



**NEW HAVEN**  
**DEPARTMENT OF POLICE SERVICE**  
**Internal Affairs**  
One Union Avenue • New Haven • Connecticut • 06519



*Frank Limon*  
Chief of Police

*John DeStefano Jr.*  
Mayor

To: Captain D. Blanchard  
From: Sergeant N. Marcucio  
Date: February 17, 2011  
RE: Internal Affairs Case: 170-10-I

**INTERNAL AFFAIRS FILE # 170-10-I**

**SYNOPSIS**

On November 15, 2010, I was assigned an investigation made at the request of Chief Frank Limon. The investigation stems from a New Haven Independent article which claimed that Assistant Chief Ariel Melendez ordered the arrest of Mr. Luis Luna, who was filming the police breaking up a fight. Mr. Luna was arrested for the charge of Interfering with a Police Officer by Officer Kristen Fitzgerald. The original charge was SI, substitute information (changed) to Creating a Public Disturbance and Mr. Luna paid a \$50 fine. The article was written by Mr. Thomas MacMillan and was published on November 11, 2010. The article further claims that New Haven police officers took his Iphone and erased the video. This incident took place on September 25, 2010, at approximately 2:15 a.m. near the intersection of Crown St and College St, refer to case number 10-60310.

The incident that Mr. Luna was allegedly filming took place near the main entrance to Cooperative Arts and Humanities Arts High School located at 177 College. Three individuals were arrested by Ofc. Cunningham, refer to case number 10-60325.

From the date of the arrest, 9/25/10, to the date of the article, 11/11/10, Mr. Luna never filed a Civilian Complaint form with the Internal Affairs Office. I was able to locate Mr. Luna's home address which was listed on the arrest report; a phone number was not provided. On November 16, 2010, Sergeant Wolcheski and I went to Mr. Luna's residence in an attempt to speak with him. The door was answered by an unknown white female. She informed us this was Mr. Luna's residence and she provided his cell phone number. I left a business card with her requesting Mr. Luna contact me. She stated she would relay the message.

On November 22, 2010, and on November 29, 2010, I attempted to contact Mr. Luna via telephone but was unsuccessful. I left a voicemail each time but was never contacted by Mr. Luna.

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The unknown female was later identified to be Megan Fountain. She was identified in a photograph published in an article written by the New Haven Independent.

**Officer Kristen Fitzgerald**

On November 30, 2010, Officer Kristen Fitzgerald was ordered to the Internal Affairs Unit for a compelled statement regarding this investigation. She was represented by Union Representative Officer Frank Lombardi. Ofc. Fitzgerald read, understood, and signed the Internal Investigation Administrative Warning Form and the False Statement Warning Form. During the course of this interview Ofc. Fitzgerald stated she was assigned to the motor unit (motorcycle) for the Entertainment District Detail the night of the complaint.

Ofc. Fitzgerald stated it was right at bar closing and she was positioned in front of Alchemy on College St, and her motorcycle was parked. She observed a large group in a verbal altercation across the street in front of the high school. Several officers on foot patrol began to disperse the crowd. The group moved down College St and three individuals were being aggressive. Ofc. Fitzgerald got on her motorcycle and drove on the sidewalk towards them. The officers had the combatants under control and Ofc. Fitzgerald parked her motorcycle for additional police presence.

Ofc. Fitzgerald observed Mr. Luna ride his bicycle on the sidewalk behind her. He stopped about fifteen feet behind her and was using his cell phone. She believed he was taking pictures. He was not saying anything, did not pose a threat, and Ofc. Fitzgerald did not pay him any attention. Assistant Chief Melendez was on scene observing the arrest. He later walked over to Mr. Luna and have a conversation in Spanish with him. She stated she heard the conversation but could not understand it, as she does not speak Spanish.

The prisoner conveyance van arrived for Ofc. Cunningham's arrestees. When she heard AC Melendez's conversation with Mr. Luna end, she turned to him and told him it was time for him to leave. A.C. Melendez told her he was to be placed under arrest. She assumed A.C. Melendez had told Mr. Luna to leave. She placed him in handcuffs, patted him down, and walked him over to the prisoner conveyance van. Mr. Luna was compliant and was in possession of a bicycle and a backpack, containing books.

