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Precedents for the Usa Patriot Act: Military Tribunals

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After the 9/11 attacks on New York and Washington, the Federal government enacted, with a minimal amount of Congressional hearings, far reaching legislation designed to help fight terrorism. The legislation gave the government, especially the executive branch, an unprecedented amount of power to arrest and detain people who were thought to be terrorists or who were suspected of having pertinent information. Some of those detained may be subject to special military tribunals.

This unit, designed for an 11th grade United States History class, looks at previous uses of military tribunals and asks several questions. First, at what times and under what circumstances have military tribunals been used? Second, what type of prisoner is subject to this type of tribunal? Third, what are the civil rights of the persons detained and subjected to military tribunals and on what grounds may the government act?

This unit refers to three earlier uses of military tribunals. The first is a tribunal used by Andrew Jackson during his occupation of New Orleans in the War of 1812 (1815) at which a civilian was tried. The second tribunal was convened to try the conspirators in the Lincoln assassination, all of whom were civilians. The third tribunal, that of the German saboteurs who were captured on Long Island and in Florida during World War II, is important because it has been used as a precedent for the actions of the Bush administration regarding the rights of detainees and the extent of executive power. Students will then compare these examples to procedures that are permitted under the USA PATRIOT Act.

(Developed for U.S. History and AP U.S. History, grade 11; recommended for History and Social Studies, grades 10-12)

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