



STATE OF FLORIDA

**ASHLEY MOODY
ATTORNEY GENERAL**

September 27, 2021

The Honorable Nancy Pelosi
Speaker of the House of Representatives
1236 Longworth H.O.B.
Washington, D.C. 20515

The Honorable Chuck Schumer
Senate Majority Leader
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Kevin McCarthy
House Minority Leader
2468 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Minority Leader
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Jerrold Nadler
Chair, House Committee on the Judiciary
2132 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Dick Durbin
Chair, Committee on the Judiciary
711 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Jim Jordan
Ranking Member, House Committee on
the Judiciary
2056 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Chuck Grassley
Ranking Member, Committee
on the Judiciary
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Sheila Jackson Lee
Chair, Subcommittee on Crime, Terrorism,
and Homeland Security
2426 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Andy Biggs
Ranking Member, Subcommittee on Crime,
Terrorism, and Homeland Security
171 Cannon House Office Building
Washington, D.C. 20515

Dear Speaker Pelosi, Senate Majority Leader Schumer, House Minority Leader McCarthy, Senate Minority Leader McConnell, Chair Nadler, Chair Durbin, Ranking Member Jordan, Ranking Member Grassley, Chair Jackson Lee and Ranking Member Biggs:

I write to ask for your support for S.1595 and H.R. 72, the Thin Blue Line Act. This legislation will make the intentional killing, or attempted killing, of a law enforcement officer,

prosecutor, firefighter or other first responder acting in the line of duty an aggravating factor under the federal death penalty statute, Chapter 228 of Title 18, United States Code.

The punishment must fit the crime. When an officer is murdered in the line of duty, the offender should be punished to the full extent of the law. The Thin Blue Line Act will align federal law with the laws of those States that choose to impose the death penalty where necessary to protect law enforcement officers, prosecutors, firefighters and other first responders.¹ Whether the federal death penalty is imposed depends upon a finding that aggravating factors have been established and outweigh any proven mitigating factors.² This determination is made in the penalty phase of trial, and requires that the Government present evidence and prove the existence of any relevant aggravating factors justifying the death sentence. The aggravating factors and mitigating factors are defined by statute.

Nearly every State that authorizes the death penalty provides that the unlawful killing of a law enforcement officer is a statutory aggravator.³ But under current federal law, the unlawful killing of a state law enforcement officer does not serve as an aggravator for purposes of the federal death penalty, although the unlawful killing of a federal law enforcement officer (like the killing of a high-ranking public official such as the President or a Justice of the Supreme Court) does qualify as an aggravator.⁴ This is despite the fact that an offender is subject to the federal death penalty statute for the unlawful killing of a state law enforcement officer when the officer is “working with Federal law enforcement officials in furtherance of a Federal criminal investigation.”⁵ This disparity makes it less likely that the unlawful killing of a state law enforcement officer will result in the application of the death penalty than the unlawful killing of a federal law enforcement officer.

¹Currently twenty-four States authorize capital punishment: Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, North Carolina, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, and Wyoming. Three states continue to authorize capital punishment but have some form of a death penalty moratorium in place: California, Oregon and Pennsylvania. *See States with the Death Penalty, Death Penalty Bans, and Death Penalty Moratoriums*, Procon.org, (Mar. 24, 2021), <https://deathpenalty.procon.org/states-with-the-death-penalty-and-states-with-death-penalty-bans/>.

² See 18 U.S.C. § 3593(e).

³ Twenty states recognize the killing of a law enforcement officer as a statutory aggravator that may justify a death sentence: Ala. Code § 13A-5-49(13) (2021); Ariz. Rev. Stat. Ann. §13-751(F)(8) (2021); Fla. Stat. Ann. § 921.141(6)(j) (West 2021); Ga. Code Ann. § 17-10-30(b)(8) (West 2021); Idaho Code Ann. § 19-2515(9)(j) (West 2021); Ind. Code Ann. § 35-50-2-9(b)(6) (West 2021); Ky. Rev. Stat. Ann. § 532.025(2)(a)(7) (West 2021); La. Code Crim. Proc. Ann. art. 905.4(A)(2) (2021); Mo. Ann. Stat. § 565.032(2)(5) (West 2021); Mont. Code Ann. § 46-18-303(1)(b) (West 2021); Neb. Rev. Stat. Ann. § 29-2523(1)(i) (West 2021); Nev. Rev. Stat. Ann. § 200.033(7) (West 2021); N.C. Gen. Stat. Ann. § 15A-2000(e)(8) (West 2021); Ohio Rev. Code Ann. § 2929.04(A)(6) (West 2021); Okla. Stat. Ann. tit. 21, § 701.12(8) (West 2021); S.C. Code Ann. § 16-3-20(C)(a)(7) (2021); S.D. Codified Laws § 23a-27a-1(7) (2021); Tenn. Code Ann. § 39-13-204(i)(9) (West 2021); Utah Code Ann. § 76-5-202(1)(m)(i)-(v) (West 2021); Wyo. Stat. Ann. § 6-2-102(h)(viii) (West 2021).

