



Was the Police Raid On A Kansas Newspaper Legal?

Journalists and news consumers should be concerned

By

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Bulletin! Bulletin!

I'm interrupting my regularly scheduled newsletter for this special bulletin.

You may have noticed last week that I teased the topic of *activist journalism* for this week's newsletter — but — something just happened in the world of journalism that I think we need to seriously consider this week.

The Facts

Our job as journalists is to gather facts, confirm those facts, and report the facts — objectively and accurately. So, here are the facts of the police raid on a Kansas newspaper as we know them so far.

Police in the small town of Marion, Kansas (north of Wichita) raided a weekly newspaper (The Marion County Record) and the home of the newspaper's co-owner on Friday, August 11th. Officers confiscated computers, servers, cell phones, and other materials. Why? They were looking for evidence that a newspaper reporter had run an “improper” computer search concerning a local business owner. The reporter said she provided her name and did not try to conceal her identity. As it turns out, the newspaper decided not to run the story because editors questioned the motives of the tipster.

In addition to casting a dark cloud over the constitutional right of a journalist to ask legitimate questions about a potential story, something else happened that made this situation even darker. The newspaper's co-owner, Mrs. Joan Meyer, died the next day “possibly” from the stress of the police raid on her home. She had been a journalist since 1953.

The police who followed up on the complaint by storming the Meyers' home and office took computers, phones and some of Mrs. Meyer's completely unrelated stuff, including the router that connected her Alexa speakers. "These are Hitler tactics and something has to be done," Mrs. Meyer told our Wichita Eagle colleague Dion Lefler after her belongings were confiscated, an employee injured and her paper left unsure it would be able to publish its print edition. [The Kansas City Star](#)

The police did have a search warrant signed by county magistrate judge Laura Viar. The reason given for the search was the suspected "identity theft" of a local restaurant owner. The search warrant listed the newspaper office and the home of co-owner Joan Meyer. According to [reports by ABC News](#), the police raid was "... prompted by a complaint from a prominent local business owner and critic of the newspaper, who accused two city council members at a public meeting of illegally disseminating confidential criminal information about her."

The police action, involving at least four city officers and two sheriff's deputies, also seized similar equipment and materials from the city's vice mayor, Ruth Herbel. Marion Police Chief Gideon Cody (more about him later) reinjured a dislocated finger of Record reporter Deb Gruver — a former Wichita Eagle reporter — when he personally snatched her cellphone from her hand during the raid. The ransacking and seizures, which include the Record's file server, directly threaten the ability of the Record to publish. The computer equipment seized contained the stories and ads that were scheduled for next week's paper. [The Wichita Eagle](#)

Several days after the raid, the Marion County Attorney said the warrant was based on "... insufficient evidence that a crime had been committed." [Newspaper reports](#) said the seized electronics and documents [will be returned](#) to the Marion County Record.

On Wednesday, Marion County Attorney Joel Ensey said his review of police seizures from the Marion County Record offices and the publisher's home found "insufficient evidence exists to establish a legally sufficient nexus between this alleged crime and the places searched and the items seized."

"As a result, I have submitted a proposed order asking the court to release the evidence seized. I have asked local law enforcement to return the material seized to the owners of the property," Ensey said in a news release. [FoxNews.com](#)

The publisher of the newspaper, Eric Meyer, told the [Kansas Reflector](#) that the police raid would have a “chilling effect” on the paper’s journalists who tackle issues in the community. He also said it would discourage people from providing information to the newspaper.

How and why did this start in the first place? You can read more about the allegations that may have played a role in the police raid in this Peabody-Gazette Bulletin article from August 9th — [Restaurateur accuses paper, councilwoman](#).

[NPR reported](#) that the paper had been looking into allegations of misconduct against the local police chief. If true, that raises concerns about the motives of law enforcement officers who participated in the raid. According to multiple reports, Chief Cody and the entire police force were involved in the raid of the newspaper offices and the co-owner’s home.

Cody referred questions Monday to the Kansas Bureau of Investigation, saying it was leading the investigation. The state agency, in turn, refused to say it had taken over the investigation, referring instead to a statement saying it had “joined” the investigation and seemed to try to distance itself from the raids.

