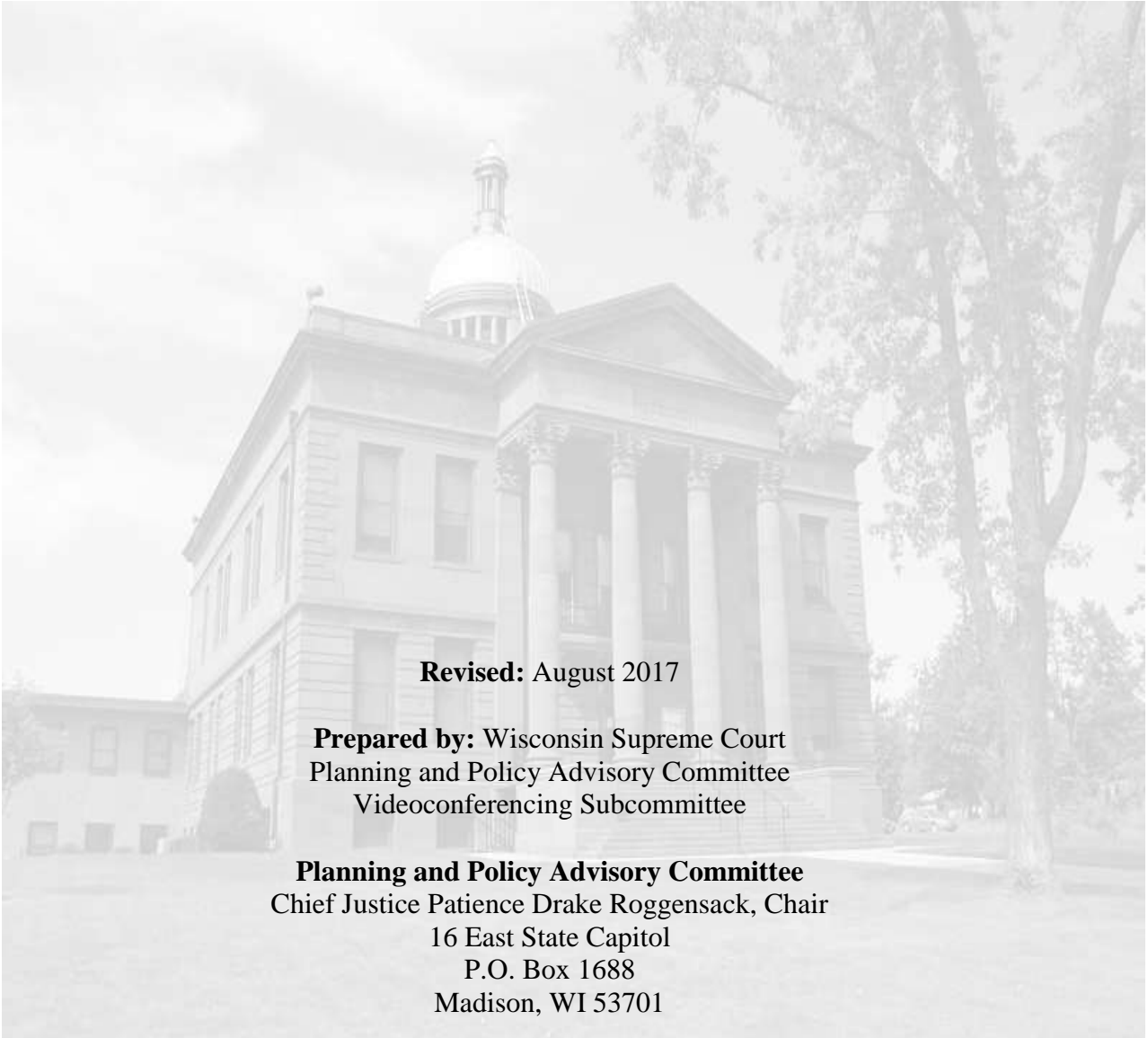


Bridging the Distance: Implementing Videoconferencing in Wisconsin



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TABLE OF CONTENTS

Foreword	3
PPAC Videoconferencing Subcommittee Members 2017	4
Section I. What is Videoconferencing?	5
Potential Benefits.....	5
Implementation Considerations.....	5
Non-Courtroom Uses of Videoconferencing.....	5
Section II. Planning for Successfully Implementing Videoconferencing.....	7
Implementation Considerations.....	7
Videoconferencing and Electronic Filing.....	8
Section III. Videoconferencing Equipment.....	9
Technical Issues.....	9
Core Components	10
System Administration Standards	11
Section IV. Design Considerations	12
General Design Issues	12
Design Requirements.....	14
Section V. Staffing Considerations	17
System Operation	17
System Administration	17
Section VI. Evaluating Videoconferencing	18
Evaluation Process.....	18
Data Collection.....	18
Cost/Benefit Analysis.....	19
Equipment and Transmission Costs	19
Intangible Costs	20
Section VII. Best Practices and Tips.....	21
Section VIII. Wisconsin Statutes Supporting Use of Videoconferencing	24
Relevant Statutes	24
Frequently Asked Questions	28
Appendices.....	29

Foreword

The Wisconsin Court System began exploring the use of videoconferencing in the early 1990s. In 1998, the Supreme Court's Planning and Policy Advisory Committee (PPAC) and the Wisconsin Counties Association collaborated to form a statewide videoconferencing subcommittee. The committee's charge was to develop a manual to help jurisdictions understand and implement videoconferencing technology. The original *Bridging the Distance* publication was a result of that committee's work. In 2004, PPAC reconvened the videoconferencing subcommittee to update the manual, which was again revised in 2007.

Since 2007, as videoconferencing technology has evolved, its use within the Wisconsin Court System has grown considerably. The Wisconsin Supreme Court adopted rules included in subchapter 885 of the Wisconsin Statutes that define the use of videoconferencing in civil and criminal matters and establish technical and operational standards.

The videoconferencing subcommittee reconvened once more in 2016 to assess the status of videoconferencing in Wisconsin Court System and to examine *Bridging the Distance* once more. Since the 2007 updates, videoconferencing has expanded to almost every county circuit court in the state, as well as to mental health facilities, state correctional institutions, and most county jails.

The 2017 update to *Bridging the Distance* is intended to provide general guidelines and considerations to help support thoughtful and effective implementation, assessment and evaluation of videoconferencing in a courtroom setting. Appendices include sample documentation that can be used to support videoconferencing use in the courtroom as well as to help analyze its effectiveness.

For more information, visit <https://www.wicourts.gov/courts/committees/ppacvidconf.htm>.

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Section I. What is Videoconferencing?

Videoconferencing sends video, voice, and data signals over a circuit so that two or more individuals can communicate with each other simultaneously. As an interactive medium, videoconferencing offers individuals the ability to appear and communicate from remote locations, exchange information, engage in debate, and work toward resolution or disposition.

Potential Benefits

Videoconferencing has the potential to more effectively use resources by:

- Reducing travel requirements for all courtroom participants, including circuit court judges
- Saving prisoner and patient transportation costs
- Improving courthouse security
- Reducing the cost of health care to prisoners and patients through telemedicine
- Reducing logistical barriers to conducting meetings
- Providing access to additional training/educational opportunities
- Increasing efficiency of legal proceedings
- Reducing costs for interpreter services
- Enhancing public trust and confidence by making court matters more accessible

Implementation Considerations

When considering implementing or enhancing existing video technology, a jurisdiction's present and future needs must be thoroughly assessed. Some of the questions that should be asked include:

- Is there strong judicial support and leadership for the program?
- What is the intended application or use?
- What is the cost/benefit to purchasing and using video conferencing?
- How many different sites must communicate?
- How many people (groups of people, individuals) will appear on camera at each site?
- How do we ensure that each participant can see all the others?
- Does a video participant at a remote location need to see and hear everyone at the other site, including non-participants?
- Do documents need to be transmitted between sites?
- Is there a need for confidential communication between sites?
- How frequently will the equipment be used?
- Is funding available for equipment purchases?
- Is funding available for recurring expenses?
- What future uses can be identified?

