THE MILITARY DEFENSE FIRM

MILITARY INVESTIGATION CHECKLIST

What to document when CID, OSI, NCIS, CGIS, military police, or command starts asking questions.

Before your first substantive conversation with your lawyer, you should be able to answer as many of these questions as possible. Use this checklist to organize the information your attorney needs. Use it to preserve an accurate record of what actually happened, not to conduct your own investigation.

IF INVESTIGATORS WANT TO QUESTION YOU

"I would like to speak with a lawyer before answering questions."

IF SOMEONE ASKS TO LOOK AT YOUR PHONE

"I do not consent to a search. I would like to speak with my attorney."

1 INVESTIGATION

- ☐ Who contacted me?
- ☐ What agency are they with?
- ☐ When did they contact me?
- ☐ Did they identify me as a witness, subject, or accused?
- ☐ Did they give me an Article 31 warning?
- ☐ Did they ask me to provide a statement?
- ☐ Did I provide a statement?
- ☐ Was the conversation recorded?
- ☐ Did I sign anything?
- ☐ Was I ordered to provide anything?
- ☐ Has Family Advocacy or civilian law enforcement contacted me?

2 COMMAND

- ☐ Does my commander know about the investigation?
- ☐ Has my first sergeant contacted me?
- ☐ Has command imposed any restrictions?
- ☐ Have I received an MPO?
- ☐ Have I been directed not to contact someone?
- ☐ Have my duties changed?
- ☐ Has my access changed?
- ☐ Has command discussed an Article 15 or separation?

Command is not your defense counsel. A commander can be supportive and still have obligations that differ from yours.

General information for service members. Not individualized legal advice.

3 DIGITAL EVIDENCE

- ☐ Has anyone requested my phone?
- ☐ Has anyone searched my phone?
- ☐ Did I consent?
- ☐ Was the phone seized?
- ☐ Was I asked for a passcode?
- ☐ Have I preserved relevant messages?
- ☐ Are there relevant messages on somebody else's phone?
- ☐ Are there relevant photographs or videos?
- ☐ Are there relevant social-media communications?
- ☐ Are there relevant location or transaction records?

4 WITNESSES

- ☐ Who was present?
- ☐ Who saw me before the incident?
- ☐ Who saw me afterward?
- ☐ Who received communications from me?
- ☐ Who knows the accuser?
- ☐ Who knows the circumstances surrounding the accusation?
- ☐ Has anyone already been interviewed?
- ☐ Is there anyone I believe may be cooperating with investigators?

5 INVESTIGATIVE TECHNIQUES

- ☐ Has the accuser contacted me?
- ☐ Has a friend suddenly asked questions about the allegation?
- ☐ Has anyone tried to get me to discuss potentially incriminating conduct?
- ☐ Has someone contacted me about drugs or other allegedly illegal activity?
- ☐ Has anyone asked me to explain a specific event?
- ☐ Has anyone offered to "help" me understand what is happening?

Do not attempt to investigate whether someone is an informant or cooperating witness yourself.
Tell your lawyer.

NOTES

General information for service members. Not individualized legal advice.

6 WHAT YOU SHOULD NEVER DO DURING A MILITARY INVESTIGATION

- ✕ Lie to investigators.
- ✕ Destroy evidence.
- ✕ Delete potentially relevant communications.
- ✕ Alter digital evidence.
- ✕ Ask someone else to destroy evidence.
- ✕ Threaten a witness.
- ✕ Intimidate the accuser.
- ✕ Attempt to influence testimony.
- ✕ Coordinate stories.
- ✕ Secretly access another person's accounts.
- ✕ Contact an alleged victim in violation of an order.
- ✕ Post about the investigation online.
- ✕ Send angry messages to command.
- ✕ Ignore lawful orders.
- ✕ Physically resist law enforcement.
- ✕ Attempt to conduct your own counter-investigation.

If you have already done one of these things, do not panic. Tell your attorney exactly what happened. Trying to hide a mistake from your lawyer only makes it harder for counsel to help you.

7 WHAT YOU SHOULD DO

- ☑ **Protect your rights.**
  Understand whether you are being questioned about suspected misconduct and consult counsel before providing substantive answers.
- ☑ **Preserve evidence.**
  Do not destroy or alter information simply because you believe it could hurt you.
- ☑ **Document the investigation.**
  Keep an accurate record of contacts, requests, interviews, searches, and command actions.
- ☑ **Identify witnesses.**
  Give your lawyer the names of people who may possess relevant information.
- ☑ **Follow lawful orders.**
  Do not create a separate disciplinary problem while trying to defend yourself against the original allegation.
- ☑ **Get experienced military defense counsel involved early.**
  The earlier your attorney understands the investigation, the more opportunities counsel may have to protect your interests.

NOTES FOR MY ATTORNEY

General information for service members. Not individualized legal advice.

8 BUILD YOUR INVESTIGATION FILE

Record every contact about the investigation. Do not use this log to fabricate or reconstruct a story. Use it to preserve an accurate record of what actually happened.

CONTACT 1

Date: _____ **What I said:** _____

Person/Agency: _____ **What I provided:** _____

Contact method: _____ **Witnesses involved:** _____

What happened: _____ **Documents/evidence involved:** _____

What was requested: _____

CONTACT 2

Date: _____ **What I said:** _____

Person/Agency: _____ **What I provided:** _____

Contact method: _____ **Witnesses involved:** _____

What happened: _____ **Documents/evidence involved:** _____

What was requested: _____

CONTACT 3

Date: _____ **What I said:** _____

Person/Agency: _____ **What I provided:** _____

Contact method: _____ **Witnesses involved:** _____

What happened: _____ **Documents/evidence involved:** _____

What was requested: _____

DO NOT WAIT UNTIL YOU ARE CHARGED

If you have reason to believe you are under investigation, you can seek legal advice now. Schedule a free initial consultation with The Military Defense Firm.

833-231-8633

themilitarydefensefirm.com