



ARIZONA BOARD OF FINGERPRINTING

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Final Minutes for Public Meeting

Held February 3, 2012, at 9:15 a.m.

3839 North 3rd Street, Suite 107, Phoenix, Arizona

Board Members

Charles Easaw, Department of Education, Chairperson
Matthew A. Scheller, Department of Juvenile Corrections, Vice Chairperson
Chad Campbell, Administrative Office of the Courts
Dale Doucet, Department of Economic Security
Kim Pipersburgh, Department of Health Services

Executive Director

Dennis Seavers

CALL TO ORDER AND ROLL CALL

Mr. Easaw called the meeting to order at 9:27 a.m. The following Board members were present: Charles Easaw, Matthew A. Scheller, Chad Campbell, Dale Doucet, and Kim Pipersburgh. No Board members were absent.

Also in attendance was Dennis Seavers, Executive Director.

CALL TO THE PUBLIC

Mr. Easaw made a call to the public. There were no members of the public who wished to speak.

APPROVAL OF MINUTES

Mr. Scheller made a motion to approve the minutes from the December 9, 2011 meeting. Mr. Doucet seconded the motion, which passed 5-0.

LEGISLATION

Mr. Easaw referred Board members to Mr. Seavers's January 30, 2012 memo on Senate Bill (SB) 1136 (see Attachment 1) and January 31, 2012 memo on other legislation (see Attachment 2).

Mr. Easaw asked when there might be better information available on the number of applications the Board would receive as a result of SB 1136. Mr. Seavers said that more accurate information may not be possible to get because of limitations on the ability of the Department of Economic Security to develop a reliable estimate.

Mr. Scheller asked how many people would be affected by SB 1176. Mr. Seavers noted that the bill was amended in committee to include more than just domestic-violence cases, so the amended bill would cover anyone who does parenting time. He said that he was working with the Administrative Office of the Courts to develop a reliable caseload estimate.

EXECUTIVE DIRECTOR'S REPORT

Fiscal year 2012 budget

Mr. Seavers referred to his January 24, 2012 memo on the fiscal year 2012 budget (see Attachment 3). Mr. Easaw noted that the Board's financial picture had improved substantially.

Fiscal year 2013 budget proposals

Mr. Seavers referred to his January 31, 2012 memo on fiscal year 2013 budget proposals from the Governor's Office and the Legislature (see Attachment 4).

Fiscal year 2012 strategic plan

Mr. Seavers said that he would report later on the strategic plan.

Upcoming move

Regarding the Board's upcoming move to a new office on February 29, 2012, Mr. Seavers said that he would try to limit the amount of time when the information-technology systems would be down. He said that the staff would notify applicants of the possible down time.

Interim work permits

Mr. Seavers referred to his January 31, 2012 memo on interim work permits (see Attachment 5).

Web site application

Mr. Seavers said that he had hoped that the Department of Administration would be finished with the project, which would allow the Board to access confidential files on a secure web page, but the project was not completed.

APPRECIATION FOR FORMER BOARD MEMBER

Mr. Easaw publicly thanked Ellen Kirschbaum, who formerly was the Board member from the Administrative Office of the Courts, for her years of service on the Board.

ADJOURNMENT

Mr. Easaw adjourned the meeting at 9:56 a.m.

Minutes approved on June 8, 2012

Dennis Seavers, Executive Director



Arizona Board of Fingerprinting Memo

TO: Board members
FROM: Dennis Seavers
C:
Date: January 30, 2012
SUBJECT SB 1136 (fingerprinting; central registry; background checks)

This memo describes Senate Bill (SB) 1136, which, among other provisions, would expand the Board's responsibilities by creating a new process similar to good cause exceptions for certain individuals who have substantiated allegations of child abuse or neglect.

BACKGROUND

The central registry is a collection of confidential databases maintained by the Department of Economic Security (DES) of reports of child abuse or neglect. According to Senate staff analysis, the information in the database includes perpetrator, child victim, date of incident, and the nature of the abuse or neglect. Reports of abuse or neglect are substantiated when Child Protective Services (CPS) or a juvenile court determine that it is likely that the abuse or neglect occurred and that the individual has been afforded due process to challenge the substantiation.

