

MODEL CONCEPTS FOR APPROPRIATE GOVERNMENT

In order for our country and its governments (national, state, and local) to operate well and at their highest potential, it is imperative to maintain checks and balances, transparency, and accountability throughout the systems that exist. Proper principles help ensure that the process works well and stops power from centralizing in any one position, person, entity, or location.

Concept #3 **Transparency on Legal Advice**

Background

The “Government” has attorneys in various offices who provide legal advice on how to comply with existing laws, rules, or other obligations. This advice often forms the basis for how the government interprets and enforces the law. Understanding this advice is important for citizens and businesses to be able to know how to comply and follow the law.

As government is supposed to be by the people and for the people, it should openly share its views of existing laws and rules. Transparency in this area helps promote due process, justice, equality under the law, and accountability if government officials attempt to use the law for political purposes.

This would not extend to legal advice that is provided in response to actual litigation or an investigation of criminal activity or civil liability for breaking a law, as it is important for a government entity to be able to evaluate and respond to lawsuits or investigations with some confidentiality still in place.

However, for investigations that do not result in prosecution, the communications surrounding that decision should be made public to help ensure that bribes, kickbacks, donations, or other political favors did not influence the decision.

Model Concepts

- There should be no attorney/client privilege on legal advice provided by attorneys that advises a government entity or government officials on compliance obligations. All such legal advice should be made available publicly on the internet.
- Government attorney communications (emails and texts) should be segregated into compliance communications and litigation/investigation communications, with the compliance communications being public.

Believe

This Nation Shall Endure

- If a decision is made to not prosecute an individual or company that was investigated, all communications relating to the decision not to prosecute should be publicly available.
 - It would be appropriate to redact any identifying information of the person investigated if they are not charged. However, every victim should be able to obtain the full file associated with the investigation.