

Guidance document for the enactment of postal-related criminal laws

UPU Postal Security Group

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Section I: Introduction

Each country determines what laws it should enact to protect its citizens and its designated postal operator(s). This document is not intended to dictate what those laws should be, nor what penalties should be imposed. However, promoting the enactment of postal-related criminal laws has significant benefits for designated operators (DOs). National laws which support the security of DOs highlight the unique position and value of postal services in the community by emphasizing the seriousness of offences against those postal operators. Such national laws lead to greater standardization and also enable police units investigating violations of those laws to act within a clearly defined set of standards. Together, this results in a more efficient and effective response to crimes within a country, and enhances cross-border international cooperation among DOs in dealing with the increasingly international nature of criminal activity. Such laws also have a deterrent effect upon criminals, both inside and outside of postal services.

Member countries are urged to promote the enactment of postal-related criminal laws, together with appropriate penalties which adequately reflect the seriousness of such crimes. Such laws protect postal employees, mail, property and revenues. This document is offered as a guide to areas that may need specific laws to support DOs. Moreover, it provides sample legislation that can be adopted or modified where it is useful to integrate such laws into existing national legislation.

Many governments have already enacted postal laws in their countries. Others have recognized the importance of doing so, as evidenced by the resolution passed by members attending the 1999 UPU Beijing Congress (C 51/1999, National legislation in support of postal security). That resolution considered the vulnerability of the international and domestic postal systems to criminal acts such as theft, robbery, burglary, assaults on employees, fraud, trafficking in drugs, pornography and other related crimes. It appealed to the governments of member countries to develop and adopt specific laws, regulations and measures to ensure the integrity and security of the mail and the quality of service and security of postal services worldwide.

Each government enacts its own laws as necessary, and this document is not intended to infringe upon any sovereign legislative agenda. However, as DOs develop postal security strategies and take appropriate steps to counteract and prevent criminal offences, they need the official support of their national governments to effectively conduct such activities to safeguard the interests of postal customers, postal employees and other individuals handling the mail and postal business. All governments can recognize the unique importance of a safe and effective postal system in providing the lifeline of communication and commerce for their citizens. Enacting and strengthening postal laws is an essential tool in maintaining that lifeline.

Prior to the discussion of specific postal laws, three final introductory points should be addressed:

First, member countries should make a determination of the DO's security/investigative unit. Does that unit need statutory or regulatory authority to exist or to investigate/enforce postal laws? What are its duties and responsibilities, and to whom does it report? Does it have police powers and/or what is its authority and responsibility to cooperate with other law enforcement officers? Once the role of the security/investigative unit is decided, postal laws can then be drafted to include that unit and its authority to investigate and/or enforce those laws.

Second, before drafting and introducing specific postal laws, member countries should examine the need for the particular law, and be able to justify what it will do to protect the DO. Such an analysis will provide a solid foundation from which to introduce the legislation.

Third, member countries must consider definitions of postal terms with regard to legislation. For example, what is a letter (are there different classes and rates)? Who are postal employees (are contract employees included)? What is a postal facility (are facilities shared with other agencies of government or business)? What are postal services (is there a monopoly on such services)? Postal terminology must be clear in order to draft clear legislation.

The remainder of this document provides model postal criminal laws under the following broad categories of offences:

- Theft and obstruction of mail
- Robbery
- Assaults against postal employees

- Avoidance of postage
- Counterfeiting/unauthorized postage
- Misappropriation of postal funds
- Illicit drugs
- Injurious articles
- Child protection
- Money laundering
- Mail fraud

This document relies to a significant extent on the United States postal laws as contained in Title 18 of the US Code. This is not meant to be a specific endorsement of US criminal laws, but is intended only to provide model legislation that may or may not be used by member countries as they see fit. There are, of course, many countries which have postal legislation that is just as effective and comprehensive, and those countries are invited and encouraged to share their contributions with other UPU member countries and DOs and the UPU Postal Security Group (PSG) as they feel useful and appropriate.

Users of this document who wish to research further into these model statutes and their historical references and sources may wish to visit uscode.house.gov.

Section II: Theft and obstruction of mail

Theft, delay, and destruction of mail, postal property and means of delivery are elemental and ongoing threats to DOs that must be addressed legislatively in a clear and direct fashion. It is the most basic responsibility of a DO to protect the letters, documents and assets entrusted to it by its postal customers. Theft and obstruction of mail can be considered both an internal and external threat that must be covered by postal criminal statutes. The following proposals are offered:

Subsection A: Desertion of mails

Whoever, having taken charge of any mail, voluntarily quits or deserts the same before he has delivered it into the post office at the termination of the route, or to some known mail carrier, messenger, agent, or other employee of the DO authorized to receive the same, shall be fined under this statute or imprisoned (as considered appropriate legislatively), or both.

