

FOR IMMEDIATE RELEASE
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New DOJ Policy on Attorney-Client Privilege Needs Legislation to make it Permanent

WASHINGTON, DC – The Coalition to Preserve Attorney Client Privilege released the following statement on the Justice Department's new policy on attorney-client privilege called "Principles of Federal Prosecution of Business Organization," dated August 28, 2008:

STATEMENT

"The new Department of Justice policy on attorney-client privilege and attorney work-product doctrine is a clear and substantive improvement over its current policy, but federal legislation is still needed to ensure a permanent and lasting solution to the problem of government-enforced waivers of privilege.

"The Justice Department's track record of five different policies in ten years cries out for a permanent legislative solution that cannot be revised at the whim of each new Deputy Attorney General. Congressional legislation will provide consistency and predictability and is the only vehicle that can clearly and definitively settle the issue of forced waivers once and for all.

"Legislation is also needed because, in the past, front line Department of Justice prosecutors have flouted Department guidelines and policies. The only way to insure compliance is to make the policy law.

"In addition, legislation is needed because the new DOJ policy does not address similar offending policies on privilege at other federal agencies, including the Securities and Exchange Commission (SEC), which often conducts parallel investigations to those at the Justice Department, and the U.S. Department of Housing and Urban Development (HUD), which requires all housing agencies to waive attorney-client privilege by contract in order to receive HUD funding.

"Last year the House of Representatives voted unanimously to pass the Attorney-Client Privilege Protection Act (H.R. 3013). The Senate should immediately pass a similar bill (S.3217) sponsored by Sen. Arlen Specter (R-PA) and cosponsored by:

Sen. Biden, Joseph R., Jr. [D-DE]

Sen. Carper, Thomas R. [D-DE]

Sen. Cochran, Thad [R-MS]

Sen. Cornyn, John [R-TX]

Sen. Dole, Elizabeth [R-NC]

Sen. Feinstein, Dianne [D-CA]

Sen. Graham, Lindsey [R-SC]

Sen. Johnson, Tim [D-SD]

Sen. Kerry, John F. [D-MA]

Sen. Landrieu, Mary L. [D-LA]

Sen. McCaskill, Claire [D-MO]

Sen. Pryor, Mark L. [D-AR]

Sen. Webb, Jim [D-VA]

“The Coalition to Preserve Attorney-Client Privilege is a uniquely broad and nonpartisan group of membership organizations with one thing in common: we are all deeply troubled by the corrosive effect that federal investigative and prosecutorial policies and practices have had on four fundamental elements of the American system of justice: the attorney-client privilege, the work product doctrine, and the Fifth and Sixth Amendments.”

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The Coalition to Preserve Attorney-Client Privilege members include the American Chemistry Council, American Civil Liberties Union, Association of Corporate Counsel, Business Civil Liberties, Inc., Business Roundtable, The Financial Services Roundtable, Frontiers of Freedom, Lawyers for Civil Justice, National Association of Criminal Defense Lawyers, National Association of Manufacturers, Retail Industry Leaders Association, and the U.S. Chamber of Commerce.