

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

<b>AMERICAN NEWS AND INFORMATION</b>	:	
<b>SERVICES, INC.</b> , a Connecticut corporation; and	:	
<b>EDWARD A. PERUTA</b> ,	:	
	:	CIVIL CASE NO.:
Plaintiffs,	:	
v.	:	
	:	
<b>JAMES C. ROVELLA</b> , Chief of Police, City of	:	
Hartford Police Department, in his Official and	:	
Individual Capacities; <b>BRIAN J. FOLEY</b> , Deputy	:	
Chief of Police, City of Hartford Police Department,	:	
in his Official and Individual Capacities;	:	
<b>MICHAEL COATES</b> , Lieutenant, City of Hartford:	:	
Police Department, in his Official and Individual	:	
Capacities; <b>BRANDON J. O'BRIEN</b> , Lieutenant,	:	
City of Hartford Police Department, in his Official	:	
and Individual Capacities; <b>SEAN SPELL</b> , Sergeant,	:	
City of Hartford Police Department, in his Official	:	
and Individual Capacities; <b>JOHN DOE ##1-4;</b>	:	
<b>JOHN DOE #5;</b> and <b>JOHN DOE #6,</b>	:	
	:	
Defendants.	:	AUGUST 10, 2015

**COMPLAINT AND DEMAND FOR TRIAL BY JURY**

**PRELIMINARY STATEMENT**

1. This is a civil rights action challenging policies, customs, and practices of the Hartford Police Department (HPD) for the obstruction of rights guaranteed under the first and fourteenth amendments to the United States constitution and article first, §§ 4,5, of the Connecticut constitution.

2. Specifically, Edward A. Peruta (“Peruta”) responded to 38 Kelsey Street in the City of Hartford at approximately 9:20 p.m. on August 7, 2015, to gather information about an incident dispatched as a call for assistance in a disturbance precipitated by a mental health need of an individual.

3. News organizations and media such as NBC™, ABC™, CBS™, and FOX™, archaically recognized as the “real” media by the HPD, did not respond to the scene in accordance with a longstanding and informal agreement with the HPD to refrain from covering calls for assistance in disturbances precipitated by mental health needs.

4. Peruta did respond to videotape and otherwise record the events at 38 Kelsey Street during the course of two hours during which the HPD expanded the cordoned area designated as the crime scene on three occasions to move Peruta from a location with a view of the scene while allowing residents and members of the public to stay within the cordoned area and move about freely.

5. The HPD had excluded Peruta previously in the same manner on September 12, 2014, from videotaping and photographing a crime scene from a location where members of the public were present and HPD Chief of Police James C. Rovella (“Chief Rovella”) had addressed Peruta’s complaint about his exclusion by exonerating the September 12, 2014, scene supervisor, HPD Sergeant Sean Spell (“Sgt. Spell”).

6. Sgt. Spell, with the confidence of Chief Rovella’s support, again purposefully and in an attempt to conceal HPD activities of public concern and interest, expanded the cordoned area designated as the crime scene on August 7, 2015, on three occasions to obstruct Peruta from videotaping and photographing the scene.

7. When it was reported on August 8, 2015, that the Connecticut State Police had been called to investigate the death of an individual at 38 Kelsey Street, news organizations and media recognized by the HPD as “real” contacted Peruta requesting videotape and photographs of the August 7, 2015, HPD activities at Kelsey Street.

## **JURISDICTION**

8. This court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1343 and 42 U.S.C. §§ 1983, 1988 for claims brought alleging violations of the first and fourteenth amendments to the United States constitution.

9. The supplemental jurisdiction of this court over state law claims is provided under 28 U.S.C. § 1367.

## **PARTIES**

10. American News and Information Services (“American News”) is a news and information company incorporated in the State of Connecticut and owned by Edward A. Peruta (“Peruta”) that operates throughout the United States, and which gathers and provides raw, breaking news video, photographs, and news tips to various mainstream media outlets.

11. Peruta is a resident of Rocky Hill, Connecticut and San Diego, California.

12. At all times during the incidents on September 12, 2014, and August 7, 2015, Peruta was the President of American News, an entity incorporated in 1989 as a news service specializing in breaking news video, photographs, tips and gathering facts and information.

