

 MIDDLETON POLICE DEPARTMENT	DATE October 4, 2016	POLICY 6.1.09
	REVIEWED May 27, 2020	
SUBJECT: Body Worn Cameras		

Refer to: [15.01.06 Electronic Media Policy](#); [10.02.01 – Open Records Policy](#)
History: 2016, 02/2017, 04/2017, 05/2020
WILEAG (5th Ed.) Standards: 6.1.9.1, 6.1.9.2, 9.1.9.3

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PURPOSE

The purpose of this policy is to establish guidelines for the use, management, storage and retrieval of recordings from the department’s body worn camera (BWC) system.

BWCs will be used to support the mission of the department and assist department members in the performance of their duties by providing a recording of interactions between police members and the public.

POLICY

It is the policy of this department that officers shall activate the BWC when such use is appropriate for the proper performance of his or her official duties, where the recordings are

consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in undercover operations.

PROCEDURES

Administration:

This agency has adopted the use of the BWC to accomplish several objectives. The primary objectives are as follows:

1. BWCs allow for the documentation of police/public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
2. BWC recordings are not a replacement for written reports.
3. Audio and video recordings also enhance this agency's ability to review probable cause for arrest, officer/suspect interactions, evidence for investigative and prosecutorial purposes, and to provide additional information for officer evaluation and training.
4. BWCs encourage both officer and citizen accountability.
5. The BWC may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

When and How to Use the BWC:

1. Officers assigned a BWC shall activate the device to record all calls for service during which contact with a citizen is made or may be imminent. Activation of the BWC during telephone contacts may be beneficial, but is left to the discretion of the officer.
2. Officers are not required to obtain consent from private citizens to utilize the BWC in their presence. When initiating police action it is at the officer's discretion to advise individuals they are being recorded with the BWC, however, there may be situations where it is beneficial to notify citizens that they are being recorded on a BWC.
3. In locations where individuals have a reasonable expectation of privacy, such as a private residence, they may decline to be recorded unless the recording is being made pursuant to an arrest, individuals present are being confrontational, or a search of the residence or the individuals is being conducted. In cases where the requested termination of video recording is appropriate, the officer should indicate the reason on video why the recording is being stopped and also provide an explanation in their narrative report. If within range and in use, audio recording via the Arbitrator in car system should continue.

4. Employees have discretion in whether or not to record potentially sensitive events or circumstances (e.g., victims of a sexual assault, child victim statements / interviews, or where otherwise authorized in this policy).
5. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy.
6. If an officer does not activate the BWC, or does not record a call for service, the officer shall document in their narrative report why a recording was not made.
7. Employees shall make a verbal notation on the recording anytime he or she plans to intentionally mute or stop a recording prior to the completion of an event or incident. The verbal notation must include the reason why the employee is stopping the recording. If on scene circumstances make a verbal notation impractical, this same information shall be dictated in the employee's narrative incident report.

Officers will be provided discretion in stopping a BWC recording in the following situations:

- a. A Middleton Police Department closed circuit television video is capturing the interaction with a subject (i.e. Middleton Police Department Processing Center) and the subject is being cooperative.
- b. During a prolonged transport where the prisoner is being cooperative and the in-car video system is activated.
- c. In a hospital setting during an extended event where, based on the non-communicative, unresponsive or unconscious condition of the patient, the BWC recording would not produce any video recording which would be of an evidentiary value.

Even if the above exceptions apply, officers should use good judgement in determining whether a BWC should be deactivated during an event and no department employee will be disciplined for producing a BWC recording if they deem a BWC recording is necessary.

8. The Middleton Police Department recognizes that there may be certain circumstances where an officer becomes involved in a situation requiring immediate action to prevent injury, make an arrest, prevent escape or the destruction of evidence. If the immediate activation of the BWC is not reasonable due to an imminent risk of safety to the officer or others, the officer shall activate the BWC as soon as practical. This provision is also intended to apply to the BWC use by School Resource Officers.
9. Civilians shall not be allowed to review the recordings at the scene.

