

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

PATERNITY ESTABLISHMENT

Administrative and Judicial Methods



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EXECUTIVE SUMMARY

PURPOSE

This report describes administrative and judicial methods of paternity establishment employed by State child support agencies, and discusses the perceptions of key staff who have experience with these procedures.

BACKGROUND

Federal regulation requires States to design administrative processes in the hope that they would remove the disposition of many paternity actions from the traditional court-based adjudication approach. The Federal Office of Child Support Enforcement (OCSE) has provided both guidance and funding specifically related to expediting paternity establishment procedures, and States have worked to streamline their court processes and to make available fully administrative methods of establishing paternity. This report reviews typical State approaches for establishing paternity through primarily administrative or judicial methods, as well as combinations of the two. It describes key features of State paternity establishment methods and also provides staff perceptions of their advantages and disadvantages. Our data comes from mail surveys of all State child support agencies, as well as information from local offices in six focus States, including 99 mail surveys and 48 staff interviews. We did not attempt to validate the timeliness and effectiveness of the paternity establishment methods States employ. For this executive summary, we highlight only selected overall observations about State methods, reserving analysis and detailed description of these methods for the body of the text.

FINDINGS

States Have Not Yet Progressed as Far as Might be Expected in Implementing Fully Administrative Paternity Establishment Methods.

Despite Federal encouragement and inherent advantages to using administrative methods, many States still have fairly significant court involvement in their paternity establishment practices. All State systems require some collaboration between child support agency and State courts. The level of court involvement varies from States which use the courts only for the most difficult of contested paternity cases, to States which require routine judicial approval for all paternity establishments. We expected child support agency respondents to report a strong preference for fully administrative methods, believing they would desire greater control of the paternity establishment process and would have experienced delays and other problems when dealing with the courts. Although many State and local child support respondents did report such frustrations, others told us that they were more comfortable with systems that still employed limited court involvement. Taken as a whole, States do appear to be increasing administrative responsibility when practical and when State law allows, as well as streamlining remaining court procedures. Although all States are unique in their balance between administrative and judicial practices, we found it useful in our analysis to classify States as primarily relying on one or the other approach.

States are Evenly Divided Between Those Using Primarily Administrative and Primarily Judicial Methods, Although All Utilize Elements of Both to Some Degree.

Twenty-five States use primarily quasi-administrative establishment methods, encouraging acknowledgment or other mutual parental consent, often following genetic testing. The remaining 26 States primarily use quasi-judicial methods of paternity establishment, usually involving much collaboration between State courts and the child support agency. These methods give the child support agency primary control of paternity establishment efforts such as locating absent parents, initiating actions, completing paperwork and enforcing court mandates, but enlist State courts to make final case decisions and authorize establishments. There is much variation among States within these two categories. Also, it is not uncommon for a single paternity case to go through both administrative and judicial methods before it is ultimately resolved. Our report provides detailed descriptions of each of these paternity establishment methods and characterizes the interaction between the child support agencies and courts. We also provide a description of default paternity orders, created after multiple attempts to contact a putative father yield no response. Default orders are allowed only through the courts in 40 States and usually can only be appealed in court.

Child Support Staff Perceive Advantages and Disadvantages in Both Primary Methods.

Child support respondents report more fully administrative methods generally allow their agencies greater procedural control, more closely comply with Federal standards, and are easier for child support agency staff to facilitate than primarily judicial procedures. Fully administrative procedures appear to be particularly useful when both parents mutually consent to establish paternity, either without or following genetic testing. Child support agency respondents in 17 States perceive judicial methods of establishment as more difficult for parents. Staff with primarily administrative procedures also report they value their authority to complete the paternity process independently, and believe most cases can be resolved more quickly with routine administrative procedures than by subjective court judgments. However, a number of child support agency respondents, particularly at the local office level, insist that limited court involvement does not slow the process. They believe that action by the courts is regarded more seriously by parents and provides a more solid foundation for collection of support. They also report quasi-judicial paternity establishment methods sometimes speed the entire process of collecting support, because a single court process allows them to more easily complete all aspects of the child support order.

Child Support Staff Report Several Problems and Inefficiencies That Need Improvement.

Within both quasi-administrative and quasi-judicial systems, there appear to be recurring problems. These problems include difficulty in delivering notice to a putative father that he has been named in a paternity case, duplication of effort because both State agencies and courts may fail to accept administrative paternity establishments as valid, and State creation of multiple administrative and court processes that are cumbersome and unnecessary. These problems may cause unnecessary delays in paternity establishment, and represent opportunities for OCSE to help improve State practices through technical assistance.

RECOMMENDATIONS

OCSE Should Assist States in Sharing Effective Practices for Notifying Putative Fathers.

OCSE should further research State practices for notifying putative fathers through “service of process,” identifying successful local practices and providing technical assistance to States for adopting improvements with the potential to reduce delays in paternity establishment.

OCSE Should Encourage States to Strengthen Child Support Agency Authority and Capability, Enabling Them to Establish Paternity Without The Courts When Practical.

When the only method of administrative paternity establishment is voluntary acknowledgments, used primarily at birth, States must rely on courts to issue most or all paternity orders. Some States need additional guidance in developing fully administrative procedures and eliminating unnecessary court involvement.

OCSE Should Provide Technical Assistance to States Aimed at Streamlining and Rationalizing Their Paternity Establishment Methods, Whether Administrative or Judicial.

Federal regulations encouraging administrative procedures are intended to increase the timeliness and efficiency of the paternity establishment process. Regardless of any court involvement, OCSE should provide further assistance to States aimed at this objective of expedited practices.

OCSE Should Encourage States to Further Explore the Usefulness of Combining Separate Child Support Functions, Including Paternity Establishment, into a Single Process.

Recognizing that State paternity establishment practices for public assistance clients often still involve summary court action, OCSE should assist States in determining whether they may combine other child support functions with paternity establishment in a single process.

AGENCY COMMENTS

The Administration for Children and Families (ACF) generally concurs with our recommendations, and agrees to continue efforts to address the issues raised in our report. We appreciate ACF's current initiatives aimed at improving State practices in paternity establishment. We wish to particularly reinforce the idea that, although Federal regulation encourages administrative procedures, States need to streamline and rationalize their paternity establishment methods whether administrative or judicial.

ACF comments are provided in their entirety in Appendix A.

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INTRODUCTION

PURPOSE

This report describes administrative and judicial methods of paternity establishment employed by State child support agencies, and discusses the perceptions of key staff who have experience with these procedures.

BACKGROUND

The nation's non-marital birth rate in many areas exceeds 50 percent of all births. Children living in single-parent households are typically at much greater risk of poverty, and many born outside marriage have little or no contact with their fathers. Almost a third of children currently on public assistance lack paternity establishment, and new limits on welfare benefits are likely to increase the incentives for establishing paternity and collecting support. Child support awards cannot be made unless the father of the child is legally identified, which traditionally has occurred through a State court process.

