

LEAHY AND GRASSLEY PROMISE TO STOP PUSSY-FOOTING ON OLC MEMO TRANSPARENCY

As Ryan Reilly demonstrated a few weeks ago, the Office of Legal Counsel refuses to release a list of all the memos they've written in the last four years.

In response to [a FOIA list for all OLC opinions written during the Obama Administration] the OLC sent a letter dated Feb. 20 and enclosed five mostly redacted lists from 2009, 2010, 2011, 2012 and the first month-and-a-half of 2013.

What's more interesting is what wasn't included: The office stated that it was withholding, in full, 11 lists of classified OLC opinions. Because the length of each list is unknown, it's unclear how many classified opinions the OLC has issued during the Obama administration.

[snip]

On the unclassified side, the OLC issued 28 legal memos in 2009, 19 in 2010, 12 in 2011, 16 in 2012 and one so far in 2013, for a total of 76 unclassified opinions.

The titles of many OLC opinions were fully redacted in the lists provided, with a Justice Department official writing that the titles were "protected by the deliberative process, attorney-client, and/or attorney work-product privileges." The names of the lawyers who wrote a number of opinions – including the memo on the president's use of recess appointments during the

Senate's pro forma sessions – were also blacked out because their disclosure would "constitute a clearly unwarranted invasion of personal privacy," the official wrote.

In a hearing on Sunshine week today, Patrick Leahy asked DOJ's Office of Information Policy, Melanie Pustay whether they could get a list of all OLC opinions still in action. Pustay dodged the answer, saying it wasn't her responsibility. Leahy complained that the Attorney General and President had previously dodged the responsibility themselves. He suggested he might subpoena the list, suggesting Chuck Grassley would be in support, too. Grassley not only endorsed Leahy's inclusion of him in this subpoena threat, but he said "We've been pussy-footing too long on this."

Yes indeed. Time to stop pussy-footing on understanding what secret interpretations of laws the government has adopted.