



## **Self-Advocacy Note, Introduction to the Manual**

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### **1 What is the 'Self-Advocacy Note'?**

Maybe you had just received this strange notice. Where are you now? You will probably meet a police officer or a prosecutor to be questioned soon. You are lucky if you have an attorney-at-law, but if you do not have one, you might be really scared.

The investigation procedures will be conducted in accordance with the Criminal Procedure Act which has been enacted to protect your rights while you are being investigated, and to ensure a fair and appropriate investigation.

This note will help you exercise your rights to self-advocacy in the future by examining whether your rights as stipulated in the Criminal Procedure Act are thoroughly protected, and whether the investigation is conducted in a fair and proper manner.

### **2 Is the 'Self-Advocacy Note' really helpful?**

*“Of course, 'Self-Advocacy Note' is your basic means of defense.”*

We cannot guarantee that your rights will be fully protected even if you write down everything in this note. However, it will be the first step of your 'self-advocacy' to check and maintain your rights.

*“Providing your signature and seal are very important.”*

After conducting an investigation, the investigator will ask you to sign (signature and seal) the investigation report. As undergoing an investigation is so tedious and difficult, you might feel like you want to sign it in a hurry without reading it in detail because you want to go home soon. But in case you later have a trial, the judge will acknowledge the contents of the investigation report and it will be hard for you to deny it. Therefore, you must read the contents of the report precisely before signing.

Please pay more attention and give greater efforts to check if there is something you did not mention previously or if it has different meanings from what you had intended. Then you can sign it.

***“ An investigative agency should NEVER treat you unfairly. ”***

The investigator should not ignore you or speak rudely or show forceful attitude or demeanor. He/she should not force you to confess. If you experience any unduly treatments, please write them in this note.

### **3 Isn't it difficult to fill out the Self-Advocacy Note?**

***“ No, it is not difficult. Without considering the given items, just write down anything freely. ”***

For your convenience in filling it out, we have classified some important items in the form of questions. If you don't understand a question, please ask someone around you for help. Don't worry if you don't know which items are appropriate for the contents you wish to write down. Do not be restricted to the given items. Just freely write down the contents of the investigation and its circumstances anywhere in this note.

***“ Writing down the actual contents you were investigated immediately after the investigation is important. ”***

Please write down the things you were investigated in a truthful and specific way. Of course, you should not exaggerate the events or describe something which is not true. As much as possible, please write it down quickly while being investigated or during the break time when your memory is still clear.

***“ Please hand this note to an attorney-at-law. ”***

You must give this note to the attorney-at-law when you meet him/her. This will be helpful for your attorney-at-law to understand the circumstances under which you were investigated and this will be helpful when he/she defends you in court.

