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from
Meeting on Criminal Background Checks
for Child Care Personnel
August 27, 1997
Old Executive Office Building

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1

Divider Title: _____

CRIMINAL HISTORY BACKGROUND CHECKS

MAJOR ISSUES

- **No national standards**
 - **No standardized requirement**
 - **Federal -- criminal records and fingerprint check**
 - **States -- criminal and civil records and finger print check**
 - **criminal records and finger print check**
 - **criminal records and civil records check**
 - **criminal records check**
 - **No standardized definitions among States**
 - **Applicability**
 - **Full- or part-time employees, volunteers or contractors**
 - **Status – owners, care providers, administrative staff**
 - **Scope of relevant criminal records**
 - **Crimes specifically related to child abuse and neglect**
 - **Other crimes deemed relevant to child care (drugs, sex, violence)**
 - **All crimes**

MAJOR ISSUES (continued)

- **No single repository of information for background checks**
 - **Federal and State information systems**
 - **Decentralized criminal justice records (local law enforcement/courts)**
 - **Decentralized child protective services records**
 - **Information gaps (dispositions, juvenile delinquency, mental health)**
- **Numerous information systems have different purposes and content**
 - **Criminal record and sex offender registration systems assist law enforcement in tracking crimes and criminals**
 - **Criminal records may not identify child abuse**
 - **Sex offender registries may not identify child molesters**
 - **Child abuse registries assist social service agencies in protecting children**
- **Current laws have limited impact**
 - **Crime Control Act of 1990, as amended, requires fingerprint checks for workers in Federally operated/contracted child care facilities**
 - **National Child Protection Act of 1993, as amended, authorizes national background checks only if State law requires a national check through a State-designated agency**
 - **Some States do not require background checks (or even screening)**
 - **Some States require only a State background check**

signature

MAJOR ISSUES (continued)

- **Cost considerations**
 - Automating information systems
 - Linking State and Federal information systems within and across jurisdictions
 - Processing charges for record and fingerprint checks
- **Right to employment and privacy considerations**
 - Accuracy of information
 - Completeness of information
 - Retention period of information
 - Misuse of information
- **Background checks are only one element of screening for potential employees and volunteers**

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Divider Title: _____

GUIDELINES FOR THE SCREENING OF PERSONS WORKING WITH CHILDREN, THE ELDERLY AND PERSONS WITH DISABILITIES IN NEED OF SUPPORT

1. OVERVIEW

1.1 BACKGROUND

Over 87 million children are involved in activities provided by child and youth service organizations and agencies each year. Millions more adults, both elderly and individuals with disabilities in need of support, are served by many, many more organizations and agencies. These encounters run the gamut from relatively brief interactions with health care or recreation providers to surrogate family relationships in foster care or intensive dependent adult care services in or out of the home. The vast majority of these encounters are not harmful or abusive, but result in much needed services being provided, sometimes by volunteers, often by persons who are not among society's better-paid employees.

Abuses do, however, occur. Although studies are sketchy and do not provide a complete picture, one study indicated that 12.8% of the estimated 2 million elder abuse incidents occurring in the home were perpetrated by service providers.¹ A survey of 600 nursing home staff members suggested that elder abuse is a fact of institutional life with 10% admitting to physically abusing patients and 40% admitting to personally committing at least one psychologically abusive act in the preceding year.² As for children, estimates for child sexual abuse in day care centers, foster care homes and schools range from 1 to 7 percent.³ Although the incidence of abuse may be relatively small, abuse traumatizes the victims and shakes public trust in care providers and organizations serving these vulnerable populations.

Congress has acted to address concerns about this type of abuse. In 1993, the National Child Protection Act, P.L. 103-29, was passed. Section 3 of the Act set forth a framework through which States can authorize FBI criminal record checks for child care providers. In 1994, the Violent Crime Control and Law Enforcement Act of 1994, P.L. 103-222, amended the 1993 Act so that States could

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¹Summaries of National Elder Abuse Data: An Exploratory Study of State Statistics, National Aging Resource Center on Elder Abuse. Washington, D.C. (1990).

²AARP Public Policy Institute, *Fact Sheet: Elder Abuse and Neglect* (April 1993).

³See *Effective Screening of Child Care and Youth Service Workers*, ABA Center on Children and the Law (1994) (citing Finkelhor & Williams, *NURSERY CRIMES: SEXUAL ABUSE IN DAY CARE*, Newbury Park, CA SAGE Publications (1988); Baas, *Background Checks on School Personnel*, U.S. Dep't of Education, Washington, D.C. (ED 324767 1990); Daro & McCurdy, *Current Trends in Child Abuse Reporting and Fatalities: The Results of the 1991 Annual 50 State Survey*, Chicago, Ill, National Center on Child Abuse Prevention Research, National Committee for Prevention of Child Abuse; Margolin, *Child Sexual Abuse by Nonrelated Caregivers*, 15 CHILD ABUSE AND NEGLECT 213 (1991).

also authorize FBI criminal record checks on those working with individuals with disabilities or the elderly. In addition, the Attorney General was directed to "develop guidelines for the adoption of appropriate safeguards by care providers and by States for protecting children, the elderly, or individuals with disabilities from abuse." In developing these guidelines, the Attorney General was further directed to "address the availability, cost, timeliness, and effectiveness of criminal history background checks and recommend measures to ensure that fees for background checks do not discourage volunteers from participating in care programs."

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guidelines

These guidelines supplement and incorporate those issued on July 17, 1995 (see CJIS Information Letter 95-3 at Appendix B). They will assist those faced with screening decisions by suggesting a decision-making model that can structure an analysis of screening issues. The Guidelines' main virtue lies in presenting a framework for making decisions about who to screen and how to screen.⁴ Examples are provided to illustrate how the model can be of utilized in making screening decisions.

The decision-making model begins with factors triggering the need for screening, such as the level of direct worker-consumer contact, characteristics of the consumer served, and the amount of worker supervision present. These triggering factors set the stage for determining the types and extent of screening to perform. The next step presented in the model is to consider the intervening factors that may limit the ability to perform certain kinds of screening. These intervening factors include costs, access, and time constraints. By providing an opportunity to consider intervening factors, the model recognizes that the most optimal screening approaches may not, in fact, be realistic options for all settings. Following consideration of triggering factors and intervening factors, the best possible screening approach can be selected.

triggering factors

The model contemplates that all organizations undertake at least Basic Screening (interview, verified application, reference checks) for even those situations requiring the most cursory screening. Thus, although some might suggest that no screening may be necessary for situations where the prospective volunteer or employer is known to the organization or agency, such an informal approach to screening is not advisable. Some formal review and reference process, such as that recommended with the Basic Screening practices, should be undertaken. Further, with respect to Basic Screening, organizations and professional associations are encouraged to develop model screening procedures and interview questions as part of hiring or volunteer placement procedures.

Two caveats must be given, however. First, although screening to weed out potentially abusive individuals is an important part of the process, it should supplement, not substitute for, an evaluation of skill development or competency. Second, all screening practices have limitations and their use cannot guarantee that the individuals who pass through the process will not abuse children, the elderly and/or

⁴Whenever possible, words needing no special definition have been employed in these guidelines. For clarity, the term, "workers" refers to persons serving children, the elderly or individuals with disabilities, including employees and volunteers

individuals with disabilities in need of support. Thus, activities to continue to protect against abuse are warranted.⁵

Before turning to an examination of the specific guidelines, an understanding of the purpose of screening practices as well as some understanding of the scope of specific practices that can be used to screen individuals is appropriate. In addition, because some screening practices include access to information held by the government (e.g., criminal records), an overview of the legal framework is also included. Thus, the remainder of part one reviews the purpose and specific types of screening practices and the legal framework for those practices. Part two sets forth specific screening guidelines and the decision-making model. Appendices include the National Child Protection Act, as amended, CJIS Information Letter 95-3, several State statutes to illustrate different approaches to screening legislation, and sample forms to consider in implementing screening in the organization.

1.2 PURPOSE: PROTECTION OF CHILDREN, THE ELDERLY AND PERSONS WITH DISABILITIES

The underlying reason for screening prospective workers who may come into contact with children, the elderly or individuals with disabilities⁶ in need of support is the same -- to identify potentially abusive individuals. When an individual entrusted with the care of someone abuses that person and then is found to have previously abused others, many questions arise including: How could such a person be in a position of caring for children or other vulnerable individuals? How can this be prevented from happening again?

States, coalitions, and individual organizations have sought to answer these questions. Any effort to answer these questions leads to a number of additional inquiries: How much screening should be done and who should decide? Should all who may or do come into contact with these vulnerable populations be screened? Volunteers versus employees? Individual service providers or group and institutional providers? What kind of screening should be done? Federal and State criminal checks? State central child abuse registry checks? In which States? Who has access to these information databases? What kinds of limitations should be placed on access to this information? Should some of these decisions be made at the federal, State or local level? What determinations should be left to individual organizations? Should a worker be "on the job" in a paid or volunteer capacity pending the results of screening? Who bears the costs of the various screening practices?

These guidelines provide background information and a structure for analysis of these and other screening issues. With these materials, those in a position to decide screening matters will have a solid base from which to work and make their decisions.

⁵Although a detailed description of these continuing activities is outside the scope of this document, some activities are noted in Appendix C, "Post-Hiring Practices."

⁶For purposes of this project, we have used the definition of individuals with disabilities set forth in section 320928 of the Violent Crime Control and Law Enforcement Act of 1994:

"[T]he term 'individuals with disabilities' means persons with a mental or physical impairment who require assistance to perform one or more daily living tasks."

1.3 SCREENING PRACTICES

Typically, when background "screening" is discussed, the focus has been on the use of criminal history record information (e.g., FBI fingerprint checks). It is important to recognize, however, that there are a multitude of other practices that can be utilized to weed out potentially abusive workers and volunteers. These range from standard interviewing and reference checking to more complex and controversial procedures such as screening against child abuse, dependent adult abuse and sex offender registries, psychological testing, drug testing, and home visits. (Not all of these practices are available in all States, however. The Legal Framework section, *infra*, has additional information on these practices.)

The table below is divided into three columns: 1) practices that can be considered "Basic Screening;" 2) more extensive background checks, e.g., criminal history checks ("Frequently Used"); and 3) methods that may be used infrequently or for special types of workers only ("Special Types"). Consideration of these screening methods is incorporated into the guidelines, particularly in the discussion of the decision-making model outlined in section 2.3.

SOME TYPES OF BACKGROUND SCREENING MECHANISMS

<i>Basic Screening</i>	<i>Frequently Used</i>	<i>Infrequently Used</i>
● Employment Reference Checks	■ Local Criminal Record Check	◆ Alcohol/Drug Testing
● Personal Reference Checks	■ State Criminal Record Check	◆ Psychological Testing
● Personal Interviews	■ FBI Criminal Record Check	◆ Mental Illness/Psychiatric History Check
● Confirmation of Education	■ State Central Child/Dependent Adult Abuse Registry Check	◆ Home Visits
● Written Application	■ State Sex Offender Registry Check	◆ On-the-Job Observation
	■ Nurse Aide Registry Record Check	
	■ Motor Vehicle Record Check	
	■ Prof'l Discipl. Bd Check	

Information about the practices currently being used is primarily limited to those used by organizations and agencies serving children and youth. The Department of Justice-funded study,

Effective Screening of Child Care and Youth Service Workers,⁷ included a national survey of approximately 3,800 child and youth-serving organizations and agencies on the screening mechanisms they use (including costs, timeliness of information, quality and perceived effectiveness). The study's findings indicated some differences in the practices used to screen employees and those used to screen volunteers.

For potential employees

- Almost all conducted what can be called "basic screening" of potential employees: personal interviews (98%); reference checks with past employers (93%); personal reference checks (86%); confirmation of educational status (80%) and observed the applicant in the job position (70%).
- Overall, 60% conducted at least one type of criminal record check on employee applicants; State and local checks were used more often than FBI checks. The 60% figure reflects a range -- almost all juvenile detention/corrections facilities (94%) conducted criminal record checks on employees, compared to only 43% of private schools and half of youth development organizations.
- Less than 10% used psychological testing, home visits, mental illness/psychiatric history checks, alcohol or drug testing, or State sex offender registry checks on employees. (However, 86% of foster care agencies reported conducting home visits on prospective foster care and adoptive homes.)

For potential volunteers

- Volunteers were usually screened using personal interviews (76%) and personal reference checks (54%).
- Over one-third (35%) conducted at least one type of criminal record check on volunteer applicants; State and local checks were used more often than FBI checks. Again this figure reflects a range. Most juvenile detention/corrections facilities (83%) conducted criminal record checks on volunteers, compared to only 12% of private schools, 23% of public school districts, and 28% of hospitals.
- No more than 6 percent used psychological testing, home visits, mental illness/psychiatric history checks, alcohol or drug testing, or State sex offender registry checks on volunteers.

1.3 THE UNIVERSE OF PERSONS HAVING CONTACT WITH CHILDREN, THE ELDERLY AND PERSONS WITH DISABILITIES IN NEED OF SUPPORT

Attempts to determine who should be screened rapidly reveals the multitude of settings in which abuse might be perpetrated against children, the elderly, and individuals with disabilities. A partial list of settings in which individuals come into contact with children, the elder and persons with disabilities gives a sense of the enormity of the contact points:

⁷ABA Center on Children and the Law (Washington, D.C. 1995) (study funded by Office of Juvenile Justice and Delinquency Prevention, Department of Justice).

- Day Care: child care, senior citizen centers, community day programs for adults;
- Health/Mental Health Care: hospitals, nursing homes/facilities, intermediate care, congregate care, board and care, group homes, psychiatric hospitals, residential treatment facilities, and "in-home" health care;
- Foster Care: placements for adults in need of support services or children in the State's care as a result of abuse or neglect, or from delinquency;
- Other Out-of-Home Settings: assisted living units/community living programs and semi- and independent living programs;
- Schools: public and private, including pre-school and nursery school;
- Shelters: homeless or domestic violence;
- Youth Development: community or volunteer organizations serving children and youth (e.g. Court Appointed Special Advocates (CASA), Boy Scouts of America, Girl Scouts USA, Big Brothers/Big Sisters programs);
- Volunteer Programs (for the elderly or individuals with disabilities): Social Security representative payee, AARP bill payer and representative payee money management, meals on wheels, and other community/volunteer programs.

Considering that these and other settings can encompass services provided in or out of the home by volunteers or employees, the instances where screening may be considered is extraordinary. State efforts to coordinate screening are strongly encouraged.

1.4 THE LEGAL FRAMEWORK

State social welfare and licensing agencies have increasingly required that certain practices be used to screen at least some types of prospective employees and in a number of States, statutes require that certain screening practices be used for some types of workers. Some of the screening methods involve the use of information that is held by government entities and may require legislative or administrative action before the information can be accessed for screening purposes. Specifically, checks of criminal records and State central abuse registries (which maintain information on "founded" or "substantiated" reports of abuse or neglect) involve governmental compilations of information and may require legislative or administrative action before they may be used for screening. Similarly, sex offender registries (that stem from statutes requiring convicted sex offenders to register with law enforcement agencies where they reside -Megan's Law) often require legislative or administrative action to authorize their use for screening.

With a few rare exceptions, the information systems mentioned above were originally established for purposes other than the screening of workers. Criminal record keeping was developed to assist law enforcement or criminal justice entities in tracking crimes and criminals; central child abuse registries were established to assist State agencies responsible for child welfare in tracking children about whom allegations of child abuse or neglect may have been made; sex offender

registration requirements were designed to aid law enforcement in investigating sex crimes by tracking persons convicted of sexual offenses.⁸

As a result of the different purposes for which these information sources were developed, their use to identify potentially abusive individuals has raised questions and spawned the development of procedures that attempt to provide information in a fair manner. Moreover, developing legislation on the appropriate uses of these information compilations raises sometimes conflicting public policies -- the protection of children, the elderly and persons with disabilities from potentially abusive individuals, the rehabilitation of offenders, "due process" issues, and privacy interests. Given these conflicting policy goals, it is no surprise that the State laws and regulations vary widely in the type and scope of screening required.

1.4.1 FEDERAL LAW

Screening, at least with respect to child care workers, has been a topic of federal legislation for some time.⁹ Recent federal action has focused on criminal records and sex offender registration. The National Child Protection Act of 1993,¹⁰ which was amended in 1994 by the Violent Crime Control and Law Enforcement Act of 1994,¹¹ addressed national criminal record checks. The National Child Protection Act, as amended, enhanced the existing national criminal check process through which States may authorize national criminal checks on persons providing care to children, the elderly or individuals with disabilities. The Act, as amended, did not itself permit or require that any such checks be done, but maintained respect for State policy-making in this area while encouraging States to consider screening legislation. Whether national checks are required or permitted continues to depend upon whether there is a State statute, approved by the Attorney General, that specifically authorizes the national (fingerprint) checks.¹² Appendix B (CJIS Information Letter 95-3) answers many questions about the Act. (A copy of the Act, as amended, appears at Appendix A.) ✓

⁸See the discussion, *infra*, of each type of registry. See generally, DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, CRIMINAL JUSTICE INFORMATION POLICY, ORIGINAL RECORDS OF ENTRY (1990) (criminal records); U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, CRIMINAL JUSTICE INFORMATION POLICY, PRIVACY AND THE PRIVATE EMPLOYER (1981) (criminal records); NATIONAL CENTER FOR STATE COURTS, CENTRAL REGISTRIES FOR CHILD ABUSE AND NEGLECT: NATIONAL REVIEW OF RECORDS MANAGEMENT, DUE PROCESS SAFEGUARDS AND DATA UTILIZATION (1988) (central child abuse registries).

⁹See P.L. 98-473, Title IV, §401(c)(2)(A), U.S.C.A.N (1984) (to get Title XX funds, States must have background check procedures for child care facility employees); The Crime Control Act of 1990, P.L. 101-647 (criminal checks required of employees at federally operated and contracted child care facilities).

¹⁰National Child Protection Act of 1993, 42 U.S.C. §5119a, 107 STAT. 2490 (1993) (also known as the "Oprah Bill").

¹¹For the text of the National Child Protection Act, as amended by the Violent Crime Control and Law Enforcement Act of 1994, see the appendix.

¹²See National Child Protection Act, P. L. 103-209, 107 STAT. 2490, §3(b)(5) (requirement that any background check and the results thereof shall be handled in accordance with P. L. 92-544); Pub. L. 92-544, 86 Stat. 1109 (authorized national checks for non-criminal justice purposes if pursuant to State statute and through a State agency).

Sex offender registration was the focus of the Jacob Wetterling Crimes Against Children Act, passed as part of the Violent Crime Control and Law Enforcement Act of 1994. This Act mandated that the Attorney General establish guidelines for State programs requiring registration of sex offenders. Among other requirements, offender registration information is to be forwarded to a designated State law enforcement agency, which in turn is to transmit the conviction data and fingerprints to the Federal Bureau of Investigation. The information collected is to be treated as private data, but can be disclosed to government agencies conducting confidential background checks¹³

1.5.2 STATE LAWS

Legislation regarding the screening of persons working with children, the elderly and persons with disabilities has not been passed in all States. To the extent they exist, State screening laws may be found in licensing laws, laws governing State social welfare agencies, and laws regarding specific information systems, (e.g. criminal record repositories, child or elder abuse registries, or sex offender registries).

Screening laws vary in the types of workers covered and the types of checks required. Licensing laws are obviously limited to the individuals or entities licensed. States have made differing determinations as to whom to license. Statutes that charge the human services department (or similar State agency with child welfare and protection responsibilities) often only reach those who participate in the child protection system. Typically, this may include child welfare workers, foster or adoptive parents, and persons who may work with or care for children in other settings such as group homes or residential institutions.

Among the licensing and social welfare laws in effect, there is considerable variety in the type of check to be conducted. For example, some States may require checks from the State central abuse and neglect registry or criminal history records. A few licensing statutes may be more detailed and require licensees to make efforts to contact previous employers.

The laws also vary in the types of workers to be screened. Some laws requiring criminal checks of home health aides and attendants only cover employees. Laws in other States may include those providing direct care and substitute caregivers. In addition, the settings covered vary. For example, many States require criminal record checks for day care workers, some cover schools, some include licensed home health care facilities, and some cover "those with supervisory or disciplinary authority over a child" Specific exceptions, however, often exist. With respect to services for children, exceptions have included: (1) school-based child care; (2) child or youth recreation groups, such as scouting or camping organizations; (3) child care affiliated with a religious group; (4) youth programs operated in adult facilities; (5) babysitting arrangements; (6) single family "nanny" situations; and (7) day care situations in which less than a specified number of children -- often 3, 4, or 5 -- are cared for. *exemptions*

¹³Subpart (d) also permits disclosure to law enforcement for law enforcement purposes, and the designated State law enforcement agency and any local law enforcement agency authorized by the State agency may release relevant information (other than the victim's identity) that is necessary to protect the public concerning a specific person required to register.

Because licensing may not always be an appropriate mechanism for encouraging screening, a number of States have passed separate statutes authorizing certain screening practices. These generally include checks of State criminal records or the central child abuse and neglect registry.¹⁴ Most States do not maintain registries on persons who are being investigated for or have committed abuse against the elderly or dependent adults.¹⁵

More than half of the States have laws authorizing national criminal history checks for some type of person working with children, the elderly, or individuals with disabilities. A number of States also authorize State criminal history checks (either in lieu of or in addition to the national check). At least twelve States have enacted statutes mandating criminal background checks of nurse aides with several additional States having proposed legislation.¹⁶ The statutes do vary in that several require a more comprehensive background check than others. Some States set forth a more expansive listing of crimes prohibiting employment, while others broaden their scope beyond the hiring of nurse aides to all staff, including volunteers in certain circumstances, having access to children and adults in need of supportive services.

2. SPECIFIC SCREENING GUIDELINES AND DECISION-MAKING MODEL



2.1 State POLICIES/LEGISLATION

Basic Principles of Screening

To prevent the abuse of children, the elderly and individuals with disabilities, and to reduce the corresponding fiscal burdens of investigations, prosecutions, and treatments for the victims and their families, it is in the interest of States to analyze their screening laws and to pass new or amended legislation, as appropriate. The decision-making model outlined in these guidelines can assist legislators and others in such an analysis. At a minimum, however, States are encouraged to require basic screening practices, to consider the adoption of statutes authorizing criminal record checks, and to encourage abuse prevention training.

- States are encouraged to have statutes and implementing regulations requiring the use of basic screening practices such as appropriately developed applications, personal

¹⁴See, e.g., ALASKA STAT. §12.62.035 (1990) (authorizing "an interested person" to request a criminal record check (for felonies, contributing to the delinquency of a minor and sex crimes) on a "person who holds or applies for a position of employment in which the person has or would have supervisory or disciplinary power over a minor or dependent adult").

