

Neighborhoods public awareness campaign has resulted in hundreds of tips leading to prosecution.

Ella Bully-Cummings, chief of the Detroit Police Department, described Operation TIDE by saying:

Our strategy is to supercharge our crime prevention and enforcement efforts to reduce violent crimes using the intelligence and resources of all law enforcement agencies. Our police officers work every day at addressing active and potential crime in our city limits. By collecting and disseminating the acquired intelligence among partnering agencies, crime patterns will be swiftly identified.

I would like to take this opportunity to thank all the Federal, State, and local law enforcement officials for their outstanding service and their vital contributions to the safety of our communities. Their commonsense approach plays a significant role in decreasing gun violence. I am hopeful that the 109th Congress will do more to support their efforts by taking up and passing sensible gun safety legislation.

NSA-RELATED BILLS AND PROPOSED CHANGES TO WAR CRIMES ACT

Mr. LEAHY. Mr. President, earlier today the President visited Capitol Hill for a closed-door meeting with House Republicans. It is not often the President takes time out of his busy schedule to come to Congress. But to meet only with Republicans is wrong and divisive.

After his closed door meeting, the President talked about working together, in a bipartisan way. His walk does not match his talk. I wish he would act as a uniter and work with all of us on behalf of all Americans. Regrettably, it appears that, once again, this President has chosen to act in a partisan way in his role as Republican-in-Chief. That is wrong.

I hope that all Senators will recognize their responsibility to all Americans and exercise their best independent judgment, rather than taking orders from the head of their political party.

In the Judiciary Committee yesterday, Senators did exercise that kind of independent judgment when we joined together in a bipartisan way to report a bipartisan bill that would amend the Foreign Intelligence Surveillance Act and reign in the Administration's warrantless domestic wiretapping program. That bill, S. 3001, the bill cosponsored by Senator SPECTER and Senator FEINSTEIN, was the only proposal that drew bipartisan support. I urge the Majority Leader to recognize the merits of that bill and our bipartisan efforts by moving to proceed to that bill when the Senate turns its attention to these matters.

This bipartisan bill was authored by Senator FEINSTEIN, one of the few Senators being briefed on the Presidents program of domestic surveillance without warrants. It is intended to ensure our intelligence community can pro-

tect our nation with the necessary court oversight. It will bring the President's program within the law.

It stands in stark contrast to the White House-endorsed bill that grants sweeping authority to the Executive Branch for a program about which we know very little. The Bush-Cheney Administration has refused Congress's requests for information. Since when did Congress become an arm of the Executive Branch? Since when was the Senate reduced to a rubberstamp? Oversight means accountability. Oversight makes Government work better. It prevents abuses and corruption. We need Government to be as competent and accountable as it can be in fighting terrorism.

I have been attempting to clarify the facts and the law relating to the Administration's warrantless wiretapping program since it was first disclosed in December 2005. During the ensuing eight months, we have made numerous efforts to get straight answers from the Administration regarding the nature, scope and purported legal basis of this program. Our efforts were rebuffed by the most flagrant and disrespectful stonewalling of any Administration that I have seen in my 32 years in Congress.

While refusing to answer even our most basic questions about its secret spying program, the Administration claimed that Congress approved the program when it authorized the use of military force in Afghanistan—although Attorney General Gonzales had to admit that this was an “evolving” rationale not present at the time Congress considered its action. The Administration claimed that even if they violated the Foreign Intelligence Surveillance Act, the President's powers and their view of the “unitary executive” must trump the law and the authority of Congress. Not since the rationalization of Richard Nixon for actions during the White House horrors and Watergate scandal have we heard such a claim. And, of course, the Administration claimed it had all the authority it needed and no new legislation was needed.

The bill the Chairman negotiated with the White House, in my view, contains several fundamental flaws:

The bill makes compliance with FISA entirely optional, and explicitly validates the President's claim that he has unfettered authority to wiretap Americans in the name of national security. In other words, it suggests that FISA is unconstitutional—a claim for which there is no judicial precedent and very little academic support—and invites the President to ignore it.

The bill abandons the traditional, case-by-case review contemplated by FISA and introduces the concept of “program warrants.” If that novel concept is constitutional—which I doubt—a single FISA court judge could approve whole programs of electronic surveillance that go far beyond the President's program.

