

HAITIAN AMIO - TRO/DISCOVERY DISCLOSURE ISSUES

Classified Material:

- 28 CFR 16.23 authorizes the disclosure of relevant unclassified material in a proceeding in which the United States is a party. If disclosure of the requested materials would reveal properly classified materials, then the attorney must refer the decision to the Deputy or Associate Attorney General, who is prohibited from disclosing the classified materials by 28 CFR 16.26(c).

- Under Section 4.1 of Executive Order 12356, classified information shall not be disseminated outside the executive branch except under conditions that ensure that the information has been given protection equivalent to that afforded within the executive branch.

Deliberative Process:

- In *NLRB v. Sears, Roebuck & Co.*, 421 U.S. at 151 the deliberative process protection was clearly laid out to "prevent injury to the quality of agency decisions."

Attorney Work Product

- The attorney work product privilege protects memoranda prepared by an attorney in contemplation of litigation which contains the attorney's theory of the case, and in *Hickman v. Taylor*, 329 U.S. 495, the Court drew special attention to the need for protecting against disclosure of memoranda prepared from oral interviews.

Attorney - Client:

Courts have traditionally protected the attorney-client relationship. In *Mead Data Central v. Department of the Air Force*, 566 F.2d at 252 the Court cited the need to protect "confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice."