

Moreover, if the public disclosure provisions continue to be misinterpreted, relators and their counsel will be deterred from filing truly meritorious claims.

Further, not all of the cases in which the public disclosure bar is raised are those in which the government has declined to intervene. Defendants make public disclosure motions after the government has joined a case, and they do so for only one reason: to deprive the government of the resources that relators and their counsel bring to the case. Yet in those cases, too, the Department is typically silent, refusing to take a position on the public disclosure issue. That stance, too, may well undermine Congress' expressed intent.

One of the principal goals of the 1986 Amendments was to ameliorate the "lack of resources on the part of Federal enforcement agencies." S. Rep. 99-345 at 7. That was one of the reasons we strengthened the *qui tam* provisions of the law. Thus, we expected some meritorious cases to proceed without the Government's intervention, and we fully expected that the Government and relators would work together in many cases to achieve a just result. By dismissing relators based on spurious interpretations of the public disclosure bar, the courts are depriving the government of these additional resources. And those resources have been considerable. In numerous cases, relators and their counsel have contributed thousands of hours of their time and talent and spend hundreds of thousands of their own dollars investigating and pursuing their allegations. The Department must act to protect those resources, even in cases where it has not intervened. When a question of statutory interpretation arises, particularly with respect to the public disclosure bar, the Department must make its views known to the court. As we stated emphatically at the time the Amendments were adopted, Congress enacted the Amendments based on the belief that "only a coordinated effort of both the Government and the citizenry will decrease this wave of defrauding public funds." We continue to hold that view.

Sincerely,

HOWARD L. BERMAN,  
Member of Congress.  
CHARLES E. GRASSLEY,  
U.S. Senator.

#### FOOTNOTES

<sup>1</sup>The same is true for civil complaints filed in state court or discovery obtained as a result of state court proceedings, which several Circuits have held constitute public disclosures within the meaning of §3720(3)(4)(A). See e.g. U.S. ex rel. *Kreindler & Kreindler v. United Technologies Corp.*, 985 F.2d 1148, 1158 (2d Cir.), cert. denied, 113 S.Ct. 2962 (1993) (holding that discovery materials contained in unsealed court records was "publicly disclosed"); U.S. ex rel. *Stinson, Lyons, Gerlin & Bustamante v. Prudential Ins. Co.*, 944 F.2d 1149, 1155-56 (3d Cir. 1991) (holding that the disclosure of discovery material—even if not filed in court—constitutes a public disclosure). We believe those cases are wrongly decided. Disclosure of fraud in a state court proceeding, even a state criminal proceeding, is unlikely to get to the attention of the federal government, unless it is publicized in the news media, a contingency the public disclosure bar addresses.

<sup>2</sup>Some courts do get it right. In U.S. ex rel. *Fallon v. Accudyne Corp.*, 921 F.Supp. 611 (W.D. Wisc. 1995), the court held that an audit report produced by a state agency did not constitute a public disclosure. "Under these circumstances there is no reason to believe that the United States would become aware of such information." *Id.*, at 625.

<sup>3</sup>Senator Grassley made a similar comment during the debate on the 1986 Amendments: "The publication of general, non-specific information does not necessarily lead to the discovery of specific, individual fraud which is the target of the *qui tam* action." False Claims Act Implementation: Hearing Before the Subcomm. On Admin. Law and Gov. Relations of the House Comm. On the Judiciary, 101st cong. 6 (1990) Statement of Senator Grassley.

## PRESCRIPTION DRUGS

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1999

Ms. Lee. Mr. Speaker, I rise to today in strong support of the President's plan to modernize and strengthen Medicare for the 21st century. This proposal will create an affordable prescription drug benefit program that will expand the accessibility and autonomy of all Medicare patients.

Currently, Medicare offers a very limited prescription drug benefit plan for the 39 million aged and disabled persons obtaining its services. Many of these beneficiaries have to supplement their Medicare health insurance program with a private or public health insurance in order to cover the astronomical costs not met by Medicare. Unfortunately, most of these plans offer very little drug coverage if any at all. Therefore, Medicare patients across the U.S. are forced to pay over half of their total drug expenses out-of-pocket. Due to these circumstances, patients do not get the adequate medication needed to successfully treat their conditions.

In 1995, we find that persons with supplementary prescription drug coverage used 20.3 prescriptions per year compared to 15.3 for those individuals lacking supplementary coverage. The patients without supplementary coverage are forced to compromise their health because they cannot afford to pay for the additional drugs they need. The quality and life of these individuals continues to deteriorate while we continue to limit their access to basic health necessities. The President's measure will tackle this problem by allowing our patients to purchase prescription drugs at a lower price.

