

**Corruption Takes Center Stage:  
How the Live Nation—Ticketmaster Settlement Threatens Antitrust Enforcement**

Roger P. Alford  
Professor of Law, Notre Dame Law School  
Former Principal Deputy Assistant Attorney General, U.S. Department of Justice  
Former Deputy Assistant Attorney General, U.S. Department of Justice

May 18, 2026

Thank you for inviting me to testify today. I look forward to discussing with you the recent developments in the Live Nation-Ticketmaster case, including the Department of Justice’s settlement and the successful state attorneys general jury verdict. I am a conservative populist antitrust scholar who teaches at Notre Dame Law School and was a former Principal Deputy Assistant Attorney General for the Department of Justice’s Antitrust Division in the current Administration and Deputy Assistant Attorney General for International Affairs in the first Trump Administration. I am deeply concerned about the manner in which the antitrust laws are enforced by the Department of Justice. I would like to discuss the abuse of prosecutorial discretion evident in the Live Nation-Ticketmaster settlement and similar cases, and the norms of institutional and personal integrity that are essential to protect the Department of Justice from undue political influence.

I speak on behalf of traditional Republicans, many in the offices of the state attorneys general, who care deeply about the rule of law and the vigorous enforcement of antitrust laws to protect the average American. We are the Republicans trying to respond to the millions of Trump voters who thought this Administration would address their affordability crisis.<sup>1</sup> In this new Gilded Age, we should be the Republican Party of Roger Sherman and Theodore Roosevelt, not Jay Gould and John D. Rockefeller. Why, we ask, have the rich men north of Richmond<sup>2</sup> betrayed the hard-working Americans who struggle to enjoy the simple pleasures of life? Music is good for the soul, so why can so few afford it?<sup>3</sup> And why don’t we do something about it?

*Abuse of Prosecutorial Discretion*

As I discussed in my House Judiciary Testimony this past December,<sup>4</sup> the DOJ Justice Manual is unequivocal: “The rule of law depends upon the evenhanded administration of justice. The legal

---

<sup>1</sup> Roger P. Alford, *Continuing a Bipartisan Path Forward for Antitrust Enforcement and Reform*, Senate Judiciary Committee, Subcommittee on Competition Policy, Antitrust, and Consumer Rights (Dec. 17, 2024), available at [https://www.judiciary.senate.gov/imo/media/doc/2024-12-17\\_pm\\_-\\_testimony\\_-\\_alford.pdf](https://www.judiciary.senate.gov/imo/media/doc/2024-12-17_pm_-_testimony_-_alford.pdf).

<sup>2</sup> Oliver Anthony, *Rich Men North of Richmond*, <https://www.youtube.com/watch?v=sqSA-SY5Hro>.

<sup>3</sup> Andreina Rodriguez, *By the Numbers: How Much Americans are Spending to See Live Music—and What They’re Doing to Afford it*, CNBC SELECT, (May 14, 2026), <https://www.cnbc.com/select/concert-ticket-prices-how-much-americans-are-spending/>.

<sup>4</sup> Roger P. Alford, *Anti-American Antitrust: How Foreign Governments Target U.S. Business*, House Committee of the Judiciary, Subcommittee on the Administrative State, Regulatory Reform, and Antitrust, (Dec. 16, 2025), <https://judiciary.house.gov/committee-activity/hearings/anti-american-antitrust-how-foreign-governments-target-us-businesses>.

judgments of the Department of Justice must be impartial and insulated from political influence. It is imperative that the Department’s investigatory and prosecutorial powers be exercised free from partisan consideration. It is a fundamental duty of every employee of the Department to ensure that these principles are upheld in all of the Department’s legal endeavors.”<sup>5</sup>

This commitment to the rule of law and the evenhanded administration of justice requires the careful exercise of prosecutorial discretion. As Attorney General Robert Jackson stated in his now famous speech to United States Attorneys in 1940: “What every prosecutor is practically required to do is to select the cases for prosecution and to select those in which the offense is the most flagrant, the public harm the greatest, and the proof the most certain.”<sup>6</sup> In other words, we should prosecute cases like Live Nation-Ticketmaster.

If those cases represent the ideal ones for prosecution, Jackson also described the worst kinds of cases for prosecution:

If the prosecutor is obliged to choose his case, it follows that he can choose his defendants. Therein is the most dangerous power of the prosecutor: that he will pick people that he thinks he should get, rather than cases that need to be prosecuted. With the law books filled with a great assortment of crimes, a prosecutor stands a fair chance of finding at least a technical violation of some act on the part of almost anyone. In such a case, it is not a question of discovering the commission of a crime and then looking for the man who has committed it, it is a question of picking the man and then searching the law books, or putting investigators to work, to pin some offense on him. It is in this realm—in which the prosecutor picks some person whom he dislikes or desires to embarrass, or selects some group of unpopular persons and then looks for an offense, that the greatest danger of abuse of prosecuting power lies. It is here that law enforcement becomes personal, and the real crime becomes that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself.<sup>7</sup>

Regardless of party affiliation, selective prosecution of one’s *political enemies* is a cause for grave concern.

