



ARIZONA BOARD OF FINGERPRINTING

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Final Minutes for Public Meeting

Held June 8, 2012, at 9:30 a.m.
4205 North 7th Avenue, Suite 206
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 10:05 a.m. The following Board members were present: Charles Easaw, Matthew A. Scheller, and Kim Pipersburgh. The following Board members were absent: Chad Campbell and Dale Doucet.

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 draft minutes from February 3, 2012, and Ms. Pipersburgh seconded. The motion passed, 3–0.

Mr. Scheller made a motion to approve the draft minutes from March 2, 2012, and Ms. Pipersburgh seconded. The motion passed, 3–0.

POLICY ON RECONSIDERATION UNDER EXPEDITED REVIEW

Mr. Easaw referred the Board members to Mr. Seavers's June 5, 2012 memo proposing a policy on reconsiderations under expedited reviews (see Attachment 1). The purpose of the policy would be to reduce the wait time for hearings and final decisions.

Mr. Easaw said that he believed this policy would allow the Board to provide better service to the public and use Board resources more efficiently. Mr. Seavers emphasized that the purpose of the policy was not for the staff to suggest that the Board had made erroneous decisions under the initial expedited review.

Mr. Easaw asked who would be preparing the case reports to the Board. Mr. Seavers said that he and possibly the investigator would prepare the reports but that he would review all reports before they were sent to the Board. Mr. Easaw wondered about any negative impact on the investigator's caseload if he had additional cases to work on. Mr. Seavers noted that the investigator's caseload varies over the course of the year, and the investigator would only work on cases as his caseload would allow.

Ms. Pipersburgh supported the policy. Mr. Scheller agreed and recommended that it be adopted as a pilot program so that the Board could assess the impact of the policy.

Mr. Scheller made a motion to adopt the recommended policy as a 90-day pilot program. After 90 days, the Board would receive a report from Mr. Seavers on the impact of the policy and would decide whether to continue the policy. Ms. Pipersburgh seconded the motion, which passed 3–0.

SENATE BILL 1136 IMPLEMENTATION

Mr. Seavers referred the Board members to his June 5, 2012 memo on legislation (see Attachment 2). He explained that the bill establishes a requirement for the Board to consider applications for central-registry exceptions for individuals whose central-registry check returns a hit. He said that the Arizona Department of Economic Security (DES) currently conducts these checks for employees of some of its providers, but the bill would require similar providers for the Arizona Department of Health Services (DHS) to have a central-registry check for employees.

He said that there is an outstanding question about when part of the bill goes into effect. Although the bill becomes law on the general-effective date (August 2, 2012), provisions

in the bill have a delayed-effective date of August 1, 2013. The portion that requires DHS to have central-registry checks goes into effect on August 1, 2013. However, Mr. Seavers interpreted the bill to require a central-registry-exception process for DES's existing checks for DES providers. If his reading was correct, then the Board would have to consider applications from employees of DES-contracted providers who had hits on or after the general-effective date rather than August 1, 2013. DES said it would consult with the Attorney General's Office to see whether that reading was correct.

Mr. Seavers said that the Board would need to establish an application process over the next few months. He would recommend application requirements and identify options for the Board. He also had asked DES to provide training to the Board on the child-welfare system, particularly on what happens after an allegation of neglect or abuse is made.

Mr. Scheller asked how many applications the Board would see. Mr. Seavers said that there aren't clear data that would allow the Board to reliably project applications, but he expected that the Board might see up to 300 applications a year, although there probably would be fewer.

Mr. Easaw noted that it would be essential for the Board to have training, since the types of facts the Board would have to consider would be substantially different from the good-cause-exception cases.

Mr. Scheller asked what factors the Board would consider under statute. Mr. Seavers said that the criteria essentially mirror the factors used for good-cause-exception cases, such as the nature of the incident, the length of time since the abuse or neglect, and positive actions to change the behavior that led to the abuse or neglect. In addition, the Board will consider the person's criminal history as it relates to the abuse or neglect.