13. Peruta is a member of the National Press Photographers Association (NPPA) since March 25, 2012, and the founder and sole stockholder of American News. NPPA is a non-profit organization dedicated to the advancement of photojournalism in its creation, editing and distribution. Its almost 7,000 members include television and still photographers, editors, students and representatives of businesses that serve the photojournalism industry. Since its founding in 1946, the NPPA has vigorously promoted freedom of the press in all its forms, especially as that freedom relates to photojournalism.

14. In the February 1990 edition of the NPPA magazine, *News Photographer*, Peruta appeared on the cover with his camera, American News credentials, and news media baseball hat for the inside story, "TV Freelancer Ed Peruta Fights State Cops and Wins."

15. Peruta attended and graduated from a Connecticut Law Enforcement Training Academy in 1970 and briefly served as a member of the Wethersfield Police Department.

16. Peruta has a background in Emergency Medical Services and served with the Rocky Hill Volunteer Ambulance Corp for approximately five years as a Connecticut certified Emergency Medical Technician.

17. At all times during the incident on September 12, 2014, Peruta was wearing a baseball style hat with "NEWS MEDIA" embroidered on its face, and displayed his American News issued media credentials which were hung around his neck and clearly displayed in the area of his chest.

18. Defendant City of Hartford is a municipality located in the State of Connecticut.

19. Defendant James C. Rovella ("Chief Rovella") was at all times relevant to this complaint a sworn peace officer employed by the City of Hartford as the HPD Chief of Police. He is sued in his official and individual capacities.

20. Chief Rovella, in his capacity as the HPD Chief of Police, is responsible for planning, administering, executing, and enforcing the laws, customs and practices that Plaintiffs challenge and at all times relevant to the allegations in the complaint enforced these challenged laws, customs, and practices to the Plaintiffs' detriment.

21. Defendant Brian J. Foley ("Deputy Chief Foley") was at all times relevant to this complaint a sworn peace officer employed by the City of Hartford as the HPD Deputy Police Chief. He is sued in his official and individual capacities.

22. Defendant Michael Coates (“Lt. Coates”) was at all times relevant to this complaint a sworn peace officer employed by the City of Hartford as Commander of the HPD Internal Affairs Department. He is sued in his official and individual capacities.

23. Defendant Brandon J. O’Brien (“Lt. O’Brien”) was at all times relevant to this complaint a sworn peace officer employed by the City of Hartford as Commander of the HPD Vice, Intelligence and Narcotics Division. He is sued in his official and individual capacities.

24. Defendant Sean Spell (“Sgt. Spell”) was at all times relevant to this complaint a sworn peace officer employed by the City of Hartford as a HPD Sergeant. He is sued in his official and individual capacities.

25. Defendants John Doe ##1-4 (“Officer John Doe #1, 2, 3, or 4”), upon information and belief, were at all times relevant to this complaint sworn peace officers employed by the City of Hartford as HPD patrol officers. Each is sued in his individual capacity.

26. Defendant John Doe #5 (“Officer John Doe #5”), upon information and belief, was at all times relevant to this complaint a sworn peace officer employed by the City of Hartford. He is sued in his official and individual capacities.

27. Defendant John Doe #6 (“Officer John Doe #6”), upon information and belief, was at all times relevant to this complaint a sworn peace officer employed by the City of Hartford. He is sued in his official and individual capacities.

28. At all times and in all aspects relevant to the complaint Chief Rovella, Deputy Chief Foley, Lt. Coates, Lt. O’Brien, and Sgt. Spell acted under color of law and within the scope of their duties.

29. At all times and in all aspects relevant to the complaint, upon information and belief, Officer John Doe ##1-6, acted under color of law and within the scope of their duties.

## FACTS

### A. Hartford Police Department Media Policy

30. The HPD General Order on Media Policy (“HPD Media Policy”) effective April 2, 2001, provides in § II(A):

It is the policy of the Hartford Police Department to cooperate fully and impartially with authorized news media representatives in their effort to gather factual, public information pertaining to activities of the department, as long as these activities do not duly interfere with departmental operations, infringe upon individual rights or violate the law.