Certain interest groups wanted a process similar to the good-cause-exception process for individuals with substantiated allegations in the central registry. These groups felt that, as with an individual with a criminal history, a person with a substantiated allegation should have a chance to demonstrate rehabilitation from the substantiated abuse or neglect.

A similar bill was considered by the Legislature in 2011 (SB 1056) but was awaiting House approval before *sine die*.

IMPACT ON THE BOARD

The bill would create a new statute, A.R.S. § 41-619.57, for central-registry exceptions, which would create a new function in the Board. This portion of the memo discusses

the main areas of impact on Board if the bill were to pass, but this is not an exhaustive discussion of all provisions of the bill.¹ The bill would become effective on the general effective date, which is 90 days after the Legislature adjourns.

Application process

If the bill passes, the Board would be required to process applications for central-registry exceptions as outlined below.

- Applications for central-registry exceptions would be altogether separate from good-cause-exception applications.
- The Board would have a two-tiered process, as with good-cause exceptions, consisting of expedited reviews and administrative hearings. This process would include an expedited review, which would have to be conducted within 20 days of receiving an application. If the Board did not approve the application under an expedited review, the Board or its hearing officer would have to conduct an administrative hearing within 45 days of the expedited review, and the Board would have to make a decision within 80 days after the administrative hearing.
- The Board would have to adopt rules and procedures for conducting hearings, but presumably the Board would adopt a process that mirrors the good-cause-exception process.

To establish the process, the Board, primarily through its staff, would need to accomplish at least the following (staffing issues are discussed later in the memo).

- Adopt rules for hearings and application requirements;
- Create an application form;
- Establish a new database for central-registry-exception applications.

Criteria

The proposed criteria for granting a central-registry exception are based on the criteria for good-cause exceptions. The Board would consider anything related to whether “the person shows to the Board’s satisfaction that the person is successfully rehabilitated and is not a recidivist.”

Before the Board could grant a central-registry exception, the Board would have to consider the following criteria.

- The extent of the person’s central-registry records;
- The length of time that has elapsed since the abuse or neglect occurred;
- The nature of the abuse or neglect;
- Any applicable mitigating circumstances;

¹ For example, the bill includes provisions that relate to the confidentiality of Board records and exemptions from public-records laws, as well as provisions that affect other agencies.

- The degree to which the person participated in the abuse or neglect;
- The extent of the person's rehabilitation, including:
 - Evidence of positive action to change the person's behavior, such as completion of counseling or a drug treatment, domestic-violence, or parenting program;
 - Personal references attesting to the person's rehabilitation.

Caseload

There are not sufficient data to make a reliable projection of the impact on the Board's caseload. However, the existing data suggest that the impact may be notable.

There are two agencies—DES and the Department of Health Services (DHS)—that regulate contractors whose employees would be subject to central-registry checks.

- According to DES, during calendar (CY) 2011, DES completed 7,194 central-registry checks for employees of applicable contractors. Of these checks, 334 (4.6%) had a disqualifying record.
- DHS does not track the number of people employed in positions that would be subject to central-registry checks. However, DHS estimated that there may be as many as 52,000 employees who provide direct care to children. There is overlap between the DES and DHS populations of about 60%.

The difficulty in developing a projection is that these two sets of data don't correspond in a way that would make it possible to provide a reliable estimate of caseload, although it may be possible in the next few months to develop better estimates. As a rough approximation, perhaps 400–500 individuals will be eligible in the first year to apply for a central-registry exception, with a drop (perhaps significant) in subsequent years. Although this very rough estimate may be high, the Board should be prepared for the potential of a high caseload because of statutory time frames (see "Staffing issues and costs" below).

Staffing issues and costs

Central-registry exceptions would represent a new function of government with no existing analogue. Although there would be much in common between central-registry exceptions and good-cause exceptions, there's no basis for assuming that the two processes will have proportional requirements for resources such as staffing.

