

On September 24th, House speaker Nancy Pelosi opened a formal impeachment inquiry into President Donald Trump over allegations that Trump pressured a foreign power (Ukraine) to investigate a political rival (Vice President Joe Biden and his son Hunter) for his own political gain.

- On a July 25th phone call with Ukrainian president Volodymyr Zelensky, Trump urged Zelensky to investigate one of the frontrunners to take him on in the 2020 election. In the US it is illegal to ask foreign entities for help in winning an election.
  - A rough transcript of the call later revealed that Trump had urged Zelensky to investigate former Vice President Joe Biden and his son Hunter.
    - Trump and his supporters allege Biden abused his power as Vice President to pressure Ukraine to back away from a criminal investigation that could implicate his son who sat on the board of directors of a Ukrainian energy company.
    - Trump and his allies have been suggesting that Biden, as Barack Obama's vice president, encouraged the firing of Ukraine's top prosecutor in 2015 because he had been investigating the energy company Hunter Biden worked for.
      - At the time, by working closely with foreign-owned entities while his father was vice president, Hunter Biden was criticised for leaving his father exposed to suggestions of a possible conflict of interest.
      - Trump has pointed to a boast Joe Biden made in 2018 about how as vice president he had threatened to withhold a billion dollars in aid from Ukraine unless the prosecutor was fired.
      - Biden, however, says the motivation for wanting the prosecutor removed was because he was failing to crack down on corruption. Biden was not acting alone, but rather as the focal point of a wider anti-corruption drive in Ukraine backed by the US government, European allies and the IMF.
  - The big debate is whether the [transcript](#) of Trump's call demonstrated a quid pro quo, Latin for "something for something".
    - [David French breaks down how the transcript clearly shows a quid pro quo.](#)
      - French writes, "near the beginning of the call, President Trump signals his displeasure with Ukraine. He notes that while the United States has been "very good" to Ukraine, he "wouldn't say" that Ukraine has been "reciprocal" to the United States. There's nothing subtle about this statement. It's plain that Trump wants something from Ukraine. To be

clear, there is nothing inherently wrong with that. Nations strike deals all the time. It's the nature of the proposed deal that's potentially problematic, not whether two leaders bargain."

- He goes on to write, "In the next paragraph, Zelensky responds with the key ask. He wants more Javelin missiles... And what is Trump's response? The next words out of his mouth are, "I would like you to do us a favor though because our country has been through a lot and Ukraine knows a lot about it."
- "Then, in the following paragraph, Trump continues his ask. He says he is going to ask Rudy Giuliani, his personal attorney, to call Zelensky, and he asks Zelensky to take the call. Then, Trump says this: "The other thing, there's a lot of talk about Biden's son, that Biden stopped the prosecution and a lot of people want to find out about that, so whatever you can do with the Attorney General would be great." He continues, "Biden went around bragging that he stopped the prosecution so if you can look into it . . . It sounds horrible to me." And what is Zelensky's response? He pledges that the new Ukrainian prosecutor will be "100 percent" his person and that "he or she will look into the situation."
  - There may not have been an explicit quid pro quo. Trump may not have expressly said the disbursement of the funds was conditioned on the launch of a Ukrainian investigation into the Bidens. But even if there was no explicit threat, there was still presidential pressure coming at a time when money was on the line and when Trump had personally delayed the funds.
- The call between Trump and Zelensky occurred days after Trump blocked \$391m in military aid to Ukraine. Critics argue this was used as a bargaining chip to pressure the Ukrainian government. Trump denies this.
  - They money had been authorized by Congress earlier in the year, and under the Constitution, Congress has the sole power of the purse. A president can neither spend unauthorized funds, nor decline to spend funds that Congress has authorized.
  - Trump not only paused the payments, but he gave no clear reason why, instructing administration officials "to tell lawmakers that the delays were part of an 'interagency process' but to give them no additional information. The payments weren't made until mid-September.
  - If Trump tried to use aid money allocated by Congress to pressure the Ukrainian government into investigating one of his major political rivals, that would be a blatant effort to use federal funds for purposes that were

never authorized by Congress. The legislative branch does often give the executive the power to withhold foreign aid money until various conditions are met - such as assisting US foreign policy goals. There is a longstanding debate over how much discretion the Constitution allows Congress to delegate to the president on such matters. But, in this case, Congress never authorized the president to use the aid money as leverage to force a foreign government to try to dig up dirt on the president's own political opponents and their family members.

- [Ilya Somin wrote in Reason](#), "If it turns out that Trump did indeed try to use these funds as leverage to dig up dirt against a political opponent, that sort of unconstitutional diversion of federal funds for personal gain is exactly the kind of abuse of power that the Founders believed impeachment should be used to curb. It is not merely a form of personal corruption, but a dangerous undermining of the constitutional separation of powers. There is obvious reason to avoid giving any one man or woman the power to use the federal treasury as a piggy bank for their own personal agendas.
- The whistleblowers
  - At the heart of this story is a complaint from an unknown whistleblower, reported to be a CIA official. They specify in their letter to Senate officials that they do not work in the White House.
  - At least two whistleblowers have come forward.
    - In August, the first anonymous intelligence official wrote a letter expressing concern over Trump's July phone call with the Ukrainian president.
      - They said they had an "urgent concern" that Trump had used his office to "solicit interference from a foreign country" in the 2020 presidential election.
      - They also alleged that the White House acted to "lock down" all details of the phone call between Trump and Zelensky, and that the call transcript was not stored in the usual computer system.
        - According to the whistleblower's report, White House officials were "directed by White House lawyers to remove the electronic transcript from the computer system in which such transcripts are typically stored" for sharing and other use within the administration. Instead, the records were to be stored in a more secretive and compartmentalized system designed for classified information. One White House official, the report says, described this as an "abuse" of the more secretive system,

because the Ukraine call records did not belong there.

- In their letter, the whistleblower admitted that they had not directly witnessed the call but said accounts shared by other officials had painted a consistent picture.
- Congressional investigations and Impeachment
  - For a more detailed about the impeachment process and what the Constitution says about the process, [listen to WAL ep. 333: The History of Impeachment](#). Or read the [show notes](#) for the episode.
  - The Constitution does not say much about impeachment, but what it does state is in Article I. The House “shall have the sole Power of Impeachment” and the Senate “shall have the sole Power to try all Impeachments.”
    - No particular process is specified or required. The House determines the procedures it will use to, en effect, issue an indictment of the president, and the Senate then conducts a trial. Bringing an indictment does not require open proceedings and the cross-examination of witnesses.
    - The House can follow whatever rules it wants. Congress is engaged in an investigation, not a trial. If the president is impeached (indicted) then he would have the right to present evidence and cross-examine witnesses as part of his trial in the Senate.
  - Congress has the authority to subpoena anyone in the private sphere or the administration for a legislative purpose.
    - As announced in *Wilkinson v. United States*, a Congressional committee must meet three requirements for its subpoenas to be legally sufficient:
      - The committee’s investigation of the broad subject area must be authorized by its chamber
      - The investigation must pursue “a valid legislative purpose” but does not need to involve legislation and does not need to specify the ultimate intent of Congress
      - The specific inquiries must be pertinent to the subject matter area that has been authorized for investigation
  - Congress can go to federal court to ask a judge to enforce a subpoena that is being ignored but that move takes time and in the end, the House may simply decide to use the White House refusal as another justification for impeachment.

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