EXECUTIVE DIRECTOR'S REPORT

Fiscal year 2012 budget

Mr. Easaw referred Board members to Mr. Seavers's June 6, 2012 memo (see Attachment 3) on fiscal year 2012 revenues and expenditures.

Fiscal year 2013 budget signed by the governor

Mr. Seavers reported that there were no fund sweeps in the budget. He said that there would be an increased cost for a return to the 50/50 split between the state and individual in retirement costs. He noted that there would be savings from an insurance-premium holiday, which would eliminate the costs for health insurance (both employer and employee) for two pay periods. Finally, he said that there would be a one-time 5% "bonus pay" for employees who are uncovered as of September 29, 2012. The pay would expire at the end of the fiscal year.

Fiscal year 2012 strategic plan

Mr. Seavers referred Board members to his report on the Board's performance measures (see Attachment 4).

Legislation

Mr. Seavers referred Board members to his June 5, 2012 memo on legislation (see Attachment 2). He also noted that the Board's sunset hearing would take place later this year. He said that a committee of reference would conduct the audit rather than the Auditor General's Office.

Web site application

Mr. Seavers reported that he was still waiting on the Arizona Department of Administration (ADOA) to complete the project.

Report on move to new facility

Mr. Seavers said that he was waiting on final billings from ADOA for move-related expenses and would present a final report to the Board at a later date.

ADJOURNMENT

Ms. Pipersburgh made a motion to adjourn, and the motion passed, 3–0. Mr. Easaw adjourned the meeting at 10:43 a.m.

Minutes approved on July 6, 2012

Dennis Seavers, Executive Director



Arizona Board of Fingerprinting Memo

TO: Board members
FROM: Dennis Seavers
C:
Date: June 5, 2012
SUBJECT Reconsiderations under expedited review

On June 8, 2012, the Board will hold an open meeting to consider, among other topics, whether to adopt a policy for reconsidering certain cases under expedited reviews as a strategy to reduce wait time for hearings and final decisions and to improve the Board's compliance with time frames. This memo summarizes a proposed policy with two options for reducing the number of cases that require hearings.

BACKGROUND

Time frames

Once the Board refers a case to an administrative hearing, there are two time frames in statute that the Board is required to comply with.

- Under A.R.S. § 41–619.55(B), the Board or its hearing officer must hold a hearing within 45 days of an expedited review.
- Following the hearing, the hearing officer will file a recommendation. Under A.R.S. 41–619.55(E), the Board must make either grant or deny the good-cause-exception application within 80 days of the hearing.

There are no penalties for failure to comply with the time frame, although an applicant could apply for a writ of mandamus. An applicant may waive these time frames.

Compliance with time frames and caseload

In February 5, 2010, I conducted a reduction in force because the Board faced cash-flow problems due to a series of legislatively mandated fund sweeps. In addition, the Board had reduced the number of hearing-officer FTEs from 2.0 to 1.75 in the fiscal year 2010 budget. Before the RIF, the Board was fully compliant with the time frames described above—or, for one quarter, almost fully compliant, when extraordinary

circumstances prevented the hearing officer from making timely recommendations on a few cases.¹

Since the RIF, the Board has struggled to comply with the time frames because the Board does not have adequate staffing for its caseload.² At the same time, the Board had a 36% increase in caseload from calendar year 2010 to 2011.

Calendar Year	Number of Applications
2006	1,939
2007	1,865
2008	1,764
2009	2,042
2010	1,849
2011	2,515

With the addition of central-registry exceptions to the Board's caseload (see my June 5, 2012 memo on legislation), the Board will probably have increases in its caseload in the next few fiscal years.

POLICY OPTIONS

A backlog is fundamentally a problem of caseload capacity. To improve timeliness, the Board must increase its staffing resources (that is, increase its capacity to handle hearings) or decrease its hearing caseload. In its fiscal year 2013 budget, the Board may choose to increase its caseload capacity by increasing its staff—an option that has become viable since the Board's financial status has improved. (The Board will consider a budget proposal at a future meeting.) In the meantime, this memo describes an approach that would decrease the hearing caseload.

This proposed policy would establish a process for reconsidering cases under expedited reviews before the scheduled hearings. There are two types of cases that would qualify.

