
Everyone's a Criminal

Segment Length: 6:27 minutes

Lesson Description:

Did you break any laws today? How would you know? America now has over 300,000 federal laws--and that doesn't include state laws. In this video, John Stossel and Rafael Mangual discuss overcriminalization and how more laws creates more criminals out of ordinary Americans.

Concepts & Key Terms:

Overcriminalization – the idea that as government creates more laws and regulations to control people's behavior, citizens cannot possibly know all the laws that exist and thus face increased risk of prosecution. Many of those behaviors labeled as crimes are considered victimless crimes.

Federal Crimes – crimes that are defined and punishable by the federal government.

State Crimes – crimes that are defined and punishable by state governments.

Objectives:

Students will be able to:

- explain the concept of overcriminalization
- identify laws that represent overcriminalization
- discuss some reasons for overcriminalization
- summarize the consequences of overcriminalization including social and economic costs, and the impact on relationships between people and between people and their government
- propose solutions to the problems of overcriminalization

Preview Activity and Questions:

Use Think, Pair, Share to have students answer and discuss these preview questions:

- What do you think overcriminalization means?
- What laws might be examples of overcriminalization?
- Why do you think these laws exist?

OR

Distribute the K-W-L chart and have students complete the first two columns to the best of their ability. (Have them fill in the last column after viewing the video.)

Viewing Guide:

We recommend that teachers show the video twice: once to allow students to view the video and focus on the issues presented, and once to allow them time to complete the viewing guide. After they complete the viewing guide, allow students a few minutes to work in pairs sharing and verifying answers.

Answers to Viewing Guide

1. pinball
2. rake
3. unelected bureaucrats
4. barriers
5. commit crimes

Everyone's a Criminal

Viewing Guide

Name _____

Date _____

Class _____

Teacher _____

Directions: As you watch the video, fill in the blanks with the correct words.

1. There are still laws in South Carolina that ban playing _____ if you're under the age of 18.
2. Taking a _____ from New York State into New Jersey, that's actually a federal crime. If you've ever had a rake in the back of your pickup truck and crossed state lines, you probably committed a federal crime.
3. That's not how it works in practice. At the Federal level, ninety-eight percent of criminal laws are not passed by elected representatives. They are created entirely by _____ who don't have to answer to anyone.
4. A huge part of this is driven by established players in certain fields seeking to erect _____ to entry
5. People _____ all the time without knowing it, because it's impossible to know what sort of behavior is criminal. When they get labeled as criminals, that stays with them through their whole life.

Now, take a few moments to reflect on the video and answer the questions below:

What did you learn from this video that surprised you? _____

Did this video get you to think differently about our justice system? _____. Please explain.

Discussion & Analysis:

1. Why are some actions that are against the law?
2. How would you explain what a crime is?
3. How can government keep us safe from actual criminals?
4. Why do we have police?
5. What are some differences between good criminal laws and those that represent overcriminalization?
6. With more than 300,000 federal laws, plus our own state laws, how can you really know if you've broken a law?
7. In the video, we heard about Tammy Hedges, who sheltered animals during a hurricane to keep them from drowning. She was charged with a misdemeanor for practicing or attempting veterinary medicine without a license. The prosecutor said she put those animals at risk. Didn't the hurricane do that?
8. Did you ever watch Schoolhouse Rock? Were you surprised when Rafael Mangual said that ninety-eight percent of federal criminal laws are created by unelected bureaucrats?
9. What is the connection made in the video between the growth of criminal laws and regulations and barriers to entry that limit competition?
10. How is our justice system harmed by overcriminalization?
11. According to Rafael Mangual, one reason for the plethora laws we have is that they don't take old, outdated laws off the books. Why do you think this is the case?
12. Even if there are old, outdated criminal laws on the books that no one is being jailed for violating, should we care? Why / Why not?
13. How would any of us go about fighting overcriminalization?

Discuss These Lines from the Video:

1. There is a real role for the government to play when we're talking about keeping people safe from actual criminals.
2. There are a lot of laws that don't actually keep people safe, yet still have criminal teeth. For example, there's a federal prohibition on walking a dog on a leash longer than six feet on federal property. It is a jail-able offense.
3. There are already a ton of criminal laws on the books. And by a ton...300,000 plus.
4. In Michigan, prosecutors filed criminal charges against a 10-year-old who, during a dodgeball game, threw a ball at another kid's face and hurt him.
5. Anyone can be prosecuted for almost anything.

