



October 6, 2025

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Attorney General

Advisory Letter No. 2025-01

Secretary Tafoya Lucero
New Mexico Department of Corrections
Chairman Abram Anaya
New Mexico Parole Board
4337 State Road 14
Santa Fe, New Mexico 87508

Re: Attorney General Advisory Letter – Serious Youthful Offender 30-Year Review Procedure

Dear Secretary Tafoya Lucero and Chairman Anaya,

This matter was presented to this office for guidance on the parole procedure for serious youthful offenders subject to NMSA 1978, § 31-21-10.2 (2023).

The pertinent part of the statute, relevant here, states

. . . a youthful offender sentenced as an adult pursuant to [NMSA 1978] Section 32A-2-20. . . shall be *eligible* for parole and entitled to a parole hearing after the offender has served. . . twenty years of the sentence if the sentence is for one conviction of either first degree willful and deliberate murder pursuant to Paragraph (1) of Subsection A of Section 30-2-1 . . . or first degree depraved-mind murder pursuant to Paragraph (3) of Subsection A of Section 30-2-1[.]

Parole *eligibility* and a parole hearing *shall occur whether the offender is serving concurrent or consecutive sentences for multiple convictions* arising from the same case. If the offender is serving sentences for convictions arising from multiple cases, the time counted toward parole eligibility for a particular case does not begin to accrue until that sentence for the case is being served.

Id. (emphasis added).

The statute only speaks to a serious youthful offender's *eligibility* for parole. The parole eligibility hearing process is thereafter accounted for under the statute in subsection 31-21-10.2(C). That hearing process requires the Parole Board to review certain considerations in determining whether an inmate may be paroled. The inmate is entitled to representation at a parole eligibility hearing.

Importantly, there is no obligation for the Parole Board to grant parole, and parole can be denied depending on the Parole Board's ultimate determination following its review of the statutory considerations and after a parole eligibility hearing.

Even if a serious youthful offender is granted parole under Section 31-21-10.2, that offender is not thereafter released from serving a consecutive sentence or sentences to which they may also be bound by court order. Section 31-21-10.2 specifically states that while a serious youthful offender is entitled to a parole eligibility hearing regardless of whether they have consecutive sentences, if granted parole on a conviction subject to Section 31-21-10.2, that inmate is merely paroled to begin service of their next consecutive sentence. This section does not account for release of serious youthful offenders into the community as a matter of course. In New Mexico, the plain language of a statute controls. *See* NMSA 1978, §§ 12-2A-1 to -20 (1997). Any additional intent the Legislature may, or may not, have had with respect to serious youthful offenders is not articulated in Section 31-21-10.2.

The result here is that a serious youthful offender granted parole subject to Section 31-21-10.2, but who has one or more consecutive sentences, would thereafter remain in the custody of the New Mexico Department of Corrections and under its purview, while also becoming subject to oversight by the Parole Board. This dual supervision is accounted for not only by this statute, Section 31-21-10.2, but also by NMSA 1978, Section 31-21-10.1 (2007) governing parole of sex offenders. Should a serious youthful offender paroled under Section 31-21-10.2 violate a condition of their parole, even while still serving a consecutive sentence in the Department of Corrections, the Parole Board retains the ability to revoke parole on the associated sentence.

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/s/ Aletheia V.P. Allen
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