



And that request was made because we believed, Senator Stillman, upon watching the tape, I don't want to put words in her mouth, but I think she believed that there might have been a reference to a letter that had been sent by Attorney Raabe to the Waterbury Police Chief.

And I was just wondering if we could ask our staff, who I think had an opportunity to review the CT-N transcript, to provide their analysis of whether or not the record included that representation.

Would that be agreeable? Is now an appropriate time to?

SEN. LOONEY: Yes. Yes, Attorney Norman-Eady, if you would respond to that.

ATTY. SANDRA NORMAN-EADY: I did review the CT-N transcripts, I did not see any indication in those transcripts where Senator DeLuca indicated that a letter was sent from his attorney to the Waterbury Police Chief.

I did see indication that Senator DeLuca indicated and handed out a copy of a letter that his attorney sent to the U.S. Attorney.

SEN. LOONEY: Thank you. Senator Roraback.

SEN. RORABACK: Thank you, Mr. Chairman. I just wanted to, so that we have a coherent record, I think the minutes accurately reflect what was asked of staff, but the fact that that letter was not sent doesn't reflect a shortcoming in

our completeness. But rather, upon further review, it was determined that such a letter would have been necessary.

SEN. LOONEY: Right. Okay, very good. Yes, Senator Stillman.

SEN. STILLMAN: Thank you, Mr. Chairman. I appreciate the thoroughness of the staff and know that, I guess sometimes you listen so intently that you, that's what I thought I had heard. So I appreciate their double-checking. Certainly no reason to ask for something that was never sent, so that's fine. Thank you.

SEN. LOONEY: Thank you. Any further discussion on the minutes from our Thursday, September 6<sup>th</sup>, 2007 meeting? If not, all in favor of accepting those minutes, indicate by saying aye.

ALL: Aye.

SEN. LOONEY: Opposed? Okay, minutes are approved. The next item on our agenda is consideration of the letter received from the Office of the U.S. Attorney, dated September 17<sup>th</sup>.

Obviously, in context, the Committee had earlier written to U.S. Attorney Kevin O'Connor requesting disclosure of information. And also, as we have seen in that series of the letters, both the FBI and State's Attorney Kevin Kane, in effect, deferred to Attorney O'Connor as the holder of relevant information.

Our initial letter, a response to that came back where Attorney O'Connor asked us for some additional precision in defining the reason and purpose of our request.

We complied with that request in our second letter to him, dated September 6<sup>th</sup>, and then we received back this letter on September 17<sup>th</sup> in response to the Committee's letter of September 6<sup>th</sup>. So we're in that context.

We have, in the letter, Attorney O'Connor points out that we had requested, in the third paragraph on page two of his letter, indicates "As we previously advised, pursuant to 28 C.F.R. Section 16.22(d), a request for such information must be accompanied by a summary of the information sought and its relevance to the proceeding at issue.

As requested, you have provided further articulation of the nature of the proceeding where such information will be used and the relevance of the requested information to that proceeding.

As outlined below, the U.S. Attorney's Office can consider providing certain of the requested information if the Committee first obtains appropriate Privacy Act consents.

Further, as to certain other information, we must withhold providing it, even if consent was obtained under the Privacy Act, based on the law enforcement privilege."

So pursuant to that, he does mention, in the next paragraph, the "September 6<sup>th</sup> letter articulated specific requests for information, including the audiotape, other recording or transcript of the conversations referenced in paragraphs 10 and 11 of the May 30<sup>th</sup>, 2007 arrest warrant affidavit between the undercover federal agent and Senator DeLuca.

Under the applicable federal regulations, one of the factors governing the release of information is whether disclosure would violate a statute."

He cites the federal statute in that regard. "One of the federal laws we must consider prior to making disclosure is the Privacy Act."

"Senator DeLuca is an individual who is entitled to the protections afforded by the Act. If the Committee obtains the consent of Senator DeLuca, under the Act, we can consider disclosing information, including documents, transcripts, and audio recordings relating to him."

It also makes a similar reference in regard to information relating to contacts between the FBI and the Waterbury Police Department or Police Chief O'Leary, and references the Privacy Act, saying that, "If you obtain the consent of Police Chief O'Leary for Privacy Act purposes, we can consider providing to the Committee certain documents relevant to your request."

So we have then a, in effect, a guide to possibly securing some additional information, if we are able to solicit and receive the waiver of those, of Privacy Act standards in the case of Senator DeLuca and Chief O'Leary.

Senator Roraback.

SEN. RORABACK: Thank you, Mr. Chairman. Just want to alert members of the public that are here that copies of the letter from which Senator Looney has been reading have been copied and are available, if people are interested in having them in front of them. Might make it a little bit easier to follow this conversation.

But I think Senator Looney, Chairman Looney, appropriately indicates that there is an opportunity for this Committee to ask both Senator DeLuca and Chief O'Leary if they would waive their rights under the Privacy Act so as to permit the U.S. Attorney's Office to release information to the Committee.

And I would be a mind to, I think this Committee, in the full discharge of its responsibilities, would be derelict in its responsibilities not to ask for those waivers, because there is information which could be very relevant to our charge that might become available.

UNIDENTIFIED SPEAKER: Would you like a motion, Mr. Chairman?

SEN. LOONEY: Yes, I would. I would like a motion to authorize Senator Roraback and I to make those requests in writing of Senator DeLuca and Chief O'Leary.

SEN. GUGLIELMO: So moved, Mr. Chairman.

SEN. STILLMAN: I'll second it.

SEN. LOONEY: Moved and seconded. Discussion on the motion? Senator Nickerson.

SEN. NICKERSON: Thank you, Mr. Chairman. Certainly, I plan to vote for the motion since it's entirely appropriate, having asked the U.S. Attorney for this information, to follow the chain of release, as it were, that he suggests.

Because this is a public meeting, I think it's important to put on the record something I'm going to say, and that is obviously we can't possibly anticipate whether those releases will be obtained. Still less can we possibly anticipate what would be in the material.

Having said that, I do think it's appropriate that in addition to asking for this release, we urge that the material be forthcoming and that the parties give careful consideration to their answer to our request for it.

I won't say more than that. And oh, I guess one other thing would be a timing question. I haven't kept track of the clock and where we are with our first 45 days, but we're not too

far from it, so it would be a hope that we might get the cycle of asking for the release, the release, and the information in time for our next meeting.

That may be an optimistic hope, but no point in not hoping.

SEN. LOONEY: Exactly. I think that's a good point.

SEN. NICKERSON: Thank you, Mr. Chairman.

SEN. LOONEY: Thank you, Senator Nickerson. I think that's exactly right, that we would, pursuant to that resolution, to make that request for the waiver, that we would hope to have the letter prepared today for sending out to the Chief and to Senator DeLuca no later than tomorrow.

