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United States Senate
COMMITTEE ON ARMED SERVICES
WASHINGTON, DC 20510-6050

ELIZABETH L. KING, STAFF DIRECTOR
JOHN D. WASON, MINORITY STAFF DIRECTOR

November 21, 2022

The Honorable Lloyd J. Austin III
U.S. Department of Defense
1300 Defense Pentagon
Washington, DC 20301-1300

Dear Secretary Austin,

In our letter dated July 17, 2022, we asked you to provide us with evidence to support the Department of Defense's (DOD) claim in a June 28, 2022, memorandum that the Supreme Court decision in *Dobbs v. Jackson Women's Health Organization* would have "significant implications" for the "readiness of the Force." We also asked you to identify the policies and procedures that were under review by the Department and to commit to consulting with the Senate and House Committees on Armed Services before issuing any additional guidance.

In response to our letter, on August 3, 2022, Under Secretary Gilbert R. Cisneros, Jr. failed to answer our questions or agree to consult with our committee regarding the Department's plans. This directly contradicted the commitment he made to this committee during his confirmation process where he assumed responsibility in his Advance Policy Questions to ensure that the Department "informs and consults with the Senate Armed Services Committee . . . on the implementation of personnel policies." Instead, we received a letter that falsely equated access to abortion with the health and readiness of the force.

In what can only be seen as a disturbingly political decision, the Department released a memorandum on October 20, 2022, less than 20-days before the midterm election, asserting that the *Dobbs* decision has "readiness, recruiting, and retention implications for the Force." Again, the Department gave no justification for this claim and announced significant policy changes related to the prevention and termination of a pregnancy.

The policies the Department outlined would force taxpayers to subsidize abortions by paying for service members to travel to another state to obtain the procedure, and by granting additional leave for this purpose. Facilitating a service member's abortion in this way not only violates the spirit of 10 U.S.C. § 1093, which prohibits DOD from funding elective abortions; it also departs from the Department's historic interpretation of its travel authorities in 37 U.S.C. §§ 452 and 453. These regulations authorize official travel for many activities, but notably say nothing about

funding travel to receive an elective abortion. This is because Congress never intended for these authorities to be used to facilitate abortion.

The Department's actions send the implicit message to our service members that pregnancy is a liability to the force and our military's success hinges on access to abortion. This is an egregious mistake. Since *Roe v. Wade* was decided in 1973, women and families have been stationed in countries across the world that have laws more restrictive than the United States or ban abortion altogether. Until the recently issued DOD memos, we have never heard any concerns from service members or from the Department about sending women to a location that "severely restricts their options for reproductive health care" or that any woman felt "deterred from joining the military for fear of being stationed at an installation or base in such" countries.¹

Given these concerns, we ask that DOD provide us with data on the number of women or military families who have refused to be stationed in Germany, South Korea, or any other country because of their abortion bans or abortion laws. Also, please provide us with the data on the leave and travel expenses provided by the Department to service members so that they or their dependents could receive an abortion.

Additionally, we request the following information:

1. The Department's definition of "reproductive health care."
2. Data on the types of non-covered elective procedures DOD currently authorizes official leave for and whether or not DOD has paid for the travel of the service member or their dependents for such procedures.
3. Since recruiting and retention challenges were apparent long before the *Dobbs* decision, please provide the committee with any public, DOD-wide memos issued by this Administration prior to June 24, 2022, addressing military recruiting and retention issues.
4. Any information, guidance, or briefing materials provided by the Department to commanding officers, executive officers, enlisted advisers, or other leaders regarding "reproductive health care."
5. A copy of the Department of Defense memorandum dated August 22, 2022, and entitled "Re: Legal Availability of DoD Appropriations to Pay Transportation Costs to Obtain Abortions Outside the Scope of 10 U.S.C. § 1093."
6. Information that the Department provides or plans to provide service members and other eligible beneficiaries regarding "reproductive health care" and what resources the Department plans to highlight "if they experience difficulties accessing reproductive health care at military medical treatment facilities."
7. In the event these policies go into effect, the Department's plans to "establish additional privacy protections for reproductive health care information" while verifying the need for covered leave and travel.

¹ Letter from Under Secretary of Defense, Gilbert R. Cisneros, Jr. to Senator James M. Inhofe dated August 3, 2022.

8. The role of chaplains in developing these new policies, guidance, and informational resources.

Please provide the above requested information to us by November 30, 2022.

The United States is at a pivotal moment for national defense and there is no time for distractions. When DOD becomes sidetracked by politics, its ability to win wars and deter emerging threats only suffers. The Department's focus should always be on our national defense, and not on circumventing federal law to facilitate abortions. Therefore, we ask you to rescind this memorandum immediately.

Sincerely,



James M. Inhofe
United States Senator



Roger F. Wicker
United States Senator



Deb Fischer
United States Senator



Tom Cotton
United States Senator



M. Michael Rounds
United States Senator



Joni K. Ernst
United States Senator



Thom Tillis
United States Senator



Dan Sullivan
United States Senator



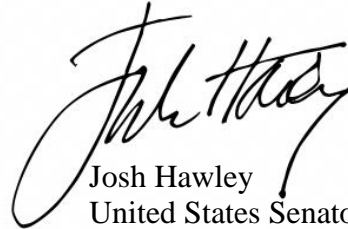
Kevin Cramer
United States Senator



Rick Scott
United States Senator



Marsha Blackburn
United States Senator



Josh Hawley
United States Senator



Tommy Tuberville
United States Senator