

# Is the Trump administration's conflict with judges a constitutional crisis? What to know

A legal expert told ABC News that the nation is on a "precipice."

By [Ivan Pereira](#)

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**Is the Trump administration's conflict with judges a constitutional crisis?** Some law experts are sounding the alarm, saying, the U.S. could be inching closer to a constitutional crisis as the Trump administration's legal conflict with the nation's judges escalates.

As the Trump administration's legal tug-of-war with the nation's judges over its controversial policies and actions escalates, constitutional law experts are sounding the alarm that the country could be inching closer to a constitutional crisis.

What would a constitutional crisis involve, and when and how would it get triggered?

In March, the administration [appeared to defy](#) a federal judge's order issued from the bench to turn around two flights carrying alleged Venezuelan gang members to El Salvador, after which President Donald Trump and his top officials said that they would push ahead with the deportations despite what the court said, while also pursuing an appeal.



President Donald Trump listens as he meets NATO Secretary General Mark Rutte (not pictured), in the Oval Office at the White House in Washington, Mar. 13, 2025.

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Administration lawyers took a similar position when judges ordered funding cuts from USAID and other agencies restored or for spending to be unfrozen, according to court documents.

**'Dangerously close'**

Richard Pildes, the Sudler family professor of constitutional law at NYU Law School, who has been involved in many federal court cases, told ABC News that such apparent defiance of the courts undermines the judicial branch and could have serious consequences.

"I would say, we are dangerously close to a constitutional crisis. Maybe we're dancing kind of on the edge of a constitutional crisis," he told ABC News.

James Sample, a constitutional law expert at Hofstra University, who has been involved in federal cases, agreed that the country is on the "precipice" of such a crisis, noting that the courts are limited in being able to enforce their rulings.

However, he noted, courts are designed to be deliberative with cases.

"The courts are essentially saying, we need to slow down," Sample told ABC News. "The executive [branch] may ultimately get what it wants. ... But if the executive gets what it wants without a process, then not only the individuals lose, but all of us lose justice."

## What constitutes a constitutional crisis?

Sample said constitutional scholars have differed on what exactly defines a constitutional crisis.

"The one thing we can say for certain is that it's not an on-off switch," Sample said of constitutional crisis. "It's not a binary. It's a position on a spectrum."

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Retired Supreme Court Justice Stephen Breyer echoed that sentiment in an interview with CNN this week.

"No one really knows. People have different views on that," he said.

Sample said the Trump administration's actions are sliding closer to the concerning part of the spectrum -- a development, he said, that could never have been foreseen by the nation's founders.



The U.S. Supreme Court is shown Mar. 17, 2025 in Washington.

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"What we are experiencing is not a blitzkrieg against [political] adversaries, but rather a blitzkrieg on the part of the executive against the rule of law itself. That is a defining characteristic of a crisis for the rule of law," Sample said.

## Past crises were isolated

Aside from the Confederate states' secession leading to the Civil War, the experts ABC News spoke with said that past examples of constitutional crises ended up blowing over, such as when President Franklin D. Roosevelt threatened to go forward with a military tribunal against a Nazi sympathizer from Long Island during World War II.

The U.S. Supreme Court ultimately gave the president the power to go forward, according to Pildes.

In some cases, the executive branch has stepped in to enforce court orders, such as when then-President Dwight D. Eisenhower ordered the National Guard to make sure states followed the U.S. Supreme Court's *Brown v. Board of Education* landmark decision ending segregation in public schools.



Arkansas National Guard troops escort nine students from Little Rock's Central High School at the end of the day's session, Oct. 3, 1957.

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"All of those [past examples] are sort of an individual, discrete issue, not a kind of more pervasive or systemic disregard of the courts and rulings of law by the executive branch," Pildes said.

## **The Trump administration's actions put courts in uncharted waters**

The Trump administration's actions, in contrast, the experts said, are unprecedented because of the speed both at which the administration is enacting Trump's policies and opponents are challenging the administration's moves in court.

"The executive has some capacity to change facts on the ground before the courts can act and it can be hard to undo some of those actions, even if the courts end up concluding that they were unlawful," Pildes said.

Sample, of Hofstra, compared it to a computer being so overloaded it can't process the information.

"The volume of what is happening, and the speed at which it is being undertaken, is crashing the constitutional hard drive," he said.

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The situation has been played out over the last couple of weeks as Trump has claimed that he would abide by court orders that issued temporary restraining orders over his policies, such as deportations, mass firings of federal workers and discharging transgender service members; however, court documents have indicated that those orders were not followed in many cases.

Trump and his allies, including billionaire Elon Musk, have also gone after Judge James Boasberg on social media after he issued from the bench a temporary restraining order against the administration in a case challenging the president's executive orders to deport Venezuelan migrants.



President Donald Trump speaks during a cabinet meeting at the White House in Washington, Feb. 26, 2025.

Al Drago/Pool/EPA-EFE/Shutterstock

"We have not historically seen the idea of attacking judges [or] attacking courts for rulings with which we disagree and attacking the system itself," Sample said. "That's a problem."

## Tools that courts can use to push back

Despite the unprecedented pushback on the courts, the experts said that the judiciary does have tools to prevent a crisis.

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Pildes noted that while courts face a challenge when it comes to enforcing their rulings against the executive branch directly, they can still take some actions to get an administration to comply.

Judges have threatened to use contempt findings and fines, and Pildes said those warnings can be serious.

"If there are lawyers involved in advising to defy a court order, or participating in defiance of a court order, there can be sanctions against those lawyers. Their bar licenses could be at stake," he said.

"Then, if there are misrepresentations that lawyers make in court, that can also be sanctioned against the lawyers," Pildes added. "Sometimes that very sanction is enough to get them to comply. But if it's not, the courts can start imposing fines."