Federal regulation requires States to design administrative processes that would potentially remove the disposition of a significant segment of paternity actions from the traditional court-based adjudication process. In addition to requiring States offer voluntary acknowledgment of paternity, Federal law states that "each State is encouraged to establish and implement a civil procedure for establishing paternity in contested cases."¹ Recently, Congress has also heightened State emphasis on paternity establishment by creating State goals for resolving the paternity of children on public assistance, and designing fiscal sanctions against States failing to meet them. The Federal Office of Child Support Enforcement (OCSE) has provided both guidance and funding specifically related to expediting paternity establishment procedures, centralizing record-keeping and streamlining case management. States have worked to streamline their court processes and to make available fully administrative methods of establishing paternity, primarily concentrating on voluntary paternity acknowledgment programs.

The number of paternities established annually has grown with this Federal and State emphasis, both among public assistance clients and the general population. However, States have faced numerous challenges in implementing the Federal guidelines and raising their paternity establishment rates. Areas of concern reported by States include coordination between State agencies, cooperation from public assistance clients in providing information on absent parents, and integration of newer administrative processes with traditional judicial practices. Substantial variation exists among State paternity establishment procedures, since paternity establishment is a matter of family law which falls under State jurisdiction. However, when viewed as a whole, it is possible to discern recurring themes in State experiences and draw general conclusions about common practices and potential barriers to paternity establishment under the Federal guidelines.

REPORT CONTENT

In studying State paternity establishment methods, we found it useful to divide practices into three primary categories: voluntary paternity acknowledgment, other administrative paternity establishment methods, and judicial paternity establishment methods. However, many State processes do not fit neatly within these three basic categories but include quasi-administrative or quasi-judicial methods, depending upon the level of court involvement. Additionally, it is not uncommon for a single case to go through both administrative and judicial methods before reaching resolution. Because voluntary paternity acknowledgment poses unique questions of policy and practice, we discuss its use separately in a companion report entitled *Paternity Establishment: Use of Voluntary Paternity Acknowledgments* (OEI 06-98-00053). This report seeks to characterize typical State methods for establishing paternity through administrative and judicial methods, describing staff perceptions of each. It also specifically highlights State use of default paternity orders, which we view as particularly important.

METHODOLOGY

Information for this report comes from mail surveys to the primary State vital records office and child support enforcement office in all 50 States and the District of Columbia (100 percent response rate.) To provide insight on local-level implementation of State policies, we also surveyed by mail a selection of local child support offices in six focus States: California, Georgia, Illinois, New Jersey, Texas, and Virginia. Offices within these States were selected to provide a mix of urban, suburban, mid-size and rural locations.² We received completed surveys from 99 local child support offices, representing an 80 percent response rate. We also conducted on-site interviews with administrators and front-line staff in four local child support offices within each focus State, visiting offices within one or two cities and their surrounding areas in each focus State, and collecting supplementary documentation.³

We purposively selected the focus States by reviewing the following criteria: non-marital birth rates, State Paternity Establishment Percentages; percentage of child support cases with support orders, status of voluntary acknowledgment programs; certification status of automated systems, outstanding program characteristics (innovation, privatization, etc.); status as State-administered or county-administered, and geographic region. Our focus States represent a fairly broad spectrum of establishment methods and experiences. The selection of focus States does not purport to be representative of the nation. It does, however, allow for examination of paternity establishment processes under conditions found throughout the country.⁴

This study was conducted as part of a larger project on State paternity establishment practices. Data collection focused primarily on establishment procedures outside birthing hospitals. Companion reports discuss the role of vital records agencies, and other entities, in paternity establishment efforts, genetic testing practices and the use of voluntary acknowledgments.

This study was conducted in accordance with the Quality Standards for Inspections issued by the President's Council on Integrity and Efficiency.

FINDINGS

CREATING A PATERNITY CASE

When public assistance clients with children apply for benefits, they must either provide proof of paternity or assist the child support enforcement agency in establishing paternity by providing information about the putative father. The child support office then creates a paternity case and usually begins its paternity establishment efforts by attempting to locate the putative father. Once they have located the putative father, they may encourage him to voluntarily acknowledge paternity, arrange for genetic testing, or begin other proceedings to establish paternity.

Half of Local Child Support Offices in Focus States Have Staff Who Specialize in Paternity Establishment, Others Add Elements of Specialization to Their Case Management Approach.

Several local office staff members are likely to share responsibility for establishing paternity for a specific case. Fifty percent of local offices have staff which coordinate paternity establishment efforts and work exclusively on paternity cases. In these offices, the paternity specialists turn the case over to other staff who then enforce support after paternity has been established. The other half of offices report a more traditional office structure where staff serve as case managers and handle each aspect of cases, from paternity establishment through distribution of support.

Even when offices use a case management approach, staff may still specialize in a particular area and be responsible for assisting other staff with that aspect of their cases (paternity establishment, locate, order enforcement) in addition to managing all aspects of their own caseload. One advantage of this system is that staff may better learn how to handle and expedite challenging cases while still ensuring that someone is responsible for tracking each individual case to resolution. Both office styles also usually use a general intake worker as part of the paternity establishment process. Seventy percent of local offices in focus States indicate that they use intake workers to interview clients regarding paternity and record data on the absent parent, even if that staff member has no future contact with the case.

Child Support Staff in 25 States Prioritize Their Paternity Case Work, Often by First Resolving Cases for Which They Have the Most Information.

About half of State child support agencies (25) request that local offices prioritize their paternity caseload by certain case characteristics. State preferences on prioritization are more likely to be a subtle influence reflecting the culture and general policies of the State agency, rather than a strict directive to local offices. Many States appear to allow local office managers a great deal of discretion in determining which cases to work first. In our six focus States, 70 percent of local office managers require their staff to prioritize their caseloads. Preferences of local office managers appear to represent stricter guidance than preferences of State policy makers. Local offices we visited often had highly structured guidelines for conducting individual casework. In a few offices, staff performance reviews are linked to the percentage of their caseload with paternity resolved or support collected. Table 1 outlines the case characteristics child support staff are

most likely to use in prioritizing their paternity caseloads. Additional characteristics include working cases with the least information or cases involving more than one child.

Table 1: CASE CHARACTERISTICS USED IN PRIORITIZING PATERNITY CASELOADS		
Case Characteristics	State CSE Respondents	Local CSE Focus Respondents
No Uniform Prioritization Used	49% (25 States)	38% (35 Offices)
Most Information Already in Case File	43% (22)	58% (54)
Most Recent Births	10% (5)	18% (15)
Been in System the Longest	6% (3)	15% (12)
Client Near Public Assistance Time Limit	6% (3)	12% (9)

Information from Public Assistance Interviews is Used to Establish Paternity, But Child Support Agencies in 38 States Believe it is Important for Their Staff to Also Interview Clients.

When clients apply for public assistance or attend an interview to re-determine benefits, they are interviewed by public assistance staff to provide information on income, resources, children, and potential for employment. If a child’s paternity is not resolved, clients are asked during these interviews to identify the absent parent for paternity establishment and pursuit of child support. The number of questions asked of clients varies by State, as does the degree to which staff are trained to actively pursue correct answers. This information about the absent parent is then transferred to the child support agency.⁵

Child support agencies in 18 States require clients to also submit to an interview with child support staff in order to supplement the information gathered by public assistance staff. Eleven of these 18 require that the interview be in person, while the other seven accept a telephone call. Other States report they may request such an interview, depending upon the amount and quality of the information received from public assistance. Seventeen State child support agencies report they rarely if ever interview clients themselves, relying on public assistance interviews for initial information and then expanding on that information through the use of various tools used to locate absent parents.

