

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A
SUBSTITUTE TO H.RES. 938
OFFERED BY MR. JORDAN

Page 1, strike line 1 and all that follows and insert the following:

1 Whereas after the recusal of Attorney General Jeff Sessions on March 2, 2017, from
2 any matter potentially relating to the 2016 campaign, Deputy Attorney General Rod
3 Rosenstein has overseen the Department's response to the congressional investigations
4 into the Department of Justice (DOJ) and Federal Bureau of Investigation (FBI);

5 Whereas a second Special Counsel was first requested on July 27, 2017, by House
6 Committee on Judiciary Chairman Bob Goodlatte and 19 Members of Congress;

7 Whereas, on September 26, 2017, Chairman Goodlatte and 13 Members of Congress
8 sent a letter repeating the call for a second Special Counsel;

9 Whereas, on March 6, 2018, Chairman Goodlatte and House Committee on Oversight
10 and Government Reform Chairman Trey Gowdy called for the appointment of a second
11 Special Counsel to investigate these matters;

12 Whereas, on May 22, 2018, Representative Lee Zeldin, along with 31 Members of
13 Congress, introduced House Resolution 907 calling for a second Special Counsel;

14 Whereas Majority Leader Kevin McCarthy and Majority Whip Steve Scalise have
15 supported the appointment of a second Special Counsel;

16 Whereas Mr. Rosenstein and the DOJ have repeatedly failed to produce documents
17 requested by the Committee on the Judiciary and the Committee on Oversight and
18 Government Reform, obstructing Congress' oversight duty;

19 Whereas, on October 24, 2017, the Committee on Judiciary and the Committee on
20 Oversight and Government Reform opened a joint investigation into the decisions made by
21 the DOJ in 2016 and 2017 related to their handling of the Secretary Hillary Clinton email
22 investigation;

23 Whereas, on November 3, 2017, Chairman Goodlatte, Chairman Gowdy, and four
24 Members of Congress sent a letter to Attorney General Sessions and Deputy Attorney
25 General Rosenstein requesting five specific categories of documents;

1 Whereas, on December 12, 2017, Chairman Goodlatte, Chairman Gowdy, and other
2 Members sent a letter emphasizing the expectation that the Department provide all
3 requested documents as well as a privilege log;

4 Whereas, on February 1, 2018, Chairman Goodlatte sent a letter requesting
5 documents related to potential Foreign Intelligence Surveillance Act abuses;

6 Whereas the DOJ has missed document production deadlines, produced duplicative
7 pages of information, and redacted pages to the point where they contain no probative
8 information;

9 Whereas the Committee on the Judiciary issued a subpoena to Deputy Attorney
10 General Rosenstein on March 22, 2018, which compelled him to produce, among other
11 things—

12 (1) all documents and communications with the Foreign Intelligence Surveillance
13 Court (FISC) referring or relating to any Foreign Intelligence Surveillance Act (FISA)
14 applications associated with Carter Page or individuals on President Trump's 2016
15 presidential campaign or part of the Trump administration;

16 (2) all documents and communications referring or relating to FISC hearings and
17 deliberations, including any court transcripts, related to any FISA applications
18 associated with Carter Page or the Trump campaign or Trump administration;

19 (3) all documents and communications referring or relating to internal DOJ or FBI
20 management requests to review, scrub, report on, or analyze any reporting of FISA
21 collection involving, or coverage mentioning, the Trump campaign or Trump
22 administration; and

23 (4) all documents and communications referring or relating to defensive briefings
24 provided by the DOJ or FBI to the 2016 presidential campaigns of Hillary Clinton or
25 President Trump;

26 Whereas the DOJ has violated this congressional subpoena by failing to produce
27 each of these categories of documents;

28 Whereas Mr. Rosenstein and the DOJ have refused to provide an alternative timeline
29 for providing these categories of documents;

30 Whereas the DOJ has not provided a privilege log of the redactions with—

31 (1) the privilege asserted;

- 1 (2) the type of document;
2 (3) the general subject matter;
3 (4) the date, author, and address; and
4 (5) the relationship of the author and address to each other, if any document is
5 withheld or redacted on the basis of a privilege;

6 Whereas the DOJ has failed to comply with ~~a memorandum of understanding~~ ^{an agreement}
7 negotiated with the Committee on the Judiciary and the Committee on Oversight and
8 Government Reform to expedite the production of documents for this congressional
9 investigation following the issuance of the March 22 subpoena;

10 Whereas upon in camera review of documents at the DOJ, it was revealed the
11 Department, under the supervision of Mr. Rosenstein, attempted to conceal certain facts as
12 documents provided to Congress were heavily and unnecessarily redacted;

13 Whereas the DOJ unnecessarily redacted the price of FBI Deputy Director Andrew
14 McCabe's \$70,000 conference table because it was potentially embarrassing information;

