



Hon. Lloyd J. Austin III
U.S. Department of Defense
1400 Defense Pentagon
Washington, DC 20301-1400

Via Email
June 22, 2023

RE: Request for Investigation of Major Joshua Mast

Dear Secretary Austin:

We write to you on behalf of the undersigned community, immigration, human rights, adoption, and veterans organizations to request the immediate investigation of Major Joshua Mast regarding his conduct while employed by the Department of Defense (“DOD”).

Major Joshua Mast is currently embroiled in multiple legal proceedings regarding the custody and abduction of Baby Doe, a child from Afghanistan who was improperly removed from her relatives’ custody and placed into the custody of Joshua Mast and his wife. Joshua Mast continues to be employed by the DOD, despite breaking numerous laws and improperly using his position with the DOD to abduct Baby Doe. The Masts have yet to return Baby Doe to her Afghan family despite a judge invalidating their adoption order.¹ Joshua Mast’s actions have caused immense harm to Baby Doe and her family. A child’s separation for any length of time from her parents or caregivers threatens the mental and physical health of both the children and adults involved.²

Joshua Mast Used His Position in the DOD to Skirt U.S. and International Legal Adoption Norms

Joshua Mast abused his position at the DOD to abduct Baby Doe. As reported in New York Times Magazine, Mast, “with the help of his brother, Richard, an attorney with Liberty Counsel, a conservative Christian legal-aid group affiliated with Liberty University,” appealed to U.S. officials in his efforts to circumvent DOD policy and U.S. and international norms to obtain custody of Baby Doe.³ Mast used his position to “get the child out [of Afghanistan] and arranged for the Afghan couple to bring Baby [Doe] to the U.S.” when Kabul fell to the Taliban.⁴ Baby Doe, and her rightful guardians, were evacuated by U.S.

¹ Juliet Linderman, Claire Galofaro, Martha Mendoza, *US Marine’s adoption of Afghan war orphan voided*, AP News, Mar. 31, 2023, <https://apnews.com/article/afghanistan-baby-marine-adoption-joshua-mast-295673fb358cf30abd243995cd846c99>.

² Heather Stringer, *Psychologists Respond to a Mental Health Crisis at the Border*, American Psychological Association, Sep. 2018, <https://www.apa.org/news/apa/2018/border-family-separation>.

³ Rozina Ali, *‘How Did This Man Think He Had the Right to Adopt This Baby?’*, New York Times Magazine, Nov. 10, 2022, <https://www.nytimes.com/2022/11/10/magazine/afghanistan-orphan-baby-l.html>.

⁴ Catherine Herridge, Hilary Cook, Rachel Bailey, *Exclusive: U.S. Marine couple at center of custody battle over Afghanistan war orphan tells their story*, CBS News, Jan. 25, 2023, <https://www.cbsnews.com/news/afghanistan-war-orphan-marine-couple-joshua-stephanie-mast-custody-battle-tells-their-story>.

forces to Ramstein Air Base in Germany.⁵ From court filings, it is clear that “[l]etters, emails and documents submitted...show that [Mast] used his status in the U.S. Armed Forces, appealed to high-ranking Trump administration officials and turned to small-town courts” to formalize his abduction of Baby Doe.⁶

Mast came to know Baby Doe because of his position, after her parents and five siblings were killed in a U.S. raid, an attack which itself could constitute war crimes and violations of international law.⁷ Indeed, had her family never been wrongly murdered, she would not have been an orphan and it would have been more difficult for him to circumvent international and U.S. norms to abduct her.⁸ It was after finding Baby Doe on the military base following her family’s deaths that Mast began reaching out to officials, including Vice President Mike Pence, Senator Ted Cruz, and advisors to President Trump, in his efforts to take custody of Baby Doe.⁹ Clearly, by virtue of his position and his connections, the Masts won the support of individuals in the administration, with President Trump’s acting chief of staff Mick Mulvaney writing to Mast’s brother, “I’m praying for your success.”¹⁰

A. Mast’s Actions Were Illegal and Either Violated or Disregarded Numerous Agency Policies, U.S. and International Laws, and Foreign Policy Interests

