



## **ARIZONA BOARD OF FINGERPRINTING**

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

Held August 19, 2011, at 8:45 a.m.

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

#### **Board Members**

Charles Easaw, Department of Education, Chairperson  
Arthur W. Baker, Department of Juvenile Corrections, Vice Chairperson  
Ellen Kirschbaum, Administrative Office of the Courts  
Mike LeHew, 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 8:46 a.m. The following Board members were present: Charles Easaw, Arthur W. Baker, Ellen Kirschbaum, Brad Willis, and Kim Pipersburgh. No Board members were absent.

Also in attendance was Dennis Seavers, Executive Director.

### **CALL TO THE PUBLIC**

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

## **APPROVAL OF MINUTES**

Mr. Baker made a motion to approve the draft minutes from March 4, 2011, and Ms. Kirschbaum seconded the motion, which passed 5-0.

## **EXECUTIVE DIRECTOR'S REPORT**

(Mr. Easaw moved agenda item IV, "Elections," to the end of the agenda.)

Mr. Easaw referred the Board members to Mr. Seavers's August 12, 2011 report on the fiscal year 2011 budget (see Attachment 1) and his August 17, 2011 report on the fiscal year 2011 strategic plan (see Attachment 2). Ms. Kirschbaum noted that the Board and its staff were performing well, given the Board's constraints on resources.

## **LEGISLATION**

Mr. Easaw referred the Board members to Mr. Seavers's July 28, 2011 memo on legislation and the Board's voting requirement (see Attachment 3). Mr. Easaw invited comments from the Board. Mr. Baker noted that proposing legislation could invite additional statutory changes by the Legislature. Mr. Willis indicated that he'd spoken with interested individuals from his agency, and they preferred the current voting requirement. Mr. Easaw said that he has attended meetings of other boards, and the voting requirement is normally a simple majority. He also expressed concern that the Board has issued orders where the findings of fact and conclusions of law support approving a good cause exception but that the Board, as a matter of law, denies the application. He agreed that proposing legislation could lead to unanticipated changes by the Legislature.

Ms. Kirschbaum suggested that the Board consider these changes at later date. Mr. Seavers noted that at the legislative session following the upcoming session, the Board would need to propose legislation for the agency's sunset continuation. He said one option would be for the Board to wait until that session, if the Board wished to pursue any changes.

Mr. Easaw raised the issue of the Board having to review cases with minor offenses committed a long time ago. He wondered whether there could be time limits for certain offenses. He indicated that he was raising the issue not as a possible legislative proposal but just as a point of discussion. Ms. Kirschbaum believed that any discussion should ultimately include the state agencies involved in the fingerprint-clearance-card system. Mr. Willis noted that this issue had been discussed some years before, and he felt that it was a topic that could be discussed again. Mr. Easaw asked Mr. Seavers to explain the time-limits discussion that had taken place a few years ago. Mr. Seavers said that about five or six years ago, the agencies in the card system had discussed the possibility of time limits on certain offenses. Mr. Seavers had done an analysis of cases where the Board had approved the application, and he had developed a schema of time limits for offenses where the Board had approved 100% of the cases. He had found that after a certain number of years had passed since a particular offense, the Board always approved the

application, assuming that there were no other offenses on the record. (He noted that the schema wasn't a proposal but rather just an analysis to frame the discussion.) Mr. Seavers said that there were some legal obstacles at the time because the discussion focused on whether the Board could adopt a rule to establish time limits, so the discussion didn't go beyond the analysis he provided. However, he said that the Board still has options, including changing its application requirements; as a hypothetical example, the Board could tell applicants that if certain offenses occurred a certain number of years ago, the applicants wouldn't have to provide as much information or documentation. Mr. Kirschbaum noted that a change like that could make the Board more effective in its operations. Mr. Pipersburgh said she remembered one of the agencies in the fingerprint-clearance-card system was opposed to time frames. Mr. Easaw asked Mr. Seavers to research options to be discussed at a future Board meeting.

Mr. Baker suggested that for a future legislative session, the Board consider amending its statute to indicate that when considering rehabilitation, the Board can only consider convictions. Ms. Pipersburgh asked whether the proposal would apply to suspended fingerprint clearance cards where the charge was still pending, and Mr. Baker said it would. Mr. Seavers said that, putting aside the policy question, he believed it would be politically difficult to get legislative approval for such a change because the change would undermine the suspension process. Mr. Baker questioned how the Board could determine rehabilitation when the charge was pending. Mr. Willis agreed but said that perhaps the applicant should not be able to apply to the Board for a good cause exception while the criminal charge was pending.

Mr. Seavers said that he spoken to the lobbyist for the Department of Economic Security ("DES") about whether DES would pursue a bill like Senate Bill 1056, which was amended to require the Board to consider central-registry exceptions but which did not pass before *sine die*. (For more information, see the minutes from March 4, 2011.) The lobbyist indicated that DES doesn't have current plans to pursue similar legislation but that the stakeholders that had pursued the central-registry-exception process might propose legislation. Mr. Willis indicated that he had spoken with those stakeholders, and they indicated they would be pursuing the legislation. Mr. Seavers also said that he wasn't sure whether there would be legislation next year for background clearance cards. (For more information, see the minutes from March 4, 2011.)

## **FISCAL YEAR 2012 BUDGET**

Mr. Easaw referred Board members to Mr. Seavers's August 12, 2011 memo, which proposed a budget for fiscal year 2012 (see Attachment 4). Mr. Seavers noted that in the memo, on page 1 under "Budget Proposal for FY 2012," the revenues of \$630,000 should actually have been \$858,865, as had been correctly stated in other parts of the memo.

(The Board recessed for eight minutes.)

Mr. Baker suggested that the Board consider whether an additional part-time position might be necessary to cope with the increased caseload. Mr. Seavers noted that the Department of Administration ("ADOA") had lifted the requirement that agencies get approval from ADOA to hire new employees, as long as the staff size did not increase by more than 5% of the number of

employees at the agency in July 2011. (If the size were to increase by more than 5%, then the agency would need to get approval from ADOA.) In the case of a small agency like the Board, that would mean that the Board effectively could not increase its staff size. However, Mr. Seavers believed that either the Board should request increase in its staff size or the statutory time frames should be suspended or repealed, since the Board's reduced staff size was preventing the Board from meeting the time frames. Ms. Kirschbaum asked how part-time positions with no benefits might fit into the budget. Mr. Easaw asked whether a part-time employee would bring the Board closer to or in full compliance with time frames; he thought that it would not be worth having a part-time position if the Board didn't make substantial progress toward meeting the time frames. Mr. Easaw asked Mr. Seavers to research options for hiring an additional part-time staff member and whether doing so would bring the Board into compliance with time frames.

