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Taliban Tied to Times Square Failed Bombing; Race to Stop Oil Leak; NBC News Reports Obama to Pick Kagan as Supreme Court Nominee; NBC News Reports President Obama to Pick Kagan as Supreme Court Nominee

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Highlight: Obama administration now says that Faisal Shahzad did not act alone after all in the Times Square failed bombing, but was aided by the Taliban in his native Pakistan. Tens of thousands of gallons of oil are still leaking out every single day in the Gulf of Mexico, but workers are willing to give it another try to contain it. Elena Kagan, the solicitor general of the United States, said to be the Supreme Court nominee to replace Justice Stevens.

Body

DON LEMON, CNN ANCHOR: At any moment, we could hear from the White House about the president's pick to replace a retiring Supreme Court justice. The odds are all on one favor, but Washington insider say don't bet on it.

Our presidential panel's report on cancer is drawing huge criticism from the very people it is meant to support. Tonight, why the American cancer society is saying, back off.

Oscar-winner Sandra Bullock thought she was giving a baby a good home, but there is a growing chorus of complaints saying she should not have adopted a black one. Tough talk, coming up.

And live from New York. It's all about the legendary actress and comedienne. Tonight, you'll meet the man who started the Facebook campaign that landed Betty White on "SNL."

And good evening, everyone. New details for you tonight in last weekend's failed car bombing in Times Square. The Obama administration now says that Faisal Shahzad did not act alone after all, but was aided by the Taliban in his native Pakistan.

We're also hearing tonight that Shahzad is still speaking with U.S. Investigators, and that's why he hasn't appeared in court.

And today we learned the alleged assistance from the Taliban included money. CNN has calculated the cost of this failed attack could be slightly less than \$6,500.

CNN's senior international correspondent Nic Robertson has retraced Shahzad's trail in Pakistan, and tonight he told me how Karachi has become a hotbed for Taliban recruiters.

(BEGIN VIDEO CLIP)

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NIC ROBERTSON, CNN SENIOR INTERNATIONAL CORRESPONDENT: Well we know that these people, at least six people that were arrested last week, they have been in custody now, five days of questioning. But one of the things you learn here in Karachi is that the Taliban have a strong presence here, not just the Pakistani Taliban but these other Jihadist groups. They have come to get respite from the front line. They've come to escape the U.S. drone strikes. And why can they come here? Because they come from a part of the country where people are Pashtuns, that's their ethnic background. And there's a large Pashtun community in parts of the city here, sprawling suburbs, more than a million people in some of these suburbs, a handful of police to police those areas. And the Taliban can hide quite effectively there.

Now, a number of the senior leaders have been arrested in those areas recently, but the Taliban are using Karachi as a place to raise money through bank robbery, through kidnap and ransom. That's what the police tell us. And they're using -- they're using Karachi as well as a place to secretly meet with other different Jihadist groups.

So, Karachi provides for the Taliban a great place to hide, a great place to get medical treatment, a good place to raise funds for the fight -- and apparently as well, a good place to recruit more people for their war effort -- Don.

LEMON: You know, Nic, I want to hear more about the Pakistani Taliban because Shahzad's attempt is apparently their first attempt to attack within the United States. Tell us more about that, this group.

ROBERTSON: Well, we know as well that they have tried to attack in Spain, but this is the first attempt that we're aware of. And what this does here, you know, in the past, it's been -- OK, people have come to Pakistan to get training in al Qaeda camps to attack inside Britain, inside Europe, inside the United States. Zazi -- Najibullah Zazi was one example. Brian Neal Vinas, another example. So, there have been these examples. But what these people have done is buy in to al Qaeda's global view -- this global view that the United States is against Muslims, has a war with Muslims.

So, now, you have a different dimension to add on to that. You have the Pakistani Taliban and these other jihadi groups. Some are very pervasive in the country. They've been used as proxies by the government here back in 1990s to fight in the Kashmir region against Indian forces on the other side of the border. They got a long history, good training here.

So, now, you have this -- you open -- you open the scenario up here to more and more training camps, possible places for people to get trained in explosives and other weaponry to try to attack the United States. Plus, you open up the fact that there is a large Pakistani Diaspora living in the United States and as in Europe, this Diaspora is mostly incredibly well-integrated, very productive, prosperous, et cetera. But it does open up now that elements within this group, this population, may -- some of them, a tiny, tiny, tiny minority -- that it opens up the possibility that they can have U.S. passports, be in the United States, and do what Shahzad did.

ROBERTSON: You know, this case and the failed Christmas Day airliner bombing have called into question a 40-year-old law intended to protect the civil liberties of Americans. The Miranda ruling. You know, the right to remain silent, the right to an attorney, et cetera.

Critics have complained the Obama administration has been too quick to provide that constitutional protection to terrorist suspects, denying investigators a chance to obtain valuable intelligence. Well, today, U.S. attorney general Eric Holder agreed that it may be time to revisit Miranda.

(BEGIN VIDEO CLIP)

ERIC HOLDER, ATTORNEY GENERAL: We have to look at the rules that we have, and look at the situation that we now confront. 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. We certainly need more flexibility, and we want the public safety exception to be consistent with the public safety concerns that we now have in the 21st century as opposed to the public safety concerns that we had back in the --

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DAVID GREGORY, NBC NEWS HOST, "MEET THE PRESS": So that's news. I mean, that's an important development. Would you work with Congress to try to get that new law passed?

