

THE OTHER THINGS THE GOVERNMENT IS HIDING FROM DZHOKHAR'S LAWYERS

As Josh Gerstein reported earlier today, Dzhokhar Tsarnaev repeatedly asked for a lawyer during his interrogation – and the government has not turned over details about the extent of his requests to his lawyers.

That's interesting enough – does the government really expect it will be able to suppress these details?

But there are other details from Dzhokhar's lawyers' discovery request that I find equally of interest. The government also withheld:

- The immigration files of requested individuals. The government has refused to share the files from anyone but Dzhokhar's nuclear family (presumably meaning even the file of his spooked up uncle will be withheld, along with that of – say – Ibragim Todashev).
- The interview reports from certain people in Russia.
- Information about the surveillance and interviews of Tamerlan and the brothers' mother prior to the Boston bombing.
- Information on tips from the Russians.
- Transcripts of Dzhokhar's

calls from the detention center. This would include a call to his mother the government cited in imposing SAPs on him.

- “All documents and information concerning or comprising intercepted communications (e.g., U.S. mail, voice (telephone/skype/etc.) calls, text messages, e-mail messages, we search history/browser requests) of the defendant and his family members.” The filing doesn’t describe what, if any, response the government gave to this request.
- Documents pertaining to the investigation of the 2011 Waltham murders, including any investigation of Tamerlan, Ibragim Todashev, or Dzhokhar. The government cited investigative privilege in withholding these documents.

Some of this may well come out later. But it seems the government is withholding anything that might touch Russian intelligence. Which is why I find this footnote so interesting.

With respect to the second summary disclosure, government counsel cryptically wrote: “We apologize for providing this information in a supplement but our own review of the information was unavoidably delayed.”

The Fifth and Sixth Amendment issues here might well endanger the government's death penalty case, if not worse. But you get the feeling the government may be willing to risk their legal case (at least the death penalty) to protect these intelligence details.

Too bad for them so many of them have been leaked to the press or disclosed in the aftermath of killing Todashev.