Mr. Luna did speak English and spoke with Ofc. Fitzgerald. He never asked her about his cell phone. Ofc. Fitzgerald did not remember him having a cell phone on him and did not see if anyone else had his cell phone. She did not hear any officers mention film or pictures that might have been recorded on the phone. She did not hear any officers mention Mr. Luna's cell phone, did not hear anyone mention erasing anything, nor did she hear anyone being ordered to erase anything.

Mr. Luna was loaded into the prisoner conveyance van along with his book bag. She asked another officer to put Mr. Luna's bicycle in their trunk to bring to 1 Union Ave to log it into the property room for safe keeping. Once the bicycle was secure she left the scene to write the arrest report as it was nearing the end of her shift. For complete details refer to the audio recording.

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**Officer Steven Cunningham**

On November 30, 2010, Officer Steven Cunningham was ordered to the Internal Affairs Unit for a compelled statement regarding this investigation. He was represented by Union Representative Officer Arpad Tolnay. Ofc. Cunningham read, understood, and signed the Internal Investigation Administrative Warning Form and the False Statement Warning Form. During the course of this interview Ofc. Cunningham stated he was assigned to a walking beat for the Entertainment District Detail the night of the complaint.

Ofc. Cunningham was partnered with Officer Nikki Curry and they headed to their assigned beat after lineup (7:00 p.m.). It was busy in the downtown area. Ofc. Cunningham and Ofc. Curry went with Assistant Chief Melendez to several bars to conduct spot checks. The last bar they went to was Club Alchemy, which is located at the intersection of College St and Crown St. When they were driving by the club they heard very loud music coming from the bar and stopped to speak with the owner.

Once they were done speaking with the owner they remained outside of the club. After the bars were closed, Ofc. Cunningham and Ofc. Curry saw several large groups of people beginning to congregate on the sidewalks. They started to break up the groups and move them along. One group was congregating at the corner of College St and Crown St, on the side of the high school. They attempted to disperse them and the group moved further down College St, in front of the main entrance to the high school. Three individuals in that group still refused to leave and were arrested.

Ofc. Cunningham remembered someone transmitted over the radio that there was a breach in progress and additional officers responded to assist. The three individuals were secured without further incident. A.C. Melendez was on scene and spoke with one of the arrestees regarding his military service. The prisoner conveyance van arrived quickly and the three individuals were loaded into the wagon.

Ofc. Cunningham did not remember seeing A.C. Melendez speak with any other civilians other than his arrestee. He remembered seeing motorcycle officers but did not see who they specifically were. Ofc. Cunningham did not see Mr. Luna arrested nor did he remember him being there. After the arrestees were in the prisoner conveyance van, the streets were clear of pedestrian traffic and they headed back to the police station to write the arrest report.

Ofc. Cunningham did not see A.C. Melendez or any officers seize anyone's phone. He did not hear any orders for anyone to seize a phone. He did not see or hear anyone being ordered to erase anything from a phone. For complete details refer to the audio statement.

**Officer Nikki Curry**

On November 30, 2010, Officer Nikki Curry was ordered to the Internal Affairs Unit for a compelled statement regarding this investigation. She was represented by Union Representative Officer Arpad Tolnay. Ofc. Curry read, understood, and signed the Internal Investigation Administrative Warning Form and the False Statement Warning Form. During the course of this interview Ofc. Curry stated she was assigned to a walking beat for the

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Entertainment District Detail the night of the complaint and was partnered with Ofc. Cunningham.

When the bars were closed, Ofc. Curry saw a group of people at the intersection of College St and Crown St, on the side of the high school. The group moved a little further down College St near the main entrance of the school. Someone transmitted over the radio that there was a fight or breach in progress. Three individuals from the group were refusing to leave and one became hostile and removed his shirt.

Ofc. Curry stated two males and one female were arrested. Additional officers arrived to assist, including motorcycle units. A.C. Melendez observed the incident. The arrest occurred after bar closing. Ofc. Curry spoke with A.C. Melendez to inquire if they should issue the three a misdemeanor summons or to make a custodial arrest. It was decided the arrest was going to be custodial. The prisoner conveyance van arrived quickly and the arrestees were loaded in one at a time.

