

## Index

- abuse in jails, 82
- abuse of discretion, 169
- access to counsel, 109, 199
  - pretrial hearings, 117
- Access to Justice Clinic, 119
- access to legal materials, 188, 203
- accountability, 101
- Afghanistan, 140
- age, 67, 74, 192, 199
- AIA Bail Bond Surety, 178
- Alabama, 30, 170, 171, 172, 173
- al-Bahlul, Ali Hamza, 137
- alcohol testing, 208
- Alcoholics Anonymous, 182
- alibi witnesses, 83
- aliens, 133, 134, 135, 137, 138, 139
  - constitutional rights, 141
  - terrorism suspects, 141–2, 142
- Allen, Ronald, 194
- Al-Qaeda, 133, 136
- American Bail Coalition, 178, 179, 184
- American Bar Association, 44, 211
- American Civil Liberties Union (ACLU), 71, 96
- American colonies, 111
- ankle bracelets, 80, 189, 191, 209, 210
- Appleman, Laura, 112
- Apprendi v. New Jersey*, 110, 113, 114, 128, 201, 202
- arbitrary arrests, 146
- arbitrary decisions, 147
- Arizona, 53, 55
- bail reform, 182
  - pretrial risk assessment, 66
- Arnold Foundation, 66, 195, 198
- arrest rates, 97
- attachment of right to counsel, 120
- Attorney General powers, 134, 141
- attorney-client communications, 125
- Australia, 158
- bail
  - amount, 108
  - cash. *See* cash bail
  - crime charged, 42
  - definition, 40
  - disparity of amount, 41
  - factors considered, 40
  - history of
    - American law, 11, 20–1
    - English law, 11, 20
  - impact on defense preparation, 31, 59, 125
  - internationally, 15
  - judges and commissioners, 41
  - jurisdictional variation, 56
  - money. *See* money bail
  - poverty, 2
  - prediction of guilt, 4
  - pressure to plead, 36, 128, 202
  - property bail, 12, 38, 39, 51–2, 58, 59
  - percentage bail, 40, 46, 50–1, 52, 58, 59, 157
  - purpose of, 19
  - race. *See* racial bias

- bail (*cont.*)
  - right to
    - in early legal systems, 111
    - constitutional, 3, 7, 12, 14, 29, 30, 39, 109, 110
    - current standard, 25–6
  - state constitutions, 115, 164
  - written statement requirement, 26
- bail agent, 46
- bail balancing act, 77
- bail bondsmen, 38, 40, 46, 48, 112, 160, 175
  - commercial bail, 48, 157
  - history, 165
  - lobbying, 178, 179
  - racial bias, 101
  - role, 49, 184
  - Sixth Amendment, 108
- Bail Clause, 33
- bail commissioner, 40, 41
- bail forfeiture, 179–81
- bail hearings
  - effect of no counsel, 127
  - Sixth Amendment right to counsel, 115–17, 202–3
- bail industry lobbying, 177–9
- Bail Reform Act of 1966, 23, 24, 44, 62, 165, 166
  - Eighth Amendment challenges, 168
  - generally, 3
  - optimal bail, 213
- Bail Reform Act of 1984
  - challenges, 63
  - effect, 62, 112, 166, 186
  - Eighth Amendment challenges, 168
  - generally, 3, 25–7
  - money bail, 166
  - optimal bail, 213
  - presumptiottn for release, 44
  - terrorism suspects, 132, 134, 135
  - weighing evidence before trial, 201
- bail reform efforts, 181–3
- bail review hearing, 109, 119
- bail schedules
  - challenges, 170, 172, 173–7, 185, 206
  - constitutionality, 205
  - definition, 116
  - elimination, 206–7
  - risk assessments, 199
  - subjective factors, 69
  - uniform, 47
- bail schemes, 173
- Baltimore, 55, 108
- Barnes, Geoffrey, 67
- bargaining power, 4, 5, 84
- Barry, Ralph, 39
- Belgium, 148, 220
- Bell v. Cone*, 122
- Bell v. Wolfish*, 24, 191
- Berk, Richard, 66
- beyond a reasonable doubt, 113, 114, 115, 128, 201
- bias in risk assessment programs, 72–3
- Bill of Rights of 1689, 20
- bin Laden, Osama, 137
- Bingham, Matt, 204
- Black, Hugo, 109
- Black defendants, 9, 13, 72, 93, 94, 98, 100, 101, 105, 106, 107
- Blackstone, William, 18, 115
- Blake, Robert, 172
- Blakely v. Washington*, 113
- blind studies, 73
- Bloomberg, Michael, 136
- bonds. *See* commercial bail bonds, surety bonds
- booking, 116
- Born on the Fourth of July (film), 172
- Boston Marathon bombing, 136, 140
- bounty hunter authority, 49
- bounty hunters, 112
- Brazil, 221
- bribes, 154
- Bronx, 40
- Brooklyn Defender Services, 126
- Brooklyn, New York, 58
- Browder, Kalief, 30, 35, 36, 103
- Brown, Chris, 63
- Burden of production, 26
- Bureau of Justice, 37
- Bureau of Justice Statistics, 159, 179
- Bureau of Prisons staff, 125
- burglary, 63, 77, 161
- Bush, George W., 139
- Calhoun, Bongani Charles, 100
- Calhoun, Georgia, 171
- California, 47, 55