HOLDER: Yes. We want to work with Congress to come up with a way in which we make our public safety exception more flexible, and again more consistent with the threat that we face.

(END VIDEO CLIP)

LEMON: It is a fascinating question that we will continue to explore here in future programs.

Make sure you tell us what you think on Facebook and Twitter.

In the meantime, we have some new develops to tell you about in the Gulf of Mexico tonight. Workers say they aren't giving up on that giant oil containment dome. So far, the massive four-story structure hasn't worked as planned.

Hydrate crystals formed on it, blocking the top and causing it to float. Meantime, tens of thousands of gallons of oil are still leaking out every single day, but our David Mattingly told us, workers are willing to give it another try.

(BEGIN VIDEO CLIP)

DAVID MATTINGLY, CNN CORRESPONDENT: BP is still trying to find a way to make this dome work. They say they're going to take a couple of days to step back and figure out how to overcome this problem that they encountered as they were attempting to lower into place a day or so ago.

What they encountered was something called hydrates. These are crystals formed by gas combining with water under the hard -- the deep pressure and under the cold temperatures down at the bottom of the ocean. It was forming sort of like a slush inside that dome and clogging it up. So they had to move it over to the side, set it down and step back and figure out, how are we going to deal with the crystals before we can ever pump any oil out? So, that's what they're looking at right now.

If that doesn't work, they got a couple of other options they've been discussing, a funneling, possibly, some sort of solid material into the leaking pipe to clog it up. Also, to install, possibly, another blowout preventer. This was device that failed causing this disaster in the first place. So, they might look at installing another blowout preventer deep below to augment the one that's already there.

(END VIDEO CLIP)

LEMON: If they still can't get the dome working, crews do have a backup plan.

(BEGIN VIDEO CLIP)

ADM. THAD ALLEN, COMMANDER, U.S. COAST GUARD: The next tactic is going to be something they call a junk shot. They're actually going to take a bunch of debris, shredded up tires, golf balls, and things like that, and under very high pressure, shoot it into the preventer itself and see if they can clog it up and stop the leak.

(END VIDEO CLIP)

LEMON: Tomorrow will hopefully bring a fresh start to the financial markets after a volatile week, both here and abroad. The European Union has approved a stabilization mechanism to protect the Euro before the markets open again. It could provide billions to countries hurt by the economic meltdown in Greece. Ripples from Greece are being felt in the U.S. market, which has its own problems. On Thursday, the Dow fell nearly 1,000 points after a so-called technical glitch. One expert I spoke with expects Monday to be much calmer, though.

(BEGIN VIDEO CLIP)

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RICK NEWMAN, CHIEF BUSINESS CORRESPONDENT, "U.S. NEWS AND WORLD REPORT": I don't think we're going to see this sort of pandemonium we saw last Thursday and Friday. But I think this is a gut-check moment for investors, Don. You know, even before these problems in Europe really started to affect our stock markets, you know, a lot of analysts thought that the stock market had this really great run since last March.

I mean, a historic run, up something like 75 percent. A lot of analysts have been saying that the stock market is just a little far ahead of the broader economy and, you know, there's a good chance that it's going to flatten out just on its own. And then we had these problems with Greece.

(END VIDEO CLIP)

Make sure you tune into CNN tomorrow morning at 9:00 a.m. CNN NEWSROOM for the opening bell.

An emotional good-bye for Utah Senator Robert Bennett after his stunning defeat at the state GOP convention.

(BEGIN VIDEO CLIP)

SENATOR ROBERT BENNETT (R), UTAH: It's very clear that some of the votes that I have cast have added to the toxic environment. I offer my congratulations, as I say, to whoever wins.

(END VIDEO CLIP)

LEMON: The veteran Republican was opposed by tea party activists.

Is this a preview of the influence they could have in November?

Waiting for word on the president's choice to replace retiring Supreme Court Justice John Paul Stevens. An announcement is said to be imminent. We are standing by here on CNN. We are told it could come at any moment.

Plus, throwing the first punch in the legal battle over immigration in Arizona. The U.S. threatening to sue the state.

And we want to hear from you tonight. We want to know what's on your mind. Don't just sit there. Become part of the conversation. Make sure you follow us on Twitter or Facebook, or go to my blog, CNN.com/Don.

LEMON: All right. We have some breaking news here on CNN to tell you about. We told you that an announcement might be imminent when it comes to who the president's pick. The nominee would be for the Supreme Court to replace Justice John Paul Stevens.

We are hearing that the front -- the leader in this was the solicitor general, Elena Kagan. NBC News, we are told, is reporting right now that, in fact, it is solicitor general Elena Kagan.

I want to turn now to our political editor, Mr. Mark Preston, joining us tonight from Washington.

Mark, we have heard that it might be imminent. This is what NBC News is reporting. We're doing -- our political folks are digging as well. Tell us what you know about this, and about Elena Kagan.

MARK PRESTON, CNN POLITICAL EDITOR: Well, Don, you're absolutely right. CNN is right now making phone calls, digging right into this story. Elena Kagan is said to be Obama's pick for the Supreme Court. Elena Kagan, the solicitor general, she is President Obama's top lawyer to the court, Don. She is 50 years old. She is a single woman. She has no children. She has served previously in the Clinton administration. She also was the dean at the Harvard law school.

