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The Role of the United States Postal Service in Public Safety and Security

Implications of Relaxing the
Mailbox Monopoly

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Sponsored by the United States Postal Service



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Summary

Introduction

The United States Postal Service (USPS) has long held statutory monopolies to deliver mail (the *Postal Monopoly*) and to have sole access in delivering mail to the mailbox (referred to as the *Mailbox Restriction*, *Mailbox Rule*, or *Mailbox Monopoly*). These monopolies were created to protect USPS revenue to enable it to fulfill its universal service obligation (USO)—its obligation to provide service to every delivery point in the United States. However, several critics have argued against the monopolies, primarily on economic, antimonopoly grounds related to leveling the playing field for other competitors and on property rights grounds for mailbox owners. The debate surrounding the monopolies focuses primarily on economic issues, but relaxing the monopolies may have ramifications in other areas—in particular, public safety and security. Given the potential public safety and security concerns, the USPS asked the RAND Corporation to assess the security implications of relaxing the Mailbox Rule; such relaxation would allow private courier companies or individuals to deliver items directly to the mailbox.

The Mailbox Rule stems from a criminal statute that Congress passed in 1934 (18 U.S.C. § 1725) to protect postal revenue when utilities and other companies began to distribute bills directly to customers. While the statute does not actually make it illegal for non-USPS employees to deliver mail, it does make it a crime to deliver mail without postage to a mailbox. The Mailbox Rule has two primary policy effects. First, it prevents private courier companies from making their deliveries to the mailbox. These deliveries must instead

be handed directly to their recipients or deposited, for example, on a home's front step. Second, it indirectly adds to the scope of the Postal Monopoly. The Postal Monopoly was first created by the Postal Act of 1845 and is shaped largely by the Private Express Statutes (PES) and Postal Accountability and Enhancement Act of 2006 (PAEA), which, with their implementing regulations, provide the USPS with sole authority to deliver "letters and packets" and many other types of mail. What they do not cover may be delivered either by the USPS or by private couriers, but the Mailbox Rule makes it too expensive for private courier companies to separate mailbox addresses from nonmailbox addresses (e.g., mail slots, company mailrooms).

This monograph analyzes the possible public safety and security ramifications of altering the Mailbox Rule. What public safety and security effects might occur if more people and organizations were involved in making deliveries to the mailbox? What might occur from a public safety and security perspective if some amount of USPS mailflow were diverted to other couriers? It is important to note that there is no consensus about whether the Mailbox Rule should be relaxed or what a relaxation might look like. Possibilities for relaxation might include allowing major existing private courier companies to deliver to the mailbox, creating a licensing regime to allow additional companies to deliver, or generally opening the mailbox to private deliveries. Any scenario would likely include a *de facto* continuation of the USPS monopoly over locked mailboxes (such as those found in apartment buildings and some neighborhoods), simply because locked mailboxes would require their own rules due to logistical and security issues connected to the possession of mailbox keys. Further, there would be significant costs involved in converting locked mailboxes to unlocked mailboxes or in managing mailbox keys to give legitimate couriers access to locked mailboxes.

In analyzing the security repercussions of relaxing the monopolies, we report on three sets of analyses: (1) assessing the relaxation's potential impact on public security and safety incidents; (2) assessing its impact on the ability of the United States Postal Inspection Service (IS) to detect, deter, and investigate mail crimes; and (3) assessing the public's perceptions of the Mailbox Rule and concerns about relaxing

it. To perform these analyses, this study used a combination of qualitative analyses (e.g., literature review, key-actor interviews, and a survey of consumers) and descriptive quantitative analyses (e.g., secondary data analysis of incident databases collected by the IS).

This study was bounded by several limitations. First, we were not asked to consider the public safety and security issues connected with relaxing the Postal Monopoly generally—only the relaxation of the Mailbox Rule. We also did not consider the economic ramifications of relaxing the USPS monopolies. Second, we had minimal data from private courier companies to compare with USPS practices. We attempted to interview several of the major U.S. private courier companies but did not receive a response to our requests; thus, we relied on publicly available corporate documents about the training and safety and security measures these companies have undertaken, as well as on analyses of the IS reported-incident databases. Without other direct information from private couriers, similar to what the USPS provided, we can only infer what their current capacity is for managing safety and security issues in processing and delivery. Third, we provide a broad overview of the range of USPS training and guidance; we did not comprehensively analyze all training and guidance, nor did we evaluate the quality of the training provided. Fourth, the IS reported-incident databases reflect detected and reported incidents, which means it is impossible to distinguish for certain whether changes over time reflect actual increases in incidence or increased detection or reporting. The true number of all these incidents is unknown. Finally, because we did not have incident data from other countries, our assessment of other countries' experience of relaxing their postal monopolies relied on a qualitative assessment.