Non-Courtroom Uses of Videoconferencing

Many uses of videoconferencing equipment outside of the courtroom may exist for county governments, staff, and members of the public.

Employee Training Opportunities

Access to videoconferencing equipment may allow employees to take advantage of training opportunities without incurring travel expenditures to reach training sites.

Administrative Meetings

The growth in statewide multi-disciplinary committees has increased travel time for staff to attend these meetings. Videoconferencing can provide time savings and a cost-effective means to participate in meetings without travel time.

Public hearings

Governmental units use videoconferencing to conduct public hearings, thereby increasing participation of constituents in both statewide and county issues.

Public access

Private organizations may be interested in renting videoconferencing facilities from public agencies. The feasibility of this access will need to be considered by each jurisdiction.

Section II. Planning for Successfully Implementing Videoconferencing

Implementation Considerations

When considering implementing or enhancing existing video technology, both present and future needs must be thoroughly assessed. This assessment should include not only the perspective of policy makers, but also of potential users of the technology. The goal should be to develop a comprehensive approach to program planning, funding, and implementation with the cooperation and involvement of both groups.

Users and Policy Makers

The following individuals should be involved in the planning process:

- Presiding judge
- Sheriff/Jail administrator
- District attorney
- Private practice attorney
- Public defender
- Clerk of circuit court
- District court administrator
- County executive or designee
- County board supervisor(s)
- Information technology services director
- Local department of health and human services director
- Also consider adding other anticipated users, such as interpreters, other department heads, court reporters, etc.

The most effective approach to ensure the relevant individuals are consulted in the planning process is to establish a users committee early in planning. This committee should identify the types of court appearances, hearings, and meetings that would benefit from videoconferencing. After short-term and long-term uses are identified, the committee should consider the associated operational issues.

The committee should also visit other videoconferencing installations as part of their analysis and planning (see Resource List). Viewing different systems will help users identify design and equipment features that will best meet their needs.

Current and Future Uses

Planning for videoconferencing requires balancing immediate needs with the needs of expansion and extension. An immediate need may be for a courtroom and a jail to be connected, while the expanded need may be for connections to other locations within the state. Identifying present and projected uses is important because they can affect initial equipment specifications and technical requirements.

In establishing needs, questions that should be asked include:

- Is there strong judicial support and leadership for the program?
- What is the intended application or use?
- What is the cost/benefit to purchasing and using videoconferencing?
- How many different sites must communicate?
- How many people (groups of people, individuals) will appear on camera at each site?
- How is it ensured that each participant can see all the others?

- Does a video participant at a remote location need to see and hear everyone at the other site, including non-participants?
- Do documents need to be transmitted between sites?
- Will the proceeding be recorded?
- How are we going to accommodate confidential communication between sites?
- How frequently will the equipment be used?
- Is funding available for equipment purchases?
- What is the cost of one-time equipment purchases?
- Is funding available for recurring expenses?
- What are the recurring expenses?
- Can future uses be identified?
- What network options do local carriers offer?
- Is the application being considered currently permitted by statute and/or case law?

These questions will be answered differently depending on the intended videoconferencing use (refer to Section II for a list of possible videoconferencing uses).

Videoconferencing and Electronic Filing

Prior to the 2016 adoption of a paperless system that utilizes electronic filing (eFiling) within the Wisconsin Court System, judges who wished to appear by videoconference for out-of-county assignments had no means by which to electronically access the court file. Through the implementation of statewide eFiling, Wisconsin judges now have electronic access to the cases in their home counties as well as to those cases assigned in other counties. The Judicial Dashboard (J-Dash) and other electronic bench, or “ebench” enhancements allow judges to view and access the court file while appearing by videoconference, much the same way the judge would access the file if he or she were sitting on the bench in the other county courthouse. In addition to providing savings in travel time and expense for both judges and court reporters, routine motion practice, scheduling, and pre-trial matters can be accommodated by use of videoconference. In a courtroom with proper camera location and sufficient monitors, more complicated proceedings may also be possible with the consent of the parties. Ultimately, videoconferencing and eFiling complement one another and provide numerous opportunities for increased savings and efficiency.

Section III. Videoconferencing

Equipment

Technical Issues

When identifying videoconferencing uses, jurisdictions must make technical decisions concerning equipment and transmission.

Infrastructure

The infrastructure by which a jurisdiction transmits analog or digital signals is a consideration that must be made. Jurisdictions have the option of using the existing public system, installing or leasing a private communications network, or contracting to use the private-public network, called BadgerNet, to transmit data.

Bandwidth, packet loss, latency, jitter and network policies are fundamental considerations common to any network supporting the transmission of video conferencing data.

Bandwidth generally refers to the maximum throughput or capacity of a digital communications link. In video conferencing it refers to the ability of the network to transmit encoded/compressed audio and video signals between codecs (devices) at each location. In general, the more bandwidth the better, though certain video conferencing protocols have built in limits and thus may not be able to take advantage of increased bandwidth.

Packet loss is when data packets (the encoded/compressed audio) fail to arrive at the remote location or fail to arrive in the order in which they were sent. Packet loss can result from insufficient bandwidth or errors in transmission. Excessive packet loss can result in buffering.

Latency is the delay between an event occurring and the remote site seeing/hearing the event. Latency is introduced by the encoding and decoding process of the codec as well as the time it takes to traverse the network. Excessive latency increases the likelihood of participants talking over one another as they may not realize when a participant has started speaking.

Jitter refers to the random variation in latency due to congestion, competition with other bandwidth intensive protocols, or routing changes during transmission.

Policies refers to configuration settings on various network components such as firewalls or load balancers, settings such as network address translation (NAT), can have on the transmission of video conferencing data.

Private Communications Network

Rather than use an existing public system to transmit video signals, a jurisdiction may consider installing or leasing a network of communication lines between multiple locations (as close as across the street or as distant as several hundred miles).

Using a private communications network may offer long-term cost savings depending on the frequency of use and the distance between videoconferencing sites.

Such dedicated/private communications networks may provide guarantees about the level of service available to the video conferencing system that public (Internet) or other shared networks cannot provide.

Private-Public Network (BadgerNet)

Another option may be using one of the networks included in BadgerNet. BadgerNet is a term used to describe a variety of telecommunications services provided by the Wisconsin Department of Administration to state government and educational entities, as well as local governments and other eligible entities. More information about the Division of Enterprise Technology is available at <https://det.wi.gov/Pages/BadgerNet.aspx>.

Core Components

Videoconferencing equipment may be purchased as part of a complete, self-contained videoconferencing system or on a piece-by-piece basis. The systems intended use will determine the components that are necessary and those that are optional. Packaged videoconferencing systems usually include:

Video Monitor/Projector: Monitors are used to display video and graphic images. Most videoconferencing systems rely on one monitor to display both incoming and outgoing video images. This is accomplished through a picture-in-picture display, where a small window displaying one image is superimposed on the main window. Dual monitors often split display between incoming and outgoing video or between incoming video and graphics. The number and size of monitors depends largely on the application, room characteristics, and type of videoconferencing installation. Your specific application will determine the type of monitor you need (e.g., display of people vs. graphics).

In addition to the quantity, size and resolution of video displays the codec itself plays an important role in the clarity of the incoming video.

Camera(s): Cameras capture participants, video and graphics, and document images for transmission. The number and arrangement of cameras is a function of the number of conference participants, application requirements, room characteristics, and type of installation. Camera(s) with the ability to pan, tilt and zoom are recommended.

Contemporary cameras include voice activation capabilities and/or continuous presence modes where each remote site can see all other remote locations at all times. A camera's ability to auto-focus, auto-track and auto-adjust to changing conditions should be taken into account.

