

# DOJ REFUSES TO EXPLAIN HOW EXECUTIVE GETS AWAY WITH SERIAL LIES TO THE FISA COURT

USA Today's Brad Heath asked DOJ a very good question: why haven't the Executive Branch's serial lies to the FISA Court ever been referred to Office of Professional Responsibility?

I've talked to a former OPR attorney who says the office would ordinarily review a case in which a judge used that type of language, and that it should have at least opened an inquiry into these.

Over the past several days, DOJ's Brian Fallon has been stupendously prickish about Heath's questions based on his assertion that Heath is biased in his belief that such gross misrepresentations would normally merit some kind of sanction.

I have an answer from OPR, and a FISC judge. I am not providing it to you because all you will do is *seek to write around it because you are biased in favor of the idea that an inquiry should have been launched. So I will save what I have for another outlet after you publish.*

[snip]

You are not actually open-minded to the idea of not writing the story. You are running it regardless. I have information that undercuts your premise, and would provide it if I thought you were able to be convinced that your story is off base. Instead, I think that

to provide it to you would just allow you to cover your bases, and factor it into a story you still plan to write. So I prefer to hold onto the information and use it after the fact, with a different outlet that is more objective about whether an OPR inquiry was appropriate.

I've lost count of the number of times someone in the Executive Branch complains that no one comes to them to get their view on NSA-related questions.

But apparently this is what goes on. If you don't come in with the Executive Branch's bias, then they refuse to provide you any information.

I really look forward to seeing which journalist DOJ seems to believe will bring "balance" to this issue.

Update: Heath has published his story.

The Justice Department's internal ethics watchdog says it never investigated repeated complaints by federal judges that the government had misled them about the NSA's secret surveillance of Americans' phone calls and Internet communications.

The Justice Department's Office of Professional Responsibility routinely probes judges' allegations that the department's lawyers may have violated ethics rules that prohibit attorneys from misleading courts. Still, OPR said in response to a Freedom of Information Act request by USA TODAY that it had no record of ever having investigated – or even being made aware of – the scathing and, at the time, classified, critiques from the Foreign Intelligence Surveillance Court between 2009 and 2011.

DOJ insists, however, that 5 years of lying to judges is just the way things are supposed to work.

Justice spokesman Brian Fallon said in a statement Thursday that the department's lawyers "did exactly what they should have done. The court's opinions and facts demonstrate that the department attorneys' representation before the court met the highest professional standards."

Fallon continued spinning for other journalists.

Of course, if DOJ were going to investigate lawyers – as opposed to Keith Alexander or similar – for misconduct and lies, Lisa Monaco, who headed the National Security Division from 2010 until earlier this year. But she's at the White House now, so off limits for any accountability.