1. More information from the applicant

In some cases, the Board may be willing to grant a good cause exception if the applicant provides additional information. The Board does this in some cases, so this aspect of the proposed policy would formalize (and perhaps encourage an expansion of) the Board's practice.

¹ For more detail on the Board's compliance with time frames, please see Attachment 2 to the March 11, 2010 meeting minutes.

² The Board actually could comply fully or almost fully with the time frame in A.R.S. § 41-619.55(B) to hold a hearing within 45 days of the expedited review. However, the hearing officers would be holding frequent hearings and would not have time to work on recommendations. There would be a longer delay for the Board to make a decision, so holding the hearing sooner would not reduce the wait time for applicants to get a final outcome.

Cases that may qualify for reconsideration under this part of the policy could include the following.

- The applicant is close to completing certain court requirements, and the Board may be willing to approve the application if those requirements are fulfilled.
- The applicant will still have an incomplete sentence by the time of the hearing, but the Board may be willing to approve the application if the applicant has made more progress.
- The applicant has upcoming court hearings that may have a bearing on the criminal case.
- Board members have questions or concerns that the applicant could address.

For these cases, the Board would initiate the reconsideration process. The Board's motion would refer the applicant to an administrative hearing but require the staff to present the case for reconsideration at a future Board meeting (depending on the circumstances, probably the next Board meeting or the last meeting before the hearing).

2. More information from the Board staff

In some cases, the Board may be willing to grant a good cause exception if the staff provides a more detailed summary and recommendation. Under this option, the staff would identify cases that, based on experience, the Board might approve if it had the sort of detail and analysis that appears in the hearing officer's recommendations. The purpose of this process would not be for the staff to identify cases where it thinks the Board made the wrong decision. Rather, the process would constitute a more in-depth look at cases without having testimony from the applicant. I have separately provided a confidential example, based on a recent case, of a detailed summary that the Board might receive.

I have recommended this option because there have been cases where the hearing officer's recommendation was based entirely on the documents in the applicant's file, and testimony from the applicant was not necessary for the hearing officer. Sometimes, when the Board has been unwilling to approve the application under the expedited review but willing to approve after a hearing, the decision appears to have been related to the amount of detail and analysis in the recommendation and not on the content of the hearing. This is not to say that the hearings have been pointless, since they may have contributed to the hearing officer's confidence in the reliability of documents in the file. Moreover, the Board members may have listened to the hearing recording, which may have given them assurance. However, if there are some instances where a more detailed analysis would convince the Board to approve the application, then the Board could reduce the number of hearings and improve the staff's ability to handle the hearing caseload.

For these cases, the staff would initiate the reconsideration process as a separate agenda item. The Board would receive the staff analysis and recommendation at the same time as it receives batches of expedited reviews. The basis for the selection of a

case would be staff experience of the Board's attitudes toward types of cases; the staff similarly relies on this experience when making recommendations for the initial expedited reviews.

OTHER CONSIDERATIONS

- Reconsidering a case under an expedited review is not the same as approving the application. The case would still go to a hearing unless a supermajority (majority plus one of the members present) voted to grant the application.
- The Board members would have to spend more time on expedited reviews. However, if the policy reduces the number of hearings, the Board may save more time overall.
- If the Board is unsure about whether this policy is a good approach, the Board could adopt the process as a pilot program. In either case, the Board would receive a report on the impact of the policy, if adopted, at future Board meetings. Alternatively, the Board could address its time-frame compliance solely by increasing its staff.



Arizona Board of Fingerprinting Memo

TO: Board members
FROM: Dennis Seavers
C:
Date: June 5, 2012
SUBJECT Legislative update

This memo summarizes the content and disposition 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 died (unless I previously reported on the bills).

SB 1136 (fingerprinting; central registry; background checks)

At its February 3, 2012 meeting, I provided the Board a detailed memo about the provision of this bill, which requires the Board to consider applications for central-registry exceptions. The bill was signed by the governor on April 5, 2012 (Laws 2012, Chapter 188).

Over the next couple of months, the Board will be developing policies and rules to govern the central-registry-exception process, and I am working with DES to arrange for the Board to receive training on Arizona's child-welfare system.

