



2003 ILLINOIS YOUTH SUMMIT
SAFETY AND FREEDOM IN POST-SEPTEMBER 11 AMERICA

*Resource Guide for Students and
Teachers*

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Introduction

Focus Issues: Safety and Freedom after September 11

The attacks of September 11 changed a lot of things in America. Many people now look at civil liberties (their own and those of other people), personal safety, and national security very differently.

The problem, however, of how to balance liberty and security – how to remain both safe and free – is not new. It is one of the enduring tensions that Americans face as part of a democracy.

What is the 2003 Illinois Youth Summit?

Youth have the power to bring about change. Giving students a voice in decisions that affect them is what the Illinois Youth Summit is all about. Since 1995, the Summit has focused on current issues affecting youth. Student representatives from participating schools select issues for study and action throughout the spring semester.

On December 3, 2002, representatives from 25 different high schools across Illinois met and selected three issues that they felt were important to learn about and that might provide insight into how we can best balance liberty and safety in today's America:

- Creating a federal database of information about U.S. Citizens to track potential terrorists and criminals
- Expanding search and seizure powers for federal agencies investigating suspected terrorists or agents of governments with which the U.S. is at war
- Torturing suspected terrorists to gain information about imminent attacks on the United States and/or U.S. citizens

Objectives

The purpose of the 2003 Illinois Youth Summit is to help you and other participating students:

- Learn about the enduring tension between safety and freedom;
- Analyze the facts and discuss different viewpoints relating to the focus issues;
- Design and conduct educational service projects in schools and communities on one of these issues;
- Develop with other students a short position paper on one or more of the focus issues;
- Become actively involved in the culminating Youth Summit on May 1, either as a delegate or in helping to prepare a class delegation; and
- Share what you have learned from the Summit with other students.

What This Curriculum Does

The 2003 Illinois Youth Summit Resource Guide is designed to help you understand and discuss these issues as participants in our democratic society. During the spring semester you and your classmates will study and assess these issues; survey other students on what they think about them; develop a position statement on one or more of the focus issues, and plan and conduct a

service project to address one of these issues. On May 1, 2003, student delegates from each school will meet with state and federal policymakers to share your thoughts and experiences on these issues.

The Guide requires a week to a month to complete [it can be used for an entire semester] and is based on the following assumptions:

- No single solution can fix all of our problems. We need to think about a *range* of responses to problems, not just “one size fits all.”
- People hold diverse viewpoints and have the right to express them. It is important to see other people’s perspectives and to listen to what they have to say, even if we don’t agree with their position.
- Knowing how to make your viewpoint known and to hear what others are saying is critical to being an effective citizen.
- Rarely does everyone agree on what to do or how to do it. It is important to recognize that on most issues there will be a majority and minority viewpoint.
- Everyone has the right – and the responsibility – to participate in the solution, including young people.

This guide provides resources, strategies, and activities to help students understand, analyze, discuss, and take a position on the selected focus issues. It also introduces ways to understand **public policy** – how government responds to problems and gets things done – and to assess how policies affect people and whether policies are effective.

In addition, this guide suggests opportunities for **service projects** related to the focus issues. Learning by doing is one of the best ways to understand issues, to make a difference, and to become an active citizen. It’s also a great way to share what you have learned with peers at your school, in other schools, and in your community. This year for service projects every school in the Summit will plan, conduct, and assess a teach-in devoted to one or more of the focus issues. Each school that completes their project will be recognized on May 1.

Finally, this guide will help you develop the skills to share your position and the perspectives of your classmates with policymakers. Each class will prepare a **position statement** in writing for the Summit, to be shared with others through the media and/or in person at the culminating Summit.

Preparing for the Culminating Summit on May 1

Your class will send a delegation to the Youth Summit on May 1 at the Dirksen Federal Building in Chicago. CRFC will notify your school regarding the final number eligible from your school in the weeks before the Summit.

The delegates selected will be responsible both for speaking for themselves and representing the ideas of everyone in the class. Which policies seemed the most promising? The least? How did issues look in light of your service project and after reviewing the results from the Summit survey? If you disagree with one or more of the policies, what suggestions for alternatives do you have? Remember, the delegation also needs to be able to explain the class service project. You may also want to have your delegation prepare a presentation after they return from the Youth Summit to share their experience with their classmates.

Unit 1: Controversial Public Issues: Defining Terrorism

Overview

This unit is an introduction to the Illinois Youth Summit. It begins with a discussion of terrorism – what it is, how different people understand it, and why these differences are important. The unit also introduces some ways to talk about terrorism and other controversial public issues in our society. The unit also includes the 2003 Illinois Youth Summit Survey, which features questions specific to the issues in this curriculum. Completion and submission of the survey is a requirement for each participating class in the Summit.

Objectives

- Introduce the basic purpose and structure of the 2003 Illinois Youth Summit
- Discuss different definitions of terrorism
- Promote skills for discussing controversial public issues in a civil and respectful manner
- Conduct, tabulate, and submit the results from the 2003 Illinois Youth Summit Survey

Materials

1A: Reading: What is Terrorism?

1B: Activity: Defining Terrorism

1C: Source: Definitions of Terrorism in the U.S. Code

1D: Strategy: Discussing Controversial Issues

1E: Instructions for the 2003 Illinois Youth Summit Survey

1F: Tool: 2003 Illinois Youth Summit Survey

1A: Reading: What Is Terrorism?

Since the terrible events of September 11, 2001, with the attacks on the World Trade Center and the Pentagon, the subject of terrorism has exploded on the world stage. President George W. Bush has declared a war against terrorism. The vast resources of the United States and other countries have been directed toward ending terrorism in America and around the world. Yet, in spite of these developments, it is clear that countries are not only divided about what to do about terrorism, but even about how to define it.

By its nature, the term "terrorism" is bound up in political controversy. It is a concept with a very negative connotation. Because terrorism implies the killing and maiming of innocent people, no country wants to be accused of supporting terrorism or harboring terrorist groups. At the same time, no country wants what it considers to be a legitimate use of force to be considered terrorism. An old saying goes, "One person's terrorist is another person's freedom fighter."

Today, there is no universally accepted definition of terrorism. Countries define the term according to their own beliefs and to support their own national interests. International bodies, when they craft a definition, do so in the interests of their member states. Academics striving to define terrorism are also subject to their own political points of view.

European countries and the United States tend to define terrorism narrowly, making sure that it only applies to acts of non-governmental organizations. For example, Title 22 of the U.S. Code defines terrorism as "premeditated, politically motivated violence" against "noncombatant targets by subnational groups" usually with the goal to influence an audience.

The U.S. Department of Defense uses a definition that highlights another element of the Western concept of terrorism. Terrorism is "the calculated use of violence or the threat of violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally *political, religious, or ideological*." In other words, terrorism is violence designed to advance some cause by getting a government to change its policies or political behavior.

Contrast these definitions with one produced by Iranian religious scholar, Ayatulla Taskhiri in a paper delivered at a 1987 international terrorism conference called by the Organization of the Islamic Conference. After a review of Islamic sources concerning terrorism, Taskhiri defined it as follows: "Terrorism is an act carried out to achieve an inhuman and corrupt objective and involving threat to security of any kind, and in violation of the rights acknowledged by religion and mankind."

This is a much broader definition of terrorism. Under this definition, nation states themselves could be guilty of terrorism. Any inhuman or corrupt objective coupled with an act that threatens security and rights regardless of the motivation could be considered terrorism. Later in his paper, Taskhiri accuses the United States of being the "mother of international terrorism" by oppressing peoples, strengthening dictatorships, and supporting the occupation of territories and savage attacks on civilian areas.

The United States would likely reject this definition and Taskhiri's charges and could point out that many states under this definition would also be chargeable with terrorism. Nevertheless, the definition points out the wide gulf in perceptions about what is terrorism and who is guilty of it.

Consider some additional definitions of terrorism.

"All criminal acts directed against a State intended or calculated to create a state of terror in the minds of particular persons or persons in the general public." (League of Nations, 1937)

"Act of terrorism = Peacetime Equivalent of War Crime." (Alex P. Schmid of United Nations Office for the Prevention of International Terrorism. He is the author of many books on terrorism, including *Terrorism and the Media*, 1992.)

"Terrorism is the premeditated, deliberate, systematic murder, mayhem, and threatening of the innocent to create fear and intimidation in order to gain a political or tactical advantage, usually to influence an audience." (James M. Poland, professor of criminal justice at California State University, Sacramento. He has written extensively on terrorism and hostage crisis intervention.)

While there is no universal definition of terrorism, various experts point out that there are common elements to most terrorist acts.

Acts of terrorism usually are committed by groups who do not possess the political power to change policies they view as intolerable. Middle Eastern terrorism intensified in the 1970s in response to defeats of Arab nations in wars with Israel over the Palestine issue. Convinced that further wars were futile, a number of countries, including Egypt, sought peace with Israel. This enraged groups within those countries dedicated to the defeat of Israel, who then turned to terrorism.

Terrorists choose targets and actions to maximize the psychological effect on a society or government. Their goal is to create a situation in which a government will change its policies to avoid further bloodshed or disruption. For these reasons, terrorists often choose methods of mass destruction, such as bombings, and target transportation or crowded places to increase anxiety and fear.

Terrorists plan their acts to get as much media exposure as possible. Media coverage magnifies the terrorist act by spreading fear among a mass audience and giving attention to the terrorist cause. The attacks on Israeli athletes at the 1972 Olympics assured a worldwide television audience, as did crashing planes into the World Trade Center.

Terrorists often justify their acts on ideological or religious grounds arguing that they are responding to a greater wrong or are promoting a greater good. For example, Leon Trotsky, a communist leader during the Russian Revolution, justified the use of terror by the Red Army as a necessary evil to promote the worldwide cause of workers and as a response to the military actions of counterrevolutionaries and Western powers.

1B: Activity: Defining Terrorism

Divide the class into small groups. Have each group review the various definitions of terrorism listed below and choose the best one. Groups can also use the definitions provided in Handout 1C, "Defining Domestic and International Terrorism in the U.S. Code." Alternatively, each group can begin with these definitions and then create their own definition of terrorism.

- "[P]remeditated, politically motivated violence" against "noncombatant targets by subnational groups" usually with the goal to influence an audience." (Title 22 of the U.S. Code)
- "[T]he calculated use of violence or the threat of violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally *political, religious, or ideological*." (U.S. Department of Defense)
- "Terrorism is an act carried out to achieve an inhuman and corrupt objective and involving threat to security of any kind, and in violation of the rights acknowledged by religion and mankind." (Iranian religious scholar, Ayatulla Taskhiri)
- "All criminal acts directed against a State intended or calculated to create a state of terror in the minds of particular persons or persons in the general public." (League of Nations, 1937)
- "Act of terrorism = Peacetime Equivalent of War Crime." (Alex P. Schmid of United Nations Office for the Prevention of International Terrorism)
- "Terrorism is the premeditated, deliberate, systematic murder, mayhem, and threatening of the innocent to create fear and intimidation in order to gain a political or tactical advantage, usually to influence an audience." (James M. Poland, professor of criminal justice at California State University, Sacramento)

Ask each group to review the following situations, and determine which, if any, are examples of terrorism.