6. Something as simple as lying to your boss can constitute wire fraud.
7. How did we get to this point, with so many laws, even lawyers can't count them?
8. At the Federal level, 98% of criminal laws are not passed by elected representatives. They are created entirely by unelected bureaucrats who don't have to answer to anyone.
9. A metro bar manager hauled off to jail for infusing vodka..... He didn't know it was a crime, but it didn't matter.
10. The old businesses get the laws passed to keep newcomers out.
11. At the root of a lot of the overcriminalization problem is this anti-competitive nature of established players who want to use the government to keep them protected from competition.
12. Overcriminalization puts all of us at risk of being prosecuted for things that we don't even know are illegal.
13. People commit crimes all the time without knowing it, because it's impossible to know what sort of behavior is criminal. When they get labeled as criminals, that stays with them through their whole life.

Quotes for Discussion:

It will be of little avail to the people that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood.
– James Madison, The Federalist, No. 62

The rule of law has largely been supplanted by the rule of chance and the rule of executive discretion.
– Ilya Somin

Show me the man and I'll show you the crime. – Lavrenti Beria, head of the secret police under Joseph Stalin

Scholars estimate that the vast majority of adult Americans have violated criminal law at some point in their lives.
– Ilya Somin

An agency can reverse its current view 180 degrees anytime based merely on the shift of political winds and *still* prevail [in court].
– Neil Gorsuch, Supreme Court Justice

Overcriminalization has become a national plague.
– George Will

America is in the throes of overcriminalization.
– Ed Meese

The typical American holds deep, often intuitive beliefs in basic principles about American government, including a belief that, if you do what's right, you have nothing to fear from your own government, and certainly not from the criminal-justice system.
– Ed Meese

Ignorantia legis neminem excusat. (Ignorance of law excuses no one.)
– Roman law

It's time to roll back mass criminalization and focus on what works. – from Overcriminalized, a Brave New Films Documentary

Mass incarceration is one outcome of the culture of criminalization. Criminalization includes the expansion of law enforcement and the surveillance state to a broad range of activities and settings....
– Deborah Small, Executive Director of Break the Chains

Activities:

1. Have students complete the K-W-L chart in class or for homework.
2. Have students complete the PMI chart after viewing the video.
3. Have students complete and submit the Exit Ticket.
4. Have students complete the Cloze Activity.
5. Have students complete the Consequences Activity.
6. Have students complete the Cartoon Activity.
7. Assign for homework or show the class the video, Overcriminalization: Criminalizing the Everyday, produced by the National Association of Criminal Defense Lawyers. Have students summarize the main points and the examples of overcriminalization included in this video.
<https://www.youtube.com/watch?v=J9wNJKEch14>
8. Research and report on examples of overcriminalization in your state. Compare your findings to information provided by the National Association of Criminal Defense Lawyers
<https://www.nacdl.org/Landing/Overcriminalization>
9. Research examples of overcriminalization/outdated laws in your state and produce a “man-on-the-street” video in which you ask people if they are aware of any of those crimes. In lieu of person-to-person interviews, students can ask their online friends or conduct online video interviews.
10. Create a 30-60 second public service announcement (PSA) that brings attention to criminal offenses that are inherently unfair and serve no purpose.
11. Write to your state or national representatives concerning overcriminalization. Depending on which representatives you write to, include federal or state examples of overcriminalization and the impact these laws have on ordinary Americans. Be sure to suggest a solution.
12. Interview a local defense attorney in your community about this topic. Present your findings in a video or written presentation.
13. Create a slideshow that shows your research on the effects of overcriminalization. To make your presentation more meaningful, be sure to use stories that personalize the issue for your classmates..
14. Read and summarize one of the following articles and present what you've learned in a TED Talk style format for your class.