If selective *prosecution* of one’s enemies is the most dangerous abuse of prosecutorial discretion, selective *non-prosecution* of one’s allies is a close second.<sup>8</sup> One could paraphrase Jackson’s language to describe the inverse problem as follows:

When the prosecutor picks some person whom he likes or desires to favor, or selects

---

<sup>5</sup> DOJ Justice Manual, Section 1-8.100, available at <https://www.justice.gov/jm/jm-1-8000-congressional-relations>.

<sup>6</sup> Robert Jackson, *The Federal Prosecutor, Address Delivered at the Second Annual Conference of United States Attorneys*, (April 1, 1940), <https://www.justice.gov/sites/default/files/ag/legacy/2011/09/16/04-01-1940.pdf>.

<sup>7</sup> *Id.*

<sup>8</sup> In the antitrust context, I refer to “selective non-prosecution” to include the under influence of politics on mergers that should be investigated and challenged but are not, monopoly and cartel civil and criminal cases that should be brought but are not, and ongoing antitrust cases that should be litigated but are dismissed or settled on terms that are inadequate to address the competitive harms.

some group of popular persons and then looks for an excuse to not prosecute, that is one of the greatest dangers of abuse of prosecuting power lies. It is here that law enforcement becomes personal, and the real alibi becomes that of being popular with the predominant or governing group, being attached to the right political views, or being personally attractive to or in support of the prosecutor himself.

Regardless of party affiliation, selective non-prosecution of one's *political allies* is also a cause for grave concern.

Quoting Jackson's speech in his dissent in *Morrison v. Olson*, Justice Scalia stated that "[o]nly someone who has worked in the field of law enforcement can fully appreciate the vast power and the immense discretion that are placed in the hands of a prosecutor with respect to the objects of his investigation."<sup>9</sup> As the Principal Deputy Assistant Attorney General of the Antitrust Division at the Department of Justice, I fully appreciate the vast power and immense discretion that are placed in the hands of the Antitrust Division. In the exercise of that discretion is the power to do great good and great harm.

Unfortunately, during my tenure at the DOJ, I personally witnessed the abuse of prosecutorial discretion with respect to antitrust investigations and enforcements. Such abuses harm the DOJ's reputation and the American economy. In a prior speech in Aspen in August 2025,<sup>10</sup> and in congressional testimony in December 2025,<sup>11</sup> I summarized some of those abuses evident in the HPE/Juniper merger scandal and the pardon of Tim Leiweke. Since that time we have seen other examples, including the refusal to investigate the Compass/Anywhere Real Estate<sup>12</sup> merger—which will impact the cost of housing for millions of Americans—and the early termination of the Nexstar/Tegna<sup>13</sup> merger—which will impact how millions of Americans receive their local news. By any standard application of the antitrust laws, both of those mergers required thorough and detailed investigations and, if the evidence supported it, challenges to block the mergers.

These scandals were a mere prelude to the most recent crisis. If there is one instance of the abuse of prosecutorial discretion over antitrust enforcement that will harm the DOJ's reputation and injure the average American, it is the Live Nation-Ticketmaster settlement.<sup>14</sup> When I spoke out in Aspen about my concerns regarding the perversion of justice at the Department of Justice, I did so in the hope that corrective measures could be taken in time to avoid further harm involving cases such as Live Nation-Ticketmaster, one of the most important monopoly cases in modern history.<sup>15</sup>

According to published reports, Live Nation-Ticketmaster hired MAGA lobbyists Kellyanne Conway and Mike Davis, as well as former and current Board members Ariel Emmanuel and Ric

---

<sup>9</sup> *Morrison v. Olson*, 487 U.S. 654, 727 (1988) (Scalia, J., dissenting).

<sup>10</sup> Roger P. Alford, *The Rule of Law Versus the Rule of Lobbyists*, (August 18, 2025), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5396537](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5396537).

<sup>11</sup> Roger P. Alford, *Anti-American Antitrust: How Foreign Governments Target U.S. Business*, supra note 3.

<sup>12</sup> *Compass and Anywhere Real Estate Begin a New Chapter as One Company Built for Real Estate Professionals*, Compass (Jan. 9, 2026), <https://investors.compass.com/news/news-details/2026/Compass-and-Anywhere-Real-Estate-Begin-a-New-Chapter-as-One-Company-Built-for-Real-Estate-Professionals/default.aspx>.

<sup>13</sup> Press Release, *Nexstar Media Group, Inc., Closes Acquisition of Tegna Inc.*, (Mar. 19, 2026), <https://www.nexstar.tv/ntam/>.

<sup>14</sup> Press Release, *Live Nation Entertainment Reaches Settlement With U.S. Department of Justice*, (Mar. 9, 2026), <https://newsroom.livenation.com/statements/live-nation-entertainment-reaches-settlement-with-u-s-department-of-justice/>.

