

Supplemental Remote Proceedings Materials

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1

From: [Shawn Vandenberg](#)
To: [Tracy Christopher](#)
Subject: Action on Zoom Legislation
Date: Friday, June 17, 2022 11:29:03 AM

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Good day -

I would like to take this opportunity to state I am **STRONGLY** in favor of ZOOM hearings being allowed when both attorneys agree to its use or when a matter is uncontested and I would support any legislation that requires they be permitted in these types of matters. My office is 45 minutes (on a good day) from the four counties in which I routinely practice (Comal, Bexar, Guadalupe and Wilson). Having ZOOM hearings allows me to do other work when I am waiting in the ZOOM courtroom and the client whose matter is before the ZOOM Court doesn't have to pay for me to be sitting around in a physical courtroom. Furthermore, the 45 minute to one hour drive each way also saves the client money because without the drive time I would be working on other cases. I cannot see any reason why ZOOM courts would not be most beneficial for the above mentioned types of cases.

Regards,

Shawn E. Vandenberg
Attorney at Law

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From: [Jill Vereb](#)
To: [Tracy Christopher](#)
Subject: Attorneys for ZOOM
Date: Tuesday, June 14, 2022 11:15:53 PM

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I am 100% for Zoom hearings. I'm a family law attorney. It saves clients quite a lot of fees by not having to drive to the courthouse for ministerial motions, prove ups, discovery disputes, etc. Since disclosures now require more fees, not having to charge as much for court time is a big help to clients. Zoom hearings, trials, prove ups, etc, also save attorneys quite a lot of time out of the office.

Jill Renee Vereb
SBOT 24082007

Jill Vereb

From: [Robert Gaudet](#)
To: [Tracy Christopher](#)
Subject: Fw: Attorney Input Regarding Remote (ZOOM) Hearings Requested by the Texas Supreme Court's Remote Task Force
Date: Thursday, February 3, 2022 5:01:32 PM

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Hi,

I greatly prefer Zoom hearings. They are more efficient as stated below. They also allow us to more easily present documents by sharing the screen. In theory, they should make court proceedings more easily available to the public, as well, but this potential seems to be sabotaged by judges who don't want to make their hearings publicly available.

Certain judges do not make their remote hearings available to the public, and this is a problem. In one case before Judge Solis in the 243rd Judicial District Court, the last two hearings (one of which was in the past two weeks) were not shown on the Youtube channel where hearings are supposed to be shown to the public. Her coordinator asks counsel that, if anyone else wishes to use the ZOOM link, then counsel should let them know, which tends to discourage counsel from sharing the Zoom link with their clients for viewing. Also, these Zoom links are often sent on the same day as the hearing which creates anxiety and confusion about how to join since they could easily be sent a day or more in advance.

Yours,
Robert

Robert J. Gaudet, Jr.
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www.rjgaudet.com

From: El Paso Bar Association <info=elpasobar.com@cmail19.com> on behalf of El Paso Bar Association
<info@elpasobar.com>
Sent: Thursday, February 3, 2022 2:22 PM
To: Robert Gaudet <robert@rjgaudet.com>
Subject: Attorney Input Regarding Remote (ZOOM) Hearings Requested by the Texas Supreme Court's Remote Task Force

El Paso Bar Association



Attorney Input Regarding Remote (ZOOM) Hearings Requested by the Texas Supreme Court's Remote Task Force

At the January 27, 2022 State Bar Meeting our Board of Directors passed a resolution in favor of

continued remote proceedings after the protocols directly related to COVID expire. The Supreme Court's Remote Task Force would love your input. My resolution was aimed at giving attorneys, not only judges, a say in the future use of "ZOOM". I brought more than 20 attorneys to speak at the previous bar meeting and some of the reasons for continued use of ZOOM with attorney input were avoiding traffic, saving gas and time, parking, not having to bill for driving time and for attorneys with disabilities. Although the resolution did not say so specifically, it was meant for Remote Hearings without many witnesses etc.; for example, "Cattle Calls", where attorneys appear in person basically to say "Present" if you have suggestions I can pass them on to the committee or you can write Chair - Justice Tracy Christopher at Tracy.christopher@txcourts.gov

This is your chance to share your opinion.

Thank you,

Steve Fischer

break



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From: reneebeilue@gmail.com
To: [Tracy Christopher](#)
Subject: keep Zoom as an option
Date: Tuesday, June 14, 2022 9:54:18 PM

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I heard you were wanting to hear the opinion of
lawyers re: Zoom.

Please keep the option. It makes much more sense to appear by Zoom
rather than driving 30+ minutes and waiting 1 hour for a 15-minute hearing.
Easier on clients too.

I also like Zoom:

1. for probate hearings — much better for my older clients
who rarely drive to downtown; and
2. for DFPS hearings— often my clients don't have reliable transportation,
but they all have a cell phone and can appear by Zoom.

Thank you for your consideration.

Sent from my iPad

From: [Lisa Fancher](#)
To: [Tracy Christopher](#)
Subject: Let's please keep Zoom and encourage its use
Date: Friday, June 17, 2022 5:01:36 PM
Attachments: [image001.png](#)

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It has been a tremendous savings for my clients for me to be able to participate remotely in hearings, particularly those that are uncontested and non-evidentiary. The amount of time it takes for me to attend a Zoom hearing, as opposed to driving and parking and waiting for cases to be reached, is significantly less. I can also work on other matters while I am waiting to be reached, which isn't really possible while I am waiting in court. All of this translates into lower bills.

It is also very convenient for our clients to be able to attend the hearings virtually instead of spending hours waiting in court. This benefits both working people and parents who can't easily take time off to go to court, as well as busy business people, who can conduct business while they are waiting in their offices.

Please let me know if any other information is needed. I appreciate your consideration.

Lisa C. Fancher
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Fritz, Byrne, Head & Gilstrap
FBH&G

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STATUTORY PROBATE COURTS



STATE OF TEXAS

Guy Herman, Presiding Statutory Probate Judge

P.O. Box 1748, Austin, TX 78767
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Phone: (512) 854-9258
Fax: (512) 854-4418

March 21, 2022

Chief Justice Tracy Christopher
Fourteenth Court of Appeals

Re.: Remote Proceedings

I, as the presiding Statutory Probate Judge and on behalf of the unanimous consent of the 19 statutory probate court judges, write in support of permanent rules permitting remote proceedings by agreement of the parties and subject to the discretion of the judge. Having conducted proceedings remotely for the past two years, we know they are an effective tool in promoting judicial efficiency, access to justice¹, and can be a significant savings for parties. However, in some cases, they can also cause undue delays and “zoom fatigue” for judges², so judicial discretion is key to managing these proceedings.

Many uncontested hearings that come before the Probate Courts require fewer than 5 minutes before the judge. In larger counties³, parties and attorneys must navigate downtown, find and pay for parking, walk to the courthouse and wait through security lines in order to appear for these very brief hearings. It is easy to conclude that remote proceedings save the communities we serve time and money. In addition, attorneys can move from hearing to hearing around the state easily without having to travel, thus making their practices more efficient and cost-effective for their clients.

An unanticipated effect of remote proceedings is increased participation by parties in guardianships, mental health proceedings, and even show cause for compliance. Proposed wards in guardianships almost never appear in-person for their own hearing. However, we have seen marked increase participation via remote access by those whose capacity and rights are being determined. Surprisingly, even those who are cited to appear to show cause for noncompliance appear in greater numbers remotely giving the court the opportunity to help them get back into compliance or determine that a removal is necessary.

We realize the benefits of remote proceedings are not without their complications. Lack of access to technology and unfamiliarity or difficulties with technology can delay

¹ *The Impacts of the COVID-19 Pandemic on State & Local Courts Study 2021: A Look at Remote Hearings, Legal Technology, and Access to Justice*, Thompson Reuters Institute, 2021. The study found 77% of judges surveyed felt access to justice increased or stayed the same with virtual proceedings.

² *The Use of Remote Hearings in Texas State Courts: The Impact on Judicial Workload Final Report*, December 2020, the National Center for State Courts, Court Consulting Division, and the State Justice Institute.


³ Harris County Probate Court One reports having heard 5,595 uncontested hearings for the two year COVID period from March 2020 to February 2022.

March 21, 2022

hearings. Judges must also manage their remote systems and become troubleshooters for participants, which requires greater attention that can lead to judicial fatigue⁴. For these reasons, we believe judges must have final discretion to determine whether and how to proceed with a remote appearance or proceeding.

The continuation of remote proceedings benefits the courts and the public, and has become irretrievably intertwined in the modern administration of justice. It is our hope that new rules will be established quickly so that we may continue without interruption.

Sincerely,



Guy Herman
Presiding Statutory Probate Judge

⁴ *The Use of Remote Hearings in Texas State Courts: The Impact on Judicial Workload Final Report*, December 2020, the National Center for State Courts, Court Consulting Division, and the State Justice Institute.

From: [David Gibson](#)
To: [Tracy Christopher](#)
Subject: Online proceedings
Date: Thursday, March 4, 2021 8:30:08 AM

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Good morning,

I understand that the court has solicited opinions on continuing remote proceedings, i.e., online through Zoom or Courtcall.

I am a trial lawyer of 30 years experience and a former trial judge. I LOVE the online proceedings. They save lawyers a ton of travel and waiting time, which in turn saves clients many thousands of dollars. For example, I was on a hearing in Collin County last week for 3.5 hours. The hearing itself lasted about 15 minutes. Because I was online, I was able to work on other matters and was able to charge my client only for the 15 minutes I spent on his case, rather than the 3.5 hours I would have wasted sitting in a courtroom, not to mention the hour round trip drive.

The online hearings are also extremely helpful for out-of-town hearings. Instead of flying from Dallas to Houston for a 5-minute hearing, I can spend 5 minutes online, saving the client thousands of dollars and allowing me to invest the time saved on other clients in need of that time.

I, for one, strongly encourage the court to allow trial courts to continue remote hearing at their discretion.

Thank you and please do not hesitate to reach out with any questions.

--

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-----Original Message-----

From: Brett Pritchard <brett@bpattorney.com>

Sent: Thursday, February 25, 2021 3:01 PM

To: Tracy Christopher <Tracy.Christopher@txcourts.gov>

Subject: Zoom hearings

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Tracy—

I have the following two suggestions moving forward:

1. That attorneys have the right to request Zoom hearings for matters moving forward,
2. That once a Court approves Zoom hearings in a matter then the Court cannot subsequently require in-person hearings in the same matter, and
3. That a directory be set up where with one click, attorneys can access the zoom requirements and credentials of any Court in the Texas.

Please let me know your thoughts on these matters.

Sincerely,

Brett H. Pritchard

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From: [Atkinson, Tyler](#)
To: [Tracy Christopher](#)
Subject: Remote Court Proceedings
Date: Wednesday, March 3, 2021 3:12:30 PM
Attachments: [image004.png](#)

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Good Afternoon Justice Christopher,

I am attending TMCEC virtual "Judge School." One of the Judges mentioned that you are working on a recommendation for how courts will use technology to conduct remote proceedings moving forward as the pandemic restrictions become relaxed.

I wanted to let you know that remote proceedings have become an integral part of delivering justice services for the City of Denton Municipal Court. The defendants appearing before the court appreciate the convenience and time savings of not appearing in person. We have pivoted our personnel resources and technology toward remote and digital resolution of our cases.

I hope that Judges will be given the discretion to continue current remote processes unless a defendant objects and requests an in-person proceeding.

I am available to help if needed.

Thank you,

-Judge Atkinson

C. Tyler Atkinson

Presiding Judge
Denton Municipal Court
601 E. Hickory Street
Denton, Texas 76205
940.349.8139
Tyler.Atkinson@CityofDenton.com

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From: [Brett Duke](#)
To: [Tracy Christopher](#)
Subject: Remote hearings are favored
Date: Tuesday, February 8, 2022 1:31:46 PM

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Dear Justice Tracy Christopher:

For input regarding remote hearings, nearly all attorneys that I practice with prefer remote hearings and would like for them to continue beyond pandemic protocols.

Respectfully,

--

Brett Duke
Law Office of Brett Duke, P.C.
brettduke@brettduke.com
6350 Escondido Dr., Ste. A14
El Paso, TX 79912
915-875-0003

From: [Elaine Harris](#)
To: [Tracy Christopher](#)
Subject: Steve Fischer's Resolution
Date: Wednesday, June 15, 2022 7:01:35 PM

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Sir: I strongly support this. There is no point in requiring people to drive all over creation when that's not necessary.

SPUR LAW

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From: [Tom McCrory](#)
To: [Tracy Christopher](#)
Subject: Support Continuing hearings by zoom
Date: Thursday, March 4, 2021 12:47:22 PM

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I want to add my support for continuing the option of hearings via zoom or other remote access. Great timesaver for all involved as well as expense.

Thanks

Tom

Tom M. McCrory III
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message and delete the original message. Thank you

From: ellen.ellenwilliamsonlaw.com
To: [Tracy Christopher](#)
Subject: Support for continued Zoom hearings
Date: Tuesday, July 19, 2022 5:17:00 PM
Attachments: [Logo small2.png](#)

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Justice Christopher,

I'm a probate, guardianship, and estate planning attorney and writing to express my support for the indefinite continuation of Zoom hearings.

While some matters may be better addressed in person, virtual hearings have been a godsend for my practice. In fact, I have not had an in-person hearing since early April 2020 and can think of only a single matter in those 2+ years which would have been better shandled in person while dozens, even hundreds of matters, were efficiently addressed via Zoom.

Virtual hearings work well for uncontested probate matters and allow me as an attorney to save my clients time and money by not having to bill them for parking and time spent waiting at the courthouse for a 10-minute hearing. They enable clients, some of whom are not local and many of whom may have difficulty taking time off from work or caregiving responsibilities, to more easily attend hearings. Heirship matters, even uncontested ones, require the attendance of two disinterested witnesses—people who by definition get nothing out of attending yet before, had to take hours out of their day to go downtown for the hearing. Now, they can appear from their desk or the comfort of their home.

Virtual hearings also provide greater access to justice for alleged incapacitated persons who are hospitalized or in assisted living facilities and whose condition would make attendance at a live hearing difficult or impossible. In the past, many alleged incapacitated persons were not able to attend the prove-up hearing for guardianship due to mobility or other challenges. Now, even a bedridden person has the option to attend. Likewise, while it's unlikely that rural areas will see significant growth in their local attorney ranks, Zoom court enables those underserved populations in legal services deserts to access counsel across the state cost-efficiently.

I'm hopeful long-term that, if virtual hearings continue to remain an option, it may enable growing counties such as mine (Dallas) to more easily add additional associate judges to handle their dockets, as they might be able to designate such positions as exclusively virtual and thus save the cost of creating another physical office.

Zoom court may also enable the courts to offer "rocket dockets" and to fill cancellations on short notice, allowing them to better steward the valuable and limited public resource of Court time.

For most of my clients, the legal matter that brings them to my door represents their first and only experience with the legal system, and it comes at a difficult and stressful time in their life

as they deal with the death or incapacity of a loved one. From my perspective, anything that can make that process easier for them is a win, and the option of Zoom court is one my clients have enthusiastically embraced.

Thank you for your time and attention and for your service to us all.

