The Military Child Care Act of 1989

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The Department of Defense (DoD) operates the largest employer-sponsored child care in the nation. For Soldiers, Sailors, Airmen, Marines and more, the Military Child Care Act (MCCA) of 1989 was enacted to establish law-mandated standards for all branches. Providing high-quality, available child care to service members helps maintain a mission ready force. Before the passing of the MCCA, the services' child care programs were tainted with poor oversight, deplorable conditions and child abuse scandals detailed in GAO reports and congressional hearings. Investigations and legislative activity leading up to the passing of the MCCA, which became law under the National Defense Authorization Act of 1990 and 1991, forced the DoD to take responsibility for a new breed of service members—the military family.

As a military spouse with children and employee of the DoD who co-supervises a child development center (CDC), I understand the importance of the MCCA and am able to witness DoD's investment in their military families. The history of abhorrent conditions has all but vanished, due in part to public access of government publications. The timeline of this legislation in combination with nongovernment publications helps tell the story of the how the military model of child care became one in which the civilian sector strives to accomplish. My decade long career of federal service, my desire to be more knowledgeable of the original MCCA and my interest in military history inspired my research. My intended audience are those unfamiliar to military child care and those who may not understand the needs and sacrifices of our nation's military families.

n 1982, the General Accounting Office—now Government Accountability Office (GAO)—reported military child care research to Defense Secretary Weinberger with recommendations for service-wide improvements.² The report was littered with unsafe findings: old buildings—repurposed to use for child care—failed to meet fire and safety codes, sanitation standards, had too many children with a single caregiver, and

suffered from a lack of both educational materials and nutritional meal guidance. In addition, staff had not been properly trained and parent fees were questioned. The Army response was the implementation of Army Regulation 608-10, effective October 1983, that detailed core program requirements of the Child Development Services (CDS).³ These improvements, coupled with increasing numbers of service members having children, added to the demand for military child care across all military branches.

By 1984, the reputation of military child care was vilified to an even greater extent. Air Force and Army installations faced serious allegations of both physical and sexual abuse by members of its caregiving staff.⁴ To remedy the pain and suffering of the families, legislation was developed. In March 1985, H.R. 1681 was introduced followed by a related bill in May, S. 1163.⁵ Titled the Military Family Act (MFA) of 1985, these bills came to be the gateway for the Military Child Care Act (MCCA). Enacted on November 8, 1985, the MFA created numerous resources for military parents including military spouse employment options, child abuse reporting procedures, food programs, a Military Family Resource Center, and more.⁶

The result of these horrific incidents brought on plenty of news headlines as well as a Department of Defence (DoD) conference held in September of 1985 on policy development regarding child sexual abuse. Nearly a week after the conference, a study by the Cato Institute claimed that ineffective government regulations jeopardized the health and safety of children in a way that gave parents a "false sense of security." This remark rang true in 1986 when more allegations of physical and sexual abuse were made against the Navy and Air Force. Perhaps the most infamous headline came from an Army facility in San Francisco, where more than sixty young victims were believed to have experienced ongoing sexual abuse between 1985 and 1987. Military parents of victims banded together to bring public attention to what they believed was improper

handling of events by Army leaders. Suddenly, after years of being deemed "the ghetto of American child care," persistent child abuse allegations and multiple lawsuits, the services' ineptness at managing the operations of quality military child care centers rightfully garnered the attention needed to prompt an investigation at the request of Congress from the Pentagon. The Director of Army Staff (DAS) created an action group and evaluation team to determine if all Army child cares were meeting DoD standards. DAS and the action group were briefed by the evaluation team in November 1987 following their first major inspection of the Presidio child care center. Needless to say, the immediate closure of the facility was recommended. 11

1988: Pre-MCCA

Congress was taking action to attempt to understand and solve the military child care crisis that was making national headlines while Army child care inspections continued worldwide. After a US district judge dismissed the second attempt to charge the main suspect in the Presidio case, many were left bewildered and frustrated with the justice system. House of Representatives Armed Forces Committee intervened by calling for congressional hearings that took place on three separate dates in 1988. Led by Chairperson Beverly Byron (MD), members of the Military Personnel and Compensation Subcommittee called witnesses to provide testimonial statements and appear before of the House of Representatives Committee on Armed Services.