⁴ 18 U.S.C. § 3592(c)(14); 18 U.S.C. § 3592(c)(1).

⁵ 18 U.S.C. § 1121 (recognizing such offense is eligible for a sentence of death).

The Thin Blue Line Act would bring federal law in line with the majority of States that authorize capital punishment, and more importantly, would protect state law enforcement officers by making the unlawful killing of an officer a death penalty aggravating factor. This additional protection is necessary as violence spirals in our communities and open hostility towards members of law enforcement is on the rise.

In 2020, major U.S. cities experienced alarming increases in homicide rates.⁶ “Sixty-three of the 66 largest police jurisdictions saw increases in at least one category of violent crimes in 2020,” including homicide and other violent offenses.⁷ Disturbing trends in gun violence have continued into 2021. For instance, in New York City, recent reports from the NYPD revealed a consistent increase in shooting incidents in the first 5 months of 2021 as compared with last year’s statistics.⁸ In Philadelphia homicides increased almost 28% and in Tucson homicides are up by 76% compared with last year’s numbers.⁹

Violence against law enforcement officers is also escalating. As civil unrest and scrutiny of law enforcement have increased, there has also been “a rise in an anti-police sentiment that, experts say, manifested itself in attacks on officers, patrol vehicles and precinct stationhouses, leaving cops around the country feeling under siege.”¹⁰ According to the FBI’s Law Enforcement Officers Killed and Assaulted Program, 44 law enforcement officers were “feloniously killed in the first seven months of 2021 [which] represent[s] a 41.9 percent increase compared to the 31 officers killed during the same period in 2020.”¹¹ These alarming statistics call for immediate action.

⁶ Chicago reported a 50% increase, Los Angeles reported a 30% increase, and New York reported a 40% increase in homicides compared with 2019. Cheryl Corley, *Massive 1-Year rise in Homicide Rates Collided With the Pandemic in 2020*, NPR.org (Jan. 6, 2021 5:00 AM ET), <https://www.npr.org/2021/01/06/953254623/massive-1-year-rise-in-homicide-rates-collided-with-the-pandemic-in-2020>.

⁷ Emma Tucker and Peter Nickeas, *The US saw significant crime rise across major cities in 2020. And it's not letting up*, CNN.com (Updated 6:52 PM ET, Sat April 3, 2021), <https://www.cnn.com/2021/04/03/us/us-crime-rate-rise-2020/index.html?form=MY01SV&OCID=MY01SV>.

⁸ See *NYPD Announces Citywide Crimes Statistics for January 2021* (February 12, 2021), <https://www1.nyc.gov/site/nypd/news/pr0212/nypd-citywide-crime-statistics-january-2021>; *NYPD Announces Citywide Crimes Statistics for February 2021* (March 4, 2021), <https://www1.nyc.gov/site/nypd/news/p0304/nypd-citywide-crime-statistics-february-2021>; *NYPD Announces Citywide Crimes Statistics for March 2021* (April 6, 2021), <https://www1.nyc.gov/site/nypd/news/p0406d/nypd-citywide-crime-statistics-march-2021>; *NYPD Announces Citywide Crimes Statistics for April 2021* (May 5, 2021), <https://www1.nyc.gov/site/nypd/news/pr0505/nypd-citywide-crime-statistics-april-2021>; *NYPD Announces Citywide Crimes Statistics for May 2021* (June 3, 2021), <https://www1.nyc.gov/site/nypd/news/pr0603/nypd-citywide-crime-statistics-may-2021>.

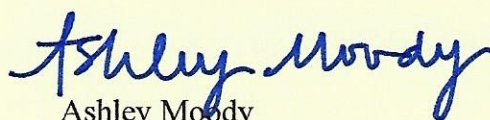
⁹ Neil MacFarquhar, *With Homicides Rising, Cities Brace for a Violent Summer*, *Nytimes.com* (June 1, 2021), <https://www.nytimes.com/2021/06/01/us/shootings-in-us.html>.

¹⁰ Bill Hutchinson, *Police officers killed surge 28% this year and some point to civil unrest and those looking to exploit it*, *abcnews.go.com*, (July 22, 2020) <https://abcnews.go.com/US/police-officers-killed-surge-28-year-point-civil/story?id=71773405>.

¹¹ <https://crime-data-explorer.app.cloud.gov/pages/le/leoka>.

I urge Congress to pass the Thin Blue Line Act to deter offenders from committing violent crimes against law enforcement officers, firefighters, prosecutors and first responders, and to provide appropriate punishment for those who take the lives of public servants. Enacting this legislation will communicate that the increasing violence against the men and women who serve and protect our communities will not be tolerated. It is our duty to ensure offenders targeting these heroes be punished to the full extent of the law.

Sincerely,

A handwritten signature in blue ink that reads "Ashley Moody". The signature is written in a cursive, flowing style.

Ashley Moody
Florida Attorney General