

NEWS RELEASE

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO



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MEDIA NOTICE: JUDGES PROHIBITED FROM PUBLIC COMMENT ON PENDING OR IMPENDING CASES

In response to recent inquiries to comment in response to criticism of judicial decisions, it is essential to note that judicial officers are required to abstain from making any public comment on pending or impending cases. Specifically, under California Code of Judicial Ethics Canon 3B(9), "a judge shall not make any public comment about a pending or impending proceeding in any court."

While the Court values the opportunity to educate the public about the role of the judiciary and strives to answer questions when ethically permissible, judicial independence requires that judges must remain neutral, impartial and fair. The California Code of Judicial Ethics prohibits judicial officers from making any public comment when the media or members of the public ask them to respond to criticism of judicial decisions or any other aspect of a pending or impending case.

In the interest of assisting the public to understand the state's complex bail laws, the Court's [Bail Fact Sheet](#) is a useful reference to explain the factors that state law requires Superior Court judges to consider when deciding whether to release or to detain a defendant or to set bail prior to trial.

Under the California Supreme Court decision (*In re Humphrey (2021) 11 Cal. 5th 135*), if the court determines that releasing a defendant prior to trial poses a risk to public or victim

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safety or flight risk, the court should consider whether nonfinancial conditions of release (also called "less restrictive alternatives") may reasonably protect the public and the victim or reasonably assure the defendant's presence at future court dates. These less restrictive alternatives include electronic monitoring, regular check-ins with a pre-trial case manager, community housing or shelter and drug and/or alcohol treatment.

Only if less restrictive alternatives would not protect public safety or prevent flight is the court permitted to order the defendant detained before trial or to set bail in an amount the defendant cannot afford. The court must find that *clear and convincing* evidence demonstrates that the defendant's detention is necessary to protect public or victim safety or ensure the defendant's return to court.

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