SUPREME COURT OF THE UNITED STATES

No. 23–108

JAMES E. SNYDER, PETITIONER *v.* UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

[June 26, 2024]

JUSTICE JACKSON, with whom JUSTICE SOTOMAYOR and JUSTICE KAGAN join, dissenting.

Officials who use their public positions for private gain threaten the integrity of our most important institutions. Greed makes governments—at every level—less responsive, less efficient, and less trustworthy from the perspective of the communities they serve. Perhaps realizing this, Congress used "expansive, unqualified language" in 18 U. S. C. §666 to criminalize graft involving state, local, and tribal entities, as well as other organizations receiving federal funds. *Salinas* v. *United States*, 522 U. S. 52, 56 (1997). Section 666 imposes federal criminal penalties on agents of those entities who "corruptly" solicit, accept, or agree to accept payments "intending to be influenced or rewarded." §666(a)(1)(B).

Today's case involves one such person. James Snyder, a former Indiana mayor, was convicted by a jury of violating §666 after he steered more than $1 million in city contracts to a local truck dealership, which turned around and cut him a $13,000 check. He asks us to decide whether the language of §666 criminalizes both bribes and gratuities, or just bribes. And he says the answer matters because bribes require an upfront *agreement* to take official actions for payment, and he never agreed beforehand to be paid the $13,000 from the dealership.

Snyder's absurd and atextual reading of the statute is one

only today's Court could love. Ignoring the plain text of §666—which, again, expressly targets officials who "corruptly" solicit, accept, or agree to accept payments "intending to be influenced *or rewarded*"—the Court concludes that the statute does not criminalize gratuities at all. This is so, apparently, because "[s]tate and local governments often regulate the gifts that state and local officials may accept," *ante,* at 1, which, according to the majority, means that §666 cannot.

The Court's reasoning elevates nonexistent federalism concerns over the plain text of this statute and is a quintessential example of the tail wagging the dog. Section 666's regulation of state, local, and tribal governments reflects Congress's express choice to reach those and other entities receiving federal funds. And Congress not only had good reasons for doing so, it also had the authority to take such legislative action, as this Court has already recognized. See *Sabri* v. *United States*, 541 U. S. 600, 605, 608 (2004). We have long held that when Congress has appropriated federal money, it "does not have to sit by and accept the risk of operations thwarted by local and state improbity." *Id.*, at 605.

Both the majority and Snyder suggest that interpreting §666 to cover gratuities is problematic because it gives "federal prosecutors unwarranted power to allege crimes that *should* be handled at the State level." App. 14–15 (emphasis added); see also *ante,* at 10–11. But woulds, coulds, and shoulds of this nature must be addressed across the street with Congress, not in the pages of the U. S. Reports. We have previously and wisely declined "to express [a] view as to [§666's] soundness as a policy matter." *Sabri*, 541 U. S., at 608, n. But, today, the Court can stay silent no longer. Its decision overrides the intent of Congress—and the policy preferences of the constituents that body represents—as unequivocally expressed by the plain text of the statute. Respectfully, I dissent.

I

Section 666 is a relatively recent solution to an old problem. It seeks to ensure that "taxpayer dollars . . . are in fact spent for the general welfare, and not frittered away in graft." *Id.*, at 605. Accordingly, the statute applies to certain entities that receive a threshold amount of federal funds. It covers any "agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof." §666(a)(1). The entity must "receiv[e], in any one year period, benefits in excess of $10,000 under a Federal program involving a . . . form of Federal assistance." §666(b).

If an entity meets that description, the statute imposes federal criminal penalties on any agent who

> "corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of $5,000 or more." §666(a)(1)(B).

In short, §666(a)(1)(B) makes it a federal crime for state, local, or tribal officials to corruptly solicit, accept, or agree to accept certain payments in connection with business worth $5,000 or more. A neighboring provision similarly imposes penalties on the giver—*i.e.*, anyone who "corruptly gives, offers, or agrees to give" payments "with intent to influence or reward" these officials. §666(a)(2). For offenders of either provision, the penalty is a fine, a maximum of 10 years in prison, or both. §666(a).

There is no dispute that §666 criminalizes bribes. See *ante,* at 1. This Court has also been clear about what a bribe requires: "a *quid pro quo*." *United States* v. *Sun-Diamond Growers of Cal.*, 526 U. S. 398, 404 (1999). A *quid pro quo* means "a specific intent to give or receive something of value *in exchange* for an official act." *Id.*, at 404–405. So,

for a payment to constitute a bribe, there must be an up-front agreement to exchange the payment for taking an official action. See *ibid*.