Subsection B: Obstruction of mails generally

Whoever knowingly and wilfully obstructs or retards the passage of the mail, or any carrier or conveyance carrying the mail, shall be fined under this statute or imprisoned (as appropriate), or both.

Obstruction of correspondence

Whoever takes any letter, postal card, or package out of any post office or any authorized depository for mail matter, or from any letter or mail carrier, or which has been in any post office or authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed, with design to obstruct the correspondence, or to pry into the business or secrets of another, or opens, secretes, embezzles, or destroys the same, shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection C: Internal delay or destruction of mail

Whoever, being an officer or employee of a DO, unlawfully secretes, destroys, detains, delays, or opens any letter, postal card, package, bag or mail entrusted to him or which shall come into his possession, and which was intended to be conveyed by mail, or carried or delivered by any carrier or other employee of the DO, or forwarded through or delivered from any post office or station thereof established by authority of the DO, shall be fined under this title or imprisoned (as appropriate), or both.

Whoever, without authority, opens, or destroys any mail not directed to him, shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection D: Stolen or counterfeit keys

Whoever steals, purloins, embezzles, or obtains by false pretence any key suited to any lock adopted by a DO and in use on any of the mails or bags thereof, or any key to any lock box, lock drawer, or other authorized receptacle for the deposit or delivery of mail matter; or

Whoever knowingly and unlawfully makes, forges, or counterfeits any such key with the intent unlawfully or improperly to use, sell or otherwise dispose of the same, or to cause the same to be unlawfully or improperly used, sold, or otherwise disposed of; or

Whoever, being engaged as a contractor or otherwise in the manufacture of any such mail lock or key, delivers any finished or unfinished lock or the interior part thereof, or key, used or designed for use by a DO, to any person not duly authorized by the DO, to receive the same, shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection E: Destruction of letter boxes or mail

Whoever wilfully or maliciously injures, tears down or destroys any letter box or other receptacle intended or used for the receipt or delivery of mail on any mail route, or breaks open the same or wilfully or maliciously injures, defaces or destroys any mail deposited therein, shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection F: Destruction of mail bags

Whoever tears, cuts or otherwise injures any mail bag, pouch, or other thing used or designated for use in the conveyance of the mail, or draws or breaks any staple or loosens any part of any lock, chain, or strap attached thereto, with intent to rob or steal any such mail, or to render the same insecure, shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection G: Theft of postal property

Whoever steals, purloins, or embezzles any property used by a DO, or appropriates any such property to his own or any other than its proper use, or conveys away such property to the hindrance or detriment of the service, shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection H: Theft or receipt of stolen mail

Whoever steals, takes, or abstracts, or by fraud or deception obtains, or attempts so to obtain, from or out of any mail, post office, or station thereof, letter box, mail receptacle, or any mail route or other authorized depository for mail matter, or from a letter or mail carrier, any letter, postal card, package, bag, or mail, or abstracts or removes from any such letter, package, bag, or mail, any article or thing contained therein, or secretes, embezzles, or destroys any such letter, postal card package, bag, or mail, or any article or thing contained therein; or

Whoever steals, takes, or abstracts, or by fraud or deception obtains any letter, postal card, package, bag, or mail, or any article or thing contained therein which has been left for collection upon or adjacent to a collection box or other authorized depository of mail matter; or

Whoever buys, receives, or conceals, or unlawfully has in his possession, any letter, postal card, package, bag or mail, or any article or thing contained therein, which has been so stolen, taken, embezzled, or abstracted, as herein described, knowing the same to be stolen, taken, embezzled, or abstracted, shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection I: Theft of mail by officer or employee

Whoever, being an officer or employee of a DO, embezzles any letter, postal card, package, bag, or mail, or any article or thing contained therein entrusted to him or which comes into his possession intended to be

conveyed by mail, or carried or delivered by any carrier, messenger, agent, or other person employed in any department of the DO, or forwarded through or delivered from any post office or station thereof established by authority of the DO; or steals, abstracts, or removes from any such letter, package, bag, or mail, any article or thing contained therein, shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection J: Postal savings

All the safeguards provided by law for the protection of public moneys, and all statutes relating to the embezzlement, conversion, improper handling, retention, use, or disposal of postal and money-order funds, false returns of postal and money-order business, forgery, counterfeiting, alteration, improper use or handling of postal and money-order blanks, forms, vouchers, accounts, and records, and the dies, plates, and engravings therefor, with the punishments provided for such offences are extended and made applicable to postal savings depository business and funds and related matters.