- a. A radical environmental group burns a vacant hotel that was recently legally built in a wilderness area.
- b. Country X, during a time of war, accidentally kills civilians while conducting bombing raids in Country Z.
- c. Country X hires an organized crime group in Country Z to assassinate civilian leaders of a group opposing the international policies of Country X.
- d. A national separatist group in Country X blows up a railroad station in Country Z to discourage that government from supporting policies of the government in Country X.
- e. The bombing of the Oklahoma City federal building
- f. The attacks on September 11

1C: Source: Definitions of Domestic and International Terrorism in the U.S. Code

The following is the definition of international terrorism in the United States Code, 18 U.S.C. 2331:

"As used in this chapter -

- (1) the term "international terrorism" means activities that -
 - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;
 - (B) appear to be intended -
 - (i) to intimidate or coerce a civilian population;
 - (ii) to influence the policy of a government by intimidation or coercion; or
 - (iii) to affect the conduct of a government by assassination or kidnapping; and
 - (C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

Below is the definition of "domestic terrorism: recently passed in the USA PATRIOT Act of 2001 (115 STAT. 376, Public Law 107 – 56 – OCT. 26, 2001)

SEC. 802. DEFINITION OF DOMESTIC TERRORISM [EXCERPTS]

- a) Domestic Terrorism Defined. -- Section 2331 of Title 18, United States Code is amended —
- "(5) the term 'domestic terrorism' means activities that –
 - "(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;
 - "(B) appear to be intended –
 - "(i) to intimidate or coerce a civilian population;
 - "(ii) to influence the policy of a government by intimidation or coercion; or
 - "(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and
 - "(C) occur primarily within the territorial jurisdiction of the United States."

1D: Strategy: Discussing Controversial Issues

As Americans, we cherish our society's openness and our freedom to discuss and argue the issues of the day. This habit of public inquiry is what the scholar Benjamin Barber calls the talk that is "at the heart of strong democracy." Such talk is never more important than during moments of crisis or controversy when our reason is most likely to be clouded by powerful emotions. How can we discuss controversial public issues in a reasonable way that allows us to hear what other people are saying? Here are a few suggestions and a model for discussion.

Suggestions for Discussing Controversial Public Issues

Select the Issue Carefully. Defining what we mean by a controversial public issue is a necessary first step. While definitions are numerous, one workable definition is "a public issue is a question involving a choice or decision over which there is disagreement." This curriculum includes examples in each unit. A useful criterion for selecting an issue is whether it reflects an important and enduring question, one that has reappeared in different forms over time. Many of the questions facing us today fit this criterion because they represent the enduring conflict between liberty and security.

Choose a Model. A good discussion of controversial issues is not the spontaneous conversation you engage in and then never return to. It requires careful planning, execution, and follow-up. Using a model provides structure for your discussions, which in turn makes discussions more productive. A model also helps you identify the skills necessary for a successful discussion. Below is information about one example, the Harvard Public Issues Model, that you can use in class.

Find Strong Materials and Prepare Well. Like older citizens, students need strong examples of arguments that support various claims. Unfortunately, you (and many other citizens) may not have the background information needed to sort out well-supported positions from well-articulated rantings. This curriculum features good background information and some sources for well-reasoned discussions of various positions on the issue. Good preparation also requires an understanding of the purpose of your discussion and some rules for your discussion. "Civil Conversations" [Handout 3C] in this curriculum provides some rules, and your class can agree to other or additional suggestions.

Don't Stop When the Bell Ends the Discussion. A productive discussion of issues isn't a "quick fix," something done the day after a major event, followed by a quick return to business as usual. You need time to identify and locate the information necessary to discuss an issue with insight; you also need time to discuss, reflect, and discuss some more. A good way to continue your discussion is extend it beyond school. The service projects suggested in Unit 5 of this curriculum – writing letters to policymakers or the newspaper, organizing an out-of-class discussion on the issue and reporting back on the results, or preparing informational materials on the issue – offer ways for you to test out what you discuss in class and to gain a deeper understanding of the issue.

The Public Issues Model

This model, developed by the Harvard Social Studies Project during the 1960s and 1970s, rests on the idea that citizens in a democracy differ in their views and priorities and that democratic values often conflict in specific cases. Learning how to take part in this conversation is therefore critical to becoming an effective citizen.

The purpose of discussion in the public issues model is not to resolve disagreements – although that *can* be an outcome – but to help participants learn to state their ideas with more precision, to develop stronger reasons for their positions, and to understand precisely how their ideas differ from the ideas of others.

This model also is based on the idea that disagreements can be of several types and that different strategies may be needed to deal with different kinds of disagreements. In general, the kinds of questions that arise in discussing public issues fall into three categories: (1) questions involving facts and explanations (2) questions of definition (and (3) ethical or value questions.

(1) Questions Involving Facts and Explanations. These questions focus on disagreements about the descriptions or explanations of events. **Example: Will the proposed Total Information Awareness project be an effective way to prevent terrorist attacks against the United States?** In discussion, factual claims can be supported by appealing to common knowledge, citing personal observations, or referring to authoritative sources. In the face of disagreements about facts/explanations, discussion can be moved forward by stipulation (participants agree to proceed on the basis of one set of factual claims, even though not all agree with those claims) or by agreeing to support their positions using other arguments. In fact, fact/explanation issues over which there is disagreement offer good opportunities for further study..

(2) Questions of Definition. These questions revolve around the meaning of important words or phrases. **Example: What do we mean by terrorism?** Resolving these questions can generally be achieved through use of an authoritative source or agreement to use a word in a specific way. While the previous sentence might suggest that definitional issues are not of much significance, that conclusion would be false. Disagreements over definitional issues are often numerous, profound, and unrecognized, and they can result in discussions that go nowhere. Learning that someone else has a totally different definition of *terrorism* than you do, for example, is an important skill.

(3) Ethical or Value Questions. These questions deal with judgments about what should or ought to be done--judgments about rightness and wrongness. **Example: Is it ethical for the United States to use torture with suspected terrorists to stop an imminent attack against civilians?** Often, disagreements about these kinds of questions have to do with which of two conflicting goods (e.g., liberty and security) should take priority. In resolving such disagreements, the model encourages participants to look for compromises that violate each contending value to the least extent possible. One of the most powerful techniques for clarifying thinking on ethical issues is the analogy –such as comparing September 11 to the attack on Pearl Harbor. Examining how an issue might be resolved in one or more related cases forces discussants to make distinctions and qualifications that strengthen and clarify their position.

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1E: Instructions for the 2003 Illinois Youth Summit Survey

Pull out Handout 1F, "2003 Illinois Youth Summit Survey." The Survey provides critical information necessary for the Summit itself. It is designed to reveal what you and other Illinois high school students think about the three focus issues in this curriculum. If there is not enough time at the end of the day, the survey should be completed as homework. If possible, distribute the survey to other classes. Students can also complete the survey on-line at <http://www.crfc.org/summit2003.html>.

When you have completed the survey, please tabulate the results. If you administer the survey to other classes, please tabulate and keep their results separate from your class's results. Send the results to the Constitutional Rights Foundation Chicago.

The deadline for reporting the results of the Illinois Youth Summit Survey is March 25th. CRFC will combine your results with those from all the other schools participating in the Youth Summit. Contact CRFC at 312/663-9057 if you have any questions.

Please remember that conducting and reporting the survey is a **required** portion of the program.

1F: 2003 Illinois Youth Summit Survey

This survey is anonymous. Please answer as honestly as you can. Your opinion matters.

Describe your community:	Rural _____	Suburban _____	Urban _____
Your Gender:	Female _____	Male _____	Your Age: _____

I. TORTURING SUSPECTED TERRORISTS

The United States has signed the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, which defines torture as "any act by which severe pain or suffering is intentionally inflicted on a person." Since September 11, however, some people have suggested that torture of suspected terrorists might help authorities prevent a similar catastrophe.

1. Should the United States consider using torture on suspected terrorists to gain information about imminent attacks on the United States and/or U.S. citizens?
Yes _____ No _____ Don't Know _____
2. Should the United States "render" – turn over – suspected terrorists to countries that use torture during interrogation?
Yes _____ No _____ Don't Know _____
3. Should interrogation methods such as sleep deprivation, sensory deprivation, and being held in painful and awkward positions – methods which some human rights advocates argue may constitute torture – be used by the United States?
Yes _____ No _____ Don't Know _____
4. Should the federal government create a non-lethal "torture warrant" for use with uncooperative suspects whom the government reasonably believes have information about an imminent terrorist attack?
Yes _____ No _____ Don't Know _____

II. EXPANDING SEARCH AND SEIZURE POWERS OF THE FEDERAL GOVERNMENT

The Federal Bureau of Investigation [FBI] is the primary criminal investigative agency in the federal government. Following the attacks of September 11, the central mission of the FBI became the prevention of terrorist acts against the United States and its people. In May 2002 U.S. Attorney General Ashcroft introduced new guidelines for investigations that include a new provision for counter-terrorism activities. Under the old guidelines, the FBI could open an inquiry of criminal activity as long as there was an allegation or information of possible criminal activity [II B (1)]. "For the purpose of detecting and preventing terrorist attacks," the new guidelines allow FBI agents to: attend any public meeting or demonstration, monitor internet chat rooms, and enter religious institutions and attend religious observances without agents necessarily following a lead that is part of an investigation or preliminary inquiry.

1. In order to prevent terrorism, should FBI agents be able to:
monitor public meetings? Yes _____ No _____ Don't Know _____
monitor internet chat rooms? Yes _____ No _____ Don't Know _____
attend religious observances and institutions? Yes _____ No _____ Don't Know _____

- Some people are concerned that the power to visit public places and events might lead to “the bad old days” when the FBI spied on people like Dr. Martin Luther King who were engaged in protected First Amendment activities such as speech, assembly, and worship. Other people believe that the new guidelines are necessary because of the difficulties in tracking terrorists, and they note that no information from these visits shall be retained by the FBI unless it relates to potential criminal or terrorist activity.

Do you think the new guidelines provide:

- ___ too much power to FBI agents?
- ___ appropriate power to FBI agents?
- ___ not enough power to FBI agents?

- For the purpose of detecting or preventing terrorist activities, should the FBI continue to be permitted to visit any place and attend any event that is open to the public, without any indication of criminal activity?

Yes _____ No _____ Don't Know _____

III. CREATING A FEDERAL DATABASE

In response to the attacks of September 11, the U.S. Department of Defense has begun development of the Total Information Awareness (TIA) project. Part of this project is based on the idea that terrorist planning activities or a likely terrorist attack could be uncovered by searching vast quantities of “transaction” data, such as web searches, financial records, purchases, school records, medical records and travel histories. TIA would provide a database of information about individuals in the United States only using data that is legally available and obtainable by the U.S. Government.

- For a federal database such as TIA, would you want to include/keep out the following personal information:

Financial Records?	Include _____	Keep Out _____
Internet/email use?	Include _____	Keep Out _____
Library/Video Records?	Include _____	Keep Out _____
Medical Records?	Include _____	Keep Out _____
School Records?	Include _____	Keep Out _____
Travel Histories?	Include _____	Keep Out _____

- Will the Total Information Awareness project be an effective security measure to reduce the threat of terrorism?

Yes _____ No _____ Don't Know _____

- Is the Total Information Awareness project an acceptable use of personal information about U.S. citizens and residents by the federal government?

Yes _____ No _____ Don't Know _____

- Should the U.S. Government develop the Total Information Awareness project?

Yes _____ No _____ Don't Know _____

Please fax your completed survey or a tally of your results to CRFC at 312/663-4321 no later than March 25. This survey is also available on-line at <http://crfc.org/summit2003.html>.

Unit 2: “Total Information Awareness”: Creating a Federal Database

Overview

An experimental Pentagon research project called Total Information Awareness (TIA) is being created under leadership of the Defense Department’s Information Awareness Office (IAO). The TIA program objective is to aid the United States in detecting, classifying and identifying foreign terrorists in order to successfully preempt and defeat terrorist acts.

This unit examines the Total Information Awareness project and some of the issues it raises for Americans about privacy, freedom, and security in the wake of September 11. This unit also defines and explains public policy – what it is and how it works. The unit introduces GRADE, a strategy for evaluating this and other public policies.

Focus Questions

- Will the Total Information Awareness project be an effective security measure to reduce the threat of terrorism?
- Is the Total Information Awareness project an acceptable use of personal information about U.S. citizens and residents by the federal government?
- Should the U.S. Government develop the Total Information Awareness project?

