

COOK COUNTY E-COURT

RECOMMENDATIONS TO
THE COOK COUNTY
CIRCUIT COURT AS IT
NAVIGATES THE
FUTURE OF AN
UNPRECEDENTED
PUBLIC HEALTH
CRISIS.

COVID-19 HAS FORCED COOK COUNTY TO RESHAPE NEARLY EVERY ASPECT OF OUR DAILY LIVES, TRANSFERRING PHYSICAL TO VIRTUAL - BUT, WHAT DOES THAT SHIFT MEAN FOR OUR LEGAL SYSTEM AND HOW DOES THE COURT ENSURE EQUITABLE ACCESS TO JUSTICE AND DUE PROCESS?

MITIGATE ISSUES AROUND WITNESS TESTIMONY.

Adverse witness testimony should be allowed via remote means only with the explicit and informed consent of the defendant.

It should only be given live, under oath, and in a manner that permits both the finder of fact and the defendant to observe the demeanor of the witness. Likewise, each person's ability to communicate with counsel confidentially before, during, and after witness testimony must be guaranteed.

ADDRESS IMPLICATIONS FOR RIGHT TO COUNSEL.

Judges should take full advantage of the "breakout room" feature in Zoom to allow litigants to converse privately with their attorneys and advocates.

Judges should set effective ground rules and carefully monitor proceedings, in case a defendant or an attorney is trying to get the judge's attention for a side bar. It is also imperative that the Sheriff requires deputies and corrections officers to leave the room during these breakout sessions..

UNDERSTAND CONSTRAINTS FOR JUDICIAL EMPATHY AND FAIRNESS.

Videoconference platforms are limiting factors in assuring fairness and judicial empathy.

This problem can be alleviated by taking care to introduce new technology on a staggered basis, starting with only volunteer judges. Discussing this issue explicitly with judges will also help draw attention to the risks and possible consequences of reducing empathy within a virtual courtroom.

PROTECT DEFENDANTS' RIGHTS TO BE HEARD IN-PERSON.

People should be allowed to confer with counsel and decide before the hearing if they would like to waive their right to be present physically, on the record.

Individuals should be fully aware that a hearing that takes place over Zoom is their real hearing, and that they may not be returning to a physical courtroom at a later date..

MAINTAIN PUBLIC, DIGNIFIED NATURE OF PROCEEDINGS.

The Court should utilize the range of options for participant control offered by the various videoconferencing platforms.

Live-streaming proceedings will afford a necessary degree of public access and decorum by court participants as would typically take place in-person. Including a coordinator in the videoconference for scheduling, monitoring the waiting room, and fixing technical issues could also help alleviate potential issues.

ENSURE EQUITABLE ACCESS TO A VIRTUAL COURTROOM.

It is especially important that Cook County provide adequate technical support both during and prior to a court proceeding in order to ensure equitable access to a virtual courtroom for all.

Judges should take special care to ensure that notice and support is given effectively to all litigants, especially pro se and non-English speaking people. Establishing "Zoom stations" for use across the county could help ensure equitable access.