And then we would ask for a quick turnaround on the response. I would suggest that we ask for a reply by the middle part of, no later than the middle part of next week to allow us to get that information back.

And then, presuming that if we do, that then forward that to the U.S. Attorney with the request for that release. So I would hope that we would be able to put a short turnaround on this.

Senator Nickerson.

SEN. NICKERSON: Just a quick further thought. Do you need, in that regard, to hasten the

timeframe, a clarification of the motion that you're authorizing, not only to ask for the release, but to then act on it by forwarding the release to the U.S. Attorneys with the request that the underlying information be forthcoming?

If so, deem that a clarification.

SEN. LOONEY: Right, good. Okay. Presuming that we do receive something pursuant to that request for the release, that we are then authorized to forward that release to the U.S. Attorney. So have the motion amended to reflect that.

UNIDENTIFIED SPEAKER: So moved.

SEN. LOONEY: Good, good. Okay. Further, yes, Senator Stillman.

SEN. STILLMAN: Thank you, Mr. Chairman. I think that the Committee Members and the public have to understand that just because, if the release is granted by the folks that we're asking, Senator DeLuca and Chief O'Leary, that we still don't know if we'll even receive those copies from the U.S. Attorney's Office.

Because I think it's very clear in this letter that their response, even if we do obtain the authorization under the Privacy Act, is based on law enforcement privilege.

So I would assume that means they don't necessarily, if they have a concern as to whether the information might influence an

action they may be taking in the future, they may not want to release that information to us.

Am I correct in that understanding of law enforcement privilege, Sir?

SEN. LOONEY: Well, I think that while the letter does not guarantee any release of any precise set of information, it certainly does indicate that we would consider disclosing that information.

As opposed to the last paragraph of that second page, where it indicates there is certain information that the U.S. Attorney is citing privilege on and would not release, and that is, "You've requested copies of documents or other information pertaining to or documenting an ongoing relationship, and any interactions between Senator DeLuca and Businessman A," Mr. Galante in that, "as described in paragraphs five and six of the arrest warrant.

We are unable to provide you with such documents or other information since they have been compiled for law enforcement purposes and disclosure would interfere with an ongoing investigation and law enforcement proceedings."

So I think that the U.S. Attorney is, at this point, drawing a clear distinction between those materials and the other materials regarding Senator DeLuca and information from Chief O'Leary that do not come within that category.

Thank you. Yes, Senator Roraback.

SEN. RORABACK: Thank you, Mr. Chairman. Something that Senator Looney and I discussed briefly yesterday was we don't know whether there are magic words that need to be uttered under the Privacy Act to free up this information.

And it may be, it may shorten the timeframes if we ask our staff to reach out to the U.S. Attorney's Office, and if there's a form of consent which they're going to insist upon, why not provide it to both Senator DeLuca and Chief O'Leary and ask them to sign it so that we don't get them, we send them a letter, they say yes, conceivably, and then we send it to the U.S. Attorney, who says, well, they've said yes, but they haven't said yes in the way that we need them to say yes, and then we're around the track a few times.

So if we can have the Committee's permission to see if that's an option. And there may not be any magic words, but we won't know unless we ask.

SEN. LOONEY: Yes, thank you. I think that Attorney Norman-Eady made some inquiry of the U.S. Attorney's Office on that point, after our discussion the other day. If you might enlighten us on their response.

ATTY. SANDRA NORMAN-EADY: Yes, I did. I called Attorney Don Hughes yesterday, who has been my contact at the U.S. Attorney's Office, and he

indicated to me that there was no special form for the consent.

As long as it was clear from the correspondents that the individual intended to consent to the waiver, that office would be fine with that.

SEN. LOONEY: Good, good. Thank you. And pursuant to that, I think we probably need to set a date by which we will be requesting the response, to deal with Senator Nickerson's point about being aware of our timetable and hoping to achieve a reasonable turnaround if, in fact, we do receive a waiver and then need to forward that to the U.S. Attorney and then we hope to receive some information pursuant to that.

So since the letter could go out, or the request could go out presumably tomorrow, what do Members think would be a reasonable timetable to ask for a, to a reply date on the waiver decision?

I would hope that, tomorrow being the 20<sup>th</sup>, I would think that early next week, Monday or Tuesday of next week would be reasonable to allow us to keep moving things along.

Senator Nickerson.

SEN. NICKERSON: Well, as you've said, perhaps if we ask for it by Monday, that would put us at least in hopes of having the response back from the U.S. Attorney's, if, on Thursday, if that's to be our next meeting, the 27<sup>th</sup>, if it's. So that's a suggestion.

SEN. LOONEY: I think maybe we should give an extra day, make it Tuesday, just so that we--

SEN. NICKERSON: Okay.

SEN. LOONEY: Let's ask for it by, ask for the, make the request to Senator DeLuca and Chief O'Leary to reply by Tuesday on the request for the waiver, because I think we were planning probably not to meet next week. I know Senator Stillman was going to be away next week, so I think our next meeting would be during the week of October 1<sup>st</sup>.

But still, it, I think, behooves us to have a pretty early timetable on the response to our request for the waiver because we do have the extra step of then soliciting information again from the U.S. Attorney, and hoping that we do have something from them by the date of our next meeting.

Good. So is that agreeable to the Committee if we make the 20, that would be the 25<sup>th</sup> as the date by which we're asking for a decision? Good. Okay. Thank you. So we'll incorporate that into the letter. Good.

Anything further on the motion to request those privacy waivers of Senator DeLuca and Chief O'Leary? If not, all in favor?

ALL: Aye.

SEN. LOONEY: Opposed? No. Okay. Thank you. Thank you very much. Okay, moving on to our, or is there any further discussion on the letter from the U.S. Attorneys, since obviously that action just taken is clearly suggested by the direction given to us in that letter, but is there anything else, any other aspects of that response that the Committee would like to discuss or comment on at this point before we move on to the next agenda item?

Senator Nickerson.

SEN. NICKERSON: Not directly on the letter, but I wonder if the staff could tell us, what is the 45<sup>th</sup> day, which relates, of course, to the timetable of concluding all this?

ATTY. SANDRA NORMAN-EADY: I'm not absolutely sure, but I think it's the middle of October, between the 12<sup>th</sup> and the 15<sup>th</sup>, or something like that.

SEN. LOONEY: I think that's right, based upon when we began. The resolution was approved on the 22<sup>nd</sup>, I believe, of August. Our first meeting was the 28<sup>th</sup>. And the resolution is 45 days from the first meeting, I think, so that would put us around October 12<sup>th</sup> or 13<sup>th</sup>, so it would be around the midpoint of October.

