

The Trump administration's conflict with the courts, explained

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Resources for understanding attacks on the judiciary



Our government is built on the principle of checks and balances, ensuring that no single branch grows too strong or abuses its power. As James Madison wrote in *Federalist No. 51*, “the great security against a gradual concentration of the several powers in the same [governmental] department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others.”

Our Constitution relies on the judicial branch to serve as a check against unlawful abuses of executive power. Threats to defy the courts or efforts to bully judges jeopardize the foundational checks and balances that protect our rights, our economy, our communities, and our safety.

The Trump administration is defying court orders

After taking office, the Trump administration repeatedly refused to rule out defying court orders and dismissed the authority of district courts. Administration officials like Vice President JD Vance called for judges who rule against the administration to be removed from office. The Department of Justice brought an unprecedented lawsuit against every judge who sits on the District Court of Maryland for imposing a temporary freeze in deportations to ensure due process is followed. And while the president has said he would respect the federal courts when they rule against him, his statements do not match his administration's actions in court.

Since taking office, the Trump administration has employed various tactics to avoid complying with some of the dozens of orders courts have issued limiting its authority. In some cases, the administration has cited administrative error to explain and justify evident noncompliance. In others, the government has frustrated inquiries made by litigants and courts into whether an order is in fact being complied with. In the first six months of this administration alone, courts in at least 12 cases have found that the

administration violated one or more court orders. In many more cases, litigants allege that orders are being violated, but haven't yet been able to prove it.



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Regardless of tactic or issue, noncompliance has resulted in clear harm. The cases in which the administration has defied the courts have resulted in individuals deported without due process, Congressionally appropriated funds improperly withheld, and federal employees wrongfully terminated. In at least some cases, whistleblowers allege that this defiance was intentional, as a signal to the court system that they don't intend to be held accountable for their harmful actions. And the administration has punished government lawyers who refused to be a part of strategies to evade or defy the courts.

Versions of this type of court defiance are a common part of the Authoritarian Playbook in countries that have suffered from democratic backsliding. In Turkey, Poland, Hungary, and Russia, autocrats have defied court attempts to rein in executive power. When the court system breaks down or bends to the will of an autocrat, civil liberties are eroded, economies are corrupted, and political opponents are punished.

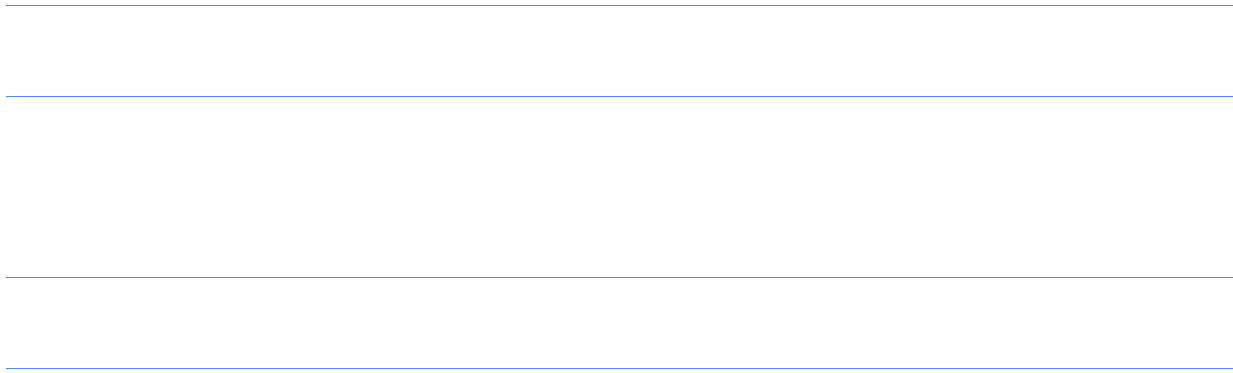
The administration's acts of defiance against the courts are one way the administration is testing out this playbook, but we have not yet passed a point of no return. Litigators and district court judges are using the tools at their disposal to enforce court orders and hold government officials who defy them accountable. Government lawyers have resigned rather than be tools in defying the courts. And a bipartisan majority of Americans believe the president should not be able to ignore rulings he disagrees with.

Understanding this and other threats to judicial independence

The types of specious legal arguments and delay tactics employed by the President's Justice Department are forms of "legalistic noncompliance" — using legal language and procedures to mask the defiance of court orders happening behind closed doors. This enables the president to say he is complying, when his administration is in fact pushing boundaries and eroding constitutional checks one "slice of the salami" at a time. The following resources help to put that tactic in context with what it means for an independent judiciary to check executive power.

What lawyers and courts can do

The first line of defense for protecting the judicial branch is the courts themselves. If court orders are not followed, lawyers have strategies to ask courts to force government officials to comply, and federal courts have broad power to hold those who defy their



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