¹⁵All States do have statutes providing for the investigation of elderly or dependent adult abuse and an estimated forty-two have some form of mandatory reporting. ABA Commission on the Legal Problems of the Elderly; obtained from chart compilations on Adult Protective Services and related statutes to be published.

¹⁶Information obtained from the National Coalition For Nursing Home Reform and Long-Term Ombudsmen programs revealed that the following States had enacted background checks for nurse aides (some cover other care givers as well): California, Florida, Kentucky, Louisiana, Minnesota, Nevada, Oklahoma, Rhode Island, Texas, Vermont, Virginia, and Washington.

interviews, and reference checks for all workers, including volunteers. Depending upon the circumstances, additional screening practices may be warranted for specific types of workers in certain settings. As outlined in the decision-making model, confirmation of education status may also be an appropriate screening practice.

Methods to encourage screening could include incentive programs that provide funds and/or recognition for the use of model screening practices. Screening practices could also be included in certification or licensing requirements, with penalties for noncompliance. Generally, these statutes and regulations should apply to all workers, including volunteers and employees.

- In keeping with the spirit of the National Child Protection Act of 1993, States should consider the adoption of statutes and regulations authorizing the use of national and/or State criminal record checks, as appropriate. The decision-making model provides a mechanism that can assist States in determining when legislation authorizing such checks might be appropriate.
- In authorizing screening practices, States are encouraged to prescribe appeal and review procedures that meet constitutional muster, which may include written notification to applicants concerning any records that will be searched and providing an opportunity to refute the information found is appropriate.

Moreover, notification that records will be searched may act as a deterrent to unsuitable applicants. (If done by conveying a sense of respect for the applicant while explaining the need for screening, the process need not alienate prospective workers.)

- States are urged to consider enacting statutes and implement regulations encouraging abuse prevention training for all workers (including employees and volunteers) at child and dependent adult service agencies, organizations, and facilities.

Criminal Record Repositories

An accurate and complete criminal record repository, whose records can be efficiently accessed is the goal. Toward this end, States are encouraged to consider:

- Passing or revising statutes and regulations on the appropriate use of criminal history information and developing specific criteria for using these records to screen persons working with children, the elderly and individuals with disabilities. States should review the National Child Protection Act, as amended (*see* Appendix) for limitations on the use/disclosure of the FBI criminal record checks as well as requirements to complete records lacking disposition data.
- Passing laws allowing access to State criminal record information to broadly permit screening of persons working with children, the elderly and individuals with disabilities.

Such laws are warranted because the current national criminal record system does not include all records in all States (many States have limited computerized records).

- Reducing the financial burden of conducting background checks by incorporating at-cost fees and providing discounts for volunteers of non-profit organizations, for workers at day care centers in poverty areas and by providing volume discounts to employers. For States requiring checks, the cost to those seeking the checks should be minimal and subsidized by the State, to the extent feasible.

State Central Child/Elderly/Dependent Adult Abuse and Neglect Registries

- Create and maintain registries in those States where they do not exist.
- States using abuse, licensing, and certification registries for purposes of screening should establish clear policies for their use and scope.

These policies should include specific guidelines consistent with due process in regard to the use of registries for screening, definitions, policies on retention of information, methods for purging names and cases accurately reflecting the results of dispositions, hearings and appeals by those listed in the registries.

- Consider separating the employment or volunteer screening function from the use of the civil abuse and neglect registries as a research and diagnostic and risk assessment tool.
- Standardize abuse definitions to make registries more consistent among jurisdictions to facilitate the exchange of information among jurisdictions. Standardized definitions could be developed through a national network of abuse registry directors or other interstate panel is advisable.

Ensure dependent adult abuse registries define abuse to include fiduciary abuse or exploitation and mental harm.

- Cross-index abuse registries by perpetrator, nature of offense, and locale to ease access to information; enact statutes or implement policy and procedure enabling cross-referencing between child and adult abuse registries.

State Sex Offender Registration

All States currently have laws requiring sex offenders released from custody to register with State or local law enforcement where they reside. The Jacob Wetterling Crimes Against Children Act, 42 U.S.C. 14071, sets forth federal law requirements for these registries. States are encouraged to consider:

- Permitting access to child and dependent adult-serving organizations for screening purposes.
- Developing a flagging system for those sex offenses in which the victim was a child, or dependent adult.
- Compiling an automated, up-to-date Statewide listing of registered sex offenders to facilitate screening.
- Implementing procedures which ensure offender compliance with registration requirements.

One aspect of ensuring compliance would be increasing awareness among local jurisdictions and offenders regarding registration requirements immediately after every move. One possibility would be to not only require the individual offender to register, but also require the institution from which he/she was released or the legal entity which rendered the offender guilty of a sex crime to forward the information. Another compliance measure is the address verification process found in the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 42 U.S.C. 14071.

- Increase information sharing among criminal justice agencies, particularly from the local to the State level, to enable screening to be conducted.

Special Considerations:

In addition to directly encouraging or requiring screening by child and youth serving agencies, States regulate a wide range of activities which also impact on screening. States may wish to consider using these other regulatory powers to further systematize identification of unsuitable workers:

- Implement a system so that information about individuals currently working in settings requiring licensure or certification who commit violent crimes, sex crimes, or crimes involving children, the elderly or individuals with disabilities is conveyed to the appropriate agencies. Operational details about how such a system might work in a particular State would, of course, have to be developed with the FBI and the appropriate State agencies.

A *flagging system* to obtain information as it arises and ensure that it is passed on to the appropriate sources, e.g., licensing or certification agencies, would be of assistance. Such a system could be modeled after that used by the Federal Aviation Administration (FAA) and the FBI. When the FBI comes across a case involving a pilot, this information is flagged and sent to the FAA. A similar system could be used, with information about abusers forwarded to child and/or adult protective services and/or State licensing agencies.

- Increase the role of State licensing agencies

Many aspects of services provided to children, the elderly or individuals with disabilities are subject to licensing regulations and professional certification. The following efforts could be useful:

Establish clear procedures for timely disposition of abuse cases;

Implement a system for sharing reported complaints of abuse among social services and agencies, with appropriate due process safeguards, a clear Statement of investigative responsibilities, and agencies' duties to notify other agencies regarding those committing relevant crimes;

Adopt clearly written policies on information-sharing among agencies;

Develop and implement mechanisms within and between States to track convicted offenders and prevent their continued work with children, the elderly and individuals with disabilities; and

Develop licensing/registration laws and regulations to include: minimum staff qualifications; personal and past employment reference-check procedures; abuse awareness and other training; clearly defined requirements of adequate supervision; written application with signed affidavit verifying truthfulness and accuracy of information in application coupled with clear Statement that untruthfulness is a basis for suspension or termination of employees/volunteers; authorization to licensing agency to impose fiscal penalties and/or revocation of license.

In revising licensing/registration laws, particular consideration should be given to reviewing existing exemption or exception clauses so licensing/registration provisions encompass entities providing services to children, the elderly and individuals with disabilities, as appropriate. In addition, agencies should be equipped with sufficient staff to monitor compliance with laws and regulations.

- Consider developing incentives for insurance companies to expand their role in providing coverage to entities providing services to children, the elderly and individuals with disabilities.

State regulations encouraging insurance coverage of employers may promote careful review of agency screening mechanisms and consequences of screening in order to maintain coverage. The insurance industry could take the lead in addressing concerns regarding the suitability of persons to work with or around vulnerable populations.

Information, Interstate Communication and Coordination

In conjunction with federal guidelines, States have the power to enhance communication both within their own State agencies and with other States. In order for interstate information effectively to be accessed through registries, criminal record repositories, and other screening mechanisms, States are encouraged to consider:

- Establishing a mechanism to develop appropriate, common statutory definitions of abuse and neglect and to clarify the rights and responsibilities of all parties.
- Increasing communication, coordination, and cooperation between the various repositories, other law enforcement/criminal justice entities, State regulatory/licensing bodies and community agencies.
- Working with interstate organizations representing State interests (e.g., National Governors Association) towards the development of uniform offense codes, reporting procedures, and standardized training for personnel entering and documenting data in criminal record repositories and other information registries.
- Modifying current criminal history information systems so that all records containing crimes involving children, the elderly and individuals with disabilities are flagged for easy and immediate identification during background screening.
- Developing computer systems that transmit screening information efficiently and timely and that may ultimately decrease the costs of accessing this information.

In the 1990's there has been a significant increase in the number and extent of on-line computer systems. Access to specialized computer networks would be one means of increasing the number of organizations able to use this information. Some States are experimenting with assisting agencies in accessing computer networks and could continue this trend by creating specialized user lists for organizational access to certain information in the registries.

Further Study:

- Consider statutory amendments that would require employers to report employee or volunteer terminations from employment due to their inappropriate conduct toward a consumer.

2.2 ORGANIZATIONS:

Levels of Screening:

- Adoption of a screening policy by organizations providing care or services to children, the elderly and individuals with disabilities is warranted. The three part decision-making model is a useful guide for organizations in developing such a policy.

Issues appropriate for a screening policy include: Statements on minimum required screening standards; guidelines on when more extensive screening practices should be used; provisional hiring policies; guidelines on how to assess background screening information once it is received; maintenance and dissemination of background screening records; and standards for working with vulnerable populations. Advising applicants of the organization's screening policy is recommended. Reviewing this policy annually and as new information on available mechanisms arises is also appropriate.

- Basic screening of all potential workers is appropriate. (Additional screening, as noted below, may also be in order.)

All applicants who are seeking a position to work or volunteer with children, the elderly, and individuals with disabilities should be screened at a basic level. Basic screening should include 1) a comprehensive *application* form with a signed Statement; 2) a thorough personal *interview* which examines an applicant's past employment or volunteer experience and explores other indicators of potential problem behavior; and 3) *reference checks* with past employers (or appropriate reference checks for volunteers and young adults) and personal contacts. The references should be checked for each individual completely. In addition, a confirmation of education status may be appropriate.

- Screening practices in addition to those identified above as Basic Screening may be warranted.

Thorough consideration of all relevant factors will inform an organization in determining whether additional screening practices are warranted for some or all of its workers. The decision-making model (see section 2.3) can assist organizations in making this determination.

- Organizations using additional screening mechanisms (e.g., personality or psychological testing, criminal records checks) are advised to do so in conjunction with other screening practices and with a full understanding of the limitations of each of the screening practices used.

Results of Screening:

Once screening information is received, it is important to have strategies for dealing with the information, especially when the screening process has yielded questions about the applicant.

The following actions will assist an organization in developing such a strategy, which should be set forth clearly in written policies.

- To the extent possible, the hiring or placement of an applicant should be delayed until the screening process is completed. If this is not possible, the applicant, pending the completion of the screening process, should be restricted to situations where there is supervision or the presence of at least one other worker and the applicant is not alone with vulnerable individuals for any period of time. In addition, the organization is advised to retain the right to terminate the individual if adverse or incorrect information turns up.
- As a minimum standard, automatic disqualification of a potential worker or volunteer is appropriate when the screening results indicate that the individual as an adult perpetrated any crime involving a child and/or a dependent adult (regardless of how long ago the incident occurred) and/or any violent crime within the last 10 years.

It is recommended that disqualification for all other crimes and/or questionable behavior be discretionary, with incidents evaluated based on consultation with appropriate professionals and attention to:

- the relationship between the incident and the type of employment or service that applicant will provide;
- the applicant's employment or volunteer history before and after the incident;
- the applicant's efforts and success at rehabilitation;
- the likelihood that the incident would prevent the applicant from performing his/her responsibilities in a manner consistent with the safety and welfare of the consumers served by the agency;
- the circumstances and/or factors indicating the crime is likely to be repeated;
- the nature, severity, number, and consequences of incidents disclosed;
- the circumstances surrounding each incident, including contributing societal or environmental conditions;
- the age of individual at time of incident;
- the amount of time elapsed since incident occurred.

2.3 Decision-Making Model

BACKGROUND

The number of persons who may have contact with children and vulnerable adults is tremendous. Countless different professions and types of organizations serve these populations. Given the need to protect children and vulnerable adults from abuse in a variety of settings and the tremendous differences in organizational purpose, staffing needs and available resources, these guidelines include a decision making model rather than a list of screening practices to be used in every circumstance. The model poses questions to be asked when deciding what background

screening practices to utilize. The model assumes, assume that screening for any position will include at least a written application with signed Statement, reference checks, and interview. Supplemental screening measures may also well be warranted.

The decision making model provides a framework for analyzing when to conduct supplemental screening practices. As a framework or guide to assist States, organizations, and others in developing screening policies, the model reflects Congress' desire to encourage screening practices, while maintaining deference to the States on this issue.¹⁷ The decision making model contemplates that a serious, careful examination take place focussing on opportunities for harm. This model is not the only set of steps that could be developed. States, coalitions, associations and organizations are encouraged to develop suggested screening practices and policies aimed at particular settings. Screening practices for specific settings and types of workers (employees or volunteers) could also incorporate practices aimed at evaluating competence for particular tasks. This model does not directly address these competence goals.

Further, screening must be placed in context. It is one tool aimed at preventing harm. Others include education (of staff and volunteers, parents and guardians, children and vulnerable adults) as well as abuse prevention policies (discouraging opportunities for abuse and encouraging children and vulnerable adults to voice concerns about inappropriate behavior). Appendix C: Some Suggestions for Implementing Screening in the Organization, and Appendix D: Post-Hiring Practices also set forth information that may be useful. Notably, these are suggestions for consideration. There may be many other ways to implement screening and other practices.

Preparation Steps Before Using the Model

Review Tasks and Positions. Reviewing the types of positions in the organizations and the general tasks and characteristics of each is useful before beginning to assess the screening that may be required for a particular type of position. Screening to prevent harm should supplement selection procedures aimed at evaluating the qualifications of an applicant for a particular task or job. This decision-making model focuses, however, on the former and not the latter.

Review Harms. Before beginning to use the model, it is also useful to ask: What are the harms that are being screened against? Physical, sexual, and emotional abuse? Theft and other property offenses? Arson, assault, murder, other offenses? A clear understanding of the specific harms to attempt to avoid in view of the particular positions will help to focus discussion of screening issues. For example, concerns about theft may be especially important in certain programs serving the elderly.

THE MODEL (Diagram of model follows textual discussion.)

¹⁷Although this decision making model was drafted for States, organizations and others, some language may pertain to the organization only.

Step 1: Assessment of Triggers -- A Look at Setting, Worker/Child Contact and Special Considerations

The screening decision-making model includes three major steps. The first step requires an assessment of the presence and degree of screening "triggers." These "triggers" can be divided into three categories --- those involving the setting, those pertaining to the worker's contact with the child, and special considerations.

Setting

The setting considerations include:

- (1) whether others (adults or children) will be present during the contact (the opportunity for abuse on location is increased if no one else is present);
- (2) who the other people are who are present (the opportunity for abuse may still be exceptionally high if other young children or certain vulnerable adults are the only others present);
- (3) whether the worker is closely monitored and supervised;
- (4) the precise nature of the worker's involvement with the organization and with the client population (whether the worker is an employee or volunteer may be part of this assessment);
- (5) the physical location of the contact (e.g. in a classroom, a camp, anywhere; care should be taken in considering all of the activities and their different physical locations, including transportation to and from events).

Contact

Considerations as to the contact between the worker (employee or volunteer) and child or vulnerable adult include:

- (1) the duration of the contact (how much time is spent with the client per occasion);
- (2) the frequency of the contact and the length of the relationship (e.g., one-time only, once a week for a year); and
- (3) the type of contact (e.g., does the worker have direct contact with children or vulnerable adults or does the worker have administrative or other duties that support the activities of the organization; with the latter, is there in fact one on one contact).

Special Considerations

Are there special circumstances that should be factored into the screening decision? An examination of the vulnerability of the persons served is important at this point. Those whose ability to communicate is impaired through age, infirmity, life history or for other reasons, may be exceptionally vulnerable to abuse. For example, children with certain learning disabilities or those with a history of abuse or neglect may fall into this category.

There may also be State laws or regulations that require certain screening practices to be used, triggering the use of a certain screening method. For example, States may require that State or federal criminal record checks be done. If a State license or certification is required, there may also be statutory or regulatory requirements in place.

Step 2: Evaluation of Intervenors to Decision Making

With the triggers in mind, consideration moves to the second step of evaluating "intervenors" or items that may limit or impact on the screening decision:

- Unavailable or Inaccessible Information. Certain screening mechanisms may not be available. For example, a number of States simply do not authorize criminal record checks to be done on a number of types of persons serving children, the elderly or individuals with disabilities.
- Unexpected Absences or Departures. An immediate need for staff may also "intervene" in the screening decision making process.¹⁸
- Liability Concerns. The risk of liability may impact on screening decisions. The law may give applicants and employees certain legal rights. For example, certain questions may not be asked during an interview/application process, and generally all inquiries must be relevant to the task/position at hand. Liability concerns may also stem from negligent hiring torts where organizations have found themselves being sued when a client has been injured by an employee or volunteer they selected.
- Presence of Other Risk Reduction Measures. A look at other risk reduction measures gives a more complete picture so that an evaluation can be made, with appropriate screening practices selected. The inclusion of risk reduction measures as an intervenor does not, however, suggest that these measures necessarily obviate the need for any supplemental screening. Rather, their presence is appropriate as a pragmatic factor to be considered in an evaluation of the screening practices to be used. Risk reduction measures may include training programs or levels of supervision.
- Financial or Human Resources. The practical impact that financial and human resources may have on screening is also a factor to be considered.

Step 3: Analysis and Selection of Screening Practices to Be Used

¹⁸To reduce the utilization of "unscreened" individuals in "emergency" situations, child care centers and others that frequently have "unexpected" personnel departures may form relationships with umbrella organizations or private groups to provide personnel support by maintaining a roster of screened individuals. Or a screened staff person may be designated as a "floater" to fill in as needed.

The third step puts together information gleaned from steps 1 & 2 along with various screening options. The advantages and disadvantages of each practice should be reviewed at this time.

The model contemplates that all situations will require at least the "Basic Screening," which includes a written application with a signed Statement, professional and personal reference checks, and personal interviews.

The model also contemplates that *supplemental* screening practices may be warranted based upon the information discerned from steps one and two. As the extent and number of "triggers" increases, supplemental screening measures are appropriate. For example, circumstances where repeated one-on-one contact is had between one worker and one child or dependent adult, often in very private surroundings will merit supplemental screening practices.¹⁹

Supplemental screening practices might include the following: confirmation of a person's educational status (this may be particularly appropriate for young workers for whom a professional reference may not be available or when the educational degree is relevant to the task to be performed by the applicant, if selected); motor vehicle record check; local, State or FBI criminal record check; central child or dependent adult abuse registry check; sex offender register check; home visits; psychological testing; alcohol or drug testing; or psychiatric history check.

An Example Using the Decision-Making Model

To illustrate the use of the decision-making model, take the case of a mentoring program where mentors are matched with children and the goal is fostering one-on-one relationships between children and supportive non-familial persons to build the children's self esteem and expand their views of the world. Assume that the mentor program is an off-shoot of another organization and is limited to one city in one State. The mentor program has an extremely limited budget, with very few paid staff (mostly a percentage of the time of three individuals who have other duties as well. Mentors themselves are strictly volunteers.

The Mentor Example: Step 1

In using the model, the first step requires a look at setting, contact and special considerations.

The Mentor Example: Setting Considerations

¹⁹Some of the local chapters of the Big Brothers/Big Sisters organization have developed extensive screening procedures. For example, the Big Brothers/Big Sisters of Greater Lowell, Massachusetts has developed a comprehensive interview screening tool. See Appendix E for a summary of the interview screening tool. Further, where authorized by law to do so, Big Brothers/Big Sisters generally obtains criminal record checks on their volunteers and staff.

(1) Will others will be present during the contacts? Although mentor programs vary widely, assume that in this case the contacts are set up directly by the mentor and child, perhaps the first Saturday afternoon of the month is set aside for these outings. Although the organization encourages educational or sports activities (e.g., visits to the library, museum, bowling) where other adults or children generally present, these “public” activities need not take place. The mentor and child could choose to go hiking, sit in a park and play cards, etc.

(2) Who else might be present? Under this scenario, it could be anyone or no one.

(3) Will the mentor be closely monitored and supervised? In this case, assume that the initial meeting between a mentor and child takes place with someone from the sponsoring organization. After that, the mentor will check in with someone at the organization, at least by telephone, to let them know how the visits with the child are going, and every few months, the mentor meets with this “monitor.” In addition, the mentor and child attend group events that may be sponsored by the organization. For example, a picnic takes place during the summer. These events occur once or twice a year. Further, the mentor picks the child up and drops him off for each visit and may briefly see the child’s guardian at those pick up and drop off times. More often at first, and then every few months, someone at the sponsoring organization calls the child and his or her parent or guardian to see how the visits are going.

(4) How will the mentor be involved with the organization? In this case, the mentor will be volunteers who devote at least several hours once a month in visiting with a child. Some additional time will be spent conversing with staff at the sponsoring organization about how the visits are going and how best to work with children of that age.

(5) Where will the visits take place? Since the mentor picks up and drops off the child, the visits will include several different physical locations: the child’s residence, the mentor’s vehicle (or bus or cab), and a variety of other locations such as a restaurant, sports facility, park, hiking trail, zoo, museum, movie theater, etc. They could in fact take place at the mentor’s home (for example, the mentor and child decide they want to learn to make pizza).

The Mentor Example: -- Contact Considerations

(1) How much time will be spent with the child on each visit/outing? Under our scenario, anywhere from one to six hours.

(2) What will the scope and frequency of the contacts be? At least once a month for a period of a year.

(3) What type of contact will the mentor have? Each mentor will have direct, one-on-one contact with a single child.

The Mentor Example: Special Considerations

In our scenario, the children are preteen youth. Generally, they have some neglect or abuse in their past. They generally are referred to the sponsoring organization for matching with an adult through social service workers, foster parents and school counselors. Their personal histories may make them particularly vulnerable to abuse.

The Mentor Example: Summary of Step 1 -- Assessing the Presence and Degree of Screening Triggers

In reviewing the answers to the series of questions that comprise the first step, it becomes clear that in this case, there are several factors that would trigger supplemental screening practices: repeated, direct, one-on-one contact over a period of a year, limited ability of the organization to monitor the visits, and children who may be particularly vulnerable to abuse.

