

**STATEMENT OF
GUY J. COTTRELL
CHIEF POSTAL INSPECTOR, U.S. POSTAL SERVICE
BEFORE THE
SUBCOMMITTEE ON FEDERAL WORKFORCE,
U.S. POSTAL SERVICE AND THE CENSUS
UNITED STATES HOUSE OF REPRESENTATIVES**

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Chairman Farenthold, Ranking Member Lynch, and members of this subcommittee, I am Guy J. Cottrell, Chief Postal Inspector of the U.S. Postal Service. On behalf of the men and women of our agency, I appreciate the opportunity to present the testimony of the U.S. Postal Inspection Service in support of this hearing on Data Security at the U.S. Postal Service.

As one of our country's oldest federal law enforcement agencies, founded by Benjamin Franklin, we have a long, proud, and successful history of fighting crime against those who attack our nation's postal system and misuse it to defraud, endanger, or otherwise threaten the American public. For over 250 years, Postal Inspectors have investigated criminal offenses involving the mail and the postal system. From embezzlements in colonial Post Offices to mail train robberies in the 1800s, from major fraud cases in the 1900s to the mailing of deadly anthrax in 2001, Postal Inspectors have worked diligently to ensure America's confidence in the U.S. Mail.

Postal Inspectors tenaciously investigate criminal offenses involving the mail or the postal system. As federal law enforcement officers we carry firearms, make arrests, and serve federal search warrants and subpoenas. To carry out our mission, Inspectors work closely with the Department of Justice and U.S. Attorney's Offices, other federal and local law enforcement agencies, and local prosecutors to investigate cases and prepare them for court. Postal Inspectors enforce more than 200 federal laws related to crimes that fraudulently use or adversely affect the U.S. Mail, the postal system, postal employees and postal customers.

The Postal Inspection Service helps secure the nation's mail system and ensure public trust in the mail. This is accomplished through public awareness, prevention efforts, and the aggressive investigation of individuals who violate federal laws and Postal Service rules and regulations. To effectively enforce the law and enhance the security and privacy of the U.S. Mail, we have stationed approximately 1,400 Postal Inspectors throughout the United States and have a presence in Puerto Rico, Guam, the Virgin Islands and Germany, as well as at Universal Postal Union (UPU) Headquarters in Berne, Switzerland. In Fiscal Year (FY) 2013, these Inspectors initiated more than 8,200 cases, and reported 6,080 arrests and indictments along with 5,041

convictions.¹ They also responded to more than 3,400 incidents involving suspicious items, substances, powders or liquids in the mail or at postal facilities.

My testimony today will focus specifically on the Postal Service's mail cover program, and the controls in place to ensure appropriate privacy protections are maintained. I will also update the Committee on the progress made regarding recommendations contained in the Postal Service's Office of Inspector General's Report; "Postal Inspection Service Mail Covers Program" released in May 2014.

I would first like to take this opportunity to state for the record the definition of a mail cover. There has been a great deal of confusion in the public as of late, spurred primarily by erroneous media reports, concerning this investigative tool and its use.

A mail cover is the process by which a nonconsensual recording is made of any data appearing on the outside cover of any sealed or unsealed class of mail matter (e.g., the name and address of the sender and addressee) or by which a record is made of the contents of any unsealed class of mail matter, for one of the following reasons:

- (i) To protect national security,
- (ii) To locate a fugitive,
- (iii) To obtain evidence regarding the commission or attempted commission of a crime, punishable by law by imprisonment for a term exceeding one year,
- (iv) To obtain evidence of a criminal violation or attempted criminal violation of a postal statute, or
- (v) To assist in the identification of property, proceeds or assets which are forfeitable because of a violation of criminal law.

The regulations governing mail covers are found at 39 CFR § 233.3. The regulations state the Postal Service maintains rigid control and supervision with respect to the use of mail covers as an investigative technique for law enforcement or the protection of national security. This function has been delegated to me in my position as the Chief Postal Inspector.

The Postal Service is committed to the privacy of customers. Any personal information obtained in connection with the mail cover program is protected in accordance with the Privacy Act. Information obtained from mail covers must be treated as restricted, confidential information. Inadvertent or intentional compromise of an investigation may result from someone informing the subject a mail cover is in effect or by revealing information obtained from a mail cover. Only postal personnel are authorized to record information relevant to mail covers and this information should only be disclosed at the express direction of the Postal Inspection Service for a law enforcement purpose as described above. Misuse or abuse of the mail cover process,

¹ Arrests, indictments, and convictions may be related to cases from prior reporting periods.

including improper disclosure of mail cover information, has resulted in disciplinary action of postal employees.²

Concerning the actual mail covers, however, courts have found there is no reasonable expectation of privacy with respect to information contained on the outside of mail matter. Courts have consistently upheld this principle and the constitutionality of Mail Covers in general, both prior³ to the Supreme Court's holding in *Katz v. United States*, 389 U.S. 347, as well as in subsequent decisions.⁴ No reasonable expectation of privacy exists which would otherwise be protected under the Fourth Amendment as a person has no legitimate expectation of privacy in the information voluntarily turned over to a third party. There is an obvious need for the Post Office to read and review information contained on the outside of a mail piece in order to ensure it reaches its destination. *United States v. Choate*, 576 F.2d 165, 175 (9th Cir. 1978). Of further note, courts have held a mail cover is substantially less intrusive than other law enforcement techniques. See *United States v. Gering*, 716 F.2d 615, 619-620 (9th Cir. 1983) (citing *Choate*).

It is important to note the lack of a reasonable expectation of privacy applies only to the information contained on the outside of the mail piece. Any information or matter contained within a mail article sealed against inspection remains subject to the protections of the 4th Amendment and the requirement of a Federal search warrant. Since 1878 it has been well settled that the 4th Amendment protects against the warrantless opening of sealed letters and packages in order to examine the contents. See *Choate*, 576 F.2d at 174 (citing *Ex parte Jackson*, 96 U.S. 727). The Postal regulations authorizing the use of mail covers were instituted the next year acknowledging the sanctity of the correspondence, but instituting the Postal Service's interpretation of the *Jackson* decision to allow mail covers. *Id.* at 177.

In 1965, Senator Edward Long, chair of the Subcommittee on Administrative Practice and Procedure of the Senate Committee on the Judiciary, held hearings on invasions of privacy. The hearings looked at multiple agencies and their acquisition of information. A part of those hearings included the use of mail covers. In response to these hearings the Postmaster General issued new and more rigid regulations. Subsequent to the issuance of the regulations, Senator Long expressed satisfaction with the new regulations. See *Choate*. at 178.

To make the regulations regarding mail covers more accessible to the public and to discourage confusion regarding the nature of mail covers, the Postal Service republished the mail cover

² *Robert W. Holdsworth, Jr., Petitioner, v. United States Postal Service, Respondent*. 2011-3214, United States Court of Appeals for the Federal Circuit, 469 Fed. Appx. 871; 2012 U.S. App. LEXIS 2481. February 9, 2012, Decided. The court upheld an MSPB final decision which upheld the termination of a Postal Service letter carrier who informed a customer on his route that authorities were watching his mail.

³ *United States v. Costello*, 255 F.2d 876, 881 (2d Cir. 1958); *Canaday v. United States*, 354 F.2d 849 (8th Cir. 1966); *Cohen v. United States*, 378 F.2d 751 (9th Cir. 1967); *Lustiger v. United States*, 386 F.2d 132 (9th Cir. 1967).

⁴ *United States v. Balistreri*, 403 F.2d 472, 475-477 (7th Cir. 1968); *United States v. Isaacs*, 347 F. Supp. 743, 750 (N.D.Ill.1972), affirmed on other grounds, 493 F.2d 1124 (7th Cir. 1974); *United States v. Leonard*, 524 F.2d 1076, 1087 (2d Cir. 1975); *United States v. Bianco*, 534 F.2d 501, 508 (2d Cir. 1976); *United States v. Huie*, 593 F.2d 14 (5th Cir. 1979) *United States v. Choate*, 576 F.2d 165, 175 (9th Cir. 1978) (finding no violation under First, Fourth, and Ninth Amendment); *United States v. De Poli*, 628 F. 2d 779, 786 (2nd Cir. 1979); *Vreeken v. Davis*, 718 F.2d 343, 347 (10th Cir. 1983); *United States v. Gering*, 716 F.2d 615, (9th Cir. 1983) (finding no violation under the First and Fourth Amendment); *United States v. Hinton*, 222 F.3d 664, 675 (9th Cir. 2000)