Ms. Kirschbaum made a motion to approve the proposed budget, and Ms. Pipersburgh seconded the motion, which passed 5-0.

## **BOARD POLICY ON RECORDS EXEMPT FROM PUBLIC-RECORDS LAW**

Mr. Easaw referred Board members to Mr. Seavers's August 15, 2011 memo on records that are exempt from public-records laws (see Attachment 5). Mr. Seavers noted that the Board staff receives a lot of requests from employers and regulating agencies for the status of applicants' cases. He wanted the Board to be aware of the demand, not as a decisive factor in which policy to adopt, but just as additional consideration when selecting a policy option. Mr. Easaw said that with option 4 in the memo, the applicant could give the employer or agency permission to get case-status information. Ms. Pipersburgh said that she receives calls (in her capacity as an employee at the Department of Health Services) from employers about the status of cases, so she recommended pursuing option 3. Mr. Easaw expressed concern about instances where the applicant selects an incorrect regulating agency on the application form and the incorrect agency being able to get information on the status of a case.

Mr. Baker made a motion to adopt option 4 in the memo as the Board policy on non-confidential exempt records. Ms. Pipersburgh seconded the motion, which passed 5-0.

## **ELECTIONS**

Mr. Easaw referred Board members to Mr. Seavers's July 29, 2011 memo on Board elections (see Attachment 6).

Mr. Baker made a motion to elect Mr. Easaw as chairperson, and Mr. Willis seconded. Mr. Easaw requested a roll-call vote.

<b>Board Member</b>	<b>Yes</b>	<b>No</b>
Mr. Easaw	X	
Mr. Baker	X	
Ms. Kirschbaum	X	
Mr. Willis	X	
Ms. Pipersburgh	X	

Mr. Easaw was elected chairperson by a vote of 5–0.

Ms. Pipersburgh made a motion to elect Mr. Baker as vice-chairperson, and Mr. Willis seconded. Mr. Easaw requested a roll-call vote.

<b>Board Member</b>	<b>Yes</b>	<b>No</b>
Mr. Easaw	X	
Mr. Baker	X	
Ms. Kirschbaum	X	
Mr. Willis	X	
Ms. Pipersburgh	X	

Mr. Baker was elected vice-chairperson by a vote of 5–0.

## **ADJOURNMENT**

Mr. Easaw adjourned the meeting at 10:02 a.m.

Minutes approved on October 14, 2011

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Dennis Seavers, Executive Director



# Arizona Board of Fingerprinting Memo

TO: Board members  
FROM: Dennis Seavers  
C:  
Date: August 12, 2011  
**SUBJECT FY 2011 budget report**

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The agenda for the Board's August 19, 2011 meeting includes a report from the executive director on the fiscal year (FY) 2011 budget performance. To help expedite the meeting, I've prepared this memo, which summarizes the Board's budget performance in FY 2011. Attachment 1 details the Board's expenditures and revenues, with a comparison to the approved FY 2011 budget.

## SUMMARY

- The fund balance at the beginning of FY 2011 was \$181,692.06.
- The Board had \$931,203 in revenues.
- The Board had \$554,129.22 in expenditures. Of the expenditures, \$114,800, or 20.71%, was for legislatively mandated fund transfers. Thus, the Board's operational expenses were \$439,392.22.
- The fund balance at the end of FY 2011 was \$558,765.84.

## DISCUSSION

### *Revenues higher than anticipated*

Under the approved FY 2011 budget, the Board anticipated \$714,000 in revenues, an amount that was based on estimates from DPS. The Board took a conservative approach in projecting revenues, which was prudent, given its cash-flow difficulties in FY 2010.<sup>1</sup>

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<sup>1</sup> In fact, even that estimate was higher than I had originally proposed. In an August 16, 2010 memo, I had originally recommended a revenue projection of \$630,000, but I changed the projection to match DPS's more optimistic projection because both DPS and the Board coordinate their revenue projections, which should be based on the same figure: the expected number of fingerprint-clearance-card applications. Although I believed that DPS's projection was reasonable, it was based on the number of

The Board actually received \$217,203 more than estimated. Although the Board has seen additional populations added to the fingerprint-clearance-card system, the increase in fingerprint-clearance-card applications is more likely due to (a) the economy, as individuals apply for new jobs that require fingerprint clearance cards and (b) the six-year cycle of fingerprint clearance cards, since there was a similar spike in FYs 2005 and 2006.

*Total expenditures higher than budgeted due to fund sweeps*

The Board's expenditures exceeded the budgeted expenditures by \$76,074.87. However, this difference was the result of fund sweeps that were mandated by the Legislature a few months ago (several months after the Board had adopted its budget) to help eliminate the state budget deficit. Not including the fund sweeps, the Board spent \$25,525.13 less on operational expenditures than budgeted.

*Specific areas of difference between expenditures and budget*

Attachment 1 provides a comparison of actual expenditures and revenues with the FY 2011 budget. The list below explains areas where there are notable differences in spending.

- 6000 – Personal Services. This category refers to expenditures from wages and salaries. The Board had a temporary vacancy due to the resignation of an administrative law judge, until the position was filled in January.
- 6100 – Employee-related Expenditures. This category refers to expenditures from benefits and withholdings, such as medical benefits, retirement, and Social Security. This category was below budget because of the vacancy described under 6000 above.
- 6299 – Other Professional & Outside Services. This category includes miscellaneous costs from external sources and consultations, such as security and database programming. The Board had anticipated making minor upgrades to its database, but these costs were deferred to FY 2012 because it was unclear in FY 2011 whether legislation was going to pass that would have added a new function to the Board (central-registry exceptions) and that might have required a more comprehensive database upgrade.
- 7153 – Internal Svc. Data Proc. This category refers to non-telephone IT-related costs, such as e-mail, server, computer maintenance, and data storage. Due to some maintenance issues with the Board's relatively old computers, I contracted with ADOA for computer maintenance. This cost included some software costs, which resulted in savings for software costs under 8583 (see below). In addition, the Board recovered a computer that had been stolen in May 2008, and there

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applications received in the previous FY, which included an unexpected and unexplained spike in applications in the fourth quarter of the FY. Without a clear understanding of the cause of the spike in applications, I was reluctant to assume that the caseload would remain at that higher level.

were maintenance costs associated with purging the computer and getting it running.