States which do request or require separate child support interviews feel strongly that they are beneficial. Agencies in 38 States report this initial interview is important to the paternity establishment process. They report they are most likely to seek a separate interview if the case is new, the information received from the public assistance office is particularly thin, or if one of their staff members is out-stationed within the public assistance office and is therefore immediately available for a supplemental interview. In some cases of out-stationing, or when child support staff and public assistance staff are co-located in the same office, public assistance staff may make no attempt to discuss the putative father and allow the child support staff to handle even the initial interview regarding absent parent information. Regardless of whether the interview is initial or supplemental, child support staff are likely to have three objectives: to establish paternity; to

create a support order; and to create a medical order. Therefore, the interview may go beyond basic information such as name and address, to discuss employers and known assets.

Half of State Child Support Agencies Report Most Clients Provide Adequate Information About Absent Parents, But Agencies Identify Many Reasons Why Clients May Not Do So.

Public assistance clients are required by Federal law to provide information about the absent parent to the child support enforcement agency or risk losing benefits. State child support agencies in 27 States report most public assistance clients provide full information about absent parents in order to aid in the establishment of paternity. Of the remaining States, 17 report about half of clients tell as much as they know, and seven report at least some clients give full information. Local child support offices in focus States largely mirrored this response, with 47 percent indicating that most or nearly all clients provide full information, 31 percent indicating about half do, and the remaining 22 percent reporting only some or few provide full information.⁶

Child support staff at both the State and local level report a number of reasons why public assistance clients might be unable or unwilling to provide information that will assist paternity establishment efforts. Reasons include mothers not wanting the father in the child’s life, wanting to protect the father from collection, and fearing domestic violence. By helping to locate the father, clients may lose both public benefits as well as informal financial support from the father. In addition, the State may never successfully collect on the support award. These factors help explain why some clients may view providing information as a great risk with little potential gain. Staff also report that some clients genuinely lack information about the father’s identity or whereabouts.

Child support staff typically take whatever information is provided by the public assistance client, and begin the process of locating the putative father. Staff may verify information locally through, for example, the post office or local police records, or they may use State-wide databases which include driver’s license and employment records. They may also interview family members or other interested parties to obtain supplemental information. When the client names more than one putative father, staff usually encourage the client to narrow to one possibility.

Local Child Support Staff Often Have Difficulty in Notifying Putative Fathers That Have Been Named in a Case, and Report This “Service of Process” Delays Establishment.

Once the mother or other source has identified a putative father, and the child support agency is reasonably sure they have located his home or work address, the man must be notified that he has been named in the case. This notification is typically a letter alleging his paternity and requesting an appointment with child support staff, submission to genetic testing, or attendance at a court hearing. The putative father’s receipt of this letter is called “service of process.” Some local offices include more information about child support in the letter, either simply for the father’s benefit or to induce him to respond. Our review of letters used by local offices found

some are strictly professional and straightforward, while others sound more threatening and warned of default orders and potential arrearages. A few letters include the amount of money they expect he would be required to pay in child support each month.⁷ One local office in a focus State purposefully increases the payment amount to encourage the fathers to respond: “*Actually, putting a higher figure than the father’s actual salary would justify helps get a much better response rate. They come in and say, ‘I can’t afford this!’ . . . we say we will change the amount to conform to his actual salary upon proof. Then we get him also to sign that he is the father.*”

Service of process is important to resolving paternity in a timely fashion. It is also critical because most States do not allow a default order of paternity to be issued unless the putative father has been properly served. A local office manager explains, “*Service is our worst problem in tracking down paternity cases.*” There are many methods of service, and offices typically start with the regular mail and escalate to more active methods if there is no response. Methods include certified mail, restricted delivery mail, notice by publication, and personal service by a private vendor or local law enforcement official. When mail is certified or restricted, the recipient must personally sign for the mail in order to be properly served. Some local staff report the same man may be served four or five times using different methods before they have proof in the form of a signature or personal contact. It is common to allow 15 to 45 days for response prior to the next service, so several months may go by before the putative father responds. Two local offices in one focus State report they have stopped sending the first notice by regular mail, because they believe this alerts fathers who wish to avoid future notice by not signing certified mail. Other local offices report they believe parents respond better to service of judicial orders than administrative orders.

ADMINISTRATIVE METHODS OF PATERNITY ESTABLISHMENT

Welfare reform legislation encourages States to utilize administrative methods to establish paternity. These practices rely solely on the actions and authority of the child support agency, or are quasi-administrative methods which, though primarily relying on child support, also allow limited court involvement. We identified 25 States as having quasi-administrative paternity establishment practices.

Most Administrative Paternity Establishment Methods Involve Mutual Parental Consent, Often Following Genetic Testing, But May Not Use Voluntary Acknowledgment Forms.

In a typical administrative paternity establishment, the public assistance client provides information about the putative father, and the putative father is sent notification to appear for genetic testing. If he and the mother are already sure he is the father, they may sign a voluntary acknowledgment or other consent form. If they are uncertain, they submit to genetic testing and sign an acknowledgment once testing has affirmed parentage. Under this method, the public assistance client may have to formally attest to her belief that he is the father by signing her half of the voluntary acknowledgment or another form stipulating paternity before the child support office agrees to contact a particular putative father. In a few of these States, administrative establishment through voluntary acknowledgment appears to be possible only prior to application

for public assistance. Even in cases of mutual consent, all public assistance referrals in which paternity is not resolved are given a court hearing date.

In States which rely more heavily on judicial practices, voluntary acknowledgment is the only fully administrative method of paternity establishment. These States typically use the same form, whether paternity was acknowledged at birth or at anytime thereafter. Other of these States have similar administrative methods but use the voluntary acknowledgment form only at birth in the hospital or at an alternative site prior to application for public assistance benefits. For paternities established later, these States use administrative paternity orders based on mutual consent, typically called Agreed Orders or Consent Agreements. Such orders may include more information than an acknowledgment affidavit, such as the amount of the support award, and even custody and visitation guidelines. Similar to voluntary acknowledgments, these agreed orders are signed by mutual consent, either without or following genetic testing. Although this procedure is fully administrative in some States, others follow a quasi-administrative process in which the order is prepared by child support staff and then routinely approved by a State court.

Parents in Nearly All States May Voluntarily Agree to Paternity Establishment at Any Point in the Process, Either Through Voluntary Acknowledgment or Other Agreed Consent.