So if it is to be believed that Elena Kagan is Obama's choice for the Supreme Court, you'd be turning to somebody who serves right at his right hand, Don, as his top lawyer to the Supreme Court. LEMON: So, listen, there were conservatives who had wanted someone who might be a conservative or a moderate democrat. They knew he was

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going to pick, you know, a liberal, a democrat. And then liberals wanted someone who was, you know, a little bit more liberal. So where does she fit on this scale. Is she considered moderate in her views?

PRESTON: You know, Don, this is one of those cases where is the constitution of the court would not change, no matter who President Obama picks. The fact is, a liberal is leaving the court. It would be replaced by a liberal. She is considered a little bit more on the liberal side, but not all the way over. She is well-respected by conservative jurists and probably while there will be a lot of questions during any confirmation hearings, assuming this is her, the fact of the matter is, she probably would be confirmed, assuming that there would be no problems along the way, or if they dug anything up in her past.

LEMON: Mark, real quickly, tell us here as we wait on this story to try to figure out exactly what's going on here and our folks do some digging, she wasn't the only one. There were three others as well who were said to be in high contention here, and who had met several times with the president.

I don't know if you want to take us through them. But one was Judge Diane Wood, right? The seventh U.S. Circuit Court of Appeals from Chicago Illinois. Judge Merrick Garland, D.C. Circuit U.S. Court of Appeals from Washington. And one more that's on here besides Elena Kagan, and I'm getting some information from producers here as well, as we're talking. Then there was Judge Sidney Thomas as well.

But, again, Mark, we're hearing that it is Elena Kagan. We're working to confirm that. So it won't change the balance of the court here. And those are the people who have met there.

What do you make of -- why does she stand out in this instance more so than the other three potential candidates here?

PRESTON: Well, Don, let's go back to her age. She's only 50 years old. She just turned 50 years old. Potentially, she could serve 30 years on the court, Don. 30 years is a long time. And when presidents look for potential candidates to be their nominees for the Supreme Court, they look for somebody who's going to have longevity, because that allows them to put their stamp on the court. It would also be the second woman that President Obama has named to the court, which would be the first time any president has been able to name two women, certainly, in a row.

We saw Sonia Sotomayor last year, Don, be his nominee and of course was confirmed. We should note, too, Elena Kagan has already been confirmed by the Senate. She needed to be confirmed by the Senate last year to be solicitor general.

LEMON: So, listen, walk us through the process. What happens after this? If it is, indeed, whoever it is, if it's Elena Kagan or whatever, the process is the same, Mark. PRESTON: Sure, the process is the same. And what we will see assuming that it is true, and we are digging and our people are making phone calls, we are digging into the story, Don, but assuming that it is her, tomorrow we expect some kind of formal announcement at the White House. And then after that, to the next couple of weeks going into probably early June, what we would expect is that Kagan would be making courtesy calls to Capitol Hill, meeting with senators, certainly senators on the judiciary committee and other senators as well, just for them to get to know her. Then eventually it would lead to hearings, probably in the early part of July, maybe right after the fourth of July recess. And then after that, democrats, President Obama would hope, at least, to have a vote in early August.

Unclear if that would actually happen or push all the way into September. But Congress goes on recess after the first week in August, Don. So there's potential that even though democrats would want to get this vote over with, Republicans might try to hold it over, and the vote wouldn't happen until September.

LEMON: It's very interesting, Mark. Let's go through some things here about her.

Why, Elena Kagan, we're being told. Why she might be picked. Her lack of substantiate paper trail on hot-button issues made blunt initial conservative criticism over where she stands on these topics. She has a reputation as a

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political pragmatist and consensus builder who enjoys the support of liberal and conservative academics. And then goes on to say, she also would provide greater gender diversity to the bench.

PRESTON: Yes, no question. And, look, what you said at the top there, it might very well be the very big reason why President Obama would turn her if in fact he did so.

She has never served on the appellate court. Everyone else in the Supreme Court has, Don. And you know, there was a lot of talk over the past month or so, over the past six weeks or so, about maybe President Obama should turn to somebody who doesn't have that background. Somebody who doesn't have that judicial monastery background. Somebody who comes from outside of the federal court system. And with Kagan, you would get that.

LEMON: You're right on it. That's one of the reasons, Mark, it says, that she may be passed over, the lack of judicial experience may raise concerns about whether she would be a reliable vote on the left. And some liberal groups have also raised concerns that Kagan, as solicitor general, has articulated a more robust defensive executive power by the White House than many civil rights and human rights groups would like, Mark.

PRESTON: Yes, no question about that, Don. And, you know, just talking to Republicans tonight, I will tell you that they have been preparing for a Kagan announcement.

Again, we don't know if it is, with other news organizations are reporting that. Of course, we're digging into that. But the fact of the matter is, they were preparing for that. And one of the things that came up for them is that Kagan, when she was at Harvard, opposed military recruiting on campus because of the military's policy on "Don't Ask, Don't Tell."

Now, Republicans tonight have told me, Don, that they plan to make that an issue during the hearings, or at least ask her, quiz her publicly about that.

LEMON: All right, Mark, very interesting.

