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Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/covid-19-1/unaccompanied-children-suffer-as-hearings-are-spiced-up-switched-to-video-during-covid-19-crisis>

Public Facing Advocacy Writing

Shortly before most schools in the United States closed due to the novel coronavirus, an immigration detention facility in Houston established a shaky video connection to a court in Atlanta. Little voices cracked through halting audio as two dozen children appeared, in two dimensions, before Immigration Judge Sirce Owen. The youngest was two years old.

Video teleconference (VTC) hearings allow unaccompanied children to participate in court proceedings without physically appearing in court. The children answer questions from a judge on a screen, who might be translated by an interpreter in a third location. Such hearings are commonplace in adult immigration proceedings, despite concerns about their impact on due process.

VTC started to appear in unaccompanied children proceedings before the coronavirus shut down much of the country. Children's attorneys and advocates criticized its usage and expansion to new locations, saying VTC confuses and depersonalizes children.

As the coronavirus spread, immigration attorneys implored courts to suspend unnecessary hearings for unaccompanied children. Instead, more children have been shuffled into video courts at an increasingly rapid rate. Attorneys and advocates fear that the use of video teleconferencing in sped-up proceedings will be normalized, denying unaccompanied children their right to due process long after the threat of the coronavirus subsides.

Advocates have decried the use of video courts in adult immigration proceedings for denying due process. The medium is even worse for children, who are more vulnerable and less able to comprehend complex legal proceedings and advocate for themselves.

Critics say VTC hurts immigrants' credibility because it makes body language difficult to read and eye contact impossible. These nonverbal forms of communication are critical to determining credibility in court proceedings. It is hard to convince a judge that you are credible, noted [one critic](#), when you appear as a blurry image in a setting that looks like a wide-angle mug shot.

Videoconferencing forces attorneys to choose between being in court, where they can participate in important exchanges with the judge and the government attorney and, when possible, correct or lodge objections to inaccurate interpretation and being with their young clients, who desperately need support during frightening immigration hearings that will determine their futures.

Under any circumstances, it is difficult for a child, who is not even entitled to free legal representation, to understand court proceedings in a foreign language. Videoconferencing adds another layer of confusion, even when the technology is functioning properly. Often it does not. The technology setup in Judge Owens' March 9 video court was wildly unstable, according to court observers. Video flashed in and out. At times, audio from another docket interrupted proceedings, and the children's testimony was interrupted by another immigrant testifying about a violent incident involving a gun.

A U.S. Government Accountability Office [report](#) on the use of VTC found challenges related to equipment malfunctions in five out of six immigration courts that were observed. Technology failures frequently result in the need to reschedule hearings and extended detention for immigrants.

University of California Los Angeles law professor Ingrid Eagly [studies](#) VTC in immigration proceedings and has said that videoconference hearings should be understood as an intentional design element of a rapidly evolving detention-to-deportation pipeline. "These kinds of proceedings cannot be normalized for unaccompanied children's hearings."

If courts expand the use of video teleconferencing in unaccompanied children's proceedings due to the coronavirus, these measures must be temporary. Immigration judges ought to see vulnerable and traumatized children as the human beings that they are, not simply as images on a screen.

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