

 <p>Middleborough Police Department</p> <p>Joseph M. Perkins <i>Chief of Police</i></p>	Policy: Body-Worn Cameras PP# 1.33
	ISSUE DATE: December 1, 2021
	EFFECTIVE DATE: January 1, 2022
	Massachusetts Police Accreditation Standard References: 41.3.8

PURPOSE:	<p>Body-Worn Cameras (BWCs) enhance police transparency; increase public trust; preserve evidence for criminal and administrative investigations; and improve training.</p> <p>This policy establishes guidelines for the proper use, management, storage, and retrieval of video and audio data recorded by BWCs.</p> <p>BWC footage is a tool that may aid members in providing an accurate and complete account of an incident. BWC footage should not replace a member's memories of the incident. Members should base their statements on their memories, not solely on the video.</p>
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POLICY:	<p>It is the policy of the Middleborough Police Department that BWC be used when taking law enforcement action, as described and directed under this policy.</p> <p>It is the policy of the Middleborough Police Department to respect the legitimate privacy interests of all persons in Middleborough, while ensuring professionalism in its workforce. Officers shall only use BWC's within the context of existing and applicable federal, state, local laws and Department policy and procedure. The Middleborough Police Department prohibits recording civilians based solely upon the civilian's political or religious beliefs or upon the exercise of the civilian's constitutional rights, including but not limited to freedom of speech, religious expression, and lawful petition and assembly. BWC footage shall not be reviewed to identify the presence of individual participants at such events who are not engaged in unlawful conduct.</p>
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DEFINITIONS:	
BWC	<p>Body Worn Camera, worn by a law enforcement member of the Middleborough Police Department, as described and directed under this policy.</p>

