

Garrity Rights

In *Garrity v. New Jersey* 385 U.S. 493 (1967), the Supreme Court held that statements obtained in the course of an investigatory interview under threat of termination from public employment could not be used as evidence against the employee in subsequent criminal proceedings. If, however, you refuse to answer questions after you have been assured that your statements cannot be used against you in a subsequent criminal proceeding, the refusal to answer questions thereafter may lead to the imposition of discipline for insubordination. Further, while the statements you make may not be used against you in a subsequent criminal proceeding, they can still form the basis for discipline on the underlying work-related charge.

The Garrity rule does not give protection from being prosecuted with a crime; only that the information you give and your statements will not be used against you. You can still be forced to answer (or disciplined for refusing to answer) questions about most misconduct at work – *Garrity* protection is only for questions about criminal behavior.

A sample Garrity disclaimer is as follows: “It is my understanding that this report is made for internal administrative purposes only. This report is made by me after being ordered to do so by my supervisor. It is my understanding that refusing to provide this report could result in my being disciplined for insubordination up to and including termination of employment. This report is made pursuant to that order and the potential discipline that could result for failing to provide this report.”