

8 September 2021

General Mark A. Milley
Chairman, Joint Chiefs of Staff
Joint Staff
9999 Joint Staff Pentagon, Room 2D932
Washington DC, 20318-9999

Dear General Milley,

I am Chaplain Major Robert A. Sugg, USAF (Retired), and I am writing to advise you of what appears to be an unlawful order.

1. Our Secretary of Defense recently issued a letter requiring all services to complete COVID-19 vaccination at our earliest. What was not expressed was that our current stock of vaccines is still under an Emergency Use Authorization (EUA) and is legally distinct from a licensed product. To date, nothing has legally changed since the FDA licensing announcement. Our current stock of vaccines remains EXPERIMENTAL.
2. The FDA directive dated 23 August 2021, regarding current DoD vaccine supplies states: “AA. COMIRNATY (COVID-19 Vaccine, mRNA) is now licensed for individuals 16 years of age and older. There remains, however, a significant amount of Pfizer- BioNTech COVID-19 vaccine that was manufactured and labeled in accordance with this emergency use authorization. This authorization thus remains in place with respect to that product for the previously-authorized indication and uses.”
<https://www.fda.gov/media/150386/download>
3. The FDA guidance document Emergency Use Authorization of Medical Products and Related Authorities states: “For an unapproved product (section 564(e)(1)(A)(ii)) and for an unapproved use of an approved product (section 564(e)(2)(A)), the statute requires that FDA ensure that recipients are informed to the extent practicable given the applicable circumstances.”...”That they have the option to accept or refuse the EUA product and of any consequences of refusing administration of the product.” There is no loophole for those who serve in the US Military. •
<https://www.fda.gov/regulatory-information/search-fda-guidance-documents/emergency-use-authorization-medical-products-and-related-authorities>
4. The FDA guidance appears based on the identical language in the THE NUREMBERG CODE: “The voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved, as to enable him to make an understanding and enlightened decision. This latter element requires that, before the

acceptance of an affirmative decision by the experimental subject, there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person, which may possibly come from his participation in the experiment. The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.”

“5. No experiment should be conducted, where there is an a priori reason to believe that death or disabling injury will occur; except, perhaps, in those experiments where the experimental physicians also serve as subjects.”

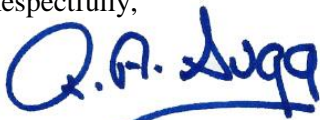
“9. During the course of the experiment, the human subject should be at liberty to bring the experiment to an end, if he has reached the physical or mental state, where continuation of the experiment seemed to him to be impossible.”

Note: “[”Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10”, Vol. 2, pp. 181-182. Washington, D.C.: U.S. Government Printing Office, 1949.]”
<file:///C:/Users/Home/AppData/Local/Temp/nuremberg.pdf>

If I have parsed the law correctly, it appears that the administration has not done their due diligence. As the SecDef left the completion date open-ended, you have been given the opportunity to ensure his order is handled constitutionally. By leaving the order open-ended, it appears that the legal responsibility now falls on each and every commander in the chain, and his or her JAG (*as well as the axe*). I encourage all commanders, medical officers and chaplains to ensure the highest ethics within their commands.

Additionally, I am receiving reports of command bullying, to include multiple nasal COVID tests per week until service members relent. This may be perceived as a violation of The Nuremberg Code and a crime against humanity. I implore you to do the right thing in the right way. We have taken an oath to support the Constitution (Rule of Law) and defend it against all enemies, foreign and domestic. This is a multifaceted issue and I do understand the pressure you are under. You are receiving prayers for wisdom, strength, and God’s richest blessing on your ethical leadership.

Respectfully,



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Cc: File

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