THE WHITE HOUSE
WASHINGTON

The Honorable Devin Nunes
Chairman, House Permanent Select Committee on Intelligence
United States Capitol
Washington, DC 20515

Dear Mr. Chairman:

On January 29, 2018, the House Permanent Select Committee on Intelligence (hereinafter "the Committee") voted to disclose publicly a memorandum containing classified information provided to the Committee in cormection with its oversight activities (the "Memorandum," which is attached to this letter). As provided by clause 11(g) of Rule X of the House of Representatives, the Committee has forwarded this Memorandum to the President based on its determination that the release of the Memorandum would serve the public interest.

The Constitution vests the President with the authority to protect national security secrets from disclosure. As the Supreme Court has recognized, it is the President's responsibility to classify, declassify, and control access to information bearing on our intelligence sources and methods and national defense. See, e. g., Dep 't of Navy v. Egan, 484 U.S. 518, 527 (1988). In order to facilitate appropriate congressional oversight, the Executive Branch may entrust classified information to the appropriate committees of Congress, as it has done in connection with the Committee's oversight activities here. The Executive Branch does so on the assumption that the Committee will responsibly protect such classified information, consistent with the laws of the United States.

The Committee has now determined that the release of the Memorandum would be appropriate.

The Executive Branch, across Administrations of both parties, has worked to accommodate congressional requests to declassify specific materials in the public interest However, public release of classified information by unilateral action of the Legislative Branch is extremely rare and raises significant separation of powers concerns. Accordingly, the Committee's request to release the Memorandum is interpreted as a request for declassification pursuant to the President's authority.

The President understands that the protection of our national security represents his highest obligation. Accordingly, he has directed lawyers and national security staff to assess the declassification request, consistent with established standards governing the handling of classified information, including those under Section 3.1(d) of Executive Order 13526. Those standards permit declassification when the public interest in disclosure outweighs any need to protect the information. The White House review process also included input from the Office of the Director of National Intelligence and the Department of Justice. Consistent with this review and these standards, the President has determined that declassification of the Memorandum is appropriate.

Based on this assessment and in light of the significant public interest in the memorandum, the President has authorized the declassification of the Memorandum. To be clear, the Memorandum reflects the judgments of its congressional authors. The President understands that oversight concerning matters related to the Memorandum may be continuing. Though the circumstances leading to the declassification through this process are extraordinary, the Executive Branch stands ready to work with Congress to accommodate oversight requests consistent with applicable standards and processes, including the need to protect intelligence sources and methods.

THE WHITE HOUSE
WASHINGTON

Der Ehrenwerte Devin Nunes
Vorsitzender, Haus Permanent Select Ausschuss für Nachrichtendienst
Kapitol der Vereinigten Staaten
Washington, DC 20515

Sehr geehrter Herr Vorsitzender:

Am 29. Januar 2018 beschloss das Ständige Ausschusskomitee für Intelligence (im Folgenden "der Ausschuss") des Repräsentantenhauses, ein Memorandum mit Verschlusssachen zu veröffentlichen, die dem Ausschuss im Zusammenhang mit seinen Aufsichtstätigkeiten (das "Memorandum," welches diesem Brief zur Verfügung gestellt wurde). Wie in Artikel 9 Absatz 2 Buchstabe g des Repräsentantenhauses vorgesehen, hat der Ausschuss dieses Memorandum dem Präsidenten aufgrund seiner Feststellung übermittelt, dass die Veröffentlichung des Memorandums dem öffentlichen Interesse dienen würde.
Die Verfassung verleiht dem Präsidenten die Befugnis, Geheimnisse der nationalen Sicherheit vor der Offenlegung zu schützen. Wie der Oberste Gerichtshof anerkannt hat, obliegt es dem Präsidenten, den Zugang zu Informationen über unsere nachrichtendienstlichen Quellen und Methoden und die nationale Verteidigung zu klassifizieren, zu deklassieren und zu kontrollieren. Siehe z.B. Dep 't von Navy v. Egan, 484, U.S. 518, 527 (1988). Um eine angemessene Aufsicht durch den Kongress zu ermöglichen, kann die Exekutive den zuständigen Ausschüssen des Kongresses Verschlusssachen anvertrauen, wie dies im Zusammenhang mit den Aufsichtsaktivitäten des Ausschusses hier geschehen ist. Die Exekutive geht davon aus, dass der Ausschuss im Einklang mit den Gesetzen der Vereinigten Staaten verantwortungsvoll mit solchen Verschlusssachen umgehen wird.