- bail schedules, 207
- Constitution, 30
- cost of incarceration, 78, 79
- high risk defendants, 161
- three strikes law, 96
- Calvert, James, 203, 204
- Canada, 144, 148, 158, 221
- capital offenses, 19, 20, 21, 30, 111, 164
- Carlson v. Landon*, 23
- Case, Allan, 204
- cash bail, 46–8
- Chew, Leslie, 1
- Chicago, 162
- child custody, 126, 127
- child support payments, 126
- child welfare system, 88
- children, 78, 88–9
- Chile, 221
- China, 144, 155, 222
- citations in lieu of arrest, 205, 210–12
- citizen terrorists, 139–41
- Clanton Alabama bail scheme, 170
- clear and convincing evidence, 189
- Clinton, Bill, 89
- Colbert, Douglas, 118, 119, 123
- Coleman*, 202
- Coleman, Bonnie, 181
- collection and analysis of data, 210
- colonial bail law, 111
- Colorado, 55, 180
  - bail reform, 182, 183, 205, 214
  - risk assessments, 197, 198, 199
- Columbia University, 162
- combatants, 138
- commercial bail bonds, 48, 163, 165, 177
- commercial bail companies, 177, 179
- common law, 18, 19, 27, 148
- common sense, 167
- communal justice, 111
- communist suspects, 131
- community bail funds, 162, 181, 183–4
- community factors, 25
- community safety, 25, 27, 113, 188, 208
- community service, 127
- community supervision, 55
- community ties, 26, 41, 56, 69, 208, 222
- commutation of sentence, 89
- computer access, 192, 204
- conditional release, 38, 52
- confessions, 151
- confidentiality, 125
- Connecticut, 41, 180, 181
- contact by defendant, 190
- conviction rates, 83, 162
- Cook County Jail, 162
- Cook County, Illinois, 53
- corruption, 151, 153
- cost of pretrial detention, 186, 189
  - individual, 82–9
  - society, 78–82
- county
  - bail decisions, 13
  - bail funding, 162
- cost ratio, 67
- cost savings
  - citations in lieu of arrest, 211
  - pretrial release, 209
  - pretrial supervision, 209
- cost-benefit solution, 89–92
- counsel at bail hearings, 187, 202–3
- crack cocaine, 95, 96, 97
- crime of violence, 25
- crime prediction. *See* pretrial prediction
- crime prevention, 75
- criminal defense attorneys, 116
- criminal history, 195, 208
- criminal justice system, 3, 10, 12, 13, 31, 36, 38,
  - 46, 57, 77, 84, 93–107, 109, 112, 132, 159, 165, 184, 199, 205, 214, 221
- Criminal Justice Agency (CJA), 55
- criminal justice budgets, 78
- critical stage, 115, 121, 122, 127, 202
- crowdsourcing, 184
- cruel or unusual punishment, 133
- Crutcher, Terrence, 60
- cut off for risk assessment programs, 71
- danger to society, 78
  - cost, 80
  - international pretrial detention, 148
- dangerousness, 64, 65, 75
  - definition, 68
  - factor with money bail, 166
  - presumption of, 25

