

**UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE COURT
WASHINGTON, D.C.**

U.S. FOREIGN
INTELLIGENCE
SURVEILLANCE COURT
2018 FEB 14 PM 2:13
LEEANN FLYNN HALL
CLERK OF COURT

IN RE ORDERS AND RECORDS OF THIS
COURT RELATED TO THE
SURVEILLANCE OF CARTER PAGE

No. Misc. 18-01

**SUPPLEMENTAL NOTICE OF THE PUBLIC RELEASE OF ADDITIONAL
DECLASSIFIED INFORMATION AND DEVELOPMENTS FURTHER SUPPORTING
PUBLICATION OF THE CARTER PAGE SURVEILLANCE RECORDS**

On February 6, 2018, Adam Goldman, Charlie Savage and The New York Times Company (“Movants”) moved this Court to order publication of its records relating to the surveillance of Carter Page.¹ Movants now respectfully submit this supplemental notice to bring to the Court’s attention two subsequent developments that have a direct bearing upon their pending motion and the public’s interest in disclosure of these materials.

First, on the same day Movants filed their motion, Republican Senators Chuck Grassley and Lindsey Graham, with the approval of the FBI, made public a less-redacted version of a criminal referral (“the Grassley-Graham Memo”) related to the Page wiretapping applications. It contains additional facts about the applications that the executive branch has chosen to declassify. The Grassley-Graham Memo also contains certain characterizations about the Page application materials that are disputed by other members of Congress who have access to the applications.

¹ The pending motion seeks all orders relating to surveillance of Carter Page together with the application materials and renewal application materials, with only such limited redactions as may be essential to preserve information that remains properly classified. By way of clarification, the warrant application materials sought by Movants include all related records, including but not limited to the transcripts of any hearings before this Court relating to the applications for surveillance of Carter Page.

Second, on February 9, 2018, President Trump refused to declassify a memorandum (the “Rebuttal Memo”) prepared by Democratic members of the House Permanent Select Committee on Intelligence (“HPSCI”). The Rebuttal Memo has been described as disputing certain claimed facts and characterizations of the applications for the surveillance orders portrayed in a memorandum authored under the direction of the HPSCI Chairman, Republican Senator Devin Nunes (the “Nunes Memo”).

Each of these developments provides further grounds for this Court to order publication of the Page surveillance orders and application materials under Foreign Intelligence Surveillance Court (“FISC”) Rule 62. The Grassley-Graham memo reveals previously classified information about the Page application materials, further eliminating the need to keep the application records secret in their entirety. And the release of the less-redacted Grassley-Graham memo, coupled with comments by Senator Dianne Feinstein and President Trump’s refusal to declassify the Rebuttal Memo, further heightens the public interest in the underlying records themselves. The public has a vital and immediate interest in knowing whether the executive branch deliberately misled the FISA Court to carry out unjustified surveillance of Carter Page in a scheme that was “worse than Watergate,” as some public officials have claimed,² or whether there were no abuses of the system, as other officials respond.³

² See, e.g., Representative Steve King (@SteveKingIA), Twitter (Jan. 20, 2018, 6:07 p.m.), <https://twitter.com/stevekingia/status/954898277723443200>.

³ See, e.g., Emily Tillett, *Rep. Adam Schiff: FBI Followed “Correct Procedures” On Carter Page Warrant*, CBS News: Face the Nation (Feb. 11, 2018), <https://www.cbsnews.com/news/adam-schiff-fbi-followed-proper-procedures-on-carter-page-warrant/>.

I. Disclosure Of Additional Disputed Claims About The Basis For The Carter Page Surveillance Orders Further Warrants Publication of This Court's Records

On January 4, 2018, Senator Grassley, the chairman of the Senate Judiciary Committee, and Senator Graham, the chairman of the Judiciary Committee's Subcommittee on Crime and Terrorism, referred Christopher Steele to FBI Director Christopher Wray and Deputy Attorney General Rod Rosenstein for investigation of potential violations of a federal statute that bars lying to federal agents, 18 U.S.C. § 1001. *See* Second Langford Decl. Ex. A. Steele is a retired British intelligence agent and the author of the so-called "Steele Dossier," which compiles unverified allegations by Steele's sources about links between Russia and President Donald Trump and his associates. As declassified in the Nunes Memo, information Steele provided to the F.B.I. was included in the applications for surveillance of Page. Decl. of John Langford ("First Langford Decl.") Ex. A at 5, *In re Orders and Records of This Court Related to the Surveillance of Carter Page*, No. Misc. 18-01 (Foreign Intel. Surv. Ct. Feb. 6, 2018).

In support of their criminal referral, Senators Grassley and Graham attached the Grassley-Graham Memo, an 8-page memorandum describing and analyzing information in the Page warrant application materials submitted to this Court. Second Langford Decl. Ex. A. Because both the existence of the Page orders and their contents were classified at the time of the criminal referral, portions of the Grassley-Graham Memo were classified and redacted when the referral was first announced.⁴

Upon release of the Nunes Memo, however, Senator Grassley wrote to Wray and Rosenstein to "formally demand a Mandatory Declassification Review" of the Grassley-Graham

⁴ *See* Letter from Sen. Charles Grassley, Chairman, Sen. Judiciary Comm., to Christopher A. Wray, Dir. Fed. Bureau of Investigation, & Hon. Rod J. Rosenstein, Deputy Att'y Gen. (Feb. 2, 2018), *available at* <https://www.grassley.senate.gov/news/news-releases/after-house-gop-memo-fbi-oks-release-unclassified-steele-referral>.

Memo.⁵ On February 6, 2018, with the approval of the executive branch, the senators released a less-redacted version of the Grassley-Graham Memo disclosing additional facts about the Page warrant applications.

Like the Nunes Memo, the Grassley-Graham Memo focuses on the use of information from Steele in the Page application materials. *See generally* Second Langford Decl. Ex. A. But the portrayal of the facts undergirding their respective arguments for why such inclusion was questionable differ in certain key respects.

For example, the Nunes Memo stresses that the Page application materials did not disclose to the Court that the Democratic National Committee and the Hillary Clinton campaign funded Steele's research. The Nunes Memo suggests that the judges who reviewed the applications containing this material were misled because they did not know the information had a politically motivated, rather than neutral, origin as they evaluated the material's credibility. First Langford Decl. Ex. A at 5. As a preliminary matter, when the Nunes Memo was made public, Representative Adam Schiff, the ranking Democrat on the HPSCI, cited this as one of several "serious mischaracterizations" of the Page application materials, saying: "The Majority suggests that the FBI failed to alert the court as to Mr. Steele's potential political motivations or the political motivations of those who hired him, but this is not accurate." Second Langford Decl. Ex. B at 3. That same day, another Democrat on the HPSCI, Representative Eric Swalwell, told CNN that "it was disclosed to the FISA court that part of the evidence was from a

⁵ Letter from Sen. Charles Grassley, Chairman, Sen. Judiciary Comm., to Christopher A. Wray, Dir. Fed. Bureau of Investigation, & Hon. Rod J. Rosenstein, Deputy Att'y Gen. (Feb. 2, 2018), *available at* <https://www.grassley.senate.gov/news/news-releases/after-house-gop-memo-fbi-oks-release-unclassified-steele-referral>.

politically motivated source.”⁶ Asked if Swalwell’s claim was true later that day in a Fox News interview, Representative Nunes said: “No. These guys tell so many lies you can’t keep track of them.”⁷ (Three days later, however, pressed again in another Fox News interview about reports that a footnote in the FISA application did alert judges that the Steele Dossier had political origins, Representative Nunes, without explicitly confirming that the FBI had notified the court of that context after all, portrayed “a footnote saying that something might be political” as insufficient.⁸)

While the Grassley-Graham Memo also stresses that this Court was not specifically told that the Democratic National Committee and the Clinton campaign were Steele’s clients, it appears to confirm that this Court *was* told that Steele’s research was politically funded. The Grassley-Graham Memo states that “the FBI noted to a vaguely limited extent the political origins of the dossier,” followed by a redaction related to the law firm that hired Fusion GPS, which in turn had hired Steele. Second Langford Decl. Ex. A at 5. In light of what has already been made public, unsealing and disclosing the portions of the Page application materials that discuss what, exactly, the Court was told about the motivation for Steele’s research would cause no conceivable harm to national security, but would bring clarity to a significant factual dispute.