The Mentor Example: Step 2 -- Evaluating Intervenors

The second step is to examine the factors that may “intervene” and impact on the ability to screen. Under our scenario, assume that certain information – State central child abuse registry and sex offender registry information is not available. Likewise, assume that State criminal record checks (done by name, not fingerprint) are not required but are available for a fee of \$5 per name. Assume that federal (fingerprint) checks are not authorized by State statute.

The Mentor Example: Step 3 -- Analyze and Select Screening Practices

Under our scenario, supplemental screening factors are warranted. The repeated one-on-one contact, which may take place anywhere at various times of the day, presents risks. When coupled with the limited ability to monitor the mentor, and the relatively modest fee assessed for a State criminal check, use of this check would appear to be warranted. Some may, however, find that this determination would change given different facts. For example, if the mentors were high school students (generally aged 15-17 at time of beginning to mentor), some may find that running criminal checks is not warranted. Others may view the cost as being minimal (and able to be passed on to the applicant without losing volunteers), and would proceed with the criminal check out of an abundance of caution.

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Divider Title: _____

To enable interested persons to review, *in context*, the changes to the National Child Protection Act of 1993, 42 U.S.C. 5119, brought about by the Violent Crime Control and Law Enforcement Act of 1994 (the "Crime Act"), this document sets forth the text of the National Child Protection Act, as amended by the Crime Act. The National Child Protection Act was signed into law on December 20, 1993. The amendments were signed into law as part of the Crime Act on September 13, 1994. (The amendments are set forth in bold; deletions are indicated by "***".)

This memorandum also sets forth Section 320928 (f) and (g) of the Violent Crime Control and Law Enforcement Act of 1994, which impact upon, but do not alter the National Child Protection Act of 1993.

THE NATIONAL CHILD PROTECTION ACT OF 1993, as amended by THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Child Protection Act of 1993".

SEC. 2. REPORTING CHILD ABUSE CRIME INFORMATION.

(a) **IN GENERAL.**—In each State, an authorized criminal justice agency of the State shall report child abuse crime information to, or index child abuse crime information in, the national criminal history background check system. **A criminal justice agency may satisfy the requirement of this subsection by reporting or indexing all felony and serious misdemeanor arrests and dispositions.**

(b) **PROVISION OF STATE CHILD ABUSE CRIME RECORDS THROUGH THE NATIONAL CRIMINAL HISTORY BACKGROUND CHECK SYSTEM.**—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall, subject to availability of appropriations—

(A) investigate the criminal history records system of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line basis through the national criminal history background check system;

(B) in consultation with State officials, establish guidelines for the reporting or indexing of child abuse crime information, including guidelines relating to the format, content, and accuracy of criminal history records and other procedures for carrying out this Act; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of each State timetable that the State--

(A) by not later than the date that is **** 5 years** after the date of enactment

of this Act, have in a computerized criminal history file at least 80 percent of the final dispositions that have been rendered in all identifiable child abuse crime cases in which there has been an event of activity within the last 5 years;

(B) continue to maintain a reporting rate of at least 80 percent for final dispositions in all identifiable child abuse crime cases in which there has been an event of activity within the preceding 5 years; and

(C) take steps to achieve 100 percent disposition reporting, including data quality audits and periodic notices to criminal justice agencies identifying records that lack final dispositions and requesting those dispositions.

(c) **LIAISON.**—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of technical assistance in cases of child abuse.

(d) **ANNUAL SUMMARY.**—(1) The Attorney General shall publish an annual statistical summary of child abuse crimes.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim or alleged violator.

(e) **ANNUAL REPORT.**—The Attorney General shall, subject to the availability of appropriations, publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal history background check system.

(f) **STUDY OF CHILD ABUSE OFFENDERS.**—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State; and

(C) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than **** 2 years** after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 3. BACKGROUND CHECKS.

(a) **IN GENERAL.**—(1) A State may have in effect procedures (established by State statute or regulation) that require qualified entities designated by the State to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether a provider has been convicted of a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities.

(2) The authorized agency shall access and review State and Federal criminal history records through the national criminal history background check system and shall make reasonable efforts to respond to the inquiry within 15 business days.

(b) **GUIDELINES.**—The procedures established under subsection (a) shall require—

(1) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first provides a set of fingerprints and completes and signs a statement that—

(A) contains the name, address, and date of birth appearing on a valid identification document (as defined in section 1028 of title 18, United States Code) of the provider;

(B) the provider has not been convicted of a crime and, if the provider has been convicted of a crime, contains a description of the crime and the particulars of the conviction;

(C) notifies the provider that the entity may request a background check under subsection (a);

(D) notifies the provider of the provider's rights under paragraph (2); and

(E) notifies the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to a person to whom the qualified entity provides ** care;

(2) that each provider who is the subject of a background check is entitled--

(A) to obtain a copy of any background check report; and

(B) to challenge the accuracy and completeness of any information contained in any such report and obtain a prompt determination as to the validity of such challenge before a final determination is made by the authorized agency;

(3) that an authorized agency, upon receipt of a background check report lacking disposition data, shall conduct research in whatever State and local recordkeeping systems are available in order to obtain complete data;

(4) that the authorized agency shall make a determination whether the provider has been convicted of, or is under pending indictment for, a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities and shall convey that determination to the qualified entity; and

(5) that any background check under subsection(a) and the results thereof shall be handled in accordance with the requirements of Public Law 92-544.

(c) **REGULATIONS.**—(1) The Attorney General may by regulation prescribe such other

measures as may be required to carry out the purposes of this Act, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

(d) **LIABILITY.**—A qualified entity shall not be liable in an action for damages solely for failure to conduct a criminal background check on a provider, nor shall a State or political subdivision thereof nor any agency, officer or employee thereof, be liable in an action for damages for the failure of a qualified entity (**other than itself**) to take action adverse to a provider who was the subject of a background check.

(e) **FEES.**—In the case of a background check pursuant to a State requirement adopted after the date of the enactment of this Act conducted with fingerprints on a person who volunteers with a qualified entity, the fees collected by authorized State agencies and the Federal Bureau of Investigation may not exceed **** eighteen dollars, respectively, or the actual cost, whichever is less,** of the background check conducted with fingerprints. The States shall establish fee systems that ensure that fees to non-profit entities for background checks do not discourage volunteers from participating in child care programs.

SEC. 4. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) **USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.**—Section 509(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C.3759(b)) is amended—

- (1) in paragraph (2) by striking "and" after the semicolon;
- (2) in paragraph (3) by striking the period and inserting "; and"; and
- (3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the child abuse crime records required under the National Child Protection Act of 1993 with the Attorney General for the purpose of implementing the National Child Protection Act of 1993."

(b) **ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.**—(1) The Attorney General shall, subject to appropriations and with preference to States that, as of the date of enactment of this Act, have in computerized criminal history files the lowest percentages of charges and dispositions of identifiable child abuse cases, make a grant to each State to be used—

- (A) for the computerization of criminal history files for the purposes of this Act;
- (B) for the improvement of existing computerized criminal history files for the purposes of this Act;
- (C) to improve accessibility to the national criminal history background check system for the purposes of this Act; **
- (D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history record in, the national criminal history background check system for the purposes of this Act; and
- (E) to assist the State in paying all or part of the cost to the State of conducting background checks on persons who are employed by or volunteer with a public, not-for-profit, or voluntary qualified entity to reduce the amount of fees charged for such background checks.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of \$20,000,000 for fiscal years 1994, 1995, 1996, and 1997.

(c) **WITHHOLDING STATE FUNDS.**—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce, by up to 10 percent, the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 that is not in compliance with the requirements of this Act.

SEC. 5. DEFINITIONS.

For the purposes of this Act--

- (1) the term "authorized agency" means a division or office of a State designated

by a State to report, receive, or disseminate information under this Act;

(2) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(3) the term "child abuse crime" means a crime committed under any law of a State that involves the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by any person;

(4) the term "child abuse crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, A child abuse crime: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the child abuse crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that the Attorney General determines may be useful in identifying persons arrested for, or convicted of, a child abuse crime;

(5) the term "care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individual with disabilities;

(6) the term "identifiable child abuse crime case" means a case that can be identified by the authorized criminal justice agency of the State as involving a child abuse crime by reference to the statutory citation or descriptive label of the crime as it appears in the criminal history record;

(7) the term "individuals with disabilities" means persons with a mental or physical impairment who require assistance to perform one or more daily tasks;

(8) the term "national criminal history background check system" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

(9) the term "provider" means--

(A) a person who--

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who--

(i) seeks to be employed by or volunteer with qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(10) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides ** care or ** care placement services, including a business or organization that licenses or certifies others to provide ** care or ** care placement services; and

(11) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

Section 320928 (f) and (g) of the Violent Crime Control and Law Enforcement Act of 1994.

(f) COSTS OF THE FBI.—Funds authorized to be appropriated to the Federal Bureau of Investigation under section 190001(c) of this Act may be used to pay all or part of the cost to the Federal Bureau of Investigation of carrying out the National Child Protection Act of 1993, including the cost of conducting background checks on persons who are employed by or volunteer with a public, not-for-profit, or voluntary qualified entity to reduce the amount of fees charged for such background checks.

(g) GUIDELINES.—

(1) IN GENERAL.—The Attorney General, in consultation with Federal, State, and local officials, including officials responsible for criminal history record systems, and representatives of public and private care organizations and health, legal, and social welfare organizations, shall develop guidelines for the adoption of appropriate safeguards by care providers and by States for protecting children, the elderly, or individuals with disabilities from abuse.

(2) MATTERS TO BE ADDRESSED.—In developing guidelines under paragraph (1), the Attorney General shall address the availability, cost, timeliness, and effectiveness of criminal history background checks and recommend measures to ensure that fees for background checks do not discourage volunteers from participating in care programs.

(3) DISSEMINATION.—The Attorney General shall, subject to the availability of appropriations, disseminate the guidelines to State and local officials and to public and private care providers.

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4

Divider Title: _____

**National Resource Center for
Health & Safety in Child Care**

University of Colorado Health Sciences Center
School of Nursing
4200 E. Ninth Avenue
Campus Box C287
Denver, Colorado 80262

Fax: (303)315-5215
Phone: 1-800-598-KIDS
E-mail: Natl.child.res.ctr@UCHSC.edu
www address: <http://nrc.uchsc.edu>

Criminal Checks by State

STATE	CENTER	FAMILY CHILD CARE
AL	none required	none required
AK	criminal check reqd for all	criminal back check required, abuse not
AZ	child abuse not required	criminal back check required, abuse not
AR	child abuse and criminal back required	background checked
CA	child abuse and criminal back required	criminal back check required, abuse not
CO	child abuse and criminal back required	child abuse and criminal back required
CT	criminal back check required, abuse not	criminal back check required, abuse not
DE	criminal back check required, abuse not	criminal back check required, abuse not
DC	none required	none required
FL	criminal back check required, abuse not	child abuse and criminal back required
GA	criminal back check required, abuse not	criminal back check required, abuse not
HI	child abuse and criminal back required	child abuse and criminal back required
ID	child abuse and criminal back required	criminal back check required, abuse not
IL	child abuse and criminal back required	child abuse registry check, no crim check
IN	child abuse and criminal back required	criminal back check required, abuse not
IA	child abuse and criminal back required	child abuse and criminal back required
KS	child abuse and criminal back required	child abuse and criminal back required
KY	child abuse and criminal back required	criminal back check required, abuse not
LA	child abuse and criminal back required	criminal back check required, abuse not
ME	child abuse and criminal back required	criminal back check required, abuse not
MD	criminal back check required, abuse not	child abuse and criminal back required
MA	criminal back check required, abuse not	criminal back check required, abuse not
MI	criminal back check required, abuse not	criminal back check required, abuse not
MN	child abuse and criminal back required	criminal back check required, abuse not
MS	child abuse and criminal back required	criminal back check required, abuse not
MO	ch. abuse reqd not abuse	none required
MT	child abuse and criminal back required	criminal back check required, abuse not
NE	child abuse and criminal back required	some cities have crim back checks
NV	child abuse and criminal back required	criminal back check required, abuse not
NH	child abuse and criminal back required	child abuse and criminal back required
NJ	none required	none required
NM	child abuse and criminal back required	criminal back check required, abuse not
NY	ch. abuse & maltreatment	screen for abuse no crim back check
NC	no ch abuse convic allowed no back ch	crim back check being implemented
ND	child abuse reqd no criminal back check	child abuse & neglect check reqd no crim
OH	criminal back check required, abuse not	criminal back check required, abuse not
OK	criminal back check required, abuse not	criminal back check required, abuse not

OR	child abuse and criminal back required	criminal back check required, abuse not
PA	child abuse and criminal back required	child abuse registry clearance
RI	child abuse and criminal back required	criminal back check required, abuse not
SC	child abuse and criminal back required	criminal back check required, abuse not
SD	child abuse and criminal back required	screen for abuse no crim back check
TN	none required	none required
TX	criminal back check required, abuse not	child abuse and criminal back required
UT	child abuse and criminal back required	child abuse and criminal back required
VT	child abuse and criminal back required	child abuse and criminal back required
VA	criminal back check required, abuse not	criminal back check required, abuse not
WA	child abuse and criminal back required	criminal back check required, abuse not
WV	criminal back check required, abuse not	criminal back check required, abuse not
WI	child abuse and criminal back required	criminal back check required, abuse not
WY	none required	child abuse central registry check done

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<u>NAME</u>	<u>AGENCY</u>	Phone/FAX
Tate Wohl	National Performance Review	652-0186 / 632-0390
Cheryl Grosso	DoD	696-1702 x1
CAROL KAPLAN	BJS/OJP(OAJ)	307-0759
Kent Markus	DOJ/OAG	514-3208 / 514-1724
JOSE CERDA III	DPC/WH	456-5568 / 456-7028
Lianne Shimabukuro	DPC/WH	456-5574 / 456-7028
David Lloyd	DoD	696-1702 x110
Jeff Slowkowski	DOJ/OJJDP	202 616 3646
Jennifer Friedman	OMB	202-395-7763 395-0851 (F)
Maya Bernstein + Laura Oliven	OMB	202-395-4816 v 202-395-5167 202-395-
Jean Lombardi	HHS	202-401-6947

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6

Divider Title: _____



Department of Defense INSTRUCTION

January 19, 1993
NUMBER 1402.5

ASD(FM&P)

SUBJECT: Criminal History Background Checks on Individuals In Child Care Services

- References:
- (a) DoD 5400.11-R, "Department of Defense Privacy Program," August 1983, authorized by DoD Directive 5400.11, June 9, 1982
 - (b) Federal Personnel Manual, Chapter 731, "Personnel Suitability," and Chapter 736, "Personnel Investigations," September 29, 1988
 - (c) DoD 5200.2-R, "DoD Personnel Security Program," January 1987, authorized by DoD Directive 5200.3, May 6, 1992
 - (d) DoD Directive 6400.1, "Family Advocacy Program," June 23, 1992
 - (e) through (k), see enclosure 1

A. PURPOSE

This Instruction:

1. Implements Pub. L. No. 101-647, Section 231 (enclosure 3), and Pub. L. No. 102-190, Section 1094 (enclosure 4).
2. Requires procedures for existing and newly hired individuals and includes a review of personnel and security records to include a Federal Bureau of Investigation (FBI) fingerprint check and State Criminal History Repositories (SCHR) checks of residences listed on employment or certification applications.
3. Establishes policy, assigns responsibilities, and prescribes procedures for criminal history background checks for all existing and newly hired individuals involved in the provision of child care services as Federal employees, contractors, or in Federal facilities to children under the age of 18. The checks are required of all individuals in the Department of Defense involved in providing child care services defined in enclosure 3, and for policy reasons, those categories of individuals not expressly governed by the statute.
4. Allows the Department of Defense to provisionally hire such individuals before the completion of a background check (enclosure 4). However, at all times while children are in the care of that individual, the child care provider must be within sight and under the supervision of a staff person whose background check has been successfully completed. Healthcare personnel shall comply with guidance provided in enclosure 5.

B. APPLICABILITY AND SCOPE

This Instruction:

1. Applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the

Unified and Specified Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

2. Includes all individuals providing child care services to children in accordance with references (a) through (k).

C. DEFINITIONS

Terms used in this Instruction are defined in enclosure 2.

D. POLICY

It is DoD policy to:

1. Establish a standardized and comprehensive process for screening applicants for positions involving child care services on DoD installations and in DoD activities.

2. Provide fair, impartial, and equitable treatment before an individual may be deemed suitable to serve as an employee, a certified care provider, a specified volunteer position, or as an individual employed under contract in activities covered by this Instruction and references (a) through (k) by conducting a thorough review of all appropriate records as described herein.

3. Protect children by denying or removing from employment, contract, or volunteer status any applicant or current employee who is determined unsuitable to provide child care services because derogatory information is contained in a suitability investigation.

4. Ensure that an individual is advised of proposed disciplinary action, decertification, or refusal to hire by the hiring authority or designee if disqualifying derogatory information is contained in a suitability investigation. The individual is given the opportunity to challenge the accuracy and completeness of reported information.

5. Foster cooperation among the DoD Components, other Federal Agencies, State and county agencies, and other civilian authorities in conducting criminal history background checks.

E. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Force Management and Personnel) shall:

a. Develop policy for conducting criminal history background checks on individuals seeking positions involving child care services.

b. Monitor compliance with this Instruction.

c. Coordinate oversight of criminal history background checks as specified under this Instruction.

2. The Heads of the DoD Components shall:

a. Develop procedures to ensure compliance with the requirements of this Instruction, in accordance with enclosure 6.

- b. Provide oversight of process and procedures to conduct criminal history background checks to include assignment of proponenty.
- c. Provide technical support and resources as required.
- d. Coordinate participation of specific organizations within the DoD Component involved in the conduct of the checks.
- e. Ensure that applicants and employees are made aware of their rights under DoD 5400.11-R (reference (a)) including the right to challenge accuracy of records.
- f. Maintain the records of all individuals hired, certified, or employed under contract for positions that involve child care services for 2 years following termination of their service.
- g. Establish a mechanism to evaluate all adverse information resulting from criminal history background checks, using the criteria in enclosure 7. Final suitability decisions are made by the DoD Component Head or designee.

F. PROCEDURES

The records of all existing employees and applicants for positions in child care services are reviewed by the Component designee according to the procedures prescribed in enclosure 6.

G. EFFECTIVE DATE AND IMPLEMENTATION

This Instruction is effective immediately. Forward two copies of implementing documents to the Assistant Secretary of Defense (Force Management and Personnel) within 120 days.



Christopher Jehn
Assistant Secretary of Defense
Force Management and Personnel

Enclosures - 8

- 1. References
- 2. Definitions
- 3. Public Law 101-647, Section 231
- 4. Public Law 102-190, Section 1094
- 5. Memorandum from the Assistant Secretary of Defense Health Affairs, "Criminal History Background Checks on Health Care Personnel," April 20, 1992
- 6. Criminal History Background Check Procedures
- 7. Criteria for Criminal History Background Check Disqualification
- 8. State Information

REFERENCES, continued

- (e) DoD Instruction 6060.2, "Child Development Programs," March 3, 1989
- (f) DoD Instruction 6400.2, "Child and Spouse Abuse Report," July 10, 1987
- (g) DoD Directive 1400.13, "Salaries and Personnel Practices Applicable to Teachers and Other Employees of the DoD Overseas Dependents' Schools System," July 8, 1976
- (h) DoD Directive 1342.16, "Provision of Free Public Education for Eligible Dependent Children Pursuant to Section 6, Public Law 81-874, as Amended," October 16, 1987
- (i) DoD Directive 6025.11, "DoD Health Care Provider Credentials Review and Clinical Privileging," May 20, 1988
- (j) DoD Directive 1015.1, "Establishment, Management, and Control of Nonappropriated Fund Instrumentalities," August 19, 1981
- (k) DoD Instruction 1000.15, "Private Organizations on DoD Installations," September 22, 1978

DEFINITIONS

1. Appropriated Fund (APF) Employees. Personnel hired by DoD Components with appropriated funds as defined in the FPM, Chapter 731 (reference (b)). This includes temporary employees, 18 years old or older, who work with children.
2. Care Provider. As defined in Pub. L. No. 101-647, Section 231 and P.L. No. 102-190, Section 1094 (enclosures 3 and 4). Providers included are current and prospective individuals hired with APF and nonappropriated funds (NAF) for education, treatment or healthcare, child care or youth activities, individuals employed under contract who work with children and those who are certified for care. Care providers are individuals working within programs that include alphabetically: Child Development Programs, DoD Dependents Schools, DoD-Operated or -Sponsored Activities, DoD Section 6 School Arrangements, Foster Care, Private Organizations on DoD Installations, and Youth Programs. Background checks are required for all civilian and military providers (except military health care providers) involved in child care services who have regular contact with children.
3. Child. An unmarried person, whether natural child, adopted child, foster child, stepchild, or ward, who is a family member of a military member or DoD civilian or their spouse, and who is under the age of 18 years; or is incapable of self support because of a mental or physical incapacity and for whom treatment is authorized in a medical facility of the Military Services, as defined in DoD Directive 6400.1 (reference (d)).
4. Child Abuse and/or Neglect. The physical injury, sexual maltreatment, emotional maltreatment, deprivation of necessities, or other maltreatment of a child. The term encompasses both acts and omissions on the part of a responsible person, as defined in reference (d).
5. Child Care Services. DoD personnel and contractors who are involved in any of the following: "child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services," as defined in Pub. L. No. 101-647, Section 231 (enclosure 3).
6. Child Development Center (CDC). An installation facility or part of a facility used for child care operated under the oversight of Component's Child Development Programs (CDPs) and as defined in DoD Instruction 6060.2 (reference (e)).
7. Child Development Programs (CDPs). Programs for dependents of DoD personnel provided in CDCs, family child care (FCC) homes, and alternative child care options. The care provided is on a full-day, part-day, or hourly basis. Care is designed to protect the health and safety of children and promote their physical, social, emotional, and intellectual development, as defined in reference (e).

8. Child Sexual Abuse. Employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in, any sexually explicit conduct (or any simulation of such conduct) or the rape, molestation, prostitution, or any other such form of sexual exploitation of children, or incest with children. All sexual activity between an offender and a child, when the offender is in a position of power over the child, is considered sexual maltreatment, as defined in DoD Instruction 6400.2 (reference (f)).

9. Criminal History Background Check. An investigation based on fingerprints and other identifying information obtained by a law enforcement officer conducted through the Federal Bureau of Investigation-Identification Division (FBI-ID) and SCHR of all States that an employee or prospective employee list as current and former residences on an employment application initiated through the personnel programs of the applicable Federal Agencies, as defined in Pub. L. No. 101-647 (enclosure 3) or through the personnel program of a given government contractor.