Our interviews with local office staff indicate that it is not unusual for parents to suddenly agree to voluntarily acknowledge or otherwise consent long after this option was initially offered to them and after the process of establishing paternity through other methods has begun. Commonly, these late agreements follow the release of genetic testing results. Advances in genetic testing allow parents to be sure, with 99 percent or greater accuracy, that the correct father has been identified. In some States, a genetic test result that affirms the father serves as a finding of paternity with little or no additional paperwork or other action on the part of the parents or child support staff. In 13 States, the parents must sign an agreement indicating they will abide by the test results. If they do not sign such an agreement, the tests must be submitted into evidence in court and serve as the basis for a default order of paternity. Whether such a signed agreement to abide by test results is required or not, local staff in focus States report that a father may choose instead to sign a voluntary acknowledgment or agreed order of paternity following testing. They theorize that once he is assured he is the father, he may want to voluntarily establish paternity as an expression of his intent to accept responsibility as a parent.

If consent or voluntary acknowledgment comes after a court hearing date has been set, the parents may still have to appear in court. Staff in one local child support office report that their State court will not amend its docket, so the parents still must submit to a hearing even after they have signed an administrative consent or voluntary acknowledgment form. They indicate, though, that with proof of prior acknowledgment or consent to paternity, the hearing becomes a summary exercise and is not overly taxing to either parents or staff. One local office still requiring that all voluntary acknowledgments of public assistance clients be processed through such a token court hearing reports handling up to 100 cases in a single court day. This group paternity establishment practice is also reportedly used for fully administrative paternity establishments. For example, child support staff schedule appointments for many fathers at their office on a weekend or

evening to receive information on paternity and be provided an opportunity to voluntarily acknowledge.

Even When Voluntary Paternity Acknowledgment is Possible, Some Child Support Staff Prefer to Establish Paternity Through Other Administrative or Even Judicial Methods.

Due to recent Federal regulation, voluntary paternity acknowledgment has emerged as the centerpiece of most States’ paternity establishment efforts. We discuss the use of the voluntary acknowledgment process in detail in a companion report.⁸ However, we believe it is useful in this report to provide some comparison between voluntary acknowledgment and the potentially more labor-intensive methods of paternity establishment we describe here. When used effectively, acknowledgment provides a streamlined method of paternity establishment which potentially benefits parents, children, and child support staff.

Table 2: PERCEIVED ADVANTAGES OF ESTABLISHING PATERNITY THROUGH METHODS OTHER THAN VOLUNTARY ACKNOWLEDGMENT		
Advantages of Other Methods	State CSE Respondents	Local CSE Focus Respondents
Ensures that the Correct Father Was Identified	61% (31 States)	62% (63 Offices)
Reduces the Potential for Rescission	51% (26)	61% (62)
Custody and Visitation May be Handled Also	37% (19)	47% (47)
More Confident Parents Understand the Meaning	33% (17)	62% (62)
Establishment Holds Greater Weight in Court	27% (14)	66% (64)

Table 2 outlines possible benefits of establishing paternity using methods other than voluntary acknowledgment. Local child support staff in focus States more often (62 percent) report concern than State-level respondents (33 percent) that parents may not understand the significance of the signed acknowledgment. Local office respondents in focus States (66 percent) are also more skeptical than State-level respondents (27 percent) of the legal standing accorded voluntary acknowledgments by courts. As one local office reports, “*Voluntary acknowledgment would be easier in the short-term, but with a [court order] at least we know we won’t have to reopen the case later.*” The lesson here may be that policymakers should not automatically assume that voluntary paternity acknowledgments are always more timely and efficient, in view of their reluctant acceptance by some child support and court staff, and their inherent limitations which make them unsuitable for the resolution of some paternity cases.

State Child Support Agencies View Administrative Paternity Establishment Methods as Fairly Easy for Parents and Staff, But a Few Report Encountering Significant Problems.

Only five State child support agencies report it is difficult to facilitate administrative paternity establishments, with the remaining States indicating it is easy, somewhat easy, or no more difficult than other methods of paternity establishment. Only one State reports the administrative

process is difficult for parents. However, local offices in focus States are more likely to complain of difficulty in handling administrative paternity orders, with 27 percent of offices reporting they view the process as at least somewhat difficult. The level of ease or difficulty for local staff appears to depend largely on how much information they have about the putative father and whether any evidence of paternity exists. Twenty percent of local offices report an administrative process is likely to be more difficult for parents than for staff, again depending on the specifics of the case. When staff speculate about the cause of this difficulty, they usually mention the stress to parents of completing paperwork and keeping appointments. Overall, though, both State and local staff appear to view administrative methods as easier for parents than judicial methods.

Despite being easier, State and local agency respondents report a number of problems with administrative paternity establishment. Staff suggest that administrative methods take longer and are more cumbersome for a variety of reasons: parents are more likely to ignore “service of process” from a child support office; more people must approve each action rather than a single judge having simple ruling authority; their jurisdictions are already accustomed to court proceedings; and child support offices may not receive extra staff to manage more heavily-administrative procedures. One local office caseworker complained, “*Two to three years ago, we started handling all paternity cases administratively which created a considerable backlog. Handling every paternity case administratively was a fiasco of the highest order - the worst thing I've seen in the department in 18 years. Region-wide, administrative process was not productive, so we were told to use our own discretion to send the case to court or [handle it] administratively.*” A number of other respondents also supported allowing local staff to choose the path cases should take, explaining that specific factors affecting each office and each case can drive a timely resolution. Some report they make the decision about whether to attempt administrative procedures based in part on advice from the mother. For example, she may warn staff to expect resistance from the putative father, which may encourage them to involve the courts when they would not otherwise.

The 25 States Who Primarily Rely on Administrative Systems Actually Employ Quasi-Administrative Methods Which Continue to Utilize the Courts in Varying, Limited Degrees.

Many States which view their primary paternity establishment method as administrative still work together with their State courts on many cases. We found that half of States (25) primarily apply administrative methods. The degree of court involvement varies markedly among States, among counties within States, and among clients within the same county, depending on the circumstances of particular cases. At the most fully administrative end of this spectrum, State courts may only be involved to settle unusually difficult disputes or if the father has ignored all attempts at contact, a default order is needed, and State law does not allow the child support agency to issue a default order independently.

At the other end of the spectrum are States which employ administrative establishment methods, but require cursory court approval for each step in the establishment process. For example, routine approval may be required before the child support agency can personally serve the putative father with a letter requesting an appointment, order genetic testing, or require a hearing

for submission of test results. These methods may still be viewed as administrative because the child support office is generally in control of what steps are taken in each case, and prepares the paperwork involved. Where the child support agency is housed within a State law enforcement department, the child support agency itself is likely to employ the legal staff which carry out all aspects of judicial activity. Table 3 outlines characteristics we used to identify quasi-administrative States. The 25 States identified do not each possess all of these traits, but meet enough of the criteria below to be characterized as using administrative methods more prominently than judicial methods.

Table 3: TYPICAL CHARACTERISTICS OF QUASI-ADMINISTRATIVE STATES	
•	Paternity establishment may occur with little or no court involvement
•	Child support agency primarily determines the procedures used to establish paternity
•	Voluntary acknowledgment is binding without court approval
•	Rescission of voluntary acknowledgment is a fully administrative process
•	Genetic tests may be ordered by the child support agency without court approval
•	Default orders of paternity may be created with little or no court involvement
•	Initial hearings and conflict resolution are conducted by the child support agency

Many States Are Proponents of Quasi-Administrative Methods that Limit Court Involvement, But Some Believe Paternity Could Be Established More Quickly Without the Courts.