SEN. NICKERSON: The reason I ask is, we're, I get the sense, correct me if I'm wrong, that we're kind of grinding towards the end of our information gathering.

Would this be an appropriate moment, and maybe it isn't, to even informally indicate to Senator DeLuca that it would be our invitation that he appear, date not yet set, just so that we don't get up near the 45<sup>th</sup> day and then kind of with short notice indicate to him that that's what we'd like to do?

SEN. LOONEY: Yes. I think we had some discussion of that at the last meeting, that we would want to advise him of the fact that we do intend to, as indicated in the resolution, to ask him to appear and to make a statement and answer questions of the Committee at a date to be determined.

SEN. NICKERSON: So it might be a time to put that on record with him in a letter.

SEN. LOONEY: Yes.

SEN. NICKERSON: Okay. Just a suggestion.

SEN. LOONEY: Yes. Good, good. Thank you. Yes, Senator Roraback? Good. So again, we will, moving then on the next item, which is Staff Presentation of Disciplinary Precedents.

We've had our staff doing research of both federal and other state precedents as to disciplinary standards and ways to which other legislative bodies have proceeded in grappling with these kinds of questions.

So would ask staff now to give us an outline of what they've discovered.

ATTY. BRAD TOWSON: Good afternoon. I'm going to briefly give an outline of federal precedent, and then Sandra is going to give an outline of state precedent, if that's okay.

With regard to Congress, Article 1<sup>st</sup>, Section 5, Clause 2 of the United States Constitution provides each house of Congress with the express authority to punish its members for disorderly behavior. And with the concurrence of two-thirds of its members, each chamber may expel a member.

The process for such disciplinary action is the same in either house of Congress. A resolution to expel or censure is referred to the House Ethics Committee or the Senate Select Committee on Ethics, as applicable.

The Committee may then initiate an investigation or ask other members to come forward with information concerning the matter in question.

If an investigation is launched, an investigatory subcommittee will be formed. The subcommittee will collect evidence, talk to witnesses, and hold a hearing.

Then the committee will vote on whether the member is found to have committed the offense and will vote on a recommendation to the respective chamber.

While our inquiry focuses on instances of expulsion, censure, and reprimand, it should be noted that the U.S. House Committee on Standards of Official Conduct is authorized to issue, on its own accord, a letter of reproof to a House member when the committee disapproves of conduct, but makes no recommendation for legislative sanctions to the full House of Representatives.

Moreover, it should be noted that the instances of discipline mentioned herein do not include those instances in which a member resigned or lost reelection before the respective committee could recommend action to the applicable chamber.

Within the U.S. House of Representatives rules, there is no precise listing or description of the specific type of misconduct or ethical improprieties that might subject a member to expulsion, censure, or reprimand.

Rather, such rules provide that reprimand is appropriate for serious violations, censure is appropriate for more serious violations, and expulsion for the most serious violations.

With regard to instances of expulsion, in both chambers of Congress, it has traditionally involved conduct which implicated disloyalty to the union or the commission of a crime involving the abuse of one's office or authority.

The United States House of Representatives has voted to expel a member on only five occasions. Three of these occasions occurred prior to the relevant 50-year look-back window we have employed, and those involved support of the Confederacy during the Civil War.

The other two instances involved members who were convicted of bribery in connection with the ABSCAM investigation and defrauding the government, respectively.

Within the U.S. Senate, there have been 15 instances of expulsion. However, none of these occurred during the past 50 years. Rather, 14 of those expulsions were for support of the Confederacy, while the only other expulsion occurred in 1797 for treason.

Turning now to censure, unlike expulsion, it does not require a two-thirds vote, but rather a majority vote of the members present and voting for the purpose.

As well, the subject member has traditionally stood at the well of the chamber for receipt of the reading of the censure.

Within the House of Representatives, censure has not been limited to conduct that disrupts the institution, but has included misconduct outside of Congress that the House has found reprehensible.

In the House of Representatives, there have been 22 censures for conduct that includes

insulting or unparliamentary language on the floor of the House, assault of another member, recognition of the Confederacy, bribery, payroll, payroll fraud rather, receipt of improper gifts, improper use of campaign funds, and sexual misconduct with House pages.

Only four House censures have occurred within the past 50 years. Generally, the effect of such a censure in the House, pursuant to party rules, is a prohibition on serving as the committee or subcommittee chairman.

Within the United States Senate, there have been nine instances of censure for conduct ranging from reading confidential documents into the Senate record to fighting in the Senate chamber to conversion of campaign funds, and acceptance of prohibited gifts.

There have been only four Senate censures within the last 50 years.

Finally, with regard to reprimand, the House of Representatives has distinguished it from censure since the 1970s for a less severe level of disapproval of the conduct of a member.

Within the House, a resolution for reprimand is either adopted by a majority vote or by adoption of the committee's report to the chamber.

There is no verbal admonition as with censure. Since the 1970s, eight House members have been reprimanded for misconduct that ranges from

failure to disclose personal interest in official matters to the misuse of one's political influence in administrative matters to help a personal associate.

Unlike the House, the Senate does not make the same distinction between censure and reprimand.

This concludes my part of the presentation. I will now turn the floor over to Sandra Norman-Eady who will discuss state precedents.

ATTY. SANDRA NORMAN-EADY: Virtually all state constitutions allow their legislative chambers to discipline their members. Although the basis for discipline varies, disorderly conduct is by far the most common.

You asked us to search other states for cases in which a chamber of the legislature expressed this, exercised rather, this constitutional authority.

We contacted a number of different resources for information in order to respond to your directive, including the National Conference of State Legislatures and the Center for Public Integrity.

However, we relied primarily on information we received from state librarians and from legislative staff. Where we could, we obtained rules, committee procedures, committee rules, and journals.

The memorandum that we prepared and provide to you shows 63 disciplinary actions in 28 states. This is not an exhaustive list.

For example, some states did not respond to our inquiry within our timeframe, and other states were limited to information that librarians and other staff could locate within our timeframe.

With that said, the table included in the memoranda shows disciplinary actions across the country. We found slightly more Senate action than House actions.

The sanctions for misconduct in states included in the table are expulsion, censure, reprimand, or no action. Some states also required public apologies, restitution, and a resignation of leadership or committee positions.

Eight of the states included in the table imposed a more, the most severe punishment, which is expulsion. In a majority of these cases, the conduct being punished related, at least in part, to public rather than private conduct.

Twelve states imposed the second harshest penalty, censure, 15 times, both for public and private misconduct. The behavior censured ranged from berating other legislators in Maine to use of position for personal gain in Alaska to criminal conduct in Georgia and Hawaii.

Four states issued reprimands for public misconduct.