Der Ausschuss hat nun festgestellt, dass die Veröffentlichung des Memorandums angemessen wäre.

Die Exekutive, über die Verwaltungen beider Parteien hinweg, hat sich an die Forderungen des Kongresses gehalten, bestimmte Materialien im öffentlichen Interesse zu deklassieren. Die öffentliche Freigabe von Verschlusssachen durch einseitige Maßnahmen der Legislative ist jedoch äußerst selten und wirft erhebliche Bedenken hinsichtlich der Gewaltenteilung auf. Dementsprechend wird der Antrag des Ausschusses, das Memorandum zu veröffentlichen, als Antrag auf Aufhebung der Klassifikation gemäß der Autorität des Präsidenten interpretiert.
Der Präsident versteht, dass der Schutz unserer nationalen Sicherheit seine höchste Verpflichtung darstellt. Dementsprechend hat er Rechtsanwälte und Mitarbeiter der nationalen Sicherheit angewiesen, den Antrag auf Deklassierung im Einklang mit den für den Umgang mit Verschlusssachen geltenden Standards zu prüfen, einschließlich derjenigen in Abschnitt 3.1 (d) der Durchführungsverordnung 13526. Diese Standards erlauben eine Freigabe, wenn das öffentliche Interesse an der Offenlegung besteht überwiegt die Notwendigkeit, die Informationen zu schützen. Der Überprüfungsprozess im Weißen Haus beinhaltete auch Beiträge des Büros des Direktors für nationale Nachrichtendienste und des Justizministeriums. Im Einklang mit dieser Überprüfung und diesen Standards hat der Präsident entschieden, dass die Deklassierung des Memorandums angemessen ist.
Auf der Grundlage dieser Bewertung und angesichts des großen öffentlichen Interesses an dem Memorandum hat der Präsident die Freigabe des Memorandums genehmigt. Um es klarzustellen, das Memorandum spiegelt die Urteile seiner Kongressautoren wider. Der Präsident hat Verständnis dafür, dass die Überwachung der Angelegenheiten im Zusammenhang mit dem Memorandum fortgesetzt werden kann. Obwohl die Umstände, die zu einer Deklassifizierung dieses Prozesses geführt haben, außergewöhnlich sind, ist die Exekutive bereit, mit dem Kongress

zusammenzuarbeiten, um Aufsichtsanforderungen in Übereinstimmung mit anwendbaren Standards und Prozessen zu erfüllen, einschließlich der Notwendigkeit, Quellen und Methoden zu schützen.

Foreign Intelligence Surveillance Act Abuses at the Department of Justice and the Federal Bureau of Investigation

Declassified by order of the President
February 2, 2018

Purpose

This memorandum provides Members an update on significant facts relating to the Committee's ongoing investigation into the Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) and their use of the Foreign Intelligence Surveillance Act (FISA) during the 2016 presidential election cycle. Our findings, which are detailed below, 1) raise concerns with the legitimacy and legality of certain DOJ and FBI interactions with the Foreign Intelligence Surveillance Court (FISC), and 2) represent a troubling breakdown of legal processes established to protect the American people from abuses related to the FISA process.

Investigation Update

- On October 21, 2016, DOJ and FBI sought and received a FISA probable cause order (g under Title VII) authorizing electronic surveillance on Carter Page from the FISC. Page is a U.S. citizen who served as a volunteer advisor to the Trump presidential campaign. Consistent with requirements under FISA, the application had to be first certified by the Director or Deputy Director of the FBI. It then required the approval of the Attorney General, Deputy Attorney General (DAG), or the Senate-confrmed Assistant Attorney General for the National Security Division.