Mark Preston, don't go anywhere. We have some breaking news that Mark Preston is helping us out here.

Also, the Best Political Team on Television checking on it. This is what NBC News is reporting, that, in fact, the president, that's what they say, the president's pick as a Supreme Court nominee is Elena Kagan, the U.S. solicitor general, Elena Kagan.

A very busy day for the administration, talking terror on the morning shows this morning, also talking immigration and also talking about this SCOTUS pick. Elena Kagan, we are hearing, according to NBC News. Best Political Team on Television checking on this for you. More on our breaking news after the break.

LEMON: All right. If you are just tuning in to CNN, we have breaking news coming in. And it's about the Supreme Court of the United States. Really, it's about the president's new pick. We are hearing, getting word that it is Elena Kagan, the solicitor general of the United States. That is what NBC News is reporting.

Elena Kagan, the solicitor general of the United States apparently the president's pick as a Supreme Court nominee. And again, NBC News reporting that.

I want to turn now to CNN's Mark Preston and the Best Political Team on Television helping us out through all of this.

And, Mark, there you see him in Washington, D.C.

Mark, the big question, of course, is who is Elena Kagan? Who is Elena Kagan? Stand by. Hold that thought. We're going to find out who she is, and then we'll talk after this.

(BEGIN VIDEOTAPE)

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KATE BOLDUAN, CNN NATIONAL CORRESPONDENT (voice-over): Elena Kagan, here congratulating retiring Justice John Paul Stevens on his long and distinguished career.

ELENA KAGAN, SUPREME COURT NOMINEE: If you ever argued before the Supreme Court, beware, underlying Justice Stevens' extraordinary politeness, extraordinary courtesy, danger awaits.

BOLDUAN: Now the solicitor general could fill the very seat Justice Stevens is vacating at the end of this term.

KAGAN: Thank you, Justice Stevens.

BOLDUAN: A 50-year-old New York City native, Kagan is a former dean of Harvard law school, where she also received her law degree. She worked in the Clinton White House. And is currently the federal government's top lawyer before the Supreme Court. She's argued six cases herself since taking over the job in 2009.

During confirmation hearings for that position, some senators were skeptical Kagan had the necessary experience, because she's never been a judge and had at that point never argued a case before the Supreme Court or any court, for that matter.

UNIDENTIFIED MALE: How are you going to handle that, and how are you going to prepare yourself?

KAGAN: I'm very confident that I'm up to this part of the job, as I am to all the many other parts. I think I bring up a lifetime of learning and study of the law and particularly of the constitutional and administrative law issues that form the core of the court's docket. I think I bring up some of the communication skills that have made me -- I'm just going to say -- a famously excellent teacher.

(END VIDEOTAPE)

LEMON: If you're just tuning into CNN, we have breaking news. And the reason we are showing you Elena Kagan is because now NBC News is reporting that this -- she is the president's pick. She would be the third woman on the nine-member bench.

And Mark Preston, our political editor. Mark, this would be the strongest representation by women on the Supreme Court ever.

PRESTON: It would. And as President Obama has been looking at who to put on the court, no question that he was looking at gender. He was also looking at race. And he was probably also looking at regional diversity.

You know, one of the candidates that he's been considering is an appellate court judge from out west, Don. You know, if you look at the court and how it's set up right now, you seem to have a lot of ivy leaguers who are on the court. So Elena Kagan would seem to fit that bill. She isn't an ivy leaguer, but she is a woman and would bring that element of diversity to the court.

LEMON: So listen, let's talk about -- you talked to us about the confirmation process, right, and how long it would take. No one really goes unopposed from any side, right, when you have these sorts of issues or these sorts of things, confirmation hearings and what have you.

But she, at one point, her being -- working for Goldman Sachs or at least being some sort of adviser to them, may come up, especially considering what's happening with the financial markets and what's happening with Goldman Sachs right now. That may be one hitch, one thing that may keep her from being confirmed.

PRESTON: Yes. Well, Don, you know, certainly, they will go over -- look, before she was even chosen to be solicitor general, Don, no question that she was fully vetted by the Obama White House. She was also in consideration last year for the court. Again, another vet by the Obama White House.

But having said that, you will see Republicans try to turn over every stone regarding anything that she's ever said, anything that she's ever done, anybody who ever she has worked with.

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Again, going back to her being solicitor general, Don, she has been confirmed by the Senate by a vote of 61-31 back in March, but that's not the same thing as being on the nation's highest court. So, yes, Republicans will try to find out everything they can about her. They will send investigators out. They will look into all of her dealings to make sure that there's nothing, no skeleton in the closet or anything that could be potentially embarrassing or something that they think would force her to have to leave the court or embarrass the country.

LEMON: Mark, as we continue with our breaking news here, always an issue in the confirmation process, abortion.

PRESTON: Yes. Always, always an issue. Abortion is always an issue in politics. Again, but for the purposes of --

LEMON: And the reason I ask you that is, do we know, talking about her stance on abortion, it's bound to come up. That's what I mean, that this is going to be an issue, because it's always an issue in the confirmation process.

PRESTON: Sure, sure. And look, again, looking at this process as it is, abortion is not so much of a big issue. Certainly, with someone like her, we know that the court right now is 5-4, bending a little bit towards the conservative side. Conservatives realize that President Obama is going to put somebody on the court who he feels holds his views. He, himself, is an anti -- or rather, a pro-abortion rights person. So, again, abortion might be discussed, but it's not going to be one of those big topics that I think we'll hear during the confirmation hearings.