Legislatures have also considered it similarly wrongful for government officials to accept gratuities under certain circumstances, but unlike bribes, gratuities do not have a *quid pro quo* requirement. Generally speaking, rather than an actual agreement to take payment as the impetus for engaging in an official act (a *quid pro quo* exchange), gratuities "may constitute merely a reward for some future act that the public official will take (and may already have determined to take), or for a past act that he has already taken." *Id.*, at 405.

We took this case to resolve "[w]hether section 666 criminalizes gratuities, *i.e.*, payments in recognition of actions the official has already taken or committed to take, without any quid pro quo agreement to take those actions." Pet. for Cert. I. The majority today answers no, when the answer to that question should be an unequivocal yes.

II

A

To reach the right conclusion we need not march through various auxiliary analyses: We can begin—and end—with only the text. See *National Assn. of Mfrs.* v. *Department of Defense*, 583 U. S. 109, 127 (2018). We "understan[d] that Congress says in a statute what it means and means in a statute what it says there." *Hartford Underwriters Ins. Co.* v. *Union Planters Bank, N. A.*, 530 U. S. 1, 6 (2000) (internal quotation marks omitted).

1

By its plain terms, §666 imposes criminal penalties on state, local, and tribal officials who "corruptly" solicit, accept, or agree to accept "anything of value from any person, intending to be influenced or rewarded." §666(a)(1)(B). Use

of the term "influenced" captures *quid pro quo* bargains struck before an official act is taken—and therefore bribes—as everyone agrees. Brief for Petitioner 17; Brief for United States 21; cf. *Sun-Diamond*, 526 U. S., at 404–405. The term "rewarded" easily covers the concept of gratuities paid to corrupt officials after the fact—no upfront agreement necessary.

As a general matter (and setting aside for the moment that §666 covers only officials who act "corruptly"), everyone knows what a reward is. It is a $20 bill pulled from a lost wallet at the time of its return to its grateful owner. A surprise ice cream outing after a report card with straight As. The bar tab picked up by a supervisor celebrating a job well done by her team. A reward often says "thank you" or "good job," rather than "please."

Dictionary definitions confirm what common sense tells us about what it means to be rewarded. A "reward" is "[t]hat which is given in return for good or evil done or received," including "that which is offered or given for some service or attainment." Webster's New International Dictionary 2136 (2d ed. 1957). The verb form of the word is no different. To "reward" means "to . . . recompense." *Ibid.* (defining "to reward" as "[t]o make a return, or give a reward, to (a person) or for (a service, etc.); to requite; recompense; repay"). Both definitions thus encompass payment in recognition of an action that an official has already taken or committed to taking. And neither requires there to be some beforehand agreement about that exchange, *i.e.*, a *quid pro quo*.

Snyder concedes that the term "rewarded" can encompass the concept of gratuities. See Tr. of Oral Arg. 5; see also Reply Brief 3 (quoting *Sun-Diamond*, 526 U. S., at 405). The majority—which doesn't bother to interpret "rewarded" until the end of its opinion—eventually admits the same. See *ante,* at 15 ("[T]he word 'rewarded' could be part of a gratuities statute"). By that point in its analysis, however,

the majority has already characterized §666 as a bribery statute. And then, because we typically seek to give effect to each word of a statute, see *TRW Inc.* v. *Andrews*, 534 U. S. 19, 31 (2001), the majority must strain to make the word "rewarded" as it appears in §666 relevant, rather than meaningless. It offers rank speculation as to why "rewarded" in §666 might mean something other than what it ordinarily does, ultimately assigning the word some busy work relating to potential defenses to bribery charges. See *ante*, at 15. But whatever the merits of the majority's assertions involving waterfronts, belts, and suspenders, its interpretation of §666 finds little grounding in the actual text of the statute. See *Luna Perez* v. *Sturgis Public Schools*, 598 U. S. 142, 150 (2023) ("'[W]e cannot replace the actual text with speculation as to Congress' intent'").

2

Speaking of text: The language of other statutes demonstrates that Congress uses the word "reward" when it wants to criminalize gratuities. For example, in 18 U. S. C. §1912, Congress imposed criminal penalties on any federal officer "engaged in inspection of vessels" who "receives any fee or *reward* for his services, except what is allowed to him by law." (Emphasis added.) And in 22 U. S. C. §4202, Congress provided for the sanctioning of "any consular officer . . . who demands or receives for any official services . . . any fee or *reward* other than the fee provided by law for such service." (Emphasis added.) Snyder admits that these statutes target gratuities by virtue of Congress's use of the term "reward." Brief for Petitioner 31.

