

United States Department of Justice

General Legal Activities



FY 2019 Congressional Budget Submission

Office of the Pardon Attorney

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I. Overview for Office of the Pardon Attorney

For FY 2019, the Office of the Pardon Attorney (OPA) requests a total of \$4,913,000, 19 positions, and 19 FTE, including 11 attorneys, to achieve its mission of advising and assisting the President in the exercise of the executive clemency power conferred on him by Article II, Section 2 of the Constitution. This request supports current services needs.

Introduction

For over 100 years, the President has requested and received the assistance of the Attorney General and his/her designees in the Department of Justice in exercising clemency power with regard to persons convicted for committing offenses against the United States. Within the Department, OPA is the component assigned to carry out this function under the direction of the Deputy Attorney General. The long-standing role of Department officials advising the President on clemency matters is reflected in various public record documents dating to the late 19th century. Moreover, since at least 1898, presidents have adopted advisory rules to describe their programs for processing clemency applications and their directions to the Attorney General in carrying out the Department's clemency advisory functions. The rules, which govern OPA's work but do not bind the President, are approved by the President and published by the Attorney General. The current version of the administrative rules was promulgated in October 1993 and amended in August and September 2000. They are published in 28 C.F.R. §§ 1.1 to 1.11 and available on OPA's web site at <http://www.justice.gov/pardon/clemency.htm>.

The two principal forms of clemency sought by applicants are pardon after completion of sentence and commutation (reduction) of a sentence being served. The traditional standards by which clemency applications are evaluated in connection with the preparation of the Department's letters of advice to the President have been utilized for decades and are publicly available on OPA's web site at <http://www.justice.gov/pardon/petitions.htm>.

