

THE RUTHERFORD INSTITUTE

TOGETHER, WE WILL MAKE AMERICA FREE AGAIN

ON THE FRONT LINES OF LIBERTY

2026 MID-YEAR REPORT

*The State of Constitutional Freedom—
and the Fight to Defend It*

THE CONSTITUTION
CANNOT PROTECT ITSELF.

*It depends on citizens
willing to defend it.*

A MESSAGE FROM THE PRESIDENT

Two hundred and fifty years after America declared its independence from tyranny, we find ourselves confronting a troubling question: Are we still willing to do the work required to remain free?

The constitutional battles documented in this report should concern every American, regardless of political party. Artificial intelligence and mass surveillance are giving government unprecedented powers to monitor our movements and predict our behavior. License plate readers are creating searchable records of where we go and whom we associate with. Emergency powers and executive authority continue to expand. Dissent is increasingly treated as a threat. Militarized policing, warrantless searches, government censorship and attacks on due process are steadily shifting the balance of power away from the individual and toward the state.

These dangers did not begin with one president or one political party, and they will not disappear when political power changes hands.

For more than four decades, The Rutherford Institute has maintained a simple position: the Constitution must restrain government regardless of who is in power or whose rights are at stake. That principle has guided our work throughout 2026.

As the pages that follow demonstrate, we have challenged government censorship and retaliation, fought warrantless surveillance, defended religious liberty and free speech, pushed for police accountability, confronted the criminalization of poverty, and sounded the alarm over emerging technologies and government powers that threaten to make the American police state more pervasive, automated and difficult to escape.

Some of these battles we have won. Others continue. Still others are only beginning.

Taken together, however, they underscore an essential truth: The Constitution cannot protect itself. It depends on courts willing to enforce it, advocates willing to defend it, and citizens willing to insist that government remain the servant—not the master—of the people.

Benjamin Franklin famously described the government created by the Constitutional Convention as “a republic, if you can keep it.”

Keeping it is the work of every generation. Now it is ours.

John W. Whitehead
President

The Rutherford Institute

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A Mid-Year Report on the State of Constitutional Freedom and The Rutherford Institute's Work in 2026

The following provides a snapshot of The Rutherford Institute's litigation, advocacy, investigative reporting and public education efforts during 2026, organized around some of the most significant threats to constitutional freedom.

LITIGATION & DANGER POINTS REPORT

Policy Papers, Investigative Reports

- *The Rise of AI-Powered Government, Artificial Intelligence and Predictive Policing.* TRI warned that AI is rapidly transforming government surveillance and law enforcement, enabling officials to monitor, profile and police individuals based not merely on what they have done but what algorithms predict they might do.
- *Flock Safety and Mass Surveillance: License plate readers and the end of privacy on America's roads.* TRI sounded the alarm about Flock Safety's rapidly expanding network of AI-powered license plate readers, warning that millions of innocent Americans are being tracked, catalogued and monitored as they travel their daily routes.
- *Digital Identity / Data Collection: The growing digital dossier.* TRI warned about the government's increasing reliance on private companies to collect, purchase and analyze Americans' personal data, allowing officials to sidestep constitutional safeguards while amassing unprecedented amounts of information about ordinary citizens.
- *Militarization and the Cost of Endless War.* TRI warned that America's role as the world's policeman fuels the growth of the police state at home, expanding executive power, militarized policing and surveillance while eroding constitutional accountability.
- *Police Accountability: Holding the police state accountable.* TRI continued exposing legal doctrines that excuse unconstitutional police conduct and argued that government
- *Martial Law, One City at a Time:* TRI issued a policy alert detailing how executive orders and federalized policing are laying the groundwork for martial law, transforming local crises into opportunities for centralized power and military control over civilian life.
- *ICE's Unconstitutional War on America:* TRI issued an investigative report documenting how

ICE's tactics now embody the hallmarks of a police state: lawless power, political theater, and fear-based control.

- *The Government's War on Thought Crimes:* TRI issued a policy paper warning that the government's expanding "war on extremism" is rapidly becoming a war on thought itself, using speech codes, digital monitoring, and predictive profiling to criminalize dissent and redefine free expression as a threat.
- *9/11 and the Police State's Endless Power Grabs:* TRI released an investigative report tracing how emergency powers claimed after 9/11 have become permanent tools of control, enabling the government to operate beyond constitutional limits under the pretext of safety, security, and perpetual war.
- *Burning the Flag or Torching the Constitution: Only One Destroys Freedom:* TRI published a legal analysis exposing efforts to criminalize symbolic speech as political theater that undermines the First Amendment, warning that punishing flag burning does not honor the nation—it erodes the very freedoms the flag represents.

