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BIPARTISAN COMMITTEE
OF REVIEW

October 4, 2007
2:30 p.m.

PRESIDING CHAIRMAN: Senator Roraback
 Senator Looney

COMMITTEE MEMBERS PRESENT:

SENATORS: DeFronzo, Guglielmo,
 Nickerson, Stillman

REPRESENTATIVES:

SENATOR RORABACK: --gentlemen, and welcome to our fourth meeting of the Bipartisan Committee of Review. We have an agenda, which is pretty full, and the first item, well, so hopefully we can make our way through today's agenda and get out of here by dark.

I don't know whether Senator Looney has any opening remarks. Senator Looney.

SENATOR LOONEY: Just to get underway, I think we will obviously have some additional staff presentations today that may take some time, as they did in our last meeting. I think that we're enlightening with the give and take between the staff and Committee Members.

SENATOR RORABACK: Thank you, Chairman Looney. Do any other Members of the Committee have any statements they would like to make at this juncture?

If not, the second item on our agenda is approval of the minutes of our meeting of September 19th.

SEN. GUGLIELMO: So moved.

SEN. RORABACK: Moved by Senator Guglielmo.

SEN. STILLMAN: Second.

SEN. RORABACK: Seconded by Senator Stillman. Is there any discussion? All in favor of approval of minutes, signify by saying aye.

ALL: Aye.

SEN. RORABACK: Any opposed? The ayes have it. Motion carries. Minutes are approved. The third item on our agenda is a Request for Extension of Time.

I believe the resolution which created this body charged us with concluding our work within 45 days of our first meeting, but contemplated that should we not be able to meet that deadline, that we would have the opportunity to ask for two additional 15-day extensions from the leaders of the Senate.

And my understanding is that the 45 days will expire on October 12th. I think Senator Looney and I thought that it would be prudent for us to go forward at this juncture and ask for a 15-day extension through and including October 27th, within which the Committee might complete its work, recognizing that should we fail to

meet that deadline, there is room for another 15 days.

So Senator Looney.

SEN. LOONEY: Yes, Mr. Chairman, thank you. In our discussion of our proceedings, obviously it became necessary that in order to deal with the workload still ahead of us, including our anticipated invitation and appearance by Senator DeLuca before the Committee, that we will need some extra time.

I think it would be prudent at this stage, so that we're not immediately right upon our initial deadline, to formally express the sense of the Committee that we will need to request the first two-week extension. I wouldn't prejudge whether we would need any more than that, but the first two-week extension that was provided for in the resolution creating the Committee.

SEN. RORABACK: Thank you, Senator Looney. Is there any discussion by other Members of the Committee? Would someone like to make a motion to empower the Chairs to write a letter to the leaders asking for the additional 15-day extension?

SEN. GUGLIELMO: So moved.

SEN. RORABACK: Is there a second?

SEN. NICKERSON: Second.

SEN. RORABACK: Moved by Senator Guglielmo, seconded by Senator Nickerson. Any discussion? All in favor, signify by saying aye.

ALL: Aye.

SEN. RORABACK: Any opposed? The ayes have it. We will get that letter off to the leaders and copy the Members of the Committee.

The fourth item on our agenda is a Review of Responses to the Committee's Waiver Requests. It's been a couple weeks since we were last together, and I believe when last we were together we reviewed a letter from the U.S. Attorney which suggested that were we to secure waivers from Senator DeLuca and Chief O'Leary, certain documents in the possession of the U.S. Attorney might be provided to the Committee.

Senator Looney and I, at the direction of this Committee, thereupon sent letters to Senator DeLuca and Chief O'Leary asking that they waive their privacy rights so as to permit the release of certain information.

We received a limited waiver from Senator DeLuca and a response from Chief O'Leary declining to provide us with a waiver. We thereupon forwarded Senator DeLuca's limited waiver to the U.S. Attorney, who yesterday provided the Committee with information that was responsive to that limited waiver.

So I would open it up to Members of the Committee to share their impressions of what

has transpired since our last meeting, if people have things that they'd like to discuss.

SEN. NICKERSON: Mr. Chairman?

SEN. RORABACK: Senator Nickerson.

SEN. NICKERSON: Thank you, Mr. Chairman. I do want to share a concern that I have with regard to the two letters that were written by Attorney Raabe, representing Senator DeLuca.

His first letter of September 20th was very clear in that he expressed the view that the request that we were making exceeded the scope of our Committee's review and that, secondly, the position taken by the U.S. Attorney, that he could release material with a privacy waiver, was, in Attorney Raabe's view, contrary to law, certainly to precedent, and that he felt the material should not be released with or without a privacy waiver.

I don't happen to agree with either of those positions, but that's not my main point. I think the Committee's own role is to determine its own scope of charge, and that it's up to the government to determine federal law.

But my more significant concern comes from his second September 24th letter in which he does two things. He granted a limited waiver, thus undermining the points that he made as to the invalidity either of it being beyond the scope of our request or beyond the powers of the U.S. Attorney.

And secondly, he asks that Chief O'Leary waive his privacy rights, further undermining the September 20th position that it was improper for us to ask and improper for the U.S. Attorney to release.

Therefore, I feel that the reasons for the limited waiver, as opposed to a more broad scope waiver, the proffered reasons I find problematic at very best.

Now you might say, well, where do we go with that? I'm not ready to draw a negative inference, but I think there's a concern that the reasons for the full waiver do not, to me, hold water. Therefore, the question is why was there only a limited waiver?

So I just pose that to the Committee. I'm sure it would be something that would come up with Senator DeLuca, if we were to invite him, and I'm sure we will, and if he were to accept, which I hope he does.

But you asked for comments on the responses. I am troubled by the juxtaposition of the two responses from Attorney Raabe. I feel it's a concern and may lead to negative inferences as to the cooperation we're getting. So I wanted to share that thought. Thank you, Mr. Chairman.

SEN. RORABACK: Thank you, Senator Nickerson.
Chairman Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. Just following up on Senator Nickerson's point in terms of inferences that may be drawn or might not be drawn.

It's interesting. In the cover letter which we have from the U.S. Attorney, from Attorney John Durham, replying on behalf of U.S. Attorney Kevin O'Connor, indicating that the waiver that was granted specifically requested that it be a document provided with redactions so that all names are omitted other than Senator DeLuca's own name and the names of the agents conducting the interview.

Any and all other, any and all individuals other than Mr. DeLuca and the two interviewing special agents have been redacted from the report of the interview.

But in addition to that, I think it's also of note that Attorney Durham specifically notes that any characterizations of any other documents that might be referred to that have not been provided to us, namely the recordings, characterized by Attorney Raabe specifically should be regarded as only that, his characterizations, and not in any way having the U.S. Attorney's Office vouch for that particular content.

"With respect to Attorney Raabe's September 17th, 2007 characterization of what is and is not contained on the original undercover agent's recordings with Senator DeLuca, the characterization should be understood as just

that -- Senator DeLuca's attorney's characterization of what is and is not contained on those recordings."

So clearly, there is not either an endorsement or a denial of the nature of the content.

SEN. RORABACK: Thank you, Senator Looney. Senator Stillman.

SEN. STILLMAN: Thank you, Mr. Chairman. I have several concerns as well, based on the fact that reading the, I guess you can call the transcript, it says date of transcription of 9/28 and 9/21 with all the redactions, it certainly, as I'm reading it, you know, it certainly is not all that helpful, quite frankly, in making Senator DeLuca's case for him.

In the sense that it leaves much to the imagination, in terms of whose name and who is it and what actually was said and the lack of clarity, in my mind, in terms of what it is I'm reading.

It really leads me to read between the lines, and I don't know whether that's, as Senator Nickerson just said, is a negative or not. But to me, it's more of a negative, quite frankly.

I also am concerned with, I understand the Chief's position in regard to the fact that, as outlined in his letter, that he, that the report that could come from him "contains

recollections of the agent and is based on a telephone interview with me.

The interview was conducted on an informal basis. The conversation was not recorded or transcribed. There were no witnesses to the conversation. I was never asked to review a copy of the transcript of the conversation to confirm its accuracy."

So I can understand his concern in releasing a document that he's not sure is accurate because of its informality.

