

DEFENSE HEALTH AGENCY
DEFENSE CENTERS FOR PUBLIC HEALTH-ABERDEEN BUILDING 5158 8252
BLACKHAWK ROAD
ABERDEEN PROVING GROUND MARYLAND 21010-5403

21 June 2023

LETTER FOR HONORABLE SECRETARY OF THE ARMY CHRISTINE E. WORMUTH

Dear Secretary Wormuth,

On 20 June 2023, I received another email from BG Mendelson, stating that I “may petition the ADRB and ABCMR to request relief [I] feel is merited”. Currently, I have orders to involuntarily discharge me from the United States Army in five calendar days (26 June 2023). I want to again state that I am being unlawfully discharged via an Ad-Hoc separation board using your regulatory and statutory authority to unlawfully discharge me from the Army for exercising my legal right (and all of our rights) in accordance with 21 USC 360bbb-3 and 10 USC 1107a to refuse unapproved/unlicensed face masks and test kits for the purpose of preventing the COVID-19 disease. All the unapproved/unlicensed face masks and test kits that I had refused had had the FDA waiver to waive manufacturer requirements from following good manufacturing practices (21 CFR Part 820); products that the manufacturers legally must *not* state/suggest in any printed material that their unlicensed medical products are safe or effective for the purpose of diagnosing and preventing COVID-19, and use of these unlicensed medical products come with full liability immunity for covered persons (manufacturer, government employees, medical community) for all potential injuries an individual could suffer.

Ma’am, I want to make it clear that the relief I am requesting is not a matter of making some minuscule change to my service record. The relief I am seeking is for you, and by extension the Army, to use your authority to nullify my unlawful discharge orders since no senior leader in the Army has been able to show me what law or statute gives you or the DoD the authority to pick and choose which laws the Army arbitrarily enforces, specifically what statutes give the Army the ability to override the requirement in 21 USC 360bbb-3(e)(1)(A)(ii)(III) and 10 USC 1107a(a)(1) to inform me that I have the option to refuse an unapproved/unlicensed medical product?

Since November of 2021, for over a year and a half now, I had been using every administrative remedy available to me (Article 138 through my chain of command, Inspector General investigation requests, Court Martial, Article 69(c) Review, FOIA requests, Army Criminal Court of Appeals) to address the unlawfulness of using fraud and coercion to give Soldiers the appearance that the Army is using “FDA approved” medical products (when in fact it is unapproved and unlicensed). The Army and many of its leaders blatantly misrepresented the vast clinical, legal, and medical differences between EUA products and licensed products, and treated

anything the FDA granted as unquestionably having the same legal, medical, and clinical standards. Aside from the statutory laws, DODI 6200.02 clearly demonstrates that the DoD and Army are well aware of the distinction between EUA and licensed products. I have always stated what statutes the Army is violating; however, whenever I get a response from any leader (if I receive a response at all), there are no enumerated statutes cited, the response does not address my concerns, or just uses vague language/rationale. For over a year and a half, all the Army processes available to me for “relief” have failed.

Trust me when I say this, Ma’am, if you or any senior leader were in my situation, I can assure you that you would want the right to due process and for your case and evidence to be seen, heard, and considered. These are fundamental rights we all have as Soldiers and US citizens. I do not believe for a minute that any leader in my circumstance would be satisfied with their last option to apply for a board of corrections to adjust discharge character of service while dismissing or talking around the issues you tried to bring up to demonstrate I acted righteously, not insubordinately. My service record corrections are the least of my concerns at this point. If it turns out that I get discharged in five days, I will unapologetically tell others that I was unlawfully discharged from the US Army for exercising my legal right in accordance with 21 USC 360bbb-3 and 10 USC 1107a to refuse unapproved/unlicensed experimental COVID-19 medical products. I do not have a problem explaining to future employers or anyone curious why I do not have a check mark next to “Honorable Discharge.”

If it turns out that I do get discharged in five days after one month short of 17.5 years of faithful military service, I will also make sure the American public is fully aware that their taxes are going to fund an Army that is not accountable to our nations’ laws: the exact opposite of every aspect of our Army’s professional ethic. The American people need to understand that there is no due process (Article 138 through my chain of command, Inspector General investigation request, Court Martial, Article 69(c), Army Criminal Court of Appeals). They also need to understand that the oath, by which our senior leaders swore to support and defend the Constitution and by extension our laws, is meaningless and that we, as an institution, are more concerned with trying to manage an image or to “save face.”

For the last three years, the Surgeon General of the Army never once raised the alarm to inform senior leaders that by law (IAW 21 USC 360bbb-3 and 10 USC 1107a), every individual being administered unapproved/unlicensed experimental EUA medical products, such as the COVID-19 masks, test kits and vaccines, is supposed to be informed of their option to refuse administration of the unapproved/unlicensed COVID-19 medical products. More than anyone in the Army, it was Surgeon General’s duty to inform the Army of these required conditions for unapproved products and to ensure that all medical providers upheld these legal requirements to inform us all of the legal right to refuse unlicensed medical products. It is not one’s duty to simply go along with “just following orders” or what the perceived popular opinion is being force fed. He did not fulfill his duty. Instead, he led the Army’s effort in bulk denying practically all religious accommodation requests (if these requests even made it out of unit levels unlawfully withholding them). The irony is, given the fact that all EUA products in the market are unlicensed and have full liability immunity, there was never a need for any of us to request religious or medical accommodations for an experimental product. Congress actually passed 21

U.S.C. § 360bbb-3 into law as a direct result of the DoD's Anthrax shot mandate (Doe v Rumsfeld) and to provide citizens with an extra-legal means for individual safety when dealing with unlicensed medical products or countermeasures. The DoD is also statutorily bound to providing these same rights as every other citizen through 10 U.S.C. § 1107a (titled Emergency Use Products...meaning all products, not select products).

The Chief of Chaplains further promoted the unapproved/unlicensed NOVAVAX shots which has recombinant moth DNA in the vaccines with absolutely no long-term safety data or understanding. I was curious so I looked up moth references in the Bible. There are about 20 moth references in the Bible and none of them are positively good references. Moths are associated with destruction and consumption, particularly of fabric. The Chief of Chaplains of the Army shamelessly promoted a vaccine that would inject human beings with untested moth DNA, which could then alter the fabric of our being given to us by God. So much for faith in God and advocating for religious rights and freedom. The Chaplain Corps across the Army predominately went along with all of these egregious actions and apparently are unfazed by unimaginable levels of leaders bearing false witness and being coercive and deceitful when punishing the "refusers."

I petitioned Major General Edmonson on multiple occasions to exercise his legal and moral duty to investigate my article 138 and present my concerns that leaders within his judicial responsibility unlawfully coercing Soldiers unapproved/unlicensed medical products without informing them of the option to refuse administration of the unapproved/unlicensed medical products (IAW 21 USC §360bbb-3 and 10 USC §1107a) higher all the way up to you, the Secretary of the Army. He did not fulfill his duty. He also could have taken the recommendation of the judge from my court martial to drop all charges against me, but chose to go against the judge's recommendation and has filed to unlawfully terminate my 17.5-year-long career as a service member.

It was the duty of the Office of the Inspector General to investigate my complaints of the Army unlawfully coercing Soldiers unapproved/unlicensed medical products without informing them of the option to refuse administration of the unapproved/unlicensed medical products (IAW 21 USC § 360bbb-3 and 10 USC §1107a) higher all the way up to you, the Secretary of the Army. This duty was not fulfilled and most cases the IG received from service members seeking relief went ignored.

