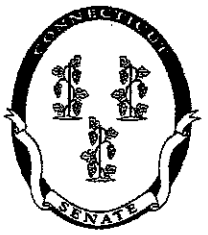
SENATE

Co-chairs
Senator Martin M. Looney
Senator Andrew W. Roraback



Members
Senator Donald J. DeFronzo
Senator Anthony Guglielmo
Senator William H. Nickerson
Senator Andrea L. Stillman

BIPARTISAN COMMITTEE OF REVIEW

September 19, 2007

Chief Neil O'Leary
255 East Main St.
Waterbury, Connecticut 06702

Dear Chief O'Leary:

Attached please find a September 17, 2007 letter to the Bipartisan Committee of Review from the U.S. Attorney's Office indicating the need for your consent as required under the Privacy Act, 5 U.S.C. § 552a, before it could consider the committee's request for certain documents. The information we are seeking is outlined in our September 6, 2007 letter to the U.S. attorney, a copy of which is also attached.

We are asking you for a statement of consent, which does not have to be in any special form. We urge you to comply with this request. We further request that you fax and send a letter with your response by September 25, 2007 to:

Sandra Norman-Eady
Office of Legislative Research
Room 5300
Legislative Office Building
Hartford CT 06106-1591

If you have any questions, please call Attorney Norman-Eady at 860-240-8400. Her fax number is 860-240-8881.

Sincerely,

Martin M. Looney

Senator Martin M. Looney
Co-chair

Andrew Roraback

Senator Andrew W. Roraback
Co-chair

cc: Senator Williams
Senator McKinney
Senator DeFronzo
Senator Guglielmo
Senator Nickerson
Senator Stillman

Senator DeLuca
Attorney Janis M. Small, Office of the Corporation Counsel, City of Waterbury

U.S. Department of Justice

United States Attorney
District of Connecticut

Connecticut Financial Center *(203) 821-3700*

157 Church Street
New Haven, Connecticut 06510 *Fax (203) 773-5376*

September 17, 2007

Senator Martin M. Looney
Senator Andrew W. Roraback
Senate Bipartisan Committee of Review
Legislative Office Building
Hartford, CT 06106-1591

Attention: Sandra Norman-Eady
Office of Legislative Research, Room 5300

Re: Requests for Information from FBI and U.S. Attorney: Senator Louis C. DeLuca

Dear Ms. Norman-Eady:

This is in response to the letter dated September 6, 2007 from the Senate Bipartisan Committee of Review following Kevin J. O'Connor's letter to the Committee on August 31, 2007. This correspondence relates to the Committee's request for information concerning an investigation relating to Senator Louis C. DeLuca. Your letter has provided responses to some of the questions raised and has addressed some of the requirements of the federal regulations outlined in the August 31st letter.

One of the factors to be considered in authorizing the release of requested information is whether such disclosure is appropriate under the rules of procedure governing the case or matter in which the demand arose. *See* 28 C.F.R. § 16.26(a)(1). You have indicated that the Senate Resolution which authorized your Committee to act directs that the Committee review "all publicly available information about the events leading up to Senator DeLuca's guilty plea on the misdemeanor charge of conspiracy to commit threatening in the second degree." We understand that you have made a similar request to the Chief State's Attorney and he has advised you that the information requested was provided to that office by federal authorities for the purpose of deciding whether there was a basis for a state criminal prosecution, and if so, for use in such prosecution which would include appropriate disclosure to the court and the defendant. That has been accomplished and the Chief State's Attorney has correctly determined that further disclosure to you without prior approval of this office would not be appropriate. Accordingly, this response is directed at your requests to this office, the FBI and the Chief State's Attorney's Office.

To the extent you have requested publicly available documents, we have enclosed copies of the documents on the following list. In addition to the referenced memoranda there may also be transcripts of the sentencing proceedings which you may obtain from the Clerk's Office. The relevant public documents are:

US v. Joe Milo, 3:06cr38 (EBB) (Sentencing Memorandum)(Doc 29)
US v. Ianniello, 3:06cr161(EBB) (Plea Agreement and Sentencing Memorandum) (Docs 647 and 898)
US v. Caccavale, 3:06cr161 (EBB) (Sentencing Memorandum)(Doc 1064)
US v. Galante: 3:06cr161(EBB) (Superseding Indictment)(Doc 1010)

As we previously advised, pursuant to 28 C.F.R. § 16.22(d), a request for such information must be accompanied by a summary of the information sought and its relevance to the proceeding at issue. As requested, you have provided a further articulation of the nature of the proceeding where such information will be used, and the relevance of the requested information to that proceeding. As outlined below, the United States Attorney's Office can consider providing certain of the requested information if the committee first obtains appropriate Privacy Act consents. Further, as to certain other information, we must withhold providing it, even if consent was obtained under the Privacy Act, based on the law enforcement privilege.

In this regard, your September 6, 2007 letter articulated specific requests for information including the audiotape, other recording or transcript of the conversations referenced in paragraphs 10 and 11 of the May 30, 2007 arrest warrant affidavit between an "undercover federal agent" and Senator DeLuca. Under the applicable federal regulations one of the factors governing the release of information is whether disclosure would violate a statute. *See* 28 C.F.R. § 16.26(b)(1). One of the federal laws we must consider prior to making a disclosure is the Privacy Act, 5 U.S.C. § 552a. Senator DeLuca is an individual who is entitled to the protections afforded by the Privacy Act. If the Committee obtains the consent of Senator DeLuca under the Act, we can consider disclosing information, including documents, transcripts and audio recordings relating to him.

You also requested any documents, notes or other information relating to contacts between the FBI and the Waterbury Police Department or Police Chief Neil O'Leary that were generated during the course of the investigation of Senator DeLuca. While there are several documents responsive to this request their disclosure is also subject to the Privacy Act concerns noted above. If you obtain the consent of Police Chief O'Leary for Privacy Act purposes, we can consider providing to the Committee certain documents relevant to your request.

Finally, you have also requested copies of any documents or other information pertaining to or documenting an ongoing relationship and any interactions between Senator DeLuca and Businessman A as described in paragraphs 5 and 6 of the Arrest Warrant Affidavit. We are unable to provide you with such documents or other information since they have been compiled for law enforcement purposes and disclosure would interfere with an ongoing investigation and law enforcement proceedings.

As we advised in our previous letter any production or disclosure of information from the files of this office and the FBI will be subject to the restrictions set forth in 28 C.F.R. § 16.26(a)-(b), in order to safeguard any confidential, protected or sensitive information such as classified information, source information, sensitive investigative techniques, grand jury material, or information about or affecting any ongoing investigations or pending prosecutions.

Very truly yours,

KEVIN J. O'CONNOR
UNITED STATES ATTORNEY

/s/ John H. Durham

JOHN H. DURHAM
DEPUTY UNITED STATES ATTORNEY

cc: David M. Rhieu (w/o Enclosures)
Chief Division Counsel
Federal Bureau of Investigation

Kevin T. Kane (w/o Enclosures)
Chief State's Attorney

Craig Rabbe, Esq. (w/o Enclosures)

Neil O'Leary (w/o Enclosures)
Chief of Police
Waterbury Police Department

SENATE

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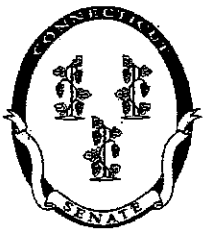


Members
Senator Donald J. DeFronzo
Senator Anthony Guglielmo
Senator William H. Nickerson
Senator Andrea L. Stillman

BIPARTISAN COMMITTEE OF REVIEW

September 6, 2007

Kevin O'Connor
U.S. Attorney's Office
157 Church Street, 23rd Floor
New Haven, CT 06510

Dear Attorney O'Connor:

This is in response to your letter dated August 31, 2007, wherein you request that we indicate the nature of the proceeding where the information we have requested will be used, as well as the relevance of such information to that proceeding. Since it appears your letter was sent on behalf of the Federal Bureau of Investigation (hereinafter the "FBI") as well, we address the requests for information in this letter to both your office and the FBI. Please let us know if a separate letter to the FBI is necessary.

