



Under Investigation

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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:** Anyone who may be involved in an offense under the UCMJ will be questioned. You must answer the questions, unless they might incriminate you. If you are a suspect, you should be read your rights under Article 31 of the UCMJ. Then, you have an absolute right to refuse to answer questions and consult a lawyer. You can never get in trouble for exercising your rights and it is not an admission of guilt. If you are read your rights, you are not necessarily in trouble, but to be on the safe side, do not talk to anyone, until you have consulted the Area Defense Counsel.

a. Anything you tell Security Forces personnel (police), OSI, your first sergeant, commander, supervisors, or friends can come back to haunt you.

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 anything you say to mental health providers can be used against you, so do not give specific information unless advised to do so by your attorney. Please talk with the Area Defense Counsel to receive more detailed information concerning privileged information.

3. **YOUR RIGHTS:** Once you assert your rights, all questioning must stop. You never have to give a written statement. You do not have to consent to a polygraph test, urinalysis, and search of your home or car. Don't be afraid to say no.

a. **Searches:** You never have to voluntarily provide evidence against yourself. 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 made by you after an advisement of rights and after the test has been administered are admissible in court against you. Be advised that since an Article 15 is nonjudicial, the results of the polygraph examination can be considered by your commander in determining your guilt or innocence. For this reason, you

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may want to request a polygraph to exculpate you. Consult your defense counsel and see **Polygraph Tests** fact sheet before making any decision.

4. **THE PROCESS:** Some investigations may be ongoing for several months. 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 (statements against you) 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. Therefore, 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 in the computer at 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 will 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 576-2358.