- 7221 – Rental of Land & Bldgs. This category refers to the Board's rental costs for office space. The \$5,427.05 difference represents one month of rental costs and is the result of when payments cleared the state's accounting system rather than a reduction in rental payments.
- 7321 – Office Supplies. The reduction in office-supply expenditures was due to a number of factors, including efforts by the staff to keep costs low.
- 7481 – Postage & Delivery. As with office supplies, the reduction in expenditures was due to various factors, including a staff vacancy.
- 8583 – PC/LAN Software, Non-Capital. This category covers non-capital software expenditures. I was able to avoid costs in this area through a contract with ADOA described under 7153 above. In addition, the staff avoided other software purchases.
- 9101 – Operating Transfers Out. As described in the section "Total expenditures higher than budgeted due to fund sweeps" above, the Legislature mandated fund sweeps a few months ago that were not part of the Board's budget.



## Attachment 1 - FY11 Budget Report

	FY11 Budget	FY11 Actual	Difference
<b>REVENUES</b>			
<b>4900 - Operating Transfers In</b>			
Prior FY Carryover	\$ 181,692.06	\$ 181,692.06	\$ -
4901 - Oper. Transfers In	\$ 714,000.00	\$ 931,203.00	\$ 217,203.00
<b>Total 4900 - Oper. Trans. In</b>	<b>\$ 895,692.06</b>	<b>\$ 1,112,895.06</b>	<b>\$ 217,203.00</b>
<b>TOTAL REVENUES</b>	<b>\$ 895,692.06</b>	<b>\$ 1,112,895.06</b>	<b>\$ 217,203.00</b>
<b>EXPENDITURES</b>			
<b>6000 - Personal Services</b>			
	\$ 225,223.39	\$ 215,437.79	\$ (9,785.60)
<b>6100 - Employee-related exp.</b>			
	\$ 113,534.67	\$ 107,710.05	\$ (5,824.62)
<b>6200 - Prof. &amp; Outside Svcs.</b>			
6211 - Bond Issuance Cost	\$ 3,840.00	\$ 3,840.00	\$ -
6299 - Other Prof. & Out. Svcs.	\$ 4,000.00	\$ 2,023.40	\$ (1,976.60)
6521 - Motor Pool Charges	\$ -	\$ 26.00	\$ 26.00
<b>Total 6200 - Prof. &amp; Outside Svcs.</b>	<b>\$ 7,840.00</b>	<b>\$ 5,889.40</b>	<b>\$ (1,950.60)</b>
<b>7000 - Other Operating</b>			
7110 - Insurance & Related Chgs	\$ 2,900.00	\$ 2,900.00	\$ -
7153 - Internal Svc. Data Proc.	\$ 7,137.01	\$ 9,640.90	\$ 2,503.89
7172 - Ext. Comm. Long Dist.	\$ 13,002.84	\$ 12,850.45	\$ (152.39)
7179 - Other External Comm.	\$ 2,400.00	\$ 1,907.38	\$ (492.62)
7221 - Rental of Land & Bldgs.	\$ 70,551.65	\$ 65,124.60	\$ (5,427.05)
7229 - Miscellaneous Rent	\$ -	\$ 110.00	\$ 110.00
7266 - Repair/Maint-Other Equip	\$ 1,387.25	\$ 1,391.81	\$ 4.56
7321 - Office Supplies	\$ 6,150.00	\$ 4,908.35	\$ (1,241.65)
7481 - Postage & Delivery	\$ 10,000.00	\$ 8,689.62	\$ (1,310.38)
7511 - Awards	\$ 100.00	\$ 24.13	\$ (75.87)
7541 - Books, Subscr., & Pubs.	\$ 3,157.54	\$ 2,257.54	\$ (900.00)
7599 - Other Misc. Operating	\$ 470.00	\$ 284.00	\$ (186.00)
<b>Total 7000 - Other Operating</b>	<b>\$ 117,256.29</b>	<b>\$ 110,088.78</b>	<b>\$ (7,167.51)</b>
<b>8500 - Non-capital Equipment</b>			
8551 - EDP Equip Non-cap Purch	\$ -	\$ -	\$ -
8561 - Tele. Equip. - Non-cap.	\$ -	\$ 203.20	\$ 203.20
8583 - PC/LAN Softw. Non-cap.	\$ 1,000.00	\$ -	\$ (1,000.00)
<b>Total 8500 - Non-capital Equip.</b>	<b>\$ 1,000.00</b>	<b>\$ 203.20</b>	<b>\$ (796.80)</b>
<b>9100 - Transfers Out</b>			
9101 - Op Trans Out: Fund Sweeps	\$ 13,200.00	\$ 114,800.00	\$ 101,600.00
<b>Total 9100 - Oper. Trans. Out</b>	<b>\$ 13,200.00</b>	<b>\$ 114,800.00</b>	<b>\$ 101,600.00</b>
<b>TOTAL EXPENDITURES</b>	<b>\$ 478,054.35</b>	<b>\$ 554,129.22</b>	<b>\$ 76,074.87</b>
<b>NET INCOME</b>	<b>\$ 417,637.71</b>	<b>\$ 558,765.84</b>	<b>\$ 141,128.13</b>



# Arizona Board of Fingerprinting Memo

TO: Board members  
FROM: Dennis Seavers  
C:  
Date: August 17, 2011  
**SUBJECT FY 2011 strategic-plan report**

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The agenda for the Board's August 19, 2011 meeting includes a report from the executive director on the Board's strategic-plan performance during fiscal year (FY) 2011. To help expedite the meeting, I've prepared this memo, which offers background and analysis on some of the performance measures.

Attached to this memo is a detailed report on the Board's performance measures.

## **SUMMARY**

- The investigator has exceeded the Board's goal for the percentage of recommendations accepted. This high acceptance rate makes meetings more efficient.
- The Board's rate of approval has remained consistent from the previous year, despite policy changes that reduced the amount of information Board members received for expedited reviews.
- The Board has substantially reduced the wait time for applicants to get decisions, and, despite a 2010 reduction in force, the Board almost always complies with the statutory time frame for expedited reviews. However, due to the reduction in force, cases that are referred to hearings take longer than last fiscal year, and the Board has a low rate of compliance with statutory time frames for hearings.
- The Board has improved its communication with applicants, resulting in a lower rate of applications that are incomplete on submission.

## **DISCUSSION**

Below is a discussion of some of the performance measures that merit close attention from the Board.

**Goal 1: to make fair and consistent determinations on good-cause exceptions.**

The primary purpose of the measurements under this goal is to determine whether the Board grants applications at a rate consistent with previous years. Since the Board's criteria for granting applications have not changed significantly over the past few years, the Board's approval rate should remain fairly constant from year to year. (The performance measures for application-approval rate are based on rates from previous fiscal years and should not be understood as some ideal percentage that the Board should necessarily strive for.)