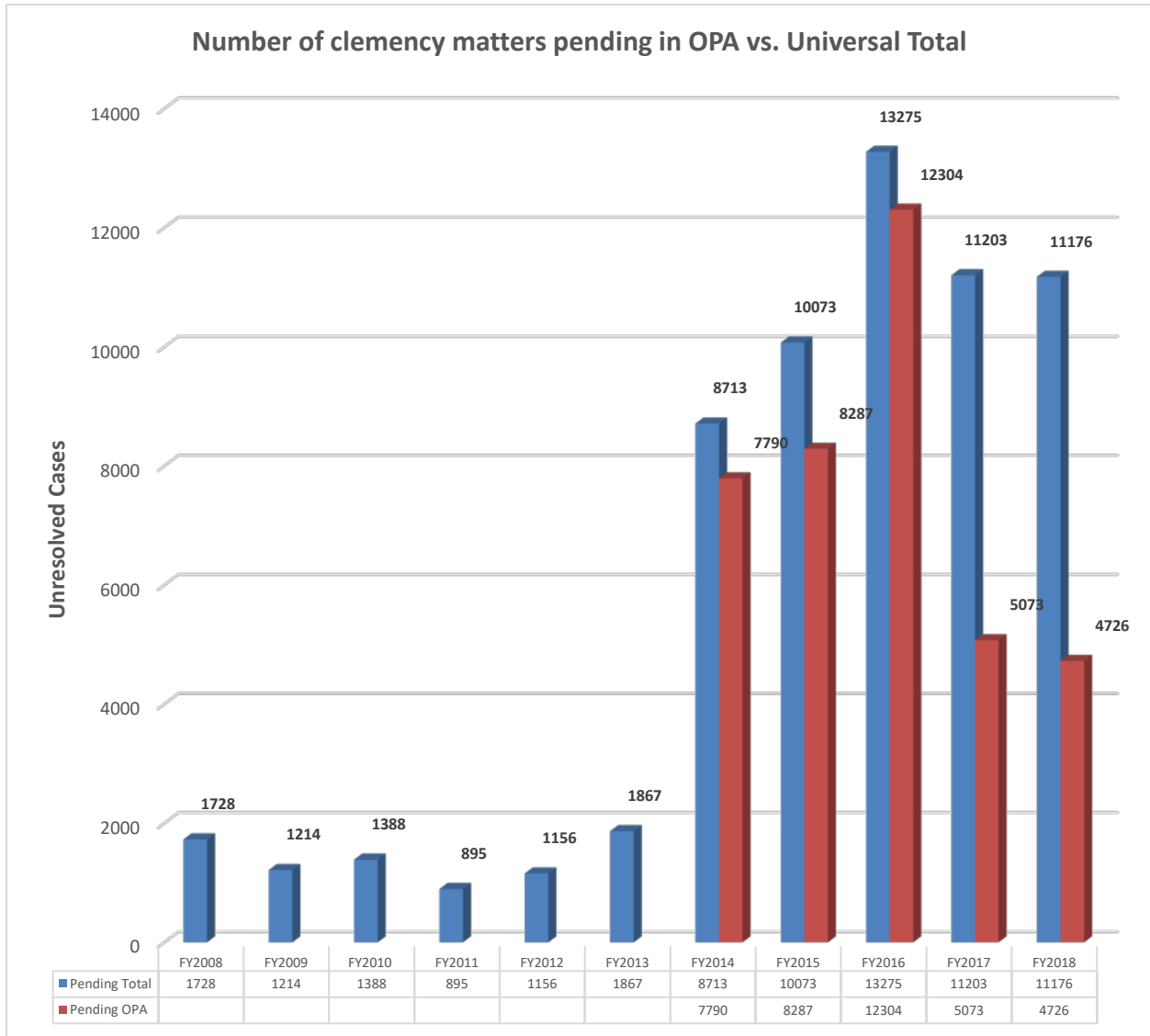
Program Description

The primary function of OPA is to receive, evaluate, and investigate clemency applications and prepare the recommendation of the Department of Justice as to the appropriate disposition of each application for the signature of the Deputy Attorney General. In addition, OPA responds to inquiries concerning executive clemency petitions and the clemency process from applicants, their legal representatives, members of the public, Members of Congress, and various federal, state, and local officials and agencies; prepares all necessary documents to effect the President's decision to grant clemency; and notifies each clemency applicant of the President's decision concerning his or her clemency request. When asked to do so, OPA also provides general advice to the White House concerning executive clemency procedures and the historical background of clemency matters.

Challenges

OPA's workload has increased significantly since FY 2007, which was the last fiscal year in which fewer than 2,000 cases were received. Between FY 2009 and FY 2017, OPA received approximately 36,544 new petitions for processing, of which 33,149 were petitions for

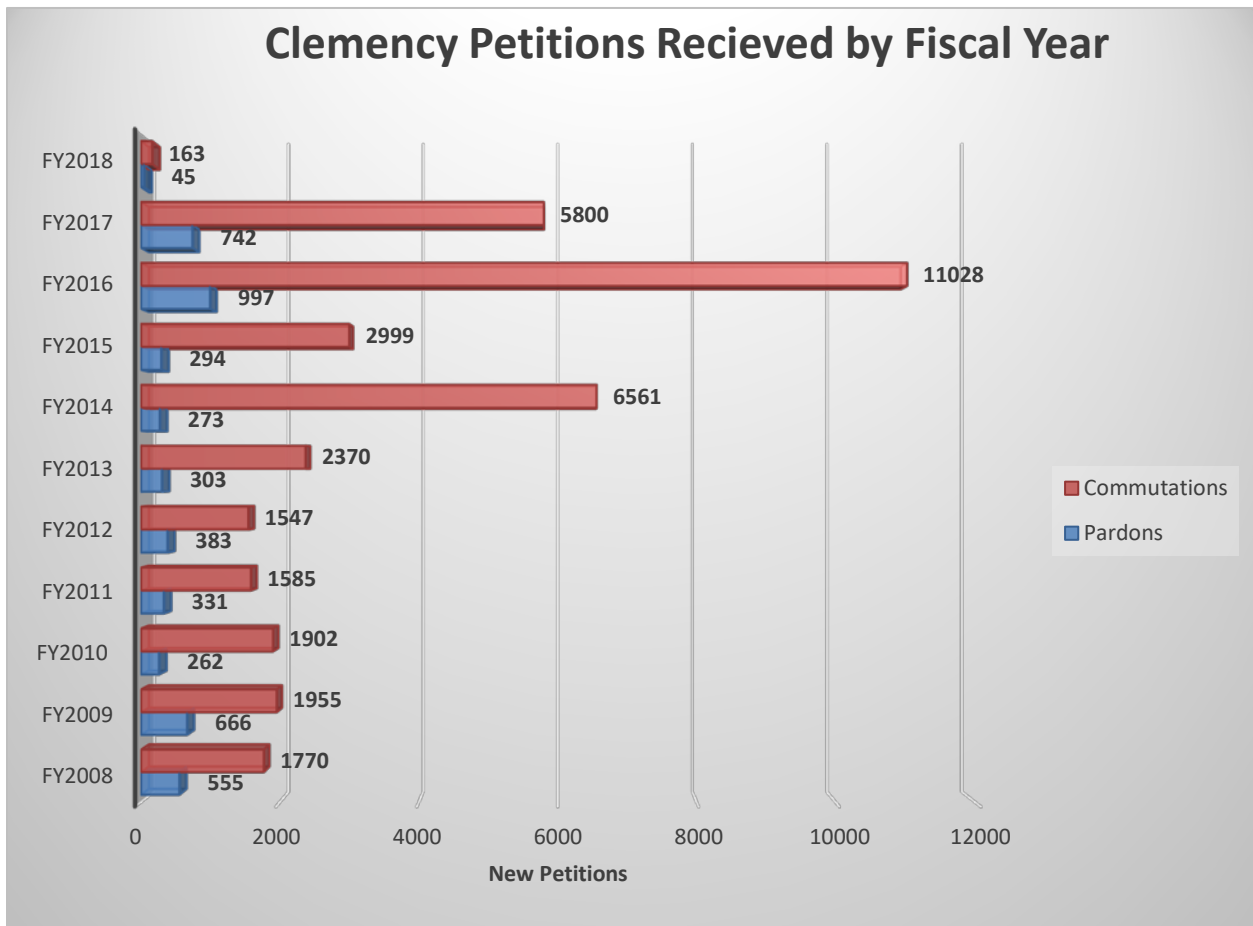
commutation of sentence. In FY 2016 alone, OPA received a total of 12,025 new petitions. Up until FY 2014, OPA’s authorized staffing level was 11 positions - a level that was established for the office in the mid-1990s, when OPA received approximately 600 new clemency cases per fiscal year. The authorized staffing level was raised in FY 2015 to 22 employees and has since been reduced to 19. The current services level requested in the FY 2019 budget will allow OPA to continue to address the significant backlog in case processing derived from the increased workload in previous years.¹



