

A hand is shown from the bottom left, holding a single gear. Above the hand, a large, dense cluster of many interlocking gears of various sizes is depicted, creating a complex, mechanical structure. The background is a light, neutral color.

A Framework for Pretrial Justice

Essential elements of an effective pretrial justice
system and pretrial services agency

*Getting Bail
Right.*



Impact of Pretrial Detention

- Compared to defendants released at some point prior to trial, defendants held for the entire pretrial period had:

4x Greater likelihood of being sentenced to jail

- **3x** longer jail sentences

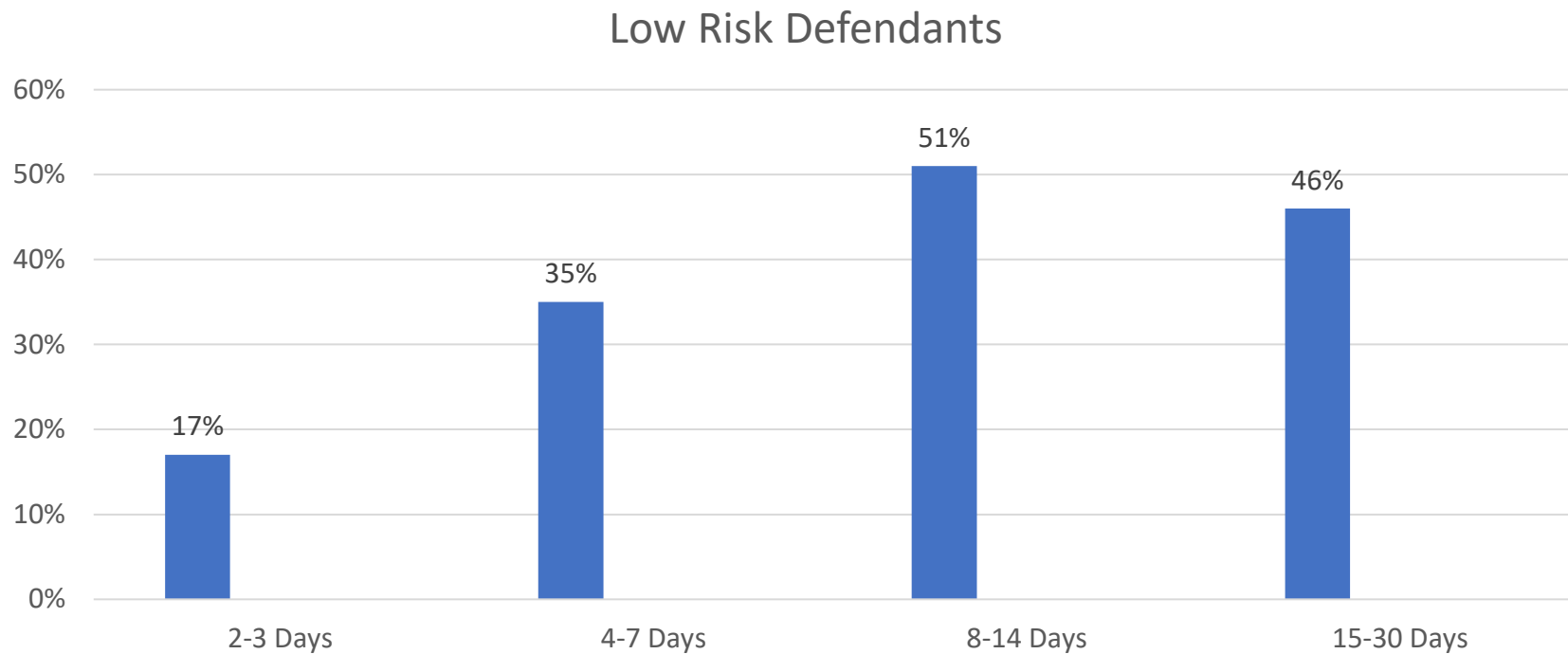
3x greater likelihood of being sentenced to prison

- **2x** longer prison sentences



Impact of Pretrial Detention

- Increase in 2-Year Recidivism



First Generation - Release



Stack v. Boyle



Bail Must be...