*Investigator recommendations adopted at a high rate*

For expedited reviews, the Board receives a recommendation from the investigator to approve an application or refer the case to a hearing. The Board exceeded its goal of 95% with an average over the fiscal year of 96.36%.

The investigator's recommendation is based on what he believes the Board will decide, not necessarily what he believes the Board should decide. (In that respect, his recommendation is different from a hearing officer's recommendation.) However, the recommendation forms the basis of the Board's consent agendas. If the investigator achieves a high rate of accepted recommendations, then the Board's meetings run more efficiently.

*Approval rate*

The Board's approval rate has remained about the same since last fiscal year, although the Board is resolving more of the approvals at an expedited review rather than a hearing. To cope with the 2010 reduction in force, the Board adopted a policy that required the investigator to include less information in a summary, and this policy change may have contributed to the fact that fewer cases that are ultimately approved have to go to a hearing. Nonetheless, the policy change did not affect the Board's approval rate, which only increased by 2% from the previous fiscal year, suggesting that the Board's ability to judge cases consistently wasn't negatively affected by reducing the amount of information in the investigator's case summaries.

**Goal 2: to provide applicants with timely decisions on their good-cause-exception applications.**

While Goal 1 above mostly deals with the quality and consistency of the Board's decisions, this goal addresses how quickly the Board makes decisions by measuring caseload and processing time. The Board's overall performance in this category has improved significantly since the previous fiscal year. However, for cases referred to hearings, the Board's performance has declined due to the 2010 reduction in force.

### *Caseload has increased*

The Board received 21% more applications than estimated and 32% more than the previous fiscal year. The increase is due in part to programs being added to the fingerprint-clearance-card system and to renewals of fingerprint clearance cards that were issued in FYs 2005 and 2006, which also had a spike in the number of fingerprint-clearance-card applications. The recession may also have contributed, since individuals may apply for a fingerprint clearance card to get work or attend school.

As reflected in the Board's 2012 budget proposal, I expect the caseload to remain high.

### *The Board keeps up with its caseload*

Although the caseload has increased, the Board resolves as many cases as it receives. This measure is important because if the Board were to fall behind in resolving cases, a backlog would develop.

### *Processing time has dropped significantly*

Despite its ongoing staff shortage, the Board has significantly reduced the time it spends processing applications. In FY 2010, it took an average of 102.74 days for applicants to get a decision, but this year the average dropped to 61.76 days. The Board's processing time—which is the total time minus the portions of the application process that are beyond the Board's control, such as the time it takes DPS to send criminal-history records or the time for applicants to submit missing items—dropped from 44.63 to 30.84 days.

The Board's reduction in force occurred in FY 2010 and contributed to an increase in processing time as FY 2010 progressed. In response, the Board required the investigator to provide less information in his summaries, and that helped improve the processing time. In addition, the fact that the Board resolves more cases at expedited reviews helps reduce the time applicants wait for a decision; once a case is referred to a hearing, the process will take significantly longer.<sup>1</sup>

### *Compliance with statutory time frames has increased for expedited reviews but dropped for hearings and Board decisions*

The Board has three statutory time frames (although there are no penalties for failing to comply with the statute):

- Expedited review: 20 days from receipt of a complete application to an expedited review. In FY 2010, the Board conducted an expedited review within 20 days only in 69.31% of cases, a percentage that included two quarters of complete or

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<sup>1</sup> The Board should note that I'm simply providing this analysis not necessarily recommendation that the Board refer fewer cases to hearings. Although this information may prompt the Board to try to resolve cases at expedited reviews and avoid hearings when possible, Board members may also believe that the longer wait is worth the increased scrutiny of a hearing.

near-complete compliance prior to the February 2010 reduction in force. Moreover, in the fourth quarter of FY 2010, the compliance dropped to 18.46%. As mentioned above, the Board adopted a policy requiring the investigator to provide less information in summaries, and the rate of compliance substantially improved. In FY 2011, the rate of compliance was 95.38%, with two quarters of greater than 97% compliance.

- Hearing: 45 days from expedited review to hearing (unless the applicant requests that a hearing be rescheduled). Once a case is referred to a hearing, statutory compliance falls. Although this time frame and the 80-day time frame for decisions (please see the next bullet point) are separate measures, they both relate to the caseload for hearing officers. In FY 2010, the Board reduced one of the hearing-officer positions to part-time because of cash-flow concerns. As long as the Board remains at its reduced staffing levels, compliance with this time frame will remain relatively low.
- Board decision: 80 days from hearing to Board decision (unless the applicant requests that a hearing be rescheduled). (Please see the discussion in the previous bullet point.)

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

The purpose of this goal has been to measure how difficult the Board's application process is for applicants and whether improvements could be made to make the process easier to understand, without sacrificing rigor.

In the past, the Board measured how many requests for application forms it received and compared that number with how many applications actually were returned. If the return rate was too low, or if it dropped, that fact might indicate that the process was too burdensome for applicants. The Board could then explore options for getting the same information in a way that would be easier for applicants. However, in response to the reduction in force, the Board eliminated the process for requesting applications and simply made the application form available online.<sup>2</sup> Therefore, the Board eliminated two measurements under this goal—the number of requests received and the ratio of requests received to applications submitted.

Only one measurement remains under this goal, but it effectively shows how well the Board is doing at communicating with applicants about the good-cause-exception process. The Board measures the percentage of applications that are complete on submission. If the Board is able to communicate its expectations clearly to applicants, then there should be a higher number of applications complete on submission. The Board exceeded its goal of 45% of applications complete on submission. The FY 2011 rate of 59.49% represented a substantial improvement over the FY 2010 rate of 34.82%. The rate also steadily improved from quarter to quarter. This improvement is

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<sup>2</sup> Although this change has caused administrative problems for the Board staff, they are manageable and are outweighed by the fact that the new process is less bureaucratic and saves on postage.

primarily due to a redesign of the application package that made it longer but more user-friendly.

