

United States Department of Justice

General Legal Activities



Office of the Pardon Attorney (PARDON)

FY 2024 Congressional Submission

Table of Contents

I. Overview.....	3
II. Summary of Program Changes	6
III. Appropriations Language and Analysis of Appropriations Language.....	6
IV. Program Activity Justification	6
A. Office of the Pardon Attorney	7
1. Program Description	7
2. Performance and Resource Tables.....	7
3. Performance, Resources, and Strategies	8
V. Program Increases by Item	9
VI. Program Offsets by Item.....	13
VII. Exhibits	13

- A. Organizational Chart
- B. Summary of Requirements
- B. Summary of Requirements by DU
- C. FY 2024 Program Increases/Offsets by Decision Unit
- D. Resources by Department of Justice Strategic Goal and Objective
- E. Justification for Technical and Base Adjustments
- F. Crosswalk of 2022 Availability
- G. Crosswalk of 2023 Availability
- H. Summary of Reimbursable Resources **(Not Applicable)**
- H. Summary of Sub-Allotments and Direct Collections Resources **(Not Applicable)**
- I. Detail of Permanent Positions by Category
- J. Financial Analysis of Program Changes **(Not Applicable)**
- K. Summary of Requirements by Object Class
- L. Status of Congressionally Requested Studies, Reports, and Evaluations **(Not Applicable)**

I. Overview

For FY 2024, the Office of the Pardon Attorney (PARDON) requests a total of \$22,678,000, 103 positions, and 69 FTE, including 59 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 as well as a program increase for anticipated Critical Clemency Projects, assigned to PARDON by the President and Department of Justice leadership.

Introduction

For over 125 years, the President has requested and received the assistance of the Attorney General and his/her designees in the Department of Justice in exercising the executive clemency function. Within the Department, PARDON is the component assigned to carry out this function under the direction of the Deputy Attorney General. The long-standing role of Department officials in 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 PARDON'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 PARDON's web site at <https://www.justice.gov/pardon/legal-authority-governing-executive-clemency>.

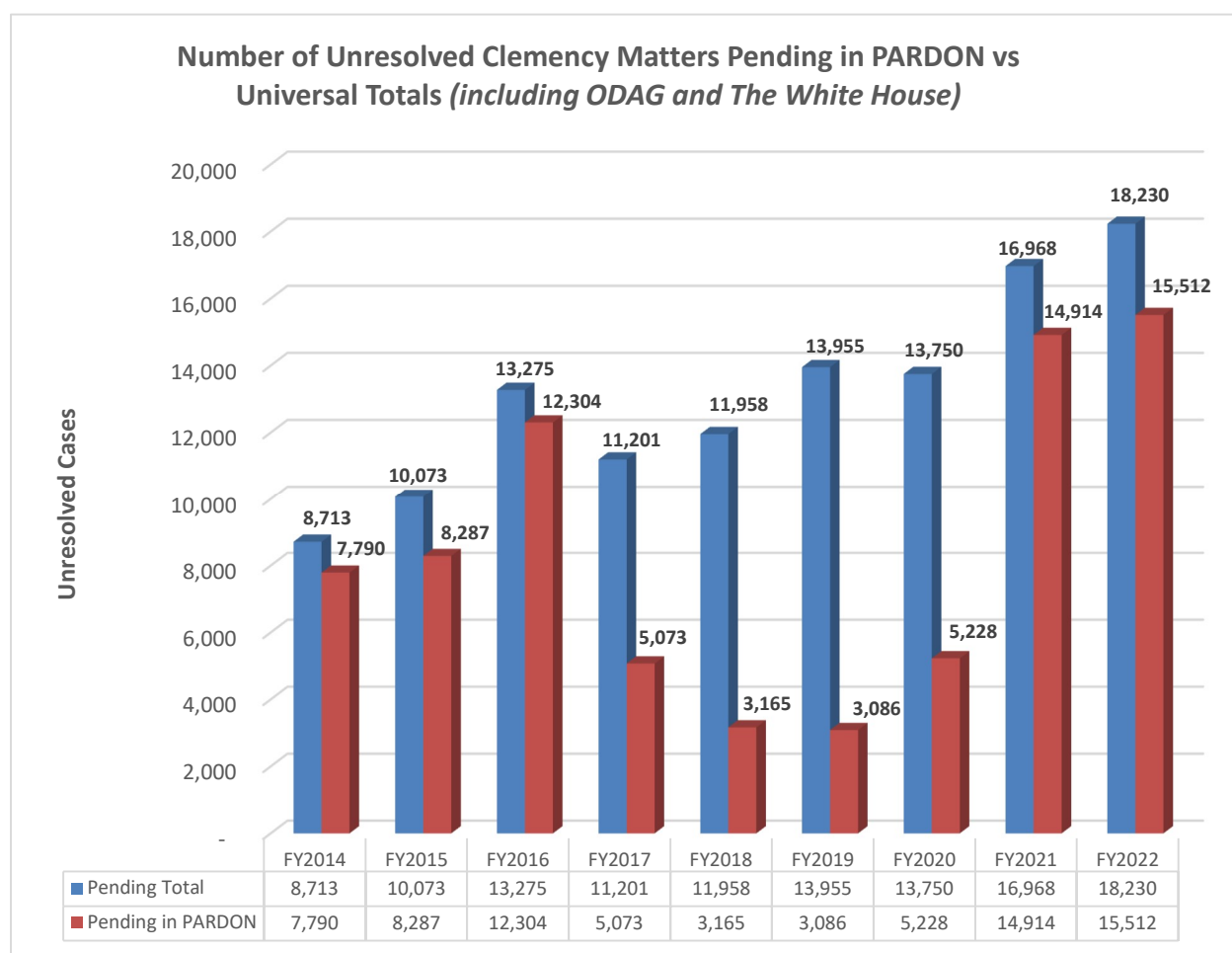
The two principal forms of clemency sought by applicants are (1) pardon after completion of sentence and (2) commutation (reduction) of a sentence being served. The traditional standards by which clemency applications are evaluated in connection with the preparation of the Department's letters of advice (recommendations) to the President have been utilized for decades and are publicly available on PARDON's web site at <https://www.justice.gov/pardon/about-office-0>.