Objectives

- Provide information about the scope and purpose of the Total Information Awareness project
- Highlight the difficulties faced by the federal government in preventing terrorist attacks within the United States without coordinated access to data located in multiple databases
- Identify concerns surrounding personal information that would be accessible through a coordinated search structure maintained by the federal government
- Generate a working definition of public policy, supply tools for analyzing policy in order to form an educated decision, and promote recognition of the impact of public policy and how to affect policy decisions
- Develop and support a reasoned position on the creation of the Total Information Awareness project

Materials

2A: Reading: What Is Total Information Awareness?

2B: Source: Defense Advance Research Projects Agency’s (DARPA) Office of Information Awareness (OIA) and Total Information Awareness Project

2C: Activity: National Security and Personal Privacy: A Human Graph

2D: Questions: National Security and Personal Privacy

2E: Activity: Developing Total Information Awareness: A Presidential Commission

2F: Strategy: Looking at Public Policy: G R A D E

2A: Reading: What is Total Information Awareness?

In addition to the terrible loss of life and damage to property, the attacks of September 11 were a failure of U.S. intelligence. Information about al-Qaeda members and other groups hostile to the United States was not shared among the Federal Bureau of Investigation, the Central Intelligence Agency, the Immigration and Naturalization Service, and other federal agencies. Trends and possible threats, such as the use of commercial airliners as lethal missiles, were not anticipated or adequately appreciated. Even information that people realized was important – including the Phoenix FBI office’s memo about flight school students – failed to reach the people who might have been able to fit it into a larger pattern. People inside and outside the federal government referred to this problem as a failure to “connect the dots.”

One major challenge to terrorist detection today is the inability to quickly search and correlate data – information – from the many databases already maintained legally by U.S. intelligence, counterintelligence, and law enforcement agencies. How can all this information be reviewed in time? And how can the privacy of ordinary U.S. citizens be protected in the process?

DARPA and Total Information Awareness

Following World War II, the federal government created the Defense Advanced Research Projects Agency, or DARPA, with the mission of researching and demonstrating innovative technologies to solve national-level problems. Since its creation, DARPA has tackled many high-risk research efforts, and its work has resulted in significant advances in using technology. Many important and existing information technologies – including the Internet – began as advanced DARPA research projects.

Following the attacks of September 11, 2001, DARPA created the Information Awareness Offices (IAO) to help conduct research into advanced information capabilities that will give the United States the ability to “detect terrorist groups planning attacks against American citizens, anywhere in the world.” One new program to meet that goal is Total Information Awareness (TIA). According to DARPA, “the goal of the Total Information Awareness (TIA) program is to revolutionize the ability of the United States to detect, classify and identify foreign terrorists – and decipher their plans – and thereby enable the U.S. to take timely action to successfully preempt and defeat terrorist acts.”

Total Information Awareness — How It Works

Over the next five years, the objective for Total Information Awareness is to create a counter-terrorism information system that: “(1) increases information coverage by an order of magnitude, and affords easy future scaling; (2) provides focused warnings within an hour after a triggering event occurs or an evidence threshold is passed; (3) can automatically queue analysts based on partial pattern matches and has patterns that cover 90% of all previously known foreign terrorist attacks; and, (4) supports collaboration, analytical reasoning and information sharing so that analysts can hypothesize, test and propose theories and mitigating strategies about possible futures, so decision-makers can effectively evaluate the impact of current or future policies and prospective courses of action” (DARPA).

TIA will consist of three parts. (1) **Language translation technologies** will allow for the rapid translation of foreign language publications so that intelligence analysts can quickly search for clues about emerging terrorist acts. Many in the intelligence community believe that evidence of terrorist activities can be found in these “open source” foreign language publications. (2) **Data search and pattern recognition technologies** is based on the idea

that terrorist planning activities or attacks could be discovered by searching for clues in "transaction data," such as applications for passport applications, visas, work permits, and drivers' licenses; automotive rentals; and purchases of airline tickets and chemicals. TIA might allow intelligence analysts to connect these transactions with specific events, such as arrests or suspicious activities. (3) **Advanced collaborative and decision support tools** will help solve existing coordination problems by enabling analysts from one agency to effectively collaborate with analysts in other agencies.

Security with Privacy: The Technical Challenges

The technical challenges to Total Information Awareness are enormous. Existing government and commercial databases vary greatly in how they are built, what data they store, and how those data are protected. Federal agencies often do not share data or are prohibited by law from doing so.

In its December 2002 report "Security with Privacy," the Information Science and Technology (ISAT) study group of the independent Institute for Defense Analyses addressed the technical problems for meeting the challenge of greater data search capacity and improved personal privacy. "At the heart of a privacy system will be the ability to express rules for handling private information. These rules must be readable both by machine (so that they can be electronically enforced) and by humans (who can check the rules for accuracy). Similarly, compliance to these rules must be checked (and checkable) both automatically and by people."

ISAT identified three technical strategies to meet these challenges. **Selective revelation** is "a method for minimizing exposure of individual information while supporting the continuous analysis of all data." Selective revelation means revealing to intelligence analysts only statistics and categories of interest but not any data that would directly or indirectly identify a person.

For example, an analyst might issue a query asking where there is any individual who has recently bought unusual quantities of certain chemicals, and as rented a large truck. The [computer query] could respond by saying yes or no, rather than revealing the identify of an individual. The analyst might then take that information to a judge or other appropriate body, seeking permission to learn the individual's name or other information about that individual ["Security with Privacy," p. 10].

In this way, selective evaluation puts a "security barrier" between the analyst and the data.

Another strategy ISAT identified is **strong audit** or "watching the watchers." While nearly everyone recognizes the importance of strong audits – where everyone who comes in contact with data is "audited" or checked – ISAT reports that "these systems themselves pose a substantial challenge. Audit data will be voluminous and highly sensitive. How can we find instances of inappropriate queries? ... This hall of mirrors presents a number of technical challenges" [p. 13].

Rule processing technologies – how information is labeled and what level of protection it receives – are another important strategy because this kind of analysis combines data from diverse sources. Each data source has particular privacy limits. Information also varies greatly in quality and accuracy. Labeling data so that it is recognized and sorted correctly is tremendously difficult. And "even a new information system will likely build on substantial amounts of (accurately or inaccurately labeled) previously existing "legacy data.""

Nevertheless, ISAT concluded that the problem of protecting personal privacy needed study now, not only because of issues raised by national security but also because of the "explosion" in commercial data collection and exploitation and because this is a "ripe time to build on recent

scientific advances." "In any case, the deployment of powerful distributed information system, as envisioned by the Transportation Security Agency, the FBI, and TIA will need powerful privacy mechanisms or else the American people (rightly so) will refuse to accept deployment" [p. 7].

Some experts in technology have doubts that TIA can work. "The kind of things they are looking for are hard to find," according to Herb Edelstein, president of data-mining company Two Crows. "It's not clear this is an economically valuable way to fight terrorism" ["Total Info System Totally Touchy," *Wired News*, December 2, 2002]. "This wouldn't have been possible without the modern Internet, and even now it's a daunting task," according to Dorothy Denning, a professor in the Department of Defense Analysis at the Naval Postgraduate School in Monterey, California. "Do we really know enough about the precursors to terrorist activity? I don't think we are there yet" ["Many Tools of Big Brother Now in Place," *New York Times*, December 23, 2002].

Too Much Like "Big Brother"?

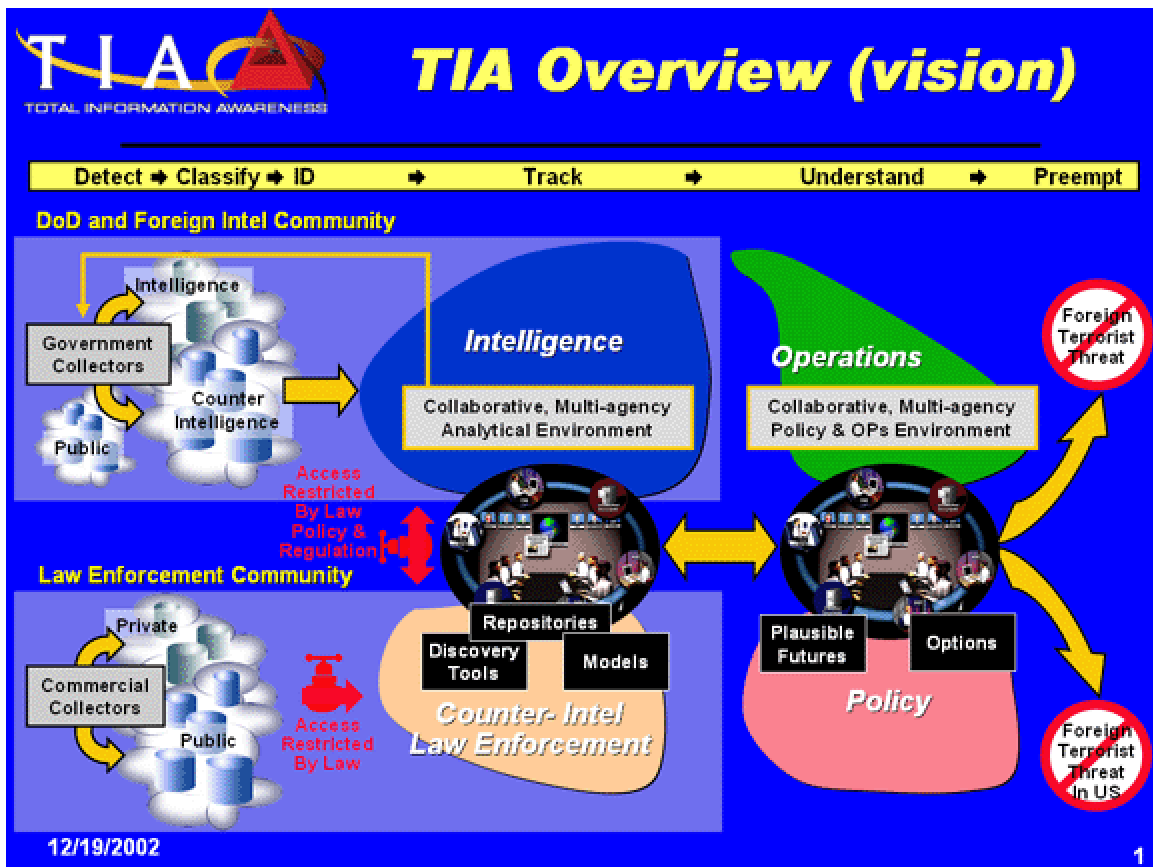
Yet perhaps the greatest challenge facing Total Information Awareness is the privacy concerns of ordinary Americans. Regardless of party, Americans across the political spectrum are very concerned with limiting how personal information is accessed and used by the federal government. Such information is currently protected, sometimes very strictly and often quite loosely, by a complicated web of state and federal laws.

The U.S. Department of Defense, which controls DARPA, has said that TIA "will *not* violate the privacy of American citizens, the Department has safeguards in place. In addition, IAO will research and develop technologies to protect the system from internal abuses and external threats. The goal is to achieve a quantum leap in privacy technology to ensure data is protected and used only for lawful purposes." Defense Secretary Donald Rumsfeld has downplayed concerns about TIA. "You have some very talented people taking some small fraction of the taxpayers' money and investing it to see if we can't find ways to do things better" ("Rumsfeld Says Don't Sweat DARPA Info Awareness Experiment," *Associated Press*, November 18, 2002).