- dangerousness (*cont.*)
  - race as a factor, 72
  - risk assessments, 198
- data driven decisions, 76
- Davis, Richard, 102
- DC Pretrial Services Agency, 64
- death of inmates, 155
- death penalty, 19
- Deferred Prosecution program
  - (Kentucky), 212
- defense attorneys, 7, 84
- Delaware, 45
- denial of bail
  - federal court, 132, 135, 136–7
  - flight risk, 130–2
  - military court, 132, 135, 137–8
  - terrorism suspects, 129, 130–5
- Department of Justice, 9
- deportation, 126
- deposit bonds, 157
- detention
  - presumption of, 25, 26, 27, 132, 133, 135
  - when arbitrary, 144, 148, 149
- disabilities, 168
- discovery, 125
- discrimination by judges, 94
- disease in pretrial detention
  - facilities, 154
- disparate impact, 97
- disparate treatment, 93
- disparities with money bail, 41, 96, 97, 165
- District of Columbia, 41, 45, 177, 196, 212
- District of Columbia's Pretrial Services Agency, 80
- diversion programs, 56–9, 205, 210, 212
  - goal, 212
  - pretrial supervision, 55
- Dmitrievsky, Stanislav, 153
- Drake, Tonya, 97
- drivers' education courses, 57
- driving limitations, 55
- driving offenses, 63
- driving related offenses, 57
- driving felonies, 57
- drug counseling, 182
- drug court, 57
- drug crimes, 4, 25, 94, 95, 163, 192
  - media, 96
  - racial bias, 104
- drug testing, 208
- Drug Treatment Alternative to Prison (DTAP), 58
- drug treatment diversion, 58
- drug use, 195
- drunk driving, 102
- due process
  - aliens, 141
  - communal justice, 111
  - cost-benefit analysis, 91
  - factors considered, 42
  - international pretrial detention, 149
  - optimal bail, 189
  - right to bail hearing, 116
  - right to counsel, 200
  - securing detention facilities, 191
  - terrorism suspects, 133
  - weighing evidence before trial, 200
  - weighing of evidence before trial, 201
- Due Process Clause, 21, 28, 31–2, 35
  - bail schedule challenges, 174, 175, 206, 207
  - elimination of money bail, 205
  - money bail, 169–70, 172–3
  - optimal bail, 213
  - pretrial detention, 200
- Duff, Antony, 129
- economic costs, 86
- economic harm, 82
- economic mobility, 88
- economic savings, 78
- education, 73
- Eighth Amendment, 22, 31–2
  - aliens, 141
  - bail schedules, 207
  - challenges to money bail, 167–9
  - elimination of money bail, 206
  - history of bail, 164
  - optimal bail, 204
  - terrorism suspects, 130–2
- electronic monitoring, 52–4, 80, 196
  - pretrial release, 209–10
- Eleventh Circuit, 171

- elimination of money bail, 204–6
- empirical methods in pretrial crime
  - prediction, 64
- employment, 87, 126
  - money bail, 158
  - risk assessments, 195
- enemy combatant, 136
- England, 144, 147, 148, 158, 223
  - history of money bail, 164
- English Bill of Rights (1689), 164
- English Petition of Right, 111
- Equal Justice Under Law, 170, 171, 172, 176, 206
- Equal Protection Clause
  - bail schedule challenges, 174, 176
  - bail schedules, 207
  - elimination of money bail, 205
  - money bail, 169–70, 170–2
  - optimal bail, 205
  - pretrial release, 160
  - risk assessments, 71
- equity, 91
- European Convention on Human Rights, 151
- European Court of Human Rights, 151, 155
- eviction, 126
- Ex parte Milburn*, 21
- excessive bail, 32, 169
  - factors
    - risk assessments, 196
  - history of money bail, 164
  - protections against, 164
  - types of, 37
- Excessive Bail Clause, 168, 169
- excessively long detention, 154
- excessiveness, 33, 131
- extortion, 85
- failure to appear rates, 55, 208
- fair trial, 124
- fake news, 140
- FBI, 131, 140
- Federal Reserve Bank of Boston, 158
- Federal Rules of Criminal Procedure, 21, 22, 31
- felony
  - bail, 55
  - charge, 161, 193
  - release after, 55
  - violent, 13, 62, 75, 91, 193, 194
- Fenner, Donald, 124
- Fifth Amendment, 31, 124
  - aliens, 141
- Fifth Circuit, 99
- financial bond, 38
- flight risk, 25, 64, 65, 69, 113
  - bail reform, 182
  - international pretrial detention, 148
  - judicial interference, 191
  - optimal bail, 214
  - optimal bail, 213
  - pretrial assessment programs, 69
  - risk assessments, 198
  - terrorism suspects, 130, 131, 132, 140
- Florida, 180, 210
- food, 15, 151, 152, 156
- food stamps, 89
- foreign ties, 130, 131
- forfeiture laws, 179
- 14th Amendment. *See* Due Process Clause
  - and Equal Protection Clause
- Fourth Amendment, 141, 210
- France, 223
- Franzese, Sonny, 85
- fraud, 63
- future employment, 88
- Gaines, Dorothy, 89
- Gallup poll, 140
- Gambia, 224
- gender
  - disparity in bail, 199
  - risk assessments, 72, 199
- Geneva Conventions, 139
- Georgia, 171
- Germany, 147, 148, 211, 224
- Gerstein v. Pugh*, 24, 202
- Gideon v. Wainwright*, 109
- Gopnik, Adam, 193
- Gotti, John “Junior”, 85
- Gouldin, Lauryn, 168
- GPS devices, 53, 59, 80, 81, 132, 208, 209
- Graham, Lindsay, 134
- Greece, 149, 153, 225–6
- Green, Shadu, 5, 6, 87
- Greiner, Jim, 196
- Grey, Freddy, 108

