

Enclosure

1. *Does the lack of staffing within DoD CDCs contribute to any of these incidents, particularly with less supervisory staff to review CCTV and/or observe CDC staff to ensure they are compliant with all CDC rules and performing to standard?*

Response. The Department's policies ensuring the safety and well-being of children and care do not change because of staffing availability. To mediate any staffing shortages, child development programs (CDPs) adjust the number of children in care to remain compliant with staff to child ratios and applicable line of sight supervision requirements.

2. *Does the lack of staffing increase the workload and potential stress of the current CDC staff which may negatively impact their work environment and/or quality of work?*

Response. The Department does not have quantitative data on whether a lack of staffing contributes to increased stress for current staff. Per the direction of the Deputy Secretary of Defense, the Office of the Deputy Assistant Secretary of Defense for Military Community and Family Policy stood up a task force to conduct a comprehensive review of current Department of Defense (DoD)-wide CDP professionals' recruitment, retention, and compensation structure and related policies. The task force member composition reflected a multi-disciplinary team of DoD subject matter experts in the fields of child development, human resources, policy, and resourcing and included representatives from the Department, the Military Services, and installation level programs. Through task force meetings conducted from August 2022 through March 2023, we received anecdotal feedback that decreases in staffing contribute to increased workload and employee burnout. In a March 2023 publication,¹ the Administration for Children and Families amplified prior research that some turnover is normal in child care programs and can be problematic for teachers, including staff stress levels.

The CDP Recruitment, Retention, and Compensation Task Force recommendations to build support for classroom staff through the addition of special needs inclusion coordinators, lead educators, and a redesigned compensation model were included in the Department's Fiscal Year 2025 President's Budget submission. The intent of these efforts is to positively impact classroom climate through additional supervision, coaching, and expertise, as well as to ensure appropriate compensation for the critical work of our classroom teachers.

3. *What were the current policies for reporting an incident of harm or injury to a child at a DoD CDC in August 2022 and how were they implemented in the two child abuse cases referenced above [Ford Island and China Lake]?*

Response. In both cases, the appropriate reporting protocols were implemented by the respective Navy child and youth programs (CYPs). Navy CYP professionals are mandated reporters of suspected child abuse under both law and the Navy's Family Advocacy Program (FAP) policy. CYP professionals are required to report suspected incidents of child abuse or neglect to FAP and to state child protective services (CPS) per the Office of the Chief of Naval Operations Instruction 1700.9E and Child Abuse Prevention Education Reporting Standards. Incidents of problematic sexual behavior between two CYP participants must also be reported to FAP. Additionally, Navy CYP programs are required to notify

¹https://www.acf.hhs.gov/sites/default/files/documents/opre/workforce_turnover_snapshot_apr2023.pdf

Commander, Navy Installations Command (CNIC) of all instances of suspected abuse or neglect by a CYP professional. CNIC then reports the incident to the Assistant Secretary of the Navy for Manpower and Reserve Affairs and the Office of the Deputy Assistant Secretary of Defense for Military Community and Family Policy through the Office of Child and Youth Programs. CYPs also report instances of lapses in supervision and allegations of child maltreatment by an employee to their national accrediting organization, the National Association for the Education of Young Children.

4. *Under the current policy for when and how to notify a parent of an incident involving their child, what information is provided to the parents?*

Response. The Military Service policies direct CDPs to provide notification to the parent(s) or legal guardian, either verbally or in writing, with details of the incident including information such as the date and time of the incident, a description of the reportable incident, any initial actions taken related to the reportable incident, and preventative measures, if applicable, without disclosing names of alleged offenders or any other children or staff involved.

5. *When were the parents notified in the two child abuse cases referenced above [Ford Island and China Lake]?*

Response. China Lake case: After reviewing closed circuit television footage and identifying policy violations, written communication was sent to parents addressing failure to follow the updated Navy and DoD policies for day-to-day management of the facility. Individual families were notified as appropriate through law enforcement, CPS, or the child development center (CDC) leadership if there was a suspicion of child abuse. Additionally, CYP staff discussed the identified policy violations during Parent Involvement Board Meetings.

