



## The Nunes memo is a dud

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Rep. Devin Nunes's infamous memo — the document numerous House Republicans claimed would demonstrate fundamental anti-Trump corruption at the FBI — was released early Friday afternoon. The entire thing is **three and a half pages** and only takes a few minutes to read closely and carefully.

After doing that, there is only one conclusion a fair reader could draw: There is absolutely nothing here.

There is no proof in the memo that the FBI is biased against Trump, no proof of abuse of surveillance powers by the FBI, and no proof that the investigation into the Trump campaign's ties to Russia is fundamentally flawed. The memo is a piece of partisan spin, and not a particularly compelling one at that.

Republicans who claimed it was anything else have been egregiously misrepresenting what the memo actually says.

### **The memo does not support its core claim**

The memo begins by making a grandiose claim: The FBI's use of surveillance power under the Foreign Intelligence Surveillance Act (FISA) during the 2016 campaign was "a troubling breakdown of legal processes established to protect the American people from abuses related to the FISA process."

The only example the memo cites is an October 21, 2016, request by the Department of Justice and FBI for permission under FISA powers to snoop on former Trump campaign foreign policy adviser Carter Page. The key word there is *former*: Page had left the Trump campaign **at least a month** before the application. That's the first red flag that there's nothing here, as an FBI campaign to undermine Trump's campaign would almost certainly involve targeting someone who was actually working on it.

The Nunes memo goes on to allege that the Page FISA application, which was ultimately approved by a judge, was fundamentally flawed. The problem, it claims, is that the application depended on “**the Steele dossier**,” a document put together by former British spy Christopher Steele alleging deep ties between Trump and Russia (it’s the source of, among other things, the “pee tape” rumors about Trump and Moscow prostitutes).

The Steele dossier, Nunes alleges, “formed an essential part of the Carter Page application,” and he goes on to suggest that the application omitted several key facts about the dossier that undermine its credibility: most notably that the dossier was partially funded by the Democratic National Committee and that Steele himself has expressed his opposition to Donald Trump becoming president.

We can’t check whether these claims are true without seeing the actual FISA application. It could be that the Steele dossier wasn’t very important to the Page application, or that the FBI actually did disclose Steele’s political connections. (This is apparently the argument in a Democratic counter-memo, which **was not published because Republicans voted to keep it secret.**)

The Nunes memo, in other words, could be full of lies. We just can’t tell based on reading it.

But let’s assume that its core factual assertions — that the FBI heavily relied on the Steele dossier, and that it didn’t mention his funding sources in the FISA warrant — are true. So what?

The FBI relies on sources with axes to grind all the time. People typically don’t go to the authorities with damaging information about people they like. The key question in an application like this isn’t whether the source liked the target; it’s whether the specific claims they’re making are credible.

The memo doesn’t make that case.

“What matters is whether the Steele specific findings \*actually material to the application\* were unverified,” **Julian Sanchez**, an expert on surveillance at the libertarian Cato Institute, wrote after reading the memo. “Memo doesn’t seem to make that claim.”

### **The memo insinuates a lot — and proves virtually nothing**

This fits with the memo’s overall method of argument, which is to imply something suspicious without outright asserting malfeasance.

For example, the memo repeatedly notes that the DOJ knew that “political actors” were involved in the financing the Steele dossier. It implies that the FBI knew they were Democrats and chose to ignore it.

But it never outright asserts that, and for good reason. The firm that employed Steele was initially contracted by a *conservative* publication, **the Washington Free Beacon**, not any Democrat or Democratic political campaign. It’s possible the FBI knew of the Free Beacon’s involvement or just generally that some political actor was involved in funding it — but didn’t

know about the Clinton campaign's involvement. The memo never clarifies which "political actors" it means.

Similarly, the memo notes that various important people, including former FBI Director James Comey and Deputy Attorney General Rod Rosenstein, reapproved the FISA surveillance after the initial application. The implication is that these people were either incompetent, because they failed to notice the omissions in the application, or complicit in an effort to deceive the court.

But there's another possibility that's left unmentioned: Perhaps the FISA surveillance on Page revealed disturbing Russian connections that warranted continued surveillance. Page had a longtime history of connections with the Russian government— so much so that in 2013, Russian agents approached him with the intent of turning him into an asset (a point the Nunes memo never notes).

This, experts say, is almost certainly what happened.

"It's reapproved if you have new information justifying the original probable cause and the government's need to listen," **writes Asha Rangappa**, a former FBI special agent and current Yale Law professor. "Kind of the point of requiring the extension. Sounds like the gov [made] its burden not once, but THREE times."

And ... that's it, really.

The memo doesn't prove its core claim, that there were real omissions in the FISA application related to the Steele dossier — it merely asserts them. Nor does it contain any evidence that these omissions, if they were made intentionally, undermine the validity of the FISA warrant. There's just no *there* there.

"If this is their evidence of 'Worse than Watergate,' it's thin," **Sanchez concludes**. "This reads like something you'd put together to \*sound\* scandalous to someone who isn't going to parse it closely."

### **The memo actually exculpates the Russia investigation**

Republicans have been selling this memo politically as devastating proof of anti-Trump animus at the FBI's upper echelons and in special counsel Robert Mueller's Russia investigation. House Speaker Paul Ryan said its content justified a "**cleanse**" of the FBI.

If the memo can't stand up its specific allegations about the Page FISA application, it clearly can't stand up an allegation this broad and deep. Some of the pre-release speculation about the memo's contents, like the notion that it would have embarrassing information about Deputy Attorney General Rod Rosenstein, clearly didn't pan out.

In fact, the memo concludes on a note that actually should vindicate the broader Russia investigation.

The last paragraph of the memo is all about the FISA application's references to George Papadopoulos. The Trump campaign foreign policy adviser also had connections with Russia —

he had been **approached by a Russian-linked professor** in London in the spring of 2016 who told him the Kremlin had dirt on Hillary Clinton — and was also under FBI suspicion.

The memo admits, crucially, that the Trump-Russia investigation was based in part on Papadopoulos's misbehavior, *not Page's*. "The Papadopoulos information," the memo admits, "triggered the opening of an FBI counterintelligence investigation in late July 2016."

The reason this matters is because it shows that even if the Carter Page FISA application were flawed, the Trump-Russia investigation had another foundation — evidence about Papadopoulos's Russian contacts. That means you can't discredit the entire Russia investigation by pointing to the Page warrant.

The memo tries to insinuate that this too was biased against Trump — noting that one of the FBI agents handling the Papadopoulos situation, Peter Strzok, had sent some text messages critical of Trump to his "mistress," FBI attorney Lisa Page.

But at this point, we know that the information on Papadopoulos was legit — because he pleaded guilty to lying to the FBI and gave a ton of information to Mueller's office. Papadopoulos admitted, among other things, that a Russian-linked professor had told him that the Russians had **"thousands"** of Hillary Clinton's emails. Papadopoulos is a key witness in the Trump-Russia case, and Page hasn't even been indicted — suggesting the case indeed rests on solid ground.

The Nunes memo, in short, is long on assertions and short on evidence — and by the end, it has fatally undermined its own reason for existing, providing political ammunition against the Russia investigation. If the president, House Republicans, or Fox News tries to use this as a justification for some kind of purge at the FBI, then you can be sure of one thing: They're totally disconnected from the facts.