Audio System: Audio quality is as important as picture resolution. Audio systems should provide clear, simultaneous, interactive (full-duplex) communication. In custom-built rooms, speakers are usually permanent fixtures, but are generally packaged into desktop or rollabout units. Microphones may be permanently implanted in a conference table or control panel, affixed to a table top, hand-held, or clip-on. The audio system should include acoustic and line echo cancellation, noise suppression and audio mixing. The audio system should also include a mechanism to accommodate confidential communications, primarily those between attorney and client.

Control Panel: The control panel is the interface between participants and the system equipment. In most cases, the control panel includes functions for controlling call initiation, camera positioning, volume, and peripheral equipment.

Ease of use, diagnostics, call logging, configuration of the phonebook and ability to support various inputs such as laptops, white-boards, video recorders should factor into the evaluation of a video

conferencing system. Other features such as secure file transfer protocol (SFTP) and chat functionality can also be considered.

Bridge: In videoconferencing vernacular, this is a device that connects conference sites so they can communicate simultaneously. Bridges are often called MCU's - multipoint conferencing units. The term bridge can also be used in audio conferencing to refer to a device that connects multiple (more than two) voice calls so that all participants can hear and be heard.

Multi-point conferencing capability is now a normal option when purchasing a video conference system and can be a very useful option when more than one party or participant is off site and multiple site connections are necessary. Generally the additional cost to add multi-point capability is not significant.

System Administration Standards

Equipment maintenance agreements

Ongoing maintenance must be included in the project budget and to ensure prompt service all equipment should be covered by maintenance agreements. It is recommended that agreements be with the manufacturer or a third party provider who has the expertise to provide proper maintenance. Multi year agreements are usually less expensive than one-year agreements.

Equipment Upgrades

Similar to ongoing maintenance, equipment upgrades must be included in the project budget. All equipment has a life expectancy and a schedule for upgrading the equipment must therefore be strongly considered. Following the schedule will help prevent system outages as well as keep the equipment up to current standards.

Initial/ongoing staff training

Initial and on-going staff training must also be included in the project budget. Initial and ongoing training on video systems and overall system programs and processes should be established. A vendor will often provide some training at no added cost with the initial installation. Training by internal staff is also an option and it provides an in-house resource and encourages full use of the system. Training can also be done through seminars, workshops, and conferences.

Method for cost allocations.

If multiple departments can share video systems, telephone circuits, etc., a method for allocating costs should be established. Policy makers should arrive at an equitable formula for cost allocations.

Section IV. Design Considerations

Implementing videoconferencing in the justice system presents unique challenges in the design area. Using videoconferencing in a legal setting requires that participant rights and facility design be considered. The number and placement of cameras, monitors, and microphones are critical to a successful justice system application.

The overall goal of the videoconferencing setup is to provide a realistic experience equaling that of a person being physically present. The type of camera and its location is critical to attaining this goal. In addition, the courtroom/ancillary room lighting and acoustics need to be balanced with the camera so that facial expressions and communication of any sort are picked up by the remote location.

General Design Issues

Multiple v. Single Camera Recommendation

A single camera system is generally found in cart-based systems where a camera rests on the TV monitor on a movable cart. These systems are most often used in non-courtroom settings, jails, prisons, conference rooms, and ancillary rooms. These systems are usually portable and can be moved to other locations if appropriate cabling is available in the new location. These systems do not allow for simultaneous viewing of all participants in a court proceeding and therefore cannot be used in courtroom settings.

The long-term success and acceptability of video conferencing in court proceedings rests on using multi-camera systems that allow all court participants to simultaneously see one another. Courtrooms have designated areas for the judge, attorneys, and witnesses. To maximize videoconferencing effectiveness, the courtroom signal should be able to show the judge, each attorney, and the witness stand *at the same time*. No single-camera system or courtroom arrangement adequately allows for this type of coverage. The set up of a single camera cart based system is also visually unappealing and does not flow with the decorum of the court; the ambiance and reality of the courtroom experience is compromised.

To maximize the effectiveness, acceptability, and flexibility of a videoconferencing program, courtrooms should be equipped with multi-camera videoconferencing systems that provide monitors viewable by both court participants and the public. The best use of single camera video conferencing systems are in non-courtroom settings, jails, prisons, conference rooms, and ancillary rooms.

There should be significant planning and thought made in regards to camera location and angles. Courts should avoid steep angles or placement of camera/monitors where participants heads are turned away while speaking. Cameras placed in a direct line with the monitor tend to function best.

Analog and Digital Audio and Display Considerations

Care should be given when considering merging or marrying existing audio functions in a courtroom that is analog based with a newer digital video conference unit. The two systems may not be compatible and can result in technical difficulties and poor audio performance. Consultation with a provider/installer prior to purchase is important.

In courtrooms that have existing documentation presentation equipment, such as an ELMO (Electronic Visual Evidence Presenter), laptop feeds/projectors, DVD, Blu-ray or other playback devices, a video conference system can be integrated into evidence presentation systems to allow a document, video or other visual evidence to be broadcast and shown on a video conference unit so that a party or witness appearing by video conference can view the same image being shown in court simultaneously.

Monitors

High definition monitors placed at the judges bench, witness stand, Clerk's station and counsel table will maximize the quality of the video appearance. Strategically located monitors in the jury box is also recommended.

Audio System/Acoustics

Although often less carefully evaluated, audio quality in videoconferencing is as important as picture resolution. Audio systems should provide for clear, simultaneous, interactive communication. If the parties involved are unable to hear the proceedings, the full value of videoconferencing cannot be achieved.

Using an audio system in the courtroom begins with a sound reinforcement system. Microphones should be placed at the judge, witness, clerk, and attorney positions, and on the podium, if used, to provide coverage of the proceeding. Consideration should also be given to having a microphone available in the gallery, if needed.

The signals are then amplified throughout the courtroom. When planning an audio system for a courtroom, consider the following:

- The audio system should interface with telephone and videoconferencing equipment, and should provide full-duplex audio operation and echo cancellation. Automatic echo cancellation is desirable because it adjusts the incoming and outgoing audio signals in accordance with the acoustics of a particular room.
- Installing acoustically absorbent materials, if necessary, should minimize in-room echoes. Exposed glass may need drapes for better acoustics.
- The audio system should be connected to an assisted listening system for the hearing impaired.
- The audio needs of the court reporter and the spectator(s) should be evaluated. The court reporter must be able to hear all the testimony that occurs either in person or by video. A well-designed audio system ensures that spectators can easily hear the proceedings. A recording output should be provided.
- The audio system should provide the media with any audio/video information that occurs at court proceedings. Media feeds outside the courtroom reduce the need for cameras and other equipment in the courtroom.

Lighting, Coloring, and Windows

Lighting is a crucial component for any successful videoconferencing system. Improper lighting can result in glare on screens and distort colors. Lighting should include both direct and indirect lighting to minimize glare and generate the best quality image.

Background color can also affect how people appear on camera. While not as easily controlled in the courtroom, background color in locations where individuals appear by video, such as the jail, should be reviewed. In general, neutral colors are preferable; a light blue-gray seems to work best. Other colors may distort the appearance of people appearing by video, which may negatively impact perceptions of credibility regarding those appearing by video.

Windows in courtrooms and ancillary rooms can significantly impact the quality of a proceeding conducted by videoconferencing. Weather conditions can affect the camera's ability to obtain a sharp picture. To ensure the highest quality picture, if windows or natural light may negatively impact the image quality, black out shades on exterior windows may be needed during a videoconferencing hearing.

Cabling/Wiring

The primary consideration when wiring for videoconferencing is future growth. Future needs are difficult to predict and wiring systems therefore should allow for expansion to the extent possible. Without the ability to accommodate new technology, the courtroom floor could soon be covered in a sea of cable.

It is common practice to run wiring through walls or under floors. If conduit is run through the walls, the amount should be calculated to allow for as much future growth as possible. If wiring is run under floors, a raised-floor system could be considered. Such a system allows for expanding cabling relatively easily and can be removed or replaced in sections for convenient access.