For example, in CY 2011, the Board referred 16.64% of good-cause-exception cases that had an expedited review to administrative hearings—a percentage that has been consistent over the years. Although it's possible that a similar percentage of central-registry-exception cases that have an expedited review will be referred to administrative hearings, there's no evidence that conclude that the percentage will be comparable. Therefore, it's not possible to reliably project how many hearings will need to take place,

even if the Board were to have a reliable projection for the number of central-registry-exception applications.

Since this would be a new function of government and caseload projections are unreliable, it's difficult to know what staffing needs the Board will have. Nevertheless, to give the Board an approximation of what new resources it will need, I would need to make some assumptions. First, suppose the amount of time it takes to work on central-registry-exception cases is comparable to good-cause-exception cases (which I believe is a reasonable, if uncertain, assumption). Second, suppose there would be a comparable percentage of both types of cases referred to hearings (which is a much less reliable assumption). Third, suppose that there are 400–500 people who don't clear the central-registry check and who are eligible to request a central-registry exception, and that 75% of those people apply for a central-registry exception.²

If these assumptions are correct, the Board should expect 300–375 new applications and 50–62 additional hearings, with a possible drop in subsequent years. That represents a 13–16% caseload increase (for an agency that already is not meeting statutory time frames for good-cause exceptions). To meet this caseload increase, I estimate that the Board will need to increase its staffing-related expenditures by \$37,800—though I would emphasize, as I have throughout this memo, that this is a rough estimate.³ To comply with time frames, the Board will need to be prepared in the event of higher-than-expected caseloads.

There will be several one-time costs associated with the bill. The most notable will be to establish a new database. Although I don't have estimates from a vendor, I would project the costs to be \$15,000–\$20,000.

Miscellaneous issues

- DES has promised to help the Board with any training necessary to learn about the child-welfare system and CPS cases.
- Since the 2011 bill, the Board's position has been neutral and will remain so unless the Board otherwise directs me.

² Not all people who are eligible to request a central-registry exception will do so. About 60% of people who are denied a fingerprint clearance card and who are eligible to request a good-cause exception actually submit an application. But there's no reason to assume that there would be a corresponding percentage who apply for central-registry exceptions. I've chosen to assume a rate of 75% to account for higher-than-assumed caseloads.

³ "Staffing-related expenditures" would include salaries and employee-related expenditures for new employees or, if more appropriate, contracted services.



Arizona Board of Fingerprinting Memo

TO: Board members
FROM: Dennis Seavers
C:
Date: January 31, 2012
SUBJECT Legislative update

This memo summarizes the content and status of significant legislation that is relevant to the Board of Fingerprinting. This memo doesn't list legislation that is technical or minor, nor does it include bills that appear to be dead.

SB 1136 (fingerprinting; central registry; background checks)

Since this bill would have an especially significant impact on the Board, I've discussed it in a separate memo.

SB 1176 (parenting time; court-ordered supervisors)

Courts determine custody and visiting arrangements for children of divorced parents. If a parent has committed domestic violence, the court may approve but place conditions on the parenting time. One condition may be that the parenting time be supervised by an agency specified by the court.

The bill would require the person supervising the parenting time for compensation to have a level I fingerprint clearance card. I will be working with groups to determine how many people will be affected by this legislation and what impact this bill will have on the Board.

The bill has been assigned to the Senate Committee on Public Safety and Human Services and will be heard on February 1, 2012.



Arizona Board of Fingerprinting Memo

TO: Board members
FROM: Dennis Seavers
C:
Date: January 24, 2012
SUBJECT FY 2012 budget report

The agenda for the Board's February 3, 2012 meeting includes a report from the executive director on the fiscal year (FY) 2012 budget performance. To help expedite the meeting, I've prepared this memo, which summarized the Board's budget performance for the first two quarters of FY 2012. Attachment 1 details the Board's actual expenditures and revenues, with a comparison to the approved FY 2012 budget.¹

If you have questions or concerns prior to the Board meeting, or if you'd like a more detailed report, please feel free to contact me. If you'd like detailed cash-flow information, please visit the Governor's Office of Strategic Planning Monthly Cash Flow page at <http://www.ospb.state.az.us/MonthlyCashFlow.asp> and select "Cash Balance Report."