The bill immunizes from prosecution anyone who breaks into a home or office in the United States to search for foreign intelligence information, if he is acting at the behest of the President. I would have thought that electronic surveillance is a large enough area to address in one bill. But apparently, the Administration was unwilling to address electronic surveillance without also reaching for new powers to break into Americans' homes.

We should not grant that kind of blank check to the Executive for a secret program we know little about. Instead, we should consider the bipartisan alternative the Judiciary Committee has endorsed. The Specter-Feinstein bill is an approach that seeks accountability while ensuring tools to mount a strong fight against terrorism.

The Majority Leader has an opportunity to unite the Senate and Americans around this smarter, stronger proposal that will help protect Americans as well as the values that we hold dear as a Nation. I hope that he seizes that opportunity.

On a related note, I was a little surprised to hear the Chairman say earlier today that the Judiciary Committee was forwarding proposed language changes to the War Crimes Act to the Armed Services Committee. I agree with the Chairman that amending the War Crimes Act is a matter in the jurisdiction of the Judiciary Committee, but I am very concerned about the way in which this important issue has come up.

The Chairman announced yesterday in the middle of a special business meeting that the Committee would be discussing a proposal. That was news to me and the other Democratic members of the Committee, who had not seen nor heard of the proposal. The Chairman said that a bill had been distributed Tuesday afternoon, but Democrats were not included in any such distribution.

This is a very serious issue. It certainly requires meaningful review and input from Senators of both parties. It is a subject about which I care a great deal about.

This issue is being considered by the Armed Services Committee. Senator WARNER is working with Senator LEVIN, and all members of that Committee. I understand that they are also consulting with the top military lawyer, who have been ignored by this Administration. I have seen the letters from GEN Powell and GEN Vessey on the importance of upholding our treaty obligation and acting in the best interests of protecting Americans throughout the world.

GEN Powell wrote: The world is beginning to doubt the moral basis of our fight against terrorism. To refine Common Article 3 would add to those doubts. Furthermore, it would put our own troops at risk. He speaks from the perspective of a former chairman of the Joint Chiefs of Staff and a former Secretary of State.

GEN Vessey signaled what relaxing our adherence to Common Article 3 of the Geneva Convention would do: "First, it would undermine the moral basis which has generally guided or conduct in war throughout our history. Second, it could give opponents a legal argument for the mistreatment of Americans being held prisoners in time of war."

I worked hard, along with many others of both parties, to pass the current version of the War Crimes Act. I think the current law is a good law, and the concerns that have been raised about it could best be addressed with minor adjustments, rather than with the sweeping changes suggested here.

In 1996, working with the Department of Defense, Congress passed the War Crimes Act to provide criminal penalties for certain war crimes committed by and against Americans. The next year, again with the Pentagon's support, Congress extended the War Crimes Act to violations of the baseline humanitarian protections afforded by Common Article 3 of the Geneva Conventions. Both measures were supported by a broad bipartisan consensus, and I was proud to sponsor the 1997 amendments.

The legislation was uncontroversial for a good reason. The purpose and effect of the War Crimes Act as amended was to provide for the implementation of America's commitment to the basic international standards we subscribed to when we ratified the Geneva Conventions in 1955. Those standards are truly universal: They condemn war criminals whoever and wherever they are.

That is a critically important aspect of the Geneva Conventions and our own War Crimes Act. When we are dealing with fundamental norms that define the commitments of the civilized world, we cannot have one rule for us and one for them, however we define "us" and "them."

I am disturbed by the draft legislation, which seems to narrow the scope of the War Crimes Act to exclude certain violations of the Geneva Conventions and which could have the effect of retroactively immunizing past violations that may have been committed by U.S. personnel.

The narrowing of these definitions have the potential effect of immunizing past war crimes. It also could well prevent us from prosecuting rogues who we all agree were out of line like the soldiers who mistreated prisoners at Abu Ghraib.

Many of the despicable tactics used in Abu Ghraib—the use of dogs, forced nudity, humiliation of various kinds—do not appear to be covered by the narrow definitions this draft would incorporate into the War Crimes Act. If this were the law, and the Abu Ghraib abuses had come to light after the perpetrators left the military, they might not have been brought to justice. The President and the Republican leader have conceded that the conduct at Abu

Ghraib was abhorrent, and the perpetrators did need to be brought to justice. I hope the President and Congressional Republicans will not now pass legislation that prevents us from bringing people who commit these same despicable acts to justice.