Section III: Robbery

Robbery presents a serious danger to the safety of employees and customers of DOs, as well as a threat to the mails, property, and finances of DOs. Implementing or enhancing postal criminal laws related to robbery and burglary provides an extra measure of security for employees and customers as well as mail, assets and property. Criminals are put on notice that attacking a DO by robbery or burglary will expose them to stricter laws and penalties. The following model statutes are offered:

Subsection A: Robbery (mail, money, property)

Robbery – A person who assaults any person having lawful charge, control, or custody of any mail matter or of any money or other property of a DO, with intent to rob, steal, or purloin such mail matter, money, or other property of the DO, or robs or attempts to rob any such person of mail matter, or of money, or other property of the DO, shall, for the first offence, be imprisoned (as appropriate);

Aggravated robbery – And if in effecting or attempting to effect such robbery he wounds or injures the person having custody of such mail, money, or property of the Post, or puts his life in jeopardy by the use of a dangerous weapon, or for a subsequent offence, shall be imprisoned (for a longer sentence).

Receipt, possession, concealment, or disposal of property – A person who receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned (as appropriate), fined under this statute, or both.

Subsection B: Burglary (post offices)

Whoever forcibly breaks into or attempts to break into any post office, or any building used in whole or in part as a post office, with intent to commit in such post office, or building or part thereof, so used, any larceny or other depredation, shall be fined under this statute or imprisoned (as appropriate), or both.

Section IV: Assaults against postal employees

The physical protection of employees performing official functions is essential to the wellbeing of DOs. Postal criminal statutes can help protect employees by putting criminals on notice that they will be prosecuted aggressively for harming postal workers performing their duties. These laws are also important in protecting the valuable articles postal employees often carry in their jobs. The following are sample statutes:

Subsection A: Assault

Simple assault – Whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any officer or employee of the DO while such employee or officer is engaged in or on account of the performance of official duties; or forcibly assaults or intimidates any person who formerly served as an officer or employee of the DO on account of the performance of official duties during such person's term of service, shall be fined under this statute or imprisoned (as appropriate), or both.

Aggravated assault – Whoever, in the commission of any acts described in the section above uses a deadly or dangerous weapon (including a weapon intended to cause death or danger but that fails to do so by reason of a defective component) or inflicts bodily injury, shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection B: Homicide

Whoever kills or attempts to kill any officer or employee of a DO while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished (as appropriate).

Section V: Avoidance of postage

Avoidance of paying postage presents an obvious threat to the financial health of DOs. It is important to develop specific legislation that puts would-be cheats on notice of the potential liability they face in misusing postal services and assets. Sample statutes include:

Subsection A: Cancelled stamps and envelopes

Whoever uses or attempts to use in payment of postage, any cancelled postage stamp, whether the same has been used or not, or removes, attempts to remove, or assists in removing, the cancelling or defacing marks from any postage stamp, or the superscription from any stamped envelope, or postal card, that has once been used in payment of postage, with the intent to use the same for a like purpose, or to sell or offer to sell the same, or knowingly possesses any such postage stamp, stamped envelope, or postal card, with intent to use the same or knowingly sells or offers to sell any such postage stamp, stamped envelope, or postal card, or uses or attempts to use the same in payment of postage; or

Whoever unlawfully and wilfully removes from any mail matter any stamp attached thereto in payment of postage; or

Whoever knowingly uses in payment of postage, any postage stamp, postal card, or stamped envelope, issued in pursuance of law, which has already been used for a like purpose,

Shall be fined under this title or imprisoned (as appropriate), or both; but if he is a person employed by the DO, he shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection B: Avoidance of postage

Matter of the second, third, or fourth class containing any writing or printing in addition to the original matter, other than as authorized by law, shall not be admitted to the mails, nor delivered, except upon payment of postage for matter of the first class, deducting therefrom any amount which may have been prepaid by stamps affixed, unless by direction of a duly authorized officer of the DO such postage shall be remitted. Whoever knowingly conceals or encloses any matter of a higher class in that of a lower class and deposits the same for conveyance by mail, at a less rate than would be charged for such higher-class matter, shall be fined under this statute.

Subsection C: Unpaid postage

Whoever knowingly and wilfully deposits any mailable matter such as statements of accounts, circulars, sale bills, or other like matter, on which no postage has been paid, in any letter box established, approved, or accepted by the DO for the receipt or delivery of mail matter on any mail route with intent to avoid payment of lawful postage thereon, shall for each such offence be fined under this statute.

