UNITED STATES MARINE CORPS

[redacted]

1920
JPH
18 Jul 22

From: Captain Joshua P. Hoppe [redacted] USMC
To: Commanding General, [redacted]
Via: (1) Commanding Officer, [redacted]
(2) Commanding Officer, [redacted]

Subj: REBUTTAL TO REPORT OF MISCONDUCT IN THE CASE OF CAPTAIN JOSHUA P. HOPPE [redacted] USMC

Ref: (a) CG [redacted] ltr 1920(Report of Misconduct) dtd 28 Jun 22
(b) SECDEF Memo for DoD Mandatory COVID-19 Inoculation dtd 24 Aug 22
(c) Capt Hoppe's Response to Comirnaty Offer dtd 22 Jun 22
(d) Assistant SEDEF for Health Affairs Memo dtd 14 Sep 21
(e) 10 U.S. Code § 1107a. Emergency Use Products
(f) DoDI 6200.02, Application of FDA Rules to DoD Force Health Protection Programs dtd 27 Feb 08

Encl: (1) The Belmont Report, Ethical Principles and Guidelines for the Protection of Human Subjects of Research dtd 18 Apr 1979
(2) DoD Policy Paper, The Right to Refuse COVID-19 Experimental Drugs Shall Not Be Infringed dtd 8 Jul 22
(3) Office of the Assistant SECDEF Action Memo dtd 20 Oct 21
(4) Under SECDEF Draft Memo to replace Assistant SEDEF for Health Affairs Memorandum dated 14 Sep 21 (never released or published)
(5) DAF Non-Concurrence of SECDEF Action Memo dtd 29 Oct 21
(6) Camp [redacted] Clinic Emails dtd 14 Jul 22
(7) DHA Comirnaty Inquiry Emails dtd 14 Jul 22
(8) DoDI 6000.14, Patient Bill of Rights with Ch 2 dtd 3 Apr 2020
(9) Religious Accommodation Request Package ICO Capt Hoppe with 1st and 2nd Endorsements dtd 6 Oct 21
(10) DC M&RA Denial of Capt Hoppe's RAR dtd 20 Oct 21
(11) Appeal of RAR Denial ICO Capt Hoppe dtd 5 Nov 21
(12) Excerpts from Pfizer's Risk Management Plans for mRNA products
(13) Excerpt from DOJ's Opposition to Wilson v. Austin PI dtd 15 Jul 22

1. I received the Commanding General's (CG) Report of Misconduct (ROM) per Reference (a), on 6 July 22 and was given until 18 July 22 to provide a response. When I requested all of Enclosure (1) of Reference (a) labeled "Evidence," the [redacted] SJA sent me: (1) Order to Receive COVID-19 Inoculation within 72 Hours dated 1 Nov 21; (2) Assistant Commandant of the Marine Corps Denial Letter dated 14 Mar 22 (minus enclosures); (3) Order to Receive COVID-19 Inoculation within 72 Hours dated 15 Mar 22; (4) Rebuttal to CG's Page 11 Counseling on 28 Apr 22 dated 3 May 22 (minus the Page 11 Counseling itself). The Yuma Station SJA represented that this was the entirety of Enclosure (1), "Evidence." If anything else appears in the ROM, I was not given notice of it or an opportunity to respond.

a. I am including Enclosures (9) through (11) as matters that should be included in any determination on this ROM as they are my Religious Accommodation Request (RAR) package, Endorsements, Initial Denial, and Appeal Letter that document and affirm my sincerely held religious beliefs.

b. Of note, neither denial letters include any statistics or reference any studies to support their conclusions that the government has the

"compelling interest" to require my inoculation which cannot be accommodated with a lesser restrictive means. Although the government has the burden of proof, I will offer some recent statistics, a study, and anecdotal evidence that demonstrate there is in fact no compelling interest to deny my RAR and require myself to be inoculated against COVID-19.

