

# County of Santa Clara

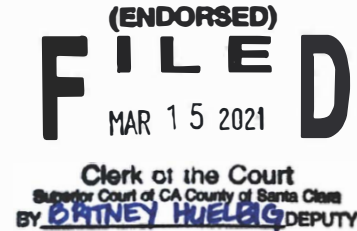
Office of the Clerk of the Board of Supervisors  
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Megan Doyle  
Clerk of the Board

March 3, 2021

The Honorable Theodore C. Zayner  
Presiding Judge  
Santa Clara County Superior Court  
191 North First Street  
San Jose, CA 95113



RE: Civil Grand Jury Report-The Case of the Felonious Process Server

Dear Judge Zayner:

At the February 23, 2021 meeting of the County of Santa Clara Board of Supervisors (Item No. 47), the Board adopted the responses from the Social Services Agency to the Final Civil Grand Jury Report entitled, The Case of the Felonious Process Server.

As directed by the Board of Supervisors and on behalf of the Board President, our office is forwarding to you the enclosed copy of the response to the Final Grand Jury Report. The response constitutes the response of the Board of Supervisors, consistent with provisions of California Penal Section 933(c).

Please accept our sincerest apologies for the inconvenience this delay has caused.

If there are any questions concerning this issue, please contact our office at (408) 299-5001 or by email at [boardoperations@cob.sccgov.org](mailto:boardoperations@cob.sccgov.org).

Sincerely,

La'Tria Strother  
Deputy Clerk, Board of Supervisors  
County of Santa Clara

Enclosures

# County of Santa Clara

Finance Agency  
Office of the County Clerk-Recorder

County Government Center  
70 W. Hedding Street, East Wing 1<sup>st</sup> floor  
San Jose, California 95110-1705  
(408) 299-5688



Date: January 29, 2021

TO: Miguel Marquez, Chief Operating Officer

FROM: Gina Alcomendras, County Clerk-Recorder

SUBJECT: Response to Santa Clara Civil Grand Jury Report

This is in response to the 2019-2020 Santa Clara County Civil Grand Jury Final Report (Report), The Case of the Felonious Process Server.

The following are the Report's findings and its recommendation and the County Clerk-Recorder's responses:

*Finding 1a - The Santa Clara County Clerk-Recorder's Office did not receive notification of felony convictions of a registered process server from the Subsequent Arrest Notification System. Because the Clerk-Recorder's Office did not receive a notification as required by California Penal Code § 11105, the process server's registration was not revoked.*

The Clerk-Recorder agrees with this finding (1a).

*Finding 1b - The Clerk-Recorder's Office is not responsible for possible errors by the court or the state in entering and/or disclosing felony information that is supposed to make its way to the Subsequent Arrest Notification System. There is no agreed-upon process or procedure for the Clerk-Recorder's Office to communicate with the Department of Justice, other than the Subsequent Arrest Notification System. As a result, the Clerk-Recorder's Office cannot resolve questions regarding registered process servers who may have been convicted of felonies.*

The Clerk-Recorder agrees with this finding (1b).

*Recommendation 1 - The Santa Clara County Clerk-Recorder's Office should develop, publish, and distribute procedures which would allow it to reconcile conflicting information about a felony conviction of a registered process server. The Clerk-Recorder's Office should communicate with agencies authorized to assist it. These procedures should be available to appropriate staff by March 1, 2021.*

The recommendation stated three items - develop, publish, and distribute.

1. Develop. The Santa Clara County Clerk-Recorder's Office developed the Process Server Registration Status Policy and Procedures. It is attached to this letter.
2. Publish. The Process Server Registration Status Policy and Procedures will be published as a link at the Clerk-Recorder website under Process Server. This should be in place by the end of February, 2021.
3. Distribute. Copies of the Process Server Registration Status Policy and Procedures will be distributed to the following and will be done by the end of February 2021:
  - Main contact(s) with the Santa Clara County District Attorney's Office;
  - Main contact(s) with the California Department of Justice pertaining to Livescan;
  - Employees of the Clerk-Recorder's Office; and
  - Departmental Policies and Procedures Manual.

Attachment: Process Server Registration Status Policy and Procedures



## County of Santa Clara

Policy Name: Process Server Registration Status

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**Policy Type:** Departmental

**Category:** Administrative Practices

**Policy Name:** Process Server Registration Status

**Policy Owner:** County Clerk-Recorder

### **Policy Purpose**

The purpose of this policy is to allow the Clerk-Recorder's Office to reconcile conflicting information about a felony conviction of a registered process server and to communicate with the agencies that are authorized to assist.

### **Policy Summary**

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Section 22351.5 of the California Business and Professions Code provides a method for the Clerk-Recorder's Office to receive notification about registered process servers. However, there are cases in which Subsequent Arrest Notification Contracts provided by the State of California Department of Justice subsequent to the initial certificate of registration do not provide the Clerk-Recorder's Office with notification of a current or pending status change that may affect a process server's ability to continue in their position.

These procedures enable the Clerk-Recorder's Office to provide information to the appropriate agencies in situations where the Clerk-Recorder's Office



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receives information or allegations regarding a felony conviction of a registered process server from a source aside from the State of California Department of Justice, creating conflicting information about the status of that process server that should be communicated to and resolved by such other authorized agencies.

### **Procedures**

#### *Notification of Process Server Status*

1. Upon receipt of a complaint or allegation regarding a process server registered with the County of Santa Clara, the Clerk-Recorder's Office will log the complaint or allegation.
2. Consistent with Section 22358 of the California Business and Professions Code, the Clerk-Recorder's Office will notify the Office of the District Attorney (DA) in writing of the complaint or allegation made about the registered process server. A copy of the complaint and all pertinent information or documentation will be attached to the packet to be sent to the DA.
3. In addition to notifying the Office of the DA, the Clerk-Recorder's Office will notify the registered process server and/or company for which the registered process server works that a complaint or allegation has been received by the Clerk-Recorder's Office and that the matter has been referred to the District Attorney's Office or the presiding judge of the Santa Clara County Superior Court for further review.
4. If the allegations involve conviction of a felony, the Clerk-Recorder's Office will, pursuant to the provisions of Section 22351.5(b) of the California Business and Professions Code, provide written notice to



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the presiding judge of the Santa Clara Superior Court to determine if there are reason(s) to revoke such person's registration as a process server.

- a. Should the Clerk-Recorder's Office receive updated findings from the Department of Justice or other relevant information, a written notification will be sent to the Office of the District Attorney and/or the presiding judge to assist with their review of the matter.

### Revision History

Date	Changes Made
01/29/2021	Procedure completed