Griffin, Christopher, 196  
 Guantanamo Bay, 130, 136, 137, 140, 141  
 Guatemala, 226  
 guidelines for cash bail, 47  
 guilt  
     prediction of. *See* prediction of guilt  
 guilty plea, 125, 126, 127  
     money bail, 162  
 Gulevich, Natalia, 155  
 gut instinct, 41, 70, 72, 76, 98, 149, 188  
  
 Habeas Corpus Act of 1679, 20  
 Haiti, 152, 226  
 Hale, Javon, 80  
 halfway houses, 132, 196  
 Hamdi, Yaser Esam, 140, 141  
*Hampton v. State*, 37  
 harming victims, 190, 213  
 Harris County, Texas, 173, 178  
 Harris, Kamala, 207  
 Harvard study on pretrial production, 64  
 Harvard's Access to Justice lab, 196  
 Hashmi, Syed Fahad, 133  
 Hawaii, 175  
 health hazards, 82  
 hearings. *See* bail hearings  
 Hechinger, Scott, 126  
 Helland, Eric, 177  
 Hernandez, Raul, 85, 86  
 high risk defendants, 166, 167  
     bail schedules, 206  
     crimes committed while on release, 161  
     denial of bail, 45  
     detention, 76  
     money bail, 160  
     optimal bail, 189, 213, 214  
     pretrial release, 208  
     recidivism, 81  
 Hispanic defendants, 9, 93, 94, 104  
 hitman, 161  
 Holder, Eric, 133, 181  
 home confinement, 1, 32, 196, 224, 227  
 Horn, Marty, 5  
 Horne, Alex, 102, 103  
 house arrest. *See* home confinement  
 housing situation, 70, 72, 87, 89, 126  
*Hudson v. Parker*, 21

human excrement, 152  
 Hungary, 145, 153, 227  
 hunger, 152  
*Hunt v. Roth*, 37  
  
 Iceland, 227  
 Illinois, 49, 53, 181  
 immigration, 22, 24, 26, 126, 134  
 Immigration and Customs Enforcement (ICE), 135  
 Immigration and Nationality Act, 135  
 immutable characteristics, 199  
*In re Winship* held, 114  
 incarceration rate  
     minor crimes, 211  
 incarceration rates, 43, 76, 79, 181, 188, 196  
     rising, 79  
 indefinite detention, 134  
 indictment, 121  
 indigent defendants, 50, 85–6, 109  
     bail hearings, 127  
     bail schedule challenges, 176  
     community bail funds, 184  
     Due Process challenges, 172  
     Equal Protection challenges, 170  
     money bail, 105, 158–60, 164, 166  
     optimal bail, 205  
     right to counsel, 115, 120, 124, 125  
     risk assessments, 199  
 inhumane pretrial conditions, 151  
 inner cities, 95  
 innocence, 84  
 Institute of Judicial Administration, 117  
 intellectual disabilities, 168  
 Intelligence Reform and Terrorism Prevention Act (IRITPA), 132, 135  
 International Covenant on Civil and Political Rights, 144, 146  
 international law of war, 138  
 international pretrial detention, 144, 145–6  
     additional factors and severity of crime, 147–9  
     corruption, 153  
     death of inmates, 155  
     disease, 154  
     effects generally, 150  
     excessively long detention, 154  
     food, 152