(1) A recent study has shown "The most recent figures are showing that the vaccinated population in England accounted for a shocking 94% of all Covid-19 Deaths in April and May, and 90% of those deaths were among the triple/quadruple vaccinated population."[1] This study demonstrates that the inoculations do not protect from severe illness and death, but appear to have an inverse relationship.

(2) As of the most recent available data on VAERS (which Pfizer and Moderna specifically choose to use vice a new reporting system because they believed it was sufficient to identify significant issues), there have been over 1.3 Million COVID inoculation adverse event reports, 29,460 Deaths, 15,751 Heart Attacks, 50,176 Myocarditis/Pericarditis, 55,008 Permanently Disabled, and 9,764 Anaphylaxis cases reported.[2] These reports demonstrate that these inoculations are not as safe and effective as originally claimed.

(3) Anecdotally, I have personally witnessed in my squadron the majority of the "vaccinated" individuals still contract COVID. The original claim of 95% efficacy against contracting COVID has been found to be false and is probably closer to the inverse relationship where 95% or more of the inoculated have contracted the virus despite receiving the products. We are forced to rely on our own anecdotal evidence and independent studies since Pfizer has decided in their Risk Management Plan per Reference (12) to not conduct any Post Authorization Efficacy Studies. See page 152 of their Plan.

2. I will also note that Enclosure (3) of my Rebuttal to the Page 11 Counseling includes my entire Response (dated 18 Mar 22) to the 72 Hour Order received on 15 Mar 22 which thoroughly refutes the CG's previous and current allegations of "refusing" a lawful order to be inoculated with a fully licensed and FDA-approved COVID-19 inoculation. For brevity sake, I will not rehash these same points that still hold true, but would direct those making decisions to refer to this documentation previously submitted. In summation, the original order from the SECDEF to receive a COVID-19 inoculation per Reference (b) was unlawful due to there not being any fully licensed and FDA-approved vaccines available at that time which is well documented and irrefutable. Yet the DoD has still decided to enforce this order unlawfully.

a. References (e) and (f) are very clear about the requirements for Informed Consent to be obtained from individuals prior to administering an Emergency Use Authorized (EUA) or Investigational New Drug (IND). These Federal Laws and Military Regulations require that only the President can waive the "right to refuse" under the Informed Consent protections. Here is an excerpt from para E3.4 of Reference (f):

"Request to the President to Waive an Option to Refuse. In the event that an EUA granted by the Commissioner of Food and Drugs includes a condition that potential recipients are provided an option to refuse administration of the

[1] Press release: https://www.digifection.com/2022/07/14/bombshell-report-government-quietly-publish-report-confirming-the-vaxxed-account-for-94-of-all-covid-deaths/
UK Health Security Agency COVID-19 Vaccine Surveillance Report Week 13 from 31 Mar 22: https://safe.menlosecurity.com/doc/docview/viewer/docNDB8172303F3D271838e3e3768e71a25bf20028892ea73942b1995b2a5bad3f90df5a20720d3d

[2] https://www.openvaers.com/covid-data

product, the President may, pursuant to section 1107a of Reference (e), waive the option to refuse for administration of the medical product to members of the armed forces. Such a waiver is allowed if the President determines, in writing, that providing to members of the armed forces an option to refuse is not in the interests of national security. Only the Secretary of Defense may ask the President to grant a waiver of an option to refuse."

b. This waiver has never been submitted or approved by the President which is in direct violation of Federal Law and Military Regulations as over 6,000 service members have already been separated from the Force with only EUA/IND products available.

3. To further demonstrate how this is an unlawful enforcement of the Secretary of Defense's Memo for DoD Mandatory COVID-19 Inoculation per Reference (b), I have included the Belmont Report and Brian Ward's DoD Policy Paper as Enclosures (1) and (2).[3] Any listing of an EUA product (i.e. Pfizer-BioNTech or Moderna products) to attempt to enforce a mandatory inoculation **is a form of unlawful "coercion," "undue influence," and "sanctions"** which are prohibited by the Belmont Report, Federal Law, and numerous DoD Instructions, Regulations, and Orders. Please reference Enclosures (1) and (2) for further information on how this enforcement has been unlawful from the very beginning due to not having any fully licensed products available.

