



# CITIZEN ADVOCACY CENTER

## **The PATRIOT Act: Post-9/11 Due Process**

### LESSON PLAN AND ACTIVITIES

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## The Patriot Act: Post-9/11 Due Process Lesson Plan and Activities

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**Grade Level:** 7, 8

**Subject(s):**

- Social Studies: Government

**Duration:** 2 class sessions

**Description:** This lesson provides an opportunity for class discussion of the issues of security and civil liberties. Students should come to appreciate that the line between liberty and security is not always clear and that liberty and security are largely dependent on one another.

**Goals:**

ISBE Standards

*A. Social Science:* 14A

CCR Anchor Standards

**Objectives:**

1. Define the terms “liberty” and “security”;
2. Explain the relationship between liberty and security; and
3. Analyze issues surrounding the USA Patriot Act.

**Materials:**

1. Paper/pens;
2. Blank overhead, whiteboard, or chalkboard; and
3. Copy of handout titled “The Freedom Balance” - one worksheet for each student.

**Instruction and Activity**

**Activity One - The Freedom Balance:**

Lecture

In any government, there is always a delicate balance between liberties and security.

How do you define liberty?

How do you define security?

In the United States, liberties are those rights that are protected by the Bill of Rights as well as the more general liberty to live our lives as we choose. Even with those rights, though, we can't always do whatever we want. For example, someone may get really angry and want to hit someone else. But if everyone were allowed to hit each other when they got mad, no one would feel safe. Individuals can express their feelings about others, but going as far as physically

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hitting another person interferes with that person's freedoms and their right to feel secure in their own person. This is part of the reason why we have laws against hurting other people. At the same time, if we have too many laws for safety, we start to lose liberty. For example, if the government were allowed to know everything about our lives to make sure everyone is behaving well, we lose some of our right to live our lives privately.

### Questions for discussion

- Name a place where you feel safe. What makes you feel safe there? Do you think most people living in the United States before 9/11/01 felt safe like that?

- What happened on 9/11/01 that changed how people felt?

*Answer:* Terrorist attacks on the World Trade Center in New York City, on the Pentagon in Washington, DC, and an attempted attack on either the White House or the US Capitol. The last attack was thwarted, with the hijacked airplane crashing in a field in Pennsylvania.

- How did people feel when the 9/11/01 attacks were happening and shortly thereafter?

*Answer:* Scared, confused, helpless, angry, etc. Most people wanted to know how these attacks could have happened; how the government didn't know about them in advance; and how the government was going to protect us from these attacks in the future.

- How did the government react to the 9/11/01 attacks?

*Answer:* Government officials were scared, confused, helpless, angry, etc., too. President George W. Bush declared a "War on Terrorism".

- Who are we fighting in a war on terrorism? What country?

*Answer:* No specific country. Terrorists can come from every country on the planet.

- The United States attacked the country of Afghanistan. Does anyone know why?

*Answer:* Because the leadership of Afghanistan reportedly supported the terrorists who attacked the United States. Also, Afghanistan reportedly harbored Osama Bin Laden, the leader of the terrorist group Al Qaeda. [Bin Laden was eventually assassinated under the direction of President Barack Obama in May 2011].

- The United States also attacked Iraq. Does anyone know why?

*Answer:* Good question. There has never been a proven link between Iraq and terrorists. The former leader of Iraq, a dictator named Saddam Hussein, was brutal to his own people. The United States alleged that Hussein kept weapons of mass destruction, biological and chemical weapons that could have been used against the Iraqi people or against other countries such as the United States. Weapons of mass destruction have never actually been found in Iraq.

- What do terrorists look like?

*Answer:* Good question. Some people might think, due to the attack on 9/11/01, that terrorists are Muslim people, from the Middle East, with dark skin, eyes and hair. This is a stereotype, however, and terrorists actually cannot be identified by physical appearance.

•What was the most recent terrorist attack on US soil prior to the 9/11/01 attacks?

*Answer:* The Oklahoma City Federal Building bombing.

•Who was responsible for that bombing and what did he look like?

*Answer:* Timothy McVeigh had blonde hair, blue eyes and a crew cut - some might say he looked like the “average” American man.

Terrorists can be anybody, which is why it is so difficult for the police and the FBI to figure out who is going to commit a terrorist act before they do it. One of the tools that our representatives in government put into place to use in the so-called “War on Terror” is the “Patriot Act.” This law is hundreds of pages long and it was passed through Congress and signed by President Bush within a matter of days after the 9/11/01 attacks. The Patriot Act purported to help catch people who are planning to commit acts of terrorism against the US and to prevent another terrorist attack from happening again. There has been a great deal of criticism of the Patriot Act since its passage. This goes back to that balance between liberty and security. Can you have liberty while maintaining security? Can you have security and still maintain the liberties that are guaranteed to us through our Constitution?

Although various provisions of the Patriot Act has been scheduled to sunset at various times, these were all renewed (passed by both houses of Congress and signed by President Obama) for an additional four years in May 2011.

**Here are examples of just a few provisions of the Patriot Act and executive orders signed by the President of the US that were made after the Patriot Act was signed into law. You decide how they balance out on the scale of liberty and freedom:**

1. The Bush Administration labeled some individuals as “enemy combatants.” These individuals are alleged to have been involved in or to have supported terrorist activities. Individuals designated as “enemy combatants” can be held indefinitely without criminal charge, without the right to an attorney, and are eventually to be tried by secret military tribunals. Under international humanitarian law, a criminal suspect cannot be labeled as an enemy combatant except when there has been direct participation in or connection to an international armed conflict. President Bush’s executive order circumvented this standard, allowing individuals on US soil who are suspected of terrorist activities here to be labeled as “enemy combatants,” even in the absence of international armed conflict.