10. Defense Clearance and Investigations Index (DCII). The central Department of Defense record of investigative files and adjudicative actions such as clearances and access determinations, revocations, and denials concerning military, civilian, and contract personnel.

11. DoD Dependents Schools (DoDDS). Schools operated by the Department of Defense for minor dependents of military members or DoD civilians assigned to duty in foreign countries, as defined in DoD Directive 1400.13 (reference (g)).

12. DoD-Operated or -Sponsored Activity. A contracted entity authorized by appropriate DoD officials to perform child care, education, treatment, or supervisory functions on DoD-controlled property (references (e), (g), (h), and (i)). Examples include but are not limited to CDPs, FCC Programs, Medical Treatment Facilities, DoDDS, DoD Section 6 Schools, and Youth Programs.

13. DoD Section 6 Schools. The educational arrangements made for the provision of education to eligible dependent children by the Department of Defense under Pub. L. 81-874, Section 6, as defined in DoD Directive 1342.16 (reference (h)), in the Continental United States, Alaska, Hawaii, Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

14. Family Child Care (FCC). Quarters-based child care provided in Government-owned or -leased quarters, in which care is provided on a regular basis for compensation, usually for more than 10 hours a week per child, to one or more (up to six) children, including the provider's own children under 8 years of age, as defined in reference (e).

15. Foreign National Employees Overseas. Non-U.S. citizens hired by the Department of Defense for employment on an overseas installation.

16. Foster Care. A voluntary or court-mandated program that provides 24-hour care and supportive services in a family home or group facility for children who cannot be properly cared for by their own family.

17. Government-Contracted Care Providers. An individual or a group of individuals hired under a Government contract to provide instruction, child care services, healthcare, or youth services. FCC providers are not considered contracted Government employees for this Instruction.

18. Healthcare Personnel. Personnel involved in the delivery of healthcare to children under the age of 18 on a frequent and regular basis. See enclosure 5. This may include:

a. Medical and Dental Care Staff. Physicians, dentists, nurse practitioners, clinical social workers, clinical psychologists, physicians' assistants, physical therapists, and speech pathologists.

b. Clinical Support Staff. Clinical providers not granted defined clinical privileges to include residents, registered nurses, licensed practical nurses, nursing assistants, play therapists, and technicians, as defined in DoD Directive 6025.11 (reference (i)).

19. Installation Records Check (IRC). An investigation conducted through the records of all installations of an individual's identified residencies for the preceding 2 years before the date of the application. This record check shall include, at a minimum, police (base and/or military police, security office, or criminal investigators or local law enforcement) local files check, Drug and Alcohol Program, Family Housing, Medical Treatment Facility for Family Advocacy Program to include Service Central Registry records and mental health records, and any other record checks as appropriate, to the extent permitted by law.

20. National Agency Check (NAC). As defined in DoD 5200.2-R (reference (c)).

21. National Agency Check and Inquiries (NACI). As defined in the FPM, Chapters 731 and 736 (reference (b)).

22. Nonappropriated Fund Instrumentalities (NAFI) Employees. Personnel hired by the DoD Components, compensated from NAFI funds as defined in DoD Directive 1015.1 (reference (j)). This includes temporary employees, 18 years old or older, who work with children.

23. Private Organizations on DoD Installations. A nongovernmental entity authorized by the Department of Defense to perform child care, services, education, or supervisory functions with children on DoD-controlled property, as defined in DoD Instruction 1000.15 (reference (k)). Examples include religious groups and associations, such as scouts.

24. Respite Care. Provides short-term child care and supportive services in a family home or group facility for children to relieve stress, prevent child abuse, and promote family unity for a parent, foster parent, guardian, or family member.

25. Regular Contact. Responsible for a child or with access to children on a frequent basis as defined by the Component.

26. Specified Volunteer Position. A position, designated by the DoD Component Head or designee, such as installation commander, requiring an installation record check because of the nature of the volunteer work in child care services.

27. State Criminal History Repository (SCHR). The State's central record of investigative files. State information, including addresses, phone numbers, costs and remarks, is listed in enclosure 8.

28. Supervision. Refers to having temporary responsibility for children in child care services, and temporary or permanent authority to exercise direction and control by an individual over an individual whose required background checks have been initiated but not completed.

29. Temporary Employees. This category includes nonstatus appointments to a competitive service position for a specified period, not to exceed a year. This includes summer hires, student interns, and NAFI flexible category employees.

30. Volunteer Activities. Activities where individuals offer assistance on an unpaid basis in child and youth programs or other activities on DoD installations. Examples include sports programs, religious programs, scouting programs, and preschools sponsored by private parent cooperatives or other associations conducted on the installation.

31. Volunteers. Individuals who offer program assistance on an unpaid basis.

32. Youth Programs. DoD-sponsored activities, events, services, opportunities, information, and individual assistance responsive to the recreational, developmental, social, psychological, and cultural needs of eligible children and youth. Includes before and after school programs as well as holiday and summer camps.

Nov. 29

CRIME CONTROL ACT OF 1990

P.L. 101-647
Sec. 231

Subtitle E—Child Care Worker Employee Background Checks

42 USC 13041.

SEC. 231. REQUIREMENT FOR BACKGROUND CHECKS.

(a) **IN GENERAL.**—(1) Each agency of the Federal Government, and every facility operated by the Federal Government (or operated under contract with the Federal Government), that hires (or contracts for hire) individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and newly-hired employees undergo a criminal history background check. All existing staff shall receive such checks not later than 6 months after the date of enactment of this chapter, and no additional staff shall be hired without a check having been completed.

(2) For the purposes of this section, the term "child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

(b) **CRIMINAL HISTORY CHECK.**—(1) A background check required by subsection (a) shall be—

(A) based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information;

(B) conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application; and

(C) initiated through the personnel programs of the applicable Federal agencies.

(2) The results of the background check shall be communicated to the employing agency.

(c) **APPLICABLE CRIMINAL HISTORIES.**—Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be ground for denying employment or for dismissal of an employee in any of the positions listed in subsection (a)(2). In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with children while on the job until the case is resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

(d) **EMPLOYMENT APPLICATIONS.**—(1) Employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, in any of the positions listed in subsection (a)(1), shall contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and if so requiring a description of the disposition of the arrest or charge. An application shall state that it is being signed under penalty of perjury, with the applicable Federal punishment for perjury stated on the application.

(2) A Federal agency seeking a criminal history record check shall first obtain the signature of the employee or prospective employee indicating that the employee or prospective employee has been notified of the employer's obligation to require a record check as a condition of employment and the employee's right to obtain a copy of the criminal history report made available to the employing Federal agency and the right to challenge the accuracy and completeness of any information contained in the report.

(e) **ENCOURAGEMENT OF VOLUNTARY CRIMINAL HISTORY CHECKS FOR OTHERS WHO MAY HAVE CONTACT WITH CHILDREN.**—Federal agencies and facilities are encouraged to submit identifying information for criminal history checks on volunteers working in any of the positions listed in subsection (a) and on adult household members in places where child care or foster care services are being provided in a home.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993

105 STAT. 1488

PUBLIC LAW 102-190—DEC. 5, 1991

SEC. 1094. PROVISIONAL SUPERVISED EMPLOYMENT OF FEDERAL CHILD CARE SERVICES PERSONNEL.

(a) **EMPLOYMENT PENDING COMPLETION OF BACKGROUND CHECK.**—Section 231 of the Crime Control Act of 1990 (42 U.S.C. 13041) is amended—

(1) in the second sentence of subsection (a)(1), by striking out “6 months after the date of enactment of this chapter, and no additional staff” and inserting in lieu thereof “May 29, 1991. Except as provided in subsection (b)(3), no additional staff”; and

(2) in subsection (b), by adding at the end the following new paragraph:

“(3) An agency or facility described in subsection (a)(1) may hire a staff person provisionally prior to the completion of a background check if, at all times prior to receipt of the background check during which children are in the care of the person, the person is within the sight and under the supervision of a staff person with respect to whom a background check has been completed.”

(b) **ADDITIONAL SAFETY MEASURES FOR FEDERAL CHILD CARE SERVICE FACILITIES.**—It is the sense of Congress that each agency of the Federal Government, each facility operated by the Federal Government, and each facility operated under contract with the Federal Government, that provides child care services to children under the age of 18—

(1) modify child care facilities to the extent necessary to ensure that, except for restrooms, there are no secluded areas not open to the general view of persons in such facilities;

(2) provide for regular oversight of the management and operations of child care facilities by an agency official who is not directly in charge of the operation of the facility; and

(3) to the maximum extent feasible allow parental access to children in child care facilities at all times.



Jan 19, 93
1402.5 (Encl 5)

THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301-1200

APR 2 1992

HEALTH AFFAIRS

MEMORANDUM FOR SECRETARY OF THE ARMY
SECRETARY OF THE NAVY
SECRETARY OF THE AIR FORCE

SUBJECT: Criminal History Background Checks on Child Health
Care Personnel

This memorandum clarifies procedures for Department of Defense (DoD) health care personnel relative to implementation of Public Law 101-647, Section 231, "Crime Control Act," November 29, 1990, as amended by section 1094 of Public Law 102-190.

These provisions were implemented within DoD by Assistant Secretary of Defense (Force Management & Personnel) (ASD(FM&P)) memorandum, dated March 6, 1992, Subject: "Criminal History Background Checks on Employees in Child Care Services" (copy attached). The ASD(FM&P) memorandum requires Federal Bureau of Investigation (FBI) fingerprint checks and State Criminal History Repositories (SCHR) checks of residences listed on employment applications for specific existing and newly hired health care personnel. Active duty military members are excluded from the requirements of the statutory provisions and the ASD(FM&P) memorandum. As explained in the ASD(FM&P) memorandum, health care personnel are defined as:

"Those personnel involved in the delivery of health care to children under the age of 18 on a frequent and regular basis. This may include: (1) Medical and Dental Care Staff: physicians, dentists, nurse practitioners, clinical social workers, clinical psychologists, physician assistants, physical therapists, and speech pathologists. (2) Clinical Support Staff: clinical providers not granted defined clinical privileges to include residents, registered nurses, licensed practical nurses, nursing assistants, play therapists, and technicians."

Two provisions of the ASD(FM&P) memorandum, when applied to the medical setting, require additional Health Affairs guidance.

1. The ASD(FM&P) memorandum states that:

"DoD components may employ an individual pending completion of successful background checks. If an individual is so employed, at all times while children are in the care of that individual, he or she must be within sight and under the supervision of an individual whose background checks have been completed, with no derogatory reports."

Processing reports can take months. It is unlikely that Congress meant to create a situation that would potentially require two physicians to examine a patient or two nurses to give one medication to a child.

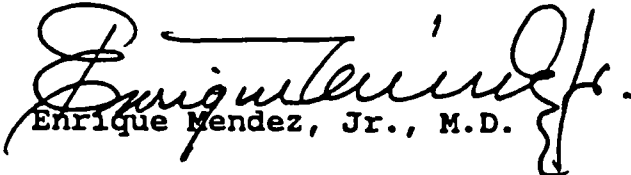
The DoD vigorously supports screening of health care workers involved in the delivery of health care to children under the age of 18 on a frequent and regular basis. Within the context of such medical care, line of sight supervision must be viewed through the prism of existing Medical Quality Assurance, Clinical Privileging, and Licensure Directives, which require pre-employment screens, enhanced surveillance of new employees and on-going monitoring of the performance of all health care providers. These programs are inherent to both quality medical care and patient safety and are adequate and equivalent mechanisms.

Therefore, pending completion of background checks, the Surgeons General shall require close clinical supervision and full compliance with existing DoD Directives, Instructions, and other guidance (issued by DoD and the Military Department concerned) on quality assurance, risk management, licensure, employee orientation, and credentials verification. These policies rely on process and judgment, and meet the intent of the "direct sight supervision" provision, affording local commanders a flexible and reasonable alternative.

2. Section 1094(b) of Public Law 102-190 provides that:

"It is the sense of Congress that each facility that provides childcare services to children under the age of 18 must modify child care facilities to the extent necessary that except for restrooms, there are no secluded areas not open to the general view of persons in such facilities."

This provision, which may be suitable for child development centers, is hortatory, not mandatory. Thus, the DoD must determine what effect to give it. Open areas in full view of the public eliminate patient privacy and, in some cases, are medically contraindicated. Thus, hospital commanders are not required to implement section 1094(b).


Enrique Mendez, Jr., M.D.

Attachment
As Stated

CRIMINAL HISTORY BACKGROUND CHECK PROCEDURES

This enclosure establishes the procedures for conducting criminal history background checks on existing and newly hired individuals required by Pub. L. No. 101-647, Section 231 and Pub. L. No. 102-190, Section 1094 (enclosures 3 and 4). Background checks are required for all civilian providers involved in child care services who have regular contact with children. The categories of providers include current and prospective individuals hired with APF and NAFI funds for education, treatment or healthcare, child care or youth activities, and individuals employed under contract involved in the provision of child care services. In addition to the mandates of enclosure 3, the Department of Defense requires that military members (except healthcare personnel), foster or respite care providers, FCC providers and family members, and specified volunteers shall have checks specified in sections A. through J. of this enclosure, below.

A. Conducting Checks

Component designees shall notify existing and newly hired individuals and contractors of the requirement for a review of personnel and security records to include an FBI fingerprint check and SCHR checks of residences listed on employment and security applications.

1. Fingerprint Check. Law enforcement personnel shall forward completed forms through channels to the Office of Personnel Management (OPM) or Defense Investigative Service (DIS) for processing of FBI fingerprint forms.

2. State Criminal History Repository (SCHR) Check. DoD Installation-level personnel offices, in collaboration with law enforcement and security personnel, shall process State criminal history background checks for employment and shall ordinarily communicate in writing with each State identified in enclosure 8, providing full identifying information on each applicant and request confirmation that the individual has not been convicted in that State of a sex crime, an offense involving a child victim, a drug felony, or a violent crime. The DoD Component Heads may establish alternate procedures for conducting SCHR checks; e.g., a computerized, written, or telephonic check. The DoD Components are not required to wait longer than 60 days from the date of the request for a response from the SCHR personnel before taking action on a particular application. Authorities will depend on FBI fingerprint check validation if States do not respond.

3. Installation Record Checks (IRC). Consists of a local record check on an individual for a minimum of 2 years before the date of the application. This record check shall include, at a minimum, police (base and/or military police, security office, criminal investigators, or local law enforcement) local files checks, Drug and Alcohol Program, Family Housing, Medical Treatment Facility for Family Advocacy Program Service Central Registry records and mental health records, and any other record checks as appropriate to the extent permitted by law. A Service DCII may be conducted. The IRC shall be conducted by DoD Component personnel at the installation level. An IRC will be completed on individuals with a DoD affiliation such as living or working on an installation or is active duty member or family member. Individuals without DoD affiliation have no installation system of records to check and an IRC is not completed. Upon favorable completion of the IRC, an individual may be

selected and provide child care services under line of sight supervision until the required background checks are completed.

B. Applicants

1. APF Applicants

a. Except as otherwise provided in this subsection, the DoD Components shall process APF applicants using currently established procedures for completing background checks described in DoD 5400.11-R (reference (a)). APF applicants must complete a SF-171, "Application for Federal Employment," and attach a SF-87, "Fingerprint Chart," completed by a law enforcement officer; and a SF-85P, "Questionnaire for Public Trust Positions" (Annotate Block "B" with code 03), for conduct of a NACI. The package shall be forwarded to the OPM.

b. The DoD Components shall assign responsibility for conducting the criminal history background checks through the SCHR to personnel offices working with law enforcement or investigative agencies. They shall conduct checks in all States that an employee or prospective employee lists as current and former residences in an employment or security application. It is deemed unnecessary to conduct checks before 18 years of age because juvenile records are unavailable. If no response is received from the State(s) within 60 days, determinations based upon the FBI report may be made. Responses received after this determination has been made must be provided to the determining authority.

c. Under Pub. L. No. 102-190, Section 1094 (enclosure 4), the DoD Components may employ an individual pending completion of successful background checks described in Pub. L. No. 101-647, Section 231 (enclosure 3). If an individual is so employed, at all times while children are in the care of that individual, he or she must be within sight and under the supervision of an individual whose background checks have been completed, with no derogatory reports.

d. Once it is clear that no derogatory information exists, line of sight supervision is terminated by the designee. If a derogatory report exists, Component personnel procedures shall prescribe appropriate action consistent with the criteria contained in this Instruction.

2. NAFI Applicants

a. Except as otherwise provided in this subsection, the DoD Components shall process NAFI applicants following established procedures for completing background checks. NAFI applicants must complete a DD Form 398-2 "Department of Defense National Agency Questionnaire," with reason for request identified as OTHER and annotated as CHILD CARE, and FD Form 258, "FBI Applicant Fingerprint Card." Fingerprints shall be taken by the local law enforcement organization personnel and together with the DD Form 398-2 shall be forwarded to: Defense Investigative Service, Personnel Investigations Center, P.O. Box 1083, Baltimore, MD 21203-1083.

b. The DoD Components shall follow the procedures in the FPM, Chapter 731 and 736 (reference (b)) and above in subparagraph B.1.b., c., and d. to obtain fingerprints for the FBI, conduct criminal history background checks

through the SCHR, and maintain employment of individuals pending the successful completion of the background checks.

3. Foreign National Employees Overseas. Foreign national employees overseas, while not expressly included within the law, are subject to the following record checks or those equivalent in scope to checks conducted on U.S. citizens:

a. Host-government law enforcement and security agency checks at the city, State (province), and national level, whenever permissible by the laws of the host government.

b. Defense Central Investigative Index (DCII).

c. FBI checks (when information exists regarding residence by the individual in the United States for 1 year or more since age 18).

d. When permissible by the laws of the host government, host-government checks are requested directly by the employing Service or agency. As an alternative, the DoD Components may request that overseas Military Service investigative elements obtain appropriate host-government checks. Where host-nations' arrangements preclude comparable criminal history checks, foreign nationals will not be eligible for employment in child care services.

4. Temporary Employees. This category includes summer hires, student interns, and NAFI flexible category employees. Background checks for these individuals are processed according to funding source; i.e., for APF employees (to OPM) or NAFI employees (to DIS). Installation designated points of contact shall notify applicants of report disposition.

5. Healthcare Personnel. This category includes civilian personnel involved in the delivery of healthcare (enclosure 5). Within the context of such medical care, line of sight supervision must be viewed through the prism of existing medical quality assurance, clinical privileging, and licensure directives, which require preemployment screens, enhanced surveillance of new employees, and on going monitoring of the performance of all healthcare providers. These programs are inherent to both quality medical care and patient safety and are adequate and equivalent mechanisms for the sight and supervision requirements in paragraphs B.1.c. and d. of this enclosure, above. It should be noted that these quality assurance programs are not sufficient in and of themselves under Pub. L. No. 101-647, Section 231 (enclosure 3). Therefore, the required FBI fingerprint check and the SCHR check must be completed as expeditiously as possible.

C. Current Employees. All currently employed individuals covered by this Instruction shall have the FBI fingerprint and criminal history background check as described in Pub. L. No. 101-647, Section 231 (enclosure 3). If the results of such checks, to include the SCHR, cannot be confirmed through an examination of available local records, action shall be initiated in accordance with subsection B.1., above, for APF employees and subsection B.2., above, for NAFI employees, and with section D., below, for individuals employed under contract. The SCHR checks are conducted in all cases in accordance with

subsection A.2., above. For the purposes of this Instruction, no IRC is required for individuals employed before June 1991.

D. Government Contract Employees

1. Sponsoring activities are responsible for ensuring that the requirements in this Instruction are included in the statement of work for all child care programs to be contracted. The contracting officer is responsible for performing an action necessary to verify that services provided by the contractor conform to contract quality requirements. Component designees for requiring activities shall ensure that the statement of work, at a minimum:

a. States that the contractor must ensure its employees have proper criminal history background checks as outlined in this Instruction.

b. States that actual checks are performed by the Government.

c. Includes procedures that the contractor must follow to obtain checks for its employees; for example, identify the office where employees report for processing, identify proper forms to be completed, etc. Also, identify the DoD Component for billing purposes, and identify the appropriate security point of contact or installation commander as the authorized recipient of background check results.

d. States that employees may be permitted to work before completion of background checks, provided the employee is within sight of an individual who has successfully completed a background check.

e. States that employees have the right to obtain a copy of the background check report, whom they should contact for the copy and whom to contact for procedures to challenge the accuracy and completeness of the information in the report.

f. Requires that contractor employees who have previously received a background check must provide proof of the check or obtain a new one.

2. Requirements for child care services must be submitted to the contracting officer sufficiently in advance of the required performance start date to provide time for obtaining background checks. Sponsoring activities' designees shall coordinate with the contracting officer as soon as possible after a requirement for child care services becomes known.

3. Procedures for obtaining responses for background checks are the same as those for NAFI employees and response to derogatory information will occur through the appropriate designee and contractor. An IRC will be performed if the individual is a military member or family member, or has worked or lived on a military installation within 5 years.

E. Other Providers. Criminal history background checks with the FBI and the States are not required. Duplication of previous background checks are not required for personnel where official records demonstrate that an adequate check has already been conducted. This category includes the following:

1. Military Members. These are active duty individuals (other than healthcare personnel) who seek to provide child care services as part of a normal duty assignment or are involved during off-duty hours. For these members an IRC and a current security clearance meet the requirements of this Instruction. In the absence of a current security clearance, a name check of the DCII must be conducted. When military members are employed in an APF or a NAFI position they will abide by background check requirements listed in subsections B.1. and B.2., above.

2. Foster and Respite Care Providers and Family Members. These are individuals who seek to provide foster care or respite child care within Government-owned or -leased quarters. The care provider, all other adults, and each child, age 12 and older, residing within the applicant's household must receive an IRC. In addition, the Component designee must also obtain a name check of the DCII on all adults.

3. FCC Providers and Family Members. These are individuals who seek licensing to provide child care within government-owned or -leased quarters. The care provider, all other adults, and each child, age 12 and older, residing within the applicant's household receive an IRC. In addition, the Component designee must obtain a name check of the DCII on all adults.

4. Specified Volunteers. Installation commanders shall designate those positions that are determined to be "specified." Individuals working in specified volunteer positions will have an IRC check because of the nature of their work in child care services. The opportunity for contact may be extensive, frequent, or over a period of time. They include, but are not limited to, positions involving extensive interaction alone, extended travel, and/or overnight activities with children. An IRC is required for volunteers who are active-duty, a family member, or a DoD civilian overseas. A volunteer is allowed to work upon completion of a favorable IRC. Background checks are not required for volunteers whose services will be of shorter duration than is required to perform the background checks and who are under line of sight supervision by an individual who has successfully completed a background check. The Components are required to provide additional implementing guidance.