I sought the Army's Judge Advocate General for an appeal opportunity and for his legal experience to review my case, my evidence, and to overturn the guilty ruling. Instead, I received a terse letter after almost 5 months of reviewing, that stated I did not provide enough evidence in accordance with enumerated statutes (without providing a single enumeration or enumerated statute I failed to address). Also, having seen my evidence, he did not fulfil his duty of advising the Chief of Staff of the Army or Army senior commanders that the only medical products we had available were EUA medical products being used coercively against our Soldiers. Lastly, even after I presented him and his office with all the evidence that my lawyers did not present at my court martial, as mentioned before, he also failed to explain to me how I have not demonstrated enough evidence to overturn the guilty verdict from my court martial.

The Army Court of Criminal Appeals accepted my petition that I wrote without legal representation to receive my right to appeal. The ACCA promptly denied both attempts for my case to even be considered, which further prevents my case from becoming a public record. Their stated justification falls in line with all of my experiences, a short response that stated my “petition/reconsideration are hereby denied”. Nothing else. I included 360 pages to fully support my position and my case and trust me, I could have included many more documents. The ACCA did not fulfill its duty as an Army organization or a judicial organization by denying both my pro se appeal and reconsideration petitions nor did it state the laws or legal basis for this decision that would justify not making a ruling on my guilty verdict. These actions (and inactions) prove to me that Soldiers do not really have due process when it comes to challenging unlawful orders as our oath instructs us to do. In doing so, the ACCA prevented my case from being a public record, denied my right to due process, and denied my right to a fair trial.

The United States Army Human Resources Command sent my elimination packet swiftly to an ad hoc separation board to try quickly and quietly approve my termination though my current leadership kept telling me my elimination package is delayed. However, for other Soldiers in similar administrative circumstances, HRC quietly expunged many others that received administrative punishments such as GOMORs from their permanent records other similar administrative blemishes for refusing testing and masking. The Army is trying to get rid of me so quickly that I do not have the time to submit and receive a FOIA request that could shed light as to why the Army is inconsistent with which Soldier gets what COVID-19 countermeasure administrative action expunged from the record versus facing unlawful termination and discharge.

BG Mendelson, on behalf of senior leaders, never addressed my concerns nor attempted to explain to me, on behalf of Army Senior Leaders, why everyone is acting as though my elimination cannot be rescinded given all of the evidence surrounding my case.

If I am being eliminated lawfully, please show me what law or statute gives you or the DoD the authority to pick and choose which laws the Army arbitrarily enforces, specifically what statutes give the Army the ability to override the requirement in 21 USC 360bbb-3(e)(1)(A)(ii)(III) and 10 USC 1107a(a)(1) to inform me that I have the option to refuse the unapproved/unlicensed medical product?

All these offices and officers were derelict of their duty under the watch of the Chief of Staff of the Army and you. I am one of the few people in the Army that lived up to my oath of office, that upheld my end of the contract as stated in DD Form 4 and my DA 71 to obey all *lawful* orders, that fulfilled my duties and moral obligation as a Soldier in accordance with ADP 6-22 to reject and challenge unlawful orders. Yet, I am the one who you are unlawfully discharging and destroying my livelihood for exercising my legal right IAW 21 USC §360bbb-3 and 10 USC §1107a to refuse unapproved/unlicensed experimental COVID-19 medical countermeasures. I fulfilled my duty to warn my chain of command and other senior leaders that orders to receive any and all unlicensed EUA medical products is patently unlawful and sought their assistance to bring these issues up through the chain of command on our behalf.

I presented with plenty of evidence that there have been no FDA approved or licensed COVID-19 medical countermeasures (facemask, test kit, vaccines). I presented the laws (21 USC §360bbb-3 and 10 USC §1107a) that clearly delineate a required legal condition for administering unapproved/unlicensed medical product which is informing individuals the option to refuse the unapproved/unlicensed medical product. We all know the Army did not inform most Soldiers of the option to refuse unapproved/unlicensed mask, test kit, and vaccines. I presented evidence using the legally binding agreements (the Emergency Use Authorization Issuance) from the FDA to the manufacturer of the unapproved/unlicensed medical product allowing the unapproved/unlicensed medical product to be sold for profit in the market is in pursuant to the same law (21 USC 360bbb-3) that make it a required condition to inform individuals of the option to refuse administration of the unapproved/unlicensed medical product/treatment. Using all of this evidence, I have explained that unless you use your authority to revoke my discharge, I will be unlawfully discharged in five days (26-Jun-2023) for exercising my legal right (and all of our rights despite everyone's collective best efforts to deny these rights) to refuse unapproved/unlicensed COVID-19 masks and test kits that had good manufacturing practices waived, that come with full liability immunity for all covered persons from any injuries an individual being administered the unapproved medical product could suffer, that the manufacturer legally cannot state or suggest their unapproved medical products are safe or effective for the purpose of COVID-19.

The bedrock of the Army's definition of "integrity" means that once you find out something is wrong, you stop doing it. Hiding behind the "just following orders" excuse is the antithesis of righteousness and of Army integrity, yet here we are. This is not where I want our Army to be. Romans 13:1-2 ESV "1 Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. 2 Therefore whoever resists the authorities resists what God has appointed, and those who resist will incur judgment." In the United States of America, the governing authority is the Constitution and our laws. If we are an Army that is not accountable to our nation's laws, there is nothing that holds us accountable. This is a terrifying notion.

The relief I am seeking is not an option to change minuscule detail on my service record after potentially unlawfully losing my job for being one of the few individuals to faithfully discharge my duties by defending our laws, our human rights to refuse administration of unapproved experimental mask and test kit. The relief I am asking for is to use your Secretarial authority to revoke my unlawful involuntary discharge for exercising my legal right and trying to preserve the legal rights of all Soldiers by refusing administration of unapproved experimental mask and test kit. I am not derelict in my duties or my character for living up to the social contract we established with our own People which is to disobey unlawful orders and patently unlawful orders.

Under Sworn Oath.



Mark Charles Bashaw

1LT(P)/MS

From: [Solhjem, Thomas L MG USARMY HQDA OCCH \(USA\)](#)
To: [Bashaw, Mark C 1LT USARMY MEDCOM APHC \(USA\)](#)
Subject: Read: Follow-Up_1LT Mark Bashaw_Involuntary Elimination
Date: Thursday, June 22, 2023 12:43:41 AM
Importance: High

Your message

To: Solhjem, Thomas L MG USARMY HQDA OCCH (USA)
Subject: Follow-Up_1LT Mark Bashaw_Involuntary Elimination
Sent: Wednesday, June 21, 2023 11:46:03 PM (UTC-05:00) Eastern Time (US & Canada)
was read on Thursday, June 22, 2023 12:43:33 AM (UTC-05:00) Eastern Time (US & Canada).

From: [McConville, James C GEN USARMY HQDA CSA \(USA\)](#)
To: [Bashaw, Mark C 1LT USARMY MEDCOM APHC \(USA\)](#)
Subject: Read: Follow-Up_1LT Mark Bashaw_Involuntary Elimination
Date: Wednesday, June 21, 2023 11:58:26 PM
Importance: High

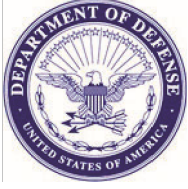
Your message

To: McConville, James C GEN USARMY HQDA CSA (USA)
Subject: Follow-Up_1LT Mark Bashaw_Involuntary Elimination
Sent: Wednesday, June 21, 2023 11:46:03 PM (UTC-05:00) Eastern Time (US & Canada)
was read on Wednesday, June 21, 2023 11:58:13 PM (UTC-05:00) Eastern Time (US & Canada).

From: [Dingle, Raymond S LTG USARMY HQDA OTSG \(USA\)](#)
To: [Bashaw, Mark C 1LT USARMY MEDCOM APHC \(USA\)](#)
Subject: Read: Follow-Up_1LT Mark Bashaw_Involuntary Elimination
Date: Thursday, June 22, 2023 12:14:25 AM
Importance: High

Your message

To: Dingle, Raymond S LTG USARMY HQDA OTSG (USA)
Subject: Follow-Up_1LT Mark Bashaw_Involuntary Elimination
Sent: Wednesday, June 21, 2023 11:46:03 PM (UTC-05:00) Eastern Time (US & Canada)
was read on Thursday, June 22, 2023 12:14:23 AM (UTC-05:00) Eastern Time (US & Canada).



