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Governor

**NEW YORK STATE**  
**OFFICE OF CHILDREN & FAMILY SERVICES**  
52 WASHINGTON STREET  
RENSSELAER, NY 12144

**Sheila J. Poole**  
Acting Commissioner

## Administrative Directive

<b>Transmittal:</b>	14-OCFS-ADM-01
<b>To:</b>	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
<b>Issuing Division/Office:</b>	Administration
<b>Date:</b>	February 12, 2014
<b>Subject:</b>	<b>Termination of Notification of Subsequent Arrests in Closed Foster and Adoptive Homes</b>
<b>Suggested Distribution:</b>	Directors of Social Services Foster Care Supervisors Adoption Supervisors Home Finding Supervisors Child Welfare Supervisors Staff Development Coordinators
<b>Contact Person(s):</b>	Jamie Ritson, at: <a href="mailto:ocfs.sm.chru.mailbox@ocfs.ny.gov">ocfs.sm.chru.mailbox@ocfs.ny.gov</a> or (518) 473-8595
<b>Attachments:</b>	Notice of Foster Home or Adoptive Home Closure (OCFS-2113)
<b>Attachments Available Online:</b>	OCFS intranet: <a href="http://ocfs.state.nyenet/admin/forms/allnum2000.asp">http://ocfs.state.nyenet/admin/forms/allnum2000.asp</a> OCFS Internet: <a href="http://ocfs.ny.gov/main/documents/forms_keyword.asp">http://ocfs.ny.gov/main/documents/forms_keyword.asp</a>

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
07-OCFS-ADM-01 08-OCFS-ADM-06		18 NYCRR Parts 421 & 443	SSL §§ 376 and 378-a		

### I. Purpose

The purpose of this Administrative Directive is to set forth the process that must be used by social services districts and voluntary authorized agencies to notify the Criminal History Review Unit (CHRU) of the Office of Children and Family Services (OCFS) when:

- a) An application for certification or approval of a prospective foster parent or a prospective adoptive parent has been withdrawn or denied after a criminal history record check has been completed by OCFS;
- b) A foster home is closed and the foster parents in such foster home are no longer certified or approved; or
- c) A person who was an approved adoptive parent is no longer approved by the authorized agency.

Timely notification of OCFS by the authorized agency is necessary to prevent the unauthorized release of criminal history information and to support compliance with applicable statutory and regulatory standards relating to criminal history record checks.

**This release is not applicable to recently enacted Justice Center legislation. It applies exclusively to criminal history record checks involving foster or adoptive homes.**

## II. Background

Section 378-a(2) of the Social Services Law (SSL) requires that all persons applying for certification or approval as foster or adoptive parents, as well as all other adults residing in the home of the applicant, must have a state and federal criminal history record check completed through OCFS. After the initial criminal history record check is completed, the New York State Division of Criminal Justice Services (DCJS) retains the person's fingerprints and will notify OCFS should that person thereafter be arrested in New York State for a fingerprintable offense. This practice is referred to as "search and retain." Upon receiving a notice from DCJS of a subsequent arrest, OCFS will send a letter to the social services district or voluntary authorized agency responsible for the certification or approval of the foster or adoptive parent notifying them of the arrest. Note: there is no "search and retain" for FBI records since the FBI does not retain the fingerprints.

"Search and retain" is authorized only for as long as an application for certification or approval is pending, the foster parent remains certified or approved, or the adoptive parent remains in an approved adoptive parent status. "Search and retain" applies to the applicants for certification or approval as well as any other adults who reside in the home of the applicants.

Section 378-a(2)(k) of the SSL provides that OCFS is required to notify DCJS when a person is no longer certified or approved as a foster parent or is no longer an approved adoptive parent. This requirement applies to the situations noted above where a foster or adoptive home is closed or an application for certification or approval is withdrawn or denied. OCFS should not be sending information about new arrests to the authorized agency after the foster or adoptive home is closed or the application for certification or approval is no longer active.

