

information on this case has been provided to the press, mainly in statements by unnamed administration officials, but also by Department of Justice (DOJ) spokespersons.

Washington Post articles indicate that the deportation of Mr. Arar was approved on October 7, 2002, by then-Deputy Attorney General Larry Thompson, who signed the order in his capacity as Acting Attorney General. "Man Was Deported After Syrian Assurances," Washington Post, November 20, 2003 [hereinafter Washington Post, Nov. 20, 2003]; "Top Justice Aide Approved Sending Suspect to Syria," Washington Post, November 19, 2003. The same story states that U.S. officials "decided to send [Arar] to Syria last year only after the CIA received assurances from Syria that it would not torture the man." Washington Post, Nov. 20, 2003. And yet, "spokesmen at the Department of Justice declined to comment on why they believed the Syrian assurances to be credible." *Id.*

Mr. Arar claims that he was, in fact, tortured while in Syrian custody. The Syrian government has denied that Arar was subjected to torture, but statements from U.S. officials contradict that assertion. In a November 15 New York Times article, "American officials who spoke on condition of anonymity," were quoted as saying that Arar "confessed under torture in Syria that he had gone to Afghanistan for terrorist training, named his instructors and gave other intimate details." "Qaeda Pawn, U.S. Calls Him Victim, He Calls Himself," New York Times, November 15, 2003 (emphasis added). I find this statement to be shocking in light of the administration's assertions that it acted within the scope of its international treaty obligations.

Mr. Arar claims to have stated repeatedly to his U.S. interrogators that he feared torture at the hands of the Syrian government. Whether or not Mr. Arar had ties to terrorist organizations, as is alleged by U.S. officials, or whether his confession was a false one produced by coercion, as he claims, he was subject to the legal protections provided by the Convention Against Torture, which the United States has ratified.

The statements by Mr. Arar and the unnamed sources in the New York Times article cited above beg the question of whether the United States has investigated Syria's alleged non-compliance with any assurances it provided to the U.S. government. This question is especially critical in light of President Bush's statement on November 7, 2003, that Syria has left "a legacy of torture, oppression, misery, and ruin" to its people.

In light of the above facts and assertions, I request that you provide detailed answers to the following questions:

1. Under what specific authority was Mr. Arar detained, first at John F. Kennedy Airport and then at the federal detention center in Brooklyn, New York?

2. Is it true that Mr. Arar was denied access to counsel, as he claims?

3. An intelligence official is quoted in a November 5 Washington Post story as saying, "The Justice Department did not have enough evidence to detain him when he landed in the United States." "Deported Terror Suspect Details Torture in Syria," Washington Post, November 5, 2003. It has also been reported that U.S. officials were in contact with Canadian authorities regarding this case. Given that Mr. Arar, a Canadian citizen, resides in Canada and was traveling home to Canada when he was detained at the airport, why did the officials choose not to turn Arar over to Canadian authorities?

4. Did you become aware of Mr. Arar's case at any point between his detention on September 26, 2002, and October 7, 2002, the date

the deportation order was signed by Mr. Thompson? Did Mr. Thompson, who was serving as Acting Attorney General when he signed the order, consult with you before signing the order? Did you approve this action?

5. In a June 25, 2003, letter to me on the subject of rendition and other matters, the U.S. Defense Department General Counsel, William Haynes, stated that the "United States policy is to obtain specific assurances from the receiving country that it will not torture the individual being transferred to that country." The November 20 Washington Post article cited above confirms that assurances were obtained from Syria. What was the scope of such assurances? Were they provided to the U.S. government in writing? If so, please provide a copy to the Committee. If such a document is classified, please arrange for cleared staff to view it. If the assurances were not provided in writing, please explain why written assurances were not sought or provided.

6. What steps did the United States after Arar's rendition to assess compliance with the assurances provided by Syria in this case?

7. Is the statement of an unnamed official above that Arar "confessed under torture" accurate? If so, then Syria's actions violated the assurances provided to the U.S. before Arar's rendition. What has the U.S. done (a) to investigate such non-compliance and (b) to hold Syria accountable for such violations?

8. Under U.S. law, non-citizens who express concerns about torture if removed are entitled to an evaluation of their claim before being removed. Under the specific regulations that were likely applied to Mr. Arar's removal, there is an explicit prohibition against returning someone to a country where there are substantial grounds for believing he would be subject to torture. What process was used, if any, to evaluate the likelihood that Mr. Arar would be subjected to torture before removing him to Syria?

