

# TECHNICAL SERVICES DIVISION

APPLICANT CLEARANCE CARD TEAM (ACCT)



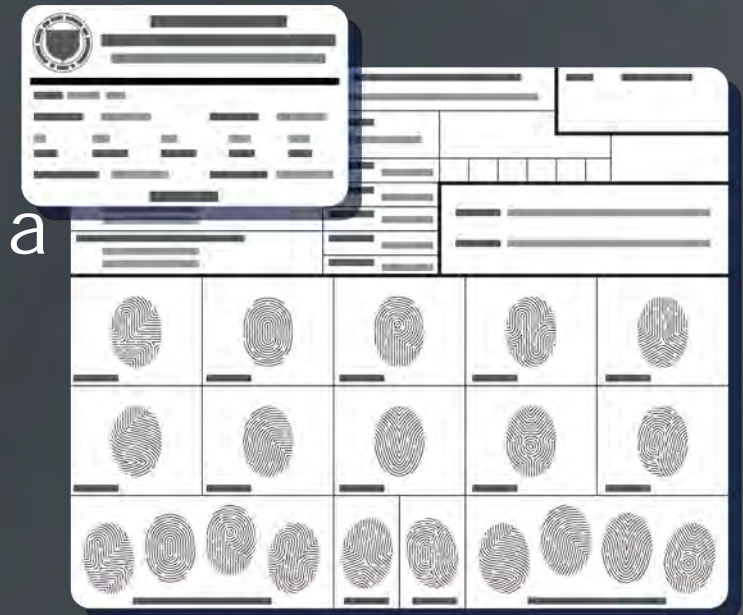
# MISSION STATEMENT

Applicant Clearance Card Team's Mission:

**PROTECT  
VULNERABLE  
POPULATIONS**

# ABOUT ACCT

- Established in 1998 by House Bill 2585
- Requires professions to demand a Fingerprint Clearance Card prior to licensure, certification or employment
  - State policymakers routinely expand the list of professions
- ACCT receives applications
  - Reviews criminal history
  - Determines suitability of individuals to receive a
- 60 state statutes specific to the ACCT process



# THE APPLICANT TEAM

## THE APPLICANT TEAM VS. THE APPLICANT CLEARANCE CARD TEAM

- Both teams receive applications for fingerprint-based background checks
- The Applicant Team obtains criminal history of applicants and provides it to the requesting agency
- The requesting agency then makes the suitability determination themselves, not the Applicant Team; ACCT makes suitability determinations of their applications.
- 2,000 government agencies, schools and nonprofit organizations
- 150,000 applicants processed a year

# APPLICATION INFORMATION

Active Fingerprint Clearance Cards:

**829,300**

Applications received annually:

**160,000**

New Cardholders added annually:

**40,000**

The rest of the applications are either “renewals” or denied.

Applicants with a criminal  
history:

**24,000**

approx. **15%**

Applicants denied due to criminal  
history with precluding offenses:

**11,000**

**46%** of files with criminal history & **7%** of all applicants

# TYPES OF CARDS



**Regular**

**ARS § 41-1758.03**

- School employees
- Department of Education

**Level 1**

**ARS § 41-1758.07**

- Department of Child Safety
- Department of Economic Security
- Game and Fish



Regardless of what an applicant applies for, if an applicant is eligible for a Level 1 card, ACCT will issue them a Level 1 card.

# IDENTITY VERIFIED PRINT (IVP) APPLICATIONS

- IVP application for a Regular Fingerprint Clearance Card:
  - School employees, Department of Education employees
    - Teacher Certification
    - Tutor or Teacher Preparation Programs
    - Charter School Instructor
    - School Bus Driver
- Chain of custody for fingerprints
- All others use the Non-IVP application
  - Same application for Regular or Level 1



# APPLICATION PROCESS OVERVIEW

## STEP 01:

### Apply

- Paper application with fingerprints
- Electronic application through the Electronic Fingerprint Application System (EFAS)

## STEP 02:

### Receive & Review

- Applications are received and accepted by DPS
- Fingerprints are submitted to DPS' Fingerprint Unit
- Fingerprints are checked against repositories for criminal history records
- All background checks must be fingerprint based
- Name check exceptions

## STEP 03:

### Issue a Card or Determine Suitability

- Cards are issued to those without a criminal history record
- Determination of suitability is referred for review for those with a criminal history record





# APPLICANTS WITH CRIMINAL HISTORY

- Flagged in AccTrak
- Every flagged file is reviewed by an AA to classify as:
  - No Dispo
  - Dispo
  - NP
- Assigned for research, review and resolution
- Found guilty = denial of Fingerprint Clearance Card