Ofc. Curry did see Ofc. Fitzgerald but did not remember seeing her make an arrest. She did not remember anyone else, aside from her three arrestees, loaded into the wagon. She did not see A.C. Melendez speak with any other civilians. She did not hear any orders for an officer to erase any data from a phone. She did not remember if they had to finish clearing the streets or if they headed back to the police department. For complete details refer to the audio statement.

**Officer Angelo Mauriello**

On January 13, 2011, Officer Angelo Mauriello was ordered to the Internal Affairs Unit for a compelled statement regarding this investigation. He was represented by Union Representative Officer Arpad Tolnay. Ofc. Mauriello read, understood, and signed the Internal Investigation Administrative Warning Form and the False Statement Warning Form. Ofc. Mauriello did not remember assisting any of the officers near the high school. He believed he was in the area of Church St and Center St that night. The statement was not audio recorded.

**Officer Yelena Borisova**

On January 13, 2011, Officer Yelena Borisova was ordered to the Internal Affairs Unit for a compelled statement regarding this investigation. She was represented by Union Representative Officer Arpad Tolnay. Ofc. Borisova read, understood, and signed the Internal Investigation Administrative Warning Form and the False Statement Warning Form. I spoke with Ofc. Borisova regarding the incident and she had no knowledge of the incident. The statement was not audio recorded.

**Officer Christopher Fennessy**

On January 14, 2011, Officer Christopher Fennessy was ordered to the Internal Affairs Unit for a compelled statement regarding this investigation. He was represented by Union Representative Officer Frank Lombardi. Ofc. Fennessy read, understood, and signed the Internal Investigation Administrative Warning Form and the False Statement Warning Form.

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Ofc. Fennessy was part of the Entertainment District detail which was a special detail formed because of an officer involved shooting. He was assigned to a patrol car and was partnered with Ofc. Marshall. When it neared the time for bar closing, they parked the patrol car at the Crown St garage to assist with crowd control. He responded to College St and Crown St to assist officers with a breach of peace complaint. He saw a group arguing and several were verbally combative. He assisted the officers on scene and detained one of the parties involved. One party had removed his shirt during the argument.

The three individuals were arrested and placed in the prisoner conveyance van. He stated the prisoner conveyance van arrived quickly because it usually parks nearby during bar closing. Ofc. Fennessy did not remember seeing A.C. Melendez at the scene and did not see Mr. Luna there. He did not hear anyone speaking about any arrestee's cell phone and did not hear anyone speaking about erasing any data from a cell phone. After he left the scene he finished clearing the crowds from the streets. Once this was completed, Ofc. Fennessy reported to the Command Post, located at Crown St and Temple St, before terminating. For complete details refer to the audio statement.

#### **Officer Justin Marshall**

On January 14, 2011, Officer Justin Marshall was ordered to the Internal Affairs Unit for a compelled statement regarding this investigation. He was represented by Union Representative Sergeant Richard Miller. Ofc. Marshall read, understood, and signed the Internal Investigation Administrative Warning Form and the False Statement Warning Form.

Ofc. Marshall stated a special bar detail was formed due to an officer involved shooting. He was partnered with Ofc. Fennessy. Ofc. Marshall was standing at the intersection of Crown St and College St when he saw officers running down College St towards a crowd that was in front of the main entrance to the high school. Ofc. Marshall helped secure a male who was not wearing his shirt. Another male and one female were also handcuffed.

Ofc. Marshall stated A.C. Melendez spoke with the individual who was not wearing his shirt. Ofc. Marshall did not remember seeing Mr. Luna at the scene. He did not see Ofc. Fitzgerald arrest anyone. He did not see any officers in possession of any of the arrestee's cell phones nor did he hear anyone being ordered to seize a phone. He did not see or hear anyone erasing, or being ordered to erase, any data from a phone.

Ofc. Marshall did not remember if he had to clear any more groups from the street after leaving the scene. He stated typically a Command Post was set up at Temple St and Crown St. It was common for the officers to check into the Command Post before terminating. The officers would provide Officer Curtis Miller with their stats (i.e. arrests made, infractions issued, etc.). For complete details refer to the audio statement.

