



GOP lawmakers seek to reign in fed's power to spy on citizens' bank accounts

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Republican legislators have introduced a measure to put an end to the federal government's ability to access private citizens' bank account information.

Rep. John Rose (R-Tenn.), a Member of the House Committee on Financial Services, re-introduced the Bank Privacy Reform Act last week that would revoke the government's self-granted ability to access Americans' personal bank accounts without a search warrant, according to an Epoch Times report.

Rose said that the Bank Secrecy Act (BSA) and other laws have essentially "deputized banks as law enforcement agencies, mandating them to collect information on their customers and report that information to the federal government."

Speaking at a Cato Institute forum last Monday, the Tennessee Republican said that the measure, which he originally introduced in October 2022, "keeps the Bank Secrecy Act record-keeping requirements intact, but prevents the government from accessing consumers' transaction history without first obtaining a warrant, thus statutorily restoring the Bill of Rights protections that we were granted under the Fourth Amendment."

Rose went on to note that he and others have "certainly seen anecdotal evidence" that the federal government frequently uses the BSA to "go on fishing expeditions, looking through this data, hoping to find something that might be useful to them."

"If the police were to come to your home, they would have to have a warrant, they would have had to have shown a judge probable cause that you have committed a crime," Norbert Michael, director of Cato's Center for Monetary and Financial Alternatives, told forum attendees. Michael explained that this is "not the case with financial transaction data" under the BSA, pointing out that "financial institutions have to report that stuff to law enforcement agencies without them having to get a warrant first."

BSA AND THE SUPREME COURT

The BSA was signed into law in 1970 as part of the federal government's efforts to crack down on organized crime money laundering. Under the policy, U.S. banks are required to notify the Treasury Department of all transactions made by private citizens that exceed \$10,000 as well as transactions banks identify as "suspicious."

Critics who opposed the BSA's passage at the time argued to the Supreme Court that it violated the Fourth Amendment. However, the Bench ruled that it fell within the bounds of the "third-party doctrine," under which police officers are not required to have a warrant to access information that U.S. citizens have voluntarily provided to a third party, including a bank. Justice Thurgood Marshall expressed reservations about green-lighting BSA's passage, according to a report by the Cato Institute titled "Government Surveillance Doesn't Stop at Your Bank's Door," which quoted Marshall as stating: "By compelling an otherwise unwilling bank to photocopy the checks of its customers the government has as much of a hand in seizing those checks as if it had forced a private person to break into the customer's home or office and photocopy the checks there."

Jennifer Schulp, who authored the Cato report, explained that since the BSA's passage more than five decades ago, the government's surveillance powers have significantly expanded with modern digital banking and added regulations and laws.

"Since the 1970s, you really can't do much in modern American society without giving your information to a third party to make it happen," Schulp told the forum's attendees. "You can't use a debit card, you can't use your bank account. You can't use the internet, right? So this whole what's known as the third-party doctrine is incredibly problematic for the concept of the Fourth Amendment."

Current Supreme Court justices have recently hinted that they might be open to reconsidering the 1970 ruling. The Cato report indicated that Justices Neil Gorsuch and Sonia Sotomayor "have recognized that today's reliance on technology requires revisiting the third-party doctrine." The report quotes Gorsuch as saying: "Just because you have to entrust a third party with your data doesn't necessarily mean that you should lose all Fourth Amendment protections in it."

An expressed openness to reconsider old rulings, however, does not mean that the High Court will actually ever hear arguments in such a challenge.

"The problem is you've got to get a case in front of the Supreme Court, which with any sort of issue is always kind of a moonshot," Schulp said.

"I think the entire Fourth Amendment is something the court is interested in at this point, but wishing and hoping for the Supreme Court to step in is probably not the most expedient way of making a change," she continued. "Legislation is a much better route."

BIDEN ADMINISTRATION HAS EXPLOITED INFLATION TO EXPAND FINANCIAL SPYING POWERS

Inflation was cited by forum speakers as another way in which the Biden administration has increased its ability to spy on American citizens, insofar as the \$10,000 threshold for surveillance

outlined in the BSA would equate to more than \$70,000 today. The threshold, however, has not been adjusted.

“This is the pernicious mission creep of unindexed numbers,” Aaron Klein, a senior fellow at the Brookings Institution, told forum attendees. “You index numbers to inflation to try and keep the original intent,” he continued, referring to the original purpose of the BSA to “catch the mafia and tax evasion of real large-dollar amounts.”

“But they didn’t index the number, and the unindexed number from the 1960s is now trapping a lot of ordinary people,” Klein continued. To illustrate his point, Klein pointed out that, at the time the BSA was signed into law, “you could have walked into Harvard and paid your kids’ full tuition in cash and not triggered a report,” which is not the case today.

Epoch Times’s Kevin Stocklin noted that, under the third-party doctrine, the BSA could potentially be used by the government to surveil Americans’ “phone calls, texts, and social media postings.”

BIDEN ADMIN SEEKS TO EXPAND SURVEILLANCE POWERS FURTHER

While Republicans try to reign in the Fed’s ability to spy on private American citizens, the Biden administration has focused a great deal of energy on trying to expand its financial surveillance powers.

The Internal Revenue Service (IRS) under the current administration has been actively working on ways to expand the government’s ability to monitor Americans’ financial transactions, including efforts to significantly lower the reporting threshold for virtual currency companies like PayPal and Venmo from \$20,000 to a mere \$600 by 2024.

AMERICANS ‘COMPLACENT’ WHEN THEY SHOULD BE ALARMED

“Even though most Americans believe it is unreasonable for banks to share financial records and transactions with the government, the government’s role in financial surveillance has dramatically expanded since the passage of the Bank Secrecy Act in 1970,” David Waugh, managing editor at the American Institute for Economic Research (AIER), said.

Waugh warned that the implementation of a central bank digital currency (CBDC), which the Federal Reserve has been beta-testing through programs called “Project Cedar” and “Project Hamilton,” “further threatens financial privacy and sovereignty.”

CBDC is a form of digital currency issued directly by the government “that would be held in digital wallets, either at the Fed, at private banks, or through payment companies like PayPal and Venmo,” per the report.

“Americans’ complacency with this level of surveillance allows those types of proposals to continue,” Schulp said.

The Bank Secrecy Act is not top of mind for most people when they're banking with their bank. People don't know that these reports are being filed, in part because the reports themselves ... are not allowed to be revealed to the subject of the report. [This] allows continued expansion of the surveillance because people aren't standing up and saying, 'Hey, what about the Fourth Amendment?'

CREDIT CARD COMPANIES TRACKING AND REPORTING GUN PURCHASES TO FED

The administration's financial surveillance powers now include credit card companies. Just last week, Discover Card joined the ranks of Mastercard, Visa, and American Express in tracking and reporting firearm purchases made by law-abiding Americans to the Fed.

Some GOP-led states have taken measures to protect residents from an encroachment of privacy that, not long ago, would have been considered an unthinkable breach.

West Virginia introduced the Second Amendment Financial Privacy Act on Jan. 12 to bar credit card companies from reporting gun purchases made by private citizens in the state.

"The Second Amendment Financial Privacy Act will protect West Virginians from efforts to create a de facto national gun registry using credit and debit card records," West Virginia state treasurer Riley Moore said at the time.