But rather than simply calling a statute that penalizes accepting a "reward" for public business what it is—a wrongful or illegal gratuities statute—the majority insists that, sometimes, when Congress uses "reward," it is still just criminalizing *quid pro quo* bribery, mustering up examples to show that "bribery statutes sometimes use the

term 'reward.'" *Ante,* at 15. However, none of the majority's examples use the term "reward" in a way that is relevantly similar to §666. For one thing, the majority's examples do not use the phrase "influenced or rewarded" to delineate between bribes and gratuities, while covering both, as §666 does. In addition, each of the statutes the majority points to explicitly links the forbidden "reward" to an agreement to take some specific action; in other words, the majority's examples specify, by their plain text, a *quid pro quo*. For example, 18 U. S. C. §600 imposes federal criminal penalties on anyone who "promises," *inter alia*, jobs or benefits "provided for or made possible in whole or in part by any Act of Congress" to another person "as consideration, favor, or reward for" certain political activity. That statute identifies both a forbidden *quid* (a future job) and *quo* (political activity).[1]

In contrast with those statutes, when §666 uses "rewarded," it never connects that term to some upfront exchange. What the majority's examples actually show, then, is that when Congress wants to use the term "reward" to encompass only bribes, it knows just how to do so. See *Henson* v. *Santander Consumer USA Inc.*, 582 U. S. 79, 86 (2017) ("[W]e presume differences in language like this convey differences in meaning").

B

In an attempt to shore up its unnatural reading of §666, the majority turns to statutory and legislative history. *Ante,* at 5, 8–9. Where appropriate, I, too, find statutory and legislative history to be useful tools that this Court can and should consult. See, *e.g., Delaware* v. *Pennsylvania*,

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[1] See also 33 U. S. C. §447 (imposing penalties on "[e]very person who . . . gives any sum of money or other bribe, present, or reward . . . to any . . . employee of the office of any supervisor of a harbor with intent to influence such . . . employee to permit or overlook any violation of the provisions of this subchapter").

598 U. S. 115, 138–139 (2023). But resort to these tools is questionable under certain circumstances. See *Milner* v. *Department of Navy*, 562 U. S. 562, 574 (2011) ("When presented, on the one hand, with clear statutory language and, on the other, with dueling committee reports, we must choose the language"). In any event, here, the statutory and legislative history only make matters worse for the majority's analysis.

Section 666 traces its lineage to 18 U. S. C. §201, though the kinship is more attenuated than the majority lets on. Section 201 indeed "contains comprehensive prohibitions on bribes and gratuities to federal officials." *Ante,* at 4 (discussing §§201(b)–(c)). But initially, it was not entirely clear *which* officials that federal statute covered. By its terms, §201 applies broadly to "public officials," see §201(a), and confusion arose among some lower courts as to "whether state and local employees could be considered 'public officials'" under the statute. *Salinas*, 522 U. S., at 58. Without awaiting our resolution of the issue, Congress enacted §666 in 1984. *Ibid.*; see also 98 Stat. 2143.

In §666, Congress expressly sought to reach state and local officials "to protect the integrity of the vast sums of money distributed through Federal programs." S. Rep. No. 98–225, p. 370 (1983). As originally enacted, §666 barred those officials from soliciting, accepting, or agreeing to accept "anything of value . . . for or because of the recipient's conduct," §666(b) (1982 ed., Supp. II), using language similar to that in §201(c), the federal-official gratuities provision. Crucially, no one disputes that when it was initially enacted, §666 prohibited *both bribes and gratuities*. *Ante,* at 4. Similarly significant (though unmentioned by the majority), Congress imposed the same 10-year maximum term of imprisonment for a violation then as it does now. See §666(b) (1982 ed., Supp. II); cf. *ante,* at 14 (describing it as "unfathomable that Congress would authorize a 10-year

criminal sentence for gifts to 19 million state and local officials" without federal guidance).

Starting with this historical disadvantage regarding the scope of the statute, the majority must show that Congress made major changes to §666 that might account for the sans-gratuity interpretation the majority adopts today. But several features of the statutory and legislative history convince me of the opposite.

For one, Congress said that it was *not* making major changes to the statute. The 1986 revisions to §666 were part of a package of changes that Congress specifically deemed "technical and minor." H. R. Rep. No. 99–797, p. 16 (1986); see also Criminal Law and Procedure Technical Amendments Act of 1986, 100 Stat. 3592. And the revisions themselves are largely in keeping with this characterization. Relevant here, Congress teased out a "corruptly" *mens rea* requirement and swapped the previous "for or because of" language for the current "intending to be influenced or rewarded" phrasing. *Id.*, at 3613. None of this, on its face, evinces clear congressional intent to extract an entire category of previously covered illicit payments from §666.

