

year degree opens up even more opportunities for these students, many of whom come from underserved and rural areas.

This has been a nationally recognized program that is only available in a few States, but by expanding this simple, proven program nationwide, we will extend the opportunity to continue higher education to millions more hard-working, deserving students.

We can all agree that government has a role to play in reducing barriers to success, and this guaranteed admission is a low-cost, highly efficient way to remove this big barrier. I ask you and others to join me in support of the Direct Connect to Success Act to create more opportunities to pursue the American Dream for all students.

#### RECOGNITION OF NATIONAL POLICE WEEK

(Mr. CULBERSON asked and was given permission to address the House for 1 minute.)

Mr. CULBERSON. Mr. Speaker, every day law enforcement officers across America put their lives on the line to protect our communities and our fellow citizens. National Police Week is an opportunity for all Americans to recognize and express our deep appreciation for those law enforcement officers and first responders for their selfless service.

I want to take a moment to honor those who have lost their lives in the line of duty.

In Harris County, Texas, we recognize and remember the lives of Chief Clint Greenwood and Deputy Darren Goforth, who worked tirelessly to keep Houston safe. Both of these men served their communities and families honorably, and we are so grateful for their sacrifice.

As chairman of the Commerce, Justice, Science, and Related Agencies Appropriations Subcommittee, it is and will continue to be one of my top priorities to ensure that our law enforcement officers have the resources they need to protect our communities and to protect themselves. We must always honor and protect those who protect us.

I express a deep thanks to the people of Texas and America, to all our uniformed officers, for their dedicated service to our Nation.

#### HONORING BUD SIMMONS

(Mrs. HARTZLER asked and was given permission to address the House for 1 minute.)

Mrs. HARTZLER. Mr. Speaker, I rise in praise of a good Missourian and a good friend who has done a great deal to honor our men and women in uniform.

For 18 years, Bud Simmons has hosted a Troop Hero Appreciation Day at his Pier 31 Marina and Restaurant on Lake of the Ozarks in Missouri, where he treats military families to a

delicious meal, boat rides on the lake, numerous prizes, and a day together as a family away from the stresses of military life.

If you ask Bud why he does it, he will tell you that freedom is not free and that he wants to honor our heroes who are pledging their lives to protect ours. He remembers how many troops returning from Vietnam were never thanked for their sacrifices, and he doesn't want that mistake repeated.

This year's event on Saturday, June 10, is the last time that Bud will host this event. I want to thank Bud for his efforts to honor those who serve. He has made a difference in countless lives of servicemen, servicewomen, and their families, and we are all grateful for his example, his leadership, and his patriotism.

God bless you, Bud.

#### HONORING FALLEN POLICE OFFICERS

(Mr. BERGMAN asked and was given permission to address the House for 1 minute.)

Mr. BERGMAN. Mr. Speaker, I rise today to thank Michigan's police officers for their selfless service and to honor the fallen.

Isaiah 6:8 says: "Whom shall I send? And who will go for us? And I said, 'Here I am. Send me.'"

Every time our law enforcement officers put on their uniform, they are saying, "Send me."

In cities and small towns all over the United States, law enforcement officers act as our protectors, defenders, and ambassadors of peace. They hold that thin blue line between thriving, healthy communities and chaos.

During the past few months, I have had the pleasure of getting to know officers serving the Escanaba, Gaylord, and Traverse City communities in specific, and all across the First District, and I can say without pause that Michiganders are in capable and caring hands.

We owe a debt of gratitude, a debt of cooperation, and a debt of consistent support to our law enforcement officers.

God rest the souls of the fallen. Keep their friends, families, and fellow officers in your hearts and prayers.

#### PROBATION OFFICER PROTECTION ACT OF 2017

Mr. GOODLATTE. Mr. Speaker, pursuant to House Resolution 324, I call up the bill (H.R. 1039) to amend section 3606 of title 18, United States Code, to grant probation officers authority to arrest hostile third parties who obstruct or impede a probation officer in the performance of official duties, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 324, the bill is considered read.

The text of the bill is as follows:

H.R. 1039

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Probation Officer Protection Act of 2017".

#### SEC. 2. AUTHORITY OF PROBATION OFFICERS.

(a) IN GENERAL.—Section 3606 of title 18, United States Code, is amended—

(1) in the heading, by striking "and return of a probationer" and by inserting "authority of probation officers";

(2) by striking "If there" and inserting "(a) If there"; and

(3) by adding at the end the following:

"(b) A probation officer, while in the performance of his or her official duties, may arrest a person without a warrant if there is probable cause to believe that the person has forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with the probation officer, or a fellow probation officer, in violation of section 111. The arrest authority described in this subsection shall be exercised under such rules and regulations as the Director of the Administrative Office of the United States Courts shall prescribe."

(b) TABLE OF SECTIONS.—The table of sections for subchapter A of chapter 229 of title 18, United States Code, is amended by striking the item relating to section 3606 and inserting the following:

"3606. Arrest authority of probation officers."

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the amendment printed in House Report 115-127, if offered by the Member designated in the report, which shall be considered read, shall be separately debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to a demand for a division of the question.

The gentleman from Virginia (Mr. GOODLATTE) and the gentlewoman from Texas (Ms. JACKSON LEE) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia.

#### GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I asked unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 1039.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PERMISSION TO POSTPONE PROCEEDINGS ON AMENDMENT TO H.R. 1039, PROBATION OFFICER PROTECTION ACT OF 2017

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that the question of adopting the amendment to H.R. 1039 may be subject to postponement as though under clause 8 of rule XX.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Before I address the bill under consideration today, I would like to take a few minutes to honor a very special

member of my staff, Burak Guvensoylar, who lost his courageous battle with cancer this past weekend.

Burak was a valued member of the Judiciary Committee team and worked on a variety of issues, including digital privacy and intellectual property. His vast knowledge and grasp of the issues impacting the technology community was a tremendous asset to the committee.

Most recently, Burak's work included the development of the committee's Innovation and Competitiveness Agenda; and his steadfast work and tenacious attitude were not only essential in making this initiative a success, but were also a testament to his character. In fact, while he was undergoing intensive cancer treatments, he was actively working and sending follow-up emails from his hospital bed. And just days before Burak passed away, he met with FCC Commissioner Ajit Pai to discuss a number of Judiciary Committee priorities. For Burak, nothing could prevent him from an opportunity to discuss and advance the policies he was so passionate about.

Burak was a true technology policy enthusiast. Prior to joining the staff of the Judiciary Committee, Burak served as a legislative adviser for Congressman Randy Forbes. While working for Congressman Forbes, Burak handled the diverse range of issues that fall under the jurisdiction of the Judiciary Committee, but it was always evident that technology policy was his first love.

He cofounded the Congressional Tech Staff Association and served as an executive officer responsible for the professional development program.

Prior to his career on Capitol Hill, Burak worked at TechAmerica and CompTIA, focusing on international trade policy.

Burak has many friends here in the Halls of Congress on both sides of the aisle. I know all of my colleagues join me in extending our deepest sympathies to his mother, Filiz; his sister, Aylin Forbes; his girlfriend, Ashley Newsome; and all of his loved ones.

Burak will be deeply missed.

Mr. Speaker, I rise in strong support of H.R. 1039, the Probation Officer Protection Act of 2017, and urge my colleagues to do the same.

I want to thank the primary author of the bill, the gentleman from Washington, Congressman REICHERT, for his leadership on this and many other law enforcement issues.

Under current law, a Federal probation officer may arrest a probationer or an offender on supervised release if the officer has probable cause to believe that the offender has violated a condition of his or her probation or release. The officer may make the arrest with or without a warrant.

Unfortunately, current law does not grant probation officers arrest authority in situations where a third party attempts to physically obstruct an officer or inflict physical harm on the offi-

cer. Despite the fact that interfering with a probation officer in the performance of his or her official duties is in itself a crime, Federal probation officers lack the authority to correct or restrain a physically interfering third party.

In fact, a probation officer's only course of action is to retreat from the situation. This not only exposes these officers to a heightened risk of harm, as they are not permitted to subdue the assailant, it also allows the probationer to conceal evidence that he has violated terms of his probation or supervised release or any other criminal activity.

H.R. 1039 is a reasonable and responsible remedy to this very real problem. This bill, which has the support of the Judicial Conference of the United States and the Federal Law Enforcement Officers Association, will protect probation officers and enhance their ability to do their job by giving them authority to arrest a third party who forcibly interferes with an officer's performance of his or her official duties.

□ 0915

This bill would not give probation officers general arrest authority. Rather, as noted, it grants them the very limited authority to arrest a third party who is interfering with the duties of the officer, which is already a Federal crime.

I urge my colleagues to support this commonsense measure to ensure that these dedicated men and women have the necessary authority to undertake their duties safely and effectively.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, to the chairman and to the Republican team, let me offer, on behalf of the Democrats and Mr. CONYERS, our deepest sympathy for the loss of Burak, and to also acknowledge how important our staff is and how important we are as a family on the Judiciary Committee; staff, Republican and Democratic staff members, working together around legislation that makes a difference in the lives of Americans. To hear the dedication of Burak only warms our hearts to recognize that we still live in the greatest country in the world because we have young people willing to serve and sacrifice on behalf of their Nation. I offer my deepest sympathy to you and to his family as well.

Mr. Speaker, I rise to discuss the underlying bill, and that is H.R. 1039. Again, as we finish Police Week, let me say to all of those in law enforcement, including our Federal law enforcement, local, county, and State, a very large "thank you" for the work that you have done.

In my work as a former judge in the city of Houston, I have seen their work up close and personal, and as well, I have had the opportunity, on a number

of cases, where I have asked and interacted with them as they have proceeded with their investigation to find the culprit, the perpetrator, and to make the community safe.

Federal probation officers perform a critical service in interacting with and managing their supervisees. They have a central role in seeking to achieve the important goals of supervision, which includes rehabilitating the defendant, safeguarding society from further criminal conduct by the defendant, and protecting the rights of victims.

Although probation officers do have the ability to arrest a supervisee under certain circumscribed conditions, they should not take on the role of police officers. Rather, they should focus on their role of working in a constructive manner with supervisees to maximize the chances of adherence to the conditions of supervision.

We certainly do not want probation officers to be threatened or assaulted while performing their duties, nor do we want anyone to obstruct the performance of those duties. In many instances, those probation officers can be assisted by backup officers or other Federal officers in the line of their duty. That is why Congress enacted section 111 of title 18 of the United States Code which prohibits such behavior. If violated, these crimes should be investigated, charges brought when appropriate, but also the probation officer can seek assistance.

