

# Substantial Disruption



## Devin Can't Wait

By Mike Tully

*Nowadays men lead lives of noisy desperation.*

- James Thurber

Devin Nunes, a California Congressman with the I.Q. of a trilobite, is the scary clown in the Trump circus, tasked with undermining the investigation into Russian interference into the 2016 presidential election and possible collusion by Trump and/or his family members and staffers. His mission: to create the illusion that the investigation is an illegitimate political attack by the FBI, headed by Special Counsel Robert Mueller and facilitated by high-ranking officials of the Justice Department. His method, according to [the New York Times](#): a secret memo, written by Nunes without the input of the Justice Department or F.B.I. and without Democrats on the House Intelligence Committee, which Nunes chairs.

In 2017, Deputy Attorney General Rob Rosenstein approved a request to ask the Foreign Intelligence Surveillance Court to extend a warrant previously issued in June of 2016 under the Foreign Intelligence Surveillance Act (FISA). The surveillance target was Carter Page, a Trump associate and [foreign policy advisor](#) who had been under surveillance for years as a possible Russian agent. Among evidence submitted to the Court in 2016 was information from the “Steele Dossier,” a compilation of memos prepared by former British intelligence agent Christopher Steele who was hired by [Fusion GPS](#), a research firm. Steele provided it to the F.B.I. because the information had potential national security implications.

Nunes argues the Steele Dossier was a political document and that Steele was acting as a propagandist, not an investigator. The basis? Steele’s research was bankrolled by Democrats. His memo apparently claims there was no legal basis to extend the Page surveillance, suggesting the FISA Court was conned, although Nunes, according to the Committee’s ranking member, Adam Schiff, [has not even read the underlying documentation](#) giving rise to the warrant request.

Nunes’ committee just voted to release the memo, which a handful of House members and staffers have seen. It is likely to be public shortly after this column runs online. Nunes reportedly alleges an abuse of power by the Justice Department and Rosenstein in particular. That could jeopardize Rosenstein, and potentially Mueller, possibly undermining and ending the Russian collusion investigation – Nunes’ end game.

Carter Page had been under investigation since at least 2013, when, as the *Times* reported, “an investigation revealed that a Russian spy had tried to recruit him.” The investigations led nowhere until 2016 when additional information, apparently including the Steele memo, rekindled the F.B.I.’s interest and the F.B.I. convinced the FISA Court to extend the warrant. The test for obtaining a FISA warrant is laid out in [50 U.S. Code § 1804](#), and must include “a statement of the facts concerning all previous applications that have been made to any judge

under this subchapter involving any of the persons, facilities, or places specified in the application, and the action taken on each previous application.” The Court would have been aware of all previous warrants aimed at Page and the investigators had to convince the Court that an extension was required for legitimate law enforcement purposes. How difficult was that?

Writing for *justsecurity.org* in an [article entitled](#) “How High Was the Bar for Getting a FISA Warrant to Monitor Carter Page?” Ryan Goodman noted: “(H)ow difficult could it really be for the FBI to have convinced the court of the need to monitor Page’s communications? The greater the difficulty, the more it would indicate that there were, indeed, strong reasons to suspect Page worked with Russian agents. Also, the higher the bar, the less susceptible the FBI’s actions will be to claims that the investigation was politicized at the time.”

The *Washington Post* [reported](#), “The government’s application for the surveillance order targeting Page included a lengthy declaration that laid out investigators’ basis for believing that Page was an agent of the Russian government and knowingly engaged in clandestine intelligence activities on behalf of Moscow.” This is consistent with the high bar set by the statute. The declaration must be made *under oath*, underscoring the gravity of the process.

Goodman quoted extensively from an [article](#) by former F.B.I. agent Asha Rangappa (“It Ain’t Easy Getting a FISA Warrant: I Was an FBI Agent and Should Know”), who specialized in counterintelligence investigations and has experience obtaining FISA warrants. After detailing the complicated and exhausting warrant process, she concluded, “You could even say that FISA applications go through an ‘extreme vetting’ process before being granted – something that the Trump administration ought to support.”

Nunes and his fellow travelers want to convince Americans that their highest law enforcement officials violated the law by fabricating a basis for obtaining a warrant without probable cause. They expect them to believe a prestigious federal court was either duped, or acting in concert. They apparently claim the request relied on a single source that was unreliable because it was financed by Democrats, yet the Court issued a warrant anyway. That’s high-octane nonsense.

But it’s dangerous nonsense because Congressional Republicans, rather than laughing Nunes into oblivion, are silently or actively supporting his conspiracy theory. Rather than defending federal law enforcement – something Republicans usually do reflexively – they are trying to turn the American people against it. Their loyalty to Donald Trump has eclipsed their fidelity to the law and the Constitution. However, by trying to block the investigation, they characterize Trump as guilty, because an innocent man would not need their intervention.

An innocent man would quietly let the investigation run its course and exonerate him. Trump, however, [wants Nunes’ bogus memo released](#). He doesn’t act like an innocent man and that speaks more eloquently than anything coming from the scary clown.