A release decision

Individualized

not arbitrary



Second Generation- Detention



U.S. v. Salerno



Detention must be...

- Carefully limited

And

- Include procedural safeguards

“In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”

Chief Justice Rehnquist
United States v. Salerno, 1987



Third Generation- Striking a balance

High Risk

Low Risk



Out



Low risk not detained

In Jail



“Cash Bail, a Centerpiece of the Justice System, Is Facing Its Undoing”

<https://www.nbcnews.com/news/us-news/cash-bail-centerpiece-justice-system-facing-its-undoing-n669206>

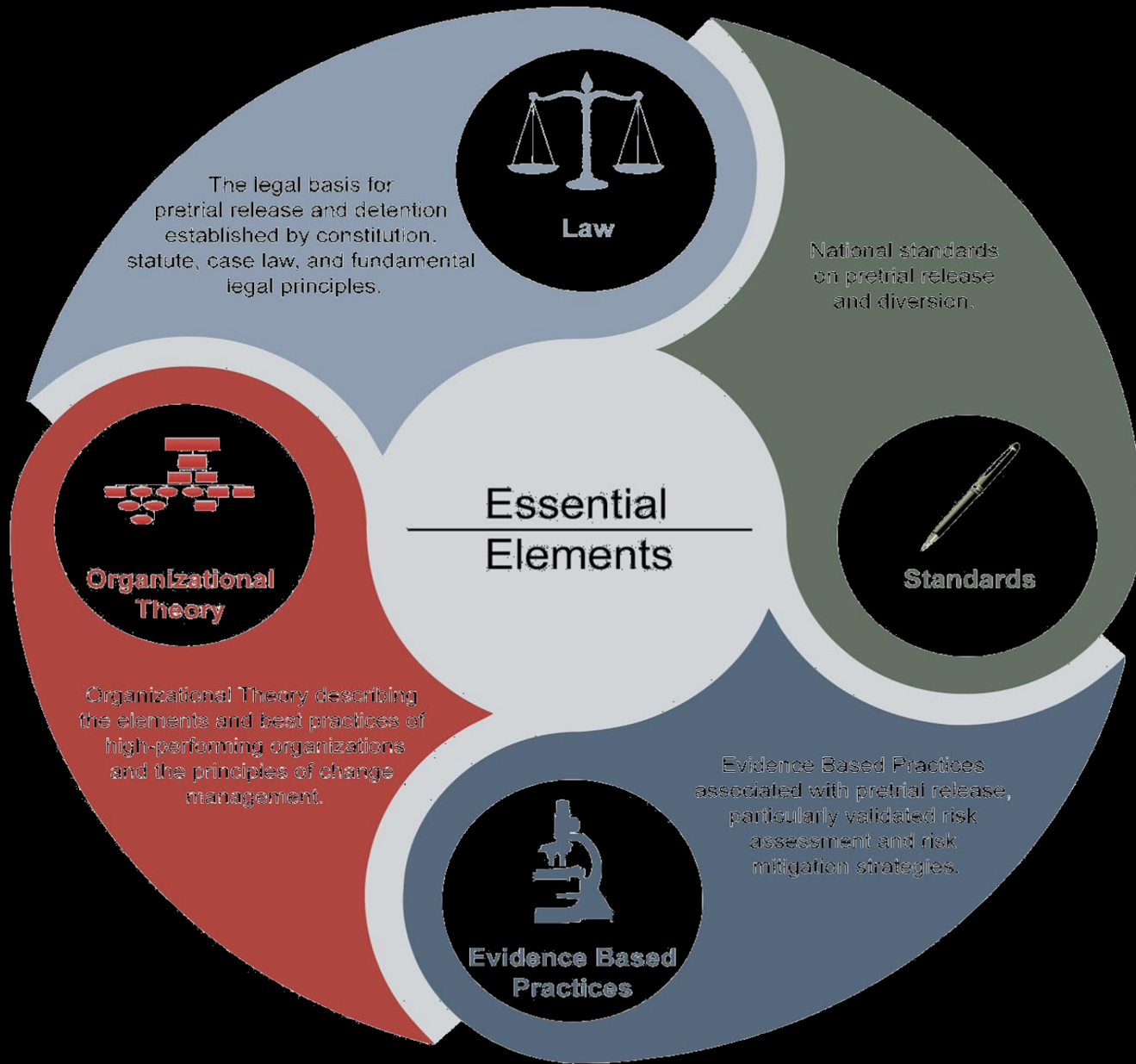


- *Caliste et al. v. Cantrell (LA)*
- *Commonwealth v. Wagle (MA)*
- *Welchen v. Sacramento (CA)*
- *Buffin v. San Francisco (CA)*
- *Martinez v. City of Dodge City (KS)*
- *Snow v. Ascension Parish (LA)*
- *Cooper v. City of Dothan (AL)*
- *Thompson v. Moss Point (MS)*
- *Powell v. City of St. Ann (MS)*
- *Pierce v. City of Velda City (MO)*
- *Varden v. City of Clanton (AL)*
- *Walker v. City of Calhoun (GA)*
- *Mock et al v. Glynn County (GA)*
- *Kunkeli v. Anderson (NY)*
- *Howard v. City and County of Denver (CO)*

- *In re Kenneth Humphrey (CA)*
- *Robinson v. Martin (IL)*
- *Hester v. Gentry (AL)*
- *Daves v. Dallas County (TX)*
- *O'Donnell v. Harris County (TX)*
- *Little v. Frederick (LA)*
- *Edwards v. Cofield (AL)*
- *Dixon v. City of St. Louis (MO)*
- *Targa v. Tulsa County (OK)*
- *Ross v. Blount (MI)*
- *Booth v. Galveston County (TX)*
- *Philadelphia Bail Fund v. Bernard (PA)*
- *Hiskett v. The Honorable Rick Lambert (AZ)*
- *Still v. El Paso County (CO)*

Major Issues Addressed

- Bail decisions are release decisions
- Reasonable bail must:
 - Consider the defendant's ability to pay