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12 June 2023

LETTER FOR HONORABLE SECRETARY OF THE ARMY CHRISTINE E. WORMUTH

Secretary Wormuth,

I received an email message from BG Mendleson on 11 June 2023 stating that the Army will proceed forward with my elimination. I do appreciate the response and regret BG Mendleson had to work this action on a weekend, but his response did not address any of my concerns, evidence, or rationale the ACCA used to deny my reconsideration on 26 May 2023. He stated that his response represents the voice of Army senior leaders. If this is the case, then again, his response did not address any of my legal concerns I covered on 4 June at all. His response also does not cover that the basis for my elimination stemmed from me exercising my legal right to refuse unlicensed EUA medical facemasks and test kits. I discovered this weekend that the ACCA denied my reconsideration request with absolutely no reason or rationale provided, again.

Both my appeal petition and appeal reconsideration petition received a single memo that states the request is "denied." BG Mendleson, nor the ACCA, ever provide the legal basis for a petition denial. For example, is my petition denied on faulty evidence (I doubt this very much)? Did the ACCA deny my petition for a procedural error? Is the denial because of something else or a combination of things? Either way, I still have no clue why the court denied my appeal petition and reconsideration. Therefore, I again have not received my full right to due process through the court. I submitted my petitions pro se which means the court is supposed to help me since I do not have legal representation. The basis of my elimination stemmed from my courts martial guilty ruling and my petition sought to overturn this decision by providing more evidence I did not present fully at my court martial in April 2022.

Ma'am, I will ask you based on the email/letter and the evidence I sent you, what would you do if you were in my situation? Would you settle for a short response that fails to address the extensive evidence that can exonerate a guilty verdict? Would you or anyone else simply just accept the first answer posited to represent the voice of our senior leaders in an attempt to make you just go away? Would you be content with being left to "fix" my elimination and separation determination through another byzantine administrative process via the Army Board of Correction of Military Records (ABCMR), which will take months if not years to rectify? Would you be content with being denied due process to clear your record and to simply be fine with the unstated reason why the court refuses to hear your case and additional evidence? Lastly, would you be satisfied with every leader I address this issue with never providing you with the legal

justification, enabling statute, or constitutional clause that allows the Army to pick and choose which laws it chooses to follow?

To date, I have not received a tangible reason as to why the ACCA denied my petition, so I am therefore left to let my imagination run wild with possible speculative reasons as to why. For one, I am trying to exercise my and all of our fundamental right to due process. However, the court continues to refuse my petitions and both denial letters tersely state the petition is “Denied” and nothing else. Therefore, my speculation is this: If the ACCA accepted my case and made a ruling, my case would be made public (and by extension a public record) so the ACCA made a decision that would not make my appeal public and would not hear the case because with the evidence provided, overturning my case’s ruling has substantial legal precedent. If the ACCA were to decide to overturn the guilty verdict, then it would mean that the orders to direct me to take unlicensed EUA masks/test kits (also by extension shots) wasn't just unlawful for me. Overturning my ruling would mean that any orders directing and coercing Soldiers/Civilians to take unlicensed EUA masks/test kits would be unlawful for ALL Soldiers, ALL civilians, and everyone affected by the COVID-19 mandates. Also, even if the ACCA were to uphold the guilty verdict, the appeal would still be public record which anyone curious could look up the case and see the substantial evidence provided. If the Army is in the right and has the laws on its side, then why is the ACCA making sure my appeal does not become a public record? What is the court afraid of and why does no one ever give me a firm reason in writing as to why this petition is being denied? Based on this fact, I know I have the required evidence to support my case. However, not hearing my appeal without providing a reason and not making a ruling on it isn't due process. Due process is still my constitutional right which I have been denied. So in short, the Army appears it will deny any Soldier due process in an effort to “save face” which only further destroys any shred of trust we have in our institution to stand for righteousness.

In 42 USC 247d-6d titled "Targeted liability protections for pandemic and epidemic products and security countermeasures", it states that "the sole exception to the immunity from suit and liability of covered persons...for death or serious physical injury proximately caused by willful misconduct". Willful misconduct denotes an act or omission that is taken "intentionally to achieve a wrongful purpose", "knowingly without legal or factual justification" and "in disregard of a known or obvious risk that is so great as to make it highly probably that the harm will outweigh the benefit". In 42 USC 247d-6d(c)(3) titled "Proof of willful misconduct" it states that "the plaintiff shall have the burden of proving by clear and convincing evidence willful misconduct by each covered person sued and that such willful misconduct caused death or serious physical injury". To date, nobody has been able to prove willful misconduct. As a Lieutenant with no law degree, I can only speculate that nobody was able to prove willful misconduct because those with authority have successfully layered themselves from making the important decisions through those with less authority and through the use of plausible deniability.

I exercised my legal right to refuse unlicensed products, so I have not experienced COVID-19 countermeasure injuries, therefore I would not be able to prove or file a case to demonstrate willful misconduct. However, I strongly believe I made the righteous decision when I refused to follow coercive unlawful order to subject myself to unlicensed COVID-19 countermeasures

according to our oath of office and our foundational doctrinal concepts in ADP 6-22 Chapters 1 and 2.

BG Mendelson sent me his email stating the Army will continue eliminate me without specifically stating why and refused to address anything I presented you “Ma’am. Again, I can only speculate at this point since no one is ever direct or specific with their reasoning. Therefore, I can only speculate one of two things happened after I sent my 4 June email/letter to you. Perhaps you read my letter (I do still pray you did Ma’am) and understood what it means and so you are layering yourself by having a general who is many layers of authority removed from you to quietly and quickly eliminate me, the seemingly unruly First Lieutenant. Or perhaps you yourself have not fully read or had time to understand the circumstances that affect me, and the rest of the People in our Army legally. If the latter is the case, then why is the Army proceeding forward with my elimination without addressing the evidence I provided and really by once again denying me due process to have my case and my circumstance heard by the proper authority?

Ma'am, I am okay with being eliminated from the Army lawfully. And in all honesty, if I behaved unlawfully and outside of what ADP 6-22 and our laws guide us to do, then I would not even be writing to you because the point would be moot. Also, if this were the case, I can most assuredly state that I would have received multiple responses from various executive assistants (O5, O6, GO level) explaining to me how I am overstepping myself, that my argument is unfounded, or that I am wasting senior leader’s time.

If I am being eliminated lawfully, please show me what law or statute that gives you or the DoD the authority to pick and choose which laws the Army arbitrarily enforces, specifically what statutes give the Army the ability to override the requirement in 21 USC 360bbb-3(e)(1)(A)(ii)(III) to inform me that I have the option to refuse the unapproved/unlicensed medical product? When I am shown clearly that this elimination is lawful, I will stop taking up your time. If I am being terminated unlawfully (this is what I believe is happening to me) you need to know that this is unlawful, and you should use your authority to stop me from being eliminated from the Army.

I'm just a Lieutenant without a law degree, but I have served 17 years in the military as an US Air Force enlisted member and as an Army officer. When I enlisted 17 years ago, I truly believed that honorable people served in the military; honorable people that would take legally, ethically, and morally righteous actions.

I am writing this letter because I still believe this the case because I want to still believe that. Ma'am, with all due respect, and through your delegated statutory authority, please make a decision regarding my elimination citing the specific reason.

My God is not a God of humiliation and shame, but rather a God of forgiveness, mercy, redemption, and grace. I did not write my 4 June letter to humiliate anyone. I sent this letter because my circumstance is a microcosm of larger ethical issues we are facing across the Army and the nation right now. I wanted to express my genuine concern for the current situation we

find our Army and the direction we are continuing to head, because we are losing trust with the American People as well as its sons and daughters currently serving.

