

Artificial Intelligence (AI)

Interim Guidance

from the AI Rapid Response Team at the National Center for State Courts

AI and the Courts: Talking Points

AI is already having an impact on the courts and we must be prepared and forward thinking when it comes to addressing how AI can be used effectively, efficiently, and ethically to promote the administration of justice.

Scope of AI Technologies

AI is the umbrella term and generative AI is one type of AI technology that you hear most about in the media today. AI is used to refer to something as simple as spell check, predictive typing or asking Siri or Alexa the temperature, or as complex as computer based legal research, projections, facial recognition, or generating documents, videos, or audio.

Generative AI (GenAI)

What makes GenAI unique is the ability to create new content, including text, images, and audio. The number of companies launching GenAI products, particularly in the legal field, is increasing exponentially so it is important to be informed.

Potential AI Applications

AI technologies have the ability to streamline internal court operations such as automating data entry, docketing, scheduling and case processing, generating court documents, and data analytics. It could be used to develop tools to aid self-represented litigants and to create informational content for court visitors.

AI can be tool to aid the courts, lawyers, and litigants in the right circumstances, but it is not a replacement for judges and lawyers and there must be guardrails in place to make sure that it is ethically being used by courts and parties.

Public Trust and Confidence

It is the responsibility of judges to maintain the public's trust and confidence in courts and the integrity of legal proceedings which can be eroded by GenAI errors or biases.

- **Ethical Guidelines:** Updated guidelines may be needed to make sure that GenAI is used **ethically** by lawyers, litigants, and the courts.
- **Court Rules:** Courts may need to adopt rules requiring lawyers and litigants to verify the accuracy of **AI-generated content** before submitting documents to the court, or make clear that the current rules apply to AI-generated content.
- **Education:** There is a need for **education** on how GenAI is being used to create content that looks incredibly real, sometimes referred to as **deepfakes**. It will impact discovery and evidentiary issues in legal proceedings.

GenAI Challenges and Concerns

Gen AI is a new technology and as such, it is prone to errors. For example:

- GenAI is known for '**hallucinating**,' which means generating inaccurate or fictitious content, such as case citations to cases that do not exist. This made headlines last June when a lawyer in New York was sanctioned for misleading the court with fictitious citations in a brief submitted to the court.
- If the databases used to train GenAI are not diverse or contain incorrect data, the results could be **biased** or **inaccurate**.