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### **Investigation**

On Monday, January 10, 2011, the City of New Haven announced that Assistant Chief Ariel Melendez was retiring. January 11, 2011, was A.C. Melendez's last official day as a New Haven Police Officer.

### **Mr. Luis Luna**

On January 11, 2011, I was contacted by Attorney Diane Polan. She stated she was representing Mr. Luna. An interview was scheduled for January 17, 2011 at 9:30 a.m. Mr. Luna did come to the Internal Affairs Unit at said date with Attorney Polan. Attorney Polan immediately asked if the interview was going to be tape recorded. I informed her the Pre-Interview is not audio recorded, but once the Pre-Interview is over, I will ask Mr. Luna if he is willing to provide a taped statement.

Mr. Luna stated on September 24, 2010, he was at Ann Liffey's located at 17 Whitney Ave in New Haven. He left there and went to his car which was parked on Crown St near Orange St. He got his bicycle out of his car and headed up Crown St to go to Mamoun's Falafel, located at 85 Howe St.

Mr. Luna stated as he was riding his bike he was filming using his Iphone 4g. He reached the intersection of Crown St and College St, stopped filming and got off his bike. He saw officers making an arrest in front of the high school on College St. He believed the officers had arrested two males and the prisoner conveyance van was already on scene. He started to film the incident on the sidewalk from about twenty feet away.

A.C. Melendez walked over to Mr. Luna in an intimidating manner, but did not describe what he felt was intimidating. A.C. Melendez asked him what he was doing and he replied that he was filming. A.C. Melendez told him he can't film and he needs to get out of here. Mr. Luna stopped filming and A.C. Melendez grabbed the phone from him and put it in his pocket. Mr. Luna stated he was not given a chance to leave.

A.C. Melendez ordered Ofc. Fitzgerald to place him under arrest. Ofc. Fitzgerald brought him over to the side of the high school. A.C. Melendez said to him in Spanish, "Instead of helping us, you're filming." Mr. Luna was placed in handcuffs and patted down. He had a bike helmet and a book bag containing books and a bottle of bourbon.

Mr. Luna was escorted to the prisoner conveyance van and did not see who the officer was. As he was entering the wagon, he asked A.C. Melendez where his phone was. A.C. Melendez replied, "I don't know what you are talking about."

Mr. Luna stated he was in the detention facility for about 4 hours when a Marshall came to his cell and informed him that his cell phone had been returned. He described the Marshall as a white male wearing a white shirt, 55-60 years old, wearing glasses, and had a mustache. When he was released from the detention facility he noticed he had no videos on his phone. He stated there should have been two videos. Approximately three weeks later he obtained his bicycle from the property room.

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Mr. Luna stated he was contacted by Mr. Thomas MacMillan of the New Haven Independent, regarding this incident. The article was published several days later. I attempted to inquire further as to the manner in which the article was published and if he also is a member of Unidad Latina en Accion and New Haven Against Police Brutality (his affiliation with the two groups was mentioned in the article). However, Attorney Polan became defensive and stated she did not understand why his political affiliation has any bearing on the investigation. I did not pursue that line of questioning any further in fear the interview would be abruptly stopped.

Mr. Luna stated he never contacted the Internal Affairs Unit because he did not think it was a big deal. He never brought his phone to an Apple store (Apple manufactures iPhones) to see if the video could be recovered. He stated at the time his phone did not have the security code activated. The security code is an option for when the phone is turned on a four number code is needed to gain access. He further explained there is an option that erases all of the data on the phone if 10 failed attempts are made when entering the code. None of these were activated.

When asked what Mr. Luna would like to see as an outcome, Attorney Polan stated they wanted to see if there was a violation of department policy when Mr. Luna was told not to film. I asked Mr. Luna to answer the question and he stated he did not think that Ofc. Fitzgerald should get in trouble because she was following an order to arrest him. Mr. Luna also felt that the officer who erased his video should be held responsible even if it was done by an order.