SB 1176 (parenting time; court-ordered supervisors)

Courts determine custody and visiting arrangements for children of divorced parents. One condition of the visits may be that the parenting time be supervised by an agency specified by the court.

This bill would have required a person supervising the parenting time for compensation to have a level I fingerprint clearance card. The governor vetoed the bill on April 11, 2012.



Arizona Board of Fingerprinting Memo

TO: Board members
FROM: Dennis Seavers
C:
Date: June 6, 2012
SUBJECT FY 2012 budget report

The agenda for the Board's June 8, 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 summarizes the Board's budget performance for the first three 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 \$572,576.64 in revenues. Actual revenues were \$588,532.
- The budget anticipated \$479,006.29 in expenditures (consisting of \$107,300 in legislatively mandated fund sweeps and \$371,706.29 in operational expenses). Actual expenditures were \$474,491.10 (consisting of \$107,300 in legislatively mandated fund sweeps and \$367,191.10 in operational expenses).
- The fund balance at the end of the third quarter of FY 2012 was \$672,806.74.

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. I have delayed a database-improvement project in order to combine it with a project to incorporate central-registry-exception applications into the database. This combined project will take place in FY 2013, if approved by the Board.
- 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.
- 8500 – Non-capital Equipment. This category refers to various expenditures for non-capital computer equipment (specifically, new computers and related software). The \$2,325.94 excess was due to two factors: (1) unexpected purchases that were necessary as part of the move to a new office and (2) the need to replace an employee’s computer, which crashed and could not be repaired at a reasonable price. However, this additional spending was compensated for by decreased spending in other areas of the budget.

Attachment 1 - FY12 Budget Report (July 2011 to March 2012)

	FY12 Budget (Jul - Mar)	FY12 Actual (Jul - Mar)	Difference
REVENUES			
4900 - Operating Transfers In			
Prior FY Carryover	\$ 558,765.84	\$ 558,765.84	\$ -
4901 - Oper. Transfers In	\$ 572,576.64	\$ 588,532.00	\$ 15,955.36
Total 4900 - Oper. Trans. In	\$ 1,131,342.48	\$ 1,147,297.84	\$ 15,955.36
TOTAL REVENUES	\$ 1,131,342.48	\$ 1,147,297.84	\$ 15,955.36
EXPENDITURES			
6000 - Personal Services			
	\$ 178,211.50	\$ 178,220.36	\$ 8.86
6100 - Employee-related exp.			
	\$ 90,375.28	\$ 90,248.16	\$ (127.12)
6200 - Prof. & Outside Svcs.			
6299 - Other Prof. & Out. Svcs.	\$ 8,300.00	\$ 4,707.75	\$ (3,592.25)
6521 - Motor Pool Charges	\$ 100.00	\$ -	\$ (100.00)
Total 6200 - Prof. & Outside Svcs.	\$ 8,400.00	\$ 4,707.75	\$ (3,692.25)
7000 - Other Operating			
7110 - Insurance & Related Chgs	\$ 2,100.00	\$ 2,100.00	\$ -
7153 - Internal Svc. Data Proc.	\$ 7,500.00	\$ 7,344.46	\$ (155.54)
7172 - Ext. Comm. Long Dist.	\$ 9,684.00	\$ 3,800.12	\$ (5,883.88)
7179 - Other External Comm.	\$ 920.00	\$ 4,467.73	\$ 3,547.73
7221 - Rental of Land & Bldgs.	\$ 47,716.40	\$ 49,415.00	\$ 1,698.60
7229 - Miscellaneous Rent	\$ -	\$ -	\$ -
7241 - Int Acctg, Budg, Fin Svc.*	\$ 2,880.00	\$ 2,880.00	\$ -
7266 - Repair/Maint-Other Equip	\$ 1,060.11	\$ 1,152.06	\$ 91.95
7321 - Office Supplies	\$ 4,000.00	\$ 3,318.67	\$ (681.33)
7481 - Postage & Delivery	\$ 9,600.00	\$ 8,244.29	\$ (1,355.71)
7511 - Awards	\$ 200.00	\$ 147.56	\$ (52.44)
7541 - Books, Subscr., & Pubs.	\$ 109.00	\$ 199.00	\$ 90.00
7599 - Other Misc. Operating	\$ 650.00	\$ 320.00	\$ (330.00)
Total 7000 - Other Operating	\$ 86,419.51	\$ 83,388.89	\$ (3,030.62)
8500 - Non-capital Equipment			
8531 - Computer Equip. Non-cap.	\$ -	\$ 6,451.62	\$ 6,451.62
8551 - EDP Equip Non-cap. Purch.	\$ 6,000.00	\$ -	\$ (6,000.00)
8561 - Tele. Equip. - Non-cap.	\$ 300.00	\$ -	\$ (300.00)
8571 - Other Equip. - Non-cap.	\$ -	\$ 786.11	\$ 786.11
8581 - Purch. or lic. software	\$ -	\$ 3,388.21	\$ 3,388.21
8583 - PC/LAN Softw. Non-cap.	\$ 2,000.00	\$ -	\$ (2,000.00)
Total 8500 - Non-capital Equip.	\$ 8,300.00	\$ 10,625.94	\$ 2,325.94
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	\$ 479,006.29	\$ 474,491.10	\$ (4,515.19)
NET INCOME	\$ 652,336.19	\$ 672,806.74	\$ 20,470.55