**Arizona Board of Fingerprinting**  
**Fiscal Year 2011 Strategic Plan**  
July 1, 2010, to June 30, 2011

**Legend for progress**

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

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

Performance Measure	FY11 Estimate	FY11 Actual					
		Quarter 1	Quarter 2	Quarter 3	Quarter 4	Progress	YTD
Percent of investigator recommendations for expedited reviews accepted	95.00%	96.60%	96.82%	94.41%	97.29%	✓	96.36%
Percent of applications approved	94.00%	95.47%	92.82%	94.32%	94.96%	N/A	94.49%
Percent of approvals by expedited review	90.00%	93.53%	94.76%	93.06%	92.93%	N/A	93.49%
Percent of approvals by administrative hearing	10.00%	6.47%	5.24%	6.94%	7.07%	N/A	6.51%

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

Performance Measure	FY11 Estimate	FY11 Actual					
		Quarter 1	Quarter 2	Quarter 3	Quarter 4	Progress	YTD
Number of applications received	1,900	496	500	635	677	N/A	2,308
Number of applications disposed	2,000	551	513	532	722	N/A	2,318
Ratio of cases opened to cases closed	1:1.05	1:1.11	1:1.03	1:1.84	1:1.07	N/A	1:1
Average number of days to dispose	112.00	73.06	62.25	56.76	56.55	✓	61.76
Average number of days spent processing applications	55.00	33.69	30.05	29.91	29.89	✓	30.84
Average number of days spent processing application from receipt to expedited review	20.00	19.56	13.90	13.50	14.02	✗	15.20
Average days from expedited review to hearing	40.00	42.78	39.06	44.64	61.33	✗	48.25
Percent of applications with an expedited review within 20 days of receipt of a complete application*	70.00%	91.15%	97.72%	94.80%	97.43%	✓	95.38%
Percent of applications with an administrative hearing within 45 days of an expedited review*	100.00%	73.61%	100.00%	42.86%	0.00%	✗	47.75%
Percent of applications decided within 80 days of an administrative hearing*	80.00%	60.38%	75.00%	32.14%	63.64%	✓	58.23%

\*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	FY11 Estimate	FY11 Actual					
		Quarter 1	Quarter 2	Quarter 3	Quarter 4	Progress	YTD
Percent of applications complete on initial submission	45.00%	56.26%	57.12%	60.34%	63.02%	✓	59.49%



# Arizona Board of Fingerprinting Memo

TO: Board members  
FROM: Dennis Seavers  
C:  
Date: July 28, 2011  
**SUBJECT Legislation—Board voting requirement**

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Over the past few months, some Board members have individually expressed concerns about the Board's supermajority voting requirement for approving a good cause exception. At an August 19, 2011 Board meeting, the Board will be considering whether to propose legislation to change this voting requirement.

This memo describes the voting requirement and its various implications, outlines the background of the supermajority requirement, and identifies options for the Board. This memo doesn't offer a recommendation on which policy course the Board should pursue. Rather, it simply outlines the issues the Board should consider when deciding whether to propose legislation.

Although the Board alone decides whether to pursue legislation and doesn't require approval from other agencies, Board members may wish to share this memo with and get feedback from stakeholders, particularly from their own agencies. (If Board members or stakeholders have questions about this memo, they can reach me directly at [dennis.seavers@azbof.gov](mailto:dennis.seavers@azbof.gov) or (602) 265-3747.)

## **SUMMARY**

- Statute currently requires a majority plus one of the Board members voting to approve a good cause exception.
- This supermajority requirement increases the burden on applicants to demonstrate rehabilitation but also has unusual legal effects.
- If the Board wishes to change the voting requirement, legislation would be necessary.

## CURRENT LAW

A.R.S. 41–619.53(B) requires a supermajority vote for the Board to approve a good cause exception. Approval of an application requires a majority plus an additional member of the members present. The Board consists of five members, and a quorum of the Board is three members. Therefore, in practical terms, the supermajority voting requirement means:

- If three members were present, the vote to approve would have to be unanimous (a majority of three is two, plus an additional member equals three);
- If four members were present, the vote would have to be unanimous (a majority of four is three, plus an additional member equals four);
- If five members were present, at least four members would have to vote to approve (a majority of five is three, plus an additional member equals four).

The supermajority requirement doesn't apply to other Board votes, such as motions to deny or motions regarding Board business. It only applies to motions to approve a good cause exception.

The voting requirement has an ancillary legal effect that can be problematic for the Board when there is disagreement among Board members about whether to approve the application. When considering a good-cause exception application after a hearing, the Board doesn't simply vote on whether or not to approve the application. Rather, it votes on the adoption of three things: (1) findings of fact, (2) conclusions of law, and (3) approval or denial of the application.<sup>1</sup> The supermajority requirement only applies to item (3); it doesn't apply to motions on whether to adopt the findings of fact or conclusions of law. In some cases, the Board, by a simple majority, adopts findings of fact and conclusions of law that support approval of the application. By the same simple majority, but not by a supermajority, the Board passes a motion to approve the application; but, since the vote didn't meet the supermajority requirement, the application is denied as a matter of law. In these cases, the Board's order effectively includes findings and conclusions that support approval, but the application is denied merely as a matter of law. The order doesn't specify a basis for denial apart from the fact that the motion to approve didn't meet the supermajority voting requirement.

For example, suppose that four members attend a Board hearing where the hearing officer has proposed findings of fact and conclusions of law and a recommendation to approve an application. The Board members discuss the case. They unanimously agree to adopt the findings of fact. However, one Board member disagrees with the other members about the conclusions of law and whether the application should be approved. The Board members pass a motion 3–1 to adopt the conclusions of law, and they pass a separate motion 3–1 to approve the application. Therefore, the Board's order has conclusions of law that indicate the applicant is rehabilitated. However, because one Board member disagreed, the application is denied.

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<sup>1</sup> In some cases, when there is consensus to adopt the hearing officer's recommendation, the Board will combine the three actions into one motion. However, the issue being discussed here only arises when there is not consensus.

Although this issue wasn't explicitly considered by the Legislature, it's consistent with the intention of the law—that an application shouldn't be approved unless a supermajority agrees—and therefore is not, strictly speaking, a problem. However, as discussed below, it has caused some Board members to individually express concern that a single Board member could have an effective veto over a Board decision. In addition, the Board has adopted a policy for these types of cases. Under the policy, a Board member in the minority explains on the record the basis for his or her disagreement. In any judicial-review proceedings in Maricopa County Superior Court, the explanation by a Board member in the minority could become the basis for the court to vacate a Board decision.

## **HISTORY**

When the Board was established in 1998, the statute required a unanimous vote to approve an application. At that time, there were five state agencies that required fingerprint clearance cards, and each agency was represented on the Board. Since the fingerprint clearance card was portable among regulated populations—that is, an applicant might apply for a fingerprint clearance card to be a teacher, but he could use the card for a job at a day care—all Board members, in effect representing their agencies, had to agree that the person would be suitable for a good cause exception from their agencies' perspectives.<sup>2</sup>

Although this would seem to have increased the difficulty in getting a good cause exception, and although the Board generally aimed for consensus, there was an option that the Legislature gave the Board that obviated the need for unanimity in each case. Individual Board members could exempt their agencies from the approval, effectively placing a restriction on the fingerprint clearance card. For example, the DES Board member could vote in favor of approving the good-cause-exception application, but in that vote he could place the restriction on the card so that the card could not be used for any DES program.