4. The memos released attempting to make this unlawful enforcement legal with the "interchangeability" argument were illegal wordsmithing that attempted to rewrite Federal Law and allow the enforcement of this mandate to use EUA products per Reference (d). This was in direct violation of 10 U.S. Code § 1107a. (Emergency Use Products) per Reference (e) **which only allows the President to issue a waiver of informed consent** to allow the enforcement of a required inoculation with an EUA product, **which has not happened.** This Memo was proposed to be changed, but was not replaced or released due to the fact that it would "subvert current [DoD] policy" and "OSD retrenchment signifying that the distinction does matter would probably require significant remedial actions." See Enclosures (3) through (5) to see the proposed changes that were "non-concurred" due to realizing that if the correct legal distinction was recognized, the DoD would not be able to "carry out punitive action against the Service member until they have the opportunity for a BLA-manufactured vaccine." This was a willful violation to ignore Federal Laws and attempt to rewrite them without the proper authority.

5. As outlined in my Response to Comirnaty Offer per Reference (c), there have been some significant questions and concerns raised about the "Comirnaty-labeled" product now being offered. The fact that as of mid-June, I am just now being offered this "Comirnaty-labeled" product is an admission that everything up to this point has been in direct violation of the Belmont Report and Federal Laws. In Reference (c), I outlined the issues that I was trying to get addressed and requested a ceasing of all enforcement until these questions and issues could be appropriately addressed. That request was ignored and service members are still being unlawfully separated.

a. In the DOJ's response to a Motion for Preliminary Injunction (PI) in Wilson v. Austin,[4] of which I am a plaintiff, even the DOJ failed to refer to

[3] https://www.covidpenalty.com/ is Brian Ward's website that includes the most up to date information and the link to the DoD Policy Paper (updated weekly as needed) is: https://safe.menlosecurity.com/doc/docview/viewer/docN81DCE2A127D6367c99b91c93f8a44947e3b6080f7a6233ae502efa6ad4754cde2362939a0ad2

[4] Wilson v. Austin Complaint: https://www.theabjectlesson.com/wp-content/uploads/2022/05/ECF-Filed-Complt-5-23-22.pdf

the "Comirnaty-labeled" product as the FDA-approved product in accordance with the BLA-approval letters. Instead they referred to this product as "vials labeled "Comirnaty,"" "Comirnaty vials", or "Comirnaty-labeled" five different times in their motion to dismiss the PI.

b. Additionally, the DOJ notes that **after** the lawsuit was filed (on 23 May 22) the Armed Services "offered to provide shots from a Comirnaty vial to any Plaintiff… But no individual has accepted that offer." Please see Enclosure (13) for the excerpt from this case. This is further evidence that every enforcement action taken thus far has been unlawful and only raises more questions about the authenticity of the "Comirnaty-labeled" products currently in circulation in limited amounts at DoD medical facilities.

6. I have continued to attempt to confirm the origins of this "Comirnaty-labeled" product to see if this is in fact a fully licensed and FDA-approved product in accordance with the BLA-approval letter dated 23 Aug 21 and supplemental letter dated 16 Dec 21. I have engaged with the Camp [redacted] and MCAS [redacted] clinics, Pfizer, the FDA, and the DHA to no avail. Most would not answer my questions or only could confirm that it was a "Comirnaty-labeled" product. Enclosures (6) and (7) demonstrate the refusal to answer the questions that I am entitled to per Enclosure (8) as a DoD Patient who has a right to "informed consent." My patient rights to informed consent are being denied by blocking these inquiries and pushing it off to a FOIA request that is pending. Despite my email inquiry being forwarded to the Director of Public Health for HQMC Health Services, the USMC Judge Advocate Division, and the Staff Judge Advocate for the Commandant of the Marine Corps, it has now been over three weeks without receiving any answers.

