

## Bail Bonds

### Summary

The Ventura County 2004-2005 Grand Jury initiated an investigation into the bail bond industry in Ventura County. This investigation was prompted by problems encountered by other counties within the state and by newspaper articles reporting alleged corruption within the bail bond industry.

The Grand Jury concludes the problems experienced by other large counties such as Los Angeles do not appear to be as serious a problem in Ventura County, but the situation needs to be watched carefully. The total outstanding balance of all bail bond monies included in the court accounting program as of March 2005, is \$25,859,600.

### Background

Bail bond companies in Ventura County were investigated because of the alleged lax business practices in other cities and counties within the state. This investigation concerned public safety for citizens of Ventura County and the possible loss of bail by allowing criminal defendants without sufficient collateral to flee.

A "Los Angeles Times" article dated April 12, 2005, stated a Van Nuys bail bondsman was sentenced to three years and four months in state prison as a result of a statewide investigation into alleged corruption in the bonding industry.

Some fraudulent business practices and a lack of oversight appears to cost California cities, counties and state government treasuries millions of dollars in lost revenue.

The Grand Jury investigated to see if Ventura County was experiencing the same flight/collection problems as Los Angeles and other cities and counties within the state.

### Methodology

The investigation consisted of reviewing various reports, conference publications, newspaper articles, information on government and business web sites, legislation from the California State Senate and interviews with county employees involved with bail bonds.

### Findings

- F-01.** Bail is a fundamental right guaranteed by the United States and California Constitutions.<sup>1</sup>
- F-02.** In dollar volume, one sixth of the bail in the U.S. is written in California.<sup>2</sup>
- F-03.** An arrestee contacted a bail bondsman to arrange for bail, paid a premium, and put up significant collateral. The arrestee was highly motivated to make his court appearances and not skip bail. If the defendant out on bail failed to

appear for a court date, the bail bondsman, personally liable on the bond, had every incentive to locate the defendant to ensure his/her court appearances.<sup>2</sup>

- F-04.** The bail bond industry is changing rapidly and appears to be plagued with numerous troubling practices, many of which are directly related to one factor, the recent effort to remove the local bail bondsman's financial incentives to ensure that defendants make their court appearances.<sup>2</sup>
- F-05.** Under current law, the Department of Insurance licenses sureties (insurance companies) and bail agents to conduct business in California. However, there is no existing mechanism for courts to notify the department when problems occur.<sup>1</sup>
- F-06.** Existing law provides that if an on-bail defendant fails to appear for arraignment, trial, judgment or any other scheduled court appearance, the bail is forfeited unless the clerk of the court fails to give proper notice to the surety or depositor within 30 days, or the defendant is brought before the court within 180 days.<sup>1</sup>
- F-07.** Consistent with the right to bail, Section 28 of Article I of the California Constitution requires that the primary consideration in the setting of bail is public safety.<sup>1</sup>
- F-08.** Recent years have shown a rise in private surety bail bonds being issued on some high-risk defendants without adequate collateral and a rise in some surety defaults. This has produced fiscal losses to cities and counties as well as a threat to public safety.<sup>1</sup>
- F-09.** According to Department of Justice figures, defendants are more than three times as likely to skip bail if the correct financial incentives do not exist on that bail, including most particularly that the bail bondsman remain personally liable.<sup>2</sup>
- F-10.** Generally, a defendant is required to pay 10 percent of his or her bail amount to a bail agent. The bail agent acts on behalf of an insurance company which guarantees payment of the bond if the defendant fails to appear in court.<sup>1</sup>
- F-11.** Bail agents and the surety are given six months from the date of the defendant's non-appearance to locate the defendant. In recent years, the law was amended to allow this period to be extended an additional six months.<sup>1</sup>
- F-12.** In most cases, it is at least a year before the surety is required to pay any money on the bail bond.<sup>1</sup>
- F-13.** Since an appeal results in an additional extension of the obligation to pay, two or more years can pass without any real financial penalty.<sup>1</sup>
- F-14.** Many sureties go bankrupt while the above process unfolds. Eight sureties have gone bankrupt in the last two years in California. This makes those bail bonds essentially worthless and removes any incentive the bail agent may have had to locate the defendant.<sup>1</sup>
- F-15.** The IRS reports that in one analysis, one third of the bail agents did not file income tax returns.<sup>3</sup>

