

Civil liberties unlikely to suffer, legal experts say

09/13/01

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David Raybin

Americans can expect more restrictions on travel but won't necessarily find their civil liberties compromised in the wake of this week's terrorist attacks, several legal experts said yesterday.

Soon after hijacked planes rammed into the Pentagon and the twin towers of the World Trade Center on Tuesday, debates about Americans' freedoms and airport security began. People asked if the United States needs to increase the intensity of weapons searches or take other security measures.

Kathleen Flake, an assistant professor of American religious history at Vanderbilt University and an attorney who practiced law in Washington, D.C., for 15 years, said she was more concerned about individuals lashing out at people of certain backgrounds than she was about local, state or federal governments infringing on civil liberties.

But she said she expects people to go along with any new restrictions as long as they agree the nation is at risk of further attacks.

"It all has to do with the extent to which the American people agree with our leadership that we are at war," Flake said. "That changes our understanding of what restrictions are needed to protect ourselves."

Flake and the other experts said Arab-Americans and citizens of Middle Eastern countries might come under particular scrutiny from some quarters. But they warned against "profiling."

"I'm sure there will be suggestions to increase detention of people of Arab descent," said David Raybin, a Nashville attorney and legal scholar. "Clearly, that would be wrong to do that. For us to single out one particular racial group would utterly destroy what this country is about."

Raybin said courts had typically given law enforcement agencies plenty of latitude to conduct searches when they have reason to suspect terrorism. He said he wouldn't be surprised if passengers on certain international flights or flights to particular destinations were subjected to "pat-downs" along with metal-detector searches in the coming months.

Those searches would be legal as long as they applied to every passenger on those flights.

As far as other forms of public transportation are concerned, the courts would consider their vulnerability to attack in deciding whether to allow searches of passengers, Raybin said.

Dean Hill Rivkin, a professor of law at the University of Tennessee-Knoxville, said greater restrictions on travel are inevitable. He said he trusts Congress, the Federal Aviation

Administration and other officials to "do it in a way that's sensitive to our tradition of civil liberties."

Rivkin said he is more concerned about preventing the kind of response the United States made after Pearl Harbor, when thousands of Japanese-Americans were sent to internment camps.

"In times like this in our history, there have been measures taken that this country has not been proud of years later," he said. "My hope is that in the wake of this unfathomable tragedy, our country does not react in ways like that."

Flake said the Oklahoma City bombing should be "a good lesson" to mitigate against that kind of action. Soon after that incident in April 1995, many people speculated that Middle Eastern groups were responsible. American Timothy McVeigh was later convicted and put to death for the bombing.

Moreover, many people from Middle Eastern countries have come to the United States for good reasons, Flake said.

"People may be tempted to suspect the very people who came to this country as refugees from the very people who attacked us," she said.

Raybin said some people may call for a requirement that people wear national identification cards. Or they may want random searches of airline passengers. That wouldn't be the right way to go, he said.

"If we become a police state in the name of security, then those terrorists will have won this war," he said.

"There's always been a tension between security and freedom, and I think Americans have always walked this delicate line. We should be vigilant not to lose what makes us Americans."