Why should our patients have to continually compromise their health by being forced to decide which prescription drugs to buy and which drugs not to take, simply because of budgetary caps that limit their access to treat the health problems they struggle with? These patients cannot afford to pay these burdensome costs. We must work together to expand Medicare by making it more competitive, efficient, and accessible to the demanding needs of our patients. The federal government is expecting a surplus of \$2.9 trillion over the next 10 years. By investing directly in Medicare, we choose to invest in the lives, health, and future of our patients.

The House Committee on Government Reform conducted several studies identifying the price differential for commonly used drugs by senior citizens on Medicare and those with insurance plans. These surveys found that drug manufacturers engage in widespread price discrimination, forcing senior citizens and other individual purchasers to pay substantially more for prescription drugs than favored customers, such as large HMOs, insurance companies, and the federal government.

According to these reports, older Americans pay exorbitant prices for commonly used drugs for high blood pressure, ulcers, heart problems, and other serious conditions. The report reveals that the price differential between favored customers and senior citizens for the cholesterol drug Zocor is 213%; while favored customers—corporate, governmental, and institutional customers—pay \$34.80 for

the drug, senior citizens in the 9th Congressional District may pay an average of \$109.00 for the same medication. The study reports similar findings for four other drugs investigated in the study: Norvasc (high blood pressure): \$59.71 for favored customers and \$129.19 for seniors; Prilosec (ulcers): \$59.10 for favored customers and \$127.30 for seniors; Procardia XL (heart problems): \$68.35 for favored customers and \$142.21 for seniors; and Zoloft (depression): \$115.70 for favored customers and \$235.09 for seniors. If Medicare is not paying for these drugs, then the patient is left to pay out-of-pocket. Numerous patients are forced to gamble with their health when they cannot afford to pay for the drugs needed to treat their conditions. Every day, these patients have to live with the fear of having to encounter major medical problems because they were denied access to prescription drugs they could not afford to pay out of their pocket. Often times, senior citizens must choose between buying food or medicine. This is wrong.

Many Medicare patients have significant health care needs. They are forced to survive on very limited resources. They are entitled to medical treatments at affordable prices. The President's plan will benefit 31 million patients each year. This plan will address many of the problems relating to prescription drugs and work to ensure that patients have adequate access to their basic health needs. Let's stop gambling with the lives of Medicare patients and support this plan to strengthen and modernize Medicare for the 21st century.

## TRIBUTE TO VIKKI BUCKLEY

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1999

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize the life and contributions of Vikki Buckley, Colorado's Secretary of State, who passed away this morning after suffering an apparent heart attack on Tuesday. Quoting a friend of hers, "Vikki's no longer in the hands of doctors. She's now in the arms of God."

Vikki, who proudly proclaimed herself to not be a hyphenated American, but a proud American. She held the distinction of being the first Black Secretary of State and the first Black Republican woman elected to a statewide constitutional office. Winning her first election by 57 percent to 36 percent in 1994, she was re-elected last November. Running for office for the first time, Vikki was selected for the Republican ballot after defeating several opponents at the Colorado Republican State Assembly in 1994. She distinguished herself from her opponents when she stood up and delivered one of the best speeches I've had the pleasure of hearing.

An outspoken conservative, Vikki served as the state's chief election official and traveled around the state and country continuing to speak out on varying issues of importance to her, enduring the wrath of liberals. Most recently, she gave the opening remarks at the National Rifle Association's annual meeting in Denver, CO. Her speech has been acknowledged nationwide and most insightful concerning the heart of humanity and the preservation of the entire Constitution of the United States, including the Second Amendment.

Mr. Speaker, I hereby submit Vikki's speech for the record.

WELCOMING REMARKS OF THE COLORADO SECRETARY OF STATE MS. VIKKI BUCKLEY

Good morning! I greet you as Secretary of State of Colorado and I welcome you to Colorado, a state where some of us believe strongly in the entire Constitution of these United States, including the Second Amendment.

Isn't it ironic that many who would run you out of town would themselves be unable to even vote had we as a nation not honored all provisions of the United States Constitution?

To them I say—shame on you!

I stand before you today as one who has worked closely with the family of Isaiah Shoels. Isaiah was the Columbine High School student who was killed in part because of the color of his skin.

I must agree with Isaiah's father Michael who has stated that guns are not the issue. Hate is what pulls the trigger of violence.

We are witnesses to new age hate crimes which we must eliminate if we are to remain the greatest nation on earth.

What is a new age hate crime?

When our children leave for school without a value system which places a premium on human life—we are accessories to a new age hate crime.

Parents, when you raise your children and send them to school without a value system which teaches the difference between right and wrong; then parents, we have committed a new age hate crime.