**From what you know about the US Constitution, what parts of the Bill of Rights might be violated with this provision?**

*Answer:* The use of the classification ‘enemy combatant’ has been criticized as violating the Constitutional guarantees to a speedy trial, to be formally charged with a crime, to due process, and to representation by an attorney in a criminal proceeding.

Throughout recent history in the United States, all non-citizens who were living here had to register with the government. In the early 1980’s, the government admitted that no-one was checking the registration cards for all these immigrants and people stopped registering.

**In what way do you see this failure to register as a problem?**

*Answer:* Not knowing who is in the country, where they are in the country, and for what purpose they are in the country could impact national security. People could come into the United States on valid visas as students, tourists, or workers. If their status then changed, and their visas were no longer valid, these individuals without having to register could simply slip into American society, falling between the cracks of the system, with nobody keeping track of them. This is how several of the terrorists who acted on 9/11/01 gained access to the country: the government had lost track of them. As a result, following 9/11/01, the government ordered all non-citizen males of Middle Eastern descent to report to the Immigration and Naturalization Service to ‘register.’ Upon arrival there, many were detained and held in jail, without notice, for questioning regarding possible terrorist activities.

**Do you see any Bill of Rights problems here? What do terrorists look like?**

*Answer:* Again, anyone could be a terrorist. These types of mass round-ups of one particular group of people raises equal protection concerns as well as concerns regarding the right to a speedy trial, to be formally charged, to due process, to an attorney in a criminal proceeding, etc.

How do you feel when you go to the library? Do you feel like you could check out or look at pretty much exactly what you want to (with the exception of pornography)? Outside of seeing whether your books are late, is anybody watching what materials you have been checking out and keeping track of them? Under the Patriot Act, the FBI now has permission to search the records of libraries, bookstores, internet coffee houses, etc., for internet search records and book purchase and check-out records without a search warrant and without informing you before or after the fact if they think there is terrorist activity involved.

**How do you feel about that?**

*Answer:* Consider whether these inquiries by the government represent possible violations of due process, requirement for a search warrant, privacy, etc.

**Why would the government want to know what people are reading or looking at in the library? Why is that information important to the War on Terrorism?**

Government officials can now listen in on conversations between jailed immigrants who are terrorist suspects and their lawyers.

**What rights are potentially at issue here?**

*Answer:* Right to confidential communications with your attorney, right not to implicate yourself in a crime.

**Why would the government want to listen to conversations held between a suspected terrorist and his/her attorney? Why would someone who is charged with a crime think that it is important to have confidential communications with his/her attorney?**

Immigrants who associate with certain religious organizations, charities and churches are subject to investigation merely because of their membership in or their acquaintance with members of those organizations. For example, take Rashid, a 15-year-old boy who is member of the local Muslim Youth Group. The Youth Group is affiliated with the local mosque. A cleric with the local mosque is critical of the United States government and states in a speech that he understands why the World Trade Center was bombed. As a result of that speech, the government decides to investigate not only the cleric, but also everyone who is associated with the mosque as a member or employee, including Rashid. In order to investigate the cleric and others associated with the mosque, the FBI gets warrants to enter secretly into the mosque members' houses, search them, seize items of interest, and never has to tell the homeowners that entry was made.

Another technique allowed under the Patriot Act involves roaming wiretaps. Prior to the Patriot Act, law enforcement needed to get permission from a local judge before initiating a wiretap and needed to obtain specific warrants naming each phone that would be tapped. After the Patriot Act went into effect, the FBI could obtain a warrant to wiretap from a local judge covering any phone anywhere in the country used by a particular individual.

**Why would the government want the power to investigate people such as Rashid or anyone else at his mosque? Why would the government want these types of investigative powers? Why would it be good for the government to have these investigative powers? Do you see any problems as far as the rights of individuals who may fall under investigation due to these powers?**

*Answer:* Rights against unlawful search and seizure, right to due process, right to know the charges against you, etc.

## **Activity**

Pass out the Freedom Balance worksheet. Have the students work either individually or in small groups to try and categorize the words given. The purpose of the exercise is to get the students to realize that the line between liberty and security is not always clear and that liberty and security are often dependent on one another. As future leaders of the country, students will need to balance the ideals of liberty and security when looking at laws like the Patriot Act and at other proposed laws and actions by the government.

After the students have completed the worksheet, use the following questions for discussion:

Take a poll:

- How many of you had trouble deciding which words belonged in which category?
- Which ones were the hardest to categorize?
- Why did you have difficulty deciding?
- Looking at how you categorized the words, do you see any relationship between liberty and security? How are they similar? How are they different?
- Which do you think is more important in a democracy, liberty or security? Why?

## THE FREEDOM BALANCE



LIBERTY

vs.

SECURITY

Look at the phrases and words below and decide if they represent liberty, security or both. For LIBERTY, circle the word; for SECURITY, put a box around the word; if the word represents BOTH liberty and security, underline the word. Be ready to give reasons to support your answers.

DUE PROCESS

SEARCH WARRANT

SAFETY FROM HARM

CENSORSHIP

DEMOCRACY

WAR ID CARDS

DEFENSE

PROTESTS

GOVERNMENT

SPYING

TERRORISM

FREE SPEECH

JULY 4, 1776

CONSTITUTION

LAWS POWER

FBI

EQUALITY

FREEDOM