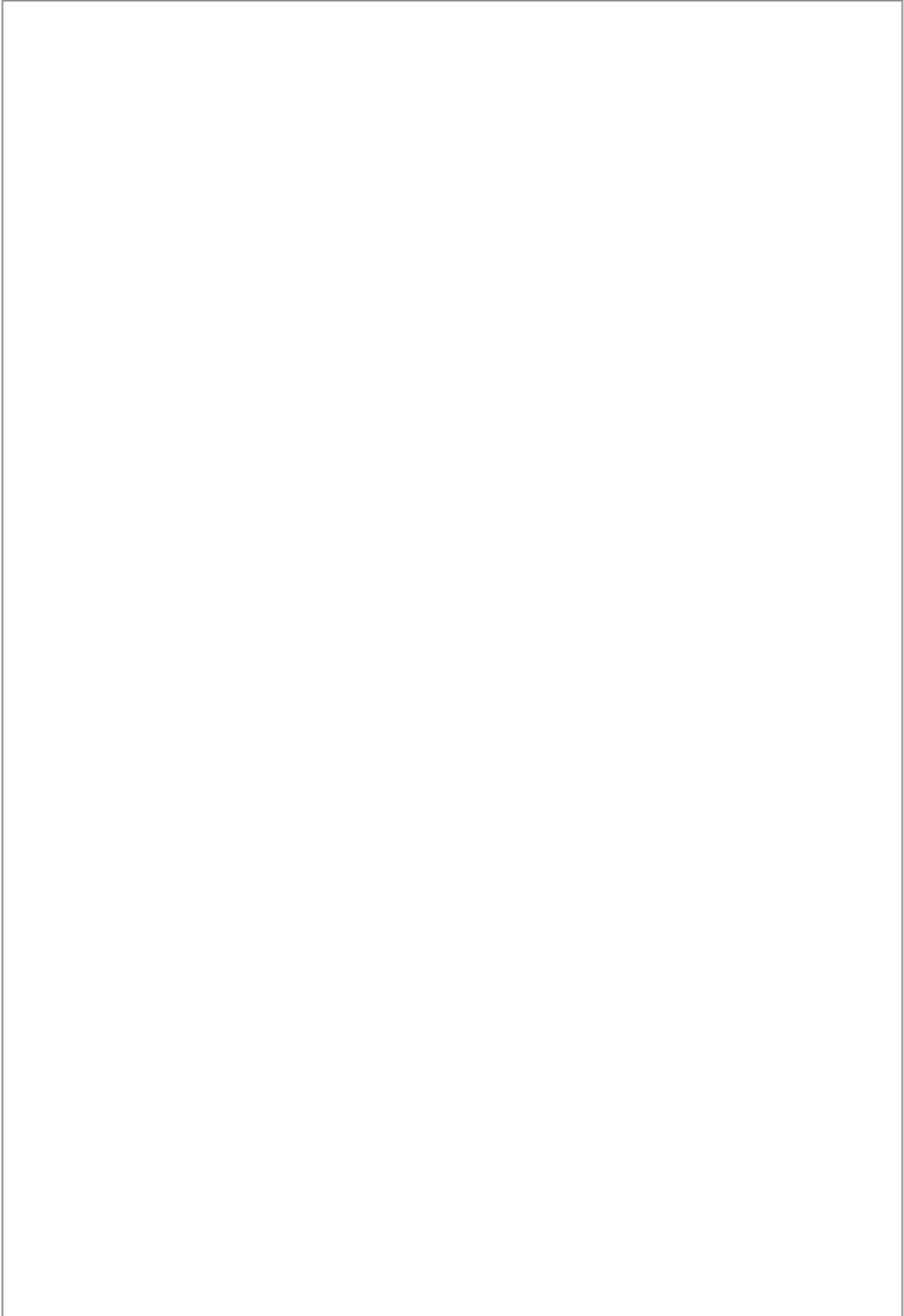
**Alright. Shall we turn the pages one by one?**