regulations in the Federal Register 40 FR 11579 (1975) (codified in 39 CFR 233.2 and later re-designated 233.3 in 46 FR 34330 (1981)). The republication notes the use of mail covers has been governed by Section 233.2 (1971) of the Postal Service Manual with supplementation by provisions formerly contained in Part 861 (1965) of the Postal Manual of the old Post Office Department. The Federal Register updated provisions related to delegating authority but made no substantive changes in mail cover procedures or safeguards.

Mail covers may be used as an investigative tool by other law enforcement agencies, however, a written request must be made through the U.S. Postal Inspection Service. Requesting law enforcement agencies must treat mail covers as restricted and confidential information. As with internal mail cover requests outside law enforcement agencies must demonstrate reasonable grounds for requesting and using a mail cover. The requesting law enforcement agency must explain what criminal law the subject of the mail cover is violating and how the mail cover could further the investigation or provide evidence of a crime. Mail covers are authorized only when all requirements are met within the written request. The Postal Inspection Service reviews each request to ensure it contains enough information to stand alone, as full justification for the cover, and fully complies with all regulation requirements. The Postal Inspection Service does not approve all submitted requests, declining both internal and external law enforcement mail cover requests for failing to meet program criteria.

Trends over the past five years indicate a continued reduction in the use of mail covers by outside law enforcement agencies. This trend is consistent with the decreased use of mail covers by the Postal Inspection Service, with one significant exception. In late FY 2012, the Postal Inspection Service revised procedures in connection with criminal investigations into dangerous mail and narcotics investigations. This procedural change, whereby we assigned mail covers to individual pieces of mail as opposed to an operation, drove the increase in the total mail cover number. For example, a mail operation at a postal facility in FY 2011 would have used a single mail cover. Today, the same operation would generate numerous one-day mail covers for mail pieces suspected of containing narcotics or narcotics proceeds. This procedural change resulted in the spike in mail covers as illustrated below:

Mail Covers by Category	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Inspector Mail Covers	3391	3195	3187	2848	2824
Outside Agency Mail Covers	9462	9233	8265	6732	6274
One-Day Mail Covers	4956	4327	4652	41102	48095
Total Mail Covers	17809	16755	16104	50682	57193
Mail Volume (Billions)	170.9	168.3	159.9	158.4	155.4

In comparison to volume of mail processed by the Postal Service, the number of mail covers requested and approved is miniscule.

The Postal Service Inspector General conducted its first review of the mail cover process, releasing its report in May 2014, entitled “Postal Inspection Service Mail Covers Program” (HR-

AR-14-001). At the committee's request, following is an update on the progress, to date, on actions outlined in our management response.

The Inspector General's first recommendation advised the Postal Service to improve controls to ensure responsible Postal Inspection Service personnel process mail covers as required. The Inspection Service has taken the following steps:

- Reviewed and updated standard operating procedures for administering the mail cover program, completed in FY 2014. A second review is scheduled for FY 2015;
- Updated program materials that outline policies and procedures for other law enforcement agency use of mail covers. A comprehensive review and overhaul of program materials will be completed in FY 2015;
- Developed performance metrics and management reports to record receipt of outside agency criminal mail cover requests and to ensure timely processing;
- Developed, and is now testing, system enhancements to track and follow-up on non-return of accountable documents by outside agencies. Additional testing, and process refinement is required;
- Piloted the use of existing USPS applications to notify postal facilities to complete mail covers and return accountable materials. This limited trial has improved response rates by 5 percent. We are expanding the trial, and are seeking methods to further increase the response rate, better improving the process before wide-scale implementation;
- Is developing an internal training guide which is in the final stages of development; and,
- Is developing a disbarment process to hold external law enforcement agencies accountable for non-return of accountable items.

Based on continued action necessary to ensure success on these initiatives, we have requested an extension of the target completion date to March 30, 2015.

