

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**PATERNITY ESTABLISHMENT**

**Use of Voluntary Paternity  
Acknowledgments**



**JUNE GIBBS BROWN  
Inspector General**

**APRIL 2000  
OEI-06-98-00053**

## **OFFICE OF INSPECTOR GENERAL**

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, is to protect the integrity of the Department of Health and Human Services programs as well as the health and welfare of beneficiaries served by them. This statutory mission is carried out through a nationwide program of audits, investigations, inspections, sanctions, and fraud alerts. The Inspector General informs the Secretary of program and management problems and recommends legislative, regulatory, and operational approaches to correct them.

### **Office of Evaluation and Inspections**

The Office of Evaluation and Inspections (OEI) is one of several components of the Office of Inspector General. It conducts short-term management and program evaluations (called inspections) that focus on issues of concern to the Department, the Congress, and the public. The inspection reports provide findings and recommendations on the efficiency, vulnerability, and effectiveness of departmental programs.

OEI's Region VI prepared this report under the direction of Chester B. Slaughter, Regional Inspector General and Judith V. Tyler, Deputy Regional Inspector General.

Principal OEI staff included:

#### **DALLAS**

Blaine Collins, *Lead Analyst*  
Ruth Ann Dorrill, *Project Leader*  
Marnette Robertson  
Clark Thomas, Ph.D.  
Nancy Watts  
Lisa White

#### **HEADQUARTERS**

Alan Levine, *Program Specialist*  
Joan Richardson, *Program Specialist*  
Linda Hall

#### **FIELD OFFICES**

Lucille Cop  
Vincent Greiber  
Ianna Kachoris  
Thomas Purvis  
Graham Rawsthorn

To obtain copies of this report, please call the Dallas Regional Office at 214-767-3310.  
Reports are also available on the World Wide Web at our home page address:

<http://www.dhhs.gov/progorg/oei>

# EXECUTIVE SUMMARY

---

## PURPOSE

To describe State use of voluntary acknowledgments in establishing paternity, outline advantages of use, and identify barriers to effective use of the voluntary acknowledgment process.

## BACKGROUND

Welfare reform legislation requires that States develop a simple civil process for parents to voluntarily acknowledge paternity, which serves as a conclusive finding of parentage following a 60-day rescission period. These acknowledgments potentially reduce staff time and effort needed to establish paternity, and may also result in an increased number of paternities established. This report describes State use of the voluntary paternity acknowledgment process, using information from mail surveys to all State child support and vital records agencies, as well as mail surveys and interviews with local child support staff in six focus States. Our purpose is to describe the acknowledgment forms themselves, explain how States are using voluntary paternity acknowledgment outside the hospital setting, discuss State practices on the rescission of acknowledgments, and compare acknowledgment with other methods of establishing paternity.

## FINDINGS

***All States Offer Acknowledgment Services and Have Implemented Most of the Federal Provisions Encouraging Acknowledgment, But Only 18 States Have Full Implementation.***

All States have created acknowledgment forms which are largely uncomplicated and easy to read, and all conduct some form of outreach to increase parent awareness and understanding. We identified 18 States which have implemented all of the primary Federal provisions regarding acknowledgment, including use of voluntary acknowledgments as binding paternity establishments, a 60-day administrative rescission period, and creation of a Statewide database of acknowledgments. Many of the remaining 33 States have highly-developed voluntary acknowledgment programs, but do not yet practice some aspect of the Federal provisions.

***Most States Have Official Rescission Procedures, But Some Rescissions May Be Occurring Informally, and Use of Both Administrative and Judicial Rescission Methods Appears Erratic.***

States report very few rescissions, and are likely to have rescission procedures in place, but we found that courts and local offices may re-open paternity cases established through voluntary acknowledgment by ordering genetic testing long after the rescission period has passed. Also, child support and vital records agencies, as well as parents, sometimes are not notified when voluntary acknowledgments are revoked within or after the rescission window because States have no formal notification method.

***State and Local Child Support Staff Report Many Advantages to Voluntary Acknowledgment, But Some May Still Prefer Other Methods of Paternity Establishment.***

State child support agencies cite a number of advantages of voluntary acknowledgment over other methods of paternity establishment, including saving agency time and money. They also report establishing paternity through acknowledgment sets a more positive tone for future parent and child relationships, and encourages more consistent payment of support. Nevertheless, local child support staff report they sometimes prefer to establish paternity using other administrative and judicial methods, both because they perceive these as less likely to be overturned.

**RECOMMENDATIONS**

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

We found that State and local courts may not accept the legal standing of voluntary acknowledgments. OCSE should encourage State child support agencies to inform State and local courts regarding the legality of acknowledgments as conclusive findings of paternity, and work more closely with State legal entities to ensure adherence to Federal law.

***OCSE Should Assist States in Training Local Child Support Staff in the Use of Acknowledgments, Reinforcing Acknowledgments as Conclusive Findings of Paternity.***

We found that some local child support staff did not use voluntary acknowledgments as conclusive findings of paternity, even when State laws and courts allowed. OCSE should provide technical assistance to States for instructing local child support staff regarding the legal standing of acknowledgments, emphasizing practical training on their use in local offices.