When the Pre-Interview was completed to my satisfaction it was between 10:00 a.m. and 10:15 a.m. Attorney Poland stated Mr. Luna had to be at work in Wallingford for 11:00 a.m. I informed her the interview would be less than 30 minutes which should give Mr. Luna enough time to get to work. She stated he cannot be late for work, but I could contact her if I had any follow-up questions. The interview was not audio recorded.

#### **Officer Matthew Williams**

On January 17, 2011, Officer Matthew Williams was ordered to the Internal Affairs Unit for a compelled statement regarding this investigation. He was represented by Union Representative Sergeant Richard Miller. Ofc. Williams read, understood, and signed the Internal Investigation Administrative Warning Form and the False Statement Warning Form. Ofc. Williams did not remember assisting any of the officers near the high school. The statement was not audio recorded.

#### **Officer David Stead**

On January 20, 2011, Officer David Stead was ordered to the Internal Affairs Unit for a compelled statement regarding this investigation. He was represented by Union Representative Officer Arpad Tolnay. Ofc. Stead read, understood, and signed the Internal Investigation Administrative Warning Form and the False Statement Warning Form. I spoke with Ofc. Stead regarding the incident and he had no knowledge of the incident. The statement was not audio recorded.

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**Officer Michael Lozada**

On January 20, 2011, Officer Michael Lozada was ordered to the Internal Affairs Unit for a compelled statement regarding this investigation. He was represented by Union Representative Officer Arpad Tolnay. Ofc. Lozada read, understood, and signed the Internal Investigation Administrative Warning Form and the False Statement Warning Form.

Ofc. Lozada stated he was assigned to the bar detail. He was standing outside on Crown St. After the bars were closed he saw a couple police officers running down College St towards George St. He saw a couple officers detaining people and the situation was under control. One male had taken his shirt off and they tried to talk their way out of the arrest claiming they were in the Military. A.C. Melendez spoke with one of the individuals regarding their Military service.

Ofc. Lozada saw Ofc. Fitzgerald at the scene but did not see her make any arrests. He did not see Mr. Luna. He did not hear any discussions regarding any of the arrestee's cell phones. He did not hear any orders given to any officers for them to seize a cell phone or for them to arrest any data. Ofc. Lozada was near the prisoner conveyance van when the arrestees were being loaded into it. He did not hear any of the arrestees ask about their cell phone. For complete details refer to the audio recording.

**Sergeant David Guliuzza**

On January 21, 2011, Sergeant David Guliuzza was ordered to the Internal Affairs Unit for a compelled statement regarding this investigation. He was represented by Union Representative Officer Frank Lombardi. Sgt. Guliuzza read, understood, and signed the Internal Investigation Administrative Warning Form and the False Statement Warning Form.

Sgt. Guliuzza stated he did hear A.C. Melendez transmit over the radio that there was a fight or breach in progress at College St and Crown St. Sgt. Guliuzza did respond to the location and by the time he arrived the arrestees were already in the prisoner conveyance van. A.C. Melendez was at the scene. He did remember seeing Mr. Luna in the van. He did not hear any of the arrestees ask about their cell phones while in the van.

Sgt. Guliuzza stated this arrest occurred after the bars had closed. Once the incident was over the officers made their way back to the Command Post. The patrol officers would check in at the Command Post before terminating. The officers would provide Ofc. Curtis Miller with the arrests they made, parking tickets issued, etc. Typically A.C. Melendez would end the detail by addressing the group and thanking them for their hard work.

Sgt. Guliuzza did not hear A.C. Melendez speak to any officers regarding an arrestee's phone. He did not hear any orders given for anyone to erase any data from a phone. Sgt. Guliuzza stated he did read the article printed in the New Haven Independent. Mr. Luna's cell phone was an Iphone and is a complicated piece of equipment. Sgt. Guliuzza believed if someone did not own that type of phone, then you would not be able to operate it. A.C. Melendez has a Blackberry cell phone. Sgt. Guliuzza does not think that A.C. Melendez has

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the knowledge to work an Iphone, let alone erase data from it. For complete details refer to the audio statement.

### **Captain Joanne Peterson**

On February 9, 2011, Captain Joanne Peterson was ordered to the Internal Affairs Unit for a compelled statement regarding this investigation. She declined to have Union Representation. Captain Peterson read, understood, and signed the Internal Investigation Administrative Warning Form and the False Statement Warning Form.