F. Employment Application Requirement. Pub. L. No. 101-647, Section 231 (enclosure 3) requires that each application for employment shall include a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and, if so, requires a description of the disposition of the arrest or charge. The forms identified above in paragraphs B.1.a. and B.2.a. are signed by the applicant under penalty of perjury, with the applicable Federal punishment for perjury stated on the respective forms.

1. An applicant's signature indicates an understanding of the employer's obligation to require a record check as a condition of employment. Information on background checks shall be maintained in accordance with applicable Component implementing regulations.

2. Payment for the conduct of any criminal history background check is the responsibility of the requesting Service or agency.

3. The results of the background check are forwarded to the Component designee at the sending installation for appropriate action. A derogatory

report would include, but not be limited to, the following applicable crimes: any charge or conviction for a sex crime, an offense involving a child victim, a substance abuse felony, or a violent crime.

4. The hiring authority or designee is responsible for notifying the individual of a derogatory report. The individual may obtain a copy of the criminal history report and has the right to challenge the accuracy and completeness of any information contained in the report through the Privacy Program described in DoD 5400.11-R (reference (a)). The individual may provide information concerning positive mitigating factors for any adverse information presented.

5. Employees whose criminal history background checks result in nonselection for employment or service shall be informed by the Component designee of the right to an administrative appeal under reference (a)). Under that Regulation, the individual may appeal with a specific request such as amendments to the records or request to file statement disagreeing with information in the record. If the employee's request for record information is refused, the individual is informed of his or her right to an administrative appeal. As appropriate, Component designees shall inform individuals of other avenues available to resolve matters of concern such as an administrative or negotiated grievance procedures. If the employee remains dissatisfied, he or she may seek a review. The Department of Defense recognizes the privacy interests and rights of all applicants and employees, and its own responsibility in ensuring a safe and secure environment for children within DoD activities or private organizations on DoD installations.

G. Record Re-Verification. This procedure consists of an IRC and a DCII name check and is required by the Component designee at a minimum every 5 years for all employees providing child care services and covers the time period since the completion of the last background check. NAFI employees who change duty stations will complete a new investigation when considered for employment. A new investigation is required by the Department of Defense if a break in service results in a time-lapse of more than 2 years. FCC, foster care and respite care providers, and their family members will complete an IRC annually.

H. Supervision. Refers to temporary responsibility for children in child care services, and relates to oversight for temporary or permanent authority to exercise direction and control by an individual over an individual whose required background checks have been initiated but not completed. Use of video equipment is acceptable provided it is monitored by an individual who has successfully completed a background check. Supervision procedures pending completion of background checks for healthcare personnel suggest that the Surgeons General shall require close clinical supervision and full compliance with existing DoD Directives, Instructions, and other guidance (issued by the Department of Defense and the Military Department concerned) on quality assurance, risk management, licensure, employee orientation, and credentials certification. These policies rely on process and judgment, and meet the intent of the "direct sight supervision" provision, affording local commanders a flexible and reasonable alternative.

I. Programs. Requirements cover all DoD-operated activities and private organizations on DoD installations and include, but are not limited to:

1. Child Development Programs.

- a. Child development centers, part-day preschools, and enrichment programs.
- b. Family child care.
- c. Contracted Services, whether personal or non-personal services.

2. Youth Programs.

3. Dependents Schools operated by the Department of Defense.

4. Medical treatment facilities.

5. Other contracted services.

6. Private organizations on DoD installations.

7. Volunteer activities.

J. Background Check Matrix. This identifies the requirements of this Instruction for background checks by category of personnel. These checks are initiated through the personnel offices in collaboration with law enforcement and security personnel. (Reminder: An IRC may only be completed on an individual who is a military member or family member, or who lives or works on a military installation.)

- 1. APF. FBI, SCHR, and IRC. (SF-171, SF-87, and SF-85P)
- 2. NAFI. FBI, SCHR, and IRC. (DD Form 398-2 and FD Form 258)
- 3. Foreign National Employees Overseas. IRC and local government check.
- 4. Temporary Employees. FBI, SCHR, and IRC.
- 5. Current Employees. FBI and SCHR.
- 6. Government Contract Employees. FBI, SCHR, and IRC.
- 7. Other Providers.

a. Military Members. Military members will have an IRC and, if no current security clearance exists, a name check of the DCII. Checks are not required for military healthcare personnel.

b. Foster and Respite Care Providers and Family Members (age 12 and older). IRC and Service DCII (for adults).

c. FCC Providers and Family Members (age 12 and older). IRC and Service DCII (for adults).

d. Specified Volunteers. IRC.

CRITERIA FOR CRIMINAL HISTORY BACKGROUND CHECK DISQUALIFICATION

The ultimate decision to determine how to use information obtained from the criminal history background checks in selection for positions involving the care, treatment, supervision, or education of children must incorporate a common sense decision based upon all known facts. Adverse information is evaluated by the DoD Component Head or designee who is qualified at the appropriate level of command in interpreting criminal history background checks. All information of record both favorable and unfavorable will be assessed in terms of its relevance, recentness, and seriousness. Likewise, positive mitigating factors should be considered. Final suitability decisions shall be made by that commander or designee. Criteria that will result in disqualification of an applicant require careful screening of the data and include, but are not limited to, the following:

A. Mandatory Disqualifying Criteria

Any conviction for a sexual offense, a drug felony, a violent crime, or a criminal offense involving a child or children.

B. Discretionary Criteria

1. Acts that may tend to indicate poor judgment, unreliability, or untrustworthiness in working with children.
2. Any behavior; illness; or mental, physical, or emotional condition that in the opinion of a competent medical authority may cause a defect in judgment or reliability.
3. Offenses involving assault, battery, or other abuse of a victim, regardless of age of the victim.
4. Evidence or documentation of substance abuse dependency.
5. Illegal or improper use, possession, or addiction to any controlled or psychoactive substances, narcotic, cannibas, or other dangerous drug.
6. Sexual acts, conduct, or behavior that, because of the circumstances in which they occur, may indicate untrustworthiness, unreliability, lack of judgment, or irresponsibility in working with children.
7. A wide range of offenses such as arson, homicide, robbery, fraud, or any offense involving possession or use of a firearm.
8. Evidence that the individual is a fugitive from justice.
9. Evidence that the individual is an illegal alien who is not entitled to accept gainful employment for a position.
10. A finding of negligence in a mishap causing death or serious injury to a child or dependent person entrusted to their care.

C. Suitability Considerations

In making a determination of suitability, the evaluator shall consider the following additional factors to the extent that these examples are considered pertinent to the individual case:

1. The kind of position for which the individual is applying or employed.
2. The nature and seriousness of the conduct.
3. The recentness of the conduct.
4. The age of the individual at the time of the conduct.
5. The circumstances surrounding the conduct.
6. Contributing social or environmental conditions.
7. The absence or presence of rehabilitation or efforts toward rehabilitation.
8. The nexus of the arrests in regard to the job to be performed.

D. Questions

1. All applications, for each of the categories of individuals identified in enclosure 2, will include the following questions: "Have you ever been arrested for or charged with a crime involving a child? Have you ever been asked to resign because of or been decertified for a sexual offense?" And, if so, "provide a description of the case disposition." For FCC, foster care, and respite care providers, this question is asked of the applicant regarding all adults, and all children 12 years and older, who reside in the household.

2. All applications shall state that the form is being signed under penalty of perjury. In addition, a false statement rendered by an employee may result in adverse action up to and including removal from Federal service.

3. Evaluation of criminal history background checks is made and monitored by qualified personnel at the appropriate level designated by the Component. Final suitability decisions are made by the designee.

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Divider Title: _____



Department of Defense INSTRUCTION

January 19, 1993
NUMBER 6060.2

ASD(FM&P)

SUBJECT: Child Development Programs (CDPs)

- References:
- (a) DoD Instruction 6060.2, subject as above, March 3, 1989 (hereby canceled)
 - (b) Assistant Secretary of Defense (Force Management and Personnel) Memorandum, "Implementing Guidance Required by the Military Child Care Act of 1989," March 23, 1990 (hereby canceled)
 - (c) DoD Directive 1342.17, "Family Policy," December 30, 1988
 - (d) DoD Directive 4001.1, "Installation Management," September 4, 1986
 - (e) through (qq), see enclosure 1

A. REISSUANCE AND PURPOSE

This Instruction:

1. Reissues reference (a), supersedes reference (b), and updates policy, responsibilities, and procedures for CDPs for eligible minor children of DoD military and civilian personnel in accordance with references (c) and (d) and DoD Directive 5124.2 (reference (e)).
2. Continues to authorize the publication of DoD 6060.1-M-18 (reference (f)), consistent with DoD 5025.1-M (reference (g)).
3. Authorizes the publication of "DoD Child Development Employee Training Modules," "DoD Child Abuse Training Modules for Caregivers," "DoD Child Abuse Training Modules for Family Child Care Providers," "DoD Family Child Care Training Modules," "DoD CDP Standards and Inspection Checklist," "DoD Child Development Need Survey," "The DoD School-Age Care Training Modules," and DD Form 2636, "DoD Certificate to Operate Child Development Programs," consistent with reference (g).
4. Implements Pub. L. No. 101-189, Title XV (reference (h)).
5. Replaces references (i) through (aa).

B. APPLICABILITY

This Instruction applies to:

1. The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard when it is operating as a Service

of the Navy, and when it is operating as a Service of the Department of Transportation (DoT) by agreement with the DoT.

2. CDPs sponsored or operated by or for the Department of Defense for military and civilian personnel and located on a military installation or on property under the jurisdiction of any component of the Department of Defense.

C. DEFINITIONS

Terms used in this Instruction are defined in enclosure 2.

D. POLICY

The purpose of CDPs offered by the DoD Components is to assist DoD military and civilian personnel in balancing the competing demands of family life and the accomplishment of the DoD mission, and to improve the economic viability of the family unit. Child care is not considered an entitlement. It is DoD policy that on military installations and in other DoD Component facilities and to the extent possible:

1. The DoD Components shall provide CDPs, or viable alternatives, to military members and DoD civilian personnel. The first goal of the CDP is to assist DoD military and civilian personnel who are parents of children under the age of 6, or who are full-time students, in locating at least one affordable option for quality child care. The second goal is to assist DoD personnel who are parents of school-aged children in locating child care. The third goal is to expand availability of care through use of resource and referral (R&R) programs to quality affordable options both on and off DoD installations. The fourth goal is that, whenever possible, the DoD Components will support the needs of their personnel for hourly care and preschool programs by expanding the use of facilities and programs other than the Child Development Centers (CDCs).

2. The primary sources of DoD-sponsored or -operated CDPs include CDCs, Family Child Care (FCC) Homes, and R&R Programs. In addition, the DoD Components are encouraged to provide School-Aged Care (SAC) Programs and Preschools in other facilities, such as youth centers, chapels, and schools. The DoD Components are encouraged to provide Supplemental Child Care (SCC) options when needed.

3. Eligible patrons of DoD CDPs include active duty military personnel, DoD civilian personnel paid from both appropriated funds (APF) and nonappropriated funds (NAF), reservists on active duty or during inactive duty personnel training, and DoD contractors. The first priority is child care for active duty military and DoD civilian personnel. Each installation commander and Defense Agency Director and/or Commander shall establish a priority system under which access to CDPs shall be determined. In all cases, first priority shall be given to children of active duty military and DoD civilian personnel who are either:

a. Single parents; or

b. Whose spouse is employed on a full-time basis outside the home or is a military member on active duty. Installation commanders and Defense

Agency Directors and/or Commanders shall determine on a case-by-case basis whether a spouse employed on a full-time basis but working within the home qualifies for first priority treatment. The installation commander or Defense Agency Director and/or Commander shall make a statement of these priorities available to all eligible patrons seeking enrollment of their children in DoD CDPs.

4. If the unmet need for child care for DoD military and civilian personnel in the first priority of subsection D.3., above, exceeds 20 percent of the available space, the installation commander or Defense Agency Director and/or Commander shall take appropriate action, as necessary, to expand the availability of care through the use of R/R or contract services so as to offer quality, affordable options, both on- and off-installation. The installation commander or Defense Agency Director and/or Commander may meet the need for school-age care through the use of youth facilities, schools, and other appropriate community facilities. The installation commander or Defense Agency Director and/or Commander may meet parents' requests for hourly care for children from birth through the age of 12 and for preschool programs, by using other suitable facilities or programs such as FCC.

5. Parents have primary responsibility for the health, safety, and well-being of their children. Parents will be encouraged to participate in the planning and evaluation of the CDP as well as their child's care and development. The CDP shall provide parents with opportunities for direct participation in program activities.

6. The CDP, regardless of program setting, shall promote the cognitive, social, emotional, and physical development of children and shall:

a. Meet the basic needs of children in a safe, healthy, and nurturing environment.

b. Recognize the individual differences of children and provide an environment that encourages children's self-confidence, curiosity, creativity, and self-discipline.

c. Employ competent and well-trained personnel.

d. Support parents in the care and development of their children.

e. Provide referrals to family support programs, education, health, and recreational programs.

7. DoD CDPs shall comply with the Crime Control Act of 1990 (reference (bb)), implementing guidance, and DoD Directive 6400.1 (reference (cc)). It is DoD policy to provide comprehensive programs to prevent child abuse and promote early identification and reporting of cases of alleged child abuse. Reporting instances of alleged child abuse or neglect is mandatory for CDP personnel.

8. Programs and activities conducted under this Instruction shall comply with DoD Directive 1020.1 (reference (dd)). No otherwise qualified person with a disability shall be subjected to discrimination by a DoD CDP. This includes children with disabilities who meet the essential eligibility requirements for

CDP services and parents with disabilities whose children are receiving or seeking CDP services.

9. Each DoD Component providing a DoD Child Development facility-based program shall operate, maintain, and fund these programs with direct APF at least equal to the amount of user fees collected. DoD Agencies previously excluded from this requirement shall have until January 1, 1996, to comply. This requirement does not apply to CDCs that are the result of a long-term facilities' contract under Section 2809 of 10 U.S.C. or a lease-purchase agreement under Section 2812 of 10 U.S.C. (reference (ee)).

10. The DoD Components, except those in the National Capital Region (NCR) (DoD Instruction 5305.5 (reference (ff))), are authorized, in accordance with 40 U.S.C. 490b (reference (gg)), to apply to the General Services Administration (GSA) for building space for use in providing child care for DoD personnel when such activities are housed in GSA facilities. Each DoD Component shall provide a copy of this application to the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)). DoD Components operating CDPs in GSA-controlled space shall comply with GSA standards for funding and operation of child care programs. All CDPs provided in GSA facilities, where the Department of Defense is the sole sponsoring agency and the space has been delegated to the Department of Defense by the GSA, shall comply with the standards and operational requirements prescribed in this Instruction.

11. The DoD Components in the NCR shall use the space acquisition procedures in reference (m) to gain the assignment of space, either in Government-owned or -leased facilities, from the GSA.

12. The DoD Components shall use the MIL-HNBK 1037/2 (reference (hh)) as the prescribed minimum construction standards for all CD facilities. State and local construction standards may be used, but are not required except if the CD facility is located on an area over which the United States Federal Government has no legislative jurisdiction, and then only if the State and local standards are more stringent.

13. Each CDC and FCC home shall keep a copy of the Family Care Plans (reference (ii)) for each child who is enrolled on a regular basis, and whose sponsor is active duty military, and who is required to have a Family Care Plan.

14. All child development facilities constructed after the effective date of this Instruction by a Military Department or Defense Agency under 10 U.S.C. 2809 (reference (ee)) shall comply with all operational and safety standards outlined in this Instruction except the DoD CDP Employee Wage Plan in enclosure 2 of this Instruction, unless otherwise stated.

15. Guidance on obtaining assistance from local authorities in cases of alleged child abuse in military CDC or family child care home sites is prescribed in DoD Directive 6400.1 (reference (cc)).

E. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Force Management and Personnel) shall:

a. Prescribe policies and guidelines for CDPs on DoD installations and in DoD-owned, -leased, or -funded facilities.

b. Issue CDP standards and monitor compliance.

c. Ensure that all DoD CDP publications are published in accordance with this Instruction and DoD 5025.1-M (reference (g)).

d. Issue standards on safety and operating procedures at DoD Component CDPs.

2. The Heads of the DoD Components shall ensure that:

a. CDPs are operated in accordance with this Instruction and shall monitor local compliance with DoD standards and guidelines in accordance with DoD requirements.

b. Responsibility for compliance with this Instruction rests with the DoD activity providing the funding for the CDP. Each such DoD Activity shall provide implementing guidance for this Instruction.

c. All CDP personnel are trained pursuant to this Instruction.

d. Annual summary of operation reports will be completed at the end of each fiscal year by each Military Service CDP Manager or DoD Agency Director and/or Commander. Reports are to be submitted to the Office of the Assistant Secretary of Defense (Force Management and Personnel) by December 15 of each year.

F. PROCEDURES

Procedural guidance is in enclosures 3 through 5.

G. INFORMATION REQUIREMENTS

1. Authorizes publication of DD Form 2605, "Department of Defense Child Development Program Annual Summary of Operations," Report Control Symbol DD-FM&P(A)1884, consistent with DoD Instruction 7750.7 (reference (jj)).

2. Authorizes publication of DD Form 2606, "Department of Defense Child Development Request for Care Record," consistent with reference (jj).

3. The annual reporting requirement listed in paragraph E.2.c., above, has been assigned Report Control Symbol DD FM&P(A)1884.

H. EFFECTIVE DATE AND IMPLEMENTATION

This Instruction is effective immediately. Forward two copies of implementing documents to the Assistant Secretary of Defense (Force Management and Personnel) within 120 days.



Christopher Jehn
Assistant Secretary of Defense
Force Management and Personnel

Enclosures - 7

1. References
2. Definitions
3. DoD Requirements for the Establishment and Operation of CDPs
4. DoD Requirements for the Establishment and Operation of Child Development Facility-Based Programs
5. DoD Requirements for the Establishment and Operation of FCC Homes
6. DoD CDP Annual Summary of Operations, DD Form 2605
7. DoD CDP Request for Care Record, DD Form 2606

REFERENCES, continued

- (e) DoD Directive 5124.2, "Assistant Secretary of Defense (Force Management and Personnel)," January 26, 1990
- (f) DoD 6060.1-M-18, "Prevention of Child Abuse and Neglect in Child Care Settings," August 1988, authorized by this Instruction
- (g) DoD 5025.1-M, "DoD Directives System Procedures," December 1990, authorized by DoD Directive 5025.1, December 23, 1988
- (h) Title XV of Public Law 101-189, "Military Child Care Act of 1989," November 29, 1989 (10 U.S.C. 113 note)
- (i) DoD 6060.1-M-1A, "'Caring' Role in a Child Care Center, Pt. I, Orientation," April 1982, (hereby canceled)
- (j) DoD 6060.1-M-1B, "'Caring' Role in a Child Care Center, Pt. II, Relating to Parents," April 1982, (hereby canceled)
- (k) DoD 6060.1-M-1C, "'Caring' Role in a Child Care Center, Pt. III, Relating to Children," April 1982, (hereby canceled)
- (l) DoD 6060.1-M-2, "Caring for Infants," April 1982, (hereby canceled)
- (m) DoD 6060.1-M-3, "Caring for Pretoddlers," April 1982, (hereby canceled)
- (n) DoD 6060.1-M-4, "Caring for Toddlers," April 1982, (hereby canceled)
- (o) DoD 6060.1-M-5, "Caring for Preschoolers," April 1982, (hereby canceled)
- (p) DoD 6060.1-M-6, "Caring for School-Age Children," April 1982, (hereby canceled)
- (q) DoD 6060.1-M-7, "Creating Environments for Infants," April 1982, (hereby canceled)
- (r) DoD 6060.1-M-8, "Creating Environments for Pretoddlers," April 1982, (hereby canceled)
- (s) DoD 6060.1-M-9, "Creating Environments for Toddlers," April 1982, (hereby canceled)
- (t) DoD 6060.1-M-10, "Creating Environments for Preschoolers," April 1982, (hereby canceled)
- (u) DoD 6060.1-M-11, "Creating Environments for School-Age Children," April 1982, (hereby canceled)
- (v) DoD 6060.1-M-12, "Director's Manual for the Child Guidance Series and Child Environment Series," April 1982, (hereby canceled)
- (w) DoD 6060.1-M-13, "Program Development in Military Child Care Settings," April 1982, (hereby canceled)
- (x) DoD 6060.1-M-14, "Managing Military Child Care Centers," April 1982, (hereby canceled)
- (y) DoD 6060.1-M-15, "Financial Planning for Military Child Care Centers," April 1982, (hereby canceled)

- (z) DoD 6060.1-M-16, "Involving Parents and Volunteers in Military Child Care Programs," April 1982, (hereby canceled)
- (aa) DoD 6060.1-M-17, "Installations Resources Available to Military Child Care Programs," April 1982, (hereby canceled)
- (bb) Section 231 of Public Law 101-647, "Crime Control Act of 1990," November 29, 1990 (42 U.S.C. 13041)
- (cc) DoD Directive 6400.1, "Family Advocacy Program," June 23, 1992
- (dd) DoD Directive 1020.1, "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Defense," March 31, 1982
- (ee) Sections 2809 and 2812 of title 10, United States Code
- (ff) DoD Instruction 5305.5, "Space Management Procedures, National Capital Region," May 23, 1966
- (gg) Section 490b of title 40, United States Code
- (hh) MIL-HNBK 1037/2, "Child Development Centers," November 1, 1988
- (ii) DoD Instruction 1342.19, "Family Care Plans," July 13, 1992
- (jj) DoD Instruction 7750.7, "DoD Forms Management Program," May 31, 1990
- (kk) Federal Personnel Manual, Chapter 731, September 29, 1988
- (ll) Section 2102 of title 5, United States Code
- (mm) DoD Directive 1015.1, "Establishment, Management, and Control of Nonappropriated Fund Instrumentalities," August 19, 1981
- (nn) Public Law 92-463, "Federal Advisory Committee Act," October 6, 1972, as amended, (5 U.S.C. Appendix 2)
- (oo) Title VIII of Public Law 99-145, "Military Family Act of 1985," November 8, 1985, as amended (10 U.S.C. 805 113 note)
- (pp) National Fire Protection Association (NFPA) 101, "Life Safety Code," 1991
- (qq) Title 7, Code of Federal Regulations, Part 226, "Child and Adult Care Food Program," current edition

DEFINITIONS

1. Appropriated Fund (APF) Indirect Costs. Indirect costs are those mission costs that benefit two or more outputs but not all outputs. Costs that benefit all outputs are general and administrative expenses.

