Direct Examination

Prosecutor: **Inspector English**[1], on the morning of **June 6th, 2014**[2], you and partner inspector Hildy Mulligan were dispatched to the home of Cindy Strauss at **1124 Brandon**[3] Street, is that correct?

Inspector: Yes, sir.

Prosecutor: And why were you called there?

Inspector: Ms.Strauss had **failed to show**[4] at work, so one of her **co-workers**[5], Bill Wilkerson, went to her house…uh...they were led in by the **landlady**[6]. When they entered they found **a nude**[7] Ms.Strauss **sprawled**[8] on the **foot of the stairs**[9] that opened up into her bedroom. Based on her position, she had either fallen or was **pushed down**[10] the stairs.

Prosecutor: Were you able **to ascertain**[11] the cause of death?

Inspector: According to the **medical examiner**[12], the cause of death was a **broken neck**[13].

Prosecutor: Tell **The Court**[14] what **initially**[15] made you suspect that **Eric Blunt**[16] might be Cindy Strauss' Killer?

Inspector: We usually look at a victim's best friends, **spouse**[17], or family members. In this case, one of our **clues**[18] was the presence, **in plain view**[19], of multiple photographs of Ms.Strauss and Eric Blunt that indicated a very close and personal relationship.

Prosecutor: And what kind of pictures **did you see**[20]?

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Inspector: Pictures of them smiling, their **arms around each other**[21], lying in bed together.

Prosecutor: And was that the only reason you **suspected**[22] Eric Blunt?

Inspector: No. Several days earlier, I was investigating **a murder**[23] of a 50 year old **pusher**[24], **Kevin Niars**[25], uh, in the "Tenderloin district." Now, in the course of this investigation, **my partner**[26] and I had the occasion of interviewing Mr.Blunt several times.

Prosecutor: How did **the death**[27] of a 50 year old pusher **lead you to**[28] Eric Blunt?

Inspector: On Kevin Niars' IPad there was an email **addressed to**[29] Mr.Blunt.

Prosecutor: And what'd this email say?

Inspector: It asked for **fifty thousand**[30] dollars or he would quote-unquote **"go public."**[31]

Prosecutor: And **did you infer**[32] from this that Kevin Niars was trying to **blackmail**[33] Eric Blunt?

Inspector: I did, sir.

Prosecutor: And when you asked Eric Blunt, what did he say about this email?

Inspector: Mr. Blunt said he never received the email and that he didn't know who Kevin Niars was.

Prosecutor: And that was a lie. **Wasn't it**[34]?

Inspector: It was. My partner and I had interviewed Kevin Niars' **in-laws**[35], **James and Betty**[36] Harbuck. Now, they had **a deceased daughter**[37] who had

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a son with Kevin Niars. This son was Eric Blunt. The Harbucks confirmed that Blunt did **in fact**[38] know that Kevin Niars was his **biological**[39] father.

Prosecutor: So when Eric Blunt **denied**[40] knowing who Kevin Niars was, that was **a lie**[41].

Inspector: It was a lie. And then **upon asking him**[42] again, he later admitted that he did know Kevin Niars was his biological father and that **he had given him**[43] money.

Prosecutor: Inspector, **to recap**[44], you first interviewed Eric Blunt in the murder of his biological father and then again in the death of **Cindy Strauss**[45], correct?

Inspector: Yes, sir.

Prosecutor: Don't you find that **an odd**[46] coincidence?

Inspector: No, I do not believe in coincidences, sir.

Prosecutor: Did Eric Blunt lie to you when **you questioned him**[47] about Cindy Strauss' death?

Inspector: He did. He said he had never **slept with her**[48] and that he hadn't seen her the night **she was**[49]… the night she died. **Excuse me**[50].

Prosecutor: And both those statements **were proved**[51] false by subsequent investigation?

Inspector: Yes, sir.

Prosecutor: I have no further questions.

Judge: Your witness, Mr. Daniels.

Defense Attorney: Inspector English, good morning.

Inspector: Good morning.

Defense Attorney: Inspector, did you **ever**[52] consider the possibility that Eric Blunt didn't admit he knew Kevin Niars because he was **embarrassed**[53] or even **ashamed**[54] at his father, **a drug addict**[55] who was always **asking him**[56] for money?

