 <p>CD-052100</p>	<p>NEW MEXICO CORRECTIONS DEPARTMENT</p> <p><i>"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."</i> Courage Responsibility Ethics Dedication - CREDibly serving the public safety of New Mexico</p>	
	<p>ISSUE DATE: 10/18/15</p> <p>EFFECTIVE DATE: 10/18/15</p>	<p>REVIEWED: 10/13/16</p> <p>REVISED: 10/08/15</p>
	<p>TITLE: Investigation of Executive Clemency Applications</p>	

AUTHORITY:

- A. NMSA 1978, Section 31-13-1.
- B. NMSA 1978, Section 31-26-1 to 31-26-13

REFERENCE:

- A. *Lopez v. Kase*, 126 N.M. 733 (1999)
- B. *Shankle v. Woodruff*, 64 N.M. 88 (1958)

PURPOSE:

To provide investigations and information to the New Mexico Parole Board and the Governor regarding individuals who have been convicted of a felony and certain misdemeanors and are requesting executive clemency (pardon).

APPLICABILITY:

All Probation and Parole Division (PPD) staff responsible for completing Executive Clemency Application (ECA) Investigations.

FORMS:

- A. **Executive Clemency Recommendation to the Governor's Office** form (*CD-052101.1*)
- B. **Executive Clemency Application Investigation** form (*CD-052101.2*) (4 pages)

ATTACHMENTS:

None

DEFINITIONS:

- A. *Executive Clemency Application (ECA)*: An application submitted to the governor's office requesting a pardon from a prior conviction.

POLICY:

- A. The power to pardon listed in the Constitution of the State of New Mexico, Article V, Section 6 is an absolute power at the sole discretion of the Governor.

- B. The Governor may request a recommendation from the Parole Board, the attorney general, or corrections secretary.
- C. Restoration of Civil Rights following completion of sentence and discharge from probation or parole supervision:
 - 1. A pardon restores all or some of the rights of citizenship a convicted felon enjoyed prior to conviction.
 - 2. A pardon only removes disabilities imposed by the State of New Mexico, such as, the right to vote and hold public office.
 - 3. A pardon does not prevent the pardoned offense from being considered as a prior conviction pursuant to the New Mexico Habitual Offender Act if the person is later convicted of a new offense.
 - 4. A pardon does not remove any disabilities imposed by federal law.
 - 5. A pardon does not allow for the police, prosecutors, or court records to be expunged and the pardon itself is a public record.
 - 6. Misdemeanor convictions for Battery or Assault Against a Household Member do qualify for a restoration of the right to bear arms and those requesting the restoration of this right should apply through the standard application procedures.
- D. Sexual offenders, habitual offenders (including multiple convictions for Driving Under the Influence of Intoxicating Liquors and/or Drugs, Assault or Battery Against a Household Member), multi-felony offenders, or offenders convicted of a crime of violence against a child are not eligible for a pardon.
- E. All victims of crimes enumerated under the Victim's of Crime Act, regardless of whether the crime was committed prior to the statute's enactment will be notified and her/his opinion will weigh heavily on the Governor's decision.
- F. Application for a pardon to restore civil rights shall include proof of the applicant's exemplary behavior, distinct achievement, ability to act as a responsible and contributing member of society, and proof of a productive law-abiding life, such as:
 - 1. The applicant shall include any significant achievements, such as, employment and educational accomplishments, and provide evidence of good citizenship and details about charitable and civic activities or other contributions made to the community.
 - 2. Due consideration will be given to consistent employment history, lack of criminal record since discharge (including municipal, state and federal offenses).
- G. Applicants must possess a high school diploma or GED to be considered for a pardon.


H. In order to apply for the restoration of civil rights, applicants must remain free of arrest for the following periods of time (there are no exceptions to the time requirements):

1. Misdemeanor for Assault or Battery Against a Household member:
 - a. Applicant is eligible five (5) years after a discharge from supervision
2. Fourth degree felony: applicant is eligible ten (10) years after a discharge from supervision.
3. Third degree felony: applicant is eligible fifteen (15) years after a discharge from supervision.
4. Second degree felony: applicant is eligible twenty (20) years after a discharge from supervision.
5. First degree felony: applications are not accepted for first degree felony convictions.



