



U.S. HOUSE OF REPRESENTATIVES
PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

FISA MEMO: CHARGE AND RESPONSE

CHARGE: The Majority failed to comply with House and Committee Rules.

RESPONSE: All House and Committee rules were complied with and followed, as prescribed, from the requirement to notice a business meeting, to make available classified executive session material to the House, and to publically disclose the material. ⁱ

CHARGE: The memo is intended to undermine the Special Counsel’s ongoing Russia investigation.

RESPONSE: The memo has nothing to do with the Special Counsel’s investigation, and is intended to expose past abuses of the FISA process, namely Senior DOJ and FBI officials’ use of unverified opposition research. That research was financed by a presidential candidate, Hillary Clinton, and resulted in a surveillance warrant on an American citizen. Further, consistent with its bipartisan commitment not to impede any ongoing investigation, the Committee has not sought documents or information post-dating the appointment of the Special Counsel in May 2017.

CHARGE: The memo is intended to undermine DOJ and FBI.

RESPONSE: The memo is intended to hold some senior DOJ and FBI officials accountable for abuses of the FISA process, consistent with the Committee’s constitutional responsibilities. The Committee has not only the right, but the responsibility, to conduct rigorous oversight of potential abuses—including by making information publicly available—on behalf of the American people.

CHARGE: The memo is intended to undermine the men and women of DOJ and FBI.

RESPONSE: The memo is focused on abuses by a small number of senior leaders. The Committee’s fulfillment of its constitutional duty supports the hard working men and women

of law enforcement and the intelligence community by enabling effective, efficient and constitutional oversight of their agencies.

CHARGE: The memo unfairly targets government officials like Deputy Attorney General Rod Rosenstein and former FBI Deputy Director Andrew McCabe.

RESPONSE: This is patently false. The memo simply states that Deputy Attorney General Rosenstein and former FBI Deputy Director McCabe were among the senior DOJ and FBI officials who signed off on a FISA application that included, as a substantial and essential part, the DNC and Clinton campaign-funded Steele dossier.

CHARGE: The memo undermines recently-reauthorized FISA Section 702.

RESPONSE: The memo has nothing to do with Section 702, which targets foreigners located overseas. As specified in the memo, the FISA order authorizing surveillance on Carter Page was not obtained under Title VII.

CHARGE: DOJ and FBI did nothing wrong by using the Steele dossier in a FISA application.

RESPONSE: DOJ and FBI senior leaders had four separate opportunities, but failed each time, to adequately investigate or disclose to the Foreign Intelligence Surveillance Court (FISC) the role of the DNC and Clinton campaign as the funders and beneficiaries of the Steele dossier—even though its political origins were known to numerous senior DOJ and FBI officials.

Additionally, FBI's reliance on Steele's past credibility was misplaced, since he concealed from the FBI unauthorized media contacts with numerous outlets and his anti-Trump bias, which was known by a senior DOJ official.

CHARGE: The memo, and DOJ and FBI's use of the Steele dossier in a FISA application, are no big deal.

RESPONSE: It is important for the American people to judge the facts presented in the memo, which Members of the Committee and House assessed to be of substantial public interest. But it is simply astonishing that Democrats would argue the memo is insignificant given the extreme lengths they went to prevent its release.

CHARGE: The memo is nothing more than a collection of partisan talking points.

RESPONSE: The memo is the result of a nearly year long investigative effort by the Committee, including document review and witness interviews. As the public can see, it sets forth a series of facts uncovered by Committee investigators in the face of attempts efforts by

senior DOJ and FBI officials to stonewall the Committee's, and contains no partisan rhetoric or personal attacks.

CHARGE: The memo represents an irresponsible release of highly-sensitive classified information.

RESPONSE: The complaints from the left about Congress doing its job, and Democrats' sudden opposition to transparency, represent a hypocritical and partisan attempt to prevent the public from learning about the memo's contents. Contrary to unauthorized leaks of classified information so prevalent in Washington today, the memo's release occurred pursuant to the Committee's oversight function and a process laid out in House Rules that balances the public and national interests.

Some have falsely claimed that the memo contains "an immense amount of classified information." However, it was specifically crafted to exclude information that might damage national security and has now been declassified following an executive branch review.

This authorized, limited release of formerly classified information serves the public interest, and the only "source or method" specifically mentioned is Christopher Steele—who was terminated as an FBI source for unauthorized disclosures to the press.

CHARGE: It is irresponsible to release the memo over DOJ and FBI's objections.

RESPONSE: It is disappointing that senior officials at DOJ and FBI would continue to attempt to obstruct the Committee's efforts to share with the American people information related to surveillance abuses at these agencies. The Committee notes that both DOJ and FBI—along with other stakeholders—had an opportunity to provide input into the executive branch review process, which resulted in the President's decision to declassify the document in full.

CHARGE: DOJ and FBI had good reason to suspect Carter Page of being a Russian agent.

RESPONSE: While many unverified claims have been made by both Christopher Steele and Committee Democrats, the focus of the memo is not Carter Page. The focus of the memo is the Steele dossier—funded by the DNC and Clinton campaign, and described as "salacious and unverified" by former FBI Director Comey—that formed a substantial and essential part of a secret court application for a warrant on an American citizen.

CHARGE: According to FBI, there are "material omissions of fact that fundamentally impact the memo's accuracy."