Subsection D: Postage collected unlawfully

Whoever, being an officer or other person authorized to receive the postage of mail matter, fraudulently demands or receives any rate of postage or gratuity or reward other than is provided by law for the postage of such mail matter, shall be fined under this statute or imprisoned (as appropriate), or both.

Section VI: Counterfeiting/unauthorized postage

Counterfeiting of postage stamps and postal instruments can also pose a grave risk to the financial wellbeing of DOs. Therefore, it is important to cover these threats with specific postal criminal statutes, such as the following:

Subsection A: Money orders

Whoever, with intent to defraud, falsely makes, forges, counterfeits, engraves, or prints any order in imitation of or purporting to be a blank money order or a money order issued by or under the direction of the DO; or

Whoever forges or counterfeits the signature or initials of any person authorized to issue money orders upon or to any money order, postal note, or blank therefor provided or issued by or under the direction of the DO, or post office or corporation of any foreign country, and payable, or any material signature or endorsement thereon, or any material signature to any receipt or certificate of identification thereof; or

Whoever falsely alters, in any material respect, any such money order or postal note; or

Whoever, with intent to defraud, passes, utters or publishes or attempts to pass, utter or publish any such forged or altered money order or postal note, knowing any material initials, signature, stamp impression or endorsement thereon to be false, forged, or counterfeited, or any material alteration therein to have been falsely made; or

Whoever issues any money order or postal note without having previously received or paid the full amount of money payable therefor, with the purpose of fraudulently obtaining or receiving, or fraudulently enabling any other person, either directly or indirectly, to obtain or receive from the DO, or any officer, employee, or agent thereof, any sum of money whatever; or

Whoever embezzles, steals, or knowingly converts to his own use or to the use of another, or without authority converts or disposes of any blank money order form provided by or under the authority of the DO; or

Whoever receives or possesses any such money order form with the intent to convert it to his own use or gain or use or gain of another knowing it to have been embezzled, stolen or converted; or

Whoever, with intent to defraud the Post, or any person, transmits, presents, or causes to be transmitted or presented, any money order or postal note knowing the same:

- (1) to contain any forged or counterfeited signature, initials, or any stamped impression, or
- (2) to contain any material alteration therein unlawfully made,
- (3) to have been unlawfully issued without previous payment of the amount required to be paid upon such issue, or
- (4) to have been stamped without lawful authority; or

Whoever steals, or with intent to defraud or without being lawfully authorized by the Post, receives, possesses, disposes of or attempts to dispose of any postal money order machine or any stamp, tool, or instrument specifically designed to be used in preparing or filling out the blanks on postal money order forms;

Shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection B: Stamps, meter stamps and postal cards

Whoever forges or counterfeits any postage stamp, postage meter stamp, or any stamp printed upon any stamped envelope, or postal card, or any die, plate, or engraving thereof; or

Whoever makes or prints, or knowingly uses or sells, or possesses with intent to use or sell, any such forged or counterfeited postage stamp, postage meter stamp, stamped envelope, postal card, die, plate, or engraving; or

Whoever makes, or knowingly uses or sells, or possesses with intent to use or sell, any paper bearing the watermark of any stamped envelope, or postal card, or any fraudulent imitation thereof; or

Whoever makes or prints, or authorizes to be made or printed, any postage stamp, postage meter stamp, stamped envelope, or postal card, of the kind authorized and provided by the DO, without the special authority and direction of the DO; or

Whoever, after such postage stamp, postage meter stamp, stamped envelope, or postal card has been printed, with intent to defraud, delivers the same to any person not authorized by the DO to receive it,

Shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection C: Foreign postage and revenue stamps

Whoever forges, or counterfeits, or knowingly utters or uses any forged or counterfeit postage stamp or revenue stamp of any foreign government, shall be fined under this statute or imprisoned (as appropriate), or both.

Section VII: Misappropriation of postal funds

Specific postal criminal laws should be implemented to protect DOs from misappropriation and embezzlement of funds as well as the threat of false claims. These types of crimes can bleed finances and assets from Posts and undermine their financial integrity and survival. The following are examples of legislation in this important area of postal operations:

Subsection A: Misappropriation/embezzlement

Whoever, being an officer or employee of a DO, loans, uses, pledges, hypothecates, or converts to his own use, or deposits in any bank, or exchanges for other funds or property, except as authorized by law, any money or property coming into his hands or under his control in any manner, in the execution or under colour of his office, employment, or service, whether or not the same shall be the money or property of the DO; or fails or refuses to remit to or deposit in the proper postal account or in a designated depository, or to account for or turn over to the proper officer or agent, any such money or property, when required to do so by law or the regulations of the DO, or upon demand or order of the DO, either directly or through a duly authorized officer or agent, is guilty of embezzlement; and every such person, as well as every other person advising or knowingly participating therein, shall be fined under this statute or in a sum equal to the amount or value of the money or property embezzled, whichever is greater, or imprisoned (as appropriate), or both.