<sup>15</sup> Alford, *The Rule of Law Versus the Rule of Lobbyists*, supra note 9, at 5 (“Which case is the next casualty? Will the same senior DOJ officials ignore the President’s Executive Order just because Live Nation and Ticketmaster have paid a bevy of cozy MAGA friends to roam the halls of the Fifth Floor in defense of their monopoly abuses?”).

Grennell, to influence the White House and the Department of Justice to settle the case on favorable terms.<sup>16</sup> According to one report, President Trump personally intervened to have the case settled after lobbying from his personal friend Ariel Emmanuel.<sup>17</sup> Reportedly, following those lobbying efforts, former Attorney General Pam Bondi, White House counsel David Warrington, and Acting Assistant Attorney General Omeed Assefi met at the White House on March 5 with Live Nation CEO Michael Rapino and other senior Live Nation-Ticketmaster executives.<sup>18</sup> A settlement was reached the same day on terms extremely favorable to the company: no structural remedies, promises to make about a dozen secondary venues non-exclusive, and damages valued at four days of the company's annual revenue.<sup>19</sup> After over fifteen years of broken promises following two consent decrees,<sup>20</sup> such a settlement was truly shocking. The public outrage was not surprising.<sup>21</sup> Such a settlement speaks volumes about the Trump Administration's commitment to address the affordability crisis for the average American.

The precise details of the circumstances that led to the settlement likely will be revealed as part of the Tunney Act proceeding, but the substance of the settlement was so defective that a bipartisan coalition of over thirty state attorneys general rejected it and litigated the case to a successful jury verdict. If hopes of corrective measures within the DOJ have been dashed, the promise of vigorous enforcement by the state attorneys general have exceeded all expectations.<sup>22</sup> The unanimous jury verdict was a watershed moment in the history of antitrust law. The Antitrust Division's reputation is tarnished, and state attorneys general are now emboldened like never before.

The Antitrust Division leaders clearly have not learned their lesson, denying the unusual manner in which they negotiated the settlement and defending the weak outcome as preferable to a powerful jury verdict.<sup>23</sup> Despite the general awareness of their betrayal of the public trust, these leaders are deceiving themselves and presenting an image that they did nothing wrong. They refuse to recognize the corruption, or their participation in and cooperation with the corruption. That should not surprise us. "Men will not cease to be dishonest, merely because their dishonesties have been revealed or because they have discovered their own deceptions," said renown ethicist

---

<sup>16</sup> Dana Mattioli, Rebecca Ballhaus, and Josh Dawsey, *The Threats and Bare-Knuckle Tactics of MAGA's Top Antitrust Fixer*, WALL STREET JOURNAL, (Mar. 20, 2026), <https://www.wsj.com/us-news/law/lobbyists-antitrust-trump-davis-f6a02e04>; Elizabeth Crisp, *Trump Ally Richard Grennell Joins Live Nation Board Amid Antitrust Probe*, THE HILL (May 21, 2025), <https://thehill.com/homenews/administration/5311464-ric-grennell-live-nation-board-trump-doj-ticketmaster-antitrust/>; Ethan Millman, *Music Insiders Slam Live Nation's Trump Ally Board Appointee Amid DOJ Suit: "It's Just So Obvious"*, HOLLYWOOD REPORTER, (May 21, 2025), <https://www.hollywoodreporter.com/business/business-news/live-nation-richard-grennell-doj-lawsuit-1236224658/>; *Live Nation: Bipartisan Group of State AGs Vows to Fight on Despite DOJ's Proposed Settlement with Entertainment Giant*, CAPITOL FORUM (Mar. 9, 2026); David Dayen, *Trump Justice Department Poised to Preserve Ticketmaster Monopoly*, THE AMERICAN PROSPECT, (Feb. 12, 2026), <https://prospect.org/2026/02/12/trump-justice-department-ticketmaster-live-nation-monopoly/>;

<sup>17</sup> Dana Mattioli, Rebecca Ballhaus, and Josh Dawsey, *The Threats and Bare-Knuckle Tactics of MAGA's Top Antitrust Fixer*, WALL STREET JOURNAL, (Mar. 20, 2026), <https://www.wsj.com/us-news/law/lobbyists-antitrust-trump-davis-f6a02e04>.

<sup>18</sup> Id.

<sup>19</sup> Roger Alford, *State AGs Took Live Nation Case to Finish Line for Music Lovers*, BLOOMBERG LAW (Apr. 29, 2026), <https://news.bloomberglaw.com/legal-exchange-insights-and-commentary/state-ags-took-live-nation-case-to-finish-line-for-music-lovers>.

<sup>20</sup> Id.

<sup>21</sup> Antitrust Division, @JusticeATR (Apr. 15, 2026, 5:28 PM), <https://x.com/JusticeATR/status/2044528268066312423>; Khushita Vasant, *US State AGs, Lawmakers Pan DOJ's X Post Praising Live Nation Verdict*, MLEX, (Apr. 16, 2026), <https://www.mlex.com/mlex/articles/2466588/us-state-ags-lawmakers-pan-doj-s-x-post-praising-live-nation-verdict>; *Live Nation Reaches Settlement with DOJ in Antitrust Fight*, [https://www.reddit.com/r/indieheads/comments/1rp0d1e/live\\_nation\\_reaches\\_settlement\\_with\\_doj\\_in/](https://www.reddit.com/r/indieheads/comments/1rp0d1e/live_nation_reaches_settlement_with_doj_in/).

