

Occupy Nashville arrests could backfire

Protesters gain new rallying cry as lawsuits are promised

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Protesters arrested with Occupy Nashville share th...: Close to 200 protesters gathered on the steps of the Legislative Plaza during a general assembly Friday night to share their experiences of being arrested and to continue exercising their first amendment rights. (10/28/11)

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Protesters Brandi Belcher and Autumn Dennis hold signs Friday on Legislative Plaza. / GEORGE WALKER IV / THE TENNESSEAN

The state's attempts to rein in the Occupy Nashville protests that have called Legislative Plaza home for three weeks may have served only to fan the flames, observers said Friday.

If nothing else, the protesters have a new chant to add to their repertoire.

"Remember the Nashville 29" is a reference to the protesters who were arrested at 3:10 a.m. Friday when they refused to vacate the plaza. It was among the rallying cries as the group defiantly marched back toward the Capitol upon their release from the Criminal Justice Center shortly before 9 a.m. Their arrests gained them publicity and new supporters, as well as lawyers promising to file lawsuits on their behalf.

"Everybody likes an underdog, and when you take steps against a group, that gives them a lot of publicity and things along those lines," said Marc Hetherington, a political scientist at Vanderbilt University. "You can defeat the purpose of what law enforcement had in mind in the first place."

The arrests appear to have incited people who didn't necessarily support the movement, but who are appalled by the government's response.

“It is absolutely my intent to be there in the next few days,” said Grae Taylor, of Knoxville. “It really feeds my fire and makes me want to be there to make my voice heard.”

Nashville defense attorney David Raybin said that he doesn’t think the Haslam administration thought things through and that the arrests could touch off a “second movement.”

“It’s a lot more profound than the protest itself,” Raybin said of the arrests. “I was sort of indifferent to the movement, one way or the other, quite frankly. Now what has happened is the government itself has politicized its behavior, and I think people will be mad at the government.

“This transcends the so-called movement. This is a separate issue because it affects all our rights.”

Shortly after the arrests, Night Court Magistrate Tom Nelson rebuked the Tennessee Highway Patrol, which is responsible for policing Legislative Plaza, and refused to approve troopers’ warrants.

“It is of particular consternation that the rules and curfew were enacted after a protest movement and occupation of Legislative Plaza had been tolerated for just over three weeks, with no notice that the group members were involved in criminal activity,” Nelson wrote in an email to Davidson County General Sessions Court judges explaining his decision.

Instead, the protesters were held for a few more hours by the THP before being released with trespassing tickets and a Nov. 18 court date. They face a \$50 fine. Some of those arrested have minor criminal history records in Davidson County, including assault, driving on a suspended license and theft under \$500.

Safety, sanitation

The protesters were caught off-guard by the arrests. Citing safety and sanitation concerns, General Services Commissioner Steven Cates initially ordered the group to evacuate the plaza by 8 p.m. Thursday. Then, on Thursday, the state announced new regulations that included a new curfew for the plaza and a daily \$65 permit requirement for gatherings there.

State officials backed off the 8 p.m. deadline and said they wouldn’t begin enforcing the new regulations until Friday, while at the same time they posted signs around the plaza stating that it would be closed from 10 p.m. to 6 a.m. Friday. At 3:10 a.m., 75 state troopers arrived and arrested all those who refused to leave.

“Fourteen hours is woefully inadequate time within which to allow the group an opportunity to comply with the newly enacted rules, regulations, curfew and permit requirements,” Nelson said in his email.

Traveling in Knoxville on Friday, Republican Gov. Bill Haslam said he approved the arrests and expected the curfew to be enforced again Friday night.

“In 14 hours, you should have time to decide whether you’re going to stay or not,” Haslam said.

Haslam said his administration was responding to complaints from lawmakers and the general public about sanitary conditions and safety on Legislative Plaza.

“Literally, the situation continued to deteriorate here,” Haslam said. “It’s a question of the conditions were getting worse. I keep using the word ‘deteriorate.’ That was literally what was happening in this case.”

Police have previously made arrests on Legislative Plaza since the Occupy Nashville protest began three weeks ago, but participants have maintained that the actions that gave rise to those arrests were done by people outside the organization. Haslam, however, said the arrests were evidence that action was needed.

Vanderbilt political scientist Bruce Oppenheimer said government leaders have to balance such concerns against the potential of “enlarging the conflict.”