I personally don't think that's helpful either, so I was very disappointed to read that. But on the other hand, I can somewhat understand his position because, in his mind, there isn't any, it isn't accurate. It might not be accurate, let's put it that way. He's not saying whether, if we got anything, whether it was or not.

But I am concerned that, quite frankly, that this transcript, again, from Senator DeLuca is redacted. I understand from the attorney's, his attorney's letter, that he doesn't, "Senator DeLuca's waiver is expressly conditioned upon the federal government's redaction of any mention or identification of other individuals in the 302 report."

And he doesn't, "Senator DeLuca will not permit his waiver to cause other individuals to be brought into this process." Well, all the other information we have so far already brings

other individuals into this process, so I'm not sure what individuals because I can't tell because they've been redacted.

So I don't know whether the redaction actually is saying to me, as I read it, that there are other people involved than the ones that I think already are, based on the information we have from the press and other reports we've read.

So quite frankly, I haven't found this at all helpful in terms of a conclusion that I can try to come to. So I'm hoping, when Senator DeLuca comes before us, that we can receive testimony from him that has more certainty to it.

Again, I know we'll be asking him to voluntarily come before us, but we'll have to see how helpful that voluntary information will be or whether we want to go further with it.

But I read it, and I just was, quite frankly, even more confused. So I really haven't found it very helpful, disappointingly so. Thank you, Mr. Chairman.

SEN. RORABACK: Senator Guglielmo.

SEN. GUGLIELMO: Yes, thank you, Mr. Chairman. Also, you know, it's interesting in the Chief's reply that it does make you a little concerned about law enforcement's confidence in each other when you have a local police department who won't sign off on something that was taken

by a federal agent of the FBI. So I found that a little bit of a concern.

I also was interested to know what kind of guidelines the Waterbury Police Department has on the release of information when information is requested of them.

I understand that, you know, as a result of the Torrington case of abuse many years ago, that guidelines were required of police departments on abuse cases. And it would be interesting to know what the Waterbury Police Department's own guidelines are and if the Chief's response was in harmony with their own regs.

SEN. RORABACK: The only thing that's on my mind is I think it was the hope of the Committee that both Senator DeLuca and Chief O'Leary would have given us complete access to all of the information that the U.S. Attorney was prepared to give us.

SEN. GUGLIELMO: I agree.

SEN. RORABACK: And their failure to do that is making the work of this Committee more difficult. I think it's regrettable because I think it, at some level, evidences a lack of confidence in the ability of this Committee to be discerning in its evaluation of information that comes before us.

And I think that we, obviously, any information that comes to us is going to be seen and weighed and evaluated and questioned, and

that's why I think it would have been more constructive both for Senator DeLuca and Chief O'Leary to have been forthcoming with the Members of this Committee and to have acquiesced in our request.

I do agree with Senator Guglielmo that it is not confidence inspiring to have a municipal police chief expressing concerns about the potential propriety of the way the FBI does its business.

One would hope that we would have relationships of cooperation and mutual respect which wouldn't result in police chiefs not having confidence in the work of the FBI.

So those are some of the thoughts that I have. And obviously, going forward, we can only evaluate what we have, but I think our job would have been easier had their been more cooperation.

Senator Nickerson.

SEN. NICKERSON: I'll just add one other quick thing, one sentence. I do think the Committee will need to consider as we approach Senator DeLuca's testimony and subsequently whether and to what extent there is an issue of not cooperating with the Committee.

I'm not [inaudible] any conclusions on that, but I do think it's an issue that has to be evaluated based on what we know now and what we

will know after the questioning of Senator DeLuca. Thank you, Mr. Chairman.

SEN. RORABACK: Chairman Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. The disclosure that we have, as redacted as it is, as other Members of the Committee said, it provides sketchy information at best, and I think that is highlighted even more so by the fact that the introductory portion refers to an interview that lasted from approximately 4:20 to 7:15 p.m.

That's a 2 hour and 55 minute interview, which is here boiled down to a narrative that only takes a few minutes to read. So clearly, there is a great deal that is not included here in this summary, highlighting even more the inadequacy of this document in terms of providing a great deal of additional information.

It does, obviously, raise some additional questions about sequencing. In the, on Page 2, when "DeLuca was asked why he thought blank could help and he stated that he knew that blank was on the fringe of organized crime," presumably that is Mr. Galante who is referred to in the affidavit, "and believed that he might know somebody in Waterbury that could talk to blank and ask blank to stay away from."

And that seems to be somewhat confusing because if that is the, in relation to his concern about his granddaughter and Mr. Colella, Mr.

Colella, at the time, may already have been the granddaughter's husband.

So it's unclear about how a discussion to stay away from could be appropriate in that timeframe, because we know that the relationship allegedly began in January, from one press report, a marriage in February, and the approach to Mr. Galante all occurred in April, early April of that same year.

There's also a reference later on, on Page 4, that raises something that must relate to something else in the interview that we have no other knowledge of.

And that is "DeLuca said he had no idea why blank would have a ledger with his name and 25,000 written next to it. DeLuca said he never took cash or check from blank."

But obviously, that raises an additional question about what that might relate to, presumably something else in the interview that is not included in the narrative here.

SEN. RORABACK: Thank you, Senator Looney. Any other comments on the responses we received? Senator Stillman.

SEN. STILLMAN: Thank you, Mr. Chairman. In relation to what Senator Looney just mentioned on Page 4, where it's uncertain as to what that is a reference to, the 25,000.

Of course, there isn't a dollar sign. There is, it doesn't say chickens. It doesn't say anything. It just says the number.

Is it, would it be the purview of, could this Committee go further and ask for some further information from the federal authorities as to whether this truly was, was this really part of the same interview or not and what could the reference have been?

Because, I mean, that might be helpful. I'm not quite sure, but it does make you wonder, was it really part of this discussion, this interview or not? I think it, personally, I think it's saying to me that we need an answer as to what that reference is.

SEN. RORABACK: Thank you, Senator Stillman. I think that it leaves us in a position where all we can do is speculate.

SEN. STILLMAN: Right.

SEN. RORABACK: And I'm not sure that speculation is necessarily a responsible course of conduct, although certainly, you can't help but, your mind travels and wanders, and speculation is going to take place. Whether we express it or we don't express it, it's necessarily going to color our proceedings. Senator Nickerson.

SEN. NICKERSON: I was just going to say I didn't quite, did you mean, Senator Stillman, that rather than speculation, we should ask for further information?

SEN. STILLMAN: Correct.

SEN. NICKERSON: And so you're putting before the Committee the question, should we ask for whatever clarification, if any, might shed light on that cryptic reference somewhere during a four-hour interview.

SEN. STILLMAN: If I may, yes, that is what I am asking, whether this Committee could pose that question to Attorney O'Connor, or Durham, I should say, out of Kevin O'Connor's office, and ask for a clarification.

I don't know if there's really anything else in there that needs any further clarification, other than the fact of, obviously, it's released with redactions, and we can't have that clarified.

Certainly, that particular one, I think, screams out for some clarification. So I'd like to ask if the Committee Chairs could write to Attorney Durham and ask him if there is some clarification he could give to this Committee as to what that was a reference to, as long as it doesn't violate the Privacy Act in terms of what Senator DeLuca has said we may view.

SEN. RORABACK: Thank you. Senator Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. Just in response to the concerns that Senator Stillman just raised, Senator Roraback and I have had a couple of discussions about whether or not

there might be additional ways to request additional information.

One of them I was going to raise under New Business today, which is a possible exploration of whether there are other Privacy Act exceptions under which additional information might be provided without an express waiver of parties involved.

At that point, I've got copies of the federal Privacy Act and an illustrative case that might be of some help in that, just as a way of possibly making a presentation to U.S. Attorney that there might be other grounds under which other information might be disclosed under the sense of the a government to government waiver.

SEN. RORABACK: Thank you. Senator Looney and I have discussed, it does appear that the Privacy Act contains provisions which say that it doesn't apply in the case of one government agency asking for information from another government agency.

So I think the underlying question is we might feel, and I think appropriately so, that we are the type of government agency which rightfully ought to be given this information with or without the consent of the individuals because of the public nature of our work.

