



Written by [Michael Tennant](#) on May 6, 2010

Politicians Plead: The Fifth Amendment Does Not Apply to Suspected Terrorists

The Fifth Amendment to the U.S. Constitution reads, in part: “No person ... shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.” That would seem to be crystal clear, yet Sen. John McCain (R-Ariz.), Rep. Peter King (R-N.Y.), and Sen. Joseph Lieberman (I-Conn.) seem unable to understand it.



Each of them expressed outrage that Faisal Shahzad, the suspect in the attempted Times Square car bombing and an American citizen, was informed of his Miranda rights (i.e., the rights to remain silent and not to incriminate oneself); and Lieberman has introduced legislation to prevent the “Mirandizing” of suspected terrorists in the future.

McCain, appearing on Imus in the Morning, [said](#) that reading Shahzad his Miranda rights “would be a serious mistake.” “Don’t give this guy his Miranda rights until we find out what it’s all about,” he added. That is, give him an opportunity to incriminate himself before telling him that he doesn’t have to do so.

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King, the top Republican on the House Homeland Security Committee, [asked](#), “Did they Mirandize him? I know he’s an American citizen, but still.” Nor does King want Shahzad tried in a civilian court unless “the intelligence community” has agreed upon it —notwithstanding the fact that Shahzad’s alleged attempted attack was a criminal act, not an act of war, and that other suspected terrorists have been successfully tried in civilian courts.

Lieberman, for his part, has introduced a bill that would deprive any American citizen of his citizenship rights if he “is found to be involved in a foreign terrorist organization, as defined by the Department of State.” Lieberman’s bill would amend a law that already strips Americans of their citizenship if they enlist with another country’s military. (Curiously, Americans who choose to serve in the Israeli Defense Forces are exempt from this law.)

King, McCain, and Lieberman apparently want a distinct justice system outside the traditional civilian justice system for terrorism suspects, with the executive branch given full discretion as to which suspects will be tried in the “enemy combatant”/military tribunal justice system.

The potential for the abuse of such unchecked power is enormous. Presidents have used the IRS and FBI to harass political opponents for decades. Imagine the temptation not just to inconvenience an opponent but to “disappear” him for good in the alternate justice system. Just a few such disappearances would surely have a chilling effect on all dissent.



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Photo of Joe Lieberman (left) and John McCain: AP Images



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