Each hearing had a specific focus. The first hearing held June 16 called for DoD officials and military branch representatives to explain their military child care programs. At the second hearing, August 2, the subcommittee heard from civilian child care program authorities to offer comparisons to military child care programming. The third hearing was held August 9, which focused on how the military handled abuse cases in its child care programs and what the efforts were for prevention. At this final hearing, parents of the Presidio victims and other branches were invited to share their experiences.

At the third hearing, Rep. Barbara Boxer (CA) presented a newspaper article to be included in her testimonial statement. The gruesome story had been published between the first and second hearings detailing the Presidio abuse scandal. The victims' parents shared their story with the author, from first discovering their children's abuse to the Army leaders and law officials who they believe blatantly mishandled the investigation from the start. According to the Boxer, the purpose of presenting this news article was to highlight the importance of the problem, for "Congress not to sweep the issue of child abuse under the rug" like the installation level-military officials

had attempted to do. 16 Further in her testimony, Boxer called out a member of the Judiciary Committee because the second indictment of the child care suspect occurred when the judge would not allow the testimony of a three-year-old child, calling it hearsay. When many different children clearly described their abuse, named their abuser, and were even tested positive for a sexually transmitted disease—all with FBI involvement—she believed the system failed these families.

The Subcommittee, with Representatives Boxer and Benjamin Gilman (NY), then questioned two Department of Justice and DoD panel members. Main topics focused on the justice process between federal and state jurisdiction in the context of child abuse at a military child care center, and, analyzing the broken military child care system that allows institutionalized abuse to go unnoticed. Following this panel, the parents of the victimized children shared their experiences of reporting the abuse at various military installations. Multiple solutions were suggested for immediate improvements to mitigate the risk for future abuse, i.e., installing video cameras in all classrooms, requiring more thorough background clearance checks when new employees are hired, training employees on correct child abuse reporting procedures, increasing the number of inspections, and more.¹⁷

Chairperson Byron closed the final day of the Child Care Programs congressional hearings with a hopeful perspective. With her compassionate words to those in attendance, she made a wise observation—if military child care workers were better compensated, they would feel more valued for the hard work they perform, rather than the services spending money on acquiring the latest and greatest technology. She specified, "I think the child care providers should be the ones . . . compensated adequately for their day-to-day involvement with a very precious natural resource we have, and that is our children."18 The potential for serious improvements in the military child care structure gained momentum following the 1988 hearings. House leaders aimed to honor the victims and families who suffered from injustices resulting from ineffective DoD leadership. An overhaul of the system was in the works with Byron in the driver's seat.

1989: The Military Child Care Act

Fiscal Year 1989 began October 1, 1988. While military branches faced civil lawsuits for negligence in the military child care system, Byron advocated to improve it by preparing her case. Almost seven months after the final Child Care Programs hearing, Byron introduced H.R. 1277 on March 6, 1989. The bill, named the Military Child Care Act of 1989, proposed a solution to the military child care crisis. ¹⁹ Nine

sections detailed significant requests: \$157 million in military child care funding, extensive employee requirements, uniform regulations for fees and family priority, child abuse prevention, parent partnerships, the food program extending to overseas military child care, follow up reports on child care demand, and definitions. It also tied in employment preferences for military spouses according to the MFA and amended the National School Lunch Act to include overseas programs. H.R. 1277 was immediately referred to the House Committee on Armed Services and the House Committee on Education and Labor. Four days later, H.R. 1277 was referred to the Subcommittee on Military Personnel and Compensation, and simultaneously requested an Executive Comment from DoD.