Undeterred, the majority says that when Congress amended §666, it was attempting to fashion that provision after §201(b)—the bribery statute that covers federal officials. See *ante,* at 8–9.[2] Again, the statutory and legislative record suggests otherwise: In fact, history establishes that Congress had a different model statute in mind.

Congress had used a phrase identical to §666's "intending to be influenced or rewarded" language just a few months before when it amended 18 U. S. C. §215, an anticorruption statute that applies to bank employees. See 100 Stat. 779.

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[2] Section 201(b)(2)(A) imposes federal criminal penalties on "[w]hoever . . . being a public official . . . corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value . . . in return for . . . being influenced in the performance of any official act."

That provision imposes criminal penalties on any bank employee who "corruptly solicits or demands . . . or corruptly accepts or agrees to accept, anything of value from any person, *intending to be influenced or rewarded* in connection with any business or transaction." *Ibid.* (emphasis added); see also §215(a)(2). And this similarity was no coincidence. The House Report the majority quotes as explicating §666 confirms that §666 *was meant to track §215*—not §201(b), as the majority claims. See H. R. Rep. No. 99–797, at 30, n. 9.

This means, of course, that if §215 criminalizes gratuities, it is likely §666 does as well. But the majority labels §215 "a null data point," evidently because this Court has never interpreted that statute. *Ante,* at 9, n. 4. Section 215's relevance to §666 does not come from any interpretation, however—it is plain on the face of that statute, which uses the exact same "influenced or rewarded" phrase. And the history of that model provision indicates that Congress meant for §215 to reach gratuities, too. For example, a House Report directly speaks of §215 as a statute criminalizing gratuities: It says that, before 1986, §215 made "it criminal for a bank official to accept any *gratuity*, no matter how trivial, after that official ha[d] taken official action on bank business." H. R. Rep. No. 99–335, p. 6, n. 25 (1985) (emphasis added). Congress amended §215 in 1986 to "narro[w]" the statute, but not by carving out gratuities altogether. *Ibid.* Rather it narrowed the "law by requiring that the acceptance of the *gratuity* be done *corruptly*." *Ibid.* (emphasis added).[3] Astute readers will recall that Congress made exactly this same narrowing edit to §666. See *supra*,

[3] Piling on, I note that the 1986 amendments to §215 also required federal agencies with responsibility for regulating a financial institution to "establish . . . guidelines" to help bank employees comply with the statute. See 18 U. S. C. §215(d) (1982 ed., Supp. IV). When those agencies followed through, they too expressly assumed that §215 covered gratuities. See, *e.g.*, 52 Fed. Reg. 46046 (1987); *id.,* at 43940.

at 9.

In short, Congress tailored §215 in an effort to stem "'corruption in the bank industry,'" and it seemed to think that *both* bribes *and* gratuities contributed to that problem. H. R. Rep. No. 99–335, at 5. So, too, with §666 and public corruption.

III

To recap what we know thus far: The question in this case is whether §666 criminalizes gratuities in addition to bribes. The text and purpose of §666 alone provide an easy answer. The word "rewarded" means to have been given a reward for some action taken. So gratuities are plainly covered. To be sure, if the Court had given that straightforward answer, we might eventually have confronted a followup question: Are *all* gratuities covered? Said differently: Even if gratuities generally are criminalized by §666, are there circumstances in which certain gratuities are *not* criminalized?

The case in front of us does not require us to reach that question. We have not been asked to settle, once and for all, which gratuities are corrupt and which are quotidian. Snyder did not argue that his $13,000 check was part of some subset of noncriminalized gratuities. Rather (and this is important to note), Snyder has taken an all-or-nothing approach to the argument he makes in this case. He insists that *all* gratuities—every type in the entire class—are excluded from §666. Because the statute's plain text says otherwise, that should have been the end of this case, even if a future petitioner might have asked us to do a more nuanced analysis.

But, no matter—the majority today skips ahead, complaining that the Government has "not identif[ied] any remotely clear lines separating an innocuous or obviously benign gratuity from a criminal gratuity." *Ante,* at 12. This omission is a huge problem, the majority says, because

without those lines, "19 million state and local officials" could be imprisoned "for accepting even commonplace gratuities." *Ante,* at 1.

The majority's fretting falls flat, especially in the context of *this* case. There is no question that state, local, and tribal officials deserve "clear lines," but we were not asked to provide all of them at this moment.[4] And, perhaps even more important, nothing about the facts of this case even remotely implicates a reasonable concern about the criminalization of innocuous conduct on the part of an unwary official. Furthermore, most of the clear lines the majority seeks already exist—they come from the text of the statute. Limits within the text of §666 provide "fair notice" that commonplace gratuities are typically not within the statute's reach, contra, *ante,* at 11, and they suffice to prevent prosecution of the gift cards, burrito bowls, and steak dinners that derail today's decision.[5]

A

If one simply accepts what the statute says it covers—local officials who corruptly solicit, accept, or agree to accept rewards in connection with official business worth over a certain amount—Snyder's case is an easy one. Perhaps that is why the majority spends so little time describing it.

Snyder took office as mayor of the city of Portage, Indiana, in January 2012. As mayor, Snyder and his appointees

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[4] Given the question presented, the majority's demand for a comprehensive interpretation of §666, for all purposes, is both striking and inconsistent with our usual incremental approach. See *St. Amant* v. *Thompson*, 390 U. S. 727, 730–731 (1968) (observing that the "outer limits" of "many legal standards"—whether they be "provided by the Constitution, statutes, or case law"—are "marked out through case-by-case adjudication").

[5] Notably, I am not the only Justice who has viewed §666 in this way. See *Sorich* v. *United States*, 555 U. S. 1204, 1207 (2009) (Scalia, J., dissenting from denial of certiorari) (describing §666(a) as providing a "clear rul[e]" prohibiting "bribes and gratuities to public officials").

sat on the Portage Board of Works and Public Safety, the entity that managed public bidding on city contracts. Snyder put one of his friends, Randy Reeder, in charge of the bidding process, despite Reeder's lack of experience in administering public bids. Evidence presented at Snyder's trial showed that Reeder tailored bid specifications for two different city contracts to favor Great Lakes Peterbilt, a truck dealership owned by brothers Robert Buha and Stephen Buha. Evidence also showed that during the bidding process, Snyder was in contact with the Buha brothers, but no other bidders.

Snyder had campaigned on a platform that included automating trash collection, and by December 2012, the city was looking to buy three garbage trucks. It issued an invitation to bid on the contract, listing specific requirements for the trucks. Reeder testified that he crafted some specifications, including delivery within 150 days, knowing they would favor Great Lakes Peterbilt. The board of works voted to award Great Lakes Peterbilt the contract. Evidence at trial showed that the city could have saved about $60,000 had it not prioritized expedited delivery.

In January 2013, the manager of Great Lakes Peterbilt asked Reeder whether the city might want to buy another truck—an unused, 2012 model that had been sitting outside on the dealership's lot over two winters. Snyder first tried to buy the truck outright, but Portage's city attorney informed him he had to go through the public bidding process. So the board of works issued another invitation to bid in November 2013. This invitation sought two more garbage trucks. Reeder again tweaked certain specifications to favor Great Lakes Peterbilt—this time to help it move the older truck sitting on its lot. The board of works voted to award Great Lakes Peterbilt this contract too. Together, the two contracts that Great Lakes Peterbilt "won" totaled some $1.125 million.

Shortly after the second contract was awarded, Snyder

paid the Buha brothers a visit at their dealership. "I need money," he said. App. 72. He asked for $15,000; the dealership gave him $13,000. When federal investigators heard about the payment and came calling, Snyder told them the check was for information technology and health insurance consulting services that he had provided to the dealership. He gave different explanations for the money to Reeder and a different city employee.

Employees at Great Lakes Peterbilt testified that Snyder never performed any consulting work for the dealership. And during the federal investigation, no written agreements, work product, evidence of meetings, invoices, or other documentation was ever produced relating to any consulting work performed by Snyder. All of this confirmed testimony from the dealership's controller, who had cut the check to Snyder: Snyder had instead been paid for an "'inside track.'" App. to Pet. for Cert. 60a–61a.

A federal grand jury charged Snyder with violating 18 U. S. C. §666(a)(1)(B). App. 2–3. The indictment alleged that Snyder "did corruptly solicit, demand, accept, and agree to accept a bank check in the amount of $13,000, intending to be influenced and rewarded." *Id.*, at 3. A jury found him guilty of violating §666 in connection with the garbage truck contracts. It is not difficult to see why the jury reached that conclusion, having been instructed that the Government needed to prove that Snyder "acted corruptly, with the intent to be influenced or rewarded." *Id.*, at 27.[6]

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[6] Even after its decision to construe §666 as a bribery-only statute, the Court's decision to reverse Snyder's conviction, rather than vacate and remand, is perplexing. The District Court specifically found that, "even if" §666 were construed to penalize bribes alone, "there was ample evidence permitting a rational jury to find, from the circumstantial evidence, that there was an up-front agreement to reward Snyder for making sure [Great Lakes Peterbilt] won the contract award(s)." App. to Pet. for Cert. 63a. Thus, the Seventh Circuit should have been permitted to

B

One thing is clear from the Court's opinion in this case—the majority isn't much worried about what happens to Snyder under §666. It pivots to the other 18,999,999 state, local, and tribal officials at work throughout the country and laments that there are "no clear federal rules" for them. *Ante,* at 12. But §666 was not designed to apply to teachers accepting fruit baskets, soccer coaches getting gift cards, or newspaper delivery guys who get a tip at Christmas. See *ibid.* (reciting similar examples). We know this because, beyond requiring acceptance of a reward, §666 weaves together multiple other elements (that the Government must prove beyond a reasonable doubt), which collectively do the nuanced work of sifting illegal gratuities from inoffensive ones.

