

**EXECUTIVE ORDERS, PROCLAMATIONS OF
GENERAL APPLICABILITY, AND STATEMENTS
ISSUED BY THE GOVERNOR
PURSUANT TO A.R.S. § 41-1013(B)(3)**

The Administrative Procedure Act (APA) requires the full-text publication of all Executive Orders and Proclamations of General Applicability issued by the Governor. In addition, the *Register* shall include each statement filed by the Governor in granting a commutation, pardon or reprieve, or stay or suspension of execution where a sentence of death is imposed.

EXECUTIVE ORDER 2000-1

**Receipt of Criminal History Record Information:
Yavapai-Apache Nation Tribal Gaming Offices/Arizona
Department of Gaming**

WHEREAS, pursuant to the Indian Gaming Regulatory Act of 1988 (25 U.S.C. §§ 2701-2721, 18 U.S.C. §§ 1166-1168) and A.R.S. § 5-601(A), the State of Arizona and the Yavapai-Apache Nation (sometimes hereinafter the "Nation") have entered into a Tribal-State Gaming Compact authorizing certain Class III gaming activities; and

WHEREAS, the Tribal-State Gaming Compact declares that the terms and conditions of the compact were negotiated to provide a regulatory framework for the operation of certain Class III gaming activities, so as to (a) ensure the fair and honest operation of such gaming activities; (b) maintain the integrity of all activities conducted in regard to such gaming activities; and (c) protect the public health, welfare, and safety; and

WHEREAS, the Arizona Department of Gaming is the state agency authorized by statute and by the Tribal-State Gaming Compact to monitor and enforce compliance with all Tribal-State Gaming Compact requirements; and

WHEREAS, pursuant to A.R.S. §§ 5-601 et seq. and the Tribal-State Gaming Compact, the State of Arizona has charged the Department of Gaming with the regulatory responsibility to oversee, maintain, and protect the overall integrity of the gaming activities conducted in a compacted class III facility; and

WHEREAS, pursuant to A.R.S. §§ 5-601 et seq. and the Tribal-State Gaming Compact, the Department of Gaming has criminal justice responsibilities, and is a criminal justice agency of the State of Arizona, as defined by A.R.S. § 41-1750(Z)(6); and

WHEREAS, pursuant to A.R.S. §§ 5-601 et seq. and the Tribal-State Gaming Compact, the Department of Gaming has related non-criminal justice responsibilities; and

WHEREAS, pursuant to, and in accordance with, the terms of the Tribal-State Gaming Compact, the Nation has designated an entity known as the "Tribal Gaming Office" as the tribal entity responsible for overseeing tribal regulation of the Tribal-State Gaming Compact requirements; and

WHEREAS, the Nation's Tribal Gaming Office is a non-criminal justice agency; and

WHEREAS, it is in the best interest of the State of Arizona and the Nation to inquire into the background, character, and criminal history of those persons seeking employment and/or employed in connection with the Nation's gaming facility, including applicants for any tribal gaming license, state certification, or renewal thereof; and

WHEREAS, the Tribal-State Gaming Compact presents a unique situation in that such compact requires the participation of two separate and distinct governmental entities in a single licensing, certification, or renewal decision, i.e., the determination of the suitability for employment of applicants for any tribal gaming license, state certification, and/or renewal thereof; and

WHEREAS, the background investigation performed by the Department of Gaming pursuant to the Tribal-State Compacts in connection with the Department's licensing recommendation, certification, and renewal decisions is central to the State's effective regulatory effort to (a) ensure the fair and honest operation of Indian gaming; (b) maintain the integrity of all activities conducted in regard to such gaming activities; and (c) protect the public health, welfare, and safety; and

WHEREAS, the Arizona Department of Public Safety is responsible for the effective operation of the Central State Repository to collect, store, and disseminate complete and accurate criminal history records and related criminal justice information pursuant to A.R.S. § 41-1750(A); and

WHEREAS, the Department of Gaming, being a criminal justice agency, is authorized to receive criminal history record information for the purpose of the administration of criminal justice, and for the purpose of evaluating the fitness of current and prospective criminal justice employees; and

WHEREAS, pursuant to A.R.S. §§ 5-601 et seq. and the Tribal-State Gaming Compact, the Department of Gaming is authorized to receive criminal history record information in connection with the Department of Gaming's related non-criminal justice responsibility of conducting background investigations for tribal gaming license recommendation, state certification purposes; and

WHEREAS, the Nation's Tribal Gaming Office, being a non-criminal justice agency, is authorized to receive criminal history record information for purposes of evaluating the fitness of applicants for employment in connection with

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the Nation's gaming facility pursuant to this Executive Order and only as prescribed by this Executive Order; and

WHEREAS, the Department of Gaming and the Nation have agreed to adopt an efficient and cost-effective procedure for the submission of requests to the Department of Public Safety for the same criminal history record information by the two separate and distinct governmental entities involved in a single licensing, certification, and renewal decision, whereby such information is efficiently and cost-effectively disseminated to both governmental entities upon the submission of a single Fingerprint Card and single processing fee; and

WHEREAS, the Nation may have adopted tribal statutes, tribal ordinances, tribal executive orders, and/or tribal resolutions that purport to authorize the Nation to submit requests for criminal history record information directly to, and receive such information directly from, the Department of Public Safety for purposes of conducting background investigations pertaining to employment in connection with the Nation's gaming facility; and

WHEREAS, the Nation may have entered into a User Agreement and/or Memoranda of Understanding with the Department of Public Safety that purport to authorize the Nation to submit requests for criminal history record information directly to, and to receive such information directly from, the Department of Public Safety for purposes of conducting background investigations pertaining to applications for employment in connection with the Nation's gaming facility; and

