

Legal Memorandum on the Unconstitutional Application of Customs Law to Intra-Sovereign Personal Effects Mail

Bryan J. Poynter
USA Citizen est. 1983

August 28, 2025

EXECUTIVE SUMMARY

This memorandum details how the current treatment of mail from U.S. military post offices (APO/FPO/DPO) as "international" constitutes a multi-faceted violation of the U.S. Constitution. By subjecting the personal effects of U.S. service members and citizens to customs scrutiny, the U.S. government has created a system that:

- Violates the Fourth Amendment right to be free from unreasonable searches and seizures.
- Denies Fifth Amendment Due Process and Equal Protection by creating a second-tier class of citizens.
- Cedes U.S. sovereignty via Status of Forces Agreements (SOFAs) in a manner that infringes upon fundamental rights, an unconstitutional act by the Executive and Legislative branches.

We demand the USPS and Congress take corrective action to reclassify such mail as domestic, thereby restoring full constitutional protections to Americans serving abroad.

As of August 28, 2025, recent developments, including enhanced enforcement of customs declaration forms for military and diplomatic mail (effective from 2024 onwards) and new size restrictions for DPO packages (effective July 18, 2025), underscore the ongoing nature of these violations without substantive reform^{9,12}. Despite these updates, the core practice of treating APO/FPO/DPO mail as international persists, requiring customs forms like PS Form 2976 for most shipments, in direct conflict with constitutional principles^{8,11}.

1 THE FOURTH AMENDMENT VIOLATION: UNREASONABLE SEARCH & SEIZURE

1.1 Constitutional Claim

The Fourth Amendment guarantees the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures".¹³

1.2 Contradictory Law and Practice

This right is violated by the application of the "border search exception" to mail originating from sovereign U.S. enclaves (APO/FPO/DPO), mandated by 19 U.S.C. §1481¹⁰ and enforced through USPS International Mail Manual (IMM) regulations requiring PS Form 2976.⁷

1.3 Legal Argument

The "functional equivalent of the border" doctrine⁶ was established for actual international borders and ports of entry. A U.S. military installation, while on foreign soil, is a **sovereign U.S. enclave** under the jurisdiction and control of the U.S. government via Status of Forces Agreements (SOFAs). Mail handed from a U.S. citizen to a U.S. government employee within this enclave, destined for another U.S. address, is not "entering" the country; it is already within the U.S. stream of commerce.

Requiring a detailed customs declaration for all such mail constitutes a **general warrant**, a practice the Fourth Amendment was explicitly designed to prohibit. It is a suspicionless, unreasonable, and generalized search that eviscerates the core privacy interest in one's personal effects.⁴

1.4 Supporting Case Law

- **Reid v. Covert (1957):**³ Established that constitutional protections follow U.S. citizens abroad. The government cannot use an international agreement to circumvent the Bill of Rights.
- **Katz v. United States (1967):**⁴ Emphasized that the Fourth Amendment "protects people, not places," affirming a reasonable expectation of privacy in sealed containers and correspondence.
- **United States v. Ramsey (1977):**⁶ Established the border search exception but for *actual international borders*, not sovereign U.S. operational areas. This case is being misapplied.

2 THE FIFTH AMENDMENT VIOLATION: DENIAL OF DUE PROCESS & EQUAL PROTECTION

2.1 Constitutional Claim

The Fifth Amendment guarantees that no person shall be "deprived of life, liberty, or property, without due process of law".¹³ The Supreme Court has held this contains an equal protection component.²

2.2 Contradictory Law and Practice

19 U.S.C. §1481 (Customs Declaration mandate) as applied to APO/FPO mail creates an unconstitutional classification system that denies equal protection to U.S. citizens based solely on their geographic location.

2.3 Legal Argument

2.3.1 DUE PROCESS VIOLATION

The liberty interest in private, domestic correspondence is being deprived without due process. The current system presumes guilt (that all packages require scrutiny) rather than innocence, flipping the foundational principle of American jurisprudence.

2.3.2 EQUAL PROTECTION VIOLATION

The policy creates two classes of citizens:

- **Class 1:** A citizen in Florida mailing to Alaska enjoys full Fourth Amendment privacy.
- **Class 2:** A citizen in Germany mailing to the same address in Florida is stripped of that privacy.

This classification is based solely on geography and is not narrowly tailored to achieve a compelling government interest, as the same security screening can be achieved through targeted, suspicion-based protocols. The policy fails strict scrutiny review required for classifications that infringe on fundamental rights.

