

July 2, 2020

Via U.S. Mail and Electronic Mail to Bill.Lee@tn.gov

The Honorable Bill Lee
1st Floor, State Capitol
Nashville, TN 37243

Dear Governor Lee:

The American Civil Liberties Union of Tennessee and Mr. Robert Briley, Esq., write to you concerning the recent “People’s Plaza Tennessee” demonstrations at the Legislative Plaza. We also attach to this letter a public records request pursuant to the Tennessee Public Records Act, Tenn. Code Ann. §10-7-503(a). We represent several protestors participating in the “People’s Plaza” protests on and around the State Capitol and Legislative Plaza. We are deeply troubled by the repeated arrests of protestors and the seizure of their food, water, signs, and personal effects—including medication—by Tennessee Highway Patrol (“THP”) officers without cause or any due process of law.

The “People’s Plaza” protests began on June 12, 2020. Members of the movement call for, among other things, the defunding of police, a meeting with you, the Governor of Tennessee, and the removal of the Nathan Bedford Forrest bust at the State Capitol Building. Beginning June 15, 2020, THP officers have repeatedly arrested and charged protestors with criminal trespass and other petty crimes. Just three days ago, THP officers arrested the largest group of demonstrators: forty-two people, including two children. Videos of the arrests show protestors calmly standing on the sidewalk facing the capital building and then voluntarily placing their hands behind their backs to be arrested. Early on the morning of June 30, five additional protestors were arrested and charged with violating the Equal Access to Public Property Act, Tenn. Code. Ann. § 39-14-414, which forbids camping on certain state grounds.

More disturbingly, THP officers have routinely taken protestors’ personal belongings and supplies. On June 17 and June 23, video footage taken by protestors shows THP officers loading water bottles, foam coolers, clothing and other personal items, political signs, and canopies into the back of a large truck. At no point was anyone provided a copy of a warrant for seizure of the property, a notice of seizure or any sort of inventory of the items seized.



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On June 25, footage shows THP officers again loading chairs, political signs, cases of unopened water bottles, clothing, blankets, and sheets into a truck. This time, THP officers provided the numerous protestors with one, single itemized list of seized property and provided verbal instructions to collect items at the Tennessee Highway Patrol Headquarters the next day. When protestors arrived to collect their belongings, they discovered numerous items, including unopened food, cell phone chargers and other personal items in the dumpster behind the headquarters. Finally, yesterday morning THP officers again seized protestors' water, food, personal medications, and clothing; they again provided only a single itemized list of seized property.

The First Amendment guarantees to all the rights to assemble and to petition the government. In traditional public forums, like the Legislative Plaza and Capitol Building, the government can enact content-neutral restrictions on the time, place, and manner of the exercise of these rights, as long as the regulations are narrowly tailored to serve a legitimate government interest and provide ample alternative channels for the speaker's message. *See Ward v. Rock against Racism*, 491 U.S. 781 (1989). Overreach by the government on any of these points, however, can dangerously impede the exercise of First Amendment rights. Arrests and other adverse government actions that single out certain groups or are not guided by clear, uniform policy may be seen as targeting certain speech—or even retaliating against protestors for exercising their rights.

Moreover, while the anti-camping statute allows for seizure of “items associated with camping,” Tenn. Code Ann. § 39-14-414(e), many of the items seized over the past two weeks have nothing to do with camping and were not seized in specific relation to any alleged violation of the camping law. Nor do the seizures follow any asset forfeiture procedures recognized under Tennessee law nor is any semblance of due process provided. *See, e.g.*, Tenn. Code Ann. 40-33-201, *et seq.*, or Tenn. Code Ann. 39-11-701, *et seq.*

We therefore call on the State to **stop making unnecessary arrests** of the demonstrators and respect the right of Tennesseans to peacefully assemble and protest. The State should also immediately **return all seized items** and **discontinue the practice** of taking the essential supplies and personal belongings of demonstrators. To that effect, we strongly urge the State to **issue an order** suspending the seizure of private property without due process.



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Additionally, we request a meeting to develop uniform policies and procedures that would allow for the continued exercise of our clients' First Amendment rights at the Legislative Plaza and Capitol Building without fear of reprisal or the loss and destruction of personal property.

Thank you for your immediate attention. If you are unwilling to respond adequately to our concerns, our clients will be forced to consider taking further action, including filing a lawsuit to vindicate their rights.

We look forward to your response in three (3) days of the receipt of this letter.



Sincerely,

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