



## **ARIZONA BOARD OF FINGERPRINTING**

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Telephone (602) 265-0135 • Fax (602) 265-6240

### **FINAL Minutes for Public Meeting**

Held February 21, 2020, at 9:00 a.m.  
4205 North 7th Avenue, Suite 206  
Phoenix, Arizona

#### **Board Members**

Garnett Burns, Department of Education, Chairperson  
Mark Koch, Administrative Office of the Courts, Vice Chairperson  
Kim Pipersburgh, Department of Health Services  
Shamiran Warda, Department of Juvenile Corrections  
John Piccarreta, Department of Child Safety  
Elanie Estrada, Department of Economic Security

#### **Executive Director**

Matthew A. Scheller

### **I. CALL TO ORDER AND ROLL CALL**

Ms. Burns called the meeting to order at 9:00 a.m. The following Board members were present: Garnett Burns, Kim Pipersburgh, Shamiran Warda, Elanie Estrada, and Christina Ralls. The following Board member was absent: John Piccarreta.

Also in attendance was Matthew A. Scheller, Executive Director (ED).

### **II. CALL TO THE PUBLIC**

Ms. Burns made a call to the public. There were no members of the public present who wished to comment.

### **III. APPROVAL OF MINUTES FROM SEPTEMBER 6, 2019**

Ms. Pipersburgh made a motion to approve the draft minutes from September 6, 2019, and Ms. Warda seconded. The motion passed 5–0.

### **IV. EXECUTIVE DIRECTOR'S REPORT**

#### **A. Report on Implementation of Auditor General Recommendations**

Mr. Scheller reported on the Board's progress with the implementation of the four (4) Arizona Auditor General (AAG) recommendations in Auditor General Report 19-114 that was published on October 2, 2019. The first recommendation by the AG's office is to "monitor the impact to its operations and assess whether additional staff are needed to handle its increasing workload and continue meeting its statutory time frames." The Board implemented this recommendation by creating an Office Manager position and hiring a new staff member for the vacant Administrative Assistant position. Both of these moves have greatly enhanced the ability of the Board to process the increasing number of applications and workload.

The second AAG recommendation is to "develop and implement a checklist for staff use to ensure that all required application materials are received, reviewed, and retained." Mr. Scheller indicated that the Board has implemented this recommendation by creating a "Data-Entry/File Management Checklist." Board staff created a checklist in order that all required documents of an application are received, reviewed, and retained. Mr. Scheller provided the Board members examples from the meeting that was held prior to the public meeting this morning. Mr. Scheller noted that the checklist is an internal working document and will continue to be refined and enhanced over time.

The third AAG recommendation is to "develop and implement policies and procedures for addressing potential conflicts of interest in accordance with State laws, including requiring Board members and employees to disclose certain interests in the Board's official records, either through a signed document maintained in a special file or the Board's official minutes." Mr. Scheller indicated that the Board would review this matter under Section V of the Agenda.

The fourth AAG recommendation is to "analyze its current revenues and costs to determine whether the \$7 fee should be adjusted (and document its analysis and determination), and establish and implement a process for periodically reviewing the appropriateness of its fee." Mr. Scheller indicated that the Board would review this matter under Section VI of the Agenda.

#### **B. Report on the Board's 5 Year Rule Report**

Mr. Scheller reported that the Governor's Regulatory Review Council ("GRRC") will review the Board's Five Year Rule Report ("5YRR") at a study session that will be held

next Tuesday, February 25, 2020. Mr. Scheller indicated that he will be present at the study session next Tuesday to answer any questions by the GRRC Board members. If the study session goes well, GRRC will review and make a final determination on the 5YRR on Tuesday, March 3, 2020 at 10:00 a.m. One of the most critical items GRRC will consider in the 5YRR is the recommended change to the fingerprint clearance card fee that will be discussed in Section VI of the Agenda. If the Board recommends a change to the fee, Mr. Scheller will follow up with a letter to GRRC that will be included in the Board's 5YRR and discussed at the study session on February 25, 2020.