We all make mistakes and there is no sin (aside from blasphemy of the Spirit) that we cannot be forgiven for Ma'am. Matthew 12:31 KJV "Wherefore I say unto you, All manner of sin and blasphemy shall be forgiven unto men: but the blasphemy against the Holy Ghost shall not be forgiven unto men". This is echoed again in Mark 3:28-29 and Luke 12:10.

In the next passage I am led in Spirit to share with you that demonstrates us all that to willfully make an unrighteous choice after being shown that our choices are inherently wrong is not a small thing according to most religions on earth. According to the Bible, in Hebrews 10: 26-29 ESV "26 For if we go on sinning deliberately after receiving the knowledge of the truth, there no longer remains a sacrifice for sins, 27 but a fearful expectation of judgment, and a fury of fire that will consume the adversaries. 28 Anyone who has set aside the law of Moses dies without mercy on the evidence of two or three witnesses. 29 How much worse punishment, do you think, will be deserved by the one who has trampled underfoot the Son of God, and has profaned the blood of the covenant by which he was sanctified, and has outraged the Spirit of grace?"

It is one thing to unknowingly break the law or sin, but to knowingly do so is an entirely different matter.

Ma'am, for your sake, for the sake of those that love you (especially your Maker and Savior), and the sake of the United States Army (the organization I joined because I believed it was a righteous and honorable organization), I pray that you make the righteous, honorable, legally, ethically, and morally righteous decision.

Under Sworn Oath,



Mark Charles Bashaw
1LT(P)/MS
Child of Christ

From: [Wormuth, Christine HON USARMY HQDA SECARMY \(USA\)](#)
To: [Bashaw, Mark C 1LT USARMY MEDCOM APHC \(USA\)](#)
Subject: Read: 1LT Mark C. Bashaw Army Officer Elimination Repeal Request-Urgent
Date: Wednesday, June 7, 2023 11:54:07 PM
Importance: High

Your message

To: Wormuth, Christine HON USARMY HQDA SECARMY (USA)
Subject: 1LT Mark C. Bashaw Army Officer Elimination Repeal Request-Urgent
Sent: Wednesday, June 7, 2023 7:46:12 PM (UTC-05:00) Eastern Time (US & Canada)
was read on Wednesday, June 7, 2023 11:53:59 PM (UTC-05:00) Eastern Time (US & Canada).

From: [McConville, James C GEN USARMY HQDA CSA \(USA\)](#)
To: [Bashaw, Mark C 1LT USARMY MEDCOM APHC \(USA\)](#)
Subject: Read: 1LT Mark C. Bashaw Army Officer Elimination Repeal Request-Urgent
Date: Wednesday, June 7, 2023 9:50:52 PM
Importance: High

Your message

To: McConville, James C GEN USARMY HQDA CSA (USA)
Subject: 1LT Mark C. Bashaw Army Officer Elimination Repeal Request-Urgent
Sent: Wednesday, June 7, 2023 7:46:12 PM (UTC-05:00) Eastern Time (US & Canada)
was read on Wednesday, June 7, 2023 9:50:44 PM (UTC-05:00) Eastern Time (US & Canada).

From: [George, Randy A GEN USARMY HQDA VCSA \(USA\)](#)
To: [Bashaw, Mark C 1LT USARMY MEDCOM APHC \(USA\)](#)
Subject: Read: 1LT Mark C. Bashaw Army Officer Elimination Repeal Request-Urgent
Date: Wednesday, June 7, 2023 8:05:31 PM
Importance: High

Your message

To: George, Randy A GEN USARMY HQDA VCSA (USA)
Subject: 1LT Mark C. Bashaw Army Officer Elimination Repeal Request-Urgent
Sent: Wednesday, June 7, 2023 7:46:12 PM (UTC-05:00) Eastern Time (US & Canada)
was read on Wednesday, June 7, 2023 8:05:23 PM (UTC-05:00) Eastern Time (US & Canada).

From: [Dingle, Raymond S LTG USARMY HQDA OTSG \(USA\)](#)
To: [Bashaw, Mark C 1LT USARMY MEDCOM APHC \(USA\)](#)
Subject: Read: 1LT Mark C. Bashaw Army Officer Elimination Repeal Request-Urgent
Date: Sunday, June 4, 2023 11:52:15 PM
Importance: High

Your message

To: Dingle, Raymond S LTG USARMY HQDA OTSG (USA)
Subject: 1LT Mark C. Bashaw Army Officer Elimination Repeal Request-Urgent
Sent: Sunday, June 4, 2023 7:43:06 PM (UTC-05:00) Eastern Time (US & Canada)
was read on Sunday, June 4, 2023 11:52:13 PM (UTC-05:00) Eastern Time (US & Canada).

From: [Risch, Stuart W LTG USARMY HQDA OTJAG \(USA\)](#)
To: [Bashaw, Mark C 1LT USARMY MEDCOM APHC \(USA\)](#)
Subject: Read: 1LT Mark C. Bashaw Army Officer Elimination Repeal Request-Urgent
Date: Sunday, June 4, 2023 10:19:58 PM
Importance: High

Your message

To: Risch, Stuart W LTG USARMY HQDA OTJAG (USA)
Subject: 1LT Mark C. Bashaw Army Officer Elimination Repeal Request-Urgent
Sent: Sunday, June 4, 2023 7:43:06 PM (UTC-05:00) Eastern Time (US & Canada)
was read on Sunday, June 4, 2023 10:19:27 PM (UTC-05:00) Eastern Time (US & Canada).

From: [Solhjem, Thomas L MG USARMY HQDA OCCH \(USA\)](#)
To: [Bashaw, Mark C 1LT USARMY MEDCOM APHC \(USA\)](#)
Subject: Read: 1LT Mark C. Bashaw Army Officer Elimination Repeal Request-Urgent
Date: Sunday, June 4, 2023 7:49:31 PM
Importance: High

Your message

To: Solhjem, Thomas L MG USARMY HQDA OCCH (USA)
Subject: 1LT Mark C. Bashaw Army Officer Elimination Repeal Request-Urgent
Sent: Sunday, June 4, 2023 7:43:06 PM (UTC-05:00) Eastern Time (US & Canada)
was read on Sunday, June 4, 2023 7:49:21 PM (UTC-05:00) Eastern Time (US & Canada).



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ABERDEEN PROVING GROUND MARYLAND 21010-5403

04 June 2023

LETTER FOR HONORABLE SECRETARY OF THE ARMY CHRISTINE E. WORMUTH

Dear Secretary Wormuth,

I am writing to you under dire circumstances. On 30 May 2023, I received a formal notification through my chain of command that Michael T. Mahoney, the Deputy Assistant Secretary of the Army, determined to “involuntary eliminate” me from the service via your authority. The decision memorandum simply states my elimination from active service comes with a service characterization of “General (Under Honorable Conditions) and is “based on misconduct and moral or professional dereliction ... and derogatory information.” This memorandum did not include any additional details or specifics in writing. My last tentative day in the Army is 13 June 2023, based upon the elimination memorandum.

Therefore, Ma’am, I am writing directly to you, while also CC’ing all the key leaders to whom I have personally and professionally presented my findings through the course of my struggle. My findings, reflected in direct and indirect correspondence with these key leaders, fully demonstrate that the refusal to obey orders, directing me (and by extension every US Armed services personnel and civilian citizen) to take unlicensed emergency use authorized (EUA) products, is well within my legal rights and that we all, as leaders within a volunteer Army, are obligated to disobey and challenge patently unlawful orders.

