

# Criminal Background Check (CBC) Update

January 2015

# CBC Update

This update will provide information on important changes to:

- Fingerprint Submissions: *slides 4-7*
- Waiver Request Process: *slides 8-11*
- Fingerprint Rejects: *slide 12*
- Requests for Evidence of Rehabilitation Process: *slides 13-19*

# CBC Update

This update will also provide guidance on:

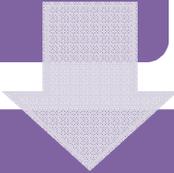
- Temporarily Approved Status Pending Results of CBC: *slides 20-25*
- Updating Employment Status in the CBC: *slides 26-29*
- Requests to Change Mistaken Employment Status: *slides 30-33*

# Fingerprint Submission

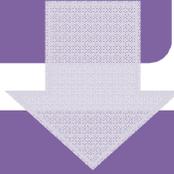
- All OMH, OPWDD and OCFS Providers covered by the Justice Center CBC must now register Applicants for fingerprinting with MorphoTrust, either online at [www.identogo.com](http://www.identogo.com) or by calling (877) 472-6915.
- Each State agency has a specific ORI number to be used during the registration process.

# Fingerprint Submissions

For OMH Providers the ORI is: NY922160Z



For OPWDD Providers the ORI is: NY922170Z



For OCFS Providers the ORI is: NY922286Z



# Fingerprint Submission



# Fingerprint Submission

- Step-by-step guidance on registering an Applicant is on the following links found on the Justice Center website:

For OMH Providers:

<http://www.justicecenter.ny.gov/node/648>

For OPWDD Providers:

<http://www.justicecenter.ny.gov/node/647>

For OCFS Providers:

<http://www.justicecenter.ny.gov/node/611>



## No Waiver for Justice Center & OASAS

- Requesting a waiver for a Justice Center/OASAS program is not an option. Criminal history information received from DCJS and the FBI cannot be shared for CBC purposes between separate agencies.
- Accordingly, it is not possible to request a Justice Center/OASAS Waiver.

# CBC Waiver



# CBC Waiver

If one Applicant will be working in more than 1 program,

Provider should indicate that in the Job Duties description during the fingerprint registration,

For example, in Job Duties box include, “Applicant will be working in the Provider’s OMH and OPWDD program”, or “OCFS” as appropriate.



