



April 26, 2017

Oppose H.R. 115, the Thin Blue Line Act of 2017

Dear House Judiciary Committee Member:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States, we urge you to oppose H.R. 115, the Thin Blue Line Act of 2017. There has been a marked rise in the number of bills introduced at the state and federal level claiming to further protect police officers from being killed in the line of duty. While we are deeply saddened by recent police officer deaths and support efforts to improve upon officer safety, we believe the Thin Blue Line Act does nothing to actually ensure officer safety or prevent officer deaths in the line of duty. Instead, this legislation is an unnecessary and misguided attempt to politicize the unfortunate deaths of law enforcement officers and could ultimately exacerbate existing tension between law enforcement and the communities they serve, especially African Americans.

I. Federal and state laws already establish the killing of a police officer as a crime requiring the highest level of punishment.ⁱ

The Thin Blue Line Act aims to add a new aggravating factor for imposing the death penalty for the killing or attempted killing of a law enforcement officer, firefighter, or other first responder who dies either in the course of duty or because of his or her role as such. As explained below, what the Thin Blue Line Act attempts is duplicative and thus completely unnecessary. Killing a law enforcement officer while he or she is performing official duties or because of his/her status as a public servant/ law enforcement officer is already an aggregating factor for the use of the federal death penalty.ⁱⁱ Contrary to what its supporters assert, H.R. 115 would not expand the number of federal cases eligible for the death penalty, nor would it allow more cases to be prosecuted federally. Rather, it would expand the number of specifically enumerated aggravating factors that the government may rely upon in urging a jury to choose a sentence of death rather than a sentence of life.ⁱⁱⁱ Currently, 18 U.S.C. § 3592 lists 16 such factors, and most, if not all such killings of law enforcement/first responders already meet one or more of the existing aggravating factors that permit application of the federal death penalty.

Additionally, there are already stiff state penalties for the killing or attempted killing of law enforcement officer/first responders in the course of their duties. All 50 states mandate more severe repercussions for assaulting or killing a police officer in the line of duty.^{iv} In states that permit capital punishment, the death penalty is already available for the killings of law enforcement/first responders. Those states that do not have the death penalty treat killings of law enforcement/first responders as they do their most highly aggravated offenses (e.g., providing for LWOP sentencing). For example, New Jersey law ([N.J. Rev. Stat. §2C:11-3\(b\)\(2\)](#)) mandates a life sentence without parole for the murder of a law enforcement officer and Colorado law ([Colo. Rev. Stat. § 18-3-107](#)) imposes a minimum sentence of life

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imprisonment without parole and explicitly authorizes the death penalty for the first-degree murder of a peace officer.

II. Law enforcement deaths are declining.

Further, the Thin Blue Line Act is misguided in that it could further divide law enforcement and the communities they serve. The rationale behind the bill—namely, that police officers need protection above and beyond the vast framework currently in place is, flimsy at best. At worst, it constitutes an inflammatory call to political bases not cemented in facts. The killing of public safety officers is always tragic and horrifying, but data from the FBI^v and the National Law Enforcement Memorial Fund^{vi} show that public safety officers are actually safer today than they have been in decades. Fortunately, long term trends show such deaths are becoming rarer. If we truly want our officers to be safer in the line of duty, we should be funneling our resources and our voices towards effective programs and techniques that improve both community and officer safety. The Department of Justice suggests that policies minimizing officer fatigue, improving training in vehicle pursuits, and assisting officers in maintaining their physical and psychological health would all improve officer safety.^{vii}

III. Congress could be overstepping its authority.

Finally, employing a proliferation of aggravators as envisioned in H.R. 115 undermines the narrowing function required by *Furman v. Georgia* and *Gregg v. Georgia*, thus risking the constitutionality of the federal death penalty. In addition, establishing a statutory aggravator that could encourage federal capital prosecution where the state itself has chosen not to employ the death penalty contravenes principles of federalism. The Supreme Court has chastised Congress for overstepping its authority. In recent opinions where the Supreme Court has declared a congressional action unconstitutional, the Court has reminded Congress that it lacks “plenary police power.”^{viii}

We urge you to oppose this legislation. H.R. 115 will serve no public safety benefit, is unnecessary, and could present significant congressional overreach. If you have any questions, please contact Sakira Cook, Senior Counsel, The Leadership Conference, at cook@civilrights.org or 202-466-3311.

Sincerely,



Wade Henderson
President & CEO



Nancy Zirkin
Executive Vice President

ⁱ Also, there are several federal laws that federal laws provide additional stiff penalties for killing, attempted killing, or even assaulting a law enforcement officer. [18 U.S.C. § 111](#) - Imposes up to 20 years imprisonment for anyone who assaults, resists, or impedes a federal officer or employee acting in his official capacity. [18 U.S.C. § 1121\(a\)\(1\)](#) - Imposes a life sentence or the death penalty for anyone convicted of first-degree murder of state and local law enforcement officers or other employees assisting in federal investigations. [18 U.S.C. § 1503](#) - Imposes a life sentence or the death penalty for anyone convicted of first-degree murder of officers of United States courts.

ⁱⁱ 18 U.S.C. § 3592(c)(14)(d).

ⁱⁱⁱ The sentencing determination may be made by either court or jury. For simplicity, this memo refers only to jury findings, but the same would be true if the decision-maker were the court.

^{iv} See Anti-Defamation League, *Statutes Providing Enhanced Penalties for Crimes Against Police* (2016).

^v See <https://ucr.fbi.gov/leoka>.



^{vi} See <http://www.nleomf.org/facts/officer-fatalities-data/year.html>.

^{vii} See Fiedler, Mora, "Officer Safety and Wellness," <https://cops.usdoj.gov/pdf/OSWG/e091120401-OSWGReport.pdf>.

^{viii} See The Heritage Foundation, *Revisiting the Explosive Growth of Federal Crimes* (2008).