Subsection B: False claims against a DO

Whoever makes or presents to any person or officer of the DO any claim upon or against the DO, knowing such claim to be false, fictitious, or fraudulent, shall be imprisoned (as appropriate) and shall be subject to a fine in the amount provided by this statute.

Subsection C: False claims for postal losses

Whoever makes, alleges, or presents any claim or application for indemnity for the loss of any registered or insured letter, parcel, package, or other article or matter, or the contents thereof, knowing such claim or application to be false, fictitious, or fraudulent; or

Whoever knowingly and wilfully misrepresents, or misstates, or, for the purpose aforesaid, knowingly and wilfully conceals any material fact or circumstances in respect of any claim or application for indemnity, shall be fined under this statute or imprisoned (as appropriate), or both.

Section VIII: Illicit drugs

The use of the mails to transport illicit drugs and narcotics is a serious violation of the integrity of the postal system. DOs must use every effort to eliminate drugs from the mails as part of the worldwide effort against illegal drugs. Use of drugs by postal employees also presents a risk to DOs and the safety and wellbeing of all employees and customers. There should be no tolerance for illicit drugs in the mails or the workplace. Statutes intended to highlight the importance of eliminating these potential problems include the following:

Subsection A: Mailing of illicit drugs and substances

All drugs, compounds and substances the possession, use, distribution, or importation of which has been declared unlawful are non-mailable and shall not be deposited in the mails. The illicit deposit in the mails of any such drug, compound or substance shall be subject to appropriate fines and imprisonment as defined by law.

Subsection B: Use/distribution of illicit drugs and substances in the workplace

The illicit possession, possession with intent to distribute, distribution, importation, and exportation of substances declared unlawful, or the attempt thereof, by postal employees on postal premises and by non-postal employees who while on postal premises aid, abet, conspire with or otherwise act directly with postal employees on postal premises to illicitly possess, possess with the intent to distribute, distribute, import, and/or export controlled substances, in violation of the law, shall be subject to appropriate fines and imprisonment as defined by law.

Section IX: Injurious articles

Injurious articles in the mail present a threat to postal employees, customers, postal facilities and means of transportation. In order to emphasize the importance of eliminating dangerous articles from the mails, specific postal criminal laws, such as the following, are useful:

Subsection A: Firearms

Pistols, revolvers, and other firearms capable of being concealed on the person are non-mailable and shall not be deposited in or carried by the mails or delivered by any officer or employee of the DO.

Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail according to the direction thereon, or at any place to which it is directed to be delivered by the person to whom it is addressed, any pistol, revolver, or firearm declared non-mailable by this section, shall be fined under this title or imprisoned (as appropriate), or both.

Subsection B: Injurious articles

Injurious articles as non-mailable;

- (a) All kinds of poison, and all articles and compositions containing poison, and all poisonous animals, insects, reptiles, and all explosives, inflammable materials, infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode, and all disease germs or scabs, and all other natural or artificial articles, compositions, or material which may kill or injure another, or injure the mails or other property, whether or not sealed as first-class matter, are non-mailable matter and shall not be conveyed in the mails or delivered from any post office or station thereof, nor by any officer or employee of a DO.
- (b) A DO may permit the transmission in the mails, under such rules and regulations as it shall prescribe as to preparation and packing, of any such articles which are not outwardly or of their own force dangerous or injurious to life, health, or property.
- (c) A DO is authorized and directed to permit the transmission in the mails, under regulations to be prescribed by it, of live organisms which are to be used for purposes of medical research or for the manufacture of anti-venom. Such regulations shall include such provisions with respect to the packaging of

such live organisms for transmission in the mails as the DO deems necessary or desirable for the protection of postal personnel and of the public generally and for ease of handling by such personnel and by any individual connected with such research or manufacture. Nothing contained in this paragraph shall be construed to authorize the transmission in the mails of live organisms by means of aircraft engaged in the carriage of passengers for compensation or hire.

