



SEN. STILLMAN: Second.

SEN. RORABACK: Moved by Guglielmo, seconded by Senator Stillman. Any discussion of the minutes? If not, all in favor say Aye. Any opposed? The Ayes have it. The minutes are approved.

The next item on our agenda is a discussion of the transcript from October 15<sup>th</sup>, the date upon which Senator DeLuca appeared before us and a review of the written responses he gave to questions which were provided by the Committee to him for him to answer.

I trust all the Members of the Committee have had an opportunity to review the transcript and to review the written responses which Senator DeLuca provided to our questions.

SEN. LOONEY: Mr. Chairman.

SEN. RORABACK: Senator Looney.

SEN. LOONEY: Thank you, Mr. Chairman. As everyone knows, at our last meeting we had a statement under oath by Senator DeLuca followed by questions and answers.

And he agreed then to give us a sworn attestation of those answers once he and his attorney had had a chance to review them, so we do have, in addition to the transcript of the October 15<sup>th</sup> meeting and hearing for Senator DeLuca, we do have an affidavit dated October 24<sup>th</sup>, signed by Senator DeLuca and attested to

before a notary public that indicates that the, in conjunction with my sworn written and sworn oral statements presented to the Bipartisan Committee of Review on October 15<sup>th</sup>, 2007, the transcript of questions and answers attached hereto as Exhibit A is true and accurate to the best of my knowledge and belief with the following clarifications.

And there are four clarifications. The first one, A on page 52 of the transcript, I misunderstood Senator Looney's questions as to when I met Mr. Galante.

I met Mr. Galante approximately eight to ten years ago. B on page 59 of the transcript, Senator Roraback asked when I last saw or spoke with Chief O'Leary. I have no clear recollection of when I last saw or spoke with Chief O'Leary.

C on page 77 of the transcript, Senator DeFronzo asked if I had suggested or referred anyone for employment at one of Mr. Galante's companies. I have no recollection of doing so.

And D on pages 83 and 84 of the transcript, Senator Stillman asked if I had discussed trash-hauling legislation with anyone. Over the years, I've discussed thousands of pieces of legislation and proposed legislation with thousands of people.

I have no recollection of discussing legislation related to trash hauling. So those

were the four alterations or clarifications from the oral testimony given on the 15<sup>th</sup>.

And there is then, as I said, a sworn attestation to that testimony on the 15<sup>th</sup> of October with these four clarifications.

SEN. RORABACK: Thank you, Senator Looney. Do any Committee Members wish to offer comments or observations or questions with respect to what was submitted by Senator DeLuca, either with respect to the transcript of his oral testimony or with respect to the written answers he provided to our written questions?

If not, the next item on our agenda is a discussion of the response from Chief O'Leary to the Committee's request for a sworn statement and additional information received from the Waterbury Police Department. Senator Looney.

SEN. LOONEY: Yes, Mr. Chairman, we do have, I believe, two separate communications from Chief O'Leary, one in which he attests to the comments in the letter they had previously sent us on September 4<sup>th</sup>, and then another statement presented to the Committee this week.

We do have an affidavit dated October 24<sup>th</sup>. It's the first affidavit in which Chief O'Leary attests under oath that on August 29<sup>th</sup>, I received a correspondence from the Senate Bipartisan Committee of Review requesting that I provide information regarding my relationship with Senator Louis DeLuca and also information

concerning Senator DeLuca's granddaughter,  
Casey Reilly.

In response to said request, I authored a two-  
page correspondence dated September 4<sup>th</sup>, 2007,  
which correspondence outlined my involvement  
with Senator DeLuca and his family relative to  
his granddaughter Casey Reilly

And then the fourth statement and last of that  
affidavit is that the statements made by my in  
my letter of September 4, 2007, are true and  
accurate representations of the interactions I  
had with Senator DeLuca and his family  
regarding his granddaughter, Casey Reilly, and  
it is dated October 24<sup>th</sup> and attested to by  
Chief O'Leary before Gary Russo, Commissioner  
of the Superior Court.

SEN. RORABACK: Senator Nickerson.

SEN. NICKERSON: Yes, I would offer for the  
Committee's consideration the following  
observations.

It seems to me we've gone about as far as we  
can go in collecting public records, which is,  
of course, the limitation on our charge with  
regard to the, I'll call it the interaction or  
lack of interaction between Senator DeLuca and  
Chief O'Leary.

We've asked for sworn statements from both of  
them. They have given them effectively, and as  
of today, we have very clearly conflicting

sworn statements between Senator DeLuca and Chief O'Leary.

It would be my thought that we're not able or charged or have the tools to further try to parse apart and reconcile or determine that they are irreconcilable and that we've got a limit, it seems to me, given our own deadline, which has just been stated to be next week, and given our own limitations, i.e., we review public documents, we're down as far as we're going to go down the trail of what, again, I'll call the DeLuca, the Senator DeLuca/Chief O'Leary.

And so my suggestion is, because there is a concern about the conflict and there is a concern that the conflict is now embedded in sworn statements, that the Committee, not as part of its investigation with regard to what recommendation it makes to the Senate, but simply as a public duty would forward the relevant sworn statements to the Chief State's Attorney for whatever action or inaction he wishes to take given the conflicts.

But I think there comes a point, and I think we're at the point, where we've got to deal with those documents for what they are and, in effect, move on to consider the larger scope of the factual pattern, and ultimately, of course, next week to reach a conclusion.

So that would be my suggestion. I don't make it as a motion, but I make it as a suggestion for consideration by the Committee.

SEN. RORABACK: Senator Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. Before going on to discuss Senator Nickerson's suggestion, which I think is one that makes a great deal of sense in terms of the limitations of the process of data collecting that we have now pursued.

Just in terms of the record, I just wanted to clarify that we do have, in addition to the affidavit that I mentioned from Chief O'Leary attesting to his, to the comments in his September 4<sup>th</sup> letter, we do have another affidavit from Chief O'Leary dated October 31<sup>st</sup>, the first two pages of which are basically a statement of his credentials and accomplishments, certainly none of which have been questioned by this Committee.

And the remaining two pages are a further statement under oath in which he distinctly differs with the version of events given by Senator DeLuca. That affidavit is also, is dated October 31<sup>st</sup> and also attested before Gary Russo, Commissioner of the Superior Court.

SEN. RORABACK: Thank you, Senator Looney. And perhaps the final piece of the Chief O'Leary documentation is what caused the Committee to be a little bit late starting today, and that is our receipt from the Waterbury Police Department of an investigation of a complaint.

As Members of the Committee know, on Monday, the Committee received information from the Waterbury Police which was provided to us on the express condition that we not disclose it to the public.

When Senator Looney and I came into possession of that information, we thought it appropriate to write to the Freedom of Information Commission to elicit their advice as to how we would lawfully treat information that came to us in this manner.

We did write to them, the Freedom of Information Commission, on Tuesday. They have responded today with a letter which Senator Looney and I and I trust other Members of the Committee have read, which advises us that the information that came to us is publicly available information. It is disclosable to the public.

It is available for use by the Committee publicly. So I would just, have all the Committee Members had an opportunity to review that information as well?

And I think that would properly be put under the heading of information coming from the Chief O'Leary and the Waterbury Police as well. And does anyone have any questions or comments with respect to anything we've received from Chief O'Leary or the Waterbury Police?

And I would like to second Senator Nickerson's observation that this Committee has precious

little time available to it, and clearly it was not our charge to determine who said what when, when there is a clear conflict of versions of what transpired.

We're not going to resolve that. It's not our duty to resolve it. And I think this Committee would be best to spend its time on the central responsibility which we have, which is to examine what flows from Senator DeLuca's guilty plea to a misdemeanor charge of conspiracy to commit threatening. So with that, I don't know if there's anyone who has any motions or, Senator Stillman.

SEN. STILLMAN: Thank you, Mr. Chairman. I agree. I have no idea what the State's Attorney's Office is going to do with the information in terms of a quick turnaround or whether it launches some big investigation. But I don't really think that, I agree, it's not an issue for us.

This sad, these sad events have led Senator DeLuca to make certain decisions, and that's really what our purview is. It's not about whether his granddaughter was abused or not.

Obviously, he has stated that it had led to the reason, that was the reason it led to the decision that he made.

But again, I think that our charge is, goes to what did the Senator do with that information and how did, what was his decision-making process and did that in any way impact his

ability to make decisions representing his district as a member of the Senate that were appropriate to his elected office.

So I have no problem if we want to send this along to someone else to weed out the he said/he said issues. I don't think there's anyone here on this Committee that doesn't feel badly about if there was abuse.

I mean, nobody wants to see anyone abused, but that's really not, as you stated, Mr. Chairman, our job to figure out who's telling the truth, quite frankly. I support the motion.

SEN. RORABACK: Senator Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. Before getting to a specific motion and following up just in terms of clarifying for the record, the document that Chairman Roraback referred to, obviously we do have the Freedom of Information Commission, a statement and ruling regarding its distribution for the Committee today.

But in addition to that, obviously that material includes an affidavit from Casey Reilly Collella attesting that there was not abuse, and this material had been previously, part of the confusion that we had in the last few days is, when the material was communicated to the Committee, it was done so with a request for limitation of disclosure.

But in fact, it turns out that part of the material had been previously released to the

*Waterbury Republican American* and had been quoted in the, at least parts of the affidavit or purported affidavit had already been quoted in the newspaper.

So just in terms of the content of the submission that we have today and it relates to an anonymous complaint that was filed with the Waterbury Police after Senator DeLuca's plea, I believe, in June.

So it's an investigation that took place in June and July of 2007. So again, it does highlight, again, the differences in the two sworn versions of what has been presented to us.

SEN. RORABACK: Thank you, Mr. Chairman. I do wish at this time to credit our staff with, I don't know whether you say Herculean or Herculean, but however you say it, our staff, all this has happened very quickly.

And I also want to thank the Freedom of Information Commission for responding so thoroughly to the letter that staff assisted Senator Looney and I in drafting.

This has not been an easy week. It's been a little bit pressure-packed. We're trying to get the job done, and everyone has gone above and beyond the call of duty, do thanks to the staff and to the Freedom of Information Commission for managing the unpredictable.

And with that, I don't know whether the Committee would be of a mind to offer a motion to empower Senator Looney and I to gather whatever documents bear on this discrepancy and to afford them to the Chief State's Attorney and give us kind of the discretion to compile a package that we think captures the essence of the disagreement. Senator Nickerson.

