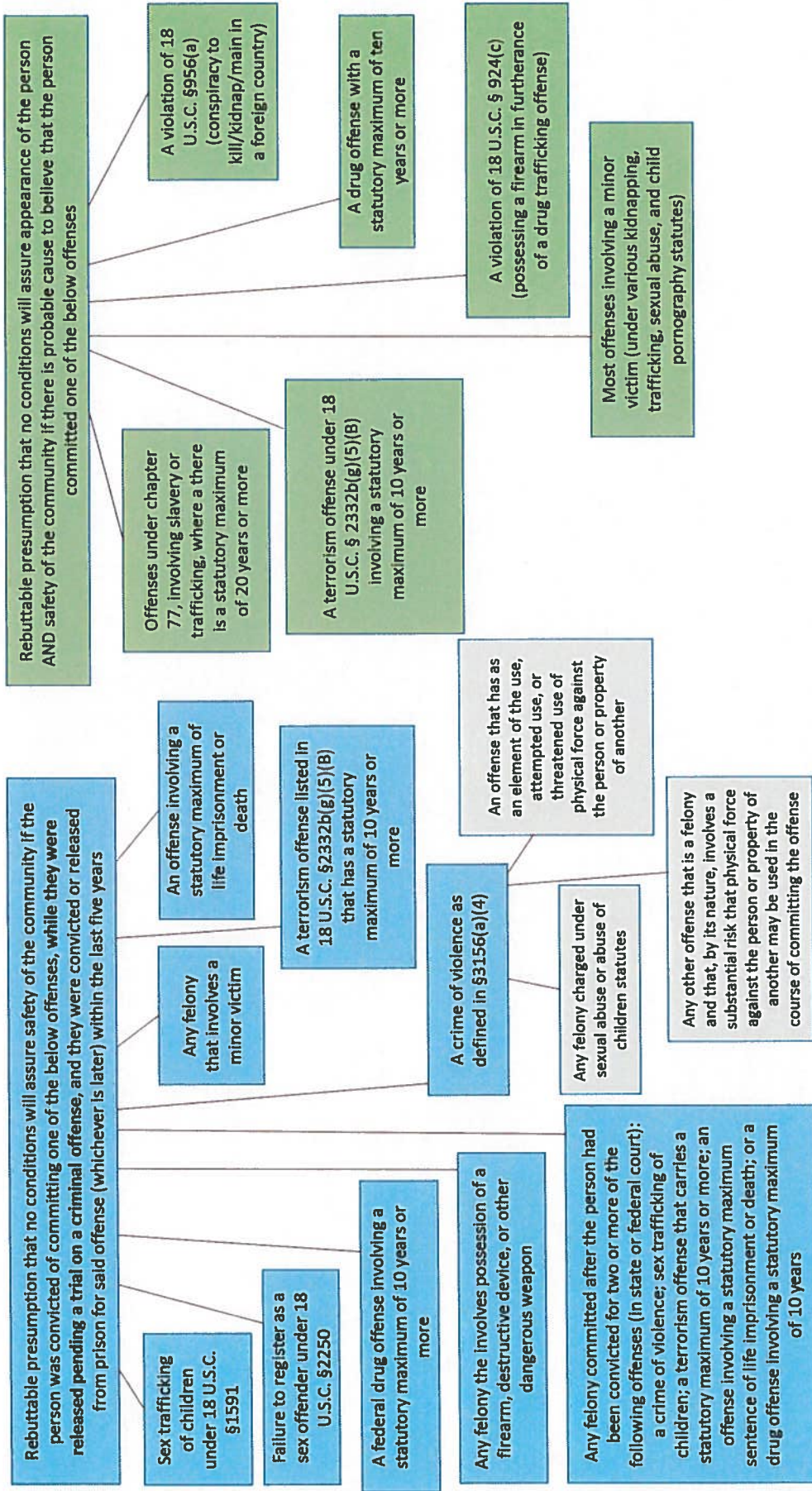


BURDEN OF PROOF

Generally, the government¹ bears the burden of proof to show:

- (1) By the preponderance of the evidence, that no conditions can assure the person's appearance; OR
- (2) By clear and convincing evidence, that no conditions will reasonably assure the safety of the community.

