



UTAH SURVEY OF COURT USERS: THE IMPACT OF REMOTE HEARINGS ON ACCESS TO JUSTICE

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Acknowledgment

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KEY RESULTS



Benefits of Remote Hearings

1. Increased Job Stability
2. Economic Savings
3. Improved Access to Court
4. Personal Safety

Professionally conducted.
Clear audio and video. Saves a
lot of time, money and travel.



77% of participants are from
the **Third Judicial District**.

Treated with Courtesy and Respect
Court patrons and practitioners think
the court treats them professionally.



Done in Reasonable Amount of Time
Participants believe their activities are
completed in timely manner.



Quality Sound and Video
Respondents say Webex sound and
video are ample to conduct activities.



Categories of Survey Participants



- Party (54.72%)
- Lawyer (32.55%)
- Agency Worker (10.38%)
- Family/Guardian/Friend (2.36%)

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Summary

When Governor Gary Herbert declared a state of emergency to enable the State of Utah to respond to novel coronavirus disease 2019 (COVID-19) on March 6, 2020, the landscape of justice changed rapidly. Since March 13, 2020, the Utah Supreme Court and the Utah Judicial Council have issued numerous Administrative Orders governing court operations during the pandemic to protect the public from the spread of disease. During this time, and out of necessity, the Utah State Courts relied on the use of Webex to conduct remote hearings and other court business statewide. Along the way, tools and processes were initiated to allow for fully remote hearings. Some are now working on returning to in-person hearings.

In the fall of 2021, the Access to Justice Commission (“ATJ Commission”) began studying remote hearings in Utah by conducting a survey of Utah court patrons and practitioners. The ATJ Commission initially partnered with the National Center for State Courts as part of a national review. The Commission then narrowed its focus to a Utah-specific survey. The data from this survey is the basis for this report. The focus of this study was determining whether and how remote hearings resulted in access to equal justice for people in Utah.

Based on the data collected, Utah court patrons and practitioners strongly prefer remote hearings, at least for some types of court hearings and activities. Court operations over Webex are done with courtesy and in a timely manner. While there are occasional issues, Webex sound and video are highly rated. Most importantly, remote hearings have increased access to equal justice for many people. Survey respondents list benefits that include being better able to provide representation in rural Utah, not having to miss work, and not having to pay for childcare and travel as strong benefits. Based on these due process and convenience factors, Utah courts should work to include remote access moving forward.

Method

A sample of data from Utah court patrons and practitioners was collected through two different online surveys. The first was prepared by the National Center for State Courts as a Utah-specific questionnaire using Qualtrics (“NCSC Survey”).¹ Data through the NCSC survey currently includes 101 responses, collected from September 24, 2021, through June 5, 2022, with continuing responses anticipated.

The second was developed by the Access to Justice Commission Court User Survey Workgroup using SurveyMonkey (“ATJ Survey”).² Data from the ATJ survey currently includes 119 responses, collected from March 14 through June 5, 2022, with responses continuing to

¹ National Center for State Courts Qualtrics Court User Survey *available at* https://ncsc2.iad1.qualtrics.com/jfe/form/SV_bIYBug4VwsbQhnM.

² Access to Justice Commission SurveyMonkey Court User Survey *available at* <https://utahcourts.surveymonkey.com/r/CTT5WB3>.

accumulate. At present there are 220 individual records. Seven responses were excluded due to incomplete information, for a total sample of 213.

Limitations

There are limitations to the data collected through this survey of Utah court patrons and practitioners. Survey responses were primarily collected through a pilot program in the Third Judicial District. The combined responses are sufficient to draw several conclusions, but the data is less certain for some types of court use. For example, certain districts are under- or unrepresented, in part as a natural consequence of state population distribution and in part due to the constraints of the pilot study. Surveys were mostly collected by sending a link by email, reducing responses from call-in users. In addition, the survey did not collect any responses from jurors or witnesses, so it includes limited information on the efficacy of remote hearings for jury trials or complex litigation. To keep the survey small, important questions were not asked and they merit further study such as the impact of remote hearings on privacy or on victims of abuse.

Survey Participants

Surveys were sent or given to parties (plaintiffs and defendants), lawyers, agency workers, family members, and friends after they appeared in a Utah court. Agency workers include people from the Department of Child and Family Services, the Division of Juvenile Justice Services, and other court advocates. The sample population is based on respondents' ability and willingness to participate, not a scientific or fully representative sample. One district court, one justice court, and one juvenile court judicial team sent surveys to their court patrons.³ Starting in April, the Access to Justice Office of the Utah State Bar sent surveys to participants in the Third District immediate occupancy and debt collection calendars. The ATJ Office also sent surveys to volunteer attorneys in their programs. Links to the online surveys were provided through a variety of channels, including by email, text message, insertion in the Webex chat, and QR code.