31. The HPD Media Policy defines “News Media Representatives” as:

Those individuals who are directly employed by agencies of the electronic or print media. Freelance workers in this field are to be regarded as members of the public unless granted recognition by the Chief of Police or the Public Information Officer.

32. “Journalist,” as defined under Connecticut law in General Statutes § 54-33i(1),

means:

[A] person engaged in the business of investigating, collecting or writing news, or of supervising such activity, with the intent of publication or presentation or for publication or presentation to the public through a news organization.

33. “News organization,” as defined under Connecticut law in General Statutes § 54-

33i(2), means:

[A]n individual, partnership, corporation or other association engaged in the business, whether or not for profit, of (i) publishing a newspaper or other periodical that reports news events and that is issued at regular intervals or has a general circulation; or (ii) providing newsreels or other motion picture news for public showing; or (iii) broadcasting news to the public by wire, radio, television or facsimile; and (B) a press association or other association of individuals, partnerships, corporations or other associations described in subparagraph (A) of this subdivision or in subdivision (1) of this section engaged in gathering news and disseminating it to its members for publication.

34. “News,” as defined under Connecticut law in General Statutes § 54-33i(2), means: “[A]ny compilation of facts, theories, rumors or opinions concerning any subject for the purpose of informing the public.”

**B. The Contemporary, Modern-Day Press And The Meaning Of “Journalist,” “News Organization,” And “News”**

35. A journalist or news organization is not limited to an individual or individuals directly employed by agencies of the electronic or print media to the exclusion of freelance workers.

36. The distinction between the public and the media has blurred as the means of capturing and reporting news has become accessible to anyone able to record events using a cell phone and distribute the footage through the internet.

37. In *Glik v. Cunniffe*, 655 F.3d 78, 83 (1<sup>st</sup> Cir. 2011), the federal appellate court established the principle that the public’s right to access information is coextensive with the press:

The First Amendment right to gather news is, as the Court has often noted, not one that inures solely to the benefit of the news media; rather, the public’s right of access to information is coextensive with that of the press... Moreover, changes in technology and society have made the lines between private citizen and journalist exceedingly difficult to draw. The proliferation of electronic devices with video-recording capability means that many of our images of current events come from bystanders with a ready cell phone or digital camera rather than a traditional film crew, and news stories are now just as likely to be broken by a blogger at her computer as a reporter at a major newspaper. Such developments make clear why the news-gathering protections of the First Amendment cannot turn on professional credentials or status.

38. The HPD, despite the broad definition of a “News Media Representative” established in state statutes and technological advances offering a means for almost anyone to gather and distribute news, still seeks through application of the HPD Media Policy to control the message by deciding who it will recognize as the messenger.

**C. The HPD Threatens Peruta With Arrest On September 12, 2014, For Recording Police Activity**

39. Peruta, as a member of the public, a journalist, and representative of American News, responded to the scene of a homicide in the City of Hartford on September 12, 2014, at approximately 9:20 p.m. in the vicinity of 519 Park Street.

40. When Peruta arrived, HPD, Hartford Fire Department (“HFD”), and Emergency Medical Services (“EMS”) (collectively, “Hartford Public Safety”) were on-scene working in a clearly delineated area cordoned to exclude entry by anyone except individuals permitted entry by Hartford Public Safety.

41. Peruta, immediately upon arrival at the scene, observed and documented Hartford Public Safety activity side-by-side with members of the public who had gathered outside the cordoned area on the south side of Park Street in the vicinity of 585 Park Street.

42. Peruta observed HPD uniformed officers on the north side of Park Street just east of the intersection of Hungerford Street, inside the cordoned crime scene area.

43. Peruta observed members of the public on the north side of Park Street east of the intersection of Hungerford Street, just outside the cordoned crime scene area.

44. As Peruta began to record the Hartford Public Safety activity from the south side of Park Street in the vicinity of 585 Park Street, HPD Officer John Doe #1 looked at Peruta and instructed Peruta to remain behind the yellow tape designating the cordoned crime scene area.

