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## Diocese of Reno

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VOCATIONS OFFICE

### Memorandum

Date: February 12, 2003  
To: Committee on Judiciary, Nevada Legislature  
2033 Legislature  
From: Fr. Chuck Durante  
Co-Chair, Life, Peace & Justice Commission  
Roman Catholic Diocese of Reno  
RE: **Assembly Bill Nos. 15 and 13 on the death penalty**

I submit this memorandum in the name of the Reno Diocese and as a life-long citizen of the State of Nevada and a 19-year member of the State Bar of Nevada.

At the outset, let me say that I recognize the need and right of society, represented by an elected government, to protect its citizens. I am not an advocate for "letting off" convicted criminals. However, along with many, many other mainline religious traditions, my particular religious tradition, Roman Catholic, and I along with it, stand opposed to the death penalty in all cases unless there is no other way to protect society from a certain individual. (I cannot contemplate a realistic example of when that might be.)

There are many reasons for this stance, the *primary* one being that all human life is sacred and must be respected. The dignity of every human person is innate and cannot be lost or taken away. (None of us is the sum total of any single act we perform.) Just as humankind is not the author of life, so it cannot be the author of death. The only exception to that would be in the case of direct self-defense or direct defense of others. Secondly, the stance against capital punishment is also held for many good reasons, including, but not limited to, the following points.

- 1) possibility of error, including execution of the innocent
- 2) unfair and unjust use of this form of punishment especially racially, economically, geographically, educationally and ethnically
- 3) use against those who were children at the time of commission of the crime
- 4) law and trends throughout the majority of nations in the world, particularly democratic nations and including the United Nations Human Rights Commission of 1997 and the Covenant on Civil and Political Rights
- 5) huge cost, as much as double or triple of that of the punishment of life in prison, drains millions of dollars from more promising efforts to restore safety to our lives
- 6) life in prison provides a more immediate closure for family of victims and for society
- 7) vengeance is a primary motive

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SUBMITTED BY: Reverend Chuck Durante

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- 8) use brutalizes society, raising rancor and ill will each time an appeal is heard or an execution is scheduled
- 9) use against those who are mentally retarded or mentally ill

The last point is directly addressed by AB 15. This bill would effectively prohibit a sentence of death for any person who is mentally retarded. Such a measure would not only put Nevada in line with the majority of states in the union (30) and the federal government, it would correct what I believe to be an unconstitutional exercise of this state's rights pursuant to the United States Supreme Court decision in June of last year, *Atkins v. Virginia*. Even more importantly, this bill would stop the use of the absolute worst punishment against those who clearly have a less culpable mind as a matter of law due to mental retardation. Such a law would be an important step toward recognizing the dignity of every human life, even the less capable.

I believe that the reasons set forth above also support AB 13 which eliminates the panel of judges that conducts penalty hearings in capital punishment cases and requires an important initiation of reporting facts relevant to the racial, economic, ethnic, educational and gender status of both victims and defendants alike. This is an important step toward truly evaluating our criminal justice system as it relates to capital cases. Additionally, I think the constitutionality of the three-judge panel has been called into serious doubt by the United States Supreme Court. Clearly, such a system denies the basic right to jury deliberation on the most sensitive and powerful question of life or death.

Both of these bills have been passed on to you with positive recommendation after in depth scrutiny of the issues by the Interim Study Committee, before which I had the privilege of testifying. I applaud the committee's movement of these issues to you.

In summary, I state again that I am in opposition to the death penalty. Respected religious leader, Pope John Paul II has called upon states and our whole country on numerous occasions to abolish this penalty as something that diminishes the community and destroys respect for life. The United States Council of Catholic Bishops likewise holds this opinion strongly: "We believe that a return to the use of the death penalty is further eroding respect for life in society. We do not question society's right to protect itself, but we believe that there are better approaches to protecting our people from violent crimes." US Bishops, 1995.

Ending the possibility of the execution of the mentally retarded helps to uphold a consistent ethic of life in all its forms and stages. Allowing for the best exercise of constitutional rights to a defendant under threat of capital punishment is integral to our criminal justice system, as is evaluating due process and equal protection for every citizen. I therefore urge you to pass these bills on for full consideration and vote by the Nevada Legislature.

Thank you for your time and consideration of this memo which I respectfully submit.