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# Free speech or disorderly conduct?

## Student-led demonstration could lead to a legal challenge over what's allowed on college campuses

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Free Speech Zone

3-8-08 -- Tuscaloosa, Ala. -- UA students gather around Brother Micah Armstrong in the free speech zone next to the Ferguson Center Friday March 7 to debate religious topics and listen to him speak. (Courtney Davies / The Tuscaloosa News)

A protest at the University of Alabama to bring attention to the war in Iraq has itself become the center of attention at the school and sparked anew the debate over the limits of free speech on college campuses.

For some, particularly UA administrators, the issue is one of public safety, not free speech, an argument that the students behind the protests reject, saying it ignores constitutional rights and the intent of the staged mock military raid in a crowded corner of campus.

'We are a public university so we are very receptive to free speech, but I don't think we would ever want to hold an event on campus that mimics a true emergency,' said Tim Hebson, dean of students.

Most of the facts of the incident aren't in dispute. But the question of what constitutes free speech and whether student rights were violated after the protest prompted the Alabama chapter of the American Civil Liberties Union to investigate. State ACLU leaders will decide Monday whether to offer legal representation for the four protesters.

The protest began about 1 p.m. on a recent Friday afternoon. Four students dressed as soldiers ran into the lobby area of Ferguson Center, yelling threats. The soldiers grabbed three people in the student center who were wearing red checkered scarves, and pushed them before hustling them out the door.

One of the four soldiers then announced to puzzled onlookers that they had witnessed a mock raid similar to what U.S. soldiers do to Iraqis daily.

The protest took place next to the crowded main dining area of the campus, and was meant to attract attention

to a speech later that night by an Iraq veteran, a student from University of North Carolina-Ashville who was one of the soldiers in the demonstration.

Two of the soldiers were played by students. University police were called, and, after some discussion, the four demonstrators were taken to another building on campus where they were charged with disorderly conduct about four hours later.

Sponsored by the Students for a Democratic Society, a registered student group, the protest was held within earshot of Hebson's office. After hearing the commotion, he ran into the lobby to witness most of the demonstration, and was not amused.

'It was packed in this building,' Hebson said. 'It was loud with a lot of profanity. We've heard from many people who said they were upset.'

Right to protest?

The discussion over SDS's demonstration is two-fold: The right to stage the protest at all, and whether the arrests afterward were justified.

Like most colleges, UA requires pre-approval for protests using campus buildings and grounds, a process administrators claim is needed for logistical concerns. The university does provide a 'free speech area,' a spot next to Ferguson Center where no permit is required to stage protests.

UA's code — and similar ones — across the country have drawn criticism for attempting to isolate potentially controversial speech to designated areas that may be far away from foot traffic.

'They seem to be some of the most unpopular policies among students,' said Samantha Harris of the Foundation for Individual Rights in Education, a watchdog group for violations of personal liberties on college campuses. 'Any sort of traditionally public space should be open to free speech. A lot of speeches and rallies are held in response to ongoing events so there's no reason unscheduled demonstration can't be held.'

Harris, director of legal advocacy for the Pennsylvania-based organization, said the situation at UA is being monitored as a free speech issue, but said she could not comment on the specific details.

SDS leaders admit they did not fill out an application or seek university approval for the protest, but Hebson isn't sure the protest would have been approved in any case. He said if it had been held outside, something possibly could have been arranged.

Jenae Stainer, a UA student who helps lead SDS, said approval wasn't sought because the group didn't think it was needed.

'We've had rallies in the past and didn't get approval,' she said.

According to the student handbook, approval is needed for public demonstrations. But there may have been some confusion because Hebson said the university is reworking the handbook to eliminate the free speech area. In the interim, his staff has not demanded approval for demonstrations that don't need amplification speakers, equipment such as tables or the right to block a sidewalk or doorway.

As an example, Hebson pointed to a sidewalk preacher known as Brother Micah, who preached to passing students this week outside Ferguson Center without a permit from the university.

Approval aside, Hebson said the demonstration violated the code of conduct by causing a disturbance and creating unnecessary alarm. In the wake of shootings at other campuses in the past year, the demonstration had to be, at least initially, taken seriously.

Because of the conduct code, the two students face a disciplinary hearing and the student group could face a hearing as well, Hebson said. An investigation has not been completed and the group has not been charged with breaking any rules yet, he said.

As for the criminal charges, UA spokeswoman Deborah Lane said UA police brought charges after an investigation, and Hebson said his office has nothing to do with them.

Stainer said the protest needed to be visible, but were not intend to scare people. In fact, she said the demonstrators told staff at the Ferguson Center's information desk what was about to happen.

Allison Neal, staff attorney for the state ACLU, said the incident is clearly a free speech issue. Though colleges can place some restrictions on the time, place and manner of a protest, the students' actions before and after show no intent to scare or harm others.

'People were on notice, and nobody was ever in any danger. There's no question about that,' Neal said. 'To the students' recollection, there were audience members who clapped after it was over, so the idea that this was causing some sort of danger or harm to the community - it isn't. This was designed to educate.'

She points to Hebson's own public statement after the protest, in which he said there was never any danger.

But the ACLU is mainly interested in the case because of the disorderly conduct charges, which she said has been successfully challenged elsewhere.

'It's very, very broad,' she said. 'It seems likes it's giving a government or authority to punish whatever speech it doesn't like.'

The demonstrators' case could be an avenue to challenge the law here, she said.

SDS members have received permission to place posters on campus decrying the arrests and have circulated an online petition asking UA to drop the charges. It had 208 signatures by Friday.

'This didn't turn out to be harmful, and the punishment shouldn't be that severe,' Stainer said. 'It was a little bit of overkill.'

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