In fact, probation officers have long relied on law enforcement officers to provide support during searches, and I believe that is still the best course. Section 111, however, itself presents serious issues about the vagueness of some of its terms that define violation, such as "interferes" or "opposes."

May I remind my colleagues that we have a First Amendment. We have the right of freedom of speech and freedom of access, freedom of movement. This exacerbates my concerns about allowing probation officers to arrest individuals whom they are not supervising for violations of this section.

Indeed, we are told by proponents of the bill that Federal probation officers plan to use lesser-included authority to detain violators instead of bringing them in for charges after an arrest. At a time when we need to do more to de-escalate circumstances involving confrontations between law enforcement and citizens, I am concerned that establishing this authority would only lead to more confrontation.

In concluding, as I indicated, the bill would authorize Federal probation officers to arrest, without a warrant, an individual other than their supervisee if there is probable cause to believe that person assaulted or interfered with a probation officer in the course of their duties.

I believe there are conflicting constitutional issues here, and I ask my colleagues, with all due respect, to oppose the legislation.

Mr. Speaker, I rise in strong opposition to H.R. 1039, the "Probation Officer Protection Act."

I must oppose this bill for several important reasons.

To begin with, this bill raises serious constitutional and practical concerns that could have been identified and explored had our Committee held any hearings on the subject matter.

This bill would authorize federal probation officers to arrest without a warrant an individual—other than supervisees—if there is probable cause to believe that person assaulted or interfered with a probation officer in the course of their duties.

The changes this bill would make to current law would significantly alter the role of federal probation officers and invite abuse in the application of the proposed expanded authority.

Federal probation officers perform a critical service in interacting with and managing their supervisees. They have a central role in seeking to achieve the important goals of supervision, which includes:

- (1) rehabilitating the defendant;
- (2) safeguarding society from further criminal conduct by the defendant; and
- (3) protecting the rights of victims.

Although probation officers do have the ability to arrest a supervisee under certain circumscribed conditions, they should not take on the role of police officers. Rather, they should focus on their role of working in a constructive manner with supervisees to maximize the chances of adherence to the conditions of supervision.

We certainly do not want probation officers to be threatened or assaulted while performing their duties, nor do we want anyone to obstruct the performance of those duties.

That is why Congress enacted Section 111 of Title 18 of the United States Code, which prohibits such behavior. If violated, these crimes should be investigated and charges brought when appropriate.

In fact, probation officers have long relied on law enforcement officers to provide support during searches, and I believe that is still the best course to continue.

Section 111, however, itself presents serious issues about the vagueness of some of its terms that define violations, such as "interferes" or "opposes".

This exacerbates my concerns about allowing probation officers to arrest individuals whom they are not supervising for violations of this section.

Making such determinations on vague terms invites abuse.

Indeed, we are told by proponents of the bill that federal probation officers plan to use "lesser included" authority to "detain" violators instead of bringing them in for charges after an arrest.

This is an invitation for abuse as it indicates the statute may be used—at times—when not necessary.

And, at a time when we need to do more to de-escalate circumstances involving confrontations between law enforcement and citizens, I am concerned that establishing this authority will only lead to more confrontation.

This is all the more troubling because of constitutional concerns regarding such detentions. As the Federal Public Defenders of New York explains: "the Fourth Amendment does not permit probation officers to exercise this

'lesser included' power. Under an exception to the Fourth Amendment's probable cause requirement, police officers, when executing a search warrant, are permitted to temporarily restrain third parties absent probable cause for arrest, including by using handcuffs. In holding such detentions to be 'reasonable,' the Supreme Court emphasized the fact—'of prime importance'—that the search was authorized by a neutral magistrate's finding of probable cause to search the premises."

In the circumstances contemplated by this bill, the probation officers would have the right to be on the premises, but their underlying authority to detain individuals—not based on a probable cause warrant—would fail this constitutional requirement.

Overall, the extension of third-party arrest authority to federal probation officers is a step in the wrong direction. As the Federal Defenders warn, the "bill represents a retreat from the current constructive role of probation officers in reintegrating offenders into society. If probation officers assumed the role of police, directing and restraining, or arresting, family and friends, progress in individual cases and the system as a whole would be undermined."

Likewise, the American Civil Liberties Union and the Leadership Counsel for Civil and Human Rights have expressed strong opposition to this bill.

I appreciate the dedication of federal probation officers in carrying out their important duties. And it is because of my respect for the role that they play that I fear that this bill will ultimately serve to undermine it.

Accordingly, I ask that my colleagues join me in opposing this well-intentioned, but harmful bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. REICHERT), the chief sponsor of the legislation.

Mr. REICHERT. Mr. Speaker, today I am here to talk about a bill that should be a fully bipartisan bill supported by all Members of this body. It gives our probation officers the tools they need to defend themselves, but also, at the same time, protect the people who are on probation that the probation officers are trying to help and protect and keep on track and get them back on a path to productive citizenship in this country. Sometimes they are impeded from doing their job, not just verbally.

I was a cop for 33 years. I was verbally abused thousands of times. I have lost track. Those bounce off the badge, and that is what probation officers do. Verbal abuse is verbal abuse. You deal with it, you handle it, and you go about your day. But when somebody puts their hands on you, or they spit on you, that is physical. That is assault. Probation officers should be able to protect themselves and take actions in those instances when they are assaulted. You don't need an arrest warrant. You don't need a search warrant to arrest someone who has just assaulted an officer. This is common sense.

So to say you need a search warrant or an arrest warrant to arrest someone

who has assaulted you is the wrong way to look at this law. The person who is being supervised lives in a residence, and the probation officer has the authority to go to that residence and has the authority, by the way, Mr. Speaker, to walk into that residence. They have the authority to force their way into that residence if it is known to be owned by the person who is on probation. And if they are obstructed in doing that, it is a violation of the law. Furthermore, if they are assaulted, it is another violation.

In the past, what has happened is that the probation officers had to step away, walk away, and say: Oh, well. The guy just spit in my face. He punched me in the face. He pushed me. He obstructed me. I guess I will go back to my car and get on the radio, and 30 minutes from now when police officers can finally show up—because we are shorthanded across this Nation as far as police officers go. We have hundreds and hundreds, thousands, of vacancies across this Nation in every police department, every sheriff's office. So we are going to just step away, we are going to call for backup, and we are going to wait for a half an hour and see what happens.

I think this not only puts the probation officer at risk, but it also puts the person who is on probation at risk. What is happening in that house that that person doesn't want us to come in and see?

I have worked with, as you might guess, probation officers from the local level, Federal level, all across the spectrum. They are well trained. They have an academy that they go through. They raise their right hand and swear to uphold the Constitution, all the laws of this country. They are trained. Every year they have a minimal amount of training, 40 hours. That is the minimum. They have additional training on top of that on specific issues on how to handle situations where it escalates to a physical event. They know how to de-escalate verbal events. These are professional people who are doing a job that a lot of people don't want.

And already States across this country have recognized that their State probation officers need this sort of authority. In some States, for example, they have given them full police authority. I repeat, full police authority.

In this case, it is very limited. It is limited to the obstruction. It is limited to the physical obstruction of the probation officer doing their job that we have asked them to do on behalf of all of us in this country. The least we can do, as we wrap up National Police Week, is to say we support law enforcement.

Mr. Speaker, there are Members in this body who have found a way—decided that there is a way that I can vote "no" on this instead of standing up and saying—there are Members here that have had police officers added to the memorial wall this past week; in

some cases, five people from one State. Those Members have decided to find a way to not support law enforcement, and they are going to vote “no.”

Mr. Speaker, we can yak all we want about supporting cops, but if we don't show it with this vote, it is all talk. When I was a cop, you had to walk the talk. And today, Members of this body, if you support law enforcement, you better walk the talk.

Ms. JACKSON LEE. Mr. Speaker, let me thank the gentleman and indicate that there is no doubt we want our officers to be safe.

I do want to bring to the attention of my colleagues that we don't want probation officers to be threatened or assaulted while performing their work or their duties, nor do we want to obstruct the performance of those duties.

Let me remind my colleagues that many times probation officers are going into homes. There are moms and grandmoms or granddads or children, and certainly we realize that emotions of concern may occur.

We want our probation officers to be safe. That is why Congress enacted section 111 of title 18 of the United States Code which prohibits such behavior. And if violated, these crimes should be investigated, and charges are brought.

But the other point is that our probation officers undergo an initial 6 weeks of training and some additional training during the year. They still do not have the degree of training of law enforcement officers. I want them to be protected. That is why I think it is important that they have the assistance of trained law enforcement officers.

Not all probation officers carry a firearm, as it varies in each judicial district. We want them protected, and we would rather follow the law, which is section 111.

Mr. Speaker, it is my pleasure to yield 5 minutes to the distinguished gentleman from New Jersey (Mr. PASCRELL), who has a longstanding record of advocacy and support for the Nation's law enforcement and first responders, and he is a member of the Ways and Means Committee.

Mr. PASCRELL. Mr. Speaker, as we just heard from my good friend, the gentleman from Washington (Mr. REICHERT), as co-chairs of the Law Enforcement Caucus, this is an important piece of legislation for us.

Mr. Speaker, as the lead Democrat sponsor of this bill, the Probation Officer Protection Act, I rise in strong support of closing a gap in the current law to help Federal probation officers more safely and effectively carry out their duties.

Despite the fact that assaulting, resisting, or otherwise preventing Federal probation officers from performing their official duties is against the law, current law does not provide the same officers the authority to correct or restrain an interfering third party. This act simply expands the authority of the Federal probation officers to arrest a third party with probable cause in

cases where a third party tries to physically obstruct or harm the officer.

I understand that some of my friends worry about the implications of expanding arrest authority for law enforcement. I have to say there are a lot of trumped up arguments being made against this bill. For starters, Federal probation officers are fully trained and sworn Federal law enforcement officers. They have a tremendous training program in Charleston, South Carolina, the Law Enforcement Training Center. They understand that this training is a continuing process as well.

These officers receive extensive, ongoing, nationally standardized training to safely arrest individuals on supervised release with probable cause without a warrant. This training is also applicable to the limited arrest authority granted by this bill.

The idea that expanding probation officers' arrest authority to third parties will somehow lead to probation officers going on an unwarranted arresting spree, violating individuals' civil rights with impunity, is nonsense.

