

## **Suspect Rights**

**Self-Incrimination Protections.** The military justice system provides an accused rights and due process that in many ways are superior to those provided a defendant in civilian criminal courts. Pursuant to Article 31, Uniform Code of Military Justice (Section 831 of Title 10, United States Code), servicemembers have a right against self-incrimination and an entitlement to be informed of the suspected offense(s) before questioning begins. In addition to protections against selfincrimination, servicemembers have a right to free military counsel when questioned as a suspect of committing an offense, upon preferral of court-martial charges, or initiation of arrest or apprehension.

In the military justice system, these rights are afforded much earlier in the criminal justice system than in civilian practice. These rights and protections apply whenever the servicemember is questioned as a suspect of an offense. In civilian practice, Miranda rights or warnings are not required unless there is custodial interrogation by law enforcement personnel. In fact, the U. S. Supreme Court referenced the military's "warning rights" practice under Article 31, UCMJ, when deciding to establish the "Miranda Warning" requirement. A showing of indigence is required before a defendant is provided counsel without cost in the civilian system.

**Article 31, UCMJ Rights.** Article 31 has two important parts:

1. No one subject to the Uniform Code of Military Justice may compel any person to incriminate himself or to answer any question the answer that may tend to incriminate him.
  
2. No person subject to the Uniform Code of Military Justice may interrogate, or request any statement from a person suspected of an offense without first informing him of the nature of the accusation, that he does not have to made a statement regarding the offense, and that any statement may be used against him as evidence in a trial by court-martial.

**Right To Counsel.** An independent military defense counsel is provided free of charge regardless of the accused's ability to pay. The accused may also employ civilian counsel at his or her own expense, or request a particular military counsel, who will assist the accused if reasonably available. The accused has the right to be represented by counsel at the magistrate hearing when a determination is made regarding continued pretrial confinement, at the Article 32 investigation, and during all court-martial sessions. After trial, the accused has a right to free military counsel to assist with his appeal through the military appellate courts, and potentially to the U.S. Supreme Court.