SPEAR, J., concurring. I agree with the reasoning and the result in this case. I heartily endorse our disapproval of the newspaper notice that was given to the respondent when, as the trial court found, the department's ''own records clearly showed he was in prison.'' I write separately to express my further disapproval of the commissioner's cavalier disregard for the truth in the sworn termination petitions. Although a program supervisor signed and swore to the truth of all of the allegations in the petitions, four allegations are completely baseless.

First, the petitions alleged that the department ''made reasonable efforts to locate'' the respondent. That sworn allegation cannot be reconciled with the department's resort to newspaper notice of the neglect proceedings despite the fact that the respondent's incarceration record was in the department's file and showed that he was in prison. It is inconceivable that this allegation could be made when the department failed to use the information in its own file to locate the respondent. Such a failure is the antithesis of reasonable efforts.

Second, the petitions alleged that the department

''made reasonable efforts to reunify'' the children with the respondent. Nothing in the record indicates any department activity that remotely resembles such an effort. Accordingly, the court found that the department ''failed to offer or provide services to [the respondent].'' This allegation should not have been made because it was clear that the department had done absolutely nothing.

The third troubling allegation is that the respondent was ''unable or unwilling to benefit from reunification efforts.'' Because there were no such efforts, this claim simply compounds the wrong.

The fourth and most egregious allegation is that the respondent was ''provided *specific steps* to take to facilitate the return of the [children] and the [respondent] failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the [children, he] could assume a responsible position in the life of the [children].'' (Emphasis added.) The department did not provide specific steps to the respondent. It did not provide anything.

The court stated: ''Presumably, if [the respondent] had been located by [the department] in prison and given actual notice of the proceedings, he would have taken part in the neglect case and been represented by counsel. He also would have been given steps which would have provided him with a clear road map of what he would have needed to accomplish in order to be considered rehabilitated. Given [the department's] failure to provide notice to [the respondent] even though its own records clearly showed he was in prison and its *failure to provide steps* or visitation, it would be fundamentally unfair for this court to make a finding that [the respondent] has failed to rehabilitate.'' (Emphasis added.)

This is not a case where the commissioner simply was unable to satisfy the burden of proof. My concern is the complete lack of any facts upon which to base these four allegations. I am aware of the department's daunting caseload and the need to use form petitions, such as the one used in this case. That need, however, does not mean that a department supervisor should go through the form, check off all possible allegations, regardless of the facts in the department's file, and swear to their veracity. Such action is deplorable and the department should take steps to prevent it from occurring again.