
Recent Dialog Between DOJ and Congress Suggests Changes to McNulty Memo are Coming

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At the July 9, 2008, oversight hearing of the Justice Department (DOJ) before the Senate Judiciary Committee, Attorney General Michael Mukasey indicated that the DOJ anticipates making several potentially significant changes to its policies contained in a DOJ memorandum governing federal investigations and prosecutions of companies (the McNulty Memo). The McNulty Memo (and predecessor memos) sets forth the DOJ's overall guidelines for making charging decisions in federal investigations of business organizations. The memo has been criticized for, among other things, encouraging the DOJ to take into account corporate privilege waivers, advancement of attorneys' fees, and the use of joint defense agreements when assessing whether a corporate defendant has cooperated in a government investigation. Senator Arlen Specter, Ranking Member of the Senate Judiciary Committee, proposed legislation in December 2006 to modify the McNulty Memo.

See our recent [Email Alert](#) for more on the recent hearing. See our [December 2006 Email Alert](#) for more on the McNulty Memorandum.