Sincerely,
Ellen Daniel Williamson

Ellen Daniel Williamson

Ellen Williamson Law, PC
2626 Cole Ave. Ste. 300
Dallas, TX 75204
T: 214.842.6462
F: 214.273.2560
ellen@ellenwilliamsonlaw.com

She/her



From: [Angela Odensky](#)
To: [Tracy Christopher](#)
Subject: Support for continued ZOOM Hearings
Date: Wednesday, June 15, 2022 1:23:55 PM

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On behalf of myself and my clients, I would like to offer my support of Zoom hearings for uncontested matters and when all attorneys are in agreement. I practice uncontested probate and guardianship matters in Harris County and Fort Bend County, and my clients have expressed enormous gratitude that they do not have to travel downtown for the few moments it takes to prove up a valid Will or offer testimony in the guardianship of the person of a special needs adult child. For my parents with special needs children it means not having to find care for that time or not having to use a vacation day from work, which is precious. Many times my probate clients are elderly and travel is difficult for them, but they've been using Zoom to communicate with grandchildren for two years now and have no issues getting on and performing their duties. Zoom hearings save time and money for people who do not have a lot of either.

In these kinds of uncontested probate matters, every hearing follows the same formula. There are rarely surprises and no need to require the parties to take half a day off work, find child care, or otherwise interrupt their lives to go to downtown Houston, find parking, get through security, await their docket, and then spend less than five minutes in front of the judge. Zoom has become a part of our lives and has made many things more convenient. I urge the Court to all Zoom hearings to continue for the benefit of attorneys and our clients. Our Courts have spent time and money to update their technology to allow for Zoom hearings, and that should not go to waste. My understanding is that Zoom hearings in uncontested matters are as convenient for the Court as it is for the attorneys and clients.

Please allow us to continue using Zoom for uncontested matters and matters where all attorneys are in agreement.

All my best,

Angela Odensky, Certified Elder Law Attorney

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NOTE: We will be closed June 27th through July 5. If you have a time sensitive issue, please call and leave a message with reception. If it is not an emergency we will start returning calls and emails in the order received once we get back on July 6th.

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From: [Layla Morgan](#)
To: [Tracy Christopher](#)
Subject: Support for the permanency of Zoom hearings
Date: Wednesday, June 15, 2022 6:54:49 AM

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Dear Justice Christopher,

I am writing to you as a nine-year member of the State Bar of Texas and two-year member of State Bar of Oregon to voice my support for the permanency of Zoom hearings in Texas Courts. We also share The University of Texas School of Law as our alma mater.

We live in a digital age and should seize this opportunity to bring our profession permanently into it. I believe the appropriate line of demarcation is Zoom by default for all non-jury settings, with in-person availability upon request by either party. Ideally, the rule would not require the in-person attendance of the opposing attorney if they still prefer to attend via Zoom for their own presentation to the court.

As a graduate of the State Bar's Texas Opportunity and Justice Incubator (TOJI) program during the Covid-19 pandemic, I can say that the 100% virtual format expanded our pool of attendees across the state—truly expanding access to justice, as the program is designed to ultimately do through our work helping to bridge the justice gap in our state. With Zoom hearings by default, litigators like myself could represent people in any of the 254 counties across the state affordably for our clients.

Over my nine year legal career, I have had four children. Only with my last (born in December 2021) have I been able to reap the benefits of full-time remote work and virtual hearing attendance. It's a night and day difference, and I could go on in much more detail (and am at your disposal). Please help make permanent accommodations for women lawyers who want to stay home with their babies but still have meaningful and fruitful law practices. Please help make permanent accommodations for lawyers who are trying to provide cost-effective legal services to clients across our abnormally vast state. Please help make Zoom hearings permanent.

I appreciate your time and service.

Most sincerely,

Layla Morgan
State Bar of Texas No. 24075968

From: [Barrett Shipp](#)
To: [Tracy Christopher](#)
Subject: Texas attorney- in support of Zoom hearings and trials
Date: Wednesday, June 15, 2022 11:10:52 AM
Attachments: [image001.png](#)

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Tracy:

My Texas bar number is 24060601 – I have a probate and trial practice in San Antonio and the surrounding areas.

I am in favor of Zoom hearings and trials and believe we should have statewide guidance as to the ability to access the courts via Zoom. I think for clients, the bar, and the public, there are immense time and cost savings, increased access to the courtrooms, as well as increased transparency, that are a benefit of Zoom hearings and trials.

Thank you,

Barrett Shipp

J. Barrett Shipp
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From: [Christopher Barber](#)
To: [Tracy Christopher](#)
Subject: Virtual court - yes please
Date: Wednesday, June 15, 2022 8:00:12 AM

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I don't usually chime in on such things but I do want to show my support for virtual (Zoom) proceedings.

Thank you.

All the best,

Christopher J. Barber
The Barber Law Office
Texas Estate Planning, Elder Law/Medicaid and Probate Lawyer
Houston, Texas
281-464-LAWS (5297)
TexasAttorney.net

From: [Kristine Renninger](#)
To: [Tracy Christopher](#)
Subject: Virtual court proceedings moving forward post-pandemic:
Date: Wednesday, June 15, 2022 11:37:18 AM

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Justice Christopher,

I am writing to you today in support of Steve Fischer's Bar Resolution to permanently allow parties to agree to use virtual methods for court proceedings.

My husband is the superintendent of Big Bend Ranch State Park and we live inside the park. For the past 2 1/2 years, I have been able to work remotely using Zoom for the uncontested hearings on my docket without a single issue. It has saved me thousands of hours of travel time, saved my clients thousands of dollars in expenses, and greatly improved my work/life balance. Additionally, I am able to set hearings in multiple jurisdictions on the same day, which was not possible before Zoom. It is infinitely more efficient for all parties, the State, and taxpayers.

While COVID was, and still is, a terrible thing that happened (I lost both my in-laws to COVID in 2021 along with other friends and family), it was a giant, hard shove, into the present the practice of law in Texas needed. The old school ways of practicing law in Texas are woefully outdated and inefficient. There is a better way to practice and Zoom/WebX, etc., is the answer for far too many reasons to count.

Thank you for taking the time to read my message of support. I hope the Texas Supreme Court can order the judicial community to allow Zoom when agreed by the parties. Make the practice of law easier, not harder.

Warmest Regards,

RENNINGER LAW FIRM, PLLC

Kristine E. Renninger
Attorney at Law
1095 Evergreen Circle
Suite 200-479
The Woodlands, TX 77380
Tel: 832-482-4616
Mobile: 346-379-3426
kristine@renningerlawfirm.com

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From: [Katherine McAnally](#)
To: [Tracy Christopher](#)
Subject: Virtual court
Date: Tuesday, June 14, 2022 9:37:21 PM

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Please share with the appropriate persons considering permission for virtual court proceedings moving forward post-pandemic:

I would like to share my experience and observation regarding virtual court proceedings. For the last 15 years, I have practiced child protection in a small rural county. Over the last two years, I have noticed the significant positive impact virtual court options provide with regard to access to justice for citizens challenged by poverty and/or who live in rural communities where travel for participants and counsel is a challenge. By providing virtual court options costs are significantly decreased when counsel does not have to travel large distances to multiple jurisdictions to access the courts. In addition, the ability to continue to work in the office while waiting one's turn in a court docket decreases overall costs. These cost savings amount to significant savings to both governments for court appointed counsel and to litigants with hired counsel. In addition, participants ability to actively and effectively participate in the litigation is increased when they can log in from their cell phone or other device from a remote location. This decreases the amount of time they must take off work to participate, decreases the impact of distance and transportation challenges on their ability to participate and overall increases the ability and willingness to actively participate in litigation. In addition, when working with professional witnesses, the ability for them to appear virtually results in significant cost savings to litigants. In addition, the scheduling certainty and decrease in travel time decreases the amount of time that witness is kept from otherwise serving their clients or community. For attorneys in rural areas who often practice in multiple jurisdictions that may be hours apart, virtual settings significantly increase the efficiency and ability to appear in multiple jurisdictions in the same day without wasting half (or more) of the day in the car between courthouses. Overall, the benefits of virtual court far outweigh the challenges and drawbacks, especially when considering the needs of economically disadvantaged litigants and rural communities. I would implore the Court and the State Bar to include provisions in the rules of court moving forward which allow virtual court settings in uncontested matters, when parties agree, and at the discretion of the court for "good cause" shown. These options can help to increase the ease of access to justice for economically disadvantaged litigants and rural communities.

Thank you for your consideration,
Katherine McAnally

Former First Assistant in the Burnet County Attorney's Office

Current Director of the Family Justice Division of the Williamson County Attorney's Office

Note: The opinions expressed herein are mine alone and do not reflect the position of any particular office, elected official, or governmental entity.

Sent from my iPhone

From: sharon@shermanlawfirm.us
To: [Tracy Christopher](#)
Subject: Virtual hearings
Date: Wednesday, June 15, 2022 11:39:59 AM

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My clients and I much prefer to virtual hearings as opposed to in person hearings. I practice bankruptcy and It saves so much time not having to travel and keeps my clients from having to take off work when they are struggling to make it as it is. Thank you

Sharon K. Sherman
Sherman Law Firm, P.C.
4500 Mercantile Plaza, Ste. 300
Fort Worth, TX 76137
(817) 540-2422/817-585-4807 Fax

Or

Sharon K. Sherman
Sherman Law Firm, P.C.
112 Bedford Road, Ste. 116
Bedford, TX 76052
(817) 540-2422/817-585-4807 Fax

Mailing Address:

P.O. Box 959
Haslet, TX 76052

From: [Kelly Kleist](#)
To: [Tracy Christopher](#)
Subject: zoom
Date: Friday, June 24, 2022 10:11:16 AM
Attachments: [image001.png](#)
[image002.png](#)

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Good morning,

This email is sent in accordance with a post regarding preferences relating zoom proceedings. I am in favor of keeping zoom proceedings.

Sincerely,

Kelly Kleist PARTNER

Scheef & Stone, LLP

www.solidcounsel.com | 214.472.2146

Office: 214.472.2100 | Fax: 214.472.2150

2600 Network Boulevard, Suite 400, Frisco, TX 75034

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From: [Anna Freeman](#)
To: [Tracy Christopher](#)
Subject: Zoom court
Date: Wednesday, June 15, 2022 1:44:34 PM

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Please keep the option of having attorneys & litigants appear via zoom. Thanks.

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From: [Farren Sheehan](#)
To: [Tracy Christopher](#)
Subject: Zoom Court
Date: Wednesday, June 15, 2022 9:54:44 AM

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My name is Farren Sheehan and I am an attorney practicing probate and real estate law in Travis County, I am also a presiding municipal judge in the cities of Pflugerville and Bee Cave. I am writing to you concerning the use of Zoom in our Texas courts.

In my capacity as a probate attorney, I deal with many elderly people. One of the most difficult parts of the probate process for many of my clients is attending an uncontested probate hearing in person. In Travis County this often involves an hour or more in morning traffic, parking in the unfamiliar downtown area and a courthouse that can be difficult for people with disabilities to access. Over the years I have felt the frustration my clients express that a five minute prove up must be done in person. During the COVID times, it was much easier to meet with the client in my office and simply sign into Zoom for the few required questions. In my opinion, I do not think there is any benefit to holding uncontested probate prove ups in person. In almost all cases, all the issues have been addressed by the court before the hearing is held, and the hearing itself is almost a formality. I feel the burden on the client, in terms of time, effort and expense, absolutely outweighs any benefit attending the hearing in person would provide.

I attended a regional municipal judge's seminar where the feeling was overwhelmingly in favor of keeping an online option for at least certain aspects of our courts. In my experience it allows a broader access to justice for a large number of people. Contesting a citation in person requires an individual to show up and sometimes wait in the courtroom for hours before they can be seen. The ability to simply sign into a Zoom court and address issues has allowed people to deal with cases that have dragged on for years when they lack the ability to travel to the court or take off work. Online municipal court has a much higher attendance level than in person court.

Overall, I feel that keeping an online option to access the courts is overwhelming in the best interest of our clients. All of the attorneys I know and work with are of the same opinion. I urge you to work to provide this option to the attorneys and people of Texas.

Farren Sheehan
She/Her



Sheehan Law PLLC
1601 E. Pfennig Lane
Pflugerville, TX 78660

fsheehan@farrensheehanlaw.com 

512-251-4553

888-251-4959 (fax)

From: [Jason Tapp](#)
To: [Tracy Christopher](#)
Subject: Zoom Hearings
Date: Wednesday, June 15, 2022 1:28:31 AM

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Greetings,

I practice Texas law remotely from Germany. The option to participate in Zoom hearings under most circumstances would be highly beneficial to my practice.

Thank you,

Jason E. Tapp
TX Bar # 24067898

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From: [Charles Kennedy](#)
To: [Tracy Christopher](#)
Subject: Zoom hearings
Date: Wednesday, June 15, 2022 10:51:33 AM

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Ms. Christopher:

My understanding is that you are collecting information for the Court regarding Zoom hearings. I have practiced law for about 35 years in all of the trial level courts mostly in Tarrant County. I now practice almost exclusively in the probate courts. Most of my clients are elderly. Universally, my older clients want to avoid driving as much as possible. They prefer to drive a few miles inside Arlington and really want to avoid going into downtown Fort Worth or Dallas. Zoom hearings are a God Send for them. It allows them to avoid travel on highways, it saves them time, it allows them to avoid being in a crowd. Even my younger clients much prefer a Zoom hearing for the savings on time and travel.

Zoom hearings are an immense savings in money, time and travel for out of state clients and witnesses for uncontested heirship proceedings.

I understand the local Judges' preference for in person hearings. If Texas voters' opinion means anything the Supreme Court will require Courts to allow parties to choose Zoom hearings for uncontested matters.

I find most attorneys in contested probate matters want the option to attend status conferences, Summary Judgment hearings and similar matters by Zoom. I miss the collegiality of docket calls that were held when I was a much younger attorney, but the time savings and convenience to our clients should be an overwhelming consideration. If this issue was presented to the Texas voter I have no doubt how they would vote. You would have an overwhelming vote for the convenience to the citizens of Zoom hearings.

Sincerely,

Charles Kennedy
Charles Kennedy, P.C.
2403 Cales Drive, Suite B
Arlington, TX 76013
817-795-8843
ckennedy@birch.net and
charles@chaskennpc.com

From: [Lisa Elizondo](#)
To: [Tracy Christopher](#)
Subject: Zoom Hearings
Date: Thursday, February 3, 2022 3:38:32 PM
Attachments: [image001.png](#)
[image002.png](#)

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Hello Tracy-I am taking a quick moment to express my approval of continuing Zoom hearings. Thank you for your time.

Lisa A. Elizondo
2504 Montana Ave.
El Paso, Texas 79903
915/351-2775
915/351-2776 (fax)
lelizondo@elizondolawep.com
Licensed in Texas, New Mexico and Colorado



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From: [Jolyn Wilkins](#)
To: [Tracy Christopher](#)
Subject: Zoom Hearings
Date: Thursday, June 16, 2022 8:47:06 AM
Attachments: [image001.png](#)
[image002.png](#)

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Justice Christopher,

I am writing this e-mail in support of continued use of Zoom hearings for uncontested matters such as probate applications, docket calls, scheduling conferences, guardianship hearings, divorce prove-ups, small claims hearings, and temporary orders hearings for family law cases.

The ability to appear via Zoom is helpful in many circumstances, including but not limited to:

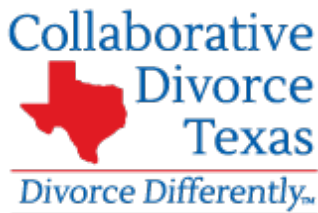
1. Attorneys and parties with compromised immunity or close relatives with compromised immunity;
2. Attorneys and parties charged with the care of elderly parents or young children;
3. Attorneys and parties concerned about the rising cost of fuel to travel back and forth to the courthouse; and
4. Attorneys and parties with compromised mobility.

Additionally, appearance via Zoom saves attorney's fees for time travelling to the courthouse and awaiting a scheduled appearance or hearing.

I understand that many trials are more suited for in-person proceedings, but the vast majority of my cases are not. I would also like the proposed rules to allow only one party to request Zoom and then the burden shifts to the opposing party to prove why a Zoom hearing would prejudice their client or case.