45. In the course of observing, documenting, and recording the Hartford Public Safety activity, Peruta never entered the cordoned area designated by the HPD as the crime scene area.

46. In the course of observing, documenting, and recording the Hartford Public Safety activity, Peruta was never any closer to the cordoned area designated by the HPD as the crime scene area than members of the public who were observing the activity.



47. Peruta obeyed Officer John Doe #1's instructions and remained outside the cordoned area designated by the HPD as the crime scene area.

48. Then, after 20 minutes had passed with no indicia of a change in circumstances related to the investigation or of further criminal activity afoot, Officer John Doe #1 informed Peruta that Officer John Doe #1's on-scene supervising sergeant had ordered the cordoned area, and therefore the crime scene, expanded.

49. Officer John Doe #1 again instructed Peruta to remain outside the newly expanded cordoned area designated by the HPD as the new crime scene area.

50. Peruta obeyed Officer John Doe #1's instructions and remained outside the newly expanded cordoned area designated by the HPD as the new crime scene area.

51. Peruta then crossed to the north side of Park Street in the vicinity of the intersection with Hungerford Street to join at least nine members of the public who had gathered to view the Hartford Public Safety activity inside the cordoned area designated by the HPD as the crime scene.

52. Peruta and at least nine members of the public remained in the vicinity of the north side of Park Street near its intersection with Hungerford Street outside the newly expanded cordoned area designated by the HPD as the new crime scene area.

53. Members of the public continued to walk freely and unimpeded on the street near the corner convenience store at the intersection of Park Street and Hungerford Street that remained open for business without interference from the HPD officers.

54. Peruta used his camera to record the Hartford Public Safety activity from his location near the corner convenience store where members of the public were walking, shopping, and observing the Hartford Public Safety activity.

55. Sgt. Spell then pointed directly at Peruta, ordered the HPD officers to remove Peruta from the area to prevent Peruta from filming the homicide victim, and threatened Peruta with arrest for recording the crime scene.

56. Peruta's videotape shows Sgt. Spell standing calmly, nonchalantly in the cordoned area designated as a crime scene until he became aware that Peruta is videotaping HPD activities of public concern and interest.

57. Peruta's videotape shows Sgt. Spell becoming visibly upset followed by his yell to Officer John Doe ##1-4: "Get them [presumably Peruta and members of the public] out of here!"

58. Sgt. Spell then expanded the cordoned area to designate an expanded crime scene for the sole purpose of obstructing Peruta from investigating, collecting, or gathering information about HPD activities and matters of public concern and interest.

59. Peruta obeyed and moved as directed to an area further from the cordoned area designated as a crime scene.

60. As Peruta continued to videotape, Sgt. Spell ordered him to move a block further from the cordoned area designated as a crime scene.

61. Sgt. Spell then informed Peruta that if he had to be told to move again then he would be arrested.

#### **D. Peruta's HPD Internal Affairs Department Complaint**

62. The HPD Media Policy defines its Public Information Officer (PIO) as the central source of information for release and an information resource for the news media and the community.

63. The PIO assists news personnel in covering routine news stories and at the scenes of major incidents, assists the media on an on-call basis, prepares and distributes news releases,

arranges for, and assists, at news conferences, coordinates and authorizes the release of information about victims, witnesses, and suspects, assists in crisis situations with the HPD, coordinates the release of authorized information concerning confidential HPD investigations and operations, and provides training to HPD personnel in media relations.

64. The HPD Media Policy requires the PIO to cooperate only with “[a]uthorized news media representatives” and only “authorized news media representatives” have reasonable access to the PIO, the Chief of Police, or their designees.

65. The HPD Media Policy recognizes “official identification from all local, national, and international news organizations.”

66. The HPD Media Policy specifically allows HPD officers to restrict access to incident scenes when media personnel not known to the HPD fail to present “official identification.”

67. HPD Deputy Chief Foley is the HPD PIO.

68. When Peruta complained to Deputy Chief Foley about the officers’ conduct at the September 12, 2014, crime scene on Park Street, Deputy Chief Foley told Peruta to file a complaint with the HPD Internal Affairs Department (IAD), stating: “Ed, you know the drill. File a complaint.”