In 2003, as part of a fingerprint-clearance-card reform bill, the Legislature eliminated the ability of Board members to put restrictions for their own agencies on cards but otherwise kept the unanimity requirement.

In 2008, the Legislature, on its own, reduced the voting requirement to the current supermajority as part of the Board's sunset continuation. At the time, the Board opposed the change but nonetheless supported the overall bill because it contained the sunset-continuation provision.

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<sup>2</sup> Board members should keep in mind that the Board does not make licensure decisions on behalf of other regulating agencies. Although the Board members considered suitability for a good cause exception from their agencies' perspectives, they were not been deciding whether the applicant was suitable to work in a particular area, such as day care or public-school teacher. The Board's role is to determine rehabilitation from a precluding offense, not suitability for a profession.

## **OPTIONS**

Apart from returning to the unanimity requirement, the Board has two options: (1) keep the supermajority requirement, or (2) request that the Legislature change the voting requirement to a simple majority. (As stated above, this memo doesn't make a recommendation on which policy the Board should support.)



# Arizona Board of Fingerprinting Memo

TO: Board members  
FROM: Dennis Seavers  
C:  
Date: August 12, 2011  
**SUBJECT FY 2012 budget proposal**

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This memo discusses a proposed budget for fiscal year (FY) 2012 for the Board to adopt at its August 19, 2011 meeting. The memo also provides financial information to assist the Board in its deliberations about the budget.

## **SUMMARY**

- The Board should adopt a budget that includes \$483,028.22 in expenditures and \$107,300 in legislative fund sweeps. The total expenditures would be \$590,328.22.
- The proposed budget projects \$858,865 in revenues. This projection assumes that DPS will receive 122,695 fingerprint-clearance-card applications in FY 2012.

## **FUND BALANCE**

- As of July 31, 2011—the last date when there was an end-of-month reconciliation with AFIS (the state accounting system) data—the Board's fund balance was \$404,531.50.
- As of August 16, 2010, the Board's annual-leave liability was \$16,491.44.

## **BUDGET PROPOSAL FOR FY 2012**

Attachment 1 proposes a budget that includes \$483,028.22 in expenditures and assumes \$630,000 in revenues. (The budget also includes \$107,300 in fund sweeps, which are discussed in the section below.)

Attachment 1 also provides a comparison of FY 2011 actual expenditures and revenues with the FY 2012 budget proposal. The list below explains areas where there are notable differences in spending between FYs 2011 and 2012.

- 6000 – Personal Services. This category refers to expenditures from wages and salaries. The proposal includes an increase of \$16,419.31 in personal services because (a) there is an additional pay period in FY 2012 compared to FY 2011 and (b) the Board had a vacancy in an administrative-law-judge position for several weeks in FY 2011.
- 6100 – Employee-Related Expenditures. This category refers to expenditures from benefits and withholdings, such as medical benefits, retirement, and Social Security. The increase in the budget proposal is for same reasons described under 6000 above.
- 6299 – Other Professional & Outside Services. This category includes miscellaneous costs from external sources and consultations, such as security and database programming. There are three notable areas of proposed increased spending in this category.
  - \$5,000 for database upgrades. It's been a few years since the Board had any significant improvements to its database. There are minor operational issues to address, and improvements should be made to increase efficiency. I don't have an estimate of costs at this time from the vendor—in fact, the amount may be significantly lower—but this amount is an approximation for the purpose of cash-flow projections. (If the amount were to exceed \$5,000, I would seek Board authorization before making the database improvements.)
  - \$1,000 for translation services. The Board is required by the Americans with Disabilities Act (ADA) to provide sign-language interpreters for people with hearing impairments. The Board is not required to provide translators for other languages, such as Spanish. As a cost-saving measure, in its FY 2009 budget, the Board decided not to authorize non-ADA-required interpreters. Since the Board's cash flow has improved, I propose that the Board authorize costs for non-ADA-required translators.
  - \$800 for document-destruction services. Previously, the Board could only destroy old files at certain intervals, but I received authorization from the State Library, Archives, and Public Records to conduct more frequent document purges. In addition, the cost of this service has increased.
  - The remainder of the increased spending in this category is due to the Board having security at more meetings in FY 2012 than FY 2011 because the Board began using the security service partway through FY 2011.
- 7221 – Rental of Land and Buildings. This category refers to rental costs for office space. The Board's current office lease expires on February 29, 2012. I have been working with a realtor to identify new office space (or to renew the current lease at a lower rate). Although it's unclear at this point what the monthly rent will be from March to June, the current economic conditions indicate that the Board will save money on rent. I've made a projection that assumes the same square footage and a cost of \$15 per square foot (compared to the current cost of \$19 per square foot).

- 7321 – Office Supplies. In FY 2011, the Board staff cut office-supply costs as much as possible. The FY 2011 proposal allows for reasonable spending amounts, although the staff will continue to limit expenditures in this area.
- 7481 – Postage & Delivery. I recently made operational changes to improve communication with applicants and reduce the number of calls our administrative assistant had to handle. However, there will be increased postage costs. I believe this increase is worthwhile because it allows the staff to focus on other tasks and improves customer service.
- 7541 – Books, Subscriptions and Publications. The Board's subscription to a legal service ended toward the beginning of FY 2011, and I have not renewed it because of terrible customer service and high cost.
- 8551 – EDP Equipment, Non-Capital Purchase. The Board has three computers that are over eight years old. Two other old computers (no longer used because of the February 2010 reduction in force) have been raided for parts to keep the current old computers running. It's important that the Board replace these computers because they have performance issues and could fail at any time, causing a possible disruption to operations. This estimate is high; I expect actual costs to be lower.
- 8583 – PC/LAN Software, Non-Capital. This category covers non-capital software expenditures. If the Board authorizes the purchase of new computers, there will be associated costs to purchase standard software.

#### *Fund sweeps and fund balance*

Laws 2011 (First Regular Session), Chapter 24, § 108, required the Board to transfer \$103,200 to the General Fund. In addition, under Laws 2011, Chapter 24, §§ 8, 129, and 138, the Board had to transfer certain payroll-related amounts, totaling \$4,100, to the General Fund. Therefore, the fund sweeps for FY 2012 total \$107,300, which I've already transferred to the General Fund.

