

Understanding BAIL

Everything about bail depends on the type of crime you are charged with.

The pyramid below shows how the bail procedure changes with the seriousness of the offence. The more serious the offence you are charged with is the higher the risk of releasing you becomes.

Police should release people under arrest unless they do not know their identity or releasing them is a risk.

When making a decision to deny bail, a judge must provide grounds for their decision:

Primary grounds

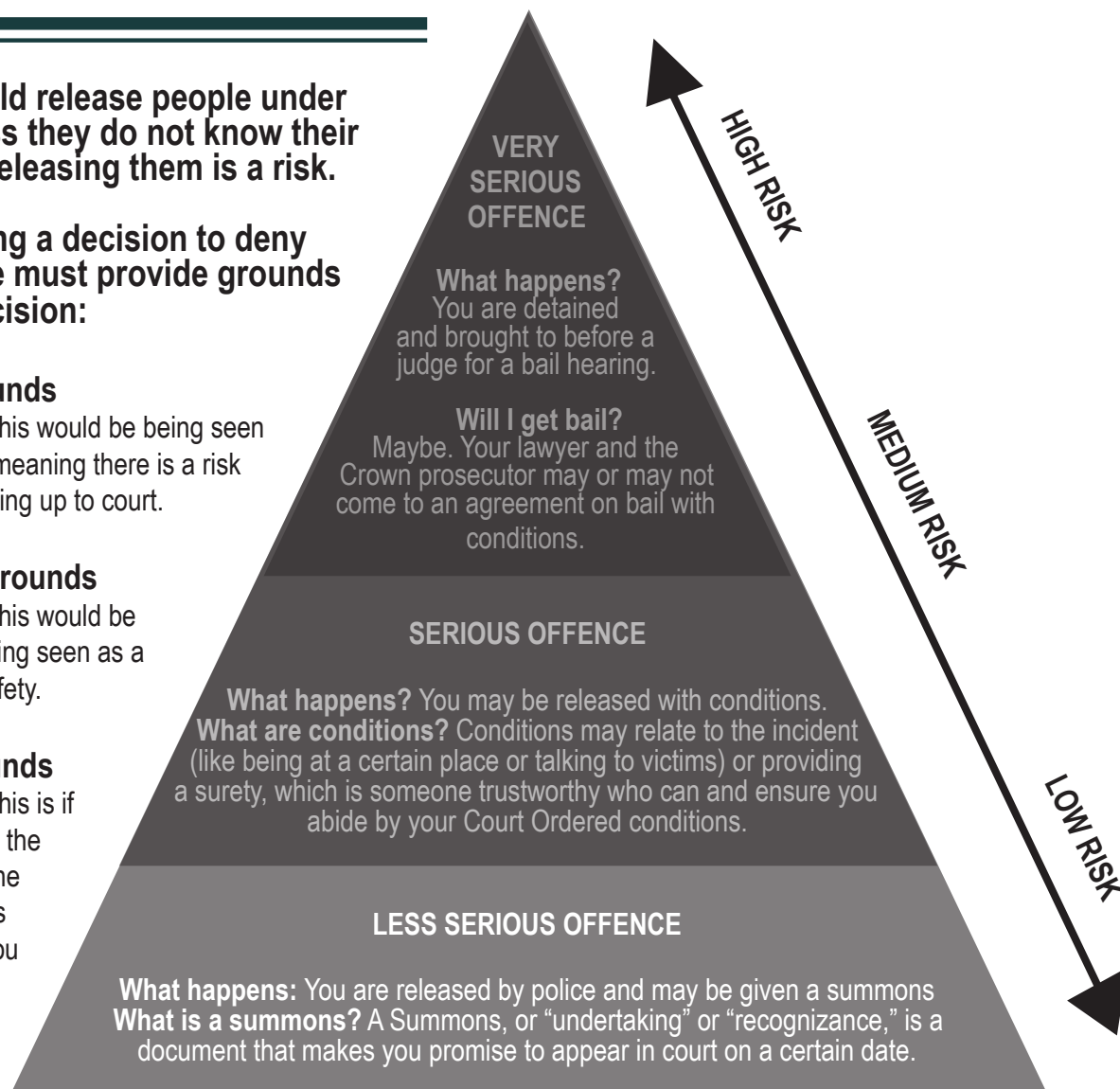
An example of this would be being seen as a flight risk, meaning there is a risk of you not showing up to court.

Secondary grounds

An example of this would be your release being seen as a risk to public safety.

Tertiary grounds

An example of this is if the judge thinks the public will feel the justice system is not working if you are released.



KNOW YOUR RIGHTS

People charged with offences have the right to reasonable bail unless there are “extenuating circumstances.”

It is a right to be brought before a justice of the peace or a judge within twenty-four hours of being charged with a crime. This can be at the court or over the phone with a justice of the peace.

An accused may require more time to get their case ready, but it is a right to not adjourn a “bail hearing” for more than three days without the accused agreeing to it.

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When you are charged with a crime the most important thing to do is ensure you have a lawyer and speak with them.

Focus on the following things to get the best result possible for bail:

Express everything to your lawyer

There are no silly questions or unimportant information. The more your lawyer knows the more they can help you. The more informed you are the more you can help yourself.

Know the times your lawyer will be available

Ask your lawyer when the best time to be contacted is and if they would prefer email or phone calls. Set meetings and keep them. Lawyers are there to help.

Discuss your bail plan with your lawyer

The more you are on the same page with your lawyer the more likely the bail plan will reflect your reality and be successful. Make sure you understand decisions you are making and why they were made.

Think about who will be your surety

A surety is a person who can supervise you when you are out on bail, promise to pledge money or property such as personal property or real estate. Make sure to consider if they are in a position to take on this role and whether they will be able to speak at your bail hearing.

Do not rush

It is so important to have the best bail plan available by talking to your lawyer because if you get denied bail you have to wait 90 days to have a bail review, which can take place if you have a change of circumstances or facts. This might be frustrating and may mean waiting for the best surety possible, but it will give you the best result.

Understand the process

It is important to talk to your lawyer about what will happen at the bail hearing so there are no surprises. The Crown will call their evidence, you and your lawyer cannot contest these facts. Then, you present your evidence, which could be the surety and other evidence to support your bail plan. Some organizations, like John Howard Society, Elizabeth Frye Society, and NS Brotherhood can be helpful resources to assist with bail plans.



NEED HELP FINDING A LAWYER?

Legal Information Society's Lawyer Referral Service at 1-800-665-9779 (toll free) or 902-455-3135.

Free Legal Clinic at the Halifax Law Courts - 902-424-6900 - You must make an appointment.