Those limits are clear on the face of the statute; when construed as a whole, the text of §666 provides more than adequate notice to those this statute covers. Now, for a list of my own: *First*, §666 applies only when a state, local, tribal, or private entity "receives, in any one year period, benefits in excess of $10,000 under a Federal program involving" some "form of Federal assistance." §666(b). *Second*, the statute requires that the criminalized payment be "in connection with any business, transaction, or series of transactions" of the covered entity. §§666(a)(1)(B), (a)(2). *Third*, that "business, transaction, or series of transactions" must involve "[some]thing of value of $5,000 or more." *Ibid.* *Fourth*, §666 expressly "does not apply to bona fide salary, wages, fees, or other compensation paid . . . in the usual course of business." §666(c). Nor does it apply to "expenses paid or reimbursed . . . in the usual course of business."

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assess in the first instance whether any instructional error was prejudicial. Under our current precedent, Snyder is not entitled to automatic relief due to a mere instructional error. See, *e.g.*, *Greer* v. *United States*, 593 U. S. 503, 507, 513 (2021).

Ibid. *Last*, and perhaps most important, the statute specifically requires that the official who solicits, accepts, or agrees to accept the payment do so "corruptly" (the *mens rea*). §666(a)(1)(B). This series of carefully delineated circumstances—all of which appear in the text of §666—means that payments or gifts to officials will not always be captured by §666 under any and all circumstances, but only if the violator acts in the ways described and with the required intent.

Notably, the majority takes the last statutory check I describe—the "corruptly" *mens rea* requirement—and transforms it into a reason to read the statute to cover only bribes. See *ante,* at 7–8, 15. The majority maintains that "corruptly" signals that §666 is a bribery statute because §201(b), the federal-official bribery statute, uses that term. *Ibid*. But, as I have already explained, the bribery statute for federal officials is not the blueprint the majority makes it out to be. See Part II–B, *supra*. And while the majority suggests that "corruptly" just means *quid pro quo*, see *ante,* at 8, it can give no reason why that must be so in *this* statute.

Instead, the majority gives a practical justification for its preferred interpretation. It suggests that if §666 is read generally to apply to gratuities, and "corruptly" is read as a narrowing *mens rea* element, then the statute *still* might sweep in all sorts of innocuous gifts. See *ante,* at 12–13. Maybe. Maybe not. Again, the precise meaning of the term "corruptly" is not the question before us today. Nor does it really matter here because, whatever "corruptly" means, Snyder's behavior clearly fits the bill, making this case a poor one to explore the contours of that term. See Part III–A, *supra*.

In any event, any uncertainty we might have about "corruptly" seems unwarranted considering the Court's previous definitions of that word. In *Arthur Andersen LLP* v. *United States*, 544 U. S. 696 (2005), we wrote that the term

"'corruptly'" is "normally associated with wrongful, immoral, depraved, or evil" conduct. *Id.*, at 705. We therefore related the term with "consciousness of wrongdoing." *Id.*, at 706. Applying that standard definition to §666's *mens rea* requirement appears to heave an imposing burden onto the Government. Prosecutors must prove not only that a state, local, or tribal official did, in fact, act wrongfully when accepting the gift or payment, but also that she *knew* that accepting the gift or payment was wrongful.[7] The majority worries that it may be unclear to an official whether accepting a gift is, in fact, "wrongful." See *ante,* at 12. But if "corruptly" is read to require knowledge of wrongfulness, any lack of clarity benefits the official. In such circumstances, a prosecutor is almost certain to be unable to meet her burden of proof—as the Government acknowledges. See, *e.g.*, Tr. of Oral Arg. 59–60, 107.[8]

The bottom line is that §666 is not unique or special. Like other criminal statutes—and especially other anti-public-corruption statutes—§666 has various elements, some of which may benefit from further clarification. Down the road, this Court could have had that opportunity with respect to §666 *if* it had chosen to engage in our usual method of parsing statutes. See, *e.g.*, *Fischer* v. *United States*, 529 U. S. 667, 677, 681 (2000) (clarifying the meaning of federal "benefits" under §666); *Sun-Diamond*, 526 U. S., at 414 (holding that to establish a violation of §201(c), "the Government must prove a link between a thing of value conferred upon a public official and a *specific* 'official act' for or

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[7] At oral argument, the Government acknowledged that "consciousness of wrongdoing" roughly translates to knowledge of unlawfulness. Tr. of Oral Arg. 74–76.

