

## **GARRITY RIGHTS—FEDERAL LAW**

The burden is placed on you to assert your Garrity rights. These rights can and should be asserted whenever you believe you are being investigated for possible criminal conduct.

The Garrity rule stems from a case decided in 1966 by the U.S. Supreme Court. In that case, some New Jersey police officers were questioned during the course of a state investigation concerning allegations of ticket-fixing. The officers were ordered to answer investigatory questions under threat of being discharged if they didn't answer. To save their jobs, the officers answered the questions and their answers were later used against them to convict them in a criminal prosecution.

The Supreme Court ruled that the use of the officers' statements in criminal proceedings violated the Fifth Amendment's guarantee that citizens cannot be compelled to be witnesses against themselves. The Court held that "the choice imposed on [the officers] was one between self-incrimination or job forfeiture," a choice the Court termed "coercion."

The result of the Garrity decision and a subsequent case ruling resulted in the following protections under Garrity:

Before a law enforcement agency can discipline an officer for refusing to answer questions, the agency must do the following:

- Order the officer to answer the questions under threat of disciplinary action,
- Ask questions that are specifically, directly and narrowly related to the officer's duties or the officer's fitness for duty, AND
- Advise the officer that the answers to the questions will not be used against the officer in criminal proceedings.

If, after being given this warning, the officer refuses to answer the questions, the officer may be disciplined for insubordination.

### **Garrity Statement**

The following statement should precede any and all reports or statements requested by your department concerning your actions, other officers' actions or incidents in which anything contained in the report or statement can be used against you or other officers:

"On (state date/time) at (place), I was ordered to give this statement (report) by (state name/rank). I give this Statement (report) at his/her order as a condition of employment. I understand that I may face disciplinary action for disobeying this order so I have no alternative but to abide by the order.

It is my belief and understanding that the Department requires this statement (report) solely and exclusively for internal purposes and will not release it to any other person or agency. It is my further belief that this statement (report) will not and cannot be used against me in any criminal proceedings.

For any and all other purposes, I hereby reserve my rights as provided by the United States Constitution and any other rights prescribed by law. Further, I rely specifically upon the protection afforded me under Garrity v. New Jersey 385 U.S. 439 (1967)".