One additional concern is the courtroom wiring termination point, which is often where the equipment rack is located. This point should be accessible and adequately ventilated. If the equipment rack is inconveniently located servicing and adjusting will be difficult. In addition, if the termination point is placed under the judge's bench careful consideration should be given to the affect on the judge's leg room and comfort.

Design Requirements

Rather than prescribe specific requirements for implementing videoconferencing, this section identifies basic design considerations and provides jurisdictions with a checklist to review when designing a videoconferencing system.

Each videoconferencing system will be unique, as courtroom size and configuration and intended applications will vary. The applicable provisions of Supreme Court Rule Ch. 68, Court Security, Facilities and Staffing, should also be considered in this process.

A few basic issues to consider when planning the design of a videoconferencing system:

- Camera Angles should be in direct line as possible with the placement of monitors for the judge, witness and counsel tables.
- To produce a good picture, cameras need a direct (head-on) shot with the person speaking to the camera.
- The same quality standards should be applied to all sites in your control so that all participants can observe each other's demeanor, verbal, and nonverbal communication.
- Special effort should be made to determine the maximum distance to monitor/screen size so that viewers can comfortably see the images.

Design Checklist:

The checklist below is organized by the facility type and participant needs that are usually involved in court proceedings. Ideally all the questions on the checklist should be answered yes.

In the courtroom

Judge

- Does the judge have an overall mute control for the audio system?
- Can the judge have confidential conversations with both attorneys?
- For discussions with the individual(s) appearing via video, can the judge view a camera and monitor simultaneously?

- Can the judge see the remote participant(s) and the surrounding area to ensure that intimidation or coaching is not taking place off screen?
- Does the judge/clerk have the ability to control the cameras on both ends?

Attorneys and Litigants

- Do the attorneys have microphones at counsel table?
- Can the attorneys mute the audio system to have confidential conversations?
- Does the defense attorney have access to a confidential telephone line to the remote location?
- For discussions with anyone appearing via video, can the attorneys view a camera and monitor simultaneously?
- Do the attorneys have a clear line of sight to a video monitor?
- Does the system allow attorneys to display electronic documents?
- Is there sufficient power supply at the counsel tables?
- Has consideration been given to providing a document camera for evidence presentation?

Court Clerk

- Does the clerk need a microphone?
- Is a fax machine or other document transmission equipment available to the clerk in the courtroom?

Court Reporter

- Can the court reporter clearly hear courtroom participants and those appearing via videoconferencing?
- Does the court reporter have a clear line of sight to a video monitor?
- Can the system integrate real-time reporting?

Jurors

- Can the jurors see and hear anyone or anything presented on the video monitor?

Public

- Can the public hear and see the proceedings, including anyone appearing via video?
- Is a camera positioned so that individuals appearing via video can clearly see who is attending the proceeding?

Witnesses

- Do witnesses have a microphone at the witness stand?
- Can witnesses see documents presented on the video monitor or is a separate monitor located at the witness bench?

Interpreters

- Can interpreters appearing by video clearly see and hear the individual(s) requiring interpreting services?
- For discussions with the interpreter, can the individual requiring interpreting services simultaneously view a camera and monitor?
- Can the interpreter be seen by everyone in the courtroom?
- Can the interpreter see everyone in the courtroom?
- Can the interpreter be involved in confidential conversations between the lawyer and litigant?

Media

- Do members of the media have access to the video feed if requested?

In the remote location

- Can remote participants see exactly what and whom they would see if they were actually in the courtroom, including relatives and friends attending the proceeding?
- Does the facility permit an attorney to be physically present with his/her client upon request?
- Can the client have a confidential conversation with his/her attorney?
- If the attorney is in the courtroom, is a phone to the courtroom available to the client?
- Is the video arraignment room in a relatively quiet area?
- Is the background one color, preferably light blue-gray, without highly reflective surfaces?
- Is the lighting a combination of direct and indirect lighting?
- Does the lighting reduce glare on the monitor?
- Is a fax machine or some type of document transmission equipment available?
- Is it possible for the defendant to have confidential telephone conversations with family members?
- If there is an overall mute control, can an attorney in the remote location indicate to the judge that the attorney/client would like to be heard?

In the conference/training room

- Is the room in a quiet area, away from elevators, air conditioning units, telephones, cafeterias, and entrances?
- Is the room sound insulated so those outside of the room are not disturbed?
- Does the room measure at least 10' x 12'?
- Are the walls uniform in color, preferably a light blue-gray or neutral color, without highly reflective surfaces?
- Is the lighting a combination of direct and indirect?
- Does the lighting reduce glare on the monitor?
- Can all participants clearly see the monitor?
- Can all participants clearly hear the video presentation?
- Are there microphones available on the conference table?
- Is the technology available to record proceedings?

Section V. Staffing Considerations

Videoconferencing users must develop a clear understanding of required staffing to operate videoconferencing systems. Although system complexity and application type will vary, it is usually possible to implement videoconferencing in justice system settings without adding additional staff. Nonetheless, staffing considerations must be reviewed prior to implementation. These considerations include system operation, staff training, and system administration.

System Operation

Courtroom Operator

Operating the videoconferencing system requires the assigning certain responsibilities such as checking the equipment prior to each proceeding, turning the system on, making connections with remote sites, and controlling the equipment during the proceeding. These responsibilities can usually be handled by existing non-technical court staff. It is important, however, that the staff identified for these responsibilities receive sufficient training before the system is used in a court proceeding.

System Administrator

When multiple agencies share videoconferencing resources, a central system administrator should manage and coordinate scheduling, system and equipment maintenance agreements, and financial issues. The system administrator should be the clearinghouse for all system information, including inventory of current hardware and software configurations, and contact personnel.

System Administration

Help Desk

Because non-technical staff will most likely operate the videoconferencing system, a help desk should be available to assist with any technical problems that occur. This resource may be established by internal IT staff or included in the maintenance agreement provided by the vendor.

Equipment Maintenance

A jurisdiction's approach to maintenance can have staffing implications. Although a jurisdiction may consider using in-house staff for equipment maintenance, it is recommended that equipment be covered by maintenance agreements. These agreements will ensure prompt service and diminish any potential downtime for the system.

Information Clearinghouse

Information concerning inventory, hardware and software configurations, maintenance agreements, help desk responsibilities, and video phone numbers should be maintained by a central authority. Depending on the size and structure of the administrative functions in a given jurisdiction, the agency or individual responsible for this task may vary.

Section VI. Evaluating

Videoconferencing

As costs and benefits of using videoconferencing change over time, a continuous evaluation plan is recommended. It is important that each jurisdiction calculate both the short- and long-term costs of installing a videoconferencing system, as well as the intangible costs to all participants.

This section provides information on the key components for evaluating videoconferencing in the courtroom. These components help establish goals and objectives and help determine whether a videoconferencing program produces an overall benefit in relation to its cost.

Evaluation Process

A videoconferencing program must continually be evaluated. Changing needs, new applications, and evolving technology necessitate regular review of videoconferencing systems.

The key to any successful evaluation process is establishing a videoconferencing user group. This group should meet regularly, review program progress, and formulate, modify and implement policy and procedure decisions through collecting and reviewing data. The group should consist of the same members who participated in the original planning and establishing of the videoconferencing program.

Evaluating the videoconferencing program should include both subjective and objective measures. Preserving constitutional rights, due process, and the ability to litigate in a fair and just environment are priorities that should also be included in any analysis of a videoconferencing program.

Data Collection

Data collection is a key component when evaluating the effectiveness of videoconferencing in the courts. Data helps put into perspective tangible elements that need to be reviewed and included with the intangible elements, to ultimately decide whether the videoconferencing program is working effectively.

It is important to establish a database or spreadsheet pivot table where information can be stored and analyzed. A videoconferencing log sheet can be developed and used at a videoconferencing session (see Appendix A). This information helps track what type of matters the videoconferencing unit is being used for over a period of time. It also helps in accessing overall system reliability versus human error.

