

Seeing the Justice: A Look at Court Transparency¹

This IPRO report examines issues relating to court transparency on the state level.

Definitions

Online Streaming (Live Streaming): information that is transmitted in real time over the Internet, instead of being sent first as a file and then opened after it has been downloaded.²

Court Transparency: implies openness, communication, and accountability regarding proceedings within the courtroom.

Overview

Over the past decade, technology has transformed the American judicial system to encourage civic engagement and provide citizens with greater transparency. In addition to filing past decisions on the Internet, many state and federal courts throughout the country have implemented programs designed to allow citizens to watch oral arguments over the Internet via live-streaming and archived videos.³ Some courts have also utilized audio files that allow citizens to hear oral arguments by downloading those files from the Internet. As these technologies continue to expand, state and federal courts will have greater transparency, as citizens will be able to have a glimpse into once unpublicized court proceedings.

Benefits and Costs to Court Transparency

Benefits to Court Transparency

Increased Comprehension of Court Proceedings

All of the aspects of the court's decision-making process would be revealed to policymakers, litigants, and the public in forms they could readily comprehend.⁴ Online streaming provides access to the outcomes and trends of all cases. That would give policy makers the feedback necessary to fine-tune the system, lawyers the ability to predict the outcomes of their cases, and the public the ability to see what courts actually do.⁵ Attorney David Grooters believes this technology is going to provide a lot more transparency to the citizens of Iowa and the nation.⁶

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² Merriam-Webster, 2011. Web. 8 May 2011, <www.Merriam-Webster.com>.

³ LoPucki, Lynn M., "Court Transparency," UCLA School of Law Research Paper No. 08-08.

⁴ Vesterdorf, Bo. "Transparency- Not Just A Vogue Word." Fordham International Law Journal. Fordham International Law School, 1998. Web. 26 September, 2011. <<http://ir.lawnet.fordham.edu>>.

⁵ LoPucki, 71.

⁶ KIMT, "Iowa Supreme Court Goes Online," 26 September, 2011. <<http://www.kimt.com/mostpopular/story/Iowa-Supreme-Court-Goes-Online/4TBM7xXuZkOqdgkmHKNBVA.csp>>.

According to Iowa Chief Justice Mark Cady, watching these videos or listening to the audiotapes is a great way to learn about the court and the legal issues of the day, and people can do so from the convenience of their computers.⁷

Exposure and Reduction of Corruption

Government transparency is recognized as a deterrent to corruption.⁸ A vital part of a democratic government is the public's ability to understand and scrutinize government processes.⁹ Providing citizens with an opportunity to watch or listen to court proceedings may reduce the level of corruption within the courtroom as the public would now have nearly unlimited access to court proceedings.¹⁰

Costs to Court Transparency

Costs to Implement the Program

The price to install the technology needed to begin live-streaming oral arguments could be expensive. In Arkansas, the estimated cost for the software and cameras was \$100,000.¹¹ Ongoing annual upkeep cost is estimated to be around \$20,000.¹² States may not want to spend money on additional programs such as live streaming.

Personal Identification and Privacy

By making court records public online, the courts may be infringing on an individual's right to privacy. The parties involved in the trial could be made public, along with all their information (i.e. names, social security numbers, birth date, and others.)¹³ If this is the case, the chance of identity theft is increased. Other privacy issues include stalking, domestic violence, and witness intimidation or killing.¹⁴ Although the risk of these issues is relatively low, they still the possibility to become a problem.

Judicial Independence

A variety of external pressures and threats may make it difficult for judges to decide cases impartially.¹⁵ By working in privacy, the courts are able to maintain their independence as they are mostly free from public pressure. However, with the increases in technology leading to more judicial transparency, that independence is being threatened. Courts are no longer guaranteed the level of privacy they once had, leading to a higher risk of unwanted external pressures.¹⁶

⁷ KCCI, "Watch Iowa Supreme Court Live Online," 26 Sept, 2011. <<http://www.kcci.com/news/28971380/detail.html>>.

⁸ LoPucki, 16.

⁹ Davis, Charles N., et. al., "Sunshine Laws and Judicial Discretion: A Proposal for Reform of State Sunshine Law Enforcement Provisions," 28 Urb. Law. 41, 49-50 (1996).

¹⁰ LoPucki, 17-18.

¹¹ Lesnick, Gavin, "State Supreme Court to stream arguments," 26 September, 2011. <<http://www.wm3blackboard.com/forum/index.php?topic=3350.0;wap2>>.

¹² LoPucki, 16.

