

Congress of the United States
Washington, DC 20515

January 10, 2008

The Honorable Michael B. Mukasey
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Mukasey:

We write to you today in regard to the Department of Justice policy on deferred prosecution agreements. As you know, attention to this issue was brought by the actions of U.S. Attorney Christopher Christie in which he selected his past superior, former Attorney General John Ashcroft, to serve as a federal monitor and collect fees reported to be in excess of \$52 million. Unfortunately, your office has yet to respond to a number of congressional letters of inquiry on this critical issue. It is our hope that you will take this current opportunity to respond to our inquiry and fully disclose information on the practice of deferred prosecution agreements to the House Judiciary Committee.

A report issued in *The New York Times* today reinforces a concern over the lack of real oversight and transparency of deferred prosecution agreements. These agreements, which directly affect billions of dollars in corporate business as well as the livelihoods of millions of Americans employed by these corporations, have been completely shielded from review by either the Legislative or Judicial branches of the government. Therefore, we were very interested to read in today's report that the Department of Justice is quietly conducting an internal inquiry into the Department's procedures for selecting outside monitors and that this inquiry is likely to result in formal guidelines over the selection of these monitors. While guidelines are clearly necessary, we would be troubled if the Department moved forward on this endeavor without any congressional input or examination and would concentrate on only one problematic aspect of deferred prosecution agreements. Clearly, these agreements suffer from a number of deficiencies. We need robust formal guidelines that spell out the parameters of deferred prosecution agreements and we call upon your office to work with Congress in crafting real protocols and shedding light upon the practice of deferred prosecution agreements.

Furthermore, the Department of Justice has seemingly released no information on deferred prosecution agreements to the public. In fact, no current guidelines exist for the release of any information to the public connected to these agreements. Today's report in *The New York Times* referenced a new study conducted by Lawrence D. Finder and Ryan D. McConnell, which found that the number of deferred prosecution agreements between the Department of Justice and corporations grew to 35 last year from just five in 2003, highlighting the explosive use of this hidden policy. We ask that you fully disclose to the House Judiciary Committee all information relating to these agreements dating back to January 20, 2003 when Deputy Attorney General Larry Thompson first issued a Department memorandum instructing federal prosecutors to seek deferred prosecution agreements. This disclosure of information should contain relevant data,

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including the specific nature of the crime, length of the agreement, the amount of fines levied, terms of the compliance agreement and any details relating to individuals selected to serve as federal monitors and the agreements reached between these monitors and corporations under these agreements. This disclosure of information is vital for Congress to obtain a clear understanding of deferred prosecution agreements and how they have been applied.

Currently, we are working in concert toward creating congressional oversight of deferred prosecution agreements, which includes the likelihood of hearings being held by the House Judiciary Committee. It is our hope that you will take this occasion to scrutinize the practice of deferred prosecution agreements instead of trying to shield this practice from congressional examination.

Please direct any questions to the staff at the House Judiciary Committee, 2138 Rayburn House Office Building, Washington, DC 20515 (tel: 202-225-3951; fax: 202-225-7680). Thank you for your cooperation, and we look forward to receiving your response by January 25th.

Sincerely,


John Conyers, Jr.
Chairman


Linda T. Sanchez
Chair, Subcommittee on Commercial and
Administrative Law


Bill Pascrell, Jr.
Member of Congress

cc: Hon. Lamar S. Smith
Hon. Chris Cannon
Hon. Brian Benzckowski