



## **ARIZONA BOARD OF FINGERPRINTING**

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### **Final Minutes for Public Meeting**

Held August 10, 2006, at 9:00 a.m.

2222 West Encanto Blvd., Suite 350, Phoenix, Arizona

#### **Board Members**

Mike LeHew, Department of Economic Security, Chair  
Kim Pipersburgh, Department of Health Services, Vice Chair  
Alvin Vasicek, Administrative Office of the Courts  
Rachell Tucker, Department of Education  
Arthur W. Baker, Department of Juvenile Corrections

#### **Executive Director**

Dennis Seavers

### **CALL TO ORDER AND ROLL CALL**

Mr. LeHew called the meeting to order at 9:16 a.m. and conducted a roll call. The following Board members were present: Mike LeHew, Lisa Wynn (alternate member for the Department of Health Services), Alvin Vasicek, Rachell Tucker, and Arthur W. Baker. There were no board members absent.

### **CALL TO THE PUBLIC**

Mr. LeHew made a call to the public. There were no members of the public present.

### **APPROVAL OF MINUTES**

Mr. Vasicek made a motion to approve the minutes from the Board's May 19, 2006, meeting, and Mr. Baker seconded. The motion passed, 5-0.

## **EXECUTIVE DIRECTOR'S REPORT**

Mr. Seavers referred the Board members to his report on the revenue and expenditures for fiscal year ("FY") 2006. (See Attachment 1.) Mr. Seavers also referred Board members to his report on the Board's strategic plan for FY 2006. (See Attachment 2.)

## **FISCAL YEAR 2007 BUDGET**

Mr. Seavers referred Board members to the proposed FY 2007 budget and accompanying memorandum. (See Attachment 3.) Mr. Seavers explained that the proposal to hire a hearing officer was in response to the increasing caseload and his own inability to keep up with the Board's current caseload.

Ms. Wynn asked Mr. Seavers whether he had a specific location in mind for the new Board office. Mr. Seavers said he did not. Ms. Tucker asked what the basis was for the budgeted rent. Mr. Seavers responded that the estimate was admittedly rough but was based on cost data that the Department of Administration had provided the previous fiscal year.

Mr. LeHew asked whether revenues would decline because of the shift from three-year to six-year fingerprint clearance cards. Mr. Seavers said that he did not believe there would be a significant decline, given that there is high turnover in the regulated professions.

Ms. Wynn asked whether the new hearing officer position would be covered under the merit system. Mr. Seavers said he believed the position would be uncovered. Ms. Tucker and Mr. Baker indicated that they would want sufficient operational measures in place to ensure that conflicts of interest would not arise from the hearing officer covering some of the investigator's excess work. Mr. Seavers replied that in cases where the hearing officer conducted the investigation for an expedited review, he or she would not conduct the administrative hearing. Mr. Baker stressed the importance of eliminating the possibility of a conflict of interest.

Mr. Vasicek made a motion to approve the proposed budget for FY 2007, and Mr. Baker seconded. The motion passed, 5-0.

## **FISCAL YEAR 2007 STRATEGIC PLAN**

Mr. Seavers referred the Board members to his report on the Board's strategic plan for FYs 2007 and 2008. (See Attachment 2.) Mr. Seavers noted that he added some measures in order to reflect changes to the Board's business process and to collect information on the length of time from the administrative hearing to the Board's final decision on a good cause exception application.

## **DRAFT RULES**

Mr. Seavers referred the Board members to the two sets of draft, proposed rules. (See Attachment 4.) Mr. Seavers explained that a rule on rehearing or review is required by law, so the rule proposal is meant to comply with the law. The draft rule on *ex parte* communication is meant to protect Board members and applicants from conflicts of interest, to preserve objectivity, and to ensure that the administrative record would include any contact outside of the standard application process and any administrative hearing.

Mr. Seavers explained that he was presenting the draft rule proposals to the Board members so that they could get feedback from appropriate stakeholders before formally proposing the rules and initiating the rulemaking process.

Mr. Vasicek asked about the draft rule on rehearing or review, section (A)(3). He asked who would make the determination on whether the evidence was “newly discovered.” Mr. Seavers replied that the Board would make that finding.

Mr. LeHew requested that the Board members review the draft rules and consult with stakeholders for discussion at a future meeting.

## **CHAIR’S REPORT**

Mr. LeHew referred the Board members to the draft legislative proposals that appear in Attachment 5 of the minutes. He explained that some of the draft proposals had been developed the previous year following a series of meetings between representatives of the primary agencies that participate in the fingerprint clearance card system. He also explained that the proposal regarding time limits might be advanced by the Department of Public Safety (“DPS”), although DPS had not decisively indicated whether it would propose the legislation.

Mr. LeHew asked the Board members to consult with their respective agencies on the draft legislative proposals for discussion and action at a future Board meeting.

## **ELECTIONS**

Mr. Vasicek made a motion to elect Mr. LeHew for the position of Board chair, and Mr. Baker seconded. The motion passed, 5-0.

Ms. Wynn made a motion to elect Ms. Pipersburgh for the position of Board vice chair, and Mr. Vasicek seconded, pending Ms. Pipersburgh’s acceptance. The motion passed, 5-0.