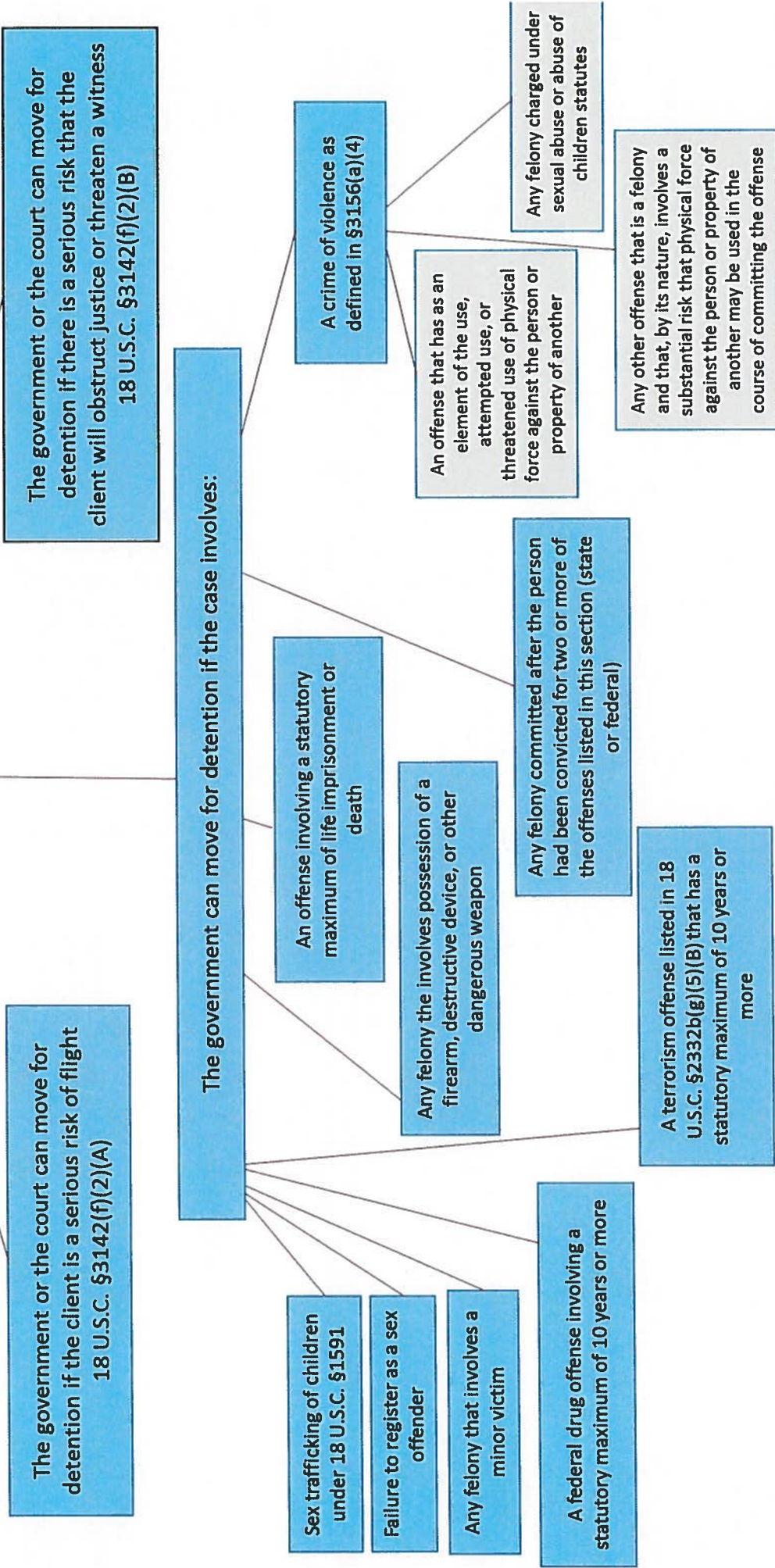
In certain cases, one or both of these factors are presumed, and the defense has the burden to rebut this presumption:



In a presumption case, the burden of production shifts to the defendant to produce some credible evidence showing a reasonable assurance that he will appear and/or that he is not a danger to the community. Assuming the defendant meets this burden of production, the government retains the burden of proof with respect to flight risk and danger to the community.

¹ If the client is charged with a supervised release violation, the burden of establishing by clear and convincing evidence that the person will not flee or pose a danger to the community rests with the person. Fed. R. Crim. P. 32-1(a)(6).

Can the government or the court move for detention?



NOTE: The government cannot move for detention on the sole basis that the person is a danger to the community