

TESTIMONY IN OPPOSITION TO SB 20-100

I urge a No vote on SB 100. Although thoughtful, SB 100 is ultimately misguided and it must be voted down. I am married and the father of an 11-year-old daughter and worked as an assistant public defender and drug court attorney in two states. Originally, I was going to support this bill; however, my thinking has evolved and after much thought, consideration and soul searching, I must oppose this bill.

I know that it costs Colorado taxpayers around \$3.5 million dollars to try a death penalty case versus around \$175,000.00 to try a life imprisonment case. I know that the death penalty disproportionately falls upon people of color and the poor. I know that in the last few years that over 150 people have been taken off of death row because they were innocent. I also know that almost all defendants cannot afford their own attorneys and that court appointed attorneys are often inexperienced, overworked and underpaid. However, all of the above referenced deficiencies can be remedied through increased funding, legal and legislative reforms.

Currently, there are three individuals awaiting execution and two of them murdered Senator Field's son. We reserve the death penalty for the worst of the worst. The death penalty is not unconstitutional because it does not violate the Fifth Amendment or the Eight Amendment. The Fifth Amendment provides that no person shall be held to answer for a capital crime unless on presentment or indictment of a Grand Jury and no person shall be deprived of life without due process of law. In capital crime cases there is the guilt-innocence phase, sentencing phase and direct appeal phase. Historically, the Eight Amendment was understood to bar only those punishments that added terror, pain or disgrace to an otherwise permissible capital sentence.

Proponents of this bill state that the death penalty is unfair and racially biased. However, the facts state otherwise. Since 1976, the race of defendants executed in the U.S. is 56% white, 35% black; 7% Hispanic and 2% other. Unless we get rid of guns in Colorado then we cannot get rid of the death penalty.

In some cases, the punishment must fit the crime. Some crimes are so heinous and inherently wrong that they demand strict penalties including the death penalty. Oil and gas employee Chris Watts who murdered his pregnant wife and two children and stuffed their bodies down a fracking well in Firestone clearly deserves the death penalty. In that case, the existence of the death penalty as a possible sentence lead to a guilty plea that saved Coloradoans millions of dollars and limited appeals.

In fact, the death penalty is based upon retribution not revenge. The death penalty is retributive in nature because it is limited, proportional and appropriately directed. Capital punishment seeks justice and holds the individual responsible. Most Coloradoans recognize this principle a just.

Whatever your feelings are about the death penalty, one thing that most of us will never know is the pain experienced when a family member is brutally murdered. So, as the father of an 11-year-old daughter, I cannot and will not presume to tell Senator Fields, whose life has been forever altered by the brutal murder of her son, that life imprisonment is punishment enough. It is not. Based upon the foregoing. I urge a No vote on SB 100.

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