OPA is required to process, analyze, and make recommendations on all applications it receives, regardless of whether the request for clemency is meritorious or not. Both denial and favorable recommendations are forwarded to the Deputy Attorney General and the President for final adjudication. On occasion, OPA is required to rework cases that have already been fully

¹ The chart entitled **Number of clemency matters pending in OPA vs. Universal Total** shows the backlog of cases OPA had on the last day of each fiscal year for the past few years or during the last reporting for the current fiscal year. This dataset was not tracked by whether cases were pending in OPA or elsewhere in the clemency process prior to FY 2014.

analyzed if deemed necessary by either the President or Deputy Attorney General. Since there is no limit to the number of clemency petitions that can be submitted to the OPA for consideration by the President and the President has plenary power to decide if and when to make clemency decisions, OPA has no control over the size of its caseload. OPA could easily receive thousands of cases beyond its capacity to process as it has over the past few years and cases can also remain in “pending” status somewhere other than with OPA while still remaining on the open case list. The impact of this massive influx of new cases over the past decade will continue to be felt by the office for many years to come. As a result, maintaining the current roster of staff and resources as requested for FY 2019 is essential to OPA’s continuing ability to address increased workloads and advise the President on the merits of those who have applied for executive clemency as well as provide a historical background of clemency matters.²



² The chart entitled **Clemency Petitions Received from FY 2008 to FY 2018** shows the successive increase of petitions received over the years.

II. Summary of Program Changes

Not applicable

III. Appropriations Language and Analysis of Appropriations Language

General Legal Activities language is displayed in the GLA rollup budget submission.

IV. Program Activity Justification

A. Office of the Pardon Attorney

Office of the Pardon Attorney	Direct Pos.	Estimate FTE	Amount
2017 Enacted	19	20	\$4,496
2018 Continuing Resolution	19	19	\$4,465
Adjustments to Base and Technical Adjustments	0	0	\$448
2019 Current Services	19	19	\$4,913
2019 Request	19	19	\$4,913
Total Change 2018-2019	0	0	\$448

1. Program Description

OPA's primary function is to receive, evaluate, and investigate clemency applications and prepare the recommendation of the Department as to the appropriate disposition of each application for the signature of the Deputy Attorney General and the President. OPA also responds to inquiries concerning executive clemency petitions and the clemency process from applicants, their legal representatives, members of the public, members of Congress, and various federal, state, and local officials and agencies; prepares all necessary documents to effect the President's decision to grant or deny clemency; and notifies each clemency applicant of the President's decision concerning his or her clemency request. When requested by the White House, OPA also provides general advice to the President concerning executive clemency procedures and the historical background of clemency matters.

2. Performance Tables

Performance Materials will be provided at a later date.

3. Performance, Resources, and Strategies

Performance Materials will be provided at a later date.

V. Program Increases by Item

Not Applicable

VI. Program Offsets by Item

Not Applicable

VII. Exhibits