Thank you in advance for your attention to my input.

Jolyn C. Wilkins
Fargason Booth St.Clair Richards & Wilkins, LLP
4716 4th Street, Suite 200 (zip 79416)
PO Box 5950
Lubbock, Texas 79408
Phone: 806-744-1100
Fax: 806-744-1170
e-mail: JWilkins@LbkLawyers.com
website: LawyersOfLubbock.com



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- (3) a person not participating in our communication may intercept our communications by improperly gaining access to your computer or even some computer not connected to either of us through which the e-mail passes.

Ethical and procedural rules, civil and criminal statutes, and the Texas Lawyer's Creed have altered our notions of what Texas lawyers should and should not do in the name of zealous advocacy. Apart from the technical standards, it's clear that achieving a sensible balance between zealous advocacy and civility can enhance the quality of life for litigants, lawyers and judges, both in and out of the courtroom.

From: sglover@aol.com
To: [Tracy Christopher](#)
Subject: ZOOM hearings
Date: Wednesday, June 15, 2022 9:28:21 PM

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Simply put....yes, please, we want to keep ZOOM!

Shari Glover

[Sent from the all new AOL app for Android](#)

From: [Sharon Wilson](#)
To: [Tracy Christopher](#)
Subject: Zoom Hearings
Date: Wednesday, June 15, 2022 4:34:53 PM

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Justice Christopher,

I am writing to show my support for continued access to Zoom hearings. Most of my practice is representing parents and children in CPS cases. We are statutorily required to have several hearings throughout the life of a case. Many of these are uncontested. Many times we represent indigent parents who lack transportation to get to and from the courthouse, sometimes, these parents even live out of state and are logistically unable to attend or participate in in person hearings. I am asking that the Court keep access to Zoom hearings, not just in CPS cases, but in all cases. I do want to emphasize how important it is to CPS cases, though. This is not just about it making dockets easier on attorneys, but it actually allows many indigent clients access to the courts when they would otherwise not be able to participate. I've personally had parents who live out of state participate in a meaningful way via zoom, one was even incarcerated out of state. Without zoom, that is not possible. I hope that you will take this into consideration when deciding the fate of zoom hearings in Texas.

--

Thank you,

Sharon Wilson
Law Office of Sharon L. Wilson, PLLC
6160 Warren Pkwy., Suite 100
Frisco, TX 75034
[940-382-7297](tel:940-382-7297)
fax [940-312-7808](tel:940-312-7808)
text [940-220-9865](tel:940-220-9865)
sharon@SharonLWilsonLaw.com
www.SharonLWilsonLaw.com

Please note Sharon L. Wilson will be unavailable the following dates:

June 20, 2022 - Juneteenth, observed
July 4, 2022 - Independence Day
July 29-Aug 1, 2022 - Personal
September 5, 2022 - Labor Day
November 11, 2022 - Veterans Day
November 21-25, 2022 - Thanksgiving Holiday
December 21-30, 2022 - Christmas Holiday

In addition to the dates listed above, the office will be closed on all holidays and bad weather days observed by Denton County. These can be found by going to www.dentoncounty.com

Law Office of Sharon L. Wilson office hours are as follows:

Monday through Thursday 9:00 am - 5:00 pm

Friday 9:00 am - 12:00 pm

From: [Linda Leeser](#)
To: [Tracy Christopher](#)
Subject: Zoom Hearings
Date: Wednesday, June 15, 2022 4:09:53 PM

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It is my understanding that you are looking for feedback from attorneys as to Zoom hearings. If it is an uncontested matter or all parties want Zoom I would love to see Zoom being an option.

Sincerely,

Linda Leeser
Attorney at Law
Leeser Law Firm PLLC
926 Chulie Drive
San Antonio, Texas 78216
[210-997-2914](tel:210-997-2914)
[210-504-4486](tel:210-504-4486) (fax)

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From: [Sharon Wilson](#)
To: [Tracy Christopher](#)
Subject: Zoom Hearings
Date: Wednesday, June 15, 2022 4:34:53 PM

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Justice Christopher,

I am writing to show my support for continued access to Zoom hearings. Most of my practice is representing parents and children in CPS cases. We are statutorily required to have several hearings throughout the life of a case. Many of these are uncontested. Many times we represent indigent parents who lack transportation to get to and from the courthouse, sometimes, these parents even live out of state and are logistically unable to attend or participate in in person hearings. I am asking that the Court keep access to Zoom hearings, not just in CPS cases, but in all cases. I do want to emphasize how important it is to CPS cases, though. This is not just about it making dockets easier on attorneys, but it actually allows many indigent clients access to the courts when they would otherwise not be able to participate. I've personally had parents who live out of state participate in a meaningful way via zoom, one was even incarcerated out of state. Without zoom, that is not possible. I hope that you will take this into consideration when deciding the fate of zoom hearings in Texas.

--

Thank you,

Sharon Wilson
Law Office of Sharon L. Wilson, PLLC
6160 Warren Pkwy., Suite 100
Frisco, TX 75034
[940-382-7297](tel:940-382-7297)
fax [940-312-7808](tel:940-312-7808)
text [940-220-9865](tel:940-220-9865)
sharon@SharonLWilsonLaw.com
www.SharonLWilsonLaw.com

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From: [Tom Zakes](#)
To: [Tracy Christopher](#)
Subject: Zoom hearings
Date: Tuesday, July 19, 2022 5:01:27 PM

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Hon. Tracy Christopher

Dear Justice Christopher,

I saw online that you were the person to contact to let our feelings be known about the continuation of Zoom hearings after the Covid situation is over.

I have found them very helpful in my practice, especially on days that I have a busy schedule, especially if I have cases in multiple counties. They are also great if my son is sick and needs to stay home from school, and I can be there with him. I am sure that a lot of lawyers who are single parents have experienced this as well.

Certainly, the procedure has its flaws, but in cases where both parties agree, they should continue to be available.

Tom Zakes

From: [Richard Thompson](#)
To: [Tracy Christopher](#)
Subject: Zoom hearings for lawyers
Date: Tuesday, July 19, 2022 5:04:36 PM

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Good Afternoon:

I am strongly in support of Zoom hearings in most matters. If it is thought best it be by agreement, so be it.

Thank you for your attention and consideration.

Have a good evening.

Richard N. Thompson
Attorney at Law
2002 Timberloch Place, Suite 200
The Woodlands, TX 77380
281-681-3001
Fax 281-681-3016
richard@thompsonlaw.us



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From: [Jackie B](#)
To: [Tracy Christopher](#)
Subject: Zoom hearings thoughts
Date: Thursday, June 23, 2022 7:21:36 AM

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Dear Chief Justice Christopher,
Please continue to allow optional zoom hearings, with whatever practical limitations you see fit. They have been helpful for my clients. Namely, I think they have expanded the availability of attorneys for many low income clients because Zoom makes hearings much faster and more affordable. Thank you, Jackie Baltrun

Sent from my iPhone

From: [LEIGH DUBOSE](#)
To: [Tracy Christopher](#)
Subject: Zoom Hearings When Attorneys Agree
Date: Tuesday, June 14, 2022 11:18:41 PM

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Hello -

I hear there's input requested on the idea of Zoom hearings for uncontested matters or when the attorneys agree. I support this idea 100%. It would make my law practice so much more manageable. Thank you.

Leigh A. DuBose
Attorney at Law
11782 Jollyville Road
Austin, Texas 78759
Phone: [\(512\) 459-6880](tel:5124596880)
Fax: [\(512\) 459-0624](tel:5124590624)

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Sent from my iPhone

From: [SAVANNAH ROBINSON](#)
To: [Tracy Christopher](#)
Subject: Zoom hearings
Date: Wednesday, June 15, 2022 6:34:49 AM

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Zoom hearings save time and money. Zoom hearings reduce crowding in the courts, streets, and parking lots.
This week i am in quarantine. I tested positive for COVID on 6/07. But, i have a mild case. I was able to attend two hearings by Zoom without exposing anyone.
Zoom is a tool that should be encouraged for the future.

Sent from my iPhone

From: [Chris Johnston](#)
To: [Tracy Christopher](#)
Subject: Zoom Protocols
Date: Thursday, February 3, 2022 4:52:31 PM

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Dear Judge Christopher;

I understand you are the chairperson of the Committee considering keeping Zoom meetings after this pandemic finally eases. I would like to keep Zoom meetings with courts involving standard hearings when there are no witnesses. This saves the parties, the lawyers and the Court time and expenses. During docket call hearings, I can be productive on other matters while I am waiting for my case to be called. This has been the one silver lining to the pandemic.

Thank you.

Chris R. Johnston
El Paso

Sent from my iPhone

From: [Carrie Westbrook](#)
To: [Tracy Christopher](#)
Subject: Zoom
Date: Tuesday, June 14, 2022 11:15:11 PM

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Good evening,

I wanted to advise the court of my opinion regarding Zoom for what it's worth. I am very much advocating to keep Zoom as an option for hearings, particularly if they're uncontested. It saves my clients money and greatly improves my life and ability to manage my practice.

As a single mom, I honestly don't know how I would've kept afloat had it not been for the ability to conduct most of my business via Zoom during the pandemic. Being able to effectively manage my cases and be more present with my children has been such an amazing blessing. Please consider keeping it in place long-term.

Best regards,

Carrie Holman Westbrook
Holman Westbrook Law, PLLC
2019 Washington Ave., Ste. 208
Houston, TX 77007
713-352-2713
www.Holman-Firm.com

From: [Rich Robins](#)
To: [Tracy Christopher](#)
Subject: Online hearings are typically NOT desired in the legal profession...
Date: Wednesday, July 20, 2022 3:47:20 PM

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Dear Justice Christopher:

It has recently come to my attention that you have been told that online hearings are preferred here within the legal profession. I submit that they are typically NOT desired within it. Please don't make online hearings and trials mandatory even in the event that one side objects.

Why? First of all, online hearings jeopardize privacy. Imagine the potential for taking a filmed & recorded excerpt out of context and sharing it to further one's agenda, sprinkling such snippets throughout cyberspace. With such risks, folks are more likely to take the law into their own hands (like they violently do in neighboring Mexico). We typically don't allow such recording in our actual courts, where privacy matters. Unfortunately we can't adequately police what happens when such hearings are online, though.

Meanwhile, it's worth noting that with online hearings' availability, some vindictive sorts are more inclined to schedule (unnecessary) hearings, to try and fatigue and financially harm the other side but without having to actually show up in court. Indeed, online hearings tend to ignore the legitimate desire to make those who sue a local economy actually have "skin in the game" in that economy. Making folks show up for hearings requires that they perceive the local consequences. Hopefully that can dissuade at least some from shakedown thuggery OR from defending the indefensible. There are plaintiffs & defendants, alike, who abuse online hearings while hypocritically claiming we need more such hearings in the name of "court access". Let's please refrain from fortifying such folks.

In conclusion, please don't make online hearings and trials mandatory even in the event that one side objects.

Respectfully,
Rich

Rich Robins, Esq.
2450 Louisiana St. #400-155
Houston, TX 77006-2380
Rich@RichRobins.com
Tel. 832-350-1030

2

STATUTORY PROBATE COURTS



STATE OF TEXAS

Guy Herman, Presiding Statutory Probate Judge

P.O. Box 1748, Austin, TX 78767
200 W. 8th Street, Second Floor
Phone: (512) 854-9258
Fax: (512) 854-4418

March 21, 2022

Chief Justice Tracy Christopher
Fourteenth Court of Appeals

Re.: Remote Proceedings

I, as the presiding Statutory Probate Judge and on behalf of the unanimous consent of the 19 statutory probate court judges, write in support of permanent rules permitting remote proceedings by agreement of the parties and subject to the discretion of the judge. Having conducted proceedings remotely for the past two years, we know they are an effective tool in promoting judicial efficiency, access to justice¹, and can be a significant savings for parties. However, in some cases, they can also cause undue delays and “zoom fatigue” for judges², so judicial discretion is key to managing these proceedings.

Many uncontested hearings that come before the Probate Courts require fewer than 5 minutes before the judge. In larger counties³, parties and attorneys must navigate downtown, find and pay for parking, walk to the courthouse and wait through security lines in order to appear for these very brief hearings. It is easy to conclude that remote proceedings save the communities we serve time and money. In addition, attorneys can move from hearing to hearing around the state easily without having to travel, thus making their practices more efficient and cost-effective for their clients.

An unanticipated effect of remote proceedings is increased participation by parties in guardianships, mental health proceedings, and even show cause for compliance. Proposed wards in guardianships almost never appear in-person for their own hearing. However, we have seen marked increase participation via remote access by those whose capacity and rights are being determined. Surprisingly, even those who are cited to appear to show cause for noncompliance appear in greater numbers remotely giving the court the opportunity to help them get back into compliance or determine that a removal is necessary.

We realize the benefits of remote proceedings are not without their complications. Lack of access to technology and unfamiliarity or difficulties with technology can delay

¹ *The Impacts of the COVID-19 Pandemic on State & Local Courts Study 2021: A Look at Remote Hearings, Legal Technology, and Access to Justice*, Thompson Reuters Institute, 2021. The study found 77% of judges surveyed felt access to justice increased or stayed the same with virtual proceedings.

² *The Use of Remote Hearings in Texas State Courts: The Impact on Judicial Workload Final Report*, December 2020, the National Center for State Courts, Court Consulting Division, and the State Justice Institute.


³ Harris County Probate Court One reports having heard 5,595 uncontested hearings for the two year COVID period from March 2020 to February 2022.

March 21, 2022

hearings. Judges must also manage their remote systems and become troubleshooters for participants, which requires greater attention that can lead to judicial fatigue⁴. For these reasons, we believe judges must have final discretion to determine whether and how to proceed with a remote appearance or proceeding.

The continuation of remote proceedings benefits the courts and the public, and has become irretrievably intertwined in the modern administration of justice. It is our hope that new rules will be established quickly so that we may continue without interruption.

Sincerely,



Guy Herman
Presiding Statutory Probate Judge

⁴ *The Use of Remote Hearings in Texas State Courts: The Impact on Judicial Workload Final Report*, December 2020, the National Center for State Courts, Court Consulting Division, and the State Justice Institute.

3



TEXAS JUDICIAL COUNCIL

2020 PUBLIC TRUST & CONFIDENCE COMMITTEE

REPORT AND RECOMMENDATIONS
September



In June 2019, the Texas Judicial Council charged the Public Trust and Confidence Committee with:

- Continue to monitor public trust and confidence in the Texas Judiciary and recommend any necessary reforms to increase public support and respect.

Members of the Committee are:

Hon. Ed Spillane, Chair
Hon. Sherry Radack
Hon. Vivian Torres
Hon. Maggie Sawyer
Senator Judith Zaffirini

Mr. Ken Saks
Ms. Sonia Clayton
Ms. Rachel Racz

The Texas Judicial Council's Public Trust and Confidence Committee met January 23, 2020, and August 28, 2020.

Recommendations

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Recommendations in Brief

Remote Proceedings

1

The Legislature and the Texas Supreme Court should remove any barriers to continuing remote online court proceedings and court innovations developed as a result of the COVID-19 pandemic.

Civics Education

1

The Legislature should amend state law to require a comprehensive civic education that results in informed and responsible civic engagement for Texas school-aged children.

Judicial Training

1

The Texas Court of Criminal Appeals should require judges to obtain additional training on implicit bias.

2

The Texas Judicial Council should create an advisory committee of the Council to assist the Council in its focus on judicial training, community engagements, and developing judicial summits.