[Huffington Post](#)

[Update: Since I began writing this newsletter, police have returned confiscated equipment to the Marion County Record.]

The Reaction

People across the country are upset about this police raid on journalists. Here are some of the stories filed from other journalists and news organizations. The names of the news companies and organizations reporting on this story demonstrate how much coverage this story is receiving —

[Just catching up on the Marion, KS, newspaper police raid? Here are 5 things to know](#) — The Kansas City Star

[Police raid Kansas newspaper office and owner's home, seize records and computers](#) — CNN.com

[Kansas Paper Warns Police Not to Review Information on Seized Devices](#) — The New York Times

[A police raid of a Kansas newsroom raises alarms about violations of press freedom](#) — NPR.org

[State Investigators Probe Police Raid Of Small Kansas Newspaper](#) — Huffington Post

[Kansas newspaper raid proves the fight to save local journalism is real. Please join us](#) — Kansas City Star

[Police questioned over legality of Kansas newspaper raid that seized computers, phones](#) — NBC News

[Publisher of small Kansas newspaper calls police raid "Gestapo tactic" but police insist it was justified](#) - CBS News

[EXPLAINER: Why is a police raid on a newspaper in Kansas so unusual?](#) — Associated Press

[Kansas newspaper owner calls out 'suspicious' timing of raid, as search warrant suddenly withdrawn](#) — New York Post

[After a police raid on a Kansas newspaper, questions mount](#) — The Washington Post

[Office and homes of reporters at local Kansas newspaper raided by police: City's entire five-officer force seize computers, cellphones and reporting materials from offices of local paper](#) — The Guardian.com

[Media giants raise First Amendment concerns over raid on Kansas paper](#) — Axios.com

[Media coalition condemns police raid on Marion County Record](#) — Reporters Committee for Freedom of the Press

[2023-08-13 Reporters-Committee-Marion-letter](#) — Reporters Committee for Freedom of the Press

[A Police Raid on a Kansas Newspaper Could Force the DOJ's Hand](#) — The New Republic

[Police conduct 'chilling' raid of Kansas newspaper, publisher's home](#) — USA Today

[Kansas police raid newspaper's office, publisher's home to seize records; reporter injured](#) — Fox News

[Dozens of news organizations condemn police raid on Kansas newspaper and call for seized materials to be returned](#) — CNN.com

[Raid on Kansas newspaper is an intolerable overreach by police | Editorial](#) — The Wichita Eagle

Are Police Raids on Journalists Legal?

I think that's a fair question. I worked closely with law enforcement for decades and, for the most part, had a good working relationship with patrol officers, sheriff's deputies, detectives, police chiefs, and sheriffs. We understood that each of us had a job to do and respected the rights given to us by the Constitution and applicable laws.

I'm not "on the ground" investigating this story in Kansas, but I've read enough from all sides of the story to be concerned about what happened in Marion County. It has the potential of having a chilling effect on journalism and the freedom of the press. However, real journalists don't fold easily to official pressure. We have something to protect — the right of citizens to know the truth.

It is my opinion, based on decades as a working journalist and news manager, that the Marion police and the judge crossed legal and constitutional lines in this case. I'm glad that police finally returned confiscated materials to journalists, but they should have never taken them in the first place. The search warrant was most likely illegal and certainly unnecessary. The police chief should not have asked for the warrant and the judge should not have granted his request. I also believe the police department should make

reparations for any lost revenue to the newspaper and publicly apologize for their actions (including an apology concerning the death of co-owner Joan Meyer). It may also be appropriate for the police chief and the judge in this case to step away from their official positions while state and federal investigators look into their actions.

That's my take. Here are a few others to consider, beginning with Investigative Reporters and Editors (IRE) —

IRE stands in solidarity with the Marion County Record in defense of the First Amendment after the Kansas newspaper's office and the home of its 98-year-old co-owner were raided Aug. 11 by local law enforcement.