WHEREAS, notwithstanding the existence of any tribal statute, tribal ordinance, tribal executive order, tribal resolution, User Agreement, and/or Memorandum of Understanding purporting to authorize the Nation or the Nation's Tribal Gaming Office to submit directly to the Department of Public Safety requests for criminal history record information, the Nation and the Department of Gaming have agreed that the procedures set forth in this Executive Order shall govern requests from the Nation or the Nation's Tribal Gaming Office to the Department of Public Safety for criminal history record information pertaining to employment in connection with the Nation's gaming facility; and

WHEREAS, the Department of Gaming and the Nation have agreed that the Department of Public Safety shall simultaneously disseminate, without requiring a second processing fee, criminal history record information to both the Department of Gaming and the Nation's Tribal Gaming Office whenever the Nation's Tribal Gaming Office submits to the Department of Public Safety a proper request for criminal history record information pertaining to employment in connection with the Nation's gaming facility; and

WHEREAS, Executive Order 92-22, executed on August 27, 1992 concerns the "Receipt of Criminal History Record Information, Arizona Department of Racing" and Executive Order 94-8, executed on June 14, 1994, concerns the "Receipt of Criminal History Record Information, Tribal Gaming Offices/State Gaming Agency"; and

WHEREAS, it is in the best interest of the State of Arizona to rescind Executive Order 92-22 and Executive Order 94-8 to the extent such orders, as they apply to the Nation, are inconsistent with this Executive Order and to enact this Executive Order providing for an efficient and cost-effective procedure for the submission of requests for, and dissemination of, criminal history record information pertaining to employment in connection with the Nation's gaming facility;

NOW, THEREFORE, I, Jane Dee Hull, Governor of the State of Arizona, by virtue of the authority vested in me by the Arizona Constitution and Laws of this State and pursuant to the authority provided by A.R.S. § 41-1750(G), do hereby order as follows:

1. Executive Order 92-22 and Executive Order 94-8 are hereby rescinded to the extent such Orders, as they apply to the Yavapai-Apache Nation, are inconsistent with this Executive Order.
2. The Department of Gaming is a criminal justice agency with related non-criminal justice responsibilities, as defined by statute.
3. With respect to requests from the Nation or its Tribal Gaming Office for criminal history record information pertaining to employment in connection with the Nation's gaming facility, the Department of Public Safety is hereby ordered to employ the procedures set forth in this Executive Order to fulfill its obligations under any and all tribal statutes, tribal ordinances, tribal executive orders, tribal resolutions, User Agreements, and/or Memoranda of Understanding purporting to address the subject.
4. The procedures by which the Nation or its Tribal Gaming Office is authorized to receive from the Department of Public Safety state and federal criminal history record information pertaining to employment in connection with the Nation's gaming facility is as follows:
 - a. The Nation's Tribal Gaming Office shall submit to the Department of Public Safety the completed application for tribal license, state certification, and/or renewal thereof, fingerprint card(s) and the prescribed fee for each applicant for employment with the Nation's gaming facility. Simultaneously with its submission to the Department of Public Safety, the Nation's Tribal Gaming Office also shall submit to the Department of Gaming a copy of the completed application for tribal license, state certification, and/or renewal thereof.
 - b. Requests for state and federal criminal history record information from the Nation's Tribal Gaming Office pertaining to employment in connection with the Nation's gaming facility shall specify the following in the "Reason" section of the applicant's Fingerprint Card:
"Yavapai Apache Nation TGO and ADG: Employment"

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- c. The Department of Public Safety shall promptly process each such request for state and federal criminal history record information upon the submission of a single Fingerprint Card and single processing fee.
 - d. The Department of Public Safety is authorized to, and shall, simultaneously disseminate the appropriate state and federal criminal history record information to both the Department of Gaming and the Nation's Tribal Gaming Office without requiring the submission of a second processing fee from the Department of Gaming.
5. The Department of Public Safety shall not accept or process requests from the Nation or its Tribal Gaming Office for criminal history record information pertaining to employment in connection with the Nation's gaming facility unless such requests comply with the provisions set forth above in Paragraph 4. If the Nation or its Tribal Gaming Office submits such request, the Department of Public Safety shall return to the Nation's Tribal Gaming Office any and all applications, fingerprint cards, and/or fees submitted in connection with such request.
 6. In response to a proper request by the Nation's Tribal Gaming Office pursuant to Paragraph 4 of this Executive Order, the Department of Public Safety is authorized to disseminate to the Nation's Tribal Gaming Office, and the Nation's Tribal Gaming Office is authorized to receive, criminal history record information pertaining to employment in connection with the Nation's gaming facility. The Nation's Tribal Gaming Office is authorized to receive and use the criminal history record information obtained through the process set forth herein to conduct separate background investigations for any tribal license recommendation, state certification, and renewal thereof.
 7. The Department of Gaming is authorized to receive and use the criminal history record information obtained through the process set forth herein to (a) administer criminal justice; (b) evaluate the fitness of current and prospective criminal justice employees; (c) conduct separate background investigations for any tribal license recommendation, state certification, and renewal thereof; and/or (d) for any enforcement action(s) deemed necessary by the Department of Gaming.
 8. Upon receipt of the criminal history record information provided by the Department of Gaming, the Department of Gaming and the Nation's Tribal Gaming Office shall observe the limitations of A.R.S. § 41-1750(Q) regarding secondary dissemination of this information and the rules adopted by the Director of the Department of Public Safety pursuant to A.R.S. § 41-1750(V).
 9. This Executive Order shall be effective immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

Jane Dee Hull
Governor

DONE at the Capitol in Phoenix on this Twenty-first day of January in the Year Two Thousand and of the Independence of the United States of America the Two Hundred and Twenty-fourth.

ATTEST:
Betsey Bayless
Secretary of State