Senator Stillman, you raised the narrow question about what this 25,000 number and the ledger, what that's about. And I think Senator Looney's point is a good one, that that

question lives in the universe of a larger question, which is to what extent can we expect the U.S. Attorney to respect this Committee as the kind of government agency deserving of information.

If the Committee was of a mind to empower Senator Looney and I to write to the U.S. Attorney with our interpretation of the law and asking whether he might revisit this question, that might enable us to get questions such as the one Senator Stillman posed answered.

SEN. STILLMAN: Do you need a formal motion on that?

SEN. LOONEY: Yes, Mr. Chairman, if we might, I might have copies of the federal Privacy Act here to distribute to the Members for their information.

And also, there was a case that, I think at least is illustrative in terms of some precedent because it was one in which the Securities and Exchange Commission asked for a parole hearing transcript from a Parole Commission in order to secure an injunction.

So it was, in effect, getting information that you might argue, to some extent, is analogous to information that we are requesting. So just wanted to give that, that this might be background for our request of additional information from the U.S. Attorney under an exception to the privacy requirement.

If that provision, that disclosure, if you look at the fourth page, I guess it is, of the handout of the Privacy Act, under, it's enumerated as Section 7 at the bottom of that fourth page, that lists above that it says, no agency shall disclose any record which is contained in the system and so on, unless disclosure on the record would be, and then it lists exceptions.

Under number seven, to another agency or to an instrumentality of any governmental jurisdiction which are under the control of United States for civil or criminal law enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying a particular portion desired and the law enforcement activity for which the record is sought.

So obviously, I think there might be certain grounds under which we could base a further request under that provision of the exceptions to the waiver requirement of the Privacy Act.

SEN. RORABACK: Thank you. Senator Nickerson.

SEN. NICKERSON: Well, following up on that, I wonder if we would get further in the potential response from the U.S. Attorney if rather than asking them in a very broad and sweeping way to reexamine, which just rolling the dice, I just don't think they're going to do.

But they might, as Senator Stillman suggests, provide further information, if any exists, with regard to clarification of information they've already provided.

That is to say if we phrase the request as a, as grounded on the act, but linked to what they've already given us, I just feel, just feel, would be more likely to give a response.

The other thing I would add is Senator Stillman adds, makes a point about the number at the top of Page 4. There is also a question at the bottom of Page 1 about the "relationship which would look bad."

Of course, I have no idea what that means. That's the other, to me, ambiguous and unclear statement. So I just suggest if we're going to do this, I would have no objection to a broad return to the U.S. Attorney of a broad [inaudible] request, but I just don't think it will necessarily get us very far and might get us further, if we link it to information already provided. Thank you, Mr. Chairman.

SEN. RORABACK: Thank you, Senator Nickerson. And would your, are you contemplating that we would write and ask that the redacted portions of this information be un-redacted?

SEN. NICKERSON: No. No. I think what Senator Stillman was suggesting was is there anything further in the FBI possession that would lend light on the un-redacted portions which they've given us.

There may not be. The answer may be no. But I think what Senator Stillman was suggesting is should we ask, as opposed to asking, you know, do you want to change your mind and give us whatever you have without regard to the Privacy Act. They're just not going to do that.

SEN. RORABACK: Senator Looney.

SEN. LOONEY: Yes, thank you. I think that the request of the approach of Senator Nickerson is promising that, in the sense that we should probably, in our letter, cite the Privacy Act exception and indicate that there may be a basis for providing information on a government to government basis, as well as indicating, as Senator Nickerson said, that there are implications in the un-redacted portion that, in effect, the FBI has already gone partway down the road toward disclosure by giving us that information that suggests other things that would be helpful to our deliberations as well.

Perhaps the letter could contain both of those components. And also it would seem to me that we might specifically be getting back to a discussion of the recordings of the tapes that apparently contain the full discussion that is boiled down in the summaries that have been given, both in this form and also in the original affidavit, which provides excerpts from tapes and other sources.

SEN. RORABACK: And I don't know whether Senator Nickerson or Senator Stillman or Senator Looney or any of the other Members of the Committee would, Senator Guglielmo and Senator DeFronzo, would find, whether we would be overplaying our hand if we were to write and say we think that under the Privacy Act you could probably give us everything that we've asked for.

But if you don't see it our way, at the very least, we would ask that you give us, if there is clarifying or expanding information on what you have provided us, that would be very welcome by Members of the Committee, so that we don't.

When we initially wrote to the U.S. Attorney, many thought that that was going to be a futile exercise, and it proved to be constructive. So without asking the question, we can't know the answer.

And I don't know if Members of the Committee would be comfortable with that approach, recognizing that it may be a stretch for the U.S. Attorney to reinterpret the law in a different way, but who knows.

Senator DeFronzo.

SEN. DEFRONZO: Thank you, Mr. Chairman. I've been kind of quiet on this because I've never had really high expectations on the type of information that we would get back.

I do agree our first effort was somewhat more productive than most people anticipated. But in this most recent one, I really didn't expect much, and we didn't get much.

Now I certainly would support any effort to get a complete release of material, the release of the tapes, or alternatively get the partial release of information dealing specifically with the issues raised by Senator Stillman and Senator Nickerson.

But I don't want to be put in a position of engaging in an endless paper chase for materials that will prolong the process and delay a decision.

You know, we will presumably have Senator DeLuca here in a week or so, and many of these questions are going to be directed to him and he will have the opportunity to address them directly, so I'll certainly be supportive of that.

I just want to say I don't think we want to be engaged in an endless process here. Thank you, Mr. Chairman.

SEN. RORABACK: Thank you, Senator DeFronzo.

SEN. GUGLIELMO: Would you like a motion?

SEN. RORABACK: Senator Guglielmo.

SEN. GUGLIELMO: Would you like a motion, Mr. Chairman?

SEN. RORABACK: Sure. Thank you.

SEN. GUGLIELMO: [inaudible - microphone not on] a motion that we take a two-tiered approach, where we ask for some specific information that was requested by Senator Nickerson, Senator Stillman, but that we ask the general question for the overall release using the Privacy Act that Senator Looney brought to our attention.

SEN. RORABACK: Is there a second to that motion?

SEN. DEFRONZO: Second.

SEN. RORABACK: Any discussion? Senator Stillman.

SEN. STILLMAN: Thank you, Mr. Chairman. Just a clarification that when we ask that the letter be written to Attorney Durham, who has previously furnished us with the current information, or are we going to straight to the U.S. Attorney himself on this one?

SEN. RORABACK: I think the way we've been handling it is we address it to the U.S. Attorney and then we put attention Attorney Durham so that--

SEN. STILLMAN: That's fine. Thank you.

SEN. RORABACK: So I'm construing the motion to give Senator Looney and I the authority to work with our staff to fashion a letter along these lines, and Senator Stillman was particular interested in the 25,000 reference on Page 4.

Senator Nickerson had an interest to what would look bad on the bottom of Page 1. And certainly, are those, that won't limit what we ask for, but I certainly want to make sure that we encompass that in the scope of our request.

SEN. STILLMAN: Thank you.

SEN. RORABACK: All in favor of that, any further discussion? All in favor, signify by saying aye.

ALL: Aye.

SEN. RORABACK: Any opposed? The ayes have it. We'll do that. Any further discussion under item four on our agenda? If not, we'll move to item five, which is the Discussion of an Invitation to Senator DeLuca to Appear Before the Committee and Issues Relating to such Invitation and Appearance. Senator Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. Obviously, this has been contemplated from the time of the adoption of the resolution, and I think we are drawing in on the time where it might be productive to actually invite Senator DeLuca for a presentation before the Committee.

Obviously, I think the resolution calls for both a statement and an opportunity to answer questions of the Committee as provided for both in the rules that the Committee adopted, as well as the language of the resolution establishing the Committee.

I would suggest that we now contemplate a date for that invitation and open it up to other Members at this point.

SEN. RORABACK: Thank you. Any other thoughts? Senator Looney, do you think we would be, well, my sense, to follow up on Senator DeFronzo's comments, are that we, at this point, need not wait for additional information before we ask Senator DeLuca to comment.