## **ADJOURNMENT**

Mr. Baker made a motion to adjourn the meeting, and Mr. Vasicek seconded. The motion passed, 5-0. Mr. LeHew adjourned the meeting at 10:26 a.m.

Minutes approved on September 22, 2006

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Dennis Seavers, Executive Director

**Arizona Board of Fingerprinting**  
**Revenue & Expenditures**  
**Fiscal Year 2006**

Minutes, 8/10/2006  
ATTACHMENT 1

	<u>Quarter 1</u>	<u>Quarter 2</u>	<u>Quarter 3</u>	<u>Quarter 4</u>	<u>TOTAL</u>
<b>Income</b>					
<b>4900 - Transfers In</b>					
4901 - Operating Transfers In	0.00	77,466.00	91,554.00	204,821.73	373,841.73
FY05 Carryover	442,961.37	0.00	0.00	0.00	442,961.37
	<u>442,961.37</u>	<u>77,466.00</u>	<u>91,554.00</u>	<u>204,821.73</u>	<u>816,803.10</u>
<b>Total Income</b>	442,961.37	77,466.00	91,554.00	204,821.73	816,803.10
<b>Expense</b>					
<b>6000 - Personal Services</b>					
6010 - Basic Compensation					
6011 - Regular Base Salary	36,143.74	29,035.51	33,346.89	32,284.82	130,810.96
Total 6010 - Basic Compensation	<u>36,143.74</u>	<u>29,035.51</u>	<u>33,346.89</u>	<u>32,284.82</u>	<u>130,810.96</u>
6020 - Performance Pay					
6028 - 2.5% Performance Pay	0.00	0.00	144.96	869.76	1,014.72
Total 6020 - Performance Pay	<u>0.00</u>	<u>0.00</u>	<u>144.96</u>	<u>869.76</u>	<u>1,014.72</u>
6040 - Leave Compensation					
6041 - Annual Leave	1,567.47	2,140.81	3,243.04	1,612.77	8,564.09
6042 - Sick Leave	684.72	1,873.15	2,301.40	1,291.56	6,150.83
6048 - Holiday Leave Taken	1,009.87	1,739.43	1,949.61	1,123.45	5,822.36
Total 6040 - Leave Compensation	<u>3,262.06</u>	<u>5,753.39</u>	<u>7,494.05</u>	<u>4,027.78</u>	<u>20,537.28</u>
<b>Total 6000 - Personal Services</b>	39,405.80	34,788.90	40,985.90	37,182.36	152,362.96
<b>6100 - ERE</b>					
6110 - Insurance					
6111 - FICA	2,962.56	2,624.89	3,089.01	2,804.67	11,481.13
6113 - Medical Insurance	3,276.00	2,708.64	3,447.36	2,954.88	12,386.88
6114 - Basic Life	42.84	31.04	39.48	33.84	147.20
6116 - Long-term Disability	196.99	173.88	204.87	185.94	761.68
6117 - Unemployment Insurance	77.49	68.61	80.74	73.32	300.16
6118 - Dental Insurance	281.68	204.32	260.05	222.90	968.95
6119 - Worker's Compensation	197.05	173.94	204.93	185.94	761.86

**Arizona Board of Fingerprinting**  
**Revenue & Expenditures**  
**Fiscal Year 2006**

Minutes, 8/10/2006  
ATTACHMENT 1

	<u>Quarter 1</u>	<u>Quarter 2</u>	<u>Quarter 3</u>	<u>Quarter 4</u>	<u>TOTAL</u>
Total 6110 - Insurance	7,034.61	5,985.32	7,326.44	6,461.49	26,807.86
6150 - Retirement Plan Payments					
6155 - ASRS	2,627.46	2,400.41	2,828.00	2,565.60	10,421.47
Total 6150 - Retirement Plan Payments	2,627.46	2,400.41	2,828.00	2,565.60	10,421.47
6180 - Other ERE					
6183 - Personal Services	409.84	361.80	426.24	386.64	1,584.52
6185 - GITA Charge	59.12	52.20	61.50	55.80	228.62
6189 - Sick Leave Accumulation	157.60	139.14	163.93	148.74	609.41
Total 6180 - Other ERE	626.56	553.14	651.67	591.18	2,422.55
<b>Total 6100 - ERE</b>	<b>10,288.63</b>	<b>8,938.87</b>	<b>10,806.11</b>	<b>9,618.27</b>	<b>39,651.88</b>
<b>6200 - Prof. &amp; Outside Services</b>					
6210 - Financial Services					
6211 - Bond Issuance Cost	375.00	375.00	375.00	101.47	1,226.47
Total 6210 - Financial Services	375.00	375.00	375.00	101.47	1,226.47
6270 - Education & Training					
6271 - Education & Training	32.00	0.00	95.00	0.00	127.00
Total 6270 - Education & Training	32.00	0.00	95.00	0.00	127.00
6290 - Other Prof. & Out. Svcs.					
6299 - Other Prof. & Out. Svcs.	0.00	0.00	0.00	90.00	90.00
Total 6290 - Other Prof. & Out. Svcs.	0.00	0.00	0.00	90.00	90.00
<b>Total 6200 - Prof. &amp; Outside Services</b>	<b>407.00</b>	<b>375.00</b>	<b>470.00</b>	<b>191.47</b>	<b>1,443.47</b>
<b>7000 - Other Operating</b>					
7150 - IT Services					
7153 - Internal Svc. Data Proc.	1,040.00	1,560.00	1,560.00	1,560.00	5,720.00
7172 - External Comm. Long Dist	772.60	0.00	464.92	3,455.64	4,693.16
7179 - Other External Comm.	84.63	2,710.77	339.85	0.00	3,135.25
Total 7150 - IT Services	1,897.23	4,270.77	2,364.77	5,015.64	13,548.41

