ARIZONA BOARD OF FINGERPRINTING

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Draft Minutes for Public Meeting

Held August 24, 2007, at 9:00 a.m.
3839 North 3rd Street, Suite 101, Phoenix, Arizona

Board Members
Mike LeHew, Department of Economic Security, Chair
Kim Pipersburgh, Department of Health Services, Vice Chair
Rand Rosenbaum, Administrative Office of the Courts
Charles Easaw, Department of Education
Arthur W. Baker, Department of Juvenile Corrections

Executive Director
Dennis Seavers

CALL TO ORDER AND ROLL CALL

Ms. Pipersburgh called the meeting to order at 9:03 a.m. The following Board members were present: Kim Pipersburgh, Rand Rosenbaum, Charles Easaw, and Arthur W. Baker. The following Board member was absent: Mike LeHew.

Also in attendance were Dennis Seavers, Executive Director, and members of the public.

CALL TO THE PUBLIC

Ms. Pipersburgh made a call to the public. No members of the public wished to speak.

APPROVAL OF MINUTES

Mr. Easaw made a motion to approve the minutes from the meetings on April 20, 2007; May 31, 2007 (including executive session); June 5, 2007 (including executive session); and June 15, 2007 (including executive session). Mr. Baker seconded the motion, which passed, 4–0.

BAKER CASE

Mr. Seavers reported on the impact of the case of *Baker* v. *Board of Fingerprinting*, LC2006-000368-001. The primary impact of the case was that the hearing officer rather than the Board makes the final decision on cases where the Board referred the applicant to an administrative hearing and assigned a hearing officer to conduct the hearing. In contrast, previously, the hearing officer would only offer a recommendation to the Board, which would adopt, reject, or modify the hearing officer's proposed findings of fact, conclusions of law, and decision. Mr. Seavers said that the court based its decision on a couple of statutes, including A.R.S. § 41–619.55(A), which says, "The board or its hearing officer shall determine good cause exceptions." Mr. Seavers offered historical perspective on how this statute developed. He said that the agencies involved in the fingerprint-clearance-card system that worked on the 2003 legislative reforms for the Board of Fingerprinting wanted a hearing officer to conduct all hearings and expedited reviews. The agencies wanted this change because of the two-year backlog that the Board was experiencing at the time. The Board members would have to be absent from their work for their own agencies for a considerable amount of time in order to keep up with the caseload and conduct a sufficient number of hearings. Instead, the agencies wanted a hearing officer to conduct the hearings and free up the Board members' time. Mr. Seavers emphasized that the agencies wanted the hearing officer to make the final decision. He noted that he had requested that the legislation in 2003 say "the board or its hearing officer shall determine good cause exceptions"—the proposed phrasing was "the hearing officer shall determine good cause exceptions"—because he was concerned that the hearing-officer costs might be more than the Board could sustain and the Board should have discretion to conduct some cases on its own to keep costs in check. Mr. Seavers said that the Board's initial practice after the 2003 reforms was to have the hearing officer make the final decision. Administrative law judges from the Office of Administrative Hearings ("OAH") would make the decisions, without offering a recommendation to the Board. In 2004, the Board began departing from this practice in part because its assistant attorney general had advised the Board in 2003 that it could not delegate its responsibility for making the final decision. Since 2004, the Board had received recommendations from the hearing officer.

Mr. Seavers also explained that the Board would no longer conduct hearings to consider a request for rehearing or review when the hearing officer conducted hearing. Mr. Seavers explained that, according to the assistant attorney general, the decision maker in the administrative hearing must be the person or entity to consider the request for rehearing or review. Mr. Seavers noted that the Board could reserve hearings for itself, although the Board would then need to develop findings of fact, conclusions of law, and orders. The hearing officer would make a final decision only when the Board assigned a hearing officer to the case. Mr. Seavers said that the current procedure is to assign a hearing officer for any case referred to a

hearing. He said that the Board could change this procedure, but he recommended that the Board conduct its own hearings on an exception basis and identify those cases that it wanted to conduct the hearing for.

Mr. Seavers acknowledged that the Board members had individually expressed to him concerns about delegating the final decision-making authority to a hearing officer. He noted that the original intent in the 2003 legislation was to have the hearing officer make the final decision. He added that from an operational perspective, having the hearing officer make the final decision was more efficient and quicker because it eliminated the procedures and time frame that would take place between the filing of a recommendation and the Board's final decision. He also explained that prior to this decision, the caseload had become difficult for the Board to keep up with; having the hearing officer make the final decision alleviated this caseload.

Mr. Seavers explained that the Board would need to pursue legislation to regain authority to make the final decision when it assigns cases to a hearing officer, but he restated that the Board would not need legislation to conduct the hearings itself. The new process established by any legislation would be up to the Board but could include a return to the previous procedures (2004–2007) or perhaps a hybrid process of the current and previous procedures.

Mr. Rosenbaum said that he had concerns about the Board delegating the final decision-making authority to a hearing officer. He said that having a group of individuals make the decision is more beneficial because discussion would bring up issues that an individual might otherwise not think of. Mr. Baker expressed concern about consistency among hearing-officer decisions. He believed that when the Board makes the decision, there is likely to be consistency in the types of decisions that might not exist when a single individual decides the case. Ms. Pipersburgh agreed with Messrs. Rosenbaum and Baker's comments and said that her agency preferred that the Board make the final decision. Mr. Baker noted that seeking legislative changes to the Board's statutes could be risky. He said that any time an agency runs legislation, there's a risk that the Legislature may make unwanted changes. Mr. Easaw said that the Board is ultimately responsible for what comes to it and what is issued by the agency, including decisions by the hearing officer. He believed that legislative change may be necessary to ensure that the Board has adequate control over the decisions coming from the agency. Mr. Seavers pointed out that the Board could adopt rules to establish parameters for the hearing officers' decisions. But he said that adopting rules might constrain the hearing officer or the Board in a way that may partly undermine the purpose of having a good-cause exception process.

