

The Nunes Memo Needs More Work

But the FBI has been lying to the public for years

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The House Intelligence Committee [Memo](#) on possible FBI and Justice Department malfeasance relating mostly to the investigation of Donald Trump associate Carter Page is in some ways a bewildering document. As a former intelligence officer, the first thing I noticed was that the claim by Democrats on the Committee that the memo's release amounted to "treason" and would compromise classified information does not hold water. I could identify nothing in the memo that was even plausibly damaging to national security, though it might be argued that writing down anything about the activity and operation of the FISA court is ipso facto a compromise of secrets. It is a view that I would dispute because the memo does not actually expose any ongoing investigations or place in danger law enforcement officials. It is one of those fake security arguments that go something like "It is secret because it is secret."

The document is generally being referred to as the "Nunes Memo" after the name of the head of the House Intelligence Community, Devin Nunes, who ordered it drafted and who has been promoting its release. Having read the text through a number of times, it would appear to me that, in spite of Republican claims, it is somewhat less than a bombshell. It will need considerable elaboration to allow one to come to any real conclusions regarding whether sometimes sloppy FBI and DOJ procedures were either deliberate or driven by malice. It suggests that the Bureau may have been less than forthcoming in seeking a FISC ruling on Carter Page, who was at the time of the warrant not any longer a low-level associate of the Trump campaign, but there is no real hard evidence that the omission was deliberate and no compelling revelation of motive apart from the evidence that some senior officials and the author of the Steele Dossier did not like Donald Trump.

Even the evidence about the critically important Steele Dossier provided by the memo is somewhat ambiguous, particularly as the document suggests that Steele was a paid and fully controlled ["intelligence source"](#) of the Bureau and must have been acting under FBI direction. His meeting with a Legatt Officer in Rome at the insistence of the Bureau also suggests that he was cooperating without authorization from his former employer MI6, which could mean trouble down the road for Steele.

Beyond that there is some confusion. One source, FBI Deputy Director Andrew McCabe, said, but has since recanted, that the dossier was essential to the FISC request while another Assistant FBI Director Bill Priestap saying its allegations were in their "infancy" of being corroborated. That would seem to suggest that the Bureau deliberately used an unvetted Steele report of questionable provenance to make a case to surveil an American citizen under FISA, but is that really true? Indeed, it appears that the Democrats [will concede](#) that the dossier was used but it was only a "small and insignificant" part of the case. But if that

was not so and the Republican allegation is basically correct, it would be devastating as the dossier was, in FBI Director James Comey's judgment, "salacious." And we do not know, of course, what the Bureau had developed on Page independently, which is no doubt what its counter-offensive and that of the Democrats will also focus on, a response which, incidentally, could reveal actual secrets relating to intelligence sources and methods.

And then there is FISA itself and its court. It is a peculiar structure intended to protect the civil liberties of suspects suspected of being "foreign agents" by requiring the government to show cause for a surveillance, but it has morphed into a rubber stamp for investigation of anyone and nearly everyone who can plausibly be suspected of nearly anything. It has replaced the civil court standard of "probable cause" to initiate surveillance with nothing more than suspicion. It only hears one side of an argument, that provided by the FBI, and it approves over 99% of requests. The investigations that it authorizes are far more intrusive than in normal civil or criminal cases, to include nearly everything connected with an individual.

So, we are left with a bowl of porridge – the FBI might have, and probably did, frontload its request to the court to favor the action that it wanted to take, but isn't that normal procedure anyway? Is anyone expecting a police agency charged with finding and arresting bad guys and promoting its people on that basis to be objective? If one looks at the terrorism related convictions since 2001, it is clear that the Bureau will do whatever it takes to get a conviction, up to and including inserting informants who actually instigate the criminal activity, a practice known as entrapment. Even the FISA court is aware of FBI inventiveness. In 2002 [it identified](#) 75 false or misleading claims made by Bureau officers and some officials have been blocked from testifying before the court due to their having provided false witness.