## **V. ADOPTION OF CONFLICT OF INTEREST POLICY**

Ms. Burns referred the Board members to Mr. Scheller's memo dated February 19, 2020, proposing New Board Policies (see Attachment A).

Mr. Scheller indicated that there are three related policies that were drafted for the Board's review and recommended approval. The policies address any potential conflicts of interest concerns and therefore address the recommendation from the Auditor General Report. The policies are: Conflict of Interest Policy #101, Ethical Standards Policy #102, and Hearing Recusal Policy #103.

Ms. Pipersburgh made a motion to adopt the conflict of interest policies as drafted, and Ms. Warda seconded. The motion passed 5-0.

Mr. Scheller indicated that he will make copies for each Board members signature.

## **VI. CHANGE TO FINGERPRINT-CLEARANCE-CARD FEE**

Ms. Burns referred the Board members to Mr. Scheller's memo dated February 19, 2020, proposing a Board Fee Decrease (see Attachment B).

Mr. Scheller indicated that he would answer any questions regarding the memo and the rationale for adopting rules to decrease the Board's portion of the fingerprint-clearance-card fee from \$7.00 to \$4.00. In addition, Mr. Scheller indicated that he would answer any questions regarding the adoption of an annual review the appropriateness of the Board fee at its meeting each year in August.

Ms. Pipersburgh commented that she agreed with the rationale for the fee decrease and recommended that the Board consider reducing its fee from the current \$7.00 per application for a fingerprint clearance card to \$4.00 per application. Ms. Burns indicated that she agreed with her comments.

Ms. Pipersburgh made a motion to decrease the Board fee from \$7.00 to \$4.00 and to review the appropriateness of the fee on an annual basis. Ms. Warda seconded the motion. The motion passed 5-0.

## **VII. ADJOURNMENT**

Ms. Burns adjourned the meeting at 9:22 a.m.

Minutes approved on August 21, 2020

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Matthew A. Scheller, Executive Director



# Arizona Board of Fingerprinting Memo

TO: Board Members  
FROM: Matthew A. Scheller  
Date: February 19, 2020  
**SUBJECT New Board Policies**

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At its February 21, 2020 meeting, the Board will consider whether to adopt policies regarding conflict-of-interest laws. This memo describes the reasons for implementing the new policies and why it is being recommended at this time.

## **CONFLICT OF INTEREST**

In October 2019, the Arizona Auditor General completed and published a performance audit and sunset review and indicated the following regarding the Board's compliance with State conflict-of-interest laws: "[t]he Board has not implemented policies and procedures for ensuring compliance with State laws that require public officers and employees of public agencies, including Board members, to avoid conflicts of interest that might influence or affect their official conduct. These laws require certain interests to be disclosed in a public agency's official records, either through a signed document or the agency's official minutes. Public officers/employees must then refrain from participating in matters related to disclosed interests. In addition, public agencies are required to maintain a special file of all documents necessary to memorialize such disclosures and make this file available for public inspection. The Board does not have a process to address potential conflicts of interest in accordance with these laws."

Therefore, the recommendation in the Auditor General Report states, "[t]he Board should develop and implement policies and procedures for addressing potential conflicts of interest in accordance with State laws."

## **RECOMMENDED POLICY CHANGES**

Attached to this memo (Attachment #1), I have included three draft policies for the Board's consideration and approval. It is recommended that the Board adopted several

policies that directly or indirectly address any potential conflict of interest concern. They are as follows:

***Conflict of Interest Policy #101***

***Ethical Standards Policy #102***

***Hearing Recusal Policy #103***

## **PROCEDURES**

The Board's statutes do not prescribe procedures for enacting new policies that it will abide by. However, open-meeting laws prohibit discussing these changes in executive session, unless it would be to discuss it directly with the Board's Legal Counsel, the Arizona Attorney General's Office. The most straightforward procedure would be similar to what the Board has used in previous actions and its elections:

1. The Board has discussion, if necessary make changes to the recommended policies.
2. A member makes a motion to adopt the policy/policies, and the motion is seconded.
3. A vote is taken. If the motion passes by a majority, the policy is enacted.
4. If policy is enacted, the Board members will sign the new policy.
5. The Executive Director will post the policy on the Board of Fingerprinting website for review and a hardcopy will be placed in Board members' files.

