

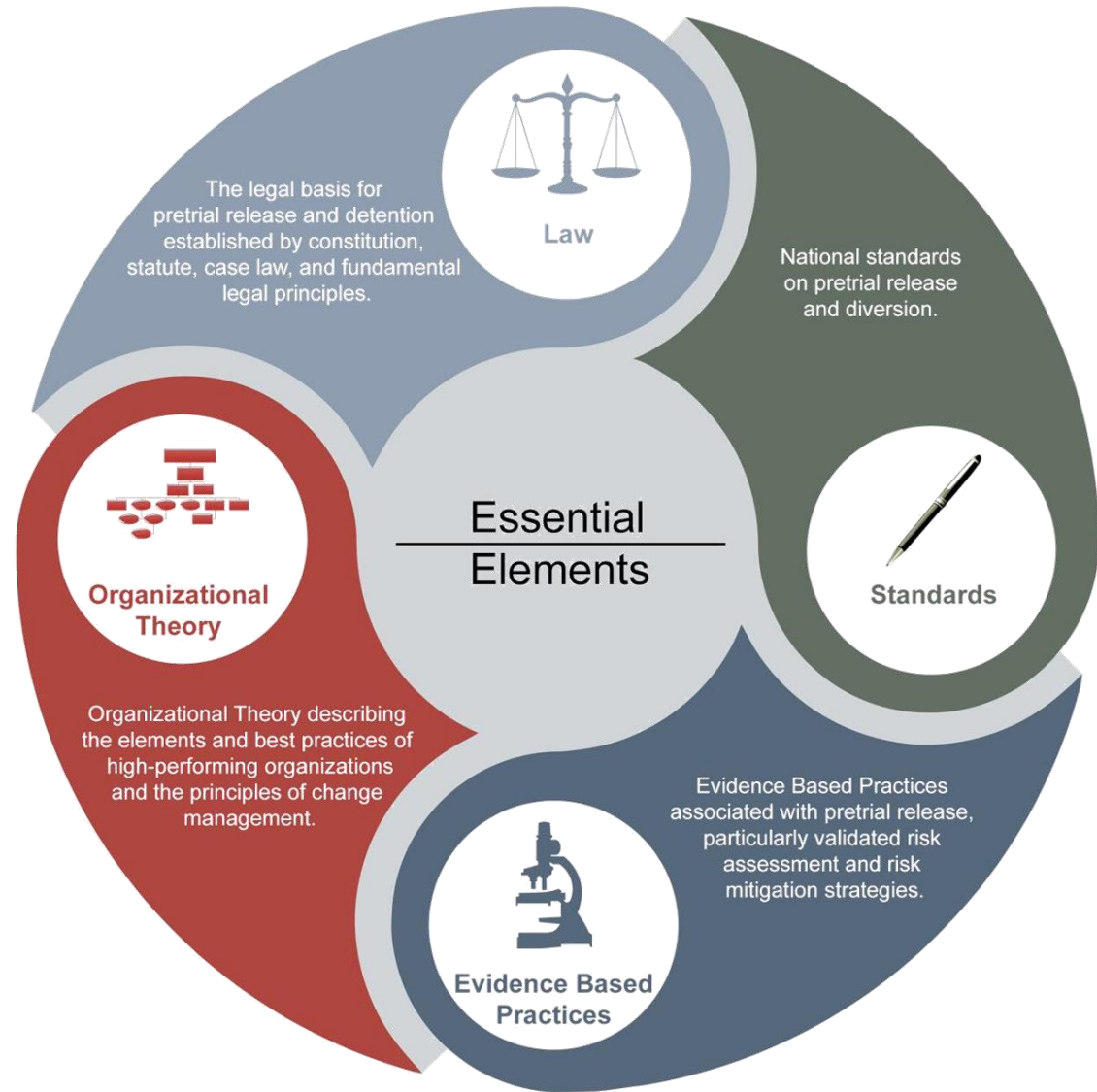


A Framework for Pretrial Justice

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



The Framework



BAIL

DEFINITION: Requirements to reasonably assure appearance in court and public safety