Recommendations in Detail

REMOTE PROCEEDINGS

BACKGROUND

Texas saw its first diagnosed case of COVID-19 on March 4, 2020. No one could have predicted the destruction and disruption the Coronavirus pandemic would cause our communities in Texas, the nation, and the world. Luckily, the Texas Judiciary had begun preparing for Coronavirus weeks before the first diagnosis by participating in preparedness briefings with Governor Greg Abbott, emergency services and health and human services staff starting on February 27th. Based upon the information gathered at those briefings, the Texas Judiciary activated its response plan and began taking actions including preparing to hold court online.

On March 13th, hours after Governor Abbott issued a disaster declaration and public health emergency declaration for the state, the Supreme Court, joined by the Court of Criminal Appeals, used its emergency powers under Section 22.0035(b), Texas Government Code, to issue the First Emergency Order Regarding the COVID-19 State of Disaster. The order permitted all courts in all cases, without a participant's consent, to modify or suspend deadlines, allow or require remote participation by anyone involved in a hearing or proceeding (except jurors), conduct proceedings away from the court's usual location, and permitted courts to extend statutes of limitations in Civil cases.

The Office of Court Administration (OCA) considered several technology platforms that would enable judges to conduct court proceedings remotely. After testing several different options, OCA determined that Zoom would be the best fit for the Texas Judiciary. OCA asked twenty judges to test the platform with remote hearings during the week of March 16-20. Almost 100 proceedings were conducted during that week, with judges providing positive feedback about the platform's utility for remote hearings.¹ With this feedback, OCA procured enough licenses for every judge in Texas to have one so that the full features and security of the Zoom platform would be available to those judges.

Texas judges fully adapted to the technology holding an estimated 500,000 remote hearings in every case type and type of proceeding, including bench and jury trials, with 1.5 million participants, lasting more than 1.1 million hours during the 7- month period between March and September.

Not only did judges use the tools made available to them to continue providing access to justice during the pandemic, they found that the tools had significant advantages over in-person proceedings in certain types of cases and hearings, as discussed below. With these improvements, ensuring that judges can continue using the tools post-pandemic is critical to improving access to justice.

¹ JURY TRIALS DURING THE COVID-19 PANDEMIC: Observations and Recommendations 3, TEX. OFFICE OF COURT ADMIN. (AUG.. 2020), <https://txcourts.gov/media/1449660/jury-report-to-scotx-final.pdf>.

Texas Courts Online

March - September 15, 2020

1,859
Judges

98%
Customer
Satisfaction

More than
450,000
Hearings

1,446,001
Participants

1,084,545
Meeting
Hours



1,154
Court
Channels
YouTube



RECOMMENDATION

Recommendation: The Legislature and the Texas Supreme Court should remove any barriers to continuing remote online court proceedings and court innovations developed as a result of the COVID-19 pandemic.

Texas was the first state to have its nine-member Supreme Court host remote oral arguments, the first state to hold a virtual non-binding civil jury trial in May 2020, and it became the first state to hold a virtual criminal jury trial in August 2020. The Texas Judiciary continues to lead the nation with its innovation and ability to adapt during the pandemic. However, some of the innovation and move to online proceedings would not be possible without the Governor's Disaster Declaration in place and subsequent emergency orders from the Texas Supreme Court. The disaster declaration allows the Supreme Court to "modify or suspend procedures for the conduct of any court proceeding affected by a disaster declared by the governor"² and allows for courts to host hearings away from their typical locations.³

A silver lining of the pandemic has been the improvement in access to justice. Many judges have reported that they are seeing greater participation from litigants via Zoom due to the ease of using the platform and the fact that litigants can more efficiently attend court hearings by simply logging in to their computer or mobile device. Judges are also reporting cost savings from traveling to and from court for litigants, attorneys and judges. Access to interpreters has increased as well. OCA reports that its Texas Court Remote Interpreter Service's (TCRIS) demand is up 50% from March-August 2020 over the same time period in 2019.

Texas Supreme Court Justice Eva Guzman praised virtual participation on Twitter tweeting, "Judges statewide lauding virtual participation as a game changer in CPS cases. Virtual allows more efficient and expeditious docket management across the state, removes transportation and financial barriers to successful reunification and keeps parents and kids in contact."⁴ Justice Guzman continued, "Imagine the possibilities. Non-custodial parents can help with homework, meet with a teacher or doctor, and stay present in their children's lives. Often, parents are penalized for not doing so despite economic impediments like lack of transportation or inflexible work schedules."⁵

² Tex. Govt. Code § 22.0035(b)

³ See Tex. Govt. Code §§ 24.033(b) (district courts), 25.0019(b) (statutory county courts), 25.0032(b) (statutory probate courts), 26.009(b) (constitutional county courts), 27.0515 (justice courts), 29.015 (municipal courts), and 30.000123 (municipal courts of record)—relating to designating alternative locations for proceedings during a disaster. These provisions were enactments of the 86th Legislature (2019) in Senate Bill 40 (Zaffirini/Leach) on the recommendation of the Texas Judicial Council's Public Trust and Confidence Committee in our last report.

⁴ Justice Eva Guzman (@JusticeGuzman), Twitter (Sept. 18, 2020, 12:08PM), <https://twitter.com/JusticeGuzman/status/1307003608962158597>.

⁵ Justice Eva Guzman (@JusticeGuzman), Twitter (Sept. 18, 2020, 2:39PM), <https://twitter.com/JusticeGuzman/status/1307003608962158597>.

In addition, in survey of more than 3000 Texas attorneys conducted in June 2020, attorneys reported positive feedback on remote hearings:

- 94%** had no issues communicating with their client during hearings
- 93%** had positive or neutral impression of remote hearings
- 85%** would recommend remote hearings to colleagues or clients
- 44%** feel remote hearings are worse than in-person hearings, but 73% say they are effective.
- 43%** open to conducting some portion of a jury trial remotely. Jury qualification, witness testimony, and voir dire were the top answers.⁶



It is this Committee's belief that remote hearings will never fully replace in person proceedings and they shouldn't; however, the progress made during the pandemic in access to justice, accessibility and efficiency should continue long after the pandemic ends. The Committee recommends that any statutory or rule barriers to holding remote proceedings outside a disaster declaration, should be removed.

⁶ Remote/ In-Person Proceedings Survey, TEX. OFFICE OF COURT ADMIN. (June 2020).

CIVIC EDUCATION

BACKGROUND

We have all heard the unbelievable statistics – only 27 percent of 12th graders are proficient in civics education and government, or from a study conducted by the American Bar Association – less than half of adults in America can identify the three branches of government.⁷ In a 2018 public opinion poll conducted by the Texas Judicial Council, 52 percent of respondents said it was up to the person accused of the crime to prove his or her innocence.⁸

These statistics point out a need to strengthen and improve civic education in our schools, especially a deeper understanding of the purpose and role of the 3rd branch of government.⁹

The Council has long-supported measures to improve civic education. In 2018 it recommended expanding the widely successful program *Access to Justice: Class in the Courtroom*. The program, developed by Sen. Judith Zaffirini, Ph.D., performed monthly mock trials in Laredo based off of beloved fairytale characters. The program has developed handbooks, mock trial scripts, and certificates of achievement and has made them available for courts to use across the country.¹⁰ Since December 2017, 6,190 students have seen 50 mock trials at Webb County's County Court at Law Number Two with Judge Victor Villarreal presiding.

⁷ *Advocacy for Civic Education: A Statistical Cry for Help*, iCivics (July 24, 2014), <https://www.icivics.org/news/advocacy-civic-education-statistical-cry-help>.

⁸ TEXAS PUBLIC TRUST AND CONFIDENCE SURVEY TOPLINE REPORT, SSRS (June 29, 2018), <https://www.txcourts.gov/media/1442332/public-trust-and-confidence-survey-topline-report.pdf>.

⁹ We note that, due to a lack of proper civics education, some Americans do not know there are three branches of government.

¹⁰ *Texas Access to Justice: Class in the Courtroom*, TEX. OFFICE OF COURT ADMIN. (materials developed by Sen. Judith Zaffirini, Ph.D.), <https://www.txcourts.gov/publications-training/training-materials/class-in-the-courtroom/>.



”

The committee recommends building on these civic education successes by partnering with various stakeholders interested in strengthening civic instruction and curriculum.

The committee recommends building on these civic education successes by partnering with various stakeholders interested in strengthening civic instruction and curriculum. One organization of interest is the Texas Civic Education Coalition. The Coalition was formed in November 2019 with the mission of preparing Texas' students for responsible, informed participation in civic life by promoting non-partisan education initiatives that support the key pillars of a comprehensive civic education.

RECOMMENDATION

Recommendation: The Legislature should amend state law to require a comprehensive civic education that results in informed and responsible civic engagement for Texas school aged children.

The Committee adopts the recommendations of the Texas Civic Education Coalition and recommends legislative changes to civic education in Texas for grades K-12 with the following components:

1. Define the elements of a comprehensive civic education that research shows results in informed and responsible civic engagement:
 - a. **Civic Knowledge** - an understanding of the history and heritage of our civic life; the structure, functions, and processes of our civic institutions at all levels; founding-era documents; geography and economics that affect public policy; and the role of the citizen.
 - b. **Civic Skills** - the abilities necessary to participate as active and responsible citizens in a democracy; training on how to effectively engage in the civic life and civic institutions of their community, state and nation; how to analyze text and determine the reliability of sources; how to formulate and articulate reasoned positions; how to actively listen and engage in civil discourse; and collaboration and community organizing skills.
 - c. **Civic Attitudes** - appreciation of the importance and responsibility to participate in civic life; commitment to our nation and system of government; appreciation for the rule of law, free speech, and civil discourse; civic self-efficacy and understanding of perspectives that differ from one's own.
 - d. **Civic Behaviors** - practicing civic habits, including voting, engaging in deliberative discussions, volunteering, attending public meetings and participating in other civic activities related to civic life through meaningful experiential opportunities or classroom simulations.
2. Recognizing the foundational civic knowledge requirements already existing in Texas educational standards but emphasizing the need for additional K-12 instruction on civic skills as well as appropriate civic attitudes in addition to just civic facts;
3. Mandating a student-led but curriculum-based, non-partisan civics practicum or project in the 8th grade and once in high school to effectively demonstrate understanding of crucial civic behaviors;
4. Requiring the Board of Education, during the already scheduled 2023 revision cycle, to revise or enhance the current social studies teaching standards (Texas Essential Knowledge and Skills) to provide for all four civic education domains described above and to specifically include these civic education domains where possible in existing history standards;
5. Instructing the TEA to infuse civics education into other disciplines by providing content rich, non-fiction civics texts in English Language Arts testing where reading and writing prompts are used and in approved ELA reading lists;
6. Requiring social studies teachers to have 25% of their teacher continuing education hours mandated every 5 years by the Education Code be specifically on effective teaching of media literacy, simulations of democratic processes, civic practicums, and guided classroom discussions of current events.

JUDICIAL TRAINING

BACKGROUND

The Texas Court of Criminal Appeals is responsible for adopting rules for programs related to education for training for attorneys, judges, justices of the peace, district and county clerks, law enforcement officers, law students and other court personnel in Texas.¹¹

Appellate, District and County Judges are required to complete 30 hours of education before or within one year of taking office and 16 hours each fiscal year thereafter.¹² Justice of the Peace must complete an 80-hour live course within one year of taking office and 20 hours of education each year thereafter.¹³ Municipal Judges who are attorneys must complete 16 hours of education within the first year--32 hours if they are non-attorneys--and 16 hours each year thereafter.¹⁴

The Legislature regularly mandates specific training for Judges,¹⁵ and the Council in the past has recommended additional education in a multitude of areas including pretrial release, mental health and juvenile justice.

RECOMMENDATIONS

Recommendation 1: The Texas Court of Criminal Appeals should require judges to obtain additional training on implicit bias.

Implicit bias training has been part of required judicial education for Texas Judges since at least 2001 when the Texas Rules of Judicial Education were amended to require “judicial education entities [to] provide training in ethics, which must include information about issues related to race, fairness, ethnic sensitivity and cultural awareness.”

Since 2012, the College for New Judges has included implicit bias and implicit judgment training for all newly-elected and-appointed judges as part of its curriculum. A full list of implicit bias training sessions compiled by the Texas Center for the Judiciary is located in the appendix of this report.

However, unlike requirements to obtain family violence training hours, there is no requirement that judges obtain a certain number of hours of implicit bias training on a regular basis. If judges do not attend the events or sessions offered by the training entities on implicit bias, they might not receive the training.

In light of recent national events and in an effort to continue the judiciary’s dedication to continuously working to improve public trust and transparency, the Committee recommends that judges be required to obtain training on implicit bias annually.

11 TEX. GOV’T. CODE § 56.006(a).

12 TEX. R. JUD. ED. 2.

13 TEX. R. JUD. ED. 3.

14 TEX. R. JUD. ED. 5.

15 TEX. R. JUD. ED. 12(b)

Recommendation 2: The Texas Judicial Council should create an advisory committee of the Council to assist the Council in its focus on judicial training, community engagements and developing judicial summits.

The Council and Texas Judiciary have a strong history of commitment to public engagement and efforts to increase trust and confidence in the third branch.

In December 2016, the Supreme Court of Texas and the Texas Court of Criminal Appeals hosted a summit called ***Beyond the Bench: Law, Justice and Communities*** in Dallas, Texas at Paul Quinn College. The day long conversation brought together a diverse group including Texas judges, law enforcement, educators, clergy, and national, state, and community leaders. The goal was to strengthen trust and confidence in our justice system and to have an open dialogue between community members.¹⁶

More recently, the Council conducted a public trust and confidence survey in 2018 that continues to be used to inform its work including recommendations to expand civic education in Texas.¹⁷

In 2019, the Texas judiciary was one of six states chosen for a Public Engagement Pilot Project sponsored by the National Center for State Courts. The Texas team held three engagements in late 2019 and early 2020 in Alpine, Brownsville, and Houston. The goal of the projects was to learn how to effectively engage focus groups and gain insight on ways to improve the court system through community engagement in order to assist other courts in doing the same.¹⁸

Recognizing that the efforts above take significant work and planning, the Committee recommends that the Council create an advisory committee to focus on judicial training, community engagement, and developing judicial summits. The Committee should be comprised of members of the Texas Judicial Council, judicial officers, advocacy groups, attorneys, community members, law enforcement and any other members necessary to its mission.

¹⁶ *Beyond the Bench: Law, Justice, and Communities Summit*, TEX. JUD. BRANCH, <https://www.txcourts.gov/publications-training/training-materials/beyond-the-bench-law-justice-and-communities-summit/>.

¹⁷ TEXAS PUBLIC TRUST AND CONFIDENCE SURVEY TOPLINE REPORT, *supra* note 8.

¹⁸ *Public Trust and Confidence Pilot Projects*, NAT'L CTR. FOR STATE COURTS (2019), <https://www.ncsc.org/topics/court-community/public-trust-and-confidence/public-engagement-pilot-projects>.

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Attachment A

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TEXAS CENTER
FOR THE JUDICIARY

1210 San Antonio, Suite 800 – Austin, TX 78701
Phone (512) 482-8986 – Toll Free (888) 785-8986 – Fax (512) 469-7664

Judge Mark D. Atkinson, Chief Executive Officer

Implicit Bias Trainings

Rule 12 of the Rules of Judicial Education lists the statutorily mandated training for judges. Rule 12b specifies “Judicial Education entities shall provide training in ethics, which must include information about issues related to race, fairness, ethnic sensitivity and cultural awareness.”

While the mandate is on training entities, most judges in Texas attend the Texas Center’s College for New Judges. Implicit bias training was integrated into the curriculum of the College for New Judges in 2012 and has been included every year since then except in 2013 and 2015. With the exception of 2012, it has been taught by Professor Jeffrey Rachlinski¹ from Cornell Law School.

