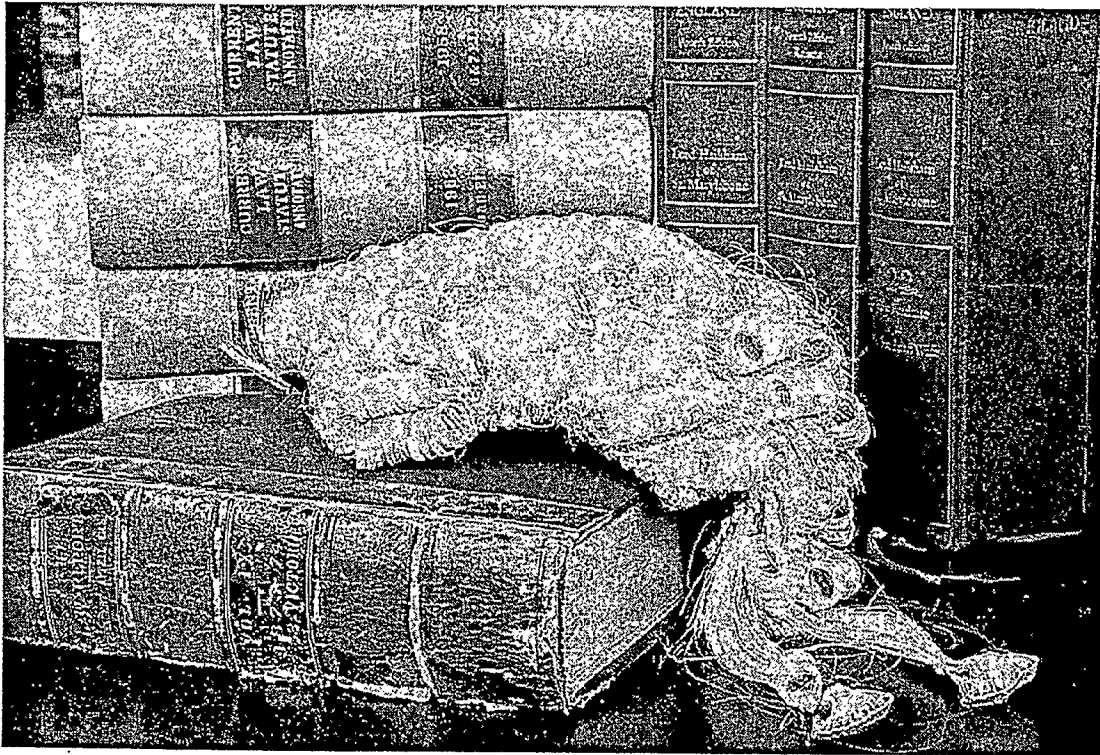


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FEDERAL BUREAU OF INVESTIGATION
United States Department of Justice

LEGAL HANDBOOK FOR SPECIAL AGENTS
(LHBSA)



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SECTION 7: CONFESSIONS AND INTERROGATIONS

**EffDte: 04/28/1978 MCRT#: 0 Div: D9 Cav: SecCls:

7-1 IN GENERAL (See MIOG, Part 2, Section 7.)

The most important limitations on the admissibility of an accused's incriminating statements are the requirements that they be voluntary; that they be obtained without the government resorting to outrageous behavior; and that they be obtained without violating the accused's right to remain silent or to have a lawyer present.

**EffDte: 07/26/1999 MCRT#: 915 Div: D9 Cav: SecCls:

7-2 VOLUNTARINESS

A conviction based on an involuntary statement, without regard to its truth or falsity, is a denial of the accused's right to due process of law. A coerced confession will undermine the legitimacy of a conviction.

**EffDte: 07/26/1999 MCRT#: 915 Div: D9 Cav: SecCls:

7-2.1 Policy (See MIOG, Part 2, 7-2.1.)

(1) It is the policy of the FBI that no attempt be made to obtain a statement by force, threats, or promises. Whether an accused or suspect will cooperate is left entirely to the individual. If after being advised of his/her rights, an in-custody suspect indicates that he/she wishes to remain silent or that he/she wishes an attorney, all interrogation must cease at that time. Agents are reminded, however, that certain questions, such as standard booking questions and public safety questions, do not amount to interrogation for purposes of Miranda. (See LHBSA, Part 1, 7-4.)

(2) During an interview with a witness, suspect, or subject, Agents should under no circumstances state or imply that public sentiment or hostility exists toward such person. If, during an interview with a witness, suspect, or subject, questions are raised by such persons or if anything transpires which gives reasonable grounds to believe that subsequently such questions or incident may be used by someone in an effort to place an Agent or the FBI in an unfavorable light, an electronic communication regarding such questions or incident should be immediately prepared for the SAC. The SAC is responsible for promptly advising FBIHQ and the USA of such questions or incident and FBIHQ must be promptly informed of all

developments.

**EffDte: 07/26/1999 MCRT#: 915 Div: D9 Cav: SecCls:

7-2.2 Factors Affecting Voluntariness (Formerly 7-2.3)

(1) Courts use a "totality of circumstances" test when determining the voluntariness of an accused's statement. Although it is not possible to predict in every case whether a court will find, under all the circumstances presented, that the statement was a product of the accused's free will or a product of coercion, there are predictable factors that a court will examine in making its determination. Those factors include the following:

- (a) Notification of charges;
- (b) Age, intelligence, and experience of the accused;
- (c) Physical condition of the accused;
- (d) Physical abuse, threats of abuse, use of weapons, number of officers present;
- (e) Threats and psychological pressure;
- (f) Privation: food, sleep, medication;
- (g) Isolation, incommunicado interrogation;
- (h) Duration of questioning;
- (i) Trickery, ruse, deception;
- (j) Advice of rights; and
- (k) Promises of leniency or other inducements.

(2) It must be kept in mind that the above factors are merely illustrative. The presence of any one or more of the factors mentioned above will not necessarily make a statement involuntary.

**EffDte: 07/26/1999 MCRT#: 915 Div: D9 Cav: SecCls:

7-2.3 Moved to 7-2.2

**EffDte: 07/26/1999 MCRT#: 915 Div: D9 Cav: SecCls:

7-3 WARNING OF RIGHTS

**EffDte: 04/28/1978 MCRT#: 0 Div: D9 Cav: SecCls: