

GULET MOHAMED'S INTERROGATION WITHOUT COUNSEL: IS THIS THE NEW MIRANDA POLICY?

Gulet Mohamed, the teen held in Kuwait, allegedly beaten, and interrogated by the FBI while in custody, is finally back in the United States. But before he reunited with his family, he was subjected to one more interrogation without his lawyer.

FBI agents have detained and are interrogating Gulet Mohamed, an American teen who was detained in Kuwait for a month, without counsel at Dulles International Airport outside Washington, DC, Mohamed's lawyer said Friday morning.

[snip]

Mohamed's family and lawyer claim that Mohamed has asked FBI officials for counsel multiple times during previous questioning. US legal and constitutional restrictions generally require that custodial interrogations stop when a subject asks for his lawyer. That rule does not seem to have been followed in this case. Mohamed traveled to Yemen and Somalia, two hotbeds of anti-American extremism, in 2009 (to visit family and learn Arabic, his family says). But he has not been charged with a crime in any country.

Now, Baumann points out that interrogations should stop once an American asks for counsel.

Or at least that's the way things used to be.

But as Justin Elliot reported yesterday, the

Administration has changed its Miranda policy. Only, it hasn't explained what the change entails.

The Obama administration has issued new guidance on use of the Miranda warning in interrogations of terrorism suspects, potentially chipping away at the rule that bars the government from using information in court if it was gathered before a suspect was informed of his right to remain silent and to an attorney.

But the Department of Justice is refusing to publicly release the guidance, with a spokesman describing it in an interview as an "internal document." So we don't know the administration's exact interpretation of Miranda, even though it may have significantly reshaped the way terrorism interrogations are conducted.

[snip]

Asked about the administration's current stance on Miranda, Justice Department spokesman Dean Boyd sent along this statement about the new guidance that was sent to "relevant agencies":

As demonstrated most recently after the attempted terrorist bombings last Christmas and in Times Square last spring, law enforcement has the ability to question suspected terrorists without immediately providing Miranda warnings when the interrogation is reasonably prompted by immediate concern for the safety of the public or the agents. Because of the complexity of the threat posed by terrorist organizations and the nature of their attacks – which can include multiple

accomplices and interconnected plots – we have formalized guidance that outlines the appropriate use of the well-established public safety exception to providing Miranda rights. To ensure that law enforcement is aware of the flexibility that the law gives them in these circumstances, the guidance has been distributed to relevant agencies.

So are the repeated interrogations of Mohamed without counsel a sign of what DOJ has permitted?

Mind you, today's interrogation was probably something much more similar. As the experience of Wikileaks volunteer Jacob Appelbaum, who has been interrogated at the border on three different occasions, shows, our government maintains it can subject anyone crossing into our country to this treatment.

Yet that doesn't explain the interrogations in Kuwait, coming after Mohamed says he was beaten.

So should we conclude the new Miranda policy allows beating and interrogations with no counsel so long as they take place in other countries?