Although the fund balance will be high compared to recent fiscal years, the Board should be prepared for additional fund sweeps, pending the outcome of litigation related to the state's FY 2012 budget.

#### *Revenues*

DPS and the Board typically coordinate their estimates for revenues because the projections are based on the same figure: the expected number of fingerprint-clearance-card applications. I concur with DPS's expectation that the number of applications will remain high, and DPS anticipates receiving about 122,695 applications.



**Attachment 1 - FY12 Budget Proposal (Compared with FY11 Actual)**

	<b>FY11 Actual</b>	<b>FY12 Proposed</b>	<b>Difference</b>
<b>REVENUES</b>			
<b>4900 - Operating Transfers In</b>			
Prior FY Carryover	\$ 181,692.06	\$ 558,765.84	\$ 377,073.78
4901 - Oper. Transfers In	\$ 931,203.00	\$ 858,865.00	\$ (72,338.00)
<b>Total 4900 - Oper. Trans. In</b>	<b>\$ 1,112,895.06</b>	<b>\$ 1,417,630.84</b>	<b>\$ 304,735.78</b>
<b>TOTAL REVENUES</b>	<b>\$ 1,112,895.06</b>	<b>\$ 1,417,630.84</b>	<b>\$ 304,735.78</b>
<b>EXPENDITURES</b>			
<b>6000 - Personal Services</b>			
	\$ 215,437.79	\$ 231,857.10	\$ 16,419.31
<b>6100 - Employee-related exp.</b>			
	\$ 107,710.05	\$ 120,105.24	\$ 12,395.19
<b>6200 - Prof. &amp; Outside Svcs.</b>			
6211 - Bond Issuance Cost	\$ 3,840.00	\$ 3,840.00	\$ -
6299 - Other Prof. & Out. Svcs.	\$ 2,023.40	\$ 9,300.00	\$ 7,276.60
6521 - Motor Pool Charges	\$ 26.00	\$ 100.00	\$ 74.00
<b>Total 6200 - Prof. &amp; Outside Svcs.</b>	<b>\$ 5,889.40</b>	<b>\$ 13,240.00</b>	<b>\$ 7,350.60</b>
<b>7000 - Other Operating</b>			
7110 - Insurance & Related Chgs	\$ 2,900.00	\$ 2,100.00	\$ (800.00)
7153 - Internal Svc. Data Proc.	\$ 9,640.90	\$ 9,750.00	\$ 109.10
7172 - Ext. Comm. Long Dist.	\$ 12,850.45	\$ 12,912.00	\$ 61.55
7179 - Other External Comm.	\$ 1,907.38	\$ 1,265.00	\$ (642.38)
7221 - Rental of Land & Bldgs.	\$ 65,124.60	\$ 60,616.40	\$ (4,508.20)
7229 - Miscellaneous Rent	\$ 110.00	\$ 110.00	\$ -
7266 - Repair/Maint-Other Equip	\$ 1,391.81	\$ 1,413.48	\$ 21.67
7321 - Office Supplies	\$ 4,908.35	\$ 6,000.00	\$ 1,091.65
7481 - Postage & Delivery	\$ 8,689.62	\$ 14,400.00	\$ 5,710.38
7511 - Awards	\$ 24.13	\$ 200.00	\$ 175.87
7541 - Books, Subscr., & Pubs.	\$ 2,257.54	\$ 109.00	\$ (2,148.54)
7599 - Other Misc. Operating	\$ 284.00	\$ 650.00	\$ 366.00
<b>Total 7000 - Other Operating</b>	<b>\$ 110,088.78</b>	<b>\$ 109,525.88</b>	<b>\$ (562.90)</b>
<b>8500 - Non-capital Equipment</b>			
8551 - EDP Equip Non-cap Purch	\$ -	\$ 6,000.00	\$ 6,000.00
8561 - Tele. Equip. - Non-cap.	\$ 203.20	\$ 300.00	\$ 96.80
8583 - PC/LAN Softw. Non-cap.	\$ -	\$ 2,000.00	\$ 2,000.00
<b>Total 8500 - Non-capital Equip.</b>	<b>\$ 203.20</b>	<b>\$ 8,300.00</b>	<b>\$ 8,096.80</b>
<b>9100 - Transfers Out</b>			
9101 - Op Trans Out: Fund Sweeps	\$ 114,800.00	\$ 107,300.00	\$ (7,500.00)
<b>Total 9100 - Oper. Trans. Out</b>	<b>\$ 114,800.00</b>	<b>\$ 107,300.00</b>	<b>\$ (7,500.00)</b>
<b>TOTAL EXPENDITURES</b>	<b>\$ 554,129.22</b>	<b>\$ 590,328.22</b>	<b>\$ 36,199.00</b>
<b>NET INCOME</b>	<b>\$ 558,765.84</b>	<b>\$ 827,302.62</b>	<b>\$ 268,536.78</b>



# Arizona Board of Fingerprinting Memo

TO: Board members  
FROM: Dennis Seavers  
C:  
Date: August 15, 2011  
**SUBJECT: Records exempt from public-records laws**

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The Board has various laws that determine whether a particular record is public—laws that in some respects are unique. For certain records, the Board has discretion whether to release them to the public. Although the Board has longstanding practices regarding these records and has adopted policies that have given the staff indirect guidance, it hasn't formally adopted a policy on whether to release them publicly and, if so, under which circumstances. The Board will discuss and may adopt a policy at the August 19, 2011 meeting.

This memo explains the Board's public-records laws (and exemptions) and the current practice when dealing with requests for records exempt from those laws. It identifies options for a Board policy on records that are not confidential but that are exempt from public-records laws (which I refer to in this memo as "non-confidential exempt records").

## RECORDS LAWS

In general, all government records are presumed to be public records, unless they are specifically exempted by law. A.R.S. § 41-619.54 exempts certain Board records from public-records law.<sup>1</sup> For most agencies, records are made confidential simply by exempting the relevant records from public-records laws. However, in the Board's case, the Legislature specified two types of exemptions by saying that certain records are confidential and other records are exempt from public-records laws.

- Confidential records cannot be disclosed publicly, even if the Board wished to make the information public.

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<sup>1</sup> Other laws and interests exempt other Board records from public disclosure, but those records aren't under consideration in this memo. Examples would include applicant addresses or social-security numbers. For more information, please refer to Chapter 6 of the *Arizona Agency Handbook*, published by the Office of the Attorney General.

- For records exempt from public-record laws, but not specifically described as confidential, the Board has discretion. Although the Board may deny any request for these records from the public, it may also make this information publicly available.