I can assure you that I am not and do not have an intent to be derelict or in moral dereliction of my duties as an officer, nor did my actions fall under misconduct of any type. Two of the core tenants of the Army Profession and Professional Ethic are Trust and Honorable Service. I will explain these in greater detail below, but rest assured Ma’am, my decisions to disobey unlawful orders and to seek every opportunity to explain to my leadership and our key decision makers that ALL of these COVID-19 mandates violate federal law and the US Constitution were based on a moral imperative. While not law itself, ADP 6-22 underpins how we, as individuals, and our organization are supposed to behave; and the ideals, we are supposed to live up to so that the American people have a trustworthy Army and a DoD.

In fact, my decisions and my choices are completely in line with the ethical leadership described in Chapters 1 and 2 of Army Doctrine Publication 6-22 (Army Leadership and Professional Ethic), my oath of office (DA 71), and the enlistment contract Department of Defense Form 4 (DD-4). Before I present my case to you below, I fully acknowledge that out of respect for your time and position, I, as a First Lieutenant, under normal circumstances would not write directly

to you if I had not exhausted all means with my chain of command, supervisors, administrative processes, and legal means. I, however, am writing to you because I have practically exhausted every administrative and legal avenue possible in the Army to explain that any order, policy, or directive mandating service members and civilians to take unlicensed emergency use authorized products is patently unlawful. I am morally, ethically, and legally obligated to disobey patently unlawful orders and I am obligated to report all violations of federal law to my chain of command which is defined in ADP 6-22, paragraphs 2-20 thru 2-22 (ethical leadership). I feel spiritually compelled to advise you, Ma'am, that all of us at the lower tactical level, including our junior enlisted, encountered massive resistance as most of our leaders see our obligation to address these violations as a shot to their command authority. Ma'am, I am bringing all of this up to prevent the Army from devolving further into moral, legal, and ethical decay which further erodes the trust with the people we serve and with OUR people. I am thankful that God gave me this opportunity and that so many leaders openly dismissed me, because now I have this opportunity to advocate on behalf of the wrongs brought upon me, and, more importantly, on behalf of many morally injured people. Advocating for those who cannot advocate for themselves is a holy principle taught to us through Jesus Christ's teachings. Regardless of faith, creed, ethnicity, and religion, I intend to describe how bad life has been in the Army for me and likely for thousands of others.

I sincerely pray you will read and listen to what I have to say about my situation, that you will overrule and cease my elimination until I have time to fulfill my legal rights to due process through the Army and Joint legal system, or that you review my case and allow me to depart the Army on my own terms, without being involuntarily eliminated from the service on the basis that I have been morally and ethically labeled as an individual derelict in my duties as an officer. In fact, my actions are the exact opposite of this characterization. I also attached the 360-page reconsideration package full of substantial evidence demonstrating we all have an inherent legal right to refuse administration of unlicensed emergency use products (masks, test kits, shots, injections, drugs, PPE). You may ask why I attached this too; well, I learned that many leaders will stop at nothing to describe how what they did is wrong, in writing, and by citing specific legally enabling statutes allowing them to openly violate multiple federal laws.

I first submitted my petition for an appeal to my Court Martial conviction to the Army Court of Criminal Appeals (ACCA) on 7 February 2023. I did this filing "Pro Se." I received a very brief notification from the ACCA that they denied my petition for an appeal with absolutely no legal basis, justification, and/or reasoning. I received this decision notification on 14 April 2023. I then resubmitted my "reconsideration" for a petition to appeal because I wanted this case to be reviewed and to become a public record showing all the evidence, I have sent to multiple flag officers and senior leaders. I am still pending a decision on my "reconsideration" request.

I am humbly requesting two things, Ma'am, and your assistance is basically all I have now. One, I want my court martial reconsideration appeal be heard by the ACCA and I want the Court to make a fair ruling on my evidence and to demonstrate to me (and all of us) in writing, how the Army can blatantly violate our inherent legal right to refuse unlicensed EUA products as written into law in 21 U.S.C. § 360bbb-3 (e)(1)(A)(ii)(III) and 10 U.S.C. § 1107a. I have demonstrated through 360 pages of evidence that there are **absolutely no** legally licensed products **at all** to "cure, treat, diagnose, or prevent" COVID-19. The only products in the US market are

unlicensed EUA products. Secondly Ma'am, I am asking for the legal basis to be specified in writing, that allows the Army, its leaders, and the institution to blatantly over-step itself and directly violate multiple US Statutes and our nation's Constitution. I have asked these questions to many, many leaders, and I have not received a cogent answer (if I received anything at all), in writing, yet. I could be wrong, or I could be missing something, so I am legitimately asking what obscure statutory authority or Constitutional Authority the Army (and the DoD) is using that allows us to pick and choose or even outright ignore laws, or pick and choose which laws to follow. Either circumstance is a dangerous endeavor, that is a direct violation of all our oaths of office and makes us unaccountable to the laws or the people we are supposed to serve. Which laws make it legally, morally, and ethically sound to commit open fraud against us as defined in 18 U.S.C. § 1038 to coerce all of us to succumb to unlicensed medical products that have full liability immunity from any injury we may suffer under 42 U.S.C. § 247d-6d? For three years now, our leaders and our public leaders, all of which are shielded by liability immunity for any decisions or advocacy to use of "unlicensed covered countermeasures" as defined under 42 U.S.C. § 247d-6d.

The bottom line, Ma'am, is I want my case to be heard for my sake and for the sake of all those across our entire DoD, who have been wronged, harmed, or morally injured by these mandates. I would like an opportunity to exercise my fundamental right for due process prior to the Army involuntarily eliminating me within the next two weeks on faulty grounds, which I have refuted to my entire chain of command, MG Edmonson, LTG Risch, and now- the ACCA. Each of these leaders provided me a very brief memorandum that failed to specify in writing what US Statutes I failed to address and or the legal/procedural basis the ACCA used to deny my first petition for appeal, submitted on 7 February 2023. The constitutional right to due process is a fundamental right all public servants swear an oath to uphold and protect. I firmly believe my legal petition for appeal presented a strong case, supported by 280 pages worth of relevant evidence, which amplified evidence that I did not fully address at my court martial in April 2022. I want my case to receive an honest legal review and I want the guilty ruling overturned on the basis that all evidence I presented to many leaders in many forums reveals how unlawful all of these COVID-19 mandates are and have been. Without this guilty verdict, which my Court Martial ruling Judge himself recommended MG Edmondson to dismiss, there is no basis for my elimination.

Brief Background.

The Army's decision to approve my elimination from service stems from a guilty verdict during my 28-29 April 2022 court martial for refusing to obey a "lawful" order to use unlicensed EUA masks and for refusing to use unlicensed, EUA diagnostic test kits. Shortly following the judge's decision, the judge in the case recommended that the General Court Martial Convening Authority (MG Edmonson) drop the charges and the guilty verdict. Instead, MG Edmonson proceeded forward with my elimination. I wrote a substantive rebuttal (see Appendix 2 of the attached document) complete with 26 enclosures of relevant evidence, demonstrating I have a legal right to refuse unlicensed EUA products and any order to force or coerce servicemembers is patently unlawful. I also submitted a court martial case review via the only appeal ability via Article 69(c) of the Uniform Code of Military Justice (UCMJ). I requested a case review under my right to appeal via Article 69(c) of the UCMJ. I sent a case review request to LTG Risch (Appendix 3 with all evidentiary enclosures) directly on 27 July 2022 and my legal basis is the introduction of new evidence to demonstrate that any order to coerce me (all Soldiers) to take

unlicensed EUA products is patently unlawful and the basis of my legal ruling should be overturned on these legal grounds. Within this Article 69(c) case review, I presented further evidence that I did not fully present at my 28-29 April court martial at Aberdeen Proving Ground.

