

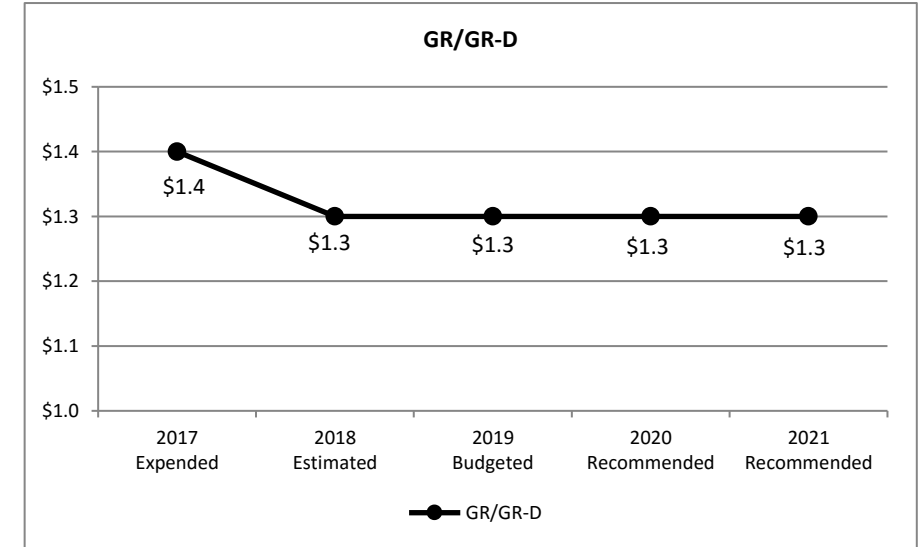
**Office of Capital and Forensic Writs
Summary of Recommendations - Senate**

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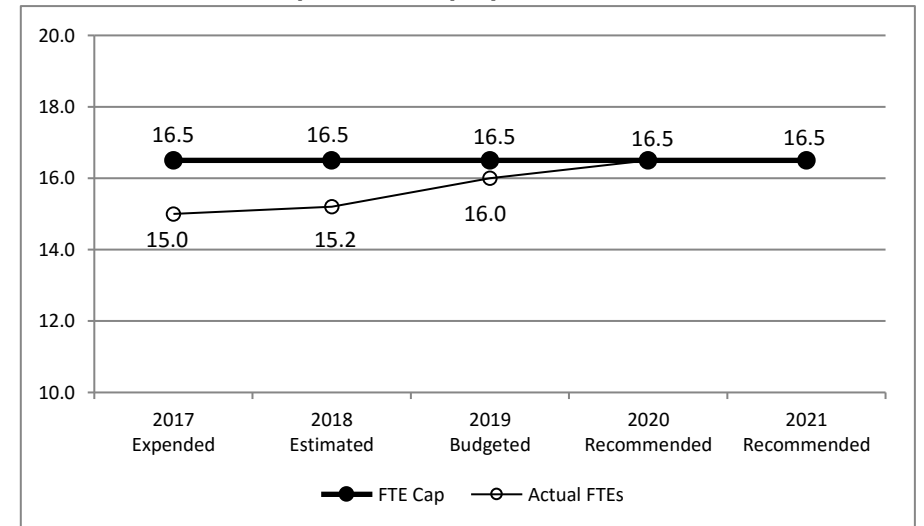
Method of Financing	2018-19 Base	2020-21 Recommended	Biennial Change (\$)	Biennial Change (%)
General Revenue Funds	\$0	\$0	\$0	0.0%
GR Dedicated Funds	\$2,675,171	\$2,675,171	\$0	0.0%
<i>Total GR-Related Funds</i>	<i>\$2,675,171</i>	<i>\$2,675,171</i>	<i>\$0</i>	<i>0.0%</i>
Federal Funds	\$0	\$0	\$0	0.0%
Other	\$0	\$0	\$0	0.0%
All Funds	\$2,675,171	\$2,675,171	\$0	0.0%

	FY 2019 Budgeted	FY 2021 Recommended	Biennial Change	Percent Change
FTEs	16.0	16.5	0.5	3.1%

Historical Funding Levels (Millions)



Historical Full-Time-Equivalent Employees (FTEs)



The bill pattern for this agency (2020-21 Recommended) represents an estimated 100% of the agency's estimated total available funds for the 2020-21 biennium.

