

Working Group on Videoconferencing and Videotaped Evidence Summary of Discussion

1. The virtual courtroom alters traditional constraints of space and time: videoconferencing collapses across space (allowing the presence of an individual who is far away) and videotapes collapse across time (recreating events that happened in the past). It may be useful to keep these concepts in mind when framing a research agenda.
2. The importance of a sense of presence underlies much of the discussion of videoconferencing. Some of Jay Nunnamaker's research suggests that head shots of an individual at a remote site do not promote a sense of presence in the observers; it's hard to forget the person is on video and not actually "there"; "there" being defined as the location identified with the task at hand. Additionally, the person at the remote site may not feel a sense of being present in the place important to the task. The remote site needs to reproduce the same psychological sense of location engendered by a courtroom , eliciting respect and truthfulness.
3. The tools that people tell you they like to use and the tools that maximize their performance may differ. In one of Jay Nunnamaker's studies, participants were provided information in various forms (i.e., text and graphics, sound, video). They reported preferring video but worked most competently and confidently when not using video. Such research may influence how videotaped evidence is used in trials, and whether it is permitted to go into the jury room for deliberations.
4. The use of videotapes and videoconferencing raises the question of how well people are able to assess credibility and demeanor through a television screen or monitor. People report using a variety of non-verbal cues to detect deception, but research shows either that such cues are unrelated to lying or that people do not make effective use of them. Thus, ability to detect deception is generally poor even in face to face interactions. If people don't use the cues effectively, does it matter that they are lost with the use of videoconferencing? Or is it important to provide the cues because people think they are important and without them will question the legitimacy of the decisions that are made?
5. Previously, discussion has focused largely on how videoconferencing influences the jury, but videoconferencing is used far more often in bench proceedings, making it imperative that we study how it influences judges.
6. Videoconferencing may be useful in a variety of situations, including as a means of taking the court record and for collaborative appellate judging. Study of these uses should be included on any research agenda. Kentucky is the only state court that officially used videotape as official court record. It did not lead to second guessing about witness credibility by appellate judges because they did not want to review the record in real time and asked for transcripts; they did not consider that level of review to be their "job". Judges

in Fairfax Co., Va. have been using J. Nunnamaker's tools to make collaborative decisions; someone should evaluate how this is working.

7. Videoconferencing creates an additional obstacle for defense attorneys. If the defendant is appearing remotely, the defense attorney must choose whether to be with the defendant (and thus forfeit the ability to interact with the judge and opposing counsel face-to-face) or to be in the courtroom (and thus forfeit the ability to effectively confer with the defendant). One potential solution is to have both parties appear remotely.
8. Videoconferencing may change the nature of the discourse between participants. Some appellate judges report that it seems to impair their ability to get to the crux of the matter in oral arguments when attorneys appear remotely because the discourse is more formal and less of a "give and take." Improvements to and increased experience with videoconferencing technology may eliminate some of this awkwardness, but the perception of a changed discourse must be addressed.
9. It is important to study the technological aspect of videoconferencing and videotapes. For example, Dan Lassiter has conducted a program of research on the impact of videotaped confessions. Varying the camera angle (high, low) and focus of the content shot (e.g., front view of defendant v. side view that includes both the defendant and interrogator) can change people's perception of criminal defendants.
10. When examining the role of videoconferencing and videotaped evidence, researchers should be guided by the underlying behavioral and social theories. The quality and type of technology may change over time, but if research has a solid theoretical basis, it can be applied regardless of the stage of technological development.