Gregg Marcantel, Secretary of Corrections
New Mexico Corrections Department

10/08/15
Date

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	TITLE: Investigation of Executive Clemency Applications	

AUTHORITY:

Policy CD-052100

PROCEDURE:

- A. The Governor may refer an Executive Clemency Application to the Parole Board for investigation and recommendation. If the Governor determines that the Parole Board’s involvement is necessary, the board will call for a field investigation by the Corrections Department. The Applicant shall comply with any request by the Parole Board or NMCD for interviews or additional documentation. Parole Board recommendations are not binding on the Governor and they are used solely to assist the Governor in performing non-delegable duties.

- B. Upon receipt of the ECA from the Parole Board by the PPD Region Manager, the application will be assigned for a field investigation to the corresponding District Office in which the applicant was convicted.
 - 1. The district office supervisor will assign it to a probation/parole officer (PPO) with a due date for completion of investigation of no later than thirty (30) calendar days from the date it is assigned, unless special circumstances dictate a reduction or extension of that deadline.
 - 2. The investigation will be completed using the Executive Clemency Application Investigation Form CD-052101.2
 - 3. The completed investigation will be forwarded to the Region Manager for approval.
 - 4. Upon review and approval by Region Manager, an electronic version of the ECA will be sent to the PPD Division Director or designee for final review and approval prior to being sent to Cabinet Secretary for signature utilizing Executive Clemency Application Investigation form CD-052101.1
 - 5. The approved ECA investigation will be sent with a completed Executive Clemency Recommendation to the Adult Parole Board (Form CD-052101.1) after the Secretary of Corrections or designee has reviewed and approved for final recommendation.

C. The completed ECA will be returned to the Parole Board by the NMCD for final processing.



Gregg Marcantel, Secretary of Corrections
New Mexico Corrections Department

10/08/15

Date

NEW MEXICO CORRECTIONS DEPARTMENT
Executive Clemency Recommendation to the Governor's Office

APPLICANT NAME: _____ **DOB:** _____

CURRENT AGE: _____ **AGE AT TIME OF CRIME:** _____

CRIME: _____

DATE OF SENTENCE AND CONVICTION: _____

DATE AND TYPE OF DISCHARGE: PROBATION/PAROLE/DUAL: _____

PREVIOUSLY APPLIED: YES OR NO _____ **IF YES, DATE:** _____

RECOMMENDATION: _____

Gregg Marcantel, Secretary of Corrections
New Mexico Corrections Department

Date

NEW MEXICO CORRECTIONS DEPARTMENT
Executive Clemency Application Investigation

TO: ,Parole Board Deputy Director

FROM: , PPO

DATE:

SUBJECT: *EXECUTIVE CLEMENCY APPLICATION*

Applicant's Name:

Applicant's Case Number:

Crime:

Degree of Offense:

Type of Sentence:

Date Sentenced:

Age at Offense:

Court:

Judge:

Date Placed on Probation/Parole:

Date Released from Supervision:

Type of Discharge:

Current Age:

Date of Birth:

Social Security Num:

Previously Applied: Yes

If yes, explain:

Date PPO Received ECA Request:

Applicant's Current Address:

Home Phone Number:

Circumstances of the Offense:

Summary of Defendant's Version of the Offense:

Probation/Parole Adjustment:

CRIMINAL HISTORY – FBI NUMBER:

Juvenile:

Adult:

DATE	CHARGE	PLEA	DISPOSITION

Employment History:

Family History:

Father:	Age:
Mother:	Age:
Siblings:	Age:
	Age:
Children:	Age:
	Age:
	Age:
Spouse:	Age:

Marital History:

Financial Status:

Assets

Item: Home	Value:
Item:	Value:
Item:	Value:

Liabilities:

Creditor:	Account Balance:	Payment:
Creditor:	Account Balance:	Payment:
Creditor:	Account Balance:	Payment:

Addictions:

Health:

Military History:

Applicant's Significant Accomplishments:

Applicant's Reason for Requesting Clemency:

Recommendation of District Attorney:

Recommendation of Probation/Parole Officer:

Respectfully submitted,

, PPO

APPROVED:	APPROVED:
District Supervisor	Region Manager