The following data elements should be captured in a log sheet. This list can be expanded or restricted to address the type of information a county is interested in reviewing:

- Date
- Case number
- Activity held (hearing, trial, meeting, etc.)
- Define event type (probable cause, TRO)
- Who appeared by video
- Facility or facilities that participated
- Start and end time of session (or duration of session)
- Any technical difficulties encountered and how/whether they were resolved
- General comments or notes

The type of court event, volume, and personnel resources may dictate the feasibility of populating a database. Wisconsin's CCAP (Consolidated Court Automation Programs) system offers a "VCON" event code that can be added to the record when using videoconferencing.

Cost/Benefit Analysis

An anticipated cost/benefit analysis can be conducted prior to implementing courtroom videoconferencing and can be useful in supporting purchase or upgrade of technology. For example, moving to a digital system that has better sound and video quality may increase overall use of the technology, which may reduce the need for prisoner transport. This type of analysis can frame goals and set the level of technology a jurisdiction is willing to support, and can be used to demonstrate the maximum potential fiscal savings.

Once a videoconferencing program has been implemented, these initial assumptions should be re-examined and a second cost/benefit analysis should be undertaken. This second analysis will help determine whether the initial assumptions were correct and if policy decisions allowed all potential fiscal and non-fiscal benefits to be realized. If benefits are not being fully realized, the videoconferencing committee should react to the data and, if necessary, may need to revisit the program's direction and usage model in order to improve benefits.

In-custody defendants are a major cost and security risk to the courts and sheriff's departments. In addition to the cost of transport, if the in-custody defendant needs to stay for any period of time the sheriff's department assumes housing, safety and medical responsibility for these individuals. When collecting data to evaluate potential or actual benefits of using videoconferencing instead of transporting in-custody defendants, one should consider:

- Number of writs or orders to produce (OTP) per month.
 - Correctional facilities
 - Out of county jails
 - Mental health facilities
- Average length of stay in jail (ALOS) per OTP
- Pickup and return mileage
- Personnel time usage and cost, based on average hourly wage

Other quantitative information may further assist in determining overall benefits and costs:

- Revenue from private or public use of videoconferencing equipment.
- Number of staff training opportunities via video.
- Reduction in reported security incidents during transport.
- Extrapolating increases or decreases in judge/staff availability and productivity due to reduction in travel and waiting time.
- User satisfaction surveys.

A regular review of this collected information will make it easier to determine if the system is meeting operational and cost-benefit analysis goals.

Equipment and Transmission Costs

An equipment vendor or consultant can assist with configuring a system to meet application needs so a base cost of equipment can be determined.

The State of Wisconsin's VendorNet system (<https://vendornet.wi.gov/>) offers some examples of contracts used for procuring equipment and maintenance. One example is Contract 505ENT-W08-

DISTLEARN-01, IT- Distance Learning Audio and Video Equipment, Installation, Maintenance and Training.

When purchasing videoconferencing equipment, it is important to consider that technology has a shelf life and to inquire what the anticipated useful life of the technology being considered will typically be. Plans should be in place to budget for equipment maintenance, support, and replacement, all of which will vary depending upon usage amounts.

In addition to equipment costs, users need to budget for transmission costs associated with videoconferencing. There are generally both recurring monthly costs, plus some usage costs. Governmental agencies and courts may be able to take advantage of statewide contracts where applicable.

Intangible Costs

Any evaluation process must include assessing intangible costs and unintended consequences. Using videoconferencing in the courtroom may impact the public's perception of the judiciary, law enforcement, attorneys, and the overall fairness of the system. This is especially applicable when using videoconferencing in criminal proceedings in which the defendant appears by video from a remote location. Care must be taken to assess and mitigate any negative impact that could occur through use on video-based appearances in these cases.

The court's perspective of criminal defendants may be altered by videoconferencing. Camera angles, inadequate equipment, and poor facilities may distort court interaction with criminal defendants. Similarly, videoconferencing may impact a criminal defendant's perspective of the judiciary and the criminal justice system. Consideration should be given to whether removing the defendant from the courtroom reduces the judge's impact on the defendant, whether it is conducive to courtroom decorum, and how it affects the defendant's perception of the court's fairness.

Courts need to be sensitive to the impact videoconferencing has on the quality of legal representation. The attorney-client relationship will be altered by videoconferencing when the defendant appears by video because attorneys will have to choose between appearing in court without the client or appearing from a remote location outside of the presence of the prosecutor, judge, and other participants. Any consideration of utilizing videoconferencing must consider the cost and impact of videoconferencing to defense attorneys as well as other criminal justice organizations. All users will need to evaluate and measure the tangible and intangible costs of videoconferencing on their systems.

Section VII. Best Practices and Tips

Best Practices

Local Rules on Using Videoconferencing

While the statutes provide the legal foundation for videoconferencing, local court rules provide the local framework to work within the statutes. See Appendix B for a sample local court rule.

Remote Location

The court should establish an understanding or policy that the remote location will be treated as an extension of the court.

Review of Remote Site

The judge or court commissioner should conduct a review of any new site they intend to use for a videoconferencing hearing. This review can be done through a test call or physically visiting the site. The purpose of the review is to establish that the lighting, sound, and visual appearance of the remote location do not impede the court from conducting a fair court proceeding.

Test Calls

Prior to any hearing an initial test call with any new remote location should be conducted to establish that a good connection can be made for a videoconferencing hearing. The test call is conducted in order to:

- Establish that a good audio and visual connection is available.
- Confirm with remote location that a hearing is scheduled.
- Establish contact between the court and the remote location in case there is a technical or other problem.
- Establish call speed connection (what is the maximum speed the facility can support).

Troubleshooting Procedures

There is always a possibility that a technical problem may arise when using videoconferencing equipment. The problem may be in the video unit, the telephone line, the remote location, or simply human error.

Before calling a vendor for service:

1. Check to see if the power is on.
2. Look for loose connections.
3. Follow established shutdown and start up procedures.
4. Contact designated IT support.

Video Appearance Colloquy

A colloquy between the court and the individual appearing by video should be conducted at the beginning of the court proceeding (see Appendix C).

The colloquy has the following purposes:

- Establishes that a good audio/visual connection has been made.
- Takes the necessary steps to ensure the protection of the defendant/litigant's rights.
- Provides a solid foundation in creating a good court record.
- Assists a judge or court commissioner in a proceeding that they may not conduct on a regular basis.

Tips

Create a Videoconferencing Ready Reference Manual

A ready reference manual should be created and placed in every courtroom that has video conferencing equipment, as well as at any remote locations. The manual should include trouble shooting procedures, colloquy, log sheet templates, and local rules. The manual should also have site contact name and numbers (i.e. phone, ISDN, LAN, Fax, etc.).

Purchase a Maintenance Agreement

It is strongly recommended that a full maintenance package with emergency 24- or 48-hour on-site repair be purchased or maintained with the video- conferencing equipment. A maintenance agreement can be purchased separately or through the videoconferencing vendor who sold the equipment.

Maintain Strong, Continuous Support

Videoconferencing offers new method to conduct some court proceedings. A successful videoconferencing program needs strong, active support from the judiciary and all potentially affected entities (i.e., sheriff's department, public defender's office, clerk of circuit court, register in probate, clerks of juvenile court, district attorney's office).

To achieve acceptance and support, communicate the benefits of videoconferencing and involve these entities in implementing the program. Use an active committee that brings all court users together on a regular basis to look at effective and innovative ways to use videoconferencing. This will increase the technology's effectiveness and protect the rights of the litigants, and maximize the benefits to all court users.

Test the System

Always engage in a practice run when attempting a videoconferencing proceeding that has not been tried before in order to work out any potential procedural/technical problems.

Understand the Capabilities

Try not to engage in proceedings where it is critical that the videoconferencing unit function beyond its optimum efficiencies (i.e., a need for a multiple camera system where one does not exist).

Proceed when Ready

If a technical problem exists with the unit or network, do not proceed until the trouble-shooting procedures have been exhausted and the court is comfortable with the quality.