7. My requests with Pfizer have not been sufficiently answered either, as they are "unable" to provide the location of manufacture of any of the "Comirnaty-labeled" lot numbers. Another service member was able to confirm with a Pfizer employee that one of the lot numbers in question was manufactured in France, which is not a BLA-approved location for the manufacturing of the U.S. licensed Comirnaty product.[5] This calls into question the validity of all lot numbers of the "Comirnaty-labeled" products. Given this lack of transparency and refusal to provide simple documentation to prove where this product came from, **it is more likely than not that these vials are not the fully licensed and FDA-approved products as regulated by the BLA-approval and supplemental letters.**

8. I am again requesting that all enforcement of this mandate cease and desist until a thorough Congressional investigation can be conducted into this unlawful enforcement and all previous punitive actions be appropriately remediated due to the severe violations of forced experimentation having been conducted on DoD Service Members and the public at large. To coerce a service member to partake in an EUA/IND, which these products being mandated are, has forced service members to partake in an experimental drug without the "Legally Effective Informed Consent" that the law requires when participating with experimental drugs as outlined in Enclosure (2). Most DoD Service Members and their families likely did not even know they were part of ongoing experimental studies as described in Pfizer's Risk Management Plans[6] per Enclosure (12) which is further violation of "Informed Consent" as outlined

[5] After Hours with Dr. Sigoloff's podcast has the audio recording of the admission: https://podcasts.apple.com/us/podcast/36-made-in-france-not-fda-approved/id1601073627?i=1000569239757 Or here: https://share.transistor.fm/s/826527b9

[6] The most recent Risk Management Plan V.5.0 from February 2022 can be accessed here: https://www.ema.europa.eu/en/documents/rmp-summary/comirnaty-epar-risk-management-plan_en.pdf

in the Belmont Report. To ignore these blatant violations of human ethics and experimentation and to continue to "follow orders" that are unlawful is to be culpable of the same.

9. Up to this point my inquiries have been met with non-answers or bureaucratic responses that have failed to take my concerns and questions seriously. The responses and rebuttals that I have put forward thus far have been made in an attempt to use sound reasoning and logic to foster a dialogue that could be used to make an educated decision about the lawfulness of these orders and their unlawful enforcement. My inquiries have instead been met with a monologue of vincible or culpable ignorance as to the facts of the matter. My questions, concerns, requests, and reasoning have all been ignored and dismissed by each level of command. Is there no room for sound, critical thinking in the Marine Corps or the entire military anymore? If an issue is laid out with compelling facts and logic, but it happens to counter the current policy should there not be a dialogue with at least a little professional curiosity to see where the truth really lies? Of note, I was not even allowed to ask ***any*** questions during my Counseling on 28 Apr 22 due to readdressing the legality issues with my CO the day prior and having very relevant concerns about the orders.

10. We fail ourselves, our institution, and our country when we refuse to engage in discourse or even attempt to reach an understanding from the other side of the conversation. Our Forefathers wrote down the very rights that are at stake today - **Freedom of Speech and Freedom of Religion**. They knew that these were unalienable rights given to us by God, and understood that they needed to be guarded and protected which is why they included them in the Bill of Rights. My speech has been ignored and my religious and medical freedoms have been trodden under. I have done my due diligence to refute these unfounded allegations. Will you do your due diligence and review my request, appeal, response, and rebuttals? After reviewing, can you truly say that the government has provided the evidence to support a compelling interest to disregard my religious beliefs and then justify the vindictive and punitive actions being taken against myself and the thousands of other service members? Will you address the blatant violations of human ethics, human rights, and human experimentation? Can you definitively say that we have been afforded the opportunity to accept or deny a fully licensed and approved dose of a vaccine that prevents COVID-19?

11. If you truly believe that I have committed misconduct by remaining steadfast in my convictions, then I respectfully request the opportunity for Due Process and **to be tried by court-martial before a military judge** to rule on these facts and issues at hand. I am confident that the facts will speak for themselves and I will be vindicated from these unwarranted charges.

12. The point of contact for this matter is Captain Joshua P. Hoppe who can be reached at commercial: [redacted] or email: [redacted]@usmc.mil.

J. P. HOPPE