Gene Healy of the Cato Institute disagrees. "If the history of military surveillance of civilians is any indication, accepting that assurance amounts to the triumph of hope over experience" [Beware of Total Information Awareness, January 20, 2003]. In fact, many Americans see the Total Information Awareness program as "Big Brother," the crushing totalitarian state described by George Orwell in his novel *1984*. "Our privacy has actually been protected by the fact that [information collected about Americans] still remains scattered across many different databases," according to Jay Stanley and Barry Steinhardt of the American Civil Liberties Union ("Bigger Monster, Weaker Chains: The Growth of an American Surveillance Society," January 2003). This "pent-up capacity for surveillance... will be realized if the government... gain[s] the ability to *draw together* all this information." Groups as diverse as the conservative Eagle Forum and liberal People for the American Way oppose the idea.

This opposition has found expression in Congress. In January 2003 the U.S. Senate voted to bar deployment of TIA within 60 days of enactment of the bill unless the Defense Department reported in detail on its impact on privacy and civil liberties and the likelihood of its success in stopping terrorists. The research could also continue if President Bush certified to Congress that a halt "would endanger the national security of the United States." While the future of the Total Information Awareness project is still uncertain, the issues of greater security and privacy – in a world of increased data and danger – will remain for the foreseeable future.

2B: Source: Defense Advance Research Projects Agency's Office of Information Awareness and Total Information Awareness Project



Program Objective

The Total Information Awareness (TIA) program is a FY03 new-start program. The goal of the Total Information Awareness (TIA) program is to revolutionize the ability of the United States to detect, classify and identify foreign terrorists – and decipher their plans – and thereby enable the U.S. to take timely action to successfully preempt and defeat terrorist acts. To that end, the TIA program objective is to create a counter-terrorism information system that: (1) increases information coverage by an order of magnitude, and affords easy future scaling; (2) provides focused warnings within an hour after a triggering event occurs or an evidence threshold is passed; (3) can automatically queue analysts based on partial pattern matches and has patterns that cover 90% of all previously known foreign terrorist attacks; and, (4) supports collaboration, analytical reasoning and information sharing so that analysts can hypothesize, test and propose theories and mitigating strategies about possible futures, so decision-makers can effectively evaluate the impact of current or future policies and prospective courses of action.

Program Strategy

The TIA program strategy is to integrate technologies developed by DARPA (and elsewhere as appropriate) into a series of increasingly powerful prototype systems that can be stress-tested in operationally relevant environments, using real-time feedback to refine concepts of operation and performance requirements down to the component level. The TIA program will develop and

integrate information technologies into fully functional, leave-behind prototypes that are reliable, easy to install, and packaged with documentation and source code (though not necessarily complete in terms of desired features) that will enable the intelligence community to evaluate new technologies through experimentation, and rapidly transition it to operational use, as appropriate. Accordingly, the TIA program will work in close collaboration with one or more U.S. intelligence agencies that will provide operational guidance and technology evaluation, and act as TIA system transition partners.

Technically, the TIA program is focusing on the development of: 1) architectures for a large-scale counter-terrorism database, for system elements associated with database population, and for integrating algorithms and mixed-initiative analytical tools; 2) novel methods for populating the database from existing sources, create innovative new sources, and invent new algorithms for mining, combining, and refining information for subsequent inclusion into the database; and, 3) revolutionary new models, algorithms, methods, tools, and techniques for analyzing and correlating information in the database to derive actionable intelligence.

More Information

The Defense Advanced Research Projects Agency's (DARPA) mission is to research and demonstrate innovative technologies to solve national-level problems, such as the grave terrorist threat which our nation faces. DARPA created the Information Awareness Office (IAO) in response to September 11, 2001, to research, develop, and demonstrate innovative information technologies to detect terrorist groups planning attacks against American citizens, anywhere in the world.

Contrary to some recent media reports, IAO is *not* building a "supercomputer" to snoop into the private lives or track the everyday activities of American citizens. Instead, IAO is developing an experimental prototype system that consists of three parts — language translation technologies, data search and pattern recognition technologies, and advanced collaborative and decision support tools. Together, these three parts comprise the Total Information Awareness (TIA) project.

The language translation technologies will enable the rapid translation of foreign language publications and give intelligence analysts the capability to quickly search for clues about emerging terrorist acts. The intelligence community believes it can find evidence of terrorist activities in open source foreign language publications. Rapid translation technologies will help intelligence analysts search a significant amount of material in a much shorter period than is possible today.

The research into data search and pattern recognition technologies is based on the idea that terrorist planning activities or a likely terrorist attack could be uncovered by searching for indications of terrorist activities in vast quantities of transaction data. Terrorists must engage in certain transactions to coordinate and conduct attacks against Americans, and these transactions form patterns that may be detectable. Initial thoughts are to connect these transactions (e.g., applications for passports, visas, work permits, and drivers' licenses; automotive rentals; and purchases of airline ticket and chemicals) with events, such as arrests or suspicious activities. For this research, the TIA project will use only data that is legally available and obtainable by the U.S. Government.

A major challenge to terrorist detection today is the inability to quickly search and correlate data from the many databases maintained legally by our intelligence, counterintelligence, and law enforcement agencies. The collaborative reasoning and decision-support technologies will

help solve existing coordination problems by enabling analysts from one agency to effectively collaborate with analysts in other agencies.

Today, the full TIA prototype exists only as a vision. The project is in its first year of an anticipated 5-year research effort. During the first 36 months, a range of ideas will be developed via limited demonstrations and preliminary prototypes. During the final 24 months, the most promising research avenues will be extended to support production of a scalable leave-behind system prototype. If the project is successful, the Department of Homeland Security will consult with Congress to determine whether the TIA system should be implemented for domestic use. The DoD will consult with Congress on how to best implement the system for protection of U.S. forces overseas.

The DoD recognizes American citizens' concerns about privacy invasions. To ensure the TIA project will *not* violate the privacy of American citizens, the Department has safeguards in place. In addition, IAO will research and develop technologies to protect the system from internal abuses and external threats. The goal is to achieve a quantum leap in privacy technology to ensure data is protected and used only for lawful purposes.

Some individuals have questioned the role of the DoD and DARPA in this area. In its 54-year history, DARPA has undertaken numerous high-risk research efforts that led to significant capabilities. Many existing information technologies-including the Internet-started as advanced DARPA research projects. IAO follows a similar path of technical innovation with its research into advanced information capabilities that will give the United States a decisive edge in the global war on terrorism. All Americans share the frustration associated with vague warnings of terrorist threats. It is believed that IAO and its TIA project will help the U.S. Government reduce those generic reports to advance notice of specific threatening acts.

Text and Graphic from: Information Awareness Office Programs, Defense Advanced Research Projects Agency, United States Department of Defense, <http://www.darpa.mil/iao/TIASystems.htm> and <http://www.darpa.mil/iao/iaotia.pdf>

2C: Activity: National Security and Personal Privacy: A Human Graph

This activity is designed to introduce participants to the different issues raised by the federal government's Total Information Awareness (TIA) project, and to help them realize how they feel and where they stand on the privacy of personal information in the face of threats to national security and their own safety.

Procedures

- Explain the purpose of this activity. Then create a line – either by pointing from one end of the room to the other or by drawing one on the board. One end of the line is “Agree Very Much,” the mid-point is “Not Sure/Undecided,” and the other end of the line is “Disagree Very Much.”
- Ask for five volunteers from the group. Tell them that they will serve as a “human graph.” Explain that you will ask them a series of statements and that they will react to each statement by standing in front of the part of the graph that corresponds to their opinion.
- Instruct the class that the members of the human graph are not allowed to speak; therefore, the class will have to interpret their thoughts for them.
- Select a few statements on Handout 2D, “Human Graph on Total Information Awareness.” After each statement, allow time for the “human graph” to understand the statement and react by physically moving to a position on the line. Then ask the rest of the group to explain why they think the participants in the human graph are standing where they are. You may choose to let the human graph students explain their position after all of the students have commented.
- The human graph students should feel free to move about on the line, changing their opinion if an argument seems persuasive to them. Continue with this process until all statements have been evaluated and discussed. Select additional groups of five for other questions.
- *Note:* This activity can also be done with the entire group along the line. When the whole class is the graph, ask questions of different members about why they chose to stand where they stood.

Followup Questions

After the graph has finished representing the questions, students get into pairs. One student from each pair will identify the three biggest **advantages** of implementing the TIA project. The other students in the pair will identify the three biggest **disadvantages** of implementing the TIA project. Allow three minutes for each side to share their ideas.

Debrief as a large group using the following questions:

- In your pair, what were the three strongest arguments in favor of the Total Information Awareness project? The three strongest arguments against?
- What surprised you about the human graph? How did the participants in the graph shape your thinking about the Total Information Awareness project?

2D: Questions: National Security and Personal Privacy

Questions for A Human Graph

- In order to prevent future terrorist attacks against the United States, the federal government needs to do a better job of “connecting the dots” about terrorist activities here in the U.S.
- When working to prevent terrorism, the federal government must still protect our rights as Americans. Otherwise, the terrorists will have won.
- To help “connect the dots,” it is reasonable that the federal government should be able to combine information it already has about people in its existing databases into one big database.
- A single federal database of personal information goes against our system of checks and balances in government.
- Innocent people do not have to worry about the federal government keeping track of their personal information.
- A reasonable balance between national security and personal privacy would provide the federal government access to:
 - Financial Records
 - Internet/email use
 - Library/Video Records
 - Medical Records
 - School Records
 - Travel Histories
- Having the federal government keep track of personal data seems like an effective way to prevent future terrorist attacks.
- The government is very effective at keeping information secure and safe.

2E: Activity: Developing Total Information Awareness: A Presidential Commission

In a democracy, you have a say on government policies. This simulation is designed to help students understand how policies work and to provide them with a tool for assessing them.

Instructions

Divide students into groups of three or four.

Tell students to imagine that they are members of a commission appointed by the president to make a recommendation on whether to develop the Total Information Awareness project. Explain that their commission has been provided with the information featured in the reading 2A, "What is Total Information Awareness?"

To help them with their task, have them evaluate the policy using Handout 2F, "G R A D E." Briefly review the GRADE instrument and how it works.

Have each group assign roles: a commission **chairperson** (who leads the discussion), a **recorder** (who writes the group's answers to each GRADE test on a sheet of paper), a **reporter** (who reports the commission's findings to the class), and, if the group has four members, a **responder** (who answers any questions the class may have about the group's findings).

When the groups finish, ask them to indicate which recommendation they offered. Call on reporters from the groups in favor of developing Total Information Awareness to answer different GRADE tests. Then call on reporters from groups opposing development of Total Information Awareness to answer the GRADE tests.

When all groups have reported, ask the class as a whole to vote on whether or not to develop the project.

Followup Questions

- Was your group for or against developing Total Information Awareness? What part of GRADE – Goal, Rivals, Advantages, Disadvantages, Evaluation – was most useful?
- Did you change your position during the group reports? If so, what did you find most persuasive?
- Did you decide differently than your group? If so, did working with your group help you understand their position?

2F: Strategy: Looking at Public Policy: G R A D E

Public Policy is a plan of action, adopted by government, to solve a problem or reach a goal.”

In a democracy, you have a say on government policies and proposed policies. It’s important that you take a critical look at them. Use the following GRADE test to analyze the Total Information Awareness project.