Program Description

The primary function of PARDON 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. In addition, PARDON 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 affect 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, PARDON also provides general advice to the White House concerning executive clemency procedures and the historical background of clemency matters.

Challenges

PARDON’s workload has continued to increase over the last decade. Between FY 2011 and FY 2022, PARDON received approximately 48,283 new clemency petitions for processing. In FY 2016 alone, PARDON received a total of 12,025 new petitions. Up until FY 2014, PARDON’s authorized staffing level was 11 positions – a level that was established for the office in the mid-1990s, when PARDON received approximately 600 new clemency requests each fiscal year. While we are making progress in the hiring of additional staff, the volume of the work remains daunting for such a small office. The current clemency backlog exceeds 17,000 cases. In addition, PARDON expects to receive a new influx of cases in FY 2023 pursuant to the President’s October 2022 Proclamation pardoning all individuals convicted of simple possession of marijuana (discussed further below). The FY 2024 President's Budget requested amount will allow PARDON to continue to address the significant backlog in case processing derived from the increased workload.¹

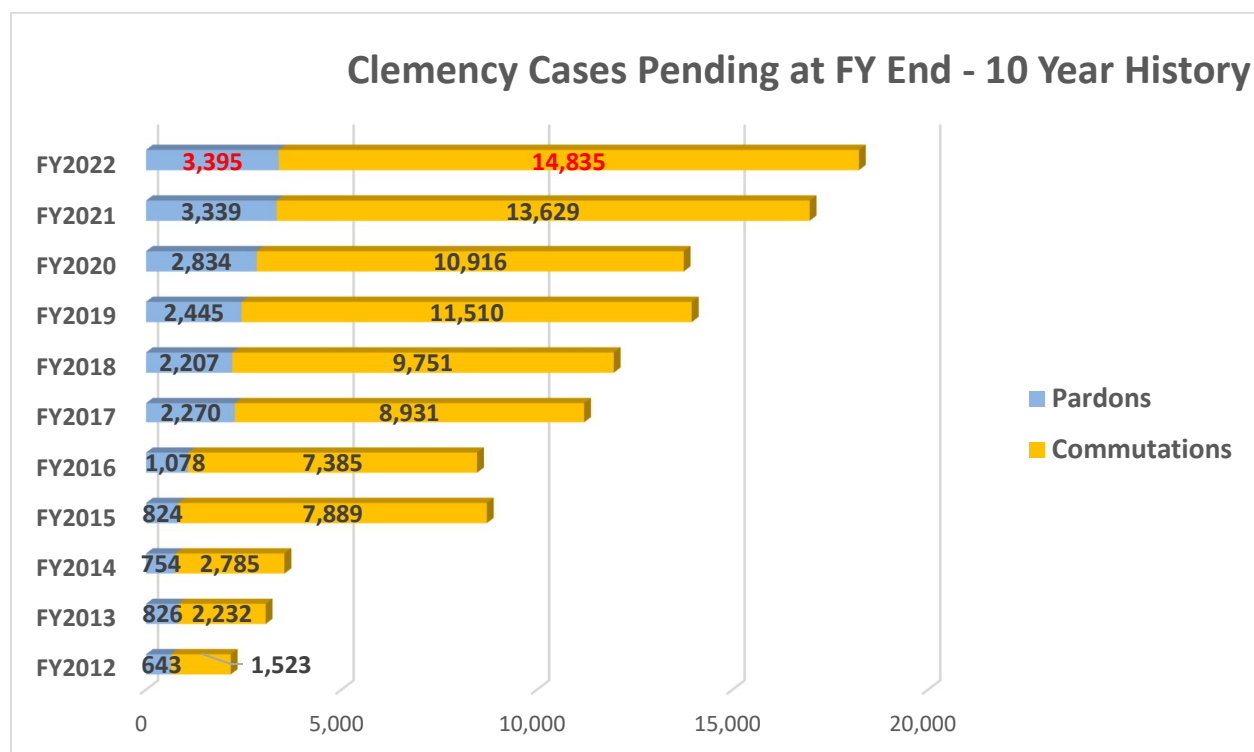


PARDON is required to process, analyze, and make recommendations on all applications it receives, regardless of whether the request for clemency is meritorious or not. Both denial and favorable recommendations are forwarded to the Deputy Attorney General for review and then to

¹ The chart entitled **Number of clemency matters pending in PARDON vs. Universal Total** shows the backlog of cases in PARDON vs. those cases pending throughout the entire clemency process on the last day of each fiscal year for the past few years or during the last reporting for the current fiscal year.