**Arizona Board of Fingerprinting**  
**Revenue & Expenditures**  
**Fiscal Year 2006**

Minutes, 8/10/2006  
ATTACHMENT 1

	<u>Quarter 1</u>	<u>Quarter 2</u>	<u>Quarter 3</u>	<u>Quarter 4</u>	<u>TOTAL</u>
7200 - Rental Expenditures					
7221 - Rental of Land & Bldgs.	0.00	0.00	0.00	14,030.04	14,030.04
7229 - Miscellaneous Rent	0.00	104.83	0.00	0.00	104.83
Total 7200 - Rental Expenditures	<u>0.00</u>	<u>104.83</u>	<u>0.00</u>	<u>14,030.04</u>	<u>14,134.87</u>
7250 - Repair & Maintenance					
7266 - Repair/Maint-Other Equip	0.00	0.00	90.00	180.00	270.00
Total 7250 - Repair & Maintenance	<u>0.00</u>	<u>0.00</u>	<u>90.00</u>	<u>180.00</u>	<u>270.00</u>
7300 - Operating Supplies					
7321 - Office Supplies	319.72	1,174.02	2,194.04	1,009.57	4,697.35
Total 7300 - Operating Supplies	<u>319.72</u>	<u>1,174.02</u>	<u>2,194.04</u>	<u>1,009.57</u>	<u>4,697.35</u>
7480 - Postage & Delivery					
7481 - Postage & Delivery	953.29	2,970.58	2,564.12	2,407.02	8,895.01
Total 7480 - Postage & Delivery	<u>953.29</u>	<u>2,970.58</u>	<u>2,564.12</u>	<u>2,407.02</u>	<u>8,895.01</u>
7500 - Miscellaneous Operating					
7531 - Dues	0.00	0.00	0.00	195.00	195.00
7541 - Books, Subscr., & Pubs.	508.95	356.76	114.63	0.00	980.34
Total 7500 - Miscellaneous Operating	<u>508.95</u>	<u>356.76</u>	<u>114.63</u>	<u>195.00</u>	<u>1,175.34</u>
<b>Total 7000 - Other Operating</b>	<b>3,679.19</b>	<b>8,876.96</b>	<b>7,327.56</b>	<b>22,837.27</b>	<b>42,720.98</b>
<b>8500 - Non-capital Equipment</b>					
8550 - EDP Equip PC/LAN Non-cap					
8551 - EDP Equip. Non-cap Purch	0.00	0.00	0.00	2,363.38	2,363.38
Total 8550 - EDP Equip PC/LAN Non-cap	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>2,363.38</u>	<u>2,363.38</u>
8560 - Tele. Equip. - Non-Cap.					
8561 - Tele. Equip. - Non-Cap.	0.00	0.00	0.00	279.23	279.23
Total 8560 - Tele. Equip. - Non-Cap.	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>279.23</u>	<u>279.23</u>
8580 - Non-capitalized Software					
8583 - PC/LAN Software Non-cap.	0.00	0.00	0.00	45.37	45.37

**Arizona Board of Fingerprinting**  
**Revenue & Expenditures**  
**Fiscal Year 2006**

Minutes, 8/10/2006  
ATTACHMENT 1

	<u>Quarter 1</u>	<u>Quarter 2</u>	<u>Quarter 3</u>	<u>Quarter 4</u>	<u>TOTAL</u>
Total 8580 - Non-capitalized Software	0.00	0.00	0.00	45.37	45.37
<b>Total 8500 - Non-capital Equipment</b>	0.00	0.00	0.00	2,687.98	2,687.98
<b>9100 - Transfers Out</b>					
9101 - Operating Transfers Out	6,250.00	0.00	0.00	6,250.00	12,500.00
<b>Total 9100 - Transfers Out</b>	6,250.00	0.00	0.00	6,250.00	12,500.00
AY05 in AY06	2,240.28	1,445.25	0.00	0.00	3,685.53
<b>Total Expense</b>	<u>62,270.90</u>	<u>54,424.98</u>	<u>59,589.57</u>	<u>78,767.35</u>	<u>255,052.80</u>
<b>Net Income</b>	<u><u>380,690.47</u></u>	<u><u>23,041.02</u></u>	<u><u>31,964.43</u></u>	<u><u>126,054.38</u></u>	<u><u>561,750.30</u></u>



Arizona Board of Fingerprinting  
Strategic Plan (Revised)

Goal 1. To make fair and consistent determinations on good cause exception applications.