* 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
Fiscal Year 2012 Strategic Plan
July 1, 2011, to March 31, 2011

Legend for progress

✓	Progress or consistency in performance since previous quarter
✘	Decline in performance since previous quarter
	Notable progress made since previous quarter (only for outcome measures)
	Performance declined since previous quarter, but this decline is not a concern (only for outcome measures)
	Performance declined since previous quarter, and this decline warrants attention (only for outcome measures)

Goal 1. To make fair and consistent determinations on good-cause exceptions

Performance Measure	FY12 Estimate	FY12 Actual					
		Quarter 1	Quarter 2	Quarter 3	Quarter 4	Progress	YTD
Percent of investigator recommendations for expedited reviews accepted	95.00%	95.45%	96.34%	97.98%		✓	97.17%
Percent of applications approved	94.00%	97.38%	94.88%	97.41%		N/A	96.61%
Percent of approvals by expedited review	90.00%	90.25%	88.82%	94.16%		N/A	91.13%
Percent of approvals by administrative hearing	10.00%	9.75%	11.18%	5.84%		N/A	8.87%

Goal 2: To provide applicants with timely decisions on their good-cause-exception applications

Performance Measure	FY12 Estimate	FY12 Actual					
		Quarter 1	Quarter 2	Quarter 3	Quarter 4	Progress	YTD
Number of applications received	2,300	658	545	621		N/A	1,824
Number of applications disposed	2,300	683	621	646		N/A	1,950
Ratio of cases opened to cases closed	1:1	1:1.04	1:1.14	1:1.04		N/A	1:1.07
Average number of days to dispose	65.00	50.80	55.72	45.94		✓	50.72
Average number of days spent processing applications	35.00	31.48	37.60	25.04		✓	31.26
Average number of days spent processing application from receipt to expedited review	17.00	14.59	15.26	12.93		✓	14.22
Average days from expedited review to hearing	50.00	60.60	56.60	54.33		✓	57.50
Percent of applications with an expedited review within 20 days of receipt of a complete application*	95.00%	99.02%	94.39%	99.66%		✓	97.85%
Percent of applications with an administrative hearing within 45 days of an expedited review*	60.00%	4.11%	5.88%	8.33%		✓	6.80%
Percent of applications decided within 80 days of an administrative hearing*	70.00%	75.00%	49.41%	33.33%		✗	54.63%

*Applies only to applications received after September 18, 2007.

Goal 3. To develop fair and comprehensible rules, policies, and procedures for determining good-cause exceptions

Performance Measure	FY12 Estimate	FY12 Actual					
		Quarter 1	Quarter 2	Quarter 3	Quarter 4	Progress	YTD
Percent of applications complete on initial submission	60.00%	63.60%	65.38%	67.65%		✓	65.54%