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Miranda rights silenced Boston bombing suspect

After a judge told Dzhokhar Tsarnaev he had the right to remain silent, he stopped responding to federal agents' questions. Some lawmakers object.

By Richard A. Serrano, Ken Dilanian and Brian Bennett

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WASHINGTON — Federal agents had to end what they termed "an urgent public safety interview" with Boston Marathon bombing suspect Dzhokhar Tsarnaev when a judge came to his hospital room, officials said Thursday, a disclosure that has renewed the debate over how the government should handle terrorism suspects.

Tsarnaev has not answered any questions since he was given a lawyer and told he has the right to remain silent by Magistrate Judge Marianne B. Bowler on Monday, officials said.

Until that point, Tsarnaev had been responding to the interagency High Value Detainee Interrogation Group, including admitting his role in the bombing, authorities said. A senior congressional aide said Tsarnaev had asked several times for a lawyer, but that request was ignored since he was being questioned under the public safety exemption to the Miranda rule. The exemption allows defendants to be questioned about imminent threats, such as whether other plots are in the works or other plotters are on the loose.

FOR THE RECORD:

Boston bombings: An article in the April 26 Section A about the Boston bombings identified Eugene Fidell, a legal expert on U.S. military law, as a professor at the Yale School of Law. He is a lecturer at the school, which is known as Yale Law School.

After being briefed on the sequence of events, lawmakers from both parties questioned Thursday why the Justice Department didn't seek to delay the judge's appearance on the grounds that the public safety interview was continuing. Legal experts said that once documents charging Tsarnaev with using a weapon of mass destruction were signed Sunday night, criminal rules of procedure require that he be brought before a judge "without unnecessary delay," which usually means the next business day.

Lawmakers were told Tsarnaev had been questioned for 16 hours over two days. Injured in the throat, he was answering mostly in writing.

"For those of us who think the public safety exemption properly applies here, there are legitimate questions about why he was [brought before a judge] when he was," said Rep. Adam B. Schiff (D-Burbank), a former federal prosecutor who serves on the House Intelligence Committee.

Rep. Mike Rogers (R-Mich.), chairman of the committee, wrote Atty. Gen. Eric H. Holder Jr. asking for a full investigation of the matter, complaining that the court session "cut off a lawful, ongoing FBI interview to collect public safety information."

Justice Department officials Thursday did not address the question of why they signed documents charging Tsarnaev on Sunday night, knowing that could start the clock ticking toward an appearance by a magistrate. Once that was done, they said, they had no legal way to stop the hearing from going forward.

A congressional official said interrogators left the hospital room about an hour before the judge arrived, after they were told she was coming.

Dean Boyd, a Justice Department spokesman, said, "The prosecutors and FBI agents in Boston were advised of the scheduled initial appearance in advance." One Justice Department official put it another way: "You don't tell a federal judge to put off a hearing."

Eugene Fidell, a professor at Yale School of Law, said it was past time for Tsarnaev to have been read his rights, because the Constitution requires it.

"The notion that the public safety exemption was going to allow them all the time in the world is preposterous," he said.

In other developments in the case Thursday:

A source familiar with the inquiry said that the FBI two years ago linked the phone number of Tamerlan Tsarnaev, the second bombing suspect and Dzhokhar's older brother, to two people who were investigated for possible terrorist ties. But the matter was not pursued because the cases were closed for lack of evidence.

The source, speaking confidentially because the case is still underway, added that the brothers' mother, Zubeidat Tsarnaeva, told an associate at the time that Tamerlan was "going over to the dark side" — another sign that he was becoming radicalized.

Meanwhile, New York Police Commissioner Raymond W. Kelly and Mayor Michael R. Bloomberg said Dzhokhar Tsarnaev told federal interrogators while he was still talking that he and his brother Tamerlan had planned to drive to New York to set off another series of explosions in Manhattan's Times Square. They had another pressure-cooker bomb like the ones used in Boston and five smaller pipe bombs in the car when they were stopped by police in Watertown, Mass., Kelly said.

Kelly said the younger suspect described how he and his brother had carjacked a motorist in a Mercedes three days after the bombing and then "decided spontaneously on Times Square as a target. They would drive to Times Square that same night."

But the police commissioner said the plan "fell apart" when they stopped for gas and the Mercedes owner fled and called police. A shootout ensued. Tamerlan was killed shortly after midnight; Dzhokhar was arrested Friday night.

Kelly also said Dzhokhar was caught by surveillance cameras in Times Square on April 18, 2012, and again in New York in November. But, he added, "we don't know if those visits were related" to plans to attack the city.

Law enforcement officials also revealed that the FBI in Boston was looking into whether two Kazakh men tried to remove items from Dzhokhar's dorm room at the University of Massachusetts Dartmouth after his name surfaced as a bombing suspect.

Dias Kadyrbayev, 19, and Azamat Tazhayakov, 20, were arrested in New Bedford, Mass., on Saturday on administrative immigration violations, and investigators believe they were social friends with Dzhokhar.

The two men had entered the U.S. from Kazakhstan on academic visas to attend the school, but the visas had since terminated, an official said. They are being held by U.S. Immigration and Customs Enforcement at the Suffolk County House of Correction at South Bay in Boston but have not been charged with a crime.

Investigators at this point do not believe the men were accomplices, an official said. An evidence team Thursday searched several city dumps hunting for sales receipts, discarded bomb parts or other clues.

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