□ 0930

The bill includes language to ensure that the Director of the Administrative Office of the United States Courts would issue national guidelines to implement this new, limited authority. The authority will not give Federal probation officers plenary law enforcement powers or general arrest authority. Probable cause still must exist to carry out an arrest. That is very clear in the legislation. The bill does nothing to alter Federal probation officers' scope of responsibility. To suggest so undermines the training these officers receive and the oaths that they take.

Secondly, I understand that constitutional concerns have been raised by my colleagues about the due process and rights of these third parties. Nothing in this bill, Mr. Speaker, alters the due process or rights of third parties. Nothing in the bill.

If a third party agrees to house an individual on supervised release, they consent to the Federal probation officer having access to common areas and any part of the home to which the offender has access. Additionally, Federal probation officers build a relationship with the third party housing the individual on supervised release in order to manage their expectations on what it means to have a supervised probationer living under their roof.

Finally, Mr. Speaker, Federal probation officers conducted a total of 1,060 searches pursuant to a court-ordered search condition or with consent last year. More than half of the searches had at least one third party present. Despite relying on other law enforcement agencies for support and assistance during 493 of these searches, Federal probation officers encountered uncooperative third parties on 39 occasions.

So, Mr. Speaker, as my colleagues have acknowledged, we are not talking

about a significant number of instances where this additional authority is needed—remember, only 39 instances last year. Opponents claim these numbers are low, making this a solution in search of a problem. But in these 39 instances, a third party threatened, intimidated, refused to cooperate, and denied officers entry into residence to prevent an officer from doing their job.

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. JACKSON LEE. Mr. Speaker, I yield the gentleman an additional 1 minute.

Mr. PASCRELL. Mr. Speaker, opponents claim, that is their claim that they have.

This is against the law, plain and simple. The probation officer in these instances did not have the authority they needed to remedy the situation.

No one wants to increase the number of arrests. That is not the purpose of the legislation. In a perfect world, everyone wants a situation to be deescalated before an arrest or a detention happens. Ideally, Federal probation officers would have the resources to visit their probe with a law enforcement officer.

However, we don't live in a perfect world. Oh? These resources are not always available. Third parties sometimes intentionally interfere to prevent a Federal probation officer from performing their official duties.

I urge my colleagues to support the Probation Officer Protection Act to ensure Federal probation officers are able to do their job safely and more effectively by giving them third-party arrest authority when probable cause exists.

Mr. GOODLATTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. POE), a member of the Committee on the Judiciary.

Mr. POE of Texas. Mr. Speaker, on this legislation, I think it is important that individuals understand probation officers. I worked at the courthouse in Houston, Texas, as a prosecutor and then as a criminal court judge for 22 years. I had probation officers report to me. That was our system. I knew a lot of probation officers, Federal and State. I think our society does not understand how important their job is.

A person comes to court charged with a crime, and the judge decides to release that person on supervised probation. The person goes back out into the community and is supposed to follow a bunch of rules or the probation could be revoked. Probation officers not only have probationers come to their office to report, but probation officers go out there where these probationers are—in their homes and where they are working—and check up on them, trying to make sure they toe the line. It is a very, very dangerous job, in my opinion.

Many of these probation officers work alone, just because of budget problems. So they will go out there,

and they will talk to some probationer about their probation and try to encourage them to, for example, get a job. That is what you are supposed to do when you are on probation. And they encounter other people—sometimes family members, sometimes friends, sometimes roommates, business associates—and they start yelling and screaming at the probation officer. Sometimes they commit a crime against the probation officer. What is the probation officer supposed to do? Call the police? No.

Under this legislation, it allows the probation officer to arrest other people who are basically committing a crime against the probation officer, whether it is an assault or whether it is a threat or whether it is interfering, maybe, with the arrest of the probationer. That is what this legislation does. It helps protect the probation officer when they are out there trying to rehabilitate probationers.

I have heard stories over the 22 years at the courthouse from probation officers about how, when they go out in one of these areas of Houston, Texas, some of the people that are there with the probationer aren't the nicest folks in the world, and they start yelling, screaming, and actually will commit a crime against the probation officer—for example, a threat, or maybe even an assault.

Remember, many of these individuals are working alone. They don't go out there with a SWAT team. They are out there by themselves, and they are doing, really, what we want them to do to keep that probationer following the straight and narrow, make sure they are doing what they are supposed to do. And then sometimes people interfere. This legislation protects the probation officer and allows the officer to keep those folks at bay and arrest them.

Now, I have heard the concerns of whether or not this is a violation of the Fourth Amendment. There is no one more supportive of the Fourth Amendment than I am. It does not violate the Fourth Amendment. It gives the probation officer authority to arrest only after probable cause because a crime was committed. Rather than call for help, call for the Texas Rangers, they can actually arrest that individual who is interfering.

I do not believe it is a violation of the Fourth Amendment. I would hope those people who think so would read the Fourth Amendment and then read the statute as well.

I support this legislation. I appreciate what the chairman and Sheriff REICHERT had to say.

And that is just the way it is, Mr. Speaker.

Ms. JACKSON LEE. Mr. Speaker, may I inquire if the other side has any additional speakers?

Mr. GOODLATTE. Mr. Speaker, I am prepared to close.

Ms. JACKSON LEE. Mr. Speaker, I yield myself such time as I may consume to close.

First of all, let me indicate the important work that all law enforcement do and, as well, those who serve in the probation departments of our State and Federal Government. In particular, we are talking about Federal probation officers. I think it is important to give them a debt of gratitude.

But they are not police officers. They are probation officers. Their training is quite different. Their role is quite different. They are to engage in a constructive relationship with the probationer, rehabilitation, making sure they adhere to their rules and confinement or what is detailed by the court. They do it very well; so much so, that we have determined that the incidents are very low.

Of the 987 searches that were conducted by Federal probation officers, only 30 involved uncooperative third parties, or 3 percent. We would like it to be zero. Of the 1,060 searches conducted in 2016, only 39 involved uncooperative third parties, which amounts to about 3.7 percent.

But I agree, no probation officer should be subjected to encountering any manner that threatens them. But this legislation is vague; it is constitutionally weak. It is weak as relates to the Constitution. Its premises, as unopposed and interfered, invite abuse.

I still maintain that many of these probation officers go to the homes of either the probationer or their family, and likely, in many instances, it is close individuals.

I believe probationers can be assisted by law enforcement officers. Remember, the training is distinctly different. What it lends itself to is overbroad interpretations of interference with probation officers, whose duties may lead to overzealous exercise of arrest authority, which does violate the Constitution.

We are now looking at ways to work with law enforcement, and the solution would not be even more training, because we do not want to turn probation officers into police officers, which would undermine the constructive role probation officers have in the rehabilitation of supervisees. Detaining, arresting, and issuing orders to family, friends, employers, and coworkers of supervisees will not advance the goals of supervision but would escalate conflict and lead to greater danger.

These are high goals that my colleagues have spoken of, and I certainly believe that these are worthy goals, but I would offer to say that third parties are not in the same position as those who are supervised with respect to their rights. They have given up none of their rights and should not be detained or arrested in violation of the Fourth Amendment. It is and can be a violation of the Fourth Amendment, of unreasonable search and seizure. It is too vague a description to allow an on-site determination as to whether someone should be arrested.

So, in the name of the respect and dignity of all and the appreciation of

probation officers, if they view the situation as inappropriate or threatening, as the law allows, those cases should be investigated and prosecuted, but they can call law enforcement officers. Federal probation officers should never be threatened, intimidated, assaulted, or precluded from doing their jobs. Nevertheless, H.R. 1039, rather than improving their ability to execute their responsibilities, would, unfortunately, have the opposite result.

In addition to presenting the constitutional concerns, the bill fails to provide an acceptable, practical, or necessary preventative measure. Further, as the public defenders of New York have indicated, the Fourth Amendment does not permit probation officers to exercise this lesser included power. Under an exception to the Fourth Amendment's probable cause requirement, police officers, when executing a search warrant, are permitted to temporarily restrain third parties, absent probable cause for arrest, including by using handcuffs.

Holding such detentions to be reasonable, the Supreme Court emphasized the fact of prime importance: that the search was authorized by a neutral magistrate's finding of probable cause to search the premises. That is not what the probation officer comes into that place with. They are not a law enforcement officer.

In caution to our efforts to recognize and respect these fine men and women, let us find a different way, and let us adhere to the established law that will protect the probation officer and all those whom he or she may come in contact with.

Again, with great respect for law enforcement and those who serve, I would ask my colleagues to recognize the broadness and vagueness of this legislation and oppose it.

Mr. Speaker, I yield back the balance of my time.

□ 0945

Mr. GOODLATTE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have heard many arguments in opposition to this legislation. We have carefully explained how each of these arguments is unfounded.

I simply want to again urge my colleagues to vote for this very simple, yet much-needed, piece of bipartisan legislation. Support the men and women of law enforcement with your vote. Support the Fraternal Order of Police who wrote a letter supporting this bill.

Mr. Speaker, I enter in the RECORD the FOP letter.

NATIONAL FRATERNAL  
ORDER OF POLICE,

Washington, DC, 15 February 2017.

Hon. DAVID G. REICHERT,  
House of Representatives,  
Washington, DC.

DEAR REPRESENTATIVE REICHERT: I am writing on behalf of the members of the Fraternal Order of Police to advise you of our support for H.R. 1039, the "Probation Officer Protection Act." This legislation will amend

section 3606 of Title 18, United States Code, to grant probation officers authority to arrest hostile third parties who obstruct or impede a probation officer in the performance of official duties.

Probation officers supervise men, women and juveniles who are convicted of a crime. Instead of a judge sentencing these offenders to prison, the judge sentences them to close supervision while continuing to live and work with the general public. A probation officer's job title comes with an inherent element of danger due to the supervision of offenders such as drug addicts, sexual offenders and domestic violence offenders who could turn violent at any time. Offenders are often intimidated by the amount of power a probation officer has over their freedom. If they feel the officer will recommend a prison sentence or report illegal activity, which may lead to a prison sentence, they may try to eliminate this threat by harming the officer.

When probation officers are accosted by a violent third party, they are forced to retreat because they have no third-party arrest authority. They also cannot assist any police officer at the scene who may have been called to assist. This subjects everyone involved in the situation to greater risk and can result in the loss of evidence, the escape of an offender, or harm to an individual.

In the past, offenders typically reported to the probation officer's office for scheduled visits. Now many probation officers are required to make home visits where the offender may have easy access to weapons. While the officer may carry a gun, and have armed back up in some cases, often he or she will go into the home or workplace alone without knowing anything about other persons at the site.

For these reasons, this authority is needed and we are proud to support your bill and look forward to working with you on it.

On behalf of more than 330,000 members of the Fraternal Order of Police, I want to thank you for introducing this legislation and amendment. If I can be of further help, please do not hesitate to contact me or my Senior Advisor, Jim Pasco, in my Washington office.

Sincerely,

CHUCK CANTERBURY,  
*National President.*

Mr. GOODLATTE. Mr. Speaker, support the Federal Law Enforcement Officers Association, who called H.R. 1039 a "critical officer safety measure" in their letter of endorsement.

Support the National Association of Police Organizations, who said H.R. 1039 is a "sensible solution that ensures the safety of the officer, the probationer, and the community."

Mr. Speaker, I enter in the RECORD these letters.

FEDERAL LAW  
ENFORCEMENT OFFICERS ASSOCIATION,  
*Cabin John, MD, May 17, 2017.*

Hon. PAUL RYAN,  
*Speaker of the House, House of Representatives,*  
*Washington, DC.*

Hon. NANCY PELOSI,  
*Minority Leader, House of Representatives,*  
*Washington, DC.*

DEAR MR. SPEAKER AND LEADER PELOSI: I am writing on behalf of the nearly 27,000 members of the Federal Law Enforcement Officers Association to advise you of our strong support for H.R. 1039, the "Probation Officer Protection Act," and to express our appreciation for the Congress's consideration of this important officer safety measure during National Police Week. FLEOA opposes the amendment that will be offered on the floor to sunset the authority provided by the

bill, as you cannot put a stopwatch on critical law enforcement officer protection measures such as H.R. 1039.

The "Probation Officer Protection Act" is a critical officer safety measure. At a time when U.S. Probation Officers have seen their workloads increase due to changes in sentencing policy and are being asked to "do more with the same," ensuring that they have the means to protect themselves when placed in harm's way is paramount. H.R. 1039 will fully authorize a U.S. Probation Officer to arrest any third party who violates 18 USC 111. This statute has been on the books since the 1940s and makes it a crime for any person to forcibly assault, resist, intimidate, or interfere with any federal officer in the performance of their official duties. Current law, however, only allows Probation Officers to make arrests of individuals on probation or under supervised release who violate 18 USC 111. This authority does not extend to "third parties," which could include a former associate of the offender or an unidentified member of the community. In many instances third parties are well aware that a federal officer's authority is limited to individuals on supervision, and when a third party does impede or assault a U.S. Probation Officer, the Officer's only recourse is to retreat and call for local law enforcement. While in major cities local law enforcement may respond depending on availability, the same is not true for U.S. Probation Officers who work in rural communities where response by local law enforcement may be a single officer or none. This places Probation Officers at even greater risk, particularly in those situations where retreat is not even a reasonably safe alternative.

During the forthcoming debate on this bill, there will undoubtedly be those who go to great lengths to demean U.S. Probation Officers as something less than "real" law enforcement officers or to diminish the hazards that they face. Some may also raise inchoate objections about the constitutionality of H.R. 1039. For example, you will hear that Congress cannot extend Executive Branch police powers to the Judicial Branch, despite the fact that it was Congress that established the U.S. Supreme Court Police that resides directly across the street from the U.S. Capitol. Not only are such statements factually inaccurate, they display a basic lack of understanding about those who serve our nation as U.S. Probation Officers and the purposes behind the "Probation Officer Protection Act."

Make no mistake: U.S. Probation Officers are fully trained federal law enforcement officers. They attend basic training at the National Training Academy at the Federal Law Enforcement Training Center in Charleston, SC, and receive ongoing in-service training throughout the year. Their training covers everything from firearms regulation and safety and defensive tactics to handcuffing, the use of force, de-escalation training, and reality-based scenario training. It may be difficult for some to acknowledge, but there is an inherent risk to the work U.S. Probation Officers do—a risk that often outweighs that of traditional law enforcement. They do not enter into sterile offices, but often into environments that are uncertain. They are required to have frequent and regular contacts in the home and community and knowingly come into daily contact with individuals who have a history of violence, mental health issues, problems with authority, and troubles with substance abuse. U.S. Probation Officers are not able to anticipate what is going to occur during all contacts. There are and have been occasions when U.S. Probation Officers are threatened and/or attacked by third parties and they need the ability to take an affirmative step to protect themselves.

U.S. Probation Officers are a unique profession. They have a knowledge base in law and human behavior, and a mix of skills in investigation, communication, and analysis. They strive to make our communities safer, to make a positive difference in the lives of those they serve, and promote fairness in process and excellence in service. But as the volume of approved searches they must conduct has markedly increased over the past year due to changes in sentencing policy, the absence of any authority to restrain or direct the movements of third parties places U.S. Probation Officers at a greater and unnecessary risk of physical harm. H.R. 1039 provides a modest expansion of U.S. Probation Officers' existing arrest authority to cover only violations of 18 USC 111. It does not in any way provide them "peace officer" status or grant them the same general arrest authority that state-level probation officers enjoy in many jurisdictions. Granting U.S. Probation Officers the authority to arrest third parties would not change who they are and what they are seeking. Nor will it interfere with or otherwise diminish U.S. Probation Officers' use of the de-escalation techniques that are the hallmark of their profession. It would simply afford them another tool, another avenue, if ever needed.

In the end, this legislation will enhance officer safety while also protecting probationers and third parties by preventing obstruction from escalating to actual violence. Thank you in advance for your consideration of this legislation and for helping U.S. Probation Officers do their job more safely by passing H.R. 1039, the "Probation Officer Protection Act."

Sincerely,

NATHAN R. CATURA,  
*National President.*

NATIONAL ASSOCIATION OF  
POLICE ORGANIZATIONS, INC.,  
*Alexandria, VA, May 17, 2017.*

Hon. PAUL RYAN,  
*Speaker, House of Representatives,*  
*Washington, DC.*

DEAR SPEAKER RYAN: On behalf of the National Association of Police Organizations (NAPO), I am writing to advise you of our support for H.R. 1039, the Probation Officer Protection Act.

NAPO is a coalition of police units and associations from across the United States that serves to advance the interests of America's law enforcement through legislative and legal advocacy, political action, and education. Founded in 1978, NAPO now represents more than 1,000 police units and associations, 241,000 sworn law enforcement officers, and more than 100,000 citizens who share a common dedication to fair and effective crime control and law enforcement.

Probation officers in the United States have experienced a significant increase in their workloads due to the recent changes in federal sentencing guidelines, but they are being asked to do more with the same amount of resources. With these officers spread thin, it is important that they have every means available to protect themselves when put in harm's way. The Probation Officer Protection Act narrowly expands current law to grant federal probation officers the authority to arrest any third party who forcibly assaults, resists, intimidates, or interferes with the officer in the performance of his or her official duties.

Currently, when a federal probation officer is assaulted or threatened by a third party, they must retreat and call local law enforcement. This not only places the probation officer in danger, particularly if there is no way to withdraw from the situation, but it is a strain on local law enforcement agencies,



many of which do not have enough officers just to patrol their communities. The Probation Officer Protection Act is a sensible solution that ensures the safety of the officer, the probationer and the community.

We appreciate Congress considering this important officer safety bill during National Police Week. If we can provide any assistance, please feel free to contact me.

Sincerely,

WILLIAM J. JOHNSON,  
*Executive Director.*

Mr. GOODLATTE. Mr. Speaker, collectively, these organizations represent over half a million sworn law enforcement officers. On this last day of National Police Week, let's join them in supporting this bill.

In this body, Members tend to frequently use the term "common sense" to describe a piece of legislation. I don't think many more pieces of legislation are as common sense as this bill.

It really boils down to this question: Should a law enforcement officer be able to arrest the individual who forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with that officer?

That is it. That is all we are talking about today. Common sense tells us that the answer is a resounding "yes."

It has been insinuated that probation officers aren't real law enforcement and lack the training to make arrests. I think the brave men and women who serve as Federal probation officers, who have received extensive training, and have ongoing training requirements as part of their jobs, might disagree with that insinuation.

Further, the Administrative Office of the United States Courts and its Federal Probation and Pretrial Academy offer nationally standardized training programs and advanced training programs targeting specialized areas of supervision. Common sense tells us that these officers are qualified to make arrests.

Opponents of this bill would prefer to have these law enforcement officers retreat when confronted by third parties. Let's think about what some of the consequences of retreat might mean. If forced to retreat, that officer is forced to terminate interaction with a probationer who may urgently require services, such as substance abuse or mental health treatment. It also means contraband, such as firearms or narcotics, which could have been removed by the parole officer, remains in the community.

In short, the consequences of retreat place public safety in jeopardy. Common sense tells us that retreat is not a viable option.

There is nothing revolutionary going on here. There is no new Federal crime being added. This bill simply says that when someone forcibly assaults, resists, opposes, impedes, intimidates, or interferes with a probation officer, that probation officer can arrest that individual.

It is already a crime to engage in the behavior I just described. An individual who commits that act is going to get

arrested. All we are debating today is who puts the handcuffs on the arrestee. Common sense tells us that the officer who was assaulted should have the authority to make the arrest.

Use common sense. Support H.R. 1039, the Probation Officer Protection Act of 2017, so that Federal probation officers can do their jobs safely and effectively.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate on the bill has expired.

AMENDMENT NO. 1 OFFERED BY MS. JACKSON  
LEE

Ms. JACKSON LEE. Mr. Speaker, I have an amendment at the desk.

The SPEAKER pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Add, at the end of the bill, the following:

**SEC. 3. COMPTROLLER GENERAL REPORT ON  
NEW AUTHORITY OF PROBATION OFFICERS.**

Not later than 2 years after the effective date of this act, the Comptroller General of the United States shall complete a study, and report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the results thereof, on the arrest authority provided to probation officers under subsection (b) of section 3606 of title 18, United States Code, as added by section 2 of this Act. Such study shall include information about—

- (1) any instance of an abuse of power in the exercise of such arrest authority;
- (2) any complaints filed about the exercise of such arrest authority; and
- (3) any harm resulting from the exercise of such arrest authority, including any civil action alleging the violation of a civil right in the exercise of such arrest authority.

**SEC. 4. SUNSET OF ARREST AUTHORITY.**

(a) IN GENERAL.—Subject to subsection (b) of this section, section 3606 of title 18, United States Code, is amended by striking subsection (b).

(b) EFFECTIVE DATE.—Subsection (a) of this section shall take effect on the date that is 30 months after the effective date of this Act.

The SPEAKER pro tempore. Pursuant to House Resolution 324, the gentlewoman from Texas (Ms. JACKSON LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON LEE. Mr. Speaker, my amendment preserves the trust and integrity between probation officers and supervisees while ensuring public safety.

While I understand the intended goal in the underlying bill, there are some unique concerns that it raises, and my amendment addresses and will, I believe, provide additional information.

My amendment calls for a comprehensive study by the GAO of the newly granted authority to determine the impact on probationers, supervisees, third parties, and the overall probation practice, if that authority is so granted by the vote of this body. This study shall sunset at 30 months after the effective date of this act.

These are concerns that we should all have if we want to ensure that this bill works and reaches its intended purpose, if it is voted on by my colleagues and passes.

In allowing the study, we will ascertain information that we otherwise would not have but would have learned had we proceeded with a hearing on this bill.

This amendment will focus on the bill's impact in application. The study will first review instances of abuse of power in the exercise of such arrest authority.

Second, it will document any complaints made and/or filed regarding the exercise of the probationer's arrest authority of third parties.

Third, it will study any harm resulting from the exercise of such arrest authority, including any civil action alleging the violation of a civil right in the exercise of this expanded authority.

I am confident that my colleagues would agree that public safety is paramount, the safety of the probation officer is paramount, the safety of those who are in the immediate custody of the probationer, and, of course, those other individuals.

We want this to be a sound policy, so implementing sound policies will foster trust and, thereby, public safety.

I want to thank the Rules Committee for making my amendment in order, and I hope my colleagues will join me in supporting the Jackson Lee amendment.

While I understand the intended goal in the underlying bill, there are some unique concerns that it raises and my amendment addresses and will fix those concerns.

My amendment calls for a comprehensive study by GAO of the newly granted authority, to determine its impact on probationers, supervisees, third parties and the overall probation practice. This study shall sunset at 30 months after the effective date of this act.

These are concerns we should all have if we want to ensure that this bill works and reaches its intended purpose effectively.

In allowing the study, we will ascertain information that we otherwise, do not have but would have learned had we proceeded with a hearing on this bill.

This amendment will focus on the bill's impact in application.

The study will first review instances of any abuse of power in the exercise of such arrest authority.

Second, it will document any complaints made and/or filed regarding the exercise of probation officer arrest authority of third parties.

Third, it will study any harm resulting from the exercise of such arrest authority, including any civil action alleging the violation of a civil right in the exercise of this expanded authority.

I am confident that my colleagues would agree that public safety is paramount and that we should do everything we can to ensure that we are implementing sound policies that will foster trust and thereby, public safety.

The Rules Committee saw it fitting to rule my amendment in order, and now I hope my colleagues will join me in supporting this amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. RATCLIFFE. Mr. Speaker, I claim the time in opposition to the amendment.

The SPEAKER pro tempore. The gentleman from Texas is recognized for 5 minutes.

Mr. RATCLIFFE. Mr. Speaker, I strongly oppose the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE), my friend.

Her amendment would sunset the very modest, yet necessary and appropriate, authority that we are seeking to grant Federal probation officers today. No valid reason has been given for the need to sunset this provision. In fact, ample evidence is available showing why probation officers need this authority to perform their duties safely and effectively.

Just last year, over one-third of the safety-related incidents reported by Federal probation and pretrial staff involved third parties encountered by officers while performing their official duties.

For example, during an unannounced home visit to an apartment by officers, as they approached the apartment, two unidentified subjects entered the hall from another unit. Officers knocked on the resident's door and there was no answer. One third party stated: "Hey, five-oh, who are you looking for?" And they began approaching the officers in a menacing manner.

One of the third parties pulled out a cell phone and started videoing, yelling obscenities, and making other statements to the officers. Another individual, in response to the commotion, entered the hallway possessing a knife and drew it as he moved toward the officers.

These types of threats, Mr. Speaker, are very real and very dangerous to the brave men and women who serve the criminal justice system as Federal probation officers. The types of threats that exist today will continue to exist in 2½ years when the gentlewoman's amendment would sunset the proposed arrest authority.

I want to make one thing very clear, Mr. Speaker. The bill before us today does not create a new Federal crime. It is already a Federal crime to assault, resist, oppose, impede, intimidate, or interfere with a Federal probation officer for which an individual can be placed under arrest. The only thing the bill today does is say that probation officers can make that arrest.

And why shouldn't they be able to make that arrest?

Probation officers have a unique role in our criminal justice system, balancing the skills of a law enforcement officer with the skills of a social worker. In addition to the 6 weeks of initial training, Federal probation officers are required to complete at least 40 hours of continuing education and training annually.

I don't think it is a radical idea to suggest that Federal law enforcement

officers should be able to arrest someone who commits a Federal crime by interfering with the duties being performed by that officer.

Let them do their part in keeping the public safe. Let them do their jobs safely. Let them do their jobs effectively.

Mr. Speaker, I oppose the amendment, and I reserve the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I believe this amendment is a very important amendment, and I believe that it provides the kind of guidance that is necessary because it is a clear ascertaining of the impact.

Remember, we are talking about possible constitutional ramifications. Unreasonable search and seizure. We are talking about not having assaults against police officers. There is a law that will already provide for that protection, as well as the fact that probation officers who are not police officers can, in fact, have the ability of law enforcement backup or support.

In addition, we realize that there is a greater burden on law enforcement officers in an arrest situation. That burden is not on the probation officer because they are not a law enforcement officer.

It is important for this study to be enacted so that we have the facts. Do we not, as legislators, want to have the facts regarding the Constitution and the impact it may have?

So I would ask my colleagues to support the Jackson Lee amendment. It is, in fact, not an amendment that negates, if this bill passes, the acts of the probation officer. But what it does do is study whether there is an enhanced impact and whether grandmother, mother, a little child, an aunt, or an uncle, in the sanctity of their home, are unreasonably detained or arrested.

We as Americans should at least be concerned about the rights of our fellow citizens and be able to respect them in their home. A probation officer has the right to call in a law enforcement officer if the actions of the home, or wherever that individual happens to be, gets in a way that interferes with his or her ability to arrest his probationer.

Let me remind everyone that the relationship between a probation officer and a probationer is a constructive one, one of rehabilitation. And, sadly, if on one incident, or 39 incidents, or 3 percent of the incidents, if something occurs, that probation officer has the right to be able to call a law enforcement officer to assist.

This study is a constructive, forthright study to help us better protect the rights of citizens and of the Constitution of the United States.

Mr. Speaker, I include in the RECORD letters from the Federal Defenders of New York, The Leadership Conference on Civil and Human Rights, and the ACLU opposing the underlying bill.

FEDERAL DEFENDERS OF

NEW YORK, INC.,

New York, NY, March 30, 2017.

Re Probation Officer Protection Act of 2017 (H.R. 1039)

Hon. BOB GOODLATTE,  
Chair, House Judiciary Committee, Washington, DC.

Hon. JOHN CONYERS, JR.,  
Ranking Member, House Judiciary Committee, Washington, DC.

Hon. TREY GOWDY,  
Chair, House Subcommittee on Crime, Terrorism, Homeland Security, and Investigations, Washington, DC.

Hon. SHEILA JACKSON LEE,  
Ranking Member, House Subcommittee on Crime, Terrorism, Homeland Security, and Investigations, Washington, DC.

DEAR MR. GOODLATTE, MR. CONYERS, MR. GOWDY AND MS. JACKSON LEE: We write on behalf of the Federal Public and Community Defenders in response to inquiries for our views on H.R. 1039, which would amend 18 U.S.C. §3606 to give probation officers the authority to arrest, without a warrant, persons not subject to court supervision if there is probable cause to believe that the person has impeded or interfered with a probation officer in violation of 18 U.S.C. §111. The bill was introduced last Congress, and we understand that there has been discussion of it being introduced again.

We oppose the bill because it would violate the Separation of Powers, would invite Fourth Amendment violations, is unnecessary for purposes of supervision or safety, and would instead escalate the risk of harm to all concerned and undermine effective supervision. The arrest or detention (to any degree) of persons not subject to court supervision should be left to law enforcement officers.

#### SUMMARY

The bill would violate the Separation of Powers. Probation officers serve as administrative units employed by Article III courts. Congress may not assign to them the executive function of enforcing a criminal statute against private citizens not subject to court supervision. The bill would also undermine the integrity of the Judicial Branch by putting courts in the position of ruling on the constitutionality of arrests by their own agents, who are also interested arresting officers and alleged victims of an offense.

The bill would create serious Fourth Amendment problems. Assuming probation officers would use the bill's arrest authority only to formally arrest persons believed to have violated §111, the bill would result in Fourth Amendment violations. Because §111 is notoriously unclear, probation officers would inevitably arrest persons who are merely "uncooperative" but have not actually violated the statute. To allay concerns about giving probation officers the equivalent of police power over private citizens, the Judicial Conference assures Congress that probation officers would rarely make formal arrests but would instead exercise a "lesser included" power to control or temporarily restrain third parties short of formal arrest. But the Fourth Amendment would not permit probation officers to exercise such "lesser included" power. In holding that the Fourth Amendment allows police officers to temporarily restrain third parties during a search, the Supreme Court deemed it "of prime importance" that the officer had a warrant based on probable cause to search the premises. The bill would not change the fact that probation officers conduct searches without a warrant based on probable cause. Thus, any restraint of a third party by a probation officer absent probable cause to arrest would violate the Fourth Amendment.



The bill is unnecessary. Probation officers have authority under current law to search the homes of people they supervise (without a warrant or probable cause) and to arrest them for violating conditions of supervision (with probable cause). Pursuant to Judiciary Policy, probation officers have long relied on trained law enforcement officers to provide support during searches, including by managing third parties not under probation officers' supervision. No evidence has been presented, and we have found none, of any instance in which law enforcement officers have not assisted when asked, or in which anyone has been hurt by a third party during a search. Allowing probation officers to restrain and arrest third parties would likely increase, not diminish, any risk of harm.

The bill would undermine effective supervision. The bill represents a retreat from the current constructive role of probation officers in reintegrating offenders into society. If probation officers assumed the role of police, directing and restraining, or arresting, family and friends, progress in individual cases and the system as a whole would be undermined.

