

about the PATRIOT Act. The administration should answer those concerns honestly and forthrightly before seeking more power.

The administration has announced its support for three legislative proposals to expand executive branch power and diminish the role of judges, an essential part of our Nation's system of checks and balances. One proposal grants the Attorney General significant power to compel people to testify or the production of documents, all without prior court approval. A second proposal broadens the presumption of pretrial detention to cases that may not even involve terrorism. Finally, the third proposal expands the Federal death penalty.

Criticism of the PATRIOT Act appears to have had the effect of influencing the administration's strategy to secure this new power, but not the substance of its effort. Rather than proposing a single bill with various provisions to expand the PATRIOT Act, the administration instead appears to have given its blessing to many little "PATRIOT IIs."

The administration is apparently reluctant to allow these proposals to be linked to the PATRIOT Act. In fact, the Justice Department has even tried to suggest that they are unrelated. No one is fooled, however, least of all the American people. The fact is that these proposals did appear in the draft "Patriot II" leaked earlier this year and entitled the Domestic Security Enhancement Act.

"Patriot II," whether contained in one bill or a series of bills, is the wrong response at the wrong time. An increasing number of Americans want to know exactly how this administration is using the powers it already has and want the PATRIOT Act to be amended to protect privacy and civil liberties.

The burden is on the administration to show Congress and the American people why current law is inadequate, why it needs even more power, and how the powers it already has and the new powers it seeks are consistent with the Constitution and Bill of Rights.

That would be the patriotic thing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Would the Chair announce, under the additional time we have until 11:30, how much time the minority has remaining?

The PRESIDING OFFICER. The minority has 7 minutes 17 seconds remaining.

Mr. REID. How about if we add in the time for the second hour? Is it 32 minutes or something like that?

The PRESIDING OFFICER. After this, there will be 50 minutes equally divided.

Mr. REID. So it would be about 32 minutes. I ask unanimous consent that during our time the Senator from Michigan, Ms. STABENOW, be recognized for 9 minutes; Senator HARKIN for 9

minutes; Senator CORZINE for 9 minutes; and Senator BINGAMAN for 4 minutes. That will basically use up all of our time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that we alternate back and forth if, in fact, there are people from the majority; otherwise, it would be in the order that I have mentioned.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan is recognized for 9 minutes.

#### MEDICARE AND PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, I rise today to speak about the issue of Medicare and prescription drugs and where we are as we have been working to develop a prescription drug benefit for seniors and put in place plans that would lower prices on prescription drugs for everyone: Businesses, individuals, workers, families.

We are at a crossroads. We have been working many hours in a bipartisan way in this body, trying to come to a positive conclusion on the question of Medicare and prescription drugs. There are wide differences in philosophy and approach, particularly with our colleagues on the Republican side of the aisle in the House of Representatives. I am deeply concerned about the direction that the conference committee appears to be going as it relates to the fundamental issue of whether we will continue to have Medicare as we know it in the future.

We all know that Medicare was put into place in 1965 because at least half of our seniors could not find or could not afford prescription drug coverage and health care in the private sector. They could not find or afford health care in the private sector. So this Congress and the President at that time came together and did something I think is one of the most significant actions of modern age for the people of the country, and that is to create health care for seniors, for those over age 65, and for the disabled of this country, a guarantee that we would make a commitment together and fund a system for older Americans and the disabled to have access to health care in this country. It has made all the difference in terms of quality of life for our citizens.

We now are at a juncture where we have seen a proposal passed as part of the House package that would essentially do away with Medicare as we know it. Instead of it being a defined benefit, meaning it does not matter where a person goes, whether they are going to New Jersey, Iowa, or Michigan, or what part of Michigan they live in, whether they live in the Upper Peninsula, Detroit, Benton Harbor, or Lansing, they could count on Medicare. They know what it will cost. Their provider knows what they will be paid for

the service. It is a system that is universal, and it works.

What we are hearing now is that there is a great desire, unfortunately, among, again, predominately our colleagues in the House, in the majority, who are saying that system should be radically changed. Instead of having Medicare, which is dependable, affordable, reliable—we know what it is; seniors can choose their own doctors; providers know what the payment will be—they want to change it to what is called premium support.