The federal government has itself acknowledged that Mast’s actions have gone against U.S. laws and interests. In November 2022, the “U.S. Justice Department filed a motion to intervene in the legal wrangling over the fate of the child, arguing that Mast’s adoption should never have been granted.”¹¹ The federal government stated that “Mast’s attempts to take the child directly conflicted with a U.S. foreign policy decision to reunite the orphan with her Afghan family.” A CBS News article revealed that the Justice Department asserted in court filings that “granting the Masts custody and adoption of (the baby) are contrary to the foreign policy interests of the United States.”¹² The Justice Department also asserted that the Masts’ actions were in violation of Virginia law.¹³ In addition, a Virginia court judge invalidated the Masts’ adoption order of Baby Doe on March 31, 2023. The very fact that the order was invalidated

⁵ *Id.*

⁶ Juliet Linderman, Claire Galofaro, Martha Mendoza, *Afghan couple accuse US Marine of abducting their baby*, AP News, Oct. 20, 2022, <https://apnews.com/article/afghan-baby-us-marine-custody-battle-b157557538b84b288a0a8415735e24ab>.

⁷ While the government alleges otherwise, attorneys for the Does, Baby Doe’s family in the U.S., state that Baby Doe’s parents were farmers, unaffiliated with any terrorist groups. Human Rights Watch has investigated U.S. night raids in Afghanistan throughout the last 20 years and “found that many were based on faulty intelligence or false presumptions.” See “*They’ve Shot Many Like This*”: *Abusive Night Raids by CIA-Backed Afghan Strike Forces*, Human Rights Watch, Oct. 31, 2019, <https://www.hrw.org/report/2019/10/31/theyve-shot-many/abusive-night-raids-cia-backed-afghan-strike-forces>. In a 2019 investigation of 14 U.S. night raids, Human Rights Watch found that, “in none of the cases... did the civilians who were killed offer resistance or act in any way that justified the use of force.” *Id.*

⁸ Ali, *supra* note 3.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Martha Mendoza, Claire Galofaro, Juliet Linderman, *Orphans Afghan child still in custody of U.S. Marine accused of abducting her*, PBS NewsHour, Dec. 31, 2022, <https://www.pbs.org/newshour/world/orphaned-afghan-child-still-in-custody-of-u-s-marine-accused-of-abducting-her>.

¹² Herridge, *supra* note 4.

¹³ Herridge, *supra* note 4.

demonstrates the egregious nature of the abduction, and shows that the Mast could not prove that it was a legitimate adoption.¹⁴

Mast's abuse of power and position to not only get Baby Doe out of Afghanistan, but also his use of U.S. federal forces and agencies to facilitate the Afghan family's transport out of Afghanistan and his subsequent meeting with Baby Doe and her family, was a direct violation of the DOD's code of ethics.¹⁵ Mast also misused government resources, particularly the use of U.S. forces that transported Baby Doe and her family to Ramstein Air Base, for his personal and selfish reasons of abducting Baby Doe.¹⁶

Mast misused information and his position to mislead other government officials in his efforts to take Baby Doe from her family, and enticed them to violate the DOD's code of ethics in his pursuit to abduct Baby Doe.¹⁷ For instance, he misused his position to create a fraudulent passport for Baby Doe that changed her last name to Mast.¹⁸

Mast also abused his position with the DOD to circumvent established adoption norms set by the International Committee for the Red Cross. Under international humanitarian law, the U.S. government was obliged to do everything possible to reunite Baby Doe with her relatives after she was orphaned by a U.S. attack.¹⁹ As is standard procedure when a child is orphaned, the Afghan government and the International Committee of the Red Cross identified Baby Doe's relatives in Afghanistan and arranged for Baby Doe's reunification with her cousin and his wife.²⁰ Mast, however, was "aggressively" trying to get Baby Doe to the U.S. – he used his position to get his colleagues in the military to talk to President Donald Trump about Baby Doe, he made four requests to then-White House Chief of Staff Mick Mulvaney to medically evacuate Baby Doe, and he reached out to American politicians to garner support for his abduction of Baby Doe.²¹

B. Joshua Mast's Actions Have Caused Immense Harm to Baby Doe and Her Loving Family

Ultimately, Joshua Mast's misuse of his position has been focused on ripping Baby Doe away from her loving caregivers – her relatives, who share her language, her culture, her faith, and her heritage. International and domestic legal norms, and medical and psychological expertise all make clear that the

¹⁴ Linderman, *supra* note 1.