SEN. NICKERSON: Well, I so move. Just to be clear, I think I agree very much with Senator Stillman's characterization. The purpose in doing so was not to reopen the case, if there is a case, of the alleged abuse.

But simply as a matter of public duty, to forward what appear to be very conflicting statements under oath, and the purpose would be no more than no less to do that.

So having said that, my motion is the statement made by the Chair to provide the documents with regard to the Chief's Attorney. Thank you, Mr. Chairman.

SEN. GUGLIELMO: Second.

SEN. RORABACK: Motion made by Senator Nickerson, seconded by Senator Guglielmo. Is there any discussion? All in favor signify by saying Aye. Any opposed? The Ayes have it. The motion carries.

Senator Looney and I will, again, work with our very capable staff to discharge that responsibility.

Is there any further discussion on item number four on our agenda? Item five on our agenda is discussion of the status of the request made to the U.S. Attorney's Office.

Committee Members likely recall that we had written to the Chief State's, or to the U.S. Attorney asking whether the Privacy Act exception, which allows for the disclosure of investigatory materials intra-government, from one government agency to another, might apply to the workings of this Committee.

And at this time, I'd like to ask staff to update us on what response we've received to that inquiry. Attorney Norman-Eady.

ATTY. SANDRA NORMAN-EADY: Yes, thank you, Mr. Chairman. As you stated, on October 9<sup>th</sup>, the Committee sent a letter to the U.S. Attorney asking for additional information claiming that the Committee, that there is an exception to the Privacy Act under which the U.S. Attorney could give the Committee information.

On October 17<sup>th</sup>, Attorney Raabe sent a letter to the U.S. Attorney stating that the exception did not permit that office to disclose confidential private material related to Senator DeLuca.

He did not articulate his legal basis for that claim, and as a consequence, the U.S. Attorney on October 19<sup>th</sup> sent a letter to Attorney Raabe

asking him to further articulate the legal basis for his claim.

And on that same date, the U.S. Attorney sent a letter to the Committee, telling the Committee that that office would not respond to our request for information until it had received a response from Attorney Raabe.

In the letter to Attorney Raabe, the U.S. Attorney asked him to respond or provide his legal claim as soon as possible to enable the Committee to meet its deadline.

As of 11:00 this morning, the U.S. Attorney's Office had not received any further articulation of the legal basis for that claim from Attorney Raabe, and they continue to state that they are, that office is unable to respond to the Committee's request until it receives that information.

SEN. RORABACK: Are there any questions from Members of the Committee? I guess I have to say that it strikes me as unusual that Attorney Raabe would be in a position to prevent the U.S. Attorney's Office from making a determination as to the propriety of the question that we put to the U.S. Attorney's Office.

I do think that fairness would counsel in favor of offering Attorney Raabe an opportunity to present his case. But his nonfeasance in terms of not responding to their request, in my view, it strikes me as unusual that that should shut down the inquiry.

But that, but I guess you're reporting that the U.S. Attorney's Office has, absent hearing from Attorney Raabe, they will not be in a position to respond to our request.

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

SEN. RORABACK: Thank you. Any other thoughts on that? Okay.

SEN. LOONEY: Mr. Chairman.

SEN. RORABACK: Senator Looney.

SEN. LOONEY: Yes, thank you. Clearly that, as the Members recall, what we had sent to the U.S. Attorney, as Attorney Norman-Eady pointed out, was a request for disclosure under a Privacy Act exception, basically a government exception.

And we had sent along a copy of a case that we believe would be somewhat analogous and as a precedent that would support additional disclosure.

So I think that it is important to note that they have not rejected that request and are still entertaining it, and despite the fact they have not provided us with anything to this point.

SEN. RORABACK: Thank you, Mr. Chairman. And respectfully, my hope is, is that the U.S.

Attorney's Office would not close down the inquiry.

I think, as I understand it, Attorney Raabe sent them a letter saying you can't do this, and the U.S. Attorney said tell us why, and Attorney Raabe has, to date, not provided them with a reason why.

So if Attorney Raabe doesn't choose to tell them why they can't do this, one would like to hope that the U.S. Attorney would keep the door open to conclude that we are a government body deserving of access to the information that we requested.

And one would think that silence from Attorney Raabe would actually move the U.S. Attorney's Office towards disclosure rather than the other way around. Senator Stillman.

SEN. STILLMAN: Thank you, Mr. Chairman. I'm really very dismayed by this and for a couple of reasons. Number one, Attorney Raabe has been very cooperative up until this point in terms of making sure that we had certain documents and that, and he was here with Senator DeLuca the last meeting.

And I, you know, certainly I hope that this isn't a stall tactic on his part, quite frankly. But I think we also need to know that, even if they get a response after our deadline, will we still get a response from the U.S. Attorney's Office.

In other words, the U.S. Attorney's Office doesn't hear from Attorney Raabe, let's say, until November 15<sup>th</sup>, which is after our deadline, because I think no matter what the outcome is in terms of a recommendation from this Committee, we still need a response from the U.S. Attorney's Office.

So I hope our deadline doesn't send a message that, of never mind, we don't need it now. Because as I said, I think whatever our recommendation is to the Senate, I think we'll still be gathering some information after that point, and we need as complete a record as we can get. Thank you.

SEN. RORABACK: Thank you, Senator Stillman. And I appreciate your comments. I don't think that there's any mystery as to the deadline under which this Committee is operating. I think Attorney Raabe knows the deadline.

I think the U.S. Attorney's Office knows the deadline. And I would think that it would be, at some level, an affront to the work of this Committee were delay to be a tactic which was employed to deny us an answer to our question.

We don't know what the answer to the question will be, but at the very least, I would think we're deserving of an answer to the question before our deadline.

SEN. STILLMAN: Thank you, Sir.

SEN. RORABACK: Any other comments? The next item on our agenda, I thank the staff, and maybe we could ask the staff before our next meeting to check in again with the U.S. Attorney's Office.

I don't know if it's necessary for Senator Looney and I to write another letter, but I do think we ought to keep the lines of communication open so that there's no misunderstanding. Senator Guglielmo.

SEN. GUGLIELMO: I guess that's right. I mean, I think the ball is clearly in the U.S. Attorney's court. I mean, it shouldn't be that anybody can stop them from moving forward with their response to our letter, certainly not an attorney for somebody involved.

I mean, he hasn't responded. As you suggested, silence means that they've waited, they've extended a courtesy, and I believe anyway, I'm not a lawyer, but I believe they should extend us the courtesy of responding. By them I mean the U.S. Attorney's Office. Thank you, Mr. Chairman.

SEN. RORABACK: Thank you, Senator. Anything else on item number five? Item number six on our agenda is a discussion of the factual predicates for the Committee's resolution.

Senator Looney and I share the belief, and I encourage Senator Looney to chime in if I mischaracterize a belief which I believe we share, we share a belief that this Committee

will be acting on a resolution within the next week or before our deadline.

And we thought it might be helpful, whatever resolution the Committee ultimately sees fit to act upon, to work with the staff in the days to come in compiling those factual predicates which will necessarily be contained in the resolution, whatever outcome this Committee arrives at.

And to that end, Senator Looney and I thought it might be useful to spend a little bit of time reaching out to Members of the Committee to give them an opportunity to offer thoughts of items they would want to see included in any resolution as we try to capture those things which are central to the disposition of this matter. Senator Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. Clearly this is, as we have said from the very beginning, a weighty task that has been assigned to us and is unprecedented in the history of the Connecticut State Senate.

So we want to be careful and deliberative in our process, and whatever ultimate conclusion we reach, we believe that as both to support that conclusion and as guidance for future Legislature who may be grappling with similar unfortunate events, that we lay out at least a narrative of facts as we have found them to be, which would then become the predicate for our decision.

So I think it's useful for us to begin that process today and to at least begin to look at the particular items and categories of items that we will take as facts to deliberate upon.

SEN. RORABACK: Senator Nickerson.

SEN. NICKERSON: Yes, I agree with Senator Looney. And if I may offer a couple of suggestions as to how to proceed along the lines he suggested, first, you might call it a process or housekeeping suggestion, I would hope that, based on the discussion I believe we're about to have and should have, that the Chairman and their attorneys could get together with the attorneys who served us so ably and put together a suggested draft for our next meeting, whenever that is, of what we say so that we can start to put on paper something for the Committee to look at in, for lack of a better term, the whereas clauses, as Senator Looney says, the chain of factual events on which we're going to proceed.

And I would hope that would be done with, you know, the draft would be done in the concurrence of attorneys that Senator Looney might want to bring in, that Senator Roraback might want to bring in, and certainly the staff attorneys who have served us so well for our next meeting.

Having said that, someone has to start the ball, so I'll throw out some thoughts. None of these are really new and startling, but maybe one is different.

I would suggest, at least as a foundation, there are five facts, and I think we can clearly call them facts, which are the key predicates, there may well be others, on which we're going to base a conclusion.

One is, of course, Senator DeLuca's guilty plea with a misdemeanor. We don't need to discuss that any further.

Second is clearly the, I was going to say misspeaking, but we really can't say that the lie that was told at the first FBI undercover, the first FBI, excuse me, interview, which was later corrected at the second one.

The third would be the failure to report a cash bribe which was offered. And I should pause and say that one is not necessarily a crime. Certainly it's against the concept of a Senator who takes an oath of office to support the laws of the state.

Thirdly was the offer to use his office, as far as we know not a consummated offer, but an offer to use the office in furthering the causes and the goals of Mr. Galante with whom he was in a situation of obligation rather than just a traditional, you know, I'll help a constituent situation.

And finally, I think it's important that we refer to Senator DeLuca's statement when he was here, when he said, and I'm quoting from his testimony, I have nothing to hide, nothing, I

will answer every question honestly and truthfully.

Well, that hasn't quite, that is not so because we have repeatedly asked for the transcripts of the FBI undercover recordings, which we now know are in the hands of Attorney Raabe but have not been disclosed.

So without commenting on what's in those documents, they clearly are relevant documents to the chain of facts that we're dealing with. They're in the possession of Senator DeLuca and his attorney.

We have asked for them and not received them, so there's an element of not cooperating with the Committee there. Hard to judge how much weight there is there, but certainly there is something there.

So for the sake of starting the discussion that Senator Looney suggests, I offer those five elements.

SEN. RORABACK: Thank you, Senator Nickerson. And I guess one of the questions that comes to my mind, none of us have ever done this before. In fact, no one has ever done this before, so we have nothing to turn to in terms of guideposts for how best to go about this process.

