

GENERAL OFFICE MEMORANDUM 20-120

TO: ALL DISTRICT ATTORNEY PERSONNEL

FROM:  JOSEPH P. ESPOSITO
Chief Deputy District Attorney

SUBJECT: CONSIDERATION OF INDIVIDUALIZED FACTORS WHEN
SETTING BAIL (IN RE HUMPHREY (2018) 19 CAL.APP.5TH 1006)

DATE: SEPTEMBER 2, 2020

On August 26, 2020, the California Supreme Court ordered that **Part III** (only) of In re Humphrey (2018) 19 Cal.App.5th 1006 “now has precedential effect” even though review is still pending. Although a court may consider the amount in the bail schedule, deputies are reminded that in a bail hearing, the court must also consider individualized factors¹ of the defendant and the ability to pay, unless the court has already determined that preventive detention is necessary to assure public safety. See attached GOMs (18-028 and 18-045) for a discussion of factors, applicability of less restrictive alternatives, and making an appropriate record. The *Humphrey* case, with Part III highlighted, is also attached.

rl

Attachments

¹ The factors include: evidence of past court appearances, maximum potential sentence, danger to other persons if the detained person is released, threats made by the detained person, any past acts of violence, community ties of the detained person, and the ability to post bond. (PC § 1270.1(c).) The court must also consider protection of the public, seriousness of the offense, previous criminal record, the probability of appearing at trial or at a hearing in the case, and information from relevant reports. Public safety shall be the primary consideration. The judge must also consider injury to the victim, alleged threats to the victim and witnesses, use of a firearm or deadly weapon in the commission of the crime, and alleged use or possession of a controlled substance (PC § 1275(a).)