The clock is ticking. We have gone through a pretty thorough due diligence process. And if more information lands on us, well, we'll ask, first of all, we will ask the U.S. Attorney to get us any additional information before the date that we invite Senator DeLuca to be here.

Doing that, it seems to me that the next logical thing would be to extend an invitation to Senator DeLuca to be at our next meeting. And I don't know whether Committee Members agree, disagree, or have other thoughts. Senator Stillman.

SEN. STILLMAN: Yes. Then when do we contemplate our next meeting will be? Are we going to give, because we want this information from the U.S. Attorney's Office, do you think we can get it within a week, that we would want it for October 11th, if we're going to stick with the Thursdays.

And the 18th is beyond the date of our request for an extension, at the moment. I'm assuming it will be granted. I can't imagine it won't.

So I was just curious how much time we want to give the U.S. Attorney's Office to respond and then combine the two. Thank you.

SEN. RORABACK: Senator Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. Senator Stillman, Senator Roraback and I had discussed some of these very same issues, just the logistics of it as well.

We also thought that it might be useful to allow more time, since obviously there might be an extended period of question and discussion with Senator DeLuca.

And for that reason, we thought that instead of having it on Thursday afternoon, where we run into time constraints, sometimes by having to begin in the late afternoon, that it might be a good idea to have it on a Friday morning, if possible, on Friday the 12th, with an earlier starting time, 10:00 or 11:00, so that we would then have a chance to go into the afternoon and still have it not be too late a day.

SEN. NICKERSON: I don't know if we all get a pitch at this. I had thought that perhaps, obviously mistakenly, that we were going to stick with our Thursday schedule. Friday is a conflict for me.

Is it your feeling that we would not, we might not get the, is it a time question, vis-à-vis the amount of time we need to allocate, or do you think the issue is whether we will get an

appropriate answer in time from the Attorney General, U.S. Attorney, excuse me?

I'm not saying my schedule has to govern everybody else. I just did think you were going to stick with Thursdays.

SEN. RORABACK: I think our concern was that Senator DeFronzo teaches on Thursdays, and that 2:30 is the earliest that he can reasonably be expected to join us.

I think both Senator Looney and I had events on Thursday evening, which would cause us to have to be out of here by 5:00 or something like that, so that the shoe was going to pinch at both ends.

SEN. LOONEY: What about Monday the 15th, would that be possible for people?

SEN. NICKERSON: Monday, the 15th?

SEN. LOONEY: Mr. Chairman, if I might suggest Monday the 15th. Would that be something that would meet with people's schedules and calendar, if we had a morning starting date on the 15th?

SEN. STILLMAN: It's fine with me [inaudible - microphone not on]

SEN. RORABACK: I think if we were to start at 11:30 on Monday, that would be agreeable to me.

SEN. LOONEY: That would be fine for me too.

SEN. RORABACK: I should have brought my calendar with me, but I didn't.

UNIDENTIFIED SPEAKER: I didn't bring mine either.

SEN. STILLMAN: That's okay.

UNIDENTIFIED SPEAKER: That would be fine with me.

SEN. RORABACK: So and if we convene at 11:30 on the 15th, then maybe we could go until 1:00 or something like that, and then take a half an hour break, and then come back at 1:30, and then go as late as need be.

So is that, we'll shoot, Attorney Towson may have something on his mind.

Attorney Towson was correctly pointing out to Senator Looney and I that we might want to have the extension, because October 15th is beyond our original period, we might wish to have the extension in hand before we formally notify Senator DeLuca of our invitation, just as a matter of process.

I think that that suggestion is a good one, and Senator Looney and I will seek to get that permission ASAP.

SEN. STILLMAN: Well, do you think the 15th still works? I mean, it's still more than week, well, more than a week away. I imagine we'll receive a response from leadership of the Senate.

SEN. RORABACK: Oh, I'm very confident. I'm confident that given what's transpired, we'll get a very quick approval from the leadership.

SEN. STILLMAN: So is it the 15th?

SEN. RORABACK: The 15th at 11:30, yeah. Now another, Senator Looney and I will send a letter to Senator DeLuca and his lawyer inviting him. I guess a question that I have is whether we, whether it's within our authority and, if so, whether we would wish to ask Senator DeLuca to bring anything with him when he comes?

UNIDENTIFIED SPEAKER: [inaudible - microphone not on]

SEN. RORABACK: Pardon me? Other than his attorney, yeah. Senator Nickerson.

SEN. NICKERSON: Are you asking the question whether it's within our authority?

SEN. RORABACK: Yes.

SEN. NICKERSON: I would think we could always ask. Don't forget, he's not obligated to come. And if we ask for material, he's not obligated to comply, but I don't see any reason why we should be barred from asking, so I think we should.

SEN. RORABACK: Fair enough. So that being the case, is there anything the Committee Members

would like to ask Senator DeLuca to bring with him when he comes, that you would like for Senator Looney and I to include in our letter when we? Senator Stillman.

SEN. STILLMAN: I would think just a general comment that he certainly can bring any materials that he think are pertinent to our discussions and our interview with him. I don't know if we can officially call it testimony. I guess we can. Or is testimony only used if you're mandated to be here as opposed to voluntarily be here?

But whatever, I mean, however you phrase it, certainly asking him to bring whatever materials he thinks would be helpful to the Committee or his case. I have no idea what that could be, quite frankly.

We seem to have gotten things from other sources, but nothing from him directly, so. But I certainly think a mention in the letter of invitation wouldn't hurt. So he can't sit there and say, well, you didn't ask me to bring anything, right?

SEN. RORABACK: I agree. Senator Nickerson.

SEN. NICKERSON: We might suggest it as an invitation. We invite you to bring anything, documents, photographs, any piece of paper that you might find relevant to our deliberations or your position.

SEN. RORABACK: That seems reasonable. I mean, we are in a quest for information which bears on

this situation, and anything that he has that would be helpful to us would be welcome. So we will include that in the scope of our invitation.

SEN. LOONEY: Mr. Chairman.

SEN. RORABACK: Senator Looney.

SEN. LOONEY: Yes, thank you. Just also in terms of the invitation, I think it would be helpful for our purposes that we specify that we would put Senator DeLuca under oath and take his testimony in that format.

SEN. RORABACK: That seems, certainly that would be desirable to me. One of the difficult things is that we have received information from others, which has not come under oath.

We have a letter from Chief O'Leary, which is not sworn to, and I certainly, testimony is always more valuable when it comes under oath, so I guess, and if it's our wish, are you suggesting, Senator Looney, that we would only want to take the testimony if it were provided under oath?

SEN. LOONEY: Well, my [Gap in testimony. Changing from Tape 1A to Tape 1B.]

--that it would not be all that useful necessarily or authoritative for a statement to be given that's not under oath and that clearly, I think we're, we understand that all of the material that's been provided to us to

this date, press reports and all of the other things, are generally information that is provided without being vouched for under oath.

But I think something as important as Senator DeLuca's own testimony, since at this stage in our proceeding he is the only witness we contemplate actually having before us, it would be important to have that testimony under oath, in terms of the nature of our deliberations.

And in effect, I think that would help him, obviously, because it would indicate that whatever he says would be said with the additional authority of being willing to say it under oath.

SEN. RORABACK: Senator Stillman.

SEN. STILLMAN: Yes, thank you. I agree. I believe it should, the testimony is preferable under oath. And just because we're asking him to provide his testimony under oath, that's not to say that we might not ask someone else after we hear from him.

There could be testimony that he will give us that could peak our curiosity and maybe, you know, sort of fill in the blanks if we have other, if we might feel it necessary to ask someone else, or two or three, whatever people to come before us and also testimony.

And I think if we're going to ask for one person to, Senator DeLuca to testify under

oath, then we would do the same for anyone else.

You mentioned the Chief, because we have a letter with his personal signature. I would assume that that's valid. We don't, you know, this validity to the letter because he signed it, but he didn't sign it under oath that we know of or who knows who witnessed it, if you want to be that technical.

But certainly, the testimony from Senator DeLuca could open the door that we might want to hear from other folks as well. So I think because we ask it of him does not mean we won't ask it of anyone else. I think to be fair we should. Thank you.