- F-16.** Some bail agents learn the bail business by on-the-job training working for another bail agent, either a mom-and-pop operation or a large bail bond business. If the employee develops a good relationship with his or her employer and has a good grasp of the business, he or she may graduate to being a subagent of his or her former employer.<sup>3</sup>
- F-17.** Collateral, which is held by the bail agent, must be returned upon request of the defendant once the bail is exonerated. However, any collateral returned may be reduced by any uncollected premium or by any other outstanding charges.<sup>3</sup>
- F-18.** According to past experience of IRS agents, not returning collateral is an area of abuse by bail agents.<sup>3</sup>
- F-19.** It was determined that almost all of the money collected in bail forfeitures goes to the State; only a small amount is received by the County.
- F-20.** In the Ventura County Main Jail there is posted a list of 76 bail bond agencies doing business in the county.
- F-21.** According to county counsel, some large high volume bail bond businesses are charging less than the normal fee of 10% and have been granting bonds without sufficient collateral. These companies appear to be prevalent in Los Angeles and other large counties posing a large problem by enabling hundreds of criminal defendants to flee.<sup>2</sup>
- F-22.** Some of the bail bond businesses in Ventura County are mom-and-pop operations and have been operating in the county for years. Most of these businesses follow court procedures and cooperate with the court.
- F-23.** Ventura County pursues flight of defendants to retrieve funds due the court.
- F-24.** Ventura County Counsel informed the Grand Jury that Ventura County has not experienced the same problems plaguing the industry that occur in other counties within the state.
- F-25.** The statistics presented in F-26 thru F-29 were derived from a document titled Bail Bond Report dated March 29, 2005, provided by Ventura County Superior Court Administrative Services. The following definitions apply:
- Open Cases - calendared for a future hearing, case is not disposed.
  - Forfeited - defendant failed to appear on a calendared hearing.
  - Reinstate - bond was originally forfeited but reinstated when the defendant was present on a calendared hearing.
  - Summary Judgment - bail bond was forfeited. After 165 days of no motion to reinstate, summary judgment was filed and entered.
- F-26.** The Open Cases category represents 76% of the overall bail bond total dollars for Ventura County (\$19,588,500). Comparing these total dollars to the three largest bail bond companies operating in the county for this category determined these companies represented 44% of the monetary business and 45% of the defendants.

- F-27.** The Forfeited category represents 11% of the overall bail bond total dollars for Ventura County (\$2,971,100). Comparing these total dollars to the three largest bail bond companies operating in the county for this category determined these companies represented 52% of the monetary business and 42% of the defendants.
- F-28.** The Reinstate category represents 11% of the overall bail bond total dollars for Ventura County (\$2,740,000). Comparing these total dollars to the three largest bail bond companies operating in the county for this category determined these companies represented 56% of the monetary business and 53% of the defendants.
- F-29.** The Summary Judgment category represents 2% of the overall bail bond total dollars for Ventura County (\$560,000). Comparing these total dollars to the three largest bail bond companies operating in the county for this category determined these companies represented 43% of the monetary business and 41% of the defendants.
- F-30.** Review of bail bond companies doing business in Ventura County shows that 45% of them received their licenses in the last 5 years.<sup>4</sup>
- F-31.** A review of bail bond ads in the local telephone yellow pages for Oxnard, Camarillo and Ventura for general advertising and fee advertisement was performed. Within the industry the normal service fee paid by defendants is 10% of the bond amount. The total numbers of advertisements were twenty-seven of which three advertised less than the normal 10% fee.
- F-32.** Better Business Bureau statistics revealed 55 of the 77-bail bond companies on the list provided in the jail were not affiliated with the Better Business Bureau. Fourteen bail bond companies were listed with the bureau and had no complaints.<sup>5</sup>
- F-33.** One of the tasks of the Ventura Superior Court is the accounting function for the bail bond program including County Counsel responsibility for bail bond collections.
- F-34.** The following information was compiled from the California Department of Insurance web site:
- From the total number of listed bail bond companies in the Main Jail 55 (73%) were active and insured, 17 (23%) were inactive and 4 (4%) were not found.<sup>4</sup>
  - A \$10,000 bond covered 7% of the insurance companies.<sup>4</sup>
  - A \$1,000 bond covered 93% of the insurance companies.<sup>4</sup>
  - There are 17 insurance companies representing 44 bail bond companies. Within this group the three largest insurance companies represented 46% of the total.<sup>4</sup>

## Conclusions

- C-01.** County Counsel provides the county with a program of investigating bail bond companies operating in Ventura County to assure they are adhering to established business practices. (F-01, F-02, F-05, F-06, F-07, F-11, F-12, F-13, F-15, F-17, F-19, F-20, F-32, F-33, F-34).
- C-02.** The problems experienced by counties like Los Angeles are not of the magnitude in Ventura County. (F-04, F-08, F-09, F-10, F-14, F-18, F-21 thru F-24).
- C-03.** The majority of bail bonds in the county are by large bail bond companies (the three largest control approximately 50% of all business). This is a change from the mom-and-pop companies that dominated the business in the past. It appears County Counsel is doing an effective job controlling the Summary Judgment losses with only 2% of the total bail bonds issued in the county. (F-16, F-25, F-26, F-29, F-30, F-31).
- C-04.** Historically, until about seven years ago, California's bail bond industry functioned in a more predictable and effective manner. (F-03).

## Recommendations

- R-01.** Continued oversight by County Counsel is necessary as the large bail bond companies take a larger piece of the business. Also, constant vigilance is necessary to keep bail bond losses at a minimum. (C-01).

## Response Requested

Ventura County Counsel

## Bibliography

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3. Department of the Treasury, Internal Revenue Service, Bail Bond Industry Report, July 1997.
4. The Los Angeles Times, April 12, 2005, "Bail Bondsman Gets 3 Years in Corruption Case."
5. The Los Angeles Times, March 25, 2005, "It's Brutal in the Bail Business."
6. The Los Angeles Times, February 16, 2005, "Bad Boys Bail Bonds Indicted."
7. California Department of Insurance web site.
8. Better Business Bureau web site.

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