

**ARIZONA BOARD OF FINGERPRINTING  
MINUTES OF REGULAR MEETING**

Wednesday, July 2, 2003, 8:30 a.m.  
2222 West Encanto Blvd., Suite 350, Phoenix, Arizona

**Board attendance:** Department of Education: Craig Emanuel, Chair  
Department of Economic Security: Mike LeHew, Vice Chair  
Administrative Office of the Courts: Alvin Vasicek  
Department of Health Services: Kim Pipersburgh  
Department of Juvenile Corrections: Vernon Waite

**Staff attendance:** Dennis Seavers, Executive Director

**Members of the public:** None

I. CALL TO ORDER AND ROLL CALL

Mr. Emanuel called the meeting to order at 8:39 a.m. and conducted a roll call.

II. CALL TO THE PUBLIC

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

III. APPROVAL OF MINUTES

Mr. Waite made a motion to approve the minutes of the special meeting on May 27, 2003, and Mr. LeHew seconded. The motion passed, 5-0.

IV. REPORTS

A. Chair's report

Mr. Emanuel said he had nothing to report to the Board but would answer any questions. The other Board members had no questions.

B. Executive Director's report

1. Rules for the Board's fee

Mr. Seavers said that the proposed rule for the Board's fee had been published in the *Arizona Administrative Register* on June 20, 2003. He gave an overview of the next steps of the Board's rule making process, including a period for public comments and a public hearing. He said the Board would meet sometime on or after July 21 to approve the final version of the rules. He then would file the rules at the Office of the Secretary of State on August 1, at which time they would be effective.

Mr. Seavers and Mr. LeHew related conversations they had with the Department of Public Safety (“DPS”) and other agencies regarding a possible DPS fee increase. Mr. LeHew said that DPS would increase its portion of the fee probably on August 1, and the increase would be \$5. Mr. Emanuel asked whether DPS has explained how it will use its \$25 portion of the fee to fund operations. Mr. Seavers said that DPS has given an overview of why it needs the fee increase but has not provided specific, justifying figures.

Mr. LeHew mentioned that representatives from the Department of Economic Security (“DES”) Child Care Administration want to attend the public hearing on the proposed rule. Mr. Waite suggested that Mr. Seavers contact David Miller of the Arizona Council of Human Service Providers to see whether the Board could hold its hearing at the Council building.

## 2. Server and telecommunications

Mr. Seavers explained that he has been working with the Department of Administration (“DOA”) to transfer the Board’s server and telecommunications systems, which DPS no longer wanted to host for the Board, from DPS to DOA. He said the transfer is scheduled to be complete around mid-July.

Mr. Seavers said that Compuware is making upgrades to the Board’s database to capture better data and account for the changes in the law. Mr. LeHew asked how much the services would cost, and Mr. Seavers said that the total cost would come to around \$9,000. Mr. LeHew wondered about such a high cost, and Mr. Seavers said that the Board had little choice about using Compuware, which DPS insists on in order for there to be data sharing between the Applicant Clearance Card Team and other agencies.

Mr. Emanuel said that he would like to see the information that comes from DPS in a consistent format and with consistent quality. He also thought that the state agencies would benefit from DPS exporting data to a location that all state agencies could access, rather than exporting data from DPS to each agency individually. He mentioned the problem he has with investigating cardholders who work for an entity regulated by the Department of Education but who check off other agencies in the application for a fingerprint clearance card. He believed that a common database for all state agencies would help resolve the problem.

## 3. Fiscal year (“FY”) 2003 budget

Mr. Seavers reported that, as of June 25, 2003, the Board spent \$103,415.98 of its \$197,400 special session appropriation. He said the Board ceased expenditures from the regular session appropriations because of different interpretations from the General Accounting Office (“GAO”) and DPS as to whether the appropriations remained. He explained that he never asked GAO to resolve the difference formally because the special session appropriation was more than the Board needed to operate in FY 2003. He said the remainder of the special session appropriation would revert to DPS’ Fingerprint Clearance Card Fund (“FCCF”).

