

# After YouTuber auditor came to Danbury, nearby towns evaluate video policies in public buildings

Julia Perkins  
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DANBURY — When a YouTuber first tried to film in Danbury Library and then City Hall, officials scrambled to figure out what to do.

The YouTuber claimed his First Amendment rights allowed him to record in these public buildings. City officials said the man disrupted regular business and was a risk to other's privacy.

The ensuing incidents led to a police internal investigation, dismay over a cop's remarks about the YouTuber and eventually the man's arrest.

Neighboring towns took notice, but haven't had the same problem.

"We've been very lucky here," said Douglas Lord, director of the C.H. Booth Library in Newtown.

Due to the Danbury incidents, some town and library leaders said they reminded their employees about their video policies or plan to create protocols on filming in their buildings. Others do not have policies but allow filming and photography, under certain restrictions.

It's fair for institutions to have policies regulating filming and behavior in public buildings, said Keith Taylor, an adjunct assistant professor at John Jay College of Criminal Justice in New York..

"One citizen's rights don't outweigh the municipality or other institution's efforts to provide an environment that respects the rights of all," Taylor said. "Whether or not there is a legal right to film doesn't necessarily mean that that applies in particular settings, such as a library. And even if it does, then there

may be some stipulations as to how and where and when that filming can occur.”

The YouTuber is part of a group known as First Amendment auditors, who film in public buildings because they argue they have the right to and share their interactions with officials on social media.

The same YouTuber who filmed in Danbury recorded a video at the U.S. Post Office in New Milford in June, but he has not come to any town buildings, Mayor Pete Bass said.

New Milford reminded its employees that videographers could film in Town Hall, as long as they do not film private information, such as residents’ social security card or tax identification numbers.

“But other than that, someone can come in and film,” Bass said. “We let the employees know that that is their right.”

### **Danbury’s video policy**

Danbury Library’s code of conduct requires patrons to get permission from the library director to film or photograph inside the building. Patrons may not photograph or record other library users without their permission.

At Danbury City Hall, videographers are allowed to film common areas and hallways, but cannot record over the counter and in work areas, where residents’ private information could be, said Laszlo Pinter, the city’s corporation counsel. These areas are considered “nonpublic forums,” he said.

Government may restrict contents of speech in nonpublic forums as long as the “restriction is reasonable and the restriction does not discriminate based on speakers’ viewpoints,” according to the Legal Information Institute. Examples of nonpublic forums are airport terminals and polling places, the institute said.

Danbury’s policy was already in place before YouTuber SeanPaul Reyes started coming to City Hall and is meant to protect residents’ privacy and

avoid disrupting employees' work, Pinter said. The city may adjust its policy as needed in the future, he said.

"You really don't know what you're capturing (on video) in terms of information that is not yet a public record," he said. "The disruption factor is if you're producing a documentary or doing an audit story, you're in there for some time and people can't do their work if this is going on for an extended period of time."

Pinter said he informed Reyes of the policy when he came to City Hall — at the time his second known visit there — on July 15 to film. Police were called, and Reyes eventually left.

He returned that day and filmed in the town clerk's office and tax assessor's office, according to a police report and body camera footage. This violated the policy because he was "insistent" on filming people and the computer, Pinter said.

"The policy is very clear the employees should be able to do their work uninterpreted in this way," Pinter said. "When it gets to the point that that could no longer happen and the disruption was accelerated, that's when the police were called and the arrest occurred."

Videographers may fill out a form to be permitted to film in the building, although this is not required and is typically used for people who want to schedule specific times to record, Pinter said. The form is the same one the public fills out to have events, such as a meeting or wedding, in the building, he said.

Similarly, New Milford allows videographers to arranging filming ahead of time for purposes like in-depth interviews, Bass said.

### **Town and city halls**

First selectmen in Bethel, New Fairfield and Newtown said their towns don't have policies on recording at their municipal centers. The public is permitted to film there with relatively few restrictions.

“I suppose if they begin infringing on individuals who are also using the public space, that might be a problem,” First Selectman Matt Knickerbocker said.

New Fairfield First Selectwoman Pat Del Monaco said videographers would likely be told they could not film private files.

“I believe that if an employee were uncomfortable being in a video that they (the employee) would be able to leave the premise, or a member of the public, for that matter,” she said.

After Danbury’s incidents, Newtown reminded its employees that certain parts of public buildings, such as the IT backbone or secure areas of the police station, would be off-limits for videographers. Nor could the videographer interfere with members of the public seeking town services, Rosenthal said.

“If someone is filming and obstructing someone’s ability to interact with government, now that starts to impede other people’s freedoms and personal space, etc,” he said.

### **Local libraries**

Staff at Brookfield Library trained on how to respond to First Amendment auditors in November 2019.

“We wanted to get ahead of it and be prepared,” said Debbie Brooks, interim director at the Brookfield Library.

The local police department helped organize the session, and the library pulled information from the American Library Association, she said.

“The most important thing is to remain calm and really try to be non-confrontational and treat any First Amendment auditors as we would any other patron,” Brooks said.

Brookfield Library does not have an official video policy, but allows the public to film in the building. Videographers are asked not to film children.

“We recognize First Amendment rights,” Brooks said. “As long as you’re not obstructing what’s going on in the library and being disruptive, we’re okay with photographing and videotaping.”

Libraries that do not have video recording policies often have rules around respectful behavior and could ask people to stop filming or leave the building based on that.

New Fairfield Library hasn’t any problems with videographers, said Linda Fox, library director. But she’s considering creating a policy for it after what happened in Danbury.

Lorna Rhyins, the new director at New Milford Library, may consider doing the same.

“It’s definitely a worthwhile policy to put in place,” she said.

In her first several weeks as the director at Mark Twain Library in Redding, Erin Shea Dummeyer said no one has recorded video in the building. That library requires prior approval for photographs, video recordings or audio recordings for privacy reasons, she said.

But when she met the Redding police chief, he brought up the issue in Danbury and advised her to remind her staff of what to do, she said.

Patrons who do not get approval would typically be asked to stop filming, Dummeyer said. But she’d respond differently if it were a First Amendment auditor.

“The advice to library directors has basically been to let them film,” she said. “I’m hoping we won’t get First Amendment audited, but if someone gave me grief, I’d probably just let them film and warn any patrons who are in the buildings at the time.”

Ridgefield Library is an association library and its building is privately owned, unlike in Danbury and many other surrounding communities.

“However, we are a public library, so we have two big things to consider — people’s First Amendment rights to film, which is the argument of these First Amendment auditors, but also people’s well-protected right to privacy while using the library,” said Brenda McKinley, Ridgefield Library’s director.

The library encourages people to request to film in advance and asks videographers not to record other patrons, although there is no written policy, she said. Anyone who started filming in the library would be advised of this, she said.

The public may film in C.H. Booth Library in Newtown, as long as it doesn’t disturb others and their “peaceful enjoyment” of the library,” said Douglas Lord, library director.

However, videographers may not film the books patrons check out or the website patrons visit, he said. Keeping that information private is a library’s “core belief,” he said. Lord said he’d do what he could to prevent that from getting on camera.

“I think I’d literally have to insert myself between the camera and the transaction and just kind of lure that videographer away,” he said.

Rules like this are meant to respect everyone’s rights and prevent a disruptive person from negatively affecting others, Taylor said.

“What’s the alternative?” he asked. “That the library cows down to this individual? That people in the library are forced to deal with this person’s disruptions? And ultimately, the person’s behavior may have nothing to do with exercising the right to film and everything to do with attempting to create or provoke an incident to occur.”