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ARIZONA BOARD OF FINGERPRINTING

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November 24, 2008

The Honorable Janet Napolitano
Governor
Office of the Governor
Executive Tower, Eighth Floor
1700 West Washington
Phoenix, AZ 85007

The Honorable James P. Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington, Room 221
Phoenix, AZ 85007

The Honorable Tim Bee
President of the Senate
Arizona Senate
1700 West Washington, Room 204
Phoenix, AZ 85007

Dear Governor Napolitano, Speaker Weiers, and President Bee:

Enclosed is a report from the Arizona Board of Fingerprinting ("Board"), issued under A.R.S. § 41-619.54(D), as amended by Arizona Session Laws 2005 (First Regular Session), Chapter 246, § 5. This report summarizes the caseload and number of approvals for good cause exceptions that the Board issued from October 1, 2007, to September 30, 2008.

I respectfully request that you read the methodology described in Section One. These comments identify important statistical issues and assumptions that should be taken into consideration when interpreting the data and that affected the content of this report.

Please note that the contents of this report are public record, so you are welcome to share it. However, the raw data used to generate the report are confidential and exempt from A.R.S. Title 39, Chapter 1 (§ 39-101 *et seq.*, pertaining to public records).

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OFFICE OF THE PRESIDENT

I will make myself available to answer any questions, comments, or concerns that you may have regarding this report or the Board's activities. You may contact me at (602) 265-3747 or dennis.seavers@azbof.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dennis Seavers', with a stylized flourish at the end.

Dennis Seavers
Executive Director

Enclosure: 2008 Report on Good Cause Exception Application Caseload and Approvals

Arizona Board of Fingerprinting 2008 Report on Good Cause Exception Application Caseload and Approvals

SECTION ONE – INTRODUCTION AND METHODOLOGY

Arizona Session Laws 2005 (First Regular Session), Chapter 246, Section 5, established a reporting requirement for the Arizona Board of Fingerprinting (“Board”). Each year, on or before December 1, the Board is required to report the number of good cause exception applications received and granted between October 1 and September 30. The report must break these data down according to the programs listed in A.R.S. § 41–619.51(6). Each program listing must also include a list of the offenses in A.R.S. § 41–1758.03(B) and (C) for which an applicant submitted a good cause exception application and the Board granted a good cause exception.

The report that follows complies with the legislative requirements. However, the reader is strongly encouraged to read the methodology section below. Without reading this section, the reader might draw conclusions that are not warranted by the data.

Methodology

This report draws on two data sets: (1) good cause exception applications received between October 1, 2007, and September 30, 2008; and (2) good cause exceptions resolved between October 1, 2007, and September 30, 2008. These two sets of data are not coextensive, although there may be some overlap among the cases. Some of the applications received in the relevant time period may not have been concluded by September 30, 2008, and some of the applications concluded in the time period may have been received prior to October 1, 2007.

There are 22 statutory programs for which individuals need fingerprint clearance cards, as described in Table 1 on the next page.

Table 1
Statutory Programs Grouped by Types of Work

Program Group	Statutory Program	Agency *
Child day care or child nutrition	41-1964, 46-141	Econ. Sec.
	46-321	Education
	36-897.01, -897.03	Health Svcs.
	36-882, -883.02	Health Svcs.
Child care home provider	41-1967.01	Econ. Sec.
Child welfare and adolescent behavior health treatment	8-322	Supr. Cr.
	46-141	Econ. Sec.
	36-425.03	Health Svcs.
	41-2814	Juv. Corr.
Child Protective Services employment	8-802	Econ. Sec.
Individuals with developmental disabilities	36-594.01	Econ. Sec.
Domestic violence and homeless shelters	36-3008, 46-141	Econ. Sec.
Residential or nursing care institutions and home health agencies		
	36-411	Health Svcs.
Teacher certification	15-534	Education
Charter school employment	15-183	Education
JOBS/JTPA	46-141	Econ. Sec.
Exceptional Student Services	15-763.01	Econ. Sec.

* The state agency listed is the agency that provides funding or regulates the program. The Department of Education, as referred to here, includes the State Board of Education and the Board of Charter Schools.

When a person applies for a fingerprint clearance card, he or she normally applies under one or more of the programs listed in A.R.S. § 41-1758(5).¹ Since the person can apply for a fingerprint clearance card (and later, a good cause exception) under more than one program, separate listings under two programs may actually pertain to the same application. For example, John Smith might apply for a fingerprint clearance card under the programs for teacher certification and charter school employment. A.R.S. § 41-619.54(D) (“the reporting statute”) requires the Board to list applications received and granted, broken down by the programs under which individuals applied for a good cause exception. In the case of John Smith’s fingerprint-clearance-card application, this report would list him once under the program for teacher certification and once under the program for charter school employment. Readers should be aware that aggregating the totals under each program will not yield the total number of applications received. In the example of John Smith, aggregating the totals under each program would make it appear as though John Smith had two applications—one for teacher certification and one for charter school employment.