Prosecutor: Objection. **Calls for speculation**[57].

Judge: Overruled[58].

Inspector: I never **gave any thought**[59] to what Blunt was thinking about Kevin Niars.

Defense Attorney: Is it correct that you didn't **pursue**[60] Mr.Blunt as **a suspect**[61] in the death of Kevin Niars?

Inspector: Yes, sir.

Defense Attorney: Was that because **you didn't think**[62] he committed the murder?

Inspector: He had an **alibi**[63]. He was in Los Angeles the night of the murder.

Defense Attorney: So, you knew he couldn't have killed Mr.Niars. And **as it turns out**[64], a drug dealer named Chris Walton confessed to the murder and is now **serving**[65] his **sentence**[66] in San Quinton. **Isn't that right**[67]?

Inspector: That is correct.

Defense Attorney: Now, in your **earlier testimony**[68] you **stated**[69] that you don't believe in coincidences. Is that correct?

Inspector: That is correct.

Defense Attorney: So, **wouldn't you think**[70] it was a coincidence that Mr.Blunt was a person of interest in two homicide investigations but had nothing to do with **either**[71] death?

Inspector: I suppose so.

Defense Attorney: You suppose so. Do you think Mr.Blunt had something to do with **both**[72] deaths?

Inspector: I didn't say that.

Defense Attorney: Well, what are you saying, **inspector**[73]?

Inspector: I'm saying that the **common denominator**[74] in both deaths is Eric Blunt.

Defense Attorney: So, **let me get this straight**[75]. You suspected Eric Blunt in the murder of his biological father and because someone else confessed to the murder you were **predisposed**[76] to **the biased belief**[77] that he murdered Cindy Strauss.

Prosecutor: Objection. He's **badgering**[78] the witness.

Defense Attorney: No **further**[79] questions.

George H.W. Bush – Address to the Nation of Panama Transcription

My fellow citizens – last night, I ordered US Military Forces to Panama. No president takes such action lightly. This morning I want to tell you what I did and why I did it.

For nearly two years, the United States, nations of Latin America, and the Caribbean have worked together to resolve the crisis in Panama. The goals of the United States have been to safeguard the lives of Americans, to defend democracy in Panama, to combat drug trafficking, and to protect the integrity of the Panama Canal Treaty. Many attempts have been made to resolve this crisis through diplomacy and negotiations. All were rejected by the dictator or Panama, General Manuel Noriega, an indicted drug trafficker.

Last Friday, Noriega declared his military dictatorship to be in a state of war with the United States and publicly threatened the lives of Americans in Panama. The very next day, forces under his command shot and killed an unarmed American serviceman, wounded another, arrested and brutally beat a third American serviceman, and then brutally interrogated his wife threatening her with sexual abuse. That was enough. General Noriega's reckless threats and attacks on Americans in Panama created an imminent danger to the 35000 American citizens in Panama. As President, I have no higher obligation than to safeguard the lives of American citizens - and that is why I directed our armed forces to protect the lives of American citizens in Panama and to bring General Noriega to justice in the United States. I contacted the bipartisan leadership of Congress last night and informed them of this decision, and after taking

this action, I also talked with leaders in Latin American, the Caribbean, and – uh -- those of other US allies.

At this moment, US Forces – including forces deployed from the United States last night – are engaged in action in Panama. The United States intends to withdraw the forces newly deployed to Panama as quickly as possible. Our forces have conducted themselves courageously and selflessly – and as Commander in Chief I salute every one of them and thank them on behalf of our country. Tragically, some Americans have lost their lives in defense of their fellow citizens, in defense of democracy – and my heart goes out to their families.

We also regret and mourn the loss of innocent Panamanians. The brave Panamanians elected by the people of Panama in the elections last May, President Guillermo Endara and Vice Presidents Calderon and Ford, have assumed the rightful leadership of their country. You remember those horrible pictures of newly elected Vice President Ford covered head-to-toe with blood, beaten mercilessly by so-called “dignity battalions.” Well, the United States today recognizes the democratically elected government of President Endara – I will send our ambassador back to Panama immediately.

Key military objectives have been achieved. Most organized resistance has been eliminated, but the operation is not over yet; General Noriega is in hiding. And nevertheless, yesterday a dictator ruled Panama, and today constitutionally elected leaders govern.

