

# Individual right vs public order



**ASSIGN  
BUSTER**

Running head: INDIVIDUAL RIGHTS VS. PUBLIC ORDER Individual Rights vs. Public Order Ashley Perez Mountain State Univeristy Summer 1 2011 When our four fathers came together and created the Bill of Rights, they did not think it would last as long as it did. They created something that determines everything in the world, when it comes to crimes and issues. They set up rights for the people to protect the people. The first ten amendments of the Bill of Rights are particularly important to criminal defendants facing formal processing by the criminal justice system (Schmallegger, F. 2008). We were giving rights, for us individuals. Individual rights are the rights guaranteed to all members of the American society by the U. S Constitution ((Schmallegger, F. , 2008). As the world advanced, so did the criminal justice system. This caused more of an emphasis on individual rights that was accompanied by the dramatic increase in reported criminal activity worldwide. Just in the sevenths and eighties, F. B. I. ' s traditional crimes, murder, rape, and assault increased.

With individual rights, came due process. Due process is procedural fairness. Fairness is the idea of doing what is best. It may not be perfect, but it is the good and decent thing to do. It requires being levelheaded, uniform and regular, when all around you is prejudice, corruption, or the desire of an angry mob to see justice done. Fairness requires breadth and depth ( Stevenes, M , 2003). Not only does the outcome have to be fair, but also so does everything along the line such as evidence gathering and presentation. Stevenes, M. , 2003). The due process standard was served in the sixties, by the warren courts. From the beginning, the individual-rights revolution had two critics. First, critics disputed the premise that the government cannot be

expected to honor behavioral norms without being subject to an adversarial process (Super, D. , 2005). Second, critics asserted that enforcing norms through individual rights has heavy costs in the form of lost managerial efficiency of government programs (Super, D. 2005). In the *Mathews v. Eldridge* case, these critiques provided the basis of two of the three prongs of the central due process (Super, D. , 2005). Court's decisions declining to imply private rights of action to enforce statutes and regulations (Super, D. , 2005). Because of this , a movement for over ten years had enforced the rights of several politically weak groups such as immigrants, prisoners, people of troubled families and people suspected to be connected toterrorism.

Of the movement , responses have attacked the individual-rights revolution, braking it into two main forms. First, champions of individual rights have emphasized the importance of those rights, sometimes finding substantive value in the procedures of individual adjudication (Super, D. , 2005). Second, they have sought to rebut assertions that government agencies can be counted upon to conform to legal norms without giving individuals the ability to enforce those norms (Super, D. , 2005). *Mathews v.*

*Eldridge* factors: the individual interest and the risk of erroneous deprivation. however, champions of individual rights have implicitly conceded their opponents' contention that interposing individual rights has a cost in terms of the efficiency of the underlying government activity(Super, D. , 2005). After September eleventh, the world went on a permanent shut down. No one knew who did it and why. Shortly after the towers where down, we all

knew something was to come of this, but we did not know how much it would change our society today.

We knew that the tower was knocked down by a terrorist from the Middle East, but we did not know what they looked like. The world, as a whole, went crazy, and any one and everyone who was of Middle Eastern descent or even looked like they were from the middle east were thrown in jail. People began to judge people by what they looked like, and did not give any one a chance. Air ports were placed under high security, and for the first ever people were thrown out of line just because their shoes did not match. Everything was being overlooked, and studied.

We had U. S Marshals on just about every flight; we did not want something like nine eleven happen again. Just 45 days after the September 11 attacks, Congress passed the USA PATRIOT Act. There are significant flaws in the Patriot Act, flaws that threaten your fundamental freedoms by giving the government the power to access to your medical records, tax records, information about the books you buy or borrow without probable cause, and the power to break into your home and conduct secret searches without telling you for weeks, months, or indefinitely (ACLU, 2007).

The USA PATRIOT Act was intended to break down those barriers and respond to new communication technologies in a number of ways (Pike, G, 2006) . The act broadened the definition of terrorism, permitted extensive sharing of intelligence information, made it easier to get warrants to conduct intelligence investigations, increased the secrecy relating to search warrants, and expanded the scope of information that could be obtained (Pike, G, 2006) . Partially due to its haste in passing the act, Congress decreed that

many-but not all-of the PATRIOT Act's provisions would expire on Dec. 1, 2005(Pike, G, 2006) . A cursory review of the legal literature shows that the USA PATRIOT ACT was " rushed" passed Congress by the Bush administration without following the usual legislative procedure (Wong, K, 2006). Throughout the entire legislative process, neither the Congress nor the Administration has systematically investigated and critically debated the merit--necessity and efficacy, costs and benefits, and the impact and implications of the ACT on the Constitution, on the society, on the people (Wong, K, 2006).