Use of BWC by School Resource Officers:

The school setting provides a unique environment where Middleton Police School Resource Officers have daily contact with individuals who are considered juveniles and situations which are specific to the school environment. Many of these contacts are not a typical call for service as experienced by other members of the Middleton Police Department who are assigned to a patrol assignment; therefore SRO's are not required to activate their BWC's in these informal interactions. Based on the distinct environment within a school setting, officers assigned as School Resource Officers may use their BWC cameras or other recording devices to record audio/video in the performance of their SRO duties on school property under the following circumstances:

1. At events which are open to the public.
2. In public areas such as parking lots or athletic fields.
3. While in the SRO office area or other areas of the school during the course of an investigation which may involve criminal activity.
4. At the request of Middleton-Cross Plains Area School District staff.

Officers assigned as School Resource Officers, shall use their BWC cameras or other recording devices to record audio/video in the performance of their SRO duties on school property under the following circumstances:

1. During the custodial interviewing of suspects.
2. When making physical arrests.
3. During the investigation of active disturbances.
4. During all critical incidents or emergency situations.

Procedures for BWC Use:

1. BWC equipment is issued primarily to patrol personnel as authorized by this agency. Officers who are assigned BWC equipment must use the equipment unless otherwise authorized by supervisory personnel.
2. Barring unforeseen circumstances, BWCs shall be worn in a forward facing position affixed to the outermost layer of clothing and in such a position as to gather the best possible images of the officer's interactions with the public.
3. Police personnel shall use only BWCs issued by this department. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the agency. Barring a legitimate law enforcement purpose, BWCs should remain at the department when the officer is not on duty.

4. Police personnel who are assigned BWCs must complete an agency approved and/or provided training program to ensure proper use and operations. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.
5. The BWC units 30 second cached video only pre-record feature will be operational at all times.
6. BWC are to be used in conjunction with, and not in replacement of in-car camera systems.
7. BWC recordings will be triggered by activation of the squad car's emergency lights, gun lock or by pressing the record button on the unit.
8. BWC equipment is the responsibility of individual officers and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be procured.
9. Barring exigent circumstances, officers shall inspect and test the BWC prior to each shift in order to verify proper functioning and shall notify their supervisor of any problems.
10. Officers shall not edit, alter, erase, duplicate, copy, share, upload or otherwise distribute in any manner BWC recordings.
11. In the event of an unintended personal/sensitive recording, a request to lock the video must be submitted in writing and approved by the Chief of Police or his or her designee. Sensitive footage approved as such by the Chief shall be placed in a locked electronic file until its normally scheduled retention period has expired or until it is deemed the video has no evidentiary value and at which time it can be deleted by the Chief of Police or his/her designee. All requests and final decisions shall be kept on file.
12. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.

Restrictions on Using the BWC:

BWCs shall be used only in conjunction with official law enforcement duties. The BWC shall not generally be used to record:

1. Communications with other police personnel, not directly related to an active call for service, without the permission of the Chief of Police or his or her designee.
2. Encounters with undercover officers.
3. When on break or otherwise engaged in personal activities.

4. During a Strip or Body Cavity Search performed under the guidelines of Department Policy [1.7.07 – Strip Searches](#).
5. In any location where individuals have a reasonable expectation of privacy, such as dressing rooms, locker rooms and restrooms (Wis. Stat. § 175.22). Any purposeful or accidental recordings made under these circumstances may be electronically locked prior to the standard 120 day retention period at the direction of the Chief of Police or his/her designee. Any staff inadvertently captured in a video of this nature should be notified of the recording and its destruction.

Limitations of BWC Video:

BWCs can provide an additional perspective on police actions and encounters, but have limitations that need to be considered when evaluating the images they record. BWC recordings need to be weighed and tested against witness testimony, forensics, officer's statements and other elements of a fair, thorough and impartial investigation that takes human error into consideration. These concerns include but are not limited to:

1. BWC may only record a portion of an incident.
2. BWC videos are bereft of context of the event.
3. BWC video is a two dimensional representation from a particular perspective and tends to distort distance.
4. BWC video does not record light levels as the human eye sees them.
5. BWCs do not record the reactionary process of officer's recognition, decision making and physical activation.