I have today directed the Secretary of the Treasury and the Secretary of State to lift the economic sanctions with respect to the democratically elected government of

Panama and, in cooperation with that government, to take steps to affect an orderly unblocking of Panamanian Government assets in the United States. I'm fully committed to implement the Panama Canal treaties and turn over the Canal to Panama in the year 2000. The actions we have taken and the cooperation of a new, democratic government in Panama will permit us to honor these commitments. As soon as the new government recommends a qualified candidate—Panamanian—to be Administrator of the Canal, as called for in the treaties, I will submit this nominee to the Senate for expedited consideration.

I am committed to strengthening our relationship with the democratic nations in this hemisphere. I will continue to seek solutions to the problems of this region through dialog and multilateral diplomacy. I took this action only after reaching the conclusion that every other avenue was closed and the lives of American citizens were in grave danger. I hope that the people of Panama will put this dark chapter of dictatorship behind them and move forward together as citizens of a democratic Panama with this government that they themselves have elected.

The United States is eager to work with the Panamanian people in partnership and friendship to rebuild their economy. The Panamanian people want democracy, peace, and the chance for a better life in dignity and freedom. The people of the United States seek only to support them in pursuit of these noble goals.

Thank you very much.

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On **January 1, 2017**[1], the most comprehensive **set**[2] of reforms to this state's criminal justice system since the adoption of the 1947 Constitution took effect. Both the statutory changes and the constitutional amendment move the state from a **pretrial system**[3] based primarily on monetary bail to one **based on**[4] a scientific assessment of risk, creating a pretrial services program, and adopting stringent speedy trial time requirements. Under this new system, the decision to **release**[5] or detain a defendant is based on an assessment of the risk that the defendant will commit another offense and the risk that the defendant will not appear for required court appearances. This new approach based on the **measurement of risk**[6] will ensure that the highest risk defendants are kept in jail until trial, that moderate risk defendants will be released until trial with conditions and **monitoring**[7] to **mitigate**[8] the defendants' risk, and that the lowest risk defendants are released until trial with little or no monitoring and few or no conditions.

This fundamental **shift**[9] from a pretrial release system based on the defendant's resources and ability to pay to one based on scientifically measured risk to the community will result in a criminal justice system that is **more fair and more just**[10] and will assist in better preserving the safety of the citizens of this state. Generally, an "eligible defendant" is a person against whom a **complaint-warrant**[11] is issued for an **indictable offense**[12] or a **disorderly person's offense**[13], (unless otherwise specifically **provided**[14] by the bail law) where the arrest takes place on or after January 1, 2017, regardless of when the offense occurred **(T.S.A. 2A:162-15)**[15].

PROCESS HIGHLIGHTS

- After an arrest, a law enforcement officer may issue a **complaint-summons**[16] to the defendant or **apply to the court**[17] for the **issuance**[18] of a complaint-warrant. If a complaint-warrant is issued, an eligible defendant is temporarily detained in county jail **pending**[19] a risk assessment and pretrial release hearing. If a complaint-summons is issued, a defendant is released and considered a non-eligible defendant.

o Law enforcement also makes a report about the facts of the arrest, called a Preliminary Law Enforcement Investigative Report or **PLEIR**[20].

- **Pretrial Services Program**[21] or PSP staff will then:

Interview the eligible defendant to complete the **Uniform Defendant Intake Report**[22] or UDIR. This report helps determine whether the defendant is eligible for a **public defender**[23] and collects **demographic data**[24] for the **Judiciary**[25]. This report is also referred to as the 5A **application**[26].

Run a **computerized**[27] tool called a Public Safety Assessment or PSA that measures the risk that the defendant will: 1) **fail to appear**[28] in court or FTA, 2) commit New Criminal Activity or NCA, and 3) commit **New Violent Criminal Activity**[29] known as NVCA or "**flag**[30]".

Apply the PSA **score**[31] to a **Decision Making Framework**[32] or DMF to provide a recommendation to the court regarding release: either 1) Release on **Recognizance**[33] or ROR, 2) Release with conditions, known as Pretrial Monitoring – Level 1, 2, 3, or 3+ (**PML1, PML2, PML3, or PML3+**[34]) or 3) **No Release Recommended**[35] or NRR.

