



*The Arizona Correctional
Peace Officers Association
Check and Mate Newsletter
No. 9*

*A bi-weekly newsletter to
inform Union members on
important grievance results,
trends, procedures and
important information
relevant to a better quality of
work life.*

In This Issue:

"You have the right to remain silent!"



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A bi-weekly newsletter to inform Union members on important grievance results, trends, procedures and important information relevant to a better quality of work life.

“You have the right to remain silent!”

Americans have heard this statement repeated many times in their lives, yet many remain oblivious as to its actual meaning and purpose. We all know them commonly as our “Miranda rights” and have heard *Serpico*, *Baretta*, *Hawaii five-O*, *C.H.I.P.S.*, *Miami Vice*, *C.S.I.*, *Magnum P.I.*, and *Columbo* read them so many times, we’ve memorized it.

So, what does this have to do with corrections? Well, I’ll tell you.

Recently, and on more than one occasion, staff have been called in to speak with C.I.U. with no idea about protocol or what to do, and in the confusion, have volunteered information, whether inadvertently or lured by means of deceit, without realizing that they didn’t have to or rather, didn’t need to. Now this is not a newsletter to give a point by point dissertation on what to do if called to speak with C.I.U because the policy is lengthy, but not overly complicated, and should be read by every staff member working for A.D.O.C.

It behooves us to have a vested interest in our own well-being, so part of our preparation should be to study important policies such as D.O. 608-Criminal Investigations. If you haven’t read it, do so before continuing with this newsletter: Go on. I’ll wait right here.

Finished? Good!

First things first: Being sent to speak to C.I.U. should always raise concern as to the gravity of the visit. They do deal with criminal cases and criminal allegations after all.

Cooperation is one thing, and being scared senseless to the point that you start talking before you even know what is going on, is another.

Let's dispel one myth right off the bat. There's nothing to fear if you have to speak to C.I.U.

The reality is, and this is not intended as insult, but rather a fact gained through experience, that C.I.U. is not infallible nor do they know everything and have powers of clairvoyance. Nor are they masters of body language or the rest of the Hodge Podge perpetrated by the uninitiated.

They are investigators and like most investigators, they often rely on ignorance to facilitate their objective. Don't make it easy for them. Educate yourself by studying the policies and knowing your rights.

Which brings us back to prematurely speaking and volunteering information before even being interviewed.

Let's look at the introduction from D.O. 608 and immediate dispel the nasty habit of speaking prematurely:

PURPOSE

This Department Order establishes guidelines for the investigation and prosecution of inmates, employees, visitors, or any other individuals suspected of committing crimes while in the Department's jurisdiction; and ensures crimes are immediately reported, crime scenes are protected and investigations are conducted in a prompt and professional manner.

PROCEDURES

608.01 CONSTITUTIONAL RIGHTS OF PERSONS

1.1 There are two basic prerequisites guiding when Miranda warnings (Constitutional Rights) are required.

1.1.1 Custody – Anytime a full authority peace officer deprives a person of freedom of action in a significant way; and

1.1.2 Interrogation – Questioning after a subject's freedom of action is significantly hampered; Miranda warnings must be provided to the subject.

1.1.2.1 The burden of proof as to the degree a subject's freedom is hampered either by act or omission by a full authority peace officer, and what the subject perceives as to his freedom of action at the time of questioning falls upon the full authority peace officer.

Ok.

So, for whatever the reason is you are having to speak to C.I.U, remember the following advice from our attorney that follows policy and protects your basic rights and prevents self-incrimination:

-If you are being sent to see C.I.U by whoever the messenger is, i.e. Warden, Captain, Lieutenant, first line supervisor or Serpico himself, the first thing you should ask is, if it is an order and is it necessary. This serves to establish that it was not voluntary. If the messenger answers by saying "Yes" that it is an order, then you should inform C.I.U. that you have been ordered to answer their questions and are there to do just that.

An unfortunate paradox inherit in this situation is the fact that if you are read the Miranda rights and are therefore obligated to participate in the questioning process, but then invoke your right to remain silent, the department can still pursue relief by referring to D.O. 601 Attachment C section 9c which states the following:

9. WILLFUL DISOBEDIENCE

c. Withholding information that is pertinent to a significant personal or work-related issue that warrants action or immediate attention or aid in a criminal or administrative investigation from a supervisor or other appropriate person.

CLASS 6

-If the messenger, however, informs you that it is not an order, then you have the right to refuse to participate. If you do choose to go speak with them anyways, then the following applies.

-When meeting with C.I.U. don't be shy to ask what the meeting is about and ask if you are free to leave if you want to. If they tell you that you are free to leave then by all means, do so if that is what you want to do.

Sorry.

But the sad reality is that Investigators, are not your friends, no matter what the pretext.

If they were, they would advise you right off the bat about your rights and procedures and this, in fact, does not always happen.

In short, don't assume that C.I.U. is a "Must tell" organization. They are not.

On the positive side, there are many ethical investigators that do a bang-up job treating our staff with dignity and concern but sadly, this is not always the case.

Remember this:

"Fear" is the offspring of the "unknown."

Read policies often. Ask questions constantly and learn something new every day.

And when in doubt.....remain silent until you are Mirandarized as the law requires.

Even then, you have the right to remain silent!

Yours in Solidarity,

Carlos Garcia

Executive Grievance

Coordinator

Deeds not words!