- A) “Too Many Laws Turn Innocents into Criminals” by Edwin Meese
<https://www.heritage.org/crime-and-justice/commentary/too-many-laws-turn-innocents-criminals>
- B) “The Case Against Overcriminalization” by Ilya Somin
<https://fee.org/articles/the-case-against-overcriminalization/>
- C) “The Overcriminalization of America: How to reduce poverty and improve race relations by rethinking our justice system” by Charles G. Koch and Mark V. Holden
<https://www.politico.com/magazine/story/2015/01/overcriminalization-of-america-113991>
- D) “Overcriminalizing America: An Overview and Model Legislation for States” by James R. Copland Rafael A. Mangual
<https://www.manhattan-institute.org/html/overcriminalizing-america-overview-and-model-legislation-states-11399.html>

Name _____

Date _____

Class _____ Per _____

Teacher _____

Everyone's A Criminal K-W-L Chart

Directions: Complete the **K** and **W** sections prior to watching the video. After you have seen the video, complete the **L** section and the three boxes at the bottom.

K	W	L
What I know about overcriminalization...	What I want to know about overcriminalization...	What I've learned about overcriminalization...

How does overcriminalization affect ordinary citizens?	Why is the video titled "Everyone's a Criminal"?	List some examples of overcriminalization.
--	--	--

Name _____

Date _____

Class _____ Per _____

Teacher _____

Everyone's a Criminal PMI Chart

P = Plus: What are some positive effects of overcriminalization.

M = Minus: What are some negative effects of overcriminalization.

I = Interesting: What did you find interesting about the topic of overcriminalization?

+ Pluses +	- Minuses -	I

Explain the term "overcriminalization." _____

Why should citizens be concerned about this topic? _____

How does overcriminalization affect the relationship between the people and the justice system? _____

Name _____

Date _____

Class _____

Teacher _____

The Consequences of Overcriminalization

Cloze Activity

Directions: Read the entire passage first. Then fill in the blanks with words from the box.

diminution	reduced	exponential	freedom
criminal	miscarriages	violence	inherently
neglected	leniency	limited	unjust
policymakers	consequence	society	human

There are several reasons to be alarmed by the _____ growth of criminal rules and regulations. Although America has always prided itself on its _____, a society in which the criminal rules are so pervasive that no one is safe from arrest and prosecution cannot be described as free. The traditional common law crimes—murder, rape, theft, assault—do not restrict the freedom of the citizenry to live their own lives peaceably. However, when government goes beyond the basic crimes to prohibit other _____ activities, the adverse impact on liberty becomes evident. As the criminal law expands, there is a concomitant _____ of liberty.

Second, when criminal code violations become virtually unavoidable, safeguards in the Bill of Rights become ineffectual. As the Harvard legal scholar Henry Hart observed, "What sense does it make to insist upon procedural safeguards in _____ prosecutions if anything whatever can be made a crime in the first place?" Hart's point is that if some rule can be shown to have been violated, a speedy trial cannot help the person facing a prison sentence. And an able defense attorney can only help his client by making a plea for _____.

Third, law enforcement resources are _____. The police and courts are busy enough with violent crimes, theft, and extortion. Those cases will be _____ if the police are burdened with additional responsibilities.

Andrew McCarthy, a former federal prosecutor, reminds us that there is no getting around the tradeoff: time and money "spent investigating conduct that is not _____ criminal are time and money lost to the thwarting of much more serious crime."

Fourth, policymakers should always pause to remember that every rule brings about the possibility that the police will have to employ _____ to enforce that rule. Eric Garner was killed by New York City police as they were trying to enforce a rule against selling individual cigarettes ("loosies") on the street. Yale Law School professor Stephen Carter has noted that if _____ want to seriously reduce the opportunities for dangerous interactions between police and civilians, they should stop talking about "better police training" and scale back the criminal codes.

Fifth, another inevitable _____ of overcriminalization has been more governmental errors. Innocent people are sometimes arrested, prosecuted, and imprisoned. Wrongful convictions are not only unjust to the prisoner, but to his or her family. One effective way to limit those _____ of justice is to keep the criminal system as small as possible. If America has two million people imprisoned and the government has done its job properly in 95 percent of the cases, that means 100,000 people are unjustly imprisoned. Scaling back the criminal codes so that the number of people prosecuted and imprisoned is _____, could also reduce the number of innocent persons mistakenly imprisoned.

Policymakers should reform the criminal codes and prune the law books of unnecessary and _____ criminal provisions. An expansive criminal code is inimical to a free _____.