But as a threshold proposition, is it the Committee's wish that this resolution capture all of the work of the Committee or that it be

a distillation of the most salient points, which the, where I'm going with this is I don't know whether we have the time or the resources to generate both a Committee report, which would be a lengthy blow-by-blow analysis of what we've been through and what we've learned, or whether we wish to let the record speak for itself and just have a resolution which draws out those points which are most dispositive of our work.

And I don't know the answer to that question. I'm just, as we head down, we could probably all afternoon long throw out things that we know, but is there any filter that we want to employ in terms of what ought to be contained in a resolution. Senator Stillman.

SEN. STILLMAN: Thank you, Mr. Chairman. I think the resolution should serve as a blueprint of what this Committee has learned, whether it's through, in terms of, I assume the resolution that we would present to the full Senate would be a report of this Committee, which is a blueprint of what we've heard and has led us to a certain conclusion.

We don't know what that conclusion is yet. We know what our choices are, but we don't have a, we haven't decided anything definitively.

So I think, I don't think, so I think that the resolution in one sense should serve as a report as to what the facts are, what facts were laid in front of us in the course of these

two months or so, and the idea that those facts would lead us to a conclusion.

Certainly the reams of documentation that we have will serve as a resource when we go forward.

So, you know, I think, whether a resolution, it doesn't have to be one page, I mean, and I don't see how it can be, quite frankly, if we're going to use it as a document that lays out our, sort of our train of thought as to why we came to the conclusion that we did.

I doubt my, and I think that's true in terms of what we ultimately decide in terms of Senator DeLuca's case, but if we're talking about standards, establishing standards for future, if there are, sadly, future missteps by Members of the Senate, then I think we have to look at it differently.

I think we have to look at it more broadly in terms of, you know, why would a resolution such as the one that we already adopted on the Senate floor, why was it adopted, what led us to a point to want to, quote, unquote, judge one of our colleagues in the Senate.

So I think a, the standards have to, are separate in terms of putting in place what the Senate might do in the future. But I think in terms of this case, you have to sort of blend the two.

You know, I think whatever this Committee thinks are appropriate standards have to be included in our record of, or, as I said, our blueprint as to why we came, come to a conclusion that we do.

So I hope that as we discuss this that this Committee will make a final recommendation to the Senate as to what our rules of conduct, if you want to call it that, would be from here on out.

And I think Senator DeLuca's case, it has to be specific to that, since that is truly our initial charge. Thank you.

SEN. RORABACK: Thank you, Senator Stillman. I just, as a point of information, going back to the resolution which created the Committee, Section 10 of that resolution says that our final recommendation shall be in the form of a resolution for approval or rejection by the Senate.

So this Committee needs to deliver to the full Senate a resolution, which as I read this, will either be accepted or rejected by the Body. I don't even see an opportunity for the Body to amend or modify our resolution or to add to/delete from.

So just to bear in mind as we try to determine the scope of what we put together, it's probably something that's going to have to serve that purpose as well. Senator Nickerson.

SEN. NICKERSON: Yes, I think I hear a harmony and I concur with it with, between the question you asked and Senator Stillman's answer.

The question you asked was should we try to write a report on everything we've done, and I think the answer to that is clearly no because that would lead us, first of all, we don't have the time, and secondly, it would lead us into a whole field of concerns and allegations, thoughts that are not necessarily relevant.

The key phrase I think in Senator Stillman's discussion, which I completely agree with, is we should lay out the facts which lead us to the conclusions.

And that, as with the traditional, quasi-judicial function we're in, puts us in the position which we have to be in of parsing apart things we've heard and that have come to our attention which are not relevant to find the conclusions and those that are.

And that's inherent in our job. I think we should do that and that we should have a listing in a whereas or whatever form we want to of those facts, not all of the facts, but those specific facts which we find relevant and probative to the conclusion which will be our ultimate job. Thank you, Mr. Chairman.

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

SEN. STILLMAN: Thank you. Senator Nickerson gave us, I guess, five, although as he was talking about it, I wasn't sure if we had 3A or what, but I think sort of five items to serve, as he said, a foundation for a conclusion that we will come to eventually.

And I would like to just add one to his, and that's the fact that we really haven't talked about the issue of violating the public trust, and that, to me, is really one, is a major underlying theme here, is a violation of the public trust.

And whether we think it was violated or not, I think public trust should be one of those parts of the foundation that we look at in terms of coming to a conclusion.

So I don't think this Committee cannot talk about that or not consider it because we are all here because of trust that our constituents have placed in us.

And it's our duty to uphold that trust, and so I really think that has to be one of those issues that we look at. Thank you.

SEN. RORABACK: Thank you, Senator Stillman. I agree with you, and I think that as we prepare a resolution, the kinds of facts that we need to incorporate into that resolution are not just facts that the sky was blue and it was raining or the sky was blue and the sun was shining.

But there's another universe of facts which needs to be embedded in our work, and they do go to questions of the obligation each of us has as an elected official to uphold the public trust.

And it does go to the fact that the conduct which has been admitted to has brought dishonor not only to Senator DeLuca but to our institution. And it's those considerations which we haven't discussed to date in the Committee's work.

We've been gathering the-sky-is-blue kind of facts and haven't focused on the implications of those facts on the facts of the, what the people of the State of Connecticut should expect from their elected officials.

So I think that those suggestions are important suggestions to incorporate into the framework of a resolution. And I guess as we're listing them, Senator Stillman referenced a breach of the public trust.

I would throw out there for incorporation, possible incorporation, because I think the expectation is that we will work on drafting a resolution which we will bring back to this group for refinement.

But in terms of items to include in a draft, I would like to include the fact that Senator DeLuca brought dishonor upon his office and dishonor upon our institution.

I respectfully disagree with Senator DeLuca's characterization of this as purely a family matter. I think that it is a matter which is extended beyond his family and has implications for our institution. Senator DeFronzo.

SEN. DEFRONZO: Thank you, Mr. Chairman. Towards that goal, I think it would be helpful in the resolution to establish the clear timeframes that we've spent some time in developing, the staff has spent time in developing information related to the nature of the discussions that have been referenced in the various affidavits and testimony, a sense of the relationship that existed between Senator DeLuca and Mr. Galante.

All of those issues in sequence, without perhaps being too overbearing in terms of the size of the report, I think are important to the thought process and the process of deliberation in coming to a final conclusion, because when these things took place, who was involved in the discussions, the sense of the relationships are all, I think, very telling, particularly with respect to the last couple of topics which you and Senator Stillman have just raised concerning public trust and the undermining of confidence in the institution.

So there is a lot there in terms of the sequencing of events from when this all began to occur, you know, two years ago.

But I think a lot of that is important to the construction of a clear report to the full Senate on which, as you indicate, a final

decision will be made and really an up or down vote on the singular resolution.

So I do think that's important to include those timeframes and those clear guideposts that give some sense of the relationship and the nature of the discussions that were being undertaken. Thank you, Mr. Chairman.

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

SEN. LOONEY: Yes, thank you, Mr. Chairman. Yes, I agree with all of the points that have been made so far. I believe that Senator Nickerson is entirely correct that the five points that he mentioned should be the five factual pillars of our finding.

In addition to that, perhaps also in the discussion of the violation of public trust or bringing dishonor on the office as a sort of subcategory of the first one that Senator Nickerson mentioned of the fact of the guilty plea to the misdemeanor of conspiracy to threaten, I think obviously is the concern about the, Senator DeLuca's admission that he went to Mr. Galante specifically because he believed Mr. Galante to be on the fringes of organized crime, as was mentioned at that time, as part of the motivation for making the appeal there as opposed to somewhere else.

SEN. RORABACK: Thank you, Senator Looney. The other thing that I think as we look at this process in the totality of what we're doing, I

do believe any resolution that we adopt ought to make it clear that never before in the recorded history of this institution, our State Senate in Connecticut, has the Body found itself in a position where it's called upon to discipline one of its own.

I think that the unprecedented nature of what we're asked to do merits inclusion in the resolution.

And I also think that we need to be mindful of the fact which cannot be disputed that Senator DeLuca was elected by the people of the 32<sup>nd</sup> District to serve their interests in this General Assembly for a two-year term, and that is something that this Committee's action could potentially implicate.

And I think that that needs to be recited as we consider kind of the gravity of the responsibility that we have been given. But I encourage others to disagree if they see fit.

I think that all the Committee Members should feel free to offer contrary opinions should they have them. I don't think there's any reason not to be forthcoming with one's sentiments. Senator DeFronzo.

SEN. DEFRONZO: Yeah, I would, I agree with you that as a preamble perhaps to the resolution, that would be a very important inclusion, as well as, when we conclude this discussion, we'll be going on on the agenda to discuss the standards of discipline, and perhaps that would be an

appropriate conclusion in the resolution as well, to essentially memorialize those standards for future generations and to make it clear to our colleagues in the Senate and to the public what these standards actually are when we finally arrive at them.

SEN. RORABACK: Thank you, Senator DeFronzo [Gap in testimony. Changing from Tape 1A to Tape 1B.]

SEN. GUGLIELMO: --Senator DeFronzo as well that, you know, we are a mature democracy, 400 years, and so we have to be mindful of what the framers said when they were framing the constitution and that, you know, they certainly felt that constituents who elected an individual should hold sway and that frequent elections should be the way to eliminate someone who had breached the trust to an egregious degree. Thank you.

SEN. RORABACK: Thank you, Senator. Another thought that I have is, I don't know the degree to which it's appropriate to recite in the resolution things that have not happened or things that we don't have evidence of or perhaps only by stating the affirmative of what we do have, the negative is, by implication, contained therein.

And I just don't know, as we move on, we know what did happen, we also know what didn't happen, and that goes too, there have been discussions of are there aggravating considerations, are there mitigating considerations, and if there are, to what

extent should we incorporate them into a resolution. Senator Nickerson.

SEN. NICKERSON: What did you have in mind then?

SEN. RORABACK: Well, for instance, I do think it is, while not central to this case, it is a fact that when it, when Senator DeLuca was offered a bribe, he chose not to accept the bribe.

And while that doesn't excuse any of the admitted bad conduct, it is something which has been part of this Committee's deliberations, and I don't think that we should, I don't think that the resolution should, or I guess the question is, and I really don't know the answer to the question, is whether the resolution should be devoid of facts which are not incriminating but, so that's the question. Senator Nickerson.

SEN. NICKERSON: Well, I think that you're right, and I think that was implied, or more than implied, was clear in the earlier colloquy that Senator Stillman and I had that we should include whatever facts, including those which may be mitigating, that lead us to the conclusion.