Provide to the judge the PSA, release recommendation, and other information in the form of Supplemental Information that includes the defendant's **juvenile record**[36] if it is within the past ten years, Final Restraining Orders **entered**[37]against the defendant, and whether the defendant is currently on **probation**[38].

A judge will then make a decision **regarding**[39] release at a **Central Judicial Processing**[40] or CJP First Appearance, which must be held within 48 hours of the defendant's **commitment**[41] to county jail. CJP 1st appearances must be **on the record**[42] and open to the public. When held on weekends via a **virtual courtroom event**[43], a CJP 1st appearance will be **streamed**[44] on the Internet for public viewing but will not be recorded online.

Present at CJP 1st appearance is a judge, a prosecutor, a public defender, a PSP staff person, the defendant, and an interpreter if needed. The judge will **rely on**[45] the PSA, release recommendation, and any information or reports presented by the **parties**[46] such as the PLEIR. The court will then make its pretrial release decision. If the court's pretrial release decision **departs**[47] from the Pretrial Services Recommendation, the judge must state the reasons for departure on the record and include them in the **pretrial release order**[48].

Eligible defendants must be released unless the prosecutor files a **Motion for Detention**[49], which can be filed any time after the arrest including before the CJP 1st appearance. If the prosecutor does not file for this motion, the defendant will be released following the CJP 1st appearance. If a detention motion is filed, the defendant

will be detained until the detention **hearing**[50] that will take place within a few days of the CJP 1st appearance.

DEFINITIONS

Complaint-summons or **CDR-1**[51], Is a category of **charging document**[52]. The complaint-summons must be directed to the named defendant and must command the defendant's **appearance**[53] in court at a stated **time and place**[54] to answer to the complaint. It will also advise that an arrest warrant may be issued for failure to appear in court **as directed**[55]. After law enforcement utilizes **LiveScan**[56] to obtain an electronic fingerprint for a defendant, the electronic fingerprint will be used to **pull**[57] information from State Police and judiciary **automated**[58] systems to assess a defendant's risk and generate a charging document for the alleged offense.

Complaint-warrant or CDR-2, Is a category of charging document. The Criminal Justice Reform legislation requires that an arrest warrant for an **initial charge**[59] shall be made on a complaint-warrant CDR-2 form and signed by the judge or, when authorized by the judge, by the **municipal court administrator**[60] or deputy court administrator after a determination of **probable cause**[61] . The warrant shall be directed to any **law enforcement officer**[62] authorized to **execute**[63] it and, under criminal justice reform, shall order that the defendant be arrested and **remanded**[64] to the county jail for a period of up to 48 hours pending a pretrial release determination.

Failure to Appear or FTA, is any **missed**[65] court appearance while on release pending case disposition for the current case. A **bench warrant**[66] is typically issued **following**[67]

an FTA. An eligible defendant's risk of FTA is one of the three pretrial failure risk **indicators**[68] calculated in the Public Safety Assessment or PSA, **as mentioned earlier**[69] which also include the risk the defendant will commit New Criminal Activity or NCA, and commit New Violent Criminal Activity referred to as NVCA or "flag".

No Early Release Act[70] or NERA. The law requires people convicted of certain first or second-degree crimes under **T.S.A. 2C:43-7.2d**[71] to have a minimum period of parole ineligibility of 85% of sentence and parole supervision.

NERA Bump[72]= A Pretrial Monitoring level or PML recommendation **escalated**[73] one whole monitoring level if the current arrest is a NERA charge or a failure to appear.

Speedy Trial = a **provision**[74] of the new bail **reform**[75] law that limits the amount of time an eligible defendant may be incarcerated after detention hearing.

ORDER OF PROTECTION

Good morning, my name is Judge De Alessandro. In just a moment I am going to call the **Protection from Abuse** cases scheduled for today. But first I am going to explain the **procedure** that will be followed in these cases.

In each of these cases, someone has come to court requesting a **court order** of protection against someone else. The person who starts the case is the **Plaintiff** and the person who has been brought to court is the **Defendant**.

All of the cases I am **about to** call are scheduled for **hearing** today so all Plaintiffs and Defendants **must be** ready with all their witnesses and evidence if a trial is needed in the case. I am going to call the Plaintiff's name and the Defendant's name. If the Plaintiff does not answer, I **will assume** that person is no longer **pursuing** the case and the case will be **dismissed**.

