

Inspector Government



By Paul Engel

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- What role does government legally have to protect us?
- Do government actors have the authority to search your home to make sure you are safe?
- What are the consequences of becoming dependent on government for our protection.

I received an email asking me to “delve into Rental Inspection Programs.” I have to admit, having lived my adult life in rural America and owning my own home for over 30 years, I haven’t had to deal rental inspection programs. While I was researching these programs, I realized they may be just the tip of a truly large iceberg.

Rental Inspection Programs

Rental Inspection Programs are local ordinances that allow government inspectors access to private property in order to insure that local codes regarding rental units are met. Since these programs are created at the local level, they are not all the same. While my research has been somewhat brief, they do generally have several things in common.

First, these inspections cover not only the public and mechanical areas (water, heating, air conditioning, etc.), but the rented units as well. Access to the rental units usually requires that the owner notify the tenant of an upcoming inspection before hand. Second, the inspection is supposed to be for compliance with building codes related to the safety and quality of the living conditions. So far, most people

would probably not see a problem. Then again, there is the question of the Fourth Amendment.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated,

[U.S. Constitution, Amendment IV](#)

What about the tenants' right to be secure in their houses? How far can a city inspector rummage around your home looking for code violations? And what are the limits of what that inspector can report? The answer, as is usual when it comes to the Fourth Amendment, it comes down to when, and under what conditions, is a search unreasonable.

1. *Not agreeable to reason.*
2. *Exceeding the bounds of reason; claiming or insisting on more than is fit; as an unreasonable demand.*
3. *Immoderate; exorbitant; as an unreasonable love of life or of money.*
4. *Irrational.*

[Unreasonable – Webster's 1828 Dictionary](#)

Many would say it's quite reasonable for the city to inspect rental units. After all, they're just trying to keep you safe. Then again, if it's reasonable for one city employee, say a code inspector, to enter your home to keep you safe, why wouldn't it be reasonable for another city employee, say a police officer, to do the same? Call it a "slippery slope" or the "camel's nose under the tent flap". Once the people think it reasonable for a government actor to enter your home to keep you safe, we've given them a tool to invade not just our privacy, but our castle, under the pretense of keeping us safe.

Codes and Inspections

As I dug into these rental inspection programs, it got me thinking of just how much cities, towns, and counties have taken control of our lives.

When I first started The Constitution Study, it was just me, my website, and writing my book. Then, I wanted to sell my book personally. I could have simply allowed a publisher to sell my book, but I couldn't find one that wanted to. After I self-published with Amazon, I could have let them do all of the selling, but I wanted that personal interaction of selling directly to people. No big deal, right? It's my book, so I should be able to sell it. Except, being a resident of the State of Tennessee, if I started selling books, I needed to collect sales tax for the state. To do that I needed a county business tax license. Now, not only did I need to collect and remit sales tax, but now I have to file paperwork about any property my business owns and, of course, pay taxes on it. And I'm just a small author trying to make his way in the world. Consider all of the other businesses that need government approval to operate.

If The Constitution Study wanted to build a place for an office in the city near where I live, I would need to not only follow city building codes and have my property inspected, but I would need a "certificate of occupancy". Basically, I would need the city's permission to occupy my own property.

Now imagine I wanted to expand The Constitution Study into other businesses. Let's say I want to open a coffee shop where people can sit and discuss the news of the day, just like in our colonial days. Well, I'd need more permits, more licenses and, of course, more inspections for this, too. Health inspections, building inspectors, and who knows what else. Suppose I wanted to go into business with a neighboring barber shop or hair salon. Not only do I have all of those pesky permits and inspections, but people in those shops would have to be licensed by the state to cut hair. In many states, they would also need continuing education, TO CUT HAIR! Where is

the reasonableness of all of these inspections, permits, and licenses? From a fundamental misunderstanding of the role of government.