the President for final adjudication. Based on current policy, PARDON is required to rework cases that have already been fully analyzed if deemed necessary by either the President or the Deputy Attorney General. Since there is no limit to the number of clemency petitions that can be submitted to PARDON for consideration by the President and the President has plenary power to decide when to make clemency decisions, PARDON has no control over the size of the universal caseload. 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 2024 is essential to PARDON’s continuing ability to address increased workloads, provide letters of advice to the President on the merits of those who have applied for executive clemency, and process marijuana pardon certificates, as well as provide a historical background of clemency matters.²



II. Summary of Program Changes

As described in greater detail in Section V of this document, PARDON is requesting a program enhancement of \$130,000, including one position (one attorney) and one FTE to support a Pardon Fellow. In addition to the Pardon Fellow, we also plan to utilize the anticipated \$10.4 million budget increase on various attorney and legal staff positions in efforts to achieve a less time-consuming clemency process overall and to address Critical Clemency programs that are expected before and into FY2024.

² The chart entitled **Clemency Cases Pending at FY End – 10 Year History** shows the successive increase of petitions pending universally at the end of a fiscal year or at the close of the most recent reporting period of the current year.

Item Name	Description				Page
		Pos.	FTE	Dollars (\$000)	
Pardon Fellow	Fellow (attorney position) trained in clemency work done in PARDON.	1	1	130	9
Critical Clemency Programs	PARDON will need appropriate staff to review applications and issue certificates for programs mandated by the White House.	59	29	10,375	11

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 (\$000s)
2022 Enacted	22	20	5,483
2023 Enacted	43	28	10,862
Adjustments to Base and Technical Adjustments	0	11	1,311
2024 Current Services	43	39	12,173
2024 Program Increases	60	30	10,505
2024 Request	103	69	22,678
Total Change 2023-2024	60	41	11,816

1. Program Description

PARDON’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 consideration by the President. PARDON 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 affect the President’s decision to grant as well as deny clemency; and notifies each clemency applicant of the President’s decision concerning his or her clemency request. When requested by the White House, PARDON also provides general advice to the President concerning executive clemency procedures and the historical background of clemency matters.

2. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE												
Decision Unit: Office of the Pardon Attorney												
RESOURCES (\$ in thousands)			Target		Actual		Target		Changes		Requested (Total)	
			FY 2022		FY 2023		FY 2024		Current Services Adjustments and FY 2024 Program Changes		FY 2024 Request	
Total Costs and FTE (Reimbursable: FTE are included, but costs are bracketed and not included in totals)			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			22	5,483	20	5,483	28	10,862	41	11,816	69	22,678
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2022		FY 2023		FY 2024		Current Services Adjustments and FY 2024 Program Changes		FY 2024 Request	
Program Activity	3.3	Reform and Strengthen the Criminal and Juvenile Justice Systems to Ensure Fair and Just Treatment	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			22	5,483	20	5,483	28	10,862	41	11,816	69	22,678
APG Measure:	N/A											
KPI Output:	N/A											
Performance Measure:	N/A											
Performance Measure:	N/A											

*Denotes inclusion in the DOJ Quarterly Status Report and DOJ Annual Performance Plan.

*This table is required.

3. Performance, Resources, and Strategies

a. Performance Plan and Report for Outcomes

PARDON's sole mission is to assist the President in the exercise of his constitutional clemency power, thus PARDON's performance measure is the number of clemency petitions fully processed from receipt through an official recommendation submitted for higher level review by the Deputy Attorney General and/or President, as well as case closures without Presidential action during a given fiscal year. Likewise, PARDON's outcome measure is the percentage of clemency petitions that remain pending within PARDON as opposed to those that are pending all throughout the clemency process at the end of the fiscal year. In FY 2015, there were 10,073 cases pending universally, while 8,287 were still pending in PARDON, which means approximately 82% of all clemency cases were pending in PARDON as opposed to waiting for a review by the Office of the Deputy Attorney General (ODAG) and The White House. When compared to the 17,596 cases that were pending universally at the beginning of FY 2023 and factoring in that only 9,982 cases were pending in PARDON as of October 2023, that equated to just about 57% of all cases pending globally. At the time of this document, this small office continues to maximize its limited resources but maintains 50% of the universal case load, many of which are cases that have been reworked 1-5 times already. The degree to which PARDON

will be able to meet its performance outcome target of less than or equal to 40% of the universal caseload will depend significantly on the volume of new petitions filed in upcoming fiscal years and how quickly PARDON can work through the high cumulative number of petitions filed but unresolved during higher level review in the last few fiscal years.

Since PARDON has no control over the number of clemency cases the Department (or President) receives for review or how long cases remain in the final stages of review within the Office of the Deputy Attorney General and the White House, PARDON started clearly delineating the number of cases that are pending universally compared to those pending within PARDON in FY 2014. In addition, PARDON changed its performance outcome to track the percentage of cases pending in PARDON versus those pending universally. In FY 2019, PARDON also created a new performance measurement to track the number of clemency petitions that are more than one year old and still pending within PARDON because it has now set a goal of processing cases within one year of them being received and opened by the Department.

b. Strategies to Accomplish Outcomes

In support of DOJ Strategic Objective 3.3: Reform and strengthen the criminal and juvenile justice system to ensure fair and just treatment for all. PARDON will continue to reduce the overwhelming backlog of clemency cases submitted while also processing all new clemency cases submitted to the Department for review. PARDON intends to maintain the necessary balance between attorneys and support staff to continue efficient processing of both new and pending clemency petitions. Given the volume of PARDON's current caseload, it is critical that the office maintain proportional levels of experienced clemency attorney advisors and support staff to evaluate the merits of incoming petitions, and draft cogent, legally correct letters of advice to assist the President's decision-making. PARDON's support staff continue to provide crucial assistance in processing clemency petitions by completing preliminary reviews, requesting additional information and records when necessary, drafting screening letters, and completing other necessary correspondence like responding to Freedom of Information Act and Privacy Act requests, responding to miscellaneous correspondence, correspondence assigned to the Office by the Department's Executive Secretariat, as well as case assignments from the White House Correspondence Office. In an effort to cut down on the number of case status requests, PARDON now proactively discloses the status of all cases received or closed since 1989 on the Department's public facing website at <https://www.justice.gov/pardon/search-clemency-case-status-since-1989>. In addition, the information that feeds the search feature can be downloaded in the aggregate in Excel format, which negates the need for us to respond one-to-one to such requests. This facilitates moving petitions through the review process in a more timely and cost-effective manner and alleviates the administrative burden on PARDON staff by allowing them to focus their expertise on legal case analysis. Where possible, PARDON will continue to seek cost-effective ways to accomplish the clerical tasks required to process and manage its caseload, including maintaining PARDON's electronic case management and tracking system.

c. Priority Goals

Not Applicable.