Mr. Baker made a motion to table further discussion of the issue to another meeting, and Mr. Rosenbaum seconded. The motion passed, 4–0.

DISCUSSION OF IMPACT OF HOUSE BILL 2790

Mr. Seavers explained that the education omnibus reconciliation bill, House Bill 2790, included a provision that required the Department of Public Safety ("DPS") to establish identity-verified fingerprinting. This form of fingerprinting would apply to school-district personnel. The statute that created the new form of fingerprinting also required non-certified school-district personnel

(often called classified personnel) to obtain a fingerprint clearance card. However, the bill did not change the requirement under Title 15 that classified personnel submit to the current system of fingerprinting, in which the prospective employee submits a set of fingerprints and the school districts receive the criminal-history records. According to the amendment's sponsor, Senator Chuck Gray, the fingerprint-clearance-card requirement was unintentional, and he plans to repeal it next year. The Department of Education has requested advice from its assistant attorney general on whether classified personnel are required to have a fingerprint clearance card, given the conflict in statutes. The Department of Education is waiting on that advice and will inform the Board and DPS when it receives the advice. If classified personnel must get a fingerprint clearance card, the requirement would be effective beginning in January 2008. Mr. Seavers said that the Board of Education and Board for Charter Schools estimated that the number of new applications for a fingerprint clearance card would increase by about 75,000. Mr. Seavers said this number would translate into about a 100% increase in the Board's current caseload. In order to comply with time frames, the Board would need to hire additional staff, probably for one year until the new requirement were repealed, and then the new staff positions would need to be eliminated.

Mr. Seavers explained that there is no action for the Board to take, and the question of whether the statutes require classified personnel to get a fingerprint clearance card is for the Department of Education, not the Board of Fingerprinting, to decide. However, he wanted to bring the issue to the Board's attention.

REPORTS

Mr. Seavers referred the Board members to his report on fiscal year ("FY") 2007 expenditures and revenues. (See Attachment 1.)

Mr. Seavers referred the Board members to his report on the FY 2007 strategic-plan performance. (See Attachment 2.) Mr. Seavers also provided statistical information on caseload and time frames that the Board had requested. (See Attachment 3.) He noted that decisions on cases that were referred to administrative hearing are being decided within a few weeks after the hearing.

Mr. Seavers explained that the Board would be having a sunset hearing before a legislative committee of reference, probably in September or October. He said he was submitting requested information to the committee of reference. He offered Board members an overview of the sunset-hearing process.

ADOPTION OF FISCAL YEAR 2008 BUDGET

Mr. Seavers referred the Board members to his proposed budget for FY 2008 and the accompanying memorandum explaining the budget. (See Attachment 4.) Ms. Pipersburgh asked about the possible fee increase. Mr. Seavers explained that the fee increase would not be necessary for FY 2008, but the Board would need to raise the fee in the next fiscal year.

Mr. Easaw made a motion to adopt the proposed budget for FY 2008, and Mr. Baker seconded. The motion passed, 4–0.

Mr. Seavers told Board members that any stakeholders who expressed concern about a fee increase could contact him.

DISCUSSION OF PROPOSED RULES

Mr. Seavers referred Board member to the draft proposal for rule changes. (See Attachment 5.) He explained that the proposal was just in draft form and might change. He said that the purpose of the rule proposal was to implement the time-frames requirements of Laws 2007, Chapter 205, Section 3. He said the draft proposal was being offered for the Board members to review and consider, but the Board would not adopt rules until its next meeting on September 7. Mr. Seavers explained that the Board is exempt from the rulemaking requirements of the Administrative Procedures Act ("APA"), so it could file a notice of exempt rulemaking, and the rules would be immediately effective. The exemption also meant that the Board would not need to hold hearings for public comments or receive approval from the Governor's Regulatory Review Council or the Attorney General's Office. Mr. Seavers said that the Board has made it a practice to offer opportunity for public comments. He suggested that the Board adopt rules at the September 7 meeting in order to have the rules in place by the time the time-frame requirements become effective. After adopting the rules, the Board could give the public additional opportunities to offer comments on the rules and make any necessary changes based on those comments.

Mr. Seavers explained that it was unclear whether Article 7.1 of the APA applies to the Board. He said that the applicability of this article hinges on whether a good cause exception is a license as defined in the APA. Mr. Seavers offered an overview of how licensing time frames work in agencies clearly subject to Article 7.1. He explained that he and the Board's attorney were working on the best way of crafting the rules, ideally as a hybrid between the requirements of Article 7.1 and the specific requirements of the Board's statutes. He also explained that the rules would need to specify that the 20-day time frame to conduct an expedited review should apply only after the Board receives a completed application. Although the statute stated that the 20-day time frame applies once the Board receives an application, the omission of the word "completed" was unintentional by the research analyst. The Board's attorney advised that the term "application" could be defined in rule to mean "completed application."

ADJOURNMENT

Mr. Easaw made a motion to adjourn the meeting, and Mr. Baker seconded. The motion passed, 4–0. Ms. Pipersburgh adjourned the meeting at 10:01 a.m.

