

Alito to Face Questions About President's War Powers

Monday, December 19, 2005
Associated Press

WASHINGTON — Supreme Court nominee Samuel Alito will have to answer questions about how he views the president's powers in the war on terror, senators said Monday after the White House defended its orders of warrantless domestic spying.

Senate Judiciary Chairman **Arlen Specter**, R-Pa., and ranking Judiciary Democrat **Patrick Leahy** of Vermont sent separate letters to Alito telling him they would ask about the president's authority to order warrantless spying at Alito's Jan. 9 confirmation hearings.

"Recent revelations that the president authorized domestic eavesdropping without following the statute that requires approval of the Foreign Intelligence Surveillance Court is but one of several areas where the court's role as a check on overreaching by the executive may soon prove crucial," Leahy said in his letter.

Bush said Monday that warrantless spying, conducted by the **National Security Agency**, was an essential element in the war on terror. The president said the Constitution gives him the authority to order the warrantless monitoring of phone calls and e-mails of individuals in this country believed to be plotting with terrorists overseas.

Bush also said Congress gave him the authority under the September 2001 congressional resolution authorizing the terror war following the Sept. 11 attacks.

(Story continues below)



"What jurisprudential approach would you use to determine whether this resolution gives the president the power to issue an executive order permitting the National Security Agency to conduct domestic surveillance on international communications without first obtaining a search warrant?" said Specter in his letter outlining a list of questions for Alito.

Specter and Leahy said they were listing questions for Alito so he would be prepared when they asked them at the hearings, which begin Jan. 9 and could take several days.

President Bush nominated the 55-year-old federal appeals court judge on Oct. 31. If confirmed by the Republican-controlled Senate, Alito would succeed retiring Justice Sandra Day O'Connor. She has often been the swing vote on abortion, the death penalty, affirmative action and other

contentious issues.

The Republican-controlled Senate hopes to hold a final vote on his confirmation by Jan. 20.

Jousting on Alito's nomination is increasing as the hearing date nears.

The conservative Committee for Justice, which supports Bush's judicial nominees, on Tuesday plans to release a report analyzing the Alito opposition's tactics while liberal groups like Earthjustice, Greenpeace and National Partnership for Women and Families plan to announce their opposition to Alito's confirmation.