#### THE SIGNIFICANCE OF THE JANUARY 12 REAUTHORIZATION OF CARTER PAGE'S FISA ORDER

I'd like to riff on a small but significant detail revealed in the Schiff memo. This paragraph adds detail to the same general timeframe for the orders obtained against Page laid out in the Nunes memo: the first application approved on October 21, with reauthorizations in early January, early April, and late June.

The initial warrant application and subsequent renewals received independent scrutiny and approval by four different federal judges, three of whom were appointed by President George W. OFIC by Bush and one by President Ronald Reagan. DOJ first applied to the FISC on October 21, 2016 Great awarrant to permit the FBI to initiate electronic surveillance and physical search of Page for 90 days, consistent with FISA requirements. The Court approved three renewals – in early January 2017, early April 2017, and late June 2017 – which authorized the FBI to maintain surveillance on Page until late September 2017. Senior DOJ and FBI officials appointed by the Obama and Trump Administrations, including acting Attorney General Dana Boente and Deputy Attorney General Rod Rosenstein, certified the applications with the Court.

## Republican judges approved the Carter Page FISA orders

The passage also narrows down the judges who approved the orders, necessarily including FISC's sole Reagan appointee Raymond Dearie and FISC's sole Poppy appointee Anne Conway, plus two of the following W appointees:

- Rosemary Collyer (worst FISC judge ever)
- Claire Eagan (OK, she may be worse than Collyer)
- Robert Kugler
- Michael Mosman (a good one)
- Dennis Saylor (also good)

I won't dwell on this here, but it means the conspiracy theory that Obama appointee Rudolph Contreras approved the order, and because of that recused in the Flynn case, is false.

# The first reapplication came days after the dossier and a second Isikoff article came out

Back to the timing. The footnotes provide the dates for two of the other applications: June 29 (in footnotes 12, 14, 15, 16) and January 12 (footnote 31), meaning the third must date between April 1 and 12 (the latter date being 90 days after the second application).

Date Approved	FBI Signature	DAG Signature
October 21	Comey	Yates
January 12	Comey	Yates
April 1 through 12	Comey	Boente
June 29	McCabe	Rosenstein

As I laid out here, the timing of that second application is critical to the dispute about whether FBI handled Michael Isikoff's September 23 article appropriately, because it places the reapplication either before or after two key events: the publication of the Steele dossier on January 10 and Isikoff's publication of this story on January 11. Isikoff's January article included a link back to his earlier piece, making it fairly clear that Steele had been his source for the earlier article. The publication of that second Isikoff piece should have tipped off the FBI that the earlier article had been based on Steele (not least because the second Isikoff piece IDs Steele as an "FBI asset," which surely got the Bureau's attention).

### FBI didn't respond to Isikoff in time for the second application

Now, you could say that FBI should have immediately reacted to the Isikoff piece by alerting the FISC, but that's suggesting bureaucracies work far faster than they do. Moreover, the application would not have been drafted on January 12. Except in emergency, the FISC requires a week notice on applications. That says the original application would have been submitted on or before January 5, before the dossier and second Isikoff piece.

FBI appears to have dealt with the Isikoff article interestingly. The body of the Schiff memo explains that Isikoff's article, along with another that might be either Josh Rogin's or Julia Ioffe's articles from the time period, both of which cite Isikoff (Rogin's is the only one of the three that gets denials from Page directly), were mentioned to show that Page was denying his Moscow meetings were significant.

In its Court filings, DOJ made proper use of news coverage. The Majority falsely claims that the FISA materials "relied heavily" on a September 23, 2016 Yahoo! News article by Michael Isikoff and that this article "does not corroborate the Steele Dossier because it is derived from information leaked by Steele himself." <sup>30</sup> In fact, DOJ referenced Isikoff's article, alongside another article the Majority fails to mention, not to provide separate corroboration for Steele's reporting, but instead to inform the Court of Page's public denial of his suspected meetings in Moscow, which Page also echoed in a September 25, 2016 letter to FBI Director Comey.

That redacted sentence must refer to the January 12 application, because that footnote is the only footnote citing that application and nothing else in the paragraph discusses it.

An earlier passage describes the first notice to FISC, in that same January 12 application, "that Steele told the FBI that he made his unauthorized media disclosure because of his frustration at Director Comey's public announcement shortly before the election that the FBI reopened its investigation into candidate Clinton's email use."

It's possible that redacted sentence

distinguishes what Grassley and Graham did in their referral of Steele. The first application stated that, "The FBI does not believe that [Steele] directly provided this information to the press." Whereas the January reapplication stated in a footnote that the FBI, "did not believe that Steele gave information to Yahoo News that 'published the September 23 News Article." Within a day or so, the FBI should have realized that was not the case.