“The IRE Board is deeply disturbed by reports of the raid on the Marion County Record,” said Board President Brian M. Rosenthal, an investigative reporter at The New York Times. “Journalists play a vital role in informing the public and exposing wrongdoing, and this brazen attempt to interfere with that work should outrage everybody who believes in democracy.”

Police and sheriff's deputies seized all computers and personal cell phones, among other items. Joan Meyer, publisher Eric Meyer's mother, died the day after her home was raided.

IRE extended condolences to Meyer on his mother's death and offered help with people, equipment, starting a fund — whatever is necessary. He said he appreciated the offer but at this point doesn't need that assistance. "What we need is time," he said.

IRE will continue to monitor the situation. [Investigative Reporters and Editors](#)

"We are shocked and outraged by this brazen violation of press freedom by authorities in Marion County, Kansas. Local law enforcement agencies reportedly searched the offices of the Marion County Record and the home of its publisher, and seized reporting materials including computers and cell phones, injuring a reporter's finger in the process.

"We are deeply concerned that a Kansas judge issued a search warrant authorizing this search even though the federal law clearly requires authorities to use subpoenas rather than search warrants if they seek to access records of a news organization in the course of an investigation

"A law enforcement raid of a newspaper office is deeply upsetting anywhere in the world. It is especially concerning in the United States, where we have strong and well-established legal protections guaranteeing the freedom of the press.

"This search violated the rights of the journalists at the Marion County Record to serve their community by gathering and reporting the news. We stand by the Marion County Record in its efforts to continue publishing despite the seizure of important reporting material and equipment. We demand local authorities return the reporting equipment to the Marion County Record immediately, and we expect a full investigation by appropriate state and federal authorities into why this search warrant was requested, authorized and executed." [The National Press Club](#)

The Freedom of the Press Foundation released a statement in response to Friday's incident, saying the raid appears to have violated federal law and is "the latest example of American law enforcement officers treating the press in a manner previously associated with authoritarian regimes."

"Based on the reporting so far, the police raid of the Marion County Record on Friday appears to have violated federal law, the First Amendment, and basic human decency. Everyone involved should be ashamed of themselves," said Seth Stern, director of advocacy for Freedom of the Press Foundation.

CNN.com

The First Amendment to the U.S. Constitution asserts that Congress shall make no law "abridging the freedom of speech, or of the press."

Things get murkier when you get into specifics.

Journalists gathering material for use in possible stories are protected by the federal Privacy Protection Act of 1980. For one thing, police need a subpoena — not just a search warrant — to conduct such a raid, according to the Reporters Committee for Freedom of the Press.

Cody acknowledged this, in an email to The Associated Press, but he said there is an exception “when there is reason to believe the journalist is taking part in the underlying wrongdoing.”

Gabe Rottman, lawyer for the Reporters Committee, said he’s not sure Cody’s reason for believing the so-called suspect exception applies here. In general, it does not apply to material used in the course of reporting, like draft stories or public documents that are being used to check on a news tip.

The search warrant in this case was “significantly overbroad, improperly intrusive and possibly in violation of federal law,” the Reporters Committee said in a letter to Cody that was signed by dozens of news organizations. [Associated Press](#)

Police raids on news organizations are almost unknown in the United States and are illegal under most circumstances under state and federal law. “This shouldn’t happen in America,” said Emily Bradbury, the executive director of the Kansas Press Association, in an interview Sunday. She added: “Freedom of the press is fundamental to our democracy. ... We’re not going to let this stand on our watch.”

Bradbury said the newspaper's records could have been obtained via a subpoena, a court-ordered command for specific material that is subject to legal objections, not "an unannounced search." [The Washington Post](#)

Friday's raids have been widely condemned by press freedom watchdogs as a blatant violation of the U.S. Constitution's protection for a free press. Kansas Gov. Laura Kelly called the raids "concerning." An attorney for the newspaper deemed the searches and seizures illegal and said the police department's action "offends the constitutional protections the founding fathers gave the free press." The Society of Professional Journalists pledged \$20,000 toward the newspaper's legal defense. [Huffington Post](#)

What do you think about the police raid on The Marion Record?
Please share your thoughts in the Comment section below.



1960s Radio News, © Mark McGee