

REVOLT Lindke Audit™

Post-Level First Amendment Liability Diagnostic

Based on Lindke v. Freed, 601 U.S. 187 (2024) — Unanimous Supreme Court Decision

REVOLT Insights and Chaz Stevens are not licensed attorneys. All legal analysis within the Lindke Audit — including state-action determinations, First Amendment exposure assessment, and Monell liability evaluation — is performed by partnered outside counsel who reviews and signs off on all deliverables.

THE PROBLEM

The Supreme Court's March 2024 decision in *Lindke v. Freed* established a two-prong test for when a public official's social media activity constitutes state action subject to the First Amendment. Every blocked constituent, every deleted comment on a mixed-use account is now a potential 42 U.S.C. § 1983 claim.

Most elected and appointed officials have never audited a single post against this framework.

The REVOLT Lindke Audit is a structured constitutional compliance diagnostic — comparable to a cybersecurity penetration test, but for First Amendment exposure. It produces a documented compliance baseline that institutions can use to demonstrate diligence, inform insurers, and reduce preventable litigation.

THE LINDKE TWO-PRONG TEST

Prong	Requirement
Prong 1	The official possessed actual authority to speak on the government's behalf on the subject matter of the post.
Prong 2	The official purported to exercise that authority in the specific post(s) at issue.
Trigger	If both prongs are met on any post where a constituent was blocked or their comment deleted, the official has engaged in state action and viewpoint-based moderation is unconstitutional.

WHAT THE REVOLT LINDKE AUDIT DOES

The REVOLT Lindke Audit applies the Supreme Court's two-prong constitutional framework to an official's complete social media feed. The legal standard drives the analysis. Technology enables post-level scale. Partnered outside counsel makes the determinations.

- Post-level classification of every post against Prong 1 (actual authority) and Prong 2 (purported exercise) under outside counsel supervision

- Automated post capture across active platforms (max. three, including Facebook, X, Instagram, Threads, TikTok, YouTube, LinkedIn, Nextdoor)
- AI-assisted flagging against the official's documented duties, title, and jurisdiction
- Moderation action inventory: blocks, deletions, hidden replies, restrictions
- Viewpoint discrimination pattern analysis
- Account structure risk assessment (mixed-use, labeling, disclaimers, branding)
- Municipal policy and training gap analysis
- Outside counsel review and sign-off on all state-action determinations and legal conclusions

METHODOLOGY

Step 1: Legal Framework Mapping (Outside Counsel)

Partnered outside counsel maps the official's actual authority against statute, ordinance, job description, and municipal code. This defines the Prong 1 universe — which subject matters trigger state-action analysis for this specific official.

Step 2: Automated Collection (REVOLT)

Custom scraping tools download all public posts within the lookback period. Posts are timestamped, archived, and hash-verified for evidentiary integrity.

Step 3: AI-Assisted Classification (REVOLT)

Each post is classified along two axes — subject matter authority (Prong 1) and authority exercise indicators (Prong 2) — using AI flagging calibrated to the authority map established in Step 1.

Step 4: Legal Review and Sign-Off (Outside Counsel)

Partnered outside counsel reviews all state-action determinations, resolves ambiguous classifications, conducts First Amendment exposure analysis, assesses Monell municipal liability, and signs off on all deliverables before release.

LINDKE LIABILITY SCORE (0–100)

Every audit produces a composite Lindke Liability Score measuring the official's overall Section 1983 exposure. The score serves as a documented governance artifact — evidence of institutional diligence, a baseline for insurers and risk managers, and a defensibility record under Monell.

Score	Tier	Meaning
0–15	Minimal	Sound account structure. No discoverable moderation on state-action posts. Documented compliance baseline established.
16–35	Low	Minor structural gaps. Few or no moderation actions on state-action posts. Preventive remediation recommended.
36–55	Moderate	Mixed-use account with state-action posts. Some moderation actions present. Remediation reduces exposure to defensible levels.

56-75	Elevated	Significant state-action content with documented moderation. Viewpoint discrimination pattern may exist. Urgent remediation recommended.
76-100	Severe	Active moderation of constituent speech on state-action posts. Litigation risk is immediate. Phase II remediation essential.