LEMON: Mark, you mentioned something I thought was very interesting one, as it concerned Harvard and "Don't Ask, Don't Tell." And I know gay rights has been, you know, on the president's agenda. He has been speaking about it. He has even been criticized by gay rights advocates for not acting quickly enough. This, too, shall be part of the process and will no doubt come up as well.

PRESTON: Yes, and what Republicans say, Don -- what Republicans were saying to me tonight regarding her opposition to military recruiting on the campus of Harvard back when she was the dean of the Harvard Law School because of the "Don't Ask, Don't Tell" policy is what they tell me is, look, if she feels that in her heart, she has shown no record as a judge that that wouldn't influence her while she was on the bench. So Republicans certainly will be keying in on that subject and see if whenever she is on the bench, and if she were to be put on the bench, would she be taking a case and be able to de-personalize herself from it? So that's where we would see that issue come into play.

LEMON: Hey, Mark Preston -- Mark Preston stand by. We're going to update our viewers here. We want to tell you that the breaking news, according to NBC News, Elena Kagan is the president's pick for the Supreme Court, to be the Supreme Court justice nominee. Elena Kagan, the current solicitor general of the United States.

I want to bring in now CNN's Wolf Blitzer, the host of "THE SITUATION ROOM." And not just that, I mean, Wolf knows Washington inside and out.

Wolf, thanks for joining us.

What do you know?

What do you make of this?

WOLF BLITZER, CNN ANCHOR (via telephone): Well, everybody was bracing for Elena Kagan to get this. I don't think it's a huge surprise. She was clearly one of the finalists the last time around when the president picked Sonia Sotomayor. And there's no doubt that the president has tremendous regard for her and the president's advisers do.

She's well-known in Washington circles. I remember when I covered the Clinton White House, and she was an assistant council, a White House council in those days during the Clinton administration. She was really highly regarded then as well.

Obviously, someone who gets to the rank of dean of the Harvard law school brings a lot to the table. So I think she's going to be quite, impressive, if, in fact, she gets this and she goes before the Senate Judiciary Committee for

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confirmation hearings. She'll probably shine. And there's no doubt that the president, if he picks her, he's going to want her to get confirmed.

LEMON: I have a quick question for you. Do you think this will go smoother than Sonia Sotomayor's?

BLITZER: Well, Sonia Sotomayor went relatively smoothly, too. Remember, there were a whole bunch of Republicans who in the end voted to confirm her, including Lindsey Graham. So I suspect this one will go pretty smoothly. She got confirmed to be solicitor general. And it's been well-documented. She doesn't bring a whole lot of -- a track record as far as judicial opinions. So there's not going to be a whole lot of factors here.

I think Mark Preston makes a good point. When she was dean of the Harvard Law School, she did prevent the U.S. military from recruiting on campus, citing the military's "Don't Ask, Don't Tell." And I think that will be an issue that she's going to have to explain in some details, because there will be plenty of members who will be upset about that. Why wouldn't you let the U.S. military come and recruit graduate of the Harvard Law School. And I think she's going to have some explaining to do on that front.

LEMON: Wolf Blitzer. Thank you very much, sir. Stand by, Wolf. I'll probably going to need your help in just a little bit as well here on CNN, and our political editor, Mark Preston standing by in Washington tonight for us as well.

Here's what the breaking news is. We have been hearing that an announcement or a decision from the White House was imminent about who the pick would be for Supreme Court justice, to be the nominee. Of course, the confirmation process still has to go through.

NBC News reporting that it is solicitor general of the United States, Elena Kagan.

You heard from Wolf Blitzer and again from Mark Preston. The Best Political Team on Television working on this breaking news story for you. More on this after the break.

LEMON: Hello, everyone. Don Lemon here on CNN.

Breaking news. We are getting reports that Elena Kagan, the current solicitor general of the United States, will be the next Supreme Court nominee. That is according to NBC News.

We have been speaking to the Best Political Team on Television. Our Wolf Blitzer, also our Mark Preston.

I'll turn to Mark Preston now, who is our political editor.

And, Mark, I'll ask you, she was the odds-on favorite, and as we work on this story and trying to get more information, it would not be a surprise if it is, indeed, so, if this is what's happening.

MARK PRESTON, CNN POLITICAL EDITOR: Yes, that's what a lot of people had been speculating, Don, just over the past couple of days that, in fact, it was going to be Elena Kagan. Somebody who had been on the short list for President Obama last year when he had an opening on the Supreme Court. Of course, that opening went to Sonia Sotomayor.

Elena Kagan is very close to the president. She is his top lawyer on the court, on the Supreme Court. So Elena Kagan certainly knows her way around the building. There's no question about that.

Now, assuming we are to believe that NBC News is reporting correctly that Elena Kagan is his choice for the Supreme Court opening, then, in fact, he wants to put her back in the court, and he has somebody that he can trust, Don. So that's what it comes down to -- trust.

LEMON: Mark, stand by real quickly, because I want to get to someone on the phone.

Jeffrey Toobin and our Gloria Borger are joining us.

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Let's go to Gloria.