15 Whereas the DOJ redacted facts such as FBI Agent Peter Strzok's personal
16 relationship with FISC Judge Rudolph Contreras;

17 Whereas the DOJ redacted the names of high-ranking Obama administration
18 officials, such as former White House Chief of Staff Denis McDonough;

19 Whereas the DOJ acknowledged the unnecessary redactions and agreed that some
20 information should not have been redacted in an April 16, 2018, letter;

21 Whereas, on May 17, 2017, Deputy Attorney General Rosenstein appointed Robert S.
22 Mueller III as the Special Counsel to investigate allegations of collusion between Donald
23 Trump's presidential campaign and Russia;

24 Whereas Deputy Attorney General Rosenstein authored the initial memo outlining
25 the scope of the investigation in May 2017;

26 Whereas Deputy Attorney General Rosenstein then sent a subsequent memo
27 modifying parameters of the investigation to Special Counsel Robert S. Mueller III on
28 August 2, 2017, and a heavily redacted version of the memo was made public;

29 Whereas Mr. Rosenstein's memo began by noting "the following allegations were
30 within the scope of the investigation at the time of your appointment and are within the

1 scope of the order”, with nearly everything following the mention of those initial
2 allegations redacted;

3 Whereas Mr. Rosenstein’s memo raises fundamental concerns related to the
4 government’s basis for alleging “collusion” between the Trump campaign and Russia, and
5 whether these allegations resulted in potential crimes warranting investigation;

6 Whereas Mr. Rosenstein’s memo also raises concerns given Special Counsel
7 investigations are not warranted by the existence of mere allegations, and require there be
8 facts evident warranting a “criminal investigation of a person or matter”;

9 Whereas the memo’s status as a classified document and lack of unredacted
10 material raise concerns the appointment of Robert S. Mueller III as Special Counsel began
11 outside the scope of regulations for Special Counsel investigations by originating on a
12 counterintelligence, rather than criminal, basis;

13 Whereas, on April 9, 2018, Representative Mark Meadows and Representative Jim
14 Jordan sent a letter to the DOJ requesting access to the unredacted August 2 memo in order
15 to better understand the scope of the investigation authorized by Mr. Rosenstein;

16 Whereas, on April 30, 2018, the DOJ responded in a letter indicating that they would
17 not provide the information to Congress, despite Congress’ oversight duty;

18 ^{→ press reports indicated} Whereas Mr. Rosenstein approved a FISA application to surveil Carter Page;

19 Whereas the application ~~approved by Mr. Rosenstein~~ included “salacious and
20 unverified” material contained in a dossier written by former spy Christopher Steele;

21 ^{→ the House Intel Committee Majority memo indicates} Whereas the DOJ went before the FISA Court and failed to disclose or reference the
22 role of the Democratic National Committee, the Clinton campaign, or any party or campaign
23 in funding Steele’s efforts;

24 ^{→ the House Intel Committee Majority memo indicates} Whereas the DOJ went before the FISA Court and failed to disclose the relationship
25 between Steele and the FBI;

26 ^{→ the House Intel Committee Majority memo indicates} Whereas the DOJ went before the FISA Court and failed to acknowledge Steele was
27 suspended and subsequently terminated as an FBI source for an authorized disclosure to
28 the media;

29 ^{→ the House Intel Committee Majority memo indicates} Whereas the DOJ went before the FISA Court and failed to disclose issues with
30 Steele’s numerous encounters with the media violated the cardinal rule of source handling
31 and maintaining confidentiality, therefore compromising his credibility as a source;

1 Whereas the House Permanent Select Committee on Intelligence issued a subpoena
2 to Deputy Attorney General Rosenstein on April 30, 2018, requesting specific documents
3 related to the misuse of FISA authorities by the DOJ and FBI;

4 Whereas the DOJ has failed to comply with this subpoena;

5 Whereas, on June 8, 2018, House Permanent Select Committee on Intelligence
6 Chairman, Devin Nunes, sent a follow-up letter requesting the DOJ provide the Committee
7 Members and designated staff full, unredacted access to the documents requested in the
8 April 30, 2018, subpoena by Tuesday, June 12, 2018;

9 Whereas the DOJ did not comply with Chairman Nunes's June 12, 2018, deadline;
10 and

11 Whereas in January 2018, Deputy Attorney General Rosenstein appears to have
12 threatened to subpoena the calls and emails of Intelligence Committee staff in retaliation
13 for requesting documents and investigating the DOJ: Now, therefore, be it

14 *Resolved*, That the House of Representatives compels the Department of Justice to—

15 (1) fully comply with the March 22, 2018, subpoena issued by the House Committee
16 on the Judiciary;

17 (2) fully comply with the April 30, 2018, subpoena issued by the House Permanent
18 Select Committee on Intelligence;

19 (3) provide all documents requested by Congress; and

20 (4) provide Members of Congress and designated staff with full access to unredacted
21 documents.