When the Board has enacted new policies, it has been common practice for the policy to take effect immediately, unless otherwise specified by the Board.

ARIZONA BOARD OF FINGERPRINTING	TOPIC: <b>Conflict of Interest</b>
POLICIES AND PROCEDURES	POLICY #: 101 EFFECTIVE: 2/21/2020 UPDATED: 2/21/2020

**Purpose:**

This Conflict of Interest Policy governs the activities of the Board and staff of the Arizona Board of Fingerprinting. Questions about the policy should be directed to the Executive Director. It is the duty of all Board members and staff to be aware of this policy and to identify conflicts of interest and situations that may result in the appearance of a conflict and to disclose those situations/conflicts/or potential conflicts to (i) the Executive Director (ii) the Chair of the Board or (iii) other designated person(s) as appropriate. This policy provides guidelines for identifying conflicts, disclosing conflicts and procedures to be followed to assist the Arizona Board of Fingerprinting manage conflicts of interest and situations that may result in the appearance of a conflict.

The board has adopted several policies that directly or indirectly address any potential conflict of interest concern. These policies are:

**Ethical Standards Policy #102**

*It is the policy of the Arizona Board of Fingerprinting to establish the highest standards of honesty, integrity, conduct and impartiality. These standards are necessary to merit the trust, confidence and respect of officials, employees and the general public. Therefore, Board members shall be held accountable for complying with these standards when conducting their official and personal affairs.*

**Hearing Recusal Policy #103**

*It is the policy of the Arizona Board of Fingerprinting to conduct all hearings in a fair and transparent manner without regard to personal or other biases and interests.*

Additionally, Board members are trained by our Executive Director and Arizona Attorney General’s representative on how to avoid placing themselves in a conflict of interest situation.

1. **What is a conflict of interest?** A conflict of interest arises when a Board member or staff member has a personal interest that conflicts with the interests of Arizona Board of Fingerprinting or arise in situations where a board/staff member has divided loyalties (also known as a “duality of interest”).
2. **Who might be affected by this policy?** Typically persons who are affected by a conflict of interest policy are the organization’s Board members, officers, and senior staff. Arizona Board of Fingerprinting takes a broad view of conflicts and board/staff are urged to think of how a situation/transaction would appear to outside parties when identifying conflicts or possible conflicts of interest.
3. **Disclosure of Conflicts.** Board members and staff will disclose any known conflicts as they arise and will disclose those situations that are evolving that may result in a conflict of interest. Advance disclosure must occur so that a determination may be made as to the appropriate plan of action to manage the conflict. Staff should disclose to the Executive Director and Board members should disclose to the Chairman of the board as soon as the person with the conflict is aware of the conflict/potential conflict or appearance of a conflict exists.
4. **Procedures to manage conflicts.** For each interest disclosed, the full Board or the Executive Director or the Chairman of the board, as appropriate, will determine whether the organization should: (a) take no action or (b) disclose the situation more broadly and invite discussion/resolution by the full Board of what action to take, or (c) refrain from taking action and otherwise avoid the conflict. In most cases the broadest disclosure possible is advisable so that decision-makers can make informed decisions that are in the best interests of the organization.
  - a. When the conflict involves a decision-maker, the person with the conflict (“interested party”): (i) must fully disclose the conflict to all other decision makers; (ii) may not be involved in the decision of what action to take (e.g., may not participate in a vote) but may serve as a resource to provide other decision makers with the needed information.
  - b. In some cases the person with the conflict may be asked to recuse him/herself from sensitive discussions so as not to unduly influence the discussion of the conflict.



- c. In all cases, decisions involving a conflict will be made only by disinterested persons.
- d. The fact that a conflict was managed and the outcome will be documented in the minutes of board meetings if the conflict was related to a Board member, and reported by the Executive Director to the Chairman.
- e. The Executive Director will monitor proposed or ongoing transactions of the organization (e.g., contracts with vendors and collaborations with third parties) for conflicts of interest and disclose them to the Board and staff, as appropriate, whether discovered before or after the transaction has occurred.