Gloria is our senior political analyst here. Gloria, help me out. What are you hearing?

GLORIA BORGER, CNN SENIOR POLITICAL ANALYST (via telephone): Well, we're trying to confirm the NBC News report. What we do know about Elena Kagan is that she's currently close to this administration, obviously solicitor general. She is somebody that conservatives like. She has spoken before the federalist society, was applauded at Harvard when she was the dean of the law school there for appointing some conservative professors. But she has drawn some criticism from conservatives over her efforts to block military recruiters from Harvard, because of the current "Don't Ask, Don't Tell Policy," although in the end, recruiters were allowed on campus.

LEMON: Hey, Gloria -- you know, that was my question to Mark. You know, "Don't Ask, Don't Tell," gay rights. The president has had a very strong focus on gay rights.

BORGER: Right.

LEMON: And he had some criticism as well. So this and abortion, where will this likely play in the confirmation process?

BORGER: No. I think that's going to be an issue. I think you're going to have liberals also questioning her views on executive authority, because she's been a very strong defender of the administration's antiterrorism strategy. And, so, some human rights group and some civil rights groups disagree with her on that. So I think she's somebody who is going to draw some concern from liberals, conservatives, but in the end, is somebody moderate enough that will - if she is, indeed, the nominee, would get confirmed.

LEMON: And it's interesting, you know. I brought up Sonia Sotomayor, now Supreme Court Justice Sonia Sotomayor. I brought that up to Wolf Blitzer. And, you know, sitting from where we sit, you hear all the criticism about her and as much news as we did. And I said, do you think that this process will go smoother than that. And he goes, well, that was a pretty smooth process.

BORGER: Yes, it was a pretty smooth process. You know, what's interesting about Elena Kagan, and of course, Jeffrey Toobin knows her very well and he can speak to this, she has actually written about the confirmation process. And she has written about it critically.

You know, calling it essentially a charade, which, you know, a lot of people say it's become, right, because the potential Supreme Court justices will not answer questions that will directly affect cases that will come before the Supreme Court. And she in the past has been critical of that. So it's going to be very interesting if she's the nominee to watch her as she navigates that and potentially gets her own words thrown back at her. LEMON: It's funny that you should mention, Gloria, Jeffrey Toobin, who is our senior legal analyst here at CNN. Jeffrey is joining us.

Jeffrey, we heard from Gloria Borger that you know her well. Tell our viewers what you know.

JEFFREY TOOBIN, CNN POLITICAL ANALYST (via telephone): Well, we met on the first day of law school in 1983. We were together at Harvard Law School. We were in a study group of four people in our first year, and then we served together in our second and third years, and we've been friends ever since. So I guess everyone should discount or take that into consideration in, you know, when I talk about her. But, you know, she is an old friend. She's someone I know well. And she's a very impressive person. I think she will likely get confirmed.

Her views are somewhat of a mystery, I must say, on a lot of issues. She's never been a judge before. She's the first would-be justice since William Rehnquist in the early '70s to be named to the court without having been a judge first. That's something President Obama cares a lot about, getting out of the rut of picking only judges. But there is some mystery about what she thinks about a lot of issues.

LEMON: So did you call your old friend up. Have you called her up and said, hey, what's going on, Elena.

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TOOBIN: You know what, I have to say, I have resisted that impulse. I have over the past few weeks respected her privacy on this. Perhaps that makes me less of a journalist, but she wouldn't say anything.

LEMON: It's interesting when you know people who are up for things like this, and you feel as a journalist, sometimes, that you want to give them their privacy, right, because they're a friend, but you're reporting on it. So I understand your dilemma here, Jeffrey.

And it's funny how things come full circle. Do you remember we were sitting here, I don't know, I guess a couple months ago on a Saturday or Sunday night, and word came about retiring Justice John Paul Stevens. And you said that you thought it would be imminent, and Elena Kagan was one of the names that you brought up as being high on the list.

TOOBIN: Well, you know, she is a very good candidate from President Obama's perspective. Last week was her 50th birthday, so she's young by Supreme Court standards. She's the youngest nominee since Clarence Thomas. She is someone who is progressive in outlook. She had senior jobs in the Clinton White House, but she has never been so outspoken that she will have a paper trail that will make her an easy target for Republican senators. It will be hard to pin many controversial views on her.

(CROSSTALK) LEMON: Jeffrey, are you saying, and I'm reading between the lines here, did she prepare herself for this? Has she always been preparing herself for this sort of role?

TOOBIN: Well, you know, it's funny that you say that. I've been thinking about that. You know, I do think that she has been interested in the Supreme Court for a long time, and I think she has been somewhat cautious in taking stands. Now, maybe that doesn't stem too much to her credit. Maybe she has been too cautious. But, boy, it sure looks like it's working out awfully well for her, don't you think.

LEMON: Yes, it does. And so again -- listen, Gloria, and Jeffrey Toobin, and Mark Preston, all of you stand by, even our Wolf Blitzer. Everyone is working on this. The Best Political Team on Television. Again, this is a report from NBC News, Elena Kagan, the current solicitor general of the United States. NBC News is reporting that that is the president's choice for -- to replace retiring Justice John Paul Stevens.

Again, the Best Political Team on Television working this story. I'm getting new information as we speak, but stand by. We're going to wait to bring you the rest of the information that we know until we get a break in. We're going to regroup. We'll be back on the other side of this break with our breaking news.