FBI procedures and ambiguities aside, this is nevertheless serious business. If it can be determined that the omissions in submissions to the FISC were deliberate and calculated, the astute blogger [Publius Tacitus](#) has correctly observed that some senior FBI and DOJ officials who signed off on misleading or fraudulent applications concealing the antecedents of the so-called Steele Dossier to the FISC are now facing possible contempt-of-court charges that would include prison sentences. They include James Comey, Andrew McCabe, Sally Yates, Dana Boente and Rob Rosenstein.

So there is likely considerably more controversy to come, whether or not the Bureau can or cannot provide backstory that credibly challenges the Republican Intelligence Committee memo. But it is also intriguing to consider what is missing from the document. As it is focused on the FBI and DOJ, there is no speculation about the possible role of senior intelligence officials CIA Director John Brennan and Director of National Intelligence James Clapper. Michael Isikoff [reported](#) in September 2016 that the two men were involved in obtaining information on Page and it has [also been suggested](#) that Brennan sought and obtained raw intelligence from British, Polish, Dutch and Estonian intelligence services, which apparently was then passed on to the Bureau and might have motivated James Comey to proceed with his investigation of the Trump associates. One has to consider that Brennan and Clapper, drawing on intelligence resources and connections, might have helped the FBI build a fabricated case against Trump.

Senator John McCain, a highly vocal critic of Trump, might have also become involved, wittingly or unwittingly, in the project to feed derogatory information on the GOP president-

elect and his associates to the FBI. He reportedly [obtained a copy](#) of the Steele Dossier in December 2017 and passed it on to Comey, clearly intending that the FBI Director should take some action regarding it.

Indeed, there were many prominent voices raised demanding that something be done about Donald Trump. Eleven months ago, shortly after Trump took office, Colonel Lawrence Wilkerson, former Chief of Staff to Secretary of State Colin Powell, [speculated on](#) how he had been "...led to believe that maybe even the Democratic Party, whatever element of it, approached John Brennan at the CIA, maybe even the former president of the United States. And John Brennan, not wanting his fingerprints to be on anything, went to his colleague in London GCHQ, MI-6 and essentially said, 'Give me anything you've got.' And he got something and he turned it over to the DNC or someone like that. And what he got was GCHQ MI-6s tapes of conversations of the Trump administration perhaps, even the President himself. It's really kind of strange, at least to me, they let the head of that organization go, fired him about the same this was brewing up. So I'm not one to defend Trump, but in this case he might be right."

Wilkerson is referring to the highly unusual abrupt resignation of Robert Hannigan, the Director of Britain's version of the National Security Agency (NSA), referred to by the acronym GCHQ, which took place on January 23rd of last year. The British Official Secrets Act has meant that there was at that time little speculation in the U.K. media about the move, but some observers [have wondered](#) if it is somehow connected to possible collaboration with U.S. intelligence officers over Donald Trump. That remains an area of inquiry that has hardly been looked at, perhaps because the thought that the country's top national security agencies were involved in a something like a grand conspiracy to subvert an election is still something that Congress would prefer not to consider.

One truly very interesting aspect of the Republican memo that has been scarcely commented upon is that even though the mainstream media is continuing to exercise its [dangerous obsession with Russia](#) by demanding that the Russiagate inquiry should continue full speed in spite of the concerns raised by the Republicans, there is absolutely nothing in the memo itself that indicates that Moscow tried to recruit any Trump associate as an agent or interfere in the U.S. election. The *raison d'être* for the Congressional and Special Counsel Robert Mueller investigations appears to be lacking. Perhaps it is all sound and fury signifying nothing, but Russia might in reality have done little beyond the usual probing and nosing around that intelligence agencies routinely do. If the alleged Russiagate conspiracy is never actually demonstrated, which looks increasingly likely, it would certainly disappoint the many American talking heads and media "experts" who have been making a living off of bashing Moscow 24/7.

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