

Our Permit is the Bill of Rights: Protecting the Free Speech of Occupy Nashville

When the Occupy Nashville protestors were arrested after weeks of peaceful demonstrations, without probable cause or due process, ACLU-TN stepped in to protect their right to free speech. The protestors were arrested under new rules governing the use of Nashville's Legislative Plaza, which the State illegally adopted in secret and without notice, violating both due process and the Tennessee Sunshine Law.



The protestors had been gathering at the plaza to express their frustration with the government since October 9, 2011, as part of the national "Occupy" movement. For nearly three weeks, the protestors spoke out, held up signs and communicated their frustration in a non-violent manner.

Though historically, other groups had been permitted to gather at the plaza without a permit, on October 27, the State issued the new rules that dramatically restricted demonstrators' ability to protest during business hours, eliminating their right to gather after 4:00 p.m. and implementing a 10:00 pm curfew on the Plaza. They also required protestors to pay use and security fees and to obtain \$1,000,000 in liability insurance coverage prior to engaging in any assembly activity.

The new rules are overly broad and vague and impose a financial restriction on free speech, in violation of demonstrators' First Amendment rights. They were also adopted improperly and applied arbitrarily, as patrons of the Tennessee Performing Arts Center were allowed to be in Legislative Plaza after the 10 p.m. curfew.

On October 31, ACLU-TN filed a lawsuit, *Occupy Nashville et. al., v. Haslam et. al.*, in the United States District Court for the Middle District of Tennessee. Judge Aleta Trauger issued a temporary restraining order later that day prohibiting law enforcement from arresting the protestors at Legislative Plaza. On November 17, the restraining order was converted into a preliminary injunction. The case is still pending in federal court.

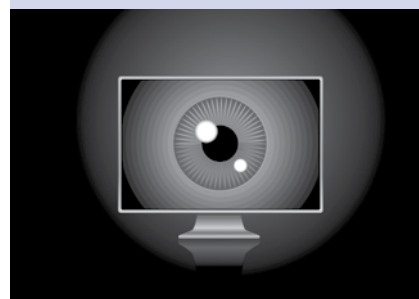
David Briley of Bone McAllester Norton PLLC and Patrick Frogge of Bell Tennent & Frogge PLLC are the ACLU-TN Cooperating Attorneys in the case.

Internet Privacy Upgrade Overdue:

ACLU-TN dotRights Campaign

We shop online. We email. We share photos. We "talk" on social media sites. And the more we do online, the more personal information we leave behind. While our research and chat histories, photos, viewing habits, and friend lists may seem worthless to anyone else but ourselves, they are actually very valuable to companies and to the government.

Companies can combine bits of information from our digital footprints to build a detailed profile of who we are, where we go, and what we do. Once these profiles are created, they can end up being shared with other



companies for targeted advertising, sold to data brokers, or even handed over to the government, which has been taking advantage of outdated privacy laws to compile information about innocent individuals.

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From the Executive Director...

By Hedy Weinberg

I often tell the story about an eleven-year-old boy attending a public school in East Tennessee. When he told his teacher he wanted to be excused from Bible classes held during the school day, he was asked if he had a note from home. He responded “my note is the Constitution.”

These words of Ben Pressnell, who died after a brief illness at the age of 38 on September 11, 2011, reveal his deep and long-held commitment to civil liberties and fairness. They also foretell the path he would take in becoming a human rights activist, a criminal defense attorney, and an ACLU- TN board member.

I first met Ben when he was in high school—by then he and his family had courageously and successfully challenged the Bible classes and other religious activities in their local school system. His mother and grandmother remember that it was Ben who urged them to pursue the lawsuit after all other attempts to stop the practices failed.

Ben attended Vanderbilt University where he received a BA in philosophy and also interned in our state office. Then, following in the footsteps of Bill Harrell, his grandfather and mentor, he chose law as his profession and earned his degree from the University of Tennessee College of Law. He returned home to Tazewell and became managing attorney at Pressnell and Harrell. In 2009, Ben joined the Eighth Judicial District Public Defenders Conference as an assistant public defender. Throughout his professional career, Ben championed the rights of those in need—the disenfranchised and the vulnerable.