SEN. RORABACK: So I think what I'm hearing is that when Senator Looney and I write the letter to Senator DeLuca, we will invite him to make a statement under oath and to answer questions under oath to Members of the Committee.

I think that that is certainly my preference. I don't think we need a motion to do that. Is there anyone that would not wish us to proceed in that manner? Okay. We'll do that.

I don't know, another issue Senator Looney and I have discussed is whether we wish today to begin to think a little bit about any process we would want to put in place.

If Senator DeLuca accepts our invitation, he will presumably be sitting in that chair on

October 15th, and is there a process that we would want to give some thought to in terms of he would have an opportunity to make a statement, presumably, but then there might be questions and how we would wish to pose those questions or any manner that we'd want to talk about today rather than trying to figure it out on the day in question.

I'll just throw that out there for consideration. Senator Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. I would assume that we would begin by inviting Senator DeLuca to make his opening statement, as is provided for in the resolution.

That he would present us with a statement, after being sworn. And when he has completed that statement, at that point, then it would be opened up for questions to be asked, I assume, beginning with the Chairs, as normally happens in a public hearing, or in hearing format, and then all of the other Members.

I would think that would be a format analogous to the way the General Assembly normally operates.

SEN. RORABACK: Any other thoughts? If not, then we will plan on proceeding on that basis. The next item on our agenda, we had asked our staff, at our last meeting, to do some additional work on the question of standards.

We had a number of areas in which we wished for our staff to dig a little bit deeper. And I'm looking, perhaps the easiest way to work off of this is to look at our minutes from September 19th in which we, maybe I should ask our staff, do you, have you given thought to the order in which you'd like to provide this information?

Then why don't I, at this time, turn it over to, is there, Attorney Norman-Eady to bring us up to speed on the excellent work the staff has done. We appreciate it very much.

I know that some of the staff has been here late into the evening working on our behalf, and that, those efforts are appreciated and acknowledged on the part of all of you. So with that, Attorney Norman-Eady.

ATTY. SANDRA NORMAN-EADY: Thank you, Mr. Chairman, and good afternoon, Members of the Committee. I thought it would be a good idea, before we made our presentation, to just refresh for the Members and for the public what we have been working on over the last couple of weeks.

The Committee made several requests of staff at the September 29th meeting. We were asked to research whether making a false statement to an FBI agent and failure to report a bribe were crimes.

We were asked to find out why state prosecutors did not pursue certain allegations against Senator DeLuca.

We were asked to determine if there are federal standards for expulsion, censure, and reprimand.

And we were asked for additional state precedents, and we were asked to include details on whether the legislative investigatory committee in those states recommended final actions that were not adopted by the full body.

We were asked for vote tallies for committee recommendations and each chamber's final action.

And in cases where the conduct investigated was criminal, we were asked to identify whether the crime was classified as a felony or a misdemeanor, if the Legislature investigated actions that were not prosecuted, and at what stage of the criminal process the legislative investigations began.

You should each have a packet that include our written responses to your requests. And what we planned to do today was to briefly summarize our findings.

And I think I'm up first, answering the first question, and that being whether or not making a false statement to an FBI agent is a crime.

Under federal law, a false statement to an FBI agent is illegal if the statement is made willfully and knowingly and if the statement is material to the FBI's investigation.

The penalty for a false statement is up to five years in prison. The Committee should note, however, that the Department of Justice has a policy of not charging a violation in situations where a suspect during a criminal investigation denies guilt, even though that's a false statement. They won't pursue charges in that instance.

But if the false statement if an affirmative statement, is initiated by a suspect, then that falls outside of the exception.

Now Brad Towson will answer some questions.

ATTY. BRAD TOWSON: I'm just going to briefly address two questions that were also asked of staff at the last meeting.

The first one was with regard to failure to disclose an offer of a bribe. The failure of a public servant to report the offer of a bribe is not a crime under the state's penal code.

Federal law 18 U.S.C. Section 4 provides that whoever having knowledge of the actual commission of a felony cognizable by a court of the United States conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States shall be fined or imprisoned not more than three years or both. That's the federal misprision of a felony statute.

In Connecticut, the offer of a bribe to a public servant is a Class C felony under Section 53a-147 of the General Statutes.

The misprision statute requires four elements. First, it requires the commission of the felony alleged by an individual and that the subject defendant, under the misprision statute, has full knowledge of the commission of the felony, that the defendant also failed to notify the authorities, and that the accused took an affirmative step to conceal the crime in question.

With regard to the fourth element, an affirmative step to conceal is a required element of misprision of a felony, and the mere felony to make the crime known does not suffice.

So in regard to how that has been interpreted, one federal court has held that some meaning must be given to the word conceal, the indictment must allege more than the mere failure to disclose, such as suppression of evidence, harboring of a criminal, intimidation of a witness, or some other positive act designed to conceal from authorities the commission of the felony.

The second point that I wanted to just address very briefly, which was also asked of staff, was to try and just look into the question of why other charges were not brought by the state against Senator DeLuca.

I did, in fact, call the Office of the Chief State's Attorney, and they indicated that they have a blanket policy of not commenting as to why certain charges or are not brought against an individual.

SEN. RORABACK: Thank you. Would staff be agreeable if Members of the Committee wanted to ask questions at each chapter of your presentation, or would you prefer that we hold them for the end?

My preference would be to ask them contemporaneous with the presentation of the information. Senator DeFronzo, do you have a question?

SEN. DEFRONZO: I do. You know me very well. Thank you, Mr. Chairman. Sandra, I just wanted to, on the first issue, the one dealing with the false statement, now in the transcript, the sentencing transcript for Senator DeLuca, I don't know if you have it in front of you or not, but on Page 6 of that document, I'll give you a minute to dig it out.

ATTY. SANDRA NORMAN-EADY: Page 6?

SEN. DEFRONZO: Page 6 of the sentencing document, right, the transcript. In response to the judge, Mr. Gaylord, who is a State's Attorney at the time, was explaining the plea agreement it appears.

He says that the federal authorities were involved in the investigation of the matter,

and part of the agreement is that the federal authorities will not indict the defendant, Senator DeLuca, for his comments to the FBI agent in September, 2006, for actions taken to injure or threaten the target of this matter.

And then it goes on to seek the concurrent comment of the federal attorney, who was actually sitting in as special Deputy State's Attorney that day.

But the question I have is, now here, your report seems to suggest that although false statement is a serious matter, it may not be one that is routinely pursued because of the intentful nature of the false statement, or simply to say that a rejection or the failure to actually assert the deed is not, in and of itself, sufficient to warrant a false statement charge.

I'm just saying here Senator DeLuca was obviously, whatever that standard is that you went over, and I have your document here, it talks about the, you know, courts have rejected the exculpatory no as a basis for action.

Maybe you can explain that a little bit, but my point is, in this sentencing document, clearly part of the quid pro quo for the plea was that the federal prosecutors apparently were prepared to indict Senator DeLuca on this false statement issue and then backed off it for, apparently, his agreement to plead guilty, to waive his statute of limitations, and plead guilty to the conspiracy to threaten.

So would you, in light of that, would that be an indication that the federal authorities in this case believe that the false statement violation was sufficient to proceed?

I mean, clearly, here it says they were, that they would not proceed with the indictment.

ATTY. SANDRA NORMAN-EADY: Yeah, Senator DeFronzo, what my research showed was if, during the course of an investigation, an FBI agent asks a suspect, a suspect if he committed a crime, and the suspect said no, when in actuality the suspect had, that would be a false statement to an FBI agent, and that's the type of false statement that the Department of Justice will not prosecute.

That does not appear to be the facts of--

SEN. DEFRONZO: Okay. So for the sake of clarification, when Senator DeLuca was asked why he approached Mr. Galante, and said it was for reasons related to employment issues for his son-in-law or prospective son-in-law, that was a false statement not falling under this exculpatory ruling or doctrine.

ATTY. SANDRA NORMAN-EADY: That's my impression, and I get that impression from the document that we received from the U.S. Attorney's Office. If you look at Page 3 of that document, of the redacted document, in the second full paragraph, it says "DeLuca was asked why he lied to agents by saying that he asked blank to

give blank a job, considering that it is not illegal to ask someone to talk to blank."

