

1 WHEREAS, NMSA 1978, Section 31-6-9 (1993) permits the district court to
2 limit the inquiries of the grand jury, as further confirmed by this Court in *Dist. Ct.*
3 *of Second Jud. Dist. v. McKenna*, 1994-NMSC-102, ¶ 8, 118 N.M. 402, 881 P.2d
4 1387;

5 WHEREAS, the First Judicial District Court ceased convening grand juries
6 due to a reduction in available space for such purpose in order to implement court-
7 ordered health measures to combat the COVID-19 public health emergency;

8 WHEREAS, the aforementioned court-ordered health measures have been
9 modified such that convening grand juries in the First Judicial District is now
10 feasible on a limited basis;

11 WHEREAS, Article VI, Section 3 of the New Mexico Constitution confers on
12 this Court superintending control over all inferior courts, including the district
13 courts; and

14 WHEREAS, the Court having considered the foregoing and being sufficiently
15 advised, Chief Justice C. Shannon Bacon, Justice Michael E. Vigil, Justice David K.
16 Thomson, Justice Julie J. Vargas, and Justice Briana H. Zamora concurring;

17 NOW, THEREFORE, IT IS ORDERED that a district court judge of the First
18 Judicial District Court shall convene a grand jury as soon as practicable pursuant to
19 NMSA 1978, Section 31-6-1 (1983);

1 IT IS FURTHER ORDERED that the district court judge shall limit the
2 number of sessions of the grand jury to no more than a single eight (8)-hour session
3 in each calendar month of the three (3)-month term of the grand jury;

4 IT IS FURTHER ORDERED that the district court judge shall limit the
5 inquiries of the grand jury to only those that concern one or more of the following
6 four circumstances:

7 (A) where the alleged incident being investigated includes a statutory
8 violation of:

9 (1) NMSA 1978, Sections 30-6-1 to -4 (1963, as amended through
10 2014),

11 (2) NMSA 1978, Sections 30-6A-3 to -4 (1984, as amended through
12 2016),

13 (3) NMSA 1978, Section 30-9-1 (1963),

14 (4) NMSA 1978, Section 30-9-13 (2003), or

15 (5) NMSA 1978, Sections 30-37-3.2 to -3.3 (1998, as amended
16 through 2007);

17 (B) where the alleged incident being investigated includes a statutory
18 violation of:

1 (1) NMSA 1978, Sections 30-9-11 to -12 (1975, as amended through
2 2009), or

3 (2) NMSA 1978, Section 30-52-1 (2008);

4 (C) where the alleged incident being investigated includes a statutory
5 violation of NMSA 1978, Section 30-31-20 (2006) and the grand jury
6 investigation entails reliance on testimony of an undercover law enforcement
7 officer; or

8 (D) where the prosecution attempted to present the alleged incident to a
9 judicial officer for a probable cause determination during a preliminary
10 examination but failed in such attempt due solely to the absence of the named
11 defendant at the preliminary examination and where the prosecution was
12 otherwise ready with necessary witnesses and evidence for presentation at the
13 preliminary examination to the judicial officer; and

1 IT IS FURTHER ORDERED that this Order shall remain in effect until
2 amended or withdrawn by future order of the Court.

3 **IT IS SO ORDERED.**

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WITNESS, the Honorable C. Shannon Bacon, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 19th day of April, 2022.

A handwritten signature in cursive script that reads "Elizabeth A. Garcia".

Elizabeth A. Garcia, Chief Clerk of the Supreme Court
of the State of New Mexico

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