The standards for imposing sanctions appear, we found, if at all, in rules that either the House or the Senate adopted. And we have, as I said earlier, attempted to collect those rules where we could. And now Chris Reinhart will tell you the standards that we found in the rules we collected.

ATTY. CHRIS REINHART: Based on the rules that we did collect, and these are from the 28 states where we found disciplinary cases, most of them aren't providing standards other than saying that the committee is authorized to investigate and recommend a sanction of expulsion, censure, or reprimand or, in some instances, some other level of sanction.

But there were a few states, just a few, that provided some more details, for example, the Alabama rule. The Senate rule in Alabama provides a definition of misconduct.

And that provides that any conduct constituting a legal wrong that materially impairs the ability of the member to perform the duties of his or her office or substantially impairs public confidence in the legislature.

It also includes conduct by a Senator which intentionally violates any Senate rule and the conduct of Senate business, whether official or unofficial business.

It includes conduct which, during his or her term of office, sexually harasses any other

person of either sex, any conduct by a Senator which violates any provision of the state ethics law, conduct prohibited by the State Constitution, and also intentionally filing of a false complaint with the committee or filing a complaint in reckless disregard of the truth.

California, the Legislative Ethics Committee, in its charge says the committee has the power to make findings and recommendations concerning violations by members of the Assembly, and it references specific statutes, ethics provisions, and also any other provision of law or legislative rules that govern the conduct of members of the Assembly.

And throughout its rules, that statement is collectively referred to as standards of conduct.

In the Missouri House rules, they provide definitions of what censure, a letter of reproof, and reprimand is.

For censure, it is a sanction which recognizes the respondent's conduct constituted a legal or moral wrong and which shall include punishment in the form of denying privileges of office, which recommendation is included as part of the committee's report, and requires the presence of the respondent in the chamber during consideration and vote by the entire House on such resolution.

A letter of reproof is a sanction which expresses disapproval of conduct based on the

appropriateness of such conduct by a legislator, regardless of whether the conduct constitutes a legal or moral wrong, and it's included as part of the committee's report.

And a reprimand is a sanction which recognizes the respondent's conduct constituted a legal or moral wrong, which may include a punishment in the form of denying privileges of the office, and again, that is included in the report, is issued by the Speaker, and the recommendation for reprimand is made a public record.

And New Mexico's House rules provides a general statement saying that its constitution does not specify grounds for expulsion, but these may include conduct that impugns the integrity of the House, reflects adversely on the House, or otherwise undermines public confidence in the institution.

And its rules further go on to talk about what a reprimand and censure and expulsion should be.

A reprimand is normally appropriate for a single, relatively minor act of unethical conduct or disorderly behavior in the presence of the House.

Censure is normally the appropriate sanction for more serious or repeated acts of unethical conduct, contempt, or serious disorderly behavior in the presence of the House. Although repeated or aggravated violations may merit expulsion.

A Representative who is censured shall not serve in any leadership position and shall not serve as the chairman or co-chairman of a standing or interim committee for the remainder of the pending term in office.

The extraordinary power of expulsion generally is reserved for very serious breaches of legal or ethical responsibilities of members that directly relate to their duties as House members and that impugn the integrity of the House, reflect adversely on the House, or otherwise undermine public trust in the institution.

And in the Senate rules from New Mexico, they also provide a definition of when reprimand is appropriate, and it states that it's appropriate for violations of the Senate rules of ethics which cover conflict of interest, undue influence, or abuse of office.

And a censure is appropriate for repeated or flagrant violations of those rules. A Senator who is censured shall not serve in any leadership position, serve as a chairman or co-chairman for the remainder of the pending term in office.

Those were the very few provisions we found providing any kind of standard in the rules in the other states. There were provisions in South Carolina that provided that a member who is guilty of certain crimes, who pled guilty, or gave a plea of no contendre, would be

suspended and the Ethics Committee must recommend a vote of expulsion, which the Senate shall take.

It further provided that if a member is convicted, there would be a suspension, and any recommendations on expulsion would be pending outcome of appeals.

So those are the only provisions that we found specifically dealing with standards of conducts in these states.

ATTY. SANDRA NORMAN-EADY: And I'd just like to say that we prepared for you, and you should have at your desk, a notebook that includes the memorandum that we wrote, copies of constitutions by state, copies of the rules that we just read about, that Chris just spoke to you about, and the information that Brad presented on federal cases.

SEN. LOONEY: Thank you. Just questions from Members, if I might begin, is there a, do other states have provisions under state law or state constitutional provisions that obviously make a distinction between a felony and a misdemeanor conviction that mandate a resignation for a felony conviction but then leave the misdemeanor conviction, in effect, open to the potentiality of action? How is that handled in other states?

ATTY. CHRIS REINHART: I'm not absolutely positive, but I believe, in doing our research, I think we came across some states where it was a

provision of their constitution that a felony was disqualifying, but we don't, I don't think we have any of the specific cases in our list because it was a statutory of constitutional provision as opposed to an investigation.

SEN. LOONEY: Right. So in that case, in those other states, a resignation, in effect, is compelled by statute or constitution upon conviction of a crime designated as a felony. So that the legislative actions, disciplinary actions are in the context of, similar to what we are here, in relation to a consideration of the consequences of a misdemeanor conviction.

Good. Okay. Other? Senator Roraback.

SEN. RORABACK: Thank you, Mr. Chairman. I was curious whether you had found any other states which had undertaken a procedure analogous to what this group is undertaking where there was a specific resolution adopted by a legislative body charging a subset of its members to undertake an investigation or a review of this nature and, if so, whether there's anything to be learned from their experiences.

ATTY. SANDRA NORMAN-EADY: In fact, we did. We found that in a number of states there is a standing Committee on Ethics that receives complaints of misconduct by members.

But in a number of different states, there were special committees that were established to investigate or review allegations of misconduct by members.

Those committees were charged with establishing rules of procedure. They could have public hearings. They could bring people in to provide information, and they could cross-examine that information, those witnesses.

They were charged with making findings and recommendations to the full body, and then the full body would take final action.

SEN. LOONEY: Other questions from, yes, Senator Guglielmo.

SEN. GUGLIELMO: Thank you, Mr. Chairman. I just had a comment. I know most of us got this pretty late yesterday, so if you haven't had a chance, I want to compliment the staff on the chart. That is very helpful.

And I'd recommend that all the Committee Members, if you haven't had a chance, just to look it over. Also, there's a report in here from CRS, report for Congress, which is dated April 16<sup>th</sup>, 2002, which is definitions and history of censure, reprimand, and the definitions of term, which is also very helpful, so thank you.

SEN. LOONEY: Thank you. Just had one other question. In the states that have set up standing or Select Committees on Ethics or in the ones that have set up ad hoc committees, as in the case here, is there any information as to whether those committees were equally

bipartisan or were they set up to reflect the partisan balance in those legislatures?