I recognize the concerns about American servicemen and women or government employees being subjected to prosecutions for conduct that could be seen as ambiguous. I believe the War Crimes Act, as is, would not support prosecutions for conduct that was less than abhorrent. Indeed, to date, the Bush Administration has not brought a single charge pursuant to the War Crimes Act.

I would support amending the War Crimes Act so that only "serious" violations of Common Article 3 of the Geneva Conventions were prosecutable under the War Crimes Act. This fix would address any legitimate fears without creating a list of covered conduct that excludes much of the conduct that is most troubling.

Let me be clear. There is no problem facing us about overzealous use of the War Crimes Act by prosecutors. In fact, as far as I can tell, the Ashcroft Justice Department and the Gonzales Justice Department have yet to file a single charge against anyone for violation of the War Crimes Act. Not only have they never charged American personnel under the Act, they have never used it to charge terrorists either.

The President and the Congress should not be in the business of immunizing people who have broken the law, made us less safe, turning world opinion against us, and undercutting our treaty obligations in ways that encourage others to ignore the protections those treaties provide to Americans. We should be very careful about any changes we make.

I yield the floor.

CRANIOFACIAL ACCEPTANCE MONTH

Mr. PRYOR. Mr. President, I rise today to call attention to the fact that September has been designated as Craniofacial Acceptance Month. Craniofacial abnormalities are abnormalities that affect the skull and face. According to the National Institute of Dental and Craniofacial Research, "craniofacial defects are among the most common of all birth defects. These disorders are often devastating to parents and children alike. Surgery, dental care, psychological counseling, and rehabilitation may help ameliorate the problems, but often at a great cost and over many years." Victims of craniofacial anomalies usually have to endure many expensive procedures throughout their lifetimes, the costs of which can add up to cost millions of dollars.

Facial deformities give their victims a variety of aesthetic and developmental problems that differ in severity and occurrence. The common condi-

tion, cleft lip, an abnormality where the lip does not completely connect, can vary from a simple disconnect to a gaping opening that goes from the lip to the nose. It is easy to understand the developmental and respiratory problems this could present. Fortunately, this condition can usually be corrected through one or two simple reconstructive surgeries. But what about other anomalies that are not as easily corrected like craniosynostosis, a condition where the soft spots of an infant's skull close too early, hindering normal brain and skull growth? Or Goldenhar syndrome, where one side of the face is underdeveloped affecting the mouth, ear and jaw? Unfortunately these do not represent the most severe or rarest craniofacial defects.

At only 10 months old, Wendelyn Osborne, who grew up in the small town of Ashdown, AR, was diagnosed with Craniometaphyseal Dysplasia, or simply CMD. CMD is a rare affliction which affects only 200 people worldwide and was depicted in the 1985 movie "Mask" starring Cher. CMD involves an overgrowth of bone which never deteriorates. This caused, in her case, an abnormal appearance, bilateral facial paralysis and deafness. Other cases can include those characteristics as well as blindness and joint pain. Yet despite the challenges she has faced, Wendelyn's life has truly been blessed. Her life expectancy was only 14 years at birth, but after 17 reconstructive surgeries and two hearing aids, Wendelyn is still alive today at the age of 40. It was not until 2003 that Wendelyn was able to meet and interact with other people with craniofacial conditions. She attended the Annual Cher's Family retreat and was introduced to CCA, the Children's Craniofacial Association. Wendelyn saw the impact of support and encouragement through the programs and the families associated with CCA, and has been active with the organization ever since.

CCA has designated September as National Craniofacial Acceptance Month in hopes of raising awareness of individuals with facial differences. It is not a secret that appearance plays a key part in how individuals are accepted in our society. People with facial differences, in addition to medical problems, have a much harder time adjusting in society and developing successful relationships. Such individuals have to deal with a series of consequences that arise from uncontrollable circumstances of their birth. Marking September as National Craniofacial Acceptance Month brings attention to an issue that can no longer be ignored.

Hopefully, by raising awareness of craniofacial defects, our larger society will begin to show understanding and acceptance of those who live with these physical, medical, and emotional challenges. Understanding and increased