- (d) The transmission in the mails of poisonous drugs and medicines may be limited by the DO to shipments of such articles from the manufacturer thereof or dealer therein to licensed physicians, surgeons, dentists, pharmacists, druggists, and veterinarians under such rules and regulations as it shall prescribe.
- (e) The transmission in the mails of poisons for scientific use, and which are not outwardly dangerous or of their own force dangerous or injurious to life, health, or property, may be limited by the DO to shipments of such articles between the manufacturers thereof, dealers therein, bona fide research or experimental scientific laboratories, and such other persons, employees of the Government, whose official duties are comprised, in whole or in part, of the use of such poisons, and who are designated by the head of the agency in which they are employed to receive or send such articles, under such rules and regulations as the DO shall prescribe.
- (f) All spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind are non-mailable and shall not be deposited in or carried through the mails.
- (g) All knives having a blade which opens automatically (1) by hand pressure applied to a button or other device in the handle of the knife, or (2) by operation of inertia, gravity, or both, are non-mailable and shall not be deposited in or carried by the mails or delivered by any officer or employee of the DO.
- (h) Any advertising, promotional, or sales matter which solicits or induces the mailing of anything declared non-mailable by this section is likewise non-mailable unless such matter contains wrapping or packaging instructions which are in accord with regulations promulgated by the DO.
- (i)
 - (1) Any ballistic knife shall be subject to the same restrictions and penalties provided under subsection (g) for knives described in the first sentence of that subsection.
 - (2) As used in this subsection, the term "ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.

Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything declared non-mailable by this section, unless in accordance with the rules and regulations authorized to be prescribed by the Post, shall be fined under this statute or imprisoned (as appropriate), or both.

Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon or at any place to which it is directed to be delivered by the person to whom it is addressed, anything declared non-mailable by this section, whether or not transmitted in accordance with the rules and regulations authorized to be prescribed by the DO, with intent to kill or injure another, or injure the mails or other property, shall be fined under this statute or imprisoned (as appropriate), or both.

Section X: Child protection

The importance of enacting laws against the international traffic in child pornography was recognized by member countries who attended the 1999 Beijing Congress by the passage of resolution C 6/1999 addressing that subject. That resolution appealed urgently to governments of member countries "to encourage their legislatures to enact or strengthen legislation making the production, distribution, importation, exportation or possession of child pornography material criminal offences, and also making such acts or any assistance and incitement to child pornography punishable as a criminal offence". Supporting the 1989 United Nations Convention on the Rights of the Child, the resolution also recognized the fact that "children are the most vulnerable members of society and need special protection from crime". Child protection legislation, such as the following, should therefore be considered:

Subsection A: Sexual exploitation of children

- (a) Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in interstate or foreign commerce, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (d), if such person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.
- (b) Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct shall be punished as provided under subsection (d) of this section, if such parent, legal guardian, or person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.
- (c) (1) Any person who, in a circumstance described in paragraph (2) below, knowingly makes, prints, or publishes, or causes to be made, printed, or published, any notice or advertisement seeking or offering:
- (A) to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct; or
 - (B) participation in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct; shall be punished as provided under subsection (d).
- (2) The circumstance referred to in paragraph (1) above is that:
- (A) such person knows or has reason to know that such notice or advertisement will be transported in interstate or foreign commerce by any means including by computer or mailed; or
 - (B) such notice or advertisement is transported in interstate or foreign commerce by any means including by computer or mailed.
- (d) Penalties: any individual who violates, or attempts or conspires to violate, this section shall be fined under this statute or imprisoned (as appropriate). Any organization that violates, or attempts or conspires to violate, this section shall be fined under this statute. Whoever, in the course of an offence under this section, engages in conduct that results in the injury or death of a person shall be punished (as appropriate).

Subsection B: Material involving sexual exploitation of minors

- (a) Any person who:
- (1) knowingly transports or ships in interstate or foreign commerce by any means including by computer or mails, any visual depiction, if:
 - (A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and
 - (B) such visual depiction is of such conduct;
 - (2) knowingly receives, or distributes, any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer, or knowingly reproduces any visual depiction for distribution in interstate or foreign commerce or through the mails, if:

- (A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and
 - (B) such visual depiction is of such conduct;
 - (3) either:
 - (A) in the special maritime and territorial jurisdiction of the Government, knowingly sells or possesses with intent to sell any visual depiction; or
 - (B) knowingly sells or possesses with intent to sell any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means, including by computer, if:
 - (i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and
 - (ii) such visual depiction is of such conduct; or
 - (4) either:
 - (A) in the special maritime and territorial jurisdiction of the Government knowingly possesses one or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction; or
 - (B) knowingly possesses one or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if:
 - (i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and
 - (ii) such visual depiction is of such conduct; shall be punished as provided in subsection (b) of this section.
- (b) Penalties: whoever violates, or attempts or conspires to violate paragraphs (1), (2), (3) or (4) of subsection (a) shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection C: Child pornography