Many States report limited court involvement is highly efficient. This often involves only token action on the part of a judge or court representative, and may not require the presence of either parent. Proponents of limited court involvement in administrative methods report that parents are more likely to show up for scheduled appointments and hearings if they are ordered by the State or county court than by the child support enforcement agency. One local office manager reports, “Administrative methods just look like a piece of paper, and don’t look as legal.” In some States, the child support agency does not have administrative authority to order action, such as submission to genetic testing, on the part of a putative father or issue a default order of paternity. In these States, it is necessary to involve the courts in cases where the putative father refuses to come forward for testing or to consent. A number of local child support staff members also mention that it has recently taken less time for a case to come to judicial hearing or receive court approval, possibly because streamline quasi-administrative paternity establishments ease court dockets.

We heard little opposition to limited court involvement, but a few respondents report that allowing the legal system to enter an administrative process slows down timeframes and opens cases to a judge’s discretion unnecessarily. For example, a judge may choose to allow a father more time than is reasonable to submit to genetic testing, or may indiscriminately waive arrearages owed to the child support agency. It appears that court involvement in administrative

processes is viewed negatively primarily when State courts must approve more than one step in the establishment process. A number of State and local child support staff within these quasi-administrative systems report they are not burdened by consulting the courts for a final decree of paternity, but dislike having to obtain court approval for less significant steps in the process.

Only a Few States Attempt to Resolve Issues of Custody and Visitation as Part of Administrative Paternity Establishment Processes.

Child support agencies in only two States are required to resolve issues of custody and visitation at the time of an administrative paternity establishment, and agencies in two other States are allowed, but not required, to do this. All four of these States employ legal staff to guide parents and caseworkers in facilitating custody and visitation agreements, and at least one State has a mediator on staff who explains options to the parents and seeks agreement. These issues are typically only resolved within the child support office if parents readily agree to the terms of the custody and visitation, and as part of a single process which links paternity establishment to the creation of the child support order. If parents disagree on issues of custody and visitation, staff within these States are likely to make only a limited attempt to resolve the dispute before referring parents to a family services agency or to the State courts. Depending upon State processes, this agreement regarding custody and visitation may only be temporary pending final case review. A few individual local offices in focus States report they attempt to handle these issues informally at the time the support order is created.

JUDICIAL METHODS OF PATERNITY ESTABLISHMENT

Before Federal and State governments created active child support enforcement agencies, parents wishing to establish paternity typically had to hire legal counsel and appeal to the courts. State courts are still integral to paternity establishment, but the involvement of child support agencies has significantly diminished the level of responsibility of the courts by managing paternity establishment efforts for public assistance clients and other parents. We identified 26 States as having quasi-judicial paternity establishment practices.

Judicial Paternity Establishment Methods Involve Extensive Collaboration Between State Courts and the Child Support Enforcement Agency.

Judicial paternity establishment proceedings for public assistance clients typically begin with the mother signing an allegation or stipulation of paternity which names the putative father. These forms are themselves court documents and may be submitted as an official complaint for court action. They may also be used later in a court proceeding as evidence of paternity. The forms include information about the mother and child, and as much information about the putative father as is available. Some States substitute the mother's half of the voluntary acknowledgment form for this same purpose.⁹ As mentioned previously, most States make an effort to encourage the father to acknowledge or consent to paternity at this point. In States who use primarily judicial procedures, child support staff initiate the legal case at the same time that they are waiting for the father to possibly come forward or submit to genetic testing voluntarily.

After the child support agency has filed the complaint with the court, parents typically are given a hearing date. The filing process may take two to six weeks, and the court date is likely to be scheduled 30 days to six months later, in order to allow for service of process and to fit within the court docket. If the mother has already signed a stipulation of paternity, she may not need to attend the court hearing. In this initial court hearing, the judge will likely order the putative father to submit to genetic testing. Some courts offer testing on-site, so that genetic samples may be collected immediately.¹⁰ If the father is affirmed by the genetic test, the child support agency may request that he sign an agreement to abide by the testing results. If he does not sign, an additional hearing may be necessary to order the test as a binding establishment of paternity. A single case may then involve more than one court appearance, potentially including an initial hearing to order genetic testing, a second to issue an order of paternity and set the amount of the support award, and a third to settle matters of custody and visitation.

In most States, these court hearings appear to be brief and routinized, varying little based on the circumstances or people involved. Courts may offer one or two days a month during which they handle all pending paternity cases, with a single legal representative presenting case after case to the judge. A few other States have more formal and personal proceedings, with actual testimony on the part of the mother and father and submissions of acknowledgments or genetic test results as “evidence.” These are the exception, unless the court is attempting to resolve paternity in the same session as other issues, or unless the father or mother have hired private legal counsel. Although prior voluntary acknowledgments of paternity and default orders appear to be overturned fairly often in court hearings, positive genetic testing results almost always result in a judicial finding of paternity.

Twenty-six States Continue to Primarily Rely on Quasi-Judicial Methods of Paternity Establishment, With the Exception of Restricted Use of Voluntary Acknowledgments.

Based on our analysis of survey responses and review of agency documents, child support agencies in 26 States appear to use quasi-judicial methods almost exclusively in establishing paternity for public assistance clients. It should not be assumed from this, though, that the State child support office is not still largely in control of, and responsible for, paternity establishment efforts. We define quasi-judicial practices as those in which the child support agency has responsibility for shepherding cases through the system, including acquiring initial information, locating the absent parent, completing paperwork and enforcing court mandates, but only the State courts make final case decisions and have the authority to legally establish paternity. Child support agencies in a number of these States are sub-divisions of a State law enforcement agency and in some cases share both legal staff and office space with the State courts. Although these States are obligated to seek court approval for paternity establishments, the lines can be blurred between administrative and judicial practices.

Similar to States which employ limited court involvement, the level of judicial involvement and authority in paternity establishment practices varies by State, locality and caseload. Clearly, no States have fully judicial processes. However, we can affirm that within these 26 quasi-judicial States, the only fully administrative method of paternity establishment is voluntary

acknowledgment. Otherwise, the prescribed practice for establishing paternity relies solely on court authority. Nevertheless, more functions are currently handled administratively than in past decades of judicial procedures under which parents were nearly always forced to hire legal counsel and submit to traditional court hearings, or even trials, to establish paternity.

We found that States which primarily use quasi-judicial methods all offer voluntary paternity acknowledgment, and all have conducted outreach campaigns of varying sorts to publicize the voluntary acknowledgment option. However, voluntary acknowledgments appear to only be used at birth or previous to application for public assistance. Once a public assistance client with unresolved paternity enters the child support system, child support staff in these States routinely draw up paternity orders requiring court approval rather than using voluntary acknowledgments. In a few of these States, even signed voluntary acknowledgments require perfunctory court approval before they can stand as legal findings of paternity.¹¹ Table 4 outlines characteristics we used to identify quasi-judicial States. Just as for those States identified in Table 3 as quasi-administrative, the 26 States identified do not each possess all of these traits, but meet enough of the criteria below to be characterized as using judicial methods more prominently than administrative methods.