Survey Content

The NCSC survey included 24 multipart questions and took approximately 5 minutes to complete. The ATJ survey was reduced to 19 questions that were included in the NCSC survey. The typical time spent completing this survey was 2 minutes and 2 seconds.

³ These judicial teams voluntarily participated in a pilot program to begin collecting responses and to develop a workable system for distributing the survey. All were from the Third Judicial District: Judge Richard Mrazik, District Court; Judge Clemens Landau, Justice Court; and Judge Susan Eisenman, Juvenile Court.



Types of Court Use

- Civil matter
- Criminal/Probation
- DCFS/Child welfare case
- Divorce/Custody/Support
- Estate/Trust
- Guardianship/Conservatorship
- To file papers
- To get information
- Juvenile delinquency
- Landlord/Tenant/Eviction
- To make a payment
- Protective Order or Civil Stalking Injunction
- Small Claims
- Specialty court (Drug, Mental health, Veterans)
- Traffic/Ticket

Both surveys included qualitative and quantitative questions about demographics, accessing remote proceedings, type and location of court use, their preferences, and other aspects of their experiences. The objective was to understand how court patrons and practitioners experienced virtual services in Utah courts. Data includes matching responses combined from surveys.

Survey Data and What It Tells Us

The 213 survey respondents combined from the NCSC and ATJ Surveys represent a population of parties (116), lawyers (69), agency workers (22), and family members and friends (5) who are diverse in their age, method of accessing the remote hearing, location, and type of court use. They represent actual court patrons and practitioners who appeared in a Utah district, justice, or juvenile court from fall 2021 to spring 2022. The NCSC Survey was slanted towards plaintiffs and defendants who comprised 90% of NCSC Survey respondents. The ATJ Survey respondents included more nonparties: 55% lawyers and 19% agency workers. Because court uses include juvenile matters, respondents included minors.

Respondents provided feedback in these key areas:

1. Stating a preference to participate in-person or remotely.
2. Evaluating whether the court team treated everyone with courtesy and respect.
3. Assessing if they got their court business done in a reasonable amount of time.
4. Rating the quality of Webex sound and video.

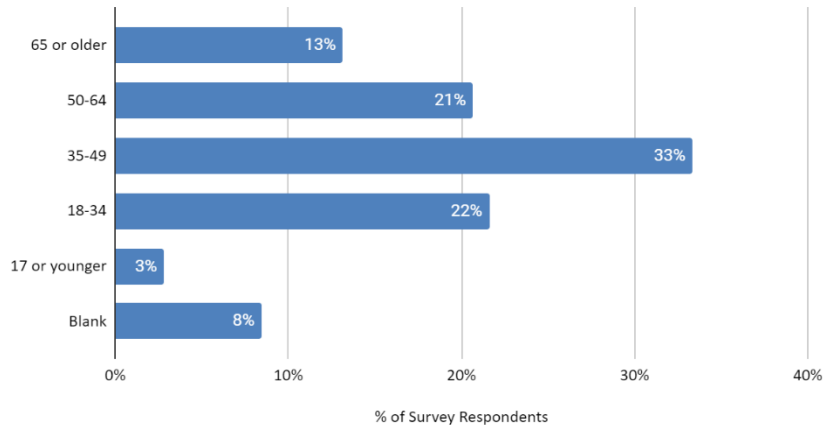
Age of Respondents

There were 199 respondents who self-identified their age by selecting from a range of ages. Most people were between 18 years and 49 years old (55%):

- 47 respondents aged 18 - 34 years (22%)
- 72 respondents aged 35 - 49 years (33%)

Minor children aged 17 or younger were 3% of the sample. The remainder included 21% respondents aged 50 - 64, 13% aged 65 or older and the remaining 8% did not respond to this field.

Age of Survey Respondents



Accessing Court

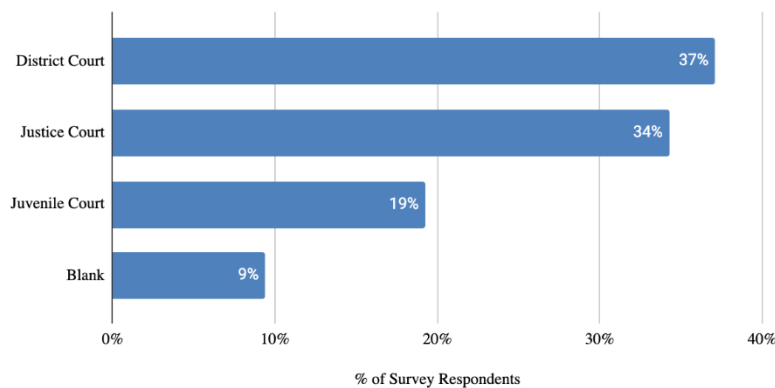
Hearings or Other Activities

The combined survey provided these options for how respondents accessed court: face-to-face at the courthouse, remotely using a court kiosk, remotely using a personal computer or laptop, remotely using a cell phone, iPad, or tablet, remotely from jail, prison, or detention center, remotely from a hospital, and other. Most respondents appeared remotely either using a personal computer or laptop (109) or using a cell phone, iPad, or tablet (71). There were some respondents who attended in-person (9) or used a court kiosk (2).