<p>Goal</p>	<p>What is the policy and what is its goal? If you don’t know what it’s supposed to do, you can’t measure its success or failure. Policies are designed to address problems. What problem or problems is this policy supposed to address?</p>
<p>Rivals</p>	<p>Who supports this policy? Who opposes it? Knowing the rivals can help you understand who the policy might affect and whether the policy favors special interest. Also, rivals are terrific sources for information. Be sure to check their facts though.</p>
<p>Advantages</p>	<p>What are the policy’s benefits? What is good about the policy? Will it achieve (or has it achieved) its goal? Will it achieve the goal efficiently? Is it inexpensive? Does it protect people from harm? Does it ensure people’s liberties?</p>
<p>Disadvantages</p>	<p>What are the policy’s costs? What is bad about the policy? Is it inefficient? Is it expensive? Does it cause harm? Does it intrude on people’s liberties? Are there any potential consequences that may cause damage?</p>
<p>Evaluate the alternatives</p>	<p>One alternative is to do nothing. Most serious problems have various policy proposals. Evaluate them. Look at their goals, advantages, and disadvantages.</p>

Adapted from: *The Challenge of Information*, © 1998, Constitutional Rights Foundation (Los Angeles)

Total Information Awareness: Questions for Review [may be discussed with a partner]

- How has military surveillance of civilians been used by the U.S. government in the past? What can be learned from these experiences?
- To help “connect the dots,” is it reasonable that the federal government should be able to combine information it already has about people in its existing databases into one big database?
- Does the Total Information Awareness project, which would draw personal information about U.S. citizens from multiple federal databases, run counter to the American system of checks and balances in government?
- Is the federal government effective enough at keeping personal information about U.S. citizens secure and safe?
- If you disagree with the creation of a federal database, what other uses of technology might the federal government use to promote public safety?
- Will the Total Information Awareness project be an effective security measure to reduce the threat of terrorism?
- Is the Total Information Awareness project an acceptable use of personal information about U.S. citizens and residents by the federal government?

Taking a Stand: Position Paper on Total Information Awareness

Policy

Should the U.S. Government develop the Total Information Awareness project?

Steps for Writing Your Position Paper

1. Choose a position **for**, **against**, or as an **alternative** to the policy above.
2. Then team up with classmates who take the same position and as a group, write a persuasive paper arguing the benefits associated with your position on this policy.
3. In your essay, be sure to call on the most **convincing arguments** and **specific evidence and examples** from:
 - the curriculum
 - discussion and other classroom activities
 - the Summit survey results
 - your service project experience
 - people in your community
 - any other sources available to you
4. Include in your paper the most convincing arguments from the **opposing side**. List what you think are the best arguments your policy rivals would make. Acknowledge these points, and do your best to refute the importance of these details.

Specifications for Your Paper

Length. Your paper should be between 300 and 500 words.

Format. Each paper must have the name of the school in the heading and the policy being addressed in the title. No student names will appear on the position papers.

Deadline. All position papers must be received by the Constitutional Rights Foundation Chicago (CRFC) April 21, 2003. Turn in your completed paper to your teacher before that date.

Copies of your position papers will be distributed to policymakers and to students from other schools at the Summit.

Creating a Federal Database: Selected Community, Print, and Internet Resources

Resources

American Civil Liberties Union of Illinois
180 North Michigan Avenue #2300
Chicago, Illinois 60601-1287
312/201-9740
<http://www.aclu-il.org/>

Defense Advanced Research Projects Agency
United States Department of Defense
571/248-1532
<http://www.darpa.mil/>

Electronic Frontier Foundation
www.eff.org

Electronic Privacy Information Center
1718 Connecticut Avenue, NW, Suite 200
Washington, DC 20009
202/483-1140
<http://www.epic.org>

Illinois Secretary of State Jesse White
<http://www.sos.state.il.us/>

Information Awareness Office, Defense Advanced Research Projects Agency
<http://www.darpa.mil/iao/>

Institute for Defense Analyses
<http://www.ida.org/>

Office of the U.S. Attorney, Northern District of Illinois
219 South Dearborn Street, 4th floor
Chicago, IL 60604
312/353-5300
<http://www.usdoj.gov/usao/iln/>

Public Inquiry Office
United States Department of Defense
703/428-0711

Documents

Total Information Awareness (TIA) System
Information Awareness Office, Defense Advanced Research Projects Agency
<http://www.darpa.mil/iao/TIASystems.htm>

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Unit Three: Expanding Federal Search and Seizure Powers

Overview

The Federal Bureau of Investigation [FBI] is the primary criminal investigative agency in the federal government. Following the attacks of September 11, the central mission of the FBI became the prevention of terrorist acts against the United States and its people. In May 2002 U.S. Attorney General Ashcroft introduced new guidelines for investigations that include a new provision for counter-terrorism activities.

This unit focuses on the FBI's revised mission and extended powers under the new guidelines. It provides some background for these guidelines and shows how they are part of an enduring problem in American democracy: What powers does an open society delegate to those who guard that liberty? How does an open society "watch the watchers" so that those powers are not abused? The unit concludes with an opportunity to discuss the merits of this new policy.

Focus Questions

- In order to prevent terrorism, should FBI agents be able to monitor public meetings, monitor internet chat rooms, attend religious observances and institutions on the same basis as other members of the public?
- For the purpose of detecting or preventing terrorist activities, should the FBI continue to be permitted to visit any place and attend any event that is open to the public, without any indication of criminal activity?

Objectives

- Provide a historical and public policy context for the General Guidelines for federal investigations
- Promote understanding of competing interests of security and liberty
- Create a forum for civil discourse on the nature and implications of these changes

Materials

3A: Reading: Expanded Search and Seizure Powers of the Federal Government

3B: Source: Counterterrorism Activities and other Authorizations: Visiting Public Places and Events

3C: Strategy: Civil Conversations

3D: Activity: Legislative Hearing on the Revised Guidelines for Federal Investigations

3A: Expanded Search and Seizure Powers of the Federal Government

The Federal Bureau of Investigation [FBI] is the primary criminal investigative agency in the federal government. It has the “authority and responsibility to investigate all criminal violations of federal law that are not exclusively assigned to another federal agency” [Preamble, “The Attorney General’s Guidelines on General Crimes, Racketeering Enterprise and Domestic Security/Terrorism Investigations” (1989), hereinafter “Thornberg Guidelines”]. But the attacks of September 11, 2001, changed many institutions in the federal government, including the FBI.

A New Mission

The “Uniting and Strengthening America by Providing Appropriate Tools to Intercept and Obstruct Terrorism Act”, known more widely by its acronym the USA PATRIOT Act, was passed by Congress on October 26, 2001 – just over six weeks after the World Trade Center was destroyed. At 342 pages, the bill made changes to over fifteen different federal statutes. Of these many changes, many had special significance for the U.S. Department of Justice, which includes the FBI as one component.

Among other changes, the USA PATRIOT Act: created greater powers of surveillance by the FBI of U.S. citizens, foreign residents, and foreign visitors; expanded the role of the CIA in coordinating intelligence gathering in the United States; and provided for greater cooperation between the CIA and the FBI on the sharing of intelligence. More fundamentally, the FBI’s “highest priority” became “to protect the security of the nation and the safety of the American people against the depredations of terrorists and foreign aggressors” [Preamble, “The Attorney General’s Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations” (2002), hereinafter “Ashcroft Guidelines”].

This change is significant. Traditionally, the FBI has served as a crime solving organization. During its history, it has fought public corruption at all levels, worked against transnational and national criminal organizations and enterprises, combated major white-collar crime as well as significant violent crime, and worked to protect civil rights. As its name implies, the FBI’s work has been primarily investigative – that is, it conducts inquiries and investigations when there is some basis for believing that a violation of federal law is taking place or about to occur. If after a preliminary inquiry, there is no basis for a full investigation, the inquiry is closed.

Immediately after the passing of the of the USA PATRIOT Act in Congress, Attorney General John Ashcroft sought to put the new law into effect through directives to FBI field offices and specific guidelines on a variety of issues, particularly guidelines on the prompt sharing of reports of possible criminal activity by foreign intelligence sources between the FBI and the CIA.

Thousands of FBI agents were redirected from their previous assignments – including narcotics, gang crimes, and white collar crime - following September 11. For many, the shift has proved difficult. In November 2002, the *New York Times* reported that senior FBI officials were frustrated with the FBI’s performance in the war on terrorism and were demanding agents nationwide become more aggressive and focused on hunting terrorists [“F.B.I. Officials Say Some Agents Lack a Focus on Terror,” *New York Times*, November 21, 2002]. Senior FBI officials said some field offices were finding it hard to make the shift, and a memo from Director Robert S. Mueller III to FBI employees also hinted at his frustration in trying to make counter-terrorism FBI’s clear top priority.

New Powers for a New Mission

In May 2002 U.S. Attorney General Ashcroft introduced new guidelines for investigations that include a new provision for counter-terrorism activities. "In order to carry out its central mission of preventing the commission of terrorist acts against the United States and its people, the FBI must proactively draw on all available sources of information to identify terrorist threats and activities. It cannot be content to wait for leads to come in through the actions of others, but rather must be vigilant in detecting terrorist activities to the full extent permitted by law, with an eye towards early intervention and prevention of acts of terrorism before they occur...." He explained the purpose behind these changes as follows:

Current counterterrorism priorities and the advent of the Internet have raised a number of issues which did not exist in any comparable form when the last general revision of these Guidelines were carried out in 1989... Part VI of these Guidelines is designed to provide clear authorizations and statements of governing principles for a number of important activities that affect these areas. [Introduction, D.]

"For the purpose of detecting and preventing terrorist attacks," these activities include FBI agents: operating and participating in counterterrorism information systems; attending any public meeting or demonstration, including entering religious institutions and attending religious observances; monitoring internet chat rooms; and reporting on their activities. These activities, along with close coordination with the CIA, are meant to help the federal government to "connect the dots" in time to avert another disastrous terrorist attack.

A Return to the Bad Old Days?

For many people, these changes in the activities of the FBI sounded ominously familiar. The General Guidelines were an outgrowth of Congressional investigations into intelligence abuses by the FBI against the American people for over 30 years. The Select Committee to Study Governmental Operations with Respect to Intelligence Activities, [more commonly referred to as the Intelligence Activities Committee or the Church Committee after its chairman, U.S. Senator Frank Church (D-Idaho)], held extensive hearings on "whether intelligence activities threaten the 'rights of American citizens,'" [Final Report, I. Introduction and Summary, hereinafter "Church Report"].

"Intelligence Activities and the Rights of Americans," the Committee's final report, documented how the FBI had systematically threatened the rights of Americans through unauthorized, unsupervised, and often illegal intelligence operations involving intelligence collection, the dissemination of collected information, and "covert action designed to disrupt and discredit the activities of individuals and groups deemed a threat to the social order" [Church Report, I.]. The report documented the extraordinary efforts of the FBI to spy on, discredit, and disrupt the activities of literally hundreds of thousands of ordinary Americans and such leading citizens as Eleanor Roosevelt and Martin Luther King, Jr. In summarizing its findings, the report noted that

Too many people have been spied upon by too many Government agencies and too much information has been collected. The Government has often undertaken the secret surveillance of citizens on the basis of their political beliefs, even when those beliefs posed no threat of violence or illegal acts on behalf of a hostile foreign power. The Government, operating primarily through secret informants, but also using other intrusive techniques such as wiretaps, microphone "bugs" surreptitious mail opening, and break-ins, has swept in vast amounts of information about the personal lives, views, and associations of American citizens. Investigations of groups deemed potentially dangerous -- and even of groups suspected of associating with potentially dangerous organizations -- have

continued for decades, despite the fact that those groups did not engage in unlawful activity. Groups and individuals have been harassed and disrupted because of their political views and their lifestyles. Investigations have been based upon vague standards whose breadth made excessive collection inevitable. Unsavory and vicious tactics have been employed.... Intelligence agencies have served the political and personal objectives of presidents and other high officials. [Church Report, I.C.]

The Attorney General's Guidelines were devised in part to respond to these findings.

What Lies Ahead

The Church Committee recognized that "a tension between order and liberty is inevitable in any society" and that "intelligence work has, at times, successfully prevented dangerous and abhorrent acts" ["Church Report," I.]. The FBI and the Justice Department are committed to addressing this tension fairly. Indeed, the statement of purpose for both the former and current guidelines is identical:

The duty of the FBI "must be performed with care to protect individual rights and to insure that investigations are confined to matters of legitimate law enforcement interest.... The Guidelines should encourage Agents of the FBI to perform their duties with greater certainty, confidence and effectiveness. They should also give the public a firm assurance that the FBI is acting properly under the law" ["Ashcroft Guidelines" and "Thornberg Guidelines," preamble].

