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 Card
- 60 state statutes specific to the ACCT process
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

Level 1
ARS § 41-1758.07
- Department of Child Safety
- Department of Economic Security
- Game and Fish

Regular
ARS § 41-1758.03
- School employees
- Department of Education

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
• 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, ACCT 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
• 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
• 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
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
• 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?