COMPONENT SUB-SCORES

- Account Structure Risk (0-100) – Structural vulnerability independent of specific moderation events
- State-Action Post Density – Percentage of posts satisfying both prongs (surface area for claims)
- Moderation Action Count – Blocks, deletions, restrictions categorized by state-action context
- Viewpoint Discrimination Indicator – None Detected / Possible / Probable / Evident
- Policy Compliance Score (0-100) – Institutional policy and training adequacy
- Monell Exposure Indicator – Municipal liability assessment (Low / Moderate / Elevated / Severe)

DELIVERABLES

Deliverable	Description
Executive Brief (PDF)	8-12 pages. Lindke Liability Score, top findings, moderation inventory, account structure assessment, three-priority remediation recommendation.
Post Classification Log	Every post classified: date, platform, Prong 1/2 status, state-action determination, moderation actions, liability flag (Red/Yellow/Green). Evidentiary-grade documentation.
Account Structure Memo	3-5 page analysis of account architecture with specific restructuring recommendations.
Policy Gap Analysis	Existing social media policies evaluated against post-Lindke requirements. Model language included for missing provisions.
Remediation Protocol	Prioritized action plan: 7-day immediate, 30-day structural, ongoing requirements.
Board-Ready Slides	5-7 slides for closed or open session presentation. No modification required.

ENGAGEMENT STRUCTURE (PRIVILEGE OPTIONS)

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Privilege posture is a threshold question for municipal buyers. Three options are available at engagement initiation. Note: “outside counsel” below refers to the client’s own outside legal counsel — distinct from REVOLT’s partnered attorney who performs the legal review.

Option	Structure	Public Records Posture
A	Through client’s outside counsel, who sub-engages REVOLT as consulting expert.	Strongest privilege and work product protection. Recommended when litigation exists or is anticipated.
B	Direct to city manager or municipal attorney.	Deliverables likely subject to public records requests. Appropriate for transparency-forward approach.
C	Hybrid: public scorecard + privileged classification log and legal analysis.	Public demonstration of diligence with protected detailed analysis.

Privilege is state-dependent. Client’s own counsel should confirm structure.

PRICING

Package	Price	Scope
Single Official	\$3,500	One official, up to three platforms, 12-month lookback, all deliverables, outside counsel review, 60-min debrief.
Additional Official	\$2,500 each	Same scope per official. Policy Gap Analysis and slides shared across municipality.
Full Council Package	Custom quote	6+ officials at volume pricing. Includes unified municipal policy assessment.
Extended Lookback	+\$750 / 12 mo.	Extend analysis to 24 or 36 months.
Priority Delivery	\$500–\$1,000	3 or 7 business days instead of 15.
Quarterly Monitoring	\$1,000–\$1,500/qtr	Ongoing re-audit of new posts, moderation actions, and score changes.

PHASE II — REMEDIATION (\$5,000–\$15,000)

REVOLT INSIGHTS

Phase I identifies and measures exposure. Phase II converts findings into operational compliance. Most institutions that complete a Phase I diagnostic proceed to remediation — the score establishes the baseline, and the remediation protocol provides the implementation path.

- Account restructuring: separate personal and official accounts, labeling, disclaimers
- Social media policy drafting with Lindke-specific provisions and viewpoint-neutrality requirements
- Moderation protocol: documented, defensible process with approval workflow and logging
- Elected official and staff training (90 minutes, virtual or in-person, with attestation for Monell defense)
- Unblock and restore protocol for identified violations

TIMELINE

- Single Official Audit: 15 business days (3 or 7 days with priority delivery)
- Multi-Official: 15 days for first + 5 days per additional (parallel processing)
- Phase II Remediation: 30–90 days depending on scope

SECTION 1983 EXPOSURE AT A GLANCE

- Injunctive relief (court-ordered unblock)
- Declaratory relief (judicial finding of First Amendment violation)
- Compensatory and nominal damages
- Attorney’s fees under 42 U.S.C. § 1988 (the real cost driver)
- Monell municipal liability when violations result from policy gaps, custom, or deliberate indifference
- Qualified immunity increasingly unavailable for post-March 2024 conduct

LIMITATIONS

- Post classification involves legal judgment; reasonable attorneys can disagree on ambiguous posts
- Not all moderation actions are discoverable through public-facing data
- Point-in-time assessment; new posts require ongoing monitoring
- REVOLT Insights is not a law firm; all legal analysis is performed by partnered outside counsel
- This is a diagnostic, not legal representation; institutions should consult their own litigation counsel