- generally, 145–6, 155–6
- international standards, 146–7
- outdoor time, 152
- overcrowding, 152
- poorly trained judges, 149
- prison conditions, 151
- proceedings which favor the prosecution, 149
- right to counsel, 150
- statistics, 145
- torture, 153
- unsanitary conditions, 152
- international standards, 146, 147
- Internet access, 132
- intimidating witnesses, 213
- intuition, 70
- involuntary servitude, 34
- Iowa, 209, 210, 211
- Ireland, 148, 228
- Italy, 227
- jail
  - abuse, 6
  - conditions, 6, 82, 145, 151, 152
  - overcrowding, 17, 214
  - suicide, 86
- Japan, 153
- Jim Crow laws, 95
- Jones v. City of Clanton*, 174–5
- Jones, Edith H., 99
- judges
  - comments on money bail, 168
  - history of money bail, 167
  - international pretrial detention, 149
  - racial bias, 98–100
  - role in fact-finding, 112
  - training, 150
- judicial discretion, 75, 81, 91
- judicial interference, 190–1
- Judiciary Act of 1789, 20, 31, 164
- juries
  - factual determinations, 110–11
  - presumption of innocence, 111–12
  - role, 112–13
- juveniles, 25
- Kansas, 50, 171
- Kennedy, Anthony, 93
- Kennedy, Robert F., 157
- Kentucky, 44, 45, 47, 49
  - alternatives to prosecution, 212
  - bail reform, 181, 182, 205, 214
  - pretrial release, 208
  - pretrial risk assessments, 66
  - pretrial supervision, 54
  - recidivism, 81
  - risk assessments, 196
- Khalfan Ghailani, Ahmed, 136
- Khalid Sheikh Mohammed (KSM), 136, 141
- King County Jail, 204
- laptop computer, 204
- Latin America, 146
- Laudan, Larry, 194
- law books, 203
- law library, 203, 204
- Lawson, Michael A., 97
- Lawyers at Bail Project (LAB), 118–20
- Layzell, Thomas, 85, 86
- legal materials access, 203–4
- legal research, 125
- legislative branch, 73
- legislative impact on racial bias, 96–7
- letters, 190
- Li Jianfeng, 144
- library access, 203
- library usage, 192
- Lieu, Ted, 181
- Lindh, John Walker, 140
- Locked In* (book), 193
- logistic regression, 65
- looting, 108
- Los Angeles, 67
- Louisiana, 171
- low risk defendants, 44, 70, 76, 161
  - diversion programs, 56
  - money bail, 205
  - pretrial supervision, 208
  - recidivism, 81
  - risk assessments, 45
- low-income defendants, 48
- Lucas County, Ohio, 194
- Luxembourg, 229
- Lynch, Loretta, 181

Madison, Wisconsin, 97  
 Magna Carta, 18, 31, 112  
 Maguire, Patrick, 121  
 mail, 125, 192  
 Maine, 40  
 mandatory minimum sentences, 96, 97  
 Manhattan Bail Project, 109, 117–18, 119, 120  
 manslaughter, 61  
 Maryland, 119, 182  
   bail reform, 181, 182  
   drug treatment, 58  
 Maryland Law School, 119  
 Massachusetts Body of Liberties, 20  
 mass incarceration  
   cause of, 2  
   rates of. *See* incarceration rate  
 Mayes, Lavette, 162  
 Mayson, Sandra, 193  
 McCain, John, 134  
 McCarthy, Joseph, 130  
 McClinton, Warren, 32  
 McDonough, Peter, 165  
 McDonough, Thomas, 165  
 McGarry, Finbar, 35  
 McGoldrick, Jason, 145  
 McGraw, Joseph, 77  
 McIntyre, Frank, 75, 101, 106, 107, 192, 194  
 Mecklenburg County, North Carolina, 196  
 media  
   coverage of police brutality, 108  
   influences on racial bias, 95–6  
   satirical news, 140  
 medical bills, 126  
 mental health, 87, 133, 195, 196, 197, 212, 221  
 mental health court, 57  
 Mexican drug cartel, 161  
 Mexico, 154, 230  
 Miami-Dade County, 210  
 Michigan, 34, 184  
 military courts, 135, 136, 137, 138, 139, 142  
 Minnesota, 132  
 Minority Defendants, 13, 44, 96, 98, 100, 104, 105, 107, 170, 205, 214  
 minors, 36  
*Miranda* rights, 109, 137

Mirkarimi, Ross, 171  
 misdemeanor  
   bail and, 163  
 misdemeanor diversion, 56  
 Misdemeanor Diversion program (Kentucky), 212  
 Mississippi, 171, 176  
   community bail funds, 184  
   elimination of bail schedules, 207  
 Missouri, 171  
   bail schedule challenges, 176  
   elimination of bail schedules, 207  
 Mohamud, Abdirahman, 131  
 money bail  
   bail forfeiture, 179–81  
   bail industry lobbying, 177–9  
   bail reform efforts, 181–3  
   bail schedule challenges, 173–7  
   community bail funds, 183–4  
   conviction rate, 162  
   Due Process Clause, 172–3  
   Eighth Amendment challenges, 167–9  
   elimination, 204–6  
   Equal Protection Clause, 170–2  
   Fourteenth Amendment, 169–70  
   general problems, 158–64  
   generally, 157–8, 185  
   high risk defendants, 160, 161  
   history, 164–7  
   plea bargaining, 161, 162  
   poor defendants, 158–60  
   racial bias, 104–5  
   recidivism, 161  
 Monitored Conditional Release (MCR), 54  
 Montana, 86, 99  
 murder, 63, 77, 90, 108, 148, 204  
   bail amount, 109  
   excessive bail, 168  
   hit man, 161  
 Murry, Timothy, 186  
 National Bureau of Standards, 64  
 National Institute of Corrections, 73  
 national security, 129, 131, 134, 135, 137, 139  
   alien terrorists, 141  
 Nevada, 104  
 New Jersey, 45, 159, 208



