



Written by [Steve Byas](#) on April 16, 2016

Cruz, Lee Bill Would Curtail Anti-Gun “Operation Choke Point”

Operation Choke Point is yet another effort by the Obama administration and its politicized Department of Justice to shut down businesses that don't fit in with its left-wing worldview. The program had its beginning early in Obama's presidency with an executive order that created the Financial Fraud Enforcement Task Force, supposedly to “root out and expose” various investment scams that developed in the wake of the Great Recession.



The Justice Department claims to have instituted the program in 2012 to “attack Internet, telemarketing, mail, and other mass market fraud against consumers, by choking fraudsters' access to the banking system.”

Under this program, businesses deemed “high risk” for either financial reasons or even simply “reputational” reasons, are targeted by the Justice Department and other federal regulatory agencies, which then bring pressure on banks that provide services to these disfavored industries to terminate their relationships. The Federal Deposit Insurance Corporation (FDIC), under the direction of Barack Obama, has named gun stores as “high risk” businesses.

Among other legal businesses that face harassment from the Obama Justice Department and other regulatory agencies are ammunition manufacturers, fireworks dealers, coin dealers, tobacco shops, escort services, online gambling, travel clubs, porn shops, pawn shops, and payday lenders.

Senators Ted Cruz of Texas and Mike Lee of Utah, both Republicans, have introduced a bill that is an attempt to curtail Operation Choke Point. Lee has a 91 percent cumulative score in [The New American's “Freedom Index,”](#) while Cruz holds a [score](#) of 89 percent, making them the second- and third-ranked senators in the Index, which rates the fidelity of those in Congress to constitutional principles as measured by their voting records.

Cruz explained his purpose in attempting to shut down Choke Point:

Under President Obama's reign, the DOJ has abandoned its longstanding tradition of staying out of politics and has instead become a partisan arm of the White House. The Obama Administration initiated Operation Choke Point to punish law-abiding small businesses that don't align with the president's political leanings. The DOJ should not be abusing its power by trying to bankrupt American citizens for exercising their constitutional rights.

Lee added,

Our right to bear arms — a right granted by God and protected by the Constitution — is fundamental to the protection of all our other rights. An executive branch bent on taking away this right, through any administrative means necessary, is a danger to all Americans. That is why I am proud to co-sponsor the Financial Institution Customer Protection Act, which would end the federal



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government's ability to abuse financial regulations to target firearm proprietors like they did during Operation Choke Point.

An identical version of the Lee-Cruz bill passed the House of Representatives 250-169 in February. The legislation would ban federal agencies that oversee banks from requesting or ordering banks to terminate customer accounts unless the regulator has material reason. It would establish requirements in order for federal regulators to request a bank to close any customer account, except in some cases of national security. Federal regulators would need to submit a written request to the bank with an explanation of why such termination is needed, and they must have a material reason not based solely on the reputation risk of the account holder. The bill would also require federal banking agencies to report the number of accounts they requested to be closed each year and the legal authority under which they acted.

President Obama has already threatened a veto if the bill reaches his desk. He and other supporters argue that the bill pushed by Lee and Cruz would restrict federal ability to prevent money laundering and financial fraud. The White House stated, "Requiring Federal banking agencies to satisfy a written materiality requirement is unnecessary, overly burdensome, and could impede the Federal banking agencies' ability to ensure financial institutions comply with important regulatory obligations," adding that a written explanation could disclose sensitive information.

This is typical of the antipathy of the Obama White House and Justice Department toward any sort of limitations on its powers. But a review of the oppression of legal businesses under Operation Choke Point reveals a definite need for restrictions.

Take the example of Wisconsin gun store owner Mike Schuetz of Hawkins Guns LLC. He posted on Facebook on November 13, 2014, how Choke Point had assaulted his business:

Sorry I had to close this afternoon shortly. You will never guess why. I received a call from Heritage Credit Union in Hawkins, where I set up my business account for Hawkins Guns. They told me I had to close the account because they do not service companies that deal in guns. This is just a back door way for those wanting to infringe upon your rights to keep and bear arms and is nothing more than discrimination to gun owners. I have closed the account and am going to a more freedom loving bank to give my business. This will delay my ability to accept credit cards, but in time all will be straightened out. I would highly suggest questioning who you are allowing to house you hard earned money.

Senator Rand Paul (R-Ky.) with a [score](#) of 93 percent on the Freedom Index of *The New American* (making him the highest-ranked senator in fidelity to constitutional principles, according to his votes), first challenged Choke Point in 2014. At the time, he focused on what he called the effort of the Obama administration to make an "end run" around the Second Amendment by threatening the financial security of gun and ammunition manufacturers.

Fearing "reputational risk," some banks have cut off ties with companies in unpopular industries. But the gun industry is no doubt the prime target of Choke Point, which fits in with the strong anti-Second Amendment bias of the Obama White House.

The Financial Services Centers of America surveyed its members and discovered that many of its members' banking relationships had been terminated due to Choke Point — for example, T. R. Libertie, the owner of Discount Ammo-N-Guns in Florida, whose bank closed his accounts in March, 2014. The owner of Black Rifle Armory in Nevada saw his accounts closed until the bank determined if any of his



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company's transactions were "suspicious." Kelly McMillan of McMillan Group International, a gun maker in Arizona, reported that Bank of America had ended their 12-year relationship.

McMillan was blunt: "This is an attempt by the federal government to keep people from buying guns and a way for them to combat the Second Amendment rights we have."

Richard Riese, a senior vice president with the American Bankers Association, said that the banks feel they are caught in the middle, between wanting to serve their customers and trying to keep the federal regulators happy. "We're being threatened with a regulatory regime that attempts to foist on us the obligation to monitor all types of transactions. All of this predicated on the notion that the banks are the choke point."

Senator Cruz published a list of "76 Lawless Obama Actions" in May of 2014, in which he cited Operation Choke Point as a prime example. This was followed by a letter from Congressman Darrell Issa (R-Calif.), chairman of the House Oversight and Government Reform Committee, to then-Attorney General Eric Holder, asserting that the real purpose of the program was "not to cut off actual fraudsters' access," but rather "to eliminate [businesses to] which [your] Department objects."

That was followed by legislation filed by Congressman Blaine Luetkemeyer (R-Mo.) to end Operation Choke Point altogether. Luetkemeyer said then, "It is time to stop these backdoor attempts by government bureaucrats to blackmail and threaten businesses simply because they morally object to entire sectors of our economy."

Unable to yet accomplish the abolition of the program, Luetkemeyer sponsored the bill that has now been carried into the Senate by Lee and Cruz.

Writing in *The Hill*, William Isaac, the former chairman of the FDIC, expressed grave concern over Choke Point:

Operation Choke Point is one of the most dangerous programs I have experienced in my 45 years of service as a bank regulator, bank attorney and consultant, and board member. Operating without legal authority and guided by a political agenda, unelected officials at the DOJ are discouraging banks from providing basic banking services ... to lawful businesses simply because they don't like them. Bankers are being cowed into submission by an oppressive regulatory regime.

Steve Byas is a professor of history at Hillsdale Free Will Baptist College (soon to be Randall University) in Moore, Oklahoma. His book History's Greatest Libels provides a challenge to some of the falsehoods leveled against such historical personalities as Joseph McCarthy, Clarence Thomas, and Warren Harding.



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