#### BACKGROUND

Under current law, probation officers have limited special authority to conduct searches and seizures of persons on probation or supervised release for the sole purpose of assisting the district courts in supervising those persons. They are permitted, with or without a warrant, to conduct a search of a supervisee's home based only on "reasonable suspicion" that there is evidence on the premises that the supervisee has violated a condition of his or her supervision, and to arrest a supervisee whom they have "probable cause to believe has violated a condition" of his or her supervision.

Judiciary Policy directs probation officers, in planning a search, to "strongly consider requesting assistance from law enforcement officers for protection, instruction, and taking possession of contraband during a search," and to terminate any search "if it is unsafe for the [probation] officer to continue."

Probation officers are further directed that they "may not restrain third parties during a search." This is so because there is no authority for probation officers to detain third parties. The Supreme Court's decisions holding that the Fourth Amendment allows police officers to detain third parties during a search do not apply to probation officers, who both lack general law enforcement authority, and conduct searches in the absence of a finding by a neutral magistrate of probable cause to search the premises. Instead, probation officers rely on law enforcement officers to manage third parties if needed, thereby avoiding Fourth Amendment violations and reducing any risk of harm.

#### A. THE BILL WOULD VIOLATE THE SEPARATION OF POWERS

H.R. 1039 would authorize probation officers to arrest, without a warrant, a person not subject to supervision if there is probable cause to believe the person has interfered with or impeded a probation officer "while in the performance of his or her official duties" in violation of 18 U.S.C. § 111. By its terms, the statute would authorize probation officers to make such arrests at any time or place—during a search of a supervisee's home, on the street or at a place of business, or during a meeting at the probation officer's office.

By authorizing probation officers to enforce § 111 against private citizens not subject to court supervision, H.R. 1039 would violate the Separation of Powers. Probation officers are employed by the Judicial Branch to serve as administrative units of the dis-

trict court, appointed by the court and removable by the court. A probation officer performs no Article III function, but serves a statutory duty to assist the court in supervising offenders.

Detecting crimes and enforcing criminal laws, in contrast, are "quintessential law enforcement functions vested in the Executive Branch." Just as Congress may not confer executive duties "of a nonjudicial nature" on Article III judges, Congress may not enlist an administrative arm of the Judicial Branch to perform an executive function.

This is not only a formalistic concern. A probation officer who has arrested a private citizen for impeding the probation officer in his duties would naturally have a direct, personal interest in both the legality of the arrest and the outcome of any resulting criminal case. The court, in turn, is the probation officer's employer. When ruling on a challenge to the constitutionality of an arrest by a probation officer, the court would thus review the actions of its own agent, who is also the interested arresting officer and alleged victim of an offense. By putting the court in the triple position of judge, vicarious victim, and arresting agent of ordinary citizens, H.R. 1039 would undermine the integrity of the Judicial Branch.

#### B. THE BILL WOULD CREATE SERIOUS FOURTH AMENDMENT PROBLEMS

Subject to "only a few specifically established and well delineated exceptions," the Fourth Amendment prohibits police officers from detaining persons (to any degree) absent probable cause or "prior approval by judge or magistrate." Even assuming probation officers used the bill's arrest authority for no other purpose but to make formal arrests based on probable cause that a person has violated § 111, the bill would result in unconstitutional detentions.

Section 111 prohibits "forcibly" assaulting, resisting, opposing, impeding, intimidating, or interfering with an officer "while engaged in" the performance of official duties. While one would think that "forcible" conduct is easy to recognize in this context, the term is notoriously ambiguous, involving a "troublesome question of degree." No physical contact is required even for assault, and "forcibly" has been held to cover such conduct as a "fighting stance" with an "uncooperative attitude," but not to cover running away and struggling when tackled by police. The statute is "not a model of clarity," "inartfully drafted," and leaving "major ambiguities," often requiring many pages of legal analysis to decipher.

If even the courts find the statute unclear, a probation officer surely cannot be expected to make an accurate on-the-scene assessment of probable cause that a person has violated it. Some probation officers would inevitably use their new authority to arrest persons who are merely "uncooperative"—such as by refusing to identify themselves, declining to open a door, or attempting to leave the scene of a search—but who have not violated § 111. The bill would thus invite Fourth Amendment violations.

To allay potential concerns about giving probation officers the equivalent of police power over private citizens, the Judicial Conference assures Congress that probation officers would rarely make formal arrests for violations of § 111. Instead, they would use a purported "lesser included" authority, during "searches and other work-related contacts (e.g., home visits)," to "verbally or if necessary by temporarily restraining" (i.e., with handcuffs) "uncooperative or hostile" third parties short of arrest. Probation officers would not need probable cause to believe that a third party had violated § 111 in order to exercise this "lesser-included" authority;

instead, they would direct, control and temporarily detain third parties whom they merely suspect have violated or will violate § 111, or believe to present a "potential safety risk."

But the Fourth Amendment does not permit probation officers to exercise this "lesser included" power. Under an exception to the Fourth Amendment's probable cause requirement, police officers, when executing a search warrant, are permitted to temporarily restrain third parties absent probable cause for arrest, including by using handcuffs. In holding such detentions to be "reasonable," the Supreme Court emphasized the fact—"of prime importance"—that the search was authorized by a neutral magistrate's finding of probable cause to search the premises.

Probation officers, however, conduct searches without a warrant based on a finding of probable cause by a neutral magistrate, and they conduct home visits with no suspicion at all. For these reasons, the Administrative Office of the U.S. Courts in 2007 reaffirmed its policy that probation officers "may not restrain" "restrict[] the movement of third parties" present during a search. Under established Fourth Amendment law, third parties are "under no obligation to cooperate and must be free to leave." The AO's General Counsel correctly noted that "increas[ing] [probation] officers' statutory arrest authority under § 3606" would not solve the Fourth Amendment problem because probation officers would still conduct searches without a warrant based on probable cause.

Likewise, H.R. 1039 would not change the fact that probation officers conduct searches without a warrant based on a finding of probable cause, the factor "of prime importance" to the constitutionality of police officers restraining third parties during a search. As a result, any restraint or control of third parties by probation officers absent grounds for arrest would be an unconstitutional detention. The bill does not obviate this fundamental Fourth Amendment problem.

#### C. THE BILL IS UNNECESSARY

U.S. Probation and Pretrial Services reported that in both 2014 and 2015, probation officers encountered third parties described as "uncooperative" (defined to include refusal to identify themselves, to come out of a closed room, or to remain in a designated area) in only 3 percent of reported searches. Only two incidents of any significance were reported. In one, the supervisee's mother drove her car toward two officers "in an apparent attempt to hit them," but law enforcement officers were present and able to take any action needed. In the other, a third party "refused to come out" of a closed room, but law enforcement officers were present, forced the door open, and found the person swallowing marijuana cigarettes.

Nonetheless, the Federal Law Enforcement Officers Association ("FLEOA") claims that there is, a new "heightened danger in field and office contacts" and that giving probation officers third-party arrest authority is the "only [] solution." It claims that probation officers' ability to enlist law enforcement officers "provides little, if any, help" because sometimes only one police officer is available. It gives three anecdotal examples, but they do not support the FLEOA's argument, and in fact demonstrate that the bill is not the "only solution," much less a safe solution.

In the Northern District of Alabama, probation officers came to see their supervisee, but he was not at home. They were leaving the premises when they encountered his father, who was intoxicated, made threats, and threw an empty liquor bottle at their car.

The probation officers drew their weapons, called 911, got behind their vehicle, then drove away. The FLEOA states that with arrest authority, the probation officers “would have taken the third party into custody for assaulting them and for damaging government property.” But the FLEOA does not explain why this would have been necessary for the purpose of supervising the son, who was not there, or to ensure anyone’s safety. The police were fully capable of subduing or arresting the father, and most likely did, though that detail is omitted. Had the probation officers confronted the father, with guns drawn, they, the father, or innocent bystanders, including the offender’s cooperative mother, may well have been hurt.

In the District of Utah, probation officers knocked on the door of their supervisee’s residence and were told by his girlfriend that he was not at home and that no one else was there. The probation officers “ultimately encountered two third party felons hiding in separate locations,” one of whom was suspected of homicide. The officers “issued their verbal commands,” and the man became confrontational and challenged the officers to “shoot him.” The officers retreated, and “local police ultimately subdued the third party and took him into custody.” Again, the FLEOA does not explain how arrest authority would have increased the probation officers’ or public safety any better than the police in fact accomplished.

In the Southern District of New York, probation officers looking to confirm that their supervisee did not live at his reported residence were “confronted” outside the residence, where the supervisee apparently did not live, with “a belligerent, unknown, third party.” A physical altercation ensued, when “another third party charged forward swinging a pipe wrench.” The officers used pepper spray and left. The FLEOA asserts that the probation officers “did not have the option to control the third parties,” but instead were “forced to retreat.” But the FLEOA does not explain how controlling the third parties, which would likely have escalated a potentially dangerous confrontation, was safer than retreat, much less the “only solution.” The probation officers’ mission was not urgent, and they were free to return with police support.

The Judicial Conference provides no empirical evidence or even anecdotal examples illustrating the purported need for H.R. 1039. It says that, “in the absence of other law enforcement officers acting in a supporting role,” a supervisee can work with a “hostile or uncooperative” third party “to conceal violations of the terms of supervision, or even new criminal activity.” But the solution is the very one suggested and that has been directed by Judiciary Policy and followed by probation officers all along: obtain support from law enforcement officers.

There is not a single instance cited in the U.S. Probation Search-and-Seizure reports, in the FLEOA’s proposal or recent letter, or in the Judicial Conference’s proposal or recent letter, in which probation officers requested law enforcement assistance in advance, or called for assistance from the scene, and law enforcement declined to assist or failed to show up. One of the dangers of the bill is that probation officers would not request law enforcement support, thinking they can handle any problems with their arrest authority. But potential problems are best averted by law enforcement officers, who not only have arrest authority, but “provide perimeter security, manage third parties, provide special services such as K9 support, and conduct initial security sweeps.”

#### D. THE BILL WOULD UNDERMINE EFFECTIVE SUPERVISION

H.R. 1039 represents an unfortunate retreat from the current role of probation officers, which has evolved from an oppositional focus on enforcement and punishment to a constructive collaboration aimed at addressing clients’ criminogenic needs, reducing their risk of recidivism, and reintegrating them into society. These “concerted efforts to bring to life state-of-the-art evidence-based supervision practices into the federal system” coincide with “[m]easurable decreases in federal recidivism.” As the Judicial Conference has recognized, supporting the offender “in efforts to turn away from criminal conduct . . . will necessarily . . . promote public safety.” And it has cautioned that searches “may undermine the rapport that an officer has developed with an offender and may hinder the progress that an offender has made.” We fear that the progress that has been made in individual cases and in the system as a whole would be undermined if probation officers assumed the role of police, directing, restraining and arresting family and friends, and potentially escalating the risk of confrontation and danger to all concerned.