But the Church Committee also added a warning. "In light of the record of abuse revealed by our inquiry, the Committee is not satisfied with the position that mere exposure of what has occurred in the past will prevent its recurrence. Clear legal standards and effective oversight and controls are necessary to ensure that domestic intelligence activity does not itself undermine the democratic system it is intended to protect" [Church Report, I. C. 7].

3B: Source: Counterterrorism Activities and Other Authorizations: Visiting Public Places and Events

The ability to discuss controversial public issues civilly is a fundamental skill for citizens in a democracy. Learning how to talk about difficult issues takes practice, but such discussions have never been more important.

Below is an excerpt from the Attorney General's New Guidelines for federal investigations which specifically explain new ways that the FBI can gather information in order to prevent terrorist acts.

To prepare, read selection 3A, "Expanded Search and Seizure Powers of the Federal Government." Then break into pairs and identify the most important information and questions the reading raises for you. Discuss as a large group.

Next, working as a class or in small groups, use Handout 3C, "Civil Conversations," to read this excerpt carefully, gain a deeper understanding of what it means, and consider what you think about these practices.

VI. Counterterrorism Activities and Other Authorizations

"In order to carry out its central mission of preventing the commission of terrorist acts against the United States and its people, the FBI must proactively draw on all available sources of information to identify terrorist threats and activities. It cannot be content to wait for leads to come in through the actions of others, but rather must be vigilant in detecting terrorist activities to the full extent permitted by law, with an eye towards early intervention and prevention of acts of terrorism before they occur...."

A. Counterterrorism Activities (2.) Visiting Public Places and Events

"For the purpose of detecting or preventing terrorist activities, the FBI is authorized to visit any place and attend any event that is open to the public, on the same terms and conditions as members of the public generally. No information obtained from such visits shall be retained unless it relates to potential criminal or terrorist activity."

3C: Strategy: Civil Conversations

Rules for Civil Conversations

- (1) Read the text as if it were written by someone you really respected.
- (2) Everyone in the conversation group should participate in the conversation.
- (3) Listen carefully to what others are saying.
- (4) Ask clarifying questions if you do not understand a point raised.
- (5) Be respectful of what others are saying.
- (6) Refer to the text to support your ideas.
- (7) Focus on ideas, not personalities.

Civic Conversation Reading Guide

Reading: _____

Read through the entire selection without stopping to think about any particular section. Pay attention to your first impression as to what the reading is about. Look for the main points, and then go back and re-read it. Briefly answer the following questions.

- 1) This selection is about _____
- 2) The main points are:
 - a) _____
 - b) _____
 - c) _____
- 3) In the reading, I agree with _____

- 4) I disagree with _____

- 5) What are two questions about this reading that you think need to be discussed? (The best questions are ones that have no simple answers, ounces that can use materials in the text as evidence.)

The next two questions should be answered after you hold your civil conversation.
- 6) What did you learn from the civil conversation? _____

- 7) What common ground did you find with other members of the group? _____

3D: Activity: Legislative Hearing on the New General Guidelines for Federal Investigations

Legislative hearings are held by committees of the United States Congress and other legislative bodies to gather information upon which to base recommendations regarding subjects regulated by law or for which laws are being considered. These hearings are a basic function of legislative branches of government. This simulated legislative hearing involves a panel of legislators and fictional groups of citizens – representing a variety of interests – who have come to testify about the New General Guidelines for Federal Investigations.

Preparations

- Assign the following roles (divide the class into groups of 4 to 6):
 - Congressional Oversight Committee.** This Committee is interested in whether Congress should be concerned about the new General Guidelines for the FBI. Six legislators is a practical number for a committee but this number may be varied to meet class requirements. One legislator is designated as chairperson.
 - Center for Civil Liberties.** This group sued the FBI for illegal activities in the past and is concerned about any expansion of powers for federal agents. One person should be prepared to testify.
 - Coalition for American Security.** This national membership organization favors law enforcement and is opposed to foreign aid. Their slogan is “Promoting American values by Protecting American interests.” One person should be prepared to testify.
 - The National Association for Immigrant Rights.** This umbrella organization represents different immigrant groups and is concerned that immigrants will be unfairly targeted under the new Guidelines. One person should be prepared to testify.
 - Safety After September 11.** This group favors creative intelligence gathering and more aggressive law enforcement investigations in order to prevent future catastrophic attacks on U.S. soil. One person should be prepared to testify.
 - Recorder.** A person or persons selected to keep a record of proceedings and present a review of recommendations.
- Explain the purpose of the legislative hearing and the procedures to be followed [see below]. Prepare a handout of the student instructions to a legislative hearing if needed.
- Allow time for participants to prepare for the legislative hearing in accordance with their assigned roles.
- Arrange to use the hearing or committee room of a local legislative body or arrange to have a table for six legislators, a desk for the recorder, and a desk for the witness in the front of your classroom. You might wish to arrange for a gavel and for nameplate with the students’ names and their roles.
- Conduct the legislative hearing using the outlined procedures.

Student Instructions for a Legislative Hearing

1. Prior to the hearing, student legislators may contact local legislators or other outside resource people to understand their proper role as well as to understand current laws on the topic.
2. Prior to the hearing, student witnesses may contact local groups or local chapters of national organizations that would have an interest in this topic. You should obtain any background information that will help you in presenting that group's position on the topic, including a proposed bill that contains their views.
3. Student witnesses may wish to discuss similarities in positions with other student witnesses. You might wish to explore the possibilities of supporting a common bill proposal.
4. The committee chairperson calls the legislative hearing to order, announces the purpose of the hearing, and announces the order in which the witnesses will testify.
5. Each witness is called and permitted a set amount of time to present an opening statement, followed by questions from members of the committee.
6. The chairperson is the first to question the witness, followed by each of the other members of the committee. However, a committee member may interrupt to ask a question or make a comment at any time during the proceedings.
7. The following time limits are suggested: from two to five minutes for a witness' opening statement and from five to ten minutes for questions from the chairperson and other committee members.
8. After the witnesses have been heard, the legislators on the committee review the testimony, discuss the problem, and make recommendations on what their next step(s) will be.

Followup Questions

- In what ways is testifying before a committee an effective way for Congress to get information? In what ways is it limited?
- What was the most compelling thing you learned about the General Guidelines from your preparation? From another participant?
- Do you agree with the committee's recommendation? Why or why not?
- What would help you to understand better this issue?

Adapted from: "Legislative Hearings," *Law-Related Education in Juvenile Justice Settings*. 1993, 1999, 2003: Youth for Justice.

Expanded Search and Seizure Powers of the Federal Government: Questions for Review [may be discussed with a partner]

- Read the text of the Fourth Amendment. What do you believe the Framers of the Constitution meant when they crafted it? What do you think the Framers would say about the new guidelines for federal investigations? What do you think the Fourth Amendment says about them?
- The original General Guidelines for Investigations were introduced in response to abuses of power by FBI agents who spied on people like Dr. Martin Luther King who were engaged in protected First Amendment activities such as speech, assembly, and worship. The new guidelines states that “no information from these visits shall be retained by the FBI unless it relates to potential criminal or terrorist activity.” Is this a sufficient protection against abuse? If not, is it a necessary risk when facing the possibility of future acts of terrorism?
- The last general revision of the Guidelines were written in 1989. The new Guidelines, in particular “Part VI. Counterterrorism Activities and Other Authorizations” were written “to provide clear authorizations and statements of governing principles for a number of important activities that affect these areas.” After September 11, is it better to err on the side of more security than in favor of rights that might be abused by those seeking to commit acts of terror?
- The Federal Bureau of Investigations is part of the U.S. Department of Justice under the supervision of the Attorney General. Who should be responsible for monitoring the FBI in the conduct of their investigations – who, in other words, will watch the watchers?
- When should ordinary citizens learn how the FBI is operating under the new guidelines?
- For the purpose of detecting or preventing terrorist activities, should the FBI continue to be permitted to visit any place and attend any event that is open to the public, without any indication of criminal activity?

Taking a Stand: Position Paper on Expanding Federal Search and Seizure Powers

Policy

For the purpose of detecting or preventing terrorist activities, should the FBI continue to be permitted to visit any place and attend any event that is open to the public, without any indication of criminal activity?

Steps for writing your Position Paper

1. Choose a position **for**, **against**, or as an **alternative** to the policy above.
2. Then team up with classmates who take the same position and as a group, write a persuasive paper arguing the benefits associated with your position on this policy.
3. In your essay, be sure to call on the most **convincing arguments** and **specific evidence and examples** from:
 - the curriculum
 - discussion and other classroom activities
 - the Summit survey results
 - your service project experience
 - people in your community
 - any other sources available to you
4. Include in your paper the most convincing arguments from the **opposing side**. List what you think are the best arguments your policy rivals would make. Acknowledge these points, and do your best to refute the importance of these details.

Specifications for Your Paper

Length. Your paper should be between 300 and 500 words.

Format. Each paper must have the name of the school in the heading and the policy being addressed in the title. No student names will appear on the position papers.

Deadline. All position papers must be received by the Constitutional Rights Foundation Chicago (CRFC) April 21, 2003. Turn in your completed paper to your teacher before that date.

Copies of your position papers will be distributed to policymakers and to students from other schools at the Summit.

Expanding Federal Search and Seizure Powers: Selected Community, Print, and Internet Resources

Resources

American Civil Liberties Union of Illinois
180 North Michigan Avenue #2300
Chicago, Illinois 60601-1287
312/201-9740
<http://www.aclu-il.org/>

Electronic Privacy Information Center
1718 Connecticut Avenue, NW, Suite 200
Washington, DC 20009
202/483-1140
<http://www.epic.org>

Federal Bureau of Investigation
219 South Dearborn Street, Suite 905
Chicago, Illinois 60604
312/431-1333
<http://chicago.fbi.gov/>

Office of the U.S. Attorney, Northern District of Illinois
219 South Dearborn Street, 4th floor
Chicago, IL 60604
312/353-5300
<http://www.usdoj.gov/usao/iln/>
U.S. Department of Justice
www.usdoj.gov

The White House, Homeland Security
<http://www.whitehouse.gov/homeland/>

Documents

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Unit Four: Using Torture on Suspected Terrorists

Overview

The United States has signed the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, which defines torture as “any act by which severe pain or suffering is intentionally inflicted on a person.” Since September 11, however, some people have suggested that torture of suspected terrorists might help authorities prevent a similar catastrophe.

This unit will introduce a definition of torture and provide information about its use in human history and today. It will examine how most countries prohibit torture and explore why the questions are being raised about using torture now in the hope of preventing imminent destruction of innocent life. It also will provide an opportunity to discuss some of the facts, the misperceptions, the arguments, and the alternatives surrounding this controversial practice.

Focus Questions

- Should the United States consider using torture on suspected terrorists to gain information about imminent attacks on the United States and/or U.S. citizens?
- Should the United States “render” – turn over – suspected terrorists to countries that use torture during interrogation?
- Should interrogation methods such as sleep deprivation, sensory deprivation, and being held in painful and awkward positions – methods which some human rights advocates argue may constitute torture – be used by the United States?
- Should the federal government create a non-lethal “torture warrant” for use with uncooperative suspects whom the government reasonably believes have information about an imminent terrorist attack?

Objectives

- Provide a working definition of torture
- Enhance understanding of the uses of torture in human history and today
- Assess the ethical, ideological, and political advantages and disadvantages – both domestically and internationally – of using torture on suspected terrorists
- Promote discussion on the use of a “torture warrant”

Materials

4A: Reading: Torture

4B: Tool: Activity: Sorting Out Positions on Torturing Suspected Terrorists

4C: Activity: Town Hall Meeting on the Torture Warrant

4D: Strategy: Weigh the Evidence

4A: Reading: Torture

The word “torture” brings immediate and unwelcome associations: The Gestapo, the purges under Stalin, the Spanish Inquisition. Whether to discover evidence, to gain a confession, to establish dominance, or ultimately to destroy another person, torture conjures up the very worst images of what human beings are capable of doing and have done to each other.