This Cloze Activity is adapted from The Cato Institute's Handbook for Policy Makers. #17 Overcriminalization by Tim Lynch (<https://www.cato.org/cato-handbook-policy-makers/cato-handbook-policy-makers-8th-edition-2017/overcriminalization>)

Name _____

Date _____

Class _____

Teacher _____

The Consequences of Overcriminalization

Cloze Activity

Directions: Read the entire passage first. Then fill in the blanks with words from the box.

diminution	reduced	exponential	freedom
criminal	miscarriages	violence	inherently
neglected	leniency	limited	unjust
policymakers	consequence	society	human

There are several reasons to be alarmed by the exponential growth of criminal rules and regulations. Although America has always prided itself on its freedom, a society in which the criminal rules are so pervasive that no one is safe from arrest and prosecution cannot be described as free. The traditional common law crimes—murder, rape, theft, assault—do not restrict the freedom of the citizenry to live their own lives peaceably. However, when government goes beyond the basic crimes to prohibit other human activities, the adverse impact on liberty becomes evident. As the criminal law expands, there is a concomitant diminution of liberty.

Second, when criminal code violations become virtually unavoidable, safeguards in the Bill of Rights become ineffectual. As the Harvard legal scholar Henry Hart observed, "What sense does it make to insist upon procedural safeguards in criminal prosecutions if anything whatever can be made a crime in the first place?" Hart's point is that if some rule can be shown to have been violated, a speedy trial cannot help the person facing a prison sentence. And an able defense attorney can only help his client by making a plea for leniency.

Third, law enforcement resources are limited. The police and courts are busy enough with violent crimes, theft, and extortion. Those cases will be neglected if the police are burdened with additional responsibilities. Andrew McCarthy, a former federal prosecutor, reminds us that there is no getting around the tradeoff: time and money "spent

investigating conduct that is not inherently criminal are time and money lost to the thwarting of much more serious crime."

Fourth, policymakers should always pause to remember that every rule brings about the possibility that the police will have to employ violence to enforce that rule. Eric Garner was killed by New York City police as they were trying to enforce a rule against selling individual cigarettes ("loosies") on the street. Yale Law School professor Stephen Carter has noted that if policymakers want to seriously reduce the opportunities for dangerous interactions between police and civilians, they should stop talking about "better police training" and scale back the criminal codes.

Fifth, another inevitable consequence of overcriminalization has been more governmental errors. Innocent people are sometimes arrested, prosecuted, and imprisoned. Wrongful convictions are not only unjust to the prisoner, but to his or her family. One effective way to limit those miscarriages of justice is to keep the criminal system as small as possible. If America has two million people imprisoned and the government has done its job properly in 95 percent of the cases, 100,000 people are unjustly imprisoned. Scaling back the criminal codes so that the number of people prosecuted and imprisoned is reduced, could also reduce the number of innocent persons mistakenly imprisoned.

Policymakers should reform the criminal codes and prune the law books of unnecessary and unjust criminal provisions. An expansive criminal code is inimical to a free society.

This Cloze Activity is adapted from The Cato Institute's Handbook for Policy Makers. #17 Overcriminalization by Tim Lynch (<https://www.cato.org/cato-handbook-policymakers/cato-handbook-policy-makers-8th-edition-2017/overcriminalization>)

Everyone's a Criminal

Consequences Activity

Name _____

Date _____

Class _____

Teacher _____

Directions: In this activity, students discuss some of the issues related to overcriminalization.

1. In small groups, discuss the meaning of overcriminalization and its consequences.
2. Share responses in a class discussion and compare and contrast groups' answers

Social costs:

Economic costs:

Overcriminalization

Consequences for ordinary citizens:

Effect on the relationship between government and the people:

Everyone's a Criminal

Cartoon Activity

Name _____

Date _____

Class _____ Period _____

Teacher _____

Directions: Choose ONE cartoon and answer the following questions.

- Bloated Criminal Justice System
- Amendment 6
- Acronyms
- More Air
- I Can't Breathe...