69. The HPD IAD received a complaint from Peruta on September 15, 2014, regarding the officers’ conduct at the September 12, 2014, crime scene on Park Street.

70. HPD IAD Commander Lt. Coates delegated the investigation to HPD Lt. O’Brien who, upon information and belief, supervises Sgt. Spell.

71. Lt. O’Brien interviewed Peruta on November 17, 2014, about the IAD complaint.

72. Peruta provided Lt. O'Brien a copy of videotape recordings taken by Peruta of the Park Street crime scene area captured by Peruta on the evening of September 12, 2014.

73. Upon information and belief, Lt. O'Brien spoke to Sgt. Spell on March 24, 2015, about Peruta's IAD complaint, four months after Peruta was interviewed and six months after the incident, but no written statement was taken.

74. Upon information and belief, Sgt. Spell informed Lt. O'Brien that the cordoned area designated as a crime scene had been expanded because the areas of expansion in which Peruta had been standing prior to the expansions had been identified as areas of interest.

75. Upon information and belief, Sgt. Spell told Lt. O'Brien that he had received reports of armed men in the area who had fled from the crime scene and his orders to expand the cordoned area designated as a crime scene were justified for the protection of the public despite the fact that the armed men would have been outside the crime scene area as they had fled the crime scene according to Sgt. Spell.

76. Since receiving notice that Sgt. Spell justified the expansion of the crime scene based on the presence of armed men in the area who had fled the scene, Peruta now openly carries his handgun in a shoulder holster when in the City of Hartford and has recommended that anyone with a permit carry for self-defense when in the City of Hartford.

77. Sgt. Spell confirmed to Lt. O'Brien that he ordered Peruta and other individuals present on September 12, 2014, to disburse under threat of arrest.

78. Lt. O'Brien exonerated Sgt. Spell by adopting Sgt. Spell's representations that the cordoned area designated by the HPD as a crime scene had expanded to preserve the crime scene and for public safety reasons without requiring, upon information and belief, that Sgt. Spell make a written statement under oath.

79. Lt. O'Brien concluded his investigation by exonerating Sergeant Spell in reliance on unsworn statements made by Sgt. Spell that the crime scene was expanded to preserve the crime scene and for public safety.

80. Peruta's September 12, 2014, Park Street videotape recordings contradict Sgt. Spell's IAD statements that the expansions of the cordoned area designated as the crime scene occurred for any reason other than to prevent Peruta from videotaping or otherwise recording HPD activities of public concern and interest.

81. By exonerating Sgt. Spell's September 12, 2014, conduct, Lt. O'Brien, with the approval of Chief Rovella, Deputy Chief Foley, and Lt. Coates, condoned a department-wide policy and practice that infringes upon the freedom of the press in violation of the first and fourteenth amendments to the United States constitution and article first, §§ 4, 5 of the Connecticut constitution.

**E. The HPD Threatens Peruta With Arrest On August 7, 2015, For Recording Police Activity**

82. At approximately 8:30 p.m. on August 7, 2015, Peruta was stationed in the parking lot of the Dunkin Donuts™ on Washington Street in the vicinity of Hartford Hospital monitoring the public safety scanner for breaking news events.

83. During a cell phone conversation with J.C. Playford, an American News freelance videographer and creator of You Tube™ channel NewsNowSanDiego, Peruta heard the initial dispatch over the scanner for a mental health disturbance at 38 Kelsey Street.

84. Peruta continued to speak with J.C. Playford until two HPD cruisers with lights and sirens driving at an accelerated speed by his location on Washington Street at approximately 9:20 p.m. caught his attention.

85. Peruta terminated the conversation with J.C. Playford, determined that the cruisers were responding to 38 Kelsey Street, and at approximately 9:20 p.m. Peruta was en route to the scene.

86. While en route and monitoring the scanner Peruta heard the dispatcher cancel all responding units and announce the situation at Kelsey Street under control and the party in custody.

