GAO) last month to drop its lawsuit against Vice President Dick Cheney will make it more difficult for them to gain access to executive branch information.

Comptroller General David Walker had filed the suit against Cheney in February 2002 at the request of House Democrats, who sought to obtain records of an energy task force headed by the vice president. It was the first time in its 81-year history that the GAO, acting in its capacity as the investigative arm of Congress, sued the executive branch to obtain information.

But U.S. District Court Judge John Bates, citing the separation of powers doctrine, ruled in December that Walker lacked sufficient grounds to compel Cheney to disclose the records. On Feb. 7 Walker decided not to appeal Bates' ruling.

"If the GAO is only going to get information if the administration is willing to give it, then there's no reason why [the administration] is going to be cooperative," said Rep. Henry Waxman (Calif.), ranking Democrat on the Government Reform Committee.

Waxman, a proponent of aggressive congressional oversight, and Energy and Commerce Committee ranking Democrat John Dingell (Mich.) originally asked Walker to probe Cheney's task force. They and other Democrats assert that with one party controlling both the legislative

and executive branches, aggressive congressional oversight is almost impossible.

Since December, the GAO general counsel's office has been "trying to chart where the biggest problems are, or are likely to be in terms of agencies' refusals to provide information sought by GAO," according to a source familiar with senior GAO operations. In addition, the general counsel's office is reporting any findings directly to Walker, the source said.

But Rep. Chris Shays (R-Conn.), who chairs the Government Reform Subcommittee on National Security, called their charge "crazy," and said he continues to have confidence in the GAO. "I depend on it for a tremendous amount [of information]," he said.

Nevertheless, some House Democrats maintain that the end of the Cheney lawsuit will embolden the White House to resist congressional oversight.

"This is already the most secretive administration in recent history," said Rep. Jan Schakowsky (D-Ill.), a former member of the Government Reform Committee who now sits on Energy and Commerce. She added that the future viability of the GAO "remains to be seen."

Rep. Zoe Lofgren (D-Calif.), a member of the Judiciary Committee, said she is skeptical about the GAO's future effectiveness: "It certainly raises questions in my mind. We count on certain agencies to provide just the facts."

Other House members, however, believe that these concerns are premature, and that by continually tasking the GAO, the legislative branch can monitor and maintain its effectiveness.

"My instinct would be to keep testing them and make sure they're manning the ramparts over there," a GOP aide on the Government Reform Committee said. Waxman and Lofgren expressed particular concern about congressional oversight of the Justice Department's anti-terrorism activities.

"It is impossible to oversee the Justice Department," Lofgren said, referring to draft legislation the department is considering that would increase its ability to operate covert surveillance and searches of any suspected terrorist in the United States.

The GAO is completing a study of the Justice Department actions involving the long-term detention of foreigners in the wake of the Sept. 11, 2001 terror attacks, and the use of military tribunals to prosecute suspected terrorists.

Rep. John Conyers (D-Mich.), ranking Democrat on the Judiciary Committee, and Sen. Russ Feingold (D-Wis.) requested the study in January 2002.

"A core function of the GAO is to review executive agency activities to assure Congress that government authority is exercised within the limits of statutory and constitutional authority," Feingold and Conyers wrote to the GAO's Walker.

The report should be completed by the end of this month, according to a Feingold aide.