Free Speech, Religious Freedom & the First Amendment

- *AAUP v. DOJ:* TRI challenged the government's political war on 'thought crimes' at private universities.
- *Khalil v. Trump:* TRI challenged government efforts to weaponize immigration enforcement in order to punish political dissent.
- *Ozturk v. Trump:* TRI challenged the Trump Administration's arrest and detention of a Tufts University PhD student who was targeted for co-authoring an op-ed in a student paper expressing support for Palestinian civilians.
- *Law Firms v. Trump:* TRI joined a broad coalition of civil liberties organizations to challenge the

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Trump Administration's retaliatory war on a growing number of law firms aimed at punishing legal advocacy.

- *Harvard v. Health and Human Services*: TRI challenged the Trump administration's efforts to revoke federal funding for Harvard. In a major victory for the First Amendment and academic freedom, a federal court ruled that the attempt to force Harvard to conform to the government's ideological viewpoint is unconstitutional.
- *Project Veritas v. Vasquez*: TRI weighed in before the Supreme Court on a challenge to Oregon's recording law, and raised the question of whether states can criminalize unannounced recording – a fundamental tool for watchdog journalism and citizen accountability.
- *Open Justice Baltimore v. Baltimore City Law Department*: TRI weighed in before the Supreme Court on behalf of a community organization and two journalists focused on exposing police misconduct, whose FOIA requests to a police department were allegedly denied based on their viewpoints and speech.
- *Children's Health Defense v. Meta*: In a blow to First Amendment freedoms, the U.S. Supreme Court declined to hold Facebook/Meta accountable for colluding with the government to silence constitutionally protected speech. TRI warned that social media companies are likely to once again serve as proxies for government censorship—especially during times of crisis or political pressure.
- *Okla. Charter School v. Drummond*: Supreme Court deadlocked on whether states can prohibit religious charter schools. TRI had warned that state governments shouldn't be allowed to discriminate on charter schools based solely on their religious focus and instruction.
- *Mahmoud v. Taylor*: In a win for parental and religious rights, the U.S. Supreme Court ruled that parents can opt their elementary-aged children out of mandatory public school curriculum that promotes alternative ideas about gender and sexuality.
- *Murthy v. Missouri*: The Supreme Court sidestepped a challenge to the federal government's efforts to coerce social media companies into censoring users' First Amendment expression. TRI had challenged the government's efforts to censor lawful First Amendment

expression by pressuring social media companies to block, ban, remove, de-platform, de-boost, restrict, or otherwise deny equal access or visibility to users.

- *Rights of Churches to Minister to the Homeless*: TRI warned localities against placing roadblocks in the way of churches providing life-saving shelter to the homeless on cold nights.
- *NetChoice v. Paxton and Moody v. NetChoice*: In a unanimous decision, the Supreme Court sent each case back to the lower courts for further proceedings without ruling on the merits of the First Amendment claims. TRI had called on the Court to protect free speech forums on social media from attempts by big tech companies to block, ban, remove, deplatform, demonetize, de-boost, restrict, deny equal access or visibility to, or otherwise discriminate against viewpoints of which they might disapprove.
- *Sheets, Massey v. City of Punta Gorda*: TRI defends protesters fined \$3000 for displaying anti-Biden, anti-Trump political signs.
- *Christian Scholars Network v. Blacksburg et al*: TRI came to the defense of a Christian ministry's right to be treated equally with other religious and charitable organizations which provide similar services.
- *The Florida Bar v. Christopher W. Crowley*: TRI came to the defense of a decorated Gulf War veteran who, after fighting for freedom abroad, was punished for exercising his right to political free speech in his home state of Florida.

Surveillance, Privacy and the Fourth Amendment

- *Mumford v. Iowa*: TRI weighed in before the Supreme Court on whether a dog sniff of the interior of a lawfully stopped vehicle violates the Fourth Amendment absent consent to the sniff or probable cause to believe that the vehicle contains illegal drugs.
- *Barnes v. Felix*: Supreme Court rejected a legal doctrine that helped shield police from accountability for recklessly escalating confrontations and then using deadly force. TRI had urged the Court to overturn the moment-of-threat rule, arguing that it fostered a culture of impunity among law enforcement.
- *Martin v. United States*: In a unanimous opinion, the U.S. Supreme Court has ruled that the federal government can be held accountable for a botched

FBI SWAT raid that targeted the wrong home and terrorized an innocent family.

- *Jimerson v. Lewis*: TRI asked the Supreme Court to hold a SWAT team leader accountable for raiding the wrong house, wrecking the wrong home, and terrorizing an innocent family.
- *Bailey v. Arkansas*: Supreme Court declined to protect homeowners from warrantless searches by police based merely on a suspicion that a person on probation or parole resides on the premises. TRI had warned that the case signified a creeping erosion of Fourth Amendment rights that threatens every homeowner in America.