***OCSE Should Provide Guidelines for States Regarding Circumstances Which May Constitute Fraud, Duress or Material Mistake of Fact, to Reduce the Number of Acknowledgments Overturned.***

State laws vary regarding the re-opening of paternity cases established through voluntary acknowledgment. The variation among States appears to rest in their interpretation of what constitutes “fraud, duress and material mistake of fact.” OCSE should collect information from States, and use the information gathered to issue guidelines for interpretation of this clause.

***OCSE Should Encourage Child Support and Vital Records Agencies to Develop Uniform Statewide Rescission Processes, Including Methods for Notifying All Interested Parties.***

Welfare reform legislation establishes a uniform 60-day rescission period, but does not specify how rescissions should be processed. We recommend that OCSE encourage States to develop procedures for handling rescissions, whether administrative or judicial, and that child support and vital records agencies in each State work together to ensure that such procedures include the routine transfer of information.

## **AGENCY COMMENTS**

We appreciate the current initiatives of the Administration for Children and Families (ACF) aimed at improving State use of voluntary paternity acknowledgments, and ACF's supportive response to our recommendations. In our response to agency comments, we reemphasize certain features of our recommendations deserving of special attention. These include reinforcing the status of voluntary acknowledgments as binding establishments of paternity, and working with States to encourage proper use of acknowledgments at the local level.

ACF comments are provided in their entirety in Appendix A.

# **T A B L E O F C O N T E N T S**

---

	<b>PAGE</b>
<b>EXECUTIVE SUMMARY</b>	i
<b>INTRODUCTION</b>	1
<b>FINDINGS</b>	
Use of Voluntary Paternity Acknowledgments	3
Rescission of Voluntary Paternity Acknowledgments	8
Barriers to Use of Voluntary Paternity Acknowledgments	10
<b>RECOMMENDATIONS</b>	14
<b>AGENCY COMMENTS</b>	15
<b>ENDNOTES</b>	16
<b>APPENDIX</b>	A-1

# INTRODUCTION

---

## PURPOSE

To describe State use of voluntary acknowledgments in establishing paternity, outline advantages of use, and identify barriers to effective use of the voluntary acknowledgment process.

## BACKGROUND

### *Federal Mandate*

When children are born to unmarried mothers, paternity establishment is the first step in child support enforcement. Congress has endorsed the use of binding voluntary paternity acknowledgments when both parents are in agreement regarding parentage. These acknowledgments speed the paternity establishment process, reduce staff time and effort needed to establish paternity, and may also result in an increased number of paternities established. Federal law dictates that a voluntary paternity acknowledgment creates a conclusive finding of paternity, and may only be rescinded “within the earlier of 60 days or the date of an administrative or judicial proceeding relating to the child.”<sup>1</sup> Either parent may rescind their acknowledgment of paternity within this 60-day period, but following that, they may only challenge the acknowledgment based on grounds of fraud, duress, or material mistake of fact. Both the mother and putative father must be given notice, both orally and in writing, of the alternatives to, legal consequences of, and rights and responsibilities arising from the signed acknowledgment. Additionally, the father’s name may not be added to the birth certificate without a signed acknowledgment of paternity or issuance of an adjudication of paternity from a court or appropriate administrative agency.<sup>2</sup>

### *State Implementation*

In recent years, both Federal and State child support enforcement agencies have invested considerable resources in creating in-hospital voluntary paternity acknowledgment programs. State efforts have been focused primarily at birthing hospitals because it is believed that the period immediately following birth is most conducive to voluntary acknowledgment. The father may be more likely to be present during the birthing experience than later in the child’s life, and the excitement of the birth may make parents more readily agree to establish paternity. Parents in all States are provided with outreach materials promoting the benefits of paternity establishment, and many States offer assistance in completing voluntary acknowledgment forms. OEI recently reported that in-hospital paternity acknowledgment programs are largely successful in encouraging voluntary acknowledgment.<sup>3</sup>

While initial efforts were concentrated at birthing hospitals, welfare reform legislation also encourages States to use voluntary acknowledgment in other settings. Consequently, States have begun to offer voluntary paternity acknowledgment services to parents at child support offices, vital records offices, and other social service agency settings.<sup>4</sup> As these services expand, States

must ensure that uniform procedures are followed, regardless of where acknowledgments are administered. Because more children are having paternity established through voluntary acknowledgment, either in the hospital or a social service agency before they enter the IV-D system, States are focusing not only on providing acknowledgment services, but also on ensuring accurate storage and retrieval of acknowledgment documentation.

This report discusses the implementation of Federal policy at both the State and local level, focusing on factors that appear to enhance or impede the use of voluntary paternity acknowledgments. Our purpose is to describe the voluntary acknowledgment forms themselves, explain how States are using voluntary paternity acknowledgment outside the hospital setting, outline barriers to effective use, and compare the benefits of establishing paternity through voluntary acknowledgment as opposed to other administrative and judicial methods.

## **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.<sup>5</sup> 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, visiting offices within one or two cities and their surrounding areas in each focus State.<sup>6</sup> We also requested supplementary documentation including copies of the State voluntary paternity acknowledgment form and public outreach materials.

