Check Washing and the Risks of Mailed Checks in the Modern Banking Era

By Miriam Davidson and Toma Ito-Chihaia

1. Introduction

In mid-December, a client discovered that a check she had mailed never reached its intended recipient. Instead, the check had been intercepted, altered, and deposited by an unknown third party. Within hours of discovering the loss, she contacted her bank, completed the necessary forms, and ultimately received reimbursement. Yet the experience was marked nonetheless stressful and confusing, alongside the realization that a routine financial transaction had exposed her to fraud.

This scenario is surprisingly common. In an era of mobile banking, remote deposit and financial fraud, the continued use of paper checks, particularly those sent through the mail, presents real and growing risks. For older adults, who disproportionately rely on paper checks for routine financial transactions, these risks are especially significant. This article aims to explain the mechanics of so-called "check washing," outline the legal framework governing responsibility for altered checks, and alert practitioners and the public to the risks associated with mailing checks in the modern financial environment.

2. What Is Check Washing?

"Check washing" refers to the physical alteration of a legitimate check in order to redirect funds to a fraudster. Typically, a criminal obtains a check often by stealing it from a mailbox or collection box and uses a solvent such as acetone to remove the original payee name and, in some cases, the amount. The fraudster then rewrites the check to themselves or to an accomplice and deposits it, frequently using a mobile banking application that allows remote deposit without face-to-face bank interaction.[1]

It is important to distinguish check washing from related fraud schemes. Check washing involves physically altering an existing check, while so-called "check cooking" involves digitally reproducing or manufacturing fraudulent checks using scanned or copied check data.[2] Both schemes exploit the continued use of paper checks in a largely digital banking system.

Modern check washing often follows a predictable pattern: theft from the mail, alteration of the instrument, and electronic deposit. The mail remains a primary vulnerability.

Checks left overnight in residential mailboxes or deposited in unsecured collection boxes are particularly susceptible to theft, making mailed checks an attractive target for fraudsters.

3. The Scope of the Problem

Check fraud is neither rare nor declining. According to the 2024 Federal Reserve Financial Services Financial Institution Risk Officer Survey, 62% of surveyed institutions reported attempts at check fraud, and 32% reported successful incidents.[3] The same survey identified counterfeits and alterations, including altered or forged payees and washed checks, as the primary methods used by fraudsters. With respect to check washing specifically, 24% of respondents reported that the problem is increasing, while 43% indicated that it remains persistently present at roughly the same level, indicating that this remains a serious issue.[4]

Furthermore, the U.S. Department of the Treasury's Financial Crimes Enforcement Network reported 15,417 suspicious activity reports from 841 financial institutions related to mail theft-associated check fraud, representing more than $688 million in reported suspicious activity.[5] In approximately 44% of those incidents, stolen checks were altered and then deposited.[6] This number, moreover, likely is an underestimate, as banks are more likely only to report suspicious activity of checks in large amounts.

Take, for example, a recent case in Santa Clara, California, where homeowners mailed a $28,000 property tax check that was stolen directly from the mailbox, altered, and deposited into another account. The bank initially refused reimbursement, and payment was only made after the matter was brought to the attention of the news media. Notably, no law-enforcement investigation followed, highlighting that many such incidents are not resolved criminally.[7]

There are nonetheless larger-scale cases as well. Federal authorities have prosecuted schemes involving over $1.6 million in stolen and altered checks taken by a U.S. Postal worker from U.S. mail.[8] Another case in Montgomery County, Maryland, revealed an organized mailbox theft operation responsible for hundreds of thousands of dollars in losses through altered checks and rapid withdrawal of deposited funds. This was not an amateur ring of thieves, but rather a well-organized and sophisticated operation which used modern technology to open mailboxes, an operation only uncovered in this case because the thieves were caught speeding.[9]

While precise figures specific to check washing alone remain difficult to isolate, these data and cases strongly suggests that the alteration of stolen checks is a persistent and significant component of broader check fraud. The combination of traditional paper instruments and modern electronic deposit technology has created an environment in which check washing remains both viable and difficult to detect at the point of deposit.

4. Legal Framework: Allocation of Responsibility

Responsibility for losses arising from altered or fraudulent checks is governed primarily by Articles 3 and 4 of the Uniform Commercial Code. Liability is not automatically assigned to a single party. Instead, responsibility is allocated among three primary actors: the customer (drawer), the drawee bank (the bank that pays the check), and the depository bank (the bank that first accepts the check for deposit). The guiding principle is that liability generally falls on the party best positioned to prevent the fraud.[10]

The UCC generally requires customers to examine their account statements with "reasonable promptness" and notify the bank of any unauthorized alterations within a defined period. Failure to provide timely notice can bar recovery entirely. In particular, although under UCC § 4-406(4) the customer has one year to notify the drawee bank of any alterations, the UCC may preclude the customer from recovery if a customer does not "promptly" notify the drawee bank. The term "promptly" is not defined, but generally financial institutions have been allowed to establish these periods within their own account customer agreements.[11] Repeated wrongdoing from the same wrongdoer can also exclude a customer from recovery: a customer who fails to notify the drawee bank within 14 days is precluded from seeking recovery of any subsequent alterations made by the same wrongdoer. In addition, under UCC § 3-406, customer negligence, such as failing to safeguard checks or leaving blank spaces that may facilitate alteration, may shift liability away from the bank.

