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FEB 27 2002 123rd JUDICIAL DISTRICT
OPINION COMMITTEE PANOLA COUNTY, TEXAS
COUNTY COURT AT LAW
PANOLA COUNTY, TEXAS

DANNY BUCK DAVIDSON
Criminal District Attorney

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FEB 27 2002

Office of Attorney General
Opinion Request
PO Box 12548
Austin TX 78711-2548

RQ-0517-2C

OPEN RECORDS

FILE # ML-42476-02

RE: Opinion Request

I.D. # 42476

Dear Attorney General:

Danny Buck Davidson, the Criminal District Attorney for Panola County, Texas, makes this request for an opinion pursuant to Section 402.043 of the Government Code and submits the following facts and brief.

Question

Whether a Sheriff may post a list of bondsman who have been approved for bail bonds in the jail for inmate use in a county of less than 110,000 in which a bail bond board has not been created.

Facts

The sheriff has posted a list of bondsman who submitted an application for proof of sufficiency of security. The Sheriff also furnishes the inmate local telephone books with yellow pages listing bondsman. The list and telephone books facilitate the release of inmates. Inmates are not limited to the list and may contact any person, attorney, firm, company, surety, or bondsman they wish, and each inmate is so advised. The list identifies persons and companies with non-exempt property who wish to make bonds in Panola County.

The posted list has the following statement, "Sheriff's Office Department personnel are not permitted to recommend any bondsman or attorney." The list furnishes names and telephone numbers. The inmate is allowed local telephone books and the use of a telephone to contact anyone the inmate wishes.

Recently after the new telephone books arrived, the Sheriff received a letter from an attorney requesting the list be discontinued or he would file legal action on behalf of his client, National Bail Bond. True copies of two letters are attached. National Bail Bonds is not on the list and has not requested to be on the list. The attorney requested only the telephone book be used. All the bondsman doing business in the county are not listed in the telephone books.

The Sheriff has determined that in four (4) adjoining non-bail bond board counties lists of bondsman are posted in each jail.

Brief

The bail bond policy and procedures of the Sheriff of Panola County are governed by Chapter 17 of the Code of Criminal Procedure. No bail bond board has been created in Panola County by Occupation Code Art. 1704.052.

No statutory nor case authority is found to prohibit this Sheriff from posting a list of bondsmen. We recognize *Castoneda v. Gonzales*, 985 S.W.2d 500, 504 holds "in counties, where no bail bond board exists, an officer taking bail bonds is prohibited from adopting rules which exceed statutory authority in the same way bail bond boards are." The Court held the requirement to fill out the Sheriff's application form was permissible under the Sheriff's authority to require evidence of the sufficiency of the security offered by the bondsman. Code of Criminal Procedure Art. 17.11, 17.14. This case did not deny the Sheriff the use of the list.

The bondsman list is derived from the application process and serves as a valid tool for the Sheriff's Office. The list and the telephone books allow inmates to quickly choose a bondsman to call about their release.

Jail personnel do not have to use additional time to furnish bond information if they know the bondsman is on the list. Jail personnel know if contacted by someone not on the list then certain county rules and state law should be explained for the release of inmates.

The jail personnel are prohibited from making recommendations or suggestions of a bondsman. This is Sheriff Office Department policy, and a violator is subject to immediate dismissal.

Thank you for your attention to this matter.

Yours truly,



Danny Buck Davidson
Panola County District Attorney