Thank you for considering our views, and please do not hesitate to contact us if you have any questions.

Very Truly Yours,

DAVID PATTON,  
Executive Director,  
Federal Defenders of  
New York, Co-Chair,  
Federal Defender  
Legislative Committee.

JON SANDS,  
Federal Defender, District of Arizona, Co-Chair, Federal Defender Legislative Committee.

THE LEADERSHIP CONFERENCE  
ON CIVIL AND HUMAN RIGHTS,  
Washington, DC, April 26, 2017.

#### OPPOSE H.R. 1039, THE PROBATION OFFICER PROTECTION ACT OF 2017

DEAR HOUSE JUDICIARY COMMITTEE MEMBER: On behalf of The Leadership on Civil and Human Rights and the 16 undersigned organizations, we urge you to oppose H.R. 1039, the Probation Officer Protection Act of 2017 (POPA), which would broadly authorize federal probation officers to make warrantless arrests of parties not under their supervision. Authorizing probation officers to arrest third parties is unnecessary and dangerous; would inhibit successful reentry; and would implicate serious constitutional concerns. Moreover, there are alternatives available that ensure the protection of probation officers while avoiding the pitfalls of broadly expanding their arrest authority.

#### POPA GIVES BROAD ARREST AUTHORITY

Under 18 U.S.C. §3606, a federal probation officer has the authority to arrest a probationer or person on supervised release if the probation officer has probable cause to believe that the probationer has violated a condition of his or her release. Currently, federal probation officers are not permitted to arrest third parties. POPA would amend 18 U.S.C. §3606 to permit probation officers to arrest “a person without a warrant if there is probable cause to believe that the person has forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with a probation officer, or a fellow probation officer, in violation of section 111. In other words, probation officers would be authorized to arrest—without a warrant—any third party on

the scene who the officer claims is “interfering” with their work. This broad definition of behavior triggering third party arrest authority raises Fourth Amendment concerns.

#### POPA IS UNNECESSARY

There is no evidence that expanding federal probation officers’ warrantless arrest authority is necessary. Statistics from the Federal Law Enforcement Officers Association (FLEOA) show that only 2 percent of searches conducted by federal probation officers in 2013 resulted in any confrontation with “uncooperative” third parties. Furthermore, of the 909 searches conducted by federal probation officers in 2013, only seven led to the arrest of a third party when probation officers sought the assistance of local law enforcement. Similarly, in 2014, only 1.7 percent of the 1,566 searches conducted by probation officers involved any “reportedly uncooperative” third parties, and only five of these encounters resulted in a third party arrest by local law enforcement.

#### POPA WOULD BE DANGEROUS

Members of Congress should be reluctant to extend law enforcement-like powers to anyone not trained as a law enforcement officer—and probation officers are not police officers. Federal probation officers complete only six weeks of orientation training. In contrast, new law enforcement officers complete 16 to 21 weeks of classroom training and they often must complete three additional weeks of on-the-ground field training. If probation officers try to confront, restrain, and arrest uncooperative third parties, they are likely to heighten the physical danger they face in the field, not reduce it. The threat of arrest—and therefore physical seizure—could increase and escalate the physical confrontations between probation officers and third parties. De-escalation is the desirable outcome—not an extended violent altercation in which probation officers attempt to arrest third parties. In North Carolina, a probationer died while his probation officer attempted to arrest him. Incidents that result in violence or in arguably unlawful arrest may create expensive and time-consuming litigation for the U.S. Probation and Pretrial Services System. Instead of engaging hostile third parties, probation officers should remove themselves from dangerous situations and call for the assistance of trained local law enforcement who are fully prepared to handle hostile situations. Probation officers already do this, and it works.

#### POPA WOULD INHIBIT SUCCESSFUL REENTRY

Allowing probation officers to arrest third parties would also inhibit successful reentry for probationers. Part of the benefit of the probation system is that it allows probationers to live in society with their families while they serve out their sentences and transition to full reentry into the community. But the prospect of arrest for the individuals who agree to help with the probationer’s reentry may deter them from serving as hosts and may make it harder to achieve this transition successfully. Probation officers must have reasonable suspicion to conduct a warrantless search of a probationer’s home; absent reasonable suspicion, the probationer or a third party must consent to a search and may limit the consent to search only to public areas. But if, for example, a mother, who has opened her home to her son on probation, blocks a probation officer from searching her bedroom for various reasons (e.g., because her grandchildren are in the bedroom), under POPA she could be arrested for “interfering” with the probation officer. Such scenarios could deter people from agreeing to host probationers who

have nowhere else to live. This would undermine the probation system. These scenarios also threaten an innocent third party's ability to exercise his or her Fourth Amendment rights.

#### THERE ARE ALTERNATIVES TO POPA

Since 2006, more than 80 state and county criminal justice departments have adopted the Effective Practices in Community Supervision (EPICS) model to improve relationships between probation and parole officers and their probationers or parolees. EPICS focuses on behavioral change rather than threats of re-incarceration and officers play a more direct role in changing criminal behavior. Reducing the hostility between the probationer and the probation officer will likely cause less hostility between the officer and third parties as well.

Probation officers can protect themselves by enlisting the help of trained law enforcement. Every jurisdiction gives probation officers the option of calling law enforcement officers for support when conducting home visits, and law enforcement officers can arrest hostile third parties if necessary. In Connecticut, probation officers do not have the authority to make arrests but they may detain an individual for a reasonable time until a law enforcement officer arrives or transport the individual to the nearest location where a law enforcement officer can make an arrest. Calling more fully-trained law enforcement for backup is likely to prevent the situation from becoming more volatile, and it is therefore preferable to probation officer arrests. Additionally, probation officers can be better trained on de-escalation techniques and strategies to improve the relationship between the probation officer and the probationer.

Probation officers' role within our judicial system is to assist with a probationer's transition back into society and report to the court on a probationer's progress. To expand probation officers' authority to allow probation officers to arrest—without a warrant—any person whom they claim is opposing or impeding their work in some way is unnecessary, likely to be dangerous, and would inhibit successful reentry. For the probation system to work, we need the cooperation of the third parties contemplated by this bill—family and friends—assisting probationers and individuals on supervised release as well as the probation officers visiting them. The threat of arrests of third parties in a probationer's environment will erode the goodwill necessary for that vital cooperation.

For the foregoing reasons, we urge you to oppose the Probation Officer Protection Act of 2017. If you have any questions, please contact Sakira Cook, Senior Counsel, The Leadership Conference.

Sincerely,

The Leadership Conference on Civil and Human Rights, The American Civil Liberties Union, AFL-CIO, African American Policy Forum, Council on American-Islamic Relations (CAIR), Drug Policy Alliance, Equity Matters, Lambda Legal, MomsRising.

NAACP, The NAACP Legal Defense and Educational Fund, National Association of Criminal Defense Lawyers, National Association of Social Workers, National Center for Transgender Equality, The National Council of Churches, StoptheDrugWar.org, Trans United.

AMERICAN CIVIL LIBERTIES UNION,

April 26, 2017.

Re ACLU Opposes H.R. 1039, The Probation Officer Protection Act (POPA) of 2017.

Hon. BOB GOODLATTE,  
*Chairman, Committee on the Judiciary,*  
*Washington, DC.*

Hon. JOHN CONYERS, JR.,  
*Ranking Member, Committee on the Judiciary,*  
*Washington, DC.*

DEAR CHAIRMAN GOODLATTE AND RANKING MEMBER CONYERS: On behalf of the American Civil Liberties Union (ACLU), we urge you to oppose H.R. 1039, the Probation Officer Protection Act (POPA) of 2017, a bill that would amend 18 U.S.C. Sec. 3606 to give federal probation officers authority to arrest third parties without a warrant. The ACLU represents almost 2 million members, activists, and supporters who are working to advance the ACLU's mission of defending the principles of liberty and equality embodied in our Constitution and our civil rights laws.

H.R. 1039 is a solution in search of a problem since there is no statistical or evidence otherwise to support the need to expand federal probation officers' arrest authority. Federal probation officers are not at substantial risk from third parties. Additionally, H.R. 1039 creates safety concerns for both probation officers and the community and has the potential of violating a third party's Fourth Amendment rights.

#### THE PROBATION OFFICER PROTECTION ACT IS A SOLUTION IN SEARCH OF A PROBLEM

There is no evidence suggesting that federal probation officers need arrest authority beyond what is currently authorized by law. One of the bill's primary proponents, the Federal Law Enforcement Officers Association (FLEOA), offers no helpful statistics to support the position that federal probation officers need third party arrest authority. FLEOA's statements are actually counter to their position. In a January 6, 2017, letter to the Senate Judiciary Committee, FLEOA itself admits that "formal arrests by probation officers are rare." There is no data-driven imperative for expanding federal probation officer arrest authority.

In fact, the Federal Probation & Pretrial Officers Association (FPPOA) February 13, 2017, letter states that in 2015, of the 987 searches that were conducted, only 30 involved uncooperative third parties. That is 3%. And furthermore, FPPOA does not indicate how many of those 30 incidents resulted in actual arrests. With federal probation officers' encounters involving so few uncooperative third parties and apparently even fewer incidents that actually result in arrest, the federal probation officers' own statistics lead to the conclusion that there is no need for probation officers to execute arrests of third parties. When probation officers face genuine physical danger, they should retreat and seek the assistance of trained law enforcement.

#### THE PROBATION OFFICER PROTECTION ACT WOULD PUT PROBATION OFFICERS IN DANGER

Probation officers are not trained law enforcement officers, so they should not be given increased police powers, the exercise of which could put them in harm's way. If probation officers are given authority to restrain and arrest uncooperative third parties, they are likely to heighten the physical danger for themselves and third parties.

Instead of engaging with resistant third parties, probation officers should rely upon the assistance of trained local law enforcement. This is the existing practice of probation officers, and according to their own statistics, this seems to work. Currently, federal probation officers are required to call in the United States Marshals or other law en-

forcement in order to arrest third parties. The reason is that probation officers lack the training necessary to safely execute an arrest, while the other law enforcement agents have the capacity to do so. Federal probation officers complete only six weeks of orientation training. New law enforcement officers complete 16 to 21 weeks of classroom training and they often must complete three additional weeks of field training.

