



Written by [Steve Byas](#) on March 2, 2018

What to Do When the FBI Breaks the Laws to Obtain a FISA Warrant?

“Former and current DOJ [Department of Justice] and FBI leadership have confirmed to the committee that unverified information from the Steele dossier comprised an essential part of the FISA applications related to Carter Page,” House Intelligence Committee Chairman Devin Nunes wrote in an open letter to Attorney General Jeff Sessions. A copy of the letter was also sent to Christopher Wray, director of the FBI, and the DOJ inspector general, Michael Horowitz.



Nunes asserted in the letter, made public Thursday, that the FBI violated criminal statutes, in addition to ignoring its own established internal procedures by doing so.

In the letter, Nunes said, “The latest unredacted version of the DIOG [Domestic Investigations and Operations Guide] available to the Committee delineates procedures the FBI must follow when submitting applications” to the FISA court. The October 2011 version of the guide states that the “accuracy of information contained within FISA applications is of utmost importance.... Only documented and verified information may be used to support FBI applications to the court.” The FBI procedures requires that information in any FISA application must be “thoroughly vetted and confirmed.”

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Yet, during the 2016 presidential campaign, the FBI used what former director James Comey called “an unverified” dossier to obtain the approval of the Foreign Intelligence Surveillance Court (FISA) for a surveillance warrant on a Trump campaign aide, Carter Page. Comey told Trump not long after the election that the Steele dossier was “unverified,” yet it had already been used to obtain the FISA warrant.

Nunes, arguing that five criminal statutes were possibly violated, asked Sessions what steps the DOJ has taken to hold officials in the DOJ and the FBI accountable. “It’s clear that basic operating guidance was violated,” Nunes told Sessions.

President Donald Trump and others have begun to openly question why Sessions seems so unconcerned about the violation of civil rights in his department, but Sessions defended his handling of the charges. Instead of directing the investigation himself, or selecting a second special counsel as encouraged by many conservatives, Sessions turned the matter over the DOJ’s inspector general.

“We believe the Department of Justice must adhere to the high standards in the FISA court,” Sessions told reporters on Tuesday. “Yes it will be investigated. And I think that’s just the appropriate thing the inspector general will take as one of the matters he’ll deal with.”

Trump, however, was not happy with Sessions’ response, noting that Horowitz is an “Obama guy.”



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Not surprisingly, the ranking member of the Intelligence Committee, Representative Adam Schiff (D-Calif.), apparently saw no problem in the actions of the FBI and the DOJ in the matter. “In his latest letter to an attorney general recused on the matter,” Schiff retorted, “Chairman Nunes continues his effort to attack and malign the honorable men and women of the FBI and the Department of Justice. The Republican memo having been discredited, this new attempt to roil the Department is little more than another transparent effort to defend President Trump by trying to discredit and distract from the Special Counsel and congressional investigations.”

But if agents of the FBI and the DOJ callously violated the constitutional rights of American citizens, how is that “honorable?” As Nunes told Sessions, “Only documented and verified information may be used to support FBI [FISA] applications to the court.”

Despite this clear restriction, Comey testified in June of 2017 to the Senate Intelligence Committee that he considered the Steele dossier still “unverified” and “salacious” *three months* after it was used in October 2016 to obtain the surveillance warrant.

It is not clear what action, if anything, Sessions or anyone else in the Justice Department, will take relating to alleged criminal actions by members of that department and the FBI. While one hopes that the courts would set aside any evidence obtained outside of the law from being used in court against anyone, using the court-created “exclusionary rule,” whether any government officials who violated the Constitution and the law will actually be prosecuted for “civil rights” violations is uncertain.

Under the “exclusionary rule,” adopted by the courts as a way to enforce the restriction upon law enforcement found in the Fourth Amendment, any evidence obtained illegally cannot be used by prosecutors against a defendant in court. Apparently, the existence of this rule was not enough to restrain federal agents from ignoring the law and the rules, Nunes is arguing.

Which brings us to an important question: What good are the protections of the Bill of Rights if government officials are not going to be criminally punished for violating them?

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