Table 4: TYPICAL CHARACTERISTICS OF QUASI-JUDICIAL STATES	
•	Paternity cases require court approval or are often resolved through the courts
•	State court determines in part the procedures used to establish paternity
•	Voluntary acknowledgment may require court approval prior to a child support order
•	Rescission of voluntary acknowledgment is a court process
•	Genetic testing orders require a court order
•	Default orders of paternity require a court order
•	Hearings and conflict resolution are typically conducted by the courts

While Most State and Local Child Support Offices Report it is Fairly Easy for Them to Facilitate Judicial Establishments, Many Believe Judicial Procedures are Harder on Parents.

Only eight State child support agencies (15 percent) report it is difficult for their staff to deal with the courts in facilitating judicial paternity orders, but 17 States (33 percent) believe this process is more difficult for parents than resolving paternity through administrative methods. A number of State child support agencies indicate that the ease or difficulty of judicial establishments varies considerably based on the particular court and the circumstances of the case. Their experience is that some individual judges have streamlined the process of judicial paternity establishment far more than others. An almost identical percentage of local offices in focus States (14 percent) report the judicial process is difficult for child support staff. Slightly fewer local offices (22 percent) see judicial processes posing problems for parents than do State-level respondents. At least one local office manager mentions that the efficiency and effectiveness of support staff within the court system may drive the level of ease or difficulty more than the judge. For States in which

the child support agency is part of the State law enforcement community rather than a social services department, these court facilitators are sometimes child support agency staff.

Judicial Paternity Establishment Procedures May Ease Resolution of Custody, Visitation or Other Issues by Streamlining Several Child Support Functions Into a Single Process.

Issues of custody and visitation are resolved during the same hearing as the paternity establishment in 20 States, with six of these States actually requiring that these matters be handled jointly. In most States where these issues are not addressed during the same hearing, written documents indicate that the mother automatically has primary custody with the father receiving reasonable rights of visitation. Individual judges are likely to have a template for determining what is “reasonable,” assigning the same basic schedule to each father. In documents we studied, it appears to be common to grant fathers one day a week and one weekend a month with their children. Should either parent wish to change this basic custody and visitation arrangement, they must request a separate hearing.

One local office manager reports his staff is allowed to address issues of visitation, but not custody, in the paternity hearing. This provides a temporary agreement for the father to maintain contact with the child while possibly waiting for an additional court hearing to more permanently resolve these issues. In at least one State, courts are obligated to attempt to schedule this additional hearing immediately following the hearing establishing paternity. Whether custody and visitation issues are handled within the same hearing or not, child support staff are unlikely to be directly involved in that portion of the proceeding. However, along with public assistance or other social service caseworkers, they may be involved informally in helping parents to secure counsel or prepare documents.

DEFAULT ORDERS OF PATERNITY

Paternity may be established by default when no action is taken by the putative father. In some States, default paternity orders may only be issued by the courts, while others use administrative or judicial methods depending on the circumstances in the case. Most States appear to use default orders only as a last resort in establishing paternity.

States Issue Default Orders Establishing Paternity After Multiple Attempts to Contact the Putative Father Yield No Response.

Paternity may be established by default when the putative father has been unresponsive to the child support agency and courts. Typically, the first step in this process is for the mother to name a man as the putative father. Agencies in 46 States set a court hearing date if they receive no response to requests that the putative father take action in the case.¹² Table 5 outlines the most prominent circumstances under which default procedures would begin. The most common situation reported by States is the father’s failure to appear for a court hearing, indicating that many of the cases determined by default are already in the court system and paternity would have been established by judicial methods regardless of the father’s actions. If the father fails to

appear on the hearing date, or does not otherwise respond to the hearing notice, both parents are sent notice that a default paternity order will be issued by a certain date naming him as the father.

Table 5: REASONS FOR STATE TO BEGIN DEFAULT PROCEDURES		
Reasons for Default	State CSE Respondents	Local CSE Focus Respondents
Putative Father Fails to Appear for Court Hearing	92% (46)	85% (80)
Putative Father Fails to Submit Genetic Testing Material	70% (35)	60% (56)
Putative Father Fails to Abide by Genetic Testing Results	26% (13)	33% (31)
Putative Father Fails to Keep Child Support Appointments	24% (12)	22% (21)

Some States require that these notifications be received in person, and will not issue a default order of paternity without successful personal service of process.¹³ Ensuring notification in this way presumably protects the man from an incorrect ruling, and seems like a reasonable requirement in light of the gravity of paternity establishment. However, requiring personal service could delay the process of paternity establishment, particularly if the man is purposefully avoiding his obligation. Although seven State child support agencies report half or more of paternities established in their States occur through default, the remaining States indicate only some or few cases are resolved in this way. Twenty-four percent of local offices in focus States report half or more of paternities in their caseloads are established by default.¹⁴ One State reports that the number of default orders has decreased due to the ease of using other establishment tools, such as voluntary paternity acknowledgment and genetic testing.

Only State Courts May Issue Default Orders of Paternity in 40 States, But Child Support Agencies in the Remaining States are Allowed to Issue Default Orders Administratively.

In most States (40), only the courts are allowed to issue default orders of paternity.¹⁵ In an additional three States, the child support agency issues an administrative default order of paternity, but it must first be officially approved by a State court. The remaining eight States essentially have two types of default paternity rulings. The child support agency may issue an administrative default order acting without court involvement, and the State courts may issue judicial default orders. In these States, cases which are candidates for default orders may need to have a presumption of paternity in order to go through administrative procedures. This presumption might be a completed genetic test, or a signed voluntary paternity acknowledgment, although the latter is Federally mandated to stand on its own as a conclusive finding of paternity.¹⁶

If no such presumption exists, the case is referred to the State courts where the judge may issue a default order with no actual evidence of paternity. Sometimes a mother names multiple potential fathers and is unable to conclude that a single one is more likely to be the parent. In these cases, child support staff attempt to narrow the number of potential fathers by requesting responses from all. Their lack of response may seriously hamper case resolution. In documents we

reviewed, some State laws specifically restrict issuance of a default order of paternity to cases in which the State knows of only one potential father.

Parents in 41 States May Appeal Default Orders and Submit to Genetic Testing, But Typically Must Prove They Were Not Notified of the Action or Were Inhibited From Responding.

Parents wishing to contest default paternity orders, as allowed by 41 States, must typically act within a limited time period. In States which have a time limit, the appeal window varies from 30 days to two years. This time period may be determined by State laws which allow the same number of days to appeal any State court judgement. In States which use administrative default orders, parents may be entitled to file a “request for disestablishment” administratively if it is a fairly new order, and through the courts if it is older. It is important to remember that although it is most likely to be the father who will request an appeal, the mother may also appeal the ruling. For example, a mother may have named a putative father casually when applying for public assistance, not realizing that the State would attempt to collect support. If she then ignores future mailings or requests for appointments, the wrong father could be named by default. In order to reopen the paternity case, either parent may have to prove they were not notified of the pending paternity establishment, that a legal error was made by the child support agency or court, or simply that they had a good reason for not responding (such as serving time in prison). At least one State has borrowed language from the voluntary paternity acknowledgment process, which requires the parent to prove “fraud, duress, or material mistake of fact” in their appeal.

