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The Flint Voice

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Police Search Voice Printer

By the staff of the Flint Voice

"IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN I command that you enter and search . . . the offices of the Lapeer County Press . . . and therein to search for, seize and secure . . . any materials . . . which refer to or are connected with the issue Vol. III, No. 8, November, 1979 of the Flint Voice.

Signed,
Michael Dionise
District Judge, Lapeer County"

On May 15, 1980, the Flint Police Department made history.

Armed with the above search warrant, they conducted a search of the newspaper office where the Flint Voice is printed and seized a file of materials relating to the publication of the Voice's November, 1979 issue. In doing so they became the first police agency in the country to search a newspaper office since a Supreme Court decision two years ago which allowed for limited searches of newspaper offices.

In fact, according to the American Civil Liberties Union, there have been only twelve searches of newspaper offices in the history of the United States.

The Flint police, on May 15, made it number 13.

The search and seizure of the Voice's file has attracted the attention of the national media. Reporters from CBS in New York, the New York Times, the Associated Press, United Press International, the Detroit Free Press and the Detroit News all came to Flint to cover what they saw, in the words of the Free Press, as "a new abuse of the right of citizens to be secure from unreasonable search and seizure."

Support and offers of legal assistance have come from the ACLU, the Reporters Committee for Freedom of the Press, the American Society of Newspaper Editors, and many local residents.

On June 3, the Flint Voice filed suit in Genesee County Circuit Court asking for an injunction against the Flint police that would prohibit any further searches.

WHAT DID the Flint Voice do that compelled the police to search the office of its printer, the Lapeer County Press?

In September of 1979, the Voice ran a copyrighted story based on a month-long investigation by Voice co-editor Michael Moore uncovering how city CETA employees were forced to campaign for the re-election of Mayor James Rutherford. The article also explained how the CETA workers were forced to donate $25 each to the mayor's campaign.

The Flint City Council ordered the city ombudsman, Joe Dupcza, to conduct an investigation of the Voice's allegations. A federal investigation was also initiated.

On the morning of November 2, 1979, the November issue of the Flint Voice was published at the Lapeer County Press. On page five was an aritcle containing the findings of the ombudsman's investigation. The ombudsman had found the allegations in the Voice to be true. His report, though, was not to be released as stipulated by city charter until 4:00 p.m. There was some talk though that Rutherford had decided to delay the report for a few more days until the election was over. He knew this negative report might have a bad effect on his re-election bid.

The Voice, however, had obtained a confidential copy of the ombudsman's report and decided to publish it at 11:30 a.m. that day. In the same issue were stories dealing with Mayor Rutherford's alleged "gift" from a convicted gambler, his illegal approval of liquor licenses, his attempt at "double dipping," and his part ownership of a bar and condominiums.

Rutherford was furious. He called the stories "smear tactics" and "gutter politics" and vowed to sue the Flint Voice for libel. He also said that he thought the ombudsman's office was "worth about 35 cents."

The day after the Voice came out, Nan Lunn, Rutherford's campaign manager and City Administrator, somehow was given access to the statewide police computer in order to trace the license plate numbers of "a bunch of blacks" thought to be delivering the Flint Voice. This action resulted in another critical report issued by the ombudsman.

Two days later, on November 5, an unnamed official from city hall called the Lapeer County Press and requested the time of day that the Voice was published. By knowing when the Voice had been printed, the mayor could determine whether the ordinance prohibiting leaks to the press had been violated. If he could prove that the source of the story was the ombudsman, he could have him fired.

Ben Myers, assistant publisher of the Lapeer County Press, refused to release that information. He told them it was confidential.

Six months later, after an attempt by the ombudsman to have the police chief, Max Durbin, fired, the Flint police went out to the Lapeer County Press and asked to see the file pertaining to the Flint Voice. Again, Myers refused to let them see it. He told them he would only comply if they had a court order.

On May 14, Lapeer District Judge Michael Dionese signed the search warrant. The next day, Myers complied and gave the police what they wanted. He offered no objection to what the police were doing and did not call the Voice to inform the staff about what was

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STATE OF MICHIGAN

IN THE DISTRICT COURT FOR THE COUNTY OF LAPEER

SEARCH WARRANT

STATE OF MICHIGAN)
) ss.
COUNTY OF LAPEER)

TO THE SHERIFF IN AND FOR THE COUNTY OF LAPEER, MICHIGAN, OR ANY PEACE OFFICER OF MICHIGAN:

The attached Affidavit and Request for a Search Warrant of Faye Edward Peek III, having been sworn to by said affiant before me this 14 day of May, 1980, and which has been presented to and read by me, and upon due consideration of the same, and based upon all of the facts and allegations contained in said Affidavit, and reasonable and probable cause having been found by me for the issuance of the search warrant therein applied for; NOW THEREFORE IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN, I command that you enter and search the following described place:

The offices of The Lapeer County Press are located at the NE corner of Myers and Imlay City Road, in a building of irregular shape, of red siding, with a white tower at the east end of the building; said building facing south toward Imlay City Road and having an address of 1521 Imlay City Road.

and therein to search for, seize, and secure, tabulate and make return according to law any and all of the following evidence of criminal conduct:

any material intake receipts, or work orders, or billings, or materials of like nature, which refer to or are connected with, the issue Vol III, 8, November, 1979, of the Flint Voice.

Michael E. Dionese
District Judge
Lapeer County, Michigan