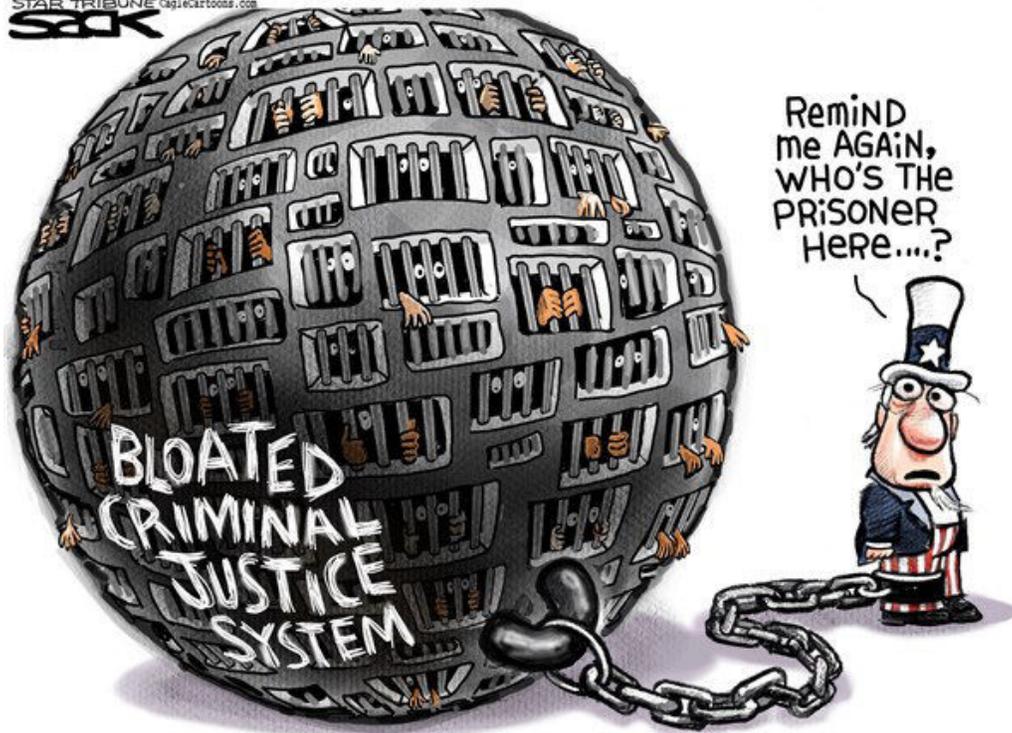
1. What does the cartoon you selected address?

2. Who are the characters in the cartoon you selected, and who or what do they represent?

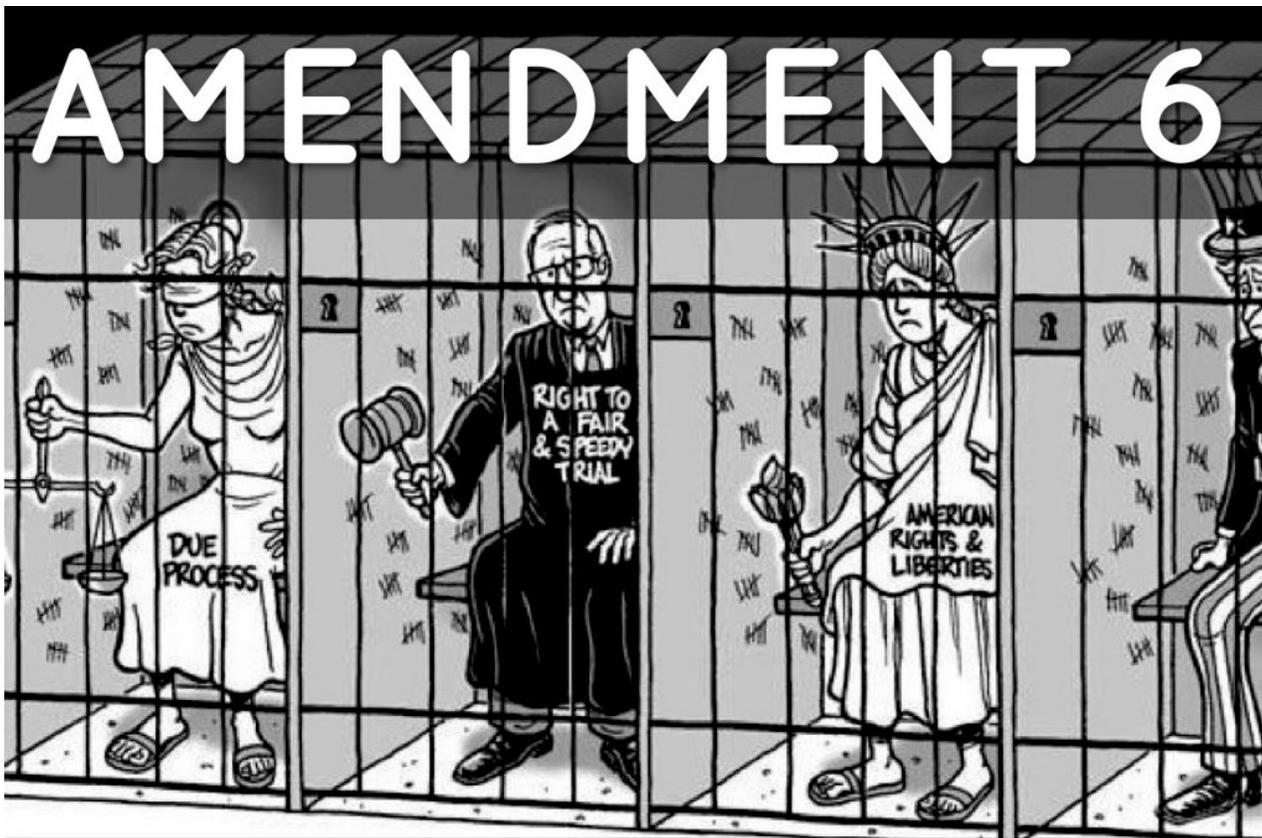
3. What are the symbols in the cartoon and what do they symbolize?

