

# United States Senate

WASHINGTON, DC 20510

March 13, 2020

President Donald Trump  
The White House  
1600 Pennsylvania Avenue NW  
Washington, D.C. 20500

Dear Mr. President:

We write with regard to the International Criminal Court's (ICC) recent ruling to authorize an investigation into alleged war crimes relating to Afghanistan, including allegations against United States service members and personnel. The ICC's decision to authorize an investigation, and attempt to prosecute American service members in an international court to which the United States has declined to formally join, is unacceptable and a clear affront to United States sovereignty.

The ICC was established with the intention to bring to justice the world's worst perpetrators of atrocities, such as genocide, war crimes, and crimes against humanity. Any attempt by the ICC to investigate and prosecute United States personnel who were in Afghanistan to defeat Al-Qaeda and ensure Afghanistan was not a haven for international terrorism is a mockery of justice. It is important to note that no member to the Rome Statute, including Afghanistan, requested this investigation. Unfortunately, this effort is led by an ICC prosecutor who is less concerned with delivering meaningful international justice and more interested in politicizing the court.

The Executive Branch has tools, provided by Congress, that ensures our service members and allied armed forces are protected from ICC prosecution. Therefore, we urge you to take all appropriate action under the *American Servicemembers' Protection Act of 2002* (P.L. 107-206) as well as review other existing authorities, including the *International Emergency Economic Powers Act* (P.L. 95-223), to impose targeted measures against persons or entities that assist in the investigation or prosecution of United States service members. Additionally, we should engage our allies and urge them to decline participation in politically motivated investigations and prosecutions that would undermine our joint efforts to combat terrorism. In recent years, more than half of the ICC's annual budget has been funded by contributions from a handful of our closest allies, including Japan, Germany, France, the United Kingdom, Italy, Canada, and Spain. The United States should request those nations, which fund the ICC, to provide oversight to ensure their resources are spent on investigating actual crimes against humanity and not political escapades.

Thank you for your attention to this important matter. We appreciate the steps your administration has taken to protect U.S. citizens from the ICC and stand ready to assist you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Rubio', with a stylized, sweeping flourish at the end.

Marco Rubio  
U.S. Senator

A handwritten signature in blue ink that reads 'Tom Cotton' in a cursive style.

Tom Cotton  
U.S. Senator

A handwritten signature in blue ink that reads 'Ted Cruz' in a cursive style.

Ted Cruz  
U.S. Senator