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**OFFICE OF
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PATERNITY ESTABLISHMENT

**Notification of Rights And Responsibilities For
Voluntary Paternity Acknowledgment**



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Notification of Rights and Responsibilities for Voluntary Paternity Acknowledgment

PURPOSE

This report describes State practices in providing written and oral notification of rights and responsibilities to parents who voluntarily acknowledge paternity.

RESULTS IN BRIEF

We found States have made serious efforts to provide written and oral notification to both mothers and putative fathers. Acknowledgment forms include written explanation of parental rights and responsibilities, and 35 State child support agencies believe that most parents who acknowledge paternity outside the hospital setting are given oral notification. Local child support workers appear largely capable and willing to give oral notice, and have begun to view this service as a routine part of their jobs.

Some offices within vital records agencies and other alternative acknowledgment sites, however, are still unaware of this obligation. Additionally, child support and vital records agency staff express concern that parents who pick up forms, but sign them outside their offices, do not receive oral notice and may not understand what they are signing. Significant differences exist among States in the substance of parental rights and responsibilities, such as the presumption of custody and right to genetic testing.

We make recommendations on how OCSE might improve State efforts to ensure both written and oral notification to all parents considering voluntary paternity acknowledgment.

BACKGROUND

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires States to simplify and expedite the paternity establishment process and encourage establishment for both the welfare and general populations. As part of this administrative process, the new law requires that the mother and putative father be given notice, both orally and in writing, of the alternatives to, legal consequences of, and rights and responsibilities arising from the signed acknowledgment, and that the father's name not be added to the birth certificate without a signed acknowledgment of paternity. In order to broaden the availability of the voluntary acknowledgment process, States are allowing parents to sign forms at sites other than the child support office and submit forms by mail. While written notification is typically printed on the back of the acknowledgment forms, because parents may acknowledge at a number of different sites or by mail, State child support enforcement agencies may have difficulty ensuring oral notification of rights and responsibilities.

According to regulations, this oral notice may be given through the use of video or audio equipment and must include the alternatives to, legal consequences of, and rights and responsibilities of acknowledging paternity.¹ In addition, the description must ensure that due process safeguards are afforded (notice of right to a hearing) and that any rights due to minor parents be described to them. Federal Financial Participation funds are available for developing and providing to hospitals and other entities written and audiovisual materials about paternity establishment and forms necessary to voluntarily acknowledge paternity.

Welfare reform legislation promotes greater use of voluntary acknowledgment procedures, and encourages administrative resolution of paternity through this “simple, civil process.” Yet, issues as important as parenthood have traditionally been resolved through the courts. The communication of the rights and responsibilities that accompany acknowledgment is crucial in supporting the legal validity of voluntary paternity acknowledgments and the credibility of these increasingly administrative practices. In our study of paternity establishment practices, we asked both State and local child support agencies, as well as vital records offices, their perceptions regarding the frequency of oral notification.² We also gathered information about barriers to providing oral notice, strategies States are employing to meet this requirement, and what constitutes these rights and responsibilities in each State.

There has been some anxiety among State and Federal policymakers about meeting the oral notification requirement and addressing any resulting issues of liability. The following findings provide a snapshot of current practices and perceptions, and are offered to assist OCSE in evaluating early implementation of this new welfare reform policy.

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

FINDINGS

Thirty-five State Child Support Agencies Believe Most Parents Who Acknowledge Paternity Receive Oral Notice, Primarily Through Discussion With Local Child Support Staff.

State child support enforcement agencies in 35 States estimate that most parents who acknowledge outside the hospital receive oral notification of their rights and responsibilities. About a third of this group even claim that *all* parents receive such notice. Acknowledgments that occur outside birthing hospitals typically take place in settings such as local child support agencies, vital records offices or alternative sites which serve the welfare population.³ The capability of staff to provide adequate notification of rights and responsibilities seems to vary depending upon the type of office or agency. Understanding and commitment to the oral notification requirement appears stronger, of course, in child support offices than in other peripheral agencies. For example, when asked to rate the ability and effort of vital records agency staff in providing oral notification of rights and responsibilities, 32 State child support agencies rate staff as good or excellent, while the remaining 19 believe vital records staff complete this task fairly or poorly.