2. APF Direct Costs. Direct costs are those costs clearly identified to a product or output and are totally related to the output, such as hands on labor or material used in a product. First-line supervision over a function in sole support of a specific output is considered a direct cost. Similarly, second-line supervision may also be considered a direct cost if solely in support of a specific output. Second-line supervision and activities above second line that do not provide direct benefits to a specific output are considered indirect costs. Costs related to Headquarters, regional offices, or support activities are not considered direct costs.

3. APF Employees. Civilian personnel hired by DoD Components with APFs as defined in Federal Pay Manual (FPM), Chapter 731 (reference (kk)). This includes temporary employees, 18 years or older.

4. Appropriated Fund (APF) General and Administrative (G&A) Expenses. G&A expenses are overhead costs that cannot be reasonably associated with any particular outputs and are located over all of the outputs. G&A costs generally include functions such as local comptroller, installation security, facilities engineering, legal services, fire protection, utilities, custodial services, refuse collection, snow removal, and similar types of base support functions.

5. Caregiving Personnel. Civilian employees of the DoD Child Development Program (CDP) who are directly involved with the care and supervision of children and are counted in the staff-child ratios.

6. CDP Employee. A civilian employed by the Department of Defense to work in a DoD CDP (regardless of whether the employee is paid from APFs or NAFs).

7. Child Care Fee Receipts. NAFs derived from fees paid by members of the Armed Forces and other authorized users for child care services provided at a military CDC or other DoD-sponsored facility-based CDP. Also referred to as user fees or parent fees.

8. Child Development Programs (CDP). Child care services for children, aged birth through 12 years, of DoD personnel provided in CD facilities, to include contract locations, family child care homes, and alternative locations. Care may be provided on a full-day, part-day, or hourly basis. Care is designed to protect the health and safety of children and to promote their physical, social, emotional, and cognitive development and to enhance children's readiness for later school experience.

a. Full-Day Care. This care meets the needs of parents working outside the home who require child care services 5 hours or more per day on a regular basis, usually at least 4 days per week.

b. Part-Day Care. This care meets the needs of parents working outside the home who require child care services on a seasonal or regularly scheduled part-day basis for fewer than 5 hours per day, usually fewer than 4 days per week.

c. Hourly Care. Care provided in a CDP that meets the needs of parents requiring short-term child care services on an intermittent basis. Hourly care includes short-term alternative child care.

d. Preschool Programs. A center-based enrichment program for children 3-5 years of age that lasts 4 hours or fewer per day on a regularly scheduled basis.

e. Supplemental Child Care (SCC) Programs. Child care programs and services that augment and support CDC and FCC programs to increase the availability of child care for military and DoD personnel. These may include, but are not limited to, resource and referral services, contract-provided services, short-term, hourly child care at alternative locations, and interagency initiatives.

f. Family Child Care. Home-based child care services that are provided for members of the Armed Forces and DoD civilian personnel by an individual who is certified by the Secretary of the Military Department concerned or Defense Agency Director and/or Commander concerned as qualified to provide those services, and provides those services for 10 hours or more per week per child on a regular basis for compensation. Also referred to as Family Home Day Care, Family Home Care, and Family Day Care.

g. School-Age Care (SAC). Either facility-based or FCC-based care for children ages 6-12, or attending kindergarten, who require supervision before and after school, during duty hours, school holidays, and during school closures.

h. Resource and Referral (R&R). A service that provides information about child care services on and off the installation to meet patrons' child care needs and to maximize use of available sources of child care.

i. Short-Term Child Care. A child care program that provides on-site hourly group child care when a parent or guardian of the children in care are attending the same function and are in the same facility.

9. Competitive Service Positions. As defined in 5 U.S.C., 2102 (reference (11)), these positions consist of:

a. All civil service positions in the executive branch, except:

(1) Positions that are specifically excepted from the competitive service by or under statute;

(2) Positions to which appointments are made by nomination for confirmation by the Senate, unless the Senate otherwise directs;

(3) Positions in the Senior Executive Service.

b. Civil service positions not in the Executive Branch that are specifically included in the competitive service by statute.

c. Positions in the government of the District of Columbia that are specifically included in the competitive service by statute.

10. Developmental Program. A planned program of developmentally appropriate activities that promotes the social, emotional, physical, and cognitive development of children and enhances school readiness. Activities include child-initiated as well as adult-directed activities.

11. DoD CDP Employee Wage Plan. The NAF wage plan implemented in response to the Military Child Care Act (reference (h)), which uses a NAF pay banding system to provide direct service personnel with rates of pay substantially equivalent to other employees at the installation with similar training, seniority, and experience. Pay increases and promotions are tied to completion of training. Completion of training is a condition of employment. This wage plan does not apply to CDPs constructed and operated by contractors under 10 U.S.C. 2809 (reference (ee)).

12. DoD Certificate to Operate. A certificate issued every 15 months to each DoD CDP after the program has been inspected by a representative(s) of the higher headquarters or a major command Child Development Specialist, and found to be in compliance with DoD standards.

13. DoD Child Abuse and Safety Hotline. Continental United States and Outside Continental United States 1-800 numbers that reach the Office of the Assistant Secretary of Defense (Force Management and Personnel) to report suspected child abuse or safety violations in DoD child development and youth programs.

14. DoD Child Development (CD) Facility. All or any portion of a facility on a military installation, the primary purpose of which is to provide child care to children of members of the Armed Forces and DoD civilians.

15. DoD Installation. A base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility.

16. Facility. A building, structure, or other improvement to real property.

17. Facility-Based Program. Refers to child care that is provided within centralized facilities. Does not include family child care homes.

18. Family Care Plan. A document that outlines, on Service-specific forms, the person(s) who shall provide care for the military member's children, disabled, elderly and/or other family member(s) dependent upon the member for financial, medical, or logistical support in the absence of the member due to military duty. The plan outlines the legal, medical, logistical, educational, monetary, and religious arrangements for the care of the member's family, in accordance with DoD Instruction 1342.19 (reference (ii)).

19. FCC Management Personnel. DoD employees or contract personnel, either APF or NAF, who are responsible for FCC program management, training, inspections and other services to assist FCC providers. Includes program directors, monitors, outreach workers, United States Department of Agriculture (USDA) Child and Adult Care Food Program (CACFP) monitors, and administrative personnel.
20. FCC Provider. An individual 18 years of age or older who provides child care for 10 hours or more per week per child on a regular basis in his or her Government quarters with the approval and certification of the commanding officer, and has responsibility for planning and carrying out a program that meets the children's needs at their various stages of development and growth.
21. Infant. A child 6 weeks through 12 months of age.
22. Military Child Development Center (CDC). A facility on a military installation at which child care services are provided for members of the Armed Forces or DoD civilians or any other facility at which such child care services are provided that is operated by the Secretary of a Military Department.
23. Mixed Age Group. A group of children in a CDP drawn from more than one child age group category.
24. National Academy of Early Childhood Programs. A division of the National Association for the Education of Young Children (NAEYC) that administers an early childhood program accreditation process designed to set the standards of excellence in early childhood education.
25. National Capitol Region (NCR). The geographic area located within the boundaries of the District of Columbia; Montgomery and Prince Georges Counties in the State of Maryland; Arlington, Fairfax, Loudon, and Prince William Counties in the Commonwealth of Virginia; and all cities and other units of government within the geographic area bounded by the outer boundaries of the combined area of such District, Counties, and City.
26. Newborn. A child birth through 5 weeks of age.
27. Nonappropriated Funds Instrumentalities (NAFI) Employees. Civilian personnel hired by DoD Components and compensated from NAFI funds as defined in DoD Directive 1015.1 (reference (mm)). This includes temporary employees, 18 years or older.
28. Parent. The biological father or mother of a child; a person who, by order of a court of competent jurisdiction, has been declared the father or mother of a child by adoption; the legal guardian of a child; or a person in whose household a child resides, provided that such person stands in loco parentis to that child and contributes at least one-half of the child's support.

29. Parent Advisory Board. A group composed of parents of children attending DoD CDPs. This board shall act in an advisory capacity, providing recommendations for improving services. The board shall meet periodically with staff of the CDP. The board, with the advice of the program staff, shall be responsible for developing and overseeing the implementation of the parent participation program in accordance with Section 1506(a) of the Military Child Care Act of 1989 (reference (h)). Parent Advisory Boards are not advisory committees and need not comply with the Federal Advisory Committee Act (reference (nn)) under Section 805 of the Military Family Act of 1985 (reference (oo)).

30. Parent Participation Program. A planned group of activities and projects established by the Parent Advisory Board to encourage parents to volunteer in CDPs, including special events and activities (such as field trips, holiday events, and special curriculum programs), small group activities, special projects (such as playground improvement, procurement of equipment, and administrative aid), and parent education programs and training workshops to include child abuse prevention education for parents.

31. Person with a Disability. Any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. A person who meets the definition of a handicapped person in DoD Directive 1020.1 (reference (dd)).

32. Preschool-Age. Children 37 months through 5 years of age.

33. Pre-Toddler. A child 13 through 24 months of age.

34. School-Age Children. Children aged 6 years through 12, or attending kindergarten through sixth grade, enrolled in a school-age care program.

35. Staff:Child Ratio. The number of children for whom individual caregiving personnel or FCC providers will be responsible. Staff:child ratio varies according to different age groups (enclosures 4 and 5).

36. Support Staff. Person(s) responsible for providing services not directly related to direct child care services, such as, but not limited to, janitorial, food service, clerical, and administrative duties.

37. Toddler. Children 25 through 36 months of age.

38. Total Family Income. Includes all earned income including wages, salaries, tips, long-term disability benefits, voluntary salary deferrals, quarters allowances and subsistence allowances and in-kind quarters and subsistence received by military member, pay for service in a combat zone and anything else of value, even if not taxable, that was received for providing services. Quarters allowances and subsistence allowances mean the Basic Allowance for Quarters and the Basic Allowance for Subsistence received by military personnel (with respect to grade and status) and the value of meals and lodging furnished in-kind to military personnel residing on military bases.

39. Training and Curriculum Specialist. An APF employee who is a professionally qualified early childhood educator who meets the professional qualifications of the National Academy of Early Childhood Programs' Early Childhood Specialist, who provides training for employees, and FCC providers, and ensures curriculum development and implementation.

40. Unmet Need. The number of children whose parents cannot work outside the home because child care is not available.

41. Waiting List. List of children waiting for a CDP space and whose parents have requested space in a CDP and none is available.

DoD REQUIREMENTS FOR THE ESTABLISHMENT AND
OPERATION OF CDPs

A. General Policy

1. The DoD Components may establish CDPs for children, birth through 12 years of age, for full-day, part-day, and hourly care. Services may consist of CDCs, FCC Homes, SAC Programs, R&R, preschool, and SCC, such as short-term child care in alternative locations. The requirements in this attachment apply to all DoD CDPs.

2. Each DoD CDP shall have standard operating procedures for reporting cases of suspected child abuse and neglect and shall train all CD employees, FCC providers, and volunteers on how to report allegations of child abuse.

3. All DoD Components that establish and administer CDPs shall ensure that criminal history background checks are performed in accordance with the Crime Control Act of 1990 (reference (bb)) and implementing guidance issued for the Department of Defense and the DoD Components concerned.

4. All CDPs shall ensure that parents are informed of child abuse prevention, identification, and reporting requirements. Each CDP shall ensure the DoD Child Abuse and Safety Hotline telephone number is posted in all facility lobbies, CDP offices, and FCC homes.

5. Each CDP administered by a DoD Component shall establish a parent advisory board in accordance with Section 1506(a), Military Child Care Act of 1989 (reference (h)), composed of parents of children enrolled in all installation programs and ensure a parent chairs this board. This board shall act in an advisory capacity, providing recommendations for improving services. The Board Chair shall forward recommendations through the program director to the installation commander Defense Agency Director and/or Commander for review and disposition. The board, with the advice of the program staff, is responsible for coordination of the parent participation program described in paragraph B.1.a., below. Each board shall be formally established and chartered in accordance with Service regulations or Defense Agency requirements. The boards are not advisory committees and need not comply with 5 U.S.C., App. 2 (reference (nn)), under 10 U.S.C. 805 (reference (oo)).

6. Each CDP administered by a DoD Component shall establish a parent participation program in accordance with Section 1506(b) of reference (h). The parent advisory board and assigned CDP employees shall coordinate the development of this program and shall oversee its implementation.

7. Each CDP administered by a DoD Component shall involve parents in program planning and evaluation and ensure parents have unlimited access to their children at all times.

B. Preschool Programs

The DoD Component may establish preschool programs as a subactivity of the CDP. The purpose of these programs is to enhance school readiness by providing enrichment activities for children that helps them develop the knowledge, skills, abilities, and attitudes necessary for entry into school.

1. Preschools shall follow the educational occupancy standards for existing facilities as outlined by the National Fire Protection Association (NFPA) Life Safety Code 101 (reference (pp)).

2. An installation may use CDC space for a preschool program only when the waiting list for child care for active duty military and DoD civilian personnel does not exceed 20 percent of the facility capacity. The installation may use no more than 20 percent of any space that meets the NFPA (reference (pp)) standards for existing day care facilities for preschool programs, SAC, or hourly care, if there is a waiting list for full-day and part-day child care for parents employed outside the home.

C. Developmental Program

1. Each DoD CDP shall establish a planned program of developmentally appropriate activities.

2. Each CDP shall provide adequate and nutritious meals and snacks that follow USDA CACFP guidelines (reference (qq)), and are prepared in a safe and sanitary manner.

3. Each DoD Component shall issue guidelines for the training, screening, and supervision of volunteers in any CDP.

4. Training and Curriculum (T&C) Specialist. The T&C Specialist shall ensure that all CD employees and FCC providers receive the training required in this Instruction. At least one employee at each DoD CDC or CDP shall be a T&C Specialist. In military CDCs, this person shall be an employee in a competitive service position as defined in item 9. of enclosure 2. The duties of the T&C Specialist include the following:

a. Special teaching, role modeling, and demonstration of activities in facilities and FCC programs.

b. Daily oversight and instruction of other child care employees.

c. Daily assistance in preparation of lesson plans.

d. Assistance in the child abuse prevention and detection training program.

e. Advice to the CDP director on the performance of other child care employees and FCC providers.

f. Assistance to management staff in the development and implementation of parent education programs.

D. Operational Oversight

1. The DoD Components shall establish procedures for inspection of CDPs and certify compliance with the requirements established in this Instruction. It is DoD policy that all CDPs operated by or for DoD Components are included in these inspections.

2. Installation and/or Local Inspections. Qualified local personnel will inspect each program. Each DoD Component shall establish criteria that determines the qualifications for local inspectors. Each inspection shall be unannounced and conducted at intervals to ensure that each CDP has continuous oversight. These inspections shall consist of the following:

a. At least one comprehensive health and sanitation inspection per year by representatives of the installation commander or Defense Agency Director and/or Commander having proponenty for the program.

b. At least one comprehensive fire and safety inspection per year by representatives of the installation commander or Defense Agency Director and/or Commander having proponenty for the program, which includes a review of facility and maintenance.

c. One inspection led by a representative of the installation commander or Defense Agency Director and/or Commander with authority to verify compliance with DoD standards. This inspection shall employ a multidisciplinary team with expertise in the various standards prescribed. The team will include parent representation and solicit the views of parents.

3. A Major Command or Higher Headquarters (DoD Component) Inspection. A CD representative, who meets the qualifications listed in paragraph D.3.a., below, will conduct at least one inspection annually. Parents shall be interviewed as part of this inspection.

a. The higher headquarters representative designated to perform program inspections shall possess qualifications in early childhood development and shall, at a minimum, meet the validator qualifications required by the NAEYC and the National Academy of Early Childhood Programs. This includes a minimum of a baccalaureate degree in Early Childhood Education, Child Development, or related field and at least 3 years of full-time teaching or management experience with young children.

b. In response to each inspection, the installation shall develop a corrective action plan that addresses any deficiencies found during the inspection.

4. Certification of Programs. Each DoD Component shall forward the results of the higher headquarters inspections required by this Instruction to the ASD(FM&P). Based on the DoD Component recommendation, the ASD(FM&P) will issue a certificate to operate to the program, which is valid for 15 months after the date of inspection. Each CDP will display this certificate in a prominent location. If at any time it is determined by the DoD Component that a program is not in compliance with this Instruction, the DoD Component shall notify the ASD(FM&P) and advise the responsible DoD Component that it must meet the standards in the time specified in paragraph D.6.a., below.

5. The ASD(FM&P) shall periodically, but at least twice annually, make unannounced visits to selected programs to review compliance with this Instruction. The ASD(FM&P) may use other means in addition to the procedures in this section to monitor CDPs and ensure compliance with standards.

6. Remedies for Violations

a. The installation commander or Defense Agency Director and/or Commander shall ensure remedy of any life-threatening violation of this Instruction or other safety, health, and child welfare laws or regulations (discovered at an inspection or otherwise) at a DoD CDP immediately or he or she will close the facility (or affected parts of the facility). In the case of a violation that is not life-threatening, the commander of the major command under which the installation concerned operates, or the Defense Agency Director and/or Commander concerned, may waive the requirement that the violation be remedied immediately for up to 90 days beginning on the date of discovery of the violation. If the violation is not remedied by the end of that 90-day period, the DoD program or parts involved will be closed until the violation is remedied. The Secretary of the Military Department, or Defense Agency Director and/or Commander concerned, may waive the preceding sentence and authorize the program to remain open in a case in which the violation cannot reasonably be remedied within the 90-day period or in which major facility reconstruction is required.

b. If a military CDC is closed under paragraph D.6.a., above, the Secretary of the Military Department concerned shall promptly submit to the Committees on Armed Services of the Senate and the House of Representatives a report notifying those committees on the closing. The report shall include a notice of the violation that resulted in the closing, the cost of remedying the violation, and a statement of the reasons why the violation has not been remedied as of the time of the report. A copy of this report shall be provided to the ASD(FM&P).

7. Each DoD Component that provides Government housing to active duty military or other DoD personnel shall prescribe regulations that ensure operational oversight of FCC homes including conducting unannounced inspections and annual review for installation certification. To ensure adequate supervision, the number of homes assigned per full-time FCC staff member may

not exceed 40. FCC homes shall not be certified unless adequate supervision is provided to ensure children's safety and well-being. Each DoD Component shall ensure that unauthorized child care in Government quarters is terminated and that all persons residing in Government quarters are informed that the provision of child care in Government quarters is a privilege, not a right.

E. Staff and Supervision

Each DoD Component shall ensure that all CDC directors hired after March 23, 1991, and all other CDP directors (e.g., those for FCC) hired after October 1, 1993, shall have at a minimum a baccalaureate degree in child development, early childhood education, home economics (early childhood emphasis), elementary education, special education, or other degree appropriate to the position to be filled from an accredited college or a combination of education and experiences (e.g., courses equivalent to a major in education, or in one of the subject fields appropriate to the position, plus appropriate experience or additional course work, which provide knowledge comparable to that normally acquired through the successful completion of the 4-year course of study, or a related field, including, but not limited to, education, social work, home economics, or psychology or child-related field, or 3 years equivalent experience).

F. Funding of CDPs

1. The DoD Component shall ensure the amount of direct APF support used for operation of DoD facility-based child care programs is not less than the amount of child care fee receipts.

2. The installation commander or Defense Agency Director and/or Commander concerned shall ensure that child care fee receipts are used only for compensation of child care employees who are directly involved in providing child care, for food-related expenses not paid by USDA or DoD APFs, and for consumable supplies. The installation commander or Defense Agency Director and/or Commander shall ensure that, to the maximum extent possible, child care fee receipts cover the NAF cost of care provided at DoD facility based child care programs. NAF costs not covered by child care fee receipts are to be minimized.

3. The ASD(FM&P) shall establish annual sliding fee ranges based upon total family income for use at all CD facility-based programs. These sliding fee ranges will be uniform throughout the Department of Defense for all children who attend the facility-based programs on a regular basis. Each DoD Component shall issue guidance on sliding fee ranges for preschool and SAC programs that is based on the DoD sliding fee ranges. These fees will include meals and snacks.

a. The ASD(FM&P) will review the DoD sliding fee ranges annually and publish new fee ranges based on this review. Installations will establish local fees on an annual basis, using the sliding fee ranges published by the ASD(FM&P).

b. Each CDP will verify total family income annually and adjust individual fees accordingly. Parents will pay the highest fees set by the installation and/or agency unless they have provided proof of total family income that falls into a lower income category. The DoD Components shall require each sponsor to verify that the income stated includes total family income as defined in enclosure 2.

c. The installation commander or Defense Agency Director and/or Commander may establish lower child care fees for parents participating in an approved parent participation program.

d. Installation commanders or Defense Agency Directors and/or Commanders may adjust individual family fees based on hardship or other special circumstances on a case-by-case basis.

e. The DoD Components may increase child care user fees at those installations where child caregiver wages are affected by nonforeign area cost of living allowance (COLA), post differential, or locality pay. The increase in child care user fee ranges may not exceed the percentage amount of the COLA, post differential, or locality pay rate, whichever applies. The DoD Component will submit any requests for waivers to the DoD child care fee ranges to the ASD(FM&P) for decision and include documentation that the levels of direct APF support are at least equal to the amount of child care user fee receipts collected.

4. The installation commander or Defense Agency Director and/or Commander concerned may authorize the CDP to use APFs to provide direct cash assistance to FCC providers, so that FCC services can be provided to members of the Armed Forces at a cost comparable to the average cost of services provided by DoD facility-based programs.

5. The FCC program is a service provided to DoD military and civilian personnel and will not generate NAF income. The CDP may use APF for the FCC program, including salaries of program directors, program monitors, administrative personnel, training and curriculum specialists, marketing, and supplies and equipment. The CDP may use APFs to establish and maintain lending libraries and training materials for use by providers, as well as for travel expenses of program monitors using their private vehicles to perform Government functions.

6. FCC providers are private contractors certified and monitored by the DoD Component. Matters regarding the establishment of fees, fee policies, and collection of fees are between the provider and the parent unless the installation or Defense agency is providing a direct monetary subsidy to the provider as authorized in subsection F.4., above. When the installation or Defense agency provides direct monetary subsidies, the installation commander or Defense Agency Director and/or Commander concerned may regulate fees charged by the FCC providers.

DoD REQUIREMENTS FOR THE ESTABLISHMENT AND
OPERATION OF CHILD DEVELOPMENT FACILITY-BASED PROGRAMS

In addition to the requirements of enclosure 3 of this Instruction, the following apply to all facility-based programs: (This does not apply to short-term child care in alternative locations when parents remain in the facility and retain responsibility for their children.)