Ford Island case: The parent of the child informed the CDC director of their concern. The director immediately began a review and notified the family the same day. Individual families were notified as appropriate through law enforcement, CPS, or the CDC leadership if there was a suspicion their child was a victim of child abuse.

6. *How and when were the parents in the Ford Island case—the Kuykendalls—notified that the FOIA request fees had been waived?*

Response. The Kuykendalls were notified via email on March 4, 2024, that the Freedom of Information Act (FOIA) processing fees had been waived.

7. *Are there policies that restrict notifying parents as to whether disciplinary action has been taken against a child care provider related to an incident involving the parents' child?*

Response. There are no DoD-level civilian personnel policies specifically addressing disclosure of disciplinary action for any reason to another party (e.g., notifying parents as to whether disciplinary action has been taken against a child care provider related to an incident

involving the parents' child). In accordance with Department of Defense Instruction (DoDI) 1400.25, Volume 1471, "DoD Civilian Personnel Management System: Nonappropriated Fund (NAF) Labor-Management and Employee Relations," DoD Components will develop and issue internal procedures for processing and effecting employee disciplinary actions. In cases where a labor organization has exclusive recognition, the negotiated disciplinary process in the union agreement governs for all applicable bargaining unit employees. These procedures may include administrative investigations to be conducted in cases of employee misconduct.

DoD Component heads must comply with the Privacy Act of 1974 and DoD policies pertaining to privacy and civil liberties, including DoDI 5400.11, "DoD Privacy and Civil Liberties Programs." The Department strives to provide as much information as it can to inform parents and provide them the resources they and their child need, but there comes a point when legal obligations, for example under the Privacy Act, limit the information we can provide. Disclosing the disciplinary record of an employee must be considered in view of the Privacy Act of 1974, codified in 5 U.S.C. § 552a. The Privacy Act governs the collection, maintenance, use, and dissemination of information about individuals that is maintained in systems of records by Federal agencies. Specifically, the Privacy Act prohibits the disclosure of a record about an individual from a system of records in the absence of written consent by the individual to whom the record pertains, unless the disclosure is permitted by one of the 12 statutory exceptions listed in subsection 552a(b). Such exceptions, for example, would permit disclosures under emergency circumstances affecting the health or safety of an individual if certain notice requirements are met, or when disclosure of the information would be required under FOIA. Agencies may also have their own privacy policies along with additional requirements imposed by collective bargaining agreements. Agency disciplinary investigations must adhere to the agency's privacy policy and the Privacy Act.

The specific facts, such as a pending investigation or disciplinary decision, may restrict what may be disclosed. Depending on the circumstances, a typical practice in situations where an individual asks whether or/what kind of disciplinary action has been taken against another individual is to not comment, or to simply indicate that the Agency has taken/will take appropriate action. Appropriate action could be disciplinary action, up to and including removal, or other non-disciplinary action as deemed appropriate.

Under the Privacy Act, parents may typically act on behalf of their minor children to request access to records concerning their children and may use the FOIA process to request other information, which must be released unless subject to an applicable exemption.

8. *Is there any appeals process or method for a parent to request additional action against a child care provider (i.e., parent can request a child care provider be removed from the CDC based on the severity of the incident or the number of offenses involving their child or other children)?*

Response. The Military Services do not have standard appeals processes to request additional action against a child care provider and other nonappropriated fund employees.

CYP managers follow established labor guidelines and coordinate disciplinary actions with installation personnel and legal offices.

In the event a parent or guardian is not comfortable with the outcome and final determination of an incident, the CDP may offer placement of the child(ren) in an alternate classroom, program facility, family child care home, or provide fee assistance options if installation care is unavailable.

