
**Testimony before the Nevada Advisory Commission on
the Administration of Justice on Behalf of the United
States Postal Service Office of Inspector General**



Oral Statement

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Mr. Chairman and Members of the Commission, the United States Postal Service Office of Inspector General requests that you recommend amending Nevada Revised Statute § 171.1257 concerning peace officer status for Postal Service law enforcement officers. The statute specifically permits Inspectors of the United States Postal Inspection Service to make arrests for state crimes concerning postal matters. The current statutory language does not include Special Agents of the United States Postal Service Office of Inspector General. This has interfered with the ability of the Office of Inspector General to investigate crimes against the Postal Service and to arrest those suspected of committing postal crimes and misdemeanors. Amending the statute to include Office of Inspector General Special Agents will fix this problem.

The United States Postal Service has two federal law enforcement agencies with jurisdiction to investigate postal-related crimes: the United States Postal Inspection Service and the United States Postal Service Office of Inspector General.

For many years, the Inspection Service performed the functions of the Office of Inspector General. Inspectors General audit agency programs and investigate violations of policy, regulation, and statute committed by postal workers and contractors. In 1997, Congress separated the Office of Inspector General from the Inspection Service, creating a new agency reporting directly to the Board of Governors of the Postal Service. The investigation of employee and

contractor misconduct, formerly done by postal Inspectors, would henceforth be done by Office of Inspector General (OIG) Special Agents.

Postal Inspectors and OIG Special Agents both derive their law enforcement authority from 18 U.S.C. § 3061(a) of the United States Code.¹ This federal statute authorizes postal Inspectors and OIG Special Agents to serve warrants and subpoenas, make warrantless arrests for federal offenses committed in their presence and for federal felonies based upon probable cause, carry firearms, and make seizures of property as provided by law.

While OIG Special Agents have the authority to make arrests for federal crimes relating to postal matters, they do not have the authority to make arrests for state crimes relating to postal matters. The majority of our cases are brought through the federal court system, but there are situations where certain crimes concerning postal matters are more appropriately prosecuted in state courts, and this lack of authority to make arrests for state crimes has hindered OIG

¹ 18 U.S.C. § 3061(a)-(b) reads:

(a) Subject to subsection (b) of this section, Postal Inspectors and other agents of the United States Postal Service designated by the Board of Governors to investigate criminal matters related to the Postal Service and the mails may—

- (1) serve warrants and subpoenas issued under the authority of the United States;
- (2) make arrests without warrant for offenses against the United States committed in their presence;
- (3) make arrests without warrant for felonies cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony;
- (4) carry firearms; and
- (5) make seizures of property as provided by law.

(b) The powers granted by subsection (a) of this section shall be exercised only--

- (1) in the enforcement of laws regarding property in the custody of the Postal Service, property of the Postal Service, the use of the mails, and other postal offenses; and
- (2) to the extent authorized by the Attorney General pursuant to agreement between the Attorney General and the Postal Service, in the enforcement of other laws of the United States, if the Attorney General determines that violations of such laws have a detrimental effect upon the operations of the Postal Service.

investigations and created an unnecessary burden on local law enforcement resources..

For example, a postal contractor operating a semi-truck carrying mail cross-country was investigated for contract fraud. The Office of Inspector General sought prosecution in state court instead of federal court because the misconduct was considered a felony under state law but only a misdemeanor under federal law. The Office of Inspector General felt this misconduct was serious enough to warrant the felony classification under state law. Due to the lack of peace officer status, OIG Special Agents needed a local police officer to make the arrest. Due to understaffing, local police were unable to make the arrest until several months after the arrest warrant was issued. This hindered the prosecution of this crime substantially. If OIG Special Agents had peace officer status in that state, the arrest and prosecution could have been resolved in a shorter period of time and local police would not have been burdened with an arrest that OIG Special Agents could have made.

Another example concerns an investigation of the theft of postal employee cellphones from a postal facility by an employee. The postal employee stored the stolen phones at his home. The case was prosecuted in state court because the dollar amount in question was too low to justify bringing the case in federal court. Since the investigation was brought in state court, OIG Special Agents needed a local police officer to obtain and serve a search warrant. Local police officers

seized the stolen cellphones, which created a chain of custody issue when entering the cellphones into evidence in state court. Not only did this burden local police by requiring the local police officer to testify in court as the arresting officer, but it also created an extra link in the chain of custody that the defendant could have claimed the introduction of the evidence suspect, potentially excluding the evidence and damaging the case.

A third example concerned the counterfeiting of Netflix DVDs by a postal employee. The employee removed Netflix DVDs from the mailstream, copied the DVDs in his home, and returned the original DVDs back into the mailstream. Under federal law, the employee's removing and returning DVDs from the mailstream did not constitute a solid mail theft charge, so the case was brought under state anti-piracy laws. Lacking peace officer status at the state level, OIG Special Agents were required to enlist a local counterfeiting task force to investigate a case it would rather not have dealt with, because the task force was responsible for investigating other counterfeiting cases. Consequently, the OIG's Netflix investigation took months longer than was necessary.

While OIG special agents are focused entirely on investigating postal related crimes and misdemeanors, local law enforcement officers are responsible for investigating a wide variety of offenses. Giving OIG Special Agents peace officer status would enable them to investigate and bring prosecutions of postal-

related offense without diverting local police from their responsibilities. The result is better law enforcement and a more efficient use of state tax revenues.

The Office of Inspector General proposes that N.R.S. § 171.1257 be amended as follows (Insertions are in **bold, underscored, italicized text**) (Deletions are in ~~bold with an over stroke through the word~~):

“1. A postal inspector **or special agent** of the United States Postal ~~Inspection~~ Service may make an arrest in obedience to a warrant delivered to him or her, or may, without a warrant, arrest a person:

(a) For a public offense related to postal matters committed or attempted in the postal inspector’s **or special agent’s** presence.

(b) When the person arrested has committed a felony or gross misdemeanor related to postal matters, although not in the postal inspector’s **or special agent’s** presence.

(c) When a felony or gross misdemeanor related to postal matters has in fact been committed, and the postal inspector **or special agent** has reasonable cause for believing the person arrested to have committed it.

(d) On a charge made, upon a reasonable cause, of the commission of a felony or gross misdemeanor related to postal matters by the person arrested.

(e) When a warrant has in fact been issued in this State for the arrest of a named or described person for a public offense related to postal matters, and the postal inspector **or special agent** has reasonable cause to believe that the person arrested is the person so named or described.

2. As used in this section, “postal matters” means any act related to mail service, including, without limitation, delivering and collecting mail, mail theft and mail fraud.”

By enacting this amendment, the Nevada Legislature will be updating the statute consistent with the current structure of Postal Service law enforcement. The Office of Inspector General will be able to more effectively and efficiently root out fraud, waste, and misconduct in the Postal Service, protect Postal Service revenues, and maintain confidence in the mail for Nevada's citizens. Enactment will also free up Nevada law enforcement resources, prevent duplication of efforts, and result in more effective prosecution of postal-related crimes in Nevada state courts.

Thank you for your time and your consideration of the Office of Inspector General's request.