A. Facility Requirements

1. The CDP shall ensure each activity room used for care has 35 square feet of usable space per child. A minimum of 75 square feet per child for each child using the playground at any one time shall be provided for playground spaces. Outdoor play areas will directly adjoin CDCs. Playgrounds for alternative program options do not have to adjoin the facility but must be accessible via a route free from hazards and be within 1/8 mile from the facility.

2. The installation may add additional square footage to accommodate administrative requirements for CDPs, including FCC.

3. The facility design will help minimize the risk of child abuse in CDCs by decreasing the opportunities for abuse. See subsection E.2. of this enclosure, below.

B. Child Supervision

1. In facility-based programs, the following staffing requirements apply:

AGE OF CHILD	MAXIMUM NUMBER OF CHILDREN	
	PER ONE CAREGIVING PERSONNEL	PER GROUP
6 weeks through 12 months	4	8
13 months through 24 months	5	10
25 months through 36 months	7	14
37 months through 5 years	12	24
6 years through 8 years	15	30
9 years through 12 years	15	30

2. CD facility-based programs shall meet the staffing requirements for each age group of children, except during rest time. During rest time, the CDC director may double the staff:child ratio, except for infants aged 6 weeks to 24 months, to allow staff to attend training. These staff must remain in the building where the children are sleeping or resting. Volunteers or persons under 18 years of age may not be counted in determining compliance with staff:child ratios.

3. CD facility-based programs shall meet the staffing requirements for the age of the youngest child in the group if children in the youngest age

category make up 20 percent or more of the group. If children in the youngest age category make up less than 20 percent of the group, the installation shall use the staff:child ratio requirement for the next higher category. At least two caregivers must be present with each group of children at all times. When this is not possible, due to limited room capacity or usage, the CD director or designee shall supervise rooms through closed circuit television or visual access panels to ensure oversight by more than one adult. This does not alter the required staff:child ratio.

4. If more than one group (two ratios) occupies a single room, each group must have its own clearly defined physical space and primary interest centers.

C. Staff Requirements

1. The CD director shall ensure that all newly hired caregiving personnel are at least 18 years of age; hold a high school diploma or equivalent; and have the ability to speak, read, and write English. Caregiving personnel shall be able and willing to undergo prescribed training. It is DoD policy that training, education, and experience shall influence progression from entry level to positions of greater responsibilities.

2. The CD director shall select staff based on their qualifications and demonstrated ability to work with children in a group and their understanding of children's needs. The CD director shall ensure that prior employment references for all staff members are checked before employment.

D. Training

1. Each CDC shall implement a training program for all CD caregiving personnel. At a minimum, this program shall include training requirements that are linked to the DoD CD Employee Wage Plan and shall include an annual review of the requirements listed in subsections D.2., 3., and 4., below, except Cardiopulmonary Resuscitation (CPR), rescue breathing, and first aid, which are updated as required to keep certification current.

2. All newly hired caregiving personnel shall complete orientation training before they are allowed to work directly with children. This orientation must include the following subjects:

- a. Position orientation.
- b. Applicable regulations and installation policy.
- c. Child health and safety.
- d. Child abuse identification, reporting, and prevention.
- e. Age-appropriate guidance and discipline.

- f. Parent and family relations.
- g. Health and sanitation procedures.

3. Initial Caregiver Training. All newly hired caregiving personnel shall complete 36 hours of training within 6 months of beginning work. This training shall include, at a minimum, in-depth training on the subjects listed in subsection D.2., above, as well as the following:

- a. CD.
- b. Age-appropriate activities and disciplining techniques for children.
- c. CPR and other emergency medical procedures.
- d. Applicable regulations.
- e. Nutrition and meal service.
- f. Child abuse and neglect prevention and reporting.

4. Ongoing Caregiving Personnel Training. All caregiving personnel shall complete ongoing training that includes the DoD CD Employee Training Modules, authorized in subsection A.3. of the main body of this Instruction, or an equivalent DoD-approved training program. Satisfactory completion of the training program is a condition of employment for all caregiving personnel.

5. Support Staff. The CDP director shall ensure that all CDP support staff participate in annual training related to latest techniques and procedures in child care, to include family advocacy programs, child abuse identification, prevention and reporting procedures, center administration and/or management, parent involvement, and curriculum development.

E. Child Abuse Prevention

1. The CDP Director shall ensure that children can be observed at all times by parents and supervisors, that access to children by those not employed by the program is restricted, and the areas to which a child or children can be taken out of view of others are limited.

2. Each DoD Component shall ensure the following structural requirements are met in existing facilities as well as new construction:

- a. There is visual access into rooms used for care.
- b. Doors on toilet stalls are removed except for those used by children 5 years of age and older and adults.

c. Vision panels are installed in doors of rooms or other closed areas to which children might be taken, and access is controlled, unless they are kept locked during the day.

d. Walls between diapering areas and the activity rooms they serve are removed, or there are vision panels to increase visibility of the caregiving personnel by other adults during diapering. Half walls or walls with vision panels in top half are permissible.

e. Convex mirrors are installed to improve supervision of low visibility areas.

f. All exit doors that do not open onto a playground or fenced area have operating alarms, except the main entrance to the facility and the kitchen entrance.

g. Evening or weekend care is provided in rooms located near the front entry way to facilitate additional supervision of the rooms by the front desk staff and to allow visual access by parents entering and leaving the facility.

3. In addition to the requirements in subsections E.1. and E.2. of this enclosure, each DoD Component shall ensure the following in renovated or newly constructed facilities after October 1, 1993:

a. When walls are constructed or replaced, large vision panels shall be included to increase visibility into areas in which children are receiving care. Vision panels in fire-rated walls or corridors must conform to the fire protection requirements as outlined in NFPA 101 (reference (pp)).

b. Walls around toilet stalls for children under 5 years of age are half-walls to permit better viewing of toilet areas.

c. All outdoor play areas should be viewed from the activity rooms that they serve.

DoD REQUIREMENTS FOR THE ESTABLISHMENT AND
OPERATION OF FCC HOMES

In addition to the requirements of enclosure 3 that address FCC homes, the following apply:

A. Qualifications of Providers

1. It is DoD policy that the provision of child care in Government-owned or -controlled housing is a privilege, not a right, which is extended to family members of military members or DoD civilian personnel at the discretion of the installation commander or Defense Agency Director and/or Commander concerned. The installation commander or Defense Agency Director and/or Commander concerned must ensure that only the most qualified among those who meet the minimum qualifications are certified as providers. The CDP director shall select providers based on demonstrated ability to work with children, understanding of children's needs, and ability to provide care in the home environment. The installation commander or Defense Agency Director and/or Commander concerned shall take steps necessary to ensure that all FCC providers in quarters under his or her jurisdiction are in compliance with this Instruction.

2. The CDP director shall ensure all providers are at least 18 years of age; have the ability to speak, read, and write English; are physically and mentally capable of providing care for children; are free of communicable diseases; and are able and willing to undergo prescribed training. The CDP director shall ensure that training, experience, and ability to work with children determine the continued certification of all FCC providers.

3. The installation shall screen all FCC provider applicants, family members over the age of 12, and other persons living in the potential FCC home.

4. The CDP director shall ensure substitute providers or persons who serve as backup providers meet the criteria outlined in subsection A.3., above, and complete a basic orientation that includes child abuse identification, reporting and prevention, safety and health procedures, and CPR training.

5. Each FCC program shall ensure substitute providers or child care services are available so that parents are not left without adequate care when FCC providers become ill or have other emergencies.

B. Provider:Child Ratio and Group Composition

1. The DoD Components will limit the number of children authorized in an FCC home according to the age of the children enrolled. When all children are under the age of 2, the maximum group size at any one time is 3. When there is a mixed age group, the maximum group size is six children including the provider's own children under 8 years of age. In addition, in mixed age groups, the number of children under 2 years of age is limited to two children.

In homes where all of the children are over age 5 including the providers own, the maximum group size at one time is eight providing that installation fire, health, and safety personnel determine that the indoor and outdoor space is adequate for the number of children receiving care.

2. If, in consultation with the cognizant safety, fire, and health personnel, the CDP director determines that the housing unit is too small, the CDP director shall reduce the maximum number of children authorized in subsection B.1., above, of this enclosure.

3. The DoD Components shall encourage FCC homes for special purposes that directly support military or agency requirements. This includes certification of homes to provide overnight care, extended hours care, sick child care, infant and newborn care, and care for children with disabilities. Each installation shall determine the number of children authorized in these homes, based on the individual needs of the children and the provider. The number may not exceed the ratios established in subsection B.1., above, of this enclosure.

C. Enrollment of Children

Each DoD Component with jurisdiction over FCC homes shall issue regulations that describe enrollment and attendance procedures for children in all FCC homes. At a minimum, parents will complete health and emergency information before enrollment and will sign their children in and out of the FCC home on a daily basis. Each provider shall maintain enrollment and attendance records of individual children in their care.

D. Provider Training

1. Each FCC program shall provide training on the latest child care techniques and procedures for providing safe developmental child care in the home environment to all FCC providers. The CDP director shall ensure training programs are readily accessible to providers.

2. Provider Orientation Training. The CDP director shall ensure all new providers complete an orientation training program before they care for children. This orientation must address, at a minimum, the following subjects:

- a. Position orientation.
- b. Applicable regulations and installation policy.
- c. Child health, nutrition, and safety.
- d. Child abuse identification, reporting, and prevention.
- e. Age-appropriate guidance and discipline.
- f. Parent and family relations.

- g. Health and sanitation procedures.
- h. Business operations.
- i. Child development and environments.

3. The CDP director shall ensure that the provisions of subsection D.2., above, this enclosure, apply to all newly certified providers, as well as those currently certified. Providers certified as of the date of this Instruction who do not meet these requirements shall have 12 months from such date to complete these requirements.

4. Annual Provider Training. The CDP director shall ensure each provider completes 24 hours annually of training using the "DoD Family Child Care Training Modules" and "DoD Child Abuse Training Modules for Family Child Care Providers," as authorized in subsection A.3. of the main body of this Instruction, or equivalent, including training on:

- a. Early child development.
- b. Age-appropriate activities for children.
- c. Food handling, nutrition, and meal service.

5. The CDP director shall ensure all providers maintain current CPR and first-aid certification and complete an annual update of child abuse prevention, identification, and reporting procedures.

6. The installation shall ensure FCC management personnel receive annual training related to the latest techniques and procedures in child care, to include family advocacy programs, child abuse reporting procedures, program administration, conducting home visits, observation, and interviewing of potential providers.

E. Oversight

Guidance on the oversight of FCC homes is in enclosure 3, subsection D.7.

ANNUAL SUMMARY OF OPERATIONS

INSTRUCTIONS

Complete the following information for your Service. If information is available for Reserve and other child development programs under your Service's jurisdiction, complete a separate form. Date of record for specific entries noted by an asterisk (*) is the last Wednesday in September of each fiscal year. Reporting period is Fiscal Year (last October 1 to current September 30). Items 17 through 22 are to be completed by the Civilian Personnel Office.

Read Specific Instructions in Attachment 1 of DODI 6060.2, "Child Development Programs," before completing this form.

1. BRANCH OF SERVICE SAMPLE FORM				2. DATE OF REPORT (YYMMDD) 92/09/30			
3. TOTAL INSTALLATIONS PROVIDING CARE*		4. TOTAL FACILITIES*		5. TOTAL CAPACITY*			
a. CENTER BASED CARE ONLY	15	a. TOTAL NUMBER OF SEPARATE BUILDINGS	166	a. TOTAL CAPACITY ALL CENTER BASED PROGRAM FACILITIES	2,268		
b. FAMILY DAY CARE ONLY	12	b. TOTAL NUMBER OF LICENSED FAMILY DAY CARE HOMES	1,827	b. TOTAL FAMILY DAY CARE ENROLLMENT	9,135		
c. CENTER BASED AND FAMILY DAY CARE	90						
6. NUMBER OF CHILDREN REGISTERED*		(1) Military (2) Civilian	7. ATTENDANCE ON DATE OF RECORD*		(1) Military (2) Civilian		
a. CENTER BASED CARE	12,800	200	a. CENTER BASED CARE	12,000	140		
b. FAMILY DAY CARE (FDC)	9,035	100	b. FDC (including providers' own children, age 0-8 years)	9,000	100		
c. ALTERNATE/OTHER CARE	100	12	c. ALTERNATE/OTHER CARE	40	10		
d. SCHOOL-AGED CARE	1,220	120	d. SCHOOL-AGED CARE	400	90		
e. TOTAL	23,155	432	e. TOTAL	21,440	340		
8. NUMBER OF CHILDREN REGISTERED WITH SPECIAL NEEDS 120		9. NUMBER OF INSTALLATIONS WITH RESOURCE AND REFERRAL SERVICE PROGRAMS 45					
10. WAITING LIST BY SPONSOR*		11. WAITING LIST BY AGE GROUP*		12. PRESENT CHILD CARE ARRANGEMENTS*			
a. SINGLE MILITARY	50	a. INFANTS (0-12 months)	102	a. FDC ON-INSTALLATION	20		
b. DUAL MILITARY	30	b. TODDLERS (13-35 months)	186	b. FDC OFF-INSTALLATION	10		
c. MILITARY/DOD SPOUSE	80	c. PRESCHOOL (3-5 years)	520	c. OTHER MILITARY CHILD DEVELOPMENT CENTER (CDC)	15		
d. DUAL DOD CIVILIANS	20	d. SCHOOL AGE (5+ years)	159	d. CIVILIAN CDC	42		
e. SINGLE DOD CIVILIAN	10	f. TOTAL	967	e. MILITARY ALTERNATE CARE	24		
f. RETIRED MILITARY	22	g. WITH SPECIAL NEEDS	36	f. NON-MILITARY ALTERNATE CARE	18		
g. MILITARY RESERVE	13	h. ON OTHER MILITARY WAITING LIST	60	g. IN-HOME CARE	20		
h. NATIONAL GUARD	17	i. IN SELF-CARE	55	h. NO PRESENT CARE	45		
i. MILITARY/UNEMPLOYED SPOUSE	26	j. NO PRESENT CARE	45	i. OTHER (Specify)	8		
j. MILITARY/OTHER THAN DOD SPOUSE	180	13. UNMET DEMAND (11.1 - 11.1 + 11.1)	867	Parental Care - Shiftworker	8		
k. TOTAL	508			j. TOTAL	202		
14. UNMET DEMAND FINANCIAL IMPACT LAST FISCAL YEAR		15. PLACEMENT INFORMATION FOR FISCAL YEAR (Average placement time in months (from DD Form 2606, Request for Care Record*)) 14.3mos					
a. NO. OF SPOUSES' EMPLOYMENT PREVENTED	45			b. TOTAL INCOME FROM PARENT FEES	\$22.5M		
b. AVERAGE INCOME LOST (Per family per year)	\$12,600			c. TOTAL NON-APPROPRIATED FUND (NAF) EXPENDITURES	\$23.5M		
16. FISCAL YEAR FINANCIAL DATA (\$ in Millions)							
a. TOTAL APPROPRIATED FUND (APF) SUPPORT EXCLUDING COMMON SUPPORT AND UTILITIES	\$40.5M						
17. STAFFING DATA*		18. ADMINISTRATIVE/SUPERVISORY POSITIONS FILLED*		(1) APF (2) NAF			
TOTAL POSITIONS:	(1) APF (2) NAF	a. CHILD DEVELOPMENT PROGRAM	600		400		
a. AUTHORIZED	810 3,500	b. FAMILY DAY CARE PROGRAM	309		50		
b. FILLED	909 3,100	c. TOTAL	909		450		
19. NON-SUPERVISORY CAREGIVER POSITIONS FILLED*		20. TURNOVER* (No. of caregivers employed:)					
a. CC/CD-01	350	c. CC/CD-03	1,200	e. CC/CD-05	250		
b. CC/CD-02	450	d. CC/CD-04	300	f. TOTAL	2,550		
21. SPOUSES EMPLOYED* (No. of spouses hired under Spouse Employment Program) 30		22. BENEFITS* (Percent of caregivers receiving benefits) 86.3%		23. ACCREDITATION (No. of centers accredited by national accrediting body) 11			
24. CERTIFICATION*		25. USER DATA (Average full-day users, by income category)					
a. NO. OF CENTERS DOD CERTIFIED	75	a. CATEGORY I	538/8%		c. CATEGORY III	557/23%	
b. NO. OF WAIVERS	30	b. CATEGORY II	546/60%		d. CATEGORY IV	568/7%	
26. USDA FOOD PROGRAM ENROLLMENT DATA							
a. NO. OF CENTERS ENROLLED*	75	c. NO. OF FAMILY DAY CARE PROVIDERS ENROLLED*	800				
b. TOTAL ANNUAL CENTER REIMBURSEMENT	\$996,000	d. TOTAL ANNUAL FDC REIMBURSEMENT TO MILITARY SPONSOR	\$92,000				
		e. TOTAL ANNUAL FDC REIMBURSEMENT TO PROVIDER	\$480,000				
27. REMARKS (Use reverse side if necessary)							
Clarify answers if necessary in this space and on back of form.							

REPORT CONTROL SYMBOL

PL 101-89 Sec. 1507; EO 9397.

To collect applicant information for Child Development Programs and place applicants on waiting lists for program services. Information compiled from applications is also used to assist management determination of effectiveness of present and projection of future program requirements.

None.

Voluntary; however, failure to furnish requested information will result in an incomplete request for care record and possible loss of placement on Child Development Program waiting lists.

DD Form 2606, OCT 91

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8

Divider Title: _____



Department of Defense **INSTRUCTION**

December 19, 1996
NUMBER 6060.3

ASD(FMP)

SUBJECT: School-Age Care (SAC) Program

- References:**
- (a) DoD Directive 1342.17, "Family Policy," December 30, 1988
 - (b) DoD Instruction 6060.2, "Child Development Programs," January 19, 1993
 - (c) DoD Directive 4001.1, "Installation Management," September 4, 1986
 - (d) DoD 5025.1-M, "DoD Directives System Procedures," August 1994, authorized by DoD Directive 5025.1, June 24, 1994
 - (e) through (n), see enclosure 1

A. PURPOSE

This Instruction:

1. Implements policies, and assigns responsibilities and procedures for operation of SAC programs for eligible minor children of DoD military and civilian personnel, in accordance with references (a) through (n).
2. Requires Military Departments and Defense Agencies to ensure that all DoD installations develop policies under which children residing on or in a DoD facility or installation can be left alone to care for themselves, otherwise known as a "home alone" policy or "self-care." (See definition 19 of enclosure 2.)
3. Authorizes publication of the "DoD SAC Employee Training Modules," DD Form 2693, "Certificate to Operate SAC Programs," and DD Form 2646, "Annual Summary of SAC Program Report," consistent with reference (d).

B. APPLICABILITY AND SCOPE

This Instruction applies to:

1. The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard when it is operating as a Service of the Navy, and when it is operating as a Service of the Department of Transportation (DoT) by agreement with the DoT.
2. SAC programs sponsored or operated by or for the Department of Defense for military and DoD civilian personnel and located on a military installation or property under 10 U.S.C.

113 note (reference (e)), under the jurisdiction of any DoD Component or located in donated space in a facility such as a local public school.

C. DEFINITIONS

Terms used in this Instruction are defined in enclosure 2.

D. POLICY

It is DoD policy that:

1. The purpose of SAC programs offered by the DoD Components is to assist DoD military and civilian personnel in balancing the competing demands of family life and accomplishment of the DoD mission and to improve the economic viability of the family unit. SAC is not considered an entitlement.

2. On military installations and in other DoD Component facilities, the DoD Components shall provide SAC programs, or alternatives, to military members and DoD civilian personnel. SAC programs shall provide safe, supervised, healthy, accountable, and age-appropriate environments for children in grades kindergarten through 6, ages 5 through 12, that meets documented community needs and are based on reasonable and affordable fees for services charged to eligible parents.

a. The primary sponsors of DoD SAC programs are youth programs (YP) and child development services (CDS) programs. The DoD Components are encouraged to provide resource and referral (R&R) services to refer eligible patrons to programs in the civilian community when SAC space is limited on the DoD installation or when the majority of parents live off the installation and it is unreasonable for them to use SAC programs on the installations.

b. Programs should complement, rather than duplicate, the school day. Emphasis should be placed on SAC programs that meet community needs, reinforce family values, and emphasize the unique value of each child through individual and group activities that promote the cognitive, social, emotional, and physical development of children.

c. The installation commander shall provide a SAC program that regardless of physical location:

(1) Enhances or reinforces academic skills, recreational lifelong skills, avocations, and interests to promote individual achievement for each child.

(2) Fosters resilient and self-sufficient families and enhances military readiness by providing services that reduce work-life conflicts.

(3) Emphasizes the unique value of each child, by providing appropriate guidance, promoting positive attitudes, and enhancing or reinforcing self-worth.

(4) Provides quality training, program guidance, and direction to program managers, paid staff, volunteers, and parents.

(5) Meets identified school-age children, and family needs as measured through a needs assessment and expands collaboration among organizations both on- and off-installation to better meet community requirements.