9. According to the November 5 Washington Post article cited in question 3, numerous unnamed intelligence officials have admitted to the press that renditions have occurred, purportedly under a "secret rendition policy." This policy was described as "a secret presidential 'finding' authorizing the CIA to place suspects in foreign hands without due process." Are you aware of a "secret presidential 'finding' authorizing the CIA to place suspects in foreign hands without due process"? If so, please provide a copy to the Committee. If such a document is classified, please arrange for cleared staff to view it.

10. Has the FBI or DOJ authorized or participated in any other alleged renditions, including interviewing and then handing suspects over to intelligence officers for transfer to another country?

11. In its effort to fight terrorism, the administration has focused on individuals who have connections to Al Qaeda that need to be further explored, and has argued that it has the right to detain and interrogate prisoners in Guantanamo Bay, perhaps as unlawful combatants or enemy combatants, as long "as it is necessary to help win the war against the Al Qaeda network and its allies." Washington Post, "High Court Will Hear Appeals From Guantanamo Prisoners," November 11, 2003. Notwithstanding my concerns about the legal status of those detained at Guantanamo, and the administration's treatment of enemy combatants in general, it would seem that Mr. Arar fit the classic administration profile for someone who should be detained in Guantanamo. Presumably, Mr. Arar would have been safer in detention at Guantanamo Bay than in Syria.

a. Was the option to detain Arar as an enemy combatant in Guantanamo Bay considered and rejected in favor of rendition to Syria? If so, on what basis was the decision made to send him to Syria?

b. Where there is more than one destination country to which detainees may be rendered, do you believe there should be a policy to render detainees to the country where torture is least likely (e.g., a country that does not have a history of documented humanitarian abuses)?

c. What is the standard applied by the administration in determining whether to deport an individual, transfer the individual to custody at Guantanamo Bay, or to charge the individual with a crime?

Thank you for your prompt answers to these questions.

Sincerely,

PATRICK LEAHY,  
U.S. Senator.

#### LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One such crime occurred in Passaic, NJ, in August, 1999. Kareem Washington, a gay man who sometimes dressed in women's clothing, was stabbed multiple times and left to die in an industrial area in Passaic. Police were unsure of the motive for the murder, however, the victim's wallet was found on his body. The victim was wearing a skirt, high-heeled shoes and stockings at the time he was killed.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### TRIBUTE TO GOVERNOR LOUIE B. NUNN

Mr. BUNNING. Mr. President, I would like to take a moment today to remember Gov. Louie B. Nunn of Versailles, KY, who passed away Thursday, February 5, 2004. Louie was elected Governor of Kentucky in 1967 and was a pillar of strength in the Republican Party for half a century.

Looking back through the history of the Commonwealth, I can say that he was truly the education Governor. Louie was a champion of the education system in Kentucky. He raised the standards of education for all, but focused his efforts on those people who too often fell through the cracks in the system.

He also was an advocate for mental health issues. People used to put anyone with a mental health problem in a shoebox and write them off, but Louie

saw that was wrong and got in there to fix the problem. He made it a priority and he cleaned it up.

He earned the title of Governor with a quick wit, a sharp political eye, and a gift for speaking. Louie could tell these fantastic stories and everyone would love them, captured by his words.

I have always admired his love of politics and that he always stayed committed to the Republican Party. I know he was proud to see the Republican Party win back the governorship, ending the 32-year drought since he held office in 1971. But I remember Louie for supporting his party in Kentucky through its successes and through its failures. Even when there was no one around to join him, he carried the Republican banner proudly.

And through his perseverance, he left a lasting legacy in Kentucky politics. More than any other person, he taught the people in Kentucky how to win elections and with that, he taught Republicans how to win statewide. He used to tell the story about his father, who was a precinct captain in Kentucky. Every election, his father would work as hard as he could and talk with voters one by one. And every election, they would win his precinct. Louie taught us that is how you won an election, one precinct at a time.

Gov. Louie Nunn was respected by his friends and colleagues on both sides of the aisle. All in the Commonwealth of Kentucky will miss him.

#### FREE TRADE AGREEMENT STRATEGY SHOULD PRIORITIZE JOBS

Mr. BAUCUS. Mr. President, I rise today to talk about our international trade policy—specifically this administration's selection of free trade agreements.

A year-and-a-half ago, many of us stood on this floor arguing that we should grant the President trade negotiating authority, or fast track. We did so because we believe that good trade agreements can create jobs for American workers and farmers.

I still believe that. And I believe we must move ahead with an aggressive trade agenda—even in an election year.

So what does that mean? Of course, our first priorities should be moving ahead with negotiations in the World Trade Organization and completing the Free Trade Area of the Americas. Those agreements provide—by far—the best opportunities for American workers and farmers.