We purposively selected the focus States by reviewing the following criteria: non-marital birth rates by State and locality, State Paternity Establishment Percentages (PEP), percentage of child support cases with support orders, status of voluntary acknowledgment programs, operations and 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 implementation strategies 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.<sup>7</sup>

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 in paternity establishment efforts, the use of genetic testing, and other administrative and judicial methods of paternity establishment.

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

# FINDINGS

---

## USE OF VOLUNTARY PATERNITY ACKNOWLEDGMENTS

### *States Have Adapted Their Voluntary Acknowledgment Forms to Include Most of OCSE’s Required Data Elements.*

States must include a minimum set of data elements developed by the Federal Office of Child Support Enforcement (OCSE) on their voluntary paternity acknowledgment forms. Mandated data elements were intended to ease interstate use, since States must grant full faith and credit to all other State acknowledgment forms. Table 1 lists the required data elements, and the number of States including them on their current voluntary acknowledgment forms. Thirty-eight States have revised their voluntary paternity acknowledgment forms since the mandatory data elements were released, but a few report they are not yet using the new version because they don’t want to waste the earlier forms already printed and in circulation. Most States previously included required basic information about the parents and child. However, only seven States include the place where the form was completed. Knowing the place of completion allows child support agencies to better track voluntary paternity acknowledgment services offered at hospitals and other entities. Some States which have not added this data element track the place of employment of the notary as a rough gauge of where particular acknowledgments were signed. As for requiring parents to sign that they understand their rights and responsibilities, 40 States simply add this statement to the form so that when the parents sign the acknowledgment they are also attesting that they understand their rights and responsibilities. Seven States, however, chose to emphasize this point further by requiring a second signature.<sup>8</sup>

<b>TABLE 1: REQUIRED MINIMUM DATA ELEMENTS IN VOLUNTARY ACKNOWLEDGMENT FORMS</b>	
<b>Data Element</b>	<b>Number of States</b>
Full Name, Social Security Number and Birthdate of Mother, Father and Child	51
Addresses of the Mother and Father	51
Signature Lines for the Mother, Father, and Any Witnesses or Notaries	51
Birthplace of the Child	47
Explanation of Legal Consequences (sometimes on attached document)	47
Statement Indicating Both Parents Understand Their Rights and Responsibilities	47
Place the Voluntary Acknowledgment Form Was Completed	7

Ten State voluntary acknowledgment forms have included space for the signature of the husband of a mother who is married to someone other than the biological father of the child. This allows the husband to relinquish his parental rights at the same time the natural father’s paternity is established. Another ten States have developed a separate form for the husband, typically called

a Denial of Paternity, which releases the husband from parental responsibility *without* establishing paternity for the natural father. In this case, the parents could then complete a voluntary paternity acknowledgment in order to establish paternity for the natural father.

***Voluntary Acknowledgment Forms are Fairly Uncomplicated and Easy to Read.***

The language used in State voluntary acknowledgment forms is typically simple and straightforward, and local office staff in focus States maintain that clients are able to complete voluntary acknowledgment forms with little assistance. Although staff did voice concern that parents may not understand the implications of signing, even when provided with oral notification of rights and responsibilities, the technical completion of the form does not appear to pose problems.<sup>9</sup> However, voluntary acknowledgment forms in 20 States must be completed without errors or corrections, much like other legally binding documents. Strict adherence to this policy, particularly when parents have only one form, may pose a barrier.

Some States are more informal about acknowledgment procedures. Two States allow parents to use a birth certificate instead of a voluntary acknowledgment form, intending to ease establishment in the hospital. While birth certificates do not conclusively establish paternity, in these States only perfunctory judicial approval is required, whether parents use a birth certificate or a voluntary paternity acknowledgment form. Local staff in one of our focus States report that parents can even write on a plain sheet of paper to acknowledge, as long as it is notarized and includes the proper information about the parents and child.

***Forms May Inhibit Use By Requesting Too Much Information About the Mother and Father.***

Local staff in a number of our focus States report concern that acknowledgment forms sometimes require parents to divulge more information than they are able or willing to provide. Clearly, States have incentives to obtain as much information as possible about parents. Information about the mother may be used to confirm her public assistance eligibility or to distribute child support payments, and information about the father is needed to help locate him and his employer for the collection of support. However, requesting an excessive amount of information may inhibit completion of the forms. In addition to requesting information about employers, extended family, and prior residences, forms in eight States request demographic information such as race, age, and occupation. With staff access to automated databases, social security numbers of mother and putative father are often enough for child support staff to easily uncover more information. If this descriptive information can be retrieved elsewhere, requiring that it be included on the form may discourage voluntary acknowledgments.

***Child Support Agencies Provide Outreach on Acknowledgment, and Parents May Complete Acknowledgments at Local Child Support Offices as Well as Hospitals and Other Entities.***

Child support agencies in nearly all States (49) provide outreach materials to parents on the availability and use of voluntary acknowledgment forms. In a few States, the child support agency has a team of paternity coordinators who are tasked only with distributing materials and conducting staff training on voluntary acknowledgment procedures. Local staff in focus States

report they inform parents about the option of voluntary acknowledgment by discussing it directly with clients (90 percent), distributing written outreach materials (40 percent), showing videotapes promoting acknowledgment (17 percent), airing public service announcements (11 percent), and providing audiotape explanations (3 percent). All local offices in our focus States report parents may sign and submit voluntary paternity acknowledgments in their office.

