



Facts on Broadcast Access to Federal Court Proceedings

The Supreme Court lags behind other federal courts on audio release:

- SCOTUS has only released same-day audio [27 times](#), most recently in April 2018 for *U.S. v. Trump*
- In that case, audio was posted on the court's website within 45 minutes of the end of the argument
- Members of the Supreme Court Bar may listen live to an argument from the Lawyers' Lounge; the public cannot
- The Nov. 2016 Scalia Bar Memorial was livestreamed on the SCOTUS website, but that's the only time the court has ever proactively livestreamed anything or used its [Livestream.SupremeCourt.gov](#) site

Federal appeals courts – and even some districts – have more permissive policies than SCOTUS:

- Appeals courts that permit an [audio release within 24 hours](#) (usually same day): 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 10th, 11th and Federal Circuits
- Appeals courts that [livestream audio automatically](#): D.C. Circuit (since 2018)
- Appeals courts that [have livestreamed audio](#) in big cases: 2nd Circuit (once, in 2019), 4th Circuit (twice in 2017)
- Appeals court that [livestreams audio and video automatically](#): 9th Circuit (since 2009)
- Appeals courts that [permit video](#) (typically released within 24 hours): 2nd Circuit (about once per year since 1996), 3rd Circuit (for most cases since 2017), 7th Circuit (about twice per year since 2018)
- Districts that [permit video](#) (typically released within 24 hours): W.D. Wash., N.D. Cal., D. Guam – all since the end of the Administrative Office's camera pilot program in 2015

When asked about cameras in the courtroom, Justice Kennedy once told a House panel, “We’re not a teaching institution.” Some of his judicial brethren disagree:

Courts that permit broadcast have often used the opportunity to talk directly to the public and explain how appellate arguments work. At the beginning of an *ACLU v. Clapper* hearing in 2016 on bulk data collection by the government, Judge Gerard Lynch of the Second Circuit [said](#) before C-SPAN cameras:

The procedure here is going to involve lawyers making arguments; they are likely to be interrupted and asked a lot of questions by the judges. That's not because we're rude. [...] This is, to some degree, our time to ask questions to lawyers to clarify the points that they're making and the implications of those points, to perhaps raise issues that haven't been fully addressed [in the briefs].

Broadcast is presumed to be permissible under many SCOTUS precedents (here are top three):

- *Nebraska Press Association v. Stuart* (1976): Chief Justice Burger: “Prior restraints on speech and publication are the most serious and least tolerable infringement on 1st Amendment rights”; held that it was inappropriate to bar media reporting on a criminal case prior to the trial itself, except in matters where a “clear and present danger” existed; press characterized as “the handmaiden of effective judicial administration” in opinion
- *Richmond Newspapers v. Virginia* (1980): held that 1st Am. implicitly guarantees press access to public trials
- *Chandler v. Florida* (1981): held that a state could permit the broadcast of criminal trials

More in-depth data
on broadcast [here](#)