Minutes approved on _____

_____
Dennis Seavers, Executive Director

Arizona Board of Fingerprinting

Budget v. Actual

Fiscal Year 2007

	Apr - Jun 07	Budget	$ Over Budget	% of Budget
Income				
4900 - Transfers In				
4901 - Operating Transfers In	71,893.00	90,000.00	-18,107.00	79.88%
Total 4900 - Transfers In	71,893.00	90,000.00	-18,107.00	79.88%
FY06 Carryover	0.00			
Total Income	71,893.00	90,000.00	-18,107.00	79.88%
Expense				
6000 - Personal Services				
6010 - Basic Compensation				
6011 - Regular Base Salary	42,319.76	45,384.91	-3,065.15	93.25%
Total 6010 - Basic Compensation	42,319.76	45,384.91	-3,065.15	93.25%
6030 - Exception Compensation				
6028 - 2.5% Performance Pay	1,078.00	1,134.62	-56.62	95.01%
6031 - Overtime	0.00			
Total 6030 - Exception Compensation	1,078.00	1,134.62	-56.62	95.01%
6040 - Leave Compensation				
6041 - Annual Leave	1,090.44			
6042 - Sick Leave	720.41			
6047 - Annual Leave Payout	0.00			
6048 - Holiday Leave Taken	752.57			
6049 - Other Compensated Leave	131.40			
Total 6040 - Leave Compensation	2,694.82			
Total 6000 - Personal Services	46,092.58	46,519.53	-426.95	99.08%
6100 - ERE				
6110 - Insurance				
6111 - FICA	3,484.49	3,403.87	80.62	102.37%
6113 - Medical Insurance	3,414.42	10,476.00	-7,061.58	32.59%
6114 - Basic Life	42.30	42.30	0.00	100.0%
6116 - Long-term Disability	230.52	226.92	3.60	101.59%
6117 - Unemployment Insurance	68.31	68.08	0.23	100.34%
6118 - Dental Insurance	284.94	471.42	-186.48	60.44%
6119 - Worker's Compensation	230.52	226.92	3.60	101.59%
Total 6110 - Insurance	7,755.50	14,915.51	-7,160.01	52.0%
6150 - Retirement Plan Payments				
6155 - ASRS	3,963.97	3,903.10	60.87	101.56%
Total 6150 - Retirement Plan Payments	3,963.97	3,903.10	60.87	101.56%

Arizona Board of Fingerprinting

Budget v. Actual

Fiscal Year 2007

	Apr - Jun 07	Budget	$ Over Budget	% of Budget
6180 - Other ERE				
6183 - Personal Services	479.29	453.85	25.44	105.61%
6185 - GITA Charge	69.14	68.08	1.06	101.56%
6186 - Atty. Gen. Pro Rate Chg.	292.67	288.19	4.48	101.56%
6189 - Sick Leave Accumulation	184.35	181.54	2.81	101.55%
Total 6180 - Other ERE	1,025.45	991.66	33.79	103.41%
Total 6100 - ERE	12,744.92	19,810.27	-7,065.35	64.34%
6200 - Prof. & Outside Services				
6210 - Financial Services				
6211 - Bond Issuance Cost	343.75	343.75	0.00	100.0%
Total 6210 - Financial Services	343.75	343.75	0.00	100.0%
6270 - Education & Training				
6271 - Education & Training	0.00			
Total 6270 - Education & Training	0.00			
6290 - Other Prof. & Out. Svcs.				
6299 - Other Prof. & Out. Svcs.	951.50			
Total 6290 - Other Prof. & Out. Svcs.	951.50			
Total 6200 - Prof. & Outside Services	1,295.25	343.75	951.50	376.8%
7000 - Other Operating				
7150 - IT Services				
7153 - Internal Svc. Data Proc.	2,298.63	1,600.00	698.63	143.66%
7172 - External Comm. Long Dist	3,885.51	1,250.00	2,635.51	310.84%
7179 - Other External Comm.	767.82	1,000.00	-232.18	76.78%
Total 7150 - IT Services	6,951.96	3,850.00	3,101.96	180.57%
7200 - Rental Expenditures				
7221 - Rental of Land & Bldgs.	7,194.66	12,500.00	-5,305.34	57.56%
7229 - Miscellaneous Rent	886.11			
Total 7200 - Rental Expenditures	8,080.77	12,500.00	-4,419.23	64.65%
7250 - Repair & Maintenance				
7266 - Repair/Maint-Other Equip	75.18	90.00	-14.82	83.53%
7269 - Repair & Maint (Other)	5,452.71			
Total 7250 - Repair & Maintenance	5,527.89	90.00	5,437.89	6,142.1%
7300 - Operating Supplies				
7321 - Office Supplies	3,232.56	1,500.00	1,732.56	215.5%

Arizona Board of Fingerprinting

Budget v. Actual

Fiscal Year 2007

	Apr - Jun 07	Budget	$ Over Budget	% of Budget
Total 7300 - Operating Supplies	3,232.56	1,500.00	1,732.56	215.5%
7450 - Conf, Edu, & Traning				
7455 - Conf, Edu, & Train Regis	0.00			
Total 7450 - Conf, Edu, & Traning	0.00			
7470 - Printing & Photography				
7471 - Internal Printing	168.78			
Total 7470 - Printing & Photography	168.78			
7480 - Postage & Delivery				
7481 - Postage & Delivery	4,304.09	2,500.00	1,804.09	172.16%
Total 7480 - Postage & Delivery	4,304.09	2,500.00	1,804.09	172.16%
7500 - Miscellaneous Operating				
7511 - Awards	0.00			
7541 - Books, Subscr., & Pubs.	1,525.00	300.00	1,225.00	508.33%
Total 7500 - Miscellaneous Operating	1,525.00	300.00	1,225.00	508.33%
Total 7000 - Other Operating	29,791.05	20,740.00	9,051.05	143.64%
8500 - Non-capital Equipment				
8520 - Furniture Non-cap				
8521 - Furniture Non-capital	10,226.47			
Total 8520 - Furniture Non-cap	10,226.47			
8550 - EDP Equip PC/LAN Non-cap				
8551 - EDP Equip. Non-cap Purch	9,573.69			
Total 8550 - EDP Equip PC/LAN Non-cap	9,573.69			
8570 - Other Equip. - Non-cap.				
8571 - Other Equip. - Non-cap.	0.00			
Total 8570 - Other Equip. - Non-cap.	0.00			
8580 - Non-capitalized Software				
8583 - PC/LAN Software Non-cap.	2,128.80	200.00	1,928.80	1,064.4%
Total 8580 - Non-capitalized Software	2,128.80	200.00	1,928.80	1,064.4%
Total 8500 - Non-capital Equipment	21,928.96	200.00	21,728.96	10,964.48%
9100 - Transfers out				
9101 - Operating Transfers Out	-6,344.81	6,250.00	-12,594.81	-101.52%
Total 9100 - Transfers out	-6,344.81	6,250.00	-12,594.81	-101.52%

