While the Back the Blue Act currently pending before Congress is intended to show support for police officers, a law professor for the Northwestern Pritzker School of Law says, if adopted, the law will make it impossible for the victims of police violence to bring federal civil rights lawsuits against overly aggressive officers.

**No Lives Matter?**

**Pro-Cop Bill Would Make It Law of the Land**

BY DAVID M. SHAPIRO

Beginning in the 1980s in Chicago, police commander John Burge tortured black men with spine-chilling techniques, like administering electric shocks to their testicles.

In Los Angeles in 1991, police officers brutalized Rodney King in a video that horrified the nation and unleashed riots.

More recently, in Ferguson, Mo., Officer Darren Wilson shot and killed Michael Brown, an unarmed teenager in 2014.

In Tulsa recently, a jury found a police officer not culpable in the shooting death of unarmed Terrence Crutcher.

**Back the Blue Act**

A bill pending in Congress would make it impossible for the victims of police violence to bring federal civil rights lawsuits in cases just like these, and in thousands of others.

The “Back the Blue Act” recently introduced in both the U.S. House and Senate by Republican sponsors would allow police to torture and murder civilians without threat of liability in court.

The act would grant civil immunity to police who kill suspects for no reason. It would dismantle judicial checks that prevent Philippine-style police killings—the ones so admired by President Donald Trump in his praise of Rodrigo Duterte—from happening in the United States.

The proposed law would all but eliminate civil liability for police misconduct in a shocking array of circumstances.

The bill provides that if the police violate your constitutional rights, you will recover next to nothing if the police were investigating you for a felony of which you were probably guilty.
To be specific, the law would apply to cases in which the police inflict a “deprivation” of a constitutional right in the course of an investigation.

This would include killing or torturing someone during an investigation, like John Burge did. It would include beating people prone on the ground, as Los Angeles Police did to Rodney King. It would include shooting unarmed suspects, just what Darren Wilson did to Michael Brown.

**Total Immunity**

In cases like these, the police would be totally immune to civil liability so long as the target of their abuse “more likely than not” committed the felony under investigation. The “more likely than not” standard means that there is a greater than 50 percent chance that the person committed the crime. In other words, it means “probably.”

An actual conviction for a crime requires a lot more than “probably”—a reasonable doubt is the highest standard of proof known to the law. But reasonable doubt and the criminal jury system don’t mean much if the police can murder you during the investigation once they decide you probably did it.

Under this proposed law, the crime under investigation must be a “felony” or a “crime of violence.” A felony means any crime that can be punished with a maximum sentence of a year or more. Depending on state law, relatively minor crimes, like marijuana possession and falling behind on child support, constitute felonies.

Some of John Burge’s victims were being investigated for felonies of which they were guilty. Police were pursuing Michael Brown when they shot him because he probably robbed a convenience store.

**Burial Costs May Be Available**

In circumstances like these, the victim would be entitled to compensation only “for necessary out-of-pocket expenditures and other monetary loss.” This means that if the police murder your family member, you can sue for the burial costs—and that’s about it. Forget about compensation in federal court for the suffering of the person killed and the family’s devastating loss.

In 2016, the police killed 1,092 people in the United States. In some of these cases, the police were blameless, but the bill would immunize abominable conduct in many others. The practical effect of the statute would be to place police above the Constitution, free them from legal restraint, and decimate the rule of law.

The Constitution means very little when the government can trample on it without consequence. The police could kill, beat, and maim people they are investigating for a crime so long as those people are probably guilty.

While it is true that the bill does not preclude prosecutors from going after police with criminal charges, charging the police is rare, and the cases are notoriously difficult to win.

Civil rights lawsuits provide a mechanism for the victims of police misconduct to have their day in court and bring the abuse to light. The “Back the Blue Act” is designed to destroy this vital form of police accountability.