The Grassley-Graham Memo also has now made public more information about the FISA application materials’ inclusion of a *Yahoo News* article about Carter Page, while simultaneously

⁶ Tim Hains, *Rep. Swalwell: Nunes Memo Misquotes McCabe's Statement About Steele Dossier/FISA Warrant*, RealClear Politics (Feb. 2, 2018), https://www.realclearpolitics.com/video/2018/02/02/rep_swalwell_nunes_memo_misquotes_mccabes_statement_about_steele_dossierfisa_warrant.html.

⁷ See Fox News, *Nunes Addresses the Release of the Memo and the Fallout* (Feb. 2, 2018), available at <https://www.youtube.com/watch?v=R9h1Lw-uQpM>.

⁸ See Fox News, *Devin Nunes Full One on One Interview with Fox and Friends* (Feb. 5, 2018), available at <https://www.youtube.com/watch?v=fHkTXAP7UbU>.

adding to the factual cloud around it. The Nunes Memo claims this article was improperly used by the FBI as corroboration of Steele's information, even though (as Steele later disclosed in a spring 2017 court filing in London), Steele was apparently a source for the article. First Langford Decl. Ex. A at 5–6. Notably, Schiff had deemed the claim that the FISA application used this article for the purpose of corroboration as another “serious mischaracterization[]” in the Nunes Memo. Second Langford Decl. Ex. B at 3–4. Even though the Grassley-Graham Memo focuses on this article with a skeptical eye, its critique is not that the FBI application purportedly used it as corroboration.

The Grassley-Graham Memo instead focuses on a newly declassified quotation from the FISA application in which the FBI said it “does not believe” that Mr. Steele “directly” gave his information about Mr. Page to the news outlet, a belief that the subsequent London court filing showed was apparently mistaken. Second Langford Decl. Ex. A at 6. The Grassley-Graham Memo presents this discrepancy as evidence that Mr. Steele lied to the FBI about his contacts with reporters, calling into question the FBI's assurance to the FISA Court that he had a record of providing credible information. *See id.* But the suggestion that Mr. Steele lied has been disputed by Senator Dianne Feinstein, who as the ranking Democrat on the Senate Judiciary Committee also had access to the underlying FISA warrant application materials. In response to the release of the less-redacted version of the Grassley-Graham Memo, Senator Feinstein noted that the Memo “fails to identify when, if ever, Mr. Steele was asked about and provided a materially false statement about his press contacts.” Second Langford Decl. Ex. C at 2.

The release of the underlying FISA application materials would help clear up (1) whether the *Yahoo News* article was presented to the FISA Court for the purpose of corroboration, or for some other purpose that would make its underlying sourcing less material, and (2) whether the

FBI told the FISA Court that in its October 1 meeting with Steele, he was asked about his contacts with reporters and affirmatively said he had not had any despite having provided information about Page to Yahoo News the previous month – or whether the FBI instead jumped to an erroneous assumption on its own, without any act by Steele that undermined his credibility.

Further, release of the less redacted Grassley-Graham Memo implicates an even more significant factual dispute: the relative volume and significance of the Steele information vis-à-vis unrelated evidence included in the applications put before this Court. The Nunes Memo focuses almost exclusively on the Steele information, which it portrays as “essential” to the initial application, while noting that the application also references George Papadopoulos. First Langford Decl. Ex. A at 5. The Grassley-Graham Memo also focuses almost exclusively on the Steele information, and states that the initial application was “largely based” on it. Second Langford Decl. Ex. A at 4. Democrats who have reviewed the application materials, however, have suggested that the Court was told many other things about Page specifically and Russia’s actions in general, and therefore the Memos’ emphasis on Steele is misleading. *See, e.g.*, Second Langford Decl. Ex. B at 3–4. Even if not every such detail can be revealed, release of redacted versions of the Page application materials would help demonstrate the relative volume of the Steele information to other material put before the Court.

These ongoing disputes over the facts surrounding the issuance of orders to surveil Carter Page are not some minor partisan squabble. They lie at the center of a highly consequential debate over the basis, motivation and propriety of the origins of the ongoing investigation into Russian involvement in the 2016 presidential election and links to the Trump presidential campaign, a probe which is now led by Special Counsel Robert Mueller. If, as Republicans allege, the FBI presented false information to the Court in order to surveil a Presidential

campaign, that would be a matter of overriding public concern. At a minimum, this dispute raises important questions about the effectiveness of the FISA Court's oversight and protections for citizen's Fourth Amendment rights. The public interest in laying bare the true facts—facts that can largely be determined from publication of this Court's records—is only intensified by the apparent contradictions between the Nunes Memo and the Grassley-Graham Memo, and the claims of omission and misrepresentation being advanced by Democrats who have seen the underlying application materials. Publication of the application materials and orders is clearly in the public interest.

In addition, the public dissemination via the Grassley-Graham Memo of additional, now-declassified details about the contents of the Page application material further warrants publication of this Court's orders and the application materials themselves. Between the Nunes Memo and the Grassley-Graham Memo, the public knows (1) the date when DOJ and FBI first applied for and received a warrant from this Court authorizing electronic surveillance of Carter Page; (2) at least some of the grounds on which the government sought the warrant, including verbatim quotes from the initial application; (3) the months when DOJ and FBI requested and received extensions from this Court to continue its surveillance of Carter Page; (4) at least some of the grounds on which the government sought those extensions, including verbatim quotes from those requests; and (5) the identities of the senior government officials who signed off on the applications. First Langford Decl. Ex. A at 4–7; Second Langford Decl. Ex. A at 3–10.

In this context, there is no longer a proper justification for this Court to maintain its Page orders and all related warrant application materials entirely under seal. Only with disclosure will the public be able to assess the competing narratives and allegations of wrongdoing, including claims that this Court was misled by the Department of Justice. *See, e.g.*, Langford Decl. Ex. A

at 3–10. Moreover, given the extent of information about those orders and applications made public by the President, the Nunes Memo, the Grassley-Graham Memo, and the FBI, release of the orders and materials with appropriate redactions should now be entirely feasible. *See In re Orders of this Court Interpreting Sec. 215 of the Patriot Act*, No. MISC. 13-02, 2013 WL 5460064, at *8 (Foreign Intel. Surv. Ct. Sept. 13, 2013).⁹

II. The President’s Refusal To Declassify The Democrats’ Rebuttal Memo Also Magnifies The Public Interest In Publication Of This Court’s Records

In response to the Nunes Memo, Democratic members of the HPSCI prepared a Rebuttal Memo that reportedly disputes key factual characterizations in the Nunes Memo.¹⁰ On February 5, 2018, the HPSCI voted unanimously to invoke House Rule X—the same process used to initiate the publication of the Nunes Memo—and publish the Rebuttal Memo.¹¹ Under Rule X, the President had five days to object to the Rebuttal Memo’s disclosure. On February 9, 2018, despite having cleared the release of the Nunes Memo, President Trump refused to declassify the Rebuttal Memo and objected to its release, citing concerns of the Department of Justice. Langford Decl. Ex. C. The President encouraged the HSPCI to propose publication of a revised version of the Rebuttal Memo with many facts removed to address the Department of Justice’s concerns. *Id.*

⁹ In addition, neither the existence of the Page orders and warrant applications nor information in the warrant applications detailed in the Nunes Memo and the Grassley-Graham Memo can properly remain classified. *See* Exec. Order 13,526, 75 Fed. Reg. 707, § 1.2(a)(3); *Wolf v. C.I.A.*, 473 F.3d 370, 378 (D.C. Cir. 2007).