Ben embraced life. His enduring devotion was to his wife Amy, a former ACLU-TN program coordinator whom he met at a national ACLU meeting, and to his daughter, Harper.

At our board meeting last May, I asked Ben to describe what it was like to be an ACLU plaintiff in a religious freedom case. He poignantly shared his story, unwavering in his conviction that each of us must stand up for justice and equality for all. Ben lived his life that way—he was an extraordinary human being and I will miss him tremendously.

Youth Empowered at Students’ Rights Conference

By Pomai Verzon, ACLU-TN Intern

High school students from across the state attended ACLU-TN’s Students’ Rights Conference, “Youth In Action” on October 22. The annual event focused on issues that matter to students in school and in the community. The participants, from a variety of diverse backgrounds, buzzed with questions from how to start a GSA to how to respond to racial profiling and learned not only from the experts, but also from each other’s experiences.

The day started with First Amendment Center scholar David



Sgt. Williams demonstrates a traffic stop to students.

Hudson discussing freedom of expression in public schools, impressing students with his detailed knowledge of court cases. Participants then broke into groups to learn about “Street Law” from Sergeant Anna-Maria Williams of the Metro Nashville Police Department or to attend “Out of the Closets and Into the Classrooms” with Pamela Sheffer of the Oasis Center. Next, students enjoyed a frank presentation on cyberspeech by ACLU-TN Legal Director Tricia Herzfeld, who asked students to reconsider their notions of Internet privacy.

In “Activism 101” Lindsay Kee, ACLU-TN Communications Director, and Lawanda Bradley of the Oasis Center led a call to action and provided students with tactics to impact their community. Students left empowered with the realization that they had more rights than many of them had realized, and the knowledge of how to stand up for them.

Students interested in learning more about their rights can get a copy of *Know Your Rights: A Guide for Public School Students in Tennessee* at our website. ACLU-TN is also looking for high school youth interested in civil liberties to serve on its Youth Advisory Committee, helping build ACLU-TN’s youth program. Please email aclutn@aclu-tn.org for more info.

Protecting a Monroe County Student's Free Speech Rights

When Sequoyah High School senior Chris Sigler was reportedly physically and verbally harassed by Principal Maurice Moser for wearing a T-shirt in support of the formation of a gay-straight alliance student



club (GSA), ACLU-TN and the ACLU LGBT Project immediately intervened to demand that the school board revise its

policies restricting student speech.

Students in public high schools have a First Amendment right to express themselves through their clothing, as long as the messages they send do not cause a "substantial disruption" to instruction; teachers and administrators may not censor student speech on the basis of viewpoint or content. ACLU asked Sequoyah High School to ensure that students in the future are permitted to express controversial viewpoints, such as pro- or anti- GSA messages, through their clothing.

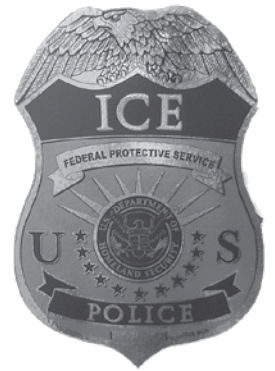
After ACLU intervened, the Monroe County Board of Education agreed to allow students to wear T-shirts in support of the formation of a GSA at the school. The board will also review its dress code to ensure that students' rights to free speech are protected.

"A lot of kids get harassed at our school because they're gay or they have gay friends, and we just want a space where we can all support each other and do something positive," said Sigler. "The way I was treated shows even more why we need a GSA to help stop the bullying against gays and lesbians and their friends. We still want the GSA to be recognized as a club, but at least now the school won't punish us for peacefully expressing our opinions."

"We Don't Need a Warrant, We're ICE": Challenging an Immigration Raid

On the night of October 20, 2010, Angel Escobar and Jorge Sarmiento were in their beds in their small, two-bedroom apartment in the Clairmont complex in Nashville. Several roommates and friends were in other rooms. The doors and windows were all shut and locked. Suddenly there was a loud banging at the door and voices shouting "Police!" and "Policia!" When no one answered, the agents tried to force the door open. Scared, occupants hid. Immigration and Customs Enforcement (ICE) agents began hitting objects against the bedroom windows, trying to break in. Without a search warrant and without consent, the ICE agents eventually knocked in the front door and shattered a window, shouting racial slurs and storming into the bedrooms, holding guns to some people's heads. When asked if they had a warrant, one agent reportedly said, "We don't need a warrant, we're ICE," and, gesturing to his genitals, "the warrant is coming out of my balls."

The Fourth Amendment strictly prohibits warrantless intrusions into private homes and the Constitution's protections apply to both citizens and non-citizens alike. In the absence of a judicially authorized warrant, there must be voluntary and knowing consent; ICE officers forcing themselves into someone's home does not constitute consent.



On October 19, ACLU-TN and the ACLU Immigrant Rights Project filed a lawsuit in federal court on behalf of fifteen residents of the apartment complex who were subjected to this large-scale, warrantless raid by ICE agents and Metro Nashville police officers.

Among the plaintiffs are U.S. citizens, including a child detained and interrogated while playing soccer on the playground simply because of the color of his skin. Looking Latino and speaking Spanish is not enough to justify probable cause for questioning and arresting a person. Another plaintiff was carted away in handcuffs in front of his frightened and crying children.

Unfortunately, the Clairmont raid is not an isolated incident. As the Department of Homeland Security and its enforcement arm, ICE, expand their aggressive immigration enforcement policies, all too often the constitutional rights afforded to everyone living in the United States are violated. Even as ICE carries out its mission, it must act in accordance with the law and in a manner that is humane.

NOTE: This article originally appeared in ACLU's Blog of Rights on October 21, 2011.



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dotRights campaign, continued from p. 1

In early November, the ACLU of Tennessee launched a “dotRights” campaign focused on updating and expanding privacy laws to include new developments in technology, so that the government has the same restrictions on access to Americans’ private, personal information online as they do offline. The campaign’s central legislative goal is updating the Electronic Communications Privacy Act, the law that governs our online privacy that was last updated in 1986—before the Internet even existed.



The campaign kicked off with a statewide speaking tour with stops in Knoxville, Nashville, and Memphis. The panel discussions featured Allie Bohm, National ACLU Policy and Advocacy Strategist, and various Tennessee experts including UT-Knoxville College of Law Dean Douglas A. Blaze and Professor Glenn Reynolds; University of Memphis professor Kris Markman; attorney Brian

Faughnan of Thomason, Hendrix, Harvey, Johnson & Mitchell PLLC; artist and Renaissance Center curator Jason Driskill; and Vanderbilt professor Bruce Barry. The events explored the government’s and companies’ access to what most people perceive to be private online information, current law that governs online privacy, and the new Tennessee law banning the transmission of “offensive” images online.

So what can you do to protect your online privacy? Visit our dotRights web center at www.aclu-tn.org/dotRights.html to learn more and take action. Demand a privacy upgrade! Demand your dotRights!

ACLU-TN Honored by Tennessee Muslims

On November 12, ACLU-TN was presented with an “Outstanding Leadership Award” by Muslims from across the state. The award was presented by Daoud Abudiab, past president of the Islamic Center of Columbia, Tennessee to Executive Director Hedy Weinberg “in grateful appreciation for exemplary dedication and commitment to protecting the constitutional rights of Tennesseans – From Tennessee Muslims.” During the 2011 legislative session, ACLU-TN joined with Muslims and clergy statewide in opposing a bill that targeted Muslims’ right to practice their faith. ACLU-TN also reached out to mosques, sharing “Know Your Rights” information this past year.