Identify Special Needs

Identify with counsel any special needs they may have in order to facilitate using videoconferencing. If counsel needs to have **constant** communication with their client, the court may need to provide breaks more often and provide a phone so that counsel can communicate confidentially with their client.

Collect Data on Videoconferencing Use

Identify key needs of your videoconferencing program and develop a database or system to track its use. Examples of potential tracking systems are available in Appendix A. Data entered into a tracking system could generate reports that formulate cost savings, recognize strong and weak points of the program, and identify other potential uses for videoconferencing.

Be Flexible in Your Use of Videoconferencing

How videoconferencing is implemented and the level of active support for the program dictates its level of success in many areas. For example, taking an incremental approach to implementation allows for

technical and procedural problems to be worked out, but may reduce initial savings over costs. From another perspective, establishing videoconferencing in only one type of court proceeding (i.e. initial appearances or mental commitments) may provide initial cost savings, but could also minimize additional savings that could be attained if the program were used in additional court proceedings. Decide on an approach that may work best when implementing your program, but allow for flexibility and growth.

Identify and Evaluate Benefits

Videoconferencing has the capability to produce significant benefits, such as fiscal savings, worker productivity, security, jail bed space, etc. Be sure to establish an evaluation approach that considers all potential areas of your program.

Some benefits may not be realized until videoconferencing hearings are held on a consistent basis. One example of this is in prisoner transport. Initially, a larger sheriff's department may have established runs to certain facilities. The initial use of video may not necessarily affect that system, however, as use increases, fewer overall runs may be needed and those transport officers could be reassigned to other duties.

Change Can Be Difficult

The court system is comprised of different entities across multiple branches of government. The goals and objectives of each entity may be different. The real or perceived impact videoconferencing has on those entities will directly affect the speed and success of a videoconferencing program. The desire of entities to continue with business as usual should not be underestimated.

Section VIII. Wisconsin Statutes

Supporting Use of Videoconferencing

Relevant Statutes

Subchapter III of Wisconsin Statutes Chapter 885, Witnesses and Oral Testimony, outlines the use of videoconferencing in the circuit courts. Below are the applicable statutes supporting videoconferencing and additional information on using videoconferencing outside of the courtroom:

Wis. Stat. § 885.50 Statement of intent.

- (1) It is the intent of the Supreme Court that videoconferencing technology be available for use in the circuit courts of Wisconsin to the greatest extent possible consistent with the limitations of the technology, the rights of litigants and other participants in matters before the courts, and the need to preserve the fairness, dignity, solemnity, and decorum of court proceedings. Further, it is the intent of the Supreme Court that circuit court judges be vested with the discretion to determine the manner and extent of the use of videoconferencing technology, except as specifically set forth in this subchapter.
- (2) In declaring this intent, the Supreme Court finds that careful use of this evolving technology can make proceedings in the circuit courts more efficient and less expensive to the public and the participants without compromising the fairness, dignity, solemnity, and decorum of these proceedings. The Supreme Court further finds that an open-ended approach to the incorporation of this technology into the court system under the supervision and control of judges, subject to the limitations and guidance set forth in this subchapter, will most rapidly realize the benefits of videoconferencing for all concerned.
- (3) In declaring this intent, the Supreme Court further finds that improper use of videoconferencing technology, or use in situations in which the technical and operational standards set forth in this subchapter are not met, can result in abridgement of fundamental rights of litigants, crime victims, and the public, unfair shifting of costs, and loss of the fairness, dignity, solemnity, and decorum of court proceedings that is essential to the proper administration of justice.

History: Sup. Ct. Order No. [07-12](#), 2008 WI 37, 305 Wis. 2d xli.

Comment, 2008: Section 885.50 is intended to recognize and summarize the larger debate concerning the use of videoconferencing technology in the courts, and to provide a clear statement of the Supreme Court's intent concerning such use, which should be helpful guidance to litigants, counsel and circuit and appellate courts in interpreting and applying these rules.

This subchapter is not intended to give circuit court judges the authority to compel county boards to acquire, maintain or replace videoconferencing equipment. Rather, it is intended to provide courts with authority and guidance in the use of whatever videoconferencing equipment might be made available to them.

Wis. Stat. § 885.52 Definitions. In this subchapter:

- (1) "Circuit court" includes proceedings before circuit court judges and commissioners, and all references to circuit court judges include circuit court commissioners.
- (2) "Participants" includes litigants, counsel, witnesses while on the stand, judges, and essential court staff, but excludes other interested persons and the public at large.
- (3) "Videoconferencing" means an interactive technology that sends video, voice, and data signals over a transmission circuit so that two or more individuals or groups can communicate with each other simultaneously using video monitors.

History: Sup. Ct. Order No. [07-12](#), 2008 WI 37, 305 Wis. 2d xli.

Wis. Stat. § 885.54 Technical and operational standards.

- (1) Videoconferencing technology used in circuit court proceedings shall meet the following technical and operational standards:
 - (a) Participants shall be able to see, hear, and communicate with each other.
 - (b) Participants shall be able to see, hear, and otherwise observe any physical evidence or exhibits presented during the proceeding.
 - (c) Video and sound quality shall be adequate to allow participants to observe the demeanor and non-verbal communications of other participants and to clearly hear what is taking place in the courtroom to the same extent as if they were present in the courtroom.

- (d) Parties and counsel at remote locations shall be able, upon request, to have the courtroom cameras scan the courtroom so that remote participants may observe other persons present and activities taking place in the courtroom during the proceedings.
- (e) In matters set out in par. (g), counsel for a defendant or respondent shall have the option to be physically present with the client at the remote location, and the facilities at the remote location shall be able to accommodate counsel's participation in the proceeding from such location. Parties and counsel at remote locations shall be able to mute the microphone system at that location so that there can be private, confidential communication between them.
- (f) If applicable, there shall be a means by which documents can be transmitted between the courtroom and the remote location.
- (g) In criminal matters, and in proceedings under chs. [48](#), [51](#), [55](#), [938](#), and [980](#), if not in each other's physical presence, a separate private voice communication facility shall be available so that the defendant or respondent and his or her attorney are able to communicate privately during the entire proceeding.
- (h) The proceeding at the location from which the judge is presiding shall be visible and audible to the jury and the public, including crime victims, to the same extent as the proceeding would be if not conducted by videoconferencing.

- (2) The moving party, including the circuit court, shall certify that the technical and operational standards at the court and the remote location are in compliance with the requirements of sub. (1).

History: Sup. Ct. Order No. [07-12](#), 2008 WI 37, 305 Wis. 2d xli; Sup. Ct. Order No. [08-21](#), 2008 WI 111, filed 7-30-08.

Comment, 2008: Section 885.54 is intended to establish stringent technical and operational standards for the use of videoconferencing technology over objection, and in considering approval by the circuit court of waivers or stipulations under s. 885.62. Mobile cart-based systems will not meet these standards in many or even most situations, but may still be used pursuant to a waiver or stipulation approved by the court. The effect will be to encourage the installation of multiple camera systems, while still allowing the use of cart-based systems when participants are in agreement to do so, which is likely to be much of the time.

Wis. Stat. § 885.56 Criteria for exercise of court's discretion.

- (1) In determining in a particular case whether to permit the use of videoconferencing technology and the manner of proceeding with videoconferencing, the circuit court may consider one or more of the following criteria:
 - (a) Whether any undue surprise or prejudice would result.
 - (b) Whether the proponent of the use of videoconferencing technology has been unable, after a diligent effort, to procure the physical presence of a witness.
 - (c) The convenience of the parties and the proposed witness, and the cost of producing the witness in person in relation to the importance of the offered testimony.
 - (d) Whether the procedure would allow for full and effective cross-examination, especially when the cross-examination would involve documents or other exhibits.
 - (e) The importance of the witness being personally present in the courtroom where the dignity, solemnity, and decorum of the surroundings will impress upon the witness the duty to testify truthfully.
 - (f) Whether a physical liberty or other fundamental interest is at stake in the proceeding.
 - (g) Whether the court is satisfied that it can sufficiently know and control the proceedings at the remote location so as to effectively extend the courtroom to the remote location.
 - (h) Whether the participation of an individual from a remote location presents the person at the remote location in a diminished or distorted sense such that it negatively reflects upon the individual at the remote location to persons present in the courtroom.
 - (i) Whether the use of videoconferencing diminishes or detracts from the dignity, solemnity, and formality of the proceeding so as to undermine the integrity, fairness, and effectiveness of the proceeding.
 - (j) Whether the person proposed to appear by videoconferencing presents a significant security risk to transport and present personally in the courtroom.
 - (k) Waivers and stipulations of the parties offered pursuant to s. [885.62](#).
 - (L) Any other factors that the court may in each individual case determine to be relevant.
- (2) The denial of the use of videoconferencing technology is not appealable.