Mr. LeHew wondered why the remainder of the appropriation would revert to DPS. Mr. Seavers said he had asked GAO to determine what the disposition of the remaining monies would be after the end of FY 2003, in part to see what options the Board had to help DPS with the burden of its FY 2004 appropriation from the FCCF to the Board. There were two pieces of legislation that seemed to govern the appropriation: the special session bill (Laws 2002, Chapter 4 [fifth special session]) and the recent legislation (Laws 2003, Chapter 214 [first regular session]). The former appropriated the monies to the Board of Fingerprinting Fund (“BOFF”) for FY 2003, while the later said that BOFF monies were not subject to the lapsing of appropriations. He said that GAO determined that the remainder of the special session appropriation would revert to the FCCF rather than stay in the BOFF.

#### 4. FY 2003 strategic plan

Mr. Seavers said that the agenda package offered figures on the Board’s progress toward its strategic plan. He said that some of the performance measures were met while the Governor’s Office for Excellence in Government did its review of the Board’s policies and operations, while some others no longer applied. He said that he did not have time to prepare and propose a revised strategic plan to the Board for this meeting, but could have it at a future meeting. The Board members asked him to share the proposed plan far enough in advance for the members to review and share it with their stakeholders.

#### 5. Case management and backlog

Mr. Seavers reported that the Board continues to stay atop its caseload. In addition to having eliminated its backlog identified in October 2002, it currently is scheduling hearings two months out.

### V. GENERAL SESSION

#### A. Proposed grievance procedure

Mr. Seavers asked the Board to approve the proposed grievance procedure included in the agenda package. He said that every state agency must adopt a grievance procedure and that he assumed the Law Enforcement Merit System served in the stead of a grievance procedure prior to the Board’s personnel changes. He said that the director of DOA must approve the procedure and that it would be applicable to the Board’s two administrative assistants.

Mr. LeHew made a motion that the Board adopt the grievance procedure proposed in the agenda package and Mr. Waite seconded. The motion passed, 5-0.

#### B. Proposed contracts for FY 2004

##### 1. General Accounting Office, Central Services Bureau

Mr. Seavers said that the Board had entered into an agreement with GAO to provide accounting services, instead of the Board having to hire an employee to do the external accounting. The cost

for the services was about \$1000 for two quarters. He said that GAO had failed to offer a proposed Interagency Service Agreement (“ISA”) for the Board to approve by this meeting, despite his numerous calls requesting a draft ISA. He also explained that, while some of GAO’s services (such as timely vendor payments) were good, GAO had made some serious errors during the course of its FY 2003 ISA with the Board. For example, GAO had failed twice to update the authorized user list for AFIS and HRMS access. Although he had submitted a form in December to cancel all previous authorized signers and include only himself and Mr. Emanuel, GAO never removed certain DPS employees from the authorized users list. During the third quarter, DPS’ budget office had expended monies from the Board’s appropriation without the executive director’s approval or knowledge. At the end of the year, Mr. Seavers had submitted the annual agency security report, again requesting that the DPS employees be removed. However, GAO forwarded the document to DPS for its approval, saying that it didn’t recognize Mr. Seavers as an authorized signer.

Despite GAO’s failure to ensure security, and despite the fact that GAO had yet to provide a proposed ISA, he asked the Board to approve entering into an agreement with GAO to continue providing services. He believed that the Board had little choice because it could not afford to hire an employee to provide accounting services instead of GAO providing those services. Mr. LeHew made a motion to approve entering into an agreement with GAO, and Mr. Waite seconded. The motion passed, 5-0.

## 2. Office of Administrative Hearings

Mr. Seavers asked the Board to approve the draft ISA with the Office of Administrative Hearings (“OAH”). He and Mr. LeHew both had been to hearings since OAH began conducting hearings, and they reported on how OAH appeared to be performing. Mr. Seavers mentioned that the OAH director had included a cap on the costs for OAH services to assure the Board that actual costs would not exceed the estimated costs.

Mr. Waite made a motion to approve entering into an agreement with OAH, and Ms. Pipersburgh seconded. The motion passed, 5-0.

## C. Budget for FY 2004

### 1. Report on budget bills and funding sources

Mr. Seavers reported on the Board’s appropriations and funding sources for FY 2004. He said the Board would receive \$72,600 from the General Fund and \$245,000 from the FCCF. The total appropriation, therefore, would be \$317,600. He said he assumed the appropriations would lapse at the end of the FY 2004, since GAO determined that the Board’s FY 2003 special session appropriation would lapse. He said the Board would begin collecting fees on August 1, 2003 and would likely collect \$220,000 for use in the following fiscal year.

