

Video Conferencing Technology in the Criminal Courtroom: A Review of Scholarly Literature, National Policies and Guidance, and Popular Media Coverage

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Articles and Reports

	Title	Author	Type	Year	Summary	Link
1.	Virtual Justice? A National Study Analyzing the Transition to Remote Criminal Court	Taylor Benninger et. al.	Article by Stanford Criminal Justice Center	2021	Researchers conducted a quantitative study of defense attorneys and qualitative study of judges, court administrators, defense attorneys, and prosecutors in three jurisdictions. They conclude that practitioners, policymakers, and judges must take a cautious approach to the continued use of video.	Access here .
2.	Virtual Guilty Pleas	Jenia I. Turner	Article in University of Pennsylvania Journal of Constitutional Law	2021	Direct observations of remote criminal proceedings in misdemeanor and felony courts suggest that guilty pleas in virtual settings are just as superficial as in-person and may fail to detect inaccurate or coercive guilty pleas. Recommends plea hearings resume in-person after the pandemic ends.	Access here .

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3.	Adoption of Virtual Services in Judicially Led Diversion Programs: Preliminary Survey Findings	Tara Kunkel et. al.	Report from Rulo Strategies	2021	Mixed results from preliminary findings of surveys taken by court system actors and treatment providers of judicially led diversion programs. There is less support for virtual treatment and supervision than virtual court appearances.	Access here .
4.	Virtual Court Proceedings in North Carolina: Adapting to a Global Pandemic	Sarah E. Duhart Clarke & Jessica Smith	Report from UNC Criminal Justice Innovation Lab	2021	Review of survey findings from court actors in North Carolina asked to identify benefits, concerns, and suggested best practices for the use of virtual criminal court proceedings.	Access here .
5.	Nonverbal Overload: A Theoretical Argument for the Causes of Zoom Fatigue	Jeremy N. Bailenson	Article in Technology, Mind, and Behavior Journal	2021	Academic theory about “Zoom Fatigue” and its potential cause, exploring how various aspects of the current Zoom interface likely lead to psychological consequences.	Access here .
6.	The Impact of Video Proceedings on Fairness and Access to Justice in Court	Alicia Bannon & Janna Adelstein	Report from the Brennan Center for Justice	2020	Remote technology raises critical questions about litigants' rights and access to justice and what courts/others can do to mitigate harm. Existing research suggests caution as well as the need for more research.	Access here .
7.	Remote Criminal Justice	Jenia I. Turner	Article in Texas Tech Law Review	2020	Survey responses suggest that, on the whole, online proceedings can save time and resources for participants in criminal cases and can provide broader access to the courts for the public. Respondents also noted dangers, particularly in contested or evidentiary hearings or trials.	Access here .

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8.	How Video Changes the Conversation: Social Science Research on Communication Over Video and Implications for the Criminal Courtroom	Lisa Bailey Vavonese et al.	Report from the Center for Court Innovation	2020	There is very little empirical research on the use and impact of video in courtroom. A scan of the social science research shows that communicating over video can alter an interaction. Given the high stakes of the criminal courtroom, policy makers and system actors must be hypervigilant when making decisions about video's continued use following COVID-19, particularly when an individual's liberty is at risk.	Access here .
9.	Court Appearances in Criminal Proceedings Through Telepresence	Camille Gourdet et al.	Report from NIJ's Priority Criminal Justice Needs Initiative	2020	Findings from 12-member panel workgroup convened in November 2018. Advantages of telepresence include efficiency and reduced trauma for victims, and potential disadvantages include negative impacts for the defendant on outcomes and the attorney-client relationship, and infringement of constitutional rights. More research is needed to assess the findings as well as best practices for setup of technology, data security, and training.	Access here .
10.	Charm City Televised & Dehumanized: How CCTV Bail Reviews Violate Due Process	Edie Fortuna Cimino et al.	Article in University of Baltimore Law Forum	2014	Examination of the use of video for bail hearings in Baltimore City, MD. Author contends that defendants have a constitutional right to be present at bail hearings (6 th Amendment right to counsel) and that a defendant's absence is a violation of a defendant's right to confrontation.	Access here .

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11.	Private Attorney- Client Communications and the Effect of Videoconferencing in the Courtroom	Eric T. Bellone	Article in Journal of Int'l Commercial Law and Technology	2013	Discussion on the impact of video on private attorney-client communications. Focused on instances where the attorney is in the courtroom and the defendant appears remotely. The author highlights concern with the effect on trust between attorney and client and defendants' confidence in their attorney.	Access here .
12.	Efficiency and Cost: The Impact of Videoconferenced Hearings on Bail Decisions	Shari Seidman Diamond et al.	Article in Journal of Criminal Law and Criminology	2010	Researchers examined the pattern of bail decisions in Cook County, IL for eight years prior to video and eight years following, and found a sharp increase in the average amount of bail set with video and no change in the amount set in-person.	Access here .