ATTY. SANDRA NORMAN-EADY: We found a number of cases where there were bipartisan committees. The rules or the journals that we read specifically indicated that they were bipartisan in nature. In other cases, there was no specification.

SEN. LOONEY: Thank you. Senator DeFronzo.

SEN. DEFRONZO: Thank you, Mr. Chairman. I did have a chance to go through some of this material last night and previously we've been, you know, getting partial information from our own efforts.

But is it fair to, as I look at this, particularly with respect to the ultimate action of expulsion in Congress, and particularly, Brad, let me direct this to you, that the few cases that you report on are really tied to, with the exception of I guess treason in the case of the Civil War, three Civil War Senators, or Congressmen I guess it was, that the two more modern cases have to do with bribery, the misuse of office, felony convictions, felony charges, not misdemeanor charges.

ATTY. BRAD TOWSON: That's correct.

SEN. DEFRONZO: Is that similar in the Senate cases?

ATTY. BRAD TOWSON: Well, within the Senate cases, there are only 15 cases. Fourteen of them had to do with recognition of the Confederacy, and the other one was treason. So there are no other cases.

SEN. DEFRONZO: Okay. Let me then direct to Chris, I guess, or Sandra whoever might have the information.

On the state level actions that may have resulted in expulsion, particularly, have those been tied, I mean, is there a pattern that indicates that a felony conviction or a felony charge is a more common standard for expulsion as opposed to any other say misdemeanor charge or any other type of misconduct?

ATTY. SANDRA NORMAN-EADY: I really, there's nothing definitive that states that or that it has to be a felony conviction for an expulsion.

In the examples that we found, or the cases that we found, we see expulsion for a variety of different actions, from vote selling to a bribery conviction to extortions of funds from private clients, in the case of an attorney, to using Senator computer to hold explicit sexual photos to other acts of embezzlement.

So those were the cases that we found. They seem to be all over the place.

SEN. DEFRONZO: Now I understand there is no requirement for a felony charge, but, for example, that list you just went through, some

of those might actually be charges or pending charges, but others might be.

I mean, clearly the bribery charges or vote selling, I would imagine in those states those are felonies, are they not, or do we know?

ATTY. SANDRA NORMAN-EADY: I don't know the answer to that.

SEN. DEFRONZO: Okay. It might be helpful if we could clarify some of that just in terms of what the actual pattern is.

Then, a number of the documents you referenced talk about a more subjective standard, a standard of eroding public confidence, undermining the integrity of the institution, you know, I might add things like, you know, fueling cynicism about the process itself.

Are there many of those cases where a legislative body has turned to that standard and determined to either reprimand or expel an individual for things that were not perhaps related to a felony or a misdemeanor, but general conduct that would suggest an undermining of the public confidence in the institution?

ATTY. CHRIS REINHART: I guess you could say one example of that type of thing would be the censure that occurred in Maine in 2001, where the Representative was berating two female Senators during a State House argument over which committee should handle legislation.

That's kind of not, I mean, it's not a crime, it's more conduct that would be affecting the integrity of the chamber.

SEN. DEFRONZO: I see. All right. And then I think you made a distinction also between personal conduct and official conduct.

Can either or any of you elaborate on that distinction and what, you know, how should we, for example, in the case before us with Senator DeLuca, there is a personal affair that gave rise to the information which I think has sort of propelled us in the direction we've gone with the creation of this Committee.

The experience in other states where a personal act of or an act relating to personal affairs, have we seen that translate into serious discipline?

I mean, you know, I think we've seen some of the felonies which are clearly related to official office, but are there any indications that actions which relate more directly to personal family interest or things that are not conducted in the course of official business would result in a censure of a reprimand or expulsion even?

ATTY. SANDRA NORMAN-EADY: Yes. We've seen censure for, example, possession of a small amount of marijuana. We've seen censure for, I think, domestic violence and for a history of

soliciting prostitution, for threatening the  
DPS Commissioner, for DWIs.

So those, I would say, are private, and we have  
seen censure for those actions. We've also  
seen censure for use of the public office for  
your own personal benefit or financial gain.

SEN. DEFRONZO: I have some other questions, but I  
don't want to get ahead of ourselves here, so  
maybe let me pass back the microphone to you or  
the Chair. Senator Looney and maybe others  
might have questions. Thank you.

SEN. LOONEY: Thank you. Thank you, Senator  
DeFronzo. One other point, I believe, in  
looking back in some of the precedents,  
obviously Connecticut, the only Connecticut  
precedents we have in any way related are from  
the House of Representatives [Gap in testimony.  
Changing from Tape 1A to Tape 1B.]

--sort of a merging of the standards rather  
than distinguishing censure from reprimand as  
one being for more severe conduct and the other  
not. Any comments on that or do most state  
make a clear distinction between those two?

ATTY. BRAD TOWSON: In terms of the states, I'm not  
sure that I could comment as to whether there's  
a clear distinction. In terms of Congress,  
within the Senate, there is not a clear  
distinction.

However, within the house, since the 1970s,  
there has been a more clear distinction in

that, simply that reprimand is for, seen as a lower level of disrepute towards the conduct in question by the members of the chamber.

I don't know if anyone else has comments on that.

ATTY. CHRIS REINHART: I would say I think most states seem to have both censure and reprimand as separate sanctions, and censure being a step above.

In one instance that's instructive is Representative Roland Hemon in New Hampshire, who was repeatedly introducing legislation to impeach a probate judge who had handled his mother's estate.

The first time, he received a reprimand. The second time, the committee recommended censure, and the third time they recommended censure if he agreed to stop doing that, otherwise they were going to recommend expulsion.

So there's a committee that took successive steps with the same person.

SEN. LOONEY: All right. Yes, Senator Guglielmo.

SEN. GUGLIELMO: Thank you, Mr. Chairman. I know I did a little of the reading that you supplied me with the material and some other research, and I know in the beginning censure and reprimand were interchangeable, and then some bodies made a distinction.

But expulsion was a pretty high standard from what I think this article here, which was very good, the one I referred to earlier, the CRS report for Congress.

It talks, it has a quote in here from James Madison, and I'll just, if I could, I'll just take a minute.

The defeat at the polls of members who had engaged in misconduct was precisely the principle ethics oversight planned by the framers of the constitution who looked to the necessity of reelection to be the most efficient method of regulating Representatives conduct.

James Madison explained in the federal papers that despite all the precautions taken by structural separation of powers in government or by the institution of Congress or by law, the best control of members conduct would be their habitual recollection of their dependence on the people through the necessity of frequent elections.