Purpose of Government

We've all be trained that government is there to protect us. What would you say if I told you that was not only wrong, but antithetical to a free people. Just look at the Declaration of Independence.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,

Declaration of Independence (emphasis added)

That's right, governments are not instituted to provide for you, watch out for you, or even keep you safe. Governments in free countries are created to protect your rights, especially the unalienable ones. Yes, governments provide for a common defense, but not an individual one. And yes, they provide a venue for a redress of grievance, but they are not empowered to prevent such grievances beforehand. Those are the responsibility of the citizen. As proof, multiple court cases have recognized that law enforcement does not have a legal duty to protect you, only to enforce the law once a crime is committed.

Once we turn over our safety to government actors, we turn over our freedom as well. When we allow government to tell us what we can and cannot do, and how we will be allowed to live our lives under the auspices of keeping us safe, we cease to be free citizens and become subjects of our rulers in government. We abdicate our sovereign powers that so many of our state constitutions say are inherent in us. We forgo the

authority to decide for ourselves in favor of the so-called experts in government. And we invite that government to intrude into our lives, homes, and effects, to make sure we are keeping the law and rules they've implemented to keep us safe. In short, we nullify the Constitution, the Declaration, and our God given rights in an effort to avoid the responsibility of taking care of ourselves. Then some of us complain about the intrusive government agencies that are needed because we refused to govern ourselves.

As James Madison said in Federalist Paper #51:

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

[James Madison – Federalist Paper #51](#)

Since We the People are not angels, we need government to control our actions. And since those we place in government are just as corrupt as the rest of the people, we need to control them as well. That is why each and every state in the union must have a republican form of government. Meaning that the people hold the power, and hire representatives to exercise it for them. This balance of power between the people and their representatives provides not only control of the people, but the control of government as well. Without the restraining force of government, there is no protection of our rights and only the strongest survive. When we turn over the absolute regulation of our lives to government, surrendering all of the power over to government, We the People are nothing more than slaves. It is the balance between these two extremes that keeps us free. Which leads me back to the original question of Rental Inspection Programs.

Conclusion

Cities inspect rental properties because they have assumed the power to keep renters safe. The people of these cities stood by while their representatives assumed this power, and in many cases not only cheered them on, but demanded that city officials protect them and their neighbors.

In my opinion, tenants do not have a strong platform to oppose such inspections, and the reason is simple. When you signed the lease, it probably included language that allows the landlord to enter the premises for the purposes of repairs, maintenance, and probably required inspections. Part of the cost of renting property is giving up sole control of who enters your home. As for the property owners, the answer may be a bit different.

Going back to the Fourth Amendment we see that we are protected from unreasonable searches. Courts generally defined reasonableness as what a reasonable person would find reasonable. And it is this defining a word with itself that leads to so much confusion in the legal world. Then I remembered that the person who asked that question was doing so in the context of a [previous article](#) I had written regarding the IRS. Specifically, that an IRS audit is functionally a writ of assistance.

a writ authorizing officers of the British crown to search any premises for smuggled goods.

[Writ of Assistance – The Free Legal Dictionary](#)

The code enforcement officer may not be searching for smuggled goods, but they are searching for code violations without any probable cause. Come to think of it, most of the inspection programs we have become so used to are not based in probable cause.

Apparent facts discovered through logical inquiry that would l

lead a reasonably intelligent and prudent person to believe that an accused person has committed a crime, thereby warranting his or her prosecution, or that a Cause of Action has accrued, justifying a civil lawsuit.

Probable Cause – The Free Legal Dictionary

So where does that leave us? Are Rental Inspection Programs little more than writs of assistance? Is it reasonable to allow a government actor to search your property for some violation without any probable cause? And where does that leave all of the other inspection programs? The only reasonable conclusion I can come to is that these programs are unreasonable since these inspections are not based in probable cause. What about the health and safety of the tenants and customers of these businesses? Simple. Should a tenant or customer complain, then whichever department was responsible for enforcing that law would have probable cause to get a warrant to perform the inspection. This not only would make those operating these inspection programs compliant with their oath to support the Constitution of the United States, but allow good landlords and business owners the opportunity to resolve some of these issues without involving the government.

Since We the People have turned responsibility for our own safety to various governments, we have no one to blame for these intrusive inspections and overbearing licensing requirements but ourselves. As James Madison warned, we enabled government to control the governed, but forgot that we needed to control government as well.

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