- bail amount, 104
  - bail reform, 182, 205
  - pretrial risk assessments, 66
  - racial bias, 99, 102
- New Jersey's Commission of Investigation, 180
- New Mexico, 168
  - bail reform, 182
  - bail schedules, 174
- New Orleans, 8, 179
- New York
  - bail reform, 181
  - cost of incarceration, 78, 79
  - diversion program, 57
  - percent making bail, 2
  - phone communication, 55
  - pretrial release, 208
  - risk assessments, 194
- New York City, 46, 55
  - effect of incarceration before trial, 127
  - pleading guilty, 5
  - problems of money bail, 163
- New York Police Department (NYPD), 98
- New York Times, 126
- New York University School of Law, 117
- No Money Bail Act of 2016, 181
- no-contact bond, 190
- noise, 153
- non-financial bonds, 105
- non-profit civil rights organization, 170
- nonviolent crimes, 85, 148, 161
- North Carolina, 196, 208, 214
- Northern Alliance, 140, 141
- Northwest Ordinance of 1787, 20, 31
- Obama, Barack, 137, 139, 141
- objective factors, 45, 68, 69, 72, 74
- Oceania, 219
- Ohio, 51, 66, 161, 194
- Oklahoma, 60, 175
- Onion, The (satirical news service), 140
- Ontario, 148
- optimal bail
  - access to counsel, 199, 200
  - collection and analysis of data, 210
  - generally, 186–7, 213–14
  - proper legal basis to detain, 188–90
  - wealth, 204–6
- Oregon, 181
- outdoor time, 152
- overcrowding, 44, 145, 151, 152
- Padilla, Jose, 139
- past conduct, 69
- Patriot Act, 129, 132, 133, 134, 141
- Patterson, Crystal, 159, 160
- Pelekai v. White*, 175
- percentage bail, 46, 50
- Perez, Juan Delgado, 104
- perfunctory and formulaic, 150, 223
- Petition of Right (1628), 164
- Pew Research Center, 95
- Pfaff, John, 193
- Philadelphia, 39, 47, 66, 105
- Phillippines, 158
- phone calls, 55, 125, 190
- Pittsburgh, 47
- plea bargaining, 84
  - money bail, 159, 162
- Poland, 230
- police brutality, 108
- police officers
  - racial bias, 97–8
  - shootings, 60
- poll of public on drug offenders, 58
- post-and-forfeit, 212
- prediction of guilt, 4
- preparation of cases, 82
- preponderance of the evidence, 199
- presumption of innocence, 29, 31, 110, 146, 175
  - bail schedule challenges, 177
  - history, 20–1
  - optimal bail, 187, 188, 189
- presumption of guilt, 218, 219
- pretrial detention
  - bias, 105
  - minorities, 104, 154, 199
  - overcrowding, 6, 44, 151
  - release, *See* Pretrial release
- pretrial detention defined, 37
- pretrial detention rates, 45, 187
- Pretrial Justice Institute, 55
- pretrial prediction, 63–8