So obviously, they were concerned about overturning elections of duly elected officials, and the framers certainly didn't take it lightly.

SEN. LOONEY: Thank you, Senator. Other questions or comments from Committee Members for staff based on their research? Yes, Senator Roraback.

SEN. RORABACK: Thank you, Mr. Chairman. New Hampshire seems to be a fertile ground for our researchers, and I'm looking at--

SEN. LOONEY: --because their legislature is so large.

SEN. RORABACK: Yeah, I guess. But I'm curious, the most recent reported case, from 2005, when the House Speakers held a series of corn roast galas, raising \$64,000 from supporters, lobbyists, and others, and used the money for personal expenses, such as car repairs, hotel stays, and meals.

What I'm curious to know, it says that the committee voted unanimously to recommend expulsion, and then it says a vote to expel in the full body failed. And do you know what the margin, whether that was a close vote or?

I'm just curious to understand what weight committee's recommendations have held with legislative bodies or, in this particular instance, whether they got a lot of traction or not.

ATTY. CHRIS REINHART: I remember it was very close. Let's see if I can get that.

SEN. RORABACK: The fact that it's very close would be--

ATTY. CHRIS REINHART: I believe it was three or four votes.

SEN. RORABACK: That's fine. That's all I wanted to know was whether it was, whether they were summarily, whether the recommendation was kind of summarily rejected or whether it was given.

And I'd be curious to follow up on Senator DeFronzo's question. It might be useful if you could pull out all of the cases, all of the state cases in which expulsion has occurred and then categorize whether the offense is a felony or a misdemeanor, if there has been a criminal offense associated with it.

I think that might be useful for kind of getting a sense of the lay of the land in other jurisdictions.

SEN. LOONEY: Yes. And to add to that, I think it might be helpful if we could get a look at perhaps some of those cases where there was a committee of inquiry or investigation and then there was an expulsion recommendation that the process was then truncated by the resignation of the member.

It might be good to get some of that information too. I think there were a couple of congressional precedents, if I recall. I don't know whether the case of Senator Packwood and Representative Traficant might come into that category.

I don't remember exactly how those cases ended up, but whether or not there were similar precedents at the state level where there was a

process of inquiry leading to a resignation prior to a formal expulsion vote.

ATTY. BRAD TOWSON: I would also say that within Congress, it appears that the general trend concerning expulsion is that if the conduct in question occurred before the person was elected, or if it occurred after a person, or if subsequent to the conduct in question a person had been reelected, that they tended not to proceed with an investigation.

ATTY. SANDRA NORMAN-EADY: And I would just say in the report on the states, where there was a committee recommendation, and that recommendation was not followed, we indicated in the final action that there was a recommendation from the committee and then what the final outcome was and if that was different from what the committee recommended.

We do have copies here of our report organized by the final action taken. So if that's easier to read, we do have it organized in that way. You can pick that up. We can give that to you.

SEN. LOONEY: Thank you. Senator DeFronzo.

SEN. DEFRONZO: Mr. Chairman, I wanted to ask some questions more specific to the case in front of us, but please, if you think I'm getting a little too far out in front, let me know. If these questions are premature, feel free to reign me in.

In the case that's before us today, Senator DeLuca waived his right to the statutory statute of limitations pertaining to the case of conspiracy to commit threatening, which is a state misdemeanor charge.

By waiving that statute of limitation, was able to accept the agreement or the plea agreement that he ended up with.

In the affidavit that we have all had the opportunity to read now for the last several weeks, several months actually, there are a number of clearly defined actions that Senator DeLuca took, which he was not charged with, but which may actually be a violation of law, either federal law or state law, he was never charged with because of the plea agreement.

To my knowledge, at this time, we have not asked the staff to look at those potential violations or actual violations of federal law or other state law, but we've only really looked at the misdemeanor pled to by Senator DeLuca.

Related back to this issue of appropriate standards, I'm trying to figure out how we actually get back here. The misdemeanor with which Senator DeLuca is charged and then pled to relates primarily to a personal interest, a personal affair, a family affair.

The areas that I think open the door to disciplinary action, in my mind, are the areas

that are revealed in this affidavit, but he was not charged on any of those things.

So for example, I think it's pretty clear in the affidavit that, at one point, the Senator provided some false, initially, some false statements to the investigative body, investigative officers. Later corrected the record with truthful statements.

Now that, I presume, was a violation of some federal or state statute. Is that a standard that is applied in other states or at the federal level, false statements to an investigative officer?

It's clear also in the affidavit that Senator DeLuca did not report a bribe offer. I, quite frankly, am not sure whether that's a violation of state law or federal law or not, but clearly, the acceptance of a bribe or the selling of votes is a standard that was used for expulsion in other disciplinary action.

Is there anything in any of the material that you found to indicate that failure to report a bribe attempt is actionable in terms of disciplinary measures?

And so, and there may be other things in here too. Those are the things that come to my mind immediately about the affidavit that we've had before us.

So in my mind, there's a dichotomy between what the official plea is and some of the other

actions that might suggest a potential for disciplinary action.

So I'd be interested in knowing, specifically with respect to false statement, failure to report a bribe, those two specifically I guess, whether those constitute a violation of state or federal law and if those are standards that have been used in other jurisdictions for assessing disciplinary action against a member.

Thank you, Mr. Chairman.

SEN. LOONEY: Yes, thank you. Thank you, Senator DeFronzo. Senator Guglielmo.

SEN. GUGLIELMO: It's my recollection, and maybe you can check this out when you're looking at it as well, that the judge admonished the prosecutor for mentioning some of these items in his, and I'm not a lawyer, so I don't know what you call it at the end there, but he admonished the prosecutor for mentioning these and then not bringing charges.

If you could review that part and just refresh the recollection of the Committee, that would be helpful too. Thank you.

SEN. LOONEY: Thank you, Senator. Just one other point, kind of following up, in terms of gathering information from other states, I know we've asked you to get this information for us, and I think you've done a terrific job in a fairly short turnaround time, getting the information from 28 states.

But I think it might be helpful to ask you to renew the request, see whether you can get something, any other information from the other states that we don't have information on yet, to spend a little more time trying to see whether there might be any productive information to be gained from some of the 22 states that we have not heard from or haven't produced any documentation that might be helpful or enlightening for our purposes.

So if we could ask you to maybe follow up again with that and see whether or not there's anything available from the states that the data has not been so readily retrievable or communicated.

ATTY. SANDRA NORMAN-EADY: I will just say, one of the ways we tried to collect information was to pose questions to legislative librarians on their list serv.

SEN. LOONEY: Right.

ATTY. SANDRA NORMAN-EADY: And answers to our questions have been trickling in. So even after we submitted the report, we did get information on a few other states. So we can certainly do that and update the report as we get additional information and actively seek other information also.