The test, in other words, would be what leads us to the conclusion which we would then state. Elements that have come to our attention that don't, we don't find relevant either as aggravating or mitigating should not be in.

But yes, my thought would be, whatever truly leads us to the conclusions, including the kind of example you mentioned, should be included. Thank you, Mr. Chairman.

SEN. RORABACK: We have, Chairman Looney.

SEN. LOONEY: Thank you. I think that leads us into an important part of our discussion and in terms of looking at factors that might be considered aggravating or mitigating, it's going to be important for us to determine that and to weight that, because there are certain factors that could be argued from one point of view as aggravating and from another point of view as mitigating.

For instance, the idea that Senator DeLuca's testimony, that he did not have a close personal relationship with Mr. Galante was, I think, offered by the Senator in sort of mitigation on the idea of how close that relationship was, in effect seeking to counter some of the statements in the affidavit that there was a close relationship that had been ongoing in the arrest affidavit.

One could argue, on the other hand, then that, in fact, might be an aggravating factor in terms of the fact then that his appeal to Mr. Galante could be then seen in a political context rather than a personal context in terms of even implicating his office and his status as a Senator to a greater degree rather than the lesser degree if it had been on a personal level.

So that, obviously, as I said, that's something that could be looked at from one point of view as mitigating, but from another as aggravating, so that's a complicating factor in this.

SEN. RORABACK: Senator Stillman. Senator Guglielmo, as always, the gentleman. Senator Stillman.

SEN. STILLMAN: I appreciate that. He was next in line. Just to make it clear, Senator Roraback, you had mentioned the fact that the Senator, Senator DeLuca had refused the cash bribe that was offered to him.

But it's also in the affidavit, the reason, one of the reasons why, if not the reason, it's unclear to know if it was one of the only reasons, was that he was afraid of, as the quote in here, afraid of them guys tracing things and, like that. I mean, I'm reading from the document.

And so is that really a great example to put in front of us in terms of, you know, was that really the sole reason? You know, I mean, we can't read his mind in, you know, in its totality, but certainly that was a big underlying reason as to why he refused it.

We don't know if he ever would have taken it, quite frankly, but it's an interesting quote in the affidavit, stating that that was why he didn't want to take it.

SEN. RORABACK: And to Senator Looney's point, these things can be looked at as either aggravating or mitigating, but my initial question is, do we want to put into the resolution things that didn't happen, the nots, rather than just the dids.

And the fact that the bride was not accepted, is that, now maybe there's additional information that we'd want to incorporate into the resolution, which is, and the reasons stated for that by Senator DeLuca in the affidavit are as indicated. Senator Guglielmo.

SEN. GUGLIELMO: Yeah, my point, or what I was thinking about when all this discussion was going on, if you're going to put in that there was a failure to report the bribe, then I think you have to put in that that was preceded by a refusal to accept a bribe.

I mean, to have one fact, obviously it's assumed that that would be the case, otherwise there would have been action, other than what was taken.

But I think if you're going to put one in, and I think you should, then it has to be noted that it was preceded by his refusal to take the bribe.

SEN. RORABACK: Senator DeFronzo.

SEN. DEFRONZO: Thank you, Mr. Chairman. This is where I was trying to go. I think maybe I wasn't clear enough earlier when I said I think

we ought to have, in the resolution, documentation of the nature of the discussions and the sense of the relationships.

And I've been struck, as I've served on the Committee now for a couple months and read the documents and the transcripts, probably nothing does that better than to actually read the language itself.

And for example, on this issue of the bribe, if you read that excerpt in the transcript, it gives both sides of that story pretty clearly, but it puts it in the context of the exact language that was used, the type of relationship that seemed to exist.

And I think the language on its face is the best representation of what actually transpired.

So I think perhaps in the resolution, rather than trying to distill it or edit it in such a way as to try and be balanced and fair in terms of somebody's, our decision or the staff's decision.

Maybe in those cases we just ought to excerpt the section of the transcript that deals with it, represent it in that way, and our colleagues will see it for what it is.

SEN. RORABACK: Senator Nickerson.

SEN. NICKERSON: Yeah, I just want to say this. Senator DeFronzo's comment is very well put,

keeping in mind we're not reaching conclusions today.

We're having a discussion of the inclusion of the data upon which at a later meeting we'll meet a conclusion. So I think you're absolutely right.

We should be, we should neither characterize the facts nor ignore them, but take both the underlying facts as to the bribe and the coloration which surrounds those facts from the dialogue.

The existence of the dialogue is itself a fact. So I think it's, what Senator DeFronzo said is very well put.

SEN. RORABACK: Are there any other thoughts for inclusion or not inclusion--

SEN. NICKERSON: If I could just inquire to the Chairs, there is a lot of information. Senator Nickerson I think identified five major points. But there are a lot of other sub-points and information that I think is relevant.

As in procedurally, how do we want to proceed, I mean, we could sit here all afternoon and go through dozens of points.

Do you want us to submit something to you within, to the Chairs within a few days or, I'm just trying to get a sense of how you want us to perform today or what direction you want us to go in.

SEN. RORABACK: Thank you, Senator DeFronzo. As I was looking around at some, I don't want to call them blank stares. I'll characterize my own look as a blank stare.

I was thinking that it would obviously be appropriate to leave it open for each Member of the Committee to submit to Senator Looney and myself ideas or facts or notions that they think would appropriately be incorporated into the resolution.

I think that ultimately we're going to come back to this group with a somewhat lengthy draft resolution, at which point all of the Members of the Committee will have an opportunity to go through paragraph by paragraph and refine, add to, delete from, as is the will of the group.

So I do think it would be appropriate to give people, obviously we're on a relatively compressed time schedule here, but to give people a reasonable amount of time to submit suggestions to us and for us to, I guess I'd like, I don't know whether Members of the Committee would be comfortable giving Senator Looney and I the discretion to, as you receive these things, to edit or modify, to try to make a document which is coherent if we agree to edits, whether the Committee would be comfortable giving us a little bit of discretion to tailor, understanding that this document can be added to or deleted from when it comes before the full--

SEN. DEFRONZO: Mr. Chairman, I think that that's, in my opinion, an appropriate way to proceed, presuming that what you will be preparing for us is a draft for our review and subsequent modification.

I don't think we could each do our own resolutions and help to finish on time, but if we all get you, and obviously we've been thinking about this for some time now, so I think some of these thoughts are pretty well formulated. We just need to put them on paper and get them to you. So I think that's a fair way of proceeding.

SEN. RORABACK: Senator Stillman.

SEN. STILLMAN: I concur. I think, though, that as you put that resolution together, we make it clear that whatever points that you're going to extract from the transcript, that it be originally stated that those statements were not given under oath.

They were later attested to via an, you know, via this affidavit of October 24<sup>th</sup>, that the statements that he did present, you know, it was a sworn statement that those are accurate and to the best of his knowledge.

But I think it also has to be made clear that, in the course of extracting this information, that Senator DeLuca, through his attorney, was hesitant to question, to answer questions under oath and that we, why we had to sort of go

through the process that we did, because it is unusual what we did.

And in order to get a sworn statement, we really couldn't ask questions under that sort of, I don't know what to call it, but, you know, under the, personally from him, you know, we struggled with that when he was here, how are we going to have a question-and-answer component to his comments as to what concurred and why he made the decisions that he did.

And so I think the resolution has to state some of that as well as to the difficulties that the Committee had in getting a sworn statement under oath from Senator DeLuca.

And how that then, in turn, caused Chief O'Leary to make his comments to us under a similar guise, so I think that should be in the resolution. Thank you.

SEN. RORABACK: Chairman Looney.

SEN. LOONEY: Thank you. Just to clarify, in the end, we did get statements clearly under oath from Senator DeLuca after that, the process that we went through on the 15<sup>th</sup>, that he did make a statement under oath and then subsequently attested to the questions that he answered initially here.

And then with a few exceptions that I read where he clarified, I believe, four of his responses, so that that affidavit applied to those answers given on the 15<sup>th</sup>.

In addition to that, he did answer under oath the supplementary questions that were given to him. Senator Stillman is correct, obviously, that we didn't have the complete initial presentation under oath.

And in fact, it required an opportunity for him to, with his attorney to review and edit his responses.

However, as we see, only very few of those responses were, in fact, edited, so there were only four, as he called it, clarifications in the affidavit that we're given. So for the most part, I believe everything we did ask was addressed in some fashion under oath.

And clearly, to the part of the arrest warrant affidavit that we will be quoting, that obviously also was an affidavit under oath. And that, I think, will make up a significant element of the factual context that we'll present.

SEN. RORABACK: Senator Nickerson.

SEN. NICKERSON: Just to housekeeping, and it's really repetitious of what I said before, I would hope we would involve the staff, Attorney Norman-Eady, for purposes of editing, fact-checking, suggestion.

Not in any way to put them in the position of making recommendations as to what our conclusion is, obviously, but I think the staff

has such as, has such a firm grasp and has provided so much information to us that just to involve them in the drafting process would be useful.

SEN. RORABACK: Senator Looney and I have not been shy to rely on the very skillful staff that we have to keep us on the straight and narrow. I don't see that changing.

I do want to make one other, one additional point, is when Senator Stillman rightfully points out the language that is in the affidavit surrounding the refusal of the bribe, this Committee is operating at a distinct disadvantage because we have been denied access to the complete recordings of what took place in those interviews.

And absent having that complete information, we have to rely on an imperfect record. Now it's not that that information couldn't be provided, and the U.S. Attorney may well still conclude that we get that information, but absent that information, we're going to have to rely on what we have, which isn't the best evidence. It's only the best evidence that we have.

SEN. LOONEY: Again, for clarification in terms of our process, what we will, in effect, be undertaking in the next several days until our next meeting would be, in effect, this presentation of what would be a part of our final resolution.

In fact, it would be the factual predicate to our final resolution that we will, in fact, then vote, deliberate and vote on what our final conclusion is so that final conclusion will become the remainder of the text of the resolution that we submit to the Senate.

And the matters we're discussing today will be the factual predicate for that resolution, and the remainder of it will be determined at our next meeting or meetings.

SEN. RORABACK: Thank you, Senator Looney. Any other comments in this area? The next item on our agenda is a discussion of disciplinary standards and precedents by Committee Members and staff.

Chairman Looney and I did ask the staff to begin to organize the reams of salient information they've gathered from coast to coast on what other states have confronted in terms of disciplining legislators, both at the federal and state level.

And the staff could not have been more professional in preparing a document for our review, which hopefully will assist us as we labor to develop the standards for the State of Connecticut in general and in the State Senate in particular.

