

POLICY RESOLUTION NO. BOS-2016-164

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ADDING BOARD OF SUPERVISORS' POLICY MANUAL SECTION 3.60 RELATING TO POSTING OF BAIL AGENT AND CRIMINAL DEFENSE ATTORNEY INFORMATION IN COUNTY JAILS

WHEREAS, the Board of Supervisors wishes to give direction and set policy for such matters for which the responsibility of decisions is placed on it by virtue of State codes, County Charter or specific ordinances and resolutions or relates to its broad policy-making authority to matters regarding Santa Clara County; and

WHEREAS, the Board of Supervisors wishes to clearly state and compile policies and to provide for distribution of these policies to affected decision-makers; and

WHEREAS, the Policy Manual is not set by ordinance, is not legally binding, and can be changed by adoption of a resolution approved by a majority of the Board of Supervisors and is intended to give guidance to staff and future members of the Board of Supervisors;

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Adopted: 11/01/2016

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NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Santa Clara, State of California, that the Board of Supervisors' Policy Manual is hereby amended by adoption of this resolution to add Board of Supervisors Policy Manual Section 3.60, relating to Posting of Bail Agent And Criminal Defense Attorney Information In County Jails, attached hereto as Exhibit "A" and incorporated herein, and the Clerk of the Board is directed to incorporate the policy into the manual so that it is available to all County staff.

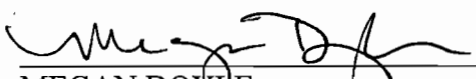
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on NOV 01 2016, by the following vote:

AYES: ~~CHAVEZ, CORTESE, SIMITIAN, WASSERMAN, YEAGER~~
NOES: **NONE**
ABSENT: **CHAVEZ**
ABSTAIN: **NONE**



DAVE CORTESE, President
Board of Supervisors

ATTEST:



MEGAN DOYLE
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



for LAURA TRICE
Deputy County Counsel

Exhibit to this Resolution:

A – Board Policy Manual Section 3.60 relating to Posting of Bail Agent and Criminal Defense Attorney Information in County Jails

EXHIBIT A

3.60 POSTING OF BAIL AGENT AND CRIMINAL DEFENSE ATTORNEY INFORMATION IN COUNTY JAILS

The County of Santa Clara recognizes that it is essential for individuals held at County jail facilities to have access to information about all available options for pretrial release and legal representation. As long as state law permits jail inmates to obtain pretrial release by posting a commercial bail bond, the information provided in County jail facilities should include contact information for bail agents together with or alongside information regarding all other available release options. In addition, because not all jail inmates qualify for, or wish to use the services of, the County of Santa Clara Public Defender Office, the information provided should include contact information for private criminal defense attorneys.

The County also recognizes that the information provided about bail agents and criminal defense attorneys should be neutral and accurate and should facilitate prompt pretrial release and legal representation. Individuals held at County jail facilities who choose to use the services of bail agents and/or private criminal defense attorneys are more likely to obtain prompt release and representation if they have access to bail agents and criminal defense attorneys who comply with state licensing requirements and are located in Santa Clara County. Therefore, it is the policy of the Board of Supervisors that duly licensed bail agents and criminal defense attorneys located in Santa Clara County be given an opportunity to submit information for posting in County jail facilities, in accordance with the following provisions.

(A) Posting of Information:

- (1) Information on bail agents and private criminal defense attorneys may be posted in all County jail facilities. As used herein, the term "bail agent" refers to either a bail bond company or an individual bail agent. Information shall be limited to one listing per bail bond company (i.e., one name, address, phone number, etc., per company). If a bail bond company employs multiple bail agents, the individual bail agents shall not be named or listed separately.
- (2) Information shall be limited to bail agents and criminal defense attorneys who have an office in and do business in Santa Clara County, and who provide their information to the County as required by this Policy.
- (3) Posted information shall include, in a standardized, black and white, text-only format:
 - (a) The name of the bail agent or criminal defense attorney;
 - (b) The name of the bail agent's company or the attorney's law firm, if applicable;