- pretrial release
  - best methods, 74
  - bias, 79
  - crime, 12, 13, 19, 59, 60, 61, 62
  - optimal release, 90
  - pretrial release defined, 37
  - safety of community, 208
  - types, 11, 12, 37, 38, 39–43, 58, 59
- Pretrial Service Act of 1982, 70
- pretrial supervision, 54–6, 177
  - electronic monitoring, 209–10
  - optimal bail, 208–9
- prison
  - abuse, 6
  - conditions, 6, 145, 146, 151, 220, 226, 227
  - costs, 79
  - death, 155
  - suicide, 155
  - overcrowding, 6, 17, 44, 145, 151–2, 214
- prior convictions, 98, 188
- prior violent crimes, 74
- Prison Policy Initiative, 48
- prison population, 94
- prisoners of war, 138
- privacy, 71, 133, 191, 210
- pro bono legal services, 170
- pro se defendants, 124, 203, 204
- probable cause, 24, 25, 27, 116
- probation, 47, 53, 63, 127, 220
- probation officers, 121, 184
- proper legal basis to detain, 188–90
- property bail, 51
- prosecutors
  - bail schedules, 207
  - racial bias, 100–1
- psychological torture, 153
- public access to risk assessments, 71
- public defenders, 83, 99, 119, 123
- public order offenses, 192
- public safety, 22, 44, 60, 91, 131, 182, 186, 212
- public support, 73
- Pugh v. Rainwater*, 169
- punishment, 113, 114
  - definition, 154
- questionnaire, 68
- Rabner, Stuart, 183
- racial bias, 107
  - bail decisions, 101–4
  - judges, 98–100
  - judicial racial bias, 105–7
  - legislative impact, 96–7
  - media, 95–6
  - money bail, 104–5
  - police officers, 97–8
  - prosecutors, 100–1
  - risk assessment programs, 72
- racial discrimination, 95
- racial disparity, 44, 46, 93, 97, 106, 170
- racial profiling, 98
- racketeering, 85
- radio signal, 53
- random forest modeling, 65, 66–8, 74
- randomization, 73
- rape, 62, 77, 80, 86, 90, 153
- rationally related, 170
- Reagan-era, 95
- rearrest, 63
  - rates, 47, 55
- reasonable doubt, 113–15
- recidivism, 47, 58, 64
  - citations in lieu of arrest, 211
  - cost, 57
  - cost to society, 81–2
  - harm to society, 176
  - money bail, 161
  - rate, 54, 57, 67, 80, 81, 159
  - risk assessments, 67
- Redmond, Norene, 34
- reform
  - first wave, 23–5
  - second wave, 25–7
- Rehnquist, William, 24
- Reinhardt, Mary Ellen, 119
- release on recognizance, 38, 44, 43–6, 124, 177, 187, 204
  - bail industry lobbying, 179
  - factors considered, 47
- release programs, 208–9
- reminder calls, 55
- repeat offenders, 75
- restitution, 126
- Richardson, Perchelle, 8, 159

- right to bail. *See* bail, right to
- right to counsel
  - international pretrial detention, 150
  - pretrial hearings, 115–17, 120–2
- right to remain silent, 124
- right to trial by jury, 109, 112, 113, 200
  - weighing of evidence before trial, 201
- Rihanna, 63
- Rikers Island, 39
- Rikers Island Prison, 30
- riots, 108
- risk assessment
  - best practices, 74–5
  - bias, 72–3
  - collection and analysis of data, 210
  - concerns, 198–9
  - constitutionality, 71–2
  - construction, 197–8
  - cost to society, 82
  - determining appropriate level of risk, 192–5
  - generally, 66
  - optimal bail, 189
  - pretrial supervision, 208
  - programs, 52, 63, 70
  - securing detention facilities, 192
  - tools, 45, 68, 188, 195
  - use by judges, 195–6
- risk factors, 91
- risk score, 198
- Rivera, Victor, 84
- robbery, 30, 62, 63, 77, 80, 232
- Rothgery v. Gillespie County*, 115, 121, 122, 202
- Rothgery, Walter, 121
- Russia, 153, 155, 231
- safety of community, 25, 27, 113, 188, 208
- San Francisco, 160, 165, 171, 172
- Santa Cruz County, California, 55
- Scalia, Antonin, 113
- Schall v. Martin*, 24
- Schweitzer, Louis, 117
- screening in risk assessments, 195
- Second Circuit, 42
- secured bond, 46
- securing detention facilities, 191–2
- securing detention facilities, 213
- security costs, 136
- self-incrimination, 124
- sentencing, 83
  - drug crimes, 97
  - enhancement, 113
  - factual determinations, 110
  - guideline, 173
  - hearing, 180
  - incarceration before trial, 126
  - matrix, 47
  - role of jury, 110
- September 11 attacks, 129, 132, 141
- severity of crime
  - international pretrial detention, 148, 149
- sex offenders, 193
- Shelby, Betty Jo, 60
- Sierra Leone, 232
- Simms, Tyriel, 98
- Simonson, Jocelyn, 184
- Simpson, Millie, 99
- Sixth Amendment
  - Apprendi*, relationship with, 114
  - counsel at bail hearings, 203
  - factual determinations, 110–11
  - generally, 108–10, 127–8
  - guaranteeing right to counsel in bail hearings, 124–7
  - legal materials access, 203
  - Manhattan Bail Project and Lawyers at Bail (LAB) Project, 117–20
  - optimal bail, 213, 214
  - presumption of innocence, 111–12
  - right to counsel during pretrial proceedings, 120–2
  - right to counsel for bail hearing for the 50 states, 122–3
  - right to counsel in pretrial hearings, 115–17
  - role of juries, 112–13, 113–15
  - trial by jury, 200
  - weighing evidence before trial, 200, 201
- societal costs, 77
- socioeconomic factors in risk assessments, 199
- solitary confinement, 133
- Sotomayor, Sonia, 100
- South Asia, 146
- Southern District of New York, 169
- Southern Union Company v. United States*, 113