Unfortunately, both of those agreements are languishing. WTO negotiations broke down last fall in Cancun. And the FTAA has been watered down so much that many are starting to question its value.

The administration, rightly, has chosen not to put all of its eggs in one basket. They have, over the last several years, initiated a number of new free trade agreements.

Now generally, I support this approach. We cannot allow the intran-

sistence of some countries to hold us back from seeking new markets.

But the process by which we select new FTAs is deeply flawed. Initially, there was no process at all. There was no consultation with Congress, no public process, no criteria. To be fair, there's been some improvement—but not much, and only after serious criticism from Congress and the business community.

Mr. President, as a way to try to understand the administration's trade policy, Congressman CAL DOOLEY and I asked the General Accounting Office to assess the criteria and processes that drive the selection of our free trade agreement partners.

Today, GAO is releasing their report, and its findings confirm a number of serious concerns.

First, the criteria themselves are so broad I question whether they are meaningful. GAO finds that the criteria used within the administration to justify the selection of FTA partners have been a moving target. Different sets of criteria were used, for example, when deciding to go forward with the Central American and Australian FTAs than were used for some of the most recently announced FTAs, such as Thailand, the Andeans, and Panama.

Whatever the criteria considered, they are not weighted by importance. Moreover, the criteria are so broad—and their consideration so open-ended—it is hard to imagine any country in the world that couldn't meet them.

Second, to the extent that the existing criteria and review process set priorities, I question whether they are the right ones. GAO finds that strategic and foreign policy goals dominate the FTA selection process.

In my view, this takes our trade policy down the wrong path. I have long believed that trade agreements should be pursued on their own merits—because they create commercial opportunities for our farmers and businesses, and most critically, because they hold out the prospect of more and better-paying jobs for American workers.

These paramount concerns seem largely lost in the selection process, which looks like more of a throw-back to the Cold War—when trade policy was treated primarily as an instrument of foreign policy.

Third, the entire selection process is woefully lacking in transparency and public participation. GAO finds that, at the time this report was requested, there was virtually no formal process at all for selecting FTAs.

The attention focused on this situation by this investigation has clearly contributed to the development of a more formal interagency process for considering potential FTAs. But the process is still a closed one.

There is no notice of countries under consideration for future FTAs until the choice has already been made. There is no formal process for soliciting the views of Congress, the business commu-

nity, or the general public. There is no formal public discussion of how to prioritize negotiating resources.

To my surprise, in fact, the administration has insisted until recently that the selection criteria themselves are classified. Important trade policy decisions like these should not be made in secret based on secret criteria.

Mr. President, at a time when manufacturing and other jobs are increasingly moving offshore, we need a trade policy that helps U.S. companies create and keep good jobs in this country. We need to bring the focus of our trade agenda back to commercial benefits and, most importantly, to jobs. We need to have a public dialogue on how choices are made and how resources are allocated. I urge the administration to engage with Congress to address the issues raised by this report.

I yield the floor.

#### ADDITIONAL STATEMENTS

##### RECOGNITION OF ANNIE LEE COONEY ON HER 100TH BIRTHDAY

• Mr. BOND. Mr. President, I rise today with the distinct privilege of recognizing one of St. Louis's most outstanding citizens, Mrs. Annie Lee Cooney on the occasion of her 100th birthday February 25, 2004.

Mrs. Cooney was born in Indianola, MS, as the third youngest of seven girls and two brothers. As the granddaughter of slaves and the daughter of active participants in the African-American community, Annie Lee was instilled at an early age with values and character that remain strong to this day. Her parents, Indiana and Oliver Jarman were active in the African-American community in her hometown. Her father, Oliver Jarman, was a high ranking official in the Prince Hall Masons in Mississippi and was also instrumental in founding a Penny Bank in Greenville, MS.

In 1922, after attending the Tuskegee Institute, in Tuskegee, AL, Annie Lee moved to St. Louis to live with her sister and helped with her new baby. But it was in St. Louis where Annie Lee's life changed when she met and fell in love with Roy Cooney. The young couple were married in 1924 and Roy and Annie Lee Cooney soon became the loving parents to thirteen children—seven girls and six boys, all of whom went on to attend college.

Mrs. Cooney has been very active in the Black Catholic Community in St. Louis since the early 1930s. Some of Mrs. Cooney's professional achievements include being named President of the Sisters of the Blessed Sacrament alumni in the 1960s and Sigma Gamma Rho Sorority Mother of the Year in 1980. Mrs. Cooney has been an active member of the National Council of Negro Women, the Council of Catholic Women, the Legion of Mary, the Catholic Knights of America, the Cairo Social Club, charitable works and scholarships to Black youth, and the Seminarians Club, spiritual and financial