Storage:

1. Unless otherwise approved by a supervisor, all files shall be securely downloaded periodically. Upon completion of each duty shift, officers shall place their BWC in the docking station to download all videos and to charge the unit. Each file shall contain information related to the date, BWC identifier, assigned officer, incident number and proper classification.
2. BWC units not downloaded, and not in direct use, shall not leave the facility.
3. All images and sounds recorded by the BWC are the exclusive property of this department. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.
4. All access to BWC files must be specifically authorized by the Chief of Police or his or her designee, and all access may be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.

5. Files should be securely stored in accordance with the open records laws and no longer than useful for purposes of training or for use in an investigation or prosecution.

Supervisory Responsibilities:

1. Supervisory personnel shall ensure that officers equipped with BWC devices utilize them in accordance with policy and procedures defined herein.
2. At least on a quarterly basis, supervisors will review BWC recordings to monitor officers' performance of duties. During these reviews, supervisors will ensure that the equipment is operating properly and that officers are using the devices appropriately and in accordance with this policy.
3. Every attempt shall be made not to record compelled public safety statements taken from officers directly involved in critical incidents.

Video Classifying and Retention:

1. Arbitrator Operation procedures outlined in the Electronic Media (Policy 15.1.06) section "Panasonic Arbitrator 360 Mobile Digital Video System" shall be followed when downloading and classifying all BWC videos.
2. BWC videos shall be retained on a secure City of Middleton server. The retention period is by classification under the following time frames:
 - a) Call for Service with Arrest - 2 years
 - b) Call for Service General - 180 days
 - c) Traffic Stop or Citation Issuance - 180 days
 - d) Pursuit - 2 years
 - e) OWI & OWI Backup - 2 years
 - f) Recycle Bin - 120 days

Department Review and Training:

All recordings made with a BWC are the property of the Middleton Police Department. Although the department will not initially restrict the viewing of BWC video files, the Chief of Police reserves the right to restrict their viewing in officer involved sensitive or criminal investigations. This does not restrict the viewing of BWC video files by officers directly involved in critical incidents as defined by departmental policy.

Recordings may be reviewed:

1. By Police Department employees, and authorized City of Middleton Information System employees, to ensure a BWC system is working properly.
2. By Officers viewing only their own recordings to assist with writing a report, citation, memorandum, for court case preparation or in defense of accusations or complaints.

3. By Officers or employees authorized by a supervisor for other legitimate law enforcement purposes.
4. By a supervisor to investigate a specific act or allegation by another employee or by a member of the public. While recorded data shall not generally be viewed by supervisory members for the sole purpose of enforcing policy violations, the Chief of Police or his or her designee may order periodic inspections of recordings.
5. By authorized department personnel participating in an official investigation, such as a citizen complaint, administrative inquiry or criminal investigation.
6. With the consent of involved officers, BWC recordings may be used for the purposes of training. BWC recordings will never be used with the intent of belittling, ridiculing or embarrassing any member of the department.
7. During the course of internal investigations and/or disciplinary matters.
8. By Officers directly involved in critical incidents.

Data Privacy, Retention of Recordings and Records Requests:

1. All digital media that is captured with a BWC is the property of and will be retained by the Middleton Police Department following the retention schedule outlined in the [Electronic Media Policy \(15.1.06, page 10\)](#). Captured video may be retained for longer periods in the event the video is the subject of a litigation hold, a criminal case, part of discovery, etc.
2. Unauthorized accessing, copying, or releasing captured video without the approval of the Chief of Police or his/her designee is strictly prohibited. Employees are prohibited from making copies of a BWC audio/video recording by using another recording device such as a cell phone.
3. Employees will not allow citizens to review video captured by a BWC unless there is an investigative reason to do so and such viewing has been approved by a supervisor. Upon inquiry, employees shall advise citizens that they may request a copy of the recording through the public records process.
4. The release of video requested through a public records request will be handled in accordance with existing policy and public Open Records Law. See Middleton Police Department Policy – [10.2.01 - Open Records](#) for additional information.
5. All BWC video captured by an officer assigned as a School Resource Officer is considered a record of the Middleton Police Department and shall not be released or retained by the Middleton-Cross Plains Area School District. Prior to the release of a BWC video as required under the provisions of the Open Records law, which was recorded by a School Resource Officer, a representative of the Middleton-Cross Plains Area School District should be notified of the pending video release.

6. Prior to the release of any BWC recording to the public, the Department will ensure that proper redactions have been made in accordance with state law.