Captain Peterson was the Operations Supervisor for the Entertainment District Detail on September 24, 2010. The detail was formed because there was an increase in violence downtown, specifically an officer involved shooting. Captain Peterson was assigned to the Command Post which was stationed at the intersection of Temple St and Crown St.

Captain Peterson did not witness Mr. Luna arrested. At some point during the shift A.C. Melendez returned to the Command Post. Captain Peterson was inside along with Officer Curtis Miller. When they saw A.C. Melendez walking down Crown St they exited the Command Post. A.C. Melendez approached them and he handed Ofc. Miller a cell phone. A.C. Melendez told Ofc. Miller to erase the video on the cell phone. Ofc. Miller played with the phone and it appeared that he was deleting the video. Ofc. Miller tried to hand the phone back to A.C. Melendez but he would not take it back. A.C. Melendez said he wanted Ofc. Miller to be sure there was no video on there and to double check. Ofc. Miller pressed a few buttons on the phone, handed the phone back and said, "There is no video on the phone, sir." After the phone was handed back, A.C. Melendez told them the phone belonged to an arrestee and the person had been video taping officers.

Captain Peterson reiterated that she and Ofc. Miller did not know whose cell phone it was and it could have belonged to A.C. Melendez for all they knew. She stated A.C. Melendez ordered Ofc. Miller to erase the video from the phone. Ofc. Miller did not say if he saw any footage on the phone, but during the interaction he said that there was no video.

When A.C. Melendez was leaving the scene he said he was going to take the phone to detention because he had no use for it now. For complete details refer to the audio statement.

### **Officer Curtis Miller**

On February 10, 2011, Officer Curtis Miller was ordered to the Internal Affairs Unit for a compelled statement regarding this investigation. He was represented by Union Representative Sergeant Richard Miller. Ofc. Miller read, understood, and signed the Internal Investigation Administrative Warning Form and the False Statement Warning Form.

Ofc. Miller was part of the Entertainment District Detail and was assigned to the Command Post. The Command Post was positioned at Temple St and Crown St. Ofc. Miller was to collect statistics that occurred downtown during the evening business hours. He would monitor the radio to record incidents and the patrol officers would also report to him with their statistics at the conclusion of their shift. Ofc. Miller would tally all of the information obtained and would present it in a PowerPoint presentation.

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Ofc. Miller did not respond to the location where Mr. Luna was arrested. Ofc. Miller was in the Command Post with Captain Peterson. Later in the night, A.C. Melendez reported back to the Command Post, with a cell phone in his hand. He said to Ofc. Miller, "I need to delete a video. Delete this video," and handed Ofc. Miller a phone. As he was saying this, Ofc. Miller, Captain Peterson, and A.C. Melendez were making their way out of the Command Post.

Ofc. Miller was handed an Iphone. Ofc. Miller has a Blackberry cell phone and it is not similar to an Iphone. Ofc. Miller stated he did not know whose phone it was and A.C. Melendez did not say who it belonged to. To Ofc. Miller's knowledge the phone could have belonged to A.C. Melendez.

The phone was on when the phone was handed to Ofc. Miller. The main menu was displayed and Ofc. Miller clicked on video and a list of videos came up. He then deleted the first video. He did not remember how many videos were in that file. When Ofc. Miller clicked on the first video it started to play and as he clicked it, he clicked delete. He only saw the video play for a split second and did not watch it in its entirety. The video was very dark in the quick glimpse that he saw.

Ofc. Miller tried to hand the phone back to A.C. Melendez. A.C. Melendez stated, "No, no, no, no," almost pushing the phone back to Ofc. Miller, "I want to make sure that video is deleted." Ofc. Miller opened the phone back up, looked at it, and there was no other video there. In the Pre-Interview Ofc. Miller stated he gave the phone back to A.C. Melendez and said, "There's no video sir."

After A.C. Melendez took the phone back he said he just arrested a kid for videotaping the police. He did not say if the phone he had belonged to the person who was arrested. A.C. Melendez said he was going to bring the phone back to him and was going to bring it to detention. Once A.C. Melendez left, Ofc. Miller continued with his regular duty of collecting information for his PowerPoint presentation.

