

RESOLUTION OF THE BOULDER COUNTY BAR ASSOCIATION

WHEREAS, there are legitimate and substantial concerns that the death penalty is being imposed in an arbitrary and discriminatory manner in some states, and these concerns go to fundamental issues such as innocence, race, class, gender, age, mental health and the effective assistance of counsel; and

WHEREAS, in 1997, the American Bar Association called on each jurisdiction that imposes capital punishment to stop carrying out the death penalty until it implements procedures which 1) ensure that death penalty cases are administered fairly and impartially, in accordance with due process and, 2) minimize the risk that innocent persons may be executed; and

WHEREAS, other Bar Associations have since joined this call for a moratorium, and the Governor of Illinois has imposed a moratorium on the imposition of the death penalty in that state, due to some of the above-mentioned concerns; and

WHEREAS, the Boulder County Bar Association has consistently supported measures which guarantee every person a fair and impartial system of criminal justice;

NOW THEREFORE, BE IT RESOLVED, that the Boulder County Bar Association calls upon each jurisdiction that imposes capital punishment not to carry out the death penalty until the jurisdiction implements policies and procedures that are consistent with the following American Bar Association policies intended to (1) ensure that death penalty cases are administered fairly and impartially, in accordance with due process, and (2) minimize the risk that innocent person may be executed, and calls upon the Colorado Bar Association to do the same:

- (i) Implementing ABA Guidelines for Appointment and Performance of Counsel in Death Penalty Cases and Association policies intended to encourage competency of counsel in capital cases;
- (ii) Preserving, enhancing, and streamlining state and federal courts' authority and responsibility to exercise independent judgment on the merits of constitutional claims in state post-conviction and federal habeas corpus proceedings;
- (iii) Striving to eliminate discrimination in capital sentencing on the basis of the race of either the victim or the defendant; and
- (iv) Preventing execution of mentally retarded persons and persons who were under the age of 18 at the time of their offenses.

FURTHER RESOLVED, That in adopting this recommendation, the Boulder County Bar Association takes no position on the death penalty, nor on the issue of whether the policies and procedures used in the State of Colorado adequately address the concerns expressed herein.