<sup>22</sup> Roger Alford, *State AGs Took Live Nation Case to Finish Line for Music Lovers*, BLOOMBERG LAW (Apr. 29, 2026), <https://news.bloomberglaw.com/legal-exchange-insights-and-commentary/state-ags-took-live-nation-case-to-finish-line-for-music-lovers>.

<sup>23</sup> *Acting Assistant Attorney General Omeed Assefi Delivers Remarks at Engelberg Center on Innovation Law & Policy at NYU Law School*, (May 7, 2026), <https://www.justice.gov/opa/speech/acting-assistant-attorney-general-omeed-assefi-delivers-remarks-engelberg-center> ("Antitrust negotiations over martinis belies the seriousness of our work.... [We want to] "provide instant relief to the American people as fast as possible. Not two-three years from now. Not after we put in resources, time, energy, and emotions into an appeal that may go our way. We want relief and we want it now.")

Reinhold Niebuhr. “They will use whatever means are most convenient to [maintain their power] and will seek to justify them by the most plausible arguments they are able to devise.”<sup>24</sup>

Part of the reason that the Live Nation-Ticketmaster settlement was so unsettling is that it undermined traditional norms in a case that is of great significance to the American people. One would hope that institutional and personal integrity would protect against the abuse of prosecutorial discretion in almost all cases. But the fact that such integrity did not protect against this outcome in a case of such magnitude is deeply troubling. It should not have happened.

### *Institutional Integrity*

One of the reasons for the rise of selective non-prosecution is because the norms of DOJ integrity are at risk. Maintaining the institutional integrity of the Department of Justice from undue political influence is not the same as the concern about the removal power of independent agency heads. It is easy to confuse institutional integrity as applied to the Department of Justice from the independence of specific agencies that is now under review by the Supreme Court in *Trump v. Slaughter*.<sup>25</sup> With respect to the former, there is no question that the Attorney General serves at the pleasure of the President and can be removed with or without cause. Such removal power was exercised last month with Attorney Pam Bondi, and twice in the first Trump Administration with Attorneys General Jeff Sessions and Bill Barr. The norms of integrity that the Department of Justice safeguards protect against undue political influence over prosecutorial discretion. As the Justice Manual states, “[t]he success of the Department of Justice depends upon the trust of the American people. That trust must be earned every day. And we can do so only through our adherence to the longstanding Departmental norms of independence from inappropriate influences, the principled exercise of discretion, and the treatment of like cases alike.”<sup>26</sup>

With respect to the institutional integrity of the Department of Justice, the Trump Administration appears to be applying a theory of the unitary executive that conflates Presidential responsibility and accountability with direct political oversight and influence. As the Supreme Court recently pronounced in *Trump v. United States*, “[i]nvestigative and prosecutorial decisionmaking is ‘the special province of the Executive Branch,’ and the Constitution vests the entirety of the executive power in the President.”<sup>27</sup> It added: “The President is a branch of government, and the Constitution vests in him sweeping powers and duties.”<sup>28</sup> Consistent with that approach, the Trump Administration is exercising a maximalist theory of executive power that includes the President’s power to supervise and direct subordinate executive officials and communicate directly with the Department of Justice about ongoing investigations and cases.<sup>29</sup>

With sweeping powers comes sweeping duties. In the exercise of that executive power, the President may have criminal immunity, but he remains accountable to the people. He is

---

<sup>24</sup> Reinhold Niebuhr, *MORAL MAN AND IMMORAL SOCIETY*, 34 (1960).

<sup>25</sup> *Trump v. Slaughter*, 606 U.S. \_\_\_ (2026).

<sup>26</sup> DOJ Justice Manual, Section 1-8.600, available at <https://www.justice.gov/jm/jm-1-8000-congressional-relations>.

<sup>27</sup> *Trump v. United States*, 603 U.S. 593, 621 (2024).

<sup>28</sup> *Id.* at 639-40.

<sup>29</sup> *Id.* at 620 (“The President may discuss potential investigations and prosecutions with his Attorney General and other Justice Department officials to carry out his constitutional duty to “take Care that the Laws be faithfully executed.”); Jack Goldsmith, *The President’s Favorite Decision: The Influence of Trump v. United States in Trump 2.0*, *Lawfare* (Feb. 10, 2025), <https://www.lawfaremedia.org/article/the-president-s-favorite-decision--the-influence-of-trump-v.-u.s.-in-trump-2.0>.

constitutionally obligated to “take care that the laws be faithfully executed,”<sup>30</sup> and the faithful execution of the laws, including the antitrust laws, requires the application of the law to the facts in a manner consistent with professional expertise and judicial understandings of the law. Prosecutorial integrity has been the norm to assist the President to fulfill his duty to faithfully execute the law.

