



ARCHDIOCESE OF BALTIMORE + ARCHDIOCESE OF WASHINGTON + DIOCESE OF WILMINGTON

August 28, 2009

Mr. Randy Watson, Assistant Commissioner
Division of Correction
6776 Reisterstown Road
Baltimore, Maryland 21215-2342

Dear Mr. Watson:

The Maryland Catholic Conference represents the public policy interests of the three Catholic dioceses with territory in the State of Maryland, which include the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington. We write to submit comments on the **proposed regulations for Death Penalty Procedures (COMAR 12.02.28)** recently published by the Department of Corrections.

We submit these comments within the context of our longstanding opposition to the death penalty, and wish to be clear at the outset that our comments should not be construed to suggest that specific changes to these procedures would render the process as a whole any more acceptable in our view. We continue to maintain that non-lethal means are available today to protect the citizenry's safety from an aggressor, such as a sentence of life without possibility of parole, and therefore our society should limit itself to such means. We believe this is more consistent with the concrete conditions of the common good, and with the dignity of the human person.

Given that overall objection, we wish first to address the absence of any provision in the proposed regulations to include explicit assurances that a member of the prison staff may refuse to participate in the procedure on the grounds of moral or religious convictions. Such protections exist in federal law regarding participation in federal executions (*See 18 U.S.C. Section 3597 (b) and 21 U.S. C. Section 848 (r)*), and should be explicitly included here as well.

We also wish to comment in some detail on the specific references in the proposed regulations to the role of the prison chaplain. As a religious community, we believe it is imperative that strict attention be given to ensuring that an inmate has appropriate access to a clergy member who can provide him spiritual counsel in preparing to face death. Because we believe in God as our ultimate Judge, and in the power of His redemption, it is especially important that there should be nothing that could impede an inmate from conferring with a clergy member in order to make his peace with God, and to have the opportunity to express repentance and seek spiritual forgiveness right up until the moment of his death.

We therefore recommend that certain considerations be made explicit in the proposed regulations regarding the inmate's access to a clergy member prior to an execution:

- Section .05 (C) (3) (b), should explicitly permit unlimited telephone calls to an authorized clergy member in addition to the explicit reference the section contains regarding calls to the attorney of record.
- Section .07 (K) should include an explicit provision to ensure that an authorized clergy member is informed of the scheduled date and time of an inmate's execution.
- Section .18 (C) should explicitly state that an authorized clergy member is not only allowed to escort the inmate to the Execution Room, and to be present in the Execution Room, but is allowed to remain with the inmate until the moment of death.
- Section .18 (C) should also explicitly state that an authorized clergy member should NOT be present in the execution room at the time the inmate is prepared for the execution, in order to ensure that the identity of the Lethal Injection Team is protected.

We recognize that there are significant additional concerns with the regulations that we anticipate will be raised by many other parties with specific expertise in these areas, and will therefore not address those aspects in detail here. In general, however, we join our voice with theirs in expressing great concern especially about:

- 1) the ambiguities in the proposed procedures regarding the role of medical professionals, whose involvement in this procedure we believe would violate the ethics of their profession;
- 2) the proposal to include the inhumane use of the drug pancuronium in the lethal injection administered during an execution, particularly when the state already prohibits the use of this drug in euthanizing animals; and
- 3) the overall omission of explicit procedures to address specific contingencies that may arise during the execution process.

Again, it is our hope that the need will never arise to put these procedures into effect, and that our State will soon eliminate the practice of state executions altogether.

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Thank you for your attention to our concerns.

Sincerely,

A handwritten signature in black ink that reads "Mary Ellen Russell". The signature is written in a cursive, flowing style.

Mary Ellen Russell
Executive Director

cc: The Honorable Paul G. Pinsky, Senate Chair
The Honorable Anne Healey, House Chair
Joint Committee on Administrative, Executive, and Legislative Review