Arizona Board of Fingerprinting

Budget v. Actual

Fiscal Year 2007

	Apr - Jun 07	Budget	$ Over Budget	% of Budget
Total Expense	105,507.95	93,863.55	11,644.40	112.41%
Net Income	**-33,614.95**	**-3,863.55**	**-29,751.40**	**870.05%**

Arizona Board of Fingerprinting

Budget v. Actual

Fiscal Year 2007

	TOTAL			
	Jul '06 - Jun 07	Budget	$ Over Budget	% of Budget
Income				
4900 - Transfers In				
4901 - Operating Transfers In	242,449.00	360,000.00	-117,551.00	67.35%
Total 4900 - Transfers In	242,449.00	360,000.00	-117,551.00	67.35%
FY06 Carryover	561,646.52	561,750.30	-103.78	99.98%
Total Income	804,095.52	921,750.30	-117,654.78	87.24%
Expense				
6000 - Personal Services				
6010 - Basic Compensation				
6011 - Regular Base Salary	154,420.98	179,321.77	-24,900.79	86.11%
Total 6010 - Basic Compensation	154,420.98	179,321.77	-24,900.79	86.11%
6030 - Exception Compensation				
6028 - 2.5% Performance Pay	4,163.31	4,483.04	-319.73	92.87%
6031 - Overtime	30.11			
Total 6030 - Exception Compensation	4,193.42	4,483.04	-289.62	93.54%
6040 - Leave Compensation				
6041 - Annual Leave	7,271.29			
6042 - Sick Leave	4,227.96			
6047 - Annual Leave Payout	754.68			
6048 - Holiday Leave Taken	6,936.04			
6049 - Other Compensated Leave	131.40			
Total 6040 - Leave Compensation	19,321.37			
Total 6000 - Personal Services	177,935.77	183,804.81	-5,869.04	96.81%
6100 - ERE				
6110 - Insurance				
6111 - FICA	13,443.11	13,449.14	-6.03	99.96%
6113 - Medical Insurance	13,033.98	37,413.00	-24,379.02	34.84%
6114 - Basic Life	163.56	166.38	-2.82	98.31%
6116 - Long-term Disability	886.01	896.60	-10.59	98.82%
6117 - Unemployment Insurance	266.57	268.98	-2.41	99.1%
6118 - Dental Insurance	1,126.21	1,730.43	-604.22	65.08%
6119 - Worker's Compensation	885.98	896.60	-10.62	98.82%
Total 6110 - Insurance	29,805.42	54,821.13	-25,015.71	54.37%
6150 - Retirement Plan Payments				
6155 - ASRS	15,130.65	15,421.67	-291.02	98.11%
Total 6150 - Retirement Plan Payments	15,130.65	15,421.67	-291.02	98.11%

Arizona Board of Fingerprinting

Budget v. Actual

Fiscal Year 2007

	TOTAL			
	Jul '06 - Jun 07	Budget	$ Over Budget	% of Budget
6180 - Other ERE				
6183 - Personal Services	1,857.61	1,793.22	64.39	103.59%
6185 - GITA Charge	259.65	268.98	-9.33	96.53%
6186 - Atty. Gen. Pro Rate Chg.	1,129.86	1,138.69	-8.83	99.23%
6189 - Sick Leave Accumulation	711.68	717.29	-5.61	99.22%
Total 6180 - Other ERE	3,958.80	3,918.18	40.62	101.04%
Total 6100 - ERE	48,894.87	74,160.98	-25,266.11	65.93%
6200 - Prof. & Outside Services				
6210 - Financial Services				
6211 - Bond Issuance Cost	1,375.00	1,375.00	0.00	100.0%
Total 6210 - Financial Services	1,375.00	1,375.00	0.00	100.0%
6270 - Education & Training				
6271 - Education & Training	32.00	32.00	0.00	100.0%
Total 6270 - Education & Training	32.00	32.00	0.00	100.0%
6290 - Other Prof. & Out. Svcs.				
6299 - Other Prof. & Out. Svcs.	3,182.50	15,000.00	-11,817.50	21.22%
Total 6290 - Other Prof. & Out. Svcs.	3,182.50	15,000.00	-11,817.50	21.22%
Total 6200 - Prof. & Outside Services	4,589.50	16,407.00	-11,817.50	27.97%
7000 - Other Operating				
7150 - IT Services				
7153 - Internal Svc. Data Proc.	5,991.03	6,400.00	-408.97	93.61%
7172 - External Comm. Long Dist	9,145.95	5,000.00	4,145.95	182.92%
7179 - Other External Comm.	2,605.81	4,000.00	-1,394.19	65.15%
Total 7150 - IT Services	17,742.79	15,400.00	2,342.79	115.21%
7200 - Rental Expenditures				
7221 - Rental of Land & Bldgs.	16,548.02	39,030.04	-22,482.02	42.4%
7229 - Miscellaneous Rent	1,030.11	200.00	830.11	515.06%
Total 7200 - Rental Expenditures	17,578.13	39,230.04	-21,651.91	44.81%
7250 - Repair & Maintenance				
7266 - Repair/Maint-Other Equip	263.59	360.00	-96.41	73.22%
7269 - Repair & Maint (Other)	5,452.71			
Total 7250 - Repair & Maintenance	5,716.30	360.00	5,356.30	1,587.86%
7300 - Operating Supplies				
7321 - Office Supplies	11,832.50	6,000.00	5,832.50	197.21%

