

THE PUBLIC SERVANT QUESTIONNAIRE

Key Points:

- ✓ An American does not have to speak with a government agent unless the citizen has been arrested.
- ✓ Americans have a right to privacy, to be left alone.
- ✓ The PRIVACY ACT OF 1974 (Public Law 93-579), empowers citizens to require full, written disclosure from a government official who seeks information.
- ✓ You may insist on complete disclosure as a precondition to speaking with any government official.


The Limits On Federal Power:


- ✓ Law-abiding citizens are sometimes visited by agents of the Federal government for no apparent reason. It is helpful, at the time of these visits, to recall that unless a citizen has been placed under arrest (either because a law enforcement officer has probable cause to believe the citizen has committed a crime or because the officer has in his possession an arrest warrant issued by a judge who believes there is probable cause the citizen has committed a crime, a citizen does not have to entertain the company of government agents.
- ✓ Citizens also have the right, guaranteed by the Fifth Amendment to the United States Constitution, not to testify against themselves. Thus, when "the government" comes knocking on one's door, you have the right to simply say, "Please go away." Unless the government officer places you under arrest (there must be probable cause, or an arrest warrant based on probable cause), the officer must obey your wishes.

Be Helpful... On Your Terms


- ✓ Of course, citizens also have a vested interest in assisting "the government" in its role of crime-solver. Most of us understand the need to help "the government" to apprehend criminals. But it is also helpful, when "the government" arrives at your place of employment or at your home, to know how to find out why government agents have appeared on YOUR doorstep.
- ✓ A handy little questionnaire that I came across years ago will do the trick. It's called the "Public Servant Questionnaire." A version


accompanies this article. The "PSQ" was developed by Lynn Johnston, author of *Who's Afraid of the IRS?* (Libertarian Review Foundation: 1983, ISBN 0-930073-03-7).

 The PSQ is based on the requirements placed upon the government by the Privacy Act of 1974 (Public Law 93-579), an amending law to Title 5, United States Code, Section 552, and is included as Section 552a.

 If a citizen chooses to cooperate with government officials who are seeking information, **BEFORE** questioning begins, the citizen should politely inform the government agent or agents that a prerequisite for the citizen's cooperation with "the government" is the agent's cooperation with the citizen.

Do It Right, The First Time

 The questions should then be put to each agent, and the citizen should enter the answers onto the questionnaire. Copies should be provided to each agent, either at the time of the questioning or by mail to the agent after the visit. The questionnaire informs the government agent that the citizen knows his rights and knows which limited powers the government agent has been granted by the people.

 Most probably some government agents will not want to fill out or sign the PSQ. That's fine. They can then be sent on their merry way. They may need to explain to their superiors, and a court of law, and a jury, on another day, why they refused to cooperate with the reasonable questions of the highest officeholder in the land, a citizen.

"Whatever the form in which the government functions, anyone entering into an arrangement with the government takes a risk of having accurately ascertained that he who purports to act for the government stays within the bounds of his authority, ... even though the agent himself ... may be unaware of the limitations upon his authority." See *Utah Power & Light Co. v. United States*, 243 U.S. 389, 409; *United States v. Stewart*, 311 U.S. 60, 70, 108, and see, generally, *In re Floyd Acceptances*, 7 Wall. 666.

Federal Crop Insurance v. Merrill, 332 U.S. 380 (1947)

"Public officers are merely the agents of the public, whose powers and authority are defined and limited by law. Any act without the scope of the authority so defined does not bind the principal, and all persons dealing with such agents are charged with knowledge of the extent of their authority,

Continental Casualty Co. v. United States, 113 F.2d 284, 286 (5th Cir. 1940)

"It is not the function of our Government to keep the citizen from falling into error; it is the function of the citizen to keep the government from falling into error."

