Under Investigation

LAWEN057

**Area Defense Counsel**

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1. **INTRODUCTION:** This fact sheet is designed to give you basic information about what to expect if you are under investigation by OSI, Security Forces, or your unit.

2. **REMAIN SILENT: As military members, we are used to answering questions posed by those in authority and cooperating with authorities at all costs. However, if you are suspected of a crime or information you might provide could incriminate you, you have the right to remain silent under Article 31 of the UCMJ. Exercising your rights will not get you in trouble, while answering questions without the benefit of an attorney has sunk many Airmen. Please reach out to us for more information or specific advice—it’s your right.**

a. Anything you tell Security Forces personnel (police), OSI, your first sergeant, commander, supervisors, or friends can and will be used against you in disciplinary or administrative actions.

b. Your defense counsel, your defense paralegal, and a chaplain are the only ones with whom all communications are privileged. The Mental Health Clinic can help you, but complicated rules and regulations determine who might be able to learn about those communications in the future. Please contact us for more specific information about privileges.

3. **YOUR RIGHTS:** Once you assert your rights, all questioning must stop. You may be asked to provide a written statement; take a polygraph test; consent to a search of your home, car, body, or urine; or enter the password for your phone. Again, you have the right to say “no” and wait until you have consulted with an attorney before making a decision that could affect the rest of your life.

a. **Searches:** You never have to voluntarily provide evidence against yourself. You may politely refuse if an investigator asks for documents or wants to look for evidence. Ask to see a search authorization. Only then can you be required to open your room or car, or provide a urine sample. If you're not sure whether you can say no, then ask, "Can I refuse?" and make sure you get a straight answer. Investigators cannot lie to you about your rights.

b. **Polygraphs:** You cannot be ordered to submit to a lie-detector test. While a polygraph test result cannot be used as evidence against you, any statements you make before, during, or after the test can and will be used against you. Consult your defense counsel before making any decision.

4. **THE PROCESS:** Some investigations will take several months, if not a year. There is no way to speed up the process. During this time, **do not talk to anyone about the incident and be a model Airman.** Maintain a positive attitude, do your job well, and make a good impression on anyone you meet. Your commander will ultimately review the evidence and determine what, if any, disciplinary action to take. Your unit will notify you (not the ADC) if action is to be taken. If the evidence does not incriminate you, the investigator will not tell you that you have been cleared. Generally, no news is good news.

5. **ADMINISTRATIVE HOLD:** If OSI is investigating you, you will be placed on administrative hold. This means that a code has been added by your name at the MPF designating that you are under investigation. Normally, you cannot PCS, separate, or go on leave without your commander’s approval while you are on administrative hold.

6. **ACTION:** If you are "served" with some action, you should be provided a copy of the evidence, and the ADC can advise you on your options. The evidence determines the advice. "Your side of the story" is your response to the action. If, after reading your response, your commander believes you are not guilty, then the disciplinary action might be dropped.

7. **CONCLUSION:** This fact sheet was intended to give you an overview of what to expect if you are under investigation. If you should have any further questions, please schedule an appointment with the Area Defense Counsel at DSN 314-452-6607.