Arizona Board of Fingerprinting

Budget v. Actual

Fiscal Year 2007

	TOTAL			
	Jul '06 - Jun 07	Budget	$ Over Budget	% of Budget
Total 7300 - Operating Supplies	11,832.50	6,000.00	5,832.50	197.21%
7450 - Conf, Edu, & Traning				
7455 - Conf, Edu, & Train Regis	890.25			
Total 7450 - Conf, Edu, & Traning	890.25			
7470 - Printing & Photography				
7471 - Internal Printing	168.78			
Total 7470 - Printing & Photography	168.78			
7480 - Postage & Delivery				
7481 - Postage & Delivery	10,950.94	10,000.00	950.94	109.51%
Total 7480 - Postage & Delivery	10,950.94	10,000.00	950.94	109.51%
7500 - Miscellaneous Operating				
7511 - Awards	201.61			
7541 - Books, Subscr., & Pubs.	3,403.10	1,200.00	2,203.10	283.59%
Total 7500 - Miscellaneous Operating	3,604.71	1,200.00	2,404.71	300.39%
Total 7000 - Other Operating	68,484.40	72,190.04	-3,705.64	94.87%
8500 - Non-capital Equipment				
8520 - Furniture Non-cap				
8521 - Furniture Non-capital	10,226.47			
Total 8520 - Furniture Non-cap	10,226.47			
8550 - EDP Equip PC/LAN Non-cap				
8551 - EDP Equip. Non-cap Purch	14,439.93	2,500.00	11,939.93	577.6%
Total 8550 - EDP Equip PC/LAN Non-cap	14,439.93	2,500.00	11,939.93	577.6%
8570 - Other Equip. - Non-cap.				
8571 - Other Equip. - Non-cap.	805.25			
Total 8570 - Other Equip. - Non-cap.	805.25			
8580 - Non-capitalized Software				
8583 - PC/LAN Software Non-cap.	4,579.50	1,600.00	2,979.50	286.22%
Total 8580 - Non-capitalized Software	4,579.50	1,600.00	2,979.50	286.22%
Total 8500 - Non-capital Equipment	30,051.15	4,100.00	25,951.15	732.96%
9100 - Transfers out				
9101 - Operating Transfers Out	3,908.19	29,004.00	-25,095.81	13.48%
Total 9100 - Transfers out	3,908.19	29,004.00	-25,095.81	13.48%

Arizona Board of Fingerprinting

Budget v. Actual

Fiscal Year 2007

	TOTAL			
	Jul '06 - Jun 07	Budget	$ Over Budget	% of Budget
Total Expense	333,863.88	379,666.83	-45,802.95	87.94%
Net Income	**470,231.64**	**542,083.47**	**-71,851.83**	**86.75%**

Arizona Board of Fingerprinting

Strategic Plan

Goal 1. To make fair and consistent determinations on good-cause-exception applications.					
	FY 2007 Estimate	FY 2007 Actual	FY 2008 Estimate	FY 2009 Estimate	FY 2010 Estimate
Percent of investigator recommendations for expedited reviews accepted	98.00%	93.81%	93.00%	93.00%	93.00%
Percent of applications approved	65.29%	92.73%	80.00%	80.00%	80.00%
Percent of approvals by expedited review	70.00%	81.65%	75.00%	75.00%	75.00%
Percent of approvals by administrative hearing	30.00%	18.35%	25.00%	25.00%	25.00%

Goal 2. To provide applicants with timely decisions on their good-cause-exception applications.					
	FY 2007 Estimate	FY 2007 Actual	FY 2008 Estimate	FY 2009 Estimate	FY 2010 Estimate
Number of applications received	2,046	1,967	2,365	2,734	3,160
Number of applications disposed	2,046	1,627	2,365	2,734	3,160
Ratio of cases opened to cases closed	1:1	1:.83	1:1	1:1	1:1
Average number of days to dispose	70	115.84	63	55	50
Average number of days spent processing application	47	82.38	42	37	32
Average number of days spent processing application from receipt to expedited review	35	24.84	20	20	20
Percent of applications that undergo an expedited review within 20 days (processing time)	80.00%	39.66%	100.00%	100.00%	100.00%
Average days from expedited review to hearing	55	61.7	40	35	35
Percent of applications heard within 60 days of expedited review	60.00%	47.11%	100.00%	100.00%	100.00%

Percent of applications decided within 60 days of hearing	75.00%	17.33%	90.00%	90.00%	90.00%

Goal 3. To develop fair and comprehensible rules, policies, and procedures, for determining good cause exceptions.					
	FY 2007 Estimate	**FY 2007 Actual**	**FY 2008 Estimate**	**FY 2009 Estimate**	**FY 2010 Estimate**
Number of requests received	3,207	3,236	3,405	3,616	3,840
Ratio of requests for good cause exceptions to applications submitted	1:.65	1:.61	1:.70	1:.70	1:.70
Percent of applications complete on initial submission	45.00%	37.30%	45.00%	50.00%	55.00%

Arizona Board of Fingerprinting

FY 2007 Strategic Plan

Quarters 3 and 4

Goal 2. To provide applicants with timely decisions on their good-cause-exception applications.		
	FY 2007 Estimate	**FY 2007 Actual**
Average number of days to dispose	70	80.80
Average number of days spent processing application	47	45.24
Average number of days spent processing application from receipt to expedited review	35	30.81
Percent of applications that undergo an expedited review within 20 days (processing time)	80.00%	14.31%
Average days from expedited review to hearing	55	49.05
Percent of applications heard within 60 days of expedited review	60.00%	90.70%
Number of cases open longer than 30 days since hearing	N/A	67
Number of cases open longer than 60 days since hearing	N/A	40

Arizona Board of Fingerprinting

Fiscal Year 2008 Budget

	Jul '08 - Jun 09
Income	
4900 - Transfers In	
4901 - Operating Transfers In	302,589.00
Total 4900 - Transfers In	302,589.00
FY07 Carryover	470,231.64
Total Income	772,820.64
Expense	
6000 - Personal Services	279,611.58
6100 - ERE	106,505.89
6200 - Prof. & Outside Services	
6210 - Financial Services	
6211 - Bond Issuance Cost	1,653.00
Total 6210 - Financial Services	1,653.00
6270 - Education & Training	
6271 - Education & Training	32.00
Total 6270 - Education & Training	32.00
6290 - Other Prof. & Out. Svcs.	
6299 - Other Prof. & Out. Svcs.	15,450.00
Total 6290 - Other Prof. & Out. Svcs.	15,450.00
Total 6200 - Prof. & Outside Services	17,135.00
7000 - Other Operating	
7150 - IT Services	
7153 - Internal Svc. Data Proc.	8,400.00
7172 - External Comm. Long Dist	10,800.00
7179 - Other External Comm.	3,100.00
Total 7150 - IT Services	22,300.00
7200 - Rental Expenditures	
7221 - Rental of Land & Bldgs.	60,004.66
7229 - Miscellaneous Rent	344.00
Total 7200 - Rental Expenditures	60,348.66
7250 - Repair & Maintenance	
7266 - Repair/Maint-Other Equip	1,240.00
7269 - Repair & Maint (Other)	6,000.00
Total 7250 - Repair & Maintenance	7,240.00
7300 - Operating Supplies	

Arizona Board of Fingerprinting
Fiscal Year 2008 Budget

	Jul '08 - Jun 09
7321 - Office Supplies	15,000.00
Total 7300 - Operating Supplies	15,000.00
7450 - Conf, Edu, & Training	
7455 - Conf, Edu, & Train Regis	1,400.00
Total 7450 - Conf, Edu, & Training	1,400.00
7470 - Printing & Photography	
7471- Internal Printing	400.00
Total 7470 - Printing & Photography	400.00
7480 - Postage & Delivery	
7481 - Postage & Delivery	15,000.00
Total 7480 - Postage & Delivery	15,000.00
7500 - Miscellaneous Operating	
7511 - Awards	500.00
7541 - Books, Subscr., & Pubs.	11,400.00
Total 7500 - Miscellaneous Operating	11,900.00
Total 7000 - Other Operating	133,588.66
8500 - Non-capital Equipment	
8520 - Furniture Non-cap	
8521 - Furniture Non-capital	15,000.00
Total 8520 - Furniture Non-cap	15,000.00
8550 - EDP Equip PC/LAN Non-cap	
8551 - EDP Equip. Non-cap Purch	11,500.00
Total 8550 - EDP Equip PC/LAN Non-cap	11,500.00
8580 - Non-capitalized Software	
8583 - PC/LAN Software Non-cap.	2,400.00
Total 8580 - Non-capitalized Software	2,400.00
Total 8500 - Non-capital Equipment	28,900.00
9100 - Transfers Out	
9101 - Operating Transfers Out	1,000.00
Total 9100 - Transfers Out	1,000.00
Total Expense	566,741.13
Net Income	**206,079.51**

Arizona Board of Fingerprinting

Memo

TO: Board members and alternates

FROM: Dennis Seavers

C:

Date: August 13, 2007

SUBJECT: FY 2008 Budget

At an August 24, 2007 open meeting, the Board will consider the enclosed proposal for the Board's fiscal year ("FY") 2008 budget. This memo summarizes the changes between the FY 2007 and 2008 budgets and highlights notable areas of spending.

Revenues

The proposed budget assumes that the Board will receive $302,589 in fee-based revenues. This projection is based on FY 2007 revenues, which were lower than anticipated. (The Board's FY 2007 budget assumed that DPS would receive 120,000 fingerprint-clearance-card applications. However, DPS received just over 100,000.)

In addition to estimated revenues of $302,589, the Board will carry forward a fund balance of $470,231.64 from FY 2007.[1]

Expenditures

In FY 2007, the Board spent $333,863.88. Under the proposed budget, in FY 2008, the Board would spend $566,741.13.

Much of the increased spending is due the addition of two new staff positions and related expenses. The Board approved the increased spending at its April 20, 2007, meeting. For the purpose of developing a conservative budget, the proposed budget assumes that Board employees will take advantage of the highest level of benefits available, even though actual employee-related expenditures will likely be lower.

In addition to the increased expenses due to new staff positions, the FY 2008 budget reflects $15,000 in information-technology expenses. These expenses, which include database improvements, were approved for the FY 2007 budget. However, due to the imposition of time frames on the Board and a court case that affected the Board's business process, the database upgrades were delayed until the Board could adopt a business process that reflected the impact of the time frames and court case.