[8] Thus, defining "corruptly" in the same way we have in the past would not rely on a prosecutor's discretion to limit the scope of the statute. See *ante,* at 13; cf. *Marinello* v. *United States*, 584 U. S. 1, 11 (2018). Indeed, though the Government *could* attempt to launch unwarranted prosecutions under §666, that is as true for §666 as it is for any other federal criminal statute.

because of which it was given" (emphasis added)); *McDonnell* v. *United States*, 579 U. S. 550, 571–572 (2016) (clarifying the "official act" requirement in §201(a)(3)). Instead, the majority washes its hands of this anticorruption provision, announcing that certain wrongful conduct the statute plainly covers just cannot be included. The majority throws in the towel too soon.

C

As I said earlier, §666 already provides meaningful guardrails that protect against the "overbreadth" that the majority decries. *Ante,* at 12. But you don't have to take my word for that. Other prosecutions of gratuities that the Government has brought under §666—successfully or unsuccessfully—do not remotely resemble the holiday tips, gift baskets, and sweatshirts around which the majority crafts its decision.[9] That is, even as the Government has consistently maintained that §666 covers gratuities, its actual prior prosecutions under §666 were not the dragnet for public school teachers, soccer coaches, or trash collectors that the majority conjures. Rather, the real cases in which the Government has invoked this law involve *exactly* the

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[9] See, *e.g.*, *Scarantino* v. *Public School Employees' Retirement Bd.*, 68 A. 3d 375, 376–377 (Pa. Commw. 2013) (describing a defendant prosecuted under §666 for receiving a $5,000 cash gratuity in connection with school district contracts); *United States* v. *Musto*, 2012 WL 5879609, *2, n. 2 (MD Pa., Nov. 21, 2012) (defendant prosecuted under §666 for accepting $1,000 in connection with a municipality's multimillion dollar loan application to a state agency and prior official advocacy); *United States* v. *Bahel*, 662 F. 3d 610, 620–621, 638 (CA2 2011) (defendant prosecuted under §666 after receiving financial benefits including years of near-monthly cash payments of thousands of dollars, a laptop, first-class plane tickets to India, seats to the U. S. Open tennis tournament, a reduced-rent apartment, and the eventual purchase of that apartment for below-market value in connection with United Nations contracts); *United States* v. *Zimmermann*, 509 F. 3d 920, 926–927 (CA8 2007) (defendant prosecuted for accepting gratuities of $5,000, $1,200, and $1,000 in connection with real-estate development projects).

type of palm greasing that the statute plainly covers and that one might reasonably expect Congress to care about when targeting graft in state, local, and tribal governments. After today, however, the ability of the Federal Government to prosecute such obviously wrongful conduct is left in doubt.

It is also noteworthy that the prosecutions that Snyder describes as proof of the Government's "not reassuring" track record, Reply Brief 18–19, look nothing like the acts of gratitude that worry the majority. The "city building inspector [who] solicit[ed] donations for his favorite youth sports league"? *Id.*, at 18. Well, he admitted to receiving illegal gratuities from an engineer who worked with clients seeking building permits in San Francisco. The engineer knew that the inspector was a volunteer coach and supporter of "a San Francisco non-profit adult and youth athletic organization," and the engineer arranged for his clients to donate to that organization in connection with inspections of their properties. Press Release, U. S. Attorney's Office, ND Cal., San Francisco Senior Building Inspector Pleads Guilty to Accepting Illegal Gratuities (Dec. 9, 2022). "[I]n several instances, the engineer advised [the inspector] of a client's donation while asking for a final permit or inspection on the client's property." *Ibid.* That same inspector also accepted $30,000 in debt forgiveness from a longtime San Francisco real-estate developer and friend. *Ibid.*

And the "county contractor [who] donat[ed] $2,000 for plaques and food at a luncheon honoring female judges"? Reply Brief 18. He was the owner of a debt collection company that had a nonexclusive contract with Cook County, Illinois, to perform debt collection work. A significant part of the contract was the chance to collect fines owed on unpaid traffic tickets. An official in the Circuit Court of Cook County Clerk's Office—the entity responsible for doling out the traffic debt work—gave his firm half of those collections.