I say to those who run our schools, when you allow children to graduate who are technologically and functionally illiterate—you have committed a new age hate crime because those children are destined to be economically tortured to death as though they had been chained and dragged behind a pickup truck in Jasper, Texas.

Those who would run the NRA out of town need to look at our own children who are engaging in irresponsible sex and having children they cannot take care of. Such irresponsible sex is a new age hate crime—raise as much heck about that as you do the NRA and you will save more lives in 5 years than are taken with guns in a century.

If we allow the language of hate in our homes—when terms such as “nigger” are freely used then we are laying the foundation for new age hate crimes. The language of hate must be challenged.

Just before a skinhead gunned down a black man on a downtown Denver street last year he asked, “Are you ready to die, nigger?” Columbine eyewitness accounts reveal that just before Isaiah's killers fired they asked, “Where is that little nigger?” The language of hate must go.

Now I know that some of what I say here today can make some of us squirm a little bit. We are all guilty of harboring some prejudices and stereotypes. But it is when we are most uncomfortable about addressing an issue that we become so close to real problem solving.

People we can do better. I am not a hyphenated American. I am an American. That is why I know we can do better.

I find it difficult to discuss—but I have been a victim of a gun-shot wound. I know first hand the pain and fear—but that experience has not made me an opponent of the NRA or the Second Amendment.

That is why I stand before you today and ask you to join me and commit NRA resources to combat violence and hate. I am not talking a slick PR campaign, I am talking about a programmatic approach designed to combat violence and hate. I will be in touch to make this proposal a reality.

Together, we can work for a living memorial to those who perished at Columbine. But we must stand ever strong against those who

would ignore sections of the U.S. Constitution which they do not like. We are a strong democracy because the guiding principles of our Constitution and all of its amendments including the Second must be adhered to in its entirety, not selectively.

Thank you and God bless America.

Vikki, the mother of three sons and the grandmother of two, was once on welfare to support her children. She left public welfare 25 years ago when she became a clerk typist in the Secretary of State's office, the office which she eventually directed as Secretary of State. She attended Heritage Christian Center and was a board member of Project Heritage. She was a founding member and director of the Colorado Stand Up for Kids Organization, and mentored young ladies in the nonprofit organization Empowering Young Ladies for Excellence, and spoke to international women's organizations regarding bridging differences to make a stronger global community. She has worked to help homeless kids and has worked tirelessly in the cause of stopping youth and gang violence.

Vikki was twice featured in significant publications, the December 1995 Ladies Home Journal—“Against all Odds”, and Atlantic Monthly, 1996, “America's Conservative Women.” She received numerous awards including the Political Award from National Federal of Black Business Women and numerous “Breaking through the Glass Ceiling” awards.

Mr. Speaker, I thank you for giving me the opportunity to share a snapshot of Vikki Buckley's life and the contributions she has made to the state of Colorado and this Nation. Our lives have been enriched for having known Vikki.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the *Extensions of Remarks* section of the *CONGRESSIONAL RECORD* on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 15, 1999 may be found in the Daily Digest of today's *RECORD*.

## MEETINGS SCHEDULED

## JULY 16

9 a.m.

## Energy and Natural Resources

To resume oversight hearings to examine damage to the national security from alleged Chinese espionage at the Department of Energy nuclear weapons laboratories.

SD-366

10 a.m.

## Judiciary

## Administrative Oversight and the Courts Subcommittee

To hold hearings on S. 253, to provide for the reorganization of the Ninth Circuit Court of Appeals; and review the report by the Commission on Structural Alternatives for the Federal Courts of Appeals regarding the Ninth Circuit.

SD-628

## JULY 20

9:30 a.m.

## Health, Education, Labor, and Pensions

To resume hearings on proposed legislation authorizing funds for programs of the Elementary and Secondary Education Act, focusing on improving use of funds.

SD-430

## Environment and Public Works

## Fisheries, Wildlife, and Drinking Water Subcommittee

To hold hearings on the habitat conservation plans.

SD-406

## Governmental Affairs

## Investigations Subcommittee

To hold hearings to examine deceptive mailings and the need for legislation to curb the deceptive practices used in the sweepstakes, skill contests and government look-alike mailings.

SD-342

10 a.m.

## Budget

To hold hearings to review the President's budget for fiscal year 2000.

SD-608

11 a.m.

## Foreign Relations

To hold hearings on the nomination of A. Peter Burleigh, of California, to be Ambassador to the Republic of the Philippines and as Ambassador to the Re-

public of Palau; the nomination of Robert S. Gelbard, of Washington, to be Ambassador to the Republic of Indonesia; the nomination of M. Osman Siddique, of Virginia, to be Ambassador to the Republic of Fiji, and as Ambassador to the Republic of Nauru, Ambassador to the Kingdom of Tonga, and Ambassador to Tuvalu; and the nomination of Sylvia Gaye Stanfield, of Texas, to be Ambassador to Brunei Darussalam.