Most State acknowledgment forms provide a written notice of rights and responsibilities on the back of the form or on an attachment. Oral notification, however, requires that staff read or discuss rights and responsibilities when distributing the forms, or arrange for clients to watch a videotape or listen to an audiotape explaining the material. States may also establish a phone recording so that clients have the opportunity to dial-in for oral notification.⁴ By far, the majority of offices (50 of 51 State child support agencies and 96 percent of local child support office respondents) rely primarily on one-on-one discussions between a staff member and the client to complete oral notification. Ten State child support offices report using videotapes in addition to personal contact, while five more indicate they already have a phone recording, and one additional State uses audiotapes. A few State and local child support offices also report conducting periodic group training sessions for clients. Two offices in the Dallas area, for example, held “paternity days” once a month during which clients participated in workshops to lead them through the process of voluntarily acknowledging or otherwise establishing paternity.

Oral Notice is Less Common in Vital Records Offices and Other Alternative Sites, and Staff There as Well as in Some Local Child Support Offices May Not Understand the Requirement.

Only 27 State vital records agency respondents believe it is part of their job to provide oral notification of rights and responsibilities to clients. Of a small number of local public assistance offices identified by States as offering acknowledgment services, a third did not attempt oral notification. One State vital records agency readily admitted in its survey that they do not have the time and resources to perform this task, although it is required. Additionally, some local child support offices appear to be confused about what constitutes oral notification. Some responded that they did provide notice, but when asked *how* this notice was provided they report that they pass out brochures or re-affirm that the notice was written on the back of the form. In visiting local child support offices, we found that some office staff believed it unnecessary and cumbersome to read or discuss rights and responsibilities. Typical responses from this group include the following:

“We are required to read the whole thing with them, but sometimes, they may just look at it and sign.”

“If they come in, we will give them the form and the explanation is on the back and ask them to read it. If they can’t read, we’ll read it. It is almost condescending (to explain or read their rights and responsibilities), and it does take time. I will just highlight the important parts sometimes.”

Local Child Support Offices Believe it is Fairly Easy to Provide Oral Notice to Parents, But Vital Records Offices Find the Requirement More Difficult.

Seventy-one percent of local child support offices surveyed believe that it is easy or even very easy for their staff to provide oral notification of rights and responsibilities. State child support offices were less positive, with 24 States reporting notification is easy or very easy. Local child support offices’ greater ease with the process may be because they generally have much more interaction

with clients and more opportunities to assist with paternity acknowledgment. These local child support offices are often grateful to parents who are willing to sign acknowledgments since it is typically an easier and faster method for establishing paternity and moving a support case into collection. Therefore, they were eager to facilitate the acknowledgment process whether that meant providing easy access to a notary public, offering separate signing times for antagonistic mothers and fathers, or clarifying parental rights and responsibilities. Vital records offices seem to have a harder time with the oral notification requirement, with only seven States rating the process easy or very easy to administer and 20 State vital records offices claiming notification is somewhat or very difficult to administer. One State registrar explains, “. . . it’s just not happening in our local offices. Staff are often far removed from the objectives of establishing paternity and have enough on their plates already just to process the forms.”

Staff Time is Sometimes Limited in Providing Oral Notice, and it is More Difficult When Parents Pick Up Forms and Submit Them by Mail or Speak a Foreign Language.

Barriers to providing oral notification depend somewhat on where parents choose to sign their forms. State and local child support offices, as well as vital records agencies, report concern over parents who pick up forms but sign them outside the office. As described by one respondent, “occasionally we have parents who carry affidavits away from hospitals, sign in front of a notary and send it in. I’m not sure they know what they’ve done.” The professional organization for State vital records agencies, the National Association of Health Statistics and Information Systems (NAPHSIS), has expressed this same concern to OCSE and to our office.

TABLE 1: BARRIERS TO PROVIDING ORAL NOTIFICATION BY STATES			
Barrier	State CSE Agency	Local CSE Offices	State Vital Records Agency
Parents Sign Form Away From Office	62% (31 States)	27% (26 offices)	63% (33 States)
Parents Speak Foreign Language	45% (23)	15% (15)	65% (34)
Staff Don’t Have Time to Read or Discuss	13% (7)	4% (4)	37% (19)
Staff Don’t Feel Like It’s Their Job to Read or Discuss	6% (3)	2% (2)	17% (9)
Staff are Uncomfortable Reading or Discussing	4% (2)	0% (0)	35% (18)

Table 1 shows that some problems, such as parents signing forms away from the office and foreign language barriers, are common among all three types of offices surveyed. Other problems, such as staff perceiving the task is not part of their job, are primarily found in vital records agencies. Local

child support offices, the most likely to consistently provide acknowledgment services,⁵ were the most positive about the process of oral notice. Sixty-three percent of local offices see no barriers to offering oral notification, while only 24 percent of State child support offices and 13 percent of State vital records offices report no barriers.

