

May 4, 2010

TO: Interested Parties

FROM: Andy Johnson, Director, National Security Program
Scott Payne, Senior Policy Advisor, National Security Program

RE: The Times Square Bomber

Background

In just over 48 hours after an attempted car bombing in Times Square, the FBI, working closely with the New York Police Department (NYPD) and intelligence officials, quickly nabbed a suspect. Faisal Shahzad, an American citizen, reportedly confessed to the crime upon his arrest. While details are still emerging and the investigation continues, it is fair to say that this was a very successful counterterrorism effort. The law enforcement officials involved—from the NYPD officers who responded on the scene to the FBI agents who made the arrest—deserve a great deal of credit.

Despite this effective coordination and swift arrest, conservative leaders like John McCain and Peter King are already criticizing law enforcement's response and making extreme statements about repealing constitutional rights for American citizens.¹ Below, we have provided information to help those interested in responding to these unwarranted criticisms from conservatives.

Talking Points:

- The events of the last 48 hours are a forceful response to conservative critics who have denigrated the ability of the FBI and federal prosecutors to find, arrest and effectively interrogate terrorist suspects.
- Working closely with the NYPD and intelligence officials, the FBI quickly identified and arrested the suspect, who reportedly confessed and provided information that has led to the arrest of two individuals in Pakistan.²
- As President Obama said, "New Yorkers have reminded us once again of how to live with their heads held high...We will not cower in fear. We will not be intimidated." Congressional members from both parties should be supporting the actions of our federal and local law enforcement officials, not denigrating or second guessing them.
- After the arrest, skilled FBI interrogators, in coordination with intelligence officials, were able to obtain information from Shahzad. Later, he was read his Miranda rights and continued talking, according to the FBI's Deputy Director.³
- Conservatives calling for Shahzad to not receive Miranda rights or the

protections of the U.S. Constitution are extreme. We can protect America without doing harm to the Constitution. Even Glenn Beck said about this case, "He has all the rights under the Constitution," and "You don't shred the Constitution when it's popular, you do the right thing."⁴

- The extreme rhetoric from conservatives like Rep. Peter King and Sen. John McCain on Miranda rights is a side-show. The right thing to do is to quickly and efficiently try Shahzad for his crimes in federal court and ensure he receives the punishment this crime deserves.
- The federal criminal justice system, which has prosecuted and locked away over 300 terrorists since 9/11, works. Trying American citizens in military court for criminal acts in the United States has not worked and is legally untenable.
- President Obama stayed intimately involved in the details of this case. He was briefed at least six times in the period between the attempted attack and Shahzad's arrest.⁵

¹ Rep. King said "Did they Mirandize him? I know he's an American citizen but still." Sen. McCain said it would be a "serious mistake" to Mirandize Shahzad. McCain also said Shahzad should be declared an enemy combatant, which would strip him of constitutional rights such as Miranda warnings. See http://www.cbsnews.com/8301-503544_162-20004087-503544.html and <http://www.politico.com/news/stories/0510/36741.html>.

² Spencer S. Hsu, Jerry Markon and Karin Brulliard, "U.S., Pakistan make arrests in failed Times Square bomb attempt," *Washington Post*, May 4, 2010

³ Spencer S. Hsu, Jerry Markon and Karin Brulliard, "U.S., Pakistan make arrests in failed Times Square bomb attempt," *Washington Post*, May 4, 2010

⁴ Interview with Glenn Beck, Fox and Friends, *Fox News Channel*, May 4, 2010.

⁵ William Rashbaum, Mark Mazzetti and Peter Baker, "Bomb Suspect Said to Implicate Himself," *New York Times*, May 4, 2010.