9. *Are there any audits or inspections that occur at CDCs? If so, how often and who controls those audits or inspections?*

Response. Section 1094 of title 10, U.S. Code, directs the Secretary of Defense to require each military child development center be inspected at least four times a year, and each such inspection shall be unannounced. DoDI 6060.02, "Child Development Programs (CDPs)," requires three of these annual unannounced inspections to be local inspections led by a representative of the installation commander and include an annual comprehensive health and sanitation inspection, annual comprehensive fire and safety inspection, and a multi-disciplinary inspection whose team includes parent representation. The fourth annual unannounced inspection is a higher headquarters certification inspection conducted by the Military Services to ensure compliance with DoD and Military Service-level policy as well as to verify previously mentioned local inspections were conducted and deficiencies were corrected.

10. *How and when are the reports on investigations of the CDCs maintained and released to the public?*

Response. Reports on investigations of individuals alleged to have committed a criminal act of abuse in a CDC, like other reports of a criminal investigation, are generally not released to the public. The investigative agency provides verbal updates to a parent(s) or guardian of a child attending a CDC regarding investigations involving an allegation of abuse by a CDC employee against their child, consistent with applicable law. Parents or guardians seeking the results of criminal investigations may submit a FOIA request. If the allegations become subject to criminal judicial proceedings, the parent(s) or guardian would be privy to the outcome based on the public nature of criminal trials.

11. *According to Military.com, "the Army doesn't have any clear public policy on documenting or reporting [on incidents involving sexual contact between children], whereas civilian day cares are often required by state law to [inform parents immediately]." Does DoD require mandatory reporting of sexual behavior between children to the parents of the child as mandated by law in most states?*

Response. In accordance with DoDI 6400.01, DoDI 6400.10, and section 1089 of the National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232), any report of problematic sexual behavior between children and youth received by a child development center, or several other institutions, must be provided to FAP for review.

Parental notification by FAP may occur upon receipt of a referral or may occur after the notification of the multi-disciplinary team, depending on the involvement of other agencies. Reports or allegations may involve multiple children and caregivers and multiple agencies who may notify the parent(s) or guardian. FAP synchronizes contact with parents and caregivers to minimize the system impact on the family.

12. *When will the Army's policy and regulation relating to the mandatory reporting of sexual behavior to parents be released to the public?*

Response. The Army is dedicated to providing a safe, nurturing environment for the children of soldiers and their families and is committed to upholding the highest standards of care in their facilities. In alignment with this commitment, their focus on continuous improvement, and greater transparency, the Army published Execution Order (EXORD) 201-24, "Implementation Guidance for Installation Response to Problematic Sexual Behavior in Children and Youth," on May 17, 2024. This EXORD ensures standard operating procedures and compliance across Army installations when responding to reports of problematic sexual behavior in children and youth and requires notification to parents of children involved in the incident the same day as the incident is discovered.

13. *Why is this Army policy on day care reporting standards marked as Controlled Unclassified Information (CUI)?*

Response. The original order was incorrectly marked as CUI, and the Army took steps to make it available for public release. The order was made publicly available on May 6, 2024.

14. *What actions is DoD taking to implement consistency across the services to ensure parents are informed on what happens to their children and that the CDC staff and military leadership maintain transparency with parents throughout any subsequent investigations or adverse actions relating to incidents of abuse or concerning conduct?*

Response. The Department conducted a review of applicable policies to determine gaps and ensure the consistent and effective implementation of child abuse prevention, identification, and reporting of child abuse incidents in Department CDCs. This review included Military Service-level policies regarding parental notification. Based on this review, Department policy updates are being made accordingly.

15. *Secretary Del Toro testified before Congress that "the director of that [China Lake] child-care center was actually fired, while Military.com reported that it appears that the director had resigned prior to the discovery of the incident. Is there an explanation for this discrepancy?*

Response. The director retired after receiving a notice of proposed removal.