

Waiting For Fido; The Dog Man Cometh with apologies to Eugene O'Neill

By Evan L. Ginsburg

There will come a time in your life when the presiding officer of Animal Control will come to your home and ask to be admitted. Usually the first question they ask is, "Do you own a dog?" There are a lot of answers to this, some are as follows:

1. "I am sorry but my English elocution is ineffective to respond adequately to your inquiry." You then close the door.
2. "Dog, I don't need no stinking dog." Then you close the door.
3. "I used to own a dog when I was younger, but it got hit by a car, and therefore I don't actually own any dogs." Then you close the door.
4. "Dog is just God spelled backwards, are you a Jehovah's Witness? If so, we give at the office, but thank you for coming by." Then you close the door.
5. "It depends on what you mean by 'own.' I know that some people are owned by their dogs and some dogs are owned by their people. Some people are custodians of their dogs and sometimes the dogs are in control. Please define 'own' so that I can more properly respond." Then you close the door.
6. "I would love to answer your question but I believe I have a right to remain silent and based upon my attorney's advice, I will do so at this time." Then you close the door.
7. "Before I answer that question, would you please show me identification?" Now that you have seen the identification, your next statement should be, "Please show me your warrant, so I can properly address your concerns." Then if you aren't shown a warrant, you close the door.

Every state in this country has laws set up by the state which affect your rights. Within the states are usually counties, counties have their own laws. Within those counties are often parishes or cities, those cities have their own laws. Sometimes there are subdivisions or homeowners' associations within the cities, they have their own laws. We, as the "little people" are required to follow all of those laws. However, we have one major advantage. There is one BIG LAW, one set of circumstances, one document that supersedes all of those agencies and governmental organizations. It's called the United States Constitution.

The United States Constitution is a document that was passed years ago (it was in all

the papers at the time.) It is a subject which you read about in ninth grade and paid no attention to whatsoever. Even though you don't remember it yourself, the Constitution was signed and became the law of the country.

As soon as it was signed, our government began to amend it. While we think of the founding fathers of our country as omnipotent and unailing, they didn't do very well with the Constitution and it had to be amended. One of those amendments is the Fourth Amendment.

There were other amendments, and the third is one of the most interesting, but not actually important except for dogs in service for our country.

When America was first settled, it had been the practice that the government would require troops to be housed in the homes of anyone who they felt it was necessary to use, and people were always in danger of having the country's militia or army housed in their homes. That, of course, could be a problem, if you didn't like the military taking over your house.

The Third Amendment, which specifically addresses soldiers, states as follows: "No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law."

It brings up some very unpleasant pictures, but I will let everyone address that the way they like.

As soon as they got done telling us we didn't have to provide homes for the soldiers, they realized that people had another concern, how secure were they if they owned their own homes?

Thereafter, the government of our country made a new rule called the Fourth Amendment which reads as follows:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall

issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized."

While the Third Amendment specifically keeps soldiers out of your home, the Fourth Amendment takes care of everyone else. This includes the dog catcher, the police, the Jehova Witnesses, insurance salesmen, your mother-in-law, and everyone else.

While most of the Constitution states things that the government shall not do such as not allowing Congress to make any law respecting an establishment of religion (First Amendment), interfere with a person's right to bear arms (Second Amendment), insist that soldiers be allowed to live in your home (Third Amendment), (and of course, some people may want some hunky Marine in their home), but that's another story and then, of course, the Fourth Amendment against illegal search and seizure was passed. This is how we keep our homes secure, keep out the pesky animal control officer, and assert our rights. .

Originally in the law you had the right to sue the police if they wrongfully searched your property. That didn't prove to be much of a remedy, and therefore it has been changed to what is now called suppression of "evidence". In other words, if someone does wrongfully search your property, then any evidence they receive must be precluded from any action against you. This includes testimony about your dogs, or other infractions that might be found on an inspection.

There have been literally thousands of lawsuits brought up over the Fourth Amendment, and generally speaking, up until about eight years ago, the trend was to uphold the right of people to be secure in their homes without a search and without warrant.

The trend changed after the attack on our country on 9/11, and we have been going in the other direction, in many ways. More recently the courts have decided that a passenger in a car may be searched if the police think the driver was doing something wrong. Before this, only the driver could be searched. President Bush's program to listen in on domestic telephone conversations has been upheld in the courts. There have been examples of helicopters using heat sources from homes to determine illegal growth of marijuana. While previously this was de-



clared an invasion of your privacy, it now has been allowed.

This trend to invade our right to privacy will change and we will go back to being secure in our homes.

As to dogs and the way we raise them, (which I know is what interests us), individuals currently may not enter your property for an unreasonable search and seizure. That means without a valid and reasonable belief that a crime is being committed or in pursuit of a crime, no one, including a police officer, may enter your property. It requires a search warrant, and that has to be issued by a judge. The judge has to find probable cause to allow a search, and barking is seldom enough.

It is true that police officers are held to a very high standard, but no more so than the average citizen; while they do get to carry a gun, they also have to follow the Constitution. If a police officer or peace officer enters your property without your permission, anything they observe or seize will be suppressed -- (cannot be used against you

in a court of law). If an individual such as an Animal Control officer, (who may or may not be a peace officer), enters your property without permission, you have an absolute right to remove them, use reasonable force (that does not include beheading), and make a citizen's arrest. You should then call the police to have the person or persons who are trespassing removed. If you give permission to allow a search, then you are subject to search, but then you probably didn't go through ninth grade, and never heard that there is a Constitution anyway. You do not have to give permission, and in general, you should not. Silence is golden, refusing to allow a search is just plain stupid.

Most often when confronted with a person in uniform on your front step, assuming they are not a soldier trying to be housed, and we are not at war, some of us assume it is a peace officer and you must allow them entrance. This is not true.

The next time someone asks to come into your property to examine your kennels,

the next time someone asks to enter your property to determine your business, the next time someone wants to come on your property to see how you keep your home and whether it needs dusting, you might remind them of the United States Constitution, the Fourth Amendment, and keep a copy of it handy, laminated, and enlarged.

You do have a right to be safe and secure in your property, and you have a right against unreasonable search and seizures. Although you may have to assert the right, it exists, and if you have any doubt, you can obtain a copy of the United States Constitution on line, at the library, or in any ninth grade civics textbook. It is real, it exists, and it does protect you.

The next time the dog man cometh, ask him or her if he or she remembers his or her 9th grade locker combination. If he or she says yes, remind them of the Constitution and close the door. If he or she says no, they didn't go through ninth grade, just walk away. They are too dumb to know if the door is closed or not. ■