I hereby acknowledge that I have read in its entirety each described policy:

Ethical Standards Policy #102 \_\_\_\_\_ (initials)  
Hearing Recusal Policy #103 \_\_\_\_\_ (initials)

Board policies are posted on the Arizona Board of Fingerprinting website for review and a hardcopy will be placed in board members' files.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

ARIZONA BOARD OF FINGERPRINTING	TOPIC: <b>Ethical Standards</b>
POLICIES AND PROCEDURES	POLICY #: 102 EFFECTIVE: 2/21/2020 UPDATED: 2/21/2020

**PURPOSE:**

The purpose of this policy is to set the highest standards of honesty, integrity, conduct and impartiality for all Board Members. Board members shall be held accountable for complying with these standards as well as the Board's Policy and Procedures when conducting their official and personal affairs.

**AUTHORITY:**

ARS § 41-619.52 Board of fingerprinting; organization; meetings  
 ARS § 38-431 Open Meeting Law  
 ARS § 38-501 Conflict of interest of officers and employees  
 ARS § 38-532 Prohibited personnel practice; violation; exceptions  
 ARS § 41-770 Cause for discipline or dismissal  
 ARS § 41-772 Political activity  
 ARS § 41-773 Improper use of official position  
 5 U.S.C. Sections 1501 to 1508 (Federal Hatch Act)

**PROCEDURE:****102.01 Member Standards**

1.1 Arizona Board of Fingerprinting Members are appointed by the Directors of their respective agencies and shall be held accountable for complying with standards that establish the necessary trust, confidence, and respect of officials, employees and the general public. Members shall:

- a. Maintain high standards of honesty, integrity, confidentiality and impartiality;
- b. Demonstrate ethical conduct at all times in the performance of their duties;
- c. Cooperate with all officials in a courteous manner;

- d. Accept job responsibilities and comply with State and Federal laws, Arizona Administrative Codes and the Board's policies and procedures; and
- e. Shall not demean any opinion expressed by another Board member.
- f. Shall not publicly denounce a decision made by a previous Board.

### **102.2 Board Member Training**

- 2.1. Board Members will attend and participate training administrated by the Executive Director or designee and conducted by the Attorney General's Office.
- 2.2. Board Members will seek answers to technical questions and/or guidance only from the Board Chairperson, Executive Director, and/or Board Counsel.
- 2.3 Procedural questions which arise during a hearing shall be referred to the Board Chairperson and/or Executive Director.
  - 2.3.1 While in quorum, a member may vote at any time to enter executive session to seek legal advice from the Board's counsel when present or request a follow up meeting for the next scheduled Board meeting to have Board's counsel present.

### **102.3 Board Hearing Standards**

- 3.1 Board members shall be knowledgeable, understand and comply with the Open Meeting Law at all times.
- 3.2 Board members will not discuss any material related to any hearing scheduled to be heard before the Board when a quorum of the Board is present.
- 3.3 Board Members shall report to the Board Chairperson any attempt to persuade them on how to vote in an individual hearing or set of hearings from any internal or external source.

3.3.1 The Board Chairperson upon receiving information from a Board member that someone is attempting to influence the decision making process will gather all information possible and submit their findings in writing to the Attorney General for investigation.

3.4 Board Members shall review all documentation provided to them by administrative staff and interested parties **prior** to a scheduled hearing.

### **IMPLEMENTATION**

This policy was adopted by the Arizona Board of Fingerprinting in accordance with law.

ARIZONA BOARD OF FINGERPRINTING	TOPIC: <b>Hearing Recusal</b>
POLICIES AND PROCEDURES	POLICY #: 103 EFFECTIVE: 2/21/2020 UPDATED: 2/21/2020

**PURPOSE:**

The purpose of this policy is to outline the general procedures and guidelines associated with the Board's practice of conducting fair and equitable hearings without regard to personal or other biases and interests.

