



Date

February 15, 2024

To

Director, U.S. Government Publishing Office

From

Inspector General

Subject:

Management Implication Report 24-0001-I, Uniformed Police Branch (UPB), Investigative Rights Advisements

While investigating employee misconduct at the Stennis Secure Production Facility, Mississippi, we identified a separate area of concern related to the administration of rights advisements by UPB personnel. We found that UPB personnel failed to administer any type of rights advisement to the Subjects of the misconduct investigation.

The appropriate administration of rights advisements varies depending on the specific circumstances, including the nature of the investigation, the status of the employees, as well as applicable agency policy. Common rights advisements follow:

Miranda Rights

In *Miranda v. Arizona*, 384 U.S. 436 (1966), the Supreme Court of the United States established that police must advise individuals of certain constitutional rights prior to a custodial interrogation. The standard Miranda warning advises of the right to remain silent, that statements may be used as evidence against the individual, the right to an attorney, and the right to have an attorney appointed if they cannot afford one.

Garrity

In *Garrity v. New Jersey*, 385 U.S. 493 (1967), the Supreme Court of the United States held that public employees have the right to be free from compulsory self-incrimination. This ruling gave birth to the Garrity warning, an advisement of rights usually administered by federal, state, or local investigators to their employees who may be the subject of an internal investigation.

Kalkines

In *Kalkines v. United States*, 473 F.2d 1391 (Ct. Cl. 1973), the U.S. Court of Claims held that an employee cannot be disciplined for remaining silent unless they are informed that their responses (and the fruits of those responses) cannot be used against them in a criminal matter.

Weingarten

Federal employees who are part of a recognized bargaining unit have the right to union representation during Agency interviews related to an investigation.

Our investigation substantiated that UPB personnel failed to administer any type of rights advisement to the Subjects at the Stennis Secure Production Facility, Mississippi.

We also reviewed the prior 2 years of investigative activities and found no other failures to advise individuals of their rights.

Further, our findings did not substantiate a particular violation of law, rule, or regulation given the evolving nature of UPB's understanding of the allegations they were investigating at Stennis. Given the initial suspicion of a criminal act, issuing Miranda rights would have been prudent to avoid precluding or hampering criminal charges and proceedings. Since the criminal allegations were not founded, the failure to provide Miranda warnings ultimately did not implicate the employees' Fifth Amendment right to avoid self-incrimination.

Lacking a clear violation regarding Miranda, we asked UPB management to provide their rights advisement policy and procedures. UPB did not initially provide these policies. However, on January 25, 2024, UPB provided us with proof of rights advisement training given to their officers on December 15, 2023. In addition, UPB provided three policy documents titled "training bulletins" which serve as written policy. The training bulletins were not in place at the time that UPB officers conducted the Stennis Subject interviews. We assess that the absence of policy contributed to the lack of rights advisements. As a result of our investigation, we made two recommendations to prevent future incidents.

Recommendation 1: GPO Security Services draft and implement a comprehensive rights advisement policy.

Recommendation 2: GPO Security Services ensure that UPB law enforcement officers maintain proficiency on rights advisements and are provided a legal refresher review of the most recent court decisions and legislative changes to the laws that are applicable to law enforcement officers.

Please consider this memorandum as a companion document summarizing the full Report of Investigation (24-0001-I) that we provided to you on February 9, 2024. We request that GPO provide us with any actions taken toward the recommendations by March 8, 2024. If you have any questions, please contact me or Assistant Inspector General for Investigations Robert Stachurski at 202-512-1944 or rstachurski@gpo.gov.

NATHAN J. DEAHL
Inspector General