Ofc. Miller stated A.C. Melendez ordered him to erase the video. Ofc. Miller stated he had no reason not to follow the order and if he didn't then he would be disobeying a lawful order. Ofc. Miller stated, "I'm an officer, he's a Chief, ordering me to. I had to." For complete details refer to the audio statement.

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### Finding of Fact

September 24, 2010, was the second night of Operation Night Life. Operation Night Life was a special entertainment detail formed as a result of an officer involved shooting that occurred during bar closing on September 19, 2010. The detail consisted of foot patrols, motorcycle units, and bicycle units. A Command Post was stationed at the intersection of Crown St. and Temple St. Inside of the Command Post was Captain Peterson, the Operations Supervisor, and Ofc. Curtis Miller. Ofc. Miller was responsible for collecting the evening's incidents and outlining them in a PowerPoint presentation.

After the bars had closed, Ofc. Curry and Ofc. Cunningham were moving a crowd that had congregated on the side of the Cooperative Arts and Humanities Arts High School located at 177 College St. The group moved down College St. and stopped in front of the main entrance to the school. Three individuals were eventually arrested from that group. While the officers were effecting the arrest, Mr. Luna was riding his bicycle west on Crown St and saw the incident occur. Mr. Luna dismounted his bicycle and began to film the incident using his Iphone.

Mr. Luna was approached by A.C. Melendez. Mr. Luna was told to stop filming and to leave. A.C. Melendez took the phone from Mr. Luna and told Ofc. Fitzgerald to arrest Mr. Luna. Mr. Luna was arrested and placed into the prisoner conveyance van and transported to 1 Union Ave detention facility.

A.C. Melendez went back to the Command Post and met with Captain Peterson and Ofc. Miller. A.C. Melendez handed Ofc. Miller an Iphone and ordered him to erase the video from the phone, without saying who the phone belonged to. Ofc. Miller erased one video from the phone and tried to hand it back. A.C. Melendez reiterated he wanted the video erased. Ofc. Miller verified that there was no video on the phone and handed it back. A.C. Melendez informed Captain Peterson and Ofc. Miller that earlier he had to arrest someone who was filming police officers. He then stated he had to bring the phone to detention. He did not state whether the phone that he currently possessed actually belonged to the person that he had arrested.

Based upon the statements provided, Ofc. Miller followed what he believed to be a lawful order given by A.C. Melendez to erase video footage from the phone. Captain Peterson and Ofc. Miller had no knowledge of whose phone it was when the order was given. It is further believed that the phone, in which the footage was erased from, was Mr. Luna's cell phone.

Ofc. Fitzgerald was ordered by A.C. Melendez to arrest Mr. Luna and he was charged with Interfering with an Officer. The charge of Interfering with an Officer was SI, substitute information (changed) to Creating a Public Disturbance. Mr. Luna pled guilty and paid a \$50 fine.

Assistant Chief Ariel Melendez retired from the New Haven Police Department on January 11, 2011. I contacted A.C. Melendez to see if he would provide a voluntary statement but he declined. Due to him being retired, I am unable to order him in to provide a statement.

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Therefore, I find Assistant Chief Ariel Melendez to be in violation of the following Departmental Rules, Regulations, and General Orders:

Violation #1: Rule 15, Article 42

***No employee of the Department shall engage in any act which would constitute conduct unbecoming an officer.***

*During my interview with Mr. Luna he stated A.C. Melendez took his phone away from him because he was filming police officers, and he was subsequently arrested. During my interviews with Captain Peterson and Ofc. Curtis Miller they stated A.C. Melendez brought a phone back to the Command Post and ordered Ofc. Curtis Miller to delete video from it. A.C. Melendez knew the phone belonged to an arrestee but did not inform Ofc. Miller and Captain Peterson of this until after the video was deleted. Thus, A.C. Melendez's order for Ofc. Miller to erase the video was unlawful..*

The mere act of an individual video recording the police officers while performing their duties is not prohibited by Federal or State Statute. The officer must be able to clearly articulate why an individual was arrested for filming. The New Haven Police Department has adopted a "Video Recording of Police Activity by the Public" Policy. It is currently under legal review.

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