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[1] Under A.R.S. § 41–619.56(B), monies in the Board of Fingerprinting Fund are non-lapsing, so the Board carries forward its fund balance from fiscal year to fiscal year.

Finally, the increase includes $6,500 to purchase a new photocopier/scanner. The Board's current copier is breaking down more frequently. In addition, the scanning feature of the new copier would significantly save the administrative assistants time spent preparing scanned files for hearings.

Revenues versus expenditures

Under the proposed budget, spending would outstrip revenues by $264,152.13. The Board's fund balance from FY 2007 would cover the deficit. The Board would end the fiscal year with a fund balance of $206,079.51.

As discussed in its April 20, 2007, meeting, this deficit would eventually require the Board to change its fee, perhaps by the end of FY 2008. The Board may need to increase its portion of the fee by $2.00, if revenues remain at the same level as FY 2007.

A.A.C. R13-11-101. Applicability

This Article applies to activities and persons identified in A.R.S. Title 41, Chapter 3, Article 12, except that R13-11-111 applies to all persons applying to the Department of Public Safety for a fingerprint clearance card ~~pursuant to~~ UNDER A.R.S. § 41—1758.03.

A.A.C. R13-11-102. Definitions

In this Article, the following definitions apply, unless the context otherwise requires:

1. "Appellant" means a person whose application for a fingerprint clearance card is denied or whose fingerprint clearance card is suspended by the Department; who is eligible to request a good cause exception from the Board ~~pursuant to~~ UNDER A.R.S. § 41–1758.03; and who submits a request ~~pursuant to~~ ACCORDING TO R13-11-103(A).
2. "'Applicant" means a person who applies for a fingerprint clearance card ~~pursuant to~~ UNDER A.R.S. § 41–1758.03.
3. "APPLICATION" MEANS ALL OF THE DOCUMENTS REQUIRED BY A.A.C. R13-11-104(A).

~~3~~ 4. "Board" means the Board of Fingerprinting.
~~4~~ 5. "Department" means the Department of Public Safety.
~~5~~ 6. "Department's notice" means the notice of denial or suspension of a fingerprint clearance card that the Department sends to an applicant ~~pursuant to~~ UNDER A.R.S. § 41–1758.04.
~~6~~ 7. "Expedited review" means an examination, in accordance with Board rules, of the documents an appellant submits by the Board or its hearing officer without the appellant being present.
~~7~~ 8. "Good cause exception" means the issuance of a fingerprint clearance card to an appellant ~~pursuant to~~ UNDER A.R.S. § 41—619.55.
~~8~~ 9. "Hearing officer" means an administrative law judge or other person ~~hired~~ APPOINTED by the Board~~, or if an agreement exists between the Board and the Office of Administrative Hearings, appointed by the director of the Office of Administrative Hearings,~~ to determine good cause exceptions.
~~9. "Office" means the Office of Administrative Hearings.~~
10. "Request" means a person's written indication to the Board that he or she wishes to appeal for a good cause exception ~~pursuant to~~ UNDER A.R.S. § 41–619.55, along with a copy of all pages of the Department's notice. A person's dated signature on the Department's notice shall suffice as a written indication.

A.A.C. R13-11-103. Request for good cause exception

A. A person who meets the requirements of A.R.S. § 41–1758.03 and wishes to apply for a good cause exception shall submit a request to the Board within 30 calendar days of the date on the Department's notice.
B. The Board shall send an application package within five business days to an applicant if one of the following applies:
    1. The applicant meets the requirement of R13-11-103(A).

2. With good cause, the applicant submits a request in excess of 30 calendar days of the date on the Department's notice. An applicant demonstrates good cause by showing that the request could not have been submitted on time, using reasonable diligence. An applicant's failure to inform the Department of a change in address shall not constitute grounds for good cause. The Board's executive director shall determine whether good cause exists.
3. The applicant submits an incomplete request within 30 days of the Department's notice and subsequently completes the request. The Board shall determine a request incomplete if the request lacks one of the following:
   a. A written indication that the applicant wishes to appeal for a good cause exception ~~pursuant to~~ UNDER A.R.S. § 41–619.55, or
   b. The Department's notice or any of its pages.

C. Within five business days, the Board shall send a notice to an applicant who submits an incomplete request. The notice shall indicate that the request is incomplete and what elements of the request are missing.

D. The Board shall reject an applicant's request for a good cause exception and send a written notice of rejection within five business days if one of the following applies:
   1. The applicant submits a request in excess of 30 days of the date on the Department's notice, except as provided for in R13-11-103(B)(2).
   2. R13-11-103(B) notwithstanding, the applicant is not eligible to request a good cause exception under A.R.S. § 41–1758.03.

A.A.C. R13-11-104. Good Cause Exception Application

A. An appellant shall submit the following materials to the Board to establish good cause for an exception:
   1. The good cause exception application form prescribed by the Board. This form shall be notarized.
   2. Two letters of reference on forms prescribed by the Board that meet the following requirements:
      a. Both letters of reference shall be from individuals who have known the appellant for at least one year; and
      b. At least one letter of reference shall be from the appellant's current or former employer or from an individual who has known the appellant for at least three years.
   3. If the Department's notice indicates that the Department could not determine the disposition of a charge, documents from the appropriate court showing the disposition of the charge or showing that records pertaining to the appellant either do not exist or have been purged.
   4. For any ~~arrests~~ CHARGES that occurred five years or less prior to the date on the Department's notice, regardless of whether the ~~arrests~~ CHARGES were listed on the Department's notice, the police report for each ~~arrest~~ CHARGE and documents from the appropriate court showing the disposition of the charge.
   5. For every criminal conviction, regardless of whether the offenses were listed on the Department's notice, documents from the appropriate court showing that the

appellant has met all judicially imposed obligations or sentencing conditions or that records pertaining to the appellant either do not exist or have been purged. If the appellant has not met all judicially imposed obligations or sentencing conditions, the appellant shall provide a written statement indicating or documents from the appropriate court showing the status of the appellant's efforts toward meeting the obligations.