## 2. Proposed budget

Mr. Seavers asked the Board to approve the proposed budget for FY 2004. He said he had included some additional costs in the budget proposal that were not available when he gave the agenda package to the Board members. Under the proposed budget, the Board would expend \$278,274.81 and revert \$39,325.19 at the end of FY 2004. The Board would enter into FY 2005 with a non-lapsing balance of \$220,000 from fee collections, assuming three quarters plus two-thirds of a quarter for collections and 80,000 applications for a fingerprint clearance card.

Mr. LeHew made a motion to enter into executive session in order to discuss personnel matters as provided for in Arizona Revised Statutes § 38-431.03(1), and Mr. Waite seconded. The motion passed, 5-0, and the Board entered into executive session at 10:24 a.m. The Board emerged from executive session at 10:41 a.m.

Mr. Waite made a motion to approve the proposed budget for FY 2004, and Mr. LeHew seconded. The motion passed, 5-0.

### D. Proposed rules for Board procedures

Mr. Seavers asked the Board to approve the proposed rules contained in the agenda package. He said the rule making process would be identical to the process for promulgating the fee rule. He said the current rules were put into place in 1999 at the Board's inception and had not since been changed. He said the current rules were outdated in some instances, particularly after the Board made policy changes in October 2002. He also said the proposed rules would provide more detail about the appeal process.

Mr. LeHew made a motion to approve the proposed rules as presented in the agenda package, except that on page 8, under R13-11-104(A)(3), the word "purges" should be changed to "purged," and Mr. Vasicek seconded. The motion passed, 5-0.

### E. Discussion on conducting expedited reviews

Mr. Seavers shared some ideas on how the Board could conduct expedited reviews. Specifically, he proposed that, in the future, the Board investigator prepare a summary of each file; among other things, the summary would list each offense and indicate the disposition of the offense and the appellant's status on meeting any judicial obligations or sentencing terms and conditions. In addition, the Board would look at the appellant's reference letters and personal statement, as well as the police report, if applicable. The executive director would audit a sample of the investigator's summaries to ensure quality. The documents that the Board would look at would be sent by e-mail and eventually could be made available on the Board's Web site. The Board staff would present the files for Board determinations in the form of a consent agenda.

Mr. Seavers also asked the Board how often it would like to conduct expedited reviews. His concern was the time it takes for the Board to examine a file could end up being longer than the time from an expedited review to a hearing.

The Board informally agreed that the Board staff would begin preparing the summaries and recommendations, while the Board continued for an indefinite period examining all the contents of files. The Board then could see how well the new manner of conducting expedited reviews would work and could offer guidelines for the investigator's recommendations to ensure continuity in the types of cases granted a good cause exception under an expedited review. The Board informally agreed to meet twice monthly to review files under an expedited review.

F. Discussion on location of Board office

Mr. LeHew opened discussion on whether the Board's current facilities were adequate and whether a different location for the Board office would be beneficial. Mr. Seavers said that he had discussions with former coworkers at the Governor's Office for Excellence in Government ("OEG") while he was still working at OEG. These individuals indicated that OEG had conducted a cost analysis to determine whether it would be less expensive for the Board to have its offices at the State Boards Office location (1400 West Washington). His understanding was that OEG determined that there would be no cost benefit for the Board to move to the State Boards Office location; however, he had not seen documentation of the cost analysis.

Mr. LeHew wondered whether there would be benefits to relocating the office unrelated to cost, such as the proximity of OAH and other agencies. Mr. Waite suggested that there may be a cost benefit if the Board were to move to a location other than 1400 West Washington. Mr. Seavers mentioned that due to the Board's need to move from DPS' server and telecommunications system immediately, the Department of Administration was installing hardware so that the Board could have its own server and telecommunications system. For that reason, he felt that the Board office should remain where it is for at least FY 2004. The Board asked Mr. Seavers to research the advantages and disadvantages to moving to a new location and report back to it at some point during FY 2004.

VI. ADJOURNMENT

Mr. LeHew made a motion to adjourn the meeting, and Mr. Waite seconded. The motion passed, 5-0. Mr. Emanuel adjourned the meeting at 11:19 a.m.

Minutes approved on \_\_\_\_\_, 2003

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Dennis Seavers, Executive Director