For many years, the United States and other nations have led the world in trying to abolish the use of torture and condemn those persons and regimes who use it. Yet since the attacks of September 11, there has been a quiet discussion of whether torture might have a place after all in the “war on terror.”

Defining Torture

The United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, to which the United States is a signatory, defines torture as “any act by which severe pain or suffering is intentionally inflicted on a person.” Torture has been part of Roman Law, English Law, even Church Law. Whenever and wherever it is used, torture usually is applied toward one or more of the following goals.

Evidence. Torture is often used to get information or evidence from a prisoner who is otherwise unwilling to give it. It can be very effective – contrary to what the movies portray, most people do talk when subjected to the threat of intense, repeated pain. Even people who are ready to die – and who know they will be executed regardless – will talk under torture [“Torture in History: The Sighting of the Rack,” *The Economist* January 9, 2003].

Confession. Another use for torture is to gain a confession from people suspected of wrongdoing. During the Inquisition in 17th and 18th Century Spain, for example, inquisitors would warn prisoners to tell the truth before and during torture, and they would explain that this was their sole motivation. The confession would allow the suspect to acknowledge the crime – the key to repentance, the salvation of their soul, and possible readmission to society. In essence, the inquisitors were torturing the victims for their own good. [“Torture in Early Modern Spain and Latin America,” 1999]. In modern times, and for quite different reasons, police and state security officials have used torture to gain confessions because of the unique persuasive power of a confession in a trial.

Dominance. Sometimes torture is used by one person or group to demonstrate their power over another person. Often, totalitarian regimes have subjected people to torture for absurd reasons or no reason at all. More than simply instilling fear, torture conducted for power’s sake is ultimately about the torturer’s need to convince the tortured. As Elaine Scarry has written about torture, “The physical pain is so incontestably real that it seems to confer its quality of ‘incontestable reality’ on that power that brought it into being. It is, of course, precisely because the reality of that power is so highly contestable, the regime so unstable, that torture is being used” [*The Body in Pain*, p. 27].

Torture in U.S. and International Law

In response to the horrors of World War II, the United States through the United Nations was a leader in the creation of the Universal Declaration of Human Rights, a turning point in international law and human rights law. The Declaration was intended to be “a common standard of achievement for all peoples and all nations” [*Human Rights for All*, Street Law, Inc, 1996]. While not binding, it is an important statement of principle to which the United States was an original signatory. The Declaration has 30 articles, including Article 5, which states that

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.’ The United States is also a signatory of the United Nations Convention Against Torture.

The United States and Torture After September 11

Following September 11, some people asked whether more extreme means should be used in interrogating Zacarias Moussaoui and others arrested in connection with the planning the attacks. Some voiced approval for the harsh tactics employed against captured al-Qaeda and Taliban fighters in Afghanistan, including American John Walker Lindh.

In December 2002, Dana Priest and Barton Gellman reported in the *Washington Post* that prisoners at U.S.-occupied Bagram Air Force base in Afghanistan were subjected to interrogation methods such as sleep deprivation, sensory deprivation, and being held in painful and awkward positions for many hours. Those prisoners who refused to cooperate were often “rendered” – transferred– without legal process to foreign intelligence services whose governments allow the use of torture during interrogation. “If you don’t violate someone’s human rights some of the time, you probably aren’t doing your job,” said one official [“U.S. Decries Abuse but Defends Interrogations, *Washington Post*, December 26, 2002]. A similar interrogation facility, also run by the CIA, is on the island of Diego Garcia and others exist in various secret locations. The official response has been carefully vague denial.

Does Torture Work?

The assumption behind this quiet discussion is that torture is effective. As noted earlier, torture is effective at getting people to talk. What they say, however, is more problematic. Torture is very effective at getting people to give up vital information, but it is also effective at getting people to say *anything* in order to make the torture stop.

Moreover, the short-term gains in intelligence may have drawbacks in the long-term. “Anybody with real combat experience understands that torture is counterproductive,” said F. Andy Messing, a retired U.S. Special Forces major. “Everyplace it has been used that I have studied – the French were big for it in Algeria – it comes back and bites you” [“Is Torture an Option in the War on Terror? *Insight on the News*, January 21, 2003]. Many soldiers are concerned that if the United States uses torture then captured Americans would be subject to similar treatment. Diplomats point out that, as with the death penalty, otherwise friendly countries might refuse to turn over prisoners to the United States because of the possibility of torture.

Torture Against Terrorism: The Case of Israel

Can a democracy face the extremes of terrorist attacks against innocent civilian targets and not use equally extreme measures to defend itself? Can it afford the luxury of “playing by the rules?” Many people point to the example of Israel. Like Spain and Great Britain, Israel has faced attacks against civilian targets for decades. Unlike these countries, Israel for many years allowed its General Security Services [also known as the Shabach] to use “the application of non-violent psychological pressure” and “a moderate degree of physical pressure” against a suspect [“Commission of Inquiry Report,” Supreme Court of Israel, 1987]. Persons considered terror suspects could have their upper torso forcefully shaken, be forced to hold particular and uncomfortable positions [often hooded] for long periods of time, and be deprived of sleep as part of their interrogation.

In response to numerous suits brought before it, the Supreme Court of Israel in 1999 again considered the means that could be employed for interrogation purposes. While recognizing that “an interrogation, by its very nature, places the suspect in a difficult position” [Decision of

the Court, September 6, 1999, par. 22], it nonetheless ruled that "a reasonable investigation is necessarily one free of torture, free of cruel, inhuman treatment of the subject and free of any degrading handling whatsoever" [par. 23]. Moving from the general to the particular, the Court held that "shaking," the use of the forced crouch, the "Shabach position," [where the suspect is hooded, handcuffed, seated on a low chair and subjected to powerfully loud music], and/or a suffocating hood, are prohibited methods of investigation [pars. 24-32].

The Court also rejected the "necessity defence" as a basis of authority for using physical means during an interrogation [par. 36]. The Court concluded that "the destiny of democracy" is that "not all means are acceptable to it, and not all practices employed by its enemies are open before it. Although a democracy must often fight with one hand tied behind its back, it nonetheless has the upper hand." While allegations of prisoner abuse and even torture are still leveled against Israel, the law no longer sanctions such activities.

A Warrant for Torture?

Still some people, notably Harvard Law School professor Alan Dershowitz, have proposed the creation of a "torture warrant" for use in the United States. Like a regular warrant, the torture warrant would be issued by a judge based on the need to obtain immediate information in order to save lives [the "ticking bomb" scenario], coupled with probable cause that the suspect had such information and was unwilling to reveal it. Suspects would not be prosecuted on the basis of information revealed under torture, and the torture would be limited to terribly painful but non-lethal methods, such as needles under the fingernails.

Dershowitz argues that, however horrible torture may be, it is better for the United States and other democratic societies to openly acknowledge its use and regulate as tightly as possible than to "wink" at its secret use. "It is far better to discuss in advance the kinds of tragic choices we may encounter if we ever confront an actual ticking-bomb terrorist than to wait until the case arises and let somebody make the decision in the heat of the moment" ["When All Else Fails, Why Not Torture?" *American Legion Magazine*, July 2002]. Yet William F. Buckley Jr. of the National Review argues that "Mr. Dershowitz has it, actually, wrong. To attempt to describe legitimate reasons for torture breaks the spiritual back of the law.... Some acts of warfare, like some intelligence, are works of art, not articles of war" ["Tortured Thoughts," *National Review Online*, January 29, 2002]. Many others reject even the "quiet" sanction of torture at all, whatever the circumstances.

Will the United States decide to "bend the rules" on torture? The realities of war with al-Qaeda, and the need for information when innocents face immediate harm, have made a once academic question very real. But treaty obligations and American leadership in human rights around the world are no less compelling and have equally long-term consequences. Like so many other issues in this new era, the answers are uncertain.

4B: Activity: Sorting Out Positions on Torturing Suspected Terrorists

Below are statements concerning the use of torture on suspected terrorists. Read each statement and think about it carefully.

(1) With a partner, review the list of statements and decide together whether each statement is an argument **for** or **against** the use of torture on suspected terrorists. Indicate your decision using "**F**" [argument for using tribunals] or "**A**" [argument against using tribunals].

	In the case of a "ticking bomb," torture may convince a prisoner to give information that would prevent deaths.
	Having an open debate and establishing careful legal limits on torture is responsible democratic behavior instead of pretending it doesn't happen.
	Establishing a precedent that legitimizes torture in only extreme circumstances will make it easier to extend its use.
	In the past, attempts to use torture selectively have lead to widespread abuse.
	Harsh Israeli interrogations have not stopped suicide bombings.
	Moderate "physical pressure" would only be used after physical pressure has failed.
	All major human rights agreements since WWII have absolute bans on torture.
	If the U.S. uses torture systematically against al-Qaeda suspects, they can expect backlash.
	Using torture selectively would send a message of "zero tolerance" by the U.S. to terrorists.
	Using systematic torture may cause problems for the U.S. with European governments who signed international treaties that prohibit the use of torture under any circumstance.
	Federal law enforcement agents will employ torture against suspected terrorists regardless of whether or not it is legal. A "torture warrant" issued by a judge would ensure that torture is limited and monitored and used only in extreme cases.
	The crimes committed on September 11, were unique in character and execution, and the U.S. has no choice but to respond to these crimes with extreme measures.

(2) Still working as a pair, select the three statements which you find most compelling. These statements may be in favor, in opposition, or a combination.

(3) Share your choices with the rest of the class. Be ready to explain and defend them.

4C: Activity: Town Hall Meeting on the Torture Warrant

A town meeting provides members of a community an opportunity to participate in the decision-making process. A community forum usually considers matters of local concern, but the format has also been used on television to conduct “national town hall meetings” on specific issues. A town meeting can serve as a local governing and decision-making body by performing functions similar to those of a representative city council. It can also be advisory in nature, providing elected representatives with the view of citizens.

This town hall meeting will focus on whether the federal government should create a “torture warrant” for use with uncooperative suspects whom the government reasonably believes have information about an imminent terrorist attack.

Procedures

- Organize the town meeting by assigning individuals the following roles:
 - chairperson
 - representative of a group in favor of the torture warrant
 - representative of a group in opposition to the torture warrant
 - community members at large
 - elected officials who represent the entire community in the town or city council, state legislature, or other legislative body.
- Explain to students the purpose of the town meeting and the procedures to be followed.
- Allow time for students to prepare for the town meeting in accordance with their assigned roles.
- If possible, arrange for the use of a larger room than the typical classroom.
- If possible, arrange for local legislators and representatives from local civic improvement associations to serve as resource persons or observers.
- Conduct the town meeting using the following procedures.

Student Instructions for a Town Meeting

1. Prior to the meeting, meet and discuss with community resource persons and groups that have an interest in the proposition to get their background information and proposals.
2. Time limits for each side’s presentation should be agreed upon ahead of time. The chairperson is empowered to cut off debate and discussion when the time limit has been exceeded.
3. The chairperson calls the meeting to order, explains the purpose of the meeting, and describes the rules to be followed during the meeting:
 - a. A person may not speak until he/she is recognized by the chairperson.
 - b. No one may interrupt when a person is speaking.
 - c. All remarks must relate to the proposition being discussed.
 - d. If the speaker wanders from the point, abuses other people, or in any way defeats the purpose of the meeting, the chairperson declares him or her out of order.