**AUTHORITY:**

A.R.S. §§ 38-501 – 38-511  
 State Personnel Rules  
 State Employee Handbook

**PROCEDURE:****103.1 Determination of Recusal**

- 1.1 There are times when a Member of the Board Fingerprinting may feel it would be inappropriate to participate in a matter pending before the Board. When this occurs, a member may recuse themselves from participating and making a determination in the matter.
  - 1.1.1 Recusal of self from a hearing must be determined by that individual.
- 1.2 A member should disqualify him/herself in any proceeding in which their impartiality might reasonably be questioned or where they have a personal bias or prejudice concerning a party, or personal knowledge of disputed facts concerning the matter.
- 1.3 A member should question participation in a matter if they have already predetermined their vote concerning the outcome or when the member has a personal, professional or financial in the outcome. As a general rule, a Board

member should recuse himself/herself if participation would violate or conflict with prevailing statutes (ARS §38-501 – 38-511), state personnel rules and provisions within the State of Arizona Employee Handbook.

1.4 Examples illustrating when a Board member may wish to consider recusing themselves are:

**Financial Involvement:** Recuse yourself when you or a relative have a financial involvement that might reasonably be expected to impair your objectivity. Financial involvement means any personal or business relationship with a participant at the hearing. Relative means the spouse, child, child's child, parent, grandparent, brother or sister of whole or half-blood and their spouses and the parent, brother, sister or child of a spouse. A.R.S. Sec. 38-502. Usually step children and adopted children and their spouses are included under the purview of immediate family.

**Personal Involvement:** Recuse yourself when you or members of your immediate family have personal involvement with the applicant that creates some benefit to you or to an immediate family member. A board member should recuse themselves if they have knowledge, information, or have a relationship that would prevent them from participating in a fair, objective and unbiased hearing. Personal involvement means other than a work related relationship.

**Professional Services** (lawyer, accountant, etc.): If a board member is currently receiving services from a professional person or is providing services to an individual that has a vested interest in a board hearing, it is not advisable from a policy standpoint for the board member to participate in a hearing. Board members should seek an advisory opinion from the attorney general's office regarding the member's ability to participate in the hearing should such a conflict arise.

**Personal Interest:** If a board member is related to someone who is directly or indirectly involved in a personal relationship with an Applicant or other hearing participant that member should not participate in a hearing.

**Political Interest:** State employees are allowed to participate in campaigns and solicit campaign contributions for political candidates. However, a board member should recuse themselves if they have knowledge, information, or have a relationship with a candidate or holder of political office who has a matter

before the board that would prevent them from participating in a fair, objective and unbiased hearing.

### **103.2 Notice to the Public**

2.1 Any Board member who intends to recuse himself/herself from a hearing shall declare their intention at the start of a hearing, before testimony begins, and leave the board room.

2.1.1 Stating the reason for a Board member's decision to recuse is permissible but not required.

### **103.3 Recusal of Board Chairperson**

3.1 If the Board Chairperson recuses him/herself from a hearing, he or she shall designate another member to act as Chairperson.



# Arizona Board of Fingerprinting Memo

TO: Board Members  
 FROM: Matthew A. Scheller  
 Date: February 19, 2020  
**SUBJECT Board Fee Decrease**

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At its February 21, 2020 meeting, the Board will consider whether to adopt rules to change the Board's portion of the fingerprint-clearance-card fee. In October 2019, the Arizona Auditor General completed and published a performance audit and sunset review and recommended that the Board analyze its current revenues and costs to determine whether the current \$7 fee should be adjusted (and document its analysis and determination), and establish and implement a process for periodically reviewing the appropriateness of its fee. This memo identifies the Board's options, and offers fund projections for certain fee rates, and recommends decreasing the fee.

Board members are free to share this memo with interested parties, who are welcome to contact me with comments or questions at [matthew.scheller@fingerprint.az.gov](mailto:matthew.scheller@fingerprint.az.gov) or (602) 265-3747.