The FBI and DOJ obtained one initial FISA Warrant targeting Carter Page and three FISA renewals from the FISC. As required by statute (50 U.S.C. §.1805(d)(1)), a FISA order on an American citizen must be renewed by the FISC every 90 days and each renewal requires a separate finding of probable cause. Then-Director James Comey signed three FISA applications in question on behalf ofthe FBI, and Deputy Director Andrew McCabe signed one. Then-DAG Sally Yates, then-Acting DAG Dana Boente, and DAG Rod Rosenstein each signed one or more FISA applications on behalf of DOJ.

Due to the sensitive nature of foreign intelligence activity, FISA submissions (including renewals) before the FISC are classified. As such, the public's confidence in the integrity of the FISA process depends on the court's ability to hold the government to the highest standard-particularly as it relates to surveillance of American citizens. However, the FISC's rigor in protecting the rights of Americans, which is reinforced by 908-day renewals of surveillance orders, is necessarily dependent on the government's production to the court of all material and relevant facts. This should include information potentially favorable to the target of the FISA application that is known by the government. In the case of Carter Page, the government had at least four independent opportunities before the FISC to accurately provide an accounting of the relevant facts. However, our findings indicate that, as described below, material and relevant information was omitted.

- *1) The "dossier" compiled by Christopher Steele (Steele dossier) on behalf of the Democratic National Committee (DNC) and the Hillary Clinton campaign formed" an essential part of the Carter Page FISA application. Steele was a longtime FBI source who was paid over $160,000 by the DNC and Clinton campaign, via the law firm Perkins Coie and research firm Fusion GPS, to obtain derogatory information on Donald Trump's ties to Russia.*
    - *a) Neither the initial application in October 2016, nor any of the renewals, disclose or reference the role of the DNC, Clinton campaign, or, any party/campaign in funding*

Steele's efforts, even though the political origins of the Steele dossier were then known to senior DOJ and FBI officials.

- *b) The initial FISA application notes Steele was working for a named U.S. person, but does not name Fusion GPS and principal Glenn Simpson, who was paid by a U.S. law firm (Perkins Coie) representing the DNC (even though it was known by DOJ at the time that political actors were involved with the Steele dossier). The application does not mention Steele was ultimately working on behalf of—and paid by-~the DNC and Clinton campaign, or that the FBI had separately authorized payment to Steele for the same information.*

- *2) The Carter Page FISA application also cited extensively a September 23, 2016, Yahoo News article by Michael Isikoff, which focuses on Page's July 2016 trip to Moscow. ~ This article does not corroborate the Steele dossier because it is derived from information leaked by Steele himself to Yahoo News. The Page FISA application incorrectly assesses that Steele did not directly provide information to Yahoo News. Steele has admitted in British court filings that he met with Yahoo Newjs-—and several other outlets—in September 2016 at the direction of Fusion GPS. Perkins Coie was aware of Steele's initial media contacts because they hosted at least one meeting in Washington D.C. in*
- *2016 with Steele and Fusion GPS where this matter was discussed.'*
  - *a) Steele was suspended and then terminated as an FBI source for what the FBI defines as the most serious of violations—--an unauthorized disclosure to the media of his relationship with the FBI in an October 30, 2016, Mother Jones article by David Corn. Steele should have been terminated for his previous undisclosed contacts with Yahoo and other outlets in September-——before the Page application was submitted to the FISC in October--but Steele improperly concealed from and lied to the FBI about those contacts.*
  - *b) Steele's numerous encounters with the media violated the cardinal rule of source handling--maintaining confidentiality—-and demonstrated that Steele had become a less than reliable source for the FBI.*

- *3) Before and after Steele was terminated as a source, he maintained contact with DOJ via then-Associate Deputy Attorney General Bruce Ohr, a senior DOJ official who worked closely with Deputy Attorneys General Yates and later Rosenstein. Shortly after the election, the FBI began interviewing Ohr, documenting his communications with Steele. For example, in September 2016, Steele admitted to Ohr his feelings against then-candidate Trump when Steele said he "Was desperate that Donald Trump not get elected and Was passionate about him not being president." This clear evidence of Steele's bias was recorded by Ohr at the time and subsequently in official FBI files——but not reflected in any of the Page FISA applications.*
  - *a) During this same time period, Ohr's wife was employed by Fusion GPS to assist in the cultivation of opposition research on Trump. Ohr later provided the FBI with all of his wife's opposition research, paid for by the DNC and Clinton campaign via Fusion GPS. The Ohrs' relationship with Steele and Fusion GPS was inexplicably concealed from the FISC.*