PROCEDURE:	<p>Training</p> <p>Prior to its use, all officers shall be trained in the proper use of the BWC. Additional training may be required at periodic intervals to ensure proper use, operation, calibration, and to incorporate changes, updates, or other revisions in policy and equipment. All training shall become part of the individual officer's permanent training record. Training shall include the following:</p> <ol style="list-style-type: none"> 1. Review of department policy; 2. Instruction in the BWC's features and functions as established by the manufacturer; 3. Procedures for properly securing audio and video evidence from the BWC; 4. Review privacy rights and applicable case law.
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<p>Activation and Use [41.3.8]</p>	<ul style="list-style-type: none"> A. Members will activate the BWC only in conjunction with official law enforcement duties consistent with this policy and the law. Recordings shall be specific to an incident. Officers shall not indiscriminately record entire duties or patrols. [41.3.8(a)] B. Officers may activate BWCs in many situations, however this policy is not intended to describe every possible circumstance. Officers shall activate or make reasonable efforts to activate or activate when safety permits, the video and audio components of BWCs during: <ul style="list-style-type: none"> • calls for service; • encounters alleging armed, violent or assaultive individuals; • incidents involving use of force; • search or arrest warrant service; • pursuits (when practical); • encounters which escalate or become adversarial; • all motor vehicle stops; • during the transport of any prisoner while inside a Middleborough Police cruiser; and • any civilian contact or official duty that the member reasonably believes should be recorded in order to enhance public transparency, increase public trust, or preserve potential evidence. C. Officers shall activate the BWCs and start recording upon arrival on scene of a call for service or when engaged in any law enforcement related encounter or activity. D. Officers may use their discretion when deciding to activate the BWC during incidental public contact during the ordinary course of duty. Officers are not required, or expected to activate their BWC when conducting police engagement activities or other situations that do not involve the delivery of police services. Officers may, at their own discretion, activate their cameras during these instances if they feel it useful or necessary. Officers may also activate their cameras outside of the mandatory requirements at their discretion but must inform individuals they are being recorded and must abide by exceptions and prohibitions. [41.3.8] E. Once activated, BWCs shall remain activated until the event is completed in order to ensure the integrity of the recording, unless otherwise provided in this policy. If the officer deactivates the BWC, the officer should record the reason with a message on the BWC while activated and subsequently document the same in their written report [41.3.8(a)] F. If an officer fails to activate the BWC, for lack of reaction time due to officer safety, the officer shall immediately activate it to capture the “look back” as soon as possible or when it is safe to do so. If the officer fails to activate the BWC, for any other reason, when required to do so, the officer shall document the non-activation in a written report to his/her immediate supervisor by the end of the shift. Any written reports documenting the failure to activate a BWC, when required to do so, shall be forwarded to the Administrative Lieutenant.
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<p>Recording within a Residence</p> <p>Areas Where A Reasonable Expectation of Privacy May Exist</p> <p>Notice of Recording</p> <p>Consent to Record</p>	<ul style="list-style-type: none"> A. Upon entering a private residence without a warrant or in non-exigent circumstances, the officer shall notify occupants that they are being recorded. When determining whether or not to record, the officer shall be guided by the safety of all person(s) present, and weigh the discretionary factors referenced in the “Notice of Recording” section with the fact that a home is a uniquely private location. If the officer turns off the recording, the officer should record the reason with a message on the BWC while activated and subsequently document the same in their report. B. If an officer uses their discretion to turn off the BWC, the officer shall notify their supervisor and document this action in their report. <ul style="list-style-type: none"> A. Officer should be mindful of locations where recordings may be considered insensitive or inappropriate. Such locations may include locker rooms, places of worship, religious ceremonies, certain locations in hospitals or clinics, law offices, and day care facilities. At such locations, at the officer’s discretion and based on the circumstances, the officer may turn off the BWC. The officer should record the reason with a message on the BWC while activated and subsequently document same in their written report. [41.3.8(a)] They may also consider diverting the BWC away from any subjects and recording only audio. The officer must be able to articulate the reason for their decision to exercise discretion. B. BWC Discretionary Recording Considerations include, but are not limited to: <ul style="list-style-type: none"> • the sensitive or private nature of the activities or circumstances observed; • the presence of individuals who are not the subject of the officer-civilian interactions; • the presence of people who appear to be minors; and • the extent to which absence of BWC recording will affect the investigations. C. If an officer uses their discretion to turn off the BWC, the officer shall document this action in either the incident report or written notification to their immediate supervisor by the end of their shift or as soon as practical. The Supervisor shall submit the officer’s written report to the Chief of Police via the chain of command. <p>Officers shall make a reasonable effort to inform civilians that the officer is recording them unless an immediate threat to the officer’s life or safety or the life or safety of any other person makes BWC notification dangerous. Officers shall notify civilians with language such as “I am advising you that I am recording our interaction with my Body Worn Camera.” Officers shall not record civilians surreptitiously.</p> <ul style="list-style-type: none"> A. Officers do not have to obtain consent to record. If a civilian requests the officer stop recording, the officer has no obligation to stop recording. When evaluating whether to stop recording, officers should weigh the BWC Discretionary Recording Considerations identified in the “Areas Where A Reasonable Expectation of Privacy May Exist” section of this Policy. Officers should record the request to turn the BWC off and the officer’s response to that request, if possible. B. If an officer deactivates a BWC in response to a civilian request, the officer shall also indicate the request in an Incident report. If an officer deactivates a BWC in response to a civilian request and does not create an Incident report, the officer
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	<p>shall document the event in a written report to their immediate supervisor indicating that a civilian requested the officer to turn off the BWC. The supervisor shall submit that officer's written report to the Chief of Police via the chain of command.</p>
Recording of Victims/Witnesses	<ul style="list-style-type: none"> A. If an officer's BWC would capture a visual or audio recording of a victim or witness who is giving their first account of a crime, the officer may record the encounter but should weight the BWC Discretionary Recording Considerations specified in the "Areas Where A Reasonable Expectation of Privacy May Exist" section of this Policy (page 3) in determining whether to activate or discontinue audio and/or video recording. B. If the officer decides to activate and/or continue to audio and/or video record, the officer shall make the notifications specified in the "Notice of Recording" section of this policy (page 3). C. If the victim/witness is in any way unsure of the need for the recording or is uncomfortable with the thought of being recorded, the officer shall inform the civilian that the civilian may request to have the BWC turned off. D. If the camera is already activated, the officer should record the request to turn the BWC off and the officer response, if possible.
BWC Deactivation	To the extent possible, prior to deactivating a BWC, the officer shall state the reason for doing so. Generally, once the officer activates the BWC, the officer will continue recording until the event has concluded.
BWC Removal for Privacy	<p>An officer may remove the BWC from his/her body, without documentation, under the following circumstances:</p> <ul style="list-style-type: none"> • When using the bathroom or in the locker room; • When at the officer's private residence.
Camera Deployment	<ul style="list-style-type: none"> A. Officer Responsibility <ul style="list-style-type: none"> 1. BWC equipment is the responsibility of every officer issued the equipment. 2. Officers must use the equipment with reasonable care to ensure proper functioning. 3. Officers shall inform their supervisor as soon as possible of equipment malfunctions or loss of a BWC so that the supervisor can procure a replacement unit. B. Police officers shall use only BWCs issued by the department. The BWC equipment and all data, images, video recording, audio recording, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the Middleborough Police Department and shall not be released without the authorization of the Chief of Police or designee. <ul style="list-style-type: none"> 1. At the beginning of each shift, the officer will: <ul style="list-style-type: none"> • Ensure that the issued equipment has a fully-charged battery and is functioning properly; and • Notify a supervisor whenever there is a malfunction or damage to a BWC. 2. During each shift, the officer shall: <ul style="list-style-type: none"> • Affix their BWC properly upon their uniform in a manner consistent with training;