Don't go anywhere.

LEMON: OK. Breaking news here on CNN.

Elena Kagan, the solicitor general of the United States, according to NBC News, and I'm hearing another news organization also reporting the same thing, CBS reporting that as well. The Best Political Team on Television is standing by to help us out.

That man that you see right now. Let's bring Mark Preston up.

Mark Preston is our political editor. Mark and I spoke about this just moments ago. As a matter of fact, it was breaking news just before we were supposed to do our segment, to lead people in, tell them what they should expect next week, and then here it is, right?

PRESTON: Here it is.

LEMON: All right. Mark, stand by. Mark is part of the Best Political Team on Television.

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On the phone, her old friend, our senior legal analyst, Jeffrey Toobin is on the line. Also, Gloria Borger, our senior political analyst, and the man who really knows everything about politics, more than most people have forgotten, he knows everything. He knows everything. Our Wolf Blitzer.

Wolf, it is breaking news, so, of course, I'm anchoring. It feels like this week, I've done every single story.

So, listen, what do you make of this coming at almost 11:00, almost 11:00 I should say Eastern, maybe 10:15, 10:30 on a Sunday night.

Is it about the right time? Is the timing right on on this?

BLITZER: Yes. Well, I think, basically, they wanted to get this done tomorrow. And usually what they do, they sort of informally leak it a few days earlier. They get the final three or four names out there to make sure that there's no big surprise, and so people will get the finalist, the three or four finalists which we got in the last few days. And then, you know, they've got to -- at some point, they got to tell the person who is going to get the nomination that that person has the nomination and then, you know, word starts to get out. It should be a surprise.

The president's schedule tomorrow, I was just looking at it, he's got a bunch of closed-door events, no major public events, so this would be a huge public event, probably if you take a look at what happened when Sonia Sotomayor was formally announced. You know, they sort of just leak it either the night before or that morning. And then late in the morning, they have a formal little announcement at the White House and they introduce the nominee to not only the people at the White House, but to the entire world. And the nominee says something and usually very, very gracious, and then starts to become very quiet and silent until the confirmation hearings, because that's when he or she has to go and meet the various members of the judiciary committee and the other senators, all of whom at some point are going to have to vote whether or not to confirm that nomination. So it's a pretty elaborate process, and it shouldn't be a huge surprise that Elena Kagan is the finalist.

LEMON: Hey, listen, Wolf, do you mind standing by, because I was going to make a question.

BLITZER: Sure.

LEMON: And maybe you can answer this -- I don't know -- or Jeffrey. Talk to us about this Chicago connection here. The president, of course, Chicago, and then Elena Kagan as well, going to -- having gone to law school there -- I'm sorry, she went to Harvard Law, but listen, she has a Chicago connection with the president.

Jeffrey?

Is Jeffrey there?

Anyway, she launched her academic career at the University of Chicago Law School.

Wolf, are you still with us?

BLITZER: Yes, I am. I'm in.

LEMON: Did this play a role, you think, at all that the president may have been familiar with her?

BLITZER: Well, the president, as you know, as all of our viewers will remember, he was an adjunct law professor. He had a little constitutional class that he taught at the University of Chicago Law School. He, himself, is a former president of the Harvard Law Review. So he's got an academic background himself. And there's no doubt that over the years he got to know Elena Kagan, whether in Chicago or elsewhere, and became a big fan, like a lot of people who have worked with Elena Kagan over the years.

She's extremely, extremely articulate, and she will go forward with a lot of self-confidence before that Senate Judiciary Committee and make her case.

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LEMON: Yes. And Wolf, I want to clarify her. She launched her career at the University of Chicago Law School, and then she was a professor at Harvard Law School.

BLITZER: Actually, dean of the Harvard Law School.

LEMON: Dean of the Harvard Law School. There you go. Thank you, Wolf.

Hey, Wolf, don't go anywhere, because I'm going to need your help with this. This is your expertise, as well as the next person we're going to speak with.

Dana Bash is standing to tell us -- give us reaction on Capitol Hill.

Dana, what are you hearing?

DANA BASH, CNN CONGRESSIONAL CORRESPONDENT (via telephone): Hey, there, Don. Well, it's crickets on Capitol Hill right now. Nobody -- sources are really mum on confirming that this is actually the president's pick, but as you've heard from all of my distinguished colleagues before me, this would not be a surprise at all if it, in fact, we do end up confirming what NBC is reporting.

Now I'll tell you what is really interesting about this pick is that, just from my perch on Capitol Hill, what I've heard especially from Senate Democrats, Don, is, that, look, we're getting close to election day in November, and many of the Democrats in the Senate who are up for re-election are moderates from swing states. And the last thing they wanted politically was a nominee who would be hard to defend because here, she would be too liberal. Well, Elena Kagan does not fit into that category.

And preparing for this potential pick, talking to sources late last week, the people said, well, we really -- those people really hope that it would be her. On the other hand, we're already seeing some in the liberal wing of the president's party really unhappy. Because she is somebody, as my colleague with very little -- really, no paper trail, very little, I should say. And that worries a lot of liberals. They say that they're just not for that she is not going to end up like David Souter did to President Bush, where he thought he was putting a conservative on the bench and he ended up being not so much. So I think you're going to see the beginning of a lot of trepidation very publicly from the president's liberal wing of his party.