American Communications Association v. Douds, 339 U.S. 382, 442 (1950)

5 USC 552a (e)(3) authorizes a sovereign natural person ("Citizen") to use this form to collect information from the Public Servant to determine whether to divulge information to the Public Servant and employing Agency. Public Law 93-579 states: "*The purpose of this Act is to provide certain safeguards for an individual against invasion of personal privacy requiring Federal agencies... to permit an individual to determine what records pertaining to him are collected, maintained, used or disseminated by such agencies...*"

PUBLIC SERVANT'S QUESTIONNAIRE (Refer to Privacy Act of 1974)				
Public Servant Full Name			ID # <input type="checkbox"/> Refused?	
Driver License # <input type="checkbox"/> Refused?		Badge # <input type="checkbox"/> Refused?		
Residence Address	Street	City	State	Zip
Office Mail Address	Street	City	State	Zip
Employing Agency or Dept		Supervisor's Name		
1. Will Public Servant uphold the Constitution of the United States of America (required by USA & State Constitution & Law)? <input type="checkbox"/> Yes <input type="checkbox"/> No		2. Will Public Servant furnish a copy of the law or regulation which authorizes this investigation (5 USC 552a (e) (3) (A))? <input type="checkbox"/> Yes <input type="checkbox"/> No		
3. Will Public Servant read aloud that portion of the law authorizing the questions Public Servant will ask (5 USC 552a (e) (3) (A))? <input type="checkbox"/> Yes <input type="checkbox"/> No		4. What prerogative does Citizen have in giving answers to Public Servant questions (5 USC 552a (e) (3) (A))? <input type="checkbox"/> Voluntary <input type="checkbox"/> Mandatory		
5. What basis exists for asking the intended questions (5 USC 552a (d) (5), (e) (1))? <input type="checkbox"/> Specific law or regulation <input type="checkbox"/> Used as a discovery process		6. What nature does this investigation have (5 USC 552a (e) (3) (A))? <input type="checkbox"/> General (multiple people involved) <input type="checkbox"/> Special (one person involved)		
7. Does Public Servant reasonably anticipate that any information sought or collected in this investigation will form the basis of or lead to criminal action against Citizen or any other entity? <input type="checkbox"/> Yes <input type="checkbox"/> No		8. Will Public Servant guarantee only the department employing Public Servant will use the information or derivative thereof supplied by Citizen in this investigation (5 USC 552a (e) (10))? <input type="checkbox"/> Yes <input type="checkbox"/> No		
9. Name all files of records, information, or correspondence related to Citizen that Agency maintains (PL 93-579 (b) (1))? →		<input type="checkbox"/> None		
10. Give the full name of the person in government requesting that Public Servant conduct this investigation (PL 93-579 (b) (1)) →		<input type="checkbox"/> No One		
11. Name and identify all third parties Public Servant consulted, questioned, interviewed, or received information from any third party relative to this investigation (5 USC 552a (e) (2), (d) (5)). →		<input type="checkbox"/> None		
12. Name all other agencies or government sources that supplied any information pertaining to Citizen (PL 93-579 (b) (1))? →		<input type="checkbox"/> None		
13. May Citizen have a copy of all information pertaining to Citizen that other agencies or government sources supplied (5 USC 552a (d) (1))? <input type="checkbox"/> Yes <input type="checkbox"/> No (If no, state authority for withholding info) →		<input type="checkbox"/> No Authority		
14. What other uses may be made of this information (5 USC 552a (e) (3) (B), (e) (3) (C))? →		<input type="checkbox"/> None		
15. What other agencies may have access to this information (5 USC 552a (e) (3) (B), (e) (3) (C))? →		<input type="checkbox"/> None		
16. What will be the effect upon Citizen if Citizen should choose not to answer any part of these questions (5 USC 552a (e) (3) (D))? →		<input type="checkbox"/> None		
Public Servant Affirmation: I swear or affirm under penalty of perjury that I have answered the foregoing questions correctly and completely in every particular. →		Wet ink signature of Public Servant		Date
Citizen's Witnessing Name and Signature <input type="checkbox"/> Administered Oath		Date	Witness Name and Signature	
			Date	

Note: Citizen may administer oath to Public Servant if no one else exists to witness Public Servant affirmation.