RESPONSE: No one, including the FBI officials who reviewed the memo, has identified any factual errors, and the Committee encourages DOJ and FBI to make publicly available, to the

greatest extent possible, documents in those agencies' possession that would shed additional light on the abuses uncovered by the Committee. Also, the memo does not purport to be exhaustive: it is focused on DOJ and FBI's use of the DNC- and Clinton campaign-funded Steele dossier to obtain a warrant on an American citizen.

CHARGE: Most members have not reviewed the documents underlying the memo.

RESPONSE: As part of stonewalling the Committee's investigation, senior officials at DOJ and FBI initially placed burdensome and unreasonable restrictions on the Committee's access to documents responsive to its subpoenas. Chairman Nunes designated Chairman Gowdy, an experienced prosecutor and investigator, to lead the Committee's review. All Republican members participated in weekly briefings on the results of the Committee's investigative efforts, and the Committee does not believe there are—or should be—current restrictions on the Committee's access to this important information.

CHARGE: The memo's release violated an agreement with DOJ.

RESPONSE: DOJ and FBI placed no limits on disseminating the information made available to the Committee which—contrary to false claims—is not highly classified or limited to the so-called “Gang of 8.”

CHARGE: The Committee drafted the memo in coordination with the White House.

RESPONSE: This is patently false. No one outside the Committee played any role in drafting or compiling the memo. The Committee had no communications with the White House about the contents of the memo until after the Committee voted to make it publicly available, and it was transmitted to the President's representatives in accordance with House rules.

CHARGE: The memo was materially altered after the Committee's vote to make it public.

RESPONSE: The Committee's vote to release the memo was procedurally sound, and in accordance with House and Committee Rules. The version transmitted to the White House included minor edits, made before the Committee voted to make the memo public, to the version previously made available to all members of the House.

The minor edits included technical and grammatical changes, along with the deletion of one piece of information in response to FBI's last-minute suggestion—which was in accordance with national security protocols, but had no bearing on the memo's substance. The memo also includes a more precise characterization of the FISA application's use of a *Yahoo News* article, *in response to feedback from Committee Democrats*.

Complaints about these edits from Committee Democrats—none of whom voted to release any version of the memo—represent the latest example of the minority's consistent efforts to

obstruct the Committee's efforts to collect and share information about FISA abuses. The minority opposed all efforts to obtain the underlying documents, including issuing subpoenas for them in August 2017.

CHARGE: The Committee blocked release of the Democrats' memo.

RESPONSE: The Committee elected to follow the same process and timing for the Majority and Minority memos by first making each available for all members of the House to review. The Majority voted unanimously to make the Minority's memo available to all House members, even though all Democrats voted against making the Majority's memo similarly available.

The Committee is planning a business meeting next week to address the Minority's memo, and is soliciting feedback from Members of both parties who have reviewed it.

ⁱ Procedural History

On January 16, 2018, the Committee noticed a business meeting, pursuant to House Rule XI, clause (g)(3)(A)(ii), to consider the public release of executive session transcripts. Upon completion of the scheduled business, Representative Peter King sought time and moved that the Committee waive the notice requirement of House Rule XI, clause (g)(3)(A)(ii) in order to conduct additional business, pursuant to the authority granted in House Rule XI, clause (g)(3)(B)(ii). By a unanimous vote of the quorum present, the Committee waived the notice requirement to conduct additional business.

Representative King moved that, pursuant to Committee Rule 14(i), the Committee call to the attention of the House [classified executive session] matters requiring the attention of the House. The Committee, pursuant to House Rule XI, clause 2(g)(1), moved to closed session in order to debate the underlying motion because disclosure of matters to be considered would endanger national security. Upon completion of debate, the Committee voted on an amendment offered by Ranking Member Schiff. By a majority vote, the amendment offered by Ranking Member Schiff was rejected. The Committee then voted on the motion by Representative King to call to the attention of the House [classified executive session] matters requiring the attention of the House. By a majority vote, the motion was adopted and the classified executive session material was made available to the House.

On January 27, 2018, the Committee noticed a business meeting, pursuant to House Rule XI, clause (g)(3)(A)(ii), to consider pending committee business and other matters at the request of Ranking Member Schiff. Up to this point, over 200 Members of the House had reviewed the classified executive session material and there was a movement for the Committee to publicly release the material. Taking into consideration the feedback received from both the FBI and the Committee's Minority, technical, grammatical, and typographical corrections were made to the executive session material.

Prior to the commencement of the business meeting, Chairman Nunes received a letter, which was made available to all Members of the Committee, from Representative King requesting that the Committee, pursuant to House Rule X, clause 11(g), vote to make publicly available the classified executive session material, which had been previously disclosed to the House. In accordance with the meeting requirement of House Rule X, clause 11(g)(1)(A), Chairman Nunes entertained Representative King's request as an other matter, consistent with the Committee's notice. Prior to the vote on Representative King's motion, Chairman Nunes entertained two amendments offered by Ranking Member Schiff; both amendments were rejected by a majority vote of the Committee. Upon favorably voting, pursuant to House Rule X, clause 11(g), to make publicly available the classified executive session material, which had been previously disclosed to the House on January 18, 2018, the Committee, in accordance with House Rule X, clauses 11(g)(2)(A) and 11(g)(2)(B), transmitted notification to the President of the Committee's vote.