



Written by [Bob Adelman](#) on February 27, 2020

New Mexico Governor: Sheriffs Should Enforce Red Flag Law or Resign

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Upon signing into law Senate Bill 5 — an ERPO or “red flag” law — on Tuesday, New Mexico Governor Michelle Lujan Grisham [claimed](#) that “this law is sensible and balanced. It is a good public safety measure. If it saves even one life, and it will, we will have done good work here.”

Not if those good intentions violate the U.S. Constitution, say the sheriffs she is counting on to enforce it. Sheriff of Cibola County Tony Mace is also chairman of the New Mexico Sheriffs Association. In a public statement, he made it clear that sheriffs don’t work for the state, the governor, or the legislature: “The sheriff is elected by the people within a sovereign state and county to protect and serve all people within the county.... [He] swears a solemn oath to uphold the Constitution of the United States as well as the Constitution and laws of the state of New Mexico, in that order of precedence.”

And he and his association think that the red flag law doesn’t conform to either constitution:

Modern “Red Flag Laws” deny responsible gun owners notice or a chance to defend themselves against an initial confiscation order....

Citizens have a right to bear arms and we cannot circumvent that right when they have not even committed a crime or even been accused of committing one. “Shall not be infringed” is a very clear and concise component of an Amendment that our forefathers felt was important enough to be recognized immediately following freedom of speech and religion.

We sheriffs have sworn to uphold those and other God-given rights for our citizens at all costs.

In response, Governor Lujan Grisham told reporters that the sheriffs “cannot not enforce. And if they really intend to do that, they should resign as a law enforcement officer and leader in that community.”

Lea County Sheriff Corey Helton is one of dozens of sheriffs who have signed a resolution drafted by the Constitutional Sheriffs and Peace Officers Association. Regarding the newly minted red flag law, he said, “I’m proud to say I’m a constitutional sheriff and I’m just not going to enforce an unconstitutional law. My oath prevents me from doing that.”

That resolution holds that

The people of these United States are, and have a right to be, free and independent, and these rights are derived from the “Laws of Nature and Nature’s God.” As such, they must be free from infringements on the right to keep and bear arms, unreasonable searches and seizures, capricious



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detainments and infringements on every other natural right whether enumerated or not. (9th amendment)

We further reaffirm that “The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.” (10th amendment)

It continued with the following:

The following abuses will not be allowed or tolerated:

Confiscation of firearms without probable cause, due process, and constitutionally compliant warrants issued by a local or state jurisdiction....

Inspections of person or property without probable cause and constitutionally compliant warrants as required by the 4th Amendment and issued by a local or state jurisdiction.

What if the governor decides to press the matter and call up the National Guard to enforce the law if the sheriffs won't? The Resolution adds to its list of abuses “Domestic utilization of our nation's military or federal agencies operating under power granted under the laws of war against American citizens.”

And if she still presses forward? The Resolution provides for that as well: “Any conduct contrary to the United States Constitution, Declaration of Independence, or the Bill of Rights will be dealt with as criminal activity.”

Will the governor attempt to enforce the new red flag law by using other enforcement agencies? Will she call up the National Guard? Or will she back off, as governors in other states such as Florida have, and settle for half a loaf?

The core issue is this: Are the people sovereign? Or have they given up their role as free citizens in deciding their own futures? Will constitutional sheriffs force governors to back off, or instead provoke a fight whose outcome is uncertain?

The issue is far from settled, at least in New Mexico.

Photo: AP Images

An Ivy League graduate and former investment advisor, Bob is a regular contributor to The New American, writing primarily on economics and politics. He can be reached at badelmann@thenewamerican.com.

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