About half of State child support agencies (23) currently offer acknowledgment services through some of their public assistance offices. Parents in 32 States may also voluntarily acknowledge paternity in all or nearly all local vital records offices. Typical services offered through these alternative sites include distribution of public outreach materials explaining voluntary acknowledgment and, to a lesser degree, personal assistance to parents in completing paternity acknowledgments. However, some States are wary of expanding voluntary acknowledgment services outside hospitals and child support offices because they fear staff at other entities may not administer the process correctly or properly forward completed forms for record. In one State where the voluntary acknowledgment program is run largely by the vital records agency, vital records staff report they only allow acknowledgments to be completed in hospitals or vital records offices, in order to “*maximize program integrity and lead to less confusion by parents, the courts and other interested parties.*”

***State Child Support Agencies Report it is Easy to Access Acknowledgment Information, But Local Offices Find it is More Difficult to Access Acknowledgments Signed Outside Hospitals.***

Child support agencies in 38 States report it is easy or somewhat easy to access information about acknowledgments, with 13 of these reporting it is very easy. Another seven States report it is difficult to obtain this information, and the remaining five States remained neutral, describing the process as neither easy nor difficult. Thirty-nine States report that receiving information on acknowledgments completed outside the hospital is no more difficult than for those completed in hospitals. The 12 States indicating that acknowledgments signed outside the hospital are more difficult to obtain also tend to report experiencing some difficulty in obtaining in-hospital acknowledgments.

In contrast, local child support offices in the six focus States report it is more difficult for them to obtain information about voluntary acknowledgments completed outside hospitals. Staff in forty-eight percent of local child support offices in focus States report that it is more difficult to obtain information about acknowledgments that were completed in locations other than hospitals. At least one reason for the difference is that child support workers often develop close working relations with staff at nearby hospitals and routinely gather paternity information from these sources. However, caseworkers report more difficulty receiving information about acknowledgments that occur elsewhere, whether at hospitals outside the area or at alternative sites. Several respondents expressed hope that enhanced automated systems may improve access to all acknowledgments, no matter where they are completed.

***States Have Implemented Most of the Federal Provisions Encouraging Voluntary Acknowledgment, But Just 18 States Have Full Implementation.***

We identified 18 States which have implemented and practice all of the primary Federal provisions regarding voluntary acknowledgment programs. These States report Statewide implementation of their in-hospital program, offer acknowledgment services at child support and vital records offices, provide parents an administrative 60-day rescission period after which voluntary paternity acknowledgments are binding in nearly all cases, utilize a Statewide database of all signed acknowledgments, and allow local child support staff to administratively create child support orders using only the acknowledgment. While child support agencies in many of the remaining 33 States have highly-developed programs, they have not yet met all the criteria listed above, typically because they use some degree of court involvement in the process.<sup>10</sup>

The 18 identified States appear to rely heavily on voluntary acknowledgments to establish paternity both within and outside the welfare population.<sup>11</sup> States in this group also strongly favor administrative methods for all aspects of child support enforcement. They are likely to locate State child support agencies within social service administrations, and even tend to use administrative rather than judicial methods for more complex paternity cases. However, although these States offer complete acknowledgment services, some staff in local offices still revert to using similar, but more labor-intensive administrative orders of paternity when fathers sign outside the hospital.<sup>12</sup> An administrator in one of these States argues that Federal regulation only requires that a simple, civil process be made available, and that their staff use a variety of methods for establishing paternity as warranted by each case.

Two of these 18 States were included in our focus sample, allowing us to review local office practices and implementation. Local staff in these two States note the relative ease of establishing paternity through voluntary acknowledgment. They indicate that access to a Statewide database is important to their use of previously signed acknowledgments, but they also rely on parents to bring acknowledgments signed in the hospital to the child support office. More importantly, these local staff help parents complete voluntary acknowledgments in their offices. When establishing paternity for a new public assistance case, staff might inform the mother that her case will be resolved more quickly if she brings the putative father into the office to sign a form. Since parents need not sign the form together (or even sign the same form in most States), the mother might deliver or mail the form to the putative father to sign. Some offices in these two focus States also offer to mail voluntary acknowledgment information to the putative father with a deadline for action, so that the mother need not directly contact him. This correspondence, as well as the acknowledgment form itself, may remind the father of his right to request genetic testing prior to signing. Typically, the voluntary acknowledgment form is completed and attached to supplementary documents which address the father's wages and any custody and visitation agreement.

***Child Support Staff Report Voluntary Acknowledgments Save Parents and Staff Time, and May Encourage Better Parent Relationships and More Consistent Payment of Support.***

Voluntary acknowledgment, particularly when completed in the hospital, has unique advantages over other methods of establishing paternity. Table 2 outlines possible advantages to establishing paternity through voluntary acknowledgment. Overall, State child support agencies appear more enthusiastic about voluntary acknowledgment than local child support offices in our six focus States. State and local respondents do agree that voluntary acknowledgment establishes paternity more quickly than other methods. However, the other prominent advantages identified by State-level respondents (convenience for parents, less time invested by parents and child support staff, and saving agency money) were listed less often by local staff. Interestingly, about half of both State and local respondents report the father is more likely to consistently pay support if he establishes paternity through voluntary acknowledgment.

