



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 24, 2018

The Honorable Devin Nunes
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Recent news reports indicate a classified memorandum prepared by House Permanent Select Committee on Intelligence (HPSCI or Committee) staff alleges abuses at the Department of Justice (Department) and the Federal Bureau of Investigation (FBI) in the FISA process. We understand many members of the House of Representatives have viewed this memorandum and that it has raised concerns.

As you know, we have provided HPSCI with more than 1,000 pages of classified documents relating to the FBI's relationship, if any, with a source and its reliance, if any, on information provided by that source. Media reports indicate that the Committee's memorandum contains highly classified material confidentially provided by the Department to the Committee in a secure facility.¹

The Department takes any allegation of abuse of our justice system by Department employees seriously. Further, we assume that HPSCI members want to provide evidence of any specific allegation of misconduct to Department officials so that we may take appropriate action. The rule of law depends on the confidence of the American people that our prosecutors and investigators apply the law fairly and without bias or regard for political influence. Though we are currently unaware of any wrongdoing relating to the FISA process, we agree that any abuse of that system cannot be tolerated.

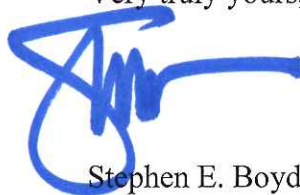
¹ To date, the Department has provided detailed briefings and made available to HPSCI documents requested as part of its investigation into Russian influence in the 2016 election. The terms of access stipulated that review of the documents would be limited to the Chairman or his designee, the Ranking Member or his designee, and two staff members each. (Mr. Gowdy reviewed the documents for the majority. Mr. Schiff reviewed the documents for the minority.) Other committees of jurisdiction—the Senate Select Committee on Intelligence, the Senate Committee on the Judiciary, and the House Committee on the Judiciary—have accepted similar procedural safeguards to protect against improper dissemination of information.

In addition, we have also heard that HPSCI is considering making the classified memorandum available to the public and the media, an unprecedented action. We believe it would be extraordinarily reckless for the Committee to disclose such information publicly without giving the Department and the FBI the opportunity to review the memorandum and to advise the HPSCI of the risk of harm to national security and to ongoing investigations that could come from public release. Indeed, we do not understand why the Committee would possibly seek to disclose classified and law enforcement sensitive information without first consulting with the relevant members of the Intelligence Community.

Seeking Committee approval of public release would require HPSCI committee members to vote on a staff-drafted memorandum that purports to be based on classified source materials that neither you nor most of them have seen. Given HPSCI's important role in overseeing the nation's intelligence community, you well understand the damaging impact that the release of classified material could have on our national security and our ability to share and receive sensitive information from friendly foreign governments. We know that committee members take this responsibility seriously, and would not risk damage to our intelligence community or the important work it does in safeguarding the American people. Additionally, we believe that wider distribution of the classified information presumably contained within your memorandum would represent a significant deviation from the terms of access negotiated in good faith by the Department, HPSCI, and the Office of Speaker Paul Ryan.

The Department renews its request—as previously made in a personal appeal by the Director of the FBI—for an opportunity to review the memorandum in question so that it may respond to the Committee before any vote on public release. In the alternative, should you wish not to provide the memorandum to the Deputy Attorney General and the FBI Director, we encourage you to provide it to Michael E. Horowitz, the Department's Inspector General. His office would appropriately investigate any alleged wrongdoing by the FBI or other Department personnel and independently assess whether prior public release of the memorandum would impair its ability to do so.

Very truly yours,



Stephen E. Boyd
Assistant Attorney General

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

The Honorable Devin Nunes
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The Honorable Paul Ryan
Speaker of the House
U.S. House of Representatives

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives

The Honorable Trey Gowdy
U.S. House of Representatives

The Honorable Richard Burr
Chairman
Senate Select Committee on Intelligence

The Honorable Mark Warner
Vice Chairman
Senate Select Committee on Intelligence