

# New Rules Curtail Rights of Terror Suspects

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In December, the Federal Bureau of Investigation ("FBI") instituted new rules governing the interrogation of domestic terror suspects that provide agents greater freedoms when interrogating terror suspects. Under the new rules, domestic terrorism suspects may be held in custody and questioned without an immediate *Miranda* warning. *Miranda* warnings require that law enforcement officials advise a suspect before questioning that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The suspect may waive the rights provided that the waiver is made knowingly. The obligation to give *Miranda* warnings came as a result of the Supreme Court's ruling in 1966 in the landmark case of *Miranda v. Arizona*. The new FBI rules permit agents to keep domestic terror suspects in custody longer than the average criminal suspect without reading them their *Miranda* rights. Specifically, the new rules provide that upon apprehension of a domestic terror suspect, the agent is to ask any and all questions that are "reasonably prompted by an immediate concern for the safety of the public or arresting agents without advising the arrestee of his *Miranda* rights." The rules go on to state that in exceptional cases, even though all public safety questions have been asked, the agents may conclude that "continued unwarned interrogation is necessary to collect valuable and timely intelligence not related to any immediate threat, and that the Governments' interest in obtaining this intelligence outweighs the disadvantages of proceeding with unwarned interrogation." However, under the rules, such continued interrogation requires approval from FBI supervisors or Justice Department lawyers. While the Justice Department believes it had authority to change *Miranda* procedures, the new rules may not withstand court scrutiny.

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