

SEN. DAVID VITTER

David Vitter (R-LA) is a first-term senator from Louisiana. His ethics issues stem from his soliciting for prostitution.

Solicitation of Prostitution

On July 9, 2007, it was revealed that Sen. Vitter's telephone number was included in the so-called "D.C. Madam," Deborah Jeane Palfrey's, list of client telephone numbers.¹ Sen. Vitter confirmed that he had sought Ms. Palfrey's services, saying in a statement, "this was a very serious sin in my past for which I am, of course, completely responsible."²

Two other women also have alleged that Senator Vitter engaged the services of prostitutes.³ According to Jeanette Maier, the "Canal Street Madam," Senator Vitter visited a New Orleans, Louisiana brothel several times in the mid-1990s and a woman who worked as a prostitute in New Orleans under the name of Wendy Cortez has claimed that several years ago, Senator Vitter was a regular client of hers.⁴

District of Columbia and Louisiana Law

Under District of Columbia law, it is unlawful for any person to engage in prostitution or to solicit for prostitution.⁵ The penalties for violation of this section shall be a fine of \$500 or not more than 90 days imprisonment, or both, for the first offense, a fine of \$750 or not more than 135 days imprisonment, or both, for the second offense, and a fine of \$1,000 or not more than 180 days imprisonment, or both, for the third and each subsequent offense.⁶

Under Louisiana law, it is unlawful for any person to solicit, invite, induce, direct or transport a person to any place with the intention of promoting prostitution.⁷ The penalties for violations of this section include a fine of not more than \$500 and up to six months

¹ Carrie Budoff, 'D.C. Madam' List Includes Sen. Vitter, *The Politico*, July 10, 2007 (Exhibit 1).

² Id.

³ Kate Moran and Martha Carr, Madam: Vitter A Client At Canal Street Brothel, *The Times-Picayune*, July 10, 2007 (Exhibit 2); Kate Moran and Brendan McCarthy, Prostitute Describes Vitter Affair, *The Times-Picayune*, July 12, 2007 (Exhibit 3).

⁴ Id.; Moran and Carr, *The Times-Picayune*, July 10, 2007.

⁵ D.C. Code § 22-2701.

⁶ Id.

⁷ La. R.S. § 14.83.

imprisonment, or both.⁸ Section 54-242 of the New Orleans Code of Ordinance also prohibits soliciting for prostitutes.

Senate Rule Prohibiting Improper Conduct

The Senate Ethics Manual provides that “[c]ertain conduct has been deemed by the Senate in prior cases to be unethical and improper even though such conduct may not necessarily have violated any written law, or Senate rule or regulation”. Such conduct has been characterized as “improper conduct which may reflect upon the Senate.”⁹ This rule is intended to protect the integrity and reputation of the Senate as a whole.¹⁰ The Ethics Manual explains that “improper conduct” is given meaning by considering “generally accepted standards of conduct, the letter and spirit of laws and Rules . . .”¹¹

Whether or not Sen. Vitter is ultimately adjudicated to have broken any criminal laws, the Senate may still discipline him for improper conduct as it has other members in the past. For example, in 1797, Senator William Blount was expelled from the Senate for inciting Native Americans against the government, despite the fact that he had not committed a crime.¹² In 1929, the Senate condemned Senator Hiram Bingham for placing an employee of a trade association with a direct interest in pending legislation on the Senate payroll.¹³ In 1967, the Select Committee on Ethics investigated the first case of improper conduct involving Senator Thomas Dodd and the Senate censured him for converting campaign funds to personal use.¹⁴ In 1990, the Senate denounced Senator David Durenberger, in part, based on his financial arrangements in connection with a condominium he owned in Minneapolis and in 1991, Senator Alan Cranston was severely reprimanded for improperly linking fundraising and official

⁸ Id.

⁹ *Improper Conduct Reflecting Upon the Senate and General Principles of Public Service*, Senate Ethics Manual, Appendix E, p. 432 (108th Cong. 2003 ed.).

¹⁰ Id.

¹¹ Id. at 433; *see also* fn. 10 citing a 1964 investigation into the activities of Bobby Baker, then-Secretary to the Majority of the Senate, the Committee on Rules and Administration issued a report stating, “It is possible for anyone to follow the ‘letter of the law’ and avoid being indicted for a criminal act, but in the case of employees of the Senate, they are expected, and rightly so, to follow not only the ‘letter’ but also the ‘spirit’ of the law.” S. Rep. No. 1175, 88th Cong., 2d Sess. 5 (1964).

¹² Senate Ethics Manual at 433 (*citing In re Chapman*, 166 U.S. 661, 669-670 (1897)).

¹³ Senate Ethics Manual at 433.

¹⁴ Id. at 434.

activities.¹⁵ In 1995, the Committee recommended that Senator Bob Packwood be expelled for repeated sexual misconduct.¹⁶

By soliciting prostitutes on multiple occasions, Sen. Vitter, appears to have violated both District of Columbia and Louisiana laws. As a result the Select Committee on Ethics should investigate the matter and consider whether Sen. Vitter's conduct also violates the Senate rule prohibiting improper conduct which reflects upon the Senate.

The Select Committee on Ethics also has the option of criticizing Sen. Vitter's conduct. On some occasions, the Committee has stopped short of finding that alleged conduct was "improper conduct reflecting upon the Senate," but has found "that the conduct should not be condoned or should otherwise be criticized in a public statement by the Committee."¹⁷ For example, the Committee has found that: a senator's "interven[tion] with regulators gave the appearance of being improper and was attended with insensitivity and poor judgement," that a senator "exercised poor judgment in intervening with regulators," and that another senator conducted office business "in an inappropriate manner . . ."¹⁸ In 2002, the Committee severely admonished Senator Robert Torricelli for creating at least an appearance of impropriety by accepting gifts in violation of the Senate gift rules.¹⁹ Therefore, even if the Committee is not persuaded that Senator Vitter's conduct reaches the level of improper conduct, at the very least, the Committee should issue a public statement criticizing the Senator's conduct.

¹⁵ Id. at 434-35.

¹⁶ Id. at 435.

¹⁷ Senate Ethics Manual at 435.

¹⁸ Id., fn. 19.

¹⁹ Letter from Senate Select Committee on Ethics to Senator Robert Torricelli, July 30, 2002.