# PRECLUDING OFFENSES

- ARS § 41-1758.03 and ARS § 41-1758.07
  - Established precluding offenses
  - Established which are eligible for a GCE hearing
- Definition of a precluding offense
- Attorney General conducts reviews of out-of-state statutes to assist in determining if they equate to Arizona statutes
- DUI convictions

# REGULAR CARD PRECLUDING OFFENSES NOT ELIGIBLE FOR GCE HEARING

- Sexual abuse of a vulnerable adult
- Sexual assault, abuse, exploration of a minor/vulnerable adult, conduct with a minor
- First or second-degree murder
- Child sex trafficking
- Child abuse
- Molestation of a child/vulnerable adult
- Luring a minor for sexual exploitation



# LEVEL 1

## ADDITIONAL PRECLUDING OFFENSES NOT ELIGIBLE FOR A GCE HEARING FOR A LEVEL 1 CARD

- Homicide
- Felony child neglect, indecent exposure, public sexual indecency
- Terrorism
- Any offense involving a violent crime as defined in ARS § 13-901.03
- Felony drug/alcohol related offense if committed within five years of application for a Level 1 Fingerprint Clearance Card



# NON-PRECLUDING FILES

- No charges listed in the criminal history report are precluding offenses
- Immediately issued a Fingerprint Clearance Card
- Processed within one day of receipt of the criminal history report



# DISPO FILES

- Files containing criminal history in which the disposition is recorded for all charges listed
- The files are assigned for evaluation
- Some research may be required:
  - Older convictions/out of state convictions to equate them to current Arizona statutes
  - To determine misdemeanor or felony convictions, date of offense for some convictions
  - For domestic violence related offenses in which the presence of a domestic violence notation could change the outcome

# NO DISPO FILES

- These files require the most effort of research to decide
- The AA must contact each jurisdiction which may have a record of the disposition of the offense
  - Law enforcement
  - Courts
  - Prosecuting agencies
- Restrictions on the dissemination of criminal history information
  - Contact must be made via fax
- Found guilty of a precluding offense = Card denied
- Not found guilty, conviction is non-precluding = Card granted
- If not resolved in 30 days ACC.T is required to deny the application



# SUITABILITY DETERMINATION

- Objective decisions based solely on criminal history
- Guilty disposition determined = ACCT determination based on the offense the person was convicted of
- Set aside of guilty determination is equal to a restoration of rights, still guilty
- Finding of guilty expunged, the state the offense was committed in determines how ACCT processes the offense
- GCE hearing is based solely on the statutes

# SUITABILITY DETERMINATION CONT.

- Deferred Prosecutions – file will be assigned for research
- The AA will try to determine if all the requirements of the deferment were met
  - If met: ACCT treats the offense as having a “no charges filed” disposition
  - If not met: the offense is treated as having a “guilty” disposition
- Most common in Arizona:
  - Applicants assigned to complete a Treatment Assessment Screening Center program as part of a plea agreement to defer prosecution
- Simple enrollment does not count, it must be completed

# FILE STOPS

- Current active cardholders' fingerprints are checked against fingerprints obtained related to new charges/arrests
  - Checked daily and only for Arizona arrests
- File Stop notifications received annually: **20,000**
  - Approximately **4,000** get suspended for arrests involving precluding offenses
  - Approximately **1,300** get driving restrictions added to the card for a DUI
- RAP BACK-Approved by legislature in 2020
  - Currently being developed by DPS' Information Management Bureau
  - Will check active card holders against arrests nationwide

# BOARD OF FINGERPRINTING (ARS § 41-619)

- Is an applicant, who was denied a Card, eligible for a GCE to the statutes precluding the issuance of a Card?
- Six members, representatives of and appointed by the relative agency director:
  - Supreme Court (by the Chief Justice)
  - Department of Economic Security
  - Department of Education
  - Department of Health Services
  - Department of Juvenile Corrections
  - Department of Child Safety

# BOARD OF FINGERPRINTING (ARS § 41-619)

- The GCE Hearing is not an appeal of the DPS decision
  - Determines if an applicant is “successfully rehabilitated and is not a recidivist” and “Shall consider all of the following”:
    - Extent of the criminal record
    - Elapsed time since the offense
    - Nature of the offense
    - Any applicable mitigating circumstances
    - Degree of participation in the offense
    - Extent of the applicant's rehabilitation
- May be heard by an administrative law judge, final decision by the board

# QUESTIONS?