 - Be individualized to the defendant's risk
 - Not be charge-based
- Bail schedules are unconstitutional
- Due Process guarantees apply in the application of preventive detention.
- Bail conditions must be tied to court appearance or public safety and must be the least restrictive. Conditions imposing financial cost to the defendant may be illegal.
- Jurisdictional resources are no excuse to deny rights associated with bail



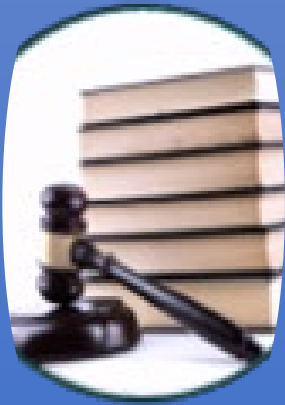
BAIL

DEFINITION:

Requirements to reasonably assure a defendant's appearance in court and, where appropriate, public safety.

TENETS:

1. There is no "right to bail" in most states and the Federal system.
(Present in about a quarter of states)
2. Pertains only to appearance and safety concerns
3. Individualized to the defendant's unique characteristics
4. Least restrictive means needed to ensure goals
5. Due process forbids detention on unspecified charges or without due cause.



Pretrial release and detention decisions based on risk



Legal framework that includes a hierarchy of options



Release options following or in lieu of arrest



Bail-eligible defendants are considered for release, with no locally-imposed exclusions not permitted by statute



Experienced prosecutors screen criminal cases before first appearance



Defense council active at first appearance



Collaborative group of stakeholders that employs evidence-based decision-making to ensure a high functioning system



Dedicated Pretrial Services Agency

System Elements



**Operationalized
Mission**



**Universal
Screening**



**Validated Risk
Assessment**



**Sequential Bail
Review**



**Risk Based
Supervision**



**Performance
Measurement
and Feedback**

Agency Elements