



Texas Young Lawyers Association

TYLA

BE AN UNCOMMON LEADER.®

HOW TO DO A PRO BONO CLEMENCY PETITION

I. INTRODUCTION

In 2014, the Department of Justice's Office of the Pardon Attorney announced a new initiative to encourage qualified federal inmates convicted of non-violent offenses to petition to have their sentences commuted, or reduced. As part of this effort, the Clemency Project 2014, a non-governmental, nonprofit organization was formed to help effectively locate eligible inmates and match them with volunteer attorneys to submit clemency petitions on their behalf. The Clemency Project 2014 trains attorneys and provides them with materials and resources needed to assist these prisoners at no cost. Attorney volunteers are needed to represent up to 20,000 potentially eligible inmates.

II. ELIGIBILITY CRITERIA

The criteria the Justice Department will use when considering clemency petitions from federal prisoners help the Justice Department identify federal prisoners who, if sentenced under current sentencing laws and policies, would likely have received lower sentences. The Office of the Pardon Attorney will prioritize clemency petitions from inmates who meet all of the following factors:

- 1) Currently serving a federal sentence in prison and, by operation of law, likely would have received a substantially lower sentence if convicted of the same offense(s) today;
- 2) Non-violent, low-level offenders without significant ties to large scale criminal organizations, gangs or cartels;
- 3) Served at least 10 years of their prison sentence;
- 4) Do not have a significant criminal history;
- 5) Demonstrated good conduct in prison; and
- 6) Have no history of violence prior to or during their current term of imprisonment

The Bureau of Prisons sent out notices to federal prisons advising inmates who believe they meet the criteria, and who would like to ask for free assistance from a lawyer, to fill out a survey and submit it to the Clemency Project 2014. The Clemency Project screens survey results. Prisoners who appear to qualify are then assigned a lawyer from the Clemency Project 2014's volunteer attorney database.

III. SIGNING UP TO VOLUNTEER

Attorneys interested in representing an inmate pro bono must (1) be a member of the bar in good standing in your jurisdiction and (2) agree that you will not charge prisoners assigned by the Clemency Project 2014 for your work on their behalf.

If you are interested in volunteering, visit www.clemencyproject2014.org and click on the link for "Volunteers." Next, click on the link "Get Started" to set up an account and begin the two-hour online training videos.

Once you have completed the training videos, complete the Post Training Survey. Then, the Clemency Project 2014 will send you an email assigning you your first case, the case number for your inmate's case and his/her Bureau of Prisons Identification Number.

IV. THE APPLICANT TRACKING SYSTEM

Once you have been assigned a case, log on to the Applicant Tracking System to get access to the materials and forms you will need for your representation. Then you will follow these steps:

- 1) Check the Progress Tracker Tool to see what stage of the process the inmate is currently in
- 2) Check the Assignment History for the contact information for the person with the Clemency Project who will be working with you if you have questions about eligibility
- 3) Search your inmate's public records on Pacer
- 4) Contact the inmate to obtain a Consent Form and upload it to the Applicant Tracking System
- 5) The Clemency Project will request a copy of the Bureau of Prisons Records on your behalf
- 6) Request a copy of the Presentence Investigation Report (PSR), and a copy of the Final Judgment and Commitment Order from the sentencing court
- 7) Contact the Sentencing Judge and the Prosecutor
- 8) Request a copy of the Sentencing Hearing Transcript if necessary

V. EVALUATING ELIGIBILITY

Once you have obtained the PSR and Bureau of Prisons Record, you will use those documents along with the Final Judgment and Commitment Order to evaluate your client's eligibility for clemency.

- 1) Review the PSR to confirm that the inmate has served at least 10 years
- 2) Use the PSR to determine which statutes were applied and if those statutes would be applied today
- 3) Determine any enhancements to the sentence that were applied by the judge
- 4) Consider the inmate's role in the original offense.
- 5) Calculate the sentence the inmate would receive if sentenced today
- 6) Review the Bureau of Prisons Record to evaluate the inmate's record while in prison
- 7) Prepare a 2-5 page Executive Summary containing your conclusion about whether the inmate is a good candidate for clemency

VI. PREPARING THE EXECUTIVE SUMMARY

The Executive Summary is a brief statement submitted to the Clemency Project summarizing your inmate's eligibility for clemency. A Sample Executive Summary is available in your materials on the Applicant Tracking System. The Executive Summary should be brief, but should include:

- 1) Narrative of the offense
- 2) Explanation of how the inmate qualified for the original sentence
- 3) Explanation of the inmate's role/affiliation with organizations or persons convicted with the inmate
- 4) Chart showing the original sentence as compared to the sentence they would receive today
- 5) Explanation of the changes in law or policy that would demand a different sentence today
- 6) Amount of time the inmate has served
- 7) Explanation of criminal history
- 8) Explanation of other convictions or arrests/allegations of violence
- 9) Explanation of any infractions or achievements while in prison

An example of the chart described in item (4) above is provided below:

SENTENCE CALCULATION		
COMPONENTS	CURRENT SENTENCE	LIKELY SENTENCE TODAY
Statutory Range	Life	0-20 years, or 5-40 years
Career Offender Guideline Range	360 months - Life	N/A
Ordinary Guideline Range	262-327 months	135-168 months
With Booker Variance	N/A	Estimated 88 months
Likely Would Be Imposed	Life	88 months

Email completed Executive Summaries and questions to executivesummary@clemencyproject2014.org. The Screening Committee will review the Executive Summary and make a decision whether the inmate is a good candidate for clemency and may contact you with follow-up questions or suggested revisions. The Steering Committee will review the Screening Committee's decision.

VII. DRAFTING THE PETITION

If your inmate is approved, you will receive notification from the Clemency Project that you have been approved to draft a petition on his/her behalf. You will send a form letter to the inmate notifying him/her of approval and your pro bono representation to submit a petition on his/her behalf. There is a sample packet on the Applicant Tracking System to show you what to include with the Petition, and a Sample Petition. The Petition should be submitted to petition@clemencyproject2014.org as soon as possible, but no later than 30 days after approval or November 15, 2015, whichever is earlier.

VIII. RESOURCES FOR ASSISTANCE

Several resources are available on the Applicant Tracking System to assist pro bono attorneys, including:

- 1) Webinars
- 2) Answers to frequently asked questions
- 3) Resource Attorneys
- 4) Timetracker tool to track pro bono hours

For more information on volunteering and additional resources to assist a Federal Inmate with commutation of a sentence, visit the following:

www.clemencyproject2014.org
www.nacdl.org
www.probono.net
www.lawyerscommittee.org

Attorneys preparing and submitting a clemency petition do so in their individual capacity, not in their capacity as a member of the Texas Young Lawyers Association or the State Bar of Texas.



BE AN UNCOMMON LEADER.®

www.tyla.org