Relative to other methods, local staff identified several other advantages of voluntary acknowledgment including: fathers who voluntarily acknowledge may be more involved with the child; the acknowledgment forms collect more information on fathers; clients and staff are more comfortable with a simpler and less adversarial process; and voluntary acknowledgment may send the child the positive message that his father wants to be a responsible parent. An added advantage to at-birth acknowledgments is that the father’s name may be included as part of the original birth record.

<b>TABLE 2: ADVANTAGES OF ESTABLISHING PATERNITY THROUGH VOLUNTARY ACKNOWLEDGMENT</b>		
<b>Advantages</b>	<b>State CSE Respondents</b>	<b>Local Focus CSE Respondents</b>
Establishment Occurs More Quickly	94 % (48 States)	89 % (87 Offices)
More Convenient for Parents	86 % (44)	65 % (62)
Takes Less of Child Support Staff Time	86 % (44)	61 % (59)
Less Costly for Child Support Agency	80 % (41)	56 % (54)
Promotes Better Parent Relationships	59 % (30)	46 % (45)
Fathers Who Acknowledge Are More Likely to Pay	47 % (24)	45 % (43)

## RESCISSION OF VOLUNTARY PATERNITY ACKNOWLEDGMENTS

*Forty-five States Have an Official Rescission Procedure in Place, With 18 Using an Administrative Method, and 21 Using Judicial or Quasi-Judicial Methods of Rescission.*

Although most States (45) report creating official procedures for rescission of voluntary paternity acknowledgments, there is much debate over the relative merit of administrative and judicial rescission methods. The remaining six States have no formal rescission process or are currently involved in designing a process. Advocates of administrative methods claim that the intent of the 60-day rescission window is to allow parents a simple process for reversing their action before it becomes legally binding, which emphasizes the voluntary nature of the acknowledgment itself. They argue that voluntary acknowledgment is an administrative action, and that its reversal within a brief time period is appropriately administrative as well.

State child support agencies in 18 States report their rescission process is fully administrative. Most of these States have created a simple rescission form which either parent can complete and submit to the child support agency within the time frame. A few States also require these parents to submit proof of a certified letter to the other parent informing them of the action, and a notarized affirmation from the vital records office that they have requested amendment of the birth record. The majority of States, however, appear to have no formal method for contacting all parties. Administrative rescissions in some States do not automatically alter the birth record because the vital records agency requires a court order to remove the original father's name. Some States might claim to have an administrative process, and yet this means only that the request for the rescission is received by the administering child support office. That office may then submit an order for genetic testing, and if the father is excluded he must go to court to have his name removed. Also, some administrative processes require an administrative hearing which can take as long as getting on the court docket.

Child support agencies in 15 States report they have a fully judicial method for rescission, which requires the requesting parent to appear in court to change the paternity determination. Proponents of a judicial method believe it increases the likelihood that all parties are notified, and also discourages impulsive actions on the part of either parent. Parents in these States typically must file a petition for rescission with the family court, and are ordered by the judge to submit to genetic testing to determine parentage. Six States report they have a quasi-administrative procedure requiring some sort of judicial approval. This procedure may require the parent to submit a request for rescission which a court clerk may approve without a court appearance.

Regardless of the method used, rescission is valued for the due process protections it potentially affords mothers and putative fathers. State child support agencies in 25 States and State vital records agencies in 28 States report that knowing they can rescind the acknowledgment encourages parents to sign. Of the 33 State vital records agencies responding as to which parent is more likely to initiate a rescission, ten report the putative father, and four report the mother, with the remaining nineteen perceiving that parents were equally likely to rescind an acknowledgment.

***Most States Report Very Few Official Rescissions, But More Rescissions May Be Occurring Informally Through Child Support Offices and Courts.***

We reported in our 1997 study of in-hospital acknowledgment programs that the number of rescissions was very low, and our current data indicates that rescissions are still infrequent.<sup>13</sup> Thirty-nine State vital records agencies and 35 State child support agencies report few or no rescissions. Only two States report handling more than a few rescissions, but still report the number to be fairly small relative to the large number of signed acknowledgments. The largest number of rescissions reported by a State was 50 over a three-year period. This same State reported to OCSE that it processed over 12,000 signed acknowledgments within approximately the same time period. About half (55 percent) of local offices contacted in focus states report they have never handled any type of rescission.

Although the number of official rescissions is low, States may only report the few rescissions that follow formal State procedures. Based on our analysis of State documents and survey responses, acknowledgments are being revoked after the 60-day window through use of ad hoc methods in child support offices and courts. These revocations are not reported as rescissions because they typically occur following the 60-day period under the provision allowing for challenge of the acknowledgment due to fraud, duress, or material mistake of fact. A strict interpretation of this phrase suggests that the man cannot merely claim that he was given misinformation from the mother. However, OCSE has not specified what constitutes fraud, duress, or material mistake of fact through regulation, and State discretion has resulted in widely varying interpretations.