If the Plaintiff is here and the Defendant does not answer, what happens next depends on whether the Defendant has been **served** with the **complaint** as the law requires.

If not, then **the case** cannot proceed today and will be **continued** or postponed to a future date. If there is a temporary order in the case, **it continues** in effect until the next court date.

If the Defendant has been served and **fails to answer**, I will assume the Defendant has chosen **not to contest** the case and will **ordinarily grant** the Plaintiff a court order of protection.

If **both** parties are present, then I am **going to try** to determine whether **a trial** is needed or not. **Most** cases of this **kind** are not resolved through a trial even when both

parties are in court. Sometimes the Plaintiff chooses not to proceed. If I hear that in any case today, I am going to **make sure** the Plaintiff is **acting** voluntarily **without anyone** pressuring them. In some other cases, the Defendant **is not opposed** to the Plaintiff getting a court order of protection. In many cases, court orders are **issued** without a trial based on the parties **agreeing** that the court should **approve** an order. The Plaintiff gets a court order that can have the same **level** of protection as a court order issued after a trial. A court order issued **by agreement** contains no decision that the Defendant has or **has not done** anything **wrong**. Both parties **benefit** by not having to wait for a trial to be **scheduled**, and both parties **avoid** the **uncertainty** and stress of a trial. So in any case where both parties are here, I am going to ask the Plaintiff and the Defendant whether each of them **is willing** to consider the **possibility** of a court order by agreement. If you say "Yes", all you are saying is that you are open to the possibility--you are not **committing yourself** to agreeing to anything.

There should be no contact or discussion between a Plaintiff and a Defendant in a case. In some cases, there are temporary orders in effect that prohibit contact, and **I am directing** that **there be no** contact, whether or not there is an order in effect. Sometimes a lawyer involved in the case or a representative of an **advocacy** group can be **a go-between** to explore whether agreement on a court order is possible. If the parties to a case can agree on a court order, there is no trial. **On the other hand**, if an agreement as to what should happen is not reached, the parties still have a right to a trial.

If there is a trial in any case, the Plaintiff presents evidence first, because the Plaintiff has the **burden of proof**: First, the Plaintiff has to prove that the Plaintiff and Defendant are family or **household** members. This means generally that the parties in a protection from abuse case must be related **by blood**, or be married, or have had a sexual relationship. Plaintiff also must prove that the defendant committed abuse against the Plaintiff.

The law defines abuse to mean any one or more of the following kind of conduct:

* assaulting or attempting to assault someone as to cause injury or offensive physical contact, including **sexual assaults**
* threatening someone in a way that would put that person in reasonable fear of **bodily harm**
* putting someone in reasonable fear of bodily injury through **a course** of conduct
* stalking someone to the point that they are in reasonable fear of bodily harm
* forcing someone to do something against their will or **preventing them** from doing something that they **have a right** to do

In deciding what evidence to present, the Plaintiff and the Defendant should keep in mind the limitations of what evidence **the court** can consider. There are three **major**

requirements: First, evidence must be relevant or have a bearing to **the issues** in the case.

Second, **hearsay evidence** is not allowed. Third, evidence should not be repetitive.

The Plaintiff and the Defendant each have the right **to testify**, and they each have the right **to call** other witnesses to testify. Whether you are a Plaintiff or a Defendant, you should be prepared **to ask questions** to your own witnesses. You also have a right to **cross examine**, or ask questions to the **other party's** witnesses. The judge may also **exercise** control over what kinds of questions can be asked, and may require each party to present their questions through the court, so that the judge is **actually** questioning the witnesses based on what questions the party wants to be asked.

In cases involving children, the court can make decisions about **parental rights** and responsibilities, and the parties can present evidence to help the court make decisions in the **best interests** of the children.

After both parties have presented their evidence, the trial ends. The judge may make a decision **on the spot**, or may wait until later. This is called taking the case **under advisement**. If the judge decides the Plaintiff has proved abuse, the court will issue an order of protection from abuse. On the other hand, if the judge decides Plaintiff has not **proved** abuse, the case is terminated without **further** order.

Either party has the right **to appeal** a decision made over their objection. You can get more information about the appeal process from **the clerk**.

(1066 words)