

Four Danbury police officers face discipline for library YouTuber incident following investigation

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Aug. 27, 2021 6:43 p.m.

DANBURY — Four police officers who were criticized for their response to a viral incident at Danbury Library last month were found to have violated various police policies and faced penalties ranging from training refreshers to suspension, according to an internal affairs investigation.

Officer Ken Utter, who was caught on police body camera footage saying a YouTuber would have been “dead” 20 years ago, faced the steepest penalty — an eight-day suspension without pay and remedial training, according to a written reprimand released to The News-Times through a Freedom of Information Act request on Friday.

The police chief determined the penalties following an internal affairs investigation and hearings where the officers could have union representation. The investigation began after a viral video of the June 9 incident, as well as a complaint YouTuber SeanPaul Reyes filed with the department claiming officers violated his rights.

Reyes, of Bellport, N.Y., was visiting the library for a First Amendment “audit,” a growing trend in which people try to film inside public or municipal buildings to see how government officials respond.

Officers were “exonerated” of Reyes’ claim that they had violated his constitutional rights by telling him he could not film video in the library, Chief Patrick Ridenhour states in the report. Libraries are considered “limited public forums,” which means library administrators have the right to implement “reasonable rules to ensure that the facility is used for its intended purposes,” he said.

“In this case, library officials deemed your conduct to be disruptive,” Ridenhour wrote to Reyes in a letter dated Aug. 17. “We also have an independent witness who stated that you were loud and using profanity towards the security guard prior to police arrival, which caused at least one of the library patrons to leave.”

However, the investigation found some officers failed to act appropriately or to use their body-worn cameras properly, according to the investigative report.

“The investigation also revealed concerns with the way some of the officers responded to disparaging comments that you made towards them, the overall interaction during this incident, and comments that were made in the aftermath,” Ridenhour wrote to Reyes in a letter dated Aug. 17. “This too has been addressed through our internal processes.”

Sgt. John Dickinson, who was called to the library later as a supervisor, received a written reprimand and was ordered to take a “brief refresher training” on how to operate his body-worn camera, according to an Aug. 6 memorandum signed by the chief. Reyes has filed an intent to sue Dickinson.

Officer Christopher Dennis was required to take counseling and remedial training, according to an Aug. 9 memorandum. Officer Paul Tibbitts was suspended for three days without pay and was required to take remedial training, according to an Aug. 12 memorandum.

Attempts to reach the officers through a police union representative were unsuccessful Friday.

Mayor Joe Cavo said he had “long discussions” with the police chief about how the officers would be disciplined.

“Mostly we wanted to make sure that our folks got retraining, some de-escalation techniques and make sure that everyone is clearly aware of what people can and cannot do with regards to video taping,” he said.

The report was released Friday morning, around the time that Reyes was set to appear in Danbury Judicial Court to face criminal trespass and breach of peace charges from a visit to Danbury City Hall in July.

The investigation included Reyes' YouTube video, radio transmissions, body-worn camera footage and phone calls pertaining to the incident, according to the report. The department interviewed a patron who said he heard Reyes used profanity and left the library due to the "disturbance," the report states.

The five officers involved in the incident, including one who investigators found did not violate any policies, either declined to meet or did not respond to a request to meet with two officers leading the internal investigation.

'Rude' behavior

The investigation determined officers Dennis, Tibbitts and Utter exhibited "rude or unprofessional conduct toward the public or in public view," according to Ridenhour's written comments. Utter had two counts of this violation.

The "confrontational" behavior of Utter and Tibbitts, who were suspended, "fell way below expectations, especially given your training and experience," Ridenhour wrote in Aug. 12 memorandums.

The first count Utter faced was due to his interactions with Reyes, while the second count was due to "disturbing" comments the officer made while walking away from the YouTuber, the chief said.

The moment was captured on the police body camera footage.

"You know what I'm telling you right now, f***** five years ago with this s*** he would have been on the f***** ground," Utter said.

"Absolutely," Tibbitts said.

"And 20 year ago, that m*****f***** would be dead," Utter said. "He'd be f***** — his teeth would be missing."

These comments were an “aggravating” factor in Utter’s discipline, the chief wrote.

“While I understand that you were clearly frustrated after a tense encounter comments such as these are never acceptable under any circumstances,” Ridenhour wrote. “They cause embarrassment to our department and can easily hamper our efforts to build and maintain positive relationships with our community.”

Cavo said Utter was “frustrated” by the situation.

“I think he was just sort of blowing off steam and making comments,” the mayor said. “It wasn't to anybody in the public. It was between him and another officer. I'm sure he regrets making those comments and I'm sorry he made those comments, too.”

The “presumptive penalty” for this violation and others Utter made is a one- to 10-day suspension, Ridenhour wrote. He added he initially inclined to impose the maximum penalty, but considered that Utter has been with the department for 25 years with no previous violations or discipline of any kind.

“At your pre-disciplinary hearing you took full responsibility for your comments and actions, gave no excuses, and offered a sincere apology,” Ridenhour wrote. “Your comments, while clearly unacceptable, inflammatory, and made in public view, were anecdotal and not made directly to anyone. There is also no evidence to suggest that you have committed any unlawful assaults on any members of the public during your career.”

In addition to his suspension, Utter was told to take a refresher course on body cameras and remedial training to address the concerns that came up in the incident.

The chief cited Tibbitts solely for his behavior around Reyes, but acknowledged the officer for taking extra time with the library staff to do the “necessary research to determine that the complainant did not have an unrestricted right to record in the library without permission.”

The chief noted Dennis “remained calm throughout this incident, even though you were subjected to a barrage of unnecessary personal attacks.” Dennis

was required to take remedial training that would address the concerns from the incident.

“Although your verbal responses to those attacks were at times inappropriate, you were not confrontational and I accept the explanation that some of those responses were an attempt to diffuse the situation with humor rather than escalate it,” Ridenhour wrote to Dennis.

Utter and Tibbitt’s suspensions were “in accordance with [their] known work schedule” as of Aug. 12. They had to turn in their firearm(s), Taser, badge and police identification to the on-duty shift commander prior to their suspension. They were not eligible for overtime or private duty work during that time.

They were told to contact department or city resources for mental health support if they needed it.

Other violations

Utter and Tibbitts were cited for “insubordination” because their “refusal to stand aside when asked clearly undermined Sergeant Dickinson’s ability to effectively diffuse the incident in question, resulting in further escalation,” Ridenhour wrote.

Ridenhour said he agreed with the union’s argument that the officers didn’t disobey any direct orders from Dickinson.

The investigation found Utter did not have his body camera on, while Dickinson did not have his audio on for part of the incident. He turned his audio back on after 16 minutes once he realized it was off, the report states.

Typically, officers would face a one- to 10-day suspension for improper body camera use, but the chief said he considered “mitigating factors, including that the incident was recorded on others’ body cameras and that body cameras are new to the department. In Dickinson’s case, Ridenhour considered that the camera recorded video, not audio.

Reyes claimed Utter grabbed and “twist[ed]” his wrist at one point, but the report disputes this.

“After you had lowered your camera, the body camera footage does show that Officer K. Utter reached out in an attempt to raise your camera again to record a statement he was making to you,” Ridehour wrote to Reyes. “While there is no evidence that he twisted your wrist or caused you any injury, we do acknowledge that this was not an appropriate action and it has been addressed through our internal processes.”