Under A.R.S. § 41–619.54(A), criminal-history records received from DPS and the FBI are confidential. The Board cannot share these records. In addition, under A.R.S. § 41–619.54(B), persons present at a good-cause-exception hearing (which would include both the hearing before the administrative law judge and the Board hearing) are prohibited from sharing any criminal-history-record information outside of the good-cause-exception hearing.

Under A.R.S. § 41–619.54(C), criminal-history records and good-cause-exception determinations and hearings are exempt from public-records laws. Subsections A and B of the statute already make criminal-history records and hearings confidential. However, good-cause-exception determinations are merely exempt from public-record laws and are not specifically confidential. Therefore, the Board has discretion in whether it can share this information publicly.

## **BOARD PRACTICE**

In cases where the Board has discretion, it should adopt a policy to indicate how it will exercise that discretion and to give direction to its staff. The Board has a longstanding practice for dealing with non-confidential exempt records, and it has adopted policies that indirectly give guidance to the Board. However, it has not formally adopted a policy that directly deals with how to handle these records.

### *Rules*

On August 19, 1999, the Board adopted an administrative rule on confidentiality. A.A.C. R13-11-112 states, “All information relating to an applicant or appellant’s criminal history is confidential and shall not be disseminated or disclosed except as required by law.” However, this rule simply repeats a proscription already in statute and does not indicate how the Board will exercise its discretion on records that are exempt from public-record laws but aren’t confidential.

### *Online case-status information*

At its December 14, 2007 meeting, the Board authorized expenditures for an online case-status function. Although this authorization didn’t specifically establish a policy for exempt records, it has given the staff guidance on what information the Board wished to make publicly available.

At the meeting, the Board decided to allow only specific information to be available online: application number, applicant’s initials, and current case status. The Board chose this option because it would allow the applicant to find out the status of his or her

case but would limit the ability of other individuals or organizations from finding out the status of the case. As reflected in the minutes from the meeting, the Board's choice reflected a desire to avoid sharing information with individuals other than the applicant unless specifically authorized by the applicant.

### *Current practice*

The staff currently provides non-confidential exempt records only to the applicant, unless the applicant submits a written waiver that specifies other individuals who can access the information. For example, if an employer contacts the Board staff to ask about an applicant's case status, we don't provide that information unless the applicant submits a signed authorization that allows us to share that information with the employer. We require similar authorization to share the information with regulating state agencies.

## **POLICY OPTIONS**

Below, I list some options available to the Board for a policy on non-confidential exempt records. (The numbering of options below is solely for ease of reference in your August 19, 2011 meeting and does not imply a recommendation.)<sup>2</sup> Each of the options stakes out a place on a continuum between transparency and confidentiality.

### *Option 1*

The Board could adopt a policy to withhold all non-confidential exempt records from the public. Under this policy, there would be no practical distinction between confidential records and non-confidential exempt records. (The Board should note that this option would require the Board to remove its online case-status function, or that function would have to be upgraded to encrypt the data and make them available only to applicants through a login system.)

Greater confidentiality would generally afford more protection for applicants, and the Board may see that protection as valuable though less transparent. At the same time, greater confidentiality places operational burdens on the Board (although the Board may determine that these burdens are worthwhile). For example, if non-confidential exempt records must be treated as confidential, then the Board staff must adhere to regulations designed to protect the data, such as security procedures to verify an applicant's identity on the phone or the use of more expensive encryption technology.

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<sup>2</sup> Certain laws require the Board to provide information, including confidential and non-confidential exempt records, to certain agencies, despite the Board's confidentiality laws and exemption from public-record laws. For example, some state agencies, like the Governor's Office, the Office of the Auditor General, and the Office of the Ombudsman-Citizens' Aide, have authority to access confidential records. Any policy adopted by the Board would not affect the Board's obligation to provide records to those exempt agencies.

*Option 2*

The Board could adopt a policy to disclose any non-confidential exempt records to the public. Under this policy, the Board would treat non-confidential exempt records as if they were public records.

If the Board were to change current practice, this option would be the simplest for the Board staff to implement. However, it would allow individuals to gain access to records, despite what the applicant wishes, who might not have a legitimate interest in the records, such as an estranged spouse who has initiated divorce proceedings and who is searching for deleterious information.

*Option 3*

The Board could adopt a policy to disclose on request any non-confidential exempt records to entities or individuals that the Board specifies, such as an employer or a regulating state agency.

The Board regularly receives requests from regulating state agencies and from employers who want to know the status of a case, or who want to know whether the information the applicant has given them is correct. The Board has alternatives under this option. For example, the Board could decide to give the information to authorized entities, regardless of whether the applicant wants the information to be shared; or the Board could adopt a policy to generally provide the information to an authorized entity unless the applicant files a specific request that the Board not share the information.

*Option 4*

The Board could adopt a policy to continue its current practice of disclosing any non-confidential exempt records only to applicants or individuals authorized by applicants. Regulating state agencies or employers could not access case-status information unless the applicant authorized the access.



# Arizona Board of Fingerprinting Memo

TO: Board members  
FROM: Dennis Seavers  
C:  
Date: July 29, 2011  
**SUBJECT Elections**

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Under A.R.S. § 41–619.52(B), the Board must annually elect a chairperson and vice-chairperson from among its members. (The Board may also elect “any other officers that are deemed necessary or advisable,” but the Board has never elected additional officers.)

At its August 19, 2011 meeting, the Board will elect a chairperson and vice-chairperson. This memo explains the duties of each officer and discusses how the Board should conduct its elections.

## **DUTIES OF OFFICERS**

The chairperson presides over Board meetings and hearings and sets the agendas for Board meetings (often with input from the executive director). In general, the executive director keeps the chairperson informed about issues that could affect the Board. (Board members who may be interested in the office should be aware that the executive director communicates regularly with the chairperson, usually at least a couple of times a month and sometimes more, especially during legislative sessions.)

The vice-chairperson assumes the chairperson’s duties when the chairperson is absent.

There are no restrictions on how many times a Board member may serve in an office.

## **PROCEDURES**

The Board’s statutes do not prescribe procedures for conducting elections. However, open-meeting laws prohibit secret ballots or elections conducted in executive session. Although the Board has options for conducting its elections, the most straightforward procedure would be the following.

- The Board has discussion, if necessary.
- A member makes a motion to elect a specific person as chairperson, and the motion is seconded.
- A vote is taken. If the motion passes by a majority, the person is elected chairperson.
- The procedure is repeated for the office of vice-chairperson.

In cases where the Board has elected new officers, it has been common practice for the current officers to continue their role for the remainder of the meeting and for the newly elected officers to preside at the next meeting.