¹⁰ Nicholas Fandos, *Committee Votes to Release Democratic Rebuttal to G.O.P. Russia Memo*, N.Y. Times (Feb. 5 2018), <https://www.nytimes.com/2018/02/05/us/politics/democratic-memo-adam-schiff-trump.html>.

¹¹ *Id.*

This refusal to disclose the Democratic rebuttal has set off another round of controversy, with accusations and counter-accusations about what actually occurred when the Page warrants were requested and obtained.¹² Disclosure of this Court’s orders and warrant application materials, including hearing transcripts, is now even more critical to inform the public debate and assure the public of the integrity of this Court’s decisions. *See* Mot. at 8–11; *In re Orders of this Court Interpreting Sec. 215 of the Patriot Act*, No. Misc. 13-02, 2013 WL 5460064, at *7 (Foreign Intel. Surv. Ct. Sept. 13, 2013). As Movants explained, publication would also assist legislators by enabling them to “represent[] their constituents and discharge[e] their legislative responsibilities.” *In re Orders of this Court Interpreting Sec. 215 of the Patriot Act*, 2013 WL 5460064, at *7.¹³

This controversy is a matter of obvious and legitimate public concern, involving accusations of abuse of power by high government officials. It is difficult to imagine a situation where the public interest could more clearly be served by publication of a specific warrant application under Rule 62.

CONCLUSION

For these reasons and the reasons presented in their initial motion papers, Movants respectfully request this Court to direct publication of its orders authorizing the electronic

¹² *See, e.g.*, Steven Nelson, *Adam Schiff: Trump Didn’t Release Democratic Memo Because Court Citations Undermine ‘Vindication’*, Wash. Examiner (Feb. 11, 2018), <http://www.washingtonexaminer.com/adam-schiff-trump-didnt-release-democratic-memo-because-court-citations-undermine-vindication/article/2648769>; Alex Ward, *Trump Decides Not to Release the Schiff Memo*, Vox (Feb. 9, 2018), <https://www.vox.com/2018/2/9/16991324/trump-schiff-memo-nunes-mcgnahn>.

¹³ *Cf.* Br. of Amici Curiae U.S. Representatives Amash et al., *In re Orders of this Court Interpreting Sec. 215 of the Patriot Act*, 2013 WL 5460064 (June 28, 2013) (explaining that open debate and Congress’s ability to inform the public freely and without restriction is critical to our democratic system and maintaining confidence in the government), *available at* <http://www.fisc.uscourts.gov/sites/default/files/Misc%2013-02%20Brief-1.pdf>.

surveillance of Carter Page, together with the government's initial warrant application and subsequent renewal applications and any related hearing transcripts, with only those limited redactions necessary to maintain the secrecy of still-non-public information the disclosure of which could reasonably be expected to harm the national security.

Dated: February 13, 2018

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¹⁴ This motion has been prepared in part by a clinic associated with the Abrams Institute for Freedom of Expression and the Information Society Project at Yale Law School, but does not purport to present the school's institutional views, if any.

CERTIFICATE OF SERVICE

I, John Langford, certify that on this day, February 13th, 2018, a copy of the foregoing brief was served on the following persons by the methods indicated:

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**UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE COURT
WASHINGTON, D.C.**

IN RE ORDERS AND RECORDS OF THIS
COURT RELATED TO THE
SURVEILLANCE OF CARTER PAGE

No. Misc. 18-01

SECOND DECLARATION OF JOHN LANGFORD

1. I am a supervising attorney at the Media Freedom and Information Access Clinic (“MFIA Clinic”), which represents Movants Adam Goldman, Charlie Savage, and The New York Times Company in this motion.

2. I am an attorney licensed to practice law in New York.

3. I submit this declaration in support of Movants’ motion for publication of court records.

4. Attached hereto as **Exhibit A** is a true and correct copy of the following publicly available criminal referral and cover letter: Memorandum from Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, & Lindsey O. Graham, Chairman, Subcommittee on Crime and Terrorism, U.S. Senate Committee on the Judiciary, to Hon. Rod J. Rosenstein, Deputy Attorney General, U.S. Department of Justice, & Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (Jan. 4, 2018), *available at* [https://www.judiciary.senate.gov/imo/media/doc/2018-0206%20CEG%20LG%20to%20DOJ%20FBI%20\(Unclassified%20Steele%20Referral\).pdf](https://www.judiciary.senate.gov/imo/media/doc/2018-0206%20CEG%20LG%20to%20DOJ%20FBI%20(Unclassified%20Steele%20Referral).pdf).

5. Attached hereto as **Exhibit B** is a true and correct copy of the following publicly available press release: *House Intelligence Committee Minority Response to Release of*

Chairman Nunes' Misleading Memo, U.S. House of Representatives Permanent Select Committee On Intelligence: Democrats (Feb. 2, 2018), <https://democrats-intelligence.house.gov/news/documentsingle.aspx?DocumentID=350>.

6. Attached hereto as **Exhibit C** is a true and correct copy of the following publicly available news release: Dianne Feinstein, *Analysis Refutes Criminal Referral of Christopher Steel*, U.S. Senate, Feb. 9, 2018, available at https://www.feinstein.senate.gov/public/_cache/files/0/9/09710d10-8885-4c05-9deed587fe0b7c0d/4E7F2E9D9626E9A02A76AC28640D0A01.steele-criminal-referral-analysis.pdf.

* * * * *

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of February, 2018, in New Haven, Connecticut.

By: /s/ John Langford
John Langford

EXHIBIT A



SENATOR CHARLES E. GRASSLEY
 SENATOR LINDSEY O. GRAHAM
 SENATOR CRYSTAL OVERTON
 SENATOR JOHN CORNYN
 SENATOR JEFF SESSIONS
 SENATOR MIKE LEE
 SENATOR TERRY ADAMS
 SENATOR DAVE PERDUE
 SENATOR PATRICK SCHUMER
 SENATOR CORY GARDNER
 SENATOR JOHN HUI
 SENATOR MARK WARREN
 SENATOR KYLE STARVO GALT
 SENATOR COLLEEN ROXAS
 SENATOR ROBERT CORKER
 SENATOR JAMES COOPER
 SENATOR JEFF FLAKE
 SENATOR DANIEL KAYE
 SENATOR JON HANSEN
 SENATOR MARY MARGARET WHELAN
 SENATOR JEFF SESSIONS
 SENATOR MIKE LEE
 SENATOR TERRY ADAMS
 SENATOR DAVE PERDUE
 SENATOR PATRICK SCHUMER
 SENATOR CORY GARDNER
 SENATOR JOHN HUI
 SENATOR MARK WARREN
 SENATOR KYLE STARVO GALT
 SENATOR COLLEEN ROXAS
 SENATOR ROBERT CORKER
 SENATOR JAMES COOPER
 SENATOR JEFF FLAKE
 SENATOR DANIEL KAYE
 SENATOR JON HANSEN
 SENATOR MARY MARGARET WHELAN

United States Senate

COMMITTEE ON THE JUDICIARY
 WASHINGTON, DC 20510-6275

January 4, 2018

VIA ELECTRONIC TRANSMISSION

The Honorable Rod J. Rosenstein
 Deputy Attorney General
 U.S. Department of Justice
 950 Pennsylvania Avenue, NW
 Washington, DC 20530

The Honorable Christopher A. Wray
 Director
 Federal Bureau of Investigation
 935 Pennsylvania Avenue, NW
 Washington, DC 20535

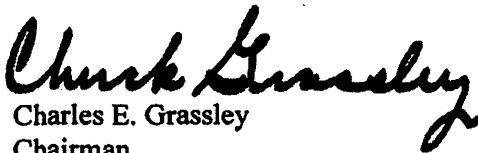
Dear Deputy Attorney General Rosenstein and Director Wray:

Attached please find a classified memorandum related to certain communications between Christopher Steele and multiple U.S. news outlets regarding the so-called "Trump dossier" that Mr. Steele compiled on behalf of Fusion GPS for the Clinton Campaign and the Democratic National Committee and also provided to the FBI.

