

# DOJ ABUSED CLASSIFICATION TO DELAY DZHOKHAR TSARNAEV'S PRESENTMENT

As a number of outlets are reporting, Dzhokhar Tsarnaev's lawyers have submitted a long anticipated motion to suppress the statements he made during the weekend the FBI interviewed him while he kept asking – 10 times – for a lawyer.

The motion also provides detail on something that bmaaz and I found to be just as important – DOJ's delay in presentment, basically delaying the time before he got a lawyer. It describes how the Public Defenders Office tried to inform Dzhokhar they could represent him, twice trying to give the FBI lawyers letters to do so. The FBI refused the letters each time.

More troubling still, after the Court assured the Public Defenders they would be informed and appointed as soon as Dzhokhar was charged, that didn't happen. Instead, the court permitted DOJ to seal the complaint, thereby delaying notice to the PDs, permitting another long interrogation session.

Throughout April 20 and 21, the Federal Public Defender and other lawyers from her office contacted court officials, asking to be appointed. Court personnel informed the lawyers that they would be appointed as soon as a complaint was filed. McGinty Aff.

This turned out to be incorrect. A complaint was signed at 6:47 pm on April 21, DE 3, and filed under seal. Interrogation continued through the night and well into the morning of April 22. The government's motion to seal, DE 1, explained that "public disclosure of

these materials might jeopardize the ongoing investigation of this case.” This baffling assertion ignores the fact, well-known to anyone with access to a television, radio, newspaper, smartphone or computer, that Mr. Tsarnaev was in custody. Nothing in the application for the complaint revealed information that had not already been reported by media around the world. It thus appears that the sole reason to seal the complaint was to allow the interrogation to continue by delaying the defendant’s initial appearance before a judicial officer and the appointment of counsel.

And, as the motion notes, the FBI was well beyond asking public safety questions.

The government needs none of this testimony to convict Dzhokhar, even assuming this thing would go to trial.

Which is probably why DOJ and the Court assumed they could get away with this.