“If people ignore you, you don’t get visibility,” Oppenheimer said. “When you start getting arrested, it does receive attention, and if the arrests are untoward, it could make it even worse.”

In California on Friday, Occupy Oakland protesters booed Mayor Jean Quan off the stage when she attempted to address the crowd days after an Iraq War veteran was critically injured by a stun grenade fired into a crowd of protesters by police. In Chicago, the arrests of protesters this week led to a demonstration outside City Hall by protesters who said the arrests were unconstitutional.

“I think a lot depends on whether in this area there’s a critical mass of people who are going to be energized by action like this,” Hetherington said. “I think it will be interesting to see what happens in a smaller, more conservative city.”

'There will be litigation'

Occupy Nashville protester Megan Riggs, 25, said the group was caught by surprise by the early morning arrests. The group had prepared itself to fight an eviction the night before, based on Cates’ warning.

“I didn’t know what to do,” Riggs said.

After waking up to the arrival of state troopers, Riggs said, she locked arms with several other protesters who refused to leave and was arrested with 28 others.

One of them was Adam Knight, an eighth-grade English teacher at Two Rivers Middle School.

Asked whether he was worried that his activism could jeopardize his job with Metro schools, Knight quoted Martin Luther King: “You can’t be afraid to stand up for what you believe because you’re afraid that you will lose your job, or you are afraid that you will be criticized.”

One of Knight's 13-year-old students watched as he was thrown to the ground, cuffed with zip ties and dragged from the plaza. The student had persuaded his parents to take him to the plaza to watch the demonstration.

"I appreciate what the people are doing here today," said eighth-grader Charles Bruce. "They're supporting our future."

His horrified parents remained with Charles on the sidewalks outside Legislative Plaza after the protesters were arrested and rows of state troopers took up position to block anyone from setting foot onto the once-public space.

"They're telling me we don't have the right to gather?" his stepfather, John Henry, said.

Neither the troopers nor the protesters became violent — although some onlookers yelled angrily at law enforcement, crying "Shame!" and "You're the 99 percent, too!"

No one was injured. Emergency workers were called after one woman collapsed onto the sidewalk and appeared to have a seizure.

The Occupy Wall Street movement has sparked protests in cities across the nation. Protesters say they're taking a stand against corporate greed and a nation where they feel increasingly marginalized.

"There will be litigation," Nashville attorney Patrick Frogge, who is representing some of the protesters, said Friday. "They (state troopers) crossed the line further and became illegal captors when the judge ordered them (the protesters) released and they held them for hours anyway."

Tennessee Department of Safety and Homeland Security Commissioner Bill Gibbons said that it simply "took a little while to do all the paperwork on 29 individuals."

"We respect and support the right to peacefully protest," Gibbons said. "We are simply urging those who want to engage in peaceful protest to adhere to the reasonable policies that have been issued. If they choose not to, then it's our responsibility to take the appropriate enforcement action."

Inquiry sought

Metro Councilman and Democratic state executive committee member Jerry Maynard said the new use policy for Legislative Plaza is far from reasonable.

"You've got to look at the rich heritage, legacy and history of Davidson County when it comes to legal, civil protests," Maynard said. "I hope Tennesseans don't lose sight of that. Can you imagine if the lunch counter sit-ins or the civil rights protests or the Freedom Riders had to get a permit? That's ridiculous."

State Sen. Eric Stewart, D-Belvidere, called for a legislative inquiry into the new policy.

“If we’re going to start charging fees to allow folks to protest, or shut down a public place like Legislative Plaza, then those decisions need to be made in the open before the public,” Stewart said.

As of Friday afternoon, the protesters had not attempted to get a permit under the new policy, state spokeswoman Lola Potter said. In crafting the new rules, the state is relying on a law that states it is the Department of General Services’ responsibility “to take care of and preserve the state capitol and capitol annexes and all the furniture, fixtures, and the capitol grounds, and keep the same in good order.”

Another state law says that agencies can create “emergency rules” to protect the public health, safety and welfare, but that the secretary of state receives a written explanation for why the emergency rules are necessary. Spokesman Blake Fontenay said Friday that the Secretary of State’s Office had not received an emergency regulation from General Services.

Potter said the policy wasn’t required to go through the emergency rules process because it is not a “formal” rule or regulation.

Once released, the protesters marched back to Legislative Plaza accompanied by honking horns from passing motorists up Deaderick Street.

Protesters chanted, “Whose plaza? Our plaza! Whose plaza? Your plaza!” and “We’re still here! We’re still here!”

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