The integrity norms that have developed at the Department of Justice since Watergate are consistent with traditional understandings of Presidential responsibility and accountability. As Attorney General Griffin Bell put it in 1978,

In a Constitutional sense, the Attorney General remains responsible to the President, and the President to the public. Although true institutional independence is therefore impossible, the President is best served if the Attorney General and the lawyers who assist him are free to exercise their professional judgments. Just as important, they must be perceived by the American people as being free to do so.... The course best calculated ... to inspire public confidence in the faithful execution of the laws is for the President to allow the Attorney General freedom from undue influence, in the first instance, to accept the Attorney General’s judgment in specific cases, and to remove him if his judgments seem wrong.”<sup>31</sup>

In other words, while there is Presidential accountability, the norms of integrity at the Department of Justice serve the public and help the President fulfill his obligation to faithfully execute the laws. The exercise of law enforcement functions must be governed by the facts, the law, and considerations of justice, free from political considerations.

Acting Attorney General Todd Blanche recently confirmed that the Trump Administration seeks to have direct political oversight and influence over specific cases at a granular level.<sup>32</sup> The President and other White House and Cabinet officials now feel free to intervene and influence the decisions of prosecutors with respect to antitrust investigations, prosecutions, and settlements. Given the billions of dollars at stake, that practice inevitably invites political allies to lobby their friends in high office for specific results based on personal connections and political preferences. The rule of law becomes the rule of lobbyists. Such lobbying directly highlights Jackson’s concern about the realm where “the greatest danger of abuse of prosecuting power lies,” in which “law enforcement becomes personal,”<sup>33</sup> for the benefit of some, and to the detriment of others. Blanche has not explained how this personal and political approach to prosecutions instills public trust in the integrity of the Department of Justice, supports the presumption of regularity, or ensures that the President is fulfilling his constitutional obligation to take care that the laws be faithfully executed.

In light of the current Administration’s approach to the unitary executive, Justice Scalia’s admonition in his *Morrison* dissent holds true now more than ever: “Under our system of

---

<sup>30</sup> U.S. Constitution, Art. II, §3.

<sup>31</sup> Griffin B. Bell, *An Address by the Honorable Griffin B. Bell, Attorney General of the United States, Before Department of Justice Lawyers 5* (Sep. 6, 1978), <https://www.justice.gov/sites/default/files/ag/legacy/2011/08/23/09-06-1978b.pdf>; see also Michael Dreeban, *Robert Jackson’s The Federal Prosecutor Revisited*, 139 HARV. L. REV. FORUM 173, 185-86 (2026).

<sup>32</sup> Camilo Montoya-Galvez & Joe Walsh, *Blanche Calls Obama’s Concerns About DOJ Targeting Trump’s Critics “Extraordinarily Rich”*, CBS NEWS (May 6, 2026), <https://www.cbsnews.com/news/todd-blanche-obama-concerns-targeting-trump-critics/>.

<sup>33</sup> Robert Jackson, *The Federal Prosecutor*, supra note 5.

government, the primary check against prosecutorial abuse is a political one.... When crimes are not investigated and prosecuted fairly, non-selectively, with a reasonable sense of proportion, the President pays the cost in political damage to his administration.”<sup>34</sup> In other words, White House oversight and influence over the Department of Justice’s selective prosecution and non-prosecution of cases has political consequences. As Justice Scalia put it, “if federal prosecutors pick people that they think they should get, rather than cases that need to be prosecuted ... the unfairness will come home to roost in the Oval Office.”<sup>35</sup> Justice should not only be done, it also must be *seen* to be done.<sup>36</sup> And there are consequences when justice is not done, and when it is seen to not be done.

I do not have insight into allegations of selective prosecution of political enemies, but I have personal experience regarding selective non-prosecutions. It is deeply troubling that the Antitrust Division is engaged in selective non-prosecution of political allies in critical cases such as Live Nation-Ticketmaster. Such a practice has become all too common in other cases as well. Selective non-prosecution of antitrust cases will lead to anticompetitive mergers, collusion between competitors, and monopoly abuses. It should not be this way.

### *Personal Integrity*

Let me conclude briefly with a few thoughts on personal integrity. Attorney General Jackson closed his speech on that note:

The qualities of a good prosecutor are as elusive and as impossible to define as those which mark a gentleman. And those who need to be told would not understand anyway. A sensitiveness to fair play and sportsmanship is perhaps the best protection against the abuse of power, and the citizen’s safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes, and who approach his task with humility.<sup>37</sup>

The Justice Manual underscores the importance of personal integrity as well: “the success of [federal prosecutorial] system must rely ultimately on the character, integrity, sensitivity, and competence of those men and women who are selected to represent the public interest in the federal criminal justice process.”<sup>38</sup>

In the Antitrust Division, Assistant Attorney General Gail Slater and many of her deputies, including me, paid a professional price for refusing to abuse their prosecutorial discretion. The termination or resignation of political appointees and many senior career attorneys and economists at the Antitrust Division is a testament to their personal integrity. As one senior career attorney put it to me, “There are certain lines you cannot cross, and when that moment came, I had no choice but to quietly resign.”