4. Explain the cartoonist's position or opinion on this issue.

4. Does the cartoon present a valid view? Please explain.

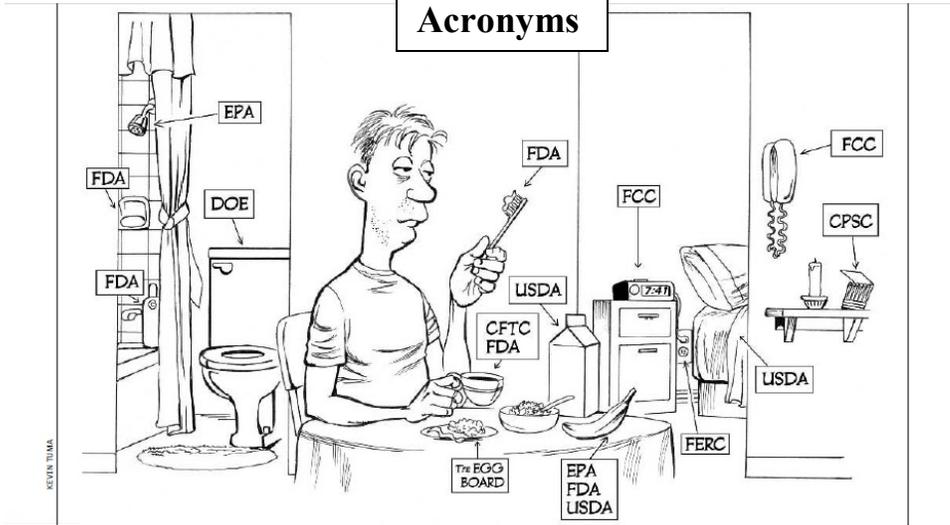


http://www.dailystarjournal.com/opinion/criminal-justice-system-in-need-of-help/article_1501d01e-0780-5e71-9058-8c5180c9bfb2.html



<https://sacredcowchips.net/category/over-criminalization-2/>

Acronyms



<https://sacredcowchips.net/category/over-criminalization-2/>

More Air



<https://www.freedomworks.org/content/why-addressing-over-criminalization-vital-part-justice-reform>



I Can't Breathe

<http://media.townhall.com/Townhall/Car/b/141208biggovRGB20141209024255.jpg>

Name

Admit One

What specific solutions to overcriminalization would you recommend?

Admit One

EXIT TICKET

Name

Admit One

What specific solutions to overcriminalization would you recommend?

Admit One

EXIT TICKET

Name

Admit One

What specific solutions to overcriminalization would you recommend?

Admit One

EXIT TICKET