So what I draw from that is that the federal agent is basically saying, since that wasn't a crime, and so you wouldn't, to admit to it would not have subjected yourself to any kind of criminal, you wouldn't be admitting any criminal activity. They didn't understand why he didn't just admit to that.

That didn't come out--

SEN. DEFRONZO: You lost me there somewhere.

ATTY. SANDRA NORMAN-EADY: Here's what I'm saying. It appears to me that under federal law, if you deny guilt, and that's all that you do, then the Department of Justice has a policy for not prosecuting that.

If you deny things that don't go towards your guilt, then they will prosecute, they will go after that.

SEN. DEFRONZO: All right. Well, I'm just trying to seek a clarification of that for that reason, because it's clear here that apparently the feds thought it was an indictable offense.

ATTY. SANDRA NORMAN-EADY: And I think that's consistent with what my research shows.

SEN. DEFRONZO: And where were there, let me ask this second question, which I think I know the

answer to, but I just want to see if you took a look at it.

Is there a similar federal charge of threatening or conspiracy to threaten that was not pursued in this case, or is that purely a state statute?

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

SEN. DEFRONZO: Well, perhaps, you know, perhaps you could take a look at that, because the way this is structured, it seems to be talking more about the false statement, on Page 6, the way this is structured.

But it does also talk about actions taken to injure or threaten the target of this matter. It's just not entirely clear to me whether they were taking two issues off the table or one issue off the table. So if you could just clarify that for us, I think that would be helpful. Thank you, Mr. Chairman.

SEN. RORABACK: Thank you, Senator DeFronzo. And I have no experience at all with criminal law, in any respect, but I'm guessing that the exculpatory no, if you say did you murder someone, and you say no, presumably they prosecute you for murder and either they get you or they don't.

And if they get you, the murder charge stings a little bit more than the you lied to them when you said you didn't murder. Is that kind of,

over-simplifying a little bit, but maybe kind of boiling it down to what this, why this policy may be in place?

ATTY. SANDRA NORMAN-EADY: That's true. Yes, absolutely.

SEN. RORABACK: Thank you. Does anyone else have, Senator Looney.

SEN. LOONEY: There is obviously a distinction in terms of a process, because in almost every criminal case, at an early stage, a defendant will enter pro forma not guilty pleas, even if he winds up pleading guilty to something later on.

So that, you know, theoretically, you're not going to go back and prosecute someone for his initial not guilty plea, even though he will withdraw that plea and then enter a guilty plea to something later on in the process perhaps.

SEN. RORABACK: Thank you, Senator Looney. Any other questions? Thank you. That is very helpful to me in better understanding the outlines of the law and those issues. I'll turn it back over to Attorney Norman-Eady.

ATTY. SANDRA NORMAN-EADY: Okay. Next I wanted to talk about the state precedent. We added the new details you asked for in the table on state precedents. We also added additional states to the table.

I will now highlight the differences between the current report and the report you received at the last meeting.

The current report includes data on 46 states. We did not receive information in response to our inquiries in Oklahoma, Oregon, and Washington.

There have been no cases in recent years, and that's no cases, no disciplinary cases in recent years in 14 of the 46 states.

Table 1 in the report shows 86 cases in the other 32 states organized by state. Table 2 shows the same cases organized by final outcome.

We quantified the number of cases, and there are 18, where a Legislator resigned after the Legislature took some action to begin a disciplinary investigation.

We note that in the vast majority of cases, the chamber as a whole followed the recommendations of the investigating committee.

We've included in the report the rules we summarized at the last meeting in states that define terms such as censure and reprimand, specify standards, and have specific rules on felony indictments or convictions.

I'm not going to go into those rules, but if you have questions, we can answer those. And that essentially ends my presentation.

And I was supposed to turn it over to Chris Reinhart for a discussion of state disciplinary actions that involve criminal conduct, but I just realized that I spoke before Brad Towson spoke, and he was going to talk about federal censure and reprimands, so I'll now turn it over to Brad.

ATTY. BRAD TOWSON: I was just going to kind of update the information I had presented at the last meeting in order to address some of the questions that you all had asked during that last meeting.

And again, you all had asked whether or not there were instances in which the respective investigatory committee had made a recommendation that was not followed by the full chamber or that was made mute by the resignation of the member.

You had also asked whether or not there were definitions for the terms of censure and reprimand.

Now with regard to Congress, again, there is no precise listing of description of the specific type of misconduct or ethical impropriety that might subject a member to expulsion, censure, or reprimand.

Rather, the U.S. House rules provide, once again, that reprimand is appropriate for serious violations, censure is appropriate for

more serious violations, and expulsion for the most serious violations.

In the United States Senate, again, there have been no expulsions within the last 50 years. However, within this period of time, there have been two expulsion proceedings in the U.S. Senate that ended because the Senator in question resigned before a full vote of the Senate could be had.

In 1982, Senator Harrison Williams of New Jersey resigned before a vote by the full Senate. Senator Williams had been convicted of bribery and conspiracy in the ABSCAM investigation, and the Senate Committee on Ethics had recommended that Williams be expelled.

In 1995, Senator Robert Packwood of Oregon resigned before a full vote of the Senate could occur. Senator Packwood was charged with sexual misconduct and abuse of power toward former staff members and lobbyists. The Senate Committee on Ethics had recommended that Packwood be expelled.

Again, with regard to the Senate, the Senate does not distinguish between censure and reprimand as the U.S. House does. And within the last 50 years, there have been three censures by the U.S. Senate.

These occurred in 1967 when Senator Thomas Dodd of Connecticut was censured for using his office to convert campaign funds to his

personal benefit and for conduct unbecoming of a Senator.

In 1979, Senator Herman Talmadge of Georgia was censured for improper financial conduct and for improper reporting of campaign receipts and expenditures.

Most recently, in 1990, Senator David Durenberger of Minnesota was censured for unethical conduct relating to reimbursement of Senate expenses and acceptance of outside payments and gifts.

Again, censure within the Senate does not carry a specific punishment.

In the U.S. House of Representatives, there have been two expulsions within the last 50 years.

In 1980, Representative Michael Myers of Pennsylvania was expelled by the House after being convicted of bribery in connection with the ABSCAM investigation. The House Ethics Committee recommended expulsion to the full House.

In 2002, Representative James Traficant of Ohio was expelled by the full House after he was convicted of conspiracy to violate federal bribery and gratuity statutes, receipt of illegal gratuities, obstruction of justice, defrauding the government, racketeering, and tax evasion.

The House Ethics Committee had recommended Traficant's expulsion to the full House.

It should be noted that in 1988, the House Ethics Committee made a recommendation to expel Representative Mario Biaggi of New York after he was convicted of accepting illegal gratuities, but he resigned after an additional conviction.

As well, in 1995, an expulsion resolution was filed against Representative Walter Tucker of California in relation to his conviction on extortion and tax evasion charges, but Tucker resigned on the very same day that the resolution was filed.

Turning now to censure, in the last 50 years, there have been 4 instances in which the full House has voted to censure a member.

These censures occurred for misconduct that included one Representative you engaged in mail fraud and false statements, one Representative who accepted money from a person with a direct interest in legislation and personally used campaign funds, and two Representatives who each had a sexual relationship with a House page.

It should just be noted that with regard to the two Representatives, they each had a sexual relationship with a House page, that it was not the same House page in each instance and, more importantly, that the House Ethics Committee had recommended reprimand in each of these

cases, but that the full House rejected that recommendation and instead voted to censure the members.

Finally, in the U.S. House there have been 8 reprimands within the last 50 years. These reprimands have been for conduct that included improper financial disclosures, false statements, failure to report campaign contributions, conversion of campaign funds, improper use of official resources, improper contacts with a probation officer on behalf of a personal assistant, and improperly arranging for the dismissal of parking tickets for a personal assistant.

Concerning one of the Representatives who failed to report campaign contributions and converted campaign funds for personal use, the House Ethics Committee had recommended his censure, but the full House rejected that recommendation and instead chose to reprimand him.

And now I'll turn it back over Chris and Sandra in order to discuss more state precedents.