While fellow Congress members reviewed H.R. 1277, a Senate and House requested report by GAO was published, although publicly released two months later.²¹ Linda G. Morra, a witness at the August 2, 1988, congressional hearing, directed the report that was based on a service-wide survey capturing the current state of military child care and those using it. The report measured the availability of care, showing its vast limitations that resulted in lengthy wait lists, especially for CDCs who cared for infants to five-year-olds. Of the 213 bases with CDCs, 185 had waiting lists with more than 25,000 children and included "unborn" children who would need infant care six weeks after birth (four-week-old infants are allowed in Family Child Care [FCC]). Also, while military parents waited for available space at the CDC, they often utilize other means of child care i.e., less qualified babysitters or unregulated home daycares. These key findings supported previous Congressional testimony that readiness and retention of the military forces is affected by a lack of quality child care. Much of this information was presented in the 1988 testimony and panel appearance by Linda G. Morra, where she informed the 100th Congress, "Currently, all the children of active duty service members requesting center-based care cannot be served." 22 Byron was able to include this information in her bill where she requested 3,700 new staff positions to be created.

In April, another congressional hearing was held to specifically discuss military child care. ²³ Byron was looking for information and input on her bill, inviting back previous witnesses as well as military service representatives. Her opening remarks were used to clarify the intent of each section of her bill and create a logical yet beneficial solution to the DoD child care issue. Feedback from principal witnesses were mostly in agreeance with the bill, however, the amount of funding was questioned. The amount was actually \$78 million above what was already budgeted for child care, but according to Byron, the original

budget would not be enough to give employee raises and subsidize child care fees for lower enlisted service members.

Deputy Assistant Secretary of Defense for Family Support, Education, and Safety Barbara Pope shared developments in training and staff to child ratios since the last hearing, and that improved standards had been established in the recent DoD Instruction. Plus, justice was being served more effectively in three recent abuse cases. Still, the budget was too large, and it was unfeasible to hire almost 4,000 qualified staff within such a short time. Following additional questioning and gathering feedback from fellow panel members, the hearing closed. This same day marked the last action of H.R. 1277, and by May 2, 1989, Byron garnered twenty-three cosponsors, to include Rep. Boxer and Rep. Pat Schroeder (CO), the Judiciary Committee and Armed Forces Committee member who was on the receiving end of Boxer's inquiry. By May 24, H.R. 1277 was included in H.R. 2461 under Division A Title XV Sec. 1501, the bill proposing the National Defense Authorization Act of 1990 and 1991.²⁴

It was August by the time H.R. 2461 reached the Senate, where it was passed. As Fiscal Year 1990 quickly approached, the bill was still undergoing conference committee actions. Finally, on November 7, the conference report accompanying H.R. 2461 was released.²⁵ Few changes affected the Military Child Care Act of 1989, now listed as Title XV. According to the report, the main mark-up was the funding. The originally requested \$157 million was cut back to \$102 million, a fair increase from the original child care budget of \$78 million, not to mention an additional \$26 million allotted for other child care services while parent fees paid for employee wages.²⁶ The number of staff to be hired was also refigured. Instead of 3,700 by September 1990, CDCs would have until September 1991, thus giving the DoD two years to fulfill the originally requested job numbers. The closures of facilities that failed inspections remained the same, an area Deputy Pope had disagreed with during the April hearings. Minor changes also included FCC subsidies, a goal for fifty early childhood programs to be accredited by a national agency by 1991, requests for various reports including one from the Department of Justice, and the new placement of the overseas food program, which now fell under Miscellaneous Programs in Division A, Title III, Part C, Sec. 326 (a).