Based on the information contained therein, we are respectfully referring Mr. Steele to you for investigation of potential violations of 18 U.S.C. § 1001, for statements the Committee has reason to believe Mr. Steele made regarding his distribution of information contained in the dossier.

Thank you for your prompt attention to this important matter. If you have any questions, please contact Patrick Davis or DeLisa Lay of Chairman Grassley's staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
 Chairman
 Committee on the Judiciary



Lindsey O. Graham
 Chairman
 Subcommittee on Crime and Terrorism
 Committee on the Judiciary

Enclosure: As stated.



cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

The Honorable Richard Burr
Chairman
Senate Select Committee on Intelligence

The Honorable Mark Warner
Vice Chairman
Senate Select Committee on Intelligence

The Honorable Devin Nunes
Chairman
House Permanent Select Committee on Intelligence

The Honorable Adam Schiff
Ranking Member
House Permanent Select Committee on Intelligence

[REDACTED]

MEMORANDUM

(U) FROM: Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary
Lindsey O. Graham, Chairman, Subcommittee on Crime and Terrorism,
U.S. Senate Committee on the Judiciary

TO: The Honorable Rod J. Rosenstein, Deputy Attorney General, U.S.
Department of Justice

The Honorable Christopher A. Wray, Director, Federal Bureau of
Investigation

RE: Referral of Christopher Steele for Potential Violation of 18 U.S.C. § 1001

(U) As you know, former British Intelligence Officer Christopher Steele was hired by the private firm Fusion GPS in June 2016 to gather information about “links between Russia and [then-presidential candidate] Donald Trump.”¹ Pursuant to that business arrangement, Mr. Steele prepared a series of documents styled as intelligence reports, some of which were later compiled into a “dossier” and published by *BuzzFeed* in January 2017.² On the face of the dossier, it appears that Mr. Steele gathered much of his information from Russian government sources inside Russia.³ According to the law firm Perkins Coie, Mr. Steele’s dossier-related efforts were funded through Fusion GPS by that law firm on behalf of the Democratic National Committee and the Clinton Campaign.⁴

(U) In response to reporting by the *Washington Post* about Mr. Steele’s relationship with the FBI relating to this partisan dossier project, the Judiciary Committee began raising a series of questions to the FBI and the Justice Department about these matters as part of the Committee’s constitutional oversight responsibilities.⁵

(U) The FBI has since provided the Committee access to classified documents relevant to the FBI’s relationship with Mr. Steele and whether the FBI relied on his dossier work. As explained in greater detail below, when information in those classified documents is evaluated in light of sworn statements by Mr. Steele in British litigation, it appears that either Mr. Steele lied to the FBI or the British court, or that the classified documents reviewed by the Committee contain materially false statements.

¹ (U) *Defence, Gubarev et. Al v. Orbis Business Intelligence Limited and Christopher Steele*, Claim No. HQ17D00413, Queen’s Bench (Apr. 4, 2017), para. 9 [Hereinafter “Steele Statement 1”] [Attachment A].

² (U) *Id.* at para. 10; Ken Bensinger, Miriam Elder, and Mark Schoofs, *These Reports Allege Trump Has Deep Ties to Russia*, BUZZFRED (Jan. 10, 2017).

³ (U) *Id.*

⁴ (U) Adam Entous, Devlin Barrett and Rosalind S. Helderman, *Clinton Campaign, DNC Paid for Research that Led to Russia Dossier*, THE WASHINGTON POST (Oct. 24, 2017).

⁵ (U) Tom Hamburger and Rosalind S. Helderman, *FBI Once Planned to Pay Former British Spy who Authored Controversial Trump Dossier*, THE WASHINGTON POST (Feb. 28, 2017).

[REDACTED]

[REDACTED]

(U) In response to the Committee's inquiries, the Chairman and Ranking Member received a briefing on March 15, 2017, from then-Director James B. Comey, Jr.

[REDACTED] That briefing addressed the Russia investigation, the FBI's relationship with Mr. Steele, and the FBI's reliance on Mr. Steele's dossier in two applications it filed for surveillance under the Foreign Intelligence Surveillance Act (FISA). Then, on March 17, 2017, the Chairman and Ranking Member were provided copies of the two relevant FISA applications, which requested authority to conduct surveillance of Carter Page. Both relied heavily on Mr. Steele's dossier claims, and both applications were granted by the Foreign Intelligence Surveillance Court (FISC). In December of 2017, the Chairman, Ranking Member, and Subcommittee Chairman Graham were allowed to review a total of four FISA applications relying on the dossier to seek surveillance of Mr. Carter Page, as well as numerous other FBI documents relating to Mr. Steele.

[REDACTED] In the March 2017 briefing with then-Director Comey, he stated that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(U) Similarly, in June 2017, former FBI Director Comey testified publicly before the Senate Select Committee on Intelligence that he had briefed President-Elect Trump on the dossier allegations in January 2017, which Mr. Comey described as "salacious" and "unverified."⁶

[REDACTED] When asked at the March 2017 briefing why the FBI relied on the dossier in the FISA applications absent meaningful corroboration—and in light of the highly political motives surrounding its creation—then-Director Comey stated that the FBI included the dossier allegations about Carter Page in the FISA applications because Mr. Steele himself was considered reliable due to his past work with the Bureau.

[REDACTED] Indeed, the documents we have reviewed show that the FBI took important investigative steps largely based on Mr. Steele's information—and relying heavily on his credibility. Specifically, on October 21, 2016, the FBI filed its first warrant application under FISA for Carter Page. [REDACTED]

[REDACTED] The bulk of the application consists of allegations against Page that were disclosed to the FBI by Mr. Steele and are also outlined in the Steele dossier. The application appears to contain no additional information corroborating the dossier allegations against Mr. Page, although it does cite to a news article that appears to be sourced to Mr. Steele's dossier as well.

⁶ (U) Statement of James B. Comey, Jr., Hearing of the U.S. Sen. Select Comm. on Intelligence (June 8, 2017).

[REDACTED]

[REDACTED] The FBI discussed the reliability of this unverified information provided by Mr. Steele in footnotes 8 and 18 of the FISA warrant application. First, the FBI noted to a vaguely limited extent the political origins of the dossier. In footnote 8 the FBI stated that the dossier information was compiled pursuant to the direction of a law firm who had hired an “identified U.S. person”—now known as Glenn Simpson of Fusion GPS— [REDACTED]

[REDACTED] The application failed to disclose that the identities of Mr. Simpson’s ultimate clients were the Clinton campaign and the DNC.