Resolutions from National Associations

	Title	Author	Type	Year	Summary	Link
1.	Conference of Chief Justices (CCJ)/ Conference of State Court Administrators (COSCA) Resolution 2	Adopted as proposed by the CCJ/COSCA Access and Fairness Committee and the CCJ/COSCA Public Engagement, Trust, and Confidence	Resolution	2021	Resolved that CCJ/COSCA urges courts to adopt remote-first or remote-friendly approaches when moving court processes forward. In support of Guiding Principles for Post-Pandemic Court Technology.	Access here .

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		Committee on 07/28/2021				
2.	Guiding Principles for Post-Pandemic Court Technology	National Center for State Courts	Resource	2020	Recommendation from CCJ/COSCA that state courts consider six key principles as they embrace technology.	Access here .
3.	National Association for Public Defense Statement on the Issues with the Use of Virtual Court Technology	Derwyn Bunton, Chair, NAPD Steering Committee	Statement	2020	Statement paper from NAPD regarding the use of virtual court technology in court that covers: (1) guiding values; (2) constitutional considerations in virtual court; (3) minimum requirements for the implementation of virtual court; and (4) special considerations for public defenders.	Access here .
4.	American Bar Association (ABA)	Annual Meeting 2020, House of Delegates	Resolution	2020	Resolved that the ABA urges a measured approach to video during COVID 19, reintroduce in-person court options as soon as safely feasible, and study the impacts and take steps to halt, alter, or review if studies suggest prejudicial effect or disparate impact.	Access here .

Toolkits and Practice Guides

	Title	Author	Type	Year	Summary	Link
1.	Remote Hearing Toolkit	United Nations Institute for Training and Research	Resource	2020	An interactive toolkit to help stakeholders to conduct a thorough decision-making and planning process before adopting the use of video or audio conferencing for court hearings when in-person is not feasible. Including whether and how to use technology.	Access here .

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2.	SRL One Page Remote Hearings Sample Instructions	National Center for State Courts	Resource	2020	Instructions for the self-represented litigant on how to prepare and present at virtual court proceedings.	Access here .
3.	Is Virtual Justice Really Justice?	Incarcerations Nations Network	Resource	2020	A guide for practitioners and advocates on the use of remote court technology during the COVID-19 global pandemic.	Access here .

Popular Media Coverage & Public Opinion

	Title	Author	Type	Year	Summary	Link
1.	NCSC's 2021 State of the State Courts Survey	GBAO Strategies	Publication, National Center for State Courts	2021	Annual survey of registered voters. Similar to all public institutions, public confidence in courts has declined. A majority of respondents say they are willing to participate in a range of proceedings remotely and support continuation after the pandemic yet there are limits to the enthusiasm and attitudes are soft.	Access here .
2.	Virtual Courtrooms Prove to Be Both Curse and Blessing	Steven Lerner	Publication, Law 360	2021	Discusses advantages and disadvantages to virtual court proceedings.	Access here .
3.	Zoom Court Is Changing How Justice Is Served For Better, For Worse, and Possibly Forever	Eric Sigliano	Publication, The Atlantic	2021	Reviews how Zoom or other videoconferencing platforms have been used throughout the country in response to the pandemic, and concerns and benefits to the practice according to defense attorneys and judges.	Access here .
4.	The Perils of 'Zoom Justice'	Sarah Esther Lageson	Publication, Wired	2020	Examines the unintended consequences of "digital punishment" -- a phenomenon where the collection and release of digital criminal justice information creates permanent online	Access here .

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					stigmatization for people arrested and processed through courts.	
5.	Leveraging technology for long-term change in the face of COVID-19	Bridget Mary McCormack	Publication, The Hill	2020	Urges court system leaders to maintain technology changes made during the pandemic.	Access here .
6.	Judges are split on whether virtual hearings have reduced the number of no-shows	Anna-Leigh Firth	Publication, National Judicial College	2020	Of the 363 responses from Alumni, roughly half of the judges said court attendance improved with virtual court and the other half said it stayed the same or got worse.	Access here .
7.	How Do I Defend People Now?	Chrissy Madjar et al.	Publication, The Marshall Project	2020	Four public defenders recount their difficulties providing representation during the pandemic.	Access here .
8.	Virtual Criminal Justice May Make the System More Equitable	Lucy Lang	Publication, Wired	2020	Argues that courts should not return to “business as usual” following the pandemic and instead consider making innovative practices permanent.	Access here .

