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**MACARTHUR SOCIETY
OF WEST POINT GRADUATES**



POSITION PAPER

TO RESTORE

PURPOSE, UNITY & TRUST

IN THE US MILITARY

**VETERANS ORGANIZATIONS
WORKING TOGETHER
TO RESTORE PURPOSE, UNITY & TRUST
IN THE US MILITARY**



Stand Together Against Racism and Radicalism in the Services (STARRS) is concerned about the divisive racist and radical CRT/DEI ideology infiltrating the military and service academies and seeks to expose, stand up against, and eliminate it in order to keep our country safe.

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**MACARTHUR SOCIETY
OF WEST POINT GRADUATES**

To preserve, defend, and advocate for
West Point's history, purpose, and
principles of Duty, Honor, Country.

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the Navy and Marine Corps
and the U.S. Naval Academy

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POSITION PAPER

Remedies for Those Harmed by the DOD Mandatory Covid Vaccination Policy

PROBLEM: On August 23, 2021, the FDA formally licensed the COMIRNATY COVID-19 vaccine. In footnotes in its license, the FDA noted: there were insufficient stocks of COMIRNATY available for distribution; and although the licensed COMIRNATY and Emergency Use Authorized (EUA) Pfizer BioNTech COVID-19 vaccine were “legally distinct,” they could be used interchangeably. (If accurate, this raises the obvious question of why the FDA did not license the EUA vaccine.)

The next day, the SECDEF mandated vaccination against COVID for all active duty, Reserve, and Guard personnel, using only “vaccines that receive full licensure from the FDA in accordance with FDA-approved labeling and guidance.”

Notwithstanding this “licensed” requirement, DoD components immediately began using the unlicensed EUA to vaccinate military personnel. DoD continued its use of unlicensed EUA vaccine throughout the lifetime of the mandatory COVID vaccination policy, until SECDEF was compelled to rescind his mandate on 10 January 2023 in accordance with Section 525 of the 2023 National Defense Authorization Act.

The use of the unlicensed EUA violated federal law (10 USC 1107a) requiring a military member’s informed consent to an EUA absent Presidential order.

In addition, SECDEF’s mandate overruled a long-standing DoD policy on acquired immunity by forcing vaccinations on individuals previously infected with COVID: “Those with previous COVID-19 infection are not considered fully vaccinated.”

Finally, as determined by multiple federal courts, DoD leadership thereafter categorically denied requests for religious waivers in violation of the Religious Freedom Restoration Act of 1993 (“RFRA”), Pub. L. No. 103-141, 107 Stat. 1488, codified at 42 U.S.C. § 2000bb through 42 U.S.C. § 2000bb-4.

These denials rested in large part on the now-debunked premise that vaccinated individuals could not be infected with or transmit COVID... and thus unvaccinated personnel posed a threat to the force and themselves.

FACTS BEARING ON THE PROBLEM:

- In compliance with the 2023 NDAA, the SECDEF rescinded the mandatory vaccination policy on 10 January 2023.
- On 27 February 2023, USD Cisneros provided the following information to the Chairman of the HASC, Congressman Mike Rogers:
 - Among 2+ million service members, ~69,000 were not vaccinated.
 - ~53,000 sought exemptions, including ~37,000 religious based.
 - Of the 37,000, ~ 19,100 were denied and only 400 were approved, the remainder were still in review.

- ~8,100 service members were separated for failing to comply; 46% (3,726) received honorable discharges and 54% (4,374) received general discharges under honorable conditions. (Note: the Navy uniformly issued honorable discharges; other services predominately issued general discharges.)