4. A representative of the group in favor of the proposition is asked to stand and describe the group's position. After the representative has finished speaking, he/she may ask people brought as witnesses to stand and speak.
5. The chairperson announces that any person in favor of the proposition may stand and speak. They will be recognized in the order in which they stand.
6. A representative of the group opposed to the proposition is asked to stand and describe the group's position. After the representative has finished speaking, he/she may ask people brought as witnesses to stand and speak.
7. The chairperson announces that those people opposed to the proposition will be recognized in the order in which they stand and given an opportunity to speak.
8. After all people on both sides of the proposition have had an opportunity to speak, the chairperson opens the question for additional discussion or debate. During this time any person may stand, be recognized, and present his/her point of view or argue against the point of view of someone else.
9. At the end of this discussion or debate the chairperson calls for a vote on the proposition. The vote is decided by a majority.

Followup Questions

- In what ways is speaking in a town hall meeting an effective way for citizens to share their views? In what ways is it limited?
- Did the vote after the meeting affect how you thought of the process? Were you in the majority or minority?
- What was the most compelling thing you learned about the torture warrant during your preparation? From another participant?
- What would help you to understand better this issue?

Adapted from: "Town Meeting," *Law-Related Education in Juvenile Justice Settings*. 1993, 1999, 2003: Youth for Justice.

4D: Strategy: Weigh The Evidence on Torture

Using the chart below, identify what information you find most useful in helping you think about an issue. See if you can identify information from each kind of source: service projects, survey results, representatives, or the curriculum. Try as a group to identify at least one piece of evidence that you can use to support or to oppose the use of torture of suspected terrorists.

Survey Results	Service Projects
Curriculum and Other Sources	Policymakers

Using Torture on Suspected Terrorists: Questions for Review [may be discussed with a partner]

- Should the United States consider using torture on suspected terrorists to gain information about imminent attacks on the United States and/or U.S. citizens?
- Should the United States “render” – turn over – suspected terrorists to countries that use torture during interrogation?
- Should evidence obtained under torture conducted by other countries be admissible in the federal courts?
- Should interrogation methods such as sleep deprivation, sensory deprivation, and being held in painful and awkward positions – methods which some human rights advocates argue may constitute torture – be used by the United States?
- If torture is permitted, should it be conducted under civilian or military authority?
- What judicial oversight, if any, should accompany torture of suspected terrorists?
- Should the federal government create a non-lethal “torture warrant” for use with uncooperative suspects whom the government reasonably believes have information about an imminent terrorist attack?

Taking a Stand: Position Paper on Using Torture on Suspected Terrorists

Policy

Should the federal government create a "torture warrant" for use with uncooperative suspects whom the government reasonably believes have information about an imminent terrorist attack?

Steps for Writing Your Position Paper

1. Choose a position **for**, **against**, or as an **alternative** to the policy above.
2. Then team up with classmates who take the same position and as a group, write a persuasive paper arguing the benefits associated with your position on this policy.
3. In your essay, be sure to call on the most **convincing arguments** and **specific evidence and examples** from:
 - the curriculum
 - discussion and other classroom activities
 - the Summit survey results
 - your service project experience
 - people in your community
 - any other sources available to you
4. Include in your paper the most convincing arguments from the **opposing side**. List what you think are the best arguments your policy rivals would make. Acknowledge these points, and do your best to refute the importance of these details.

Specifications for Your Paper

Length. Your paper should be between 300 and 500 words.

Format. Each paper must have the name of the school in the heading and the policy being addressed in the title. No student names will appear on the position papers.

Deadline. All position papers must be received by the Constitutional Rights Foundation Chicago (CRFC) April 21, 2003. Turn in your completed paper to your teacher before that date.

Copies of your position papers will be distributed to policymakers and to students from other schools at the Summit.

Torturing Suspected Terrorists: Selected Community, Print and Internet Resources

Community

American Bar Association
312/988-5522
www.abanet.org

American Civil Liberties Union
312/201-9740
www.aclu.org

Amnesty International
212/807-8400
www.amnesty.org

Center for International Human Rights: Northwestern Law School
<http://www.law.northwestern.edu/humanrights/>

Central Intelligence Agency
<http://www.cia.gov>

Human Rights Watch
<http://www.hrw.org>

Public Affairs Officer
United States Department of Defense
703/697-5131

United Nations, Human Rights
<http://www.un.org/rights/>

United States Institute of Peace
www.usip.gov

Documents

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The Supreme Court Of Israel. "Summary of the Judgment Concerning the Legality of the GSS' Interrogation Methods," Decision of the Supreme Court of Israel, Sitting as the High Court of Justice. September 6, 1999.

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United Nations, International Covenant on Civil and Political Rights (1976), Article 7
http://www.unhchr.ch/html/menu3/b/a_ccpr.htm

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<http://www.un.org/Overview/rights.html>

Information and Analysis

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Unit 5: Conducting a Service Learning Project

Overview

Service learning is a process in which students learn and develop important skills by participating in a service experience that meets the actual needs of others.

One important way to do a service for another is provide him or her with valuable knowledge and information. The topics that you have chosen for the 2003 Illinois Youth Summit are ones that effect the lives of all Americans, and through your study of these issues you are gaining essential knowledge. There is a need in your community for people to have knowledge and an understanding of these issues. The tools in this unit will help you to select, plan, and implement a service project in which you educate members of your community on one, two, or all three of the 2003 Summit issues.

Objectives

- Introduce service learning
- Provide suggestions for service learning project activities
- Provide tools for planning and implementing a service learning project

Materials

5A: Selecting a Service Learning Project

5B: Tool: Action Planning for Service Learning

5C: Tool: Service Learning Project Planning Form

5D: Evaluation: Service Learning Project Reflection Log

5A: Selecting a Service Learning Project

The issues that you have selected and are studying for the 2003 Illinois Youth Summit are important and affect the lives of all Americans. For your service project, you will select one, two, or all three issues, and then teach others about them.

There are a variety of effective strategies you may use to teach others. When choosing which method to use, consider the age group you are working with, the amount of time you have, the number of people you will be presenting to, your own talents and skills, the type of information you are relating, and what exactly you want to accomplish.

Listed below are some suggested methods for teaching others about any of the Summit issues. You may use one of these, a combination of more than one, or develop a strategy of your own.

Suggested Service Projects for the 2003 Youth Summit

- Develop a presentation for elementary and/or a middle school students in your community to educate them about an issue. Involve younger students in role-playing activities in which you help them learn and understand the issue.
- Create a school website devoted to this issue. Publish articles and information that are relevant, and allow students in your school to submit poems, stories, advice and facts that are related.
- Invite students from local colleges who are studying the issue or something related to it, to visit your classroom or take part in a school assembly to answer questions.
- Invite professors, experts in the field and representatives from the government for a roundtable discussion on a particular issue. Videotape the discussion for use as a teaching tool in your school and/or other schools.
- Survey students in your school about an issue. Find out from them what they would like to know more about in regards to this issue. Research and publish the answers to their questions. Share the results of the opinion survey with the media and elected officials.
- Create a newsletter or pamphlet devoted to the issue you have selected. Distribute it in your school and community. Share it with others through workshops at other schools.
- Survey the students at your school about their views and knowledge of an issue. Publish the results in the school or community newspaper, along with answers to the questions they have. Share the results with public officials.
- Create and role-play a scene(s) that illustrate and teach others about an issue. Perform the scene for other students at your school. Videotape the performance to be used as a teaching tool in other classrooms

Internet Resources for Service Learning

Corporation for National and Community Service
<http://www.cns.gov>

National Service-Learning Cooperative Clearinghouse
<http://www.nicsl.coled.umn.edu>

National Youth Leadership Council
<http://www.nylc.org>

5B: Action Planning for Service Learning

Keep a planning notebook to help your group stay organized. Use the following questions and the **planning form** to guide your planning and implementation.

Date project must be completed by: _____

1. What issue(s) will you be teaching/informing others about?
2. Who is your audience? Consider the age and size of your audience.
3. How much time will you have to complete the project?
4. At the completion of this project, what do you want your audience to know and understand about the issue(s)?
5. What strategy will you use to teach your audience about the issue(s)? (See worksheet 5a for suggested teaching methods.)
6. What will need to do to complete the project successfully? Consider people you will need to contact, and any skills, transportation, materials and money you will need. Where and how will you get these?
7. What obstacles are you likely to face in implementing your project? How do you plan to overcome them?
8. Using the planning form, put the activities in order of completion, determine what resources you need for each, assign a person to be in charge of each activity, and assign a date by which each activity is to be completed.
9. How will you evaluate the success of the project?

5C: Service Learning Project Planning Form

Task	Date to Be Completed	Resources Needed	How to Get Them	Who Will Work on This Task?

5D: Service Learning Project Reflection Log

Project focus issue(s) _____

Date project was completed _____

Now that you have completed your service learning project, take some time to reflect on your experience.

1. Describe the project you completed:
2. Specifically, what went well?
3. Specifically, what did not go well?
4. What did your audience gain from this experience? How do you know?
5. What would you do differently next time?
6. How did your group work together in the project?
7. What did you learn about yourself from this experience?

Supplemental Internet Resources

Law-Related Education

Constitutional Rights Foundation Chicago
www.crfc.org

American Bar Association Division of Public Education
<http://www.abanet.org/publiced/youth.html>

Center for Civic Education
<http://www.civiced.org>

Constitutional Rights Foundation (Los Angeles)
<http://www.crf-usa.org>

Street Law, Inc.
<http://www.streetlaw.org>

September 11

"America Responds to Terrorism," Constitutional Rights Foundation
<http://crf-usa.org/terror/America%20Responds%20to%20Terrorism.htm>

United States Government

FirstGov
<http://www.firstgov.gov/>

Office of Senator Durbin
<http://www.senate.gov/~durbin>

Office of Senator Fitzgerald
<http://www.senate.gov/~fitzgerald>

Offices of Illinois US Representatives
<http://www.house.gov/your representative's last name>

Federal Bureau of Investigation
<http://www.fbi.gov/>

The White House
<http://www.whitehouse.gov/>

Department of Defense
<http://www.defenselink.mil/>

Department of Justice
<http://www.usdoj.gov>

Institute of Peace
<http://www.usip.org>

Supreme Court of the United States
<http://www.supremecourtus.gov/>

Illinois Government

Illinois State

<http://www.state.il.us>

Governor Blagojevich

<http://www.illinois.gov/gov/>

Attorney General Madigan

<http://www.ag.state.il.us/toc.htm>

General Assembly

<http://www.legisstate.il.us>

For Information on Your State Representative

http://www.legis.state.il.us/bios/house_members.html

For Information on Your State Senator

http://www.legis.state.il.us/bios/house_members.html

Representative

http://www.legis.state.il.us/bios/house_members.html

Secretary of State Jesse White

<http://www.sos.state.il.us/>

For Information on Your State Senator

http://www.legis.state.il.us/bios/house_members.html

Participating Schools

Clemente Community Academy High School, Chicago
Collins High School, Chicago
Curie Metropolitan High School, Chicago
Downers Grove North High School, Downers Grove
Downers Grove South High School, Downers Grove
Farragut Career Academy, Chicago
Immaculate Heart of Mary High School, Westchester
Jones College Prep, Chicago
Kenwood Academy High School, Chicago
Lincoln Park High School, Chicago
Mather High School, Chicago
Mundelein High School, Mundelein
Francis W. Parker School, Chicago
Perspectives Charter School, Chicago
Senn High School, Chicago
St. Gregory the Great High School, Chicago
St. Ignatius College Prep, Chicago
Steinmetz Academic Centre, Chicago
Stevenson High School, Lincolnshire
Streamwood High School, Streamwood
Thornwood High School, South Holland
Williamsfield High School, Williamsfield
Woodruff High School, Peoria
Whitney Young Magnet High School, Chicago

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Constitutional Rights Foundation Chicago
407 South Dearborn, Suite 1700
Chicago, Illinois 60605-1119
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