

AREA DEFENSE COUNSEL DYESS AIR FORCE BASE



ARTICLE 31 RIGHTS FACT SHEET

1. When you joined the military, you gave up many rights that you had as a civilian. However, you do retain your rights to remain silent and to speak with an attorney before you make a statement to those who suspect you of wrongdoing. In the civilian world they are called "Miranda Rights". In the military they are known as Article 31 rights, as they are codified in Article 31, Uniform Code of Military Justice. There are certain situations that may arise when you are read your Article 31 rights. For example:

SCENARIO 1: You are face to face in an interview room with the agents of the Office of Special Investigations (OSI) or members of the security forces squadron. They suspect you of committing a crime. Your heart is racing. You are short of breath. They say to you, "You have the right to remain silent". "Any statement you make, oral or written, may be used against you in a trial by court-martial." "Do you want a lawyer?" "Are you willing to answer questions?"

OR

SCENARIO 2: Your commander, first sergeant, supervisor, or anybody in your chain of command calls you in because they suspect you of doing something wrong. Again, you are nervous and wonder what you are getting called in for. You are short of breath. They read you your Article 31 rights and ask if you want to speak to an attorney.

2. If you find yourself in one of the two scenarios described above, you will probably wonder what you should do. Should you ask for an attorney? Should you make a statement? Should you try to clear up this mess by telling them everything you know? What are your options? Many military members before you have asked those same questions and have had the same feelings and thoughts that you have. The fact is most military members are unaware of their Article 31 rights. Even when they are read to you by investigators, you may not be in the right frame of mind to truly understand what they mean. Article 31 of the Uniform Code of Military Justice gives all military members a very important right. It states that no person suspected of an offense can be compelled to answer any question if the answer may tend to be incriminating. In other words, if someone suspects you of wrongdoing and asks you questions, you have the right to say absolutely nothing at all.

3. You may ask yourself, what if they don't consider me a suspect? If this is the case and you are considered only to be a witness, it is not required that your rights are read to you. To answer the question, **if you are read your rights you ARE a suspect**. That means there is some sort of evidence to implicate you in some type of crime. The crime can be anything that is in violation of the UCMJ. That includes wrongful use or possession of drugs, failure to go, larceny or theft, sexual assault, underage drinking, DUI, or misuse of your government travel card/computer.

These are just a few examples of UCMJ violations.

4. What do you have to do to stop the interview with your commander, supervisor, first sergeant, OSI or security forces? All you have to do is make one simple statement, I WOULD LIKE TO SPEAK TO AN ATTORNEY. Once a suspect states that they are not willing to answer

questions and wishes to speak with an attorney, the interviewer, by law, must immediately terminate the interview. However, you must be clear in your statement to remain silent and for an attorney. Statements like “Maybe I shouldn’t say anything” or “I think I might want an attorney” are not sufficient to invoke your rights and stop the interview.

5. Why might a person want to remain silent until they speak with an attorney? It may be that they don't know whether they did anything illegal and they want to find out before getting themselves in deeper trouble. It may be that they did do something wrong and recognize that by confessing, they would just be helping the prosecution put together an airtight case. It may be that they are nervous and want some time to think over their options. Or perhaps you just want to talk to somebody to get a better idea of what kind of punishment you may face. By requesting an attorney, you have these options. Moreover, you can always go back to the interviewer to answer questions after you've had the chance to speak with an attorney. If you exercise your constitutional right to remain silent, the prosecution cannot use your silence against you.

6. Article 31 does not permit the interviewer to encourage the suspect to answer questions. For instance, the interviewer may not say, “Well, that’s too bad, if you won’t answer the questions I won’t be able to testify later on your behalf,” or “Well, you might feel better getting it off your chest.” Article 31 exists to protect you, but only if you choose to take advantage of it! Invoking your Article 31 rights to remain silent will not and cannot be used against you. However, any statement you do make will be used against you.

7. If you have been advised of your rights under Article 31, UCMJ, or have questions about Article 31, contact the Area Defense Counsel by calling 325-696-4233.