Locations Where Respondents Attended Court

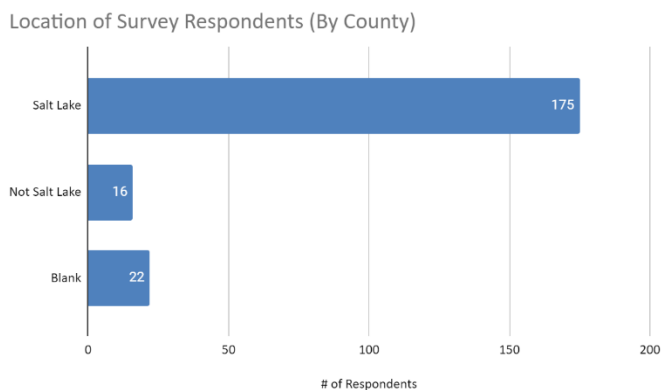
Respondents appeared in district court (37%), justice court for small claims or criminal cases (34%), and juvenile court (19%).

Survey Respondents Participated in District, Justice, and Juvenile Courts



The ATJ Survey asked specifically about judicial district, while the NCSC did not. The ATJ Survey included responses from the 1st, 2nd, 3rd, 4th, 5th, and 7th Districts; however, most were from the Third District (77%).

All respondents were able to self-identify by county, but most were from Salt Lake County (176 responses in Salt Lake County, 22 blank for this field, and 16 responses from outside of Salt Lake County).



Types of Court Use

Patrons and practitioners used the court for a wide variety of civil and criminal legal matters, including conducting administrative business such as making a payment.

This is the breakdown:

Types of Court Use	Total
Traffic/Ticket	53
Criminal/probation	35
Civil matter	26
DCFS/Child welfare case	23
Landlord/Tenant/Eviction	12
Juvenile delinquency	11
Divorce/Custody/Support	7
Other: firearm at SLC international security check, infraction possession of marijuana, DUI, adoption, DASLC operations	5
Specialty court (Drug, Mental health, Veterans)	4
Other: Domestic Violence/Sexual Abuse	4
Small claims	3
Protective Order or Civil Stalking Injunction	3
Multi-issue hearing (criminal + civil)	2
Guardianship/Conservatorship	1
Estate/Trust	1
To make a payment	1

Open-Ended Responses

The survey asked this open-ended response question, “Please provide additional comments or suggestions about your experience today,” to allow respondents the opportunity to further comment on their experiences and give additional insights. Most people gave positive comments about their experiences but there were a few negative reactions. Overall, these open-ended responses tell a story of why there is such a strong preference for remote hearings, suggestions for continuing remotely, some of the problems, and why remote hearings remove access to justice obstacles for many.

Here are some examples of participant open responses received:

Ease: “Much easier to do virtually than find time, transportation, parking.”

Less Intimidating: “I felt the judge was more relaxed with the virtual court. I was much more comfortable at my work rather than standing in front of him. I felt it much easier to speak to him though I could see him and he could see me it was much calmer.”

Increased Representation: “I would not have been able to accept and represent in this case if it were not conducted remotely as it was in St. George and I am in Salt Lake.”

Better Access: “Love WebEx. Very efficient and allows for the best access to justice.”

Economic Savings: “I appreciate the flexibility and savings in gas!”

New Standard: “I think it’s nice to do the small cases remotely. The big cases could be used for the court such as criminal prosecutions since they require a lot of time Not everyone has the gas money nor the time to attend a hearing due to the demands from their job. It should be the new standard going forward after the pandemic so you guys can handle case loads faster.”

Too Lax: “The hearing was a couple of weeks ago, and I thought the time permitted for argument was excessive and the judge should have done more to require opposing counsel to conduct himself with professionalism and civility.”

No Covid Restrictions: “Court hearings should be in person, perhaps other than simple scheduling matters. No Covid restrictions should be imposed on any participants. Mask wearing should be discouraged, particularly for parties, attorneys, and judges.”

Tech Issues: “Horrible. I was never able to join the court proceedings because I never received the email with the link. I received an email a few days before, saying that an additional email would be sent to me, but I never received that email, and thus, could not join the court proceedings. This is not my fault at all.”

Need Clear Instruction: “... It may benefit a defendant to have a knowledge of each step involved in a case provided by the prosecution, including any possible deviations. Step by step knowledge of procedures would have greatly reduced the intimidation. (A ‘timeline’, printed chronological order of appointments and the purpose of each would save court staff countless hours answering the same questions that inevitably are asked and give confidence to all parties.)”

Inefficiency of In-person: “Remote hearings should be the default, except where testimony or evidence need be presented. In-person attendance is wasteful and inefficient.”