Very Few Child Support Staff Report They Are Uncomfortable Providing Oral Notification.

When legislation mandated oral notification, there was concern in the child support community that staff (both in hospitals and public service offices) would feel awkward discussing rights and responsibilities with parents. As indicated in Table 1, however, no local child support staff report being uncomfortable reviewing this subject with clients. However, a third of State vital records respondents report staff discomfort. Many local child support workers report they often ask a putative father if he is sure he is the father and discuss genetic testing options informally prior to reading the official rights and responsibilities. If the man expresses any uncertainty, staff typically recommend genetic testing prior to acknowledging paternity. Local workers report the following as typical questions asked by parents when discussing rights and responsibilities:

“What will happen if (I sign and) we are still together?”

“How can I contact a lawyer?”

“Do I get to share custody?”

“How much will this mean I have to pay?”

“Where can I get a blood test?”

During on-site visits, some staff described circumstances when clients asked them for legal advice that was beyond their expertise. Most dialogues must be fairly simple, though, as only one State child support agency indicated the inability of front line staff to give legal advice as a barrier to providing adequate oral notification. Although a typical child support staff member may not answer detailed questions, child support offices that have on-site legal staff may refer clients. One California office we visited explained a typical case as follows:

“We tell them to come in so we can establish paternity through POPS,⁶ but we have to make sure they fully understand what this means. We provide them with oral notification of the disclosure information on the form. I usually go through it and explain; others may just read it. Sometimes we get into a dialogue, as often they ask a lot of questions about just what does legally establishing paternity mean, for me and for the child? I feel comfortable with the oral notification process. We are just answering questions. We are at the level of establishing paternity, and mainly the cases are straightforward. We don’t give legal advice. If they have legal questions, we will refer them to other (legal) staff.”

Uniform Standards are Emerging Among States, But There Are Noteworthy Differences in State Interpretation of Parental Rights, Particularly Regarding Custody and Genetic Testing.

By promoting State use of the voluntary paternity acknowledgment process, OCSE has enhanced the need for careful adherence to laws protecting parental rights and due process. Following a content analysis of State voluntary paternity acknowledgment forms and supplemental documents, we found the following to be the most common issues covered under parental rights and responsibilities: affirmation that signing is voluntary; opportunity for genetic testing; notice of waiving rights to a court hearing; opportunity for rescission; special provisions for minor children; financial obligation for child support; and right regarding custody and visitation. We sometimes found the language used to explain rights and responsibilities to be overly complex, and are concerned that this must hinder parent understanding. Appendix A provides examples of State language used to explain rights and responsibilities.

The issue of greatest importance may be the waiver of the father's right to request genetic testing.⁷ Most State forms remind the father that he can pursue genetic testing before signing if he is unsure he is the father. Beyond that, some State forms clearly indicate that by signing the acknowledgment the father is waiving his right to request genetic testing. During our on-site visits, though, a number of caseworkers told us that their courts have sometimes chosen to disregard an acknowledgment and order genetic testing even months after signing. State and local offices were very clear in indicating they wanted parents to test if they had any doubt about paternity, reporting that the cost of testing was not a large concern and that they would rather have tangible proof of paternity than a signed acknowledgment.⁸

Despite general uniformity, the language used to communicate rights and responsibilities occasionally differed for mothers and putative fathers. Appendices B and C provide examples of gender-specific language in describing rights and responsibilities, and Appendix D compares sample acknowledgment statements for mothers and putative fathers. Instructions targeted to putative fathers were more likely to include detailed information about the financial responsibilities of fatherhood, and the opportunity to receive an administrative hearing to determine paternity.

Some significant differences in State voluntary acknowledgment forms stem from State law regarding maternal custody. A number of States, such as Massachusetts, expressly give initial custody to the mother and indicate such on the acknowledgment form. The written rights and responsibilities in these States typically advise the father to seek legal action to establish custody and visitation, and remind him that acknowledgment only establishes his fatherhood and obligation to pay support. Forty-one State child support agencies and 70 percent of local child support office respondents (69 offices) report the mother's fear of sharing custody is a barrier to mothers acknowledging paternity. Therefore, although such a provision may force custody and visitation issues into court, it may also encourage mothers to cooperate in establishing paternity since they would no longer fear immediately sharing custody. Although our data is not definitive, the custody issue does not appear to be a significant barrier to fathers acknowledging. Some respondents report emphasizing this issue in particular when providing oral notification. For example, "*I always just*

say that the only rights this is giving you is signing that you're the biological (father) for the child. You don't have any other rights on the child, and [custody] is something you've got to take care of and you've got to pursue it."

