

	<p style="text-align: center;"><b>Civilian Review Boards and Garrity</b></p> <p style="text-align: center;">Article 4 of 6 on Garrity by Jack Ryan</p>	
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As civilian oversight of police has become more common-place, the issue has arisen as to whether a civilian review board can compel statements from officers. The Court of Appeals of Colorado, ruled recently that a civilian review board could not compel an officer's statement regarding the use of excessive force.<sup>1</sup> *Denver v. Powell* involved two use of force incidents. In the first, the officer was accused of pushing a drunk-driving suspect's head into a wall. In the second, the officer had fatally shot a suspect. In both cases, the department and the state attorney had reviewed the officers' actions and had declined to take further action.

The civilian oversight commission that was set up by ordinance and had subpoena power subpoenaed the two officers to give testimony after the family members asked the commission to review the officers' conduct. Both officers appeared before the commission and asserted their 5<sup>th</sup> Amendment privilege against self-incrimination. The commission then sought a court order compelling the officers to speak. The district court issued the order compelling the officers to give testimony leading to the appeal in this case. In its review of the case the court of appeals ruled that the officers could not be compelled to give testimony before the review commission. The court agreed with the position of the officers that since the commission was not their employer and could not discipline the officers for not speaking, the officers would not be immune from their testimony since there would be no threat of discipline. The court rejected the commission's argument that the subpoena was sufficient state compulsion to meet the requirements of *Garrity* and *Gardner*.

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<sup>1</sup> See, *Denver v. Powell*, 969 P.2d 776 (1998).