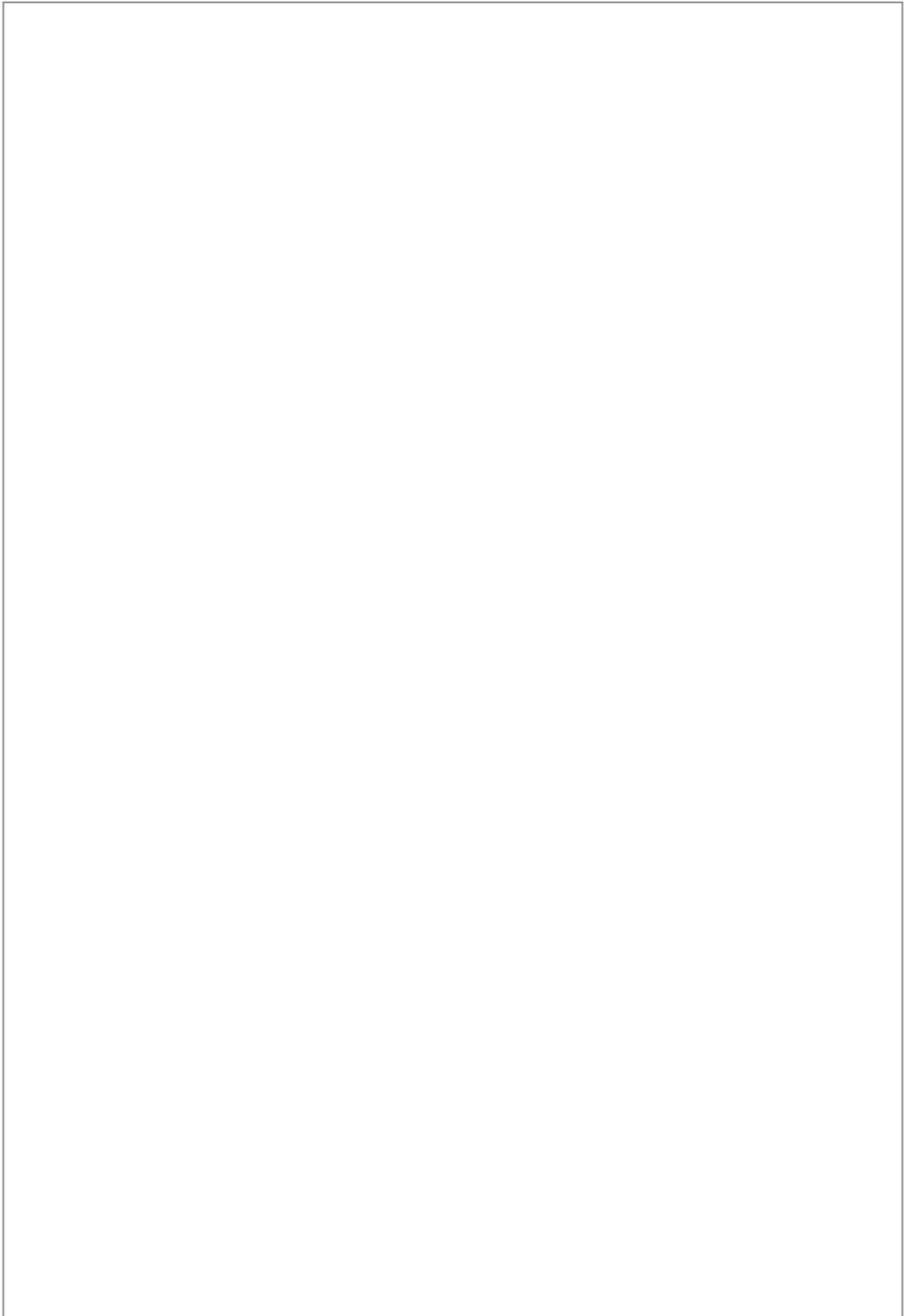
## Take your notes freely here

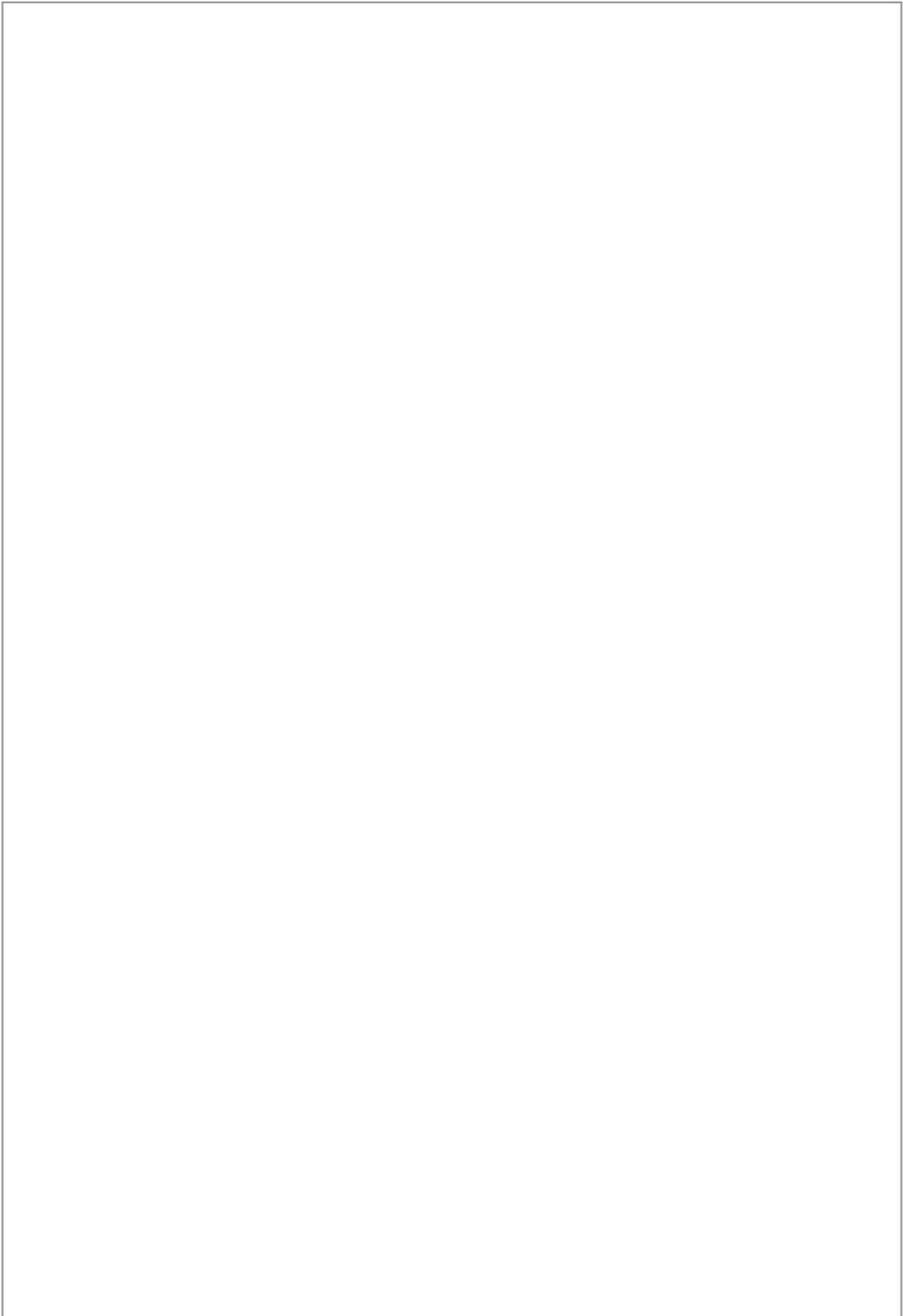
- ❖ You can write down notes of the investigation here.  
