

Body- Worn Camera Training and Technical Assistance

Damon Mosler

Todd Maxwell: Hello, again, listeners. This is Todd Maxwell, a member of the Bureau of Justice Assistance Body-Worn Camera team. And today I'm speaking with Deputy District Attorney, Damon Mosler, who's also the Assistant Chief of Economic Crimes Division in the County of San Diego.

He began his career with the county district attorney's office in 1992 and has held positions such as Chief of Major Crimes Division, Chief of the Special Operations Division, and the Law Enforcement Liaison. Now as the Assistant Chief of the Economic Crimes Divisions, Damon helps prevent and prosecute financial crimes and enforces the law in partnership with law enforcement in the community.

These cases are against public officials, large corporations, and high tech criminal rings that are large, complex matters which requires the team effort of lawyers, paralegals, investigators, and clerical support. The teams within the division include consumer protection, complex theft, CATCH, environmental protection, public assistance, and real estate fraud.

Damon's also subject matter expert working with body-worn camera training and technical assistance program. He provides our department with assistance in working with their local district attorney's office when it comes to data sharing, storage protocols, and legality issues pertaining to their policies. Damon, first of all, thank you for speaking with me today.

Damon Mosler: You're welcome.

Todd Maxwell: As a prosecutor, how do you see your role with the body-worn cameras currently and in the future?

Damon Mosler: You know, it's something where we have to be involved to help shape consistent policy in our county and working with the various agencies. Since almost every county will have numerous agencies.

And then, we want to work with law enforcement proactively to help improve the evidence we value of the videos that come from the cameras. And training law enforcement to be able to get the best use out of them on the criminal prosecution side.

Todd Maxwell: In a county as big as San Diego, you must have multiple agencies providing you video. Can you briefly explain that process, and how you plan to get video from these different agencies and the different vendors?

Damon Mosler: Yes, in our country, a majority of the law enforcement agencies have the same vendor, and they have a cloud service, which makes it easier for us. So they're able to share the videos to us via the cloud, and we're able to access them. And in turn, besides storing them there ourselves, we're able to provide them in discovery via the same mechanism.

So we're not in the business of burning DVDs or CDs for the defense attorneys. In terms of other agencies within our county, and there are some that do not have the same platform, we just have to make sure that they have a mechanism for compatible videos for us, the same format.

And the way to do that is to show them our workflow and make sure they understand before they deploy cameras or other technology how it's going to interface with the end user, the prosecution side of the equation. And towards that end, by having group meetings, we help do that and get people to at least have consistent platform for us if not the same platform.

Todd Maxwell: So as a new agency, has every agency in your county implemented, or are there still a few that are law enforcement agencies looking to implement?

Damon Mosler: There are still some that are looking to implement. We are probably at 70 percent right now, and that's with people in the process or piloting a process. The rest will be sometime next year in 2017. We expect the videos to be county wide at that point, and they will not all be on the same platform, that is for sure.

But the agencies know what they have to do to get it to us in a manner we can function with it and not be in the business of burning discs because of their decision to deploy cameras.

Todd Maxwell: So they have reached out proactively to discuss the process with you before implementing?

Damon Mosler: Yes, that was not the case with the first few early deployers. But since then, we've made a point of making sure everyone knows that they need to communicate with us and work with them. So that way, we don't inconvenience them by having a system in place that they can't function in terms of getting us the videos.

Todd Maxwell: Great, thank you. I know it's a big topic for a lot of agencies and county wide prosecutors as their law enforcement agencies go to implement. A lot of discussion in the media today has been around releasing video to the media and/or public when a tragic shooting occurs.

I know they – in San Diego, the P.D. (share up in) the DA's office work on a policy around this. Can you just discuss briefly that process a bit? And the thoughts from your perspective that went into it?

Damon Mosler: Yes, Todd, it was – I would say it was evolutionary in terms of how we approached it. One of the agencies indicated that they thought that would be a good idea. But they needed buy in, so everybody met, representatives from the various agencies and the different people in the criminal justice system.

Such as the U.S. Attorney's Office, the city attorney's office, and ourselves and the civil liability attorneys formatted a process that was acceptable to everybody. Then we went out in the community and explained what we were thinking about, received input. Not everybody was going to be happy with what we were going to do.

They wanted more immediate release, and more quantity of the video. But we've come up with a policy where we will show the video up to the point of the shooting, we will tile the faces of the officers and the people who were involved in the shooting in one way or another, and that will happen after an

evaluation has occurred to see whether there will be a prosecution related to the shooting.

Todd Maxwell: Great, thank you. Another hot topic in body-worn cameras right now is an officer's ability to view a video prior to writing a report, especially in use of case forces – or use of force cases, excuse me. What are you department's thoughts on this from a legal standpoint?

Damon Mosler: We look at the videos as – they're evidence for us to evaluate what occurred. And if an officer writes a report, it's a shortcut for us to understand what's on the video or what occurred on the field. Anything that that officer can do to make that report accurate, which will help us make decisions in terms of case filing, is important.

So we would encourage officers if they have the opportunity or need to view it while writing reports that that would be important. With respect to the use of force and the timeline for viewing on that, ultimately our position is it's up to the officer and their associated attorney to decide what is best for them.

Whether it be to discuss the facts of the case and give an interview and then look at the video and modify their interview, or not. But the reality is that the videos themselves help us understand what occurred. And they're not there to catch the officers off-guard. So we have no problem with the officers viewing them before giving us information in a report.