- *4) According to the head of the FBI's counterintelligence division, Assistant Director Bill Priestap, corroboration of the Steele dossier was in its "infancy" at the time of the initial Page FISA application. After Steele was terminated, a source validation report conducted by an independent unit within FBI assessed Steele's reporting as only minimally corroborated. Yet, in early January 2017, Director Comey briefed President-elect Trump on a summary of the Steele dossier, even though it was according to his June 2017 testimony "salacious and unverified." While the FISA application relied on Steele's past record of*

credible reporting on other unrelated matters, it ignored or concealed his anti~Trump financial and ideological motivations. Furthermore, Deputy Director McCabe testified before the Committee in December 2017 that no surveillance warrant would have been sought from the FISC without the Steele dossier information.

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- *5) The Page FISA application also mentions information regarding fellow Trump campaign advisor George Papadopoulos, but there is no evidence of any cooperation or conspiracy between Page and Papadopoulos. The Papadopoulos information triggered the opening of an FBI counterintelligence investigation in late July 2016 by FBI agent Pete Strzok. Strzok was reassigned by the Special Counsel's Office to FBI Human Resources for improper text messages with his mistress, FBI Attorney Lisa Page (no known relation to Carter Page), where they both demonstrated a clear bias against Trump and in favor of Clinton, whom Strzok had also investigated. The Strzok/Lisa Page texts also reflect extensive discussions about the investigation, orchestrating leaks to the media, and include a meeting with Deputy Director McCabe to discuss an "insurance" policy against President Trump's election.*

Foreign Intelligence Surveillance Act Missbrauch im Justizministerium und dem Federal Bureau of Investigation

Im Auftrag des Präsidenten deklassifiziert
2. Februar 2018

Zweck

Dieses Memorandum bietet den Mitgliedern einen Überblick über wichtige Fakten in Bezug auf die laufende Untersuchung des Justizministeriums (DOJ) und des FBI (Federal Bureau of Investigation) durch den Ausschuss und deren Anwendung des FISA (Foreign Intelligence Surveillance Act) während des Präsidentschaftswahlzyklus 2016. Unsere Ergebnisse, die im Folgenden ausgeführt werden, 1) machen Bedenken hinsichtlich der Legitimität und Rechtmäßigkeit bestimmter Interaktionen des DOJ und FBI mit dem Foreign Intelligence Surveillance Court (FISC) und 2) stellen eine beunruhigende Aufschlüsselung der rechtlichen Prozesse dar, die eingerichtet wurden, um das amerikanische Volk vor Missbrauch im Zusammenhang mit dem FISA-Prozess zu schützen.

Ermittlungsaktualisierung

- Am 21. Oktober 2016 beantragten und erhielten das DOJ und das FBI eine FISA-Anweisung für wahrscheinliche Gründe (g unter Titel VII), mit der die elektronische Überwachung von Carter Page vom FISC genehmigt wurde. Page ist ein US-Bürger, der als freiwilliger Berater der Präsidentschaftskampagne von Trump diente. In Übereinstimmung mit den Anforderungen der FISA musste der Antrag zunächst vom Direktor oder stellvertretenden Direktor des FBI bestätigt werden. Es erforderte dann die Zustimmung des Generalstaatsanwalts, des stellvertretenden Generalstaatsanwalts (DAG) oder des vom Senat bestätigten stellvertretenden Generalstaatsanwalts der nationalen Sicherheitsabteilung.