V. Program Increases by Item (2)

1. Item Name: Pardon Fellow

Strategic Goal: Protect Civil Rights
Strategic Objective: Reform and Strengthen the Criminal and Justice Systems to Ensure Fair and Just Treatment

Budget Decision Unit(s): Office of the Pardon Attorney

Organizational Program: Executive Clemency

Program Increase: Positions 1 Agt/Atty 1 FTE 1 Dollars \$130,000

Description of Item

PARDON is requesting an enhancement of one position (one Pardon Fellow), one FTE and \$130,000 in furtherance of its mission of assisting the President in the exercise of executive clemency.

Under the Constitution, the President's clemency power extends only to federal criminal offenses. All requests for executive clemency for federal offenses are directed to the Pardon Attorney for investigation and review. The Pardon Attorney prepares the Department's recommendation to the President for final disposition of each application. Executive clemency may take several forms, including pardon, commutation of sentence, remission of fine or restitution, and reprieve. The Pardon Fellow will be trained in the work of both forms of clemency (Pardon vs. Commutation) done by the Office of the Pardon Attorney.

Justification

The work of the Pardon Attorney is split into two forms of clemency (Pardon vs. Commutation). Predominately, the commutation side of PARDON's work is generally considered a component of addressing inequities in the criminal justice system because it has a direct correlation to the President reducing the sentence of low-risk offenders. Historically, approximately 80% of PARDON's caseload are commutation requests, while 20% percent are pardon requests. The Pardon Fellow is a 1-year fellowship program in which one GS-13 attorney supports the Pardon Attorney and the office in the full range of PARDON matters.

Impact on Performance

A program increase of one position, one FTE and \$130,000 to fund a Pardon Fellow in support of the Department's Strategic Goal 3/ Strategic Objective 3.3 - Reform and Strengthen the Criminal and Justice Systems to Ensure Fair and Just Treatment will ensure PARDON's ability to continue to provide quality work products within set deadlines and limitations.

Funding

Base Funding

FY 2022 Enacted				FY 2023 Enacted				FY 2024 Current Services			
Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)
<u>22</u>	<u>11</u>	<u>18</u>	<u>5,483</u>	<u>43</u>	<u>22</u>	<u>28</u>	<u>10,862</u>	<u>43</u>	<u>22</u>	<u>39</u>	<u>12,173</u>

Personnel Increase Cost Summary

Type of Position/Series	FY 2024 Request (\$000)	Positions Requested	Full Year Modular Cost per Position (\$000)	Annualizations (\$000)			
				2 nd Year	3 rd Year	FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Attorneys (0905)	\$130	1	\$130	\$127	\$127	(\$3)	\$0
Total Personnel	\$130	1	\$130	\$127	\$127	(\$3)	\$0

Total Request for this Item

Category	Positions			Amount Requested (\$000)			Annualizations (\$000)	
	Count	Agt/Atty	FTE	Personnel	Non-Personnel	Total	FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Current Services	43	22	39	\$10,100	\$2,073	\$12,173	\$0	\$0
Increases	1	1	1	130	0	130	(3)	0
Grand Total	44	23	40	\$10,230	\$2,073	\$12,303	(\$3)	\$0

Affected Crosscuts

Federal Criminal Justice Reform

2. Item Name: Critical Clemency Programs

Strategic Goal: Protect Civil Rights
Strategic Objective: Reform and Strengthen the Criminal and Justice Systems to Ensure Fair and Just Treatment

Budget Decision Unit(s): Office of the Pardon Attorney

Organizational Program: Executive Clemency

Program Increase: Positions 59 Agt/Atty 36 FTE 29 Dollars \$10,375,000

Description of Item

PARDON is requesting an enhancement of a program increase for Critical Clemency Programs, 59 positions (36 attorneys), 29 FTE and \$10.4 million in furtherance of its mission of assisting the President in the exercise of executive clemency.