Job Stability: “Webex allows my clients to attend more hearings and still keep their jobs. It is vastly more efficient.”

Time & Money Savings: “Professionally conducted. Clear audio and video. Saves a lot of time and travel.”

Key Findings

This court user survey reveals important benefits to holding remote hearings. Remote hearings have made court more accessible, whether the participant was young or old, in the metro area or more rural, in small claims or district court. Participants believe remote hearings are usually handled professionally and they feel respected. They recognize Webex provides adequate sound and video. They appreciate the convenience as well as the savings in time and money.

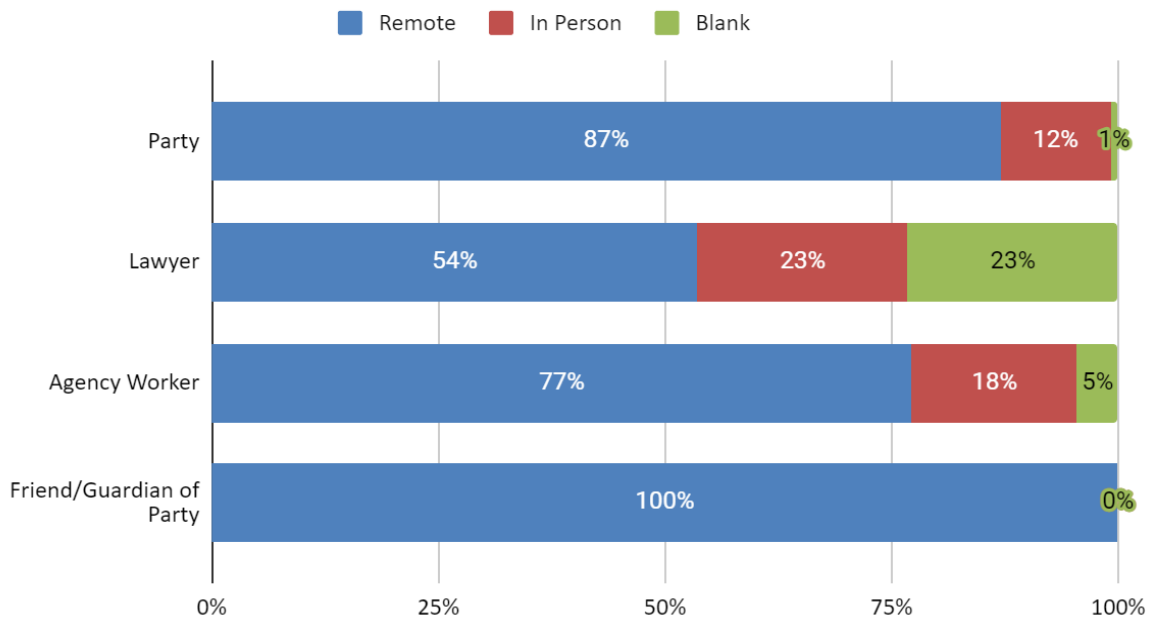


1.

75% of all Utah participants prefer remote hearings regardless of how they accessed court, their age, or location.

The most conclusive finding from the Court User Survey is that every type of participant strongly prefers remote access. Seventy-five percent of all survey respondents prefer remote hearings and only sixteen percent selected in-person (the other nine percent left this field blank). Comparing this preference by type of participant reveals interesting information. Based on this

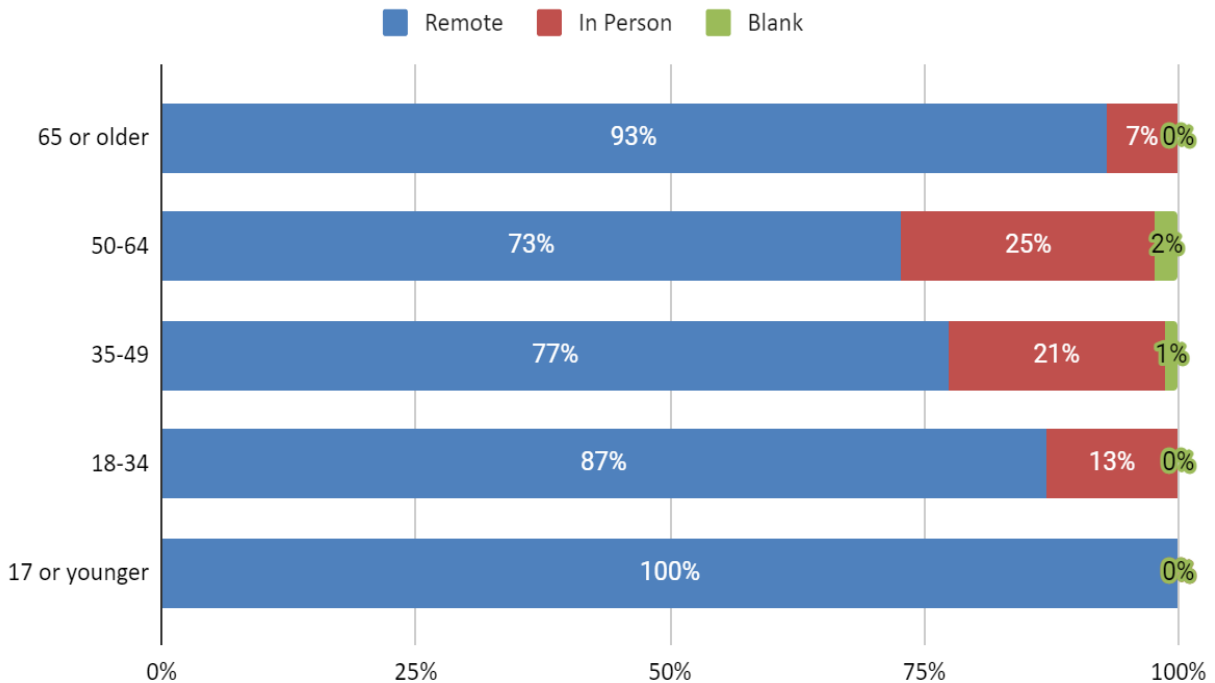
All Types of Participants Prefer Remote Access