Note: In accordance with section 376(3) of the SSL and OCFS regulation 18 NYCRR 443.3(o)(1), a person **may not** be certified or approved as a foster parent by more than one authorized agency at any one time.

### **III. Program Implications**

While there is a process within CONNECTIONS in FAD (the Foster Care Adoption Development Stage) to close out foster or adoptive homes with regard to CONNECTIONS, that step does not automatically result in the termination of the issuance of subsequent arrest reports by OCFS to the social services district or voluntary authorized agency that certified or approved the foster or adoptive home. There is no systems link between CONNECTIONS and the CHRU to facilitate this.

Criminal history record checks on foster and adoptive homes commenced in February 1999 with New York's implementation of the federal Adoption and Safe Families Act. The number of foster and adoptive parent applicants and household members in an open status has grown exponentially since then. During the past five years, OCFS has processed, on average, over 18,000 new requests for criminal background checks annually. There is a concern that many of the open cases may be for closed foster homes and completed adoptions.

### **IV. Required Action**

The authorized agency to which an application for certification or approval as a foster or adoptive parent was submitted must inform the CHRU when such application is withdrawn or denied where a request for a criminal history record check was previously submitted to OCFS. In addition, when a foster home that was previously certified or approved is closed and the foster parents in such home are no longer certified or approved, the authorized agency that had certified or approved the foster home must inform the CHRU of such closure.

With regard to an approved adoptive parent, if prior to the completion of an adoption the approved adoptive parent decides to no longer work with and be a client of the authorized agency that approved the person, the authorized agency must inform the CHRU. At the time of finalization of the adoption of a child or children by the approved adoptive parent, the authorized agency that approved the person should inquire of the adoptive parent whether the person wants to continue in the status of an approved adoptive parent with the authorized agency. The approved adoptive parent may wish to continue in that status, for example, in anticipation of the adoption of a sibling of the child or children he or she just adopted. (Note: the fact that an adoption has been finalized does not automatically terminate the prospective adoptive parent status.) The authorized agency must explain to the adoptive parent the implications of the decision whether to continue in the status of an approved adoptive parent or not. Those implications include the continued sending of search and retain notifications and information to the authorized agency if the person remains an approved adoptive parent; or, alternatively, if the person decides to no longer retain the approved adoptive parent status, the termination of search and retain notifications, but the need to re-do the entire adoptive parent application process, including being re-fingerprinted, if the person later decides to adopt another child.

When an application for certification or approval is withdrawn or a foster or adoptive home is closed, the certifying or approving social services district or voluntary authorized agency must submit the attached form, labeled “Notice of Foster Home or Adoptive Home Closure,” to the CHRU. This form must be completed and submitted within 30 days of withdrawal or closure of the foster or adoptive home. When an application for certification or approval is denied, the authorized agency must complete and submit the form to the CHRU when the applicant has exhausted his or her appeal rights to the denial.

The completed “Notice of Foster Home or Adoptive Home Closure” (OCFS-2113) form must be either faxed to (518) 486-9470 or mailed to:

Office of Children and Family Services  
Criminal History Review Unit  
52 Washington Street, Room 209S  
Rensselaer, New York 12144

Any questions regarding active household members can be directed to the contact noted on page 1.

The “Notice of Foster Home or Adoptive Home Closure” (OCFS-2113) form replaces the “Notification of Adoption Finalization (Notice to Expunge Associated Fingerprint Cards)” form that is Attachment 9 to 07-OCFS-ADM-01.

**V. Systems Implications**

There will be no changes to CONNECTIONS or any other systems.

**VI. Additional Information**

None

**VII. Effective Date**

This directive is effective immediately upon release.

*/s/ Derek Holtzclaw*

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**Issued By:**

Name: Derek Holtzclaw

Title: Associate Commissioner

Division/Office: Administration