---

<sup>34</sup> Morrison v. Olson, 487 U.S. at 728-29 (Scalia, J., dissenting) (citation omitted).

<sup>35</sup> Id. at 729 (Scalia, J., dissenting).

<sup>36</sup> R v. Sussex Justices, ex parte McCarthy, [1924] 1 KB 256[1923] All ER Rep. 233; see also *Speech by Mr. Justice Cobb: “Justice Must be Seen to Be Done,”* (Oct. 10, 2024), <https://www.judiciary.uk/speech-by-mr-justice-cobb-justice-must-be-seen-to-be-done/>.

<sup>37</sup> Robert Jackson, *The Federal Prosecutor*, supra note 5, at 7

<sup>38</sup> DOJ Justice Manual, Section 9-27.001, available at <https://www.justice.gov/jm/jm-9-27000-principles-federal-prosecution>.

Some may describe such conduct as brave, while others will see it as insubordinate. But as former prosecutor Danielle Sassoon said of her decision to resign in similar circumstances, “I simply honored my duties as a prosecutor, which include serving the public without regard for the political or personal implications.”<sup>39</sup> That is the honorable path. But it is not the only path. Many career attorneys and economists have decided to stay, and quietly fight the battle against corruption and abuse of discretion from the inside. That path should be honored too, *if* they are not cooperating with or defending the misconduct.

While Jackson describes the qualities that make for a good prosecutor as elusive, there are clear ethical obligations.<sup>40</sup> Those professional guidelines are helpful, but at a personal level they are insufficient to address the deeper questions of personal integrity. For matters of the heart, other guidelines are more instructive.

Given that the highest ranking antitrust officials in the federal government are Catholic, one can assume (or at least hope) that they will seek to align their own moral compasses with the teachings of the Catholic Church. One can also assume that many other senior leaders at the DOJ and the FTC, who are members of faith communities or otherwise guided by a desire to pursue ethical ideals, will find these teachings on personal integrity illuminating. They have been for me, helping me to stand up and to speak out.

Regarding the purpose of government, “political authority ... must always be exercised within the limits of the moral order and directed toward the common good.”<sup>41</sup> “Anyone who uses the power at his disposal in such a way that it leads others to do wrong [is] ... responsible for the evil that he has directly or indirectly encouraged.”<sup>42</sup> For government officials “[a]uthority is exercised legitimately only when it seeks the common good ... and if it employs morally licit means to attain it.”<sup>43</sup>

“Corruption in which one influences the judgment of those who must make decisions according to law” is “morally illicit.”<sup>44</sup> Political corruption is “one of the most serious” deformities of the democratic system.<sup>45</sup>

It compromises the correct functioning of the State, having a negative influence on the relationship between those who govern and the governed. It causes a growing distrust with respect to public institutions, bringing about a progressive disaffection in the citizens with regard to politics and its representatives, with a resulting weakening of institutions. Corruption radically distorts the role of representative institutions, because they become an arena for political bartering between clients’ requests and governmental services. In this way political choices favor the narrow objectives of

---

<sup>39</sup> Danielle Sassoon, *What Justice Scalia Taught Me*, THE FREE PRESS (Aug. 19, 2025), <https://www.thefp.com/p/what-justice-scalia-taught-me>.

<sup>40</sup> DOJ Justice Manual, 9-27.000, Principles of Federal Prosecution, <https://www.justice.gov/jm/jm-9-27000-principles-federal-prosecution#9-27.001>; ABA Model Rules of Professional Responsibility, 3.8, Special Responsibilities of a Prosecutor, [https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_3\\_8\\_special\\_responsibilities\\_of\\_a\\_prosecutor/](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_3_8_special_responsibilities_of_a_prosecutor/).

<sup>41</sup> *Guadium et Spes*, ¶ 74, [https://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_const\\_19651207\\_gaudium-et-spes\\_en.html](https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html).

<sup>42</sup> Catechism of the Catholic Church (2d. ed. 2016), at 464 (¶ 1903), <https://usccb.cld.bz/Catechism-of-the-Catholic-Church2/484/>.

<sup>43</sup> Id. at 551 (¶ 2287), <https://usccb.cld.bz/Catechism-of-the-Catholic-Church2/571/>.

<sup>44</sup> Id. at 579 (¶ 2409), <https://usccb.cld.bz/Catechism-of-the-Catholic-Church2/599/>.

