

Matt and the Law

Recently there have been a number of inquires regarding the “Garrity Rule”. The Garrity Rule prohibits a statement that is compelled in a departmental disciplinary proceeding from being used against you in a subsequent ***criminal*** proceeding. This rule originated out of a 1967 United States Supreme Court ruling in Garrity vs. New Jersey.

In the Garrity case, there were allegations that police officers were fixing traffic tickets. During the investigation the police officers were warned they would be fired if they did not answer the questions of the investigators. Later, the statements given to the investigators were used against the police officers to convict them on criminal charges.

The Fifth Amendment states in pertinent part; “No person...shall be compelled in any criminal case to be a witness against himself...” The United States Supreme Court ruled the use of the statements violated the police officer’s Fifth Amendment rights and reversed the criminal convictions. The Court felt the officers had been compelled to answer the questions with the threat of losing their jobs.

WARNINGS: You still are required to follow department rules and give statements at the direction of a superior officer or face discipline. The statement ***can be*** used against you in disciplinary proceedings and civil lawsuits.

The Garrity Rule comes into play when you are actually being compelled under threat of departmental discipline to make a statement. Therefore, if you make a statement to investigators when there is no compulsion from the department to do so, the Garrity Rule will not apply. Thus, if you are asked a question formally or informally that could remotely lead to criminal charges against you, do not simply answer them without first determining whether you are being ordered to answer the question under threat of discipline.

Law Office of Ruckelshuas, Roland, Kautzman, Blackwell & Hazbrook has compose a card (example below) that is a reminder of your rights under Garrity and can be used as proof that you asserted them.

Side 1

As a condition of your employment you are required to abide by your department rules and regulations. You must answer questions, give statements and submit reports at the direction of a superior officer or be subject to disciplinary action. Any statement or report you make concerning any type of disciplinary problem or if you are suspected of violating the law, that statement you are ordered to make cannot then be used against you in any subsequent criminal proceeding, however the statement or report may be used against you in the department disciplinary proceedings and it may be subject to discovery in civil law suits.

Side 2

On [date], [time] and [place], I was ordered to give a statement/report. It is my understanding that if I do not give this statement/report I may be subject to discipline by my department up to and including dismissal. It is my belief and understanding that this statement/report is to be used for the sole purpose of an internal investigation, that it may be used against me in the departmental disciplinary proceedings and that it cannot be used against me in any subsequent criminal proceedings. I hereby reserve my conditional right to remain silent under the Fifth and Fourteenth Amendment to the United States Constitution, and any other rights provided to me by Indiana Law. Should my statement/report be used for any other purpose

other than department internal proceedings, I assert the protection as set forth in Garrity vs. New Jersey 385 U.S. 493 (1967).

I hope this is helpful in understanding your rights should something 'happen'. The best practice of course is to never do anything that puts you into a position where you would have to invoke your Garrity rights.

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