Performance Measures	FY05 Actual	FY06 Actual	FY07 Estimate	FY08 Estimate	FY09 Estimate
Percent of investigator recommendations for expedited reviews accepted	85.80%	97.01%	98.00%	98.00%	98.00%
Percent of applications approved	80.71%	65.29%	70.00%	70.00%	70.00%
Percent of approvals by expedited review	57.20%	72.85%	70.00%	70.00%	70.00%
Percent of approvals by administrative hearing	42.80%	27.15%	30.00%	30.00%	30.00%

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

Performance Measures	FY05 Actual	FY06 Actual	FY07 Estimate	FY08 Estimate	FY09 Estimate
Number of applications received	1,531	1,770	2,046	2,365	2,734
Number of applications disposed	1,492	1,769	2,046	2,365	2,734
Ratio of cases opened to cases closed	1:.97	1:1	1:1	1:1	1:1
Average number of days to dispose	79.07	81.89	70.00	63.00	55.00
Average number of days spent processing application	54.37	55.31	47.00	42.00	37.00
Average number of days spent processing application from receipt to expedited review	17.83	43.50	35.00	30.00	25.00
Percent of applications that undergo an expedited review within 20 days (processing time)	73.03%	72.86%	80.00%	85.00%	90.00%
Average days from expedited review to hearing	52.59	64.22	55.00	40.00	30.00
Percent of applications heard within 60 days of expedited review	70.99%	42.42%	60.00%	85.00%	90.00%
Percent of applications decided within 60 days of hearing	91.08%	67.83%	75.00%	90.00%	90.00%

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

Performance Measures	FY05 Actual	FY06 Actual	FY07 Estimate	FY08 Estimate	FY09 Estimate
Number of requests received	2,844	3,020	3,207	3,405	3,616
Ratio of requests for good cause exceptions to applications submitted	1:.63	1:.59	1:.65	1:.70	1:.75
Percent of applications complete on initial submission	53.35%	37.42%	45.00%	50.00%	55.00%

Arizona Board of Fingerprinting  
Proposed Budget  
Fiscal Year 2007

	Quarter 1	Quarter 2	Quarter 3	Quarter 4	TOTAL FY 07
<b>Income</b>					
4900 - Transfers In					
4901 - Operating Transfers In	90,000.00	90,000.00	90,000.00	90,000.00	360,000.00
Total 4900 - Transfers In	90,000.00	90,000.00	90,000.00	90,000.00	360,000.00
 FY06 Carryover	 561,750.30				 561,750.30
<b>Total Income</b>	<b>651,750.30</b>	<b>90,000.00</b>	<b>90,000.00</b>	<b>90,000.00</b>	<b>921,750.30</b>
<b>Expense</b>					
6000 - Personal Services					
6010 - Basic Compensation					
6011 - Regular Base Salary	42,364.70	36,312.60	42,364.70	36,312.60	157,354.60
Total 6010 - Basic Compensation	42,364.70	36,312.60	42,364.70	36,312.60	157,354.60
 6020 - Performance Pay					
6028 - 2.5% Performance Pay	1,014.72	869.76	1,014.72	869.76	3,768.96
Total 6020 - Performance Pay	1,014.72	869.76	1,014.72	869.76	3,768.96
 Total 6000 - Personal Services	 43,379.42	 37,182.36	 43,379.42	 37,182.36	 161,123.56
 6100 - ERE					
6110 - Insurance					
6111 - FICA	4,169.34	3,573.72	4,169.34	3,573.72	15,486.12
6113 - Medical Insurance	7,056.77	6,048.66	7,056.77	6,048.66	26,210.86
6114 - Basic Life	49.35	42.30	49.35	42.30	183.30
6116 - Long-term Disability	274.82	235.56	274.82	235.56	1,020.76
6117 - Unemployment Insurance	102.90	88.20	102.90	88.20	382.20
6118 - Dental Insurance	400.61	343.38	400.61	343.38	1,487.98
6119 - Worker's Compensation	274.82	235.56	274.82	235.56	1,020.76
Total 6110 - Insurance	12,328.61	10,567.38	12,328.61	10,567.38	45,791.98
 6150 - Retirement Plan Payments					
6155 - ASRS	3,988.81	3,418.98	3,988.81	3,418.98	14,815.58
Total 6150 - Retirement Plan Payments	3,988.81	3,418.98	3,988.81	3,418.98	14,815.58

