

Transcript: Body-Worn Camera Programs— Prosecution Perspective

Damon Mosler, San Diego County District Attorney's Office: With the advent of body-worn camera evidence, prosecution agencies are going to be dealing with a different form of evidence than they've had to deal with before. We decided to implement a policy in our office to establish what types of videos we are going to receive, when we're going to provide discovery of those videos, and what, if anything, needs to be redacted from those videos prior to turning those over to the defense bar. One of the biggest challenges we had was to tell our prosecutors what needed to be redacted for them to be able to view the videos and then make those decisions, and do so in a uniform approach.

The unanticipated aspects of the policy are that it's evolving. There are things about the cameras and the evidence that we have yet to discover, but we are working on that and evaluating it constantly. At the onset of receiving body camera evidence, our agency engaged in instruction of the deputy district attorneys and staff on how to access, view, and redact the various videos, and to provide them in a timely fashion for discovery. Thereafter, we engaged our city attorney partner in developing common policies in terms of receipt of the videos from our law enforcement partners. Afterwards, we met with representatives of the public defender's office and the private defense bar to explain to them what the videos were and to demystify how they would be getting them and how they could be used. In addition—in addition, we invited them to engage us in dialogue about how to improve the access to these videos. Finally, we consulted with our local courts to explain to them what was coming their way by way of evidence in court, and to talk to them about possible methods to prevent public disclosure of the videos prior to trials.

Most prosecution agencies are going to be having law enforcement partners—multiple law enforcement partners that submit body-worn evidence. As a result of that, you're going to be encountering agencies that have different vendors, so that you can't dictate which vendors they use. I recommend that people talk to their agencies to make sure that the agency understands how to get the videos to the prosecution agency in a timely fashion. Once the prosecution agency receives the video evidence, there are challenges when you have different vendors of the proper software to redact the videos, and that is something that we are in the process of working on with our law enforcement partners to find the best mechanism to do so.

Before any law enforcement agency starts to deploy their body-worn cameras, they need to consult with their prosecution agencies, whether it be a city attorney or district attorney's office, to talk with them about how the videos are going to be brought to the—to the prosecution agency, whether it be by way of a cloud delivery service or discs. In addition—in addition, they need to talk with their agencies, the law enforcement partners, with how they are going to store the videos and who's going to be responsible for the cost of storing the videos on open cases. Finally, they need to consult with the prosecution agencies with respect to the transcription costs and responsibilities for cases that go to trial.

The other thing I would advise law enforcement agencies is that as you develop your policies, you need to reevaluate them periodically as you deploy the cameras, because things will change for you as you deploy them. You will see things that you did not understand before. The law enforcement partners and the prosecution side will offer suggestions as to how to adjust your policies. And I would urge law enforcement agencies to post the policies in a public setting so the public has a chance to view and understand what the policies are.

Most important advice I can give to a law enforcement agency considering implementing a body-worn camera program is to consult with both their civil attorneys and the prosecution partners in order to establish a policy that makes sense for the agency and the actual receipt of evidence in court.