And if it's agreeable to Members of the Committee, I would invite our staff to briefly walk us through the documents they have provided and would encourage Members to

interrupt, if it's agreeable to the staff, for Members to interrupt with questions at any time in your presentations.

And with that, I'll turn it over, I don't know, we thank all of you. I don't know who in particular stands ready to walk us through the documents. Attorney Towson or Attorney, well, I turn it over to Attorney Norman-Eady, and thank you.

ATTY. SANDRA NORMAN-EADY: Thank you, Mr. Chairman. Attorney Towson provided the information on federal precedent, and Attorney Reinhart provided the information on state precedents. So I will turn it over to Attorney Towson.

ATTY. BRADFORD TOWSON: The information that I provided to you under the cover of November 1<sup>st</sup>, 2007, just basically creates three charts in which I have diagrammed instances of expulsion, censure and reprimand in the United States Congress.

These are instances that the more the specificities of them had been presented to the Committee previously.

However, with these charts, basically what I did was just break down the salient facts of the charge or complaint, the nature of the complaint against the elected senator or representative, and whether or not the instance referred to public or private behavior, whether or not criminal conduct was involved, whether there was a conviction or a charge at the time

of the disciplinary action, and basically what the final recommendation was.

And I think based upon that, in my short memo to you, there were just a couple generalities that I just pointed out for the Committee Members' benefit.

SEN. RORABACK: Excuse me, Attorney, I'm going to lead by example here and interrupt you in the middle of your presentation, but one of the questions I have, the first two expulsions from the United States Senate, both indicate expulsion but Senator resigned before a vote by the full Senate.

How did the process work in the United States Senate? Did they have a committee such as this which reviewed facts and made a recommendations, or how did an expulsion vote, how was that put on the agenda of the United States Senate.

ATTY. BRADFORD TOWSON: Right. They actually have a standing Senate Ethics Committee, and that particular committee made that recommendation of expulsion. And that report would have been sent to the full Senate.

However, in those two instances, prior to that report being taken up by the full Senate, the individual senators determined to resign before the full Senate could take action.

SEN. RORABACK: And do you know whether the recommendations of that Senate Ethics Committee

were unanimous in either instance or in both instances?

ATTY. BRADFORD TOWSON: I don't have that information directly in front of me.

SEN. RORABACK: Okay, that's, it's not critical, just a point of curiosity. Thank you.

ATTY. BRADFORD TOWSON: Other than that, I think it's kind of self-explanatory. I can certainly try and answer any questions.

SEN. RORABACK: Senator Stillman.

SEN. STILLMAN: Thank you, Mr. Chairman. Going to the page on censure, which is the third one in, I believe, on the charts, I mean, let's see, which one was it?

The fourth one down, actually it was a representative and not a senator, was engaged in mail fraud and false statements, which was considered public behavior, criminal in nature.

There was a conviction, and yet they were still censured, not expelled? Now do you know if that censure was a recommendation of an ethics committee in the House, or was, or did the Ethics Committee recommend expulsion and then they settled on censure?

ATTY. BRADFORD TOWSON: No. That was the recommendation of the Committee.

SEN. STILLMAN: I find that fascinating, to say the least. I mean, here was criminal activity and yet not an expulsion. Do you happen to know, know, remember, if in those records there was any indication as to how long that person had been serving in Congress?

ATTY. BRADFORD TOWSON: I can certainly look that up. I don't have that directly in front of me-

SEN. STILLMAN: I'm just curious, yeah, whether it was someone who had this wonderful record of achievement and made these foolish mistakes, and so they decided, well, he or she has done some good things, so we'll just censure them instead of expelling them. Thank you. Thank you, Mr. Chairman.

SEN. RORABACK: Senator Nickerson.

SEN. NICKERSON: Yes, a comment on the, turning to the expulsion page or chart, rather, it appears that five, excuse me, five of the six incidents were criminal behavior.

Would I be, I may be going too quickly, but I think I'm right in saying all of those would have been felonies, a case of bribery, bribery, bribery, extortion. I'm not sure about illegal gratuities.

Would I be right in saying that there were six incidents of expulsion, five of them involving criminal activity, and of those five, it

appears that all five were of a criminal activity of a felony nature.

ATTY. BRADFORD TOWSON: That's correct.

SEN. NICKERSON: Thank you.

SEN. RORABACK: Chairman Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. Just following up on that question in terms of looking at the designation in the chart, in some of these cases, did the criminal conviction precede or follow the action taken by the legislative body?

In other words, was the conviction already on record at the time of the disciplinary action by the legislative body?

ATTY. BRADFORD TOWSON: Yes. In some of the instances, the conviction was already on the books, so to speak.

SEN. LOONEY: All right. And then following up on that, in terms of our own law and procedure here in Connecticut, obviously if we're looking at, most of the instances of expulsion, obviously, resulted from criminal behavior.

But in terms of defining that as either felony or misdemeanor, under Connecticut law, could someone who had been convicted of a felony continue to serve in a legislative body?

In other words, what are the requirements that someone be an elector as a threshold for seeking office, if someone loses that status as an elector due to a felony conviction, would that prevent the person from continuing whether or not the legislative body took action?

ATTY. BRADFORD TOWSON: It is my understanding that, as part of the statutes, the person could not continue to serve. I don't have a statutory cite right in front of me, but that's my understanding.

SEN. LOONEY: So is that, is it true that then in Connecticut anyone with a felony conviction would, do all convicted felons lose their status as an elector due to that conviction?

SEN. RORABACK: And if I can interrupt, Chairman Looney, I think this is an important question. I would not be disappointed if staff doesn't know the answer to the question off the top of their heads.

And I think if you do, that's great, but if not, I think it's an important enough question that it would be, I'd rather wait to get the correct answer than to have you in a position where you'll proffer an answer which you don't have confidence in, which you might, and we have a very able--

ATTY. BRADFORD TOWSON: Perhaps if we could just have a minute to try and locate the statute, that would be helpful.

SEN. RORABACK: And to follow up, I guess the question that I would have to follow, is would Connecticut be different then than the federal government?

In the federal government, you can be convicted of a felony and still continue to serve as a United States senator.

It wouldn't disqualify you. Or if you were a United States senator from Connecticut, would you be disqualified? Would that be determined by state law or federal law?

SEN. LOONEY: And just to follow up on the Chairman's point, where I was headed toward with that question is that, if in fact a felony conviction would, at that point, disqualify someone from serving because of the loss of status as an elector, would that mean then that in Connecticut then the only possible criminal action that, criminal conduct that we could be deliberating upon as a legislative, for legislative discipline, would in fact then be misdemeanors that did not require someone to resign because of the loss of eligibility due to a felony conviction?

ATTY. SANDRA NORMAN-EADY: My understanding of the state law, and I'm looking at Section 9-46 of the Connecticut Statute, is that an individual is disenfranchised if he is convicted of a felony and sentenced to a period of incarceration.

So if you were sentenced to a felony and your, and you were placed on probation without a period of incarceration, you would not be disenfranchised. You would not lose your rights as an elector. Therefore, you could continue to hold public office.

SEN. LOONEY: So is that, is it only incarcerated felons who then lose their status as electors?

ATTY. SANDRA NORMAN-EADY: That's my understanding, and that was a change that was made maybe five or six years ago. It used to be applicable to all felons, they were disenfranchised.

But now it's just those who are, who serve a period of incarceration. Now you can, yeah, and even if you serve that period of incarceration and you apply to have your rights restored, then you could hold, you could vote, serve as an elector and then presumably hold public office.

SEN. RORABACK: And not to put too fine a point on this question, but I don't know whether our election laws say that to be elected to a particular office, if the qualifications for election are that one be an elector or whether they say that the qualifications to serve are that one be an elector, such that if one status were to change after the election, would that change after the election have a bearing on your continued eligibility to serve?

Am I, have I confused everybody in the room except for myself? The point I'm trying to

make, is I think in Connecticut you can't run for State Senate or State Rep or anything else unless you're an elector.

You can't be on the ballot, and I don't think you can be an elector if you're in jail serving time for a felony.

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

SEN. RORABACK: Okay. So say you get elected. You're not a felon on Election Day. You get elected. You get sworn in. Then somewhere in the course of your term, you are convicted of a felony.

Whether you go to jail or not, would that, do our statutes provide that one cannot continue his or her service, must one be an elector for the duration of one's term, or is it sufficient that you're an elector at the time you take the oath of office or are on the ballot? Or has that question never, have we never confronted that question in this state?

ATTY. SANDRA NORMAN-EADY: I think that upon conviction and a sentence to incarceration, your rights as an elector are forfeited. And at that time, you lose your right, your ability to hold elected office.

SEN. RORABACK: And I guess my question would be, where does it say that? Is it in a statute?

ATTY. SANDRA NORMAN-EADY: --in the statute, 9-46, in B. I can bring it to you. Do you want me to read it?

SEN. RORABACK: No, no, no, no. It's not that I don't believe you. I just, I haven't read the, I just haven't seen the language with my own eyes--

ATTY. SANDRA NORMAN-EADY: Yeah. That's in statute, Section 9-46(b).

SEN. RORABACK: And what does that say?

ATTY. SANDRA NORMAN-EADY: No person who has forfeited and not regained such person's privileges as an elector, as provided in Section 9-46a, may be a candidate for or hold public office.

SEN. RORABACK: That's the answer. Okay, so Senator Looney's point is very well taken that we would never, the State Senate would never, under existing law, under current law, be considering the expulsion of a felon serving time because the fact that the felon was serving time would automatically have that effect.

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

SEN. RORABACK: Thank you. Senator Guglielmo.

SEN. GUGLIELMO: Just a quick question. On the expulsion chart for the Congress of the United States, there's only one that wasn't a criminal

activity, and is that Senator Packwood's case, just for reference?

ATTY. BRADFORD TOWSON: Yes, it is.

SEN. GUGLIELMO: Okay, thank you.

SEN. RORABACK: Senator Looney.

SEN. LOONEY: Just following up on Senator Guglielmo's question, on the Packwood case, in that case, I believe that Senator Packwood was, there was a recommendation of expulsion, but he was never actually, in fact, charged with a crime.

Isn't that correct, that he was never, there was never a criminal proceeding regarding his conduct, although he did resign before the Senate acted on the expulsion motion?

ATTY. BRADFORD TOWSON: That's my understanding also, yes.