Now, what does that mean? Essentially, it is like a voucher. They want Medicare to essentially say a person has X amount of dollars for their health care, and if it costs more than that, they pay that. If, in fact, they want to take that and go to an HMO or PPO, that is what would be encouraged. People would be pushed more and more into an HMO or a PPO in order to save dollars, but for most of our citizens that would not be available.

The House basically wants to say that Medicare, as we know it, will no longer be available, and it will be privatized. Folks will be given a lump sum of dollars, and then they are on their own. If they are sicker, if they need more help, they would not be covered for that additional health care they need. There would only be a set amount of dollars or essentially the equivalent of a voucher. This completely undermines what we have put in place for Medicare. The idea that we would say to our seniors, You have health care; you can rely on it; you can count on it; you don't have to worry about it, that would all be taken away with this proposal to undermine Medicare and to essentially turn it back to the private sector.

This is something I find absolutely unacceptable and I will do whatever I can to stop it, and I know on our side of the aisle there is overwhelming opposition to this notion of doing anything that would undermine and weaken Medicare for our seniors.

We know, according to a study that was just done, this proposal could increase the costs for the majority of our seniors who are in traditional Medicare by as much as 25 percent or more. I should mention the majority of seniors, when given the choice between a private plan—in this case Medicare+Choice—or staying in traditional Medicare, they have overwhelmingly chosen to stay in traditional Medicare. In fact, 89 percent of our seniors already voted. If we just want to look at who is covered and who we are trying to help for the future, we should look at what they are saying.

Mr. President, 89 percent of our seniors have chosen to stay in traditional Medicare. Only 11 percent have chosen to go into the private sector. Yet we are seeing an overwhelming push to force people to go into the private sector through a scheme that would privatize Medicare, even though it will cost them more money, even though it is not dependable.

We now know, according to the Medicare actuary in Health and Human Services, that in fact there could be sharp differences in cost among individual people or individual regions, depending on the private sector plans and how this would work. The study that was done by the Medicare actuary studied the proposals calling for private plans to compete against one another and against Medicare's traditional Government-run program. It shows that those in Medicare fee-for-service—traditional Medicare—in States such as North Carolina or Oregon would pay as little as \$58 a month, well below the projected national average of \$107. So they would pay \$58 instead of \$107. But in high-cost States such as New York or Florida—my good friend from New Jersey is here, I would guess New Jersey would fall in that category as well—they would be paying more like \$175 a month for the same benefit. So on one side of the country you would have people paying \$58, on the other side you would have people paying \$175, for the same coverage, for the same kind of care. That is not fair. That is certainly not what we have now.

They went on to indicate that we would even see parts of States where there would be one payment, one cost, versus other parts of the State. So if you live in Marquette, MI, or Ironwood, MI, in the Upper Peninsula, you could pay a very different price for your health care than if you lived in Detroit or Lansing or Grand Rapids. That is not fair. It does not make sense. Why in the world would we go back to that kind of system?

It is for these reasons I urge my colleagues not to agree to any plan that changes Medicare as we know it, that privatizes Medicare, that takes away what overwhelmingly seniors have told us they want. They want prescription drug coverage—yes. But don't take away their Medicare. That is not a good tradeoff. We need to strengthen Medicare, provide a real benefit for prescription drugs, and do it right.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 9 minutes.

#### INTELLIGENCE LEAK INVESTIGATION

Mr. HARKIN. Mr. President, more than 83 days have passed since the Central Intelligence Agency filed a report and inquiry to the FBI in July regarding a leak by senior administration officials of an undercover CIA agent. This investigation was originally stymied by foot-dragging and delay and has continued to be stymied by foot-dragging and delay.

It took at least 53 days for the Justice Department to officially launch an investigation. It took 4 days after that for Justice to officially notify the White House about the investigation and tell them to preserve any and all materials related to it.

More recently, the investigation has been stymied by kind of a "don't ask, don't tell" approach by the President and by the appearance of a conflict of interest by the Attorney General. Attorney General Ashcroft, a good friend of the Bush administration and its senior advisers, a very partisan Republican for most of his life, is still overseeing the investigation. In fact, one of his top aides said yesterday that Ashcroft has been regularly briefed on key details in the investigation, including the identities of those being questioned by the FBI.