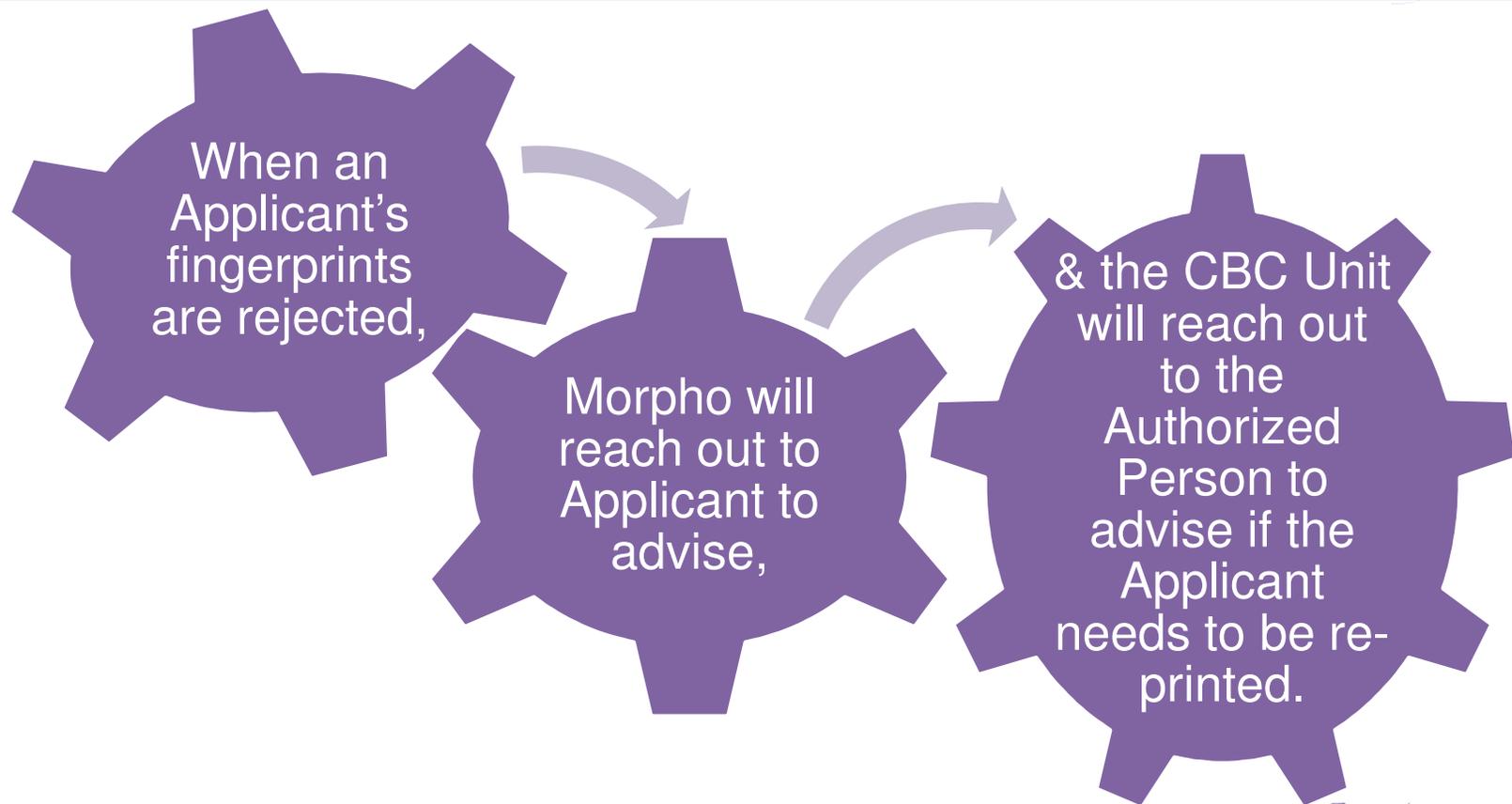
NEW YORK  
STATE OF  
OPPORTUNITY.

Justice Center for the  
Protection of People  
with Special Needs

# CBC Waiver Example

- Indicating that an Applicant will or may be working in more than one covered program will allow the Justice Center to render a suitability determination for all of the Provider's OPWDD, OCFS and/or OMH programs.
- Taking into consideration the types of service recipients to whom the Applicant will be providing care is an essential part of the Justice Center CBC Unit's function.

# Fingerprint Reject



# Request for Evidence of Rehabilitation

- If the Justice Center is considering directing the Provider to deny employment based on an Applicant's criminal history, the Justice Center must request *evidence of rehabilitation* directly from the Applicant.

# Request for Evidence of Rehabilitation

- This request is sent via US Postal Service Certified Mail to the address provided for the Applicant during the fingerprinting registration process.
- The Authorized Person should provide the most accurate and complete address available when registering the Applicant.

# Request for Evidence of Rehabilitation

- Certified mailing requires a signature for delivery. If the Applicant is not available to sign for the letter, the Post Office will leave a notice advising the intended recipient that he/she must arrange for delivery or pick up of the letter.
- If the letter is not claimed in a timely manner, the Post Office will return the letter to the Justice Center.

# Request for Evidence of Rehabilitation

Beginning on February 1, 2015:

When request for *evidence of rehabilitation and good conduct* is returned as "unclaimed" or "undeliverable"...



The CBC Unit will send the Provider an email advising that the Applicant's criminal history is available for review in the CBC system and provide directions on how to proceed.



# Request for Evidence of Rehabilitation

If Provider remains interested in hiring the Applicant, an email must be sent to [cbc@justicecenter.ny.gov](mailto:cbc@justicecenter.ny.gov) to:

1. advise criminal history summary has been reviewed by the Provider;

2. verify correct address was provided;  
and

3. request that the CBC Unit resend the certified letter to the Applicant.