SEN. LOONEY: Also, I guess, just in terms of our deliberation on the status of the charge and the relevance of a criminal charge, I suppose there might be some different weight or interpretation given to a conviction or trial as opposed to a plea, because obviously a plea to one charge obviously may result in a plea to lower charges than were originally lodged, whereas a conviction after trial obviously is, there's a finding by the, by either the bench, if it is a court trial, or by a jury if it is a jury trial of a conviction.

We might need to just look and evaluate whether a plea should be regarded in the same light as a conviction after trial.

SEN. RORABACK: Senator DeFronzo.

SEN. DEFRONZO: Attorney Towson, obviously we've asked you to put these together to help us construct some standards. And it's fairly obvious reading these what those standards might be.

But can you, based on your research and review, if you were asked to give us a standard, I mean, you've sort of reported it on here based on these precedents, does this encapsulate what those standards would be for the purposes of expulsion, censure and reprimand?

ATTY. BRADFORD TOWSON: Well, I would just reiterate--

SEN. DEFRONZO: And knowing that these are based on precedents you reviewed, not in your personal feelings or in this particular case, but just--

ATTY. BRADFORD TOWSON: Right. I would just reiterate basically what I kind of put in my brief memo, in that in instances of expulsion, the elected official was generally convicted of a criminal conduct.

Censure has been exercised for both criminal and non-criminal conduct. Reprimand has generally involved non-criminal behavior.

And overall, elected officials in these particular instances in Congress, it's the elected official's public behavior that's been the basis for any disciplinary action.

SEN. DEFRONZO: So that then leads you to this, sort of a two-dimensional matrix that you assembled, which really looks at the action of the individual in terms of criminal or non-criminal conduct and the action of the individual in terms of its relationship to public office.

ATTY. BRADFORD TOWSON: That's correct.

SEN. DEFRONZO: So those precedents sort of limit you in terms of those two dimensions.

ATTY. BRADFORD TOWSON: That's correct.

SEN. DEFRONZO: Earlier Senator Stillman raised, and we've been having this discussion among Committee Members on and off, is this issue of public trust and public confidence.

This, these sets of standards, this chart does not really talk about public trust or public confidence.

I mean, I suppose you would argue that in the case of a serious felony, the erosion of public confidence is sort of inherent in the performance of that deed. But there is no independent evaluation for the loss of public confidence--

ATTY. BRADFORD TOWSON: That's correct. This chart doesn't speak in terms of that particular--

SEN. DEFRONZO: Right. So in Connecticut, so going back to what Senator Looney and Senator Roraback were raising with you a minute ago, if we were to take this standard in Connecticut and say expulsion were going to be limited to those individuals who were, who had committed a felony, under our statutes, they, those individuals would already be precluded from holding office.

So it can't be that we're limited in suggesting expulsion or serious discipline solely to those cases where there's been a commission of a felony, because that would make no sense under our constitution and under our statute.

The Senate has the authority of disciplining its Members. If we were to take this standard and apply it in Connecticut, we would be, we wouldn't be here.

We'd be sitting back waiting for the courts to make decisions on felonies and then those individuals would have to resign from their office. Is that a reasonable conclusion?

ATTY. BRADFORD TOWSON: That's correct.

SEN. DEFRONZO: Thank you.

SEN. RORABACK: Senator Nickerson.

SEN. NICKERSON: Would it be correct to say that other than, well, the second case, we know it's now Senator Packwood, that all of the felonies involved their public office, that is to say, extortion, illegal gratuities, bribery, were not only felonies and crimes, but crimes that involved their behavior in carrying out their duties or failing to carry out their public duties as opposed to the one case with Senator Packwood, which I guess was private conduct.

My question is, the federal standard for expulsion would be multi-pronged. It would be a crime. It would be a felony. And it would be a felony involving public conduct. Is that a fair--

ATTY. BRADFORD TOWSON: I don't know as though it's fair to characterize it as a standard--

SEN. NICKERSON: Well, maybe standard is the wrong word. The historical pattern established by these six events, other than the case of Senator Packwood, would have three characteristics, A, a crime, B, a felony, and C, a felony affecting the legislator's office-holding duties.

ATTY. BRADFORD TOWSON: The particular instances in which expulsion has been used as a disciplinary tool do reflect that.

SEN. NICKERSON: I realize they have not adopted a standard, but I'm looking for the pattern that comes from that.

ATTY. BRADFORD TOWSON: That's correct.

SEN. NICKERSON: Thank you.

SEN. RORABACK: This question is going to nag at me if I don't ask it. If you were a United States Senator from Connecticut and you were convicted of a felony, would that be the end of the game for you?

And I don't need an answer today. It just strikes me, I mean, I guess it strikes me as unusual that we would allow convicted felons to continue to serve as United States senators.

But your service as an elected official in Connecticut, I mean, I don't think, I think it's, quite frankly, the appropriate law that one would not serve in public office as a convicted felon.

But if the federal law doesn't do that, that to me is unusual, and I'm guessing it doesn't. I don't need an answer--

ATTY. BRADFORD TOWSON: Yeah, we'll have to look into that a little more.

SEN. RORABACK: --after the Committee's work is done, maybe we could look into that. We can change the law if it's not now the case. Any other questions? Chairman Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. There was a couple of, just in terms of guidance, obviously going back to our starting point.

Our constitution does not provide us a great deal of direction and guidance, and Article 3, Section 13 said that each house shall determine the rules of its own proceedings and punish members for disorderly conduct, and with the consent of two-thirds, expel a member but not a second time for the same cause. And that phrase, disorderly conduct, is nowhere defined.

And the U.S. Constitution also contains a virtually identical provision, except that it uses the phrase disorderly behavior instead of conduct.

And it also provides no further guidance as to the meaning of the term disorderly behavior, although a number of, in the CRS report that the staff has provided for us and does provide a lot of useful information, that this provides some information that some states have sought to adopt standards or guidelines, one of which I think that's useful is that of the State of New Mexico, where it's quoted in the CRS report that says this authority of the institution of the House to discipline a member for disorderly behavior.

And it uses, I guess, the federal word there, is in addition to any criminal or civil liability that a member of the House may incur for a particular misconduct and is a device or procedure designed not so much as merely a punishment of the individual member, but rather, ultimately, as a measure to protect the institutional integrity of the House of

Representatives, its proceedings, and its reputation.

So I think that that goes back to a couple of the comments that we had earlier in our discussion of facts as to the issue of violation of the public trust or dishonor of office and those kinds of evaluative criteria do become part of the standard, as well as the actual charge that someone has pled to.

SEN. RORABACK: Thank you, Chairman Looney. And I am far from being a scholar of these matters, but I also believe that the remedy of impeachment is a remedy which is intended not to visit punishment on the recipient, although it obviously has that effect.

But impeachment is designed to protect the institutions of government from influences which would tend to erode its underpinnings.

So that is an interesting perspective to bring to bear, is that while we are called upon to determine what sanction to visit upon Senator DeLuca, there is an underlying, perhaps unwritten and unspoken obligation to determine the degree to which the integrity of the institution or the, what degree of protection is necessary, if any, for the institution to function effectively. Any other, Senator Stillman.

SEN. STILLMAN: Yes, thank you, Mr. Chairman. I'm just sort of reviewing some things that we received earlier, one dated October 2<sup>nd</sup>, which

was given to this Committee from OLR and LCO about the disciplinary actions in other states' legislative bodies.

And it talk, and it references several states, and one of them, which I think sort of, in my mind, I think it might serve as some kind of example as to where we can look in terms of a recommendation for standards for the Senate, is New Mexico and their rules.

Even though they're House rules, I think what they've adopted and the standards that they serve under I think are ones that we might want to reference as we do our research on this recommendation over the next few days, where their House rule provides a general statement about expulsion, which is conduct that impugns the integrity in this case of the House, reflects adversely on the House or otherwise undermines public confidence in the institution of the House.

And then it also has some definitions for a reprimand, which is normally appropriate for a single, relatively minor act of unethical conduct or disorderly behavior, or censure, which is normally the appropriate sanctions, and it goes on and references some leadership issues.

If someone is in a leadership position and that the extraordinary power of expulsion generally should be reserved for very serious breaches of legal or ethical responsibilities of members that directly relate to their duties as House

Members [Gap in testimony. Changing from Tape 1B to Tape 2A.]

--in the institution of the House. And so I just, I thought I would mention that that's one state that might give us some guidance in terms of where we want to go for Senate rules. Thank you.

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

SEN. NICKERSON: Well, I was just going to ask, are we ready to move to the presentation of state standards?

SEN. RORABACK: No, that's okay. We are, are there any further questions of Attorney Towson on the question of federal standards? Obviously everyone is entitled to revisit these questions. Senator Nickerson.

SEN. NICKERSON: Well, I was just going to say, if we are ready to move, could we stand at recess for a couple minutes?

SEN. RORABACK: Absolutely. Why don't we take a ten-minute recess? Thank you.

[Whereupon, the hearing was recessed.]

[The hearing was called back to order.]

SEN. RORABACK: --if we could ask Attorney Reinhart to walk us through his work on what other

states have done in the matter of disciplining their own members.

ATTY. CHRISTOPHER REINHART: Sure. We've prepared a new report, similar to the way Brad prepared one on the congressional level, briefly describing the facts in the cases and indicating whether it involved public or private conduct, criminal or non-criminal conduct, and indicating where we knew what stage any criminal investigations were in during the legislative investigation process.

In our previous reports, we had found 86 disciplinary cases in other states. Ten of those cases involved expulsion, 16 censure, 8 reprimand, and 17 where the legislature took no action after initiating an investigation.

All ten of the expulsion cases involved some type of criminal conduct. In most, seven out of ten, involved public conduct.

Of the 16 cases resulting in the censure, 12 of them involved either public or private criminal conduct. In the four cases that did not, involved conduct related to the legislator's office.

The eight cases of reprimand that we found all involved public non-criminal conduct. And in 16 of the 17 cases with no action, the conduct investigated was public and non-criminal.

The other case was a public, case of public criminal conduct for abusing Senate phone

privileges, but the recommendations from the committee expired at the end of the session, and the legislator lost a primary and the Senate took no final action on that matter.

And in our report, we've also included an additional eight cases where a legislator resigned after a committee had recommended some discipline, and we just provided those to give you a few more examples of where a legislator faced some discipline. And that's just a brief introduction to the document, and we'd be happy to take any questions.

SEN. RORABACK: Thank you, Attorney Reinhart. Are there, do Members of the Committee want to take a minute to review the, or does someone have a question now? Senator Nickerson.

SEN. NICKERSON: Yeah, I do want to ask one question. There were ten expulsions and I believe I'm correct in saying that in eight of those there was a crime.