LEMON: Dana, I like the way you put it. I said, what's the reaction from Capitol Hill, and you said, crickets tonight. No one wants to say anything, huh?

BASH: Not yet. Not yet. It's mum. It is entirely possible, and its history is any guide, probable that the president has put in his courtesy calls if in fact he has formally asked Elena Kagan to be his next pick, put in courtesy calls to the senior leadership of the Senate, particularly on the Democratic side. I checked in with the senior Republican source in trying to make calls, and there's no evidence that has happened crossing the line, the party line so far. But on the democratic side so far, they're letting the president and the White House take the lead on giving the information formally on the president's pick.

LEMON: Listen, on nights like this or even days, wherever it is something like this happens, it is good to have the best Political Team on Television supporting you and we've got all the players.

And I'm sure more will join us as well. Dana Bash, standing by in Washington. Wolf Blitzer, our Gloria Borger, Jeffrey Toobin, and also, of course, Mr. Mark Preston, who we start at this breaking news, but he is in Washington tonight.

NBC News reporting tonight Elena Kagan, the current solicitor general of the United States is President Barack Obama's pick as the next nominee to the Supreme Court.

More on this breaking news when we come back.

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LEMON: So the breaking news here on CNN, that Elena Kagan, the apparent nominee for the president for the next Supreme Court justice of the United States, that is what NBC News is reporting. And we are checking with the Best Political Team on Television.

Wolf Blitzer is standing by on the phone, as well as our Jeffrey Toobin, as well as Gloria Borger, all standing by. Dana Bash as well. And we are also speaking to our Mark Preston, who is joining us from Washington, and Kate Bolduan is going to join us in just a little bit, live from Washington as well.

In the meantime, as we report this, and we work to check on this, what NBC News is reporting, I want to go to Gloria Borger.

Gloria, something very interesting about a woman who is a Supreme Court justice now and there is a connection here with --

BORGER: There is. In fact, Elena Kagan not only has a connection to Barack Obama, but also to Joe Biden. He worked on the Senate Judiciary Committee for her in '93, when she was appointed as special counsel. She worked on the confirmation hearings of now- justice Ruth Bader Ginsburg. And so she is familiar with the proceedings that occur.

And as I was saying earlier, she has also criticized the proceedings, saying that they can become, essentially, a charade and a farce because people don't answer questions directly. You can be sure that conservatives, Republicans will be saying to her, we want to hold you to that standard and we want to get you to answer questions that you think Supreme Court nominees should answer, because that's what you have written in the past.

One more interesting thing about her is that she would be the first sitting solicitor general named to the court since Thurgood Marshall, and she was a law clerk for Thurgood Marshall in 1988.

LEMON: So I want to go to Jeffrey now. Jeffrey, if she is indeed the nominee, then who might we hear will fill her shoes, or will fill her job as solicitor general?

Jeffrey?

All right. No Jeffrey Toobin.

Let's head to Washington now, live, and get our two players here.

Let's look at them right here on the wall.

Kate Bolduan, Mark, stand by, we're coming to you.

Kate, you're standing by in Washington. You're there as well, Mark.

Kate, I know that you're just up and ready now. Are you hearing -- what's the word there, and what's the feel of the city in Washington? We just listened to your report on who she is.

KATE BOLDUAN, CNN NATIONAL CORRESPONDENT: Absolutely. Well, I mean, you've been hearing it from all our colleagues. This wasn't entirely surprising. We did have those four leading candidates, but of course, no one ever knows. But there is definitely a lot of us sensed that it was -- many people have said before, it was Elena Kagan. It was Elena Kagan's to lose.

Everyone really saw her as the front-runner in this. And now if she is the nominee, and of course, again, we have to reiterate, we are working to confirm that it won't be entirely a surprise.

I find it interesting, though, Don, in talking about the position that she would be coming from if she is the nominee, as solicitor general. She's argued six cases so far, before the Supreme Court.

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Her first case, it was a blockbuster. And we've talked about it a lot. It had to do with campaign finance reform. You'll fall asleep. It actually is very important when I say campaign finance reform. The issue was whether or not to open up campaign finance law to allow in more corporate spending. This isn't just big business. This is advocacy groups, union, as well as big business. She had argued on behalf of the government that they did not want, that it would be bad if they opened up the -- to allow more campaign spending on federal elections for big business, because it was drowned out the voices of the little people, the individual voter. Well, the Supreme Court disagreed with her and ruled the other way.

Another big case that I actually covered having to do with religious symbols, a very hot button issues. It had to do with a cross in the middle of the Mohave Desert, which was public land. And the question was whether that was a government endorsement of religion against the constitution, but she argued on behalf of the government that it wasn't, that it was just a traditional cross. The Supreme Court agreed with her, and is now allowing the cross to stand. So she is taking on some big cases in the short-time she has been solicitor general.

LEMON: Kate, stand by, because we need to get a break in here. But, again, this is breaking news here on CNN.

That's our Kate Bolduan in Washington.

NBC News reporting Elena **Kagan** is the president's nominee for Supreme Court justice of the United States. The current solicitor general. We're back in moments here on CNN. We're going to continue to bring you this breaking news story so don't go away.

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