The notes written here will be helpful for completing the Self-Advocacy Note Checklist.
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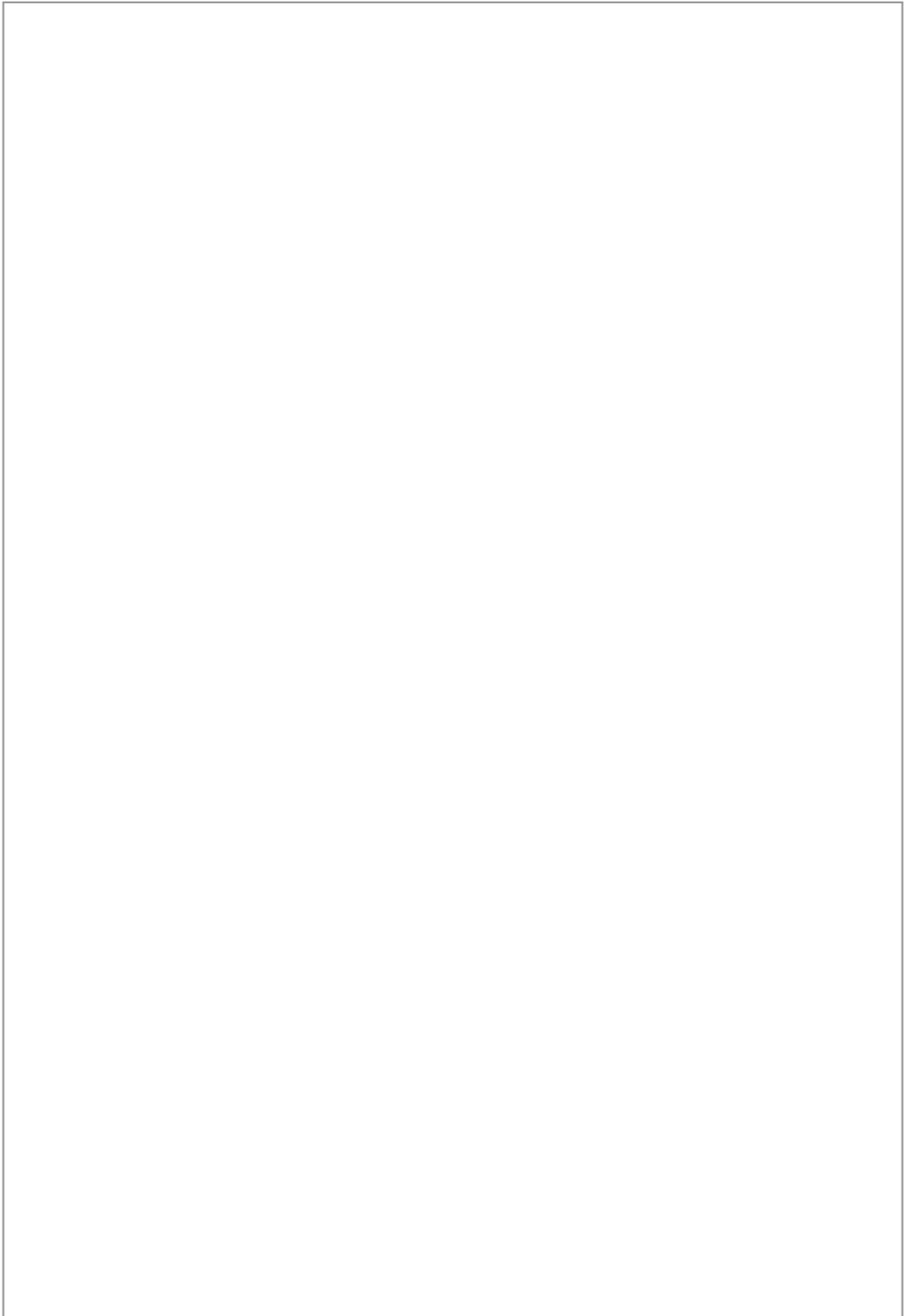
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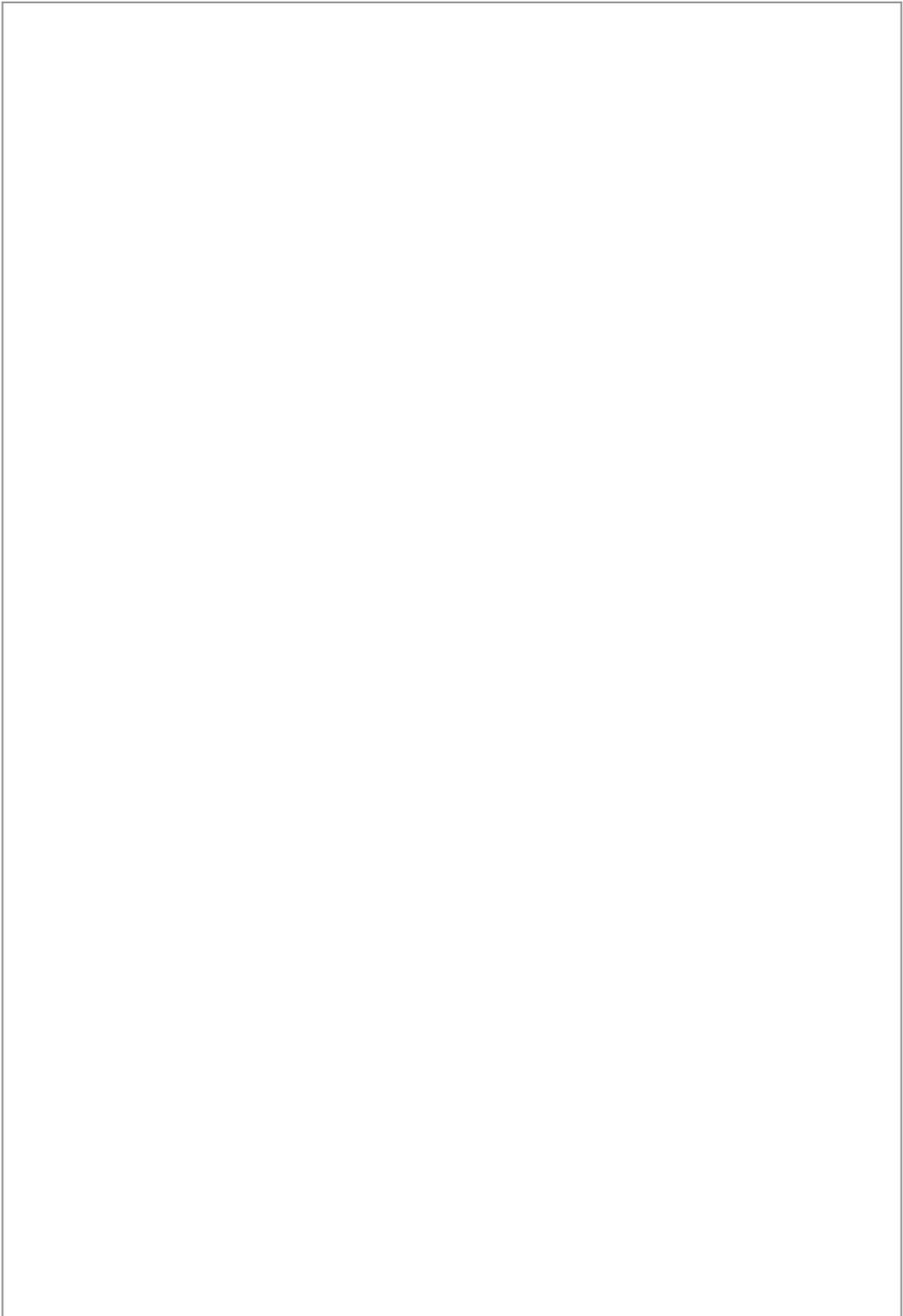