On 4 December 2022, I received a one-page memorandum back from LTG Risch stating that I (applicant) did not “establish a proper and specific basis for relief under one or more enumerated statutes.” As with many responses, this memorandum failed to specify the actual statutes I failed to address, nor did it address how all the evidence, findings, and statutory crosswalk presented was not sufficient to overturn the court’s ruling. I provided substantial evidence using the legally binding agreements between the Food and Drug Administration (FDA) and manufacturers which are the EUA Letters, the federal statutes violated or pertaining to the case, the liability immunity all have except for an individual partaking in these COVID-19 countermeasures, and that we ALL have the inherent legal right to refuse unlicensed products. I also feel I fully demonstrated that the only products available for anyone are unlicensed EUA products with full legal liability immunity against any injury for “covered persons” (Government officials, medical, manufacturers) as a covered countermeasure under 42 U.S.C. § 247d-6d.

However, I did receive a second memorandum from the Office of the Judge Advocate General allowing me to send in a petition to appeal this ruling to the ACCA. I again collected all of my evidence and filed another “Pro Se” filing to the ACCA on 7 February 2023. On 14 April, I received a notification from the ACCA that the court denied my petition with absolutely no other justification, legal basis, or rationale. As a Pro Se applicant, the court is supposed to assist me with procedural understanding or at minimum the rationale for denying my appeal, and they failed to do so. I then inquired about sending a “reconsideration” request using the ACCA rule book and then filed my Pro Se “reconsideration” petition appeal on 4 May 2023. My “reconsideration” request is still under review and the ACCA has not made a ruling or denied (again) my reconsideration.

The attachment within this message is the exact reconsideration appeal request complete with all evidence I presented during my 4 May 2023 Pro Se filing, plus extra facts regarding masks. The ACCA could only accept the first 35 pages.

The paragraphs above highlight the legal avenues I sought to overturn the decision as well as to inform senior officers of the illegalities of these orders. Other avenues I requested are multiple Article 138 Redress requests, multiple Inspector General filings (all turned down with minimal justification), DOD IG level inquiries, a 15 August 2022 Whistleblower report (Appendices 4-5) that Senator Ron Johnson used as the basis for his 17 August letter to the DoD, FDA, and Center for Disease Control (CDC), and I am a named plaintiff in an active federal case *Wilson et al. v. Austin*.

I also served as a Whistleblower with a joint military medical group showing a grave safety signal within our own Defense Medical Epidemiological Database (DMED) from the unlicensed COVID-19 shots. These findings came to light in January 2022, when Senator Ron Johnson held a “COVID-19 Second Opinion” panel. Shortly after this panel, the contractor running DMED “fixed a glitch” that allegedly affected the past 6 years’ worth of data to demonstrate that the

DoD, apparently, suffered millions of medical codes and not just during the years the unlicensed shots were forced upon us. Yet, that is the story the DoD stuck to and continues to assert. This preposterous assertion does much more to further erode trust we continue to lose with the American people and our own People.

Also of note, Senator Johnson sent a letter to the DoD, FDA, and CDC on 17 August 2022 with a group of joint officers that wrote our Whistleblower Report to Congress. He requested a response by 1 September 2022. To date, not a single entity or representative responded to any aspect of Senator Johnson's request or our letter and evidence. If there is nothing to hide and all mandates are above board, then the answer should have been easy and closed out. So again, we are closer to a year since these letters were sent than we are to an answer. How do you think this bodes for building trust, Ma'am?

My Findings and the Reality.

Ma'am, I will be as brief as I can with this section. Everything I discuss here is backed up by evidence in my attached reconsideration package and direct citations from United States Federal statutes, CDC public documents, FDA public documents. I avoid the use of clinical or medical studies since the prevailing attitude is to openly dismiss any scientific evidence disproving covered countermeasures actually work and cause harm.

- All products (test kits, masks, shots, drugs, PPE, and ventilators) used to treat, cure, diagnose, or prevent COVID-19 are unlicensed products and therefore can only be sold in the US market under an FDA granted Emergency Use Authorization (EUA). The legislatively enabling statutes for EUA products are governed through 21 U.S.C. § 360bbb-3. Any claim or misrepresentation that an EUA product is the same as an FDA "Approved (licensed)" product is patently false and fraudulent under 18 U.S.C. § 1038.
- FDA Authorized (Emergency Use Authorization) is not legally, medically, clinically, or scientifically the same as FDA "Approved (licensed or cleared)."
- 10 U.S.C. § 1107a governs the DoD's legal obligations for EUA products. This section is titled "Emergency Use Products." This section does not distinguish between types of products and references an EUA product definition as fully defined by 21 U.S.C. § 360bbb-3. I state this because the prosecutor in my case directly misrepresented this fact and claimed that 1107a does not apply to test kits or masks because the Secretary of HHS did not state that it applied to the DoD. Everything listed below will demonstrate that every legal aspect of 21 U.S.C. § 360bbb-3 and 10 U.S.C. § 1107a fully applies to all servicemembers and unlicensed EUA products we were directed to use or else face any variety of punishment.
- Its passage into law is a direct result of *Doe v. Rumsfeld (2004)* where the DOD used unlicensed, investigational drugs on its own service members and used fraud and coercion to get service members to take an investigational drug without informed consent. So there is definitely a historical precedent of lies, deceit, and malfeasance to form the DoD's penchant to lie to its own service members to get them to take unlicensed, untested, or unproven medical products in the name of safety and readiness.

- 21 U.S.C. § 360bbb-3(e)(1)(A) REQUIRED Conditions **applies to ALL EUA products.** Product Factsheets are NOT binding legal agreements. EUA Letters ARE binding legal agreements between the FDA and the product manufacturer to sell an unlicensed product under a granted EUA. The prosecutor in my case stated that test kit fact sheets did not state a test kit comes with a right to refuse which is a factual statement and yet a fraudulent declaration because the law is very clear and unambiguous that REQUIRED conditions apply to ALL unapproved products.

Each EUA product comes with a binding legal document (*see all individual repository pages below my signature block*), which are publicly available EUA Letters. EUA Letters, as with any contract, are pursuant to ALL legal conditions outlined in 21 U.S.C. § 360bbb-3 and by extension 10 U.S.C. § 1107a (titled Emergency Use Products... which means pertains to ALL EUA products, not just select products).

- See 21 U.S.C. § 360bbb-3(c). All EUA Products (masks, test kits, drugs, shots, and PPE) for the purpose of “treating, curing, preventing, or diagnosing” COVID-19 are **unlicensed products** and can only be placed in the US market on the basis that they “*may be effective*” and based on the “clinical evidence, *if available*” and that there are NO approved (licensed) alternatives for their legal purpose. This sub-part even further states the entry into in the US Market is on the basis that “it is reasonable to believe” the product “may” be effective. “Reasonable to believe” is a vastly different logical, legal, and scientific standard than “proven to work”, unless I am missing something.
- ALL EUA products are also legally considered “covered countermeasures” and receive full liability immunity from any “scope of loss (death down to mental anguish)” via 42 U.S.C. § 247d-6d (the same authority the Secretary of HHS has to declare a public health emergency). The liability immunity applies to the “covered countermeasures” and “covered persons.” This fact alone is why we all have an inherent right to refuse these products. Everyone, but the individual being administered the authorized unlicensed medical product, receives liability immunity.
- 42 U.S.C. § 247d-6d grants full liability immunity to “covered persons” which are the US Government (and all its agents...that means all of our leaders in their official capacity), product manufacturers, distributors, medical personnel, and state/local governments.
- This means everyone on this message operating within their official capacity has full liability immunity from any individual’s injury (or loss of any type) resulting from coercing us to use unlicensed EUA products. However, as an individual, one has next to no legal recourse for any sort of legal or medical injury one may suffer. An individual can file a claim with the CICP and accept all legal expenses, fight through a byzantine approval process, or you can also just be openly dismissed by our leaders for reporting an injury all together, that seems to be another popular trend.
- All community transmission decisions are being made using **unlicensed** antigen, PCR, or serology test kits. The FDA waives the legal requirement for test kit manufacturers from

following practically every aspect of current good manufacturing practices (see Appendix 3 of my brief) defined in [21 C.F.R. Part 820](#). Products do not become safer or more effective by waiving these requirements.