***Child Support and Vital Records Agencies, as Well as Parents, Sometimes are Not Notified When Voluntary Acknowledgments are Revoked Within or After the Rescission Window.***

When an official rescission has taken place, it is doubtful that all interested parties are notified. State child support agencies in only 21 States report they routinely notify vital records agencies when rescissions take place, and vital records agencies in only 23 States report they do the same for child support agencies when rescissions occur at their offices. Vital records agencies in 11 States report they do not receive rescission information unless the parents happen to request an amendment of the birth record, and most others appear to have no formal method to ensure notification. Twenty-one State vital records agencies report they change the birth record automatically when notified of a rescission, while the remaining agencies require additional action on the part of parents or courts. Child support agencies in only 28 States formally notify the other parent when a rescission is filed, but respondents in States which do not notify parents claim the other parent finds out anyway because they may be ordered to submit to genetic testing. Vital records agencies in only 11 States formally notify the other parent when a rescission is processed through their office, and notice is typically sent by mail. Of course, when voluntary paternity acknowledgments are overturned informally by child support staff or courts, notification of all parties appears even less likely.

## BARRIERS TO USE OF VOLUNTARY ACKNOWLEDGMENTS

### *State and Local Child Support Staff Concerns About the Use of Acknowledgments Relate Less to the Process Itself Than To Incorrect Implementation by Parents and Staff.*

While child support agencies in 22 States express no concerns with the use of voluntary paternity acknowledgments, the remaining agencies (as well as most State vital records agencies and local child support offices in focus States) identified a number of potential problems. As shown in Table 3, the most common issues concern how voluntary acknowledgments are administered rather than inherent flaws in the process. Some State child support agencies, and about one third or more local office respondents in focus States, are concerned that staff at hospitals, vital records offices and alternative sites may administer voluntary acknowledgments incorrectly. While only a few State child support and vital records agencies lack confidence in the legal standing of voluntary paternity acknowledgments, local child support staff in forty-two offices report such concerns. Several caseworkers related experiences in which courts would overturn acknowledgments after the 60-day rescission period by granting genetic testing to determine parentage. Some local staff expressed a perception that the legal community in their State had reservations about any use of voluntary acknowledgments, leading caseworkers to avoid use of acknowledgments. 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.*”

<b>TABLE 3: CONCERNS WITH USE OF VOLUNTARY PATERNITY ACKNOWLEDGMENTS</b>			
<b>Concern With Voluntary Acknowledgment</b>	<b>State CSE Respondents</b>	<b>Local CSE Focus Respondents</b>	<b>State Vital Records Respondents</b>
No Concerns	43 % (22 States)	19 % (19 Offices)	33 % (17 States)
Hospitals May Administer Incorrectly	37 % (19)	47 % (46)	40 % (21)
Alternative Sites May Administer Incorrectly	24 % (12)	33 % (33)	27 % 14
Parents Should Have First Sought Genetic Testing to be Sure of Parentage	24 % (12)	43 % (43)	13 % (7)
Not Confident of the Legal Standing of the Acknowledgment Document	12 % (6)	43 % (42)	17 % (9)
Parents May Have Been Coerced to Sign	12 % (6)	32 % (32)	17 % (9)
Vital Records Agency May Administer Incorrectly	6 % (3)	31 % (31)	N/A

Other concerns voiced by both State and local staff are that custody and visitation matters are not addressed by voluntary acknowledgment, and that some men may sign the affidavit knowing they are not the father, as one local office manager describes “*out of kindness, pity or foolishness.*” Some local offices we visited report that months or years later, when these fathers may no longer be in a relationship with the mothers or when required to make child support payments, they may either request genetic testing or become chronically delinquent payers. At the time of signing, some of these men may genuinely plan to perform as father throughout the child’s life, but others may have no such desire. Mothers may encourage this type of acknowledgment to help maintain their eligibility for public assistance benefits or to keep the real father away from the child.

A few State agencies and about a third of local office respondents are concerned that some people who sign acknowledgments may be coerced. Local staff suggest this may occur in hospitals, at the time of birth, when relatives of the new-born may make threats or otherwise coerce one or both parties into signing an acknowledgment. As shown in Table 3, some State and local respondents believe it would be better for parties to confirm paternity through genetic testing than to voluntary acknowledge.

***Child Support Staff May Simply Prefer to Establish Paternity Using Other Administrative and Judicial Methods, Believing They Create a More Solid Foundation for Collection of Support.***

Even when States make voluntary acknowledgment procedures accessible, child support staff may choose to use other administrative or judicial methods of paternity establishment. Further, when staff perceive advantages to other methods of paternity establishment, they may use these methods even when it requires discarding a valid voluntary acknowledgment. Staff in four of our six focus States report they may not encourage voluntary acknowledgment, choosing instead to assist parents in completing an administrative order of paternity which may include paternity establishment, determination of the award amount, creation of the child support order, and possibly even resolution of custody and visitation issues, effectively completing their casework in one meeting. Or, if uncertainty exists about the identity of the father, establishment may involve genetic testing and a subsequent ruling of paternity.