In States which have both, administrative and judicial default orders are intended to convey the same legal finding of paternity. However, child support staff in four of the eleven States which issue administrative default orders indicate it is somewhat easier for a parent to contest an administrative default order in court than a judicial default order. Depending upon the judge and the facts in the case, both administrative and judicial default orders may later be overturned. If the court proceedings lead to positive proof of paternity, such as a genetic test which does not exclude the putative father, the default order is changed to a court order of paternity and is difficult, if not impossible, to overturn. This appeals process may cause some duplication of effort and delay, because cases which are appealed may, by genetic testing, prove to have identified the correct father.¹⁷

A Father May be Most Likely to Appeal Default Paternity Orders After the State Begins Wage Withholding, and He May Be Obligated to Pay Support While the Appeal is Pending.

Even the notification that a default order has been issued may not be enough to force a father to respond. Several local child support staff report they follow a default order of paternity by immediately ordering wage withholding, whereas, with other paternity establishment methods, they may wait to first see if the father will initiate payment. As one local office manager describes, “*The father may wait until we take the money out, some time after the order went through because we have to find the employer, and then the father says we have the wrong guy.*” Regardless of the timing, appealing a default order is not likely to be an easy process. Several State and local managers report they advise parents who wish to appeal to hire an attorney to negotiate the process. This might be financially difficult for a large number of fathers, and they

may end up paying months of child support payments even if they are eventually proven not to be the father. Even if later excluded by genetic testing, staff indicate the man may still be liable for the child support arrearages not paid during the time he was presumed to be father by default.

Despite these vulnerabilities, States clearly must have the option of issuing default orders in order to speed the process of paternity establishment in cases where the putative father chooses not to respond. Knowing that it may take an actual order of paternity to spur action on the part of the father, staff in several local offices said they issue cursory administrative default orders in a large number of cases. Once the fathers respond, they allow them to submit to genetic testing without a formal appeals process.

RECOMMENDATIONS

OCSE Should Assist States in Sharing Successful Practices in Notifying Putative Fathers.

We found that State child support agencies are experiencing significant problems in ensuring putative fathers are properly notified of requests to resolve paternity and of potential action by the State in establishing paternity. OCSE should further research State practices in this notice, often called “service of process,” and develop an understanding of successful local practices. They should then provide technical assistance to States in improving service of process, potentially reducing delays in paternity establishment.

OCSE Should Encourage States to Strengthen Child Support Agency Authority and Capability, Enabling Them to Establish Paternity Without The Courts When Practical.

Federal regulation clearly indicates that States should make available simple, civil processes. However, we found that a number of States responded to this provision only by developing a voluntary paternity acknowledgment process used primarily at birth, and still rely on courts to issue most or all paternity orders. Although court processes in some States appear to be highly efficient, States may need additional guidance in developing fully administrative procedures and eliminating unnecessary court involvement. OCSE should provide additional assistance to States to enhance child support agency capability to establish paternity without court involvement.

OCSE Should Provide Technical Assistance to States Aimed at Streamlining and Rationalizing Their Paternity Establishment Methods, Whether Administrative or Judicial.

State paternity establishment practices usually blend administrative and judicial procedures, basing the level of court involvement on a number of internal factors. Federal regulations encouraging administrative procedures are intended to increase the timeliness and efficiency of the paternity establishment process. OCSE should provide further technical assistance to States aimed at expediting paternity establishment, whether the procedures are fully administrative or allow some court involvement.

OCSE Should Encourage States to Further Explore the Usefulness of Combining Separate Child Support Functions, Including Paternity Establishment, into a Single Process.

Recognizing that State paternity establishment practices for public assistance clients still often involve summary court action, OCSE should assist States in determining whether they may collapse other child support functions into a single court process with paternity establishment. Depending upon State law, child support agencies may streamline child support enforcement by addressing paternity establishment, award settlement, and custody and visitation issues together, whether in an administrative or judicial process.

AGENCY COMMENTS

The Administration for Children and Families (ACF) generally concurs with our recommendations, and agrees to continue efforts to address the issues raised in our report. We appreciate ACF's current initiatives aimed at improving State practices in paternity establishment. The serious problems detected in our study may not be alleviated without focused corrective action. We wish to particularly reinforce the idea that, although Federal regulation encourages administrative procedures, OCSE should provide technical assistance to States aimed at streamlining and rationalizing their paternity establishment methods whether administrative or judicial.

ACF comments are provided in their entirety in Appendix A.

ENDNOTES

1. SEC. 468. [42 U.S.C. 668]
2. These State and local offices were not randomly selected and their responses should not be interpreted as representative of all local offices in the nation or even within their own State.
3. The availability of OIG agency support staff to assist in conducting interviews played a role in selection of these interview sites.
4. The six focus States comprise 31 percent of total U.S. births, 32 percent of total U.S. non-marital births, 32 percent of total U.S. IV-D cases, 26 percent of total U.S. IV-D cases with child support orders, and 27 percent of total U.S. IV-D cases with child support collections. The collective non-marital birthrate of the focus States is almost identical to the national average (32.0 percent vs. 32.4 percent), with somewhat lower, but comparable, rates for the percentage of IV-D cases with support orders (47.3 percent vs. 57.3 percent), and the percentage of cases actually collecting support (16.4 percent vs. 19.4 percent). Comparison data comes from the OCSE 21st Annual Report to Congress and the National Center for Health Statistics.
5. Further information is contained in our forthcoming report entitled “Client Cooperation with Child Support Enforcement: State Policies and Practices, OEI-06-98-00040, 2000.
6. Further information is contained in a series of reports on client cooperation: *ibid*, OEI-06-98-00040; Challenges and Strategies, OEI-06-98-00041; The Role of Public Assistance Agencies OEI-06-98-00042, and Use of Good Cause Exceptions OEI-06-98-00043, 2000.
7. Some State laws appear to prohibit publication of potential support awards on notification letters to putative fathers.
8. Further information is contained in our companion report entitled Paternity Establishment: Use of Voluntary Acknowledgments, OEI-06-98-00053, 2000.
9. There may be a requirement as to how many pieces of information about the putative father are needed in order to submit it to court. This requirement does not appear to be arduous, though, with only two or three pieces of information required.
10. Further information is contained in our companion report entitled Paternity Establishment: Use of Genetic Testing, OEI-06-98-00052, 1999.
11. Further information is contained in our companion report on the use of voluntary acknowledgments, *ibid*, OEI-06-98-00053, 2000.
12. Rather than setting a court hearing date, child support agencies in two States require the father initiate court involvement by requesting a hearing date himself by a certain date.

13. We did not ask States directly if they required personal service of process. However, four States took the initiative to write this requirement on their survey, and from that we assume that more States may also require personal service.

14. This matches the State-level response for our focus States fairly well, with State child support agencies in two of the six indicating half or more paternities were established through default.

15. Two States report they have no default orders of paternity. However, after reviewing their narratives of judicial processes we determined that they did issue default orders but used different terminology to describe them.