Das FBI und das DOJ erhielten einen ersten FISA-Warrant, der auf Carter Page abzielte, und drei FISA-Verlängerungen vom FISC. Wie gesetzlich vorgeschrieben (50 U.S.C. § 1805 (d) (1)), muss ein FISA-Auftrag für einen amerikanischen Staatsbürger alle 90 Tage vom FISC erneuert werden und jede Erneuerung erfordert eine separate Feststellung des wahrscheinlichen Grundes. Der damalige Direktor James Comey unterzeichnete im Namen des FBI drei fragliche FISA-Anträge, und der stellvertretende Direktor Andrew McCabe unterzeichnete einen. Dann unterschrieben die DAG Sally Yates, die damalige DAG Dana Boente und die DAG Rod Rosenstein im Namen des DOJ jeweils einen oder mehrere FISA-Anträge.

Aufgrund der Sensibilität ausländischer Nachrichtendienste werden FISA-Einreichungen (einschließlich Verlängerungen) vor dem FISC klassifiziert. Daher hängt das Vertrauen der Öffentlichkeit in die Integrität des FISA-Prozesses von der Fähigkeit des Gerichts ab, die Regierung auf höchstem Niveau zu halten - insbesondere was die Überwachung amerikanischer Bürger betrifft. Die Rigorosität der FISC beim Schutz der Rechte der Amerikaner, die durch 908-tägige Verlängerungen von Überwachungsaufträgen verstärkt wird, hängt jedoch notwendigerweise davon ab, dass die Regierung dem Gericht alle wesentlichen und relevanten Fakten vorlegt. Dies sollte Informationen enthalten, die für das von der Regierung bekannte Ziel des FISA-Antrags möglicherweise günstig sind. Im Fall von Carter Page hatte die Regierung mindestens vier unabhängige Möglichkeiten vor dem FISC, um eine genaue Darstellung der relevanten Fakten zu gewährleisten. Unsere Ergebnisse zeigen jedoch, dass, wie unten beschrieben, wesentliche und relevante Informationen weggelassen wurden.

- 1) Das von Christopher Steele (Steele-Dossier) im Auftrag des Democratic National Committee (DNC) und der Hillary-Clinton-Kampagne zusammengestellte "Dossier" bildete

"einen wesentlichen Teil der FISA-Bewerbung der Carter Page. Steele war eine langjährige FBI-Quelle, die über $ 160.000 durch die DNC- und Clinton-Kampagne bezahlt wurde, über die Anwaltskanzlei Perkins Coie und das Forschungsunternehmen Fusion GPS, um abfällige Informationen über Donald Trumps Beziehungen zu Russland zu erhalten.

- a) Weder der ursprüngliche Antrag im Oktober 2016 noch eine der Verlängerungen offenbaren oder beziehen sich auf die Rolle der DNC, der Clinton-Kampagne oder irgendeiner Partei / Kampagne zur Finanzierung von Steele's Bemühungen, obwohl die politischen Ursprünge des Steele-Dossiers damals für leitende DOJ- und FBI-Beamte bekannt waren.
- b) Die ersten FISA-Bewerbungsnotizen Steele arbeitete für eine namentlich genannte US-Person, aber nicht für Fusion GPS und Hauptgeschäftsführer Glenn Simpson, der von einer US-Anwaltskanzlei (Perkins Coie) für die DNC bezahlt wurde (obwohl sie vom DOJ bekannt war) zu der Zeit, als politische Akteure am Steele-Dossier beteiligt waren). Der Antrag erwähnt nicht, dass Steele im Auftrag von DNC und Clinton arbeitete oder dass das FBI die Zahlung an Steele für die gleiche Information separat autorisiert hatte.