breakdown, it becomes clear that lawyers are participants who most want court to be in-person. Yet even this category shows that the majority of lawyers prefer remote access. Moreover, the people with the most to gain or lose – plaintiffs and petitioners, defendants and respondents, and their family, guardians, or friends – overwhelmingly prefer remote court hearings. This same trend can be found when considering preference of access by age.

The robust preference for remote access is found in every age range. As one might expect, younger users would rather appear in court remotely. In fact, 100% of participants under the age of 17 selected this option. More surprisingly, 93% of older adults 65 years or over also expressed a clear preference for attending virtually. Perhaps this is due to mobility, transportation, or other factors, but it dispels the stereotype of older people struggling with technology. Participants aged 50-64 were the most likely to select the in-person option, and still 73% of this range preferred remote hearings. Ultimately, no matter what age the participant was, they prefer to access court remotely by either computer, laptop, or phone.

People of All Ages Prefer Remote Access



Even the type of court did not impact this preference for remote access by court patrons and practitioners. In fact, 78% of district court, 84% of justice court, and 85% of juvenile court participants all expressed preference for remote hearings. This data displays the importance of asking and acting on information instead of doing what might seem easier or more intuitive.



Utah survey participants are **treated with courtesy and respect** by the court.

There is a clear showing that survey participants feel they are treated with courtesy and respect by the judicial team and the judge. In the survey, respondents were asked to rate this by strongly agreeing, agreeing, being neutral, disagreeing, or strongly disagreeing. Out of 213 responses, 84% agreed with this statement with 70% “strongly agreeing.”



3.

Utah survey participants get **court business done in a reasonable amount of time** whether they participate remotely or in-person.

Survey participants were asked if they were able to get their court business done in a reasonable amount of time by strongly agreeing, agreeing, being neutral, disagreeing, or strongly disagreeing. Out of 213 responses, 76% agreed with this statement with 58% “strongly agreeing.” While this is somewhat lower than their courtesy and respect rating, it is still a very positive response.



4.

The **quality of Webex sound and video are suitable** for conducting the court business of Utah survey participants.

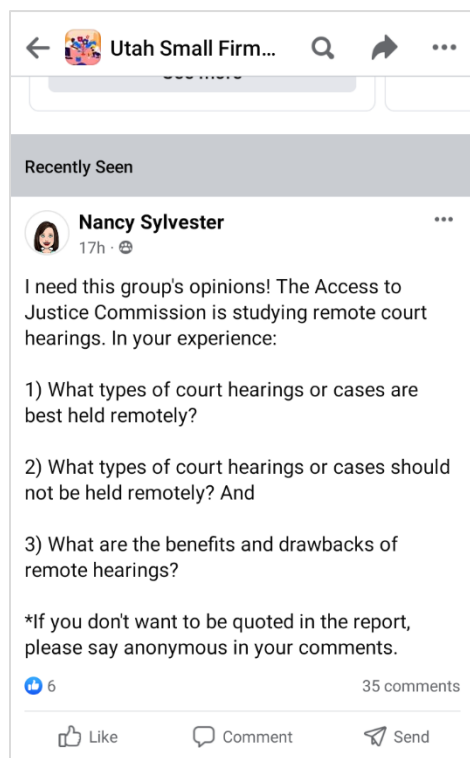
The Webex platform provides adequate sound and video quality, which allows survey respondents to participate in remote hearings. The NCSC and ATJ Surveys asked this question differently, so responses cannot be combined.⁴ However, the results show participants generally had a very positive view of Webex sound and video quality. For example, 72% of NCSC Survey respondents said they experienced no issues with being able to hear or be heard. Sound quality was rated even higher by ATJ Survey respondents: only 2 people said the sound quality was “Very Bad” and nobody selected “Bad.” This means that less than two percent negatively rated Webex sound quality. Moreover, 81.3% of NCSC Survey respondents said they experienced no issues with being able to see or be seen. Again, video was rated even higher by ATJ Survey respondents: less than one percent gave a negative rating; only 1 respondent said the quality was “Very Bad” and none selected “Bad.” This data shows most participants were satisfied that they could adequately hear and/or see during their remote hearing.