Federal regulation requires States include on the voluntary paternity acknowledgment form a statement for parents to sign that they received oral notification of their rights and responsibilities and understand those rights. This action meets three objectives: it appears to make staff more confident that the client has listened to the information and understands its gravity; it potentially allows State child support offices to track office implementation of the oral notification requirement; and it may serve to uphold the validity of a signed acknowledgment in court. Respondents did not appear to view the requirement of a signature as burdensome. One describes the process simply: *"If they are in our office, the workers will go over the rights and responsibilities. We tell them about the waiver of rights, the implications of the waiver, and about the opportunity to request a blood test. Reading these rights is not new - we have always done this. Once we feel they understand it, we have them sign that they understand their rights."*

RECOMMENDATIONS

Encourage Outreach by Child Support Offices to Educate Service Providers About Their Responsibility to Provide Oral Notification to Parents, and Simplify the Language Used.

As indicated above, many staff members in vital records offices and alternative acknowledgment sites are not aware of their responsibility to provide oral notification. OCSE could improve this situation by providing technical assistance to State child support offices for publicizing this requirement among local agency offices. By thoroughly explaining the significance and gravity of paternity acknowledgment to key staff within these agencies, child support agencies may reduce resistance to accepting this additional responsibility. State child support offices should provide simple training materials which lead staff through acknowledgment rights and responsibilities. Such materials may have already been developed for birthing hospital staff, and may only need slight modification. Public outreach materials should be duplicated in prominent foreign languages. Additionally, by generally simplifying the language used to describe rights and responsibilities, child support agencies improve the odds that both staff and parents will understand the material provided.

Promote Use of Innovative Practices in Notifying Parents of Rights and Responsibilities.

In the years since States began efforts to increase the number of voluntary paternity acknowledgments, child support enforcement agencies have largely streamlined acknowledgment procedures. Since staff time at social service agencies is understandably limited, it is likely that workers are more receptive to initiatives that do not unduly tax their limited resources. Production of audiotapes and videotapes which recite parental rights and responsibilities eliminate the need for staff to personally review this material and possibly ensure more thorough coverage, but there is question about whether parents would actually use these tapes even if they were made available. If

the policy objective implied by the oral notification requirement is to enhance parental understanding of their rights and responsibilities, other more interactive strategies might be more beneficial.

One such strategy is creation of toll-free telephone lines which offer a recording of parental rights, as well as an option to talk directly with trained child support agency staff. Appendix E contains a portion of the Missouri voluntary acknowledgment form which tells parents they must call the telephone message line if they did not receive oral notification. Another idea in limited use is to include oral notification of parental rights and responsibilities in workshop sessions with parents seeking to establish paternity or begin welfare benefits. We suggest OCSE encourage more widespread availability of these and similar techniques which would allow for a dialogue between staff and parent, without relying too heavily on individual staff in various social service offices.

AGENCY COMMENTS

The Administration for Children and Families (ACF) notes that OCSE has taken a number of steps to encourage State child support enforcement offices to provide information about the oral notification requirements including development and issuance of “legislative implementation guides” devoted to paternity establishment. OCSE also amended the paternity establishment regulations to require States to have in effect laws requiring that parents be given both oral and written notice of rights and responsibilities of acknowledging paternity, and to have safeguards in place to ensure that due process protections are afforded to both parents. Additionally, ACF notes that OCSE tries to ensure that its own documents are written clearly and in plain English, will encourage States to do the same, and has promoted innovative paternity establishment practices through conferences and publication of a best practices guide and articles.

We acknowledge OCSE’s efforts to assist States in the proper implementation of voluntary paternity acknowledgment procedures. However, our study found that some participants in voluntary acknowledgment programs are still unaware of their responsibility to provide oral notification. We continue to believe States may need encouragement to use innovative techniques specifically designed to ensure parents receive oral notification of rights and responsibilities of voluntary paternity acknowledgment.

ACF’s comments are provided in their entirety in Appendix F.

