

Obama administration denies Miranda rights to marathon bombing suspect

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The Obama administration has declared that it will question Boston marathon bombing suspect Dzhokhar Tsarnaev for an indefinite period of time before reading him his Miranda rights.

The requirement that law enforcement notify all criminal suspects of their right to remain silent and their right to an attorney affords an essential protection against police intimidation and violence, and is critical to the protection of constitutional due process rights.

The Obama administration is utilizing last week's bombings, which left three dead and dozens wounded, as an opportunity to attack these core democratic legal protections, which will set a new precedent for future cases.

US Attorney for Massachusetts Carmen Ortiz (who was also responsible for leading the prosecution that drove Internet pioneer Aaron Swartz to commit suicide) told reporters at a press conference last Friday that "there is a public-safety exemption in cases of national security and potential charges involving acts of terrorism."

TPM quotes an administration official as saying, "We plan to invoke the public safety exception to Miranda in order to question the suspect extensively about other potential explosive devices or accomplices and to gain critical intelligence."

The administration's announcement came in the midst of calls from some politicians for Tsarnaev to be declared an "enemy combatant" and held indefinitely. A statement Friday from Republican Senators John McCain and Lindsey Graham declared, "The last thing we should want is for [Tsarnaev] to remain silent. Under the Law of War we can hold this suspect as a potential enemy combatant not entitled to Miranda warnings or the appointment of counsel."

Graham and McCain, along with Republican Representative Peter King and Senator Kelly Ayotte, on Saturday hailed the administration's announcement on

Miranda rights, writing, "A decision not to read Miranda rights to the suspect was sound and in our national security interests," while continuing to urge that Tsarnaev be declared an enemy combatant.

The administration has indicated that it is planning on charging Tsarnaev in civilian court rather than holding him indefinitely under the Authorization for the Use of Military Force Act and the National Defense Authorization Act of 2012, the latter signed into law by Obama himself. That this is seen as a positive step by sections of the liberal establishment is reflective of the right-wing shift in the bourgeois political climate as a whole.

The Obama administration had been picking apart the foundations of Miranda rights long before the marathon bombings. In 2010, Attorney General Eric Holder explained the administration's position that when "the government's interest in obtaining...intelligence outweighs the disadvantages of proceeding with unwarned interrogation," a "public safety exception" usurps the Miranda rights. (See, "Obama administration backs stripping 'terror' suspects of Miranda rights")

In March of 2011, a secret FBI memorandum was leaked, which argued that police need not follow Miranda procedures when they "conclude that continued unwarned interrogation is necessary to collect valuable and timely intelligence not related to any immediate threat."

Going beyond the "public safety" exception, the memo argues, "There may be exceptional cases in which, although all relevant public safety questions have been asked, agents nonetheless conclude that continued unwarned interrogation is necessary to collect valuable and timely intelligence not related to any immediate threat, and that the government's interest in obtaining this intelligence outweighs the disadvantages of proceeding with unwarned interrogation." (See: "FBI memo orders delayed Miranda warnings for 'terror' suspects")

This position is simply a unilateral executive abrogation of constitutional rights, based on an assertion of “government interest.” It echoes the position of the administration that it can assassinate US citizens without any legal procedure because the due process protection must be balanced against the interests of the state in waging war.

The Obama administration’s recent actions are a continuation of a historical trend away from the protection of Miranda rights, which have long been abused and neglected by police forces across America.

The Supreme Court began requiring law enforcement to notify arrestees of their right to remain silent and their right to an attorney after its 1966 decision in *Miranda v. Arizona*. The 5-4 decision was in response to the widespread police practice of “third degree” interrogations—which consisted of inflicting pain through beatings in order to obtain confessions or statements.

The court ruled that the reading of what came to be known as Miranda rights upon arrest was necessary as part of constitutional guarantees in the Fifth Amendment (the right not to be compelled to incriminate oneself) and the Sixth Amendment (the right to legal counsel).

The so-called “public safety” exemption for Miranda rights was created in the 1984 Supreme Court ruling in *New York v. Quarles*, in which the court ruled that the police could ask an arrested suspect where his weapon was, if it was determined that the suspect was previously armed.

The ruling in *Quarles* was opposed by three liberal members of the Supreme Court. Thirty years later, it is significant that Miranda rights no longer garner support amongst a wide layer of “liberals” in the American ruling class. In fact, the Obama administration has now gone far beyond the “public safety” exemption.



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