- There are NO licensed MASKS for the purpose of preventing the spread or transmission of COVID-19. Masks come in three distinct categories and none of them are licensed by the FDA to prevent the spread. Most facemasks in the market openly come with a disclaimer stating it is not a medical product, not designed to prevent any form of disease, or has not been approved by the FDA. In short, they legally state they do not work at all and the manufacturer writes themselves out of any liability for their failure to work. You, as an individual, accept all the risk for a product that openly states does not work.
- Practically every DoD installation rapidly installed unlawful masking mandates and demanded service members wear masks to “protect others.” Our leaders (all covered persons too, by the way) swore that the masks were “safe and effective” and yet even the FDA directs mask manufacturers to “conspicuously” state their product is not licensed and that no advertising materials shall advertise that masks are “safe or effective” because they are not fully licensed nor are they scientifically, legally, or clinically proven. Remember, masks are used on the basis that they “may” work, not that they ACTUALLY work. The FDA knew this the entire time, but sat complicit while the CDC and public leaders parroted tone deaf talking points stating masks work, ignoring legally binding agreements.
- We were told we never had the option to refuse and MUST wear masks or test or take shots because they are “safe and effective,” yet the legally binding agreement states the opposite because the EUA letters reflect every product is unlicensed and therefore unproven. Leaders picked and chose talking points without ever acknowledging these facts I and many others presented in many forums. We were NEVER told these masks are unlicensed or that good manufacturing practices were waived by the “experts” at the FDA. Masking mandates and testing mandates fraudulently asserted that these products MUST be worn or used as if they were licensed or clinically proven.
- The FDA granted a blanket EUA letter for certain surgical masks. The EUA Letter expressly states that manufacturers cannot advertise their product can prevent disease and is not designed to stop the spread of pathogenic airborne particulates...so In short they do not work at all to stop aerosol (the particles we breathe in and out) particulates of any kind. See page 5, here at [Reissued -- Surgical Mask EUA March 6, 2023 \(fda.gov\)](#).
- The FDA waived surgical mask manufacturers from following 21 C.F.R. Part 820 for over 3 years. So even these masks do not work to stop pathogenic spread from aerosol particles (same particles we exhale/inhale) and are considered “covered countermeasures” and are free from any liability for injury via 42 U.S.C. § 247d-6d.
- FDA EUA Letters do not remove or even mention one’s right to refuse or accept a product because for there to be an EUA Letter, the product must be UNAPPROVED and therefore UNAPPROVED PRODUCTS come with REQUIRED CONDITIONS. All

individuals “shall(must)” be informed the product is unlicensed, that they have the inherent right to **refuse**, and of any and all alternatives. The DoD and practically every governing or medical entity FAILED to adhere to any of these legal requirements. See 21 U.S.C. § 360bbb-3(e)(1)(A) and all sub-parts following.

- The FDA also made a deliberate choice to waive test kit, mask, PPE, and ventilator manufacturers from following current good manufacturing practices. I bet you would have liked to have known that the product going up your nose had GMP waived and that a negative or positive result does not mean the result is correct or accurate. Each Product EUA letter openly states that negative or positive results do not rule out the stated result.
- **Moral Hazard**. All US Federal Organizations such as the HHS, DoD, FDA, CDC aka the “Experts”, are all covered persons and are fully shielded from all legal actions stemming from 42 U.S.C. § 247d-6d. These facts are why the CDC can boldly declare that they will recommend masks forever for our children and why their guidance is fraudulently misconstrued as a “dictate” and not simply guidance. Every organization hides behind this liability immunity layering whether they realize it or not. I guarantee that you or any leader would make vastly different leadership decisions if you or any leader were legally liable for harm caused by directing a Soldier to take an unlicensed product under threats of many types of punishment.
- Individuals **accept ALL LEGAL and MEDICAL RISKS** associated if they take an unlicensed product with full liability immunity. Their only manner of recourse is to file an injury claim through the HHS using [the Countermeasure Injury Compensation Program \(CICP\)](#) governed by 42 U.S.C. § 247d-6e.
- These risks are why ALL EUA Products come with REQUIRED CONDITIONS (Required Means Required, not Optional) because of the poor levels of scientific scrutiny, lack of long-term safety data, and slapdash authorization process coupled with being fully immune from all liability.
- ALL EUA Letters for Masks, in-vitro diagnostic antigen and PCR Test Kits, PPE, and Ventilators **waive the manufacturer's** requirement to follow Current Good Manufacturing Practices under 21 C.F.R. Part 820.
- The FDA Antigen and PCR test kits EUA letters further assert that manufacturers **cannot** advertise **their product is safe or effective** because it is unlicensed and unproven. Furthermore, Rapid Antigen test kits and molecular test kits (PCR kits) expressly state that negative results do not rule out COVID-19 infection and a positive result does not rule out co-infection with other bacteria or viral matter. Both results are considered presumptive, which is another way of saying neither result is proven to be valid or accurate, which is another reason the product is not licensed for the purpose of diagnosing SARS-COV-2 infections. But we have been told, time and time again, by medical providers parroting talking points and by our leaders (public and military) that test kits are “safe and effective” as if they are a fully licensed, scientifically, and legally

proven device. (see Appendix 3 of my attached packet or click on any Antigen, Serology, or Molecular EUA Letter below my signature to read these express clauses).

- There are a total of 11,686 COVID-19 injury claims filed in the CICP and there are only 4 partially compensated claims...which total less than \$10,000 combined for serious, life threatening/debilitating injuries. The CICP has an annual budget of \$5million and a maximum claim is approximately \$365,000 for a lump sum payment. This means the CICP has a total budget to pay out up to 13 full claims per fiscal year. At this rate, it would take well over 700 years to pay out all of these claims at the maximum rate and budget constraints. And like any good bureaucratic organization, the process is unfair, byzantine, and stacked asymmetrically against a claimant.
- All Rapid Antigen, PCR, serology, and other in-vitro diagnostic test kits are unlicensed test kits under 21 U.S.C. § 360bbb-3 and 10 U.S.C. § 1107a. This means legally they are “unapproved (unlicensed)” and can ONLY be sold in the US Market with a binding agreement between the FDA and the manufacturer, which is the publicly available EUA letters.
- An EUA product in the US market is *nowhere close* to the same levels of scientific safety, efficacy, and legal scrutiny required to fully approve (license) a product’s long-term use. Only the FDA can fully approve or authorize a medical product’s use in the US market, not the DoD.
- Every EUA product in the market MUST have an EUA Letter and must follow the legal conditions established in 21 U.S.C. § 360bbb-3. The EUA letters represent the binding agreement between the regulators (FDA) and the regulated (manufacturer). They also represent the choices and conditions each product enters the market and the deliberate choices the FDA makes such as waiving good manufacturing practices. They “may” waive good manufacturing practices; the FDA does not HAVE to waive good manufacturing practices. The FDA CANNOT waive the right to refuse and “shall” ensure the conditions exist to make sure we (individual) are all informed of the legally stated REQUIRED conditions in 21 U.S.C. § 360bbb-3(e)(1)(A)(ii).

Trust, Honorable Service, and The Profession of Arms.

Ma’am, the facts I listed above are facts that I and many others discovered and feverishly tried to communicate to our respective chains of command. I am not stating half-cocked or unsupportable opinions. I am openly telling you that I DID disobey orders to take unlicensed products and that I still maintain that I have the legal right and obligation to do so. I also had the legal and duty-bound obligation to advise my chain of command so they could seek clarity and answers on our behalf. Direct and patent violations of our laws make any order doing so patently unlawful. We as leaders and public servants are all charged with upholding our nation’s laws.

This fact is overtly clear in ADP 6-22, paragraph 1-49, “The legal foundations of the Army ethic are the Constitution of the United States, United States Code, the Uniformed Code of Military Justice, and other orders and directives. Army professionals adhere to these mandates as the minimum standards for ethical conduct.”

This statement and these ideals is why I focus the majority of my argument on the laws I swore to uphold, support, and defend. These ideals are why our Army in its current state is in a grave state of moral and ethical bankruptcy and this is something I want to see reversed. I want to see our Army serve as a trusted organization again and a shining beacon of hope to those we support and defend, including our own service men and women. If our own leaders continue picking and choosing which laws to follow for the sake of turning “readiness slides” green or simply complying at all costs, then I assure you, Ma’am, our Recruiting and Retention problem will continue magnifying.

I assert that given all the facts presented to you and to all of the leaders I interacted with over the past three years, our nation no longer trusts us to do what is morally, ethically, and legally right anymore. This is why our current advertisement video “Overcoming Obstacles” ended up being “ratioed” into oblivion rife with strongly negative comments that can categorically demonstrate our nation’s citizens do not trust us anymore.

ADP 6-22 hammers home why trust is one of the key foundational aspects of our professional ethic and TRUST is also the key aspect of “Good Order and Discipline.” Leaders are quick to charge me with eroding “good order and discipline” when the reality of leadership is that Leaders are responsible for all things a unit (and the Army) does or fails to do. Secondly, trust works between the leaders and the followers, between the nation and its Army, and between the Army and its civilian leaders.

I am warning you Ma’am, that trust is shattered at practically each one of these foundational layers and if left unaddressed, our Army will further devolve into an unaccountable armed group that only obeys leaders, not our laws. This is not the Army I thought I joined and I hazard that most of you would feel the same. If this is not the case, then out of fairness to the American people and our People, we need to let them know the Army stands only for blind compliance and nothing else. We answer to no one but whatever “the higher-up says.” And this would lead us back down the path to events much worse than the Mai Lai massacre, which was the impetus of providing JAGS down to the Brigade level and more importantly to the creation of our 7 Army Values.

ADP 6-22 states: “Army professionals serve honorably—according to the Army ethic—under civilian authority while **obeying the laws of the Nation and all legal orders**; they **reject and report** illegal, unethical, or immoral orders or actions.”

ADP 6-22 further states in paragraph 1-59 “Army professionals volunteer and take a solemn oath to bear **true faith and allegiance to the Constitution and to protect the freedoms** it defines. The Army Value of loyalty clearly reflects this fact. Allegiance means **willing obedience to the lawful orders of elected and appointed leaders**. Army professionals demonstrate true faith in leading by example, doing their duty in taking action to uphold the moral principles of the Army ethic, and rejecting orders in violation of law. This is the meaning of honorable service.”

I bring these two paragraphs up because most of our leaders seem to have forgotten how the Army defines professional ethics. Blind compliance with an unlawful order is not defined or

described at all in any doctrinal publication or legal interpretation I have come across to date. I must ask: is blind compliance to any orders at all costs what the Army really stands for as a whole? I do not feel this is the case, yet this is what I, and many others, personally experienced and observed over the past three years.

Closing.

Ma'am, I apologize we must meet this way, but my options are limited now. You all placed me in this situation and, God willing, I am presenting this case one last time to demonstrate how I have been wronged and how so many have been wronged by our willful abandonment of our nation's laws, which are there for an individual's protection. Our Army is currently in dire straits, and this is something I pray you will start changing. This whole situation is extremely stressful, onerous, and disheartening.

Ma'am, I have nothing to hide. I did disobey an unlawful order by exercising my legal right to refuse an unlicensed test kit and mask with good manufacturing practices waived, that cannot advertise is safe or effective, that comes with full legal liability if I suffer an injury, and that has very little long-term clinical data available.

I demonstrated that we all have the moral and ethical obligation NOT to follow unlawful orders and to seek understanding as well as to challenge the unlawful nature of an unlawful order, unless you can show me in writing where we are merely pin cushions rife for overt experimentation. The DD4 or DA71 do not state we sacrifice our constitutional rights, nor does it state we signed up for unlicensed medical treatments. Leaders at practically every echelon and administrative remedy have proven themselves to be broken and never sought to address the issue, but merely to charge me with disobeying an order because someone higher than them did not tell them that the order is unlawful; this is the definition of moral bankruptcy and incongruent with our laws and ethics.

I come to you like the biblical prophets did in their time to show how bad things are getting and how far we are wandering from our own laws. The prophets came to warn kings that they were directly violating God's law to Moses and were wandering further and further away from the legal decrees from God. My voice and so many other voices have been drowned out by multiple echelons and administrative remedies such as IG, EO, and even the legal system. As a former enlisted member, I can attest that our enlisted brothers and sisters' voices are drowned out even further through even more layers of various chains of command and leadership echelons.

The prophets called out to both their kings and kings of other nations (Persia, Assyria, etc.) to advise them and to advocate that a return to God's laws is the path back towards salvation and the path back to righteousness. Returning to a righteous path is the only way our Army and its People can start toward reconciliation and recovery from the moral injury so many have suffered.

With this, Ma'am, I do pray you make the right decision. I pray you overturn my discharge and let me conclude my service in the Army under my own terms instead of being branded an "insider threat", a disloyal, morally bankrupt leader. God granted me this opportunity because you need to be aware of the state of affairs the Army is in from my experience over the past three years so we all can heal.

If you do choose to maintain my involuntary elimination Ma'am, then I can rest easy knowing that from here forward you and the other leaders I am sending this to can never say you did not know any of these facts. I pray that this Army Birthday marks a turning point for all of us to begin the path towards seeking reconciliation, atonement to God, and to make our Army better for future generations.

Under Sworn Oath,



Mark Charles Bashaw
1LT (P), MS
Child of Christ

FDA Master EUA Page: <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>

Test Kit EUA Letter Repository Pages (Access to ALL individual EUA Letters by Category)

- Rapid Antigen EUAs: <https://www.fda.gov/medical-devices/covid-19-emergency-use-authorizations-medical-devices/in-vitro-diagnostics-euas-antigen-diagnostic-tests-sars-cov-2>
- Umbrella EUA Letter for PCR/Molecular Testing: <https://www.fda.gov/media/154111/download>
- Molecular Test EUAs: <https://www.fda.gov/medical-devices/covid-19-emergency-use-authorizations-medical-devices/in-vitro-diagnostics-euas-molecular-diagnostic-tests-sars-cov-2#individual-molecular>
- Serology Tests EUAs: <https://www.fda.gov/medical-devices/covid-19-emergency-use-authorizations-medical-devices/in-vitro-diagnostics-emergency-use-authorizations-euas-serology-and-other-adaptive-immune-response#individual-serological>

MASK EUA Letters

- N95 EUA Letter: <https://www.fda.gov/media/135763/download>
- Surgical Mask EUA Letter: <https://www.fda.gov/media/140894/download>

- Blanket EUA for Non-Surgical Facemasks (not considered PPE by the FDA): <https://www.fda.gov/media/137121/download>
- ***All other masks in the market come with a legal disclaimer, a simple Amazon search and review will demonstrate the disclaimer or language stating it's respective

Personal Protective Equipment-PPE EUA Repository

- PPE EUA Letters (Faceshields, Protective Clothing, equipment): <https://www.fda.gov/medical-devices/covid-19-emergency-use-authorizations-medical-devices/personal-protective-equipment-euas#barrier>

COVID-19 Shots (Only the EUA Products below are available in US Market, the licensed “Comirnaty” and “Spikevax” are still yet to be in the US Market)

- Pfizer-BioNTech “Bi-Valent” EUA Letter: <https://www.fda.gov/media/150386/download>
- Moderna “Bi-Valent” EUA Letter: <https://www.fda.gov/media/144636/download>
- Novavax (which should not ever have entered the Market if the Licensed Comirnaty or Spikevax were actually in the US Market as per 21 U.S.C. § 360bbb-3(b)(A)(ii)): <https://www.fda.gov/media/159902/download>