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## DPS TRAINING BULLETIN

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**LEGAL BULLETIN NO. 244**

February 19, 2001

### INVOLUNTARY CONFESSION

<b><u>Reference:</u></b>	Douglas Miller	Alaska Court of Appeals
	v.	Opinion No. 1719
	State of Alaska	_____ P.2d _____
		February 9, 2001

### FACTS:

While investigating a warehouse fire of suspicious origins, Fairbanks police interviewed Miller on two separate occasions over a two-day period. Miller, a homeless person, admitted he had been staying in the warehouse. During the first interview, which took place at the police station, Miller denied all knowledge of the fire. Miller was then transported from the police station back to the warehouse where he retrieved his personal effects.

The following day, police again contacted Miller. This time, Miller had been hitchhiking and was offered a ride by a citizen. When police informed the citizen that Miller had a criminal record and the police needed to talk to him (Miller), the citizen departed the area.

The police then interviewed Miller about the fire for about forty-five minutes. During the interview, police assured Miller that if he started the fire accidentally..."it's not that big a thing...not big at all. If starting the fire was an accident, it's done with...it's an over and done deal." They assured Miller that they were not there to arrest him. After these assurances, Miller told police that he had burned some insulation, but had no intention of setting the building on fire. Miller asked police to call the District Attorney (DA) so he could be assured the situation was "cleared up." The police called the DA, who instructed them to arrest Miller for arson.

At trial, the statements Miller gave to police were used against him. Miller argued that his statements were involuntary because police had assured him that it was no big deal and he would not be arrested.

Although not all statements obtained by promise or trickery are involuntary, the "totality of the circumstances" must be examined in determining the voluntariness of an accused's statement. For purposes of Miranda, the court ruled that Miller was not in custody.

**ISSUE:**

Since the police essentially told Miller that he would not be prosecuted for accidentally starting the fire, did the officers offer an improper inducement for Miller's statements?

**HELD:** Yes.

**REASONING:**

1. The police implied to Miller that, if the fire was accidental, they would not arrest him and that "it would be not that big a thing and would be an over and done deal." (emphasis added)

**NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:**

Add this case to Section P, "Right to Counsel and Waivers during Custodial Interviews," of your Contents and Text. File Legal Bulletin No. 244 numerically under Section R of the manual.