- (a) Any person who:
 - (1) knowingly mails, or transports or ships in interstate or foreign commerce by any means, including by computer, any child pornography;
 - (2) knowingly receives or distributes:
 - (A) any child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer; or
 - (B) any material that contains child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer;
 - (3) knowingly reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer;
 - (4) either:
 - (A) in the special maritime and territorial jurisdiction of the Government, knowingly sells or possesses with the intent to sell any child pornography; or
 - (B) knowingly sells or possesses with the intent to sell any child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer; or

- (5) either:
- (A) in the special maritime and territorial jurisdiction of the Government, knowingly possesses any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography; or
 - (B) knowingly possesses any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, shall be punished as provided in subsection (b).

- (b) Penalties: whoever violates, or attempts or conspires to violate paragraphs (1), (2), (3), (4) or (5) of subsection (a) shall be fined under this statute or imprisoned (as appropriate), or both.

Definitions

For the purposes of this section, the term –

- (1) “minor” means any person under the age of (as appropriate)
- (2) “sexually explicit conduct” means actual or simulated:
 - (A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
 - (B) bestiality;
 - (C) masturbation;
 - (D) sadistic or masochistic abuse; or
 - (E) lascivious exhibition of the genitals or pubic area of any person;
- (3) “producing” means producing, directing, manufacturing, issuing, publishing, or advertising;
- (4) “organization” means a person other than an individual;
- (5) “visual depiction” includes undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image;
- (6) “computer” has the meaning given that term in national law.
- (7) “custody or control” includes temporary supervision over or responsibility for a minor whether legally or illegally obtained;
- (8) “child pornography” means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:
 - (A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;
 - (B) such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct;
 - (C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct; or
 - (D) such visual depiction is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexually explicit conduct; and

- (9) “identifiable minor”:
- (A) means a person:
- (i) (I) who was a minor at the time the visual depiction was created, adapted, or modified; or
 - (II) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and
 - (ii) who is recognizable as an actual person by the person’s face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and
- (B) shall not be construed to require proof of the actual identity of the identifiable minor.

Subsection D: Use of interstate facilities

Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the Government, knowingly initiates the transmission of the name, address, telephone number, identifying data, or electronic mail address of another individual, knowing that such other individual has not attained the age of 16 years, with the intent to entice, encourage, offer, or solicit any person to engage in any sexual activity for which any person can be charged with a criminal offence, or attempts to do so, shall be fined under this title, imprisoned (as appropriate), or both.

Section XI: Money laundering

Money laundering represents a growing international criminal problem that needs to be addressed by all countries in order to stifle the increasing threats represented by organized crime, corruption, drug crimes and other financial criminal activity. Money laundering is such a vast problem that if it is left unchecked it can undermine the integrity of financial institutions, governments, and economies throughout the world. While the drafting and implementation of criminal statutes dealing with money laundering can be complicated, it is essential this worldwide problem be addressed effectively in a coordinated manner. Through aggressive criminal statutes, such as the following, law enforcement can be given an invaluable tool for attacking this growing international problem that also affects DOs:

Subsection A: Laundering of monetary instruments

- (a) (1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity:
- (A) (i) with the intent to promote the carrying on of specified unlawful activity; or
 - (ii) with intent to engage in conduct constituting a violation of tax codes; or
 - (B) knowing that the transaction is designed in whole or in part:
 - (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or
 - (ii) to avoid a transaction reporting requirement under law, shall be sentenced to a fine or imprisonment.
- (2) Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in one country to, through or from a place in another country:
- (A) with the intent to promote the carrying on of specified unlawful activity; or
 - (B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity and knowing that such transportation, transmission, or transfer is designed in whole or in part:
 - (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