The owner then underwrote nearly $2,000 in expenses for the court's Women's History Month Celebration. Why did he cover these expenses? "We gotta stay ahead of [the competition]," the owner told his staff. *United States* v. *Donagher*, No. 1:19–cr–00240 (ND Ill.), ECF Doc. 98, pp. 2–5.[10]

None of this means that courts should trust the Government when it says that it does and will continue to enforce a statute with care. That is not how we do statutory interpretation, and for good reason. See *Marinello* v. *United States*, 584 U. S. 1, 11 (2018). But what these examples do show is that §666's built-in bulwarks seem to be working. Thus, there is simply no reason to think that decades after

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[10] Snyder's invocation of *United States* v. *Hamilton*, 46 F. 4th 389 (CA5 2022), is neither persuasive nor relevant here. Snyder says *Hamilton* shows that the Government "has prosecuted campaign contributions." Reply Brief 19. The defendant in *Hamilton* was a Dallas real-estate developer who "supported" local politicians. 46 F. 4th, at 391. He gave money to a nonprofit owned and operated by the campaign manager of one such politician, a Dallas City Council member. "Some of those donations were used for [the nonprofit's] legitimate purposes; others were purportedly given to [the nonprofit], cashed by [the campaign manager], then given to [the politician] personally." *Ibid.* Around an election cycle, "[the developer] was trying to secure some low-income-housing tax credits for one of his real-estate ventures, the Royal Crest project," and that City Council member "lobbied to have the Royal Crest project included." *Ibid.* "A few years later, [the developer] needed to get a paid-sick-leave ordinance on the ballot in the upcoming election." *Ibid.* So he wrote a $7,000 check to a different member of the Dallas City Council, who made clear that the check "was not a loan" and "had nothing to do with the campaign." *Id.*, at 392. A jury convicted the developer on two §666 counts, but the Fifth Circuit later vacated the convictions because, in its view, §666 did not criminalize gratuities. *Id.*, at 393, 399.

On these facts, it is far from clear that *Hamilton* involved legitimate campaign contributions. But it is abundantly clear that Snyder's case does not. If a §666 conviction involving *real* campaign contributions had reached us, it might have been appropriate to read a *quid pro quo* requirement into the statute for that particular context. See *McCormick* v. *United States*, 500 U. S. 257, 273–274 (1991).

the courts of appeals first interpreted §666 to cover gratuities, reading the statute to do so now will "suddenly subject 19 million state and local officials to a new and different regulatory regime." *Ante,* at 11.

IV

Ultimately, it appears that the real bone the majority has to pick with §666 is its concern about overregulation—a concern born of the relationship between federal and state governance. The majority's pages of citations to state and local gratuities laws, *ante,* at 2–3, thus belie its ranking so-called "federalism" interests merely "[f]ifth" on its list of reasons for construing §666 as a bribery-only statute, *ante,* at 10 (emphasis deleted). More than anything, it seems that the majority itself harbors the belief it repeatedly ascribes to Congress: that regulation of gratuities is better left to state, local, and tribal governments, rather than the Federal Government. See, *e.g.*, *ante,* at 11, 16. (No word on why the same could not be said for bribes.)

If Congress shared those policy concerns, however, it chose not to act upon them in this statute. Instead, Congress reached out to regulate state, local, and tribal entities as well as other organizations that receive federal funds, despite the fact that those governments do have their own ethics regulations, as the majority is quick to point out. And, of course, if the majority is correct about Congress's commitment to federalism principles in this area, one wonders why Congress didn't just leave state, local, and tribal entities alone.

Quite to the contrary, Congress chose to enact §666 "to ensure the integrity of organizations participating in federal assistance programs." *Fischer*, 529 U. S., at 678. And that choice was intentional—Congress acted to "addres[s] a legitimate federal concern by licensing federal prosecution in an area historically of state concern." *Sabri*, 541 U. S., at 608, n. Snyder apparently objects to this policy choice,

and further complained below that "Congress ha[d] yet to take up" any invitation "to consider rewriting the provision." App. 15. Fortunately for him, today's decision by this Court accomplishes exactly that result.

* * *

State, local, and tribal governments have an important role to play in combating public corruption, and, of course, their regulations should reflect the values of the communities they serve. I wholeheartedly agree with the majority's suggestion that, because employees of those governments are our neighbors, friends, and hometown heroes, federal law ought not be read to subject them to prosecution when grateful members of the community show their thanks. See *ante,* at 1.

But nothing about the facts of this case implicates any of that kind of conduct. And the text of §666 clearly covers the kind of corrupt (albeit perhaps non-*quid pro quo*) payment Snyder solicited after steering the city contracts to the dealership. Because reading §666 to prohibit gratuities—just as it always has—poses no genuine threat to common gift giving, but does honor Congress's intent to punish rewards corruptly accepted by government officials in ways that are functionally indistinguishable from taking a bribe, I respectfully dissent.