16. Further information is contained in our companion report on the use of voluntary paternity acknowledgments, *ibid*, OEI-06-98-00053, 2000.

17. We did not attempt in our research to determine the proportion of default paternity orders which were eventually overturned.

APPENDIX A



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Office of the Assistant Secretary, Suite 600
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

February 18, 2000

TO: June Gibbs Brown
Inspector General

FROM: Olivia A. Golden
Assistant Secretary
for Children and Families

SUBJECT: Comments on the OIG Draft Reports on Paternity Establishment - Administrative and
Judicial Methods (OEI-06-98-00050) and the Use of Voluntary Paternity
Acknowledgements (OEI-06-98-00053)

Attached are the Administration for Children and Families' comments on the above captioned reports. If you have questions, please contact David Gray Ross, Commissioner, Office of Child Support Enforcement, at (202) 401-9370.

Attachment

IG	_____
EAIG	_____
PDIG	_____
DIG-AS	_____
DIG-EI	____/____
DIG-OI	_____
DIG-MP	_____
OCIG	_____
ExecSec	____/____
Date Sent	<u>2-23</u>

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OFFICE OF INSPECTOR
GENERAL

**COMMENTS OF THE ADMINISTRATION FOR CHILDREN AND FAMILIES ON THE
OFFICE OF INSPECTOR GENERAL'S DRAFT REPORTS ON PATERNITY
ESTABLISHMENT - ADMINISTRATIVE AND JUDICIAL METHODS (OEI-06-98-00050)
AND THE USE OF VOLUNTARY PATERNITY ACKNOWLEDGEMENTS (OEI-06-98-00053)**

The Federal Office of Child Support Enforcement (OCSE) thanks the Office of Inspector General (OIG) for the opportunity to comment on these two draft reports. Paternity establishment is a crucial step to establishing a legal relationship between a child and father. Paternity establishment can provide basic emotional, social, and economic ties between a father and his child. It can also provide a child with legal rights and privileges, including rights to inheritance, rights to a father's medical and life insurance benefits, social security and possibly veterans' benefits. In addition, it provides a child the opportunity to develop a sense of identity and connection with the father. It may be important for the health of the child for doctors to have knowledge of the father's medical history. Paternity establishment is also the first step to establishing an enforceable child support order.

The Administration has made paternity establishment a top priority. In fiscal year 1998, an estimated 1.5 million paternities were established and acknowledged. Of these, nearly 615,000 were in-hospital paternities that were voluntarily acknowledged. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) streamlined the legal process for paternity establishment, and required States to publicize the availability of and encourage the use of the paternity establishment process.

Paternity Establishment: Administrative and Judicial Methods (OEI-06-98-00050)

OIG Recommendation:

OCSE Should Assist States in Sharing Successful Practices in Notifying Putative Fathers.

ACF Response:

OCSE endeavors to promote innovative State and local practices on a wide variety of areas, including paternity establishment, and will continue to do so. Several examples of the way in which OCSE can promote innovative service-of-process practices are: 1) publication of examples of practices that have achieved results in the new OCSE series "Good Ideas in Child Support Enforcement"; 2) discussion of practices at OCSE conference; and 3) articles in the OCSE Child Support Report newsletter.

OIG Recommendation:

OCSE Should Encourage States to Strengthen Child Support Agency Authority and Capability, Enabling Them to Establish Paternity Without the Courts, When Practical.

ACF Response:

OCSE will continue to identify States which experience such problems and offer guidance, where appropriate.

OIG Recommendation:

OCSE Should Provide Technical Assistance to States Aimed at Streamlining and Rationalizing Their Paternity Establishment Methods, Whether Administrative or Judicial.

ACF Response:

OCSE will continue to identify States which experience such problems and offer guidance, where appropriate.

OIG Recommendation:

OCSE Should Encourage States to Further Explore the Usefulness of Combining Separate Child Support Functions, Including Paternity Establishment, into a Single Process.

ACF Response:

OCSE agrees that coordinated processes may provide for streamlined child support enforcement. As we identify effective coordinated processes, we will promote them through: 1) publication of examples of practices that have achieved results in the new OCSE series "Good Ideas in Child Support Enforcement"; 2) discussion of practices at OCSE conference; and 3) articles in the OCSE Child Support Report newsletter.

Paternity Establishment: Use of Voluntary Paternity Acknowledgements (OEI-06-98-00053)

General Comments:

Page 1 – The fourth sentence in the Federal Mandate section indicates that "Federal law dictates that a voluntary paternity acknowledgment creates a conclusive finding of paternity within 60 days of signature...." However, the paternity is conclusively established upon signature by both parties, with the right of either party to rescind the acknowledgment within the earlier of 60 days or the date of an administrative or judicial proceeding relating to the child (including a proceeding to establish a support order). Thus, we recommend deleting "within 60 days of signature."

Page 1 – The final sentence in the Federal Mandate section indicates that a father's name may not be added to the birth certificate without a signed paternity acknowledgment. This implies that voluntary paternity establishment is the only circumstance that would allow the father's name to appear on the birth certificate. However, Section 466(a)(5)(D)(i)(II) of the Social Security Act allows for inclusion of the father's name on the birth certificate if "a court or an administrative agency of competent jurisdiction has issued an adjudication of paternity." The final sentence in the Federal Mandate section should either clarify this in the text or reference (with explanation) the Social Security Act in the End Notes section.

Page 5 – The third paragraph offers an opinion about the characteristics of cases that do not voluntarily acknowledge paternity in the hospital. To increase the value of this report to the field, we suggest that the basis for these conclusions be included in this paragraph.

OIG Recommendation:

OCSE Should Encourage State Child Support Agencies to Clarify for the Courts the Legal Standing of Acknowledgments as Conclusive Findings of Paternity.

ACF Response:

OCSE will inform the States of this recommendation and the findings upon which it is based.

OIG Recommendation:

OCSE Should Assist States in Training Local Child Support Staff in the Use of Voluntary Acknowledgments, Reinforcing Acknowledgments as Binding Establishments of Paternity.

ACF Response:

OCSE would appreciate learning which survey States were not making use of signed acknowledgments so that we can work with them to improve their procedures. We will also offer technical guidance to other States not making use of signed acknowledgments.

With regard to providing training, OCSE is committed to assisting States in providing local office training through the use of new technology to ensure that a curriculum is available at all levels. For example, last July we issued "Paternity Establishment - Computer-Based Training (CBT)" through Dear Colleague Letter 99-80. States can make this CBT available to local staff as a training aid.

OIG Recommendation:

OCSE Should Provide Guidance to States on Circumstances Which May Constitute Fraud, Duress or Material Mistake of Fact, to Reduce the Number of Acknowledgments Overturned.

ACF Response:

OCSE will investigate this issue nationally, share effective practices and offer guidance to States experiencing problems. OCSE would appreciate knowing which survey States misinterpreted this clause.

OIG Recommendation:

OCSE Should Assist Child Support and Vital Records Agencies in Developing a Statewide Rescission Process, Including a Method for Notifying All Interested Parties.

ACF Response:

OCSE will inform the States of this finding and promote effective methods of cooperation with vital records agencies.