- 2) Die Carter-Page-FISA-Anwendung zitierte auch ausführlich einen Artikel von Michael Isikoff vom 23. September 2016, Yahoo News, der sich auf den Besuch von Page im Juli 2016 in Moskau konzentriert. ~ Dieser Artikel bestätigt das Steele-Dossier nicht, da es aus Informationen stammt, die Steele selbst an Yahoo News weitergegeben hat. Die Page FISA-Anwendung stellt fälschlicherweise fest, dass Steele Yahoo News nicht direkt Informationen zur Verfügung gestellt hat. Steele hat in britischen Gerichtsakten eingeräumt, dass er sich im September 2016 mit Yahoo News - und mehreren anderen Agenturen - auf Anweisung von Fusion GPS traf. Perkins Coie war sich der ersten Medienkontakte von Steele bewusst, weil sie mindestens ein Treffen in Washington D.C. hatten.
- 2016 mit Steele und Fusion GPS, wo diese Angelegenheit diskutiert wurde. "
  - a) Steele wurde suspendiert und dann als FBI-Quelle für das eingestellt, was das FBI als die schwerwiegendste Verletzung definiert - eine unautorisierte Offenlegung der Beziehung seiner Medien mit dem FBI in einem Mother Jones Artikel vom 30. Oktober 2016 von David Corn. Steele hätte im September für seine früheren, geheim gehaltenen Kontakte mit Yahoo und anderen Outlets gekündigt werden sollen - bevor der Page-Antrag beim FISC im Oktober eingereicht wurde -, aber Steele hat das FBI wegen dieser Kontakte unpassend versteckt und belogen.
  - b) Steele's zahlreiche Begegnungen mit den Medien verletzten die Grundregel der Quellenbehandlung - die Wahrung der Vertraulichkeit - und demonstrierten, dass Steele eine weniger zuverlässige Quelle für das FBI geworden war.

- 3) Bevor und nachdem Steele als Quelle beendet wurde, hielt er Kontakt mit dem DOJ über den damaligen stellvertretenden Generalstaatsanwalt Bruce Ohr, einen leitenden Beamten des DOJ, der eng mit dem stellvertretenden Generalstaatsanwalt Yates und später Rosenstein zusammenarbeitete. Kurz nach der Wahl begann das FBI mit der Befragung von Ohr und dokumentierte seine Kommunikation mit Steele. Zum Beispiel im September 2016 gab Steele zu Ohr seine Gefühle gegen den damaligen Kandidaten Trump, als Steele sagte, er sei verzweifelt, dass Donald Trump nicht gewählt wurde und war leidenschaftlich darüber, dass er nicht Präsident ist. Dieser eindeutige Beweis von Steele's Voreingenommenheit war zu dieser Zeit von Ohr aufgezeichnet und anschließend in offiziellen FBI-Dateien - aber nicht in den Page-FISA-Anwendungen.
  - a) Während der gleichen Zeit wurde Ohrs Frau von Fusion GPS angestellt, um bei der Kultivierung von oppositioneller Forschung zu Trump zu helfen. Ohr lieferte dem FBI später alle Oppositionsuntersuchungen seiner Frau, die von der DNC- und Clinton-

Kampagne über Fusion GPS bezahlt wurden. Die Beziehung der Ohrs zu Steele und Fusion GPS war unerklärlicherweise der FISC verborgen.

- 4) Nach Ansicht des Leiters der Spionageabwehrabteilung des FBI, des stellvertretenden Direktors Bill Priestap, war die Bestätigung des Steele-Dossiers zum Zeitpunkt der ersten Page FISA-Bewerbung in ihren "Kinderschuhen". Nach der Beendigung von Steele wurde die Berichterstattung von Steele durch einen von einer unabhängigen Abteilung des FBI durchgeführten Quellenvalidierungsbericht als nur geringfügig bestätigt. Dennoch informierte Direktor Comey Anfang Januar 2017 den designierten Präsidenten Trump über eine Zusammenfassung des Steele-Dossiers, obwohl es laut seiner Aussage vom Juni 2017 "unzüchtig und unbestätigt" war. Die FISA-Bewerbung stützte sich jedoch auf Steele's glaubwürdige Berichterstattung in anderen nicht verwandten Angelegenheiten ignorierte oder verschwieg er seine anti-Trump finanziellen und ideologischen Motivationen. Darüber hinaus hat der stellvertretende Direktor McCabe vor dem Ausschuss im Dezember 2017 ausgesagt, dass kein Überwachungsbefehl vom FISC ohne die Steele-Dossierinformationen angefordert wurde.

