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Homeland Security warning unconstitutional

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MIAMI - A federal judge ruled unconstitutional a Miranda rights warning that Homeland Security agents used to interrogate drug-smuggling suspects, prompting the agency to make sure a legally sufficient warning is used nationwide.

U.S. Magistrate Judge Lurana Snow ruled that statements made by four men accused of smuggling cocaine aboard a cruise ship could not be introduced in court because the Miranda warning failed to spell out that they could have an attorney present during - not just before - interrogation by authorities.

"From a legal standpoint, the warnings on the Homeland Security form are ambiguous, at best," Snow said in her 16-page decision.

The ruling in Fort Lauderdale was issued July 26 but not made public until Friday by Miami defense attorney Ellis Rubin, who brought successful challenges to similar flaws in police Miranda warnings in Broward County, Fla.

Rubin said the ruling could jeopardize statements given to interrogators in numerous other cases, including those involving terrorist suspects, illegal aliens and other drug smugglers.

"I think there's going to be a lot more," Rubin said. "Somebody has to tell these people, 'Hey, wise up.' "

The Miranda warning comes from the 1966 decision requiring police to warn suspects they have the right to remain silent and to have an attorney present when answering questions.

In a statement issued Friday in Washington, the Immigration and Customs Enforcement arm of Homeland Security said that the Miranda warning its agents used in Miami differed from the one that had been approved.

The statement said that after the ruling, ICE "took immediate action to ensure that every single field office in the country is using the proper Miranda form in both English and Spanish."

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