SUMMARY

- The fund balance at the beginning of FY 2012 was \$558,765.84.
- The budget projected \$357,860.40 in revenues. Actual revenues were \$372,043.
- The budget anticipated \$369,174.82 in expenditures (consisting of \$107,300 in legislatively mandated fund sweeps and \$261,874.82 in operational expenses). Actual expenditures were \$357,105.29 (consisting of \$107,300 in legislatively mandated fund sweeps and \$249,805.29 in operational expenses).
- The fund balance at the end of the second quarter of FY 2012 was \$573,703.55.

¹ The Board's budget was adopted on August 19, 2011, and revised on September 2, 2011. Attachment 1 reflects the changes adopted at the September 2 meeting.

DIFFERENCES BETWEEN BUDGET AND ACTUAL

Attachment 1 provides a comparison of actual expenditures and revenues with the FY 2012 budget. The list below explains areas where there are notable differences in spending.

- 6299 – Other Professional & Outside Services. This category includes miscellaneous costs from external sources and consultations, such as security and database programming. Although the Attachment 1 suggests that the Board has spent \$6,150 less than anticipated, the budgeted expenditures will actually take place later in the fiscal year.
- 7172 – External Communications Long Distance. This category refers to telecommunications-related expenditures. The lower expenditures are due to two factors: (1) certain costs were recategorized so that they appear under “7179 – Other External Communications” (see next bullet), and (2) the state is in the middle of switching to a new contract for statewide telecommunications.
- 7179 – Other External Communications. This category refers to telecommunications-related expenditures. See “7172 – External Communications Long Distance” above (previous bullet) for an explanation on why expenditures are higher in this category than budgeted.
- 7221 – Rental of Land & Buildings. This category refers to the Board’s rental costs for office space. The \$5,427.05 difference represents one month of rental costs and is the result of when payments cleared the state’s accounting system rather than an increase in rental payments.
- 8500 – Non-capital Equipment. This category refers to various expenditures for non-capital computer equipment (specifically, new computers and related software). This expenditure will take place in February or March.

Attachment 1 - FY12 Budget Report (July to December 2011)