In each case, the crime was a felony, although in one case the crime was a misdemeanor which later became a felony. And they all involved a felony in the conduct of the public office.

So while they're not, this set of expulsions is not in, universally congruent with the federal pattern, it's very close, in that there are three elements that are common to eight of the ten expulsions, if I'm, this is an assumption so correct me if I'm wrong, that the elements

are, one, a crime, two, a felony, and three, a felony involving conduct in public office.

That's the general pattern, not quite universal, but general, and in that respect, it reflects the general, though again, not absolutely universal, pattern on the federal side.

ATTY. CHRISTOPHER REINHART: I could just quickly describe what the cases were. There were five that were criminal conduct related to a legislator's office, and a sixth that involved both criminal conduct and ethical violations related to a legislator's office.

Three cases that were private criminal conduct, and one that was private criminal conduct and public non-criminal conduct. And in most of those instances, we do have information that they were felonies. There was one--

SEN. NICKERSON: I'm sorry to interrupt you. But you said there were three cases of non-criminal conduct. Could you review those?

ATTY. CHRISTOPHER REINHART: Yes. Those were the last three and follow on to page four. One is a conviction on federal tax fraud charges. One was--

SEN. NICKERSON: But that is, I thought you said non, we were talking about, you said non-criminal conduct. I don't think you meant that. My question was, could you review the

non-criminal conduct cases which led to  
expulsion.

ATTY. CHRISTOPHER REINHART: The first case on the  
list, the first two cases involved some non-  
criminal conduct alongside criminal conduct.

SEN. NICKERSON: So there was some criminal conduct.

ATTY. CHRISTOPHER REINHART: Correct.

SEN. NICKERSON: Okay. And there was one other that  
involved non-criminal conduct?

ATTY. CHRISTOPHER REINHART: For expulsion, it's  
just the first two on our list. One involved  
the criminal conduct of drunk driving  
violations and domestic abuse, alongside the  
sexually explicit photos on the Senate computer  
and abusing staff.

And the second one on the list involved  
criminal conduct related to office and non-  
criminal conduct related to office.

That was accepting gifts from healthcare  
companies, failing to disclose a contract,  
mixing legislative and private budgets, using  
prestige of office.

SEN. NICKERSON: Okay. So it would be correct to  
say, if those two cases involved a mixture of  
both criminal conduct and non-criminal conduct,  
there was some element of criminal conduct in  
all ten cases.

ATTY. CHRISTOPHER REINHART: Yes, in all ten cases.

SEN. NICKERSON: There was no expulsion which was entirely of non-criminal offenses.

ATTY. CHRISTOPHER REINHART: Correct.

SEN. NICKERSON: And the general pattern, though not universal, was again, the conduct was generally in most of those, almost all those cases, a felony and thirdly a felony involving conduct in office.

ATTY. CHRISTOPHER REINHART: Correct, generally.

SEN. RORABACK: Chairman Looney.

SEN. LOONEY: Thank you. Returning to the discussion earlier about the nature of the criminal conduct that might be involved in triggering a disciplinary proceeding of one kind or another, obviously the Legislature, pursuant to the Constitution, is instructed to determine its own proceedings, again, punish members for disorderly conduct with the consent of two-thirds and so on, so there's not generally a great deal of constitutional guidance with any of the state or federal constitution.

One of the concerns about looking at the nature of a prior, of the conduct that triggers the discipline, is that it seems to me that it's more important to look at the nature of the conduct and its implications, more so than

whether that conduct would be determined as a, characterized as a felony or a misdemeanor.

Because if one, if the legislative body were considering itself bound by a felony versus misdemeanor distinction, it would be, in a way, making its decisions contingent upon a decision made outside its purview, in other words, outside of the legislative branch and based upon whatever negotiations went on or whatever decisions were made by prosecutors or by judges, rather than by the Legislature's own evaluation as to what it considered conduct of varying degrees of serious nature.

So it seems to me that allowing arbitrarily the distinction between felony and misdemeanor to have a significant amount of determinative value in the discussion of discipline is, to some extent, to forfeit authority to another branch of government.

SEN. RORABACK: Thank you. Senator DeFronzo.

SEN. DEFRONZO: Yeah, I want to concur with Senator Looney. It strikes me as, well, I shouldn't say odd because you've been looking at this stuff for a while now.

But in these cases of expulsion and serious discipline, they're tied to criminal acts or felonies or serious misdemeanors, it just strikes me odd that the Legislature in these cases is basically ceding a lot of its responsibility to the judicial branch in determining how, you know, how serious the

conduct is and instead determining that, and you're just reporting what you're seeing, so I'm not being critical here.

But it just strikes me that legislatures would do that. I mean, the question I would ask is, isn't it likely that you could end up with the same erosion of public trust in an elected official or in the institution of, in this case the State Senate in Connecticut, from a series of actions that are not felonious in nature, yet have the same, result in the same kind of erosion of the public trust that a felony would trigger, particularly a felony of the type we see here, like vote selling and bribery or extortion?

The legal nature, the nature of the act, the legal nature of the act may be different, but the outcome and the impact on the institution is equivalent.

And I see our role as looking at that end of if, the public integrity end of it, you know, whether or not the court rules a felony was committed or a misdemeanor was committed, I don't think that's insignificant.

But the Senate panel here, and the Senate in its entirety at some point, will have to determine what action to take, and I think our standard in general ought to be the public trust standard, the public confidence standard, not the standard of whether or not a specific legal violation was committed.

So I think I'm on the same page with Senator Looney, and I think that's where you were going, and I want to concur with that.

SEN. RORABACK: Senator Nickerson.

SEN. NICKERSON: Yeah, I'm going to concur in part and disagree in part. I wholly agree that we are not bound by the decisions of another body, that nothing precludes us, other than our own sense of fairness and appropriateness, in choosing any standard we want.

So I certainly agree that we're not bound by the decisions made in any individual case by a judicial branch or any other branch.

Having said that, and since there are no standards, and as Senator Looney has correctly said, this Constitution leaves the door, if not wide open, virtually wide open for us to decide our first goal is to say where do we look on this completely open tabletop that we're on, and I don't think it's inappropriate.

I think it's very appropriate to look and give weight to, though not be bound by, the question of whether the individual in question either didn't commit a crime or did commit a crime and it was a misdemeanor or did commit a crime and it was a felony.

Not legally bound by that because we're free to go anywhere we want, but I think those are highly relevant considerations that should guide us.

Secondly, I would say the very fact that we asked the staff to prepare for us a chart outlining what the pattern, though, again, not universal, but the general pattern in Congress has been and the general pattern in the states has been.

The fact that we asked for those, that information and we've received it this afternoon, although we had some information on it earlier, the very fact that we asked for that was a wise act.

And it meant that in ranging across this empty tabletop that we're on, we want to look at whether states did.

So I would say the actions of a court in determining whether a felony is relevant, not wholly dispositive but relevant, and I would say the actions of other states in our assessing the patterns that developed are relevant.

Again, none of these are dispositive. We can range anywhere we want, and no one can say us nay because we're, we're in the very unusual situation of a court which is developing the standards and then also assessing whether they've been breached.

So we're not bound by anything except our own sense of fairness. I think the standards, though, the pattern that I see from Congress and the pattern that I see from the states is

relevant and important and should be given considerable weight. Thank you, Mr. Chairman.

SEN. RORABACK: Thank you, Senator Nickerson. I'll just jump in with one, another facet of this is the determination of whether conduct is a misdemeanor or a felony ultimately emanates from the Legislative Branch.

We make determinations as to our criminal code, and we make a determination as to which conduct falls into which category.

So while we look to the Executive Branch to enforce our laws and the Judicial Branch to interpret them, the ultimate categorization of crime as either a misdemeanor or a felony does come from this branch of government.

Perhaps too fine a distinction, but I'll throw it out there. And on a related point, the violation of public trust is certainly, in many respects there can be no greater, I can envision circumstances where not necessarily a crime, where there is still a violation of the public trust, and a violation of the public trust when one is an elected official is, I think, in some respects, the most egregious conduct.

And there's another term which is perhaps maybe related to a violation of the public trust, and that is abuse of power. And I don't know to what extent abuse of power is something that also should be considered in determining a standard for discipline.

And I don't know to what extent abuse of power and breach of the public trust are one in the same or whether they're overlapping or whether they're distinct and different. Senator Guglielmo.

SEN. GUGLIELMO: Thank you, Mr. Chairman. I guess that really if you looked at this whole composite of information, all of them are a violation of public trust in some way or another.

The question would be how egregious a violation, so that's, I think that's what we have to decide. There's levels of decision that we have to make, whether it's expulsion, reprimand, censure.

But I think, you know, obviously, in my opinion anyway, all of these would be embarrassing to the individual who was the elected official and would not be a credit to the institution that they were elected to.

SEN. RORABACK: Senator DeFronzo.

SEN. DEFRONZO: I just want to move us a little further along here. I mean, what we generally agree that there are, without being terribly specific, three basic criteria that you would look at in determining disciplinary action, one being the legal status of the conduct, which is identified in both of these analyses done by staff, the second one being whether or not the act was related to public office.

And then the third, which was not directly dealt with by staff, is the issue of the erosion of public trust, which certainly is related to serious felonies related to office and serious misdemeanors related to office.

But I would contend that you could have a series of actions that are not necessarily felonies that could equally jeopardize the public's view of the institution of the State Senate or the State House of Representatives.

And in that case, those would be actions that would warrant discipline as well. So I just, as I started out with, when I was questioning Attorney Towson earlier, I said I thought the precedents that you had to look at really deal on two dimensions.

And I would feel better if we expanded that to at least acknowledge the third dimension, which I think we're all very concerned about, and that is the erosion of public trust, which may or may not be related directly to a misdemeanor or a felony.

SEN. RORABACK: Senator Nickerson.

SEN. NICKERSON: Oh, I agree completely. I agree completely. There's no question that the erosion of public trust is a relevant standard, a highly relevant standard in establishing the levels of discipline.

What I'm just suggesting is that the weight being given to that has to be assessed against the weight being given to criminal conduct in public office in assessing which of the disciplines. We obviously have four choices, and one is to do nothing, and I won't say more about that.

The question I think we're really wrestling with is which of the three features that Senator DeFronzo has correctly assigned is to be given what weight in choosing among the other choices, the choices being, of course, expulsion, censure, and reprimand.

So there's no question, all of those involve some level of weighting of those three items. The question we have to wrestle with is what.

And I would totally agree that erosion of public trust is an important factor in weighting the level of discipline among the three disciplinary choices, leaving aside for the moment take no action. Thank you, Mr. Chairman.

