

THE LAW

POLICE

Baltimore Finds the Constitution

The Fourth Amendment admits few exceptions to its stern command that police get judge-signed warrants before searching private homes. When police arrest a suspected felon in a private place, for example, they can then search the immediate premises without a warrant. But they cannot first search hundreds of homes in a blind effort to find him. In short, they must have a warrant to enter a private home unless they have "probable cause" to believe that the suspect is already there.

No such nicety troubled Baltimore's Police Commissioner Bernard J. Schmidt (since resigned under fire), who was understandably anxious to catch Earl and Sam Veney, the Negro brothers who killed one policeman and gravely wounded another while robbing a liquor store on Christmas Eve, 1964. Schmidt set out to catch the Veney brothers with a flying squad of 50 to 60 men armed with sub-machine guns, tear gas and bulletproof vests. Acting almost entirely on anonymous tips, which they never verified, the squad spent 19 days in round-the-clock raids of more than 300 houses in Negro neighborhoods. They had arrest warrants—but they never once bothered to get search warrants. They acted with such classic disregard for the dictates of the Fourth Amendment that a U.S. Appellate Court has just condemned them for "the most flagrant invasions of privacy ever to come under the scrutiny of a federal court."

Shotguns at 2 a.m. Tipped off that the Veney brothers were being sheltered by a family named Garrett, the raiders mistakenly crashed into the home of Negro Postal Employee Samuel Lankford. At 2 a.m. Lankford awoke to find four raiders toting shotguns and aiming flashlights in his face. His six children got the same treatment. Schoolteacher Lucinda Wallace was showing slides to a Bible class at home when six armed men burst in, while eight others barred her hysterical mother from the house. When Mrs. Maggie Sheppard, 72, refused to answer the raiders she was arrested, along with her mentally ill grandson, and grilled for two hours for the non-crime of "Investigation, suspected of Assault and Shooting."

When the N.A.A.C.P. Legal Defense Fund sought a federal injunction against such raids, U.S. District Judge Roszel C. Thomsen was loath to interpose federal power and order Baltimore police to get judge-signed search warrants. He was impressed by a new police order requiring raiders to have "probable cause to believe the accused person to be on the premises to be searched," and he denied the request for an injunction.

Criminal Government. The U.S. Court of Appeals for the Fourth Circuit could not have disagreed more



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COMMISSIONER SCHMIDT'S MEN SEARCHING FOR VENEY BROTHERS
Hardly the way to win respect for the law.

strongly. Speaking for that unanimous court, Judge Simon Sobeloff (former U.S. Solicitor General) pointed out that the Baltimore police "repentance" occurred well after it became "manifest" that the Veney brothers had skipped town. (The FBI eventually nabbed them in New York.) Unlike Judge Thomsen, Sobeloff was unmoved by the cops' self-policing order. "The determination of what constitutes probable cause," he said, "is still left to the policeman."

In a rare order, the court has just declared that Baltimore police may no longer stage raids "where the belief that the person is on the premises is based only on an anonymous tip and hence without probable cause." Sobeloff stressed a key reason for the decision: "Lack of respect for the police is conceded to be one of the factors generating violent outbursts in Negro communities." And he pointedly quoted the late Justice Louis D. Brandeis: "If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."