The following is a list of programs and presentations that are clearly and readily identifiable as bias training, followed by a list of additional presentations incorporate bias (including ethnic, gender, cultural, or racial) as part of the subject matter.

Programs Dedicated Solely to Implicit Bias

Undoing Racism Workshops (2010-2014)

Grants funds available through the Court Improvement Project, administered by The Permanent Judicial Commission on Children, Youth, and Families, were used by the Texas Center for the Judiciary to partially support an Undoing Racism workshop for judges in 2011.

Grants funds available through the Children’s Justice Act (CJA), administered by The Texas Center for the Judiciary, were used to bring Undoing Racism workshops to local communities. The CJA Task Force sponsored one training at the Texas Center in 2010; provided funding to the Texas Center to partially support a workshop for judges in 2011; provided funding to the Department of Family and Protective Services to bring two workshops to local communities in 2012 and;

¹ Jeffrey Rachlinski is the Henry Allen Mark Professor of Law at Cornell Law School. He holds a BA and an MA in psychology from Johns Hopkins University, a JD from Stanford Law School, and a PhD in Psychology from Stanford. In 1994, Professor Rachlinski joined the faculty at Cornell Law School. He has also served as visiting professor at the University of Chicago, the University of Virginia, the University of Pennsylvania, Yale, and Harvard. Professor Rachlinski’s research interests primarily involve the application of cognitive and social psychology to law with special attention to judicial decision making. He has presented his research on judicial decision making to audiences in attendance at over 70 judicial education conferences, which have included over 5,000 judges in a dozen states and three countries.

provided funding to the Center for the Elimination of Disproportionalities and Disparities to bring Undoing Racism trainings to communities across the state as part of a pilot project.

Implicit Bias Conferences (2010 – 2013)

The Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families (Children's Commission) and the Texas Center for the Judiciary hosted the Implicit Bias Conference for four consecutive years. The goal of the conference was to educate judges about the effect of implicit biases on decision making and how these biases have contributed and continue to contribute to disparate outcomes for African American, Native American and Hispanic youth and families involved in the judicial system. Some of the nation's pre-eminent experts led discussions on race and racism, including its history in the United States, the effects of unintentional biases, current research, and tools judges can use to effect change in their courtrooms. Course titles and objectives are listed below.

Presentations Dedicated Solely to Implicit Bias (2010 – Present)

2020

Many conferences have been canceled due to COVID-19. Implicit bias training will be included in the College for New Judges, in-person or virtually.

2019

College for New Judges

Implicit Judgment – 1 hr

Explored how implicit bias based on gender, race/ethnicity, and a whole host of other individual traits can affect judgments in both civil and criminal cases, in the courtroom and beyond.

DWI Court Teams Advanced Conference

Culturally Informed Practice: Making Implicit Bias Visible – 1 hr

Reviewed emerging research on the science of implicit bias and consequent outcomes such as micro aggressions, and offered strategies to better understand members of diverse communities.

2018

College for New Judges

Implicit Judgment – 1 hr

Explored how implicit bias based on gender, race/ethnicity, and a whole host of other individual traits can affect judgments in both civil and criminal cases, in the courtroom and beyond.

Child Welfare Judges Conference

Cultural Competency – 1 hr

Through personal and professional experiences about interacting with the various and diverse populations which come before their courts, two Texas judges discussed how they created a respectful environment in which collaboration, family empowerment, and strength-based solutions contributed to fair and positive treatment of all involved.

2017

College for New Judges

Implicit Judgment – 1 hr

Explored how implicit bias based on gender, race/ethnicity, and a whole host of other individual traits can affect judgments in both civil and criminal cases, in the courtroom and beyond.

DWI Court Teams Advanced Conference

Addressing Disparities: Cultural and Gender Issues – 1 hr

Focused on helping courts provide equivalent access, retention, treatment, incentives and sanctions, dispositions, and stress the importance of providing team training on race, ethnicity culture, diversity and becoming a culturally competent and responsive program.

2016

College for New Judges

Implicit Judgment – 1 hr

Explored how implicit bias based on gender, race/ethnicity, and a whole host of other individual traits can affect judgments in both civil and criminal cases, in the courtroom and beyond.

2014

College for New Judges

Implicit Bias – 1 hr

Explored how implicit bias based on gender, race/ethnicity, and a whole host of other individual traits can affect judgments in both civil and criminal cases, in the courtroom and beyond.

Annual Judicial Education Conference

The Impact of Race and Gender on Judicial Decision-Making: The Empirical Evidence in Employment Discrimination Cases – 2hrs

Reviewed research that has shown how unconscious preferences can affect reactions and judgments, then explored the complex race and gender dynamics in judicial decision-making and their consequences.

Texas College for Judicial Studies

Justice for All: Creating a Bias-Free Court– 1.5 hrs

Presented a plan for creating a bias free court using the human relations approach. Focusing on communications tools, diversity issues were presented and discussed.

Child Welfare Judges Conference

Neuroscience of Judicial Decision-Making – 1.25 hrs

Analyzed emerging research in neuroscience and discussed how unconscious processes can affect decision-making and identified ways to increase sound decision-making and fairness.

DWI College for Court Teams

Cultural Competency 101 & Cultural Competency Discussion – 1.5 hrs

Discussed how cultural filters can impact a client's motivation and how being aware of these when creating a treatment plan can increase the likelihood of a successful outcome.

2013

Education Summit

Mandatory Reporting and Disproportionality – .5 hr

Focused on the impact that mandatory reporters have on disproportionate representation of children of color in the child welfare and juvenile justice systems and projects that have been implemented across the state to increase awareness of this issue.

Implicit Bias Conference

Disproportionality and Disparities in Texas: an Overview – .75 hr

Discussed the Texas specific data on disproportionality in its child welfare system as well as the move to a broader effort to improve equity across all systems.

Video Presentation: Race – The Power of an Illusion – 1 hr

Challenged the assumption of race as biology and explores how the social understandings and the implications of race have changed over time. Also scrutinized the effect that changing ideas about race have had on institutions.

Power, Privilege and Race – 2.5 hrs

Explored the historic construction of race and power in the United States and examined why these inequalities endure and what can be done to correct them.

The Science of Implicit Bias – 1.5 hrs

Provided information about the state of the science of implicit bias as well as detailed methods of measuring and understanding unconscious prejudices.

Helping Courts Address Implicit Bias – 1.75 hrs

Introduced research-based methods that can alter automatic mental processing to improve fairness in decision-making and will identify techniques for overriding unconscious bias.

Mobilizing Communities to Address Inequalities – .75 hrs

Experts identified ways that the judiciary, CPS, and the community work together to develop solutions to disproportionality and disparities.

2012

College for New Judges

Implicit Bias – 1.5 hrs

Used Texas-specific data to illustrate the existence and extent of disproportionality in the criminal justice system and how this can affect the role of a judge.

Family Violence Conference

The Neuroscience and Psychology of Judicial Decision-Making in Family Violence Cases – 1 hr

Dr. Kim Papillon analyzed the relationship between a person's brain, preferences and judicial decision-making in the context of cultural and gender differences in nonverbal

communication. She then offered methods and tools that can alter automatic mental processes to improve fairness and identify techniques for overriding unconscious bias.

Implicit Bias Conference

The Texas Story – 1 hr

Described the institutional change Texas made to reduce disproportionality within the child welfare system, which included the voices of those whose lives have been changed by these efforts.

What Blood Won't Tell: A History of Race on Trial in America– 1.75 hrs

Reviewed the legal history of racial identity, showing how the relationships of race have affected claims of citizenship over the past 150 years.

Analyzing Power – 1.75 hrs

Explored the historic construction of race and power in the United States and examined the systems external to the community that create the internal realities that many people experience on a daily basis.

Racial Wealth Gap – 1.25 hrs

Addressed how disparities in family assets along with continuing discrimination in critical areas such as homeownership dramatically impacts the lives of black families, perpetuating the cycle of poverty.

Uneven Justice – 1.25 hrs

Discussed the collateral effects of high incarceration in communities of color, including family stress and dissolution.

Intersection of Criminal Justice and Child Welfare – 1 hr

Focused on how parental involvement in the criminal justice system is a much higher risk factor for children of color.

The Neuroscience and Psychology of Decision-Making – 1.25 hrs

Dr. Kim Papillon analyzed the relationship between a person's brain, preferences and judicial decision-making in the context of cultural and gender differences in nonverbal communication. She then offered methods and tools that can alter automatic mental processes to improve fairness and identify techniques for overriding unconscious bias.

2011

Texas College for Judicial Studies

Justice for All: Creating a Bias-Free Court – 1.5 hrs

Presented a plan for creating a bias free court using the human relations approach. Focused on communications tools, diversity issues are presented and discussed.

CPS & Associate Judges Conference

How Implicit Bias Affects Decision-Making – 1 hr

Described how the way information is processed impacts decision-making, taking into account implicit bias - what it is, how it works, and how to address it to improve decision-making from the bench.

Implicit Bias Conference

The Texas Story – .25 hr

Described the institutional change Texas made to reduce disproportionality within the child welfare system.

Leading with the Data – 1 hr

Texas-specific data was used to illustrate the existence and extent of disproportionality in the child welfare system and how it increases at each stage of service.

Video Presentation: Race – The Power of an Illusion – 2 hrs

Challenged the assumption of race as biology and explores how the social understandings and the implications of race have changed over time. Also scrutinized the effect that changing ideas about race have had on institutions.

Analyzing Power – 1.75 hrs

Explored the historic construction of race and power in the United States and examined the systems external to the community that create the internal realities that many people experience on a daily basis.

Anthropology of Race – 1.5 hrs

Examined assumptions about race and biology, analyzed the difference between looking at race as a social idea versus a scientific one, and discussed other explanations for why individuals look different from each other.

Colorblindness – 1.5 hrs

Explored racial paradigms and how they contribute to a system of white privilege socially and legally defended by restrictive definitions of what counts as race and racism, and what doesn't, in the eyes of the law.

Structural Racism – 1.5 hrs

Explored the practices, cultural norms, and institutional arrangements that help create and maintain disparate racialized outcomes.

Courts Catalyzing Change – 1.5 hrs

Reviewed a study that investigated disproportionate representation and disparate outcomes for children and families of color in child protection courts.

2010

Implicit Bias Conference

The Texas Story – .75 hr

Described the institutional change Texas made to reduce disproportionality within the child welfare system.

Race: The Power of an Illusion Video Presentation – 1 hr

Challenged the assumption of race as biology and explores how the social understandings and the implications of race have changed over time.

History of Racism in America– 2.25 hrs

Examined how racism has distorted, suppressed, and denied the histories of people of color and white people.

Implicit Bias in Decision-Making – 1 hr

Explored how implicit biases work and how despite pretexts of “color blindness,” racism still results in disproportional treatment in all major social institutions, including child welfare.

Training and Strategies: Judges Role – 3 hrs

Explored how racial bias or cultural misunderstanding by judges, social workers, and attorneys perpetuates disproportionality in child welfare; and provided an opportunity to develop an understanding of cultural and sub-cultural context.

The Travis County Story on Disproportionality – .25 hr

Reviewed Travis County disproportionality data and discussed strategies and efforts being implemented by the local DFPS Disproportionality Task Force and Travis County Model Court to address and eradicate racial disproportion in the child welfare population.

Presentations that Incorporate Implicit Bias as a Part of the Subject Matter (2010 – Present)

2019

College for New Judges

Role of a Judge – 1 hr

Examined the role of the judge in the justice system and a judge's ability to affect and improve his or her community by being fair and equitable to all that come before the Court.

Self-Represented Litigants – 1 hr

Addressed issues relating to judicial sensitivity to self-represented litigants and how judicial responses might be interpreted as unethical or displaying bias and lack of sensitivity.

Ethics In and Out of the Courtroom – 1 hr

Explored moral, legal and ethical obligations imposed by Texas Judicial Code of Conduct.

2018

College for New Judges

Role of a Judge – 1 hr

Examined the role of the judge in the justice system and a judge's ability to affect and improve his or her community by being fair and equitable to all that come before the Court.

Self-Represented Litigants – 1 hr

Addressed issues relating to judicial sensitivity to self-represented litigants and how judicial responses might be interpreted as unethical or displaying bias and lack of sensitivity.

Ethics In and Out of the Courtroom – 1.5 hrs

Explored moral, legal and ethical obligations imposed by Texas Judicial Code of Conduct.

Child Welfare Judges Conference

The Power of Perception and The Positive Impact of Humanizing Justice – .5 hr

Discussed the concept of procedural fairness, and why having a humane and fair courtroom process has more impact on the parties than the actual decision.

2017

College for New Judges

Role of a Judge – 1 hr

Examined the role of the judge in the justice system and a judge's ability to affect and improve his or her community by being fair and equitable to all that come before the Court.

Self-Represented Litigants – 1 hr

Addressed issues relating to judicial sensitivity to self-represented litigants and how judicial responses might be interpreted as unethical or displaying bias and lack of sensitivity.

Ethics In and Out of the Courtroom – 1.5 hrs

Explored moral, legal and ethical obligations imposed by Texas Judicial Code of Conduct.

Child Welfare Judges Conference

Recognizing Judicial Leadership and Innovate Practices – 1 hr

Judge Cyndi Wheless discussed her long-time efforts to address disproportionality and her use of the National Council of Juvenile and Family Court Judges Courts Catalyzing Change bench card. Judge Carlos Villalon presented on the Collaborative Family Engagement program and the difference it has made in his community, along with docketing practices and becoming a trauma-informed courtroom. Judge Katrina Griffith discussed involving youth in the decisions affecting their lives and moving youth to permanent homes and relationships.

2016

College for New Judges

Role of a Judge – 1 hr

Examined the role of the judge in the justice system and a judge's ability to affect and improve his or her community by being fair and equitable to all that come before the Court.

Self-Represented Litigants – 1 hr

Addressed issues relating to judicial sensitivity to self-represented litigants and how judicial responses might be interpreted as unethical or displaying bias and lack of sensitivity.

Ethics In and Out of the Courtroom – 1.5 hrs

Explored moral, legal and ethical obligations imposed by Texas Judicial Code of Conduct.

2015

College for New Judges

Role of a Judge – 1 hr

Examined the role of the judge in the justice system and a judge's ability to affect and improve his or her community by being fair and equitable to all that come before the Court.

Self-Represented Litigants – 1 hr

Addressed issues relating to judicial sensitivity to self-represented litigants and how judicial responses might be interpreted as unethical or displaying bias and lack of sensitivity.

Ethics In and Out of the Courtroom – 1.5 hrs

Explored moral, legal and ethical obligations imposed by Texas Judicial Code of Conduct.

Child Welfare Judges Conference

Handling Well-Being Issues From the Bench – 2.25 hrs

Foster youth discussed their experiences, specifically related economic, social, and emotional well-being, and judges engaged in a Q & A forum that included the subtopic of disproportionality.

2014

College for New Judges

Role of a Judge – 1 hr

Examined the role of the judge in the justice system and a judge's ability to affect and improve his or her community by being fair and equitable to all that come before the Court.

Self-Represented Litigants – 1 hr

Addressed issues relating to judicial sensitivity to self-represented litigants and how judicial responses might be interpreted as unethical or displaying bias and lack of sensitivity.

Ethics In and Out of the Courtroom – 1.5 hrs

Explored moral, legal and ethical obligations imposed by Texas Judicial Code of Conduct.

Texas College for Judicial Studies

Public Perception of the Courts through Media – 1.5 hrs

Compared how movies have portrayed judges, the concepts of fairness and justice depicted in courtroom scenes, and showed movie examples of unethical behavior by judges.