In reality the idea of introducing an act, at the time they did, was good, but the more we thought about it, we realized it goes against everything our four fathers worked hard to put together. We used to live in a world where we where the top dogs and everyone wanted to be like us. Now with all that has happened in the past few years, there is always that big brother over our shoulders, and he is not leaving any time soon. We live in a world where there are sick minded people, who kill people, and kid nap little kids. Where you are never alone and some one is always listening, even when you re the only one in the room. What ever happened to the fourth amendment right: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. We are still entitled to this right , but how are if the at any moment in time the government can say hey lets see who so and so are talking to right now?

It appears as if all the rights and laws created just go back and forth with each other. I thought we were an organized society. How can we say that we will follow the fourth amendment, when we have a completely new act that reverses everything that we are entitled to? We are living in a messed up time, nothing ever seems to make sense, and we are supposed to just know things. We are learning new things everyday, but they just keep changing. How are supposed to know our rights, if the people who makes are not even sure about them. We lock up the wrong people, and let the evil doers go.

What happened, and how did it all go so wrong. Only if they could us now, this is probably why all other countries hate us with a passion. Lately everything is based on what you look like, and your political views. It has nothing to do with who you are. After the nine eleven attacks, the world began to look differently at all people, we saw sides of people we never saw before. We saw more American flags posted outside peoples homes, hung up in store window, then on the fourth of July. Everyone came together, and stood proud for the time in a long time.

The world mental was ready for a fight, but not what we ended up with. Hundreds of lives lost, and many where innocent. When we went to fight, we hit hard, harder then anyone could think. It made us look like we where the bad back , yes we lost hundreds of people in the bombing of the world trade center , but are not supposed to show we are better then them? We lost the trust of the people who we were supposed to be trusting, and faith in the people we loved. We lost all we fought for, for years before this, and to throw it all away.

The American world is so messed, that many of us do not even want to tell people they are American when they leave the country for a vacation. The American name has been bashed, and beaten all because of one event. One event changed our lives forever. It will never be the same, and if you were there, you can never forget the pandemonium that day. The radio stations, gone, no music, just recaps of what happened. No television, just images of how it happened. The news showed pictures of the men who did it and the other who are part of it. The mobs outside, swear they saw one of the people driving a cab, they were all going to look for him.

The kids, so confused, yet understanding that this is going in the history books for ever, and now reading about it in that new edition book, saying I lived it.

## References

1. ACLU. (2007, January 1). USA PATRIOT ACT. American Civil Liberties Union. Retrieved June 1, 2011, from [Http://www. aclu. org/safefree/resources/17343res20031114. html](http://www.aclu.org/safefree/resources/17343res20031114.html)
2. Pike, G. (2006). : USA PATRIOT Act: What's Next?. Information Today, 23(4), 1-2. Schmallegger, F. (2008). Criminal justice: a brief introduction (7th ed. ). Upper Saddle River, N. J. : Pearson/Prentice Hall. Stevens, M. (2003, June 25).

## **DUE PROCESS OF LAW: PROCEDURAL AND SUBSTANTIVE ISSUES.**

NCWC. Retrieved June 1, 2011, from [faculty. ncwc. edu/mstevens/410/410lect06. htm](http://faculty.ncwc.edu/mstevens/410/410lect06.htm) Super, D. A. (2005). Are Rights Efficient? Challenging the Managerial Critique of Individual Rights, A®. Law Review, 93(4), 1051. Retrieved June 1, 2011, from [http://proquest. umi. com/pqdweb?](http://proquest.umi.com/pqdweb?https://assignbuster.com/individual-right-vs-public-order/)

did= 1222808651&sid= 8&Fmt= 2&clientId= 296 77&RQT= 309&VName= PQD Wong, K. C. (2006). The making of the USA Patriot Act I: The legislative process and dynamics. *International Journal of the Sociology of Law*, 34(3), 179. Retrieved May 30, 2011, from [http://proquest.umi.com/pqdweb? did= 1199189181&sid= 6&Fmt= 2&clientId= 296 77&RQT= 309&VName= PQD](http://proquest.umi.com/pqdweb?did=1199189181&sid=6&Fmt=2&clientId=29677&RQT=309&VName=PQD)