

CHRISTOPHER STEELE PROBABLY SAVED CARTER PAGE FROM PROSECUTION

As I laid out a few weeks ago, I provided information to the FBI on issues related to the Mueller investigation, so I'm going to include disclosure statements on Mueller investigation posts from here on out. I will include the disclosure whether or not the stuff I shared with the FBI pertains to the subject of the post.

As you no doubt know, the government released the Carter Page FISA materials in response to a slew of FOIAs for it. I'm still at HOPE conference, so will do a quick impression, and follow-up later in the week with real analysis.

I believe that Christopher Steele and his shitty disinformation dossier likely saved Carter Page from being prosecuted. I say that because the four FISA applications strongly suggest that the FBI had reason independent of the dossier to believe Page was happily serving as an agent of Russia, including new information in renewals. Nevertheless, it's clear that a significant portion of the initial application did rely on Steele.

To be clear, I think most of the treatment of Steele is perfectly appropriate. As I've said before, FISA applications rely on a range of human sources, including informants and contractors like Steele. For each, the FBI will assess the source's credibility, weighing things like his bias or personal animosity and past reliability. The applications did this at length for Steele, noting that he had an established history of quality reporting, explaining that he used subsources for his reporting, describing that this information came as part of politically motivated research, admitting that

in follow-up Steele expressed real desperation about Trump, and describing how Steele got cut off for sharing information with the press. Four Republican judges assessed all this and approved these orders, and that seems like a reasonable judgment.

I increasingly believe the Russians started feeding Steele disinformation from the very beginning of his project. So this would represent a case where a previously reliable consultant had, in this instance, proven totally unreliable. That happens, I'm sure.

The problem, however, is that the FBI couldn't figure out that the Michael Isikoff report was based on the Steele dossier, something Isikoff has admitted. While the way they use the Isikoff report isn't about validating the intelligence, it nevertheless should have been scrutinized closely enough to understand it might be downstream of Steele. I've laid part of this out here (and I'll probably flesh out this discussion later when there aren't hackers to hang out with).

Because of how the government apparently uses FISA reauthorizations, this defect remained in the reauthorizations, even as FBI admitted the problems associated with Steele. That doesn't mean FBI didn't have a slew of other reasons to wiretap Page. They obviously were obtaining useful intelligence off the wiretap. I can think of several criminal defendants who had what are surely more problematic stuff in their FISA application, who nevertheless had information downstream of that FISA application used in a prosecution against them. So thus far, it simply reflects what happens when you discover intelligence you had every reason to believe was reliable turned out not to be.

Ideally, however, once it became clear the dossier was a problem, they should have done something like submit a fresh application laying out all the other evidence that led the FBI to believe Page is a happy Russian asset. Not all of the stuff is fruit of the Steele tree (and as

I've noted repeatedly, virtually none of the most important parts of what I know of the Mueller investigation is fruit of the Page wiretapping).

But that didn't happen. So everything will now be treated as fruit of a stupid dossier, meaning none of it will be admissible in court. And that, I suspect, means that Page will never be prosecuted in spite of what appears to be a whole bunch of redacted information showing ongoing efforts to help Russia.

Indeed, I suspect that's why the Steele defenders have fought so hard to claim the dossier has been corroborated: because if it were, then it might still be cool to go after Page, but because so little of it has been corroborated, that likely will never happen.