

Obama administration backs stripping “terror” suspects of Miranda rights

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Attorney General Eric Holder said Sunday that the Obama administration would seek congressional passage of legislation that would weaken or eliminate Miranda rights for anyone arrested on suspicion of a connection to terrorism, effectively permitting open-ended and coercive interrogations.

In appearances on several network television interview programs, Holder and chief White House terrorism adviser John Brennan responded to congressional demands for more sweeping attacks on democratic rights in the wake of the failed attempt to detonate a car-bomb in New York City’s Times Square May 1.

Senator Joseph Lieberman, an Independent Democrat from Connecticut, and Senator Scott Brown, the recently elected Republican from Massachusetts, announced May 5 they would introduce legislation to authorize the State Department to revoke the citizenship of any American believed to be linked to terrorism. Similar legislation is to be introduced in the House of Representatives by two Pennsylvania congressmen, Democrat Jason Altmire and Republican Charles Dent.

The Lieberman-Brown bill was announced amid a blaze of media publicity, after the arrest of Faisal Shahzad, the suspected Times Square bomber, a naturalized American citizen of Pakistani descent. Shahzad was taken off an Emirates Airways plane at Kennedy Airport May 3, interrogated and arrested. Right-wing criticism of the Obama administration and Holder in particular has focused on the decision to read Shahzad his Miranda rights after four hours of questioning.

The bill won immediate support from some leading Democrats. House Speaker Nancy Pelosi said she supported the “spirit” of the measure but wanted to see

the details. Secretary of State Hillary Clinton declared, “United States citizenship is a privilege. It is not a right. People who are serving foreign powers—or in this case, foreign terrorists—are clearly in violation, in my personal opinion, of that oath which they swore when they became citizens.”

Asked about the Lieberman bill on the NBC interview program “Meet the Press,” Holder refrained from direct criticism, saying he hadn’t been able to review the actual text, which has not yet been released, but he cited possible “constitutional concerns” with the proposal. The attorney general offered a different anti-democratic measure as an alternative to the Lieberman-Brown bill: curtailing the Miranda rights of those detained for questioning as terror suspects.

The Miranda warning is read by police to a person they are arresting, in more or less these words: “You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney.”

The warning entered US criminal procedures after the 1966 Supreme Court decision, *Miranda v. Arizona*, in which a defendant sued after his conviction on the basis of a confession coerced from him by a brutal police interrogation. He charged that his constitutional right against self-incrimination (the Fifth Amendment right) had been violated, and he won the case.

Eighteen years later, the Supreme Court carved out a “public safety exception” to the Miranda warning, in a case where an armed man fleeing the police ran into a supermarket and threw his gun away. Police observed his empty holster and asked him where the gun was, prior to giving him a Miranda warning.

Both the suspected Christmas Day airline bomber and the suspected Times Square bomber were questioned for several hours under this “public safety exception.”

But eventually, both were read their Miranda rights, after which they continued to cooperate and provide information to their interrogators.

Holder told NBC interviewer David Gregory that the Justice Department was reviewing the procedures used in the interrogation of Shahzad. “I think we have to look at the rules that we have and look at the situation that we now confront,” he said, arguing that the current exception to the Miranda warning was established in the 1980s.

“We’re now dealing with international terrorists, and I think that we have to think about perhaps modifying the rules that interrogators have and somehow coming up with something that is flexible and is more consistent with the threat that we now face,” he said.

Holder continued that the administration would work with Congress on a proposal to change the Miranda warning to “make our public safety exception more flexible and, again, more consistent with the threat that we face.” He declared, “It is a new priority” for the administration.

Holder’s statement demonstrates that the Obama administration is once again using the pretext of the “war on terror” to push for far-reaching attacks on basic democratic rights. Holder’s discussion with David Gregory even invoked the “ticking time bomb” scenario, brought up whenever an attempt is made to justify torture or other illegal actions by the state.

The introduction of an expanded “public safety exception” through legislation, as suggested by Holder, would go far beyond the Bush administration, translating what were measures to be taken on executive authority, supposedly in emergency conditions, into the standard operating procedures of the US government and police agencies at every level.

The Lieberman-Brown bill, titled the “Terrorist Expatriation Act” is even more ominous in its implications for democratic rights. The blatantly unconstitutional bill would allow the State Department to revoke the citizenship of anyone it deems provides “material support” to terrorist groups like Al Qaeda, or who participates in attacks on the United States or its allies.

The terminology is subject to sweeping interpretation. The Obama administration has defined “material support” to include filing an *amicus curiae* brief in federal court, lobbying Congress, writing an op-ed

column or teaching a human rights course. Under Lieberman-Brown, such actions could lead to revocation of citizenship for people who were born in the United States and lived all their lives here.

Participation in attacks on “allies” of the United States is a blanket charge applying to anyone connected to Hamas, Hezbollah and other anti-Israeli resistance groups in Palestine and Lebanon, as well as insurgent groups in many other countries, such as Turkey, Colombia, Spain, India or much of Africa.

In practical terms, the Obama administration no longer distinguishes between citizens and non-citizens in its counterterrorism policies. Both alike can be targeted for surveillance, arrest, indefinite detention, even assassination. The sole distinction that remains is that citizens cannot be tried by military tribunals, a procedure reserved to non-citizens.

Thus the Lieberman-Brown bill, if passed, would make it possible to transfer Faisal Shahzad or other US citizen detainees to the jurisdiction of a military tribunal, with far more restricted rights of legal representation and defense.

In introducing the bill, Lieberman pointed to the hypocrisy of the Obama administration, which postures as opposing the worst excesses of the Bush administration while explicitly authorizing the assassination of US citizens, like Islamic fundamentalist cleric Mohammed al Awlawki. If killing terrorist suspects without due process was permissible, Lieberman argued, what was wrong with depriving them of their citizenship?



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