[REDACTED] The FBI stated to the FISC that “based on [Steele’s] previous reporting history with the FBI, whereby [Steele] provided reliable information to the FBI, the FBI believes [Steele’s] reporting to be credible.” In short, it appears the FBI relied on admittedly uncorroborated information, funded by and obtained for Secretary Clinton’s presidential campaign, in order to conduct surveillance of an associate of the opposing presidential candidate. It did so based on Mr. Steele’s personal credibility and presumably having faith in his process of obtaining the information.

(U) But there is substantial evidence suggesting that Mr. Steele materially misled the FBI about a key aspect of his dossier efforts, one which bears on his credibility.

[REDACTED]

[REDACTED] Yet the FISA applications note the existence of a news article dated September 23, 2016, which in particular contained some of the same dossier information about Mr. Page compiled by Mr. Steele and on which the FBI relied in its application. While not explicitly stated, this is presumably the article by Michael Isikoff of *Yahoo News*, titled “U.S. Intel Officials Probe Ties Between Trump Adviser and Kremlin.” [REDACTED]

[REDACTED], the application attempts to explain away the inconsistency between Mr. Steele’s assertion to the FBI and the existence of the article, apparently to shield Mr. Steele’s credibility on which it still relied for the renewal request. The application to the FISC said: “Given that the information contained in the September 23rd news article generally matches the information about Page that [Steele] discovered doing his/her research, [REDACTED] [REDACTED] [REDACTED]

⁷ [REDACTED] The FBI has failed to provide the Committee the 1023s documenting all of Mr. Steele’s statements to the FBI, so the Committee is relying on the accuracy of the FBI’s representation to the FISC regarding those statements.

[REDACTED]

[REDACTED] *The FBI does not believe* that [Steele] directly provided this information to the press” (emphasis added).

[REDACTED] In footnote 9 of its January 2017 application to renew the FISA warrant for Mr. Page, the FBI again addressed Mr. Steele’s credibility. At that time, the FBI noted that it had suspended its relationship with Mr. Steele in October 2016 because of Steele’s “unauthorized disclosure of information to the press.” The FBI relayed that Steele had been bothered by the FBI’s notification to Congress in October 2016 about the reopening of the Clinton investigation, and as a result “[Steele] independently and against the prior admonishment from the FBI to speak only with the FBI on this matter, released the reporting discussed herein [dossier allegations against Page] to an identified news organization.” However, the FBI continued to cite to Mr. Steele’s past work as evidence of his reliability, and stated that “the incident that led to the FBI suspending its relationship with [Mr. Steele] occurred after [Mr. Steele] provided” the FBI with the dossier information described in the application. The FBI further asserted in footnote 19 that it did not believe that Steele directly gave information to *Yahoo News* that “published the September 23 News Article.”

[REDACTED] So, as documented in the FISA renewals, the FBI still seemed to believe Mr. Steele’s earlier claim that he had only provided the dossier information to the FBI and Fusion—and not to the media—prior to his October media contact that resulted in the FBI suspending the relationship. Accordingly, the FBI still deemed the information he provided prior to the October disclosure to be reliable. After all, the FBI already believed Mr. Steele was reliable, he had previously told the FBI he had not shared the information with the press – and lying to the FBI is a crime. In defending Mr. Steele’s credibility to the FISC, the FBI had posited an innocuous explanation for the September 23 article, based on the assumption that Mr. Steele had told the FBI the truth about his press contacts. The FBI then vouched for him twice more, using the same rationale, in subsequent renewal applications filed with the Foreign Intelligence Surveillance Court in April and June 2017.

(U) However, public reports, court filings, and information obtained by the Committee during witness interviews in the course of its ongoing investigation indicate that Mr. Steele not only provided dossier information to the FBI, but also to numerous media organizations prior to the end of his relationship with the FBI in October 2016.⁸

(U) In Steele’s sworn court filings in litigation in London, he admitted that he “gave off the record briefings to a small number of journalists about the pre-election memoranda [*i.e.*, the dossier] in late summer/autumn 2016.”⁹ In another sworn filing in that case, Mr. Steele further

⁸ (U) See Steele Statement 1; Defendants’ Response to Claimants’ Request for Further Information Pursuant to CPR Part 18, *Gubarev et. Al v. Orbis Business Intelligence Limited and Christopher Steele*, Claim No. HQ17D00413, Queen’s Bench (May 18, 2017), [Hereinafter “Steele Statement 2”] [Attachment B]; Tom Hamburger and Rosalind S. Helderman, *FBI Once Planned to Pay Former British Spy who Authored Controversial Trump Dossier*, THE WASHINGTON POST (Feb. 28, 2017); Simpson Transcript, on File with Sen. Comm. on the Judiciary.

⁹ (U) Steele Statement 1 at para. 32.

[REDACTED]

stated that journalists from “the New York Times, the Washington Post, Yahoo News, the New Yorker, and CNN” were “briefed at the end of September 2016 by [Steele] and Fusion at Fusion’s instruction.”¹⁰ The filing further states that Mr. Steele “subsequently participated in further meetings at Fusion’s instruction with Fusion and the New York Times, the Washington Post, and Yahoo News, which took place mid-October 2016.”¹¹ According to these court filings, “[t]he briefings involved the disclosure of limited intelligence regarding indications of Russian interference in the US election process and the possible co-ordination of members of Trump’s campaign team and Russian government officials.”¹² In his interview with the Committee, Glenn Simpson of Fusion GPS confirmed this account by Mr. Steele and his company as filed in the British court.¹³

[REDACTED] The first of these filings was publicly reported in the U.S. media in April of 2017, yet the FBI did not subsequently disclose to the FISC this evidence suggesting that Mr. Steele had lied to the FBI. Instead the application still relied primarily on his credibility prior to the October media incident.

[REDACTED] The FBI received similar information from a Justice Department official, Bruce Ohr, who maintained contacts with Mr. Simpson and Mr. Steele about their dossier work, and whose wife also worked for Fusion GPS on the Russia project. [REDACTED]

[REDACTED]

[REDACTED] He also noted in the same interview that Mr. Steele was “desperate” to see that Mr. Trump was not elected president.¹⁶ None of the information provided by Mr. Ohr in his interviews with the FBI was included in the FISA renewal applications, despite its relevance to whether Mr. Steele had lied to the FBI about his contacts with the media as well as its broader relevance to his credibility and his stated political motive.

¹⁰ (U) Steele Statement 2 at para. 18. (emphasis added).

¹¹ [REDACTED] *Id.* The filing also apparently described the media contact that resulted in the FBI’s suspension of its relationship with Mr. Steele, stating: “In addition, and again at Fusion’s instruction, in late October 2016 the Second Defendant briefed a journalist from Mother Jones by Skype.”

¹² (U) *Id.*

¹³ (U) Simpson Transcript, On File with the Sen. Comm. on the Judiciary at 205-07.

¹⁴ [REDACTED] Ohr FD-302 (Nov. 22, 2016).

¹⁵ [REDACTED] Ohr FD-302 (Dec. 12, 2016).

¹⁶ [REDACTED] Ohr FD-302 (Nov. 22, 2016).

[REDACTED]

[REDACTED]

Whether Mr. Steele lied to the FBI about his media contacts is relevant for at least two reasons. First, it is relevant to his credibility as a source, particularly given the lack of corroboration for his claims, at least at the time they were included in the FISA applications. Second, it is relevant to the reliability of his information-gathering efforts.