**Office of Capital and Forensic Writs
Selected Fiscal and Policy Issues - Senate**

1. **Forensic Writs in Noncapital Cases.** Recommendations do not include the agency's request for \$582,875 in General Revenue-Dedicated Fair Defense Account No. 5073 funding with authority to add 2.0 FTEs (two attorneys) in fiscal year 2020 and 1.0 additional FTE in fiscal year 2021 (one attorney) to allow the agency to expand its jurisdiction as allowed by the enactment of Senate Bill 1743 as well as other costs and operating expenses that were not considered for the fiscal note for that legislation (See also, Items Not Included in Recommendations - Senate #3).

Enactment of Senate Bill 1743, Eighty-fourth Legislature, Regular Session, expanded the agency's responsibilities to include representing noncapital inmates in cases where questionable forensic science contributed to the conviction. The fiscal note for the legislation anticipated additional costs to hire two attorneys in fiscal year 2018 and an additional attorney in fiscal year 2019 with additional costs for professional services, travel, equipment, and payroll contributions (total cost of \$403,718 in GR-D Fund 5073 excluding benefits) to manage additional cases.

The Eighty-fifth, Legislature, Regular Session, did not provide additional funding for this purpose in 2018-19. As a result, the agency has not had the available resources during the current biennium to litigate the cases referred by the Texas Forensic Science Commission that involve constitutional challenges to forensic science. Instead the agency relies on pro bono and Innocence Project entities.

2. **One-Time Funding Repurposed.** Recommendations retain \$44,369 in GR-D Fund 5073 funding from a one-time expenditure in 2018 for the build out of Suite 490E in the Stephen F. Austin Building, which was not being utilized by the Texas Real Estate Commission, to expand office space for its staff. The agency elected to utilize staff salary savings resulting from turnover to fund the one-time expenditure and reports its intention to prioritize filling its vacant positions in the 2020-21 biennium. Recommendations re-purpose the funding in 2020-21 for compensating professional witnesses and to pay for all attorney positions to travel to attend hearings.

The agency reports that it has occupied the same office space in the Stephan F. Austin Building since the agency was established in 2010. Since then, the Legislature has appropriated additional FTEs to the agency due to increased workload but has not provided funding to expand its workspace to accommodate additional staff. The agency reports, through exit interviews with departing staff, that workplace condition is one factor contributing to staff attrition.

3. **Staffing Levels.** Recommendations continue FTEs at 2018-19 appropriated levels. The agency reports that the average number of co-counseled cases for each attorney position was 8.5 in 2018 and that the national standard used by capital post-conviction offices in Texas and nationwide is 4 to 6 cases per attorney position. The agency also reports an attrition rate of 27 percent among attorneys and 38 percent amount mitigation specialist/investigators since the agency was established (See also, Items Not Included in Recommendations - Senate #1).

**Office of Capital and Forensic Writs
Items Not Included in Recommendations - Senate**

		2020-21 Biennial Total			Information Technology Involved?	Contracting Involved?	Estimated Continued Cost 2022-23
		GR & GR-D	All Funds	FTEs			
Agency Exceptional Items Not Included (in agency priority order)							
1)	<p>General Revenue-Dedicated Fair Defense Account No. 5073 to fund:</p> <p>(A) increase salaries for eight attorney positions from \$70,000 to \$85,000 in FY2020 and \$85,000 to \$100,000 in FY2021, five mitigation specialists from \$55,000 to \$62,500 in FY2020 and \$62,500 to \$70,000 in FY2021 (\$472,500),</p> <p>(B) add two attorney positions at \$85,000 in FY2020 and \$100,000 in FY2021 and one mitigation specialist position at \$62,500 in FY2020 and \$70,000 in FY2021 (\$502,500); and</p> <p>(C) increase for travel and other operating expenses (\$79,425).</p> <p>The agency anticipates out year estimated costs to increase by 5 percent each year from 2021 requested levels.</p>	\$1,054,425	\$1,054,425	3.0	No	No	\$1,330,151
2)	<p>General Revenue-Dedicated Fair Defense Account No. 5073 to fund a new Deputy Director position (\$110,000 each year), a new Staff Services Officer position (\$60,000 each year), and to increase funding for travel, litigation expenses, and equipment (\$150,850 in FY2020 and \$128,850 in FY2021). The agency anticipates that salaries for the Deputy Director and Staff Services Officer positions will increase by 5 percent each year in 2022-23</p>	\$619,700	\$619,700	2.0	No	Yes	\$371,950