## SUMMARY

- The Board should adopt rules to decrease its portion of the fingerprint-clearance-card fee from \$7.00 to \$4.00.
- The Board is adequately staffed at the current time in order to meet its statutory time frames.
- If the Board does not adopt this decrease, the Board's fund balance will be substantially above what the Board needs to operate its day-to-day operations.
- On an annual basis, the Board should review the appropriateness of its fee.

## BOARD FUNDING AND BUDGET

The Board of Fingerprinting Fund ("Board fund") is established by A.R.S. § 41-619.56. Revenue for the Board fund comes from a portion of the fingerprint-clearance-card fee. The fee for a fingerprint clearance card is \$67.00 for paid employees and teacher certification and \$63.00 for volunteers. The Board fund receives \$7.00 for each fingerprint-clearance-card application.



For fiscal year (“FY”) 2020, which is the current fiscal year, the Board adopted a budget that included \$3,416,139.82 in total expenditures. This amount includes Board expenditures in the amount of \$707,039.82 and a one-time legislative fund sweep that was included in HB 2748 in the amount of \$2,709,000. As explained in an August 21, 2019 memo I sent to the Board, the projected revenues would be \$1,050,000 for FY 2020. This projection was based on the assumption that DPS would receive about 150,000 fingerprint-clearance-card applications, which is less than the number DPS received in FY 2019 but consistent with what has been seen in previous years. If the revenues match projections, after the legislative fund sweep, the Board’s fund balance at the end of FY 2020 will be \$1,188,880.18. The Board fund is exempt from the lapsing of appropriations, and this amount would be carried forward to future fiscal years.

The August 21 memo indicates that expenditures would be less than revenues by \$342,960.20. Therefore, the fund balance would continue to increase at the high rate unless the current Board fee is addressed.

## **REASONS FOR FEE DECREASE**

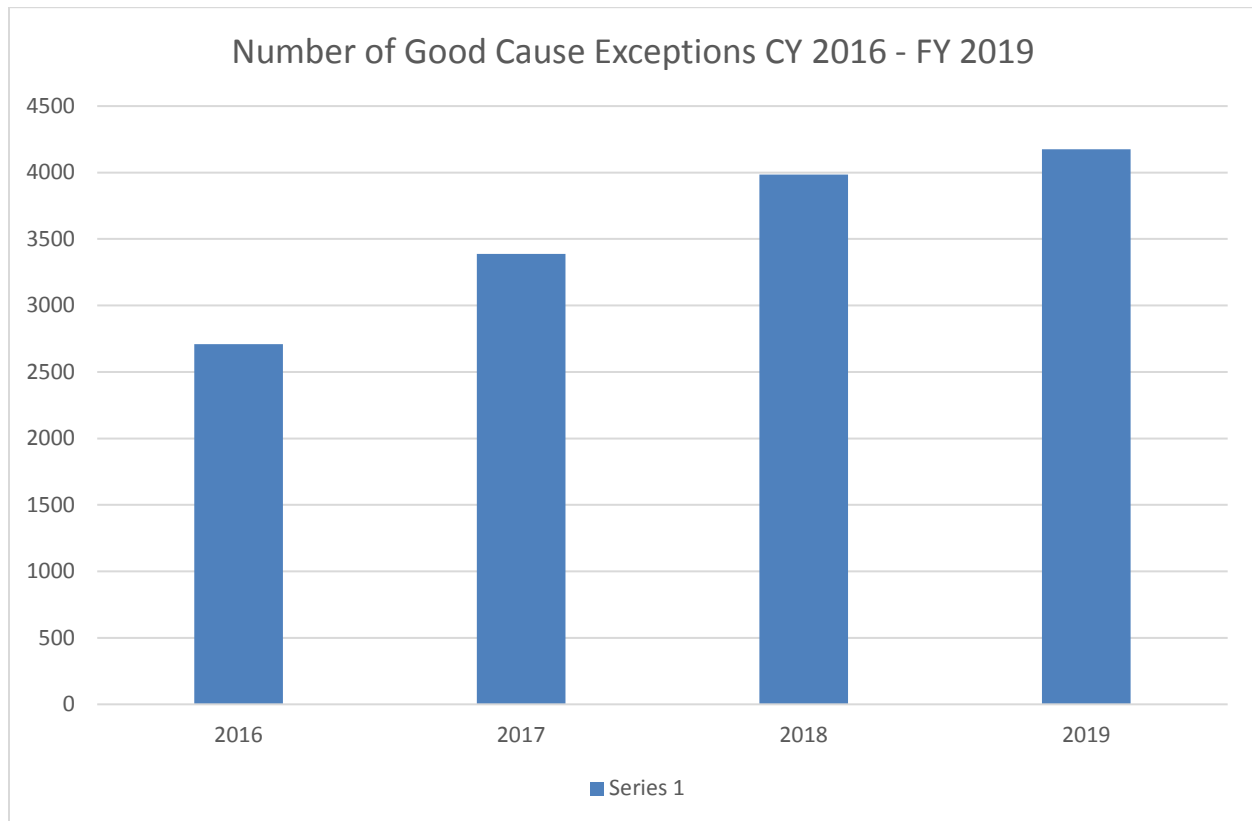
First, as indicated in the Auditor General Report, the Board’s fund balance grew from approximately \$1.3 million at the end of fiscal year 2013 to more than \$3.5 million at the end of fiscal year 2019. This increase in the Board’s fund balance indicates that the Board’s \$7 fee may be too high given the current number of applicants for a fingerprint clearance card and the Board’s costs for processing the applications it receives. Even with additional staff the Board has recently added to address its increasing workload, the amount of revenues are substantially above the expenditures.