The Supreme Court is seen in Washington, Mar. 5, 2025.

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"As the executive defiance kind of goes on, more and more officials would have to be involved in going down this path with the executive of not complying," he said.

Sample, however, noted that if a court chose contempt, it could further test the Constitution because the U.S. Marshals Service, which is under the jurisdiction of the executive branch, would be involved with enforcing an order.

"It's not far-fetched to believe that the Trump administration would, in the face of a contempt order, just simply tell the U.S. Marshals Service not to enforce it," he said. "This goes back to that same principle that the glue that holds the constitutional structure together is not just law, it's norms."

There already has been some pushback from the top level of the judiciary to Trump's rhetoric.

Chief Justice John Roberts rebuked calls to impeach judges, including from Trump, with a [rare statement](#) this week.

"For more than two centuries, it has been established that impeachment is not an appropriate response to disagreement concerning a judicial decision. The normal appellate review process exists for that purpose," he said.

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Trump dismissed Roberts' statement in an interview with Fox News, claiming Roberts did not directly mention him by name. Trump and his allies have continued to verbally attack federal judges who have issued temporary restraining orders and injunctions on implementation of his policies and executive orders.

## Branches at odds

Throughout April, the courts have ordered the administration to comply with the law in several cases related to their actions.

The biggest case was the erroneous deportation of Kilmar Abrego Garcia which prompted a unanimous Supreme Court to issue a ruling that ordered the U.S. to "facilitate" his return to the U.S. as his case continues.

U.S. District Judge Paula Xinis ordered on April 15 that government officials must testify under oath through expedited discovery in order to resolve what she called Abrego Garcia's wrongful detention.

The U.S. Court of Appeals for the 4th Circuit [rejected an appeal](#) by the administration and slammed the Trump administration for actions it said showed a "shocking" failure to adhere to the Constitution and federal law.



The U.S. Supreme Court is seen, April 7, 2025 in Washington.

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"Now the branches come too close to grinding irrevocably against one another in a conflict that promises to diminish both," the judges said in their ruling.

"This is a losing proposition all around. The Judiciary will lose much from the constant intimations of its illegitimacy, to which by dint of custom and detachment we can only sparingly reply. The Executive will lose much from a public perception of its lawlessness and all of its attendant contagions," they added.

Sample said he was not surprised by the directness of the various rulings in the *Abreo Garcia* case and said generally no judge would side with the Administration's arguments in the case and are showing that they are sticking to their duties.

"The executive is accumulating so much power and Congress has not been doing its job to enforce the Constitution," he said. "The courts are showing, so far, that they do not

want to go along in a strong way but it is scary to see this happening so fast."

The other court case was the federal case involving migrants deported to El Salvador by Trump's Executive Order using the Alien Enemies Act. The administration defied a court order by Judge James Boasberg to turn the planes around and on April 15, he [declared](#) that there was cause that the Administration acted in contempt.

"The Constitution does not tolerate willful disobedience of judicial orders -- especially by officials of a coordinate branch who have sworn an oath to uphold it. To permit such officials to freely 'annul the judgments of the courts of the United States' would not just 'destroy the rights acquired under those judgments'; it would make 'a solemn mockery' of 'the Constitution itself,'" he wrote.

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Boasberg gave the administration a week to file "a declaration explaining the steps they have taken and will take to do so."

The way to "purge" the potential finding of contempt would be to obey his initial order, the judge, who was initially appointed by George W. Bush, said.

Sample said Boasberg is acting "in parallel" with Xinis when it comes to enforcing federal law and his rulings but noted that his order is serious business.

"He's saying comply or you will have to testify under oath," Sample said. "If it gets to that, the Administration can't rely on just rhetoric and it will be tougher to defy."

## **The public's role is crucial in averting crises**

Sample and Pildes said that given their actions so far during the last couple of weeks, it is unlikely that the Republican-controlled Congress will step up to curb Trump's rhetoric and action and force him to comply with the courts..However, public opinion will play a big part in preventing the country from entering a crisis, they argued.

"The tool, the arrow in the quiver of the courts is the legitimacy and the public's faith in the legitimacy of the process playing itself out of those rulings. One of the things that is a

hallmark of a civilized society is that if the citizens believe that a process was fair," Sample said.



President Donald Trump listens as Commerce Secretary Howard Lutnick delivers remarks at a Cabinet meeting at the White House on Feb. 26, 2025 in Washington.

Andrew Harnik/Getty Images

Pildes noted that as the Watergate scandal unfolded and then-President Richard Nixon was forced by the U.S. Supreme Court to release audio tapes that implicated him on impeachable offenses, public opinion had already turned on him and his allies in Congress to the point that he resigned.

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Pildes added that public opinion can be expressed through economics, which federal leaders watch attentively. Business and stock markets are typically weakened if governments and the rule of law are disrupted and that could force the executive to rethink their resistance to the courts, he said.

"If we get to [a constitutional crisis], you can imagine easily a lot of turmoil that would actually show up in the market show up in the economy. People will stop wanting to invest here," he said.

Sample said the country's current polarization will make it harder for a public consensus, but he believed that generally, Americans would be speaking out against anything that leads to a crisis.



Demonstrators rally on the National Mall during the NowDC protest, in Washington, Mar. 14, 2025.

Graeme Sloan/EPA-EFE/Shutterstock

"Even if you are hardcore MAGA, and you think Donald Trump is a benevolent authoritarian, there may come a time where the next leader, with authoritarian leanings is, from your perspective, not so benevolent," he said. "So, if Americans want to push back against authoritarianism, they need to stand up and be willing to say I oppose authoritarianism, even if it might be producing the short-term results that I desire."

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