87. Prior to arrival at Kelsey Street, Peruta heard the dispatcher call for a ladder and stokes basket.

88. Peruta parked and exited his vehicle upon arrival on the west, southbound side of Kelsey Street across from 38 Kelsey Street.

89. Kelsey Street is a public roadway that runs in the north and south directions.

90. The single-family residence at 38 Kelsey Street is on the east side of the street.

91. Peruta immediately noticed a male standing in the yard and a female sitting on a porch step of the private residence on the west side of Kelsey Street just north of 38 Kelsey Street.

92. Members of the public were moving freely on the west side of Kelsey Street in the area across from 38 Kelsey Street where Peruta positioned himself wearing a News Media baseball hat on his head, American News press credentials around his neck, and a handgun openly carried and secured in his shoulder holster.

93. Peruta had clear-sight to the rear open doors of the ambulance parked in front of 38 Kelsey Street and the interior entryway and stairs through the open front doors of 38 Kelsey Street.

94. Peruta began to videotape and otherwise record the crime scene and HPD activities of public concern and interest that were occurring in the cordoned area which at that time extended from the porch rail of 38 Kelsey Street in north and south directions paralleling the residence and not extending to the west beyond the front porch.

95. As Peruta began to videotape and otherwise record and gather information about HPD activities of public concern and interest:

- a. Sgt. Spell, the on-scene supervisor, ordered HPD officers to expand the cordoned area outward from the 38 Kelsey Street residence front porch rail to the sidewalk in front of 38 Kelsey Street in north and south directions;
- a. Sgt. Spell ordered HPD officers to erect a new cordon in an east to west direction across Kelsey Street to the south of where Peruta was positioned; and
- a. Sgt. Spell ordered HPD officers to erect a new cordon in an east to west direction across Kelsey Street to the north of where Peruta was positioned.

96. Sgt. Spell cordoned Peruta in a three-sided area with tape to Peruta's east, north, and south and the public able to move freely within the three-sided cordoned area on the open west side of the street where Peruta stood.

97. Officer John Doe #6 threatened to arrest Peruta for trespass if Peruta did not remove himself from the location across from 38 Kelsey Street to the other side of either the cordon extending from east to west across Kelsey Street to the north of Peruta or the cordon extending east to west across Kelsey Street to the south of Peruta.

98. The individuals whom Peruta had observed upon his arrival in the yard and on the front step of a residence across from and just north of 38 Kelsey Street were not ordered to leave or to go into their home.

99. Peruta exited the cordoned area to the north and approached Sgt. Spell as the on-scene supervisor to question the authority of HPD Officer Doe #6 to deny access and threaten Peruta with arrest for trespass.

100. Sgt. Spell, previously exonerated by Chief Rovella and Lt. O'Brien for identical unconstitutional conduct, did not bother to respond to Peruta on August 7, 2015, and ably and confidently avoided a videotaped record of a course of events leading to and following the reported injuries of two officers and the untimely death of a 26 year old male.

### **SUMMARY STATEMENT**

101. The HPD obstructs American News and Information Services, Inc. ("American News"), a bona fide news and information gathering service as defined in General Statutes § 54-33i, and Peruta, its President, from gathering, recording, and distributing information of public interest by:

- a. Implementing policies, customs, and practices that resulted in threats of retaliatory arrests and prosecutions against Peruta while Peruta lawfully engaged in the protected activity of videotaping and photographing police officers in public on September 12, 2014, and August 7, 2015;
- b. Prohibiting American News and Peruta from lawfully engaging in the protected activity of videotaping and photographing police officers in public on September 12, 2014, and August 7, 2015;
- c. Implementing policies, customs, and practices selectively choosing whom to recognize as a News Media Representative contrary to the statutory definitions of Journalist and News Media Representatives set forth in General Statutes § 54-33i;
- d. Failing to train HPD officers that the media's right to record HPD public activity is a state and federal constitutional right and that the oath



taken by HPD officers is a sworn oath to uphold the United States Constitution; and

- e. Failing to supervise and discipline HPD officers to ensure that members of the media are not threatened with arrest and prosecution for exercising their state and federal constitutional rights to record and gather information about police activities.