6. A statement written by the appellant that explains each ~~arrest~~ CHARGE, regardless of whether the ~~arrests~~ CHARGES were listed on the Department's notice.

B. The Board OR ITS HEARING OFFICER ~~shall~~ MAY accept any other documents an appellant submits to demonstrate good cause for an exception.

~~C. A good cause exception application shall be complete if it meets all the requirements of R13-11-104(A). A good cause exception application shall be incomplete if it does not meet all the requirements of R13-11-104(A).~~

A.A.C. R13-11-105. Expedited Review

A. Within ~~30~~ 20 ~~business~~ days of receiving ~~a~~ AN ~~complete~~ application ~~package~~, the Board or its hearing officer shall conduct an expedited review. When determining whether the appellant should receive a good cause exception under an expedited review, the Board or its hearing officer shall consider the following:

1. The criteria listed in R13-11-108(A); and
2. Whether the documentation submitted in support of a good cause exception is sufficient to allow the Board or its hearing officer to grant a good cause exception, or whether the Board or its hearing officer require further documentation or oral testimony.

B. If the Board or its hearing officer ~~determine~~ DETERMINES that the appellant is eligible for a good cause exception under an expedited review, the Board or its hearing officer shall grant the appellant a good cause exception.

C. If the Board or its hearing officer determines that an appellant is not eligible for a good cause exception under an expedited review, the Board or its hearing officer shall direct the Board's executive director to schedule~~, or request that the Office schedule,~~ a hearing ~~and inform the appellant of the determination in writing~~. The Board's executive director shall give the appellant reasonable notice of the hearing in accordance ~~with the provisions of~~ A.R.S. § 41–1061. THE HEARING SHALL TAKE PLACE WITHIN 45 DAYS AFTER THE EXPEDITED REVIEW.

R13-11-108. Hearings

A. When determining whether an appellant should receive a good cause exception at a hearing, the Board or its hearing officer shall consider whether the appellant has shown to the Board or its hearing officer's satisfaction that the appellant is not awaiting trial on or has not been convicted of committing any of the offenses listed in A.R.S. § 41-1758.03 or that the person is successfully rehabilitated and is not a recidivist. The Board or its hearing officer shall consider the following:

1. The extent of the appellant's criminal record;

2. The length of time that has elapsed since the offense was committed;
3. The nature of the offense;
4. Any applicable mitigating circumstances;
5. The degree to which the appellant participated in the offense; and
6. The extent of the appellant's rehabilitation, including:
    a. Completion of or progress toward completing probation, parole, or community supervision;
    b. Completion of payment or progress toward paying restitution or other compensation for the offense;
    c. Evidence of positive action to change criminal behavior, such as completion of a drug treatment program or counseling;
    d. Personal references attesting to the appellant's rehabilitation; and
    e. Witness testimony ~~that the appellant submits~~.

B. Absent good cause, if the appellant or his or her representative fail to appear at a hearing, the Board or its hearing officer ~~shall proceed with the hearing and~~ MAY deny the applicant a good cause exception for failure to appear at the hearing. An appellant demonstrates good cause by showing that the appellant could not have been present at the hearing or requested that the hearing be rescheduled pursuant to R13-11-106, using reasonable diligence. An appellant's failure to inform the Board of a change in address shall not constitute grounds for good cause. The Board or its hearing officer shall determine whether good cause exists.

C. THE BOARD OR ITS HEARING OFFICER SHALL GRANT OR DENY A GOOD CAUSE EXCEPTION WITHIN 80 DAYS OF THE HEARING.

R13-11-110. Rehearing or Review of Decision

A. An appellant may seek a review or rehearing of a Board OR HEARING-OFFICER decision that results from an administrative hearing by submitting a written request for a review or rehearing to the Board within 30 days from the date of service of the decision. The Board OR ITS HEARING OFFICER ~~must~~ SHALL grant a request for review or rehearing for any of the following reasons materially affecting the rights of the appellant:
    1. The findings of fact, conclusions of law, or decision are not supported by the evidence or are contrary to law;
    2. The appellant was deprived of a fair hearing due to irregularity in the proceedings, abuse of discretion, or misconduct by the hearing officer;
    3. Newly discovered material evidence exists that could have a bearing on the decision and that, with reasonable diligence, could not have been discovered and produced earlier; or
    4. Error in admission or rejection of evidence or other errors of law occurring at the hearing.

B. The request must specify the grounds for a review or rehearing and must provide reasonable evidence that the appellant's rights were materially affected.

C. The Board OR ITS HEARING OFFICER may grant a rehearing or review for any of the reasons in subsection A. The Board or its hearing officer may take additional

testimony; amend or make new findings of fact and conclusions of law; and affirm, modify, or reverse the original decision.

D. A rehearing or review, if granted, must be a rehearing or review only of the issue upon which the decision is found erroneous. An order granting or denying a rehearing or review must specify the basis for the order.

R13-11-111. Notification of Decision for Good Cause Exception

A. The Board shall notify the appellant in writing of the ~~Board's~~ BOARD OR ITS HEARING OFFICER'S decision and~~, if the good cause exception is granted at a hearing,~~ transmit findings of fact and conclusions of law.

B. When the Board or its hearing officer ~~grant~~ GRANTS a good cause exception, the Board's executive director shall request, in writing, the Department to issue a fingerprint clearance card.