Constructive Communication – 3 hrs

Identified courtroom events that included nonverbal messages, addressed personal nonverbal styles and self-monitoring, and presented tools to help judges develop strategies for managing nonverbal perceptions and problems.

Child Welfare Judges Conference

Laws and Policies Affecting Limited English Proficient People in Texas Courts – .5 hr

Reviewed statutes and rules addressing the appointment of court interpreters as well as available resources and information to assist courts with this process to ensure due process.

2013

College for New Judges

Role of a Judge – 1 hr

Examined the role of the judge in the justice system and a judge's ability to affect and improve his or her community by being fair and equitable to all that come before the Court.

Self-Represented Litigants – 1 hr

Addressed issues relating to judicial sensitivity to self-represented litigants and how judicial responses might be interpreted as unethical or displaying bias and lack of sensitivity.

Ethics In and Out of the Courtroom – 1.5 hrs

Explored moral, legal and ethical obligations imposed by Texas Judicial Code of Conduct.

Child Welfare Judges Conference

Criminal Convictions and Kinship Placements – 1 hr

Examined the higher rates of incarceration of African Americans and what effect it had on the child welfare system, as well as the potential implications of criminal justice involvement on children and families this question as well as the effect of criminal convictions on kinship/relative placements and permanency.

2012

College for New Judges

Role of a Judge – 1 hr

Examined the role of the judge in the justice system and a judge's ability to affect and improve his or her community by being fair and equitable to all that come before the Court.

Self-Represented Litigants – 1 hr

Addressed issues relating to judicial sensitivity to self-represented litigants and how judicial responses might be interpreted as unethical or displaying bias and lack of sensitivity.

Ethics In and Out of the Courtroom – 1.5 hrs

Explored moral, legal and ethical obligations imposed by Texas Judicial Code of Conduct.

Child Welfare Judges Conference

Procedural Fairness in CPS Cases – 1 hr

Provided recommendations and ideas to improve the perception of procedural fairness by all parties in child welfare cases.

2011

College for New Judges

Role of a Judge – 1 hr

Examined the role of the judge in the justice system and a judge's ability to affect and improve his or her community by being fair and equitable to all that come before the Court.

Self-Represented Litigants – 1 hr

Addressed issues relating to judicial sensitivity to self-represented litigants and how judicial responses might be interpreted as unethical or displaying bias and lack of sensitivity.

Ethics In and Out of the Courtroom – 1.5 hrs

Explored moral, legal and ethical obligations imposed by Texas Judicial Code of Conduct.

Annual Judicial Education Conference

When Justice Fails – 1.5 hrs

Analyzed the impact of judicial decisions and implications of judges' position as the branch of government charged with maintaining order. When significant actions by the executive or legislative branch threaten to encroach on the freedoms of citizens, it is up to the judiciary to enforce the principles of law and the constitution.

Texas College for Judicial Studies

Creative Sentencing – 1 hr

Examined factors judges rely on when sentencing offenders, highlighting factors that they may not be aware they are taking into consideration, including race and gender. You may not even be aware of the factors influencing your decision.

Public Perception of the Courts through Media – 1 hr

Compared how movies have portrayed judges, the concepts of fairness and justice depicted in courtroom scenes, and showed movie examples of unethical behavior by judges.

Constructive Communication – 3 hrs

Identified courtroom events that included nonverbal messages, addressed personal nonverbal styles and self-monitoring, and presented tools to help judges develop strategies for managing nonverbal perceptions and problems.

2010

College for New Judges

Role of a Judge – 1 hr

Examined the role of the judge in the justice system and a judge's ability to affect and improve his or her community by being fair and equitable to all that come before the Court.

Self-Represented Litigants – 1 hr

Addressed issues relating to judicial sensitivity to self-represented litigants and how judicial responses might be interpreted as unethical or displaying bias and lack of sensitivity.

Ethics In and Out of the Courtroom – 1.5 hrs

Explored moral, legal and ethical obligations imposed by Texas Judicial Code of Conduct.

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JUDICIAL COUNCIL OF CALIFORNIA

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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

August 16, 2021

Hon. Gavin Newsom
Governor of California
State Capitol Building
Sacramento, California 95814

Hon. Toni G. Atkins
Senate President pro Tempore
State Capitol, Room 205
Sacramento, California 95814

Hon. Anthony Rendon
Speaker of the Assembly
State Capitol, Room 219
Sacramento, California 95814

Hon. Thomas J. Umberg, Chair
Senate Judiciary Committee
State Capitol, Room 5094
Sacramento, California 95814

Hon. Mark Stone, Chair
Assembly Judiciary Committee
State Capitol, Room 3146
Sacramento, California 95814

Dear Governor Newsom, President pro Tempore Atkins, Speaker Rendon, Senator Umberg, and Assembly Member Stone:

In March of this year, I convened a Judicial Council workgroup to examine successful court practices adopted during the pandemic and recommend those that demonstrate the most promise to increase access to justice, modernize services, and promote consistency and uniformity throughout the state. The workgroup has issued its first interim report focused on remote access to courts,

August 16, 2021

Page 2

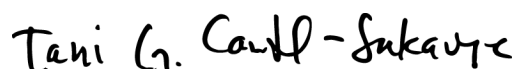
which, unsurprisingly, has emerged as a central issue with strong support for maintaining extensive remote access to court proceedings. The report, outlining considerations for addressing both judicial proceedings and court operations, is attached. (Additional recommendations building on other court practices and procedures developed during the pandemic will be forthcoming as the workgroup continues its efforts.)

This interim report on remote access was informed by meetings held with court users representing 46 different groups—including civil and criminal attorneys, law enforcement, legal aid attorneys, dependency counsel, and court staff—who presented their input on changes to court processes instituted due to the pandemic, including their experiences with remote hearings.

The workgroup recommends that California expand and maximize remote access on a permanent basis for most court proceedings and should not roll back the increased access to the courts made possible by remote technology to pre-pandemic levels of in-person operations. It further recommends that the Judicial Council encourage and support courts in substantially expanding remote access, while adopting policies that ensure consistency and fairness statewide with the flexibility to meet local needs.

Remote technology increases equity and fairness in our court system by allowing court users more ways to access court services and participate in court proceedings. Recognizing that remote technology should not replace all in-person court hearings, Californians should have the freedom of choice to conduct their business remotely whenever appropriate. I welcome the support of the Administration and the Legislature in accomplishing these changes to benefit the public we serve.

Sincerely,

A handwritten signature in black ink that reads "Tani G. Cantil-Sakauye". The signature is written in a cursive, flowing style.

Tani G. Cantil-Sakauye
Chief Justice of California

TCS/tc

Attachment

cc: Hon. Marsha G. Slough, Chair, Workgroup on Post-Pandemic Initiatives
Mr. Martin Hoshino, Administrative Director, Judicial Council
Ms. Shelley Curran, Director, Criminal Justice Services, Judicial Council
Mr. Cory Jasperson, Director, Governmental Affairs, Judicial Council



Interim Report: Remote Access to Courts

WORKGROUP ON POST-PANDEMIC INITIATIVES
AUGUST 16, 2021

REMOTE ACCESS TO COURTS

Overcoming bureaucracy, updating the museum pieces of governance, revealing the real people who make up our government, restoring trust: technology can help us do all of these crucial things, if we allow ourselves to embrace it.

Governor Gavin Newsom, *Citizenville*

We need to reinvest in justice. We need that reinvestment to institute what I call "Access 3D," three-dimensional access. Access should be physical, remote, and equal.

Chief Justice Tani Cantil-Sakauye, 2013

CHIEF JUSTICE'S AD HOC WORKGROUP ON POST-PANDEMIC INITIATIVES

In March 2021, Chief Justice Tani G. Cantil-Sakauye appointed the Ad Hoc Workgroup on Post-Pandemic Initiatives (Workgroup). The purpose of the Workgroup is to identify, refine, and enhance successful court practices that emerged during the COVID-19 pandemic to increase access to justice, modernize services, and promote uniformity and consistency in these practices going forward.

To date, the Workgroup has heard from 76 individuals representing 46 entities. Those who presented to the group represented court users in all case types, judicial officers, court staff, criminal and civil attorneys, and legal aid attorneys representing low-income litigants. A full list of the presenters and the organizations they represent can be found in Attachment A.

The Workgroup asked presenters to comment on practices adopted by courts during the pandemic to provide continued access to justice while maintaining the health and safety of court users, judicial officers, and staff. Remote access to the courts was chosen as the subject for this first interim report because it was the central issue raised in nearly every presentation to the Workgroup. This report summarizes the many and varied considerations for remote access to the courts in both judicial proceedings and court operations touched on by those presenters who addressed the topic. With few exceptions, presenters spoke of the value in continuing to provide court users with remote access in all case types. Future reports will cover other topics under consideration by the Workgroup.

EXECUTIVE SUMMARY

The COVID 19 pandemic highlighted many access to justice issues especially for low-income individuals, communities of color, children, the elderly, victims of crime, and other vulnerable populations. Remote access to the courts can increase equity, fairness, and transparency for both the public and the media.

The majority of judicial branch users and stakeholders who presented to the Ad Hoc Workgroup on Post-Pandemic Initiatives expressed strong support for the expansion of remote access to court proceedings during the pandemic, and for maintaining extensive remote access going forward. This input confirmed that remote proceedings allow individuals who face barriers in accessing the courts (such as having to travel long distances to court or take time off work) to efficiently resolve their court matters, and that providing access to the courts through the use of remote technology is an access to justice issue.

Expanding the use of remote technology also addresses many other important public policy concerns. Approximately 40 million individuals entered California courts in person annually before the pandemic, often traveling significant distances in private vehicles and on public transportation to appear at hearings or to otherwise conduct their court business. During the pandemic, with the use of remote technology for handling cases, the number of individuals who entered courthouses in person dropped to 12 million. When provided the option for remote access to court services, 75 percent of self-help visitors chose to obtain services remotely. This reduction in the number of individuals who had to travel to courthouses reduced traffic and air pollution and will continue to have a positive climate impact going forward. Remote proceedings allowed pro bono attorneys and legal aid providers to serve more clients with greater efficiency, and increased transparency and access to court proceedings for the public and the media. The need for remote access to the courts is likely to increase significantly in the coming months as California pursues more equity and inclusion initiatives and works to manage the anticipated rise in evictions.

Given the importance of addressing the use of remote technology as an access to justice issue, the Workgroup makes the following interim recommendations:

- California courts should expand and maximize remote access on a permanent basis for most proceedings and should not default to pre-pandemic levels of in-person operations.
- The Judicial Council should encourage and support courts to substantially expand remote access through all available technology and should work to promote consistency in remote access throughout the state to ensure that Californians have equal access to the courts while providing flexibility to meet local needs.

This interim report provides a condensed, selective summary of comments the Workgroup received from a wide variety of judicial branch stakeholders on the use of remote technology to provide access to the courts. It includes the benefits identified, areas of concerns, and considerations that will need to be addressed in making remote access to court processes fair, consistent, and permanent.

BACKGROUND

On March 28, 2020, at the start of the COVID-19 pandemic, the Judicial Council directed superior courts to make use of available technology to conduct judicial proceedings and court operations remotely, when possible, in order to protect the health and safety of the public, court personnel, judicial officers, litigants, and witnesses. On March 30, Chief Justice Tani G. Cantil-Sakauye issued an order, consistent with Governor Newsom's Executive Order N-38-20, suspending the California Rules of Court to the extent that any rule prevented a court from using technology to conduct judicial proceedings and court operations remotely.

On April 6, 2020, the Judicial Council of California adopted emergency rule 3 of the California Rules of Court, which generally provides that courts may require judicial proceedings and court operations to be conducted remotely. Emergency rule 3 will remain in effect until 90 days after the Governor declares the state of emergency related to the COVID-19 pandemic lifted, or until the rule is amended or repealed by the Judicial Council.

Emergency rule 3 provides courts with broad authority to conduct essential court functions—including arraignments, preliminary hearings, restraining orders, juvenile proceedings, and general civil and mental health hearings—remotely to implement the social-distancing measures necessary to limit the spread of COVID-19. For criminal proceedings, courts must receive the consent of the defendant to conduct the proceeding remotely.

The rule provides that courts may conduct proceedings remotely, which includes:

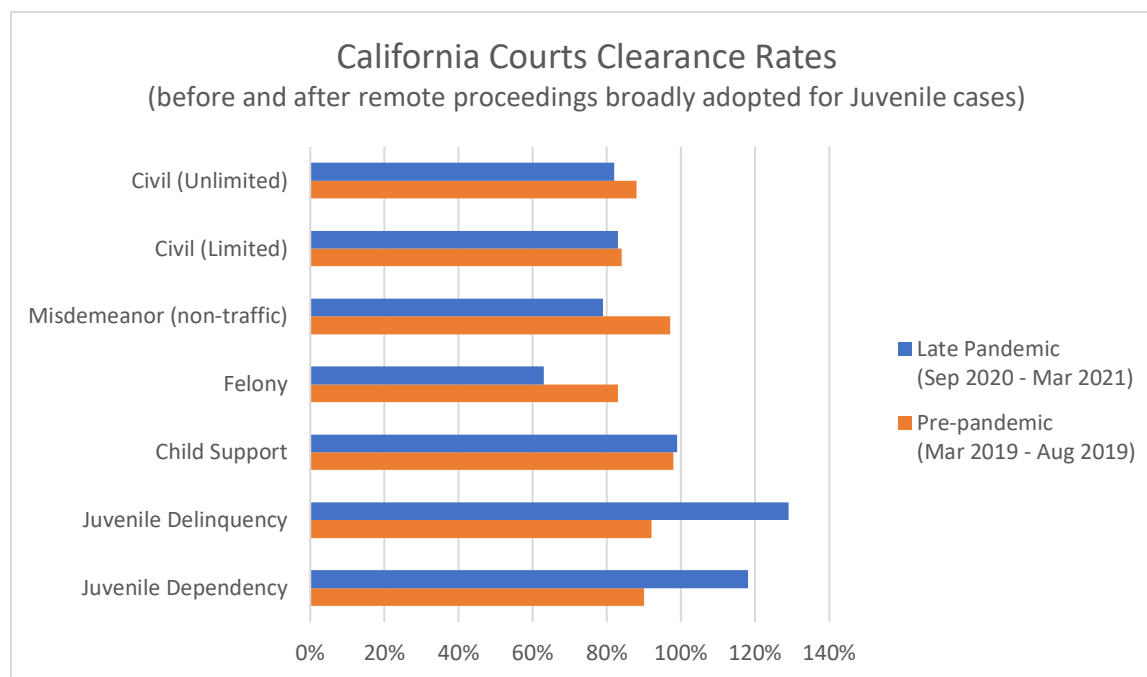
- Video, audio, and telephonic means for remote appearances;
- Electronic exchange and authentication of documentary evidence;
- E-filing and e-service; and
- Remote interpreting, remote court reporting, and electronic recording of court proceedings to make the official record.

In June 2020, a Judicial Council working group published the *Pandemic Continuity of Operations Resource Guide*. The guide includes considerations and approaches to help the state’s trial courts with their pandemic continuity of operations while providing a safe environment for court users, staff, and justice partners. By December 2020, almost all courts were providing remote proceedings in at least one case type and 38 courts made remote proceedings available in all case types. In February 2021, the *Pandemic Continuity of Operations Resource Guide* was updated to include promising practices from the courts regarding their experiences with remote proceedings.

The use of technology for remote proceedings has been instrumental in enabling courts to continue to serve the public and provide access to justice during the pandemic. The courts have been successful in these efforts, as indicated by the rate of case dispositions to case filings. Typically, court case filings exceed case dispositions. Before the pandemic, court clearance rates, defined as dispositions as a percentage of filings, averaged 86 percent. During the early part of the pandemic, March–August 2020, the clearance rate dropped to 73 percent.

