



Written by [Alex Newman](#) on January 20, 2021

## Trump Defangs Regulatory Deep State's War on America

He may not have been able to drain the swamp, but he just dealt it a serious blow. In an [executive order](#) issued on his way out the door of the White House, President Trump reined in one of the Deep State's most powerful weapons used to bludgeon, terrorize, and destroy its enemies: Literally hundreds of thousands of complex regulations with criminal penalties attached.

For decades, the Deep State has used an incredibly complex array of criminal regulations — nobody even knows how many exist, much less what they all say — to selectively persecute its enemies. [Recent examples include three key Trump associates](#): former National Security Advisor General Michael Flynn, Trump campaign chief Paul Manafort, and longtime Trump confidant Roger Stone.



AP Images

Legal experts have long warned that essentially every American adult alive today could be prosecuted for breaking one federal regulation or another. According to liberal attorney Harvey Silvergate in his book *Three Felonies a Day: How the Feds Target the Innocent*, virtually every living American commits multiple federal crimes each day without even knowing it.

Prominent law professor emeritus John Baker also explained that there is literally no American over 18 who could not be charged with some federal crime. Most will never be prosecuted, of course, because the feds depend on the tax money they extract from Americans for survival. But those who cross the Deep State can be — and often are.

On January 18, however, with the stroke of a pen, the outgoing president somewhat curtailed the totalitarians' ability to criminally prosecute virtually every American for supposed violations of obscure federal "regulations" created by administrative agencies. Despite the significance, so far, virtually nobody in the press has reported the changes.

The executive order, titled "[Protecting Americans From Overcriminalization Through Regulatory Reform](#)," brings about significant changes in the regulatory machinery of the federal government. Among other shifts, it mandates clearly written penalties that can be understood. It also says "strict liability" offenses are "generally disfavored," adding that bureaucrats should stop using prison sentences and criminal penalties as threats in most cases.

"Criminal prosecution based on regulatory offenses is most appropriate for those persons who know what is prohibited or required by the regulation and choose not to comply, thereby causing or risking substantial public harm," Trump's order states. "Criminal prosecutions based on regulatory offenses should focus on matters where a putative defendant had actual or constructive knowledge that conduct



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was prohibited.”

Trump also pointed out how difficult the status quo has become for everyday Americans to deal with. “Some statutes have authorized executive branch agencies to promulgate thousands of regulations, creating a thicket of requirements that can be difficult to navigate, and many of these regulations are enforceable through criminal processes and penalties,” the president noted in his attempt to roll back the lawless abuses.

Perhaps most importantly, the order also requires federal agencies to clearly explain what “mens rea” (state of mind) standard is applicable. Under the byzantine maze of hundreds of thousands of federal regulations with criminal penalties attached, prior to Trump’s order, the agencies in question generally did not even have to show that the person knowingly or willfully violated the regulation to be thrown in prison.

Trump penned the order to, among other things, “improve transparency with respect to the consequences of violating certain regulations” and “protect Americans from facing unwarranted criminal punishment for unintentional violations of regulations.” Another goal was to “alleviate regulatory burdens on Americans by ensuring that they have notice of potential criminal liability for violations of regulations and by focusing criminal enforcement of regulatory offenses on the most culpable individuals.”

The regulatory machine is absolutely out of control. According to a 2014 study, [federal regulations were costing the U.S. economy more than \\$2 trillion per year by 2012 and growing](#). At the time, that represented well over 10 percent of the nation’s Gross Domestic Product (GDP). That same year, [Obama’s administration imposed over 75,000 pages of new regulations on Americans](#).

The federal government has now created more regulations with criminal penalties attached than the government itself can even count — literally. When U.S. lawmakers asked the Congressional Research Service (CRS) to calculate the number of statutes and regulations with criminal penalties attached, the agency’s response was that it lacked the “manpower and resources to accomplish this task.”

In other words, no one knows how many federal regulations could land a person in prison — much less what the economy-destroying, freedom-crushing avalanche of federal regulations purports to require. Estimates suggest there are close to half a million federal regulations with criminal penalties, but it might be many more.

Of course, Congress, which unleashed the regulatory monster, has attempted to rein in the abuses from time to time. In 2017, a coalition of lawmakers including Senator Rand Paul (R-Ky.) and former Senator Orrin Hatch (R-Utah) re-introduced the “[Mens Rea Reform Act](#).” Among other changes, it would have required that prosecutors prove that the defendants accused of violating federal regulations actually intended to commit a crime. It died in committee.

The Deep State loves the regulatory hammer. From prosecuting and destroying its enemies to seizing lands from ranchers such as the Bundy family and consolidating power over the lives of all Americans, the regulatory behemoth allows the federal government to be used as a powerful weapon in the war on America and liberty.

However, it is all flagrantly unconstitutional. First of all, the U.S. Constitution does not delegate most of the powers to the federal government to begin with. Secondly, the Constitution delegates all legislative powers to Congress and the American people’s elected representatives there — not to unaccountable, unelected executive branch agencies, which have become the administrative arm of America’s “Deep



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State.”

Trump’s new order came amid a slew of other executive orders during his last days in office, including one on “[Ensuring Democratic Accountability in Agency Rulemaking](#).” Under that order, new regulations can only be issued under the direction of political appointees of a democratically elected president, rather than by unaccountable career bureaucrats who are almost impossible to remove from power.

“Some agencies have chosen to blur these lines of democratic accountability by allowing career officials to authorize, approve, and serve as the final word on regulations,” Trump said. “This practice transfers the power to set rules governing Americans’ daily lives from the president, acting through his executive subordinates, to officials insulated from the accountability that national elections bring.”

The efforts follow four years of Trump administration attempts to reduce the crushing regulatory burden on Americans. From rolling back Obama’s abusive executive orders to slashing federal regulations that were crushing small businesses, Trump abolished numerous regulations for each new one that was created, helping to boost economic activity and prosperity despite the out-of-control monetary system and decades of Big Government.

Joe Biden, whose victory was marred by unprecedented levels of voter fraud and even Communist Chinese interference, vowed to reverse much of the Trump administration’s policy legacy upon taking power. However, despite having the far-left propaganda machine masquerading as “news media” on his side, it will be very difficult to explain why Americans should continue to be thrown in prison for unwittingly violating a federal regulation they have never even heard of that was written by a bureaucrat never elected to anything.

While Trump’s order is a positive step forward, much more action is obviously required. The U.S. Constitution delegated all legislative power to Congress, and none to the executive branch. And yet, under today’s federal government, legions of faceless bureaucrats disgorge endless numbers of sweeping “regulations” with the purported force of law that are routinely used to terrorize and even destroy innocent Americans.

Upholding the Constitution would end the madness immediately. But only Congress can choose to take its power back — and that will only happen if and when enough Americans demand it. In the meantime, state and local governments can and should also step in to protect their citizens from lawless federal abuses at the hands of rogue bureaucrats and regulatory agencies. As Democrats showed over the last four years, nullification works.

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