(U) Mr. Steele conducted his work for Fusion GPS compiling the “pre-election memoranda” “[b]etween June and early November 2016.”¹⁷ In the British litigation, Mr. Steele acknowledged briefing journalists about the dossier memoranda “in late summer/autumn 2016.”¹⁸ Unsurprisingly, during the summer of 2016, reports of at least some of the dossier allegations began circulating among reporters and people involved in Russian issues.¹⁹ Mr. Steele also admitted in the British litigation to briefing journalists from the *Washington Post*, *Yahoo News*, the *New Yorker*, and *CNN* in September of 2016.²⁰ Simply put, the more people who contemporaneously knew that Mr. Steele was compiling his dossier, the more likely it was vulnerable to manipulation. In fact, in the British litigation, which involves a post-election dossier memorandum, Mr. Steele admitted that he received and included in it *unsolicited*—and *unverified*—allegations.²¹ That filing implies that he similarly received *unsolicited intelligence* on these matters prior to the election as well, stating that Mr. Steele “*continued to receive unsolicited intelligence* on the matters covered by the pre-election memoranda after the US Presidential election.”²²

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(U) One memorandum by Mr. Steele that was not published by *Buzzfeed* is dated October 19, 2016. The report alleges [REDACTED], as well as [REDACTED]. Mr. Steele’s memorandum states that his company “received this report from [REDACTED] US State Department,” that the report was the second in a series, and that the report was information that came from a foreign sub-source who “is in touch with [REDACTED], a contact of [REDACTED], a friend of the Clintons, who passed it to [REDACTED].” It is troubling enough that the Clinton Campaign funded Mr. Steele’s work, but that these Clinton associates were contemporaneously feeding Mr. Steele allegations raises additional concerns about his credibility.

¹⁷ (U) Steele Statement 1 at para. 9.

¹⁸ (U) Steele Statement 1 at para. 32

¹⁹ (U) Ahkmetshin Transcript, On File with the Sen. Comm. on the Judiciary (Mr. Ahkmetshin informed the Committee that he began hearing from journalists about the dossier before it was published, and thought it was the summer of 2016).

²⁰ (U) Steele Statement 2 at para. 18 (emphasis added).

²¹ (U) Steele Statement 1 at para. 18 and 20c.

²² (U) *Id.*; see Steele Statement 2 at 4 (“Such intelligence was not actively sought, it was merely received.”)

[REDACTED]

[REDACTED]

[REDACTED] Simply put, Mr. Steele told the FBI he had not shared the Carter Page dossier information beyond his client and the FBI. The Department repeated that claim to the FISC. Yet Mr. Steele acknowledged in sworn filings that he did brief *Yahoo News* and other media organizations about the dossier around the time of the publication of the *Yahoo News* article that seems to be based on the dossier.

(U) On September 23, 2016, *Yahoo News* published its article entitled “U.S. Intel Officials Probe Ties Between Trump Adviser and Kremlin.”²³ That article described claims about meetings between Carter Page and Russians, including Igor Sechin. Mr. Sechin is described in the article as “a longtime Putin associate and former Russian deputy prime minister” under sanction by the Treasury Department in response to Russia’s actions in the Ukraine.²⁴ The article attributes the information to “a well-placed Western intelligence source,” who reportedly said that “[a]t their alleged meeting, Sechin raised the issue of the lifting of sanctions with Page.”²⁵ This information also appears in multiple “memoranda” that make up the dossier.²⁶

(U) In sum, around the same time *Yahoo News* published its article containing dossier information about Carter Page, *Mr. Steele and Fusion GPS* had briefed *Yahoo News* and other news outlets about information contained in the dossier.

[REDACTED] These facts appear to directly contradict the FBI’s assertions in its initial application for the Page FISA warrant, as well as subsequent renewal applications. The FBI repeatedly represented to the court that Mr. Steele told the FBI he did *not* have unauthorized contacts with the press about the dossier prior to October 2016. The FISA applications make these claims specifically in the context of the September 2016 *Yahoo News* article. But Mr. Steele has admitted—publicly before a court of law—that he *did* have such contacts with the press at this time, and his former business partner Mr. Simpson has confirmed it to the Committee. Thus, the FISA applications are either materially false in claiming that Mr. Steele said he did not provide dossier information to the press prior to October 2016, or Mr. Steele made materially false statements to the FBI when he claimed he only provided the dossier information to his business partner and the FBI.

[REDACTED] In this case, Mr. Steele’s apparent deception seems to have posed significant, material consequences on the FBI’s investigative decisions and representations to the court. Mr. Steele’s information formed a significant portion of the FBI’s warrant application, and the FISA application relied more heavily on Steele’s credibility than on any independent verification or corroboration for his claims. Thus the basis for the warrant authorizing surveillance on a U.S. citizen rests largely on Mr. Steele’s credibility. The Department of Justice has a responsibility to

²³ (U) Michael Isikoff, *U.S. Intel Officials Probe Ties Between Trump Adviser and Kremlin*, YAHOO NEWS (Sept. 23, 2016).

²⁴ (U) *Id.*

²⁵ (U) *Id.*

²⁶ (U) Bensinger *et. al.*, BUZZFEED.

[REDACTED]

determine whether Mr. Steele provided false information to the FBI and whether the FBI's representations to the court were in error.

(U) Accordingly, we are referring Christopher Steele to the Department of Justice for investigation of potential violation(s) of 18 U.S.C. § 1001.

EXHIBIT B


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House Intelligence Committee Minority Response to Release of Chairman Nunes' Misleading Memo

Washington, February 2, 2018 | 0 comments

Washington, DC – Today, the Minority of the House Permanent Select Committee on Intelligence responded to the release of HPSCI Chairman Nunes' memo:

"Chairman Nunes' decision, supported by House Speaker Ryan and Republican Members of the House Permanent Select Committee on Intelligence, to publicly release misleading allegations against the Department of Justice and Federal Bureau of Investigation is a shameful effort to discredit these institutions, undermine the Special Counsel's ongoing investigation, and undercut congressional probes. Furthermore, their refusal to allow release of a comprehensive response memorandum prepared by Committee Democrats is a transparent effort to suppress the full truth.

"As the DOJ emphasized to Chairman Nunes, the decision to employ an obscure and never before used House rule to release classified information without DOJ and FBI vetting was 'extraordinarily reckless.' The selective release and politicization of classified information sets a terrible precedent and will do long-term damage to the Intelligence Community and our law enforcement agencies. If potential intelligence sources know that their identities might be compromised when political winds arise, those sources of vital information will simply dry up, at great cost to our national security.

"The Republican document mischaracterizes highly sensitive classified information that few Members of Congress have seen, and which Chairman Nunes himself chose not to review. It fails to provide vital context and information contained in DOJ's FISA application and renewals, and ignores why and how the FBI initiated, and the Special Counsel has continued, its counterintelligence investigation into Russia's election interference and links to the Trump campaign. The sole purpose of the Republican document is to circle the wagons around the White House and insulate the President. Tellingly, when asked whether the Republican staff who wrote the memo had coordinated its drafting with the White House, the Chairman refused to answer.

"The premise of the Nunes memo is that the FBI and DOJ corruptly sought a FISA warrant on a former Trump campaign foreign policy adviser, Carter Page, and deliberately misled the court as part of a systematic abuse of the FISA process. As the Minority memo makes clear, none of this is true. The FBI had good reason to be concerned about Carter Page and would have been derelict in its responsibility to protect the country had it not sought a FISA warrant.

"In order to understand the context in which the FBI sought a FISA warrant for Carter Page, it is necessary to understand how the investigation began, what other information the FBI had about Russia's efforts to interfere with our election, and what the FBI knew about Carter Page prior to making application to the court – including Carter Page's previous interactions with Russian intelligence operatives. This is set out in the Democratic response which the GOP so far refuses to make public.

"The authors of the GOP memo would like the country to believe that the investigation began with Christopher Steele and the dossier, and if they can just discredit Mr. Steele, they can make the whole investigation go away regardless of the Russians' interference in our election or the role of the Trump campaign in that interference. This ignores the inconvenient fact that the investigation did not begin with, or arise from Christopher Steele or the dossier, and that the investigation would persist on the basis of wholly independent evidence had Christopher Steele never entered the picture.

"The DOJ appropriately provided the court with a comprehensive explanation of Russia's election interference, including evidence that Russian agents courted another Trump campaign foreign policy adviser, George Papadopoulos. As we know from Papadopoulos' guilty plea, Russian agents disclosed to Papadopoulos their possession of stolen Clinton emails and interest in a relationship with the campaign. In claiming that there is 'no evidence of any cooperation or conspiracy between Page and Papadopoulos,' the Majority deliberately misstates the reason why DOJ specifically explained Russia's role in courting Papadopoulos and the context in which to evaluate Russian approaches to Page.

"The Majority suggests that the FBI failed to alert the court as to Mr. Steele's potential political motivations or the political motivations of those who hired him, but this is not accurate. The GOP memo also claims that a Yahoo News article was used to corroborate Steele, but this is not at all

why the article was referenced. These are but a few of the serious mischaracterizations of the FISA application. There are many more set out in the Democratic response, which we will again be seeking a vote to release publicly on Monday, February 5th. Unlike Committee Republicans, however, we will ask the relevant agencies to propose any necessary redactions to protect any sources and methods not already disclosed by Chairman Nunes' document.

"It is telling that Chairman Nunes put out this memo without bothering to read the underlying materials, and that he ordered changes to the document without informing his own committee members. It is a terrible lapse in leadership that Speaker Ryan failed to intervene and prevent the abuse of classified materials in this way. It is tragic, if all too predictable, that this President would allow the release of the memo despite FBI and DOJ's expressions of 'grave concerns about material omissions of fact that fundamentally impact the [Republicans] memo's accuracy'. But most destructive of all may be the announcement by Chairman Nunes that he has placed the FBI and DOJ under investigation, impugning and impairing the work of the dedicated professionals trying to keep our country safe."

The memo and letter from the White House can be found here.

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EXHIBIT C



For Immediate Release
February 9, 2018

Analysis Refutes Criminal Referral of Christopher Steele

Washington—Senate Judiciary Committee Ranking Member Dianne Feinstein (D-Calif.) today released a minority view analysis on behalf of all Judiciary Committee Democrats of the Christopher Steele criminal referral sent last month by Senators Chuck Grassley (R-Iowa) and Lindsey Graham (R-S.C.). A classified memo that accompanied the criminal referral was declassified this week.

“The criminal referral of Christopher Steele has nothing to do with accountability,” Feinstein said. **“Clearly its goals included undermining the FBI and Special Counsel Mueller’s investigation, attacking Christopher Steele and deflecting attention from collusion and obstruction of justice investigations.”**

“Not a single revelation in the Steele dossier has been refuted. Unfortunately, the claims in the criminal referral rely on classified information, so it’s difficult to fully repudiate them here. However, as much as possible using unclassified information, the following points lay out the flaws in the criminal referral.”

The following analysis rebuts a series of claims in the Grassley-Graham criminal referral:

- 1. The criminal referral is not based on any allegation that Steele lied or misrepresented facts about Carter Page or what is included in the Steele dossier.** In fact, neither provide any evidence that any of the information in Steele’s dossier is wrong. Instead, *the referral is limited to a single baseless allegation: that Steele lied about his contacts with the press.*
- 2. The criminal referral omits key facts.** The Department of Justice has provided documents regarding its interactions with Mr. Steele to the Judiciary Committee both before *and after* the criminal referral was made. Despite this, the Majority did not modify the criminal referral and pressed forward with its original claims, which do not take into account the additional information provided after the initial January 4 referral.

Instead of providing a comprehensive analysis, the criminal referral selectively focuses on some facts while omitting others.

For example, the criminal referral includes incomplete and misleading allegations regarding an October 19, 2016, report that Mr. Steele received from a “friend of the Clintons.”¹

The criminal referral alleges that Mr. Steele was using this additional reporting from “the Clinton friend” as the basis for his own work – implying there was no independent investigative work done by Steele. The criminal referral fails to address the fact that 14 of the 17 memos in the Steele dossier published by BuzzFeed were created by Mr. Steele before this October 19 report. It would have been impossible for Mr. Steele to include information that he received in an October 19 report from “a friend of the Clintons” in his 14 earlier reports, which date back to June 20, 2016.

3. **The criminal referral fails to make a case that Christopher Steele lied to the FBI.** The referral states that “it appears that either Mr. Steele lied to the FBI or the British court, or that the classified documents reviewed by the Committee contain materially false statements.”² These allegations are made regarding Mr. Steele’s interactions *with the press* and whether he lied about those interactions to the FBI.

18 U.S.C. § 1001, the legal authority cited by the criminal referral, provides that: “[W]hoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully makes any materially false, fictitious, or fraudulent statement or representation” shall be punished accordingly.

- Importantly, the criminal referral fails to identify when, if ever, Mr. Steele was asked about and provided a materially false statement about his press contacts.
- Tellingly, it also fails to explain any circumstances which would have required Mr. Steele to seek the FBI’s permission to speak to the press or to disclose if he had done so.

Rather, the criminal referral cites occasions where Mr. Steele spoke to the press at the end of September 2016. Specifically, it focuses on a *Yahoo News* article written by Michael Isikoff.

If Mr. Steele had been asked by the FBI about his contacts with Mr. Isikoff for this September article, and if he had spoken with this reporter, then he should have disclosed that fact.³ But the criminal referral provides no evidence that Steele was ever asked about the Isikoff article, or if asked that he lied.

¹ Memorandum from Hon. Charles E. Grassley and Hon. Lindsey O. Graham to Hon. Rod J. Rosenstein, Deputy Attorney General, U.S. Department of Justice, Jan. 4, 2018, at 6 (hereinafter “Grassley/Graham Memo”).

² Grassley/Graham Memo, at 1.

³ *United States v. Worthington*, 822 F.2d 315, 310 (2d Cir.), cert. denied, 484 U.S. 944 (1987) (A false or fictitious statement or representation is an assertion that is untrue when made or when used, and that is known by the person making it to be untrue); see also *United States v. Anderson*, 579 F.2d 455 (8th Cir.), cert. denied, 439 U.S. 980 (1978); *United States v. Race*, 632 F.2d 1114 (4th Cir. 1980) (If a defendant’s statement, or the government’s question requiring an

It is also important to note, that in October 2016, the FBI learned that Mr. Steele had disclosed “his relationship with the FBI” to a reporter, David Corn.⁴ Because of this, the FBI then suspended its relationship with Mr. Steele and informed the FISA court of these developments in its renewal requests.⁵

- The FBI made clear, however, that it still considered Steele’s reporting to be reliable regardless of his contacts with the press.⁶
- The FISA court granted three renewals after having been informed of Steele’s contacts with the press.⁷

4. **Christopher Steele is a respected and reliable expert on Russia.** He served more than 20 years as an intelligence officer with the British intelligence service MI6, and worked in Moscow under diplomatic cover from 1990 to 1993.⁸ Mr. Steele has a history of providing useful information that has assisted law enforcement in criminal investigations.

