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THE CURRENT: Why is the Trump-Ukraine whistleblower complaint so important?

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(MUSIC)

PITA: You're listening to The Current, part of the Brookings Podcast Network.

Last week, news broke that a member the intelligence community had raised alarms regarding a promise from the White House to a foreign government. Further reports have connected the whistleblower's complaint to the White House allegedly pressuring Ukraine into opening an investigation into the son of former VP Joe Biden. As of Tuesday, these allegations appear to be tipping a majority of congressional Democrats into supporting impeachment proceedings.

With us today to discuss and explain this is Margaret Taylor, a fellow in Governance Studies here at Brookings, and senior editor and counsel at Lawfare.

Margaret, thanks for being here. Many of the details in this scandal, many of course still in the alleged category – there's a lot we don't know about the whistleblower's complaint – so can you help us run through some of the key pieces of what's happening?

TAYLOR: Sure, the public part of this began on September 9, when the inspector general for the intelligence community sent a letter to House Intelligence Committee Chairman Adam Schiff, basically saying, "I received a whistleblower complaint, I deemed it to be credible and of urgent concern," which is relevant to the statutory framework for intelligence community whistleblower complaints, and it said that the acting director of national intelligence, Joseph Maguire, didn't send it to the committee.

So that set off a back-and-forth between Chairman Schiff and the director of national intelligence and the inspector general. At the beginning it was unclear what the complaint was about – it was more of a process question about why the acting director of national intelligence wouldn't send the complaint.

Thanks to, presumably, some leaks, the press started reporting that the content of the whistleblower complaint relates to calls between President Trump and the president of Ukraine, the new president, Zelensky, and that the call involved promises. Since that point, more information has trickled out, and there have also been some allegations that the president withheld something like \$250 million worth of aid to Ukraine while pressuring the president to open an investigation into Joe Biden and/or his son.

That's the broad strokes of it. What's really unique here is that the president, himself, and the president's lawyer, Rudy Giuliani, have in essence admitted to aspects of this story. So, for example, on Sunday, the president said that yes, he spoke with the president of Ukraine and yes, they talked about Biden and corruption. So, that's one piece where the president is affirming some aspect of this story that has been reported.

Then, on Monday, the president linked the hold-back of assistance to Ukraine with the corruption angle. So, what you have here is the president, in essence, confirming a couple of things about this reporting, and a Congress that's obviously very, very concerned about this, because the idea that the president would use the office of the presidency of the United States to pressure a foreign leader to open up an investigation into a domestic political opponent is considered an abuse of power.

PITA: There have been a few stories that have circulated about Rudy Giuliani, in his capacity as President Trump's personal attorney, reaching out to Ukraine previously to convince them open up this investigation into Hunter Biden. Is the new piece here about the president's direct involvement, the question of these calls, or is it the question of the military aid, that it was withheld and then granted? Are these the pieces that make this new?

TAYLOR: I think you're right, there was press reporting around RG going to Ukraine and Spain and other places to have these conversations, but there was never before a few days ago a connection to the president and the office of the presidency being involved, so that's what's new here. It relates directly to conduct by the president. Conduct by the president's personal lawyer is one thing, but conduct by the president of the United States, who's supposed to be preserving the public's prerogatives in his work, that's just a different thing altogether. And it's why House Democrats are headed to impeachment proceedings.

PITA: There have of course been other ethical questions, ethical scandals surrounding the Trump White House – some from the very beginning like the question of emoluments, about whether the president failed to divest himself from Trump corporation business. Why is this story the thing that's breaking through? Why is this more significant than any of the other ethical question that have come up before?

TAYLOR: It's a good question. I think because there is this whistleblower complaint, it adds an air of validity to pretty serious accusations. I also think there's also some aspect of it coming from the intelligence community that is interesting and alarming to people because that directly relates to a national security issue. So there's a lot of elements of all this, that when you put them all together, it really looks like what we classically think of as an abuse of power. Then you've also got the angle where the domestic political opponent is involved. It's really just got all of the hallmarks of an abuse of power and the subject of an impeachment inquiry.

PITA: If I can ask you to speculate a little, since it does seem very likely that House Democrats will announce opening of impeachment proceedings, what might that look like over, say, the next week or so? What might we expect?

TAYLOR: So it's a little hard to say, but we will know more shortly. There is speculation that Nancy Pelosi is considering establishing a select committee to look at these issues in particular, give that select committee all of the powers that a committee considering impeachment would have. So that's

one possibility. We may also see a resolution condemning the president's actions in some form this week as an interim measure, before a select committee can be set up. The other possibility is that House Democrats decide that the existing committees, that have pretty wide powers, can go ahead and do this investigation, which could then result in articles of impeachment. So I think that's the next step. There will be clarity on this fairly soon.

I would also just note for you that on the Senate side, as of today, there was an announcement that the Senate Intelligence Committee is conducting a bipartisan inquiry into the whistleblower complaint. And that's significant because you have Richard Burr who's a Republican on the Senate side, together with Mark Warner who's a Democrat, together on the Senate Intelligence Committee, wanting to know more about this whistleblower complaint and wanting to sit down with the whistleblower. That's key because you see some bipartisan agreement that this is a serious matter, at least on the Senate side.

PITA: On the question of an investigation itself, whether or not it's a select committee, or going through existing committees, thus far, the Trump administration has on some occasions either slow-walked or refused to comply with some of the subpoenas that came out of various House committees. Is there anything different about official impeachment investigation – whether select committee or not – that would either legally or politically compel the administration to be more forthcoming, to cooperate more fully?

TAYLOR: So, there's nothing that's really immediate about it, in terms of the White House complying with the requests. As a legal matter, there's nothing that's really concrete. As you say, what we've seen in a number of different settings, including the impeachment proceedings that Jerry Nadler of the Judiciary Committee is embarked on and has been for several weeks, what we see is the White House making its own calculation about whether to comply with subpoenas, and for the most part, they're saying no. I don't see how that changes, necessarily, right away, even if there is a formal vote to set up this select committee. The White House still will be making its own calculation about what sort of information it should be turning over or not. So there's no magic sauce to establishing a committee like this. The White House and the executive branch still hold a lot of cards here. They can still assert executive privilege. They can still drag things out, an accommodation process can drag it out, if there's a decision to go to court, that could drag it out even further. There's a lot that remains to be seen about whether or how this unfolds really makes this faster or more effective. Indeed, it may be the case that House Democrats decide that if they can't get any information -- for example, the whistleblower complaint or the transcript of these calls between Trump and Zelensky – they may very well decide, ok, well, we can't get anything from you, in that instance, we have to assume the worst, and we're going to impeach you. So they could end up flipping the burden based on their experience in the last few months where the White House has been pretty recalcitrant about providing any information to them.

PITA: We'll wait and see what happens. Margaret, thanks so much for being here and explaining this for us.

TAYLOR: Thanks for having me.