# Request for Evidence of Rehabilitation

If the Provider is not interested in moving forward with the employment application,



the Applicant's status must be updated in the CBC system as "Application Withdrawn."



# Request for Evidence of Rehabilitation

- To recap, if the CBC Unit is considering a denial based on criminal history, it must request *evidence of rehabilitation* from the Applicant.
- If the Applicant does not respond to this request, the CBC Unit will send to the Authorized Person the Applicant's reportable criminal history.
- The Provider must review the criminal history, advise the CBC Unit that it is still interested in the Applicant, verify the Applicant's address, and request that the letter be re-sent to the Applicant.

# Temporary Approvals

- The law permits a Provider to “temporarily approve” a prospective employee during the CBC process.
- The “temporarily approved pending criminal history check” status permits hiring in emergency situations where regulatory staffing requirements would not otherwise be met.

# Temporary Approvals

To utilize the temporarily approved function, the Provider must first ensure that the following criteria are met:

- 1) The Applicant must have been fingerprinted;
- 2) The Applicant must complete the Applicant Consent Form for Fingerprinting;

# Temporary Approvals

- The Applicant Consent Form for Fingerprinting contains a question about prior criminal history:

7. I certify to the best of my knowledge that I: (check as appropriate)

- have been convicted of a crime in New York State or any other jurisdiction.
- have pending arrest charges.

If checked, provide details:

# Temporary Approvals

- The Authorized Person must ensure that the Applicant has not indicated a conviction or pending charge for:
  - a felony sex offense at any time;
  - felony offense involving violence within past 10 years; and/or
  - a conviction for endangering the welfare of a mentally incapacitated person.

# Temporary Approvals

3) The Provider must have written policy that the temporarily approved prospective employee will be supervised at all times by an employee who:

- has management or oversight authority, or
- who has over six months of experience with the Provider and has been deemed qualified to provide adequate oversight to prospective employee.

# Temporary Approvals

4) The Authorized Person must immediately update the “Employment Status” of the temporarily approved prospective employee to “Temporarily Approved Pending Criminal History Record Check” in the Applicant’s record in the CBC system.

# Updating Employment Status in CBC

- Guidance on how to update an Employment Status is available in the CBC User Guide found on the Justice Center website on the Pre-Employment Check tab and at the following link:

<http://www.justicecenter.ny.gov/investigations-prosecutions/cbc/cbc-user-guide>

# Updating Employment Status in the CBC

- Providers must comply with the regulatory requirement to update employment status within 14 days.
  - Failure to update the CBC system when a subject individual leaves the Provider's employment may result in the Provider being out of compliance with regulatory requirements.



## OPWDD Providers

- Please DO NOT submit a Change of Status Form (*CBC Form 7 or the former OPWDD Form 104-MR*) to the Justice Center for any Applicant/Employee. All changes must be made directly in the CBC system.

# Request to Change Employment Status

- The CBC Unit has received requests from Providers to correct the “Employment Status” information for subject individuals that was entered incorrectly in the CBC system.
- Providers must maintain an accurate record for each subject individual. Any mistake that is not immediately identified and reported to the CBC Unit can result in the Provider not being notified of subsequent arrests.

# Request to Change Employment Status

- Requests for correction will be considered on a case-by-case basis.
- To avoid having to do another CBC after an updating error:
  - Exercise caution in updating the “Employment Status” when inactivating a subject individual; and

# Request to Change Employment Status

- Double check that the update was accurate and that the update had been added to the “History of Changes” at the bottom of the Applicant’s record in the CBC system;
- When in doubt about an individual leaving active status, leave the record in “Hired” status until you are certain that employment has ended.

# Request to Change Employment Status

- Not all requests to correct update errors will be processed due to:
  - Length of time since the subject individual was inactivated by the Provider; and
  - Ability of the CBC Unit to determine if the subject individual has been arrested since the record was inactivated by the Provider.

# Thank you!

Please direct any questions to the  
Justice Center CBC Unit:

Email address:

[cbc@justicecenter.ny.gov](mailto:cbc@justicecenter.ny.gov)

Phone:

518.549.0361