Arizona Board of Fingerprinting  
Proposed Budget  
Fiscal Year 2007

	Quarter 1	Quarter 2	Quarter 3	Quarter 4	TOTAL FY 07
6180 - Other ERE					
6183 - Personal Services	566.86	485.88	566.86	485.88	2,105.48
6185 - GITA Charge	82.46	70.68	82.46	70.68	306.28
6186 - Atty. Gen. Pro Rate Chg.	348.95	299.10	348.95	299.10	1,296.10
6189 - Sick Leave Accumulation	219.87	188.46	219.87	188.46	816.66
Total 6180 - Other ERE	<u>1,218.14</u>	<u>1,044.12</u>	<u>1,218.14</u>	<u>1,044.12</u>	<u>4,524.52</u>
Total 6100 - ERE	17,535.56	15,030.48	17,535.56	15,030.48	65,132.08
6200 - Prof. & Outside Services					
6210 - Financial Services					
6211 - Bond Issuance Cost	343.75	343.75	343.75	343.75	1,375.00
Total 6210 - Financial Services	<u>343.75</u>	<u>343.75</u>	<u>343.75</u>	<u>343.75</u>	<u>1,375.00</u>
6270 - Education & Training					
6271 - Education & Training	32.00				32.00
Total 6270 - Education & Training	<u>32.00</u>				<u>32.00</u>
6290 - Other Prof. & Out. Svcs.					
6299 - Other Prof. & Out. Svcs.	15,000.00				15,000.00
Total 6290 - Other Prof. & Out. Svcs.	<u>15,000.00</u>				<u>15,000.00</u>
Total 6200 - Prof. & Outside Services	15,375.75	343.75	343.75	343.75	16,407.00
7000 - Other Operating					
7150 - IT Services					
7153 - Internal Svc. Data Proc.	1,600.00	1,600.00	1,600.00	1,600.00	6,400.00
7172 - External Comm. Long Dist	1,250.00	1,250.00	1,250.00	1,250.00	5,000.00
7179 - Other External Comm.	1,000.00	1,000.00	1,000.00	1,000.00	4,000.00
Total 7150 - IT Services	<u>3,850.00</u>	<u>3,850.00</u>	<u>3,850.00</u>	<u>3,850.00</u>	<u>15,400.00</u>
7200 - Rental Expenditures					
7221 - Rental of Land & Bldgs.	14,030.04		12,500.00	12,500.00	39,030.04
7229 - Miscellaneous Rent	200.00				200.00

Arizona Board of Fingerprinting  
Proposed Budget  
Fiscal Year 2007

	<u>Quarter 1</u>	<u>Quarter 2</u>	<u>Quarter 3</u>	<u>Quarter 4</u>	<u>TOTAL FY 07</u>
Total 7200 - Rental Expenditures	14,230.04		12,500.00	12,500.00	39,230.04
7250 - Repair & Maintenance					
7266 - Repair/Maint-Other Equip	90.00	90.00	90.00	90.00	360.00
Total 7250 - Repair & Maintenance	90.00	90.00	90.00	90.00	360.00
7300 - Operating Supplies					
7321 - Office Supplies	1,500.00	1,500.00	1,500.00	1,500.00	6,000.00
Total 7300 - Operating Supplies	1,500.00	1,500.00	1,500.00	1,500.00	6,000.00
7480 - Postage & Delivery					
7481 - Postage & Delivery	2,500.00	2,500.00	2,500.00	2,500.00	10,000.00
Total 7480 - Postage & Delivery	2,500.00	2,500.00	2,500.00	2,500.00	10,000.00
Total 7000 - Other Operating	22,170.04	7,940.00	20,440.00	20,440.00	70,990.04
7500 - Miscellaneous Operating					
7541 - Books, Subscr., & Pubs.	300.00	300.00	300.00	300.00	1,200.00
Total 7500 - Miscellaneous Operating	300.00	300.00	300.00	300.00	1,200.00
8500 - Non-capital Equipment					
8550 - EDP Equip PC/LAN Non-cap					
8551 - EDP Equip. Non-cap Purch	2,500.00				2,500.00
Total 8550 - EDP Equip PC/LAN Non-cap	2,500.00				2,500.00
8580 - Non-capitalized Software					
8583 - PC/LAN Software Non-cap.	1,000.00	200.00	200.00	200.00	1,600.00
Total 8580 - Non-capitalized Software	1,000.00	200.00	200.00	200.00	1,600.00
Total 8500 - Non-capital Equipment	3,500.00	200.00	200.00	200.00	4,100.00
9100 - Transfers out					
9101 - Operating Transfers Out	10,254.00	6,250.00	6,250.00	6,250.00	29,004.00
Total 9100 - Transfers out	10,254.00	6,250.00	6,250.00	6,250.00	29,004.00

Arizona Board of Fingerprinting  
Proposed Budget  
Fiscal Year 2007

	<u>Quarter 1</u>	<u>Quarter 2</u>	<u>Quarter 3</u>	<u>Quarter 4</u>	<u>TOTAL FY 07</u>
Total Expense	<u>112,514.77</u>	<u>67,246.59</u>	<u>88,448.73</u>	<u>79,746.59</u>	<u>347,956.68</u>
Net Income	<u>539,235.53</u>	<u>22,753.41</u>	<u>1,551.27</u>	<u>10,253.41</u>	<u>573,793.62</u>

# Arizona Board of Fingerprinting Memo

TO: Board members and alternates  
FROM: Dennis Seavers  
C: Office of the Auditor General  
Date: August 7, 2006  
SUBJECT: FY 2007 Budget Issues

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Along with the notice for the Board's August 10, 2006, meeting, I provided a proposed budget for fiscal year 2007. The budget would increase expenditures by 36%. This memo describes and attempts to justify the proposed increase in spending. In addition, the memo identifies the major assumptions that underlie the budget proposal.

Although the budget proposes a substantial increase in spending, the Board's revenues would be greater than expenditures, and the Board of Fingerprinting Fund would have a net increase of \$12,043.32 (from \$561,750.30 to \$573,793.62).

