



# Las Vegas Police Protective Association Metro, Inc.



To: Detective Aaron Fink  
From: David Roger, General Counsel *DR*  
Date: October 22, 2013  
Re: Expectation of Privacy in Roadside Mailboxes

You have asked whether officers may examine the contents of an unlocked, roadside mailbox to identify the occupants of the residence.

The Fourth Amendment of the United States Constitution protects areas in which a citizen has an objectively reasonable expectation of privacy. See, *Oliver v. United States*, 466 U.S. 170, 104 S.Ct. 1735 (1984).

Initially, it is important to recognize that citizens do not have a right to privacy in addresses affixed to the exterior of letters and packages. See, *United States v. Van Leeuwen*, 397 U.S. 249, 250–52, 90 S.Ct. 1029, 25 L.Ed.2d 282 (1970). The Ninth Circuit Court of Appeals, in *United States v. Choate*, 576 F.2d 165, 176, (9<sup>th</sup> Cir.1978) explained, “[s]enders knowingly exposed the outsides of the mail to postal employees and others, and defendant could not keep those areas private.”

With respect to mailboxes, courts have refused to extend constitutionally protected privacy rights. In *U.S. v. Hinton*, 222 F. 3<sup>rd</sup> 664, (9<sup>th</sup> Cir. 2000), cert. denied 531 U.S. 1200, 121 S.Ct. 1209 (2001), the defendant claimed he had an expectation of privacy in an enclosed, locked parcel box at a post office. Postal authorities commonly used parcel boxes to store oversized packages for customers. Recognizing that employees had access to the parcel boxes, the court held that there was no reasonable expectation of privacy in the contents of the boxes. The court concluded, “In sum, one may not claim an objectively reasonable expectation of privacy in a parcel locker that cannot be individually rented, and from which the contents can be moved at employees’ discretion.” *Id.* at 676.

While the court seemed to leave open the possibility that a citizen who rents a secure post office box might have an expectation of privacy in the contents, a case cited with approval in the decision holds otherwise. In *U.S. v. Osunegbu*, 882 F.2d 472 (5<sup>th</sup> Cir. 1987) the court held that the Fourth Amendment was not violated when postal inspectors searched a private, rented postal box. The appellate court noted that decisions have made clear that citizens do not have an expectation of privacy in the address affixed to letters or packages. Furthermore, the court noted that employees were able to examine the letters when sorting and placing the items inside the rented boxes. Likewise, the postal inspector had the ability to examine the packages prior to the worker depositing the items in the box. Consequently, the court concluded there was no constitutionally protected privacy right in neither the letter nor the box.

A person does not have an expectation of privacy in an address affixed to a letter or package. The address is open for anybody to read. Likewise, an unsecure mailbox is open to postal authorities and anybody else who might pass by the box. Therefore, an officer may examine the contents of an unlocked mailbox to identify people who reside in a home without violating the Fourth Amendment.