

“A New Golden Age”
Brendan Ballou
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My name is Brendan Ballou. I served in the Justice Department’s National Security and Antitrust Divisions, and for two years I was detailed to the D.C. U.S. Attorney’s Office to prosecute crimes stemming from the attack on Capitol. The prosecutions of Capitol attackers were driven, not by ideology, but by facts, one of the most important of which was that approximately 140 police officers were assaulted by rioters that day. One of those officers told me that he feared for his life more that day than during his deployment to Afghanistan in 2001. Another told me that he texted his family that afternoon, expecting to die. The work we did was about getting justice for those officers. But justice is only possible when federal prosecutors have credibility. I want to explain how the Justice Department built that credibility over many decades, and how it’s being destroyed in a matter of weeks.

After Watergate, Congress and the White House reformed the Justice Department so that its power wouldn’t be used to prosecute political foes or favor friends. In the last month, this administration has largely destroyed those reforms, and turned away from prosecuting corrupt politicians, businesses, and oligarchs, and towards investigating the administration’s enemies. This is a problem for every American, no matter your political involvement or persuasion.

During the Nixon administration, the powers of the Justice Department were widely abused. Journalists and government officials were illegally surveilled.¹ Newspapers with critical coverage of the administration were investigated.² Witnesses with damaging information were offered clemency in exchange for their silence.³ And most famously, the special counsel investigating the President was illegally fired.

After Watergate, Congress and the Executive built protections to make it less likely that the Department’s powers would be abused. The Offices of Professional Responsibility and Inspector General were created.⁴ The Department limited communications with the White House on specific cases,⁵ and FBI officials began regularly testifying before congressional committees

¹ THE FINAL REPORT OF THE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES 1179 (1974).

² *Id.* at 1183.

³ *Id.* at 1181.

⁴ Sam Berger and Alex Tausanovitch, *Lessons From Watergate Preparing for Post-Trump Reforms*, CENTER FOR AMERICAN PROGRESS (2018), <https://www.americanprogress.org/article/lessons-from-watergate/>.

⁵ Josh Gerstein, *Justice Department issues policy limiting White House contact*, POLITICO (July 21, 2021), <https://www.politico.com/news/2021/07/21/justice-white-house-contact-biden-trump-500476>.

like this one.⁶ Most importantly, the euphemistically called “domestic security” investigations were largely ended, and the Department refocused its energy on public corruption.⁷

In the past month, the administration has largely destroyed these reforms, and refocused the Department away from prosecuting the corrupt and towards favoring friends and investigating enemies. For instance:

- **Favoring friends:** The President pardoned nearly 1,600 rioters who stormed the Capitol and its grounds in the President’s name, including rioters whom I helped prosecute who punched officers, who dragged them into the crowd, and who speared them with flagpoles.
- **Prosecuting enemies:** The Acting U.S. Attorney for the District of Columbia began or threatened investigations into various perceived enemies of the administration, including Senate Minority Leader Chuck Schumer,⁸ former special counsel Jack Smith,⁹ and those who vaguely “impact” the work of the so-called Department of Government Efficiency.¹⁰
- **Removing guardrails:** The administration now permits the President and Vice President to discuss specific cases with the Department,¹¹ and named inexperienced political appointees to make ethics and discipline decisions.¹²
- **Favoring the corrupt:** The Department has largely stopped enforcing the Foreign Corrupt Practices Act (which prohibits bribery),¹³ prosecuting cases under the Foreign Agents

⁶ Anthony Marro, *Watergate: Justice Dept. Changes*, NEW YORK TIMES (June 17, 1977), <https://www.nytimes.com/1977/06/17/archives/watergate-justice-dept-changes-control-at-justice-dept-tighter.html>.

⁷ *Id.*

⁸ Scott MacFarlane, *Acting U.S. attorney for D.C. opens inquiries into Democrats, alleging possible threats to DOGE, Supreme Court justices*, CBS (Feb. 21, 2025), <https://www.cbsnews.com/news/acting-u-s-attorney-inquiry-schumer-possible-threat-doge-supreme-court-justices/>.

⁹ Ed Martin (@USAEDMartin), TWITTER (Feb. 14, 2025), <https://x.com/USAEdMartin/status/1890571723965390922>.

¹⁰ *ACLU-D.C. Sends Letter to U.S. Attorney Martin for First Amendment Concerns in Letter to Elon Musk*, AMERICAN CIVIL LIBERTIES UNION (Feb. 4, 2024), <https://www.acludc.org/en/press-releases/aclu-dc-sends-letter-us-attorney-martin-first-amendment-concerns-letter-elon-musk>.

¹¹ Perry Stein and Jeff Stein, *Trump White House says it can talk to Justice Dept. on criminal cases*, MSN (Feb. 9, 2025), <https://www.msn.com/en-ie/news/politics/trump-white-house-says-it-can-talk-to-justice-dept-on-criminal-cases/ar-AA1yHt2H>.