If you have any questions about this memo or the proposed budget, please contact me at dennis.seavers@bof.state.az.us, 602-8593 (office), or 480-247-2248 (mobile).

## THREE MAJOR AREAS OF INCREASED SPENDING

There are three areas in the budget that comprise the bulk of the proposed spending increases. One area in particular – a proposal to hire a new employee – has policy implications that the Board may wish to consider when deciding whether to adopt the proposed budget.

1. New office location. The budget includes estimated costs for a new office location. The Board's current lease expires at the end of this calendar year. At that time, the Board could move to a new location that may be more suitable for its operations. Currently, the Board relies on other agencies for space to conduct hearings. Although these agencies have been generous in offering space for the hearings, there are advantages to conducting hearings on site: (1) on-site hearings would be easier to schedule; (2) there would be less of a risk of losing the hearing space, a circumstance that has arisen on a couple of occasions and that can be a problem if notices of hearings have been mailed to applicants; and (3) the strain on personnel resources would be minimized, since all employees would remain on site. In addition, the work of the executive director and investigator is easier to conduct in an enclosed office space rather than a cubicle. The increased costs appear under printer object code 7221 ("Rental of Land and Buildings") and apply only to the third and fourth quarters of the fiscal year.

2. One-time IT costs. Upgrades to the Board's database would improve case tracking and management. These upgrades would reflect changes to the law and changes that the Board has made to its operations in the past few years. The estimate in the proposed budget would probably be higher than the actual costs. These costs appear under comptroller object code 6299 ("Other Professional and Outside Services"). Later in the year, the executive director may propose Web-based initiatives, such as making case information available to Board members over the Internet. However, these initiatives would be proposed separately as it adds to the current proposed budget.
3. Additional FTE. The budget proposal assumes that current four-member staff (including the administrative assistant position that Rosie Bayardo recently vacated) would be supplemented by an additional FTE. This position would have two primary responsibilities: (1) sharing the hearing officer caseload with the executive director and (2) sharing the caseload of the reviews that investigator conducts preparation for the Board's expedited reviews. The position would have a pay and grade between the investigator and the executive director. Possible position titles include "Chief Investigator" or "Deputy Director." The proposed budget assumes a salary of \$43,000, which falls between the investigator's salary of \$40,458.70 and the executive director's salary of \$49,046.40. The variable employee-related expenditures associated with this salary, particularly the Board's costs for benefits, assume that the employee selected the benefits plans most costly to the Board (e.g., the family PPO health plan).

## BUDGET ASSUMPTIONS

The following assumptions are incorporated into the budget proposal.

1. Revenue. The Department of Public Safety will receive 120,000 applications for a fingerprint clearance card. This number could generate fee-based revenues of \$360,000 for the Board. The figure of 120,000 applications conservatively supposes that number of fingerprint clearance card applications will remain about the same as fiscal year 2006. Historically, DPS has had substantial increases each year in the number of fingerprint clearance card applications. It is likely that there will be more applications than this budget assumes.
2. Performance pay. The budget includes projections for the performance pay authorized by the Legislature in its most recent session. This 2.5% performance pay is guaranteed until April 2007, at which time the pay would be given if certain performance measures are met. This budget assumes that the performance measures will be met for each time period.
3. Non-capital equipment costs. The budget assumes costs for procuring an additional computer and related software for an additional FTE. (See above for a discussion of the additional FTE.)

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<sup>1</sup> The proposal of this additional FTE complies with the Board's request at its May 19, 2006, meeting for a plan to handle cases referred to hearing and to delegating officers. Also, this proposal incorporates advice from the Board's assistant attorney general.

4. Risk management costs. DPS pays for the Board's risk management costs, and the Board reimburses DPS. These costs appear in the first quarter under the comptroller object code 9101 ("Operating Transfer Out") and amount to \$4,004.
5. Office of Administrative Hearings. The budget assumes that the Board will send more hearings to the Office of Administrative Hearings than in the past and that the Board will not receive credits (as it has in the past) at the end of the fiscal year for referring fewer hearings to OAH than anticipated. If the Board were to hire an additional FTE, as described above, the Board may stop using OAH altogether by the third or fourth quarter.



## Draft rule on rehearing or review of decision or order

A. An appellant may seek a review or ~~rehearing~~ of a Board 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 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, order, or decision are not supported by the evidence ~~are~~ contrary to law;
2. The appellant was deprived of ~~a~~ ~~hearing~~ due to irregularity in the proceedings, abuse of discretion, ~~misconduct~~ of 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 shall specify the grounds ~~for~~ review or rehearing and shall provide reasonable evidence that the appellant's ~~rights~~ were materially affected.

C. The Board may grant a rehearing or ~~review~~ ~~on~~ any of the reasons in subsection A. The Board or its hearing officer may take additional testimony, amend findings of fact and conclusions of law, or make new findings and conclusions, and affirm, modify, or reverse the original decision.

