

WATCH ISSUE BRIEF

JANUARY 2023 / COVID-19 FOCUS

ABOUT THIS ISSUE BRIEF

The last two years of the pandemic have presented new and unique challenges for the legal system. As hearings shifted to a virtual platform, and people contended with remote access, equipment and technology, WATCH observers noted several challenges in the virtual setting. At the same time, WATCH observed court personnel using creative and innovative solutions to address those problems and promote a smoother process. This brief presents highlights some of the virtual challenges WATCH has observed in courtrooms, as well as potential solutions. It is not intended to be a conclusive list, but a snapshot of examples observed in the past two years.

CHALLENGE

There have been instances where court personnel have asked victims to identify themselves as the victim or to provide updated contact information in front of others in the Zoom room. Some victims have appeared uncomfortable sharing this information in front of others.

OBSERVED SOLUTION

In order to identify whether a person is the victim on Zoom hearing, some court personnel asked the person for their name, then asked them for what case they are appearing. This approach allows the court to ascertain if that person is the victim in the case. In one courtroom, a clerk gave the victim the option of updating their contact information directly through a private chat. Other options include asking victims if they would prefer to send their contact information by postal mail, in a breakout room, or by calling/ emailing the clerk. Other court personnel have opted to incorporate victim identification in virtual hearings into their new employee trainings.

CHALLENGE

In one courtroom, a defendant was logged onto Zoom for one hour waiting for his hearing. He was logged on under a different name, did not know how to unmute himself, and did not know how to turn on the camera. No one knew he was present. His attorney commented audibly that it was “no surprise” his client did not show, when his client was, in fact, present.

OBSERVED SOLUTION

In one courtroom, the clerk checked in each person in the zoom room as they arrived. As a result, court personnel knew everyone who was present in the hearing.

CHALLENGE

There have been several instances where parties, attorneys, and interpreters are in the wrong Zoom room for a hearing. At times, this is due to confusion, or the incorrect zoom link being sent

OBSERVED SOLUTION

In one courtroom, a judge sent the clerk to “look” in other Zoom rooms for the defendant following confusion after the wrong Zoom link had been provided.

CHALLENGE

Interpretation can be challenging. There may be lag time and it can be difficult for interpreters to be heard.

OBSERVED SOLUTION

In one courtroom, the court made use of the live translation function on Zoom. Participants were directed to select English or Spanish. The Spanish interpreter could be seen by all participants and heard by those who selected the Spanish option.

CHALLENGE

In one courtroom, a deaf defendant struggled to see the interpreter on the many zoom tiles. In addition, someone using American Sign Language (ASL) will not light up the Zoom tile without sound.

OBSERVED SOLUTION

The court personnel used Zoom functions to resolve this issue for the deaf party. Personnel used a zoom feature to “pin” the interpreter on the Zoom screen so that the interpreter was easier and larger to see.

CHALLENGE

Some courtrooms post the courtroom rules in the Zoom waiting rooms. While this is helpful, there is not always enough time to read the rules.

OBSERVED SOLUTION

The visual reminder of the rules is helpful. Judges may want to explore leaving them posted during breaks between hearings, instead of leaving the black “no camera” screen.

CHALLENGE

In a hybrid hearing, those in-person may not be aware that others in the virtual setting may be able to hear their private conversations. In one case, an attorney and the client appearing in person in the courtroom were unaware that people on Zoom could hear their conversation in the gallery.

OBSERVED SOLUTION

The judge reminded the attorney that people present on Zoom could hear conversations in the gallery. The judge offered them a private room to continue their conversations. In other hybrid cases, the clerk has muted the in-person courtroom mic so those in Zoom are unable to hear gallery conversations.

CHALLENGE

Hybrid hearings can present multiple challenges. Depending on the courtroom and who is in person, there may be audio feedback. It can also be difficult to identify exactly who is speaking.

OBSERVED SOLUTION

One solution is ensuring technology is set up for the hybrid hearings with an effective microphone/ audio system and a video system to show all present at the hearings.

CHALLENGE

Over Zoom, it can be difficult to quickly spot or know who is speaking, especially when there are many people present.

OBSERVED SOLUTION

In one courtroom, a judge consistently waved her hand each time she speaks so people can quickly spot her.

CHALLENGE

Zoom can present unexpected “chaos” or challenges in the virtual setting.

OBSERVED SOLUTION

WATCH has observed many good examples of judges setting clear guidelines for a zoom hearing. In one case, the judge was diligent in explaining virtual hearing procedures: she directed everyone to: 1) only speak when she indicated they should, 2) find a quiet place to appear from, 3) alert the court by raising hands if there was any issue with audio or if they could not hear, 4) avoid using Zoom reactions during the hearing, and explained they would be muted or removed from the hearing for inappropriate sounds or images.

CHALLENGE

In one county, WATCH observed frequent disruptions from observers in zoom. Court personnel needed to continuously remind people to mute themselves throughout the hearings.

OBSERVED SOLUTION

Clerks have used their technical capacity to control people’s microphone and prevent people from unmuting during the hearings. This measure limited unwanted interruptions from occurring during the hearing. In addition, requiring all participants to remain off camera unless party to the current case limits the amount of visual disruption.

ABOUT WATCH

WATCH helps ensure that victims of gender-based violence have access to justice in the court system. WATCH monitors state court hearings involving domestic violence, sexual assault, and human trafficking in Minnesota's Hennepin, Ramsey, and Washington county courts.

Founded in 1992 as an independent judicial advocacy organization, today WATCH is part of The Advocates for Human Rights. WATCH works to make the justice system more responsive to crimes of violence against women and children through court monitoring, education for justice system personnel, action-based research and analysis, and widely distributed judicial policy recommendations and reports.

Learn more at TheAdvocatesForHumanRights.org/WATCH