(6) Provides affordable and quality school-age care programs and activities that offer supervised individual and group activities.

d. Eligible patrons include active duty military personnel, DoD civilian personnel paid from either appropriated funds (APF) or non- appropriated funds (NAF), Reservists on active duty or during inactive duty training, and DoD contractors. The first priority is for active duty military, including reservists on active duty and DoD civilian personnel. Each installation commander and Defense Agency Director and/or commander shall establish a priority system under which access to SAC programs shall be determined. In all cases, first priority shall be given to children enrolled in K through grade 6 of active-duty military and DoD civilian personnel who are either as follows:

(1) Single parents; or

(2) Whose spouse is employed on a full- or part-time basis, or enrolled in school outside the home, or is a military member on active duty. Installation commanders and Defense Agency Directors and/or commanders shall determine on a case-by-case basis whether a spouse employed on a full-time basis by working in the home qualifies for first priority treatment. The installation commander or Defense Agency Director and/or commander shall make a statement of those priorities available to all eligible patrons seeking enrollment of their children in DoD SAC programs.

e. Wherever the demand for SAC programs exceeds an installation's capacity, the installation commander or Defense Agency Director shall take steps to expand availability of SAC through use of referrals to community programs located off the installation. The commander may use other available methods such as participation in consortiums with other off-installation State or Federal Agencies.

f. Each DoD Component providing SAC programs shall operate, maintain, and fund those programs with a combination of direct APFs and NAFs. APFs may be used for equipment, supplies, custodial services, utilities, food, training, travel, and transportation. APFs shall be used for the salary expense of the SAC employees including the director, staff and administrative support when such services are provided by DoD civilian personnel that are classified as appropriated fund employees. NAFs shall be used for the salary expense for SAC employees that are classified as nonappropriated fund employees. Section D does not apply to SAC programs located in Child Development Centers (CDCs) that are the result of a long-term facilities contract under 10 U.S.C. 2809 (reference (g)) or a lease purchase agreement under

section 2812 of reference (g) when such agreements were entered into before the date of publication of this Instruction. The installation commander or Defense Agency Director concerned shall ensure that parent fees cover the NAFs direct costs to operate the program. The use of section 2812 of reference (g), NAF, other than parent fees, to pay daily operating expenses is discouraged.

g. On an annual basis, the Assistant Secretary of Defense for Force Management Policy (ASD(FMP)), in coordination with the OUSD (Comptroller), shall develop for USD (Comptroller) promulgation sliding fee ranges based on total family income for use at all SAC facility-based programs. The sliding fee ranges shall be uniform throughout the Department of Defense for all children who attend the SAC on a regular basis. Those fees shall include the cost of snacks and meals, if provided.

h. DoD SAC programs shall comply with DoD Instruction 1402.5 and DoD Directive 6400.1 (references (h) and (i)). It is DoD policy to provide comprehensive programs to prevent child abuse and promote early identification and reporting of cases of alleged child abuse or neglect.

i. Programs and activities conducted under this Instruction shall comply with DoD Directive 1020.1 (reference (j)). No otherwise qualified person with a disability shall be subjected to discrimination by a DoD SAC program. That includes children with disabilities who meet the essential eligibility requirements for SAC program services and parents with disabilities whose children are receiving or seeking SAC program services.

j. Each SACs program shall keep on file relevant emergency care information from the "Family Care Plan" (reference (k)) for each child who is enrolled on a regular basis, and whose sponsor is active duty military and is required to have a "Family Care Plan."

k. The DoD Components shall ensure that all DoD installations develop a policy that addresses the ages and circumstances under which a child under the age of 12 can be left at home alone without adult supervision. Those policies shall take into consideration applicable laws and ordinances of the states or countries in which they are located.

E. RESPONSIBILITIES

1. The Assistant Secretary of Defense for Force Management Policy shall:

a. Prescribe policies and guidelines for SAC programs on DoD installations and in DoD-owned or -leased facilities, or in DoD-funded programs.

b. Ensure that all DoD SAC program publications are published in accordance with this Instruction and DoD 5025.1-M (reference (d)).

c. Issue SAC program standards and monitor compliance.

2. The Heads of the DoD Components shall ensure that:

- a. SAC programs are operated in accordance with this Instruction and shall monitor local compliance with DoD policy in accordance with DoD requirements.
- b. Responsibility for compliance with this Instruction rests with the activity providing funding for the SAC. Each such DoD activity shall provide implementing guidance for this Instruction.
- c. All SAC program personnel are trained pursuant to this Instruction (enclosure 3).
- d. An annual summary of operation reports shall be completed at the end of each fiscal year by each Military Service and DoD Agency Director and/or commander. Reports are to be submitted to the Office of the ASD(FMP) by December 15 of each year.
- e. Issue minimum safety, health, and operating standards and ensure compliance with those standards

F. PROCEDURES

Procedural guidance is in enclosure 3.

G. INFORMATION REQUIREMENTS

The information requirement contained in this instruction is assigned Report Control Symbol DD-P&R(A)1954, expiration September 13, 1997.

H. EFFECTIVE DATE AND IMPLEMENTATION

This Instruction is effective immediately. Forward two copies of implementing documents to the Assistant Secretary of Defense for Force Management Policy within 120 days.


F. Pang

Enclosures - 3

- 1. References
- 2. Definitions
- 3. DoD Requirements for the Establishment and Operation of SAC Programs

REFERENCES, continued

- (e) Section 113 of title 10, United States Code note
- (f) DoD Directive 1015.1, "Establishment, Management, and Control of Nonappropriated Fund Instrumentalities," August 19, 1981
- (g) Sections 2809 and 2812 of title 10, United States Code
- (h) DoD Instruction 1402.5, "Criminal History Background Checks on Individuals in Child Care Services," January 19, 1993
- (i) DoD Directive 6400.1, "Family Advocacy Program," June 23, 1992
- (j) DoD Directive 1020.1, "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Defense," March 31, 1982
- (k) DoD Instruction 1342.19, "Family Care Plans," July 13, 1992
- (l) DoD 6060.1-M-18, "Prevention of Child Abuse and Neglect in Child Care Settings," August 1988, authorized by DoDI 6060.10, "Training Manuals for Child Care Givers on DoD Installations," January 19, 1981
- (m) National Fire Protection Association (NFPA) 101, "Life Safety Code," 1991¹
- (n) Title 7, Code of Federal Regulations, Part 226, "Child and Adult Care Food Program," current edition

¹ Available from National Fire Protection Association, 1 Battery March Park, Quincy, MA 02269

DEFINITIONS

1. Appropriated Fund (APF) Direct Costs. Direct costs are those costs that are clearly identified to a product or output and are totally related to the output, such as hands-on labor or material used in a product. First-line supervision over a function in sole support of a specific output is considered a direct cost. Similarly, second-line supervision may also be considered a direct cost if solely in support of a specific output. Second-line supervision and activities above second line that do not provide direct benefits to a specific output are considered indirect costs. APF general and administrative costs for headquarters, regional offices, or support activities are not considered direct costs.
2. APF Employees. Civilian personnel hired by the DoD Components and paid by APFs. This includes temporary employees who are 18 years or older.
3. APF General and Administrative (G&A) Expenses. G&A expenses are overhead costs that cannot be reasonably associated with any particular outputs and are located over all of the outputs. G&A costs generally include functions such as the local comptroller, installation security, facilities engineering, legal services, fire protection, utilities, custodial services, refuse collection, snow removal, and similar types of base support functions.
4. APF Indirect Costs. Indirect costs are those mission costs that benefit two or more outputs but not all outputs. Costs that benefit all outputs are general and administrative expenses.
5. Child Development Center (CDC). A facility on a DoD installation at which child care services are provided solely for children of members of the Armed Forces or DoD civilians who are age birth to 12 years and that is operated by the Secretary of a Military Department. Includes facilities operated on a contractual basis under 10 U.S.C. 2809 and 2812 (reference (g)).
6. DoD Certificate to Operate. A certificate issued to each DoD SAC program, after the program has been inspected by a representative(s) of the higher headquarters or a major command who has expertise in SAC programs when the program is found to be in compliance with DoD policy.
7. Child Development Program. Child care services for children of DoD personnel, aged birth through 12 years, provided in Child Development facilities, to include contract locations, family child care home, and alternative locations. Care may be provided on full-day, part-day, or hourly basis. Care is designed to protect the health and safety of children and to promote their physical, social, emotional, and cognitive development and to enhance children's readiness for later school experience.
8. DoD Child Abuse and Safety Hotline. Continental United States (CONUS) and Outside the CONUS, 1-800 numbers that reach the ASD(FMP) to report suspected child abuse or safety violations in DoD Child Development and Youth Programs.

9. DoD Facility. A building, structure, or other improvement to real property owned or leased by DoD.
10. DoD Installation. A base, camp, post, station, yard, center, or homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility.
11. Facility-Based Program. Refers to SAC programs that are provided in centralized facilities and does not include FCC homes.
12. Family Child Care (FCC). Home-based child care services that are provided for members of the Armed Forces and DoD civilian personnel by an individual who is certified by the Secretary of the Military Department concerned or Defense Agency Director and/or commander concerned as qualified to provide those services and who provides those services for 10 hours or more each week for children on a regular basis for compensation. Also referred to as "Family Home Day Care," "Family Home Care," and "Family Day Care."
13. Nonappropriated Funds (NAF) Employees. Civilian personnel hired by the DoD Components and compensated from NAFs as defined in DoD Directive 1015.1 (reference (f)). This includes temporary employees 18 years or older.
14. Parent. The biological father or mother of a child; or a person who, by order of a court of competent jurisdiction, has been declared the father or mother of a child by adoption; or the legal guardian of a child; or a person in whose household a child resides, if such person stands in loco parentis to that child and contributes at least one-half of the child's support.
15. Parent Fee Receipts. NAFs derived from fees paid by members of the Armed Forces, DoD civilian personnel, and other authorized users for child care services provided at a military SAC site. Also referred to as "user fees" or "fee receipts."
16. Resource and Referral (R&R). A service that provides information about child and youth services on and off the installation to meet patrons' child care needs and to maximize use of available sources for YPs.
17. School-Age Care (SAC) Program. Programs providing supervised and accountable activities to school-age children K through sixth grade) before- or after-school (full-day camps may be provided as an alternative). Includes programs that complement half-day K. SAC programs can be located in youth centers, CDCs, schools, chapels, or other installation facilities that meet fire, health, and safety requirements. This does not include SAC provided in FCC homes.
18. School-Age Children. Children attending K through sixth grade.
19. Self Care. Care where the child is responsible for himself or herself and generally includes children who are responsible for themselves before- or after-school, during school vacations, and holidays. Sometimes referred to as "latch-key children" because those children let themselves into their own homes.

20. Staff to Child Ratio. The number of children for whom an individual SAC staff member shall be responsible. Staff to child ratios vary according to different age groups.
21. Total Family Income. Includes all earned income including wages; salaries; tips; long-term disability benefits; voluntary salary deferrals; quarters allowances, subsistence allowances, and in-kind quarters and subsistence received by military members; pay for service in a combat zone; and anything else of value, even if not taxable, that was received for providing services. "Quarters allowances and "subsistence allowance" mean the basic allowance for quarters and the basic allowance for subsistence received by military personnel (for grade and status) and the value of meals and lodging furnished in-kind to military personnel residing on military installations.
22. Unmet Need. The number of children whose parents cannot work outside the home because affordable, quality SAC programs are not available.
23. Waiting List. List of children waiting for a SAC space and whose parents have requested space in a SAC Program when none is available or who are currently served in a program that is either not affordable or not of good quality.
24. Youth Center. A facility, or part of a facility, located on a military installation or in military family housing, the primary purpose of which is to provide youth programs for children ages K-18 of military members of the Armed Forces and DoD civilians.
25. Youth Program. A full range of community-based educational, social, cultural, recreational, and physical activities that promote the healthy development and transition to adulthood. The Youth Center serves as the "hub" for most activities.

DOD REQUIREMENTS FOR THE ESTABLISHMENT
AND OPERATION OF SAC PROGRAMS

A. GENERAL POLICY

1. The DoD Components shall establish SAC programs for children enrolled in K through grade 6. Programs may include before- and/or after-school care (full-day camps may be provided as an alternative). Programs may be located in youth centers, schools, chapels, FCC homes and CDCs, or other facilities that meet the requirements of this Instruction. SAC programs may be located solely in CDCs only if the need for full-day child care for children ages birth through 5 years has been met, as required in DoD Instruction 6060.2 (reference (b)). Care for school-aged children offered in Family Child Care Homes shall follow the guidelines established in reference (b).

2. Installation commanders are encouraged to provide Resource and Referral programs for parents who live off the installation or whose children attend schools off the installation.

3. Installations are encouraged to provide transition and self-care programs to assist parents whose children are old enough to begin self-care.

4. All SAC programs shall have standard operating procedures that comply with DoD 6060.1-M-18 (reference (l)) for reporting suspected cases of child abuse. Those procedures shall be coordinated with the installation staff Judge Advocate and the Family Advocacy Program Office and shall comply with all State and local reporting requirements, as applicable.

5. All SAC employees and volunteers shall be trained on child abuse prevention, identification, and reporting requirements. Each program shall ensure that the DoD child abuse and safety hotline telephone number is posted in a highly visible area where parents have easy access to the telephone number and the number is published in parent handbooks and other brochures.

6. All DoD Components that sponsor SAC programs shall ensure the employees have completed "Criminal History Background Checks" as required in DoD Instruction 1402.5 (reference (h)). All persons working in SAC programs shall be screened to ensure no conviction of, admission, or evidence of acts of child abuse, molestation, neglect, or drug or alcohol abuse. Personal, professional, and educational references shall be reviewed before employment. A National Agency Check (NAC) or NAC Inquiry must be initiated on employment. Parents who are volunteering in their child's SAC program need not be screened.

7. Each DoD Component shall issue guidelines for the training, screening, and supervision of volunteers in SAC programs. All regularly scheduled volunteers shall be trained in the following: program orientation; child abuse identification; reporting and prevention; age appropriate guidance and discipline; child health and safety; applicable regulations and installation policy; age-appropriate activities; and the role of the volunteer in the SAC Program.

B. PROGRAM SPONSORSHIP AND LOCATION

The DoD Components may establish SAC programs as a sub-activity of the YP or the CDS Program or as a stand alone program.

1. The facility should be located and designed to support the program and ensure the protection of children and youth. Facilities shall meet the National Fire Protection Associations (NFPA) 101, Life Safety Code standards (reference (m)) for educational occupancy. A fire safety engineer shall determine suitability of a facility for SAC programs. After the facility or space has been approved (certified) for use by a SAC program, the facility need not be re-evaluated as long as the use of the facility does not change or until the facility is modified structurally.

2. When SAC programs also use a large multipurpose room (such as those located in many youth centers), the occupancy load shall be established by a fire safety engineer. Each self-contained activity room shall have a minimum of 35 square feet of usable space for each child. Physical activity space must be provided indoors and access to such spaces must be provided outdoors. New facilities should be constructed to include indoor and outdoor physical program areas.

C. STAFF TO CHILD RATIOS

1. Staff to child ratios shall be no less than one adult for 15 children. Volunteers may not be counted in the staff to child ratios.

2. Children may be released only to their parents or a parent designee unless signed permission is given by the parent allowing the child self-release for a specific organized activity, such as participation in sports programs or lessons. Routine self-release procedures must be consistent with the installation's self-care policy.

D. STAFFING

1. SAC programs shall be operated and administered by professional, competent, and functionally trained personnel. At least two paid staff members shall be present whenever children are in the facility.

2. Each SAC program shall implement a training program for all staff and management.

3. All newly hired staff shall complete 36 hours of training within 1 year of beginning work. Training shall include, at a minimum, in-depth training on the following:

- a. Applicable regulations and installation policies.
- b. Health and safety.

- c. Child abuse identification, reporting, and prevention.
- d. Age-appropriate guidance and discipline.
- e. School-age child development to include all facets of appropriate programming.
- f. Cardiopulmonary resuscitation and other medical emergency procedures.
- g. Nutrition and meal service.
- h. Fire prevention and emergency procedures.
- i. Parent and family relations.

4. On-going training shall include a minimum of 24 hours each year of training and shall include the DoD SAC Training Modules or DoD Component-approved equivalent.

E. OPERATIONAL OVERSIGHT

1. The DoD Components shall establish procedures for inspection of SAC programs and certify compliance with the requirements established in this Instruction. It is DoD policy that after October 1, 1997, all SAC programs operated by or for the DoD Components are included in those inspections.

2. The commander shall appoint a comprehensive multi-disciplinary team that includes a representative with expertise in SAC programs, a parent, a fire expert, a safety expert, a health expert, and an installation command representative that shall inspect each program at least annually. Each DoD Component shall establish criteria that determine the qualifications for local inspections. Each inspection shall be unannounced and conducted at intervals to ensure that both the SAC summer program and school-year programs are inspected at least annually. One of these inspections may be part of the annual multi-disciplinary team inspection of the CDS program.

3. There shall be at least one annual unannounced inspection conducted by a higher headquarters representative designated to perform program inspections. The first inspection of each program shall be completed by October 1, 1998.

a. The higher headquarters representative designated to perform program inspections shall possess a knowledge of school-age programs and qualifications in child development, youth agency administration, youth recreation, physical education, home economics, elementary education, or special education.

b. In response to each inspection, the installation shall develop a corrective action plan that addresses any deficiencies found during the inspection.

4. Certification of Programs. Each DoD Component shall forward the results of the higher headquarters inspections required by this Instruction to the ASD(FMP) annually by October 1. The DoD Component is authorized to issue a "Certificate to Operate" the SAC program to those SAC programs that are in compliance with DoD standards. Each SAC program shall display that certificate in a prominent location. If at any time it is determined that a SAC program is not in compliance with this Instruction, the DoD Component shall notify the ASD(FMP) and advise the responsible command that it must meet the standards in the time specified in paragraph E.6.d., below.

5. The ASD(FMP) shall periodically make unannounced visits to selected SAC programs to review compliance with this Instruction. The ASD(FMP) may use other means besides the procedures in this subsection to monitor SACs and ensure compliance with this instruction.

6. Remedies for Violations

a. The installation commander or Defense Agency Director, and/or commander shall ensure any life-threatening violation of this Instruction or other safety, health, and child welfare laws or regulations (discovered at an inspection or otherwise) is remedied at a DoD SAC program immediately or he or she shall close the facility or affected parts of the facility.

b. For a violation that is not life-threatening, the commander of the major command under which the installation concerned operates, or the Defense Agency Director under which the installation concerned operates, may waive the requirement that the violation be remedied immediately for up to 90 days beginning on the date of discovery of the violation.

c. If the violation is not remedied by the end of that 90-day period, the DoD program, or parts involved, shall be closed until the violation is remedied.

d. The appropriate Deputy Assistant Secretary of the Military Department or the Defense Agency Director and/or commander concerned may waive the preceding sentence (paragraph E.6.c.), and authorize the program to remain open in a case in which the violation cannot reasonably be remedied in the 90-day period or in which major facility reconstruction is required, if alternative equivalencies or a comprehensive corrective action plan is implemented and approved by higher headquarters.

F. FOOD SERVICE

1. All meals and snacks provided by the SAC program shall meet the nutrition and meal component requirements established by the U.S. Department of Agriculture Child and Adult Care Food Program (USDA CACFP). Enrollment in the USDA CACFP is encouraged.

2. The DoD Components shall establish policies for meals provided by parents. If meals are provided by parents, food storage and handling procedures shall be approved by local health and sanitation authorities.

**DEPARTMENT OF DEFENSE SCHOOL AGE PROGRAM
ANNUAL SUMMARY OF OPERATIONS**

REPORT CONTROL SYMBOL

INSTRUCTIONS

Complete the following information for your Services. If the information is available for Reserve and other school age programs under your Service's jurisdiction, complete a separate form. Date of record for specific entries noted by an asterisk (*) is the last Wednesday in September of each fiscal year. Reporting period is Fiscal Year (last October 1 to current September 30).

1. BRANCH OF SERVICE Sample Form	2. DATE OF REPORT (YYMMDD) 96/09/30	3. TOTAL INSTALLATIONS PROVIDING SCHOOL AGE CARE (SAC) 80
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4. LOCATION OF PROGRAMS (X all that apply)	5. TOTAL ONE TIME CAPACITY OF ALL SCHOOL AGE PROGRAMS*
☐ a. CHILD DEVELOPMENT PROGRAMS ONLY	a. CHILD DEVELOPMENT CENTERS 8,000
☐ b. YOUTH PROGRAMS ONLY	b. FAMILY CHILD CARE 6,000
☐ c. SCHOOLS ONLY	c. YOUTH PROGRAMS 12,000
☒ d. BOTH CHILD DEVELOPMENT AND YOUTH PROGRAMS	d. SCHOOLS 400
☐ e. OTHER (Specify)	e. OTHER
	f. TOTAL 26,400

6. NUMBER OF YOUTH ENROLLED	CIVILIAN (a)	MILITARY (b)	7. ATTENDANCE ON DATE OF RECORD*	CIVILIAN (a)	MILITARY (b)
a. CHILD DEVELOPMENT PROGRAMS			a. CHILD DEVELOPMENT PROGRAMS		
(1) CHILD DEVELOPMENT CENTERS	8,000	400	(1) CHILD DEVELOPMENT CENTERS	7,200	310
(2) FAMILY CHILD CARE	7,300	210	(2) FAMILY CHILD CARE	7,000	100
b. YOUTH PROGRAMS	11,200	800	b. YOUTH PROGRAMS	10,200	150
c. VACATION DAY CAMPS	4,200		c. OTHER		
d. OTHER					

8. NUMBER OF CHILDREN ENROLLED WITH SPECIAL NEEDS 110	9. NUMBER OF CHILDREN ON WAITING LIST 1,146
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10. WAITING LIST BY AGE GROUP	11. NUMBER OF INSTALLATIONS THAT OFFER:
a. 5 - 8 YEARS 520	a. BEFORE SCHOOL
b. 9 - 12 YEARS 600	b. AFTER SCHOOL
c. SPECIAL NEEDS, 5 - 8 YEARS 15	c. BEFORE AND AFTER SCHOOL 80
d. SPECIAL NEEDS, 9 - 12 YEARS 11	d. VACATION DAY CAMP
	(1) FULL DAY 70
	(2) HALF DAY 30
	e. CHECK-IN 40

12. PLACEMENT INFORMATION FOR FISCAL YEAR (Average placement time in months) 3.1	13. FISCAL YEAR FINANCIAL DATA (Total dollars in millions)
	a. APPROPRIATED FUND (APF) SUPPORT (Excluding common support and utilities) \$15.0M
	b. INCOME FROM PARENT FEES \$20.5M
	c. NON-APPROPRIATED FUND (NAF) EXPENDITURES \$22.0M
	d. NAF SUBSIDY (NAF expenses over and above parent fees and excluding depreciation) \$ 1.5M

14. SCHOOL AGE CARE DIRECTORS*	15. TOTAL NUMBER OF OTHER SCHOOL AGE STAFF 250
TOTAL POSITIONS:	
a. APF 25	16. CERTIFICATION*
b. NAF 50	a. NUMBER OF SAC PROGRAMS DOD CERTIFIED 75
c. CONTRACT 5	b. NUMBER OF WAIVERS 5

17. USER DATA (Average users by income category)	18. USDA FOOD PROGRAM ENROLLMENT DATA
a. CATEGORY I \$20.00 8	a. NUMBER OF PROGRAMS ENROLLED (Excluding FCC) 15
b. CATEGORY II \$23.00 65	b. TOTAL ANNUAL REIMBURSEMENT \$30,000
c. CATEGORY III \$30.00 23	
d. CATEGORY IV \$35.00 3	
e. CATEGORY V \$40.00 1	

19. REMARKS (Use this space to clarify answers. Continue on back if necessary.)
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DEPARTMENT OF DEFENSE
CERTIFICATE TO OPERATE
THE
SCHOOL AGE CARE PROGRAM
AT

This Certification complies with DODI 1015.aa, "School Age Care (SAC) Program"
and is authorized to provide School Age Care Program services
until _____.

Deputy Assistant Secretary of Defense

Service DAS or Defense Agency Director

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