	<ul style="list-style-type: none"> • Position and adjust the BWC to record events; • Activate the BWC and record as outlined in this policy; • Document the existence of a BWC recording in all of the appropriate documents, (i.e. Incident reports, Citations, Calls for Service-CAD, Administrative Reports); • Notify investigative or specialized unit personnel of the existence of BWC recordings. <p>3. Document in the incident report the circumstances and reasons if the officer failed to activate the BWC, Failed to record the entire contact, interrupts the recording, or the BWC malfunctions. If the officer does not create an incident report, the officer shall submit a written report to their supervisor documenting the circumstances and reasons. The supervisor shall submit that officer's report to the Chief of Police via the chain of command.</p> <p>4. At least one time per month each officer will test their BWC.</p> <ul style="list-style-type: none"> • The officer will make a 5 second recording and tag it with the event code "Test." • The officer will then dock the BWC and upload the test video. • The officer will then log into their BWC account and confirm the test video recorded without issue. <p>If there is any problem with the officer's BWC after testing it, [s]he will notify their supervisor immediately who will then take that BWC out of service and issue a spare/temporary BWC.</p>
BWC Mute Option	The current BWC employed by the Middleborough Police Department allows a MUTE option. The MUTE option is deployed by pressing and holding down the left button (Display Backlight Button) on the BWC. Once the button is released the MUTE button will no longer be engaged. <ul style="list-style-type: none"> • Officers are allowed to use the mute button to keep private a conversation between the officer and other officers or supervisor. It is not to be used to mute a part of the incident recording. • The MUTE button will only be utilized for the time needed and will be deactivated at the earliest time possible. • The officer will record on the BWC that the Mute feature will be utilized prior to activating it. • The officer will document in a written report the fact the Mute feature was utilized during the incident.
BWC Covert Mode	The current BWC employed by the Middleborough Police Department allows COVERT mode. COVERT mode is deployed by pressing down the right button (Function Button) on the BWC for 5 seconds. The BWC will remain in COVERT mode until manually disengaged by once again holding down the right button for 5 seconds. COVERT mode allows the camera to operate without showing any exterior lighting (recording light) thus not giving up an officers location during low-light or covert situations.
BWC Location Services	The GPS Location Services is not applicable on BWCs of the Middleborough Police Department as of the dissemination of this Policy.

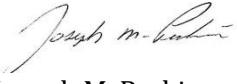
<p><i>Request to Redact</i></p>	<ul style="list-style-type: none"> A. Officers wearing BWC's should be aware that their BWC may unintentionally capture private/security information such as door codes, phone codes, and computer codes. If the officer knows that their BWC captured sensitive information or material, the officer shall inform the Operations Lieutenant and request redaction of the video prior to distribution to any outside parties. B. The officer shall document the request in written memo format to the shift supervisor. It should contain the nature description of the information captured and the request for redaction. The supervisor shall submit the written memo to the Chief of Police and the Operations Lieutenant. The Chief of Police will authorize redaction if determined necessary.
<p><i>Recording Restrictions</i></p>	<ul style="list-style-type: none"> A. Improper Recording - Officers shall not use BWCs to record in violation of this Policy or any rule of the Middleborough Police Department, including: <ul style="list-style-type: none"> 1. During breaks, meal periods, or time periods when an officer is not responding to a call, or when not in service; 2. Any personal conversation of or between other department employees without the recorded employees' knowledge; 3. Non-work-related personal activity, especially in places where a reasonable expectation of privacy exists, such as locker rooms, dressing rooms, or restrooms; 4. Investigative briefings; 5. Dispatching duties; 6. Encounters with undercover officers or confidential informants; 7. Assignment in investigations and/or investigative partnerships with other law enforcement organizations or task forces; 8. Departmental meetings, workgroups, in-service training, court assignment, or assignment of duty that is administrative in nature. B. If an officer inadvertently records as listed above, the officer shall follow the procedure in the "<i>Request to Redact</i>" section (above) of this policy.
<p><i>Improper Use of BWC Footage</i></p>	<ul style="list-style-type: none"> A. Officers shall use BWC data, images, video recordings, audio recordings or metadata only for legitimate law enforcement reasons. They shall not use data, images, video recordings, audio recordings, or metadata for personal reasons or non-law enforcement reasons. B. Department personnel shall not use BWC data, images, video recordings, audio recordings, or metadata to ridicule or embarrass any employee or person. C. Department personnel shall not disseminate BWC data, images, video recordings, audio recordings, or metadata unless the Chief of Police or the Administrative Lieutenant approve the dissemination and the individual department member designated to disseminate in the course of their official duty. An officer may disseminate images and or video recordings that are related to an ongoing search for a suspect to other officers in the course of duty. D. Department personnel shall not copy or otherwise reproduce any BWC recording/footage (including using a camera, phone, personal computing device, or by any other electronic or physical means). E. Supervisors (Sergeants, Lieutenants, Chief of Police) shall not randomly review BWC footage.