With regard to the nature of our proceedings, we are co-chairs of the Senate Bipartisan Committee of Review (hereinafter the "Committee"), created by Senate Resolution 200, a copy of which we have attached. As stated in section 8 of the resolution, the Committee must recommend to the Senate the action we deem appropriate regarding Senator DeLuca, choosing between no action, reprimand, censure or expulsion from the Senate. To accomplish this task, the Committee has been charged in section 4 of the resolution with reviewing "all publicly available information about the events leading up to Senator Louis C. DeLuca's guilty plea on the misdemeanor charge of conspiracy to commit threatening in the second degree."

A key document in framing our initial requests for information is the attached May 30, 2007 Arrest Warrant Affidavit (hereinafter the "Affidavit"). Paragraphs 10 and 11 of the Affidavit describe two separate conversations between an "undercover federal agent" and Senator DeLuca, taking place on September 5 and 7, 2006, respectively. The Committee hereby requests from your office and the FBI a copy of any audiotape, other recording or transcript of such conversations and any related notes. This information is highly relevant to our proceedings.

Moreover, in paragraph 10 of the Affidavit, the affiant states that "during the course of the investigation, I have also learned that DeLuca has a close and confidential relationship with Businessman A, one that would explain why DeLuca would seek out Businessman A's assistance and why Businessman A would be willing to help DeLuca." We are assuming for the purposes of our proceedings that "Businessman A" is James Galante. The Committee hereby requests from your office and the FBI copies of any

documents or other information in your possession pertaining to or documenting an on-going relationship and any interactions between Senator DeLuca and James Galante, including, but not limited to, the interactions and meetings between them described in paragraphs 5 and 6 of the Affidavit. This information, too, is highly relevant to our proceedings.

The information requested in the above paragraph is relevant based on language included in paragraph 2 of the Affidavit, where the affiant states that:

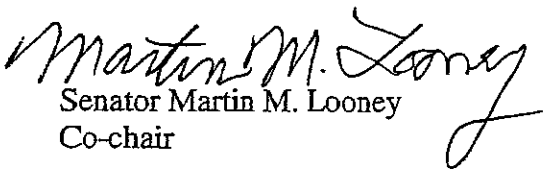
> "this affidavit sets forth facts and evidence that are relevant to the charge cited at the end of this affidavit, but does not set forth all the facts and evidence that I have gathered during the course of the investigation of this matter… [t]his affidavit does not purport to set forth all of the *relevant information* I have learned during the course of the investigation. Rather, I have set forth only those facts that I believe necessary to support the charge cited at the end of this affidavit."(Emphasis provided)

We also request from your office and the FBI any documents, notes, or other information relating or referring to contacts between the FBI and the Waterbury Police Department or Police Chief Neil O'Leary that were generated during the course of your investigation of Senator DeLuca.

Finally, we would find relevant any information provided by your office and/or the FBI to (1) the Office of the Chief States Attorney or (2) Chief State's Attorney Kevin T. Kane, as referenced in the attached September 5, 2007 letter from the chief state's attorney to the Committee. Please consider this letter a request for such information.

We hope this letter meets the requirements of 28 C.F.R. Section 16.21 *et seq*. We look forward to hearing from you, and would deeply appreciate the assistance of you, your office, and the FBI in this matter.

Sincerely,



Senator Martin M. Looney
Co-chair

Senator Andrew W. Roraback
Co-chair

cc: Senator Williams
Senator McKinney
Senator DeFronzo
Senator Guglielmo
Senator Nickerson
Senator Stillman
Senator DeLuca