¹² Ben Penn, *Trump DOJ Assigns Sensitive Ethics Powers to Political Aides*, BLOOMBERG LAW (Feb. 16, 2025), <https://news.bloomberglaw.com/us-law-week/trump-doj-delegates-sensitive-ethics-powers-to-political-aides>.

¹³ *President Trump Pauses DOJ FCPA Enforcement and Orders Preparation of New Enforcement Guidelines*, JONES DAY (Feb. 12, 2025), <https://www.jonesday.com/en/insights/2025/02/president-trump-pauses-doj-fcpa-enforcement>.

Registration Act (which prohibits secret work on behalf of a foreign power),¹⁴ or pursuing the work of the Kleptocapture Task Force (which enforced sanctions against Russian oligarchs).¹⁵ The administration also threatened to fire the attorneys in the Public Integrity Section, who prosecute corrupt politicians.¹⁶

There is now an effort to draw a false equivalency between these actions over the last month and those of recent administrations, either to argue that what is happening now is nothing new, or if it is, that it is deserved retribution. This attempt at equivalence is a mistake, however, for two reasons.

First, a weaponized Justice Department endangers anyone involved in politics, no matter their political persuasion. Since the president pardoned the Capitol rioters, FBI agents have been subject to personal threats of violence: for instance, Enrique Tarrio, the leader of the Proud Boys, has demanded vengeance against one of the FBI agents who investigated his conduct, declaring that “Success is gonna be retribution.”¹⁷ But this threat of violence has no party limits. Just this weekend, a conservative political conference here in Washington had to be evacuated after speakers considered insufficiently loyal to Donald Trump were threatened and told that pipe bombs had been planted in the building.¹⁸

Second, a weaponized Justice Department corrupts all of society, and makes life harder—and more expensive—for people far from politics. For instance, the Wall Street Journal reports that executives at Twitter recently demanded that a company advertise on its platform, and intimated that the government might stop or slow a proposed merger if it did not.¹⁹ This is an attempt to use the tools of the Justice Department to enrich one politically connected business. It

¹⁴ *Trump’s DOJ Rolls Back Enforcement of the Foreign Agents Registration Act*, KING & SPALDING (Feb. 13, 2025), <https://www.kslaw.com/news-and-insights/trumps-doj-rolls-back-enforcement-of-the-foreign-agents-registration-act>.

¹⁵ Andrew Goudsward, *Trump administration disbands task force targeting Russian oligarchs*, REUTERS (Feb. 6, 2025), <https://www.reuters.com/world/us/trump-administration-disbands-task-force-targeting-russian-oligarchs-2025-02-06/>.

¹⁶ *Dave Lawler and Sareen Habeshian, Trump’s DOJ is at war with its own prosecutors*, AXIOS (Feb. 14, 2025), <https://www.axios.com/2025/02/14/trumps-doj-prosecutors-eric-adams>.

¹⁷ Khadeeja Safdar *et al.*, *Freed Jan. 6 Convicts Are Back on the Street and Ready to Help Trump*, WALL STREET JOURNAL (Jan. 23, 2025), <https://www.wsj.com/politics/national-security/jan-6-pardons-proud-boys-oath-keepers-1658963d>; Tom Driesbach, *FBI agents, prosecutors fear retribution from Jan. 6 rioters pardoned by Trump*, NPR (Feb. 6, 2025), <https://www.npr.org/2025/02/06/nx-s1-5287708/trump-pardoned-jan-6-rioters-prosecutors-fbi-police>.

¹⁸ Donie O’Sullivan and Veronica Stracqualursi, *Political conference in DC interrupted by death threats against speakers critical of Trump*, CNN (Feb. 23, 2025), <https://amp.cnn.com/cnn/2025/02/23/politics/principles-first-washington-dc-threats>.

¹⁹ Suzanne Vranica, *X Hinted at Possible Deal Trouble in Talks With Ad Giant to Increase Spending*, WALL STREET JOURNAL (Feb. 19, 2025), <https://www.wsj.com/business/media/x-hinted-at-possible-deal-trouble-in-talks-with-ad-giant-to-increase-spending-feb122a6>.

is a perversion of the free market, it hurts anyone who isn't a billionaire, and it is how an oligarchy is created.

If you are a law-abiding American, the actions of the past month should be tremendously concerning. Largely ending foreign bribery and corruption cases and threatening to fire public corruption prosecutors, investigating political enemies while putting political friends above the law: these are all efforts to return us to the time of the Nixon administration, and it harms you, no matter your political beliefs. The only people who benefit from these actions are vigilantes and militias, corrupt politicians and executives, agents of foreign governments and oligarchs. For them, this will be a golden age.

Biography

Brendan Ballou served as Special Counsel for Private Equity in the Justice Department's Antitrust Division. Previously, he worked in private practice, and before that, in the National Security Division of the Justice Department, where he advised the White House on counterterrorism and other policies. He graduated from Columbia University and Stanford Law School. He is the author of *Plunder: Private Equity's Plan to Pillage America*.