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

## Draft rule on ex parte communication

- A. In any good cause exception case, except to the extent required for disposition of ex parte matters as authorized by law these rules of procedure:
1. No interested person outside the Board shall make or knowingly cause to be made to any Board members, hearing officer, administrative law judge, or other employee or consultant who is not reasonably expected to be involved in the decisional process of the proceeding ex parte communication relevant to the merits of the proceeding;
  2. No Board member, hearing officer, or other employee or consultant who is or may be reasonably expected to be involved in the decisional process of the good cause exception determination, shall not knowingly cause to be made to any interested person outside the Board ex parte communication relevant to the merits of the determination.
- B. A Board member, hearing officer, or other employee or consultant who is or may be reasonably expected to be involved in the decisional process of the good cause exception determination, who receives, shall not knowingly causes to be made a communication prohibited by this rule, shall place on the record of the proceeding and serve on all parties to the proceeding:
1. All such written communications;
  2. Memoranda stating the substance of such oral communications; and
  3. All written responses, and memoranda stating the substance of all oral responses, to the communications described in paragraphs 1 and 2 of this subsection.
- C. Upon receipt of a communication made or knowingly caused to be made by a party in violation of this section, the Board or its hearing officer, to the extent consistent with the interests of justice and the policy of the underlying statutes and rules, may require the party to show cause why his or her claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.
- D. The provisions of this section shall apply beginning at the time in which the request for a good cause exception is filed in accordance with R13-11-103.
- E. For purposes of this section:

1. "Person outside the Board" means any person other than a Board member, and employee or consultant of the Board, and any attorney representing the Board in its adjudicatory role.

2. "Ex parte communication" means an oral or written communication not on the administrative record and not the subject of reasonable prior notice to all parties.

# DRAFT

NON APPEALABLE	APPEALABLE
13-1404 Sexual Abuse	13-2008 Taking Identity of Another Person
13-1102 Negligent Homicide	13-2009 Aggravated Taking the Identity of Another Person or Entity
13-3502 Production, publication, sale, possession and presentation of obscene items	13-2010 Trafficking in the Identity of Another Person or Entity
13-3506 Furnishing harmful items to minors	13-3415 Possession of Drug Paraphernalia
13-3506.01 Furnishing harmful items to minors; internet activity	13-1505 Possession of Burglary Tools
13-3512 Obscene or indecent telephone communication to minors for commercial purposes	13-1818 Misappropriation of Charter School Monies (A & B)
13-3554 Luring a Minor for Sexual Exploitation	13-2910 Cruelty to Animals
13-1307 Sex Trafficking	46-215 Welfare Fraud
	13-3513 Sale or distribution of material harmful to minors through vending machines
Child Neglect (There was discussion among the department representatives whether this offense which is on the current list as appealable, should be a non-appealable offense.)	13-3555 Portraying adult as a minor
	13-3558 Admitting minors to public displays of sexual conduct
	13-1602 Criminal Damage
	Add two (2) more Preparatory offenses (Solicitation and Facilitation would be inserted into sections 41-1758.03. B & C)
	13-3214 Prostitution (In trying to decide whether this offense should be added, the 5 departments (DHS, DES, DJC, AOC and ADE) were unsure as to the merits of adding this offense. Also, DPS was curious as to why this offense was left off of the original list when all of the other prostitution related offenses were on the list. There was discussion whether this offense was an offense of moral turpitude, if a person had committed this offense does that mean they wouldn't be a good provider or were we adding this offense because it wasn't on the list. The 5 departments were somewhat split as to whether this offense should be added.)

# DRAFT

Note:

In looking at the current crimes list, the departments (DHS, DES, AOC, ADE and DJC) tried to reflect the current trends in law enforcement, societal changes, offenses that may have been overlooked and offenses that DPS has seen an increase in over the past several years. There were no preconceived ideas as to which offenses would be reviewed. The departments could bring up an offense they felt needed to be addressed which could mean that we could have taken offenses off the list just as well as adding offenses.

The group also tried on two separate occasions to address timeframes. The group felt that there was merit in assigning or addressing timeframes but could not get a total commitment to the concept from all of the departments on how to administer the timeframes and on which crimes. The ADE felt that timeframes should not be considered. The Arizona Board of Fingerprinting (BOF) offered to address the timeframe issue within the BOF rules. But, as the ADE pointed out, the BOF is obligated by statute to consider certain factors before approving or denying a good cause exception. In addition, the DJC felt that a card should only be denied if there was a felony conviction and that it did not seem to be in the best interest of the state to hold minor offenses that are 5, 10 and 15 years old against someone.

Also, the departments briefly discussed that everyone within the clearance card system have a CPS and APS check completed before their employment.

The lists of offenses listed on page 1 are recommendations from representatives of the 5 departments plus input from the DPS and the BOF. Also, the departments felt that timeframes could be a viable asset if it was thoroughly researched and implemented correctly plus having all of the departments buy into the idea.

In closing, I would like to thank everyone who participated in this process and hope that we can continue to improve and enhance how the clearance card system works.

#### 41-1758.03 Fingerprint clearance cards; issuance; immunity

A. On receiving the state and federal criminal history record of a person, the division shall compare the record with the list of criminal offenses that preclude the person from receiving a fingerprint clearance card. If the person's criminal history record does not contain any of the offenses listed in subsections B and C of this section, the division shall issue the person a fingerprint clearance card.