<sup>45</sup> Compendium of the Social Doctrine of the Church, ¶ 411, [https://www.vatican.va/roman\\_curia/pontifical\\_councils/justpeace/documents/rc\\_pc\\_justpeace\\_doc\\_20060526\\_compendio-dott-soc\\_en.html](https://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html).

those who possess the means to influence these choices and are an obstacle to bringing about the common good of all citizens.<sup>46</sup>

Government officials must pursue the common good and should not willfully and knowingly engage in corruption. It is a serious matter to cooperate with others who engage in corruption even if we do not share their corrupt intent.<sup>47</sup> We are responsible for the corruption “committed by others when we cooperate with them: by participating directly and voluntarily in them; by ordering, advising, praising, or approving them; by not disclosing or not hindering them when we have an obligation to do so; [and] by protecting evildoers.”<sup>48</sup>

These teachings are instructive because they are so detailed and explicit. Government officials must exercise their authority in an ethical manner in pursuit of the common good. When they make political choices that favor the narrow objectives of those who have the means to influence those choices, they create obstacles to bring about the common good. Pursuit of private advantage, including one’s own career advancement, is not the pursuit of the common good. Even if government officials do not have a corrupt intent, they are still responsible when they materially cooperate with those engaged in corruption, particularly if they approve, facilitate, or participate in the corruption, fail to hinder or disclose the corruption, or protect those engaged in corruption by denying or deceiving others as to its existence. The more proximate an official is to the corrupt conduct, the more likely they share in the responsibility for it. The consequences of corruption are grave for those engaging in it and for any society that suffers from it.

Finally, as Justice Amy Coney Barrett and Professor John Garvey have emphasized, material cooperation always requires a “moral balancing test—weighing the importance of doing the act against the gravity of the evil, its proximity, the certainty that one’s act will contribute to it, and the danger of scandal to others.”<sup>49</sup> And the distinction between professional ethics and personal ethics must always remain clear. Catholic prosecutors “cannot—nor should they try to—align our legal system with the Church’s moral teachings whenever the two diverge. They should, however, conform their own behavior to the Church’s standard.”<sup>50</sup>

With the traditional norms of institutional integrity from undue political influence at risk, there remains the personal integrity of individual prosecutors as the final bulwark against the abuse of prosecutorial discretion. But that too has proven insufficient. Unfortunately, selective non-prosecution of antitrust cases has led many who were willing to take a stand to leave the Department of Justice, and others to remain but compromise their personal integrity.

If internal checks of institutional and personal integrity are insufficient to correct the problem of prosecutorial abuse in cases such as Live Nation-Ticketmaster, then inevitably there will be external checks introduced to address the problem. These external checks include political defeats

---

<sup>46</sup> Id.

<sup>47</sup> Bernard Häring, II *THE LAW OF CHRIST*, 494-517 (1963) (discussing complicity in the sins of others, including formal and material cooperation).

<sup>48</sup> Catechism of the Catholic Church, at 457 (¶ 1868), <https://usccb.cld.bz/Catechism-of-the-Catholic-Church2/477/>.

<sup>49</sup> John H. Garvey & Amy Coney Barrett, *Catholic Judges in Capital Cases*, 81 *MARQ L. REV.* 303, 319 (1998).

<sup>50</sup> Id. at 350.

in upcoming elections,<sup>51</sup> emboldened and well-funded state attorneys general,<sup>52</sup> private challenges to anticompetitive mergers,<sup>53</sup> more state merger notification laws,<sup>54</sup> heightened judicial scrutiny under the Tunney Act,<sup>55</sup> rejection of the presumption of regularity,<sup>56</sup> increased congressional oversight,<sup>57</sup> and potential legislative reforms.<sup>58</sup> Unless something dramatically changes, prosecutorial abuse—and the backlash against it—will be the legacy of the Antitrust Division in the second Trump Administration. It should not have come to this.

Thank you. I look forward to taking your questions.

---

<sup>51</sup> Ryan Mancini, *Trump's Approval on Economy Hits New Low; 7 in 10 Expect Recession Next Year: Poll*, THE HILL, (May 12, 2026), <https://thehill.com/business/5873663-donald-trump-approval-economy-recession-fears-survey/>; *Americans are Worried about Inflation and Don't Like How Trump is Handling It*, YOU GOV, (May 5, 2026), <https://yougov.com/en-us/articles/54691-americans-are-worried-about-inflation-dont-like-how-donald-trump-is-handling-it-may-1-4-2026-economist-yougov-poll>; *Two-Thirds of Americans say Country is Headed in the Wrong Direction: ABC News/Washington Post/Ipsos poll*, ABC NEWS, (May 3, 2026), <https://abcnews.com/Politics/thirds-americans-country-headed-wrong-direction-abc-news-washington/story?id=132583099>; *Nearly Half of Republicans Disapprove How Trump Is Handling Cost of Living*, NEWSWEEK, (Apr. 22, 2026), <https://www.newsweek.com/republicans-disapproval-rating-donald-trump-cost-of-living-midterms-11862080>; William Galston, *Why Affordability Will Be a Key Issue in the 2026 Midterm Elections*, BROOKINGS (Mar. 25, 2026), <https://www.brookings.edu/articles/why-affordability-will-be-a-key-issue-in-the-2026-midterm-elections/>.