SEN. RORABACK: Thank you, Senator Nickerson. I would tend to think that Senator DeFronzo's description of how to break down the analyses is a fair point of departure in terms of the technical status of the crime, felony misdemeanor, and then secondarily, public or private, although those lines, I think, can become blurred.

And then the public trust component, which I think incorporates within it kind of a breach of faith, breaking faith with your oath of office and potentially an abuse of power.

But I think that those considerations are, I would concur with that as an appropriate prism through which to conduct an analysis.

And I think it's very helpful. I thank Senator DeFronzo, because as we move forward, we're going to need to begin to have some very concrete areas to weigh and measure and determine. Senator Stillman.

SEN. STILLMAN: Thank you, Mr. Chairman. I was just, as I'm listening to this discussion and trying to weight all the issues in terms of is one more important than another or is one less than important than another. I don't think we can do that.

I think they're all very important. But I go back to really the New Mexico Senate Ethics rules, and what I read before about the fact that, you know, the extraordinary power of expulsion is generally reserved for very serious breaches of legal or ethical responsibilities of members that directly relate to their duties and that impugn the integrity, etc., and reflect adversely and undermine public trust in the institution.

And I think, as we look at, and I also thank Senator DeFronzo for those three real obvious issues we need to look at that, the public

trust one is really, when you look at it, at least legal status, an act related to public office.

I mean, and then related to possible violation of the public trust, I think, I can almost put two and three together because they're public actions and it comes down to one's decision-making processes and how it reflects on an individual's ability to make those decisions when times are difficult, whether it's personal or private, as some of this is referenced in these reports, or whether it is public.

And, you know, so I just hope as we come to some conclusion next week, that that whole concern about public trust is most important. Thank you.

SEN. RORABACK: Thank you, Senator Stillman. Any other comments or questions from Members of the Committee? If not, once again, thanks to the staff for your continuing excellent service to the Committee.

Is there any old business to come before the Committee? Is there any new business to come before the Committee? Senator DeFronzo.

SEN. DEFRONZO: Only housekeeping, earlier we said we would submit materials to the Chairs, and given the timeframe, I presume you want to have some deadline on the submission of, like maybe tomorrow, by the end of, I would suggest maybe that we require all the Members to submit their

statements to you by the close of business tomorrow.

SEN. RORABACK: I think the staff may nominate you as Senator of the year. I think it's, as we discuss scheduling for the coming week, we have to be, first of all, very realistic in terms of what we can expect our staff.

They have performed above and beyond the call of duty, and I know they will continue to do that, but they are only human and we don't want them to spend their entire weekend here behind closed doors.

So if it's reasonable to ask Committee Members to get to Attorney Norman-Eady by 4:00 tomorrow things that you would like incorporated into the resolution, is that, would that be a reasonable timeframe for the staff?

I'm assuming that we're not going to meet until, well, when would the group like to meet, because I think when we meet may, working backwards from our next meeting.

SEN. NICKERSON: I don't think we can meet--

SEN. RORABACK: No, no. I understand. And I guess-

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SEN. NICKERSON: Would we meet Tuesday to discuss the resolution, not necessarily vote on the final recommendation, but that would allow the staff Monday to create their product and give it to us on Tuesday.

SEN. RORABACK: Are Members of the Committee, Senator Stillman?

SEN. STILLMAN: I don't have a problem with Tuesday. I just, I mean, if we're all in agreement that the resolution that's in front of us, after we might amend it, etc., then I don't know.

If we're in agreement with the resolution, then I think we should take action as soon as possible next week, only because if it turns out, well--

SEN. NICKERSON: I'm just saying if we meet late in the week, it doesn't give us any running room if some glitch occurs.

SEN. STILLMAN: That's what I was going to say.

SEN. NICKERSON: So if we meet earlier in the week, we have running room for towards the end of the week.

SEN. STILLMAN: Right. I mean, if it's determined that we're not quite ready, that there are some more T's that need to be crossed and I's dotted, etc., some clarification of something, if we cannot act on Tuesday, then it gives us time to act maybe a day or two later in the week, because, I mean, Friday is it. I mean, it's officially Sunday, but we know it's really Friday.

SEN. NICKERSON: So we wouldn't want to meet on Thursday because you never know if something goes wrong and--

SEN. STILLMAN: Exactly.

SEN. RORABACK: Senator Looney.

SEN. LOONEY: Yes, thank you, Mr. Chairman. I think that leads us to at least an outline for when our meetings should be next week. I think that we should schedule the meeting then for Tuesday, despite the fact that it is an Election Day.

It is not our Election Day, thank God, and that would then allow us time to possibly conclude on Tuesday or having then a few other days available later in the week should we need a subsequent meeting after that, probably Thursday since we have been meeting on Thursdays primarily.

But to have a meeting Tuesday with the, either the possibility of concluding on Tuesday or reserving Thursday if we need an additional meeting.

SEN. RORABACK: Thank you. And to the question, certainly if, we will work on a resolution to present to the Committee on Tuesday. Do people have a preference as to the time of day on Tuesday? In the early afternoon has been our custom. Is that, 1:00 on Tuesday?

SEN. STILLMAN: The afternoon is fine. I don't know if the staff would like that extra time or not, you know, as opposed to meeting Tuesday morning. And I don't know other people's work schedules. But I would say whatever is, 1:00 is fine.

SEN. RORABACK: Does 1:00 work for all the Members of the Committee? Why don't we say 1:00. And is everyone comfortable getting their ideas for a resolution in to, and I was going to suggest you get them directly to Attorney Norman-Eady just to take Senator Looney and I, if we're not around or out of the middle, if you get them to her by 4:00 tomorrow, Friday, is that fair?

And then we'll, and then I guess on Tuesday we'll have before us a draft of a resolution. Hopefully Senator Looney and I will have an opportunity to meet with staff on Monday to fine tune that.

And I can't imagine that the resolution would be immune from edits or comments, but to the extent that the edits or comments were minimal in nature, we might have time to continue our deliberations on Tuesday and who knows whether we could come to closure.

SEN. NICKERSON: [inaudible - microphone not on]

SEN. RORABACK: And I guess we'd reserve Thursday afternoon as a potential for additional work. And Attorney Norman-Eady and other members of the staff, are there things that we haven't covered that you would like for us to cover

that would make your lives easier or less difficult? Don't hold back.

ATTY. BRADFORD TOWSON: I guess in terms of the resolution, obviously thinking about a resolution that comes out of LCO, I'm trying to get a handle on the nature of the form of that.

Obviously you have the traditional resolutions, as we've generally had, that established this Committee.

And I'm just trying to get a firmer sense of the format that you intend the resolution to take, because I'm anticipating that some work on this resolution will need to take place over this weekend in order to get some of the groundwork laid for it, in order to have discussions with the Co-Chairs on Monday as to inclusions and things of that nature in order for it to be produced by Tuesday. So perhaps if there could be a little bit more elaboration on that, that would be helpful.

SEN. RORABACK: And Senator DeFronzo and I were just discussing, at Senator DeFronzo's wise suggestion, that we give some guidance to staff in terms of the resolution and what, one way to do it, and it's just one idea. I certainly think everyone's ideas ought to be included in this.

Is to have a preamble which says, you know, whereas this Committee has been convened pursuant to this resolution and whereas this hasn't been done before, and I'm obviously

paraphrasing, and whereas standards need to be, Senator Nickerson.

SEN. NICKERSON: Well, I was just going to say, you might want to just recite that we've had X number of meetings, taken oral testimony in one case, received affidavits, don't need to name them all, and say that it has, whereas the, in effect, the Committee is making a finding of facts.

And so you'd have a preamble [inaudible] in summary form of the Committee's meetings and activities and a factual preamble. And we've discussed kind of the content of that leading to a now therefore, which would--

SEN. RORABACK: Well, and the factual preamble might be, we have the, the Committee has met, we've been constituted, there is a resolution, and then whereas we have determined that Senator DeLuca pled guilty, the five areas that Senator Nickerson identified, the factual, the sky-is-blue kind of things, and then move into a whereas and get into the question of, the circumstantial colors, no, the consequences, things such as the conduct which has been admitted to has brought dishonor upon Senator DeLuca and the institution, that kind of thing, and that would lead up to a now therefore. Senator DeFronzo.

SEN. DEFRONZO: I just want to also be sure that included in that would be the, some acknowledgement of the standards that we've

discussed today, particularly the three we mentioned a few minutes ago.

SEN. RORABACK: Yeah, and I think that might be, in the very initial preamble, that we've met, that we've conducted an exhaustive review of standards used in other jurisdictions, and whereas we've determined that three central considerations are felony or misdemeanor, private or public, abuse of, breach of public trust.

I think that would be helpful, not just for us today but for the future, that we begin to articulate for other circumstances those things which this Committee found to be appropriately considered. And is everyone on the Committee comfortable with that general, Chairman Looney?

SEN. LOONEY: Yes, I think, Mr. Chairman, that is all necessary parts of the preamble, laying out in detail the dates of our meetings, the fact that we now have a fairly voluminous transcript of several hundred pages of the proceedings of those meetings going back to the end of August and then laying out the factual predicate that will be based upon the five pillars discussed earlier and then the, our discussion of standards.

All of those would be, in effect, as we recognize that we are needing to provide to the full Senate the context of everything that we've done, so all of that I think is necessary in terms of background and information for the, for all of the other Members of the Senate who

did not serve on this Committee but will be required to deliberate.

So that the resolution needs to be, I think, as detailed as reasonably possible in terms of providing the flavor of everything that we have considered.

And the key part of that obviously will be the, will be our findings of fact in the context of the standard regarding the legal status of the conduct, the public/private distinction, and the significance of the principle of evaluating the erosion of public trust.

So I think all of that then leads into this then the now therefore we find. And obviously that part will only be provided at the end of our process.

But all of the rest of that, I think, is necessary in terms of to give all of the Members who will be considering that resolution the full context within the content of that document to understand what we found and that we are then recommending to them as a finding.

SEN. RORABACK: Thank you, Chairman Looney. Any other questions or items to consider from the part of Members of the Committee? Any loose ends in the staff realm? Thank you very much. We'll see everybody at 1:00 on Tuesday. Motion to adjourn?

SEN. GUGLIELMO: So moved.

SEN. RORABACK: Moved by Senator Guglielmo.

SEN. STILLMAN: Second.

SEN. RORABACK: Seconded by Senator Stillman. All  
in favor, Aye. Thank you.

[Whereupon, the hearing was adjourned.]