On the other hand, child support staff may encourage parents to use voluntary acknowledgment, in their office if the parents are living together at the time the mother applies for public assistance. One worker describes this type of case, “*If it is an intact family and the father is with the mother, then we will have him sign a [voluntary acknowledgment] form. We have been getting quite a few of these kinds of cases lately. In the case of an intact family, the form alone is enough to establish paternity. For the record, we open a case and then close it right away, as long as he is in the home with the custodial parent and they are both together.*”

***States With Highly Judicial Processes May Not Use Voluntary Acknowledgments or Other Administrative Methods Because the Support Order Must Be Created Judicially Anyway.***

About half of States (23) still require some sort of judicial involvement for establishing paternity, regardless of whether the case is contested or not. In these States, staff may see little benefit to

using voluntary acknowledgments because child support orders must still be approved by the courts. When paternity is established judicially a support order is typically entered simultaneously. A local administrator in one of these States reports, “*all of our orders go through the courts, even voluntary acknowledgments. We don’t bother to hunt down an acknowledgment or have the parents come in to sign one. It just adds an unnecessary step to the process.*” While workers in some States may simply perceive that it is easier to use their tried and true judicial processes for paternity and child support establishments, child support agencies in at least five States lack the authority to finalize child support orders administratively.

***Both Courts and Child Support Agencies May Not Consider Voluntary Acknowledgments Binding in Contested Cases, and Order Genetic Testing Long After the Rescission Period.***

Not all States have adopted the Federal mandate for a 60-day rescission period followed by a conclusive finding of paternity. Critics of the window argue that placing a limit on the time within which a parent may rescind violates due process laws in some States. In other States, automated systems allow child support orders to be created very quickly, sometimes the same day as the acknowledgment, effectively eliminating the time period for legal rescission.<sup>14</sup> Even States which have adopted the 60-day rescission rule sometimes revoke acknowledgments later. Procedures vary widely by State, but may be called “re-openings” rather than rescissions, and require parents only to petition the court, appear at a hearing, and submit to genetic testing, possibly without any evidence of fraud, duress or material mistake of fact. If the father is excluded through genetic testing, he may need to file yet another form to formally revoke his parental rights and obligations.

Courts are not alone in revoking voluntary acknowledgments long after the rescission period. Local child support staff in focus States report offering to “set aside” prior acknowledgments in order to give clients the time to complete genetic tests. If the father doesn’t submit to testing within a certain time period (typically two weeks), the child support office may begin steps to establish paternity by default. Staff in other offices don’t even consider the form binding to begin with, and use it instead merely as a source of information about the putative father. They report that the extensive information included in the acknowledgment is very useful to caseworkers in locating the putative father and creating the actual support order. Child support agencies in 22 States affirm that they recommend their local offices prioritize their caseload by first working the cases with the most information.

Some judges and child support staff may not accept acknowledgments as binding because they genuinely believe parents should submit to genetic testing in nearly every case. In our study of State genetic testing practices, we report that 40 State child support agencies believe genetic testing should be used when any uncertainty about paternity exists on the part of any of the parties, and another six go further to say it should be used in all cases. One local administrator in a focus State argues that, “*Testing in all cases eliminates later motions for testing after arrearages have accumulated.*” It is not uncommon for a judge to order genetic testing when a voluntary acknowledgment already exists. Until a court order exists, the judge may not consider that the case has a legal finding of paternity. If the case is never contested, the administrative ruling will stand. But if a father decides months or even years later that he was unsure and no

longer wants to make payments, he may contest the original acknowledgment. As previously mentioned, staff report that it is common for a father to deny his original acknowledgment at the time he is first required to pay support, which may also be at the end of his relationship with the mother.

## RECOMMENDATIONS

---

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

Although welfare reform encourages States to use administrative methods to establish paternity and create child support orders, many States still rely on their courts to varying degrees. We found that State and local courts may not accept the legal standing of voluntary acknowledgments. OCSE should encourage State child support agencies to inform State and local courts regarding the legality of acknowledgments as conclusive findings of paternity, and work more closely with State legal entities to ensure adherence to Federal law.

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

We found that some local child support staff did not use voluntary acknowledgments as conclusive findings of paternity, even when State laws and courts allowed. OCSE should provide technical assistance to States for instructing local child support staff regarding the legal standing of paternity acknowledgments as binding establishments of paternity, emphasizing practical training on use of acknowledgments in establishing paternity. We found that local staff may ignore signed acknowledgments, choosing to pursue paternity establishment through other methods. Because voluntary acknowledgment can potentially save valuable staff time, local staff should be further educated on the legal implications of acknowledgment and encouraged to use it when possible as part of standard office procedure.

### ***OCSE Should Provide Guidelines for States Regarding Circumstances Which May Constitute Fraud, Duress or Material Mistake of Fact, to Reduce the Number of Acknowledgments Overturned.***

State laws vary regarding the re-opening of paternity cases established through voluntary acknowledgment. The variation among States appears to rest in their interpretation of what constitutes “fraud, duress and material mistake of fact.” OCSE should collect information from States, and use the information gathered through their investigation to issue guidelines for interpretation of this clause.