Snapshot: Dialogue from Lawyers in the Field

The data from the combined surveys provides useful information, yet it does not allow for conversation. The Court User Survey Workgroup recognized this and wanted to provide a channel for lawyers to discuss their personal experiences with remote court hearings. To collect this more qualitative information, they posted a query to the Utah Small Firm Attorney Network (USFAN), which is a Facebook group with over 900 Utah lawyers. USFAN actively discussed the merits and drawbacks of remote hearings. They also gave several suggestions on which types

⁴ The NCSC Survey asked, “Were there any issues with the sound or audio that made it difficult to hear or be heard?” and “Were there any issues with the video that made it difficult to see or be seen?” The possible responses to both were “All of the time,” “Most of the time,” “Some of the time,” or “None of the time.” The ATJ Survey asked, “If you ATTENDED BY WEBEX, rate the quality of the SOUND” and “If you ATTENDED BY WEBEX, rate the quality of the VIDEO.” The possible responses to both ATJ questions were “Very bad,” “Bad,” “Neutral,” “Good,” “Very Good,” and “Not Applicable.”

of hearings or cases were best suited for remote court. Other group members could respond and react to each comment.⁵ Some interesting themes, considerations, and suggestions are represented in their dialogue.



The group strongly supported the continuation of remote court for most hearings. As to which are best done remotely, many agreed evidentiary hearings, especially those involving witness testimony or complex, voluminous documents should be done in-person whenever possible. For instance, Scott Wiser received 15 “likes” for this comment, “I think Webex should be the default for everything short of trials and evidentiary hearings, and even then Webex appearances should be liberally granted for good cause” Some advocated for remote hearings being the standard even when they include live testimony. Melissa Bean explained, “I’ve been pleased with almost everything by remote access – even live testimony ... I honestly can’t think of many cases that would necessitate in-person hearings.” Yet others noted technology issues can sometimes require reconstructing the record to make sure it is clear. Many suggested a hybrid approach where the lawyer and/or the parties could choose.

Group members acknowledged there can be drawbacks to remote hearings. Common weaknesses discussed were the lack of spontaneous negotiations and problem-solving or the occasional technical glitch. There was also some back-and-forth debate on the ability of the judge to make assessments of the truthfulness and character of witnesses. Marco Brown said he believed that the judge really needs to see a witness live and in-person. There were counterviews, e.g., “I find that having the four parties on the screen actually allows the judge to really ‘see’ a party’s tells⁶ much easier than in court.”

A significant part of the Group’s dialogue centered on issues involving access to equal justice and fairness. Many people highlighted the benefits of remote hearings:

1. Remote hearings allow *greater access to lawyers*, especially in rural areas. Justin Caplin shared, “An attorney can take hearings in Kanab and Cedar and Beaver, Panguitch, and even more remote cities and counties without having to drive 1 to 3 hours each way.”
2. All participants receive a *cost savings in transportation and childcare*.

⁵ Some patterns and key ideas from the USFAN group are presented here, and the full Facebook dialogue, with replies and reactions, is attached as Exhibit A.

⁶ Webster’s Dictionary defines a “tell” as an inadvertent behavior or mannerism that betrays a poker player's true thoughts, intentions, or emotions. In this context, the commentator is likening a party’s revealing gestures, expressions, etc., to a poker player's tell.

3. Clients have *lower legal costs*. Christopher M. Guymon explained, “Instead of charging my client for 1+ hours per hearing, I often only need to charge .2 or .3 hours, so often I would say remote hearings save my clients a significant amount of money.” Jill Coil added, “It’s also allowed my attorneys to take in more clients. Now with us going back to court case load must go down which means we can’t serve as many.”
4. Remote hearings *help stabilize jobs for clients who do not have to miss work*. This is true because “A party can participate in a remote hearing from home or from the office without having to take a half day or full day off from work to drive downtown, especially when the majority of time at the courthouse is waiting for the other several cases to be called before theirs.”
5. Appearing virtually or on the phone *saves time and is more convenient* for clients and practitioners. “As a single parent and solo practitioner,” Sarah Larsen said, “I have really appreciated having most things remote” as it saves her time from not having to commute to be with her family.

Some lawyers noted that when dealing with indigent people or those who are incarcerated, additional issues need to be considered. If they do not have access to internet or a phone, it is important to have these resources available to them in a convenient and private location. Also, allowing incarcerated people to conduct “any and all civil hearings” remotely is important because “they have to pay separately for transport on civil issues,” said Brandon L. Merrill. While these anecdotal experiences and ideas are not quantitatively verified, they provide context and important qualitative information to help fill in some of the information missing from the Court User Survey.