The second recommendation advised the Postal Inspection Service to establish procedures to ensure periodic reviews of mail covers are conducted as required. The Inspection Service revised procedures for conducting periodic reviews of mail covers, which are incorporated into the annual comprehensive self-assessment process. Beginning FY 2015, all field divisions will review mail cover procedures as part of their assessment. Mail cover compliance items may also be reviewed as part of the on-site compliance review program, which is an additional on-site assessment performed by a headquarters compliance team, with each division undergoing on-site assessment on a three-year cycle. We consider action on this item complete, and have requested the Inspector General close-out the finding.

The Inspector General's third recommendation advised the Postal Service to ensure Postal Service facility personnel process mail covers in a timely manner. The Inspection Service has piloted an existing Postal Service tool as a method to assess and ensure compliance with mail cover operations. We have also piloted the application, as stated above, to help ensure mail covers are completed timely and materials returned as required. We have also developed reporting tools for postal managers to better communicate compliance in handling mail covers.

Additional tasks remain to be accomplished, however, to ensure the recommendation is fully addressed. We believe this can be achieved by March 30, 2015, and have requested the Inspector General establish the estimated completion date accordingly.

The Inspector General's fourth recommendation advised the Postal Service to implement system controls to ensure data integrity in the Postal Inspection Service mail cover application. The Postal Inspection Service is committed to ensuring data integrity, and immediately initiated a review of existing program scripts, with a commitment to enact modifications as necessary to ensure automated processes are functioning properly. These tasks are in progress. We have initiated a formal mail cover system upgrade project, with the objective to improve the overall mail cover application, ensuring data integrity, compliance, and accurate reporting. The target implementation was stated as June 30, 2015; work is in progress and on track to achieve this date.

The mail cover is an important investigative tool, and we welcomed the Inspector General's review of the mail cover process to help us safeguard its future use. I am certain these recommendations, along with the additional actions we are taking will continue to provide necessary safeguards to ensure the program is administered as required.

The mail cover has been in use, in some form, since the 1800's. Today, the most common use of this tool is related to investigations to rid the mail of illegal drugs and illegal drug proceeds. Our narcotics program emphasizes the safety of postal employees and strives to protect them from handling mail that contains narcotics and trafficking proceeds and the associated violence. To accomplish this goal our investigations target drug trafficking rings and parcels containing contraband. In FY 2013, the Postal Inspection Service seized more than 46,000 pounds of illegal narcotics and \$20.7 million in drug trafficking proceeds from the mail. These results are tied to investigations such as one in which Postal Inspectors arrested 12 suspects in California accused of shipping illegal drugs to college students. Inspectors seized more than 300 mailings containing approximately 80 kilograms of marijuana, hashish, and ecstasy, plus about \$50,000 in drug-related proceeds. Similarly, in another case which focused on drug trafficking rings using First-Class and Express Mail to ship methamphetamine from California to Guam, Inspectors obtained 321 federal search warrants, seized nearly 11 pounds of methamphetamine, and arrested 10 suspect traffickers.

I would also like to address the misconceptions surrounding the mail cover and its use by law enforcement.

- A mail cover is not used merely as a routine investigative tool.
- The Postal Service does not use its automated processing equipment to gather this information.
- Data obtained under a mail cover is collected through a manual process.
- The mail cover is not used as part of a surveillance strategy by the Postal Service to monitor the mailing behaviors of the American public.

The Postal Service respects the privacy of its customers and the sanctity of the mail. Contrary to recent media reports, the Postal Service does not monitor the mail of its customers and it does not maintain any system or program of “surveillance.” Unfortunately, recent press coverage has conflated three independent mail programs—the mail cover program, mail imaging, and Mail Isolation, Control and Tracking (MICT). The result is a wholly false impression that there is a vast mail monitoring system in operation. This is simply not true.

These programs are distinct from one another and have very different purposes. Mail covers are used for criminal investigations, as previously explained.