2.4 Supporting Case Law

- **Bolling v. Sharpe (1954):**² Established that the Fifth Amendment's Due Process Clause contains an equal protection component that applies to the federal government.
- **Weinberger v. Wiesenfeld (1975):**⁵ Reinforced that classifications based on over-broad generalizations violate the Fifth Amendment's equal protection guarantee.

3 THE UNCONSTITUTIONAL ABDICATION OF SOVEREIGNTY VIA SOFAS

3.1 Constitutional Claim

Article VI establishes the Constitution as the "supreme Law of the Land".¹³ The Executive Branch (via treaty-making) and Legislative Branch (via ratification) cannot enter into agreements that violate the fundamental rights of citizens.

3.2 Contradictory Law and Practice

Status of Forces Agreements (SOFAs) that concede host-nation jurisdiction over the movement of goods from U.S. bases, necessitating their treatment as "exports," force the violation of citizens' Fourth and Fifth Amendment rights.

3.3 Legal Argument

While the President and Congress have the power to make treaties under Article II, Section 2, this power is **not unlimited**. It cannot be used to circumvent the Bill of Rights or abdicate the government's primary duty to protect its citizens' constitutional rights.

A SOFA that forces the U.S. government to treat its own military installations as foreign territory for customs purposes represents an **unconstitutional abdication of sovereignty**. The U.S. government's primary duty is to its citizens, not to the convenience of a diplomatic agreement that strips Americans of their constitutional protections.

The current interpretation and application of SOFAs creates a situation where the U.S. government acts as an agent of foreign powers in violating the rights of its own citizens, a clear violation of constitutional principles.

3.4 Supporting Case Law

- **Reid v. Covert (1957):**³ Explicitly states that "no agreement with a foreign nation can confer power on the Congress, or on any other branch of Government, which is free from the restraints of the Constitution."
- **Missouri v. Holland (1920):**¹ While affirming treaty power, this case acknowledged constitutional limitations on such power.

4 COMMON SENSE FOUNDATIONS SUPPORTING THE CONSTITUTIONAL CLAIMS

As constitutional lawyers, legal scholars, historians, engineers, and process engineers, we approach this expansion by first tracking the high-level problem against constitutional viewpoints point-by-point. We then progressively elaborate on where current laws and practices

are inconsistent with the U.S. Constitution, grounding our analysis in intuitive, common-sense reasoning that aligns with the framers' intent for a government that protects individual liberties without arbitrary distinctions.

4.1 High-Level Problem vs. Constitutional Viewpoint: Point-by-Point Analysis

1. **Problem: Treatment of APO/FPO/DPO Mail as "International."** Common sense dictates that mail sent from a U.S. military base/territory controlled and governed by the U.S. to another U.S. location should be considered domestic. Treating it otherwise creates an artificial "border" where none exists, akin to requiring customs between states like New York and New Jersey. **Constitutional Viewpoint:** The Constitution (Article IV, Section 2) emphasizes citizenship privileges without geographic discrimination within U.S. jurisdiction. This practice inconsistently applies border exceptions, violating the Fourth Amendment's protection against unreasonable searches by imposing blanket scrutiny without cause.
2. **Problem: Mandatory Customs Declarations and Inspections.** It defies common sense to force U.S. citizens abroad on official duty to declare personal items as if smuggling contraband, especially when the same items mailed domestically face no such hurdle. This burdens service members with paperwork and privacy invasions for everyday activities like sending gifts home. **Constitutional Viewpoint:** The Fifth Amendment's Due Process Clause requires fair procedures; presuming all military mail needs inspection flips the innocence presumption, inconsistent with constitutional norms where liberty is the default, not suspicion.
3. **Problem: Unequal Treatment Based on Location.** Common sense rejects creating "second-class" citizens simply because they serve overseas. A soldier in Germany should have the same mailing rights as one in Texas; anything less undermines the unity of American citizenship. **Constitutional Viewpoint:** Equal Protection under the Fifth Amendment demands classifications serve a compelling interest narrowly. Geography alone isn't compelling, making this policy inconsistent with constitutional equality.
4. **Problem: Reliance on SOFAs to Justify Rights Infringements.** It makes no common sense for the U.S. to negotiate away its citizens' rights in treaties meant to facilitate alliances. Sovereignty means protecting Americans first, not subordinating their protections to foreign demands. **Constitutional Viewpoint:** Article VI supremacy clause ensures no treaty overrides the Constitution. Allowing SOFAs to erode rights is an unconstitutional overreach by executive and legislative branches.
5. **Problem: Ongoing Enforcement Without Reform.** Despite no evidence of widespread abuse, enhanced enforcement in 2025 (e.g., post-acceptance examinations and size restrictions) escalates intrusions without addressing root inconsistencies, ignoring common-sense alternatives like targeted screenings. **Constitutional Viewpoint:** The Constitution evolves through interpretation but not to diminish rights; persistent

practices without reform highlight inconsistencies with foundational protections.