## **VIOLATIONS AND CLAIMS**

### **Count One**

First and Fourteenth Amendments to the United States Constitution  
(Retaliatory Government Actions)  
42 U.S.C. §§ 1983, 1988  
Connecticut Constitution, Art. I, §§ 4, 5  
Against All Defendants By American News And Peruta

102. The foregoing paragraphs 1-101, inclusive, are incorporated by reference as alleged under Count One.

103. The United States constitution and Connecticut constitution protect the rights of individuals to videotape police activities performed in public.

104. The United States Court of Appeals for the Second Circuit clearly established in precedent set prior to September 12, 2014, law prohibiting government officials acting under color of law from retaliating against individuals for exercising rights guaranteed under the first amendment of the United States constitution.

105. The Connecticut supreme court clearly established in precedent set prior to September 12, 2014, law prohibiting government officials acting under color of law from retaliating against individuals for exercising rights guaranteed under article first, §§ 4, 5, of the Connecticut constitution.

106. The freedom guaranteed individuals in Connecticut under the federal and state constitutions to question police action without risking arrest distinguishes Connecticut from a police state.

107. The HPD Media Policy that limits the media to a definition that may have been valid 50 years ago, if then, guarantees the HPD the means to control the message by controlling who it recognizes as the messenger.

108. American News is a bona fide “news media organization” as defined in General Statutes § 54-33i.

109. Peruta is a representative of American News and a “journalist” as defined in General Statutes § 54-33i.

110. Peruta is a member of the public.

111. Sgt. Spell’s threats to arrest Peruta and the conduct of Officer John Doe ##1-5 on September 12, 2014, stopped Peruta from gathering information about HPD activities of public concern and interest, leaving the HPD with exclusive control over the narrative of what occurred on September 12, 2014, at the Park Street crime scene in the absence of videotape.

112. Officer John Doe #6’s threats to arrest Peruta and Sgt. Spell’s on-scene supervision on August 7, 2015, stopped Peruta from gathering information about HPD activities of public concern and interest, leaving the HPD with exclusive control over the narrative of what occurred on August 7, 2015, at the Kelsey Street crime scene in the absence of videotape.

113. While Peruta has been arrested previously for challenging the government when his right to gather news and information of public concern and interest was threatened, and while American News freelance videographer and creator of You Tube™ channel NewsNowSanDiego, has done the same, Peruta’s current case before the United States Court of Appeals, *Peruta v. San Diego*, which held in Peruta’s favor on February 13, 2014, that the Second Amendment applies outside the home, then was vacated, and is now awaiting decision after a June 16, 2015, *en banc*

hearing, has made Peruta, upon advice of his California counsel, as averse to arrest as one would expect most individuals would be when threatened by law enforcement.

114. Therefore Peruta was compelled to choose between standing up for the First Amendment on September 12, 2014, and August 7, 2015, or criminal arrest.

115. For many, the mere threat of arrest is sufficient to chill the exercise of protected speech activity and on the particular dates of September 12, 2014, and August 7, 2015, the threat of arrest was sufficient to chill Peruta.

116. Chief Rovella, Deputy Chief Foley, Lt. Coates, and Lt. O'Brien, are deliberately indifferent to the rights guaranteed under the first amendment to the United States constitution and article first, §§ 4, 5, of the Connecticut constitution, failed to train Sgt. Spell and Officer John Doe ##1-6, and sanctioned policies and customs which led to the events that occurred on September 12, 2014, and August 7, 2015, that violated the rights of American News and Peruta.

117. As a direct and proximate consequence of the Defendants' actions, Peruta and American News suffered damages including, but not limited to, threats of retaliatory arrests and the loss of opportunities to gather news and information of public concern and interest absent threats of arrest.

**Count Two**

First and Fourteenth Amendments to the United States Constitution  
(Failure to Train)  
42 U.S.C. §§ 1983, 1988  
Against Chief Rovella, Deputy Chief Foley, Lt. Coates, and Lt. O'Brien  
By American News And Peruta

118. The foregoing paragraphs 1-101, inclusive, are incorporated by reference as alleged under Count Two.

119. Chief Rovella is responsible for hiring, screening, training, retention, supervision, discipline, counseling, and control of the personnel under his supervision and command.