SD-419

2:30 p.m.

## Energy and Natural Resources

## Forests and Public Land Management Subcommittee

To hold hearings on S. 729, to ensure that Congress and the public have the right to participate in the declaration of national monuments on federal land.

SD-366

Aging

To hold hearings to examine the effects on drug switching in Medicare managed care plans.

SD-106

## JULY 21

Time to be announced

## Intelligence

To hold closed hearings on pending intelligence matters.

SH-219

9:30 a.m.

## Indian Affairs

To hold hearings on S. 985, to amend the Indian Gaming Regulatory Act.

SD-106

## Armed Services

To hold hearings on the nomination of F. Whitten Peters, of the District of Columbia, to be Secretary of the Air Force; and the nomination of Arthur L. Money, of Virginia, to be an Assistant Secretary of Defense.

SR-222

## Environment and Public Works

## Fisheries, Wildlife, and Drinking Water Subcommittee

To continue hearings on the habitat conservation plans.

SD-406

10 a.m.

## Budget

To continue hearings to review the President's budget for fiscal year 2000.

SD-608

## Judiciary

To hold hearings on combatting methamphetamine proliferation in America.

SD-628

2 p.m.

## Energy and Natural Resources

## Forests and Public Land Management Subcommittee

To hold hearings on S. 1184, to authorize the Secretary of Agriculture to dispose of land for recreation or other public purposes; S. 1129, to facilitate the acquisition of inholdings in Federal land management units and the disposal of surplus public land; and H.R. 150, to amend the Act popularly known as the Recreation and Public Purposes Act to authorize disposal of certain public lands or national forest lands to local education agencies for use for elementary or secondary schools, including public charter schools.

SD-366

## Judiciary

## Criminal Justice Oversight Subcommittee

To hold oversight hearings on Federal asset forfeiture, focusing on its role in fighting crime.

SD-628

## JULY 22

Time to be announced

## Intelligence

To hold closed hearings on pending intelligence matters.

SH-219

9:30 a.m.

## Environment and Public Works

To hold hearings on S. 835, to encourage the restoration of estuary habitat through more efficient project financing and enhanced coordination of Federal and non-Federal restoration programs; S. 878, to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program; S. 1119, to amend the Act of August 9, 1950, to continue funding of the Coastal Wetlands Planning, Protection and Restoration Act; S. 492, to amend the Federal Water Pollution Control Act to assist in the restoration of the Chesapeake Bay; S. 522, to amend the Federal Water Pollution Control Act to improve the quality of beaches and coastal recreation water; and H.R. 999, to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters.

SD-406

10 a.m.

## Foreign Relations

## Near Eastern and South Asian Affairs Subcommittee

To hold hearings on the United States' policy with Iran.

SD-419

2 p.m.

## Energy and Natural Resources

## Forests and Public Land Management Subcommittee

To hold hearings on S. 1320, to provide to the Federal land management agencies the authority and capability to manage effectively the Federal lands, focusing on Title I and Title II, and related Forest Service land management priorities.

SD-366

2:30 p.m.

## Foreign Relations

To hold hearings on the nomination of J. Brady Anderson, of South Carolina, to be Administrator of the Agency for International Development.

SD-419

## JULY 27

9:30 a.m.

## Energy and Natural Resources

To hold hearings on S. 1052, to implement further the Act (Public Law 94-241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

SD-366

## JULY 28

9:30 a.m.

## Indian Affairs

To hold hearings on S. 979, to amend the Indian Self-Determination and Education Assistance Act to provide for further self-governance by Indian tribes.

SR-485

2:30 p.m.

Energy and Natural Resources  
Water and Power Subcommittee

To hold hearings on S. 624, to authorize construction of the Fort Peck Reservation Rural Water System in the State of Montana; S. 1211, to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner; S. 1275, to authorize the Secretary of the Interior to produce and sell products and to sell publications relating to the Hoover Dam, and to deposit revenues generated from the sales into the Colorado River Dam fund; and S. 1236, to extend the dead-

line under the Federal Power Act for commencement of the construction of the Arrowrock Dam Hydroelectric Project in the State of Idaho.

SD-366

AUGUST 4

9:30 a.m.

Indian Affairs

To hold hearings on S. 299, to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health; and S. 406, to amend the Indian Health Care Improvement Act to make permanent the demonstration program that

allows for direct billing of medicare, medicaid, and other third party payors, and to expand the eligibility under such program to other tribes and tribal organizations; followed by a business meeting to consider pending calendar business.

SR-485

SEPTEMBER 28

9:30 a.m.

Veterans Affairs

To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the American Legion.

345 Cannon Building