However, a drawee bank may be liable under UCC § 4-406(3) if the customer can establish the drawee bank lacked "ordinary care" in paying these items, defined as procedures that adhere to "normal, reasonable banking standards."[12] As such, if the bank pays a clearly altered check that should have been detected through ordinary procedures, liability may attach.

The depository bank may ultimately bear the loss in certain cases because it warrants that the check presented for deposit is authentic and free of alteration – under UCC § 4-207 (2), the depository bank warrants the check is authentic and free of alterations to the drawee bank. As the first institution to receive the altered instrument, it is sometimes considered to be in the best position to detect fraud. In certain scenarios, the drawee bank can make a breach of warranty against the depository bank.[13] Nonetheless, the precise allocation of liability is highly fact-dependent.

It should also be noted that while the fraudster is legally responsible for the wrongdoing, recovery is typically sought through the banking system rather than directly from the perpetrator, who is often unidentified or judgment-proof. Although banks can usually trace the account into which an altered check was deposited, funds are frequently withdrawn quickly, routed through "mule" accounts, or associated with stolen or fake identities, leaving little to recover and with litigation costs to proceed with these cases often surpassing the stolen amount.

Moreover, while the UCC governs the allocation of financial loss arising from altered or fraudulent checks, it does not impose any obligation on banks to notify law enforcement. The UCC is a commercial liability framework, not a criminal enforcement statute, and its provisions focus on whether a check was "properly payable," the duties of customers and banks, and the exercise of ordinary care. New York Banking Law also does not impose a general duty on banks to notify law enforcement, as it regulates internal controls and fraud prevention, but not mandating law enforcement reporting of altered checks.[14]

Although banks may report suspected fraud under federal regulatory requirements, most notably through the filing of Suspicious Activity Reports (SARs) pursuant to the Bank Secrecy Act, such reports are submitted to federal regulators rather than directly to law enforcement, and do not necessarily result in criminal investigation or prosecution. Furthermore, while mail-theft–related check fraud falls within the jurisdiction of the U.S. Postal Inspection Service, which investigates such offenses, investigative resources are typically directed toward larger-scale or organized schemes, and individual incidents may not result in active investigation.[15] As such, this highlights a potential oversight of existing law that we suggest should be reconsidered in order to incentivize prosecutions of such crimes. A potential hotline directly to law enforcement and to the district attorney to report these cases would be a very welcome development, alongside encouraging the United States Postal Inspection Service to investigate cases with smaller amounts.

5. Vulnerability of Older Adults

Older adults face heightened exposure to check-washing fraud. Many still rely on paper checks for routine payments and are more likely to use traditional mailing methods rather than electronic systems. Fraud detection may also be delayed due to less frequent statement review, reliance on paper records, or limited familiarity with digital banking tools. Diminished capacity and impaired vision may further hinder timely detection of altered checks or irregular account activity.

These factors are legally significant. Under the UCC, as already explained, customers are generally required to review account statements promptly and report unauthorized alterations within a "reasonable" period. Failure to do so may limit or bar recovery. Thus, delayed discovery, somewhat more common in elder populations, can have severe financial consequences.

6. Practical Reality: Reimbursement Does Not Eliminate Risk

Even where reimbursement is ultimately provided, the process can be burdensome. Resolution may take weeks, during which time funds remain unavailable. For many individuals, particularly older adults, the administrative burden, confusion, and stress associated with fraud recovery are significant harms in themselves. Moreover, reimbursement is not guaranteed. Thus, the existence of legal protections does not eliminate the practical risks associated with mailing checks, especially with the lack of responsibility of financial institutions to report such fraud to law enforcement.

Taking the case of our own client, she took action just three days after the check was sent. Despite this prompt reporting, the bank followed up one week later requesting information that had already been provided. Reimbursement was issued only after an additional week had passed.[16] This highlights the often-convoluted nature of the reimbursement process and reinforces a practical reality: in many cases, the consumer must ultimately rely upon the bank to resolve the financial loss, particularly in the absence of meaningful law-enforcement involvement in smaller amount cases.

7. Prevention and Practice Guidance

Given the persistence of check washing and related fraud, prevention remains the most effective protection.

