

# Making a Statement

The application of *Garrity* warnings provides that an employee can be ordered to cooperate in an internal or administrative investigation and be compelled to truthfully answer questions that are specifically, directly, and narrowly related to the employee's official conduct. Any statements made pursuant to an order to cooperate in such an investigation—and any evidence derived from that statement—may not be used against the employee in a criminal proceeding. For *Garrity* to apply, the statement must be compelled and not voluntary.

## Administrative Investigative Statement—

1. If generating a Facility Incident Report because you were asked by your supervisor to explain a situation or event, provide Garrity protection by starting report:
  - a. I was ordered to submit this report by.....
  - b. I was ordered to give this statement by.....
  - c. I am submitting statement involuntarily and only because I was ordered by.....
  - d. I understand that this report will be used solely for administrative purposes.....
2. If ordered to generate a report you are required to otherwise by not cooperating you have violated policy. You must answer questions, give statements, and submit reports at the order of an investigating officer, or become subject to disciplinary action for refusal to obey. That said, you cannot be held against your will.

## Criminal Investigative Statement-

1. DO NOT MAKE A STATEMENT WITHOUT AN ATTORNEY PRESENT. Voluntary statement that cannot be coerced, no termination threats, admissible in criminal and administrative case. GET AN ATTORNEY.
2. Criminal Investigation Procedure
  - a. Must be advised that the investigation is criminal, the nature of the allegations, that you can refuse to answer questions and not be punished, and that the statements can be used against you in any criminal proceeding.

## On Scene Statement-

1. Immediately notify Attorney before making written statement.

**“.....Neither Garrity nor the Fifth Amendment prohibits prosecution and punishment for false statements or other crimes committed during the making of Garrity protected statements. Giving a false statement is an independent criminal act that occurs when the individual makes the false statement. Garrity statements regarding past events under investigation must be truthful to avoid future prosecution for such crimes as perjury and obstruction of justice.”** (Rider, Randy. “Lying Under Garrity Immunity.” [www.policeone.com](http://www.policeone.com). 6 Sept 2007.)

## Garrity Statement

On \_\_\_\_\_ (date/time) at \_\_\_\_\_ (place), I was ordered to give this statement (report) by \_\_\_\_\_ (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 Vs. New Jersey* 385 U.S. 439 (1967).

*Information retrieved from [www.garrityrights.org](http://www.garrityrights.org)*