Impact of Relaxing the Mailbox Rule: Public Safety and Security Incidents

Based on our descriptive analysis of the reported-incident databases (which identified security-related incidents by urban/rural splits and household income) and in conjunction with our assessments of key

differences in training, accountability, and oversight between the USPS and private couriers, we expect that several effects on security would result from relaxing the Mailbox Rule. If access to the mailbox is opened up to deliveries other than U.S. mail, the main risk to the public may be in terms of theft from the mailbox. Mail theft plays a role in many broader crimes—including, for instance, identity theft and the fraudulent use of stolen credit cards, pension checks, or other payments. An increase in mail theft might occur because more people would make deliveries to the mailbox, increasing opportunities for mail theft. In addition, depending on how the Mailbox Rule is relaxed, we would expect greater variability in personnel in terms of the type of training that personnel have received. This suggests that the training costs and need for additional training of USPS and IS personnel will likely increase.

Depending on the actual amount of U.S. mail volume that shifts to private couriers and the number of carriers involved in deliveries, security and safety may also decrease in other ways. In our view, mail-related financial crimes and explosives-related incidents may increase, as might the delivery of suspicious items (that might cause harm or fright) to consumers due to differences in training and in the number of personnel delivering to the mailbox. Further, training on the USPS side will likely have to increase to deal with the variability of events happening at the point of delivery. It is difficult to assess the current baseline level of risk from which these increases will occur. For instance, while the IS databases identify real safety and security concerns, the true extent of financial crime is unknown. (The nature of IS data collection likely underestimates the true level of crime substantially.)

These changes raise a fundamental question of whether training standards should be set as part of any decision to open access to the mailbox and, if so, who will be responsible for enforcing those standards.

Finally, opening up access to the mailbox may create two tiers of public safety, with rural and lower-income areas being *less likely* to experience the diversion of mail to private couriers due to private couriers potentially “cream-skimming” urban and higher-income areas.

Impact of Relaxing the Mailbox Rule: The IS's Ability to Detect, Deter, and Investigate Crime

Based on an assessment of the limited available data and of USPS arguments, we find that relaxing the Mailbox Rule would limit the number of crimes that the IS polices, which would deny the public the benefit of the only law enforcement agency that specializes in this field. Relaxing the Mailbox Rule would also make it more complicated and costly for the IS to police the crimes that would remain in its jurisdiction.

In discussions with the IS, one concern we heard was that the increased cost and complexity of investigations involving the mailbox would force the USPS to terminate its jurisdiction over mailboxes and crimes that occur in them. However, our analysis suggests that the USPS may not be forced to take this action, at least for U.S. mail delivered to the mailbox; nonetheless, the cost increase in maintaining jurisdiction over the mailbox could be significant.

We agree with the IS that relaxing the Mailbox Rule would limit federal jurisdiction over deliveries that are diverted to private couriers. Except for the mail-crime statutes that include a provision for federal jurisdiction based on interstate commerce, these statutes do not apply to private courier companies, because their deliveries are not “mail.” Even if Congress were to add provisions for federal jurisdiction based on interstate commerce to the remainder of mail-crime statutes, doing so would not address *intrastate* crimes. Furthermore, because the IS has investigative jurisdiction only over crimes involving U.S. mail, it would not be the agency charged with investigating crimes involving private courier companies, even when federal jurisdiction exists.

Relaxing the Mailbox Rule would increase the cost and complexity of IS investigations for several reasons. The IS would have to confirm that the crime involved a USPS delivery; investigations involving mailbox surveillance would have to deal with more suspects; and the IS would have more jurisdictional and territorial issues to address in each investigation. Relaxing the Mailbox Rule would also reduce the IS's visibility into national mail-crime trends because it would shrink the amount and consistency of information available.

Finally, although the Mailbox Rule generally has negligible deterrent effect against crime, it is possible that any deterrence gained from the strategic focus of IS resources—such as mass mail theft—will be lost. This would be the result of the shrinkage of IS investigative jurisdiction caused by the diversion of mail to private couriers and the possible cancellation of the mailbox’s status as an “authorized depository” of mail, as well as the occasional lack of parallel state or local prohibitions or regulatory systems for postal crimes.

Several of these negative impacts could be somewhat mitigated. Congress could mandate that the mailbox remain an authorized depository of mail for the purposes of federal jurisdiction over crimes against U.S. mail in the mailbox and against the mailbox itself (but not crimes against private courier deliveries to the mailbox, such as theft or tampering). An appropriation might be necessary to enable continuing jurisdiction over the mailbox. Congress could add an interstate commerce basis for federal jurisdiction to the remainder of mail-crime statutes that currently rely only on the mail for federal jurisdiction, such as sending explosive devices, nonmailable hazardous materials, and firearms. However, extending the IS’s investigative jurisdiction to deliveries that are diverted to private courier companies would place the IS in the uncomfortable position of policing the USPS’s competition. A national reporting requirement could partially mitigate the problem of visibility caused by diversion, even if it applied to law enforcement agencies rather than private courier companies, but it would likely require additional funding. Through a direct appropriation, Congress could mitigate the additional resource burdens that relaxing the Mailbox Rule would place on IS investigations. Alternatively, some increased costs might be offset, at least in part, by the reduction in the IS’s caseload because of the shrinkage of its investigative jurisdiction.