DISCUSSION:

- As with the mandatory anthrax vaccination program two decades before, the COVID vaccine program and compliance with it became a loyalty test for service members. The program was never justified by any evidence that COVID significantly affected military readiness or mortality rates. Service members exercising their rights by raising legitimate objections based on religious or legal grounds were administratively punished, separated, or otherwise damaged in their careers by DOD component leadership.
- In assessing the legal basis for this program, it's important to note that notwithstanding thousands of service members refusing orders to take the vaccine, there was not a single instance of a court-martial under Article 92 for failure to obey a lawful order. Why? Because a court-martial would have provided a public forum to contest and reveal the unlawful and unethical manner by which the DoD mandated vaccination ... and would have resulted in a legal and well-grounded decision by a military judge.
- In addition to violating DoD policy and the informed consent requirements of 10 USC 1107a, DoD components violated their combined (Army, Navy, Air Force and Coast Guard) regulation requiring individualized assessments of service members exposed to diseases for which vaccinations are required.
- The DoD data underscores there was no intent to grant religious exemptions as just 400 of 37,000 requested (1.08%) were approved. Those 400 were likely near separation or retirement – their exemptions reflect convenience of the service.

- Numerous reports indicate those refusing vaccination and awaiting action on an exemption request were subject to hostile work environments and denied favorable opportunities such as consideration for schooling/training, promotion, transfers, and assignments, etc.
- Service members expect their leaders to take actions in the best interests of the mission and their health and welfare. Over time, it became apparent that the serious threat from COVID did not apply to young and healthy service members. As time passed and the negative consequences of mandatory vaccination presented, the trust and confidence service members had in their military leadership was seriously diminished.
- Those who requested an exemption based on religious, medical, or administrative grounds assumed a difficult conscience-based position. They were viewed at higher levels as being “extreme” because they refused to comply with an unlicensed medical treatment they viewed as illegal, unnecessary, dangerous, and/or against their religious principles.

THERE ARE FOUR GENERAL CATEGORIES OF THOSE HARMED BY THE MANDATORY VACCINATION:

- Those discharged, who validly requested an exemption and want to return to the military.
 REMEDIES:
 - Reinstatement rank and count lost time towards retirement for active duty and reserve component members.
 - Provide back pay and allowances; assign them to duty stations of choice.
 - Expunge records at all levels of all adverse personnel actions.
 - Pay all costs associated for moving from their current location to the next duty station.

- Those discharged, who validly requested an exemption and do not want to return to the military.

REMEDIES:

- If the discharge was based solely on refusing the vaccination, automatically grant an “honorable” discharge.
- Correct their DD 214 to state honorably discharged.

- Those who refused the vaccination, who validly requested an exemption but remained in the military when the policy was rescinded. Additionally, include those who refused to take the vaccine and did not request an exemption, if proper authority declares the vaccine order was illegal/invalid.

REMEDIES:

- Expunge records at all levels of adverse personnel actions related to their refusal.
- Correct any unfavorable personnel actions taken due to refusal such as schooling, promotion actions, assignments, awards, etc.

- Those who have or will have medical conditions associated with harm caused by the vaccination.

REMEDIES:

- Provide VA disability evaluations.
- Using the toxic substance criteria, designate the mandatory vaccination as a “presumptive condition” so that it falls under the PACT Act for VA automatic disability care criteria.

RECOMMENDATIONS:

- On behalf of the previous administration, President Trump issue a finding that the mandatory COVID vaccination policy as put into effect violated 10 USC 1107a and the RFRA. He also directs the Secretaries of the DoD and DHS to issue an apology to all service and coast guard members negatively impacted by the unlawful mandatory COVID. In his finding, President Trump might add he was against making vaccination mandatory and he is acting to remedy the situation.

- Following the previously issued “don’t ask don’t tell” policy discharge model: On day one, President Trump issue an executive order to upgrade the discharges for all those discharged due solely for refusing to take the vaccination based on religious, medical, or administrative grounds to “honorable”; change the respective DD 214s to reflect an honorable discharge; and expunge any other negative personnel action from their official records. In addition, the receipt of GI bill benefits requires an honorable discharge per 38 USC 3311. Thus, if personnel discharged with less than an honorable discharge subsequently paid for education benefits which would have been covered under the GI Bill, President Trump should direct a process to reimburse those out-of-pocket costs.

- President Trump direct the VA to provide disability evaluations for COVID vaccination-related injuries and provide appropriate disability coverage on a case-by-case basis.

- President Trump request Congress to amend the PACT Act to include COVID vaccination injuries as a “presumptive condition” falling under the Act opening the door for automatic VA coverage.

- Pursue any other appropriate remedies found in the four general categories of harm.

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