#### THE PROBATION OFFICER PROTECTION ACT IS OVERLY BROAD AND RAISES FOURTH AMENDMENT CONCERNS

Federal probation officers would be authorized in POPA to arrest "a person without a warrant if there is probable cause to believe that the person has forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with a probation officer, or a fellow probation officer." Currently, 18 U.S.C. §3606 authorizes probation officers to arrest probationers without a warrant based on probable cause that the probationer has violated the conditions of his or her probation or release. However, probation officers do not have the training or on the job experience to make probable cause determinations necessary to make arrests of third parties compared to local law enforcement officers and the U.S. Marshals.

A real world implication of giving federal probation officers third party arrest authority could be that the mother of a son on probation is arrested for denying a probation officer access to her private space, like her bedroom. This bill would give a probation officer authority to decide that the mother's decision constituted "interference" and subsequently arrest her. Although probationers willingly surrender some of their Fourth Amendment rights as a condition of probation, third parties housing a probationer do not when it comes to their private spaces.

#### THE PROBATION OFFICER PROTECTION ACT HINDERS SUCCESSFUL REENTRY

Allowing probation officers to arrest third parties would also inhibit successful reentry for probationers. Part of the benefit of the probation system is that it allows probationers to live in society with their families while they serve out their sentences and transition to full reentry into the community. But the prospect of arrest for individuals who assist people on probation reentering their communities may deter family members from providing a home to people on probation. This also runs counter to part of the mission of the U.S. Probation and Pretrial Services, which is "to bring about long-term positive change in individuals under supervision."

For the reasons above, the ACLU opposes the Probation Officer Protection Act and we urge the Members to oppose this legislation when it is considered by the Committee. If you have any questions or comments, please feel free to contact Kanya Bennett, Legislative Counsel.

Sincerely,

FAIZ SHAKIR,  
*National Political Director.*  
KANYA BENNETT,  
*Legislative Counsel.*

Ms. JACKSON LEE. Mr. Speaker, I ask my colleagues to support this amendment, and I yield back the balance of my time.

Mr. RATCLIFFE. Mr. Speaker, there is no Fourth Amendment violation, the bill makes no reference whatsoever to the issue of searches, and there is no objection to the gentlewoman's request for a study. But there continues to be, and needs to be, objection and opposition to a sunset provision with respect

to the authority that probation officers need to perform their duties safely and effectively.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered on the bill and on the amendment offered by the gentleman from Texas (Ms. JACKSON LEE).

The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. JACKSON LEE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the order of the House of today, further proceedings on this question will be postponed.

### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 11:15 a.m. today.

Accordingly (at 9 o'clock and 58 minutes a.m.), the House stood in recess.

□ 1116

### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. THOMPSON of Pennsylvania) at 11 o'clock and 16 minutes a.m.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the order of the House of today, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

Adopting the amendment to H.R. 1039;

Passing H.R. 1039, if ordered; and

Agreeing to the Speaker's approval of the Journal, if ordered.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

### PROBATION OFFICER PROTECTION ACT OF 2017

The SPEAKER pro tempore. The unfinished business is the question on adopting the amendment to the bill (H.R. 1039) to amend section 3606 of title 18, United States Code, to grant probation officers authority to arrest hostile third parties who obstruct or impede a probation officer in the performance of official duties, offered by the gentlewoman from Texas (Ms. JACKSON LEE), on which the yeas and nays were ordered.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The vote was taken by electronic device, and there were—yeas 178, nays 229, not voting 23, as follows:

[Roll No. 267]

YEAS—178

Adams	Frankel (FL)	Nadler
Aguiar	Fudge	Neal
Amash	Gabbard	Nolan
Barragán	Gallego	Norcross
Bass	Garamendi	O'Halleran
Beatty	Gonzalez (TX)	O'Rourke
Bera	Green, Al	Pallone
Beyer	Green, Gene	Panetta
Bishop (GA)	Griffith	Payne
Blumenauer	Grijalva	Pelosi
Blunt Rochester	Hanabusa	Peters
Bonamici	Hastings	Pingree
Boyle, Brendan	Heck	Pocan
F.	Higgins (NY)	Polis
Brady (PA)	Hoyer	Posey
Brown (MD)	Huffman	Price (NC)
Brownley (CA)	Jackson Lee	Quigley
Bustos	Jayapal	Raskin
Butterfield	Jeffries	Rice (NY)
Capuano	Johnson (GA)	Rosen
Carbajal	Johnson, E. B.	Roybal-Allard
Carson (IN)	Jones	Ruiz
Cartwright	Kaptur	Ruppersberger
Castor (FL)	Keating	Rush
Castro (TX)	Kelly (IL)	Ryan (OH)
Chu, Judy	Kennedy	Sánchez
Cicilline	Khanna	Sanford
Clark (MA)	Kihuen	Sarbanes
Clarke (NY)	Kildee	Schakowsky
Cleaver	Kilmer	Schiff
Clyburn	Kind	Schneider
Cohen	Krishnamoorthi	Schrader
Connolly	Kuster (NH)	Scott (VA)
Conyers	Langevin	Scott, David
Correa	Larsen (WA)	Serrano
Courtney	Lawrence	Sewell (AL)
Crist	Lawson (FL)	Shea-Porter
Crowley	Levin	Sherman
Cuellar	Lewis (GA)	Sinema
Cummings	Lieu, Ted	Slaughter
Davis (CA)	Lipinski	Smith (WA)
Davis, Danny	Loeb sack	Soto
DeFazio	Lowenthal	Speier
DeGette	Lowe	Suozi
Delaney	Lujan Grisham,	Takano
DeLauro	M.	Thompson (CA)
DeBene	Luján, Ben Ray	Titus
Demings	Lynch	Tonko
DeSaulnier	Maloney,	Torres
Deutch	Carolyn B.	Tsongas
Dingell	Maloney, Sean	Vargas
Doggett	Massie	Veasey
Doyle, Michael	Matsui	Velázquez
F.	McCollum	Visclosky
Ellison	McEachin	Walz
Engel	McGovern	Wasserman
Eshoo	McNerney	Schultz
Españillat	Meng	Waters, Maxine
Esty (CT)	Mooney (WV)	Watson Coleman
Evans	Moore	Wilson (FL)
Foster	Moulton	Yarmuth

NAYS—229

Abraham	Brat	Conaway
Aderholt	Bridenstine	Cook
Allen	Brooks (AL)	Cooper
Amodei	Brooks (IN)	Costello (PA)
Arrington	Buchanan	Cramer
Babin	Buck	Culberson
Bacon	Bucshon	Davidson
Banks (IN)	Budd	Davis, Rodney
Barletta	Burgess	Denham
Barr	Byrne	Dent
Barton	Calvert	DeSantis
Bergman	Carter (GA)	DesJarlais
Biggs	Carter (TX)	Diaz-Balart
Billrakis	Chabot	Donovan
Bishop (MI)	Cheney	Duffy
Bishop (UT)	Coffman	Duncan (TN)
Black	Collins (GA)	Dunn
Blum	Collins (NY)	Emmer
Bost	Comer	Estes (KS)
Brady (TX)	Comstock	Farenthold

Faso	Lamborn	Rooney, Thomas
Ferguson	Lance	J.
Fitzpatrick	Latta	Ros-Lehtinen
Fleischmann	Lewis (MN)	Roskam
Flores	LoBiondo	Ross
Fortenberry	Long	Rothfus
Fox	Loudermilk	Rouzer
Franks (AZ)	Love	Royce (CA)
Frelinghuysen	Lucas	Rutherford
Gaetz	Luetkemeyer	Scalise
Gallagher	MacArthur	Schweikert
Garrett	Marchant	Scott, Austin
Gibbs	Marino	Sensenbrenner
Gohmert	Marshall	Sessions
Goodlatte	Mast	Shimkus
Gosar	McCarthy	Shuster
Gottheimer	McCauley	Simpson
Gowdy	McClintock	Sires
Granger	McHenry	Smith (MO)
Graves (GA)	McKinley	Smith (NE)
Graves (LA)	McMorris	Smith (NJ)
Graves (MO)	Rodgers	Smith (TX)
Grothman	McSally	Smucker
Guthrie	Meadows	Stefanik
Harper	Meehan	Stewart
Harris	Meeks	Stivers
Hartzler	Messer	Taylor
Hensarling	Mitchell	Tenney
Herrera Beutler	Moolenaar	Thompson (PA)
Hice, Jody B.	Mullin	Thornberry
Higgins (LA)	Murphy (FL)	Tiberi
Hill	Murphy (PA)	Tipton
Himes	Nunes	Trott
Holding	Olson	Turner
Hollingsworth	Palazzo	Upton
Hudson	Palmer	Valadao
Huizenga	Pascarella	Vela
Hultgren	Paulsen	Walberg
Hunter	Pearce	Walden
Hurd	Perlmutter	Walker
Issa	Perry	Walorski
Jenkins (KS)	Peterson	Walters, Mimi
Jenkins (WV)	Pittenger	Weber (TX)
Johnson (LA)	Poe (TX)	Webster (FL)
Johnson (OH)	Poliquin	Welch
Jordan	Ratcliffe	Wenstrup
Joyce (OH)	Reed	Westerman
Kelly (MS)	Reichert	Williams
Kelly (PA)	Renacci	Wilson (SC)
King (IA)	Rice (SC)	Wittman
King (NY)	Roby	Womack
Kinzinger	Roe (TN)	Woodall
Knight	Rogers (AL)	Yoder
Kustoff (TN)	Rogers (KY)	Yoho
Labrador	Rohrabacher	Young (AK)
LaHood	Rokita	Young (IA)
LaMalfa	Rooney, Francis	Zeldin

NOT VOTING—23

Blackburn	Duncan (SC)	Newhouse
Cárdenas	Gutiérrez	Noem
Chaffetz	Johnson, Sam	Richmond
Clay	Katko	Russell
Cole	Larson (CT)	Swalwell (CA)
Costa	Lee	Thompson (MS)
Crawford	Lofgren	Wagner
Curbelo (FL)	Napolitano	

□ 1139

Messrs. COOK, WALDEN, SMITH of Texas, LABRADOR, Mrs. McMORRIS RODGERS, Messrs. ROKITA, MCCARTHY, BISHOP of Michigan, and WITTMAN changed their vote from "yea" to "nay."

Messrs. NOLAN, CLYBURN, HOYER, SANFORD, and Mrs. LOWEY changed their vote from "nay" to "yea."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.