From the time the conference report was filed to the day it passed Congress, eleven days had gone by. Five days later, it was presented to President George H. W. Bush. Finally, on November 29, 1989, H.R. 2461—which included the Military Child Care Act of 1989—was enacted as Public Law No. 101-189.²⁷ History had been made. Within a decade, the one-time

child-abuse-ridden ghetto of daycares would be receiving accolades from the child care industry nationwide. ²⁸

1990-1993: Post-MCCA

The hot topic in the military child care world was the MCCA.²⁹ Anticipated changes for current child care leadership were on the horizon and the uncertainty of meeting compliance was significant. Valid concerns were yet to be realized, i.e., how funding would be allocated knowing that commander discretion overruled how base funding was dispersed, the organizational structure of leadership, and even the delivery of services. One aspect in the MCCA's child care employee section was the provision for at least one training and curriculum specialist at each center, a degree-required position focused on the prevention of child abuse. Before trainers get every staff person (including managers and new hires) up to speed, they themselves must first learn the policies, regulations, and standard operating procedures on child abuse. In a center of seventy-five employees, this is quite a feat, but the benefit is much greater—strict guidance was essential to prevent child abuse.

The MCCA also helped curb CDC staff turnover, cutting rates in half within six months—from as high as 300 percent down to less than 25 percent.³⁰ Raises were given to employees, a concern of Byron's during the congressional hearings. Staff retention was likely improved after finally being compensated with livable wages, not to mention a revitalized feeling of value among employees. Additionally, military spouse preference was incorporated as a test program and specifically referenced the MFA. In three short years, the quality of military child care services improved, and military parent fees were more affordable.³¹

Notably missing from the MCCA were pay increases for FCC providers and improvements to school-age and youth activity programs.³² Having learned of the benefits of FCC for military families, Congress included § 1508, 103 Stat. 1595 in the MCCA for FCC subsidies. Still, operating a child care in one's own home that serves the same age range as the CDC has requirements above and beyond that of their CDC counterparts; therefore, wage increases for FCC providers would have been appreciated. For youth program services, the MCCA should have been applied—especially because military children are not allowed to be home alone until a certain age. Financial support from DoD for youth programming was overlooked until the year 2000.³³ This additional funding for military youth activities and wage increases for employees would have boosted the morale just as it did for CDC caregivers. Instead, CDCs ended up making huge gains, leaving military youth programs overlooked for years.

As demand for care continued and a desire to expand was now possible, more CDCs were being constructed. Plus with the DoD in charge, past installation-level issues of how to operate a quality child care were alleviating. Every branch was required to do their part although some succeeded faster than others. Some aspects were easier to accomplish for the services than others in just three years. Creating and filling new General Schedule positions were most challenging because of appropriated funding issues. In fact, much of MCCA implementation had to do with the initial lack of immediate appropriations, but the natural mission-driven mind of the services eventually made it happen, and over time they successfully implemented a new model of child care.³⁴

The need for Congress to intervene on behalf of all military children was clearly a necessity. Soldiers, airmen, marines, and sailors hardly envision being responsible for child care facilities when joining the military, but this is exactly what senior leaders were required to do. Gone were the days of a single soldier military, where if anyone wanted wives they'd have been issued. The new military mindset was evolving, just as it began welcoming women service members. It would soon become a family friendly employer, providing quality of life services to retain its skilled service members. The MCCA was an innovative creation, derived out of necessity. It quickly became the saving grace for many military children with parents in the armed forces.

Dissemination of Information and Access Issues

The dissemination of government publications to the public is the responsibility of the agencies and programs who rely on them. For military child cares, official guidance is wide ranging. For example, DoD Instruction (DoDI) provides exact measures to be followed by all military child development programs and is intentionally designed to reduce subjective interpretation across the services.³⁵ The Child and Youth Services parent handbook lists laws and regulations referred to in times of uncertainty the MCCA is referenced as its 1996 Amendment.³⁶ This government publication list is provided for transparency and, while we do not supply families with copies of each, they can be shown how to locate them on government or nongovernment websites. Most of these publications are available for immediate release since they are meant to be implemented immediately. One exception is DoDI 6060.02, the newest issuance reflecting changes in military child care priority levels, effective September 1, 2020. Few government publications I discovered were not up for immediate release. An interesting finding was in the CIA electronic reading room where FOIA documents were

listed. The Cato Institute reported on ineffective government regulations in 1985, but it was not allowed to be released to the public until 2011. Reading the report, I cannot understand nor explain the secrecy of it, but I suppose President Reagan had his reasons.