The projected \$10.4 million funding will allow the program activities outlined below and help to fund the significant implementation and enhancements costs incurred by the critical clemency programs. It will allow us to hire sufficient staff, to continue developing the new certificate for evidencing pardon of simple marijuana offenses, and to prepare for PARDON's expanded role in the capital case process.

Justification

In October 2022, the President announced a proclamation granting pardon to citizens and lawful permanent residents who had been convicted of the offense of simple possession of marijuana. PARDON was tasked with developing a program to identify and issue certificates evidencing the pardon to eligible persons. This project is set to launch soon, but the office has already expended significant resources getting it off the ground. By some estimates, 20,000 to 40,000 people may apply for this benefit, and PARDON will need appropriate staff to review applications and issue certificates.

Moreover, in January 2023, the Attorney General approved changes to the Justice Manual that significantly altered the procedures for the Department's investigation and prosecution of capital cases. PARDON's role in the capital process has been expanded significantly to include consultation at stages long before an ordinary clemency petition would be filed. Capital cases are among the most complex criminal matters in the federal justice system, and PARDON expects that capital defendants will submit numerous such cases before or during FY2024. PARDON anticipates needing additional staff to research and prepare complex written recommendations at the many stages of these cases in which PARDON now plays a role. Moreover, the complexity of these matters requires the provision of specialized training and the recruitment of individuals with requisite experience in these matters.

Impact on Performance

Granting pardon to citizens and lawful permanent residents who had been convicted of the offense of simple possession of marijuana would allow the applicant to return to full citizenship as they reestablish their lives after conviction.

Further, PARDON’s involvement in the capital process is of the utmost importance. Clemency is the last resort for these individuals to petition the government for redress. The processing of capital clemency matters is a critical government function and an indispensable step to afford full and complete due process to persons facing the most severe penalty imposed by the government.

Funding

Base Funding

FY 2022 Enacted				FY 2023 Enacted				FY 2024 Current Services			
Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)
<u>22</u>	<u>11</u>	<u>18</u>	<u>5,483</u>	<u>43</u>	<u>22</u>	<u>28</u>	<u>10,862</u>	<u>43</u>	<u>22</u>	<u>39</u>	<u>12,173</u>

Personnel Increase Cost Summary

Type of Position/Series	FY 2024 Request (\$000)	Positions Requested	Full Year Modular Cost per Position (\$000)	Annualizations (\$000)			
				2 nd Year	3 rd Year	FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Attorneys (0905)	4,548	36	126	1,716	72	(2,832)	(1,644)
Paralegals (0950)	738	11	67	358	(61)	(380)	(419)
Clerical (0301)	225	3	75	197	(7)	(28)	(204)
Clerical Management (0343)	86	1	86	65	(9)	(21)	(74)
Legal Assistants (0986)	216	4	54	156	(36)	(60)	(192)
IT Specialist (2210)	130	2	65	118	(20)	(12)	(138)
Budget (0560)	218	2	109	172	(19)	(46)	(191)
Total Personnel	\$6,161	36	\$582	\$2,782	(\$80)	(\$3,379)	(\$2,862)

Non-Personnel Increase Cost Summary

Non-Personnel Item	FY 2024 Request (\$000)	Unit Cost (\$000)	Quantity	Annualizations (\$000)	
				FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Contract personnel and services	\$4,214	\$4,214	1	\$1,391	\$0
Total Non-Personnel	\$4,214	\$4,214	1	\$1,391	\$0

Total Request for this Item

Category	Positions			Amount Requested (\$000)			Annualizations (\$000)	
	Count	Agt/Atty	FTE	Personnel	Non-Personnel	Total	FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Current Services	43	22	39	\$10,100	\$2,073	\$12,173	\$0	\$0
Increases	59	36	29	6,161	4,214	10,375	2,782	(2,862)
Grand Total	102	58	68	\$16,261	\$6,287	\$22,548	(\$3)	\$0

Affected Crosscuts

Federal Criminal Justice Reform

VI. Program Offsets by Item

Not Applicable.

VII. Exhibits