Supervisor Responsibilities	All shift supervisors assigned to oversee officers utilizing department-issued BWCs shall: <ul style="list-style-type: none"> • Ensure officers are utilizing their BWC consistent with this policy. • Contact the Operations Lieutenant whenever any officer is unable to use the BWC or upload digitally recorded data due to technical problems. • Request replacement BWC equipment from the Operations Lieutenant when an officer indicates the equipment is lost or malfunctioning. Once procured by the Operations Lieutenant, ensure new equipment is received by requesting officer. • Forward appropriate reports to the Chief of Police or designee via the chain of command.
Internal Access/Review	<p>A. Officer access to their own footage (not related to Officer-involved death, Officer-involved shooting, or Use of Deadly Force) - Officer may review their own BWC recording when they are:</p> <ol style="list-style-type: none"> 1. Involved in an incident, for the purposes of completing an investigation and preparing official reports. To help ensure accuracy and consistency, officers should review the BWC recording prior to preparing reports. 2. Preparing for court. Officers should advise the prosecuting attorney that they reviewed the BWC recording; and 3. Providing a statement pursuant to an internal investigation or other critical incidents. At the officer's request, the officer's attorney and/or Union Representative may be present when the officer views the video. 4. If an officer requests access to footage be made available for a time frame longer than the retention schedule allows, a request to extend retention may be requested in writing and sent to the Chief of Police via the chain of command. 5. If an officer needs a physical copy of their footage, a request shall be made in writing to the Operations Lieutenant. 6. To ensure the BWC system is working correctly. 7. To review/critique their own performance. 8. Officers may allow fellow officers to view their footage for report writing purposes. <p>B. Officer access to footage following an Officer-involved death, Officer-involved shooting, or Use of Deadly Force:</p> <ol style="list-style-type: none"> 1. Following an officer-involved death, officer-involved shooting or other Use of Deadly Force, officers and supervisors at the scene of the incident shall not view any video. 2. The on-scene incident commander shall be permitted to view the BWC video and relay necessary information if exigent circumstances exist and it is necessary to view the video to: <ul style="list-style-type: none"> • identify suspect information or • gather pertinent information that is necessary to protect life or safety prior to investigators arrival on scene. 3. At a time determined by the supervisor in charge of the investigation, officers who: <ul style="list-style-type: none"> • were involved in the incident, • discharged their weapon, and/or • witnessed the incident