¹ This list of programs is identical to the list in A.R.S. § 41-619.51(6) and is represented in Table 1.

Table 2
Illustration of Applicants Selecting Multiple Programs for One Application

Applicant	Day Care	Teacher Certification	Charter School Employment	Total
John Smith	X	X		2
Jane Roberts		X	X	2
Jack Walters	X	X		2
Total	2	3	1	6

Table 2 above illustrates how a single application may appear under multiple programs. If the reader were to add up the total number of applications under each program, he or she would get a sum that is higher than the actual number of applications. In Table 2, adding up the total number of applications under each program would give a sum of six applications, when in fact there are only three applications. Readers should be cautious not to treat the totals under each program as totals of discrete applications.

The reporting statute requires the Board to provide data on the offenses for which there were good-cause-exception applications submitted and received. The term “offense,” in the context of criminal law, entails a conviction. However, the denial or suspension of a fingerprint clearance card may be based on an arrest, which ultimately may not yield a conviction.² When the denial or suspension of a fingerprint clearance card is based on an arrest, the final disposition of the arrest may not be known. In many cases, documentary evidence is not available because of the length of time that has elapsed since the arrest took place, coupled with courts’ limited schedule for retaining records. Law-enforcement agencies and courts do not always report data to the Department of Public Safety as required, so disposition information may not be available. Also, applicants themselves may not remember the disposition of the arrest, particularly when they have extensive criminal records, arrests that took place many years ago, or backgrounds of substance abuse. For the purpose of this report, when the disposition of an arrest is not known, the arrest is excluded from the data because it is not clear whether an offense occurred. The alternative would have been to include charges where an offense did not occur.

The reporting statute requires the Board to report on the offenses listed in A.R.S. § 41–1758.03(B) and (C). However, individuals who commit offenses listed in subsection B are necessarily prevented from receiving a good cause exception. Therefore, there are no data to report on offenses listed in subsection B.

² See A.R.S. § 41–1758.03(L) (“The division [i.e., the fingerprinting division of the Department of Public Safety] shall not issue a fingerprint clearance card to a person if the division cannot determine, within thirty business days after receipt of the person’s state and federal criminal history record information, whether the person is awaiting trial on or has been convicted of committing any of the offenses listed in subsection B or C of this section. If the division is unable to make the determination required by this section and does not issue a fingerprint clearance card to a person, the person may request a good cause exception pursuant to section 41–619.55”) and A.R.S. § 41–1758.04(C) (“The division shall suspend the fingerprint clearance card of a person who is arrested for an offense listed in section 41–1758.03, subsection B or C”).

SECTION TWO – DATA

1. The reporting statute requires the Board to indicate the number of good cause exception applications it received. The Board received 1,791 applications.
2. The reporting statute requires the Board to indicate that number of good cause exceptions granted. Table 3 below shows the disposition of applications closed.

Table 3
Disposition of Applications Closed

Disposition	Number of Applications
Denial	108
Approval	1,375
DPS issuance *	44
Ineligible	1
Applicant withdrew	396
Total	1,924

* In some cases, based on information it received subsequent to the denial or suspension of a fingerprint clearance card, DPS is able to issue the card without the applicant having to receive a good cause exception.

3. The reporting statute requires the Board to provide the number of applications received, broken down by the programs listed in A.R.S. § 41-619.51(6). Table 4 on the next page shows the number of applications, broken down by groups of programs.

Table 4
Number of Applications Received by Program Group

Program Group	Statutory Program	No. Apps. Rec'd
Child day care or child nutrition	41-1964, 46-141	65
	46-321	69
	36-897.01, -897.03	160
	36-882, -883.02	160
Child care home provider	41-1967.01	47
Child welfare and adolescent behavior health treatment	8-322	240
	46-141	210
	36-425.03	195
	41-2814	195
Child Protective Services employment	8-802	23
Individuals with developmental disabilities	36-594.01	272
Domestic violence and homeless shelters	36-3008, 46-141	45
Residential or nursing care institutions and home health agencies	36-411	539
Teacher certification	15-534	253
Charter school employment	15-183	81
JOBS/JTPA	46-141	22
Exceptional Student Services	15-763.01	21

* The state agency listed is the agency that provides funding or regulates the program. The Department of Education, as referred to here, includes the State Board of Education and the Board of Charter Schools.

4. The reporting statute requires the Board to provide the number of applications granted, broken down by the programs listed in A.R.S. § 41-619.51(6). Table 5 on the next two pages indicates the disposition of applications closed.