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## Self-Advocacy Note Checklist (1<sup>st</sup> session)

### 1 Date of Investigation    year    month    day    time(s) of investigation

- ① Venue of investigation  Police station (    Police Station,    Department )  
 Prosecution office (    )
- ② Name of Investigator (Investigator \_\_\_\_\_, Prosecutor \_\_\_\_\_ )
- ③ After completing the investigation, the investigator writes the starting time and the ending time of the investigation on the report. Are the starting time and the ending time of investigation filled out correctly?  
 Yes     No

### 2 About the investigation

- ① At the start of the investigation, were you notified that you could exercise the right to remain silent and have the right to seek assistance from an attorney?  
 Yes     No     I can't remember
- ② Were your answers as to whether you want to exercise the right to remain silent and the right to seek assistance from an attorney listed in the report?  
 Yes     No     I can't remember
- ③ Did the investigator take a video of the investigation?  Did  Did not
- ③-1 Was the video taken from the beginning to the end of the investigation?  
 Yes  No (What is the part that was not recorded?    )
- ③-2 Did you watch the recorded video?  
 Yes     I did not request to watch the video.  
 I requested to watch the video, but was denied.
- ④ While you were investigated, were you allowed to take notes?  
 Yes  No (reason:    )
- ⑤ While you were being investigated, were you given a break time?  
 Yes  No (reason:    )
- ⑥ Before the investigation or during the break time, did you have a conversation with the investigator that was not included in the investigation report?  
 Yes     No

### 3 Contents of the investigation and your statement

- ① What did the investigator focus on when he or she was questioning you?
- ② Regarding the question of whether you had committed a crime, what was your answer?
- Kept silent (refusal of statement)       Denied
- Partially denied       Confessed
- ③ Please write down anything you remember from what the investigator said or how he/she behaved when you refused to make a statement, or when you stated that you did not commit all or some parts of the crime.