4.2 Progressive Elaboration: Inconsistencies with the U.S. Constitution

Building from these high-level points, we elaborate progressively, demonstrating layer by layer how current laws (e.g., 19 U.S.C. 1481, USPS regulations requiring PS Form 2976) and practices are inconsistent with the Constitution, while proposing common-sense alignments.

- **Layer 1: Core Inconsistency in Sovereignty Definition.** Historically, the framers viewed U.S. territory as wherever the flag flies with full control (e.g., embassies, bases). Treating bases as "foreign" for mail contradicts this, inconsistent with *Reid v. Covert*'s extension of rights abroad. Common sense: If it's U.S. soil for law enforcement, it should be for mail.
- **Layer 2: Privacy and Search Standards.** The Fourth Amendment's "reasonableness" requires individualized suspicion, not blanket policies. Current warrantless openings of APO mail eviscerate privacy in personal effects, inconsistent where domestic mail enjoys sealed protections. Common sense: Scrutinize based on red flags, not location.
- **Layer 3: Equality and Due Process Gaps.** Fifth Amendment scrutiny reveals the policy fails strict review: no compelling interest justifies universal declarations when risks (e.g., contraband) are low and alternatives exist. Inconsistent with *Bolling v. Sharpe*'s equal protection. Common sense: Treat all citizens equally; geography isn't a crime.
- **Layer 4: Treaty Powers Limitations.** The Constitution limits treaties to non-rights-violating terms. SOFAs forcing customs treatment abdicate duty, inconsistent with Article VI. Common sense: Renegotiate to prioritize citizens, as alliances shouldn't cost liberties.
- **Layer 5: Practical and Historical Context.** As scholars, we note post-9/11 security expansions, but 2025's unchanged requirements ignore technological advances (e.g., AI screening) for non-intrusive checks. Inconsistent with evolving constitutional applications favoring liberty. Common sense: Update policies to match modern capabilities without eroding rights.

This common-sense framework strengthens our case by illustrating that the violations are not mere technicalities but affronts to intuitive American values of freedom, equality, and sovereignty.

5 DEMAND FOR RELIEF

We demand the following actions to rectify these constitutional violations:

- **Policy Reinterpretation:** The USPS, in conjunction with DoD and DHS, must issue a new regulation stating that mail between U.S. persons originating from and delivered to APO/FPO/DPO addresses is **domestic mail**.

- **Exemption:** Such mail shall be **exempt from USPS customs declaration forms** (PS Form 2976) unless specific, articulable facts give rise to a reasonable suspicion of illegal content.
- **Diplomatic Action:** The State Department must **renegotiate relevant SOFA provisions** to reflect that the U.S. exercises full sovereignty over the movement of personal effects from its military installations to the continental United States.
- **Remedy:** Cease the current practice of detaining, opening, or seizing domestic APO/FPO/DPO mail due to the lack of a customs form.
- **Congressional Oversight:** The relevant congressional committees should hold hearings on this systematic violation of service members' constitutional rights and consider legislative solutions if executive agencies fail to act.

The constitutional violations documented in this memorandum require immediate corrective action. The current system undermines the rights of those who sacrifice to protect our nation and represents a fundamental breach of the government's duty to its citizens.

REFERENCES

- [1] Missouri v. holland, 252 u.s. 416 (1920), 1920.
- [2] Bolling v. sharpe, 347 u.s. 497 (1954), 1954.
- [3] Reid v. covert, 354 u.s. 1 (1957), 1957.
- [4] Katz v. united states, 389 u.s. 347 (1967), 1967.
- [5] Weinberger v. wiesenfeld, 420 u.s. 636 (1975), 1975.
- [6] United states v. ramsey, 431 u.s. 606 (1977), 1977.
- [7] United States Postal Service. Usps international mail manual, 2023.
- [8] United States Postal Service. Usps international mail manual, section 604: Customs standards for military mail, 2023.
- [9] United States Postal Service. Enhanced customs enforcement for military mail, 2024. Internal policy memorandum.
- [10] U.S. Congress. 19 u.s.c. 1481 - declaration, 1930.
- [11] U.S. Customs and Border Protection. Cbp guide for military mail processing, 2023.
- [12] U.S. Department of Defense. Department of defense directive 4525.6: Mail management, 2025. Updated restrictions for DPO mail.
- [13] U.S. Founding Fathers. The constitution of the united states, 1789. Amendments IV, V.