<sup>52</sup> Roger Alford, *State AGs Took Live Nation Case to Finish Line for Music Lovers*, BLOOMBERG LAW (Apr. 29, 2026), <https://news.bloomberglaw.com/legal-exchange-insights-and-commentary/state-ags-took-live-nation-case-to-finish-line-for-music-lovers>; Press Release, *Attorney General Ken Paxton Secures Victory Against Live Nation in Court to End Its Illegal Monopolization and Make Live Events More Affordable*, (Apr. 15, 2026), <https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-secures-victory-against-live-nation-court-end-its-illegal-monopolization/>; Gavin Newsom, May Revision, at 56-57 (2026), (“In response to the federal government’s recent retreat from enforcing antitrust laws, the May Revision includes \$14.3 million Special Funds in 2026-27... to address an anticipated increase in antitrust workload.”), <https://ebudget.ca.gov/FullBudgetSummary.pdf>.

<sup>53</sup> *DIRECTV Files Federal Antitrust Lawsuit to Block Anticompetitive Nexstar-TEGNA Merger*, (Mar. 19, 2026), <https://www.directv.com/insider/news/antitrust-lawsuit/>.

<sup>54</sup> Uniform Law Commission, *Antitrust Pre-Merger Notification Act*, <https://www.uniformlaws.org/committees/community-home?CommunityKey=6bf5d101-d698-4c72-b7c1-0191302a6a95>; Veronica Onyema, Janis Kestenbaum, Jeremy Keeney, *State Attorneys General Increase Antitrust and Consumer Protection Enforcement*, REUTERS, (May 7, 2026), <https://www.reuters.com/legal/transactional/state-attorneys-general-increase-antitrust-consumer-protection-enforcement-pracin-2026-05-07/>;

<sup>55</sup> American Bar Association, *Insights from the HPE/Juniper Tunney Act Hearing*, (Apr. 7, 2026), [https://www.americanbar.org/groups/antitrust\\_law/resources/newsletters/insights-hpe-juniper-tunney-act-hearing/](https://www.americanbar.org/groups/antitrust_law/resources/newsletters/insights-hpe-juniper-tunney-act-hearing/); Lucas Manfredi, *Democratic Senators Urge Court to ‘Closely Scrutinize’ Live Nation’s DOJ Settlement*, THE WRAP, (Apr. 15, 2026), <https://www.thewrap.com/industry-news/public-policy-legal/live-nation-doj-settlement-democratic-senators-scrutinize-letter/>.

<sup>56</sup> Roger P. Alford, *Anti-American Antitrust: How Foreign Governments Target U.S. Business*, (Dec. 16, 2025), <https://judiciary.house.gov/committee-activity/hearings/anti-american-antitrust-how-foreign-governments-target-us-businesses>; Zoe Tillman, *Under Trump, DOJ Makes Errors in Court, Testing Judges’ Patience*, BLOOMBERG LAW (Apr. 10, 2026), <https://news.bloomberglaw.com/us-law-week/under-trump-doj-makes-errors-in-court-testing-judges-patience>; Megan Butler, *Former DOJ Attorneys Warn Agency Has Been ‘Decimated’*, COURTHOUSE NEWS SERVICE, (Feb. 20, 2026), <https://www.courthousenews.com/former-doj-attorneys-warn-agency-has-been-decimated/>; Suzanne Monyak, *Federal Judges Scold DOJ Lawyers over Courtroom Conduct in 2025*, BLOOMBERG LAW, (Dec. 29, 2025), <https://news.bloomberglaw.com/us-law-week/federal-judges-scold-doj-lawyers-over-courtroom-conduct-in-2025>.

<sup>57</sup> *Antitrust Agenda: Economic Populists Dems Set Competition Policy Priorities Ahead of Midterms*, CAPITOL FORUM (May 4, 2026); Leo Briceño, *Democrats Vow Political Reckoning if They Win Midterms as Campaign Season Heats Up*, FOX NEWS (Mar. 20, 2026), <https://www.foxnews.com/politics/democrats-vow-political-reckoning-if-they-win-midterms-campaign-season-heats-up>.

<sup>58</sup> News Release, *Klobuchar, Warren, Colleagues Urge Court to Scrutinize DOJ’s Live Nation-Ticketmaster Settlement*, (Apr. 15, 2026), <https://www.klobuchar.senate.gov/public/index.cfm/news-releases?ID=916E5022-2BB3-4206-8D95-6645D75A55CA>; News Release, *After Weak Live Nation-Ticketmaster Antitrust Deal, Klobuchar Introduces Legislation to Ensure Antitrust Settlements Benefit Consumers, Workers, and Small Businesses—Not Special Interests*, (Mar. 17, 2026), <https://www.klobuchar.senate.gov/public/index.cfm/2026/3/after-weak-live-nation-ticketmaster-antitrust-deal-klobuchar-introduces-legislation-to-ensure-antitrust-settlements-benefit-consumers-workers-and-small-businesses-not-special-interests>; News Release, *Booker Introduces Legislation to Review and Unwind Anticompetitive Corporate Mergers Approved Under Second Trump Administration*, (Apr. 29, 2026), <https://www.booker.senate.gov/news/press/booker-introduces-legislation-to-review-and-unwind-anticompetitive-corporate-mergers-approved-under-second-trump-administration>.