### 4 About the protocol containing interrogation of a suspect

- ① Were all the statements you made from the beginning to the end of the investigation included in the protocol containing interrogation of a suspect?
- Yes       No
- (Contents of investigation that are not included: \_\_\_\_\_ )
- ② Did you read the report (or did the investigator read it to you)?
- Yes       No
- ③ Was the report completed in accordance with what you stated?
- Different from my statement     Same as my statement     I don't know
- ③-1 If it was different from your statement, please write down the different parts.
- ③-2 Did you request to correct the parts which were different from your statement?
- Did not request     Requested and corrected     Requested but was not corrected
- ④ Did you provide your signature and seal on the report?
- Yes       No (refused)

## **5 In case you had difficulty communicating while being investigated**

※ You can be investigated with the assistance of a person who has a close relationship with you if it is difficult for you to express your opinions due to physical or mental disability, or if you need support or communication assistance due to your age, gender or nationality.

- ① Did the investigator let you know the above information?  
 Yes       No
- ② Did you request the investigator to conduct the investigation with a person with whom you have a close relationship, or to resolve the difficult situation?  
 Yes       No
- ③ Was a family member or a friend of yours allowed to accompany you and stay with you when you were investigated?  
 Yes       No
- ④ If your request was denied, what was the specific reason?

## **6 If you are a foreigner, or have difficulties in speaking Korean**

※ If you are a foreigner, or have difficulties in speaking Korean, you can request the investigator to conduct the investigation with someone whom you rely on (Criminal Procedure Act Article 244 Item 5).

- ① Can you sufficiently understand and speak Korean, including legal terminologies?  
 Yes       Partially       No
- ② Did the investigator thoroughly inform you about the investigation process in Korea?  
 Yes       No

- ③ Did the investigator provide convenience including your being able to be investigated with a reliable person?  
 Yes       No
- ④ Was an interpreter provided?  
 Yes       No
- ⑤ After finishing the investigation, did an interpreter translate the report to the suspect by reading it aloud?  
 Yes       No
- ⑥ Was the interpretation easily understandable?  
 Understandable     Partially understandable     Not understandable
- ⑦ If an interpreter was not provided or the conveniences you requested were not given, please specify the reasons.

**7** If you have not written down anything else regarding the investigation procedure or protocol containing interrogation of a suspect, please write it down specifically.

**8** When and where are you taking this note now?

- While being investigated       During break time
- After finishing the investigation (    yyyy      mm    dd    )  
Signature \_\_\_\_\_



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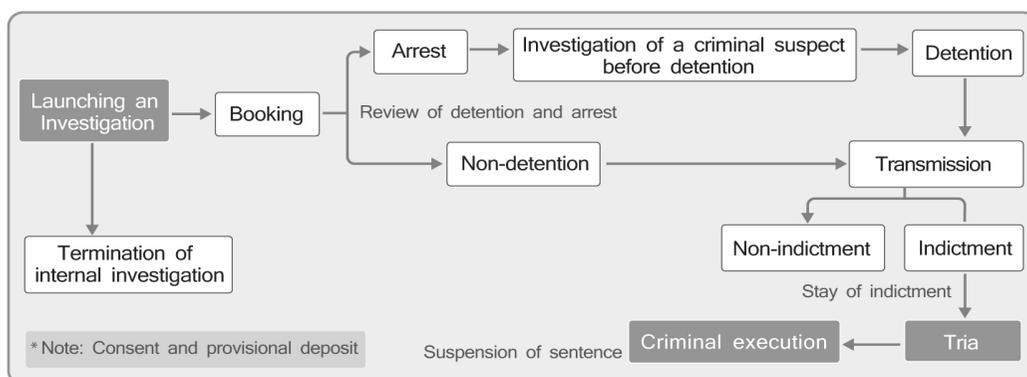
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Signature\_\_\_\_\_

# The Rights of a Criminal Suspect during the Investigation Procedure

## 1 Investigation Procedure



Not all who are investigated at an investigation agency will have court trials. As the result of investigation, if the prosecution recognizes that the individual is innocent, a non-indictment is decided, and if it is determined that there is a crime, an indictment is decided and there is a criminal trial.

Below is a concise introduction of legal rights given to you so that you will not be unfairly investigated.

## 2 Your right to seek assistance from an attorney-at-law

You might be in an emotionally/mentally unstable condition. If you seek assistance from an attorney-at-law in this situation, you will not only get legal help, but you will be emotionally/mentally stable, avoiding hasty or wrong statements. If possible, get the help of an attorney-at-law.