ENDNOTES

1. OCSE Action Transmittal 99-02 (March 10, 1999).
2. We received responses from State child support and vital records offices in all 50 States and the District of Columbia. Local child support office responses came from 99 offices within a sample of six States: California, Georgia, Illinois, New Jersey, Texas, and Virginia.
3. In our 1997 study of hospital practices, we found that only about half of hospitals were offering oral notification. However, data collection occurred prior to the Federal mandate which required such notice.
4. The National Association for Public Health Statistics and Information Systems (NAPHSIS) recently requested clarification from OCSE on the provision of rights and responsibilities at local vital records agencies. They mentioned that many State vital records agencies do not have walk-in service and, therefore, mail information to parents. They asked OCSE to clarify what responsibility vital records agencies have in insuring oral notification of the rights, responsibilities and consequences of acknowledging paternity. OCSE responded by reminding NAPHSIS that vital records offices could use recorded phone messages in providing oral notification.
5. One hundred percent of local child support offices which responded to our survey report clients may voluntarily acknowledge paternity in their office.
6. POPS is the acronym for California's Paternity Opportunity Program. Voluntary paternity acknowledgment forms are commonly referred to by staff as "POPS."
7. According to Sec. 466. [42 U.S.C. 666], the State is required, in a contested paternity case, to require the child and all other parties to submit to genetic tests upon the request of any such party, and to pay costs of such tests, subject to recoupment from the alleged father if paternity is established.
8. For more information, please see our companion reports, Paternity Establishment: Use of Voluntary Paternity Acknowledgments (OEI-06-98-00053) and Paternity Establishment: States Use of Genetic Testing (OEI-06-98-00054).

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SAMPLE WORDING OF PARENTAL RIGHTS AND RESPONSIBILITIES

Most States list parental rights and responsibilities of acknowledging paternity on their voluntary paternity acknowledgment forms. The most common issues include:

- Affirmation that signing is voluntary
- Opportunity for genetic testing
- Opportunity for rescission of acknowledgment
- Special provisions for minor children
- Financial obligation for child support
- Rights regarding custody and visitation

Following are examples of language used on State forms in each category:

Voluntary Nature

- ! This is a legal document. Signing this form is voluntary. This form has legal consequences. If you do not understand those legal consequences, you may want to contact an attorney before signing.
- ! The mother and father have signed the Acknowledgment of Paternity of their own free will.
- ! You have the right to declare paternity by signing this document or you may choose to request genetic testing, consult an attorney, contact Child Support Enforcement, or have a court hearing to determine paternity.

Genetic Testing

- ! The mother and alleged father have a right to genetic testing on the issue of paternity. By signing the Acknowledgment they are waiving these rights.
- ! If you choose not to sign this form, the State may require the parties to submit to paternity testing for the purpose of determining who is the biological father of the child named in the form. Failure to comply with an order for paternity testing could result in a contempt of court citation which is an unclassified misdemeanor punishable by up to six months in jail and not more than a \$300 fine. Failure to comply with paternity testing could also result in a default finding of paternity.

Rescission of Acknowledgments

- ! If either of you later change your mind about signing the form you must complete a form to rescind or cancel the declaration of paternity and file it with the State Office of Vital Records within 60 days from the date you sign this form. You can get a rescission form from your local Family Support Division, or local office of vital statistics.
- ! Unless you can show that you signed this form because of fraud, duress, or material mistake, your acknowledgment can only be revoked within 60 days after the date you signed the form, or before initiation of an administrative or judicial action to establish child support for the child named in the form, whichever is earlier.

Minor Parents

- ! A minor has the right to refrain from signing this affidavit without the signature of a parent, guardian, or custodial adult.
- ! In order for the affidavit to be valid if you are a minor, the affidavit shall also be signed by your legal guardian and shall include your social security number.

Financial Child Support

- ! When this form is completed and signed, a father and child relationship is legally established and the father's name will appear on the birth certificate. With this relationship comes the responsibility to financially support the child. On the basis of this signed form, a court may order the father to pay child support and provide health insurance coverage for the child.
- ! Both parents must support their child from birth. If your child does not live with you, a court may order you to pay child support.

Custody and Visitation

- ! Signing an Acknowledgment of Paternity may be the basis for the father to establish custody and visitation rights to the child, and may also be the basis for requiring his consent prior to an adoption proceeding.
- ! You, the father and mother, have a right to know your child, the right to seek custody or visitation, as well as the responsibility to support your child.

RIGHTS AND RESPONSIBILITIES SPECIFIC TO THE MOTHER

Below are examples of maternal Rights and Responsibilities from State voluntary paternity acknowledgment forms:

Legal Standing of Acknowledgment

- ! I understand that my signature on the Acknowledgment of Paternity form means that I swear that I am the mother of the named child and that the person signing the father is the biological father of the child.
- ! If you and the father sign the Acknowledgment of Paternity, it will be filed with the [State] Department of Public Health, Vital Records Section-Paternity Registry and the father's name will be placed on the birth certificate. The Acknowledgment of Paternity is considered a legal finding of paternity. Your child will then have a legal father.