In addition, the Government fee-setting standards and guidance state that user fees should be determined based on the costs of providing a service and that fees should be reviewed periodically to ensure they are aligned with program costs. (Joint Legislative Committee on Performance Evaluation and Expenditure Review. (2002). State agency fees: FY 2001 collections and potential new fee revenues. Jackson, MS.)

Second, as the Board has seen in the Annual Reports that have been provided, the number of fingerprint-clearance-card applications that DPS receives continues to increase with the number of new professions required to obtain a fingerprint clearance card. In FY 2015, the legislature added Physical Therapists and Physical Therapist Assistants (ARS §32-2022), Alarm Installers (ARS §32-121), and School Bus Drivers (ARS §28-3228). In FY 2018, Industrial Hemp Licenses (ARS §3-314), Home Inspector Certification (ARS §32-122.02), Department of Economic Security Employees who have access to federal tax information (ARS § 41-1969), and Dental Therapist Licensure (ARS § 32-1276.01) were added.

With this increase in applications to DPS, the number of applications for good-cause-exceptions continues to rise. The last several years remain significantly above the

Board's prediction. Thus, the Board's source of revenue is increasing and the workload is also increasing. See the table below:



In FY 2019, DPS received 170,671 applications; in FY 2018, DPS received 162,191; and in FY 2017, DPS received 147,387 applications. As indicated above, in “Board Funding and Budget,” the Board’s current budget was adopted with a level of revenues that assumed DPS would receive about 150,000 applications over the course of FY 2020. However, revenues collected in FY 2020 may be greater than anticipated, and the Board fund balance will continue to increase this fiscal year. The end-of-fiscal-year balance will be over 1,000,000 even with the legislative fund sweep from this past Fiscal Year.

### **AMOUNT OF DECREASE**

Below are various projections for the Board over multiple fiscal years based on different fee decreases. Each of these projections assumes that DPS will receive 150,000 fingerprint-clearance-card applications.