- Special Administrative Measures (SAMs), 129, 132, 133, 135
- Special Housing Unit (SHU), 133
- Speedy Trial Act, 42
- Stack v. Boyle*, 3, 22, 23, 33, 131, 132
- standard definitions in risk assessments, 73
- standard of review, 169, 170
- Starr, Sonja, 100
- State
- bail systems, 181
  - costs of criminal justice, 56
  - funding, 181
  - state vs. federal bail, 208
- State v. Brown*, 168–9
- Statute of Westminster, 20, 164
- Stevenson, Megan, 105, 162
- stop-and-frisk tactics, 98
- strict scrutiny, 170
- strip searches, 191
- Sturz, Herbert, 117
- subjective factors, 69, 70, 74
- sub-Saharan Africa, 146
- substance abuse programs, 55
- suicide, 86, 103, 155
- supervised release, 38
- surety bonds, 38, 48, 157, 180
- benefits and challenges, 50
  - definition, 48
  - role of bail bondsmen, 49
- Tabarrock, Alex, 177
- Taliban, 140
- Tanzania, 136, 232
- television networks, 95
- ten percent bail, 51
- Tennessee, 171, 180
- terrorism suspects
- classification generally, 138–9
  - classification of aliens, 141–2
  - classification of citizens, 139–41
  - federal courts, 136–7
  - generally, 129–30, 142–3
  - legal justification for denial of bail, 130–5
  - military courts, 137–8
- Texas, 39, 44, 161, 173
- bail forfeiture, 180
  - bail reform, 181, 182
- citations in lieu of arrest, 211
  - commercial bail, 178
  - elimination of bail schedules, 207
  - legal materials access, 204
- Thailand, 154, 232
- theft, 90, 126, 172, 211
- Third Circuit, 42
- third-party sureties, 48
- Thirteenth Amendment, 34–5
- Thompson v. Moss Point*, 176, 207
- Thompson, Larry D., 131
- Thompson, Sandy, 182
- threatening witnesses, 190
- three strikes law, 96
- threshold risk, 193
- time in pretrial detention, 41
- timely manner, 116
- toilets, 152
- Torrence, Dominick, 108
- Torres, Adam, 32
- torture, 151, 153
- traffic tickets, 211, 212
- transparency, 101
- Tsarnaev, Dzhokhar, 136, 140
- Tunisia, 144, 152, 153, 233
- Turner, Michael, 145
- Twitter, 140
- uniform bail schedule, 47
- United Nations, 146
- United States v. Barber*, 28
- United States v. Melendez-Carrion*, 60
- United States v. Ojeda Rios*, 42
- United States v. Salerno*, 3, 22, 31, 33, 114, 201
- United States v. Wade*, 122
- University of Pennsylvania, 162
- unsanitary conditions, 152
- unsecured bail, 43
- unsecured bond, 43
- unsecured surety bonds, 157
- Urban Institute, 64
- Uruguay, 153, 233
- U.S. v. Jessup*, 26
- U.S. v. King*, 26
- U.S. v. Salerno*, 72, 112
- Use of Military Force (AUMF), 140
- Utah, 30, 43, 47, 180

- VanNostrand, Marie, 45
- Venezuela, 234
- Vera Foundation, 117, 118
- Vera Institute of Justice, 79
- Vermont, 53
- Vinson, Frederick Moore, 36
- violent crime, 63, 194
  - money bail amount, 105
  - racial bias, 103, 106
  - research on bail and, 194
  - risk assessments, 194
- Virginia, 45, 163
  - risk assessment tool, 71
  - risk assessments, 196
- visitation, 125
- wages, 87, 88
- Wagner, Robert, 117
- Walker v. City of Calhoun*, 171
- war crimes, 137
- War on Terror, 138
- Warner, Brian, 86
- warnings, 98, 210
- Washington, 55
- Washington State Institute of Public Policy, 77
- water for drinking, 152
- Watson, Darian, 116
- wealthy defendants, 159, 164
  - bail schedules, 173, 176
  - challenges to money bail, 167
  - Equal Protection Clause, 205
  - money bail, 166
  - optimal bail, 204
  - risk assessments, 194, 199
  - risk of crime, 205
- weighing evidence before trial, 200–2
- Welchen v. Harris*, 171
- Wheeler, William Cedric, 126
- white defendants, 9, 13, 93, 94, 104, 105, 106, 107
- white collar crime, 192
- Wisconsin, 47, 49, 97
  - bail reform, 181
- witness access, 203
- World Bank, 146
- World Trade Center, 129
- Yusaf, Abdullahi, 132
- Zimbabwe, 153, 234