TENETS:

- There is no “right to bail” in most states or the Federal system
- Pertains only to appearance and safety concerns
- Individualized
- Least restrictive conditions
- Due process forbids detention without due cause

“The 3 M’s”



Goal:



Maximize
Court
Appearance



Maximize
Public
Safety



Maximize
Release

Legal Foundation


1. A presumption of release on the least restrictive conditions
2. Prohibition or restrictions on the use of secured financial conditions
3. Provisions for detention without bail for a clearly defined and limited population

All three of these components are interrelated and must exist within a legal framework to achieve maximized rates of release, appearance, and public safety.




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Legal Foundation

- Appearance: “Bail set at a figure higher than an amount reasonably calculated to [ensure court appearance] is ‘excessive’ under the Eighth Amendment.” *Stack v. Boyle* 342 U.S. 1 (1951).
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Legal Foundation

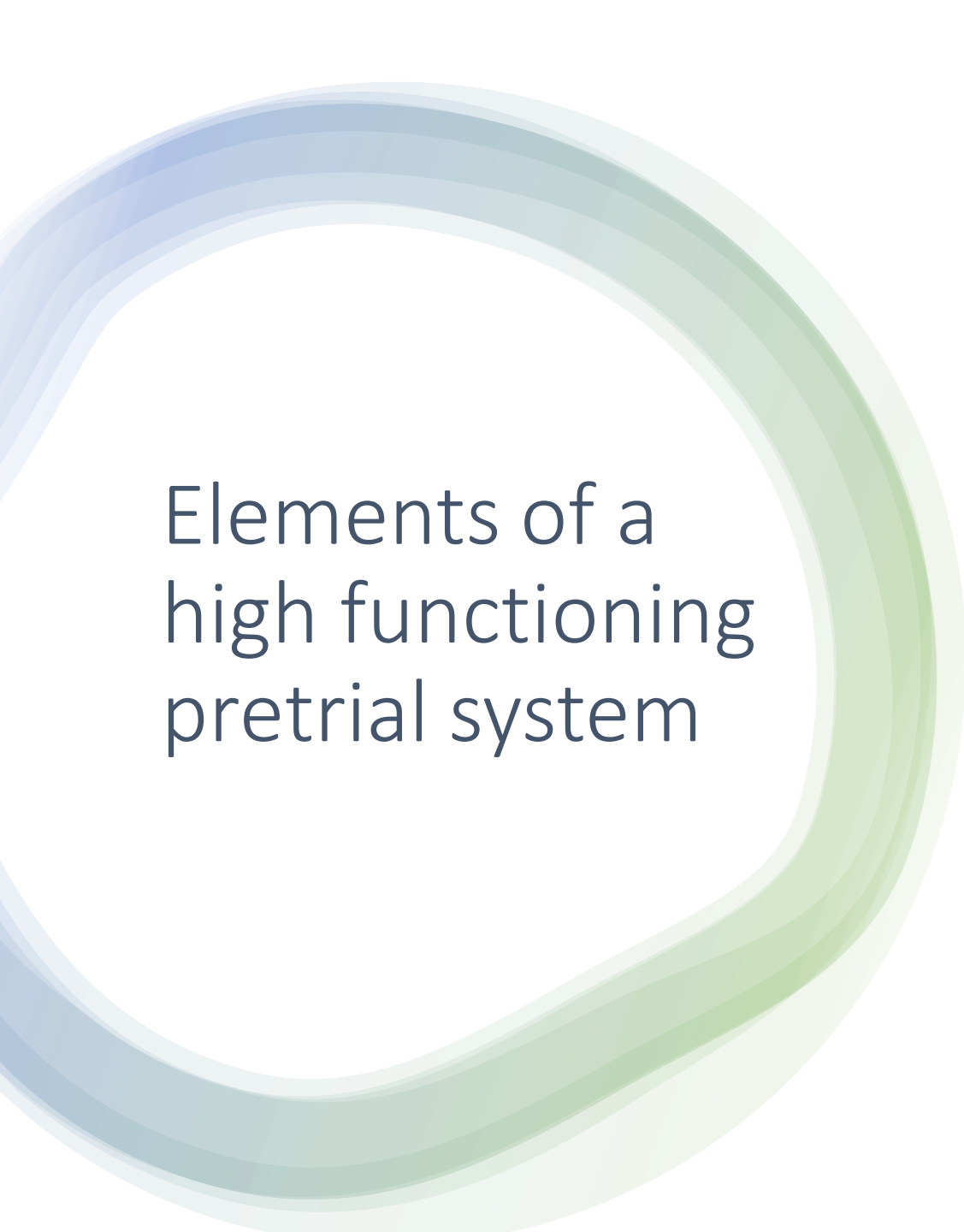
- Safety: Detention may be authorized when defendants are found “after an adversary hearing to pose a threat to the safety of individuals or to the community which no condition of release can dispel.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).
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Legal Foundation