- (ii) to avoid a transaction reporting requirement under law, shall be sentenced to a fine or imprisonment, or both. For the purpose of the offence described in subparagraph (B) above, the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true.
- (3) Whoever, with the intent:
 - (A) to promote the carrying on of specified unlawful activity;
 - (B) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; or
 - (C) to avoid a transaction reporting requirement under law, conducts or attempts to conduct a financial transaction involving property represented to be the proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity, shall be fined under this title or imprisoned, or both. For purposes of this paragraph and paragraph (2) above, the term "represented" means any representation made by a law enforcement officer or by another person at the direction of, or with the approval of, an official authorized to investigate or prosecute violations of this section.
- (b) Whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3) above, or a transportation, transmission, or transfer described in subsection (a)(2), is liable to a civil penalty of:
 - (1) the value of the property, funds, or monetary instruments involved in the transaction; or
 - (2) a specified amount.
- (c) Definitions, as used in this section:
 - (1) the term "knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity" means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under law, regardless of whether or not such activity is specified in paragraph (7) below;
 - (2) the term "conducts" includes initiating, concluding, or participating in initiating, or concluding a transaction;
 - (3) the term "transaction" includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;
 - (4) the term "financial transaction" means:
 - (A) a transaction which in any way or degree affects interstate or foreign commerce (i) involving the movement of funds by wire or other means or (ii) involving one or more monetary instruments, or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft, or
 - (B) a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree;
 - (5) the term "monetary instruments" means (i) coin or currency of any country, travellers' cheques, personal cheques, bank cheques, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;
 - (6) the term "financial institution" has the definition given that term in national law.
 - (7) the term "specified unlawful activity" means:
 - (A) any act or activity constituting an indictable offence;
 - (B) with respect to a financial transaction occurring in whole or in part in one or more countries, involving:

- (i) the manufacture, importation, sale, or distribution of a controlled substance;
- (ii) murder, kidnapping, robbery, extortion, or destruction of property by means of explosive or fire.

Subsection B: Engaging in monetary transactions

- (a) Whoever, in any of the circumstances set forth in subsection (d) below, knowingly engages or attempts to engage in a monetary transaction in criminally derived property of a value greater than (a specified amount) and is derived from specified unlawful activity, shall be punished as provided in subsection (b).
- (b)
 - (1) Except as provided in paragraph (2) below, the punishment for an offence under this section is a fine or imprisonment or both.
 - (2) The court may impose an alternate fine to that imposed under paragraph (1) of not more than twice the amount of the criminally derived property involved in the transaction.
- (c) In a prosecution for an offence under this section, the Government is not required to prove the defendant knew that the offence from which the criminally derived property was derived was specified unlawful activity.
- (d) The circumstances referred to in subsection (a) are:
 - (1) that the offence under this section takes place in the country or in the special maritime and territorial jurisdiction of the Government; or
 - (2) that the offence under this section takes place outside the country and such special jurisdiction, but the defendant is a citizen of the country.

Section XII: Mail fraud

Use of the mails to defraud postal customers is undoubtedly as old as the postal system itself. The reliability, confidentiality and authority of the mails can be a powerful tool for unscrupulous operators who want to take advantage of postal customers and businesses. Misuse of the mails by fraud operators harms the postal services by undermining public confidence in the mails and risks making DOs unwilling allies of unscrupulous con artists. Therefore, it is important for DOs to encourage the adoption of postal-related criminal fraud legislation in order to protect the operator and its customers.

Subsection A: Mail fraud

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretences, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by a DO, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this statute or imprisoned (as appropriate), or both.

Subsection B: Fictitious name

Whoever, for the purpose of conducting, promoting, or carrying on by means of the Post, any scheme or device mentioned in the section above or any other unlawful business, uses or assumes, or requests to be addressed by, any fictitious, false, or assumed title, name, or address or name other than his own proper name, or takes or receives from any post office or authorized depository of mail matter, any letter, postal card, package, or other mail matter addressed to any such fictitious, false, or assumed title, name, or address, or name other than his own proper name, shall be fined under this title or imprisoned (as appropriate), or both.

Section XIII: Conclusion

The aim of this document is to provide sample postal-related criminal laws in order to promote the enactment of such laws where needed. It is not intended to dictate to DOs or member countries or to endorse the laws or practices of any particular DO, nation or culture. There is a recognized need among members of the Postal Security Group for the development and/or strengthening of postal-related criminal legislation worldwide in order to provide better protections to DOs, and their employees and customers, and to better foster international cooperation and focus on emerging international criminal trends.

The areas covered include mail theft and obstruction, robbery and assault of employees, schemes to avoid payment of postage, counterfeiting, embezzlement, the mailing of illegal and harmful items, child protection, money laundering and postal fraud. While this document addresses major areas of postal-related criminal activity, it can never be exhaustive or complete; nor is it intended to be so. Criminal attacks against DOs will continue to grow and proliferate in the future as new challenges arise. Changing technology, competition, work processes, financial procedures, and other developing trends will continue to offer both new opportunities for business and risks of criminal exposure. It is essential, therefore, that PSG members continue to work together to address new concerns as they arise and, accordingly, adjust and modify documents such as this one.

In addition to this document, the PSG and its members from those countries that have already developed and implemented postal criminal legislation stand ready to assist and support in every way possible other members that require further help in this important effort. Moreover, those members that have additional ideas regarding the development of postal-related criminal laws are encouraged to share them with the PSG so they can be included in future versions of this document.