### ***OCSE Should Encourage Child Support and Vital Records Agencies to Develop Uniform Statewide Rescission Processes, Including Methods for Notifying All Interested Parties.***

Welfare reform legislation establishes a uniform 60-day rescission period, but does not specify how rescissions should be processed. States possess unique characteristics which may cause them to favor administrative or judicial revocation. We recommend that OCSE encourage States to develop procedures for handling rescissions, and that child support and vital records agencies in each State work together to develop a procedure for the rescission of acknowledgments, including the routine transfer of rescission information to agencies, courts and parents.

## AGENCY COMMENTS

We appreciate the current initiatives of the Administration for Children and Families (ACF) aimed at improving State use of voluntary paternity acknowledgments, and ACF's supportive response to our recommendations. Here we wish to reemphasize certain features of our recommendations deserving of special attention as OCSE proceeds to implement them.

Regarding our recommendation that OCSE encourage States to clarify for the courts the legal standing of acknowledgments, ACF advises that they will inform States of this recommendation and the findings upon which it is based. On this issue, we wish to emphasize that the treatment of an acknowledgment as a conclusive finding of paternity is a clear legal requirement. We hope that this will be emphasized in any materials which ACF sends to the States on this matter, and we encourage ACF to work closely with States to help ensure adherence to the Federal law.

Regarding our recommendation that OCSE assist States in training local staff on the use and meaning of acknowledgments, ACF requests that we provide information about States having difficulty in order to provide guidance. We will provide this information. ACF also states its plans to continue distribution of a Computer-Based Training program for use by local office staff. We viewed this program, and believe it provides valuable information on procedures, recent legislation, and reasons for establishing paternity, but is insufficient for reinforcing the concept of acknowledgments as binding establishments of paternity. We encourage ACF to further explore ways to assist States in promoting proper use of acknowledgments, and in discouraging local staff and court dismissal of existing acknowledgments.

Regarding our recommendation that OCSE provide guidance on circumstances which may constitute fraud, duress and material mistake of fact, ACF states that they will investigate this issue, sharing effective practices and offering guidance to States experiencing problems. The importance of this issue has caused us to modify our original recommendation to encourage ACF to use the information gathered to issue guidelines for interpreting this clause. ACF requested information on States which have misinterpreted this clause, which we will provide. We continue to believe the confusion over interpretation is more widespread than can be addressed by targeting States identified as experiencing problems. Our research shows that the principle problems of nonadherence or misinterpretation of the law are more likely to stem from caseworkers and courts at the local level, rather than just with State policy. In addition to issuing guidelines, we encourage ACF to assist States in addressing this issue at the local level.

In response to our final recommendation that OCSE assist child support and vital records agencies in developing a Statewide rescission process, including a method for notifying all interested parties, ACF responds that they will inform the States of our finding and promote effective methods of cooperating with vital records agencies. We wish to emphasize that these rescission processes should include uniform methods for notifying all interested parties, including courts and parents as well as child support and vital records agencies.

The agency also made a few technical comments which we have addressed in the body of the report. ACF comments are provided in their entirety in Appendix A.

# ENDNOTES

---

1. Section 466(a)(5)(C) of the act as added by section 331 of Pub. L. 104-193 and amended by section 5539 of Pub. L. 105-33.
2. Social Security Act, Section 466(a)(5)(D)(i)(II).
3. For more information, please refer to In-Hospital Voluntary Paternity Acknowledgment Program: State Agency and Birthing Hospital Implementation, 1997, OEI 06-95-00160.
4. Federal regulation requires State vital records agencies to offer paternity acknowledgment services, and States may choose to offer services at local vital records offices and other entities, such as Head Start programs, public health clinics, WIC centers, and schools. We discuss the use of State and local vital records offices in our companion report entitled Paternity Establishment: The Role of Vital Records Agencies, OEI-06-98-00055, and the use of other entities in our companion report entitled Paternity Establishment: Use of Alternative Sites, OEI-06-98-00052, 1999.
5. 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.
6. The availability of OIG agency support staff to assist in conducting interviews played a role in selection of these interview sites.
7. 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 21<sup>st</sup> Annual Report to Congress and the National Center for Health Statistics.
8. For more information on the substance of parental rights and responsibilities, refer to our companion report entitled Paternity Establishment: Notification of Parental Rights and Responsibilities, OEI-06-98-00051, 1999.
9. For more information on staff views regarding parents' understanding of rights and responsibilities, see *ibid* OEI 06-98-00051, 1999.
10. For more information on the level of judicial involvement in State paternity establishment practices, see our companion report Paternity Establishment: Administrative and Judicial Methods, OEI 06-98-00050, 2000.
11. Although this study does not attempt to compare State paternity establishment percentages (PEP) with methods used, a quick look at PEP rates for these 18 States indicates a slightly higher

overall rate of establishment as compared to the average of all States.

12. For more information about other administrative methods of paternity establishment, see our companion report on paternity establishment methods, *ibid*, OEI-06-98-00050, 2000.

13. *Ibid*, OEI-06-95-00160, 1997.

14. Michigan is operating under a Federal waiver which allows them to ignore the 60-day mandate while they experiment with various recission methods.

# 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	2-23

RECEIVED  
2000 FEB 22 PM 3:37  
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.