

THE
**REPORTERS
COMMITTEE**
FOR
FREEDOM
OF THE
PRESS

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Lucy A. Dalglish
Executive Director

April 20, 2010

Marsha L. Garst, Commonwealth's Attorney
Judicial Center
53 Court Square
Harrisonburg, VA 22801

Dear Ms. Garst:

I am writing to express dismay and great disappointment in your order to confiscate newsgathering materials on April 16, 2010 from the newsroom of the James Madison University student newspaper, *The Breeze*.

From what I have read of this incident, you believe this is an appropriate method of building cases against those who may have caused damage or injuries at an off-campus April 10 melee. However, one of the most fundamental tenets of the First Amendment to the U.S. Constitution is that the news media should never be used as an investigatory arm for law enforcement.

The Reporters Committee for Freedom of the Press is a 40-year-old non-profit organization that does legal defense and advocacy work on behalf of journalists working in the United States. Although your actions in this particular case targeted student journalists, they nevertheless pose grave risks to the fundamental First Amendment rights of *all* journalists to gather and publish information.

By raiding *The Breeze's* newsroom and copying files from its computers, you have by extension infringed upon every Virginian's right to receive information from an independent and free press. Furthermore, as you are aware, a 30-year-old federal law, the Privacy Protection Act, specifically prohibits newsroom searches without the appropriate issuance of a subpoena. While it may prove temporarily easier as a fact-gathering method to confiscate digital photographs from student journalists without a subpoena, this conduct is a violation of the PPA and of the

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Constitution. It is the people of Virginia who will ultimately suffer as a result.

We hope that your experiences with this situation have led to a greater appreciation of how official actions can affect newsrooms. At the very least, the student journalists deserve an apology and a concerted effort on the part of your office to ensure it never happens again — so that prosecutors can do their jobs without worrying about potential lawsuits, and journalists can act as independent conduits of news to the people.

Sincerely,

Lucy A. Dalglish
Executive Director