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**STATE OF ARIZONA**  
OFFICE OF THE  
**AUDITOR GENERAL**

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DEPUTY AUDITOR GENERAL

March 10, 2010

The Honorable Judy Burges, Chair  
Joint Legislative Audit Committee

The Honorable Thayer Verschoor, Vice Chair  
Joint Legislative Audit Committee

Dear Representative Burges and Senator Verschoor:

Our Office has recently completed a 36-month followup of the Arizona Board of Fingerprinting regarding the implementation status of the 12 audit recommendations (including sub-parts of the recommendations) presented in the performance audit report released in March 2007 (Auditor General Report No. 07-01). As the attached grid indicates:

- 7 have been implemented;
- 1 is in the process of being implemented; and
- 4 are no longer applicable.

Unless otherwise directed by the Joint Legislative Audit Committee, this concludes our follow-up work on the Board's efforts to implement the recommendations resulting from the March 2007 performance audit report.

Sincerely,

Melanie M. Chesney, Director  
Performance Audit Division

MMC:sjs  
Attachment

cc: Dennis Seavers, Executive Director  
Arizona Board of Fingerprinting

# ARIZONA BOARD OF FINGERPRINTING

## Auditor General Report No. 07-01

### 36-Month Follow-Up Report

Recommendation	Status/Additional Explanation
<b>Finding 1. Board should improve good cause exception decision timeliness</b>	
<p>1.1 The Board should continue to monitor the timeliness of its decisions. If timeliness continues to be a problem, then the Board should consider:</p> <p style="margin-left: 20px;">a. Amending the OAH agreement so OAH provides recommendations rather than decisions to the Board; and</p> <p style="margin-left: 20px;">b. Increasing the use of OAH to maintain timeliness throughout the decision process.</p>	<p><b>Implemented at 6 Months</b></p> <p><b>No Longer Applicable</b> The Board did not renew its contract with the Office of Administrative Hearings for fiscal year 2008. The Board instead hired an additional hearing officer (for a total of two) to handle all hearings internally.</p> <p><b>No Longer Applicable</b> See explanation for 1.1a.</p>
<p>1.2 The Board should ensure its database includes additional fields needed to monitor timeliness. For example, the Board plans to add a field or fields to capture the length of time between the hearing and the recommendation going to the Board.</p>	<p><b>Implemented at 12 Months</b></p>
<p>1.3 The Board should expand its oversight of program operations by requiring that its staff provide it with regular reports that show how long beyond 60 days cases have been waiting for a decision.</p>	<p><b>Implemented at 6 Months</b></p>
<p>1.4 The Legislature should consider amending A.R.S. §41-619.55 to establish time frames for holding a hearing from the date of expedited review and the time to make a final decision after the hearing. If the Legislature decides not to do so, the Board should establish its own time frames in policy.</p>	<p><b>Implemented at 6 Months</b></p>

**Recommendation****Status/Additional Explanation****Finding 2. Board needs to improve management and oversight of decisions**

- |     |   |                                 |
|-----|---|---------------------------------|
| 2.1 | The Board should implement management controls to prevent fingerprint clearance cards from being issued without its final review. These could encompass procedures such as: | <b>Implemented at 24 Months</b> |
| a.  | Producing regular reports on case status and using the reports to review case status and provide direction to staff; and  | <b>Implemented at 24 Months</b> |
| b.  | Conducting regular reconciliations with DPS to verify that applicants have been appropriately approved or denied a fingerprint clearance card.                              | <b>Implemented at 24 Months</b> |
| 2.2 | The Board should continue to keep records of the meetings in which it determines good cause exceptions.   | <b>Implemented at 6 Months</b>  |

**Finding 3. Board needs to ensure decisions comply with statute**

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|-----|---|---|
| 3.1 | The Board needs to ensure that it follows statute when granting or denying good cause exceptions. | <b>Implementation in Process<sup>1</sup></b><br>The Board followed statute in 10 of 11 hearing cases auditors reviewed, and according to a board official, the Board has taken steps to ensure the problem that occurred in the 11 <sup>th</sup> case does not recur. Specifically, in October 2009, auditors reviewed a sample of 11 out of the 45 hearing cases since September 2008 where the Board made the final decision to grant or deny a good cause exception. In one case, the Board accepted the hearing officer's Facts, Findings, and Conclusions of Law, which determined that the applicant was not a recidivist and was rehabilitated. However, the Board denied the applicant a good cause exception. According to A.R.S. §41-619.55(E) the Board may grant a good cause exception if the applicant demonstrates to the Board's satisfaction that s/he "is successfully rehabilitated and is not a recidivist." If the Board disagrees with the hearing officer's recommendation, it should not accept the conclusions of law but should modify them to show why the exception is being denied.<br><br>According to a board official, the Board has reviewed the case and understands that if it agrees that an applicant is not a recidivist and/or has been rehabilitated, it should not deny a good cause exception. The official stated that the Board now knows that it should modify the conclusions of law when it disagrees with the hearing officer's recommendation. |
|-----|---|---|

<sup>1</sup> At the 6-month followup, this recommendation was no longer applicable because a June 2007 Maricopa County Superior Court decision had ruled that the hearing office made the final decision for all cases referred for an administrative hearing. However, the passage of Laws 2008, Ch. 173, amended A.R.S. §41-619 to make the Board responsible for all hearing decisions. This recommendation became applicable when the amended law took effect on September 26, 2008. At the 24-month followup, auditors deferred the review of a sample of hearing cases so that the Board would have time to make decisions in enough hearing cases to allow a meaningful review.

**Recommendation****Status/Additional Explanation**

3.2 The Board should modify its application form regarding CPS contact and professional licensure suspension or revocation to:

a. Ask for this information only from applicants who have been convicted of a precluding offense;

**No Longer Applicable**

Laws 2008, Ch. 173, amended A.R.S. §41-619.55(E) to state that the Board may require applicants to disclose evidence regarding substantiated allegations of child abuse or neglect for consideration in determining the applicant's successful rehabilitation.

b. Ask for this information only when it relates to the type of offense the applicant was convicted of; and

**No Longer Applicable**

See explanation for 3.2a.

c. Ask about substantiated CPS reports, not all CPS contact.

**Implemented at 6 Months**