

# By Refusing to Obey Court Orders, Trump Is Provoking a Constitutional Crisis

Marjorie Cohn : 12-15 minutes : 2/13/2025

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## Part of the Series

### Human Rights and Global Wrongs

No sooner did Donald Trump take the oath of office than he immediately took a wrecking ball to government agencies and programs that protect nearly every aspect of Americans' lives.

States, public interest organizations, schools, doctors, unions, immigrants, federal workers and individuals have filed more than 60 [lawsuits](#) challenging Trump's legal authority to take these actions. At least nine judges throughout the country have temporarily halted several of them.

Courts have put temporary holds on Trump's attempts to: [end birthright citizenship](#) for children of undocumented immigrants, [freeze](#) billions of dollars in federal spending appropriated by Congress, [transfer](#) incarcerated transgender women to men's prisons, [remove](#) scientific data from the websites of the Centers for Disease Control and Prevention and the Food and Drug Administration, [give](#) his de facto co-president Elon Musk unfettered access to sensitive Treasury Department records, and [put](#) 2,200 United States Agency for International Development (USAID) employees on leave.

One federal judge, George A. O'Toole, who had temporarily paused the Trump administration's federal worker buyout program, lifted the stay because he found that the plaintiffs — unions who represent over 800,000 federal workers — didn't have standing to sue, which means they weren't directly harmed. Known as "Fork in the Road," the program provided federal workers an incentive to resign with the promise of pay through September 30. About 75,000 workers have already taken the deal. After O'Toole's ruling, Trump discontinued the program.

The White House [alleged](#) that rulings against the administration were made by "judicial activists" and their decisions constitute a "constitutional crisis." But it is Trump's noncompliance with some of those court orders that is threatening to end the rule of law in the U.S.

## OMB Refuses to Follow Judge's Order Prohibiting Freezing of Federal Funds

On January 31, John J. McConnell Jr., chief judge of the U.S. District Court for the District of Rhode Island, [issued a temporary restraining order](#) (TRO) prohibiting the Office of Management and Budget (OMB) from freezing federal funding and refusing to resume disbursements of congressionally appropriated federal funds. Nevertheless, officials in the administration continued to improperly freeze federal funds and refused to continue disbursing funds that had been appropriated.

When he issued the TRO, McConnell wrote, "The Defendants now claim that this matter is moot because it rescinded the OMB Directive. But the evidence shows that the alleged rescission of the OMB Directive was in name-only and may have been issued simply to defeat the jurisdiction of the courts."

The 23 Democratic attorneys general who brought the original lawsuit in Rhode Island federal court against Trump and several of his officials filed a motion for enforcement of the temporary restraining order.

On February 10, McConnell [granted](#) the plaintiffs' motion and ordered the defendants to immediately do the following: restore frozen funding, end any federal funding pause, clear any hurdles to implementation, comply with the plain text of the TRO, restore withheld funds (including those appropriated in the Inflation Reduction Act and the Infrastructure Improvement and Jobs Act), and resume funding of institutes and other agencies, including the National Institutes of Health.

Judge McConnell began his order with this language from the 1975 Supreme Court decision in [Maness v. Meyers](#):

[It is a] basic proposition that ***all orders and judgments of courts must be complied with promptly***.... Persons who make private determinations of the law and refuse to obey an order generally risk criminal contempt even if the order is ultimately ruled incorrect. The orderly and expeditious administration of justice by the courts requires that an order issued by a court with jurisdiction over the subject matter and person must be obeyed by the parties until it is reversed by orderly and proper proceedings.

McConnell referred to the “plain language of the TRO” and noted that “The Defendants acknowledged that they understood what the TRO required.”

“It’s very rare for a president not to comply with an order,” Victoria Nourse, director of the Georgetown Law Center on Congress and Democracy, [told The New York Times](#). “This is part of a pattern where President Trump appears to be asserting authority that he doesn’t have.”

It is also unusual for a court to accuse a party of not following its ruling, retired federal judge Nancy Gertner [said](#) on *NPR*’s “Morning Edition.”

On February 10, plaintiffs in another lawsuit [said](#) the Trump administration was continuing to place employees of USAID on administrative leave, notwithstanding a court order that they stop.

## The Courts Have the Power to “Say What the Law Is”

Officials in the Trump administration are signaling their intention to disobey judicial rulings with which they disagree.

The legal way to challenge an adverse judicial ruling is not to disobey it or impeach the judge who issued it. It’s to file an appeal with a higher court.

“Judges aren’t allowed to control the executive’s legitimate power,” Vice President J.D. Vance [posted](#) on X, attacking an order by U.S. District Judge Paul A. Engelmayer that Musk and his young muskrats at the “Department of Government Efficiency” (DOGE) could not have access to the Treasury Department’s vital payment systems containing sensitive data. Implicit in Vance’s declaration is that the president decides whether the power he is exercising is legitimate.