SEN. LOONEY: Good. That I think would be very helpful to, in effect, give us a supplement to

what you've already, what you've already gathered. Senator Nickerson.

SEN. NICKERSON: Thank you, Mr. Chairman. Just to follow up on Senator DeFronzo's dialogue in trying to parse apart the meaning of the information you've brought before us, in terms of our wrestling with the difference between expulsion, censure, and reprimand, I would offer this.

Expulsion would clearly be something, we'll use the word very serious or repeated, something that is a glaring violation of a crime or a moral conduct.

The more difficult one to me is parsing as between reprimand on the one hand versus censure, but I think there are some guidelines.

If I correctly understand the House report on CSR 15, it would appear that a reprimand, and admittedly, this isn't precise and bounded with steel girders, but a reprimand in the House terms would relate to internal violations of campaign reporting, ghost voting, false statements.

Whereas a censure, with some differences, at the state level, is something more serious than that and, in many times, a crime.

Granted, the main state censure you mentioned would be an exception, where the individual was censured for berating two female Senators. But in most cases, it seems that a censure is,

censure in state terms is more likely to be a crime.

So I don't know if that's, would you agree with that as by no means definitive, but a beginning of a sketch of an outline of the difference between reprimand and censure?

I'm afraid the witness is required to answer.

ATTY. SANDRA NORMAN-EADY: I'm really not sure. I'm just looking at New Mexico, for example, where censure is normally the appropriate sanction.

Well, that's for serious or repeated unethical conduct, so that's not necessarily criminal, or contempt or serious disorderly behavior, which could be, and that's just one example. Generally, that might be true. I'm not sure.

SEN. NICKERSON: So that a censure might, in state precedential terms, might not necessarily be a crime, but would be say a repeated and aggravated occurrence, which if not repeated, a single incidence of which might engender a reprimand, something along those lines.

ATTY. SANDRA NORMAN-EADY: That seems to be fair.

SEN. NICKERSON: Let me ask this question, and this is an important one. Was there any case where a criminal act, such as obviously we have here, was one which drew a reprimand as distinct from a censure?

ATTY. SANDRA NORMAN-EADY: Now by a criminal act, do you mean a misdemeanor or--

SEN. NICKERSON: Yes.

ATTY. SANDRA NORMAN-EADY: Okay. And your question, I'm sorry, once again.

SEN. NICKERSON: Was there, I'm just trying to get the state history into a synthesized form in asking the question, were there instances, and I'm asking because I don't know, haven't read it as well as I know you have, were there instances in which a criminal act at any level drew, at a state disciplinary proceeding, a reprimand as distinct from a censure?

And of course, as distinct from expulsion, obviously, but I'm parsing between those two more difficult ones to line up a difference.

ATTY. SANDRA NORMAN-EADY: We have four state reprimands. Go ahead, Chris.

ATTY. BRAD TOWSON(?): Just in terms of the ones that ended up in a reprimand, it's not looking like there's necessarily a criminal investigation involved.

One if failing to file campaign finance reports and not paying fines.

SEN. NICKERSON: Which would be comparable to the U.S. House kind of standard.

ATTY. BRAD TOWSON(?): And using position to benefit family members, probably an ethics rule, and we don't know enough about the conduct. Accepting a state contract that was related to legislation you authored, again, that's kind of a question of whether it violated ethics laws at the time, but.

And again, the New Hampshire instance, but I'm not sure, I haven't, I'm not familiar enough with all the censures to see how it compares.

SEN. NICKERSON: Well, I was just thinking, I was going to ask the question then to follow up, would those examples of a reprimand fall roughly within the class of a U.S. Congressional reprimand standard as per description on CSR 15, more like ethical House rules as opposed to a criminal act, to distinguish between reprimand and censure?

Is that, and if you disagree, please say so. I'm looking for answers, not trying to promote an answer.

ATTY. CHRIS REINHART(?): Right. I think the only thing I would feel comfortable in saying in that regard is that generally the reprimand is a lesser standard from the eyes of the other members of the chamber in the sense of they take less repute with the conduct in question.

I don't know, off the top of my head, necessarily as though reprimand has never been used for a criminal act.

SEN. NICKERSON: Okay. Probably wouldn't fall within the House general standard. A criminal act would probably be above the reprimand standard that's outlined in our material here.

ATTY. CHRIS REINHART(?): Generally, that's probably true.

SEN. NICKERSON: Okay. Thank you. Thank you, Mr. Chairman.

SEN. LOONEY: Thanks, Senator Nickerson. Any other question? I think the discussion with Senator Nickerson, oh, yes, Senator Stillman.

SEN. STILLMAN: I'm sorry, Senator Looney. I was just looking through the new list that you gave us, and there are a couple of ongoing investigations or reviews of conduct in Alabama and North Carolina.

I was wondering if you have any information as to when those results or the recommendations will come before their legislatures?

ATTY. SANDRA NORMAN-EADY: I did call the Senator in Alabama who is heading the Ethics Committee, but I did not receive, I did not get a call back from him just yet.

But that is a fairly recent occurrence where there was an assault on the Senate floor, and that Ethics Committee did hire counsel, and counsel is doing an investigation and getting back to the Committee. So I don't know when they expect to complete their work.

SEN. STILLMAN: Just as a follow up on that one, do you know, it says here that the Senate President appointed a five member bipartisan Senate Ethics and Conduct Committee to review the complaint.

So obviously, with the five people, there is a little issue of the majority. Do you happen to know who is in the majority in Alabama and whether this particular Senator is in the majority or minority party? I'm just curious whether you have that much information.

ATTY. SANDRA NORMAN-EADY: I can search my file. I don't know it off the top of my head.

SEN. STILLMAN: Because before you mentioned that some of them, some of the committees were bipartisan in nature and some were not. Some were based on the majority rule, and certainly punching a fellow Senator on the Senate floor is serious conduct, inappropriate conduct.

So I can understand why they're reviewing it, but I was just curious about, looking for some of those little finer details. Thank you.

SEN. LOONEY: Thank you, Senator. Anything else? I think to just return to points made by Senator DeFronzo and Senator Nickerson also in trying to determine standards, the issue, one of the issues here is that we do have the arrest warrant affidavit that describes the conduct for which Senator DeLuca did enter the plea.

But it does describe other conduct that Senator DeFronzo said that was, in effect, uncharged conduct, but raises questions as to whether other statutes, state or federal, were violated that, for whatever reason were not pursued in either a state or federal prosecution.

So it would be helpful if we could get any information about if there are any precedents in other states, like this, where there is, in effect, an investigation that resulted in a plea or conviction to a crime, but also indicated evidence of other conduct, which might have been criminal, but was not part of the final plea, and whether or not that other conduct became a basis for legislative discipline.