ATTY. CHRIS REINHART: Going back to our state precedents, we created a separate report that tried to pull out all the cases where there was some evidence of criminal conduct involved.

In the 86 disciplinary cases overall that we found in our research, we found 46 that involved either a criminal investigation charge or a conviction.

Out of these 46, out of the full 86 cases, there were 10 expulsions, and all of these fall into the category of at least involving criminal investigation of some of the conduct.

Eleven out of the 16 censures fall into this category of involving some form of criminal conduct. The other five, two involved conduct with pages, and one was berating fellow Legislators.

Another involved the misappropriation of funds for which an attorney was disbarred. And the other case involved a Legislator in New Hampshire who was introducing legislation on impeachment.

So a couple of those could have potentially been criminal, but we found no evidence in our research that there was a criminal investigation of those.

Seventeen of the 18 cases that resulted in resignations also fell into our category of including some criminal conduct. The only exception being a Legislator in Colorado who requested contributions as reparation from an organization that supported her opponent in the election.

The other instances with criminal conduct resulted in an admonishment, an apology with other sanctions like restitution and some other referrals to a prosecutor after the legislative investigation.

In our report, we tried to provide some statistics to answer your questions. We have numbers about breaking down the cases based on the seriousness of criminal charges, instances where we were able to find evidence that the initial charges brought against the Legislator were broader or more serious than the conviction, and information on the timing of legislative investigations compared to where the criminal proceedings were, and, also, about investigations of official or private conduct.

One other category that I'd like to highlight was the category of Legislatures that investigated for uncharged criminal conduct, and we found 13 cases where there was some indication of criminal conduct that was not charged.

We base that on the fact that there was a criminal investigation at some time, and it did not result in any charges.

In some of these cases, the Legislator may have been charged for other conduct, but there was some evidence of criminal conduct that was not charged.

In addition, of course, to these 13 cases, there are about 40 where there's no evidence of any criminal investigation at all, and those are the ethical violations, like conflict of interest and financial disclosure problems and things like that.

Of the 13 cases in this category, we found 4 where the legislative investigation included conduct that was never charged. In Delaware, Representative Atkins used his legislative position to avoid a drunk driving arrest.

On the same night, he also assaulted his wife. He pled guilty to a misdemeanor regarding the assault, but was never charged for the drunk driving, and both incidents were subject of a legislative investigation.

In Florida, Representative Lippman was investigated for several reasons, failing to properly supervise staff, violating restrictions on outside employment of an employee, and improper behavior with a staff member.

And the committee also considered a county grand jury report on allegations of sexual harassment, but we did not find any evidence of criminal charges based on that.

In Michigan, Senator Jaye had three drunk driving convictions and two alleged physical altercations with his fiancé, in addition to having sexually explicit photos on his Senate computer and verbally abusing staff.

In the two alleged physical altercations, he was arrested in one of them, but never charged in either of them, and that was also the subject of the Legislature's investigation.

In South Dakota, Senator Dan Sutton was accused of making sexual advances and inappropriately touching a page at a motel. At the time of Sutton's censure, he had not been charged, and we have not found evidence that he has been charged still.

There were two other cases where a Legislator was charged with a crime after being disciplined. In Maryland, Senator Young was expelled before he faced any criminal charges.

Newspaper reports turned up evidence that he accepted gifts, failed to disclose a contract with a state agency, mixed legislative and private office budgets, and used the prestige of his office for personal gain. After his expulsion, he faced charges and was later acquitted.

In Minnesota, the Legislature investigated Representative Joe Bertram for shoplifting a vest and then offering the store owner \$1,000 not to file criminal charges.

He was convicted of the shoplifting charge before the Legislature investigated, and he later resigned, and after that, faced charges on the bribery incident.

We found two additional cases where there were charges brought, criminal charges brought, during the Legislature's investigation. In New Hampshire, Representative John Kerns was investigated for writing bad checks that he

wrote State of New Hampshire on them to give an impression of officialness.

He also used his title to get a parking space reserved for school officials and threatened the officials when he was told not to park there.

After the legislative investigation began, he was charged with four counts of passing bad checks. He resigned and later pled guilty to a charge.

In Tennessee, the Legislature investigated Senator Ford on charges including whether he resided outside his district, used campaign funds for his daughter's wedding, received consulting fees to help companies get state business, and failed to disclose sources of income.

Before the Committee finished its work, he was indicted on federal charges in a bribery scandal and resigned.

We also found three instances where evidence was referred to prosecutors after the Legislature imposed discipline. There were two cases in Ohio, one in which a Legislator used an aide for the Legislator's nonprofit organization while on state time, and the prosecutor later declined to pursue charges.

In another where a Legislator requested a workers' compensation rate discount for his business, that Legislator was out of office at

that time when the committee finished its work, and the committee referred allegations to the county attorney.

And the other case was in Minnesota, where law enforcement agencies were asked to investigate allegations that surfaced in the ethics investigation regarding Representative Jeff Bertram's misuse of state campaign funds and evidence of coercing people.

In addition, there was one case in New York in which a Legislator was granted criminal immunity in exchange for testimony about no show employees on the legislative payroll. She later resigned.

And there was one additional case that's ongoing in North Carolina with Representative Thomas Wright. He's currently facing a legislative investigation and a criminal investigation, and neither has completed its work.

His case involves failing to report campaign contributions and using a letter to award bogus grants to secure a bank loan for a foundation he controlled.

And in addition, in our report we've broken down this criminal information in various ways, and would be happy to take any questions.

SEN. RORABACK: Thank you, Attorney Reinhart. Is that the final presentation? Do Members of the

Committee have any questions for staff?
Senator Stillman.

SEN. STILLMAN: Yes, thank you, Mr. Chairman. I just wanted to compliment the research that's been done by the staff members. It's very thorough and written in such a way that even I understand it.

And I want to thank you very much for not only compiling it all so quickly, but, again, its thoroughness, and it certainly makes my job a little easier in the sense of trying to understand, you know, what has occurred in the past, what's happening now, and how all of this can relate to what we are considering at the moment.

So I just wanted to thank you all very much for your hard work.

SEN. RORABACK: Senator Nickerson.

SEN. NICKERSON: Yes, I just want to go all the way back to the beginning about Congress. Would it be fair to say, as a general synthesis, that in Congress a reprimand generally did to involve criminal conduct, but censure and expulsion involved, as between them, different levels, generally, of criminal conduct?

I don't mean to an overly bright line, but I'm looking for some kind of line.

UNIDENTIFIED SPEAKER: Generally speaking, I think that's true, yes.

SEN. NICKERSON: Thank you.

SEN. RORABACK: Any other questions? I want to echo Senator Stillman. This information makes our job much easier and, obviously, as this Committee continues its deliberations, we're going to have this information very close at hand because I think it provides a useful roadmap in terms of understanding how this process fits in with processes that have taken place in other states and in the federal government.

It certainly gets us out of the groping in the dark phase to a making, hopefully, as enlightened a decision as we can with the benefit of the research that you've given us, which tells us how other states have handled situations that are like to what we have here. So thank you all, and your reward may be that we ask some more of you as time goes on.

Senator Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. Just like to add my thanks and appreciation. I believe at the last meeting, we had information from approximately 28 states as well as the Congressional information.

Now that's been supplemented significantly, so want to appreciate, express our thanks for all of the comprehensive nature of all the information you've been able to gather for us.

And it just, I think, clarifies the framework in which we'll be going forward. Thank you.

SEN. RORABACK: Senator DeFronzo.

SEN. DEFRONZO: Thank you, Mr. Chairman. I want to thank you for your typical good work. Having served as Chair of the JE Committee for a number of years, and you both have served that Committee admirably over time.

I know the capabilities you have and the professional talents you have, so I recognize it, and I want to thank you for the work you've done here.

I did want to ask, as a follow up, there's a good deal of information here. What might be helpful and provide some additional insight would be the actual resolutions that may have been adopted by various legislative bodies at the conclusion of these.

Few cases actually ended in discipline. When you consider over time the enormous number of people who have served in State Legislatures and Congress and really only have a handful of serious disciplinary cases.

But have you come across the actual resolutions or would it be very difficult to actually get some of those resolutions for us?

