State of New Mexico

Michelle Lujan Grisham
Governor

EXECUTIVE ORDER 2020-021

COMMUTING THE SENTENCES OF INCARCERATED INDIVIDUALS WHO MEET CERTAIN CRITERIA AND INSTRUCTING THE DEPARTMENT OF CORRECTIONS TO RELEASE THOSE INDIVIDUALS FROM ITS FACILITIES

On March 11, 2020, I issued Executive Order 2020-004, which declared a state of public health emergency under the Public Health Emergency Response Act and invoked powers provided by the All Hazards Emergency Management Act and the Emergency Licensing Act. That public health emergency is still in effect.

The most effective way to prevent the spread of COVID-19 is to implement social distancing measures, such as reducing the size of gatherings in enclosed spaces and limiting person-to-person contact to the greatest degree possible.

Article V, Section 6 of the New Mexico Constitution vests me with the sole authority and responsibility of granting "reprieves and pardons, after conviction for all offenses except treason and in cases of impeachment" at my discretion. This constitutional authority gives me the power to grant a commutation of sentence, which can immediately release an individual from incarceration without eliminating the fact of the conviction, any collateral consequences from the conviction, and any parole conditions that might apply after release.

The early release of incarcerated individuals who are near their release date and meet certain criteria will help to protect public health without a concomitant risk to public safety. This

measure will serve to protect the health of those individuals, of staff and inmates at all state correctional facilities, and of all New Mexicans.

Therefore, for the reasons above, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and the laws of the State of New Mexico, hereby ORDER and DIRECT:

1. I direct the Secretary of the New Mexico Corrections Department to compile a list of incarcerated persons in state correctional facilities who meet the following criteria:

   A. The person's release date is no more than thirty (30) days away and the person has any necessary parole plan in place;

   B. The person is not serving a felony sentence for driving under the influence of intoxicating liquor or drugs;

   C. The person is not a sex offender;

   D. The person is not serving a sentence for domestic abuse;

   E. The person is not serving a sentence for assault on a peace officer; and

   F. The person is not serving any enhanced term of the person's sentence pursuant to NMSA 1978, Section 31-18-16.

2. I order that all persons who meet the criteria above, as determined by the Secretary, receive a gubernatorial commutation of the remainder of their sentences of imprisonment. The Department of Corrections shall release these individuals at the nearest practicable time after they have been identified and may identify and release individuals on an ongoing basis during the pendency of this Order.

3. I further order that, in compliance with NMSA 1978, Section 31-21-12(A), all individuals who receive a commutation of sentence under this Order shall, upon release, be deemed

as released on parole until the expiration of the basic term of imprisonment for which they were sentenced and until the expiration of any period of parole included as part of the person's sentence. The commutation of sentence under this Order does not remove the fact of conviction or any collateral consequences of conviction, including but not limited to habitual offender status or other offender status under state or federal law and length of parole term.

4. The Secretary shall regularly compile a list of individuals who have received a commutation of sentence under this Order and shall provide any such lists to the Office of the Governor and the Office of the Secretary of State. The Office of the Secretary of State shall keep those lists together with this Order in its records as a definitive record of the individuals whose sentences were commuted under this Order.

5. This Order is not intended to create any legal right or cause of action. The Secretary's determination of individuals who meet the criteria above is final and unappealable.

This Order supersedes any previous orders, proclamations, or directives in conflict. This Executive Order shall take effect immediately and remain in effect until the Governor rescinds it.

ATTEST:

Maggie Toulouse Oliver

MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE
THIS 6TH DAY OF APRIL 2020

WITNESS MY HAND AND THE GREAT
SEAL OF THE STATE OF NEW MEXICO

Michelle Lujan Grisham

MICHELLE LUJAN GRISHAM
GOVERNOR