For clients, several practical measures are advisable:

- Avoid mailing checks whenever possible, particularly for routine payments.
- Use secure mailing methods, such as depositing mail inside a post office rather than in unsecured collection boxes.
- Use indelible or gel ink to make chemical alteration more difficult.
- Monitor bank accounts regularly and review statements promptly.
- Report suspected fraud immediately.
- Use online bill pay or electronic transfers when feasible.
- Consider using money orders for payments.

For attorneys advising older clients, education is important. It should be necessary to discuss the risks associated with mailed checks, encourage the use of electronic payment systems where feasible, and emphasize the importance of timely account review. Attorneys may also wish to advise clients to maintain records of payments and respond quickly to any irregularities.

8. Conclusion

The continued use of paper checks in an increasingly digital financial system creates vulnerabilities that are often underestimated. Check washing and related fraud schemes exploit the intersection of physical instruments and electronic banking, making mailed checks a persistent target, and there have even been larger well-organized criminal schemes that revolve around mail theft of checks.

While legal frameworks provide mechanisms for allocating financial responsibility and, in some cases, reimbursement, these protections do not eliminate the risks faced by victims. Notably, banks are not required to notify law enforcement when altered or fraudulent checks are discovered; any reporting obligation arises under separate federal regulatory regimes and does not necessarily result in criminal investigation or prosecution. For older adults in particular, the consequences can be significant.

In the modern banking era, awareness and prevention are the most effective safeguards. As practitioners, educating clients about the risks associated with mailing checks and encouraging safer alternatives remains an essential part of protecting vulnerable populations from financial harm. This should also serve as a call to policymakers to consider legislation to further protect the exposed consumer.

The concept and direction of this article was by **Miriam Davidson**. The research and drafting were performed by her law clerk, **Toma Ito-Chihaia**, Columbia University Class of 2026. He deserves full credit for his excellent work.

Miriam has practiced law for nearly 36 years, focusing exclusively on trusts & estates, probate and administration, Medicaid planning, and guardianships for disabled adults. For more information about my background and legal services, please visit www.miriamdavidsonesq.com.

Endnotes

1. Federal Bureau of Investigation & U.S. Postal Inspection Service, Public Service Announcement: Check Fraud and Mail Theft (Jan. 27, 2025), https://www.ic3.gov/PSA/2025/PSA250127.
2. Federal Bureau of Investigation & U.S. Postal Inspection Service, Public Service Announcement: Check Fraud and Mail Theft (Jan. 27, 2025), https://www.ic3.gov/PSA/2025/PSA250127.
3. Federal Reserve Financial Services, 2024 Financial Institution Risk Officer Survey (2024).
4. Federal Reserve Financial Services, 2024 Financial Institution Risk Officer Survey (2024).
5. U.S. Dep't of the Treasury, Financial Crimes Enforcement Network, Financial Trend Analysis: Mail Theft–Related Check Fraud (Sept. 2024).
6. U.S. Dep't of the Treasury, Financial Crimes Enforcement Network, Financial Trend Analysis: Mail Theft–Related Check Fraud (Sept. 2024).
7. Stephanie Sierra & Renee Koury, *Wells Fargo Denies Santa Clara County Homeowners $28,000 Refund After Check Altered and Cashed by Mail Thieves*, ABC7 Chicago, https://abc7chicago.com/post/wells-fargo-bank-denies-santa-clara-county-california-homeowners-28000-refund-check-altered-cashed-mail-thieves/18554281/.
8. U.S. Postal Inspection Serv., *Mail Theft: National Strategy Report* (Mar. 13, 2024), https://www.uspis.gov/wp-content/uploads/2024/03/USPIS_Mail-Theft-Strategy-FINAL-3-13-24_v2-002.pdf.
9. Nick Iannelli, *Mailbox Check Thefts Are Surging as Criminals Target Mailed Payments*, Wash. Post (Apr. 26, 2025), https://www.washingtonpost.com/dc-md-va/2025/04/26/mailbox-check-thefts/.
10. Daniel K. Wiig, *Who's Liable to Whom? A Brief Primer on Altered, Fraudulent, and Forged Checks for the In-House Bank Lawyer*, 35 N.Y. St. B.A. Inside 26 (Fall 2017), p.1.
11. Wiig, *Who's Liable*, p.1.; *see Simcoe & Erie Gen. Ins. Co. v. Chemical Bank*, 770 F. Supp. 149 (S.D.N.Y. 1992).
12. Wiig, *Who's Liable*, p.1. *supra* note 10.
13. Wiig, *Who's Liable*, p.2. *supra* note 10.
14. N.Y. Banking Law §§ 44, 672 (McKinney).
15. 18 U.S.C. § 1708.
16. Even though she was already paid, the bank gave an update informing the client that they had tried to contact the depository bank, which was unresponsive, while also suggesting that our client directly contact the depository bank. Moreover, they stated that if the depository bank fails to respond within 90 days, the case will be closed. Such protocol reveals the often unproductive procedures and unsatisfactory conclusions to such cases.