However, in case types where courts were able to increase the use of technology during the pandemic, the case clearance rate simultaneously increased. In juvenile cases, which have transitioned almost entirely to video remote proceedings, clearance rates have exceeded 100 percent as courts have been able to address both current and backlogged cases; child support matters had an approximately 10 percent increase in clearance rates. In criminal cases and other case types where remote technology and practices have not been implemented as broadly, clearance rates have decreased by approximately 20 percent. (See Figure 1, below.)

Figure 1. California Courts Clearance Rates



BENEFITS

Most individuals and organizations that presented to the Workgroup voiced strong support for maintaining extensive remote access to court proceedings.

Remote Technology Promotes Greater Access for Court Users

Many presenters provided examples of how technology increased access to the courts in all case types and noted that remote access has been particularly positive in the following areas:

- Family law
- General Civil matters
- Restraining orders, both domestic violence and other civil
- Small claims
- Juvenile law
- Probate (conservatorships and guardianships)
- Collaborative courts (both adult and juvenile)
- Child support

Offering remote options provides court users with access to the courts they otherwise would not have. Existing access divides were made more apparent by the pandemic and were addressed by remote proceedings. Before the expansion of remote access, individuals faced significant barriers to participation in court proceedings because of job constraints, childcare needs, transportation issues, traffic congestion in urban areas, and length of travel for rural communities. Remote technology can increase access and save on travel time and costs by allowing a court user to attend a hearing while on a

break at work rather than lose a full day of work (and pay) to appear in person. This is especially true for self-represented litigants, who constitute a large portion of court users, particularly in family law, restraining order proceedings, traffic, and small claims cases.

In collaborative courts, providing remote appearances has allowed participants to receive better continuity of treatment (drug treatment, medical, etc.) without having to interrupt these important services to attend a hearing. For some collaborative court participants, including those with mental health or substance use disorders, the experience of coming to court can be overwhelming, so participants can be better served by allowing them to appear remotely from their own home or treatment setting. To accomplish these remote appearances effectively, the base technological support must be in place.

In the family court arena, online mediation tools have worked well for those in the military and out of state. These tools have enabled people to participate by video conference rather than just by phone, which has allowed the court and other participants to communicate on important family law issues more easily. In dependency, delinquency, and family law cases, remote appearance options have led to increased participation, and generally outcomes are much better when the family is engaged.

In juvenile law cases, remote options have been positive for those with nontraditional work schedules, for incarcerated parents, and for youth who are able to participate without taking time from school. (In one jurisdiction, it is a 176-mile drive over a mountain pass to get to court, so safety is a concern whenever youth must be driven to court.)

Victims often prefer to have the option of attending or appearing in remote proceedings

Remote arraignments that do not require defendants to be brought into the courthouse are a safer model for victims and other court users. Remote options also reduce transportation barriers and the amount of time necessary for victims to appear in court.

Court staff have received from vulnerable victims (such as the elderly and those who have experienced domestic violence) feedback that they appreciated the remote options and reports of decreased anxiety and stress from knowing that they would not have to appear in the same physical space as the person who abused them.

Availability of expert and other witness testimony is increased through remote options

Counsel in both civil and criminal proceedings have reported that experts and other witnesses have had greater interest and willingness to testify because they do not need to set aside a whole day to travel and appear in court, which makes scheduling of contested hearings much easier. For traffic and criminal cases, some law enforcement offices have created a “Zoom Room”—a dedicated room for remote testimony by law enforcement personnel. This approach has been extremely helpful in addressing and avoiding technology issues and has allowed officers to use their time more efficiently while waiting to testify. Historically, officers could wait in court for two to three hours before being called to testify. Remote appearances allow them to be available as needed and to complete paperwork and other work while waiting to be called.

Providing a virtual visitation option promotes improved relationships and increased participation

Many families involved in family law and dependency court proceedings also face housing issues and tend to change residences during the life of their cases, which can make it difficult to appear in court

and to maintain in-person visitation. Some parents who live out of state and previously had been unable to participate in proceedings or visitation are now able to do so remotely. Those working with families have been able to utilize technology to improve connections between youth and their family members or other adults in their lives.

In the dependency arena, offering an option for virtual visitation promotes relationships between birth parents and foster parents and helps children to stay in touch with parents and other supportive adults in their lives. Research on parents deployed in the military shows that children can have meaningful contact via virtual visits. In addition to a weekly in-person visit, the option for children to touch base with parents more regularly via technology is important.

Remote options increase participation and promote efficiency in all case types

For child support matters involving the Department of Child Support Services, it would not be uncommon to have 17 matters calendared and have both parties in attendance at only 10 of the matters. With remote hearings, it's more common that both parties are in attendance in 16 out of 17 matters.

Hon. Danielle K. Douglas, Superior Court of Contra Costa County

In the criminal arena, remote appearances for arraignments are more efficient overall for counsel, court staff, and correctional staff who are not required to transport defendants and manage their presence in public areas of courthouses and in courtrooms. Defense counsel noted that remote arraignments and preliminary hearings are efficient, emphasizing the importance of ensuring access to materials in advance and of defense counsel's ability to communicate confidentially with the client before and during the arraignment. Arraignment calendars have been handled more efficiently in jurisdictions that have used this approach. However, there is currently no consistency in the way these proceedings are handled from county to county and court to court.

Before the pandemic, pretrial conferences in both civil and criminal cases took a great deal of time for judges and attorneys. Providing remote options and allowing for client appearances to be waived for date setting or progress report hearings has been beneficial; the same is true for stipulated continuances. Although support is strong for the use of remote technology, there is agreement that it can be beneficial and efficient to conduct more substantive parts of both criminal and civil cases in person.

Many jails have instituted a remote meeting process for criminal defense counsel to have access to their in-custody clients, and this process has generally demonstrated a significant benefit. In many counties, the jail is a 30-minute drive from the court and counsel offices, and it can take a long time for counsel to get processed for entering the jail. After meeting with clients in person a few times to establish trust, it is possible and more efficient for counsel to conduct Zoom meetings with their clients.

The ability to conduct hearings remotely has reduced default or failure-to-appear rates in many courts, and at the same time courts have seen efficiencies in work for staff, with less down time in courtrooms. Courts were initially concerned that holding remote hearings could hinder access to justice, but some courts have seen participation increase by 20–30 percent.

In the juvenile arena, courts saw increased participation from youth who had previously been AWOL (absent without leave) but were more willing to participate in remote hearings. Failures to appear have dropped in juvenile matters because youth do not fear that they will immediately be taken into custody

if they appear remotely. For youth in custody, remote appearances have improved the efficiency of service delivery in the institutions. Programming and other responsibilities take up most of their day, every day, so for youth to attend court remotely and then seamlessly return to their programs is beneficial and efficient.

Court users expect and want courts to provide remote options

We learned that the pace of change can be much quicker than we thought; we now know that we can work faster than we thought we could.

Cecilia Rivas, Youth Law Center

Throughout the pandemic, and even before it, courts received criticism for requiring people to appear in person for something that could have easily been handled remotely. Increasingly, court users expect that if the courts can serve people equally or better remotely, the courts should have those options available. Some court users, including litigants in civil matters, have indicated that going back to in-person appearances, at least for short cause matters, would be very problematic and decrease access to justice because of the inconvenience and costs—considerations that are especially important to low-income court users. Some jurors have indicated they preferred remote trials because of the convenience factor, especially in places where transportation issues make travel to and from court difficult and because parking at the courthouse is limited and expensive.

Youth are generally quite comfortable with being online, so in the family and juvenile arenas participating virtually in court proceedings may be easier for them because it is familiar, is a bit more distanced, and feels safer. At the same time, courts should be thoughtful about the best approach to use with each child or youth, based on developmental considerations.

CONCERNS

In addition to the benefits identified by the individuals who presented to the Workgroup, several concerns were noted. These concerns generally relate to implementation challenges and include the digital divide and other technology issues, challenges in setting an appropriate virtual courtroom environment, and the effect of remote proceedings on the ability of all participants to responsibly perform their roles. Most of these issues can be resolved with adequate funding, infrastructure, and education to provide all court users with the necessary support for ensuring adequate access to the courts.

The Digital Divide

Problems for clients in rural areas are exacerbated because they are in remote areas and often do not have access to technology. They are distant from any location where they may have access to technology, particularly for farmworkers, who work long hours.

Ilene J. Jacobs, CA Rural Legal Assistance, Inc.

Although the expansion of the use of remote technology increased access to justice in many areas as outlined above, those who presented to the Workgroup identified some specific concerns related to the digital divide that must be addressed as remote access to the courts is expanded.

Internet bandwidth is a concern, particularly in rural counties and counties that have experienced fires in recent years. The lack of equity is apparent: 83 percent of Californians have access to broadband, but

only 52 percent have broadband with more than a minimal connection speed, and 28 percent of tribal lands have no broadband network at all. In addition to individual tribal members' lack of access to broadband, some tribes as a whole lack access to broadband, preventing them from participating in state court hearings remotely. Some tribes may not have the infrastructure, finances, or IT support to navigate online virtual hearings.

During the pandemic, the issue of affordability surfaced, as well; the digital divide is not just about connectivity but also about the ability to *afford* connectivity. In addition, not all court users can navigate the technology needed for remote appearances. These are genuine concerns about the increasing digital divide between various court users and its impact on access to justice.

In some areas, the impact of the digital divide on limited-English-proficient (LEP) individuals was not considered, and at times LEP individuals could not fully participate or get access to their lawyers. This circumstance resulted in remotely conducted matters that were inappropriate for virtual remote interpreting. With virtual hearings in dependency cases, LEP parents faced with losing custody rights had the extra stress of being unsure about how much of the remote proceeding they would be able to hear and understand.

Rural areas also have some special issues that tend to be overlooked because of a more common focus on urban low-income populations. Residents in both rural and urban areas may not have access to an attorney or legal services, as well as lacking internet access.

Court reporters stated that technology problems can result in less accurate court records

Individuals representing court reporters expressed concerns that use of video conferencing can make the court record less accurate because of problems with dropped calls or parties running out of minutes on their phones, particularly on government-funded phones with limited minutes. They noted that the record will be substandard if it includes comments such as "you're on mute" and half sentences where people talk over each other due to technology glitches.

Court reporter representatives also stated that when two attorneys with masks on are in the same frame, it is difficult for court reporters to tell who is speaking. They noted that court reporters are required to provide a full, complete court record, and at times, because of technology glitches and other difficult issues, preparing the required record of a remote hearing is a challenge for them.

Challenges in creating a virtual courtroom

At the start of the pandemic, some courts were not as technologically advanced as others. During the first several months of COVID, court users were scrambling to find a point person at some of the courts for assistance with technology troubleshooting. Courts also reported issues with court participants, parents or caregivers, and others recording remote proceedings in violation of the law or court directives.

Court users in remote proceedings sometimes speak out of turn and it is more difficult for the court to control the courtroom or for their attorney to assist in the same way they would at an in-person hearing. In some remote proceedings, the lack of courtroom decorum was a significant concern.

There were instances in remote proceedings where witnesses turned off their cameras so the judge could not ensure that the witness was paying attention or determine whether the witness was looking

at documents or checking notes when they were not supposed to be. There were also concerns that, in some cases, there was someone else in the room who was potentially coaching the witness. For children, testifying from home can have a chilling effect, even if they are safe there, because they may not have a completely private space available.

Concerns specific to criminal matters

There are concerns about remote proceedings in criminal cases. Some people have the perspective that remote proceedings are not constitutionally permissible for critical stages.

Throughout the pandemic, figuring out how in-custody defendants can participate in interviews with their attorneys has been a challenge, as jails have also been trying to cope with the impact of COVID on their institutions. These issues related to access to counsel have been one of the biggest obstacles with remote hearings in criminal cases.

One presenter expressed concerns that providing for defendant consent to remote appearance opens the door to claims of ineffective assistance of counsel. The concern is that the reduction in court time for remote appearances could provide an economic incentive for attorneys to take on more clients and proceedings than they can reasonably handle, so there may be a need to account for potentially unethical attorneys who provide ineffective assistance.

In-person interaction has benefits that may outweigh efficiency

Some have noted that, in many types of proceedings, to have the judge in the same room as the person who will be affected by the judge's decision is helpful. Although many proceedings can be done remotely, there is reason to be thoughtful about moving away completely from the humanity of in-person proceedings for the sake of efficiency.

The value of remote juvenile proceedings has limits. For example, addressing questions that arise midstream from youth in remote proceedings can be challenging.

In dependency and family court matters, it is important to have children present for hearings so they can have a sense of the court, who the participants are, and who makes the decisions. That context is challenging to accomplish with remote proceedings. In court, counsel can be right next to the child and help them understand, which informs the child about the process and strengthens their bond with counsel. In remote proceedings, counsel may not be able to be physically present with their client, and even when they are, they may have more difficulty explaining the various roles given that each person appears in a nearly identical Zoom box rather than in various spaces around the courtroom.

One benefit of in-person dependency and other hearings is that they provide people with the opportunity to make the choice to go into treatment as they leave the courthouse after the judge has stated in court that it would be beneficial for their case; that immediate enrollment in treatment is not possible with virtual hearings. This quick entry into treatment is a critical benefit that can follow from in-person hearings when the next steps the person takes will have an impact on the outcome of their case, such as whether they regain custody of their children.

CONCLUSION

Given the importance of addressing the use of remote technology as an access to justice issue, the Workgroup makes the following interim recommendations:

- California courts should expand and maximize remote access on a permanent basis for most proceedings and should not default to pre-pandemic levels of in-person operations.
- The Judicial Council should encourage and support courts in substantially expanding remote access through all available technology and should promote fairness by adopting balanced policies and encouraging consistency in remote access throughout the state to ensure that Californians have equal access to the courts while providing flexibility to meet local needs.

Individuals and organizations that presented to the Workgroup identified policy and implementation questions that must be considered to improve remote access as it is made permanent. Effective partnerships between the three branches of government at the state and local levels; coordination among the courts and justice partners; and adoption of rules, practices, and procedures—together with education and training for judges, court staff, and court users—will address many of the concerns.

Attachment A: Ad Hoc Workgroup on Post-Pandemic Initiatives Presenters

April 19, 2021

Trial Court Presiding Judges Advisory Committee (TCPJAC)

- Hon. Joyce D. Hinrichs, Superior Court of Humboldt County, TCPJAC Chair
- Hon. Tara M. Desautels, Superior Court of Alameda County, TCPJAC Vice-Chair

Court Executives Advisory Committee (CEAC)

- Ms. Nancy CS Eberhardt, Superior Court of Orange County, CEAC Chair
- Mr. Kevin Harrigan, Superior Court of Tehama County, CEAC Vice-Chair

May 3, 2021

American Board of Trial Advocates, California Chapter

- Walter M. Yoka, Yoka & Smith, LLP, President

California Defense Counsel

- Christopher E. Faenza, Yoka & Smith, LLP, President
- Michael D. Belote, Legislative Advocate

California Lawyers Association

- Emilio Varanini, President
- Ona Dosunmu, Executive Director

Conference of California Bar Associations

- Oliver Q. Dunlap, Chair

Consumer Attorneys of California

- Deborah Chang, Athea Trial Lawyers LLP, President
- Nancy Drabble, Chief Executive Officer

American Federation of State, County and Municipal Employees

- Christoph Mair, Legislative Advocate
- Cole Querry, Political Action Representative

California Court Reporters Association

- Sandy Walden, Chair of Legislative Committee and Immediate Past President

California Federation of Interpreters (CFI)

- Michael Ferreira, President, CFI Local 39000

Service Employees International Union

- Brigitte Jackson, Court Clerk Representative
- Michelle Caldwell, Court Reporter Representative
- Libby Sanchez, Government Relations Advocate

May 17, 2021

Bay Area Legal Aid

- Genevieve Richardson, Executive Director
- Hilda Chan, Supervising Attorney

Bet Tzedek Legal Services

- Diego Cartagena, Esq, President & CEO

California Rural Legal Assistance, Inc.