	<p>may view their own video before giving a statement. At the officer's request, the officer's attorney and/or Union Representative may be present when the officer views the video.</p> <p>4. BWC video footage is a tool that may aid officers in providing an accurate and complete account of the incident. BWC footage should not replace an officer's memory of the incident and the officer should base their statement on their memory, not solely on the video.</p>
Officer Access to Footage	<p>A. Officers who need to review video or audio footage from another officer shall make the request in writing and submit it to the Operations Lieutenant describing why they need to review the footage.</p> <p>B. The Chief of Police shall approve or deny requests. With approval, the Operations Lieutenant will provide access to the video and audio footage to the requesting officer. If providing another officer's video or audio, the Operations Lieutenant shall notify the officer whose BWC footage is requested and inform them that the video is being shared and with whom it is being shared with.</p>
Supervisor Access to Footage	<p>A. Any supervisor within the officer's chain of command may review footage consistent with the "Internal Access/Review" section of this policy. A supervisor outside the chain of command shall only be allowed to review footage with permission of the Chief of Police.</p> <p>B. Supervisors may review BWC data, images, video recordings, audio recording, or metadata, consistent with this Policy, to assist them in completing Use of Force reviews.</p>
Audit and Review Access to Footage	<p>A quarterly audit and review of all access shall be conducted by the Administrative Lieutenant to determine if there was any unauthorized access to officer video and why such access was performed. The results of the audit and review will be made available to all department personnel.</p>
Look Back and Unrecorded Functions	<p>Any Unrecorded and/or Look Back functions of BWCs of the Middleborough Police Department may only be used in the event of the death or serious bodily injury of an individual.</p> <ul style="list-style-type: none"> • Any examination or retrieval of Unrecorded or Look Back data and imaging captured on a Middleborough Police Department BWC may be made by the Chief of Police or his/her designee. • Access and use of the Look Back data will be limited to the specific event that initiated the Look Back process. • Any access of the unrecorded data or video or use of the Lookback feature of a BWC must be documented verbally and in writing as soon as possible to the Chief of Police via the chain of command.
Live Stream Function	<p>No Live Feed feature exists on BWCs of the Middleborough Police Department as of the dissemination of this Policy.</p>
External Access	<p>Prosecutorial Access:</p> <p>A. Federal, state, and local prosecutors shall make requests for BWC footage directly to the Middleborough Police Prosecutor.</p>

	<ul style="list-style-type: none"> • In accordance with current practice, should an officer receive a subpoena for BWC footage, the officer shall direct the subpoena to the Middleborough Police Prosecutor. • The Middleborough Police Prosecutor shall provide a copy of the subpoena as soon as possible to the Operations Lieutenant for response. <p>B. Officers are not permitted to provide video to any external partners and shall forward requests made without a subpoena directly to the Operations Lieutenant.</p> <p>C. Upon receipt of the request, the Operations Lieutenant shall determine if the case has been assigned to a detective.</p> <ul style="list-style-type: none"> • If the case has a detective assigned, the Operations Lieutenant will advise the prosecutor to directly contact the detective supervisor for the related case. • The detective supervisor or their designee will contact and authorize the release of the video. <p>D. If no detective is assigned to the case, the Operations Lieutenant shall review the BWC footage and provide it directly to the prosecutor after approval.</p>
Public Information Request	The Operations Lieutenant or designee shall respond to public information requests submitted under M.G.L. Ch.66, sec. 10 in accordance with all applicable state laws and regulations.
Notification	<p>A. In cases where the officer has not received a subpoena or request for BWC footage directly, the Operations Lieutenant will inform officers when their videos and/or BWC information are released, unless prohibited by legal or investigative restrictions.</p> <p>B. When releasing BWC footage to the public that has been designated as part of an investigation, the officer and or detective shall be notified, unless prohibited by legal or investigative restrictions.</p>
Retention	<p>A. Camera Storage: BWC recordings and data are kept in a cloud-based storage platform supervised by the Operations Lieutenant.</p> <p>B. Video Footage Retention: The Department will retain BWC footage based on categorization, but may retain the footage longer on a case-by-case basis as determined by the Chief of Police or his/her designee. The footage retention schedule for <u>cloud-based footage access</u> is as follows:</p> <ol style="list-style-type: none"> 1. Schedule I- Indefinite Retention: <ul style="list-style-type: none"> • Death Investigation • Lethal/Less Lethal UOF • Sexual Assault/Abused Person • Arrest 2. Schedule II- 7-year Retention: <ul style="list-style-type: none"> • Use of Force • Felony- No Arrest 3. Schedule III- 3-year Retention: <ul style="list-style-type: none"> • Misdemeanor- No Arrest • Investigate Person

	<ul style="list-style-type: none"> • Investigate Premise • Significant Event- Public Safety • Traffic Stop • Encounter/FIO • Sick Assist • No Report- Dispatch/On site <p>4. Schedule IV- 180 Day Retention:</p> <ul style="list-style-type: none"> • Test/Training

EFFECTIVE DATE: 12/01/2021	This document, issued by the Chief of Police in accordance with Massachusetts General Laws Chapter 41, Section 97, is effective upon receipt and supersedes all previous documentation issued on the same subject. It shall be used in conjunction with all other existing orders, rules and regulations of the department as well as state and federal law.  Joseph M. Perkins Chief of Police Middleborough Police Department
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