For example, in 2010, Mr. Steele gave information to the FBI that led to indictments of several officials from the International Federation of Association Football (FIFA) and the termination of the organization’s president, Sepp Blatter.⁹ Citing U.S. officials, Reuters noted that Steele’s work on the FIFA matter “lent credence to his reporting on Trump’s entanglements in Russia.”¹⁰

Reports also indicate that between 2013 and 2016, Steele collaborated successfully with the FBI’s Eurasian Joint Organized Crime Squad on Russia- and Ukraine-related matters.¹¹ According to the Washington Post, “Steele was known for the quality of his past work and for the knowledge he had developed over nearly 20 years working on Russia-related issues for British intelligence.”¹²

5. **Mr. Steele came forward voluntarily out of concern for U.S. national security.** In early July 2016, Mr. Steele shared with the FBI what he viewed as alarming information about Russian interference in the 2016 election and a potentially compromised candidate.¹³

answer, is ambiguous, it is incumbent on the government to negate any reasonable interpretation that could make the defendant’s statement factually correct).

⁴Memorandum from HPSCI Majority Staff to HPSCI Majority Members, “Foreign Intelligence Surveillance Act Abuses at the Department of Justice and the Federal Bureau of Investigation,” Jan. 18, 2018, at 2 (hereinafter “Nunes Memo”).

⁵ Nunes Memo, Jan. 18, 2018, at 2-3; Grassley/Graham Memo, at 4.

⁶ Grassley/Graham Memo, at 4.

⁷ Grassley/Graham Memo, at 4; Nunes Memo, Jan. 18, 2018, at 1.

⁸ Vanity Fair, “How Ex-Spy Christopher Steele Compiled His Explosive Trump-Russia Dossier,” Apr. 2017; see also The Guardian, “How Trump walked into Putin’s web,” Nov. 15, 2017.

⁹ Washington Post, “The British spy behind the Trump dossier helped the FBI bust FIFA,” Jan. 13, 2017.

¹⁰ Reuters, “Former MI6 spy known to U.S. agencies is author of reports on Trump in Russia,” Jan. 12, 2017.

¹¹ Business Insider, “Congressional and FBI investigators are homing in on the Trump-Russia dossier,” Oct. 5, 2017.

¹² Washington Post, “FBI once planned to pay former British spy who authored controversial Trump dossier,” Feb. 28, 2017.

¹³ Senate Judiciary Committee Interview of Glenn Simpson, Aug. 22, 2017, at 159, 164-65, 167.

Specifically, Mr. Simpson testified under oath to the House Permanent Select Committee on Intelligence that Mr. Steele said, *“I’m a former intelligence officer, and we’re your closest ally. You know, I have obligations, professional obligations. If there’s a national security emergency or possible national security issue, I should report it.”* ... *“And I [Simpson] said: ‘So you’re telling me that you think this is serious enough that it needs to be reported to law enforcement, and that you’re confident enough in your sources, it’s your professional judgment and your professional obligation, that you should report this to the FBI?’ And he [Steele] said, ‘Yes.’”*¹⁴

6. **The criminal referral contains no new information.** All the information in the criminal referral was already available to the FBI and the Department of Justice.
 - In fact, the referral relies on publicly available information and information that was provided to Congress from DOJ and the FBI.
7. **The facts about Carter Page are not disputed.** As has been widely reported, the FBI was aware of Page’s extensive connections to Russia several years before he joined the Trump campaign. In fact, the FBI determined in 2013 that Russian intelligence operatives had been attempting to recruit him and warned Mr. Page about this.¹⁵ That same year, Mr. Page reportedly described himself as an “informal advisor to the staff of the Kremlin.”¹⁶ Page continued to cultivate Russian investments and business¹⁷ – something that the FBI believed could be used by Russia to cultivate him as a source.¹⁸

On March 21, 2016, then-candidate Donald Trump named Page to his foreign policy team.¹⁹ In July 2016, and with the approval of Campaign Manager Corey Lewandowski, Mr. Page traveled to Moscow to speak at the New Economic School.²⁰ During his trip, Mr. Page emailed the Trump campaign about “some incredible insights and outreach I’ve received from a few Russian legislators and senior members of the Presidential Administration here.”²¹

That same month, Mr. Steele reported that Russia and the Trump campaign “had a mutual interest in defeating Democratic presidential candidate HILLARY CLINTON, whom President PUTIN apparently both hated and feared.” Mr. Steele reported that Trump campaign chairman Paul Manafort was using “foreign policy advisor, Carter PAGE, and others as intermediaries” between the campaign and Russia and that Mr.

¹⁴ HPSCI Interview of Glenn Simpson, Nov. 14, 2017, at 60-61.

¹⁵ New York Times, “Russian Spies Tried to Recruit Carter Page Before He Advised Trump,” Apr. 4, 2017.

¹⁶ Time, “Carter Page Touted Kremlin Contacts in 2013 Letter,” Feb. 4, 2018.

¹⁷ Bloomberg, “Trump’s New Russia Adviser Has Deep Ties to Kremlin’s Gazprom,” Mar. 30, 2016.

¹⁸ Complaint at 13, U.S. v. Evgeny Buryakov, CA No. 15-cr-00073 (filed Jan. 23, 2015).

¹⁹ Washington Post, “A transcript of Donald Trump’s meeting with the Washington Post editorial board,” Mar. 21, 2016.

²⁰ HPSCI Interview of Carter Page, Nov. 2, 2017, at 19; see also Politico, “Trump campaign approved adviser’s trip to Moscow,” Mar. 7, 2017.

²¹ HPSCI Interview of Carter Page, Nov. 2, 2017, at 40.

Page had meetings with Rosneft CEO Igor Sechin and Presidential Administration official Igor Divyekin.²²

During his testimony before the House Intelligence Committee, Mr. Page denied meeting with Mr. Sechin or Mr. Divyekin. He did admit, however, that he met with Russia's Deputy Prime Minister, Arkady Dvorkovich.²³ He also admitted meeting with Andrey Baranov – a close associate of Mr. Sechin.²⁴ And, in December 2016, after the election, Mr. Page went back to Moscow and again met with high-ranking Russian officials, including Deputy Prime Minister Arkady Dvorkovich and Rosneft executive Andrey Baranov.²⁵

None of these facts are disputed in the Grassley-Graham criminal referral.

CONCLUSION

In June 2016, Mr. Steele began uncovering information indicating that Russia was interfering in the U.S. presidential election, and that the Trump campaign might be assisting Russia in its efforts.²⁶ Under any circumstances, the right thing to do would be to go to law enforcement and turn over this information. And that is exactly what Mr. Steele did.

Steele's reporting was deemed reliable by the FBI. The FISA court granted three renewals of the FISA warrant on Carter Page after learning of Mr. Steele's contacts with the press, a fact that did not cause the FBI to question the reliability of his underlying reporting.

The President's decision to declassify and release the Nunes memo has confirmed that the Russia investigation started because of another Trump campaign foreign policy advisor – George Papadopoulos – who was told in April that Russia had “dirt” on Clinton in the form of thousands of emails.²⁷ Unlike Mr. Steele, Mr. Papadopoulos did not affirmatively share what he had learned with the FBI.

This Committee should dedicate its resources and attention to getting to the bottom of exactly what Russia did during the 2016 election and who was involved – not attacking voluntary sources and the nation's leading law enforcement agencies.

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²² Company Intelligence Reports, 2016/094 and 2016/095, July 2016; Senate Judiciary Committee Interview of Glenn Simpson, at 235-36.

²³ HPSCI Interview of Carter Page, Nov. 2, 2017, at 12.

²⁴ *Id.* at 105.

²⁵ *Id.* at 119.

²⁶ Company Intelligence Reports, June 20, 2016 through Dec. 13, 2016.

²⁷ Nunes Memo, Jan. 18, 2018, at 4.