- Ilene J. Jacobs, Director of Litigation, Advocacy and Training

Central California Legal Services

- Brandi M. Snow, Housing Team Lead Attorney

Disability Rights California

- Christian Abasto, Legal Advocacy Unit Director

Legal Aid Foundation of Los Angeles

- Juliana Lee, Staff Attorney

Legal Aid Society of San Diego

- Joanne Franciscus, Managing Attorney

OneJustice

- Amy Kaizuka, Senior Staff Attorney, Pro Bono Justice Program

Western Center on Law & Poverty

- Madeline Howard, Senior Attorney
- Tina Rosales, Policy Advocate

California Apartment Association

- Heidi Palutke, Policy, Compliance, Education, and Legal Counsel
- Susan E. Greek, CAA Member and Partner, Kimball, Tirey & St. John, LLP

May 28, 2021

Association of Certified Family Law Specialists

- David Lederman, Director of Technology
- Justin O'Connell, Associate Director of Legislation

Dependency Legal Services

- Julia Hanagan, Staff Attorney
- Mikaela West, Attorney

Children's Law Center of California

- Leslie Starr Heimov, Executive Director
- Cassandra Hammon, Attorney

County Welfare Directors Association of California

- Diana Boyer, Director of Policy for Child Welfare and Older Adult Services

Indian Child and Family Preservation Program

- Liz Elgin DeRouen, Executive Director

Youth Law Center

- Cecilia Rivas, Implementation Manager, National Quality Parenting Initiative

June 14, 2021

California District Attorneys Association

- Ryan Couzens, Chief Deputy District Attorney, Yolo County
- Tracy Prior, Chief Deputy District Attorney, San Diego

California Public Defenders Association

- Matthew Sotorosen, Deputy Public Defender, San Francisco County
- Maureen Pacheco, Juvenile Division, Alternate Public Defenders Office, Los Angeles County

California Attorneys for Criminal Justice

- Anthony P. Capozzi, Attorney, Law Offices of Anthony Capozzi
- Marketa Sims, Writs and Appeals Attorney, Independent Juvenile Defender Program, Los Angeles County Bar Association

California Judges Association

- Hon. Danielle K. Douglas, Superior Court of Contra Costa County
- Hon. Anita L. Santos, Superior Court of Contra Costa County
- Hon. Brad Seligman, Superior Court of Alameda County

California Highway Patrol (CHP)

- Assistant Chief Mike Alvarez, CHP Legislative Director

California Police Chiefs Association

- Chief Abdul Prigden, President, Seaside Police Department

Peace Officers Research Association of California

- Deputy Sheriff Joe Dutra, Lake County Sheriff's Office

California State Sheriffs' Association

- Captain Rustin Banks, Solano County Sheriff's Office

Chief Probation Officers of California

- Chief Brian J. Richart, Chief Probation Officer, El Dorado Probation Department
- Chief John Keene, Chief Probation Officer, San Mateo Probation Department

June 28, 2021

State Digital Divide

- Amy Tong, Director and State Chief Information Officer, California Department of Technology

Judicial Council of California Technology

- Hon. Kyle S. Brodie, Chair, Judicial Council Technology Committee
- Heather L. Pettit, Chief Information Officer, Judicial Council

The Legal Aid Association of California

- Alison Corn, Esq., Technology and Legal Design Fellow

Neighborhood Legal Services of Los Angeles County

- Ana Maria Garcia, Vice President of Access to Justice Programs

Superior Court of Santa Clara County, Self Help Center/Family Law Facilitator's Office

- Fariba R. Soroosh, Supervising Attorney

Court Commissioners

- Hon. Glenn Mondo, Superior Court of Orange County (Civil Harassment Restraining Orders)
- Hon. Laura Cohen, Superior Court of Los Angeles County
- Hon. Jonathan Fattarsi, Superior Court of San Joaquin County (Traffic)
- Hon. Leslie Kraut, Superior Court of San Luis Obispo County (Family and Traffic)
- Hon. Jennifer Lee, Superior Court of Contra Costa County (Various Calendars)
- Hon. Myrllys Stockdale Coleman, Superior Court of Sacramento County (Family and Traffic)
- Hon. Julia A. Snyder, Superior Court of Ventura County (Unlawful Detainers)

California Tribal Families Coalition

- Mica Llerandi, Staff Attorney

California Indian Legal Services

- Dorothy Alther, Executive Director

California Partnership to End Domestic Violence

- Krista Niemczyk, Public Policy Director

July 6, 2021**Superior Court of San Francisco County—Jury Program**

- Hon. Christopher C. Hite, Judge
- Hon. Vedica Puri, Judge
- Mr. T. Michael Yuen, Court Executive Officer

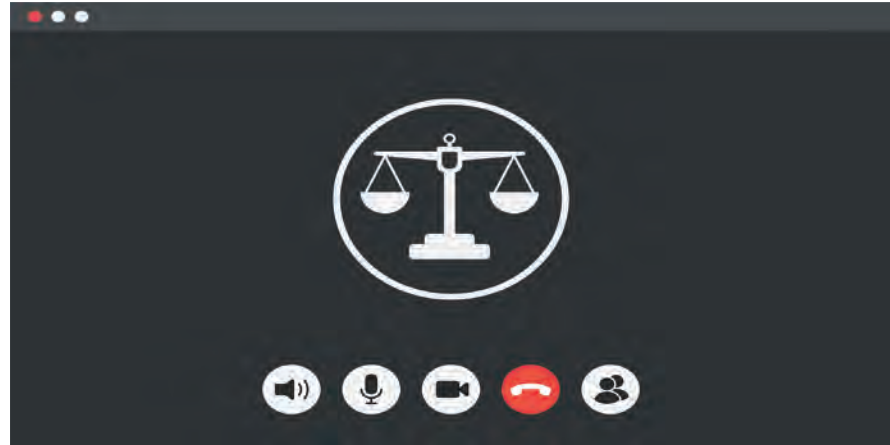
Superior Court of San Diego County—Jury Program

- Hon. Michael S. Groch, Assistant Supervising Judge, Criminal

5

BRIEFS

from THE NATIONAL CENTER FOR STATE COURTS



Do remote hearings help — or hurt — access to justice?

Beginning in March 2020, courts transformed how they conduct business by rapidly transitioning to online platforms.

Moving business entirely online required courts to train judges, court staff, prosecutors, lawyers, and litigants; establish new policies and protocols; and purchase and issue new equipment and software licenses — all in a very short period of time, and often while people were working remotely. But by the summer of 2020, courts throughout the nation were routinely conducting remote hearings, and many courts continued to conduct at least some, if not most, court hearings online well into 2021.

In the spring of 2021, Rulo Strategies, in collaboration with the National Center for State Courts (NCSC) and Wayne State University, initiated a large-scale, national examination of remote court hearings practices in treatment court settings. The research team selected treatment courts for study because they require frequent court hearings. Over 1,350 participants in judicially led diversion programs across 27 states completed the online survey between February 2021 and July 2021. Respondents

indicated that about 30 percent of the court hearings they participated in during this time were in-person only; 70 percent included both in-person and remote proceedings. The following is a summary of some of the findings; the full report is available at <https://bit.ly/3LW7AHi>.

INTERACTIONS WITH THE JUDGE

Court users enrolled in treatment courts were asked to rate their agreement with a series of statements about their experiences with in-person court and virtual court. The responses of those who had only experienced virtual court were compared to the group of those respondents who had transitioned from in-person court to virtual court. Options for responses to each statement were 1 (strongly disagree), 2 (disagree), 3 (neither), 4 (agree), and 5 (strongly agree), with averages reported for each statement.

Survey responses suggested that remote sessions may be more user-friendly than in-person sessions. Respondents who had transitioned from in-person to virtual hearings rated their comfort level for in-person hearings lower (3.88) than for virtual

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hearings (4.06). This difference was statistically significant. Respondents who only attended court virtually rated their comfort participating in court sessions highest (4.37). The difference between the virtual-only participants (4.37) and the group that transitioned from in-person to virtual hearings (3.88) was also statistically significant.

Respondents who attended both in-person court and virtual court provided similar responses about their ability to be open and honest with the judge for both settings (in person 4.24 compared to virtual 4.26). Respondents who only attended court virtually rated their ability to be open and honest during virtual hearings higher (4.41). The difference is statistically significant.

Across most measures, court users who only experienced virtual court sessions consistently reported more positive feelings about virtual sessions than those who experienced both in-person and virtual sessions. One interpretation of the results is that the recollection of positive in-person services taints the perception of virtual services. A limitation of our study is its retrospective, cross-sectional nature; in other words, participants answered questions based on their recollections, which may or may not accurately reflect how they felt about in-person services at the time they were delivered.

Overall, 45 percent of respondents indicated they would prefer to attend court 100 percent virtually; 29 percent indicated they would prefer a hybrid of in-person and remote court hearings. Just 20 percent said they'd prefer in-person sessions only. (See Figure 1, next page.)

Respondents indicated their top three reasons for preferring remote

Overall, 45 percent of respondents indicated they would prefer to attend court 100 percent virtually; 29 percent indicated they would prefer a hybrid of in-person and remote court hearings. Just 20 percent said they'd prefer in-person sessions only.

court hearings were: 1) they were more comfortable talking in a virtual setting; 2) they were less anxious when they attended court remotely; and 3) remote hearings saved them or their loved ones time. Court users who preferred in-person court gave these reasons: 1) they were more comfortable talking in person; 2) they liked seeing their peers in court; and 3) they felt disconnected from the court when they participated remotely.

The research team also conducted a companion survey of more than 850 court professionals and found that court staff, including judges, shared some of the same observations as court users about virtual services in treatment courts but were generally more pessimistic about remote hearings. When researchers asked court professionals about the quality of information when court hearings were offered in person vs. virtually, 83 percent rated the quality of information as “high” when court was held in person, and 52.6 percent rated the quality of information as “high” when court was held virtually. More than half of practitioners, 60 percent, said the quality of information did not change when their court transitioned from in-person to virtual sessions. (Read the full report at <https://bit.ly/3rmQDOj>.)

Researchers also asked court staff to rate the judge's ability to form meaningful connections during in-person and virtual sessions. In general, court professionals expressed concern about the judge's ability to form connections virtually compared to in person: 87 percent of staff respondents rated judges' ability to form connections with court participants as “high” when court was held in person; just 41.4 percent rated judges “high” on the same metric when court was held virtually.

ADDRESSING ACCESS TO JUSTICE

A common critique of treatment court and other diversion programs is that they are not accessible to everyone who is eligible to participate. Virtual service delivery has the potential to increase the number of individuals eligible to participate in such programs because it may mitigate obstacles that have historically been barriers to participation, such as lack of transportation to court or competing work or family obligations.

To address the assumption that in-person attendance may be a hurdle to treatment court users, the research team asked survey participants about attendance when court hearings were offered in person and virtually. Court professionals indicated that attendance was a little more likely to be “high” when court was held in person (75.7 percent) compared to virtual (72.8 percent).

This is surprising given that the survey was administered at the height of the COVID-19 pandemic. Court users reported a variety of negative experiences during the pandemic: Nearly half (45.7 percent) had experienced increased mental health symptoms ►

during the pandemic; 42.4 percent lost their job or income; and 11.9 percent reported loss of housing. These experiences can easily become barriers to participating in court when sessions are held in person. One court participant said, “I appreciate all the help. I don’t know how I would have attended all the classes, court appearances, and urinalysis due to gas and living in my car when I lost my apartment if we did not go virtual.”

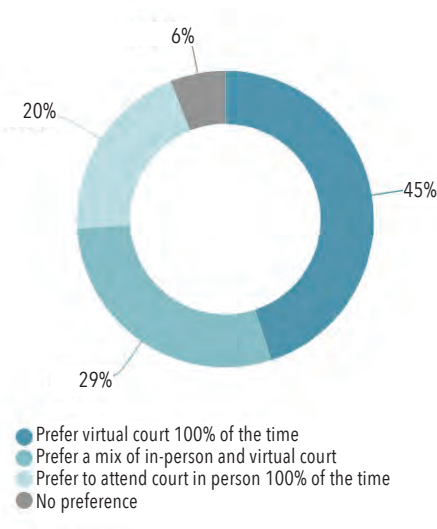
Other studies have supported the idea that court attendance improves in virtual hearings. In some parts of North Dakota, appearance rates for criminal warrant hearings went from 80 percent before the pandemic to nearly 100 percent. New Jersey reported its failure-to-appear rate in criminal cases dropped from 20 percent to 0.3 percent starting the week of March 16, 2020, when courts there began to conduct virtual hearings. Michigan’s failure-to-appear rate went from 10.7 percent in April 2019 to 0.5 percent in April 2020.

Though the full picture on data for attendance in virtual vs. in-person court proceedings is not yet clear, courts should continue to consider how technology access may inhibit or help participants’ ability to attend virtual proceedings.

THE DIGITAL DIVIDE

Access to broadband internet service has become a vital tool for staying connected in the digital era, particularly in the recent years of the pandemic. Although virtual service delivery has the potential to increase access to court, preliminary survey results from this study suggest some treatment court participants do face technological barriers to access when participating in remote court hearings. For example, 4 percent of court users reported not

FIGURE 1. COURT USER PREFERENCES FOR CONTINUING VIRTUAL COURT



having reliable wi-fi or internet service to participate in services by video, and 3 percent indicated they lacked the necessary equipment to participate in services by video. Still, these numbers were lower than court practitioners expected and should be considered in the context of the barriers reported for in-person court hearings.

Furthermore, courts are finding creative ways to address these gaps in technology. Some are establishing courthouse “Zoom rooms” — physical rooms in courthouses that are free to use and are outfitted with the equipment needed to participate in online court hearings. Some courthouses also offer free guest wi-fi.

LIMITATIONS AND FUTURE RESEARCH NEEDS

Additional research is needed to determine how litigants in other matters, including civil and criminal cases, prefer to attend court; how virtual hearings impact perceptions of procedural justice; and how to appropriately expand the use of remote technology while addressing key constitutional and legal issues.

This study provides a foundation for further exploration of court-user preferences and experiences with remote

services and for additional research on ways judges and other court practitioners can overcome any loss of meaningful connection as noted here by court professionals. It also offers some indication that virtual hearings may be helpful in boosting attendance and access to the courts. But the data on technology availability makes clear that there is no one answer for every situation.

Flexibility in offering virtual and in-person alternatives could prove helpful in accommodating the various needs of individual court users and is in keeping with what many court users prefer. Despite the fact that court professionals tended to view interaction and rapport as better for in-person court compared to virtual, nearly half (46.8 percent) of the court staff respondents reported strong support for continuing virtual hearings, with many preferring a hybrid approach.

For court staff, holding more administrative meetings remotely may present an opportunity to increase efficiency. Sixty-one percent (61.2 percent) of court staff respondents reported strong support for continuing virtual pre-court staffings to discuss matters pertaining to ongoing cases.

As the pandemic continues, court leaders are likely to use studies like this one as well as their own experiences to determine what processes might continue remotely and what really needs to be done in person.

— **TARA KUNKEL** is executive director of Rulo Strategies, and **KRISTINA BRYANT** is principal court consultant at the National Center for State Courts.

¹ Will remote hearings improve appearance rates? NATIONAL CENTER FOR STATE COURTS (May 13, 2020), <https://www.ncsc.org/newsroom/at-the-center/2020/may-13>.

² *Id.*

³ *Id.*