Genetic Testing

- ! You should sign the Acknowledgment of Paternity only if you know who the father of your child is. If you are unsure who the father is, you should not sign the form. Genetic (DNA) testing may be able to establish paternity with a high degree of accuracy, and may, under certain circumstances, be available at state expense.

Financial Child Support Enforcement

- ! Your child will have the right to receive support from the father at least until the child's eighteenth birthday.
- ! You child may be eligible for many other benefits from the father such as health insurance, social security, veteran's benefits, and the right of inheritance.

Custody and Visitation

- ! I understand after paternity is established, the father has the right to request visitation with and custody of the child. Custody and visitation are decided in legal actions separate from the issues of paternity and child support.

Third-Parties

- ! Affidavits Signed by Unmarried Women: If the mother was not married at conception, during the pregnancy, or at birth, the name of the father may not be entered on the certificate of birth, unless both the mother and the father have executed affidavits attesting he is the father and the affidavit meets the requirements specified by statute, or paternity has been determined by a tribunal.
- ! Affidavits Signed by Married Women: If the mother was married at conception, during the pregnancy, or at the birth, the name of the husband shall be entered on the certificate, as the father of the child, unless the mother, the natural father, and the mother's husband all execute an affidavit attesting to the paternity of the child. The mother, husband and father must all sign and each signature must be notarized or witnessed.

RIGHTS AND RESPONSIBILITIES SPECIFIC TO THE FATHER

Below are examples of paternal Rights and Responsibilities from State voluntary paternity acknowledgment forms:

Legal Standing of Acknowledgment

- ! Natural Father: The man who signs the form is acknowledging that he is the natural father of the child named on the form and that he assumes the paternal duty of support of the child.

Judicial Establishment

- ! You have the right to deny paternity and to have a trial by the Superior Court or a Family Support Magistrate.

Rescission of Acknowledgment

- ! The alleged father has the right to withdraw the affidavit of paternity on or before sixty (60) days from the date he signed the affidavit of paternity, or by the date a judicial [or administrative] proceeding relating to the child in which he is a party, whichever occurs first.

Genetic Testing

- ! You have the right to a genetic (DNA) test to determine paternity. Genetic (DNA) testing may be able to establish paternity with a high degree of accuracy, and may, under certain circumstances, be available at state expense.

Financial Child Support Enforcement

- ! I understand that I will have the responsibility to provide support for my child.
- ! As the legal father of the child, you will be liable for the child's financial support at least until the child's eighteenth birthday. You may also be liable for the child's medical and dental bills. If you do not support your child, a civil or criminal court case may be brought against you, and the court can order that your income be withheld.

Custody and Visitation

- ! I understand that after paternity is established I have the right to request visitation with and custody of the child. Custody and visitation are decided in legal actions separate from the issues of paternity and child support.

Third-Parties

- ! Husband (Legal Father): If an affidavit of paternity is not fully executed, the husband of a woman at conception, during the pregnancy, or at birth, is regarded the legal father, whether or not they are legally or physically separated. In this case, the husband's name must appear on the birth certificate.

**SAMPLE ACKNOWLEDGMENT STATEMENTS
OF MOTHER AND PUTATIVE FATHER**

Below are examples of the statements parents voluntarily sign to acknowledge paternity:

PUTATIVE FATHER	MOTHER
<p>I acknowledge that I am the biological father of the child named on this Voluntary Acknowledgment of Paternity form. I waive my right to genetic testing. <i>I have read and understand</i> the rights and responsibilities listed on the back of this form and I understand that by signing this Voluntary Acknowledgment of Paternity, I waive these rights. I accept the obligation to provide child support as determined under state law. <i>I have been provided an oral and written explanation</i> of my rights, responsibilities and implications of signing this form.</p>	<p>I am the biological mother of the child named on this Voluntary Acknowledgment of Paternity form. I acknowledge that the man named below is the biological father of this child. I waive my rights to genetic testing. <i>I have read and understand</i> the rights and responsibilities listed on the back of this form and understand that by signing this Voluntary Acknowledgment of Paternity, I waive these rights. I accept the obligation to provide child support as determined under state law.</p>
<p>I, being first duly sworn, acknowledge that I am the natural father of this child and I understand that execution of this document creates a presumption of paternity which will affect my legal rights under the laws of Alabama; I understand that this affidavit may be used to include my name as the natural father on the child's birth certificate; I understand that this document, once signed and notarized, may be used to obtain an order of financial and medical support and that, absent a court order to the contrary, I will be legally responsible for providing said support until the child reaches the age of majority, dies, marries, or becomes otherwise emancipated; I understand that I may be responsible for payment of birth expenses; <i>I have received and read or have had read to me written materials</i> that explain the rights and responsibilities that signing this affidavit confers upon me and I understand these rights and responsibilities and voluntarily accept them.</p>	<p>I, being first duly sworn, acknowledge that I am the natural mother of the child named above and that to the best of my information, knowledge, and belief, _____ is the natural father of this child; I understand that this affidavit is a legal document which creates a presumption that the man named above is the father of my child; I understand that this affidavit may be used to include the father's name on the child's birth certificate; <i>I have received written materials</i> that explain the rights and responsibilities that this affidavit of paternity confers upon the father of this child, and with an understanding of same, I voluntarily sign this affidavit of my own free will.</p>

**SAMPLE OF FORM WHICH DIRECTS PARENTS TO
CALL TELEPHONE MESSAGE FOR ORAL NOTIFICATION**



MISSOURI DEPARTMENT OF HEALTH
BUREAU OF VITAL RECORDS
AFFIDAVIT ACKNOWLEDGING PATERNITY

This is a legal document. Following are the alternatives to completing this form and your legal rights and responsibilities:

- When both parents properly complete and sign this Affidavit, **the man's name is added to the child's birth certificate, and the man becomes the legal father of the child.** This Affidavit has the same effect as a court order establishing paternity and can be used as a basis for entering a child support order.
- If either of you is not sure that this man is the biological father of this child, you should not sign this form. You should have a genetic test. If the test shows at least a 98 percent probability that the man is the father, then Missouri law says he is the presumed father. Both of you may sign the Affidavit then.
- If either of you **change** your mind about acknowledging paternity within the earlier of: a) 60 days from the date of the last signature on the Affidavit; or b) the date of a proceeding to establish child support for the child on the Affidavit, you may sign a rescission form and file it with the Missouri Department of Health, Bureau of Vital Records (BVR). Contact BVR if you need a rescission form. When the rescission is filed, the man will no longer be the legal father; however, his name will stay on the birth certificate unless a court order tells BVR to remove his name.
- If it is more than 60 days after both of you sign the Affidavit or after the date of a child support proceeding, and you decide you want to prove this man is not the father, you must go to court. You must prove there was fraud, duress, or material mistake of fact when you signed the Affidavit.
- This child may have the right to receive benefits as the legal child of the man who signs this form. These benefits may include child support, medical insurance, inheritance rights, Social Security and Veteran's benefits.
- This Affidavit does not automatically give the father visitation or custody rights. Custody and visitation rights can be granted only by a judge in a court action.
- If you want legal advice, you should talk to an attorney.
- If you want a genetic test or an application for child support services, call the Missouri Division of Child Support Enforcement at 1-800-859-7999.
- Persons who knowingly supply false information on the Affidavit shall be guilty of a class D felony. Penalties under the criminal code range from imprisonment of 1-10 years and/or up to \$5,000 in fines.

Before you complete this Affidavit, you must receive oral (spoken) notice of the above information. If you are completing this Affidavit in the hospital when your child is born, you may receive oral notice from hospital staff. If you are completing this Affidavit after the birth certificate has been filed, you may receive oral notice from the agency that gave you the form. **If you have not received oral notice when you are ready to complete the Affidavit, you must call (toll free) 1-888-677-2083 to receive oral notice.**

COMMENTS OF THE ADMINISTRATION FOR CHILDREN AND FAMILIES ON THE OFFICE OF INSPECTOR GENERAL DRAFT REPORTS: "PATERNITY ESTABLISHMENT NOTIFICATION OF RIGHTS AND RESPONSIBILITIES" (OEI-06-98-00051); "PATERNITY ESTABLISHMENT PAYMENT TO VITAL RECORDS AGENCIES" (OEI-06-98-00056); AND "PATERNITY ESTABLISHMENT USE OF ALTERNATIVE SITES FOR VOLUNTARY PATERNITY ACKNOWLEDGMENT" (OEI-06-98-00052).

General Comments:

The Federal Office of Child Support Enforcement (OCSE) would like to thank the Office of Inspector General (OIG) for being given the opportunity to comment on these three draft reports. We would like to generally note the quality of the reports and we are pleased that OCSE's significant work in this area is noted.

