



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
FORT HUACHUCA FIELD OFFICE
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ATZS-JA-TDS

1. YOUR RIGHTS AS A SUSPECT.

a. This information paper describes your rights if you are suspected of committing a criminal offense. You will know you are a suspect if you are apprehended by military police, CID, or called into the police office and advised of your rights. You may also think you are a suspect because an Investigating Officer or your chain of command has advised you of your rights.

b. This information paper contains the opinions of its author and is not intended to reflect any official policy of the U.S. Army Trial Defense Service. The information below is not legal advice and should not be a substitute for the personal legal advice of an attorney. If you are suspected of an offense you should consult an attorney immediately.

2. BASIC RULE: SILENCE. You cannot improve your position by discussing the matter under investigation with anyone other than your defense attorney. Even if you believe you are completely innocent, you should never speak to civilian or military police, an investigating officer, or your chain of command about any offense of which you are suspected until you can first speak with an attorney. The investigation will wait until you consult with an attorney!

3. SUMMARY OF YOUR RIGHTS.

a. **RIGHT TO REMAIN SILENT.** You have the absolute right to remain silent. You should cooperate with the police by only giving them basic identification information such as your name and unit. The police may also want to inspect your ID card, record your fingerprints and take your photo. You should cooperate with these basic identification procedures. You should also refuse to take a polygraph exam, if offered. There is always time to take one later, if it is in your best interest, after you consult with an attorney.

b. **RIGHT TO REFUSE SEARCHES.** You have a constitutional right to privacy. That means the police may only search you or your belongings if you have been arrested or if they have obtained a search authorization. The police may ask if you will consent to them looking through your phone or taking a blood, saliva, or hair sample. Unless they have shown you a search authorization, you should refuse. Even if you believe there's nothing for them to find, it is always in your best interest to refuse consent until after you consult with an attorney.

c. **RIGHT TO COUNSEL.** You have an absolute right to have an attorney present when you are suspected of a crime and being questioned about that offense – but you must ask for one! You are entitled to be represented free-of-charge by military defense counsel or you may hire a civilian attorney at your own expense. Once you request an attorney, all questioning must stop – if it doesn't, invoke your right to remain silent and say nothing further.

5. IT'S A TRAP!

a. Soldiers are always surprised to learn that investigators are allowed to lie to you about what evidence they have in order to get you to confess. They can lie to you about finding your fingerprints or DNA on some object at the scene of the crime. They can trick you into admitting involvement by telling you that several eyewitnesses saw you – even though there isn't a single eyewitness. Often, the evidence they have is weak until the suspect provides the smoking gun. Many people have confessed to crimes they did not commit after being subjected to these tactics. Remember, once you confess, you become the government's star witness against you at your trial – don't make it easy on them by falling into this trap!

b. Investigators may try to discourage you from seeking an attorney or try to offer you leniency if you provide a statement right away. This is just another trap. Police do not have the power to promise you favorable treatment or leniency. They also cannot threaten to "close the case" or "find you guilty" while you consult an attorney. You may also ask for an attorney after you have already started giving a statement. Investigators must give you a reasonable opportunity to consult with an attorney once you have asked for one.

6. DO'S AND DON'TS.

a. If, for whatever reason, you decide to waive your rights and talk to the investigator, do not lie to them. If you do not tell the truth, or you omit key parts of the truth, then you can expect to also be charged with false swearing or false official statement.

b. Once you are a suspect, imagine yourself under a microscope at all times. Your chain of command, the police, and investigators are watching you, just waiting to pounce at the first hint of any misconduct on your part. Perceptions matter. Be a model Soldier on duty and off. Choose your friends and extracurricular activities wisely.

c. Do not talk to anyone about the case under investigation. This includes CID, MPI, MPs, Family Advocacy, psychiatrists, your commander, your first sergeant, platoon or squad leader, platoon or squad sergeant, section chief, co-workers, friends, roommates, drinking buddies, partners, and even spouses. Anyone you talk to about the case now may be forced to testify against you later.

d. Do not talk to alleged victims of an offense or other witnesses. It is a serious offense to threaten, or make promises or bribes to witnesses. Let your attorney do all the talking.

7. QUESTIONS? Trial Defense Service attorneys are here to help. If you are suspected of a crime, same-day appointments are always available. Just drop in during our regular office hours or call 520-533-5370 to make an appointment. If office is closed, due to holidays, leave a clear telephone message and someone will get back with you as soon as possible. Please be sure to state in the message that you are under an investigation and by what agency.