Trump [echoed](#) Vance’s condemnation: “No judge should frankly be allowed to make that kind of a decision. It’s a disgrace.”

“Vance’s arguments, if one can call them that, are entirely without merit and sound to me like strong hints that the White House and its Musk contingent are planning to ignore court rulings that they find inconvenient or that they see as hostile to their takeover agenda,” Laurence Tribe, professor emeritus at Harvard Law School, [told NBC News](#).

Musk also slammed Engelmayer. “A corrupt judge protecting corruption. He needs to be impeached NOW!” Musk [posted](#) on X.

Sen. Tom Cotton (R-Arkansas) called Engelmayer’s ruling “outrageous” and [wrote](#) on X, “This outlaw should be reversed immediately and Engelmayer should be forbidden by higher courts from ever hearing another case against the Trump admin.” Rep. Darrell Issa (R-California) [pledged](#) to introduce legislation to “stop these rogue judges and allow Trump and DOGE to tell you where the government is spending your money.”

Congress, however, has shown little appetite for reining in the worst excesses of Trump’s blitz.

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The Supreme Court established the principle of judicial review in the 1803 case of [Marbury v. Madison](#). “It is emphatically the duty of the Judicial Department to say what the law is,” the court said. The holding rested on the constitutional doctrine of separation of powers based on three co-equal branches of government — legislative, executive and judicial.

“There’s no point in separating the judicial from the executive if the executive can just ignore what the courts have decided,” [said](#) Saikrishna Prakash, a law professor at the University of Virginia.

It is the legislative branch that has always decided how to structure the executive branch by establishing federal agencies and appropriating money to fund them. But consistent with Project 2025’s goal of “[deconstruction of the administrative state](#),” Trump has effectively shuttered the Consumer Financial Protection Bureau and USAID. He has defanged the National Labor Relations Board, the Equal Employment Opportunity Commission and the Privacy and Civil Liberties Oversight Board. He’s also moving to abolish the Department of Education.

The Constitution says that the president has a duty to “take Care that the Laws be faithfully executed.” But Russell Vought, director of the Office of Management and Budget, and chief architect of Project 2025, [said](#) in 2022 that we are living in a “post-Constitutional time.”

Stanford law professor Pamela Karlan warns of a constitutional crisis “when the president of the United States doesn’t care what the Constitution says.” Although presidents have engaged in unconstitutional acts, “I never had the sense that there was a president for whom the Constitution was essentially meaningless,” she [told The New York Times](#).

In his December 2024 year-end report, Chief Justice John Roberts [noted](#) that in the past few years, elected officials on both sides of the aisle have “raised the specter of open disregard for federal court rulings.” He declared, “These dangerous suggestions, however sporadic, must be soundly rejected.”

But Karlan is worried that the Supreme Court might uphold Trump’s actions because he would ignore their adverse rulings. “The idea that courts should preserve the illusion of power by abdicating their responsibilities would just make the constitutional crisis even worse,” she warned.

In 1953, Supreme Court Justice Robert Jackson said that the power of the high court is that it gets the last word in legal disputes. “We are not final because we are infallible, but we are infallible only because we are final,” he wrote in [Brown v. Allen](#).

If a party disobeys a court order, the judge can hold them in contempt, impose fines and even imprison them. The marshals would be charged with enforcing a custodial order. But the Marshal Service is part of Trump’s Department of Justice, and he would likely order them not to comply.

“At that point, you have a full-on constitutional crisis,” former Judge Gertner said.

#### **We’re not backing down in the face of Trump’s threats.**

As Donald Trump is inaugurated a second time, independent media organizations are faced with urgent mandates: Tell the truth more loudly than ever before. Do that work even as our standard modes of distribution (such as social media platforms) are being manipulated and curtailed by forces of fascist repression and ruthless capitalism. Do that work even as journalism and journalists face targeted attacks, including from the government itself. And do that work in community, never forgetting that we’re not shouting into a faceless void – we’re reaching out to real people amid a life-threatening political climate.

#### **Our task is formidable, and it requires us to ground ourselves in our principles, remind ourselves of our utility, dig in and commit.**

As a dizzying number of corporate news organizations – either through need or greed – rush to implement new ways to further monetize their content, and others acquiesce to Trump’s wishes, now is a time for movement media-makers to double down on community-first models.

At *Truthout*, we are reaffirming our commitments on this front: We won’t run ads or have a paywall because we believe that everyone should have access to information, and that access should exist without barriers and free of distractions from craven corporate interests. We recognize the implications for democracy when information-seekers click a link only to find the article trapped behind a paywall or buried on a page with dozens of invasive ads. The laws of capitalism dictate an unending increase in monetization, and much of the media simply follows those laws. ***Truthout* and many of our peers are dedicating ourselves to following other paths – a commitment which feels vital in a moment when corporations are evermore overtly embedded in government.**

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