<b>Table 1. Fund Balance over Five Fiscal Years According to Fees Collected</b>						
<b>Fee</b>	<b>Budget</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>\$7.00</b>	Revenues*	\$ 1,050,000.00	\$ 1,050,000.00	\$ 1,050,000.00	\$ 1,050,000.00	\$ 1,050,000.00
	Prev. FY Balance	\$ 845,920.00	\$ 1,188,880.18	\$ 1,531,840.36	\$ 1,874,800.54	\$ 2,217,760.72
	Expenditures**	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82
	Net Income	\$ 1,188,880.18	\$ 1,531,840.36	\$ 1,874,800.54	\$ 2,217,760.72	\$ 2,560,720.90
<b>\$6.00</b>	Revenues*	\$ 1,050,000.00	\$ 900,000.00	\$ 900,000.00	\$ 900,000.00	\$ 900,000.00
	Prev. FY Balance	\$ 845,920.00	\$ 1,188,880.18	\$ 1,381,840.36	\$ 1,574,800.54	\$ 1,767,760.72
	Expenditures**	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82
	Net Income	\$ 1,188,880.18	\$ 1,381,840.36	\$ 1,574,800.54	\$ 1,767,760.72	\$ 1,960,720.90
<b>\$5.00</b>	Revenues	\$ 1,050,000.00	\$ 750,000.00	\$ 750,000.00	\$ 750,000.00	\$ 750,000.00
	Prev. FY Balance	\$ 845,920.00	\$ 1,188,880.18	\$ 1,231,840.36	\$ 1,274,800.54	\$ 1,317,760.72
	Expenditures**	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82
	Net Income	\$ 1,188,880.18	\$ 1,231,840.36	\$ 1,274,800.54	\$ 1,317,760.72	\$ 1,360,720.90
<b>\$4.00</b>	Revenues*	\$ 1,050,000.00	\$ 600,000.00	\$ 600,000.00	\$ 600,000.00	\$ 600,000.00
	Prev. FY Balance	\$ 845,920.00	\$ 1,188,880.18	\$ 1,081,840.36	\$ 974,800.54	\$ 867,760.72
	Expenditures**	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82
	Net Income	\$ 1,188,880.18	\$ 1,081,840.36	\$ 974,800.54	\$ 867,760.72	\$ 760,720.90
<b>\$3.00</b>	Revenues*	\$ 1,050,000.00	\$ 450,000.00	\$ 450,000.00	\$ 450,000.00	\$ 450,000.00
	Prev. FY Balance	\$ 845,920.00	\$ 1,188,880.18	\$ 931,840.36	\$ 674,800.54	\$ 417,760.72
	Expenditures**	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82	\$ 707,039.82
	Net Income	\$ 1,188,880.18	\$ 931,840.36	\$ 674,800.54	\$ 417,760.72	\$ 160,720.90

\*\*Previous FY Balance is the Final FY 2019 Balance minus \$2,709,000 Legislative Fund Sweep for FY 2020

Based on these projections, I recommend that the Board adopt a fee decrease of \$3.00 (from \$7.00 to \$4.00). The Board may want to consider decreasing the fee by \$4.00 (from \$7.00 to \$3.00). The Chart indicates the “Net Income” or projected amount remaining in the Board fund projected out over a 5 year period. If the projections stay consistent the Board fund would gradually decrease and maintain a positive balance. In addition, the Board should review the fee on an ongoing basis.

### **PROCESS AND TIME FRAME FOR DECREASING THE FEE**

The Board’s current fee of \$7.00 is established in rule under A.A.C. R13-11-113(A). To change its fee, the Board would need to change its rules. Under A.R.S. § 41–619.53(A)(2), the Board is exempt from the rulemaking requirements of the Administrative Procedures Act (“APA”). However, the Board should follow its past practice of adhering to a process that parallels portions of the APA’s rulemaking

requirements. This practice offers stakeholders an opportunity to submit comments on the proposed rule change. At the same time, the practice does not fully adhere to the APA's rulemaking requirements, so it won't take as long to establish the new fee as it otherwise would by following the APA.

In addition, the Governor has issued Executive Order 2020-02 – Moratorium on Rulemaking to Promote Job Creation and Economic Development; Implementation of Licensing Reform Policies. This mandates that agencies cannot conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. If the Board is in agreement, I will work on getting an exemption from the Governor's office in order update our current rules.

Finally, I submitted the Boards Five Year Review Report to the Governor's Regulatory Review Council in November 2019 with an indication that Board intends to complete the rulemaking to address all issues identified before June 2020. This will allow time to get an exemption from the Governor's office and allow DPS, which collects the fingerprint-clearance-card fee, time to prepare for the rule change and make any necessary form changes.