Background:

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, and to social security and possibly veteran's benefits. It also provides a child the opportunity to develop a sense of identity and connection with the father, and 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 1997, an estimated 1.28 million paternities were established and acknowledged. Of these, nearly 480,000 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.

OIG Recommendation:

OCSE should encourage outreach by child support offices to educate service providers about their responsibility to provide oral notification for parents, and simplify the language used.

ACF Response:

OCSE has taken a number of steps to encourage State child support enforcement offices to provide information about the oral notification requirements. For example: soon after the passage of PRWORA in 1996, OCSE worked with our State partners to develop and issue a number of "legislative implementation guides" one of which was devoted to paternity establishment. It contained a "plain English" version of the new requirements and provided examples of State practices that were particularly good. OCSE and our State partners

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disseminated these guides widely, in an attempt to educate service providers about their new responsibilities. In the years following the enactment of PRWORA, OCSE has held a number of conferences in which the new paternity requirements were discussed. OCSE has also amended its paternity regulations to require States to have in effect laws requiring parents to be given both oral and written notice of the rights and responsibilities of acknowledging paternity, and to have safeguards in place to ensure that due process protections are afforded to both parents (see 64 FR 11802, March 10, 1999). Regarding the OIG's recommendation to encourage States to simplify the language they use in their documents, OCSE tries to ensure that its own documents are written clearly, and in plain English, and we will encourage our State partners to do the same.

We would like to note that on page 1 of the report on the notification of rights and responsibilities for voluntary paternity acknowledgment, it indicates that PRWORA requires mothers and putative fathers to be given notice that the father's name not be added to the birth certificate without a signed acknowledgment of paternity. We believe that this is a misreading of the law, which requires that the father's name may not go on the birth certificate unless he has acknowledged paternity. However, this requirement is not part of the rights and responsibilities language in the statute.

Page 2 of that report refers to the "proposed rule" on paternity establishment, which has now been issued in final (see 64 FR 11802, March 10, 1999).

OIG Recommendation:

OCSE should promote use of innovative paternity establishment practices.

ACF Response:

OCSE endeavors to promote innovative State practices on a wide variety of areas, including paternity establishment, and will continue to do so. Several examples of the way in which innovative paternity practices are promoted are: 1) publication of examples in the OCSE *Best Practices* guide; 2) discussion of innovative practices at OCSE conferences; and, 3) articles in the OCSE *Child Support Report* describing new practices.

OIG Recommendation:

OCSE should clarify that matching funds may be used to reimburse vital records agencies for reasonable paternity establishment expenses, and should allow reasonable State discretion, in view of the wide variety of State funding, policy and practice.

ACF Response:

We are willing to work with our State partners to determine the best way to assist the vital records community establish paternity for the nation's children, but we are unable to support this recommendation. As we stated in the final rule on paternity establishment (64 FR 11802, March 10, 1999), according to the OMB Circular A-87, "Cost Principles for State and Local Governments"; the general rule governing this issue is that Federal funds are not available to

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offset the general costs of a State or local government. That is, Federal funds may not be used to finance general types of government services normally provided to the public, such as filing birth records. For that reason, FFP is not available to reimburse a State or local vital records agency that has responsibility for maintaining paternity acknowledgments. FFP is also not available to reimburse a State or local vital records office for the costs of establishing a system to process or store paternity affidavits because those activities are required of those entities under State law.

OIG Recommendation:

OCSE should capitalize on voluntary paternity acknowledgment in alternative sites, including focusing technical assistance on the most promising sites; minimizing complexity for participating entities; encouraging full-service participation; considering developing incentives for alternative site participation; and encouraging State agencies to monitor sites more closely.

ACF Response:

OCSE has made a commitment to State development of alternative sites by allowing States to provide up to \$20 to birthing hospitals and other entities that provide prenatal or birthing services for each voluntary acknowledgment of paternity they obtain pursuant to an agreement with a IV-D agency. We anticipate that, in an effort to increase their paternity establishment ratios to the levels PRWORA requires, States are working closely with, and monitoring, the progress of voluntary paternity acknowledgment in alternative sites.

In the last paragraph of page one of the report, please note that the paternity establishment regulations have now been issued in final (see 64 FR 11802, March 10, 1999), the report refers to proposed regulations.

The OIG might also want to consider updating the endnotes on page 8 of this report to refer to OCSE Action Transmittal 99-02, March 10, 1999.