So it's true FBI was denying that the September Isikoff article was based off Steele reporting after the time they should have known it was, but that can probably best be explained by the application timelines and the lassitude of bureaucracy.

# The submission of the preliminary second application likely coincides with the Obama briefing on the Russian threat

As noted above, the second application would have been submitted a full week earlier than it otherwise would have had to have been given the 90-day term on FISA orders targeting Americans. That means the preliminary application was probably submitted by January 5. Not only would that have been too early to incorporate the response to the dossier, most notably the second Isikoff piece, but it even preceded Trump's briefing on the Russian tampering, which took place January 6.

It's also interesting timing for another reason: it means FBI may have submitted its reapplication targeting Page on the same day that Jim Comey and Sally Yates briefed Obama, Susan Rice, and Joe Biden, in part, on the fact that Putin's mild response to the election hack

sanctions rolled out in late December arose in response to requests from Mike Flynn to Sergey Kislyak. As I addressed here, that briefing has become a subject of controversy again, as Chuck Grassley and Lindsey Graham tried to suggest that the Steele dossier may have contributed to the investigation of Flynn.

But contrary to what the Republican Senators claimed in their letter to Rice on the subject, Rice claims the Steele dossier and the counterintelligence investigation never came up.

> The memorandum to file drafted by Ambassador Rice memorialized an important national security discussion between President Obama and the FBI Director and the Deputy Attorney General. President Obama and his national security team were justifiably concerned about potential risks to the Nation's security from sharing highly classified information about Russia with certain members of the Trump transition team, particularly Lt. Gen. Michael Flynn. In light of concerning communications between members of the Trump team and Russian officials, before and after the election, President Obama, on behalf of his national security team, appropriately sought the FBI and the Department of Justice's guidance on this subject. In the conversation Ambassador Rice documented, there was no discussion of Christopher Steele or the Steele dossier, contrary to the suggestion in your letter.

> Given the importance and sensitivity of the subject matter, and upon the advice of the White House Counsel's Office, Ambassador Rice created a permanent record of the discussion. Ambassador Rice memorialized the discussion on January 20, because that was the first opportunity she had to do so, given the particularly intense responsibilities of

the National Security Advisor during the remaining days of the Administration and transition. Ambassador Rice memorialized the discussion in an email sent to herself during the morning of January 20, 2017. The time stamp reflected on the email is not accurate, as Ambassador Rice departed the White House shortly before noon on January 20. While serving as National Security Advisor, Ambassador Rice was not briefed on the existence of any FBI investigation into allegations of collusion between Mr. Trump's associates and Russia, and she later learned of the fact of this investigation from Director Comey's subsequent public testimony. Ambassador Rice was not informed of any FISA applications sought by the FBI in its investigation, and she only learned of them from press reports after leaving office.

Grassley and Graham appear to have confused the IC investigation with the counterintelligence investigation, only the latter of which incorporated the Steele dossier.

In any case, one reason the apparent coincidence between the January 5 briefing and the reapplication process is important is it suggests it was also pushed through a week early to provide room for error with the inauguration. If a FISA order on January 19 goes awry, it might not get approved under President Trump. But if anything happened to that application submitted around January 5, it'd be approved with plenty of time before the new Administration took over.

#### Intelligence from Page's FISA collection

## helped support the government's high confidence that Russia attempted to influence the election

Here's one of the most interesting details in the Schiff memo, however. This passage describes that the wiretap on Page obtained important intelligence, though it won't tell us what it is.

The Court-approved surveillance of Page allowed FBI to collect valuable intelligence. The FISA renewals demonstrate that the FBI collected important investigative information and leads by conducting Court-approved surveillance. For instance,

That redacted footnote, number 14, describes that the redacted intelligence is part of what gave the Intelligence Community "high confidence"

the FBI and broader Intelligence Community's high confidence assessment that the Russian government was engaged in a covert interference campaign to influence the 2016 election, including that Russian intelligence actors "compromised the DNC" and WikiLeaks subsequently leaked in July 2016 "a trove" of DNC emails. Department of Justice, Foreign Intelligence Surveillance Court Application, October 21, 2016, pp. 6-7. Repeated and updated with new information in subsequent renewal applications. Department of Justice, Foreign Intelligence Surveillance Court Application, June 29, 2017, pp. 20-21.

Admittedly, this footnote, with its citation to the October and June applications, is uncertain on this point. But for the wiretap on Page to have supported the December ICA assessment of the Russian tampering, then it would have had to have involved collection from that first period.

If that's right, then it suggests the reason the Obama Administration may have applied for the order renewal early, the same day Comey and Yates briefed Obama on the ICA and Flynn, is because something from that order (possibly targeting Page's December trip to Moscow) added to the IC's certainty that the Russians had pulled off an election operation.