History: Sup. Ct. Order No. [07-12](#), 2008 WI 37, 305 Wis. 2d xli.

Comment, 2008: Section 885.56 is intended to give the circuit court broad discretion to permit the use of videoconferencing technology when the technical and operation standards of s. 885.54 are met, while providing clear guidance in the exercise of that discretion. Under this section, the circuit court may permit the use of videoconferencing technology in almost any situation, even over objection, except as provided under s. 885.60. On the other hand, the court may deny the use of videoconferencing technology in any circumstance, regardless of the guidelines. This is consistent with the intent of this legislation to vest circuit courts with

broad discretion to advance the use of videoconferencing technology in court proceedings under the standards and guidelines set out, but to reserve to courts the prerogative to deny its use without explanation. A circuit court's denial of the use of videoconferencing is not appealable as an interlocutory order, but to the extent the denial involves issues related to a party's ability to present its case and broader issues related to the presentation of evidence, the denial can be appealed as part of the appeal of the final judgment.

Wis. Stat. § 885.58 Use in civil cases and special proceedings.

- (1) Subject to the standards and criteria set forth in ss. [885.54](#) and [885.56](#) and to the limitations of sub. (2), a circuit court may, on its own motion or at the request of any party, in any civil case or special proceeding permit the use of videoconferencing technology in any pre-trial, trial, or post-trial hearing.
- (2)
 - (a) A proponent of a witness via videoconferencing technology at any evidentiary hearing or trial shall file a notice of intention to present testimony by videoconference technology 30 days prior to the scheduled start of the proceeding. Any other party may file an objection to the testimony of a witness by videoconferencing technology within 10 days of the filing of the notice of intention. If the time limits of the proceeding do not permit the time periods provided for in this paragraph, the court may in its discretion shorten the time to file notice of intention and objection.
 - (b) The court shall determine the objection in the exercise of its discretion under the criteria set forth in s. [885.56](#).

History: Sup. Ct. Order No. [07-12](#), 2008 WI 37, 305 Wis. 2d xli.

Comment, 2008: Regarding section 885.58, civil cases and special proceedings in general pose few problems of constitutional dimension concerning the use of videoconferencing technology and offer litigants the potential of significant savings in trial expenses. For these reasons, this technology will likely gain rapid acceptance resulting in expanding use. Where objections are raised, the rule provides that the circuit court will resolve the issue pursuant to the standards and decisional guidance set out in ss. [885.54](#) and [885.56](#).

Wis. Stat. § 885.60 Use in criminal cases and proceedings under chapters 48, 51, 55, 938, and 980.

- (1) Subject to the standards and criteria set forth in ss. [885.54](#) and [885.56](#) and to the limitations of sub. (2), a circuit court may, on its own motion or at the request of any party, in any criminal case or matter under chs. [48](#), [51](#), [55](#), [938](#), or [980](#), permit the use of videoconferencing technology in any pre-trial, trial or fact-finding, or post-trial proceeding.
- (2)
 - (a) Except as may otherwise be provided by law, a defendant in a criminal case and a respondent in a matter listed in sub. (1) is entitled to be physically present in the courtroom at all trials and sentencing or dispositional hearings.
 - (b) A proponent of a witness via videoconferencing technology at any evidentiary hearing, trial, or fact-finding hearing shall file a notice of intention to present testimony by videoconference technology 20 days prior to the scheduled start of the proceeding. Any other party may file an objection to the testimony of a witness by videoconference technology within 10 days of the filing of the notice of intention. If the time limits of the proceeding do not permit the time periods provided for in this paragraph, the court may in its discretion shorten the time to file notice of intention and objection.
 - (c) If an objection is made by the plaintiff or petitioner in a matter listed in sub. (1), the court shall determine the objection in the exercise of its discretion under the criteria set forth in s. [885.56](#).
 - (d) If an objection is made by the defendant or respondent in a matter listed in sub. (1), regarding any proceeding where he or she is entitled to be physically present in the courtroom, the court shall sustain the objection. For all other proceedings in a matter listed in sub. (1), the court shall determine the objection in the exercise of its discretion under the criteria set forth in s. [885.56](#).

History: Sup. Ct. Order No. [07-12](#), 2008 WI 37, 305 Wis. 2d xli; [2011 a. 32](#).

Comment, 2008: It is the intent of s. 885.60 to scrupulously protect the rights of criminal defendants and respondents in matters which could result in loss of liberty or fundamental rights with respect to their children by preserving to such litigants the right to be physically present in court at all critical stages of their proceedings. This section also protects such litigants' rights to adequate representation by counsel by eliminating the potential problems that might arise where counsel and litigants are either physically separated, or counsel are with litigants at remote locations and not present in court.

"Critical stages of the proceedings" is not defined under this section, but incorporates existing law as well as new law as it is adopted or decided. This section is not intended to create new rights in litigants to be physically present which they do not otherwise possess; it is intended merely to preserve such rights, and to avoid abrogating by virtue of the adoption of this subchapter any such rights.

This section is also intended to preserve constitutional and other rights to confront and effectively cross-examine witnesses. It provides the right to prevent the use of videoconferencing technology to present such adverse witnesses, but rather require that such

witnesses be physically produced in the courtroom. In requiring a defendant's objection to the use of videoconferencing to be sustained, this section also preserves the defendant's speedy trial rights intact.

Objections by the State or petitioner to the use of videoconferencing technology to present defense witnesses are resolved by the court in the same manner as provided in civil cases and special proceedings under ss. 885.54 and 885.56.

Wis. Stat. § 885.62 Waivers and stipulations. Parties to circuit court proceedings may waive the technical and operational standards provided in this subchapter, or may stipulate to any different or modified procedure, as may be approved by the court.

History: Sup. Ct. Order No. [07-12](#), 2008 WI 37, 305 Wis. 2d xli.

Comment, 2008: The intent of s. 885.62 is to permit litigants to take advantage of videoconferencing technology in any matter before the court regardless of whether the provisions of this subchapter would otherwise permit such use, as long as the parties are in agreement to do so and the circuit court approves. This should help to encourage innovation and experimentation in the use of videoconferencing technology, and thereby promote the most rapid realization of its benefits, while preserving to the litigants and ultimately to the courts the ability to prevent abuses and loss of the fairness, dignity, solemnity and decorum of court proceedings.

Wis. Stat. § 885.64 Applicability.

- (1) The provisions of this subchapter shall govern the procedure, practice, and use of videoconferencing in the circuit courts of this state.
- (2) All circuit court proceedings, with the exception of proceedings pursuant to s. [972.11 \(2m\)](#), that are conducted by videoconference, interactive video and audio transmission, audiovisual means, live audiovisual means, closed-circuit audiovisual, or other interactive electronic communication with a video component, shall be conducted in accordance with the provisions of this subchapter.
- (3) The use of non-video telephone communications otherwise permitted by specific statutes and rules shall not be affected by this subchapter, and shall remain available as provided in those specific statutes and rules.

History: Sup. Ct. Order No. [07-12](#), 2008 WI 37, 305 Wis. 2d xli.