- Release: “In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).

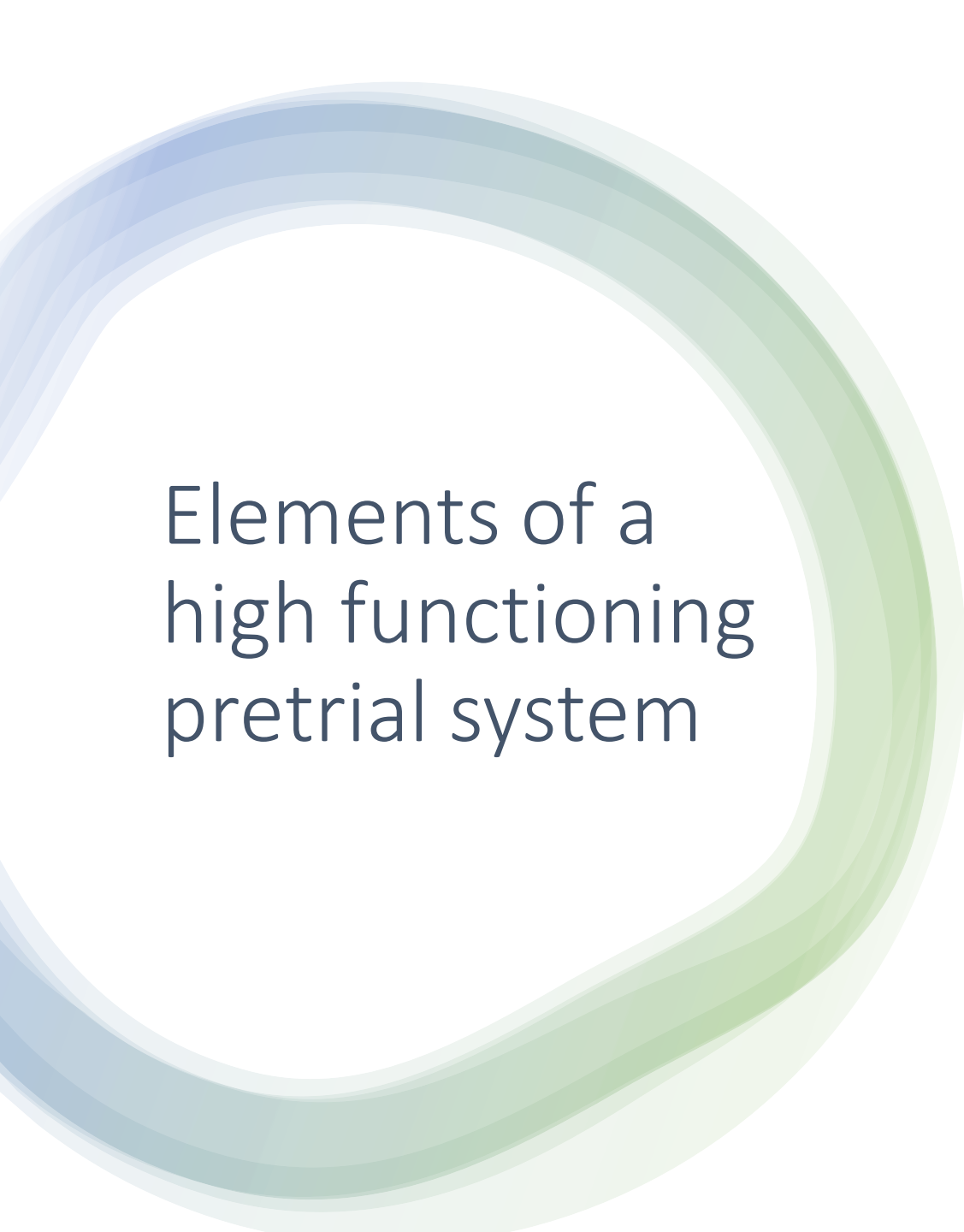




Elements of a high functioning pretrial system

Pretrial release and detention decisions based on risk and designed to maximize release, court appearance, and public safety

Legal framework that includes a presumption of least restrictive nonfinancial release; restrictions or prohibition against the use of secured financial conditions; and preventative detention that is limited and clearly defined