120. Chief Rovella is responsible for the HPD Media Policy and for establishing media guidelines for the HPD and its officers to follow.

121. Deputy Chief Foley, as the HPD PIO, is obligated by the HPD Media Policy to be available to:

- a. Assist news personnel in covering routine news stories and at the scenes of major incidents;
- a. Assist the news media on an on-call basis; and
- a. Provide training to HPD personnel in media relations.

122. Deputy Chief Foley, as the HPD PIO, is obligated by the HPD Media Policy to cooperate with media but only insofar as an individual meets the HPD Media Policy's and Deputy Chief Foley's definition of a media representative.

123. Deputy Chief Foley and Chief Rovella have the discretion to decide under the HPD Media Policy if a "freelance worker" is "granted recognition" as a media representative.

124. Anyone other than someone "directly employed by agencies of the electronic or print media" must be granted recognition by the government, in this case Chief Rovella and Deputy Chief Foley, to exercise in Hartford the freedom of the press guaranteed under the first amendment to the United States constitution and article first, §§4, 5 of the Connecticut constitution.

125. American News and Peruta responded to 38 Kelsey Street in Hartford on August 7, 2015, despite an informal agreement that "agencies of the electronic or print media" who are the "real" media according to the HPD Media Policy would refrain from responding to calls for assistance in disturbances precipitated by mental health needs of individuals.

126. Upon information and belief, two HPD officers were injured and a civilian died at 38 Kelsey Street on August 7, 2015.

127. The HPD Media Policy and Deputy Chief Foley's deliberate indifference to the implications of a policy that leave the definition of a News Media Representative to government's

discretion and Chief Rovella's and Lt. O'Brien's exoneration of Sgt. Spell's multiple expansions of a crime scene based on the premise that armed men were on the loose, not in the area of the expanded crime scene but in the general neighborhood, in combination with the informal agreement with the HPD that caused the "real" media not to respond to 38 Kelsey Street on August 7, 2015, creating the exclusivity of the coverage for Peruta and American News, violated Peruta's and American News' rights under the first amendment to the United States constitution and article first, §§ 4, 5, of the Connecticut constitution., to gather news and information of public interest and concern.

128. As a direct and proximate consequence of the Defendants' actions, Peruta and American News suffered damages including, but not limited to, threats of retaliatory arrests and the loss of opportunities to gather news and information of public concern and interest absent threats of arrest.

**PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiffs have suffered damages and seek through this action:

**I. A DECLARATORY JUDGMENT**

- A. To establish that the HPD does not have the discretion to exclude “freelance workers” from preferential access to information provided to News Media Representatives as defined in the HPD Media Policy simply because the “freelance workers” are not directly employed by agencies of the electronic or print media.
- B. To provide that a person or entity engaged in the recording of news, by whatever means, shall not be informed or instructed by the government that public recording of public safety activity is not allowed; requires a permit; or is conditioned upon law enforcement consent. Specifically, the government shall not: a) Demand that person or entity cease such activity; b) Demand that person’s or entity’s identification; c) Demand that person or entity to state a reason for recording; d) Detain that person or entity; e) Intentionally block or obstruct cameras or recording devices; or f) Threaten, intimidate, or otherwise discourage a person or entity from recording public safety response activity.
- C. To prohibit erection, expansion, or modification of a cordon designating a crime scene for the purpose of intentionally blocking or obstructing cameras or recording devices.
- D. To prohibit HPD officers from threatening, intimidating, or otherwise discouraging a person or entity from recording public safety response activity.

**II. COMPENSATORY DAMAGES**

**III. PUNITIVE DAMAGES**

**IV. SUCH OTHER RELIEF AS ALLOWED BY LAW**

PLAINTIFFS  
AMERICAN NEWS AND  
INFORMATION SERVICES, INC.  
EDWARD A. PERUTA

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*Their Attorneys*

Dated this 10<sup>th</sup> day of August, 2015, at Torrington, Connecticut.