Snapshot: A View from the Bench

Judges were not included the Court User Survey. However, Utah Judge Angela Fonesbeck shared a view “of the benefits and pitfalls of Webex or other virtual hearing platforms, and how they coincide with professional ethics and a lawyer’s responsibilities to the court and clients” in the July/August Utah Bar Journal.⁷ Judge Fonesbeck acknowledges remote hearings have expanded access to equal justice for many people. She notes that for court patrons it is a less costly option that reduces the cost of legal representation, limits time away from work and removes transportation issues.⁸ Remote hearings also benefit lawyers by increasing productivity and preventing delays. Even witnesses benefit, especially if they are out-of-town or need protection.

Yet there are drawbacks to the system. Judge Fonesbeck explains that presenting evidence and properly identifying people can be challenging.⁹ Technology problems can make it difficult to hear or participate. She suggested there are also negative intangible consequences to virtual hearings like the informal nature of the proceedings including people wearing pajamas, revealing

⁷ Judge Angela Fonesbeck, *Navigating the Half-Empty/Half-Full Dichotomy of Virtual Court Hearings*, July/August Vol. 35, No. 4 UTAH BAR JOURNAL, 13-16, p. 13 (2022).

⁸ *Id.*

⁹ *Id.* at 14.

clothing, or appearing in public places.¹⁰ Judge Foncesbeck gives concrete ways that many of these obstacles in remote hearings can be overcome by following the guidelines and rules provided in the Utah Code of Judicial Administration and the Supreme Court Rules of Professional Practice.¹¹ Ultimately, she expressed that virtual hearings “have both virtue and vice that can be successfully navigated by the court, the attorneys, and the participants” as long as they each actively work together.¹² This balanced and nuanced approach can maximize the advantages and minimize the shortcomings of remote hearings.

Comparison with Other State Reporting

Utah responses align with similar data collected from other states which did not have the same study limitations. For example, the DC Bar Foundation commissioned a study on the perspectives of family law litigants on remote hearings and published the report in December 2021.¹³ The DC report showed that “remote hearings worked well for most people. Most study participants reported being satisfied with their remote proceedings” in a diverse array of family law case types, including child custody, child support, domestic violence, and divorce.¹⁴ Specifically, the DC report found that:

- 73% appreciated not having to find and pay for transportation to/from the courthouse,
- 62% appreciated not having to take time off work or school,
- 60% appreciated not having to find childcare, and
- 72% felt safer and less threatened by the opposing party.¹⁵

The Texas Office of Court Administration partnered with the National Center for State Courts to study the use of remote hearings and the impact on judicial workload.¹⁶ The Texas report also highlighted the benefits of remote hearings for court users including “not needing to take time off work, locate transportation, or find childcare.” and noting it can be “emotionally easier” for some parties to not be in the same room.¹⁷

While Utah has a court environment that is distinct from these states, the similarity of these findings further validate this report: providing options and support for remote hearings improves the court experience and increases access to justice for many patrons and practitioners.

¹⁰ *Id.*

¹¹ *Id.* at 15-16.

¹² *Id.* at 16.

¹³ DC Bar Foundation, *Litigant Perspectives on Remote Hearings in Family Law Cases: A Survey Study Conducted with the DC Family Law Learning Network*, (December 2021), accessed June 12, 2022, available at https://www.dcbfoundation.org/files/ugd/3ddb49_2c2da451535e4f9f8de6ab2baf575a54.pdf.

¹⁴ *Id.* at i.

¹⁵ *Id.* at 8.

¹⁶ National Center for State Courts Court Consulting Division, *The Use of Remote Hearings in Texas State Courts: The Impact on Judicial Workload*, accessed June 12, 2022, available at <https://www.ncsc.org/media/ncsc/files/pdf/newsroom/TX-Remote-Hearing-Assessment-Report.pdf>.

¹⁷ *Id.* at 9.

Obstacles to Participation in Remote Hearings

While remote hearings promote access to justice for many, there are obstacles to participating in remote hearings. Commonly cited examples include language barriers, accessibility, and technological challenges.¹⁸ These obstacles have been and continue to be overcome through strategic planning and targeted resources.

Court patrons may be non-English speakers or have only a limited understanding. They also may lack full literacy or comprehension. Potential solutions include providing translation services, making court documents and instructions available in other languages, and preparing explainer videos that can be distributed online, via email, and by text message.

Court patrons and practitioners may have a recognized disability under the Americans with Disabilities Act¹⁹ or experience other accessibility issues. These are often referred to as the “digital divide” meaning lack of or poor connectivity to internet or Wi-Fi signal, limited access to email, restrictions on phone minutes or data plans and other barriers to remote access.²⁰ Solutions to accommodate ADA disabilities can include offering closed captioning, keyboard accessibility, screen reader support, and having automatic transcripts available.²¹ To bridge the digital divide, having a call-in only option for remote hearings is essential. Other solutions include court use kiosks and working with libraries and other community partners to help provide access.