Contrary to recent media assertions, mail imaging is not a “surveillance” tool – it is a mail processing tool. Mail imaging is a process developed by the Postal Service in the early 1990’s that allowed for the automation of mail processing. Individual mail processing machines create images that make it possible for machines, rather than people, to sort mail, thereby reducing costs and increasing speed and accuracy of delivery. Of the 158 billion pieces of mail processed in FY 2013 by the Postal Service, fewer than 23 billion (less than 15 percent) were subjected to a process that generates a mail piece image that is stored for more than a brief period, up to seven days. Those images reside locally at the processing plant. They are not stored in a database, nor do they reside in a format that allows them to be mined or analyzed electronically.

Finally, Mail Isolation, Control and Tracking (MICT) is a set of safety procedures developed in response to the anthrax mailings that occurred in October of 2001. The purpose of these procedures is to protect Postal Service employees and the American public in the event a known contaminated piece of mail has been processed through postal equipment. MICT is only triggered when a potentially contaminated mail piece is identified, and the ultimate goal is to be able to trace the path of the contaminated mail piece through the mail processing system so that the facilities, vehicles and processing machines that came in contact with the mail piece can be isolated and appropriate safety measures can be taken. Generally, the tracking is accomplished by barcode information that is placed on the mail piece during processing. Once the path of a contaminated mail piece has been determined, appropriate safety measures can be taken. Safety is the ultimate goal of MICT, not “surveillance”, although the path of a contaminated mail piece can be relevant for law enforcement purposes as well.

Tracking the path of a known contaminated mail piece is an investigative technique used by the Postal Inspection Service fewer than ten times in recent years. In one such case a mail piece containing ricin, addressed to the President of the United States, was identified in the mail stream before it could reach the President. This case, which received extensive national media attention, resulted in a successful prosecution and conviction, due in large part to the use of this valuable investigative technique.

In closing, I’d like to thank the committee for inviting me to appear here today. I appreciate the opportunity to discuss with you our commitment to strengthening the mail cover process; allowing us an opportunity to better explain our use of this important investigative tool, and the safeguards in place to protect the privacy of the American public. I also appreciate the

opportunity to address inaccurate reporting in the media regarding the mail cover process. Despite the continued decline in its use, the mail cover remains a valuable tool in the law enforcement community and the American public has nothing to fear from its use. Mail covers have long assisted our efforts to remove illegal drugs from the mail stream, keeping them off the streets and out of schools across the country. They have aided us in helping identify countless elderly victims who could ill-afford to lose their life savings to criminals who act without a conscience.

Over the past year media reports have conflated the use of mail covers, mail imaging, and the MICT process to suggest a conspiracy to spy on the mail of the American public—whom we are honored to serve and who trust us to keep the mail safe. This notion could not be further from the truth.

I welcome your questions.

Guy Cottrell

Chief Postal Inspector, U.S. Postal Inspection Service

Guy Cottrell was named chief postal inspector for the U.S. Postal Inspection Service in July, 2010. In this role, Cottrell oversees all operations of the Postal Inspection Service, which includes the National Headquarters, 18 divisions, two service centers and a national forensic laboratory. The installations are staffed by over 1,400 postal inspectors, more than 650 postal police officers and approximately 600 support personnel. He is also the chairman of the Universal Postal Union's Postal Security Group. He reports to the Postmaster General.

Prior to his appointment, Cottrell served as deputy chief inspector, Headquarters, where he had oversight of all national security programs. A native of West Virginia who grew up in the New Orleans, Louisiana area, Cottrell joined the Postal Service in 1987 as a letter carrier in New Orleans. In 1990, Guy was promoted to postal inspector in the New Orleans Division, where he investigated internal and external mail theft throughout Louisiana and southern Mississippi.

Since that time, he has held a number of supervisory positions in various major metropolitan areas across the country, including management of the U.S. Postal Inspection Service's Washington field office during much of the joint FBI/USPIS Amerithrax investigation.

In 2008, Guy served as inspector in charge of the Security & Crime Prevention/Communications group, where he guided the Postal Inspection Service toward a risk and management analysis platform, streamlined a wide array of security-related programs, and implemented numerous cost effective and innovative solutions. His group also produced several internal and external security and crime prevention publications, videos and overhauled the Postal Inspection Service's external web site.

Cottrell holds a Bachelors degree in psychology from the University of New Orleans.