Government Overreach, Eminent Domain, Abuse

- *Newsom v. Trump*: TRI filed a First Amendment challenge to Trump's National Guard deployment, echoing founders' warnings against standing armies.
- *United States v. Ross*: TRI is calling on the courts to hold the government accountable for its misconduct, especially as it relates to reckless civil asset seizures.
- *Beck v. United States*: TRI called on the Supreme Court to give active military service members the right to bring tort claims against the government for a non-combat related injury caused by a government employee if it occurred in the course of activity incident to service.
- *Charlottesville City Council*: TRI urged the city to take steps to safeguard constitutional rights and ensure transparent, accountable law enforcement after masked, plainclothes ICE agents at courthouse sparked 'kidnapping' fears.
- *Argueta v. Jaradi*: Supreme Court sent a chilling message to gun owners when it comes to encounters with police: comply or die. TRI had warned that allowing a lower court ruling to stand could contribute to a rise in the number of incidents in which police officers shoot and kill armed citizens who pose no threat.
- *City of Grants Pass v. Johnson*: The Supreme Court ruled that the Eighth Amendment's prohibition against cruel and unusual punishment does not prevent Oregon city officials from penalizing sleeping and camping in public through the use of excessive fines and criminal trespass charges. TRI had warned that the case could have far-reaching ramifications for urban and suburban

communities attempting to criminalize homelessness.

- *Poliselli v. IRS*: TRI asked the Supreme Court to rein in the IRS' unconstitutional power grabs, warrantless searches of innocent taxpayers' bank accounts.
- *Sanchez v. United States*: The Supreme Court allowed police to use red tape and technicalities as a means of keeping thousands of dollars in cash seized under asset forfeiture schemes from innocent property owners. TRI had challenged the government's use of cumbersome paperwork, "labyrinthine" bureaucratic processes and a profit-driven forfeiture system to seize and keep funds.
- *Stinnie v. Holcomb*: Supreme Court handed the government a free pass to violate the Constitution—without paying the price. TRI had warned that allowing the government to sidestep accountability and avoid paying plaintiffs' attorneys' fees when it has violated the Constitution could gut civil rights enforcement and leave victims without access to justice.
- *Murphy v. Delaware, Justices of the Peace*: TRI called on the courts to hold Delaware officers accountable for violating a blind tenant's rights through their "evict first, ask questions later" practice. On appeal, Institute attorneys argued that constables do not have immunity for knowingly evicting the wrong person pursuant to their "evict first, ask questions later" practice.
- *Ordinances Criminalizing Homelessness*: Amid a growing national wave of punitive measures targeting the homeless, TRI is cautioning communities against adopting draconian policies that risk criminalizing poverty and eroding civil liberties.

CONFRONTING TODAY'S GREATEST THREATS TO FREEDOM

In addition to our litigation and advocacy, The Rutherford Institute continues to educate millions of Americans through investigative reports, constitutional commentaries, interviews, and public outreach that expose emerging threats before they become accepted features of everyday life. Over the past year, our work has focused on some of the defining constitutional issues of our time, including:

DEFENDING FREE SPEECH AND DISSENT

We are standing with individuals targeted for speaking out—whether through protest, advocacy, or public expression. At a time when dissent is increasingly treated as a threat, we are challenging efforts to silence critics, punish unpopular viewpoints, and redefine lawful speech as dangerous or subversive.

PROTECTING RELIGIOUS LIBERTY

We are confronting troubling efforts to expand government surveillance and enforcement into places of worship. From monitoring attendance through digital tracking technologies to conducting enforcement actions in and around churches, these practices threaten the First Amendment's guarantee of religious freedom. We are working to ensure that houses of worship remain sanctuaries—not targets.

PUSHING BACK AGAINST SURVEILLANCE

New technologies are enabling unprecedented levels of monitoring—tracking individuals' movements, associations, and daily activities. We are challenging these surveillance systems and advocating for limits that protect privacy, transparency, and accountability.

DEFENDING DUE PROCESS

We are addressing a growing erosion of due process protections. From warrantless searches to aggressive enforcement tactics, individuals are increasingly being treated as suspects first—and citizens second. We are working to ensure that every person is entitled to fair treatment under the law.

CHALLENGING GOVERNMENT OVERREACH

We are opposing policies that expand government power at the expense of individual liberty—including efforts to criminalize dissent, broaden detention authority, and normalize excessive force. These actions undermine the principle that government exists to serve the people—not control them.

The cases and issues highlighted here represent only a portion of The Rutherford Institute's work on behalf of constitutional freedom. Every week, new threats emerge, new legal battles begin, and new opportunities arise to defend the rights of ordinary Americans. The Rutherford Institute remains committed to meeting those challenges wherever they arise.

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