

HOW DOJ PUT OFF CONFESSING TO THEIR PIXIE DUST

After folks noted this footnote from Steven Aftergood's request that the Office of Professional Responsibility look into the Pixie Dust* surrounding Executive Order 13292 and Dick Cheney's claims to be a Fourth Branch...

2 A copy of the OLC letter is attached, and may also be found online here: <http://www.fas.org/sgp/isoo/olc072007.pdf> . The July 20, 2007 letter did not become public until December 11, 2007 when it was published by Marcy Wheeler on her blog Empty Wheel (<http://emptywheel.firedoglake.com>). One day later, the document was released to me under the Freedom of Information Act by OLC.

...we got into a discussion of the chronology behind OLC's rather remarkable timing in their response to Aftergood. So I asked Aftergood for some clarification. This is what he said regarding the OLC's insta-FOIA response on December 12:

You published the doc on December 11, and I followed with this later that day. http://www.fas.org/blog/secretcy/2007/12/vice_presidents_office_is_not.html

OLC finally responded to my FOIA request by letter dated December 12. They never denied my request, but they certainly took their sweet time.

So apparently OLC noticed that Aftergood already had the document, so they finally decided they could give it to him. Nice to see they respect the FOIA process so thoroughly.

But I'm at least as interested in what went on before that. Aftergood explains:

I had been requesting DoJ and OLC responses to the January 2007 IS00 inquiry every 45 days or so since last March. And for a while they kept telling me there were no responsive documents. Finally in September, the Office of the Attorney General told me that they had a document (which turned out to be the Bradbury letter) but instead of releasing it, they forwarded it to OLC for processing. Three months later, after it was published on Empty Wheel, OLC decided to release it.

So Aftergood had asked for a response several times before OLC finally decided to finally let Bill Leonard know that the EO he had been enforcing for four years didn't mean what he understood it to mean. I presume, before that point, there was nothing responsive because DOJ was just blowing off Leonard's request entirely; when you blow off a civil servant entirely, it leaves no FOIA-able tracks. In September (after Alberto Gonzales' departure, of course) they admitted they had a document. But they continued to stall on giving Aftergood the document for three more months, until it got out through Leonard.

Do you get the feeling they don't really want us knowing about their little Pixie Dust games?

*Pixie Dust is the process by which, armed with an absurd ruling from OLC, the President doesn't have to change any Executive Orders he decides to ignore or violate, he can simply ignore or violate them, and it's the same, legally, as if he formally modified them.