Table 5
Dispositions of Applications by Program Group

Program Group	Statutory Program	Disposition	No. Apps
Child day care or child nutrition	41-1964, 46-141	Denial	5
		Approval	63
		DPS issuance	0
		Ineligible	0
		Applicant withdrew	21
	46-321	Denial	7
		Approval	62
		DPS issuance	0
		Ineligible	0
		Applicant withdrew	13
	36-897.01, -897.03	Denial	16
		Approval	135
		DPS issuance	2
		Ineligible	0
		Applicant withdrew	45
	36-882, -883.02	Denial	16
		Approval	135
DPS issuance		2	
Ineligible		0	
Applicant withdrew		45	
Child care home provider	41-1967.01	Denial	2
		Approval	34
		DPS issuance	0
		Ineligible	0
		Applicant withdrew	14
Child welfare and adolescent behavior health treatment	8-322	Denial	18
		Approval	198
		DPS issuance	6
		Ineligible	0
		Applicant withdrew	39
	46-141	Denial	15
		Approval	169
		DPS issuance	6
		Ineligible	0
		Applicant withdrew	38
	36-425.03	Denial	14
		Approval	157
		DPS issuance	6
		Ineligible	0
		Applicant withdrew	34
	41-2814	Denial	14
		Approval	157
DPS issuance		6	
Ineligible		0	
Applicant withdrew		34	

Table 5 (continued)
Number of Applications Received by Program Group

Child Protective Services employment	8-802	Denial	2
		Approval	22
		DPS issuance	0
		Ineligible	0
		Applicant withdrew	7
Individuals with developmental disabilities	36-594.01	Denial	14
		Approval	180
		DPS issuance	7
		Ineligible	0
		Applicant withdrew	79
Domestic violence and homeless shelters	36-3008, 46-141	Denial	4
		Approval	37
		DPS issuance	0
		Ineligible	0
		Applicant withdrew	8
Residential or nursing care institutions and home health agencies	36-411	Denial	29
		Approval	398
		DPS issuance	8
		Ineligible	0
		Applicant withdrew	112
Teacher certification	15-534	Denial	16
		Approval	213
		DPS issuance	5
		Ineligible	0
		Applicant withdrew	24
Charter school employment	15-183	Denial	5
		Approval	73
		DPS issuance	2
		Ineligible	0
		Applicant withdrew	15
JOBS/JTPA	46-141	Denial	1
		Approval	17
		DPS issuance	1
		Ineligible	0
		Applicant withdrew	0
Exceptional Student Services	15-763.01	Denial	1
		Approval	14
		DPS issuance	0
		Ineligible	0
		Applicant withdrew	5

* The state agency listed is the agency that provides funding or regulates the program. The Department of Education, as referred to here, includes the State Board of Education and the Board of Charter Schools.

5. The reporting statute requires the Board to indicate the offenses where an individual applied for and, additionally, received a good cause exception. Table 6 below lists the offenses, with an indication of whether or not the Board granted someone who committed that offense a good cause exception.

**Table 6
Offenses from Good Cause Exception Applications**

Offense	Clearance Card Statute	Good Cause Exception Granted
Manslaughter	41-1753.03(C)(1)	
Endangerment	41-1753.03(C)(2)	X
Threatening or intimidating	41-1753.03(C)(3)	X
Assault	41-1753.03(C)(4)	X
Assaults on officers or firefighters	41-1753.03(C)(8)	X
Indecent exposure	41-1753.03(C)(10)	X
Public sexual indecency	41-1753.03(C)(11)	X
Theft	41-1753.03(C)(13)	X
Shoplifting	41-1753.03(C)(15)	X
Forgery	41-1753.03(C)(16)	X
Criminal possession of a forgery device	41-1753.03(C)(17)	X
Criminal impersonation	41-1753.03(C)(19)	X
Fraudulent use of a credit card	41-1753.03(C)(23)	X
Misconduct involving weapons	41-1753.03(C)(28)	X
Concealed weapon violation	41-1753.03(C)(32)	X
Possession, use, or sale of marijuana, dangerous drugs, or narcotic drugs	41-1753.03(C)(36)	X
A criminal offense involving criminal trespass and burglary under title 13, chapter 15	41-1753.03(C)(45)	X
A criminal offense under title 13, chapter 23	41-1753.03(C)(46)	X
Child neglect	41-1753.03(C)(47)	X
Misdemeanor offenses involving contributing to the delinquency of a minor	41-1753.03(C)(48)	X
Offenses involving domestic violence	41-1753.03(C)(49)	X
Arson	41-1753.03(C)(50)	X
Kidnapping	41-1753.03(C)(51)	X
Felony offenses involving sale, distribution [etc] marijuana, dangerous drugs or narcotic drugs	41-1753.03(C)(53)	X
Robbery	41-1753.03(C)(53)	X
Aggravated assault	41-1753.03(C)(54)	X
Negligent homicide	41-1753.03(C)(56)	X
Criminal damage	41-1753.03(C)(57)	X
Taking identity of another person or entity	41-1753.03(C)(59)	X
Cruelty to animals	41-1753.03(C)(62)	X
Prostitution	41-1753.03(C)(63)	X
Welfare fraud	41-1753.03(C)(65)	X