



## The Garrity Rule

Police officers do not give up their 5<sup>th</sup> Amendment right against self incrimination when they put on the uniform.

Garrity vs. New Jersey (1967) is a U.S. Supreme Court decision that applies to police operations and procedures. It originated with New Jersey police officers being questioned about fixing traffic tickets and were forced to incriminate themselves or lose their jobs.

Garrity applies only under an administrative investigation into a criminal act. If at any time during the course of an investigation it is determined that there has been a criminal act, Garrity will apply and be read to the officer. A Garrity warning will contain the following:

- The employee will be ordered to answer questions.
- The investigation is administrative and not criminal
- Questions will be narrow and specific regarding their actions while in the administrative, not criminal, investigation.
- All answers will be used administratively, not criminally.



- They may be disciplined if they fail to answer questions.

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This brochure was designed to highlight the complexity of our profession and the need to protect ourselves with Legal Defense.

The information provided about Weingarten and Garrity is brief and not intended to be all inclusive. All officers are strongly encouraged to research these two U.S. Supreme Court cases to better understand how they apply to our profession.

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- [www.cofopcsp.org](http://www.cofopcsp.org)
- [www.coloradofop.org](http://www.coloradofop.org)
- [www.grandlodgefop.org](http://www.grandlodgefop.org)



## Legal Defense

## What is the LDF and why do I need it?

The Legal Defense Fund is a group of attorneys that are committed to providing you the best criminal and administrative defense available based on your circumstances.

Whether it is a pursuit that went bad or you're facing days off due to an administrative action, there is nothing more comforting than having someone by your side that understands the complexity of the law enforcement community and the laws and regulations that pertain to your institution.

The Legal Defense Fund Attorneys are experts at what they do and provide our members with superb criminal and administrative representation.

While you may believe that the State will cover you on any incident that you are involved with, reality is a different story. The State Attorney's primary concern is protecting the State and not you. If you violated any departmental policy during the incident you may be liable for any damages resulting from your actions. Even if you did nothing wrong an LDF Attorney can sit beside the State Attorney and look out for YOUR interests.

Who's got your back when your supervisor writes you up for a minor infraction and you face disciplinary action? Even if your situation doesn't warrant an Attorney's presence, wouldn't it be nice to be able to call an Attorney for some quick advice?

Having Legal Defense is having peace of mind. You can go to work each day without worrying about losing your home.

There are two U.S. Supreme Court decisions that every law enforcement officer should know about.

### "Weingarten Rights"

The U.S. Supreme Court made a ruling in 1975 in the case of NLRB vs. J. Weingarten, Inc that became known as an employee's "Weingarten Rights."

A key point to remember is that employers have no obligation to inform you of your "Weingarten Rights."

These "Rights" come into play during employer investigatory interviews. These are interviews where management questions an employee to obtain information and the employee has a *reasonable belief* that discipline or other adverse actions may result from what he or she says.

### "Weingarten Rights"

1. The employee may request representation before or during the interview.
2. After the request is made by the employee, the employer must choose from among three options.
  - a. Grant the request and delay questioning until your representative arrives.
  - b. Deny the request and end the interview immediately.
  - c. Give the employee a choice of:

- Having the interview without representation (not recommended) or,
- Ending the interview.

If the employer denies the request for representation and questions the employee, it commits an unfair labor practice and THEN the employee may refuse to answer.

If called into a meeting with a supervisor, read the following statement to the supervisor **BEFORE** the meeting starts.

*"If this discussion could in any way lead to my being disciplined or terminated, or affect my personal working conditions, I respectfully request my personal representative be present at this meeting. Without representation present, then.... I choose not to participate in this discussion."*