## 3 The right to remain silent

You can either refuse to answer all or some of the questions from the investigator. If you don't make a statement, there is no disadvantage. If you waive the right to remain silent and make a statement, and part of the statement contains a confession of your criminal action, the statement becomes evidence of guilt.

If you don't have an attorney-at-law, refusing a statement can be a way to protect yourself.

## **4 You should check precisely all contents of the report.**

You should check and thoroughly read the report as completed by the investigator. Because the report is written by the investigator to summarize the contents of the investigation, it can be different from the contents you had stated or your intended ideas. You can ask the investigator to correct any parts of the report if it is different, and if the investigator does not accept your request of correction, you can refuse to provide your signature and seal.

## **5 Self-protection in the investigative procedure**

### *Investigator's crude and abusive language*

When an investigator performs his/her duties, he/she should not use any abusive, coercive or humiliating words, or any action causing feeling of insult or shame. If the investigator uses crude words or insults you, you may immediately request to remedy it. And if he/she continues that type of speech, you can request the Inspector General's office of the police station to change the investigator.

### *Investigation at midnight*

What to do if they insist on continuing the investigation past 12:00am?

As a general rule, late-night investigations from midnight until 6 am are prohibited, unless the suspect agrees to the midnight investigation.

## **6 Prohibition of discrimination and providing conveniences for disabled criminal suspects**

The investigative agency should check if a criminal suspect has any disability in communication or difficulties of expression, and if any of the disability is identified, it should be made known that the suspect can receive assistance and the specific assistance should be provided for him/her.

### *Sitting with a reliable person, etc.*

When a disabled criminal suspect is interrogated, the individual can request the investigative agency to allow him/her to sit with a person with whom he/she has a reliable relationship (Article 17, Paragraph 2 of the Enforcement Decree of the Act on the Prohibition of Discrimination against Persons with Disabilities and Remedy Against Infringement of their Rights, etc., and Item 5 of Article 244, Criminal Procedure Act).

 *Observation of a family member, etc.*

If an observation does not obstruct the investigation and it is not against the opinion of the criminal suspect, a person including a family member who can protect the suspect is allowed to observe the investigation process if the suspect deems that he is not able to exercise his/her rights properly due to his/her disability or other reasons (Article 37 of the General Standard on the Investigation of Human Rights Protection).

 *Providing interpretation service and legal assistance information*

If a hearing or speech-impaired person, or a person with communication disability is investigated, the investigation agency shall provide a sign language or text interpretation or a person who can assist with communication, and the individual with the impairment shall be informed that he/she can get legal assistance from the Korea Legal Aid Corporation (Article 55 of the General Standard on the Investigation of Human Rights Protection).

## **7 Providing conveniences to a foreigner suspect**

 *Right to receive interpretation or translation service*

A foreigner who cannot understand the Korean language has the right to request for interpretation service. Particularly, if an investigation is conducted in Korean, the suspect can ask to receive it in a language that he/she understands, and the suspect can complete his/her statement in a language that he/she uses in case an interpreter is not present. (Article 180 of the Criminal Procedure Act, Article 244 of Criminal Investigation Rule of the National Police Agency, etc.) Furthermore, a translated document should be attached as much as possible when a warrant of arrest or a certificate of seizure for a seized item is issued to a foreigner. (Article 245 of Criminal Investigation Rule)

 *Requiring to sit with a reliable person*

When a criminal suspect is interrogated by a prosecutor or a police officer, the suspect can be investigated with a reliable person seated next to him if that action is needed for a smooth communication or for the suspect's mental stability regarding his/her nationality. (Item 2 of Article 244, Criminal Procedure Act)

 *Right to contact a consular officer*

According to the 'Vienna Convention on Consular Relations', when a foreign national is arrested or detained, the investigative body should notify the foreigner that he/she has the right to contact or communicate with his/her consulate, and consular officers shall have the right to visit or communicate with a national of the sending state who is in prison, custody or detention. If the right to contact with his/her consulate is not notified to the suspect, the damage caused by such action should be compensated enough by the receiving state.