GARRITY **RIGHTS BECOME THE LAW IN MICHIGAN**

In 1967, the U.S. Supreme Court issued its most important court decision regarding the individual rights of peace officers. In *Garrity – v – New Jersey*, the Court stated that peace officers could not be compelled by threats of job sanctions to surrender their 5th Amendment Rights under the U. S. Constitution.

If an officer was subjected to a criminal investigation that was grounded in an incident on duty – or related to the public status of a peace officer – then the officer's rights were the same as those guaranteed to every other United States citizen. The 5th Amendment right to silence could not be destroyed by the officer's employer.

As the U.S. Supreme Court developed the rule, it held in *Gardner – v – Broderick* that the employer-department could explicitly order the officer to give a truthful statement, narrowly related to job duties, in a direct breach of the officer's right to remain silent.

That statement, however, could only be used in *administrative* actions against the officer – such as discipline or discharge. The statement could not be used in any *criminal* proceedings against the officer, because those uses would violate the officer's 5th Amendment rights.

Many prosecuting agencies and courts, however, have never accepted the premise of the *Garrity* rule, and over the last 40-years have tried to eliminate its protections by creating many and varied exceptions to its use.

Officers were subjected to numerous coercive tactics – such as employer compulsion, demands, and threats of job sanctions – as well as being threatened with criminal prosecution. The courts, nonetheless, routinely ruled that these intimidations produced "voluntary" statements by the officers.

In addition, many prosecuting agencies began to routinely demand access to *Garrity* statements, disregarding the "fruit of the poison tree" doctrine that was supposed to be embodied in the rule.

By the early part of this decade, peace officer *Garrity* protections were in serious jeopardy.

In response, Michigan attorneys Mark A. Porter and Lawrence P. Schneider teamed up to write proposed *Garrity* protection legislation, to be presented to the Michigan Legislature. The proposed Bill created a statutory, as well as constitutional, protection for *Garrity* statements – and it limited access to the statement's use by prosecuting agencies, the courts, and the news media.

The Michigan Lodge of the Fraternal Order of Police and the Michigan State Police Troopers Association formed an alliance to support the proposed legislation. In 2006, nearly four years and three legislative sessions after its initial introduction, the FOP and MSPTA succeeded in winning overwhelming approval by the Michigan Legislature.

On December 31, 2006, Governor Jennifer Granholm signed Michigan Senate Bill 647, making it Michigan Public Act 563 of 2006.

The new Act, found in the Michigan Compiled Laws at Chapter 15.391, is the first of its kind in the nation, and it has become a standard for the rest of the States, as well as the United States Congress.

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