- (c) The California Department of Insurance Bail License number or California State Bar number of the bail agent or attorney;
 - (d) A local phone number for the bail agent or attorney;
 - (e) The local address where the bail agent or attorney conducts business;
 - (f) The bail agent's or attorney's email address and/or web address, if any;
 - (g) An indication of whether the bail agent or attorney is able to conduct business in Spanish and/or any other language in which the Santa Clara County Registrar of Voters provides election materials pursuant to Election Code section 14201.
 - (h) An indication of whether the bail agent or attorney has been disciplined by the Department of Insurance or the State Bar of California, or has been convicted of unlawful activity related to the provision of bail bonds or legal services, within the past five years.
- (4) The information shall be posted in locations that enable individuals in custody to make calls to bail agents and/or criminal defense attorneys at appropriate times. Reasonable efforts shall be made to provide this information together with or alongside information about other pretrial release options, including the Office of Pretrial Services, and the services of the County of Santa Clara Public Defender Office.
 - (5) The posted information shall be updated annually.
 - (6) Information about bail agents and criminal defense attorneys shall be posted in random order and re-ordered on an annual basis. The random order shall be computer-generated, for example by using spreadsheet software to randomize a list of bail agents and attorneys. Bail agents shall be listed separately from criminal defense attorneys.

(B) Requests to Have Information Posted

- (1) Any bail agent or criminal defense attorney who wishes to have his or her information posted in County jail facilities must submit a request on an annual basis, at a time and through a process determined by the relevant County department. However, a bail bond company employing multiple bail agents, or a law firm employing multiple attorneys, is limited to one request; individual bail agents or attorneys within the same company may not submit separate requests and may not be listed separately. It shall be a rebuttable presumption that individuals using the same phone number or address are associated together.
- (2) The request must include the following information:

- (a) All information listed in Section (A)(3) above.
 - (b) A list of any disciplinary actions taken by the California Department of Insurance or the State Bar of California against the bail agent or attorney within the past five years, and the dates of any such actions.
 - (c) A list of any convictions against the bail agent or attorney within the last five years related to the provision of bail bonds or legal services, and the dates of any such convictions.
- (3) The request must include a certification, under penalty of perjury, that:
- (a) The information provided in the request is true and correct.
 - (b) The bail agent has an active license issued by the California Department of Insurance or the attorney is an active member in good standing of the State Bar of California.
 - (c) In providing bail or legal services in Santa Clara County, the bail agent or attorney complies with all applicable state, federal, and local laws, rules, and regulations.
 - (d) The bail agent or attorney (or the attorney's law firm) has complied with any applicable local licensing or permitting requirements.
 - (e) The bail agent or attorney conducts business out of a physical office located in Santa Clara County. For purposes of this Policy, the term "office" means a location that maintains files; is listed with the Department of Insurance or the State Bar of California as the office address of the bail agent, bail bond company, or attorney; and is open to the public. As applied to bail agents, the address of the office must match the address posted on the face sheet of the bonds issued by the bail agent or bail bond company.
 - (f) The local phone number provided connects the caller with the bail agent's or attorney's physical office in Santa Clara County.

(C) Requirement to Update Information

- (1) If any information provided or verified by a bail agent or attorney changes after a request has been submitted, the bail agent or attorney must notify the relevant County department within 15 business days.
- (2) If a bail agent or attorney provides notice that he or she is no longer actively licensed by the California Department of Insurance or in good standing with the

State Bar of California, the bail agent or attorney's information may be removed from County jail facilities.

- (3) If a bail agent or attorney provides notice that he or she no longer conducts business out of an office physically located in Santa Clara County, the bail agent or attorney's information may be removed from County jail facilities.
- (4) If a bail agent or attorney provides notice that his or her local phone number or address has changed, but is still located in Santa Clara County, efforts may be made to update the bail agent or attorney's information in County jail facilities. This provision does not obligate the County to update the information more than annually.

(D) Non-Compliance

Failure by a bail agent or attorney to comply with the provisions of this Policy shall result in removal of the bail agent's or attorney's information from County jail facilities; denial of the bail agent's or attorney's request to have information posted at the next annual posting of information; and/or a requirement that the bail agent or attorney submit documentation to verify the information provided in subsequent requests. Repeated or serious violations may result in disqualification from all future postings.

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