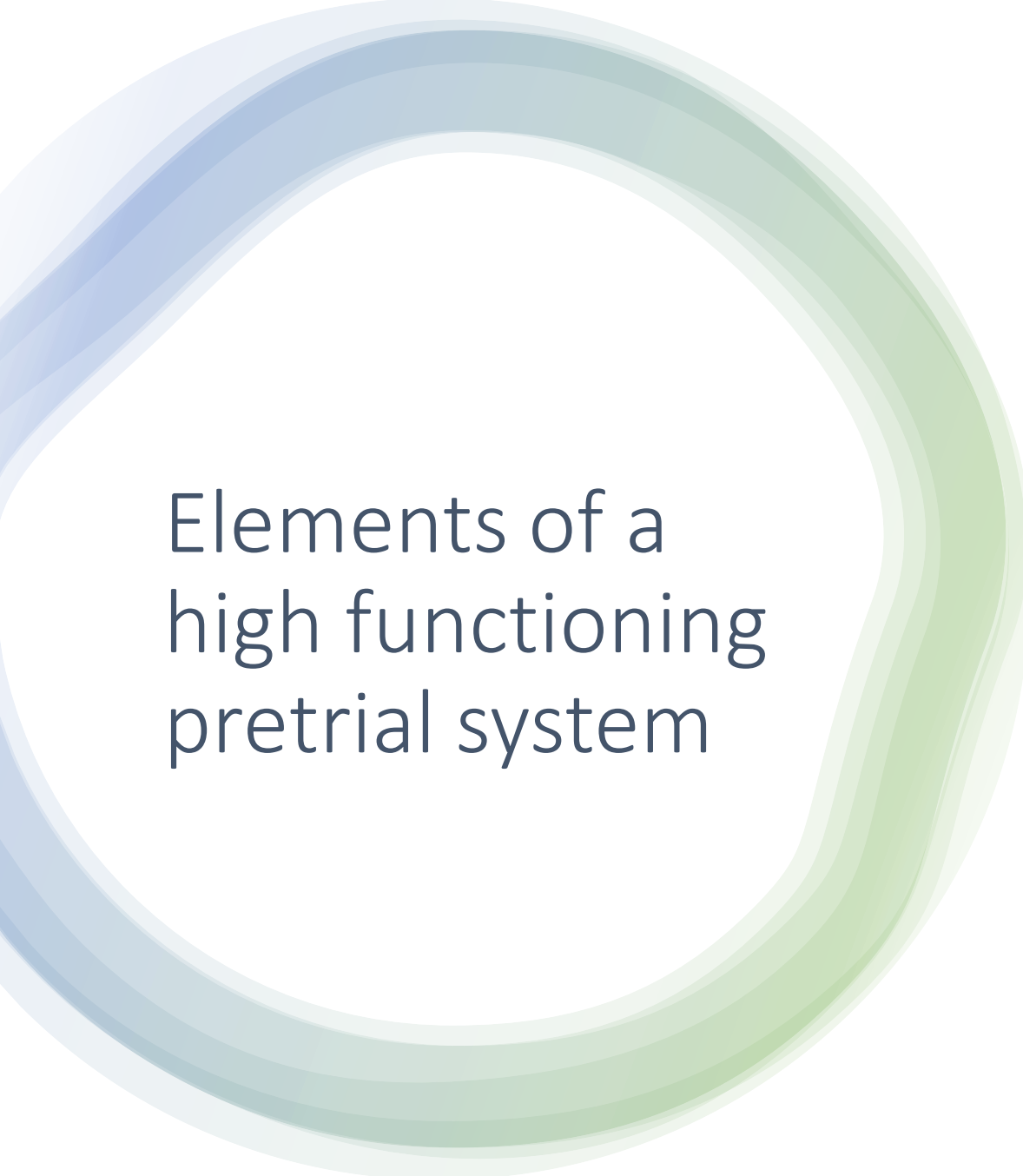


Elements of a high functioning pretrial system

Release options following or in lieu of arrest

No locally-imposed exclusions not permitted by statute

Experienced prosecutors screen cases before the initial appearance



Elements of a high functioning pretrial system

Active defense at first
appearance

Collaborative group of
stakeholders that employs
evidence-based decision making

Dedicated pretrial services
agency



Elements of an effective pretrial agency



Operationalized Mission

Universal Screening

Validated Pretrial Assessment

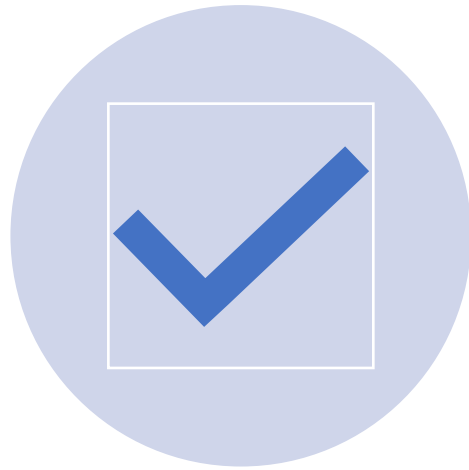
Sequential Bail Review

Risk-based Supervision

Performance Measurement



In the interest of time.....




MEANINGFUL FIRST
APPEARANCE



IMPORTANCE OF A DEDICATED
PRETRIAL SERVICES AGENCY

Meaningful first appearance



Criminal Case Screening
Active Defense Counsel



Criminal Case Screening

Trained and experienced prosecutors should screen arrest filings prior to the initial appearance

- Reduces needless pretrial detention
- Aids prosecution in determining the most appropriate pretrial release recommendations
- Case triaging
- Early identification for diversion or other alternatives

Active Defense Counsel

Defense counsel engaged and prepared before the initial appearance

- Initial bail hearing is a critical stage in the criminal case (Rothgery v Gillespie County, 554 U.S. 191 (2008))
- ABA's "Ten Principles of a Public Defense Delivery System" recommends clients are screened and counsel assigned as soon as feasible

Pretrial Services Agencies

- Help courts make informed bail decisions
- Promote maximized release, appearance, public safety, and successful outcomes
- Ensure that release options are realistic and measurable





ASSESS

Gather data
Apply the tool
Calculate result



ADJUST

Consider mitigating and
aggravating
circumstances
Adjust supervision
response as needed



RECOMMEND

Recommend supervision
level and conditions
consistent to risk level
and other factors

Pretrial Services Agencies

Independent
entity

Clearly-defined
function

Dedicated staff

Questions?

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