Remote hearings require some level of technical proficiency in either internet or phone use. For some it can be challenging to access the necessary technology. However, similar to the above discussion on accessibility, having strong partnerships with libraries, social service providers, and other community partners can help provide needed support. Other solutions include providing explainer videos and clear instructions written in plain language. Having staff available to provide support and troubleshooting if video or sound issues occur can help correct problems that may arise.

Acknowledging there are obstacles to remote hearings is not a sufficient reason to require in-person attendance at court. Instead, this recognition can be the touchstone for change and progress. In fact, organizations like the National Center for State Courts continue to develop and release guidelines, best practices, and ways to overcome problems to effectively manage hybrid and fully remote hearings. These efforts become even more important when looking at the barriers many Utah communities face when seeking legal representation.

¹⁸ See e.g., California Commission on Access to Justice, *Remote Hearings and Access to Justice During Covid-19 and Beyond*, PPP & Cal Remote Hearings Guide - NCSC (National Center for State Courts), accessed June 12, 2022, available at https://www.ncsc.org/_data/assets/pdf_file/0018/40365/RRT-Technology-ATJ-Remote-Hearings-Guide.pdf.

¹⁹ 42 U.S. Code § 12101 et seq.

²⁰ USLegal.com definition: “digital divide,” available at <https://definitions.uslegal.com/d/digital-divide/#:~:text=Digital%20divide%20refers%20to%20the,technology%20and%20those%20who%20cannot.>

²¹ California Commission on Access to Justice, *supra*.

Barriers to Accessing Legal Representation

Deciding whether Utah State Courts will go back in-person or continue to offer remote attendance will affect all Utahns. However, it will hit some Utah communities much more than others. There is a vast divide in how many lawyers are available based solely on where the person needing legal representation lives. This division plainly emerges when comparing the cases filed per attorney to the number of attorneys available in each Utah county.

Utah has 29 counties, and there are 8677 active attorneys in Utah.²² In its directory, the Utah State Bar lists the county associated with each lawyer’s preferred address. Legal representation deficiencies in many counties appear when this information is compared to the number of 2021 Utah district, justice, and juvenile court cases filed.

Table 1: Lawyers by County Compared to Cases Filed

Utah County	# of Active Attorneys	Cases Per Attorney (District, Justice, and Juvenile for FY2021)
Beaver	1	5,043
Garfield	2	1,487
San Juan	5	1,439
Juab	6	1,240
Emery	6	758
Kane	6	594
Piute	1	533
Box Elder	27	489
Duchesne	13	483
Carbon	21	387
Millard	14	377
Sevier	17	350
Sanpete	16	316
Tooele	53	304
Daggett	2	298
Rich	4	265
Uintah	34	262
Grand	17	254
Wayne	2	251
Iron	62	221
Weber	321	168
Morgan	11	154
Cache	166	133
Wasatch	74	120
Washington	340	117

Table 1 shows access to legal representation by county where the red shades indicate the least access to attorneys and the blue shades signify the greatest access.

As the reds lighten and then turn to blue, the communities have an increasing ability to find a lawyer.

(See next page for blue shading)

²² Active attorneys are those included in the Utah State Bar attorney database who are in good standing and listed as “AttUnder3,” “AttActive,” or “AttEmerit.”

Utah County	# of Active Attorneys	Cases Per Attorney (District, Justice, and Juvenile for FY2021)
Utah	1260	77
Davis	656	77
Summit	204	46
Salt Lake	5211	39

A person living in Salt Lake County can hire a local lawyer located near where they live and by the courthouse. A person living in Iron or Uintah County most likely can choose from several lawyers.

However, a person living in Beaver, Piute, Garfield, or San Juan will almost certainly struggle to find an attorney unless they can pay for and hire an out-of-town lawyer. Making the decision to continue offering remote hearings, at least for some people, cases, and circumstances can alleviate this disparity.

Recommendations

1. Utah courts should continue offering remote hearings. At a minimum, remote hearings are strongly preferred and more efficient for at least some hearings and types of actions.
2. Non-binary options for remote participation should be available, where some parts of the case may be held virtually or by video while other parts are in-person. This will remove barriers to making an appearance in court for both patrons and practitioners.
3. Hybrid options for appearing remotely should be used for ADA accommodations; resolving mobility issues for older adults; reducing the economic impact of in-person court caused by getting time off work; the cost of traveling to court and obtaining childcare; and promoting patron safety.
4. Clear explainers of common court procedures (like how to use Webex) should be created using plain language. These materials should be provided in written form and by video, which is then emailed and texted to court users as well as posted online. Written instructions can be translated into other languages as well.
5. Utah courts should conduct further study to determine which hearings and types of actions are best done remotely and which are better held in-person. They may consider expanding this court user survey to additional judicial teams statewide for this purpose.