Todd Maxwell: Great. How equipped are the courts to handle the video that's come in from law enforcement? And do you think it will be any different from the videos that have been in the court for awhile from in-car video?

Damon Mosler: The biggest difference is going to be the volume of videos. We are, in our court system here in the county of San Diego, we are having to introduce them via disc because we need an appellate record. So we really can't use it through the higher technology of the cloud.

What we're seeing is a greater volume. We're seeing some conversations with our bench in terms of the best way to get the videos into court with

transcripts or not having transcripts. And that's an ongoing dialogue that we're having with our bench.

In fact, we just met with some of them last week to discuss the opportunity to introduce videos without having to transcribe them in order to have the fact finder decide from the video what occurred when we have a trial.

Todd Maxwell: There was a recent publication discussed how juries expect to see video evidence for all crimes now, and how it can affect their processing of the facts. Has your agency experienced any of these effects during the trial?

Damon Mosler: Yes, people want the videos, and I think what we're seeing more from the prosecution side is when we're doing our initial opening statements or argument or even (in vauder) of the jury is try to explain that most of the time the video is not going to have the aha moment because the policing's reactive.

So we're not going to see a crime on the video, but we have to let the jury that that's the case and not to think something's missing from the case. And that's going to be something that we're going to be involved in terms of presenting the case, but we're working on that with training to demystify.

As a prosecutor, I'm always going to want to show some video if possible because I know jurors want it. The problem is a lot of the video's just not going to be of evidentiary value and judges may not permit us to play the video if there's really nothing on that would help the case.

Todd Maxwell: Right. So have you seen people request it – jury's request it even though you haven't shown it? Or request for more? Ask if there was video if there wasn't any present?

Damon Mosler: Yes, we have. We definitely have seen that. But we've seen that even enough since the CSI effect, we've seen that with other technology or evidence that people see on T.V., they expect to see up there. And that's something that we've had to address for some time. Even in our case presentations.

Todd Maxwell: Right, OK, thank you. So, as a prosecutor, what resources are needed around BWCs that not only agencies should be thinking about, but their partners should be thinking about also?

Damon Mosler: Initially the videos were designed and they were coming in for law enforcement, more for civil liability. And so we once consulted – we were having to react to an essence an increased workflow, and our goal has been to try and minimize the adverse effect of the videos on us in terms of just the volume of processing.

And I think in time, that that's kind of occurred. I think we will see it in some point in time, but it's hard to identify exactly when we'll see higher percentage of case resolution which will free up resources to perhaps process the videos in a more effective way. Because if we are going to be playing the videos it takes time.

We have to prepare a transcript, we have to view it, we have to make redactions potentially, and those are all time consuming events that we haven't had to deal with before. And that's where we're going to be assessing as we move along, but we don't have additional resources.

So we're going to have to in essence work a little smarter with the videos and figure out a way to present them without incurring additional costs.

Todd Maxwell: Do you think a smarter technology in the way video's processed and redacted would help prosecution in this effort?

Damon Mosler: Yes, I definitely see that. I think that what I've noticed in speaking not only to our major vendors here but to other vendors is that the cameras were designed for officer accountability. There wasn't an understanding of the end product of what occurs in court with the criminal justice system.

And I think the vendors and the law enforcement agencies are starting to understand the end impact and are starting to understand the end impact and are adapting and modifying it to help us with that. Because it's been very difficult across the country for prosecutors to process all this information in a way that actually makes sense.

Todd Maxwell: And just as a follow up since you work in the court systems also. What resources are you seeing that the court's need – or is there any that they need around these videos?

Damon Mosler: I don't think it really impacts the actual trial court that much. It's still going to be the prosecutor or the defense attorney or both having to prepare the videos in a fashion that works.

There may be a little bit of an aspect just in terms of higher level of understanding for the courts to see what occurs, but otherwise, I think it's just like any other piece of evidence. They're going to either allow or not. And sometimes they won't because they think it's too voluminous and not that relevant.

Todd Maxwell: So for having a Wi-Fi and being able to show the videos off the web isn't an important aspect because you prosecutors want to introduce the evidence on a disc of some sort.

Damon Mosler: For the appellate record, for the further potential review of the case, there has to be something that's physically introduced. And we're not in that position with the courts at this point in time where they can permanently store things there, but that will be the case in the future.

But no, it's not the case now. So we don't really need to worry about that aspect of the technology, the Wi-Fi or other accessibility remotely from court.

Todd Maxwell: Well, thank you, Damon. I appreciate you speaking with us today and sharing your knowledge on this topic.

Damon Mosler: You're welcome.

Todd Maxwell: We encourage law enforcement – sorry?

Damon Mosler: I said, my pleasure.

Todd Maxwell: We encourage law enforcement, justice, public safety leaders whose agencies are interested in learning more about the implementation of body-worn

camera programs to visit the Body-Worn Camera Toolkit at www.bja.gov/bwc.

This toolkit offers a variety of resources that agencies can use to help with the adoption and use of community engagement, policy development, data collection, officer training, and educational purposes. We also encourage listeners to share and promote these resources with your colleagues and staff.

Lastly, all these resources, and especially the Body-Worn Toolkit, have been designed as a national resource, your resource. So please submit your new ideas for content through the BWC support link at the bottom of the home page. This is Todd Maxwell with the Bureau of Justice Assistance Body-Worn Camera Team signing off. And thank you for joining us today, listeners.

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