Comment, 2008: The intent of s. 885.64 is to make it clear that all electronic communications with a video component are to be conducted under the provisions of this subchapter, regardless of the various names and terms by which such means of communication are referenced in other statutes and rules, and also to make clear that the provisions of this subchapter are to take precedence over other statutes and rules which address the use of such means of communication. Finally, sub. (3) is intended to make clear that existing authority for the use of non-video telephone communications in court proceedings remains unaffected by the new provisions of this subchapter concerning videoconferencing.

Frequently Asked Questions

1. **Who can I talk to in Wisconsin?** The appendix included at the end of the *Bridging the Distance* manual includes a resource listing of all circuit courts, county jails, correctional facilities, educational sites and mental health facilities in the state that have videoconferencing.
2. **What should I be aware of when considering implementing a videoconferencing system?** Videoconferencing compels entities to change the manner in which they operate and should be given adequate time to develop as new systems and usage patterns are established. Initially, there may also be delays in normal court operations to adjust to the new system. When implementing a videoconferencing program a committee should be created with all intended users so that input can be given and issues can be mitigated.
3. **Can I use any type of camera?** If the court determines the quality of any type of camera meets the minimum standards then it can be used. A bridging service will most likely be needed when trying to connect to other jurisdictions that have different types of video conferencing platforms.
4. **Where can I find sample contracts?** Existing State of Wisconsin purchasing contracts can be found through the state's VendorNet system (<https://vendornet.wi.gov/>). Contract 505ENT-W08-DISTLEARN-01, Distance Learning Audio and Video Equipment, Installation, Maintenance and Training, is [available here](#).
5. **How many cameras should I purchase?** To maximize effectiveness, acceptability, and flexibility of a videoconferencing program, courtrooms should be equipped with permanent multi-camera video conferencing systems that provide monitors that are viewable by both court participants and the public. The best use of single camera video conferencing systems are in non courtroom settings, jails, prisons, conference rooms and ancillary rooms.
6. **Do I need a video technician?** This depends on the size of the video conferencing program. Small programs may not be able to justify hiring a technician. Larger jurisdictions with multiple systems most likely will need additional personnel.
7. **Should I purchase a maintenance agreement?** Most likely. It is very important for the long-term success of a program to purchase a sound maintenance agreement and to minimize instances of the equipment not functioning properly.
8. **Do I need to have bridging capabilities?** Possibly. This capability allows for multiple types of video conferencing platforms to connect to one another. Bridging capabilities may be purchased with the unit as an additional piece of hardware or through a private server. Many newer systems may be able to seamlessly integrate various video programs, such as Skype, iChat, and Zoom, and between different platforms, such as Cisco and Polycom.

Appendices

The following items are intended as examples for entities creating or formalizing a videoconferencing program. These forms and policies are samples from various court videoconferencing programs throughout Wisconsin and meet the needs of each specific area. Individual entities will need to create policies and forms that meet the needs of their respective areas and are applicable to current statutes and local rules.

SAMPLE

Appendix A
Sample Videoconferencing Activity Tracking Form

Waukesha County Video Conferencing Log Sheet

This sheet is to be completed for every video event and submitted to your District Court Administrator.

1) **Date:** _____ 2) **Case Number:** _____

3) **County:** _____

4) **Room Location:** Rm 266 Courthouse MHF Juvenile Courtroom Jail
 Other: _____

5) **Who Appeared by video** (Check all that apply):
 Defendant/Respondent Prosecution/Plaintiff Witness Expert Testimony
 Caseworker Interpreter Judge Other _____

6) **Court Activity** (Check one):
 Jury Trial (JT) Hearing (HE) Court Trial (CT) Meeting Testing

7) **Define Event** (i.e. plea, review, dispo., placement, probable cause):

8) **Was video use contested?:** Yes No

9) **Name facility contacted:** Rm 266 Courthouse MHF Juvenile Courtroom Jail
 Other _____

10) **Start Time:** _____ 11) **Completion Time:** _____

12) **Did any party pay for the video service:** Yes No
If yes state which party: _____

13) **Who presided over the event?** (Check one):
 Judge Commissioner Administrator Staff

14) **Responsible Official's name:** _____

15) **Technical difficulties:** Yes No
If yes state describe:

16) **General Comments:**

SAMPLE

Appendix B
Example of Local Court Rules

STATE OF WISCONSIN

CIRCUIT COURT
THIRD JUDICIAL DISTRICT

WAUKESHA COUNTY

IN THE MATTER OF:
The Use of Interactive Video in Court
Proceedings

ORDER

WHEREAS, the Waukesha County Judiciary is utilizing the use of interactive video (video) for remote appearances to assist in the effective and efficient disposition of cases in the court system, and

WHEREAS, The Chief Judge has the responsibility under SCR 70.19 (3) (b) to maintain an effective system and management of case flow through the District, and

WHEREAS, the Chief Judge has the responsibility under SCR 70.19 (3) (e) & (f) to adopt local judicial administrative rules and establish policies and plans, and

WHEREAS, the Chief Judge believes it is in the best interest of the court system to develop policies on the use of interactive video for the Waukesha County Court System,

AND THEREFORE, IT IS ORDERED that the following rules are established as it relates to video use in the court system:

- 1) All video court events and appearances are to be indicated on the court record.
- 2) Any location where a remote appearance is being conducted with a Waukesha County Circuit Judge or Court Commissioner is to be considered an extension of the courtroom in which the hearing is taking place.
- 3) Any proceeding or appearance allowable by statute, case law and/or at the discretion of the court may be conducted by video either by request of a party or at the discretion of the presiding court official.
- 4) Any party requesting (including the court) the use of video for an upcoming court event should attempt to do so within a reasonable amount of time prior to the hearing/trial and/or to the physical transport of the prisoner/patient/detainee, witness, etc.
- 5) If any party objects to conducting a hearing via video, they shall orally (on the record) or in writing notify the court the reason why and all counsel of record and/or parties not represented by counsel of record of such objection within a reasonable time prior to the hearing. The judge shall make a determination on the record, whether to proceed with the video proceeding or allow or require counsel/litigant to personally appear.
- 6) Parties to a video proceeding authorized by the court may file by facsimile any papers necessary for the completion of the proceeding.
- 7) During a video proceeding the court shall maintain full control of the remote camera and courtroom camera. No movement or adjustments of the video cameras or sound shall be made unless authorized by the court.
- 8) The circuit court shall have priority use of video units, notwithstanding any arrangements made with private entities.

IT IS SO ORDERED this _____ day of _____, 20XX.

HON. JUDGE NAME
JUDGE TITLE

SAMPLE

Appendix C

Waukesha County Video Appearance Colloquy

To protect a defendant's rights and the court record, the court should follow these procedures on the record before beginning any video proceeding:

1. Judge/Magistrate should identify the person appearing by remote testimony and then identify themselves and their branch (i.e. Hello Mr. Smith I am Judge STATE FULL NAME, BRANCH, COUNTY appearing to you by means of video conferencing).
2. Colloquy:
 - a. "Can you hear me?"
 - b. "Can you see me?"
 - c. "If at any time there is a problem with your ability to physically hear or see what is transpiring in court today you are to immediately inform the court by speaking into the microphone."
 - d. "Do you understand that you are testifying in regards to your case today by means of video in a court of law?"
 - e. "Do you object to the use of video in making your presentation?" If yes the court needs to rule on that objection.
 - f. "Even though your testimony and participation in this case is occurring from a remote location, the same rules and decorum are applicable as if you were physically present."
 - g. "Who is in the room with you at this time?"
 - h. "If at any time anyone in your room, other than your counsel, tells you what to say or tries to influence your answers in any way, you are to immediately inform the court."
3. Identify for those appearing from a remote location any person in the courtroom who may not be visible to them. If the litigant or counsel wishes to physically see a particular individual, the court should accommodate that request if appropriate.
4. Make a determination and make a record as to whether the equipment to be used and the remote location(s) meet the minimum standards for video appearances approved by the court or local rules. (I have concluded that the quality of sound and audio meets the courts minimum standards for video appearances).