Senator Guglielmo.

SEN. GUGLIELMO: If I could follow up on that too. It might be interesting to know if, why the prosecutors didn't pursue the other charges. In other words, most times prosecutors are fairly aggressive, and when they don't pursue them, it's because they have difficulty proving the charge.

So that could be the case in the other cases were investigating and in this one as well. So that would be, is that clear or? In other words, we'd like to know, in other words, if we're going to see why these were mentioned in the arrest warrant, it would be interesting to, and that's going to be an opinion probably as to why they weren't pursued, but that would be

an indicator. I'd be interested as a non-lawyer. Thank you.

ATTY. CHRIS REINHART(?): I do understand what you're requesting. However, that may be information that is simply not available for a number of reasons.

SEN. GUGLIELMO: But the best you can do, because that would be helpful. Thank you.

SEN. LOONEY: Thank you, Senator. Anything else on that point in our agenda? Yes, Senator Roraback.

SEN. RORABACK: Thank you, Mr. Chairman. Just briefly, thank you for providing the information broken down by category of sanction. I just want to make sure I understand clearly.

We have information from 28 states. Is that correct?

ATTY. SANDRA NORMAN-EADY: That's correct.

SEN. RORABACK: And by my count, and we asked for information from the last 50 years, is that, we limited our request to the last 50 years?

ATTY. SANDRA NORMAN-EADY: That was the directive. What we had in the list serv was 20 years, because what we were finding from states was that the information wasn't available, going back 50 years, electronically.

So without the name of a legislator or the specific incident that happened, it was difficult for the librarians to do a paper search.

And those records weren't stored locally, and it's the summer, so we had difficulty getting people to go back that far. We found ourselves relying on the recollection of the individual to whom we were speaking.

So I think, while in some cases we were able to find, through newspaper searches, cases going back further than 20 years, in talking to individuals, it was hard to get cases going back more than say 20 or 30 years.

SEN. RORABACK: Okay. And that's useful just for kind of getting a sense of how deeply we have dug.

And I see here we have nine known cases of expulsions from state legislatures. In one of those cases, or at least one of those cases, the individual from Maryland, Senator Larry Young, was in fact acquitted of all criminal charges.

I guess what I'd like to better understand, again, to follow up on Senator DeFronzo's question, is the relationship between criminal convictions and expulsion actions, and also the degree.

I don't know whether there was a Senator from Michigan who was accused of three drunk driving

convictions, two alleged physical altercations with his fiancé, and having sexually explicit photos on a Senate-owned computer, and alleged verbal abuse of Senate staff, I don't know whether those are misdemeanors or felonies or whether he was, in fact, criminally convicted in all of those cases.

But it would be useful, if it's not too difficult, to determine exactly whether the people were convicted of a felony or a misdemeanor or nothing at all, and then we could see if there's any relationship between those criminal sanctions and action that the legislature took.

Thank you, Mr. Chairman.

SEN. LOONEY: Thank you, Senator. Anything else on that agenda point? Want to thank the staff for their presentation. I know we have asked them to gather a great deal of information, and have added to their charge today, but want to commend them on the amount of information they've been able to gather for us to this point.

Next agenda item is Old Business. Anything under that category that we need to address once again?

If not, anything under New Business, in addition to what we have obviously addressed under the item of the letter to be addressed to Senator DeLuca and Chief O'Leary? Anything else under New Business? No. Okay.

Yes, Senator Stillman.

SEN. STILLMAN: Yes, Mr. Chairman, Senator Nickerson brought up a point before about a letter to Senator DeLuca. At some point, because the resolution calls for it, this Committee has the authority to ask him to come before us and explain his situation and why actions occurred, etc.

Have we actually done that, ask him to, and do we need to, if we have not, with the clock ticking, in terms of our timeframe, it's still unclear to me whether we've actually asked him to come in and give him a date as to when we would like him to come before this Committee so that we can hear his account, again, and ask questions.

SEN. LOONEY: Well, I think, as discussed earlier when Senator Nickerson raised the point, that we do intend to formally notify him of obviously the fact that we do, pursuant to the resolution, intend to invite him to come in to make a statement and answer questions.

But at this point, we're not in a position to ask to, advise him of a specific date as of yet, because I think our strategy all along has been to make sure that we have gathered all of the information of all kinds that we possibly could have in our possession prior to having him come in so that we would have the one opportunity to ask him anything relevant to our deliberations.

It would be, I think, not good procedure to have him come in and then have some other information come to light later that we should have had an opportunity to question him about and didn't have the opportunity to or to call him back again.

So I think that that has to necessarily come close to the end of our process when we're sure that we have no other significant information from other sources outstanding prior to that time.

But I agree with Senator Nickerson's point earlier that we should advise him that we do intend to schedule the time to be determined later.

Yes, Senator Roraback.

SEN. RORABACK: Thank you, Mr. Chairman. In fact, the minutes of our last meeting on September 6<sup>th</sup>, action item number three, Senator Looney and I, we prepared a draft of a letter to Attorney Raabe, and we had some editing revisions to it which are in the pipeline, so we're intent on completing our homework assignment from the last meeting.

Thank you, Mr. Chairman.

SEN. STILLMAN: Thank you, Sir. That was my understanding that a letter was to go out, and I certainly defer to the Chairs in terms of it being a little premature in terms of being

prepared, the Committee to be prepared to accept the testimony of Senator DeLuca. Thank you.

SEN. LOONEY: Thank you, Senator Stillman. Anything else under New Business? If not, I think we want to prepare then for our next meeting date.

And obviously, since we are sending out a request, a solicitation of the waiver of the privacy privilege from Senator DeLuca, as well as Chief O'Leary, and asking them to respond next week.

If we do, in fact, receive that waiver, we would then need to communicate again with the U.S. Attorney and hope to have some information then back pursuant to that waiver and request for disclosure.

I would suggest that, since prior to this meeting we've been meeting on Thursday's, but moved this up in anticipation of the sessions, is October 4<sup>th</sup> a date that would be reasonable for people, that Thursday or Thursday afternoon, the 4<sup>th</sup> at 2:00?

Do you teach that day, Senator DeFronzo? Would 2:30 be, yes, if we, is 2:30 on Thursday, October 4<sup>th</sup> a reasonable time for our next meeting, and hope that we'll have some additional information in hand by that time. So we'll schedule our next meeting for Thursday, October 4<sup>th</sup> at 2:30. Thank you.

I'll ask for a motion to adjourn.

UNIDENTIFIED SPEAKER: So moved.

SEN. LOONEY: Second? All in favor?

ALL: Aye.

SEN. LOONEY: Thank you very much.

[Whereupon, the hearing was adjourned.]