



May 17, 2017

Vote “No” on H.R. 115, the Thin Blue Line Act of 2017

Dear Representative:

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, and the 39 undersigned organizations, we urge you to vote “No” on 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.¹

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 or her status as a public servant or law enforcement officer is already an aggravating factor for the use of the federal death penalty.² 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.³ 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 officers/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.⁴ In states that permit capital punishment, the death penalty is already available for the killings of law enforcement officers/first responders. Those states that do not have the death penalty treat killings of law enforcement officers/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

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law enforcement officer, and Colorado law ([Colo. Rev. Stat. § 18-3-107](#)) imposes a minimum sentence of life imprisonment without parole and explicitly authorizes the death penalty for the first-degree murder of a peace officer.

II. H.R. 115 ignores the disproportionate impact of the death penalty on people of color.

It is well-documented that race is often a factor in the imposition of the death penalty, which leads to disparities in its application, and increasing instances of its use would also increase this disparity. Study after study has demonstrated that the death penalty is more likely to be imposed in cases involving white victims than in cases involving black victims.⁵ In the last 40 years, the majority (75.6%) of executions have been conducted in response to the killing of a white victim,⁶ even though black victims account for about half of all homicides.⁷ In fact, within that time frame, only 20 white people have been executed for killing a black person, compared to 287 black people for killing a white person.⁸ Across the nation, 42% percent of the people currently waiting on death row are African-American,⁹ even though only 13% of the U.S. population is African-American.¹⁰

As a result, this country's use of the death penalty suggests that certain lives are more valuable than others, and likewise, that certain lives are more disposable than others. H.R. 115 ignores this reality and does nothing to address the fact that the death penalty system in this country is plagued with persistent injustices and is embedded with racial inequality. Without reform, the death penalty will continue to have a devastating effect on minority communities throughout the nation and will continue to exact high human and moral costs, without providing any significant, demonstrable benefit to society.

III. Law enforcement deaths are declining.

Furthermore, 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 FBI¹¹ and the National Law Enforcement Memorial Fund¹² 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.¹³

IV. 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."¹⁴

We urge you vote "No" on this legislation. H.R 115 will serve no public safety benefit, ignores the racial

impact of the death penalty, is unnecessary, and could amount to 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,

The Leadership Conference on Civil and Human Rights
American-Arab Anti-Discrimination Committee
Bend the Arc Jewish Action
Center for Community Change Action
Church of Scientology National Affairs Office
CURE (Citizens United for Rehabilitation of Errants)
Equal Justice Society
Federal Public and Community Defenders
Jewish Council For Public Affairs
Justice Strategies
Lambda Legal
Law Enforcement Action Partnership
Lawyers' Committee for Civil Rights Under Law
MomsRising
NAACP
NAACP Legal Defense and Educational Fund, Inc.
National Action Network
National Association of Criminal Defense Lawyers
National Association of Social Workers
National Black Justice Coalition
National CAPACD (Coalition for Asian Pacific American Community Development)
National Coalition of Anti-Violence Programs
National Coalition on Black Civic Participation
National Council For Incarcerated and Formerly Incarcerated Women and Girls
National Council of Churches
National Disability Rights Network
National Immigration Law Center
National LGBTQ Task Force Action Fund
National Organization for Women
National Urban League
NETWORK Lobby for Catholic Social Justice
OneAmerica
People For the American Way
PolicyLink
Southeast Asia Resource Action Center (SEARAC)
StoptheDrugWar.org
Union for Reform Judaism
The United Methodist Church - General Board of Church and Society
WA Appleseed
YWCA USA



¹ 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.

² See 18 U.S.C. § 3592(c)(14)(d).

³ The sentencing determination may be made by either court or jury. For simplicity, this letter refers only to jury findings, but the same would be true if the decision-maker were the court.

⁴ See Anti-Defamation League, *Statutes Providing Enhanced Penalties for Crimes Against Police* (2016).

⁵ See generally <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=6378&context=jclc>. See also <http://www.gao.gov/assets/220/212180.pdf>.

⁶ See <https://deathpenaltyinfo.org/race-death-row-inmates-executed-1976?scid=5&did=184>. Updated Apr. 28, 2017.

⁷ See <https://www.bjs.gov/content/pub/pdf/hus11.pdf>.

⁸ See <https://deathpenaltyinfo.org/race-death-row-inmates-executed-1976?scid=5&did=184>. Updated Apr. 28, 2017.

⁹ See <https://deathpenaltyinfo.org/documents/FactSheet.pdf>.

¹⁰ See <https://www.census.gov/quickfacts/table/PST045216/00>.

¹¹ See <https://ucr.fbi.gov/leoka>.

¹² See <http://www.nleomf.org/facts/officer-fatalities-data/year.html>.

¹³ See Fiedler, Mora, "Officer Safety and Wellness," <https://cops.usdoj.gov/pdf/OSWG/e091120401-OSWGReport.pdf>.

¹⁴ See The Heritage Foundation, *Revisiting the Explosive Growth of Federal Crimes* (2008).