Public Perceptions About Relaxing the Mailbox Rule

To determine what the public thinks about relaxing the Mailbox Rule, we conducted a survey using RAND’s established, nationally representative American Life Panel (ALP) to complement and expand on exist-

ing surveys. Overall, we found that a majority of respondents favored keeping the Mailbox Rule in place; however, a third were in favor of extending access to trusted courier companies. When individuals were given more information about the implications of relaxing the Mailbox Rule, they were less likely to support extending access. These results are consistent with the U.S. Government Accountability Office's (GAO) 1994 survey suggesting that the opposition to opening up mailbox access has remained consistent for at least the past 15 years (GAO, 1997).

Security and identity-theft concerns are important factors underlying respondents' concerns about relaxing the Mailbox Rule. Most respondents cited security-related reasons as their strongest ones for opposing increased access. In general, the more concerned individuals were about security, the more likely they were to favor restricting access to their mailboxes.

Finally, there is some evidence that opening up mailbox access is more acceptable to those whom it will most affect. Specifically, rural households are less likely to be affected by removing the Mailbox Rule. Yet, rural households were more likely than urban households to oppose removing the Mailbox Rule. To some extent, this difference may derive from urban households' comfort with private couriers. We expect that rural households are less likely than urban households to interact with private couriers on a regular basis (either because of less frequent courier deliveries to rural areas or because of the USPS's "last mile" delivery service for some courier-service items¹). This level of comfort among urban households could alleviate their concerns about private couriers. If access were granted to private couriers, it is unclear whether public

¹ Last mile deliveries are made in cases in which private courier companies use the reach of the USPS delivery network. A private courier service delivers an item as far into its own delivery network as it can, then contracts with the USPS to deliver the item to a location beyond that point where it is more logistically and cost effective to use the USPS delivery network. For example, the USPS has provided last mile delivery for DHL since 2003 in more than 20,000 ZIP Codes nationwide through its Parcel Select service; the USPS is the exclusive provider of delivery service to DHL for 3,600 of the nation's 46,000 ZIP Codes through use of Priority Mail and Parcel Select service (USPS, 2008c).

opinion would shift over time as rural households become more familiar and comfortable with these couriers.

Issues to Consider If the Mailbox Rule Is Relaxed

Overall, we expect that relaxing the Mailbox Rule will have a negative effect on public safety and mail security, as well as increase the number of mail crimes that are not reported, although we speculate that the magnitude of the impact on incidents (based on the limited data available) would likely be moderate. Such an impact would be contingent on the degree of relaxation, particularly whether only the major couriers or a range of different types of couriers are allowed to enter the postal market. Whatever the degree of relaxation may be, there is a stronger case for predicting an increase in the cost and complexity of IS investigations. If Congress decides to explore the possibility of relaxing the Mailbox Rule, a number of issues will need to be addressed. Although we point to where there may be increases in the number of incidents, training requirements and costs, and investigation costs and investigative complexity, it is not possible to quantify the magnitude of increases in these areas without a clear set of options against which to evaluate such increases and more data regarding private courier company practices.

That said, we highlight issues that should be considered to help mitigate the public safety and security impacts that might occur if the Mailbox Rule were relaxed.

- Congress may want to consider options for establishing national training standards for private couriers and identify what agency will be responsible for oversight and enforcement of those standards. If the USPS is given a role in training private couriers to national standards, such an increase in responsibilities would need to entail a corresponding increase in funding.
- A national reporting system may need to be established to allow the IS and the U.S. Department of Justice (DOJ) to continue

to track mail crime and crime involving private couriers and to assess mail-crime trends over time.

- With respect to the issue of federal jurisdiction over the mailbox, Congress may want to consider mandating that the mailbox remain an authorized depository of mail for the purpose of USPS deliveries.
- To somewhat mitigate the loss of federal jurisdiction over mail crime because of diversion of mail to private couriers, Congress may want to increase the number of mail-crime statutes that have an interstate commerce hook. Congress should decide which federal law enforcement agency has investigative jurisdiction over those crimes, as it may be inappropriate for the IS to investigate interstate crimes involving private courier companies that compete with the USPS.
- To address consumers' concerns about security and implications of relaxing the Mailbox Rule, public education and awareness campaigns may need to be implemented to inform consumers about what will change and what that will mean for them (e.g., to whom they will report mail crime, how they will know whether a courier is legitimate). The public awareness campaigns would need to be tailored to address the needs of different populations—for example, for rural populations—who may be more resistant to the change.
- Finally, if there is a strong political will to relax the Mailbox Rule, one option for collecting data in order to quantify the potential impact on public safety and security, as well as other issues, would be to undertake a pilot project in a limited number of areas that would allow individuals to give select parties access to their mailbox. If such a pilot is undertaken, data should be collected on each reported incident (including type of incident), what carrier was involved, characteristics of the incident, to whom the consumer reported the incident, who the responder was, and investigation costs. Doing so would be important to quantify the hypothesized impact that relaxing the Mailbox Rule may have on public safety and mail crime. Having such information would, in turn, be cru-

cial in determining the soundness of relaxing the Mailbox Rule and in designing a national implementation.