¹⁵ Under the DOD's "Misuse of Position" rule, a DOD employee "may not use, or permit the use of, your Government position, title, or any authority associated with your office....to induce or coerce another person to provide any benefit to you or anyone with whom you are affiliated [or] to imply that DoD or the Government endorses personal activities." See *Employees' Guide to the Standards of Conduct*, Department of Defense, United States of America, January 2019, https://dodsoco.ogc.osd.mil/Portals/102/employee_guide_1.pdf at 8-9.

¹⁶ The "Use of Government Resources" rule states that a DOD employee can only "[u]se Federal Government equipment and property, including communications systems, only for official purposes or authorized purposes as approved by your supervisor." *Id.* at 9.

¹⁷ *Id.*

¹⁸ Linderman, *supra* note 6.

¹⁹ Linderman, *supra* note 6.

²⁰ Mendoza, *supra* note 8.

²¹ Linderman, *supra* note 6.

best setting for a child like Baby Doe is with her family.²² The relevant laws generously define family to include extended families and cousins, as is the case for Baby Doe’s family placement. Instead, the Masts are adamant on formalizing their abduction of Baby Doe, imposing their own culture on her, and robbing her of formative time spent in the appropriate setting – growing up with her family, including her sibling born in the U.S.

The Masts, and every actor that has enabled them, have allowed for these norms to be disregarded and have caused prolonged trauma to Baby Doe and her family. This is in addition to the lasting trauma left behind when Baby Doe’s immediate family was killed and the trauma of displacement and fleeing Afghanistan. Mast willfully ignores these considerations, as he continues to speak publicly about Baby Doe with complete disregard for her privacy and peace, by sharing photos of her and referring to her by a name that is not hers.²³

Conclusion

In light of Joshua Mast’s egregious actions, we demand to know (1) how Joshua Mast received a promotion to Major after clearly attempting to interfere with a civilian casualty’s family reunification and after violating Geneva Convention and DOD policies when he widely distributed photos of Baby Doe, (2) how Joshua Mast maintained security clearance after seeking and obtaining the declassification of documents for the sole purpose of interfering with Baby Doe’s family reunification, which was clearly against the U.S. government’s stated legal position, and (3) why the Navy Office of Professional Standards has not referred Joshua Mast to the Virginia Bar Association for discipline after it has become clear that he lied to a federal court in February 2020 about his intentions to abduct Baby Doe, and after he falsely represented himself as the attorney of Baby Doe’s Afghan family in clear violation of rules for DOD attorneys.

We urge you to immediately investigate and remove Major Joshua Mast from his role in the DOD. We request a thorough investigation into his employment history, including any and all records of Human Resources investigations of his conduct, during and after the attack that killed Baby Doe’s family, and during and after his illegal abduction of Baby Doe. We also request stakeholder engagement on this matter. Please contact Laila Ayub (laila@projectanar.org) and Wogai Mohmand (wogai@projectanar.org) for further questions and to schedule such an engagement.

Sincerely,

²² Virginia law, federal law, and international law align in prioritizing family-based care, placing children in the custody of relatives, and placing them in households that share their cultural background. Under Title IV-E of the Social Security Act, if a state seeks federal funding for its adoption and foster care programming, it must “consider giving preference to an adult relative over a nonrelated caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant state child protection standards.” 42 U.S.C. § 671(a)(19); *see also* Indian Child Welfare Act, 25 U.S.C. § 1915(a) (which explicitly establishes that a child’s extended family is the preferred placement, when placing Native American children with adoptive or foster parents). The Family First Prevention Services Act also reinforces this framework.

²³ Herridge, *supra* note 4.



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Families for Freedom
Immigrant Defense Advocates
Immigrant & Refugee Justice Taskforce of the WNY Peace Center
International Refugee Assistance Project
Latin Advocacy Network
MADRE
Muslim Advocates
Muslims for Just Futures
Nooristan Foundation
NorCal Resist
Partnership for the Advancement of New Americans
Project ANAR (Afghan Network for Advocacy and Resources)
Pangea Legal Services
Student Clinic for Immigrant Justice
The 5ive Pillars Organization
United Afghan Association
UndocuBlack Network