- 5) Der Page FISA - Antrag erwähnt auch Informationen bezüglich des Kollegen von Trump, George Papadopoulos, aber es gibt keine Beweise für eine Kooperation oder Verschwörung zwischen Page und Papadopoulos. Die Informationen von Papadopoulos lösten Ende Juli 2016 eine FBI-Spionageabwehr-Untersuchung durch den FBI-Agenten Pete Strzok aus. Strzok wurde vom FBI-Personal an FBI Human Resources für unkorrekte Textnachrichten mit seiner Geliebten, FBI-Anwaltin Lisa Page (keine bekannte Beziehung zu Carter Page), worin sie beide eine klare Voreingenommenheit gegenüber Trump und zugunsten Clintons zeigten, versetzt und untersucht. Die Texte von Strzok / Lisa Page enthalten auch ausführliche Diskussionen über die Ermittlungen, orchestrieren Lecks in den Medien und schließen ein Treffen mit dem stellvertretenden Direktor McCabe ein, um eine "Versicherungs"-Politik gegen die Wahl von Präsident Trump zu diskutieren.

THE WHITE HOUSE

WASHINGTON

February 2, 2018

The Honorable Devin Nunes
Chairman, House Permanent Select Committee on Intelligence
United States Capitol
Washington, DC 20515

Dear Mr. Chairman:

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The Constitution vests the President with the authority to protect national security secrets from disclosure. As the Supreme Court has recognized, it is the President's responsibility to classify, declassify, and control access to information bearing on our intelligence sources and methods and national defense. *See, e.g.*, *Dep't of Navy v. Egan*, 484 U.S. 518, 527 (1988). In order to facilitate appropriate congressional oversight, the Executive Branch may entrust classified information to the appropriate committees of Congress, as it has done in connection with the Committee's oversight activities here. The Executive Branch does so on the assumption that the Committee will responsibly protect such classified information, consistent with the laws of the United States.

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The President understands that the protection of our national security represents his highest obligation. Accordingly, he has directed lawyers and national security staff to assess the

[1] *See, e.g.*, S. Rept. 114-8 at 12 (Administration of Barack Obama) ("On April 3, 2014 . . . the Committee agreed to send the revised Findings and Conclusions, and the updated Executive Summary of the Committee Study, to the President for declassification and public release."); H. Rept. 107-792 (Administration of George W. Bush) (similar); E.O. 12812 (Administration of George H.W. Bush) (noting Senate resolution requesting that President provide for declassification of certain information via Executive Order).

declassification request, consistent with established standards governing the handling of classified information, including those under Section 3.1(d) of Executive Order 13526. Those standards permit declassification when the public interest in disclosure outweighs any need to protect the information. The White House review process also included input from the Office of the Director of National Intelligence and the Department of Justice. Consistent with this review and these standards, the President has determined that declassification of the Memorandum is appropriate.

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Sincerely,

Donald F. McGahn II
Counsel to the President

cc: The Honorable Paul Ryan
Speaker of the House of Representatives

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

January 18, 2018

Declassified by order of the President
February 2, 2018

To: HPSCI Majority Members

From: HPSCI Majority Staff

Subject: Foreign Intelligence Surveillance Act Abuses at the Department of Justice and the Federal Bureau of Investigation

Purpose

This memorandum provides Members an update on significant facts relating to the Committee's ongoing investigation into the Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) and their use of the Foreign Intelligence Surveillance Act (FISA) during the 2016 presidential election cycle. Our findings, which are detailed below, 1) raise concerns with the legitimacy and legality of certain DOJ and FBI interactions with the Foreign Intelligence Surveillance Court (FISC), and 2) represent a troubling breakdown of legal processes established to protect the American people from abuses related to the FISA process.

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application that is known by the government. In the case of Carter Page, the government had at least four independent opportunities before the FISC to accurately provide an accounting of the relevant facts. However, our findings indicate that, as described below, material and relevant information was omitted.

1) The "dossier" compiled by Christopher Steele (Steele dossier) on behalf of the Democratic National Committee (DNC) and the Hillary Clinton campaign formed an essential part of the Carter Page FISA application. Steele was a longtime FBI source who was paid over $160,000 by the DNC and Clinton campaign, via the law firm Perkins Coie and research firm Fusion GPS, to obtain derogatory information on Donald Trump's ties to Russia.

   a) Neither the initial application in October 2016, nor any of the renewals, disclose or reference the role of the DNC, Clinton campaign, or any party/campaign in funding Steele's efforts, even though the political origins of the Steele dossier were then known to senior DOJ and FBI officials.

   b) The initial FISA application notes Steele was working for a named U.S. person, but does not name Fusion GPS and principal Glenn Simpson, who was paid by a U.S. law firm (Perkins Coie) representing the DNC (even though it was known by DOJ at the time that political actors were involved with the Steele dossier). The application does not mention Steele was ultimately working on behalf of—and paid by—the DNC and Clinton campaign, or that the FBI had separately authorized payment to Steele for the same information.