**Office of Capital and Forensic Writs
Items Not Included in Recommendations - Senate**

		2020-21 Biennial Total			Information Technology Involved?	Contracting Involved?	Estimated Continued Cost 2022-23
		GR & GR-D	All Funds	FTEs			
3)	General Revenue-Dedicated Fair Defense Account No. 5073 to fund the addition of two attorney positions at \$85,000 in fiscal year 2020 (\$170,000), one additional attorney position at \$85,000 in fiscal year 2021 for a total of three attorney positions over the biennium (\$255,000), to retain experts for testimony (\$100,000), and to increase travel and other operating expenses (\$57,875) to allow the agency to expand its jurisdiction to represent noncapital inmates in cases where questionable forensic science contributed to a conviction (See also, Selected Fiscal and Policy Issues - Senate #1). The agency anticipates that salaries for the new positions and other operating expenses will increase 5 percent each year in 2022-23.	\$582,875	\$582,875	3.0	No	Yes	\$696,226
TOTAL Items Not Included in Recommendations		\$2,257,000	\$2,257,000	8.0			\$2,398,327

**Office of Capital and Forensic Writs
Appendices - Senate**

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* Appendix is not included - no significant information to report

** Information is included in the presentation section of the packet

**Office of Capital and Forensic Writs
FTE Highlights - Senate**

Full-Time-Equivalent Positions	Expended 2017	Estimated 2018	Budgeted 2019	Recommended 2020	Recommended 2021
Cap	16.5	16.5	16.5	16.5	16.5
Actual/Budgeted	15.0	15.2	16.0	NA	NA

Schedule of Exempt Positions (Cap)					
Executive Director	\$137,274	\$137,274	\$137,274	\$137,274	\$137,274

Notes:

a) The State Auditor's Office, Executive Compensation at State Agencies (Report 18-705, August 2018), indicates a market average of \$156,326 for the Executive Director position at OCFW. The report also recommends changing the salary classification group from 3 to 4. The agency is not requesting an increase in authority or funds.

**Office of Capital and Forensic Writs
Performance Measure Highlights - Senate**

	Expended 2017	Estimated 2018	Budgeted 2019	Recommended 2020	Recommended 2021
<ul style="list-style-type: none"> • <i>Number of Writ Applications for Which Hearings are Granted by a Trial Court</i> <p><i>Measure Explanation: The number of writ applications filed that persuade the convicting court to receive evidence to resolve factual issues by the application.</i></p>	24	20	18	18	18
<ul style="list-style-type: none"> • <i>Number of New Cases Accepted</i> <p><i>Measure Explanation: The number of clients represented, pursuant to Code of Criminal Procedure Articles 11.071, 11.073, 46.05, 64, and related proceedings, by the OCFW over</i></p>	3	3	3	3	3
<ul style="list-style-type: none"> • <i>Number of Cases Pending</i> <p><i>Measure Explanation: The number of cases pending by the OCFW at the end of a fiscal year.</i></p>	46	45	38	35	35

Office of Capital and Forensic Writs
Summary of Ten Percent Biennial Base Reduction Options Recommendations - Senate

Priority	Item	Description/Impact	Biennial Reduction Amounts			Potential Revenue Loss	Reduction as % of Program GR/GR-D Total	Program GR/GR-D Total	Included in Introduced Bill?
			GR & GR-D	All Funds	FTEs				
1)	Reduction in Workforce	This approach would result in the loss of one half of an attorney position (0.5 FTE).	\$66,878	\$66,878	0.5	\$0	2.5%	\$2,675,172	No
2)	Reduction in Workforce	This approach would result in the loss of an additional one half of an attorney position (0.5 FTE).	\$66,879	\$66,879	0.5	\$0	2.5%	\$2,675,172	No
3)	Reduction in Travel	This approach would reduce travel funding and limit necessary travel on cases more than 150 miles from Austin.	\$66,880	\$66,880	0.0	\$0	2.5%	\$2,675,172	No
4)	Reduction in Travel	This approach would reduce travel funding and limit necessary travel on cases more than 150 miles from Austin.	\$66,880	\$66,880	0.0	\$0	2.5%	\$2,675,172	No
TOTAL, 10% Reduction Options			\$267,517	\$267,517	1.0	\$0			