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The Current: After the Mueller report, will President Trump be impeached?

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(MUSIC)

PITA: You're listening to "The Current" from the Brookings Podcast Network.

With us today is Margaret Taylor, fellow in Governance Studies and a senior editor and counsel at Lawfare.

Margaret, yesterday Attorney General William Barr released a redacted version of Special Counsel Robert Mueller's report on his investigation into Russian interference in the U.S. 2016 elections. So, what do we know about it so far?

TAYLOR: So the Mueller report that was released, most of it at least, you know, it's important for a number of reasons. It's finally been delivered to Congress and the American people, so this is a big moment. The report spans 400 pages...lots of detail in it. It covers two major topics that were the subject of Special Counsel Bob Mueller's investigation.

First, there was a question of whether there was a criminal conspiracy between the Trump campaign and the Russian government to get Trump elected president. The second question was whether the President obstructed justice in trying to get rid of that investigation.

Now, to be clear, the report concludes that there was not a criminal conspiracy that could be proven under U.S. law, but I would just note that it lays out a whole host of conduct about how the Trump campaign conducted itself during the 2016 presidential election. Multiple members of the campaign—and the report details this—showed over and over again a sort of eagerness to obtain assistance from individuals connected with the Russian government and Wikileaks for dirt, basically, on Trump's political opponent, Democrat Hillary Clinton. But in the end, there was not a criminal conspiracy that was found with respect to any U.S. persons in the report.

Now the second issue that was covered was the obstruction of justice sort of part of the investigation. The report ultimately doesn't make a recommendation on the question of obstruction of justice. The report shows that Special Counsel Mueller, you know, declined to make that recommendation based on his understanding of the Justice Department's policy: the sitting president won't be indicted. But it does lay out all of the actions that Bob Mueller found the president took — some of which we the public knew about because those actions actually were public.

There is description in the report of other more private actions that the president took. There's a lot of detail, and I do think that it's useful for Americans if they have time at all to actually just skim through this report. I think there's lots of details in here that are just good for Americans to know about...what type of conduct that was being engaged in.

Why is it important? I think it's important because special counsel Mueller has laid out for us one piece of this broader problem which is: was there criminal activity? And he's essentially answered that question for us, and the next steps that come after this are more sort of political questions of and moral questions of governance and how we as Americans feel and think about

these actions that were taken and what he has laid out here. And that will be part of a broader conversation going forward.

PITA: What do we know about what was redacted and how transparent is that?

TAYLOR: So, Attorney General William Barr laid out the four sort of areas of redactions that he was going to do, and they are reflected in the report. They are color coded, and they are basically four categories. The first is redacting things that show sensitive intelligence information or sources and methods. The second category is so-called "6(e)" which essentially means that if information was, you know, presented before a grand jury, it has a special status and isn't to be revealed publicly. The third category is sort of certain sensitive information of peripheral third parties—basically people, who you know, weren't charged with crimes but were sort of considered in connection potentially with the charging of crimes. The fourth category of redacted material is sensitivity around an ongoing law enforcement matter. And a lot of the redactions sort of focus on that particular category.

But what we do know? Congress will get to see three of the four types of redacted material. So certain members of Congress will get to see those three of the four categories. The only category that it's not clear what the status will be is that grand jury material category, and it may be that a judge will have to rule on whether Congress can—and the Judiciary Committee in particular—can get that information.

PITA: So, whether we are reading the report ourselves or whether we're just reading or listening to other people's analysis through the news, what are some of the most important things for people to keep in mind while they're thinking about this? What really important to our understanding about what this means?

TAYLOR: I think it's important to keep in mind what the report is not. Okay, so we talked a little bit of what it is. This is the sort of investigation of the criminal aspect of what happened in the 2016 presidential election. It is not a document that sets out how to protect our elections going forward from interference by hostile foreign actors. It's doesn't show the sort of counterintelligence concerns and investigation pieces of that counterintelligence investigation. It's really limited to, you know, was there criminal conduct here? And I think, you know, as Americans and the broader public, I think what we need to keep in mind is this is one component and special counsel Bob Mueller has done a good job of laying out this sort of criminal component of this. But there are absolutely other components that I said before you know: a political component, a moral component. You know, Americans I think are going to have to sort of ask themselves what they think of this type of conduct with hostile foreign government actors with the president, you know, engaging in activities that could really quite arguably rise to actual obstruction of justice even though Bob Mueller didn't choose to charge that. So I think there's just a lot of questions that remain around how Americans begin to think about all of the activity that is described in this report and how he put it in a broader context of how we move forward. You know one of the salient questions in D.C. you know, "are House Democrats going to pursue impeachment of the president"

probably in this context would be based on what's laid out here on obstruction of justice or not, or are they going to, you know, not pursue impeachment and just look to the 2020 presidential election? And so those two processes—impeachment and a presidential election—are both political processes, are both valid ways for a president to be removed from power. And so House Democrats are going to sort of have to make that decision. But you know, regardless, I think there needs to be an ongoing conversation about what we think of what happened and what kinds of norms are we going to accept in the context of our elections and the sort of relationships and what kind of norms we're going to accept from our president in terms of respect for the rule of law, respect for our law enforcement entities, and the independence of the Justice Department.

PITA: Okay, so what do you expect to happen next...or maybe also what you think should happen next?

TAYLOR: I've been getting this question a lot. I think that it's pretty clear that Nancy Pelosi—who's the speaker of the House—her I think judgment on this—and she said this several weeks ago—was that she just doesn't think that impeachment is worth it. She thinks it would be very divisive for the country and it may also be the case that her view is that it does not necessarily help Democrats in the 2020 presidential election because it would be so divisive. So my instinct on it is that the House Democratic leadership will essentially stick with that track and will probably not impeach. I think they'll leave it open as a question so they can really consider this obstruction of justice piece a little bit more before making maybe a final decision on it. But my instinct is that they will not pursue impeachment and instead talk about a lot of these issues sort of in, you know, over the next 18 months in the context of the run up to the 2020 election. It's hard to know exactly what is—you know—what is the right thing to do here because I think a lot of this conduct that is described, particularly in the obstruction of justice section, does really—you know as a lawyer and as someone who cares about the Constitution—it really is conduct that kind of just would seem to rise to the level of needing a sort of an impeachment type of a proceeding to really vindicate it. But you know as I said, these are both political processes. Impeachment is a political process. Elections are a political process. And they and they are equally valid processes. So we're just going to have to wait and see I think what happens going forward.

PITA: Well, for more on this, the Mueller report, and these issues, our listeners can go to Lawfareblog.com and of course Brookings.edu.

Margaret, thank you for being here.

TAYLOR: Thank you for having me.