I had many successes and challenges gaining research access. First, I had a difficult time accessing the 1985 DoD Child Abuse Conference publication. I originally found the classification listing in the Catalog of Government Publications (CGP), but there was no accompanying URL to access it online. After much digging, I discovered a print copy at University of Washington Libraries (closed due to COVID-19) to whom I sent an email requesting a scan of the twenty-six-page document. Thankfully, a helpful librarian replied and shared the report via UW's subscription to HathiTrust.

Second, as a person who is somewhat familiar with judicial system processes, I spent an exorbitant amount of time on Nexis searching for the two separate cases where the main suspect of the Presidio child abuse case was charged. I knew they were both dismissed, but I did not know that upon dismissal no record of the hearing is kept. I also know that many civil court cases were filed against the United States by victimized families because it was discussed in the 1988 congressional hearings; unfortunately, I did not have time to find these.

Lastly, it is confusing when a bill is introduced in the House or Senate and becomes a law under a different bill number. On Congress.gov, for example, H.R. 1277 stops listing its actions in May 1989, although it was added to H.R. 2461 (the bill introducing the NDAA of 1990 and 1991), which became a law. The introductory bill number seems to disappear once consolidated into a new bill, only to live on when someone like me conducts historical or legislative research. I believe the actions listed for the bill should state when it was absorbed into another bill (especially if enacted as law) and where to locate it.

The resources I discovered via government websites were extremely helpful to fill gaps in telling my research story. For example, the MCCA continued to be active beyond its enactment into law. The Military Family Act of 1985 and the MCCA were actually merged in Pub. L. 104-106, Title V, § 568 (1996)—an Amendment to the National Defense Authorization Act (1996) that revised and recodified the two into Chapter 88, Military Family Programs and Military Child Care. Also in the 104th Congress, two reports were included in P. Law 104-201 § 1043 and 1044 highlighting the success of the MCCA and the need for youth program support, respectively. Knowing the MCCA overlooked youth programming, this was an exceptional finding.

Conclusion

My research for the MCCA went beyond anything I could have imagined. From learning of its origins to fully grasping how it positively impacted the military child care system is beyond remarkable. The military child care system successfully turned itself around, but that doesn't mean it has developed an immunity to tragedy. While supportive of the MCCA and its advancements, I am not ignorant to recent issues surrounding failed employee background checks, state vs. federal child abuse reporting (resulting in Talia's Law, 10 U.S. Code 1787 (2016)), and unauthorized FCC homes where two children have died in the last two years. Just as tragedy struck military institutions pre-MCCA, these events have been investigated and will be resolved as swiftly as possible. Sadly, the pain that comes with these resolutions will not subside for many military families—their painstaking efforts to make change in military child care settings may benefit future children and families, but it won't change what happened to them. As a supervisor in military child care, I can honor their families by keeping their experiences close to me and remaining diligent as a mandated reporter of institutional and familial child abuse.

The type of research I have conducted proves that there is a need for this historical information. The persistency of unavailable care is a constant stress for single and dual military parents as they wait impatiently for a CDC space. In February 2020, however, a beacon of hope came from Secretary of Defense Mark Esper, who outlined new policies for priority of military child care. These changes are currently outlined in the aforementioned DoDI 6060.02. Since the MCCA recognized the value of its employees by giving mandated raises in 1989, today's DoD recognizes their child care employee's need for child care, making them equal in priority to single and dual military parents. (This is HUGE—thank you for recognizing and prioritizing the hard-working parents who need child care to come to work.)

The MCCA was born out of tragedy, but Rep. Beverly Byron listened to the parents, the experts, and the leaders of the armed forces to improve the quality of life for military children, families, and employees. As the chairperson of the Armed Forces Committee in the 100th Congress, she made real change that continues to play a vital role in the lives of our military families.

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Notes

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