I'll tell you, I'm kind of curious to see what they actually say in terms of not the, not the

specific violations of law, where they've occurred, the felonies that have occurred.

It would seem to me that, you know, when an elected official commits a felony of the type where they're selling their office and selling votes and using their office for clear advantage, that those decisions have been pretty easy ones to reach.

But in those cases where maybe it's not so clear cut, and what you're really talking about is an erosion of public trust unrelated to a felony offense, I'd kind of like to see what other legislative bodies may have said in those cases.

You know, we've had several references to cases where there were no felony actions, but discipline results in any event. So if it's not too difficult, and I'm not asking for all of them, but if we could get a sampling of some of the resolutions from other states, or from Congress perhaps, that would be helpful to the Committee also. Thank you, Mr. Chairman.

SEN. RORABACK: Thank you, Senator DeFronzo. Any other questions for staff? Thank you. Does the staff have any questions or issues that they would like clarification from the Committee on?

I just don't want to, if there's something that is hanging fire that we need to provide you with additional guidance on. As I understand it right now, other than Senator DeFronzo's

request for copies of some of the resolutions, we don't have, and the ongoing letters that Senator Looney and I are going to write, we don't have any additional requests that are pending.

ATTY. SANDRA NORMAN-EADY: There was only one other, and that's whether false statement is a crime. Is that it?

ATTY. BRAD TOWSON: I believe it's whether there is a federal charge of conspiracy to threaten.

SEN. RORABACK: Oh, yes. That's right. Thank you. Fair enough. Then the next item on our agenda would be Old Business. Is there any old business to come before the Committee? Senator Guglielmo?

SEN. GUGLIELMO: Yes, Mr. Chairman, I don't know if this is old business or new business, but I know, I thought about this awhile back.

The Ethics Committee for the State of Connecticut received a complaint back in June, and, to my knowledge, they've never proceeded with it. Is it proper for us to ask them where they are in their process?

SEN. RORABACK: I don't, I believe that the existence of an ethics complaint was made public--

SEN. GUGLIELMO: Right. It was in the newspaper.

SEN. RORABACK: I don't think there's any harm in us asking. We can't control what the answer is, but maybe we could ask. I don't know. Would you like Senator Looney and I to write a letter to the Ethics Commission asking as to the status--

SEN. GUGLIELMO: Yes.

SEN. RORABACK: --of that.

SEN. GUGLIELMO: Yes, I would. Thank you, Mr. Chairman.

SEN. RORABACK: Is there, would someone like to make a motion to that effect?

SEN. GUGLIELMO: I move that we have the Co-Chairs write to the Ethics Commission and ask for an update of their work.

SEN. RORABACK: Second?

SEN. DEFRONZO: Second.

SEN. RORABACK: Moved by Senator Guglielmo, seconded by Senator DeFronzo. All in favor, signify by saying aye.

ALL: Aye.

SEN. RORABACK: Any opposed? The ayes have it. Motion carries. We'll do that. Is there any new business to come before the Committee? Senator Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. Under New Business, we were going to have the discussion on the Privacy Act, but we already did that in the context of our discussion on the review of the responses and the discussion of the invitation, so I don't know if there's anything else under New Business.

Again, if there's anything that, of a housekeeping nature that staff needs to bring to our attention to anticipate for future meetings?

SEN. RORABACK: I actually have one piece of new business. I'm not sure whether Senator Guglielmo had raised previously, there may be a law which compels all municipal police departments to establish written policies which set forth how they respond to allegations of domestic violence.

Whether there is such a law or isn't such a law, it might be helpful for Members of this Committee to ask if the City of Waterbury has such a policy. If so, whether that policy has changed since during the timeframe that we're looking at in the timeline.

Maybe we could ask our, maybe Senator Looney and I could write the police chief in Waterbury a letter asking for copies of their policy in this regard just for the benefit of the Committee.

- SEN. GUGLIELMO: That's what I had in mind, Mr. Chairman. Thank you. Thank you for bringing that up.
- SEN. RORABACK: Is there any, do you want to make a motion to that effect also? Not to be overly formal, but it seems.
- SEN. GUGLIELMO: I so moved.
- SEN. RORABACK: Is there a second?
- SEN. STILLMAN: Second.
- SEN. RORABACK: All in favor, say aye.
- ALL: Aye.
- SEN. RORABACK: Any opposed? The ayes have it. We'll do that also.
- SEN. LOONEY: Mr. Chairman, just in line with that--
- SEN. RORABACK: Senator Looney.
- SEN. LOONEY: Yes, thank you, Mr. Chairman. Following up on that point, which I think is a good one regarding the practices of the Waterbury Police Department, it might be just informative for the Committee, in terms of our general legislative responsibilities, to find out whether or not, for instance, the Connecticut Police Chief's Association has drawn up an advisory guideline that they have encouraged departments to adopt, whether or not

it has been adopted by departments such as Waterbury or not.

But just to know whether or not there is, whether the Association is on record in terms of recommending a practice in this regard to members, and that might be useful for us to know about as well.

SEN. RORABACK: Yeah, or whether they furnish such [Gap in testimony. Changing from Tape 1B to Tape 2A.]

--and so we could write, we'll fold that into the previous motion. Is that okay?

ALL: Sure. Okay.

SEN. RORABACK: And maybe, is staff keeping a list of all of our, we have this wish list that we, and would you mind just reading it back to us, please.

ATTY. BRAD TOWSON: Your wish list in terms of letters that are going to be issued or?

SEN. RORABACK: Yeah, both letters and information [inaudible - microphone not on] whatever we've asked for, thank you.

ATTY. BRAD TOWSON: All right. This is, try and take it from the top, so to speak. There will be a letter written to the U.S. Attorney's Office addressed to Attorney Durham in which a two-tier approach concerning potential waiver of the Privacy Act in order to receive all of

the information that they may have, and also the other approach would be to seek additional information based upon the redacted information and the questions that were brought up pursuant to that redacted information.

Then, additionally--

SEN. RORABACK: Senator Stillman.

SEN. STILLMAN: If I may, I thought we had clarified that it was supposed to go Attorney O'Connor, and then he would, and then a copy to Attorney Durham.

SEN. RORABACK: The way we've done it is we formally address it to Attorney O'Connor and then put attention Attorney Durham.

SEN. STILLMAN: Okay.

SEN. RORABACK: We'll follow the previous practice--

SEN. STILLMAN: Thank you.

SEN. RORABACK: --if that's agreeable.

SEN. STILLMAN: Yeah, that's fine.

ATTY. BRAD TOWSON: That there will be a letter of invitation extended to Senator DeLuca in order to appear before the Committee for October 15th at 11:30 a.m.

In that letter, that there will be discussion of a request for documents of any, for him to

bring any documents with him that he may have that maybe bear upon the Committee's deliberations.

That that letter will indicate that should he choose to accept the invitation, that his testimony before the Committee would be under oath.

And let's see here. Also, in regard to, again, once again, in regard to questions of the staff, whether or not there is a federal charge of conspiracy to threaten.

Also, a request for copies of actual resolutions in cases in which there has been some disciplinary action, not necessarily in which there was a felony, but particularly in cases in which the erosion of the public trust has occurred.

Additionally, in regard to letters, there will be a letter sent to the Office of State Ethics inquiring as to the status of the complaint before them.

Finally, there will be letters sent out to the Waterbury Police Department inquiring as to whether or not the municipality has a policy on how they respond to domestic violence cases.

And also, there will be a letter sent to the Connecticut Police Chief's Association asking whether or not they have such a policy or model policy that they recommend.

SEN. RORABACK: Thank you.

ATTY. BRAD TOWSON: There will also be a letter for, requesting an extension of time submitted to the Senate leaders.

SEN. RORABACK: And if Senator Looney and I a chance, we might even try to get that done this afternoon.

SEN. LOONEY: Yes.

SEN. RORABACK: Is there anything further from any Members of the Committee? If not, a motion to adjourn is in order.

SEN. GUGLIELMO: So moved.

SEN. RORABACK: Second?

SEN. DEFRONZO: Second.

SEN. RORABACK: All in favor?

ALL: Aye.

SEN. RORABACK: Until next time, thank you.