B. A person who is subject to registration as a sex offender in this state or any other jurisdiction or who is awaiting trial on or who has been convicted of committing or attempting SOLICITING, FACILITATING or conspiring to commit one or more of the following offenses in this state or the same or similar offenses in another state or jurisdiction is precluded from receiving a fingerprint clearance card:

1. Sexual abuse of a minor.
2. Sexual abuse of a vulnerable adult.
3. Incest.
4. First or second degree murder.
5. Sexual assault.
6. Sexual exploitation of a minor.
7. Sexual exploitation of a vulnerable adult.
8. Commercial sexual exploitation of a minor.
9. Commercial sexual exploitation of a vulnerable adult.
10. Child prostitution as prescribed in section 13-3212.
11. Child abuse.
12. Abuse of a vulnerable adult.
13. Sexual conduct with a minor.
14. Molestation of a child.
15. Molestation of a vulnerable adult.
16. A dangerous crime against child as defined in section 13-604.01.

17. Exploitation of minors involving drug offenses.
18. Taking a child for the purposes of prostitution as prescribed in section 13-3206.
19. Neglect or abuse of a vulnerable adult.
20. SEXUAL ABUSE
21. LURING A MINOR FOR SEXUAL EXPLOITATION
22. SEX TRAFFICKING

C. A person who is awaiting trial on ~~or~~ has been convicted of committing or attempting or conspiring to commit one or more of the following offenses in this state or the same or similar offenses in another state or jurisdiction WITHIN XX YEARS FROM THE DATE OF APPLYING is precluded from receiving a fingerprint clearance card, except that the person may appear before the board of fingerprinting for a good cause exception pursuant to section 41-619.55:

1. Manslaughter.
2. Endangerment.
3. Threatening or intimidating.
4. Assault.
5. Unlawfully administering intoxicating liquors, narcotic drugs or dangerous drugs.
6. Assault by vicious animals.
7. Drive by shooting.
8. Assaults on officers or fire fighters.
9. Discharging a firearm at a structure.
10. Indecent exposure.
11. Public sexual indecency.
12. Aggravated criminal damage.
13. Theft.
14. Theft by extortion.

15. Shoplifting.
16. Forgery.
17. Criminal possession of a forgery device.
18. Obtaining a signature by deception.
19. Criminal impersonation.
20. Theft of a credit card or obtaining a credit card by fraudulent means.
21. Receipt of anything of value obtained by fraudulent use of a credit card.
22. Forgery of a credit card.
23. Fraudulent use of a credit card.
24. Possession of any machinery, plate or other contrivance or incomplete credit card.
25. False statement as to financial condition or identity to obtain a credit card.
26. Fraud by persons authorized to provide goods or services.
27. Credit card transaction record theft.
28. Misconduct involving weapons.
29. Misconduct involving explosives.
30. Depositing explosives.
31. Misconduct involving simulated explosive devices.
32. Concealed weapon violation.
33. Enticement of any persons for purposes of prostitution.
34. Procurement by false pretenses of a person for purposes of prostitution.
35. Procuring or placing persons in a house of prostitution.
36. Receiving earnings of a prostitute.
37. Causing one's spouse to become a prostitute.



38. Detention of persons in a house of prostitution for debt.
39. Keeping or residing in a house of prostitution or employing prostitution.
40. Pandering.
41. Transporting persons for the purpose of prostitution or other immoral purposes.
42. Possession and sale of peyote.
43. Possession and sale of a vapor-releasing substance containing a toxic substance.
44. Sale of precursor chemicals.
45. Possession, use or sale of marijuana or dangerous drugs or narcotic drugs.
46. Manufacture or distribution of an imitation controlled substance.
47. Manufacture or distribution of an imitation prescription-only drug.
48. Manufacture or distribution of an imitation over-the-counter drug.
49. Possession or possession with intent to sell an imitation controlled substance.
50. Possession or possession with intent to sell an imitation prescription-only drug.
51. Possession or possession with intent to sell an imitation over-the-counter drug.
52. Manufacture of certain substances and drugs by certain means.
53. Adding poison or other harmful substance to food, drink or medicine.
54. A criminal offense involving criminal trespass and burglary under title 13, chapter 15.
55. A criminal offense involving organized crime and fraud. ANY OFFENSE LISTED under title 13, chapter 20, ORGANIZED CRIME, FRAUD, AND TERRORISM.
56. Child neglect.
57. Misdemeanor offenses involving contributing to the delinquency of a minor.
58. Offenses involving domestic violence.
59. Arson.
60. Kidnapping.

61. Felony offenses involving sale, distribution or transportation of offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs.

62. Robbery.

63. Aggravated assault.

64. Felony offenses involving contributing to the delinquency of a minor.

65. TAKING IDENTITY OF ANOTHER PERSON.

66. AGGRAVATED TAKING THE IDENTITY OF ANOTHER PERSON OR ENTITY.

67. TRAFFICKING IN THE IDENTITY OF ANOTHER PERSON OR ENTITY.

68. WELFARE FRAUD.

69. ADMITTING MINORS TO PUBLIC DISPLAYS OF SEXUAL CONDUCT.

70. PRODUCTION, PUBLICATION, SALE, POSSESSION AND PRESENTATION OF OBSCENE ITEMS.

71. NEGLIGENT HOMICIDE.