	FY12 Budget (Jul - Dec)	FY12 Actual (Jul - Dec)	Difference
REVENUES			
4900 - Operating Transfers In			
Prior FY Carryover	\$ 558,765.84	\$ 558,765.84	\$ -
4901 - Oper. Transfers In	\$ 357,860.40	\$ 372,043.00	\$ 14,182.60
Total 4900 - Oper. Trans. In	\$ 916,626.24	\$ 930,808.84	\$ 14,182.60
TOTAL REVENUES	\$ 916,626.24	\$ 930,808.84	\$ 14,182.60
EXPENDITURES			
6000 - Personal Services			
	\$ 123,914.50	\$ 123,914.20	\$ (0.30)
6100 - Employee-related exp.			
	\$ 63,078.28	\$ 63,078.60	\$ 0.32
6200 - Prof. & Outside Svcs.			
6299 - Other Prof. & Out. Svcs.	\$ 7,400.00	\$ 1,250.00	\$ (6,150.00)
6521 - Motor Pool Charges	\$ 100.00	\$ -	\$ (100.00)
Total 6200 - Prof. & Outside Svcs.	\$ 7,500.00	\$ 1,250.00	\$ (6,250.00)
7000 - Other Operating			
7110 - Insurance & Related Chgs	\$ 2,100.00	\$ 2,100.00	\$ -
7153 - Internal Svc. Data Proc.	\$ 5,250.00	\$ 4,023.81	\$ (1,226.19)
7172 - Ext. Comm. Long Dist.	\$ 6,834.00	\$ 2,838.73	\$ (3,995.27)
7179 - Other External Comm.	\$ 575.00	\$ 3,318.56	\$ 2,743.56
7221 - Rental of Land & Bldgs.	\$ 32,562.30	\$ 37,989.35	\$ 5,427.05
7229 - Miscellaneous Rent	\$ -	\$ -	\$ -
7241 - Int Acctg, Budg, Fin Svc.*	\$ 1,920.00	\$ 1,920.00	\$ -
7266 - Repair/Maint-Other Equip	\$ 706.74	\$ 778.54	\$ 71.80
7321 - Office Supplies	\$ 2,500.00	\$ 2,668.93	\$ 168.93
7481 - Postage & Delivery	\$ 6,000.00	\$ 5,470.57	\$ (529.43)
7511 - Awards	\$ 200.00	\$ -	\$ (200.00)
7541 - Books, Subscr., & Pubs.	\$ 109.00	\$ 199.00	\$ 90.00
7599 - Other Misc. Operating	\$ 625.00	\$ 255.00	\$ (370.00)
Total 7000 - Other Operating	\$ 59,382.04	\$ 61,562.49	\$ 2,180.45
8500 - Non-capital Equipment			
8551 - EDP Equip Non-cap Purch	\$ 6,000.00	\$ -	\$ (6,000.00)
8561 - Tele. Equip. - Non-cap.	\$ -	\$ -	\$ -
8583 - PC/LAN Softw. Non-cap.	\$ 2,000.00	\$ -	\$ (2,000.00)
Total 8500 - Non-capital Equip.	\$ 8,000.00	\$ -	\$ (8,000.00)
9100 - Transfers Out			
9101 - Op Trans Out: Fund Sweeps	\$ 107,300.00	\$ 107,300.00	\$ -
Total 9100 - Oper. Trans. Out	\$ 107,300.00	\$ 107,300.00	\$ -
TOTAL EXPENDITURES	\$ 369,174.82	\$ 357,105.29	\$ (12,069.53)
NET INCOME	\$ 547,451.42	\$ 573,703.55	\$ 26,252.13

* In the Board's August 19, 2011 adopted budget, this expenditure category was listed under "6211 - Bond Issuance Cost," but the expenditure was recategorized to reflect changes to the state accounting manual. The change is merely one of categorization and does not reflect a new expenditure or a change to the budgeted expenses.



Arizona Board of Fingerprinting Memo

TO: Board members
FROM: Dennis Seavers
C:
Date: January 31, 2012
SUBJECT FY 2013 budget proposals

Earlier this month, the governor released her proposed budget for fiscal year (FY) 2013. This memo identifies the portions of the budget proposal that would directly affect the Board. The Legislature has not yet proposed a budget.

Fund sweeps

The governor proposed a \$5,600 transfer from the Board of Fingerprinting Fund to the general fund. This sweep will not have a significant impact on Board operations.

Employee pay raises

The governor proposed a 5% pay raise for all uncovered employees and for any covered employee who agreed to become an uncovered employee.¹ Currently, the Board has one uncovered employee (the executive director); the remainder are covered. Therefore, the cost of pay raises to the Board will depend on how many of the covered employees choose to become uncovered. The cost will range from about \$4,000 to \$15,000.

¹ The state's merit system establishes certain positions as "covered," meaning that they have certain protections from discipline and are not at-will, and "uncovered," meaning that they are at-will.



Arizona Board of Fingerprinting Memo

TO: Board members
FROM: Dennis Seavers
C:
Date: January 31, 2012
SUBJECT Interim work permits

At its September 2, 2011 meeting, the Board authorized the executive director to issue interim work permits (IWPs) to employees meeting specific criteria. (For more information on the criteria, please see the September 2, 2011 minutes.) This memo briefly reports on IWPs.

- The Arizona State Hospital (ASH), which was the only qualifying agency requesting IWPs, submitted 11 requests between August 30 and October 21, 2011.
- All of the applicants qualified for and were issued IWPs.
- All of the applicants were subsequently approved for fingerprint clearance cards under expedited reviews, suggesting that there was no negative impact on the safety of vulnerable populations by allowing the applicants to continue working while the good-cause-exception process was pending.

ASH does not expect any further requests for IWPs (or, if there are any, they will be rare).