2) The Carter Page FISA application also cited extensively a September 23, 2016, *Yahoo News* article by Michael Isikoff, which focuses on Page's July 2016 trip to Moscow. This article does not corroborate the Steele dossier because it is derived from information leaked by Steele himself to *Yahoo News*. The Page FISA application incorrectly assesses that Steele did not directly provide information to *Yahoo News*. Steele has admitted in British court filings that he met with *Yahoo News*—and several other outlets—in September 2016 at the direction of Fusion GPS. Perkins Coie was aware of Steele's initial media contacts because they hosted at least one meeting in Washington D.C. in 2016 with Steele and Fusion GPS where this matter was discussed.

   a) Steele was suspended and then terminated as an FBI source for what the FBI defines as the most serious of violations—an unauthorized disclosure to the media of his relationship with the FBI in an October 30, 2016, *Mother Jones* article by David Corn. Steele should have been terminated for his previous undisclosed contacts with Yahoo and other outlets **in September**—before the Page application was submitted to

the FISC in October—but Steele improperly concealed from and lied to the FBI about those contacts.

b) Steele's numerous encounters with the media violated the cardinal rule of source handling—maintaining confidentiality—and demonstrated that Steele had become a less than reliable source for the FBI.

3) Before and after Steele was terminated as a source, he maintained contact with DOJ via then-Associate Deputy Attorney General Bruce Ohr, a senior DOJ official who worked closely with Deputy Attorneys General Yates and later Rosenstein. Shortly after the election, the FBI began interviewing Ohr, documenting his communications with Steele. For example, in September 2016, Steele admitted to Ohr his feelings against then-candidate Trump when Steele said he "**was desperate that Donald Trump not get elected and was passionate about him not being president.**" This clear evidence of Steele's bias was recorded by Ohr at the time and subsequently in official FBI files—but not reflected in any of the Page FISA applications.

a) During this same time period, Ohr's wife was employed by Fusion GPS to assist in the cultivation of opposition research on Trump. Ohr later provided the FBI with all of his wife's opposition research, paid for by the DNC and Clinton campaign via Fusion GPS. The Ohrs' relationship with Steele and Fusion GPS was inexplicably concealed from the FISC.

4) According to the head of the FBI's counterintelligence division, Assistant Director Bill Priestap, corroboration of the Steele dossier was in its "infancy" at the time of the initial Page FISA application. After Steele was terminated, a source validation report conducted by an independent unit within FBI assessed Steele's reporting as only minimally corroborated. Yet, in early January 2017, Director Comey briefed President-elect Trump on a summary of the Steele dossier, even though it was—according to his June 2017 testimony—"salacious and unverified." While the FISA application relied on Steele's past record of credible reporting on other unrelated matters, it ignored or concealed his anti-Trump financial and ideological motivations. Furthermore, Deputy Director McCabe testified before the Committee in December 2017 that no surveillance warrant would have been sought from the FISC without the Steele dossier information.

5) The Page FISA application also mentions information regarding fellow Trump campaign advisor George Papadopoulos, but there is no evidence of any cooperation or conspiracy between Page and Papadopoulos. The Papadopoulos information triggered the opening of an FBI counterintelligence investigation in late July 2016 by FBI agent Pete Strzok. Strzok was reassigned by the Special Counsel's Office to FBI Human Resources for improper text messages with his mistress, FBI Attorney Lisa Page (no known relation to Carter Page), where they both demonstrated a clear bias against Trump and in favor of Clinton, whom Strzok had also investigated. The Strzok/Lisa Page texts also reflect extensive discussions about the investigation, orchestrating leaks to the media, and include a meeting with Deputy Director McCabe to discuss an "insurance" policy against President Trump's election.