Talk about a chilling effect. President Bush has joked and made light about it.

I would like to bring to the attention of Senators an article by Knight Ridder, published in the newspaper, the Milwaukee Journal Sentinel on Sunday. The headline was "CIA Leak May Have Caused More Damage. Work of Others Using Front Company Name May Be at Risk." This revealed why this leak is no laughing matter; it is a deadly serious matter of national security. This is what the article said:

Training agents . . . costs millions of dollars and requires the time-consuming establishment of elaborate fictions, called "legends," including in this case the creation of a CIA front company that helped lend plausibility to her trips overseas. . . . Compounding the damage, the front company, Brewster-Jennings & Associates . . . apparently was also used by other CIA officers whose works could now be at risk, according to Vince Cannistraro, former CIA chief of counterterrorism operations and analysis. . . . Now, [Valerie] Plame's career as a covert operations officer in the CIA's Directorate of Operations is over. Those she dealt with—on business or not—may be in danger . . . and Plame's exposure may make it harder for American spies to persuade foreigners to share important secrets with them, U.S. intelligence officials said.

Other former CIA officials agree—including Larry Johnson, a former classmate of Plame's and former CIA and State Department official. He predicted that when the internal damage assessment is finished:

. . . at the end of the day, the [harm] will be huge and some people potentially may have lost their lives.

Another former CIA officer, Jim Marcinkowski said:

This is not just another leak. This is a unprecedented exposing of an agent's identity.

So, again, this is no laughing matter. The President should not treat it as such.

Here are some quotes from some in his own administration. Attorney General Ashcroft said:

Leaks of classified information do substantial damage to the security interests of the nation.

Secretary of Defense Rumsfeld earlier this year, March—February of this year:

I think leaks are disgraceful, they are unprofessional, they are dangerous. They put people's lives at risk.

Ari Fleischer, White House spokesman, in June:

The President does have very deep concerns about anything that would be inappropriately leaked that could in any way endanger America's ability to gather intelligence information.

From his own administration, people say how bad it is to have these kinds of leaks to endanger national security.

Let me give a quick recap of the timeline. It started with the President's deception in his State of the Union Address in January. In his remarks, Mr. Bush stated Iraq tried to buy uranium from Niger. A few months later, in July, former Ambassador Joseph Wilson's op-ed appears in the New York Times, questioning the President's assertion.

Then in order to discredit Wilson and "seek revenge" on Wilson, senior administration officials leaked to the press the identity of Wilson's wife and the fact she was a CIA operative, thereby undercutting our national security and clearly violating Federal law.

This happened in early July. Let's see what happened since.

On July 24, Senator SCHUMER calls on the FBI Director to open a criminal investigation into the leak of a CIA operative based on that column.

In late July, the FBI notified Senator SCHUMER that they had done an inquiry into the CIA.

Then it appears nothing happened for 2 months.

On September 23, the Attorney General says he and CIA Director Tenet sent a memo to the FBI requesting an investigation.

On September 26, the Department of Justice officially launches its investigation.

Interestingly, it took 4 days after that "official" launch for the Justice Department to call White House Counsel Gonzales and notify him of the official investigation. Gonzalez then asked for an extra day before the Justice Department gave the White House the official notice, which means all documents and records must be preserved.

A recent letter was sent to the President from Senators DASCHLE, SCHUMER, LEVIN, and BIDEN which also expresses concern about this break from regular procedure.

They wrote:

Every former prosecutor with whom we have spoken has said that the first step in such an investigation would be to ensure all potentially relevant evidence is preserved, yet the Justice Department waited four days before making a formal request for documents.

Interestingly, the letter goes on:

When the Justice Department finally asked the White House to order employees to preserve documents, White House Counsel Alberto Gonzales asked for permission to delay transmitting the order to preserve evidence until morning. The request for a delay was granted. Again, every former prosecutor with whom we have spoken has said that such a delay is a significant departure from standard practice.

That is what has been happening—departure from standard practice.

I am also troubled that the White House Counsel's Office is serving as