

U.S. SENATOR PATRICK LEAHY

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VERMONT

Comment Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
On Deputy Attorney General Filip's Letter
Regarding The Corporate Attorney-Client Privilege
July 9, 2008

I am pleased that the Department of Justice is conducting what appears to be a serious analysis of Department policy regarding requests for waiver of the corporate attorney-client privilege. The Department appears poised to make substantive changes to its policy. I have emphasized for years the importance of the attorney-client privilege and have said the Department must take all necessary steps to correct the abuses documented earlier in this Administration and to address lingering concerns.

Judge Filip's letter appears to be an encouraging development. The proposed policy would ensure that the Department will evaluate corporate cooperation based on the information provided, rather than whether or not a corporation waived the privilege; limits the types of privileged information that may be requested; and makes clear that the Department cannot consider whether a corporation covered employee legal expenses or sanctioned its employees.

While the policy is that of the Department of Justice, the documented instances of abuse were in cases handled by the Department, and it is, of course, the Department that takes the lead in prosecuting all criminal cases. It has always set the tone and the standard for investigations of corporate wrongdoing, and I look forward to the Department making real progress on this issue.

I will carefully study Judge Filip's suggestions and review thoroughly the promised policy memorandum when that is issued, which I trust and hope will be very soon. I will also consult with Senator Specter and other interested members of the Committee.

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