¹³ Vesterdorf, Bo. "Transparency- Not Just A Vogue Word." Fordham International Law Journal. Fordham International Law School, 1998. Web. 26 September 2011. <<http://ir.lawnet.fordham.edu>>.

¹⁴ LoPucki, 53.

¹⁵ LoPucki, 63.

¹⁶ LoPucki, 63.

State Action

Iowa

Iowa began live-streaming oral arguments from the Iowa State Supreme Court beginning August 2011. Approximately 100 people will be able to watch the live stream at any given time, and additionally, people can access recorded oral arguments from online archives.¹⁷ The archived videos will be available for up to one year. Previously, from 2006 to 2009, Iowa had archived recordings of oral arguments, but the recordings were stopped in response to state budget cuts.¹⁸

Kansas

The state of Kansas implemented its live streaming program beginning in 2004. Unlike Iowa's program, the Kansas Supreme Court only live streams audio recordings, which are then put into an archive one week later.¹⁹ Once in the archive, the recordings are not taken down after one year, but are rather left there indefinitely for the public to utilize.

Minnesota

The Minnesota Supreme Court has been utilizing oral argument videos since 2005. The Minnesota Supreme Court does not broadcast live video.²⁰ Videos are posted by 5:00 p.m. the same day of the arguments, and are then kept in the archives indefinitely.²¹

North Dakota

In 2001, the North Dakota Supreme Court allows the public to listen to any live or recorded webcasts on their website, except for mental health cases.²² Since the program has started, all of the cases have been kept in an archive on the North Dakota Supreme Courts website.

¹⁷ "Iowa Supreme Court to begin live streaming oral arguments," Newton Independent, 26 September, 2011. <http://www.newtonindependent.com/newton_independent/2011/08/iowa-supreme-court-to-begin-live-streaming-oral-arguments.html>.

¹⁸ KIMT, "Iowa Supreme Court Goes Online," 26 September, 2011. <<http://www.kimt.com/mostpopular/story/Iowa-Supreme-Court-Goes-Online/4TBM7xXuZkOqdgkmHKNBVA.csp>>.

¹⁹ "Kansas Supreme Court Live and Archived Oral Arguments." Kansas Judicial Branch - Kansas Courts. Kansas Judicial Center. Web. 3 Oct. 2011. <<http://www.kscourts.org/kansas-courts/supreme-court/arguments.asp>>.

²⁰ "Minnesota Supreme Court Oral Arguments - Videos." MN Judicial Branch. Minnesota Judicial Branch. Web. 3 Oct. 2011. <<http://www.tpt.org/courts/>>.

²¹ KIMT, "Iowa Supreme Court Goes Online," 26 September 2011.

²² "Listen to the Supreme Court." North Dakota Supreme Court. North Dakota Judicial Branch. Web. 3 Oct. 2011. <<http://www.ndcourts.gov/court/webcasts.htm>>.

Table 1ⁱ
States with Online Streaming of Oral Arguments

State	Live Audio Streaming	Live Video Streaming	Keep Arguments in Archive	How Long Arguments Kept in Archive
Alabama				
Alaska				
Arizona	X	X	X	2006-present
Arkansas	X	X	X	2010-present
California*	X	X	X	2004-present
Colorado	X		X	2007-present
Connecticut				
Delaware*	X	X	X	2004-present
Florida	X	X	X	1997-present
Georgia				
Hawaii ⁱⁱ	X		X	2007-present
Idaho				
Illinois	X	X	X	2008-present
Indiana	X	X	X	2001-present
Iowa	X	X	X	1 year
Kansas	X		X	2004-present
Kentucky*	X	X	X	2005-present
Louisiana				
Maine				
Maryland	X	X	X	2006-present
Massachusetts			X	2005-present
Michigan	X	X	X	1 year
Minnesota			X	2005-present
Mississippi	X	X	X	2004-present
Missouri	X	X	X	2007-present
Montana				
Nebraska	X	X	X	2008-present
Nevada	X	X	X	2009-present
New Hampshire	X	X	X	2004-present
New Jersey	X	X	X	30 days
New Mexico				
New York	X	X	X	2 years
North Carolina				
North Dakota*	X	X	X	2001-present
Ohio	X	X	X	1996-present
Oklahoma				
Oregon				
Pennsylvania				
Rhode Island				
South Carolina				
South Dakota	X			
Tennessee				
Texas			X	1997-present
Utah			X	2004-present
Vermont			X	2010-present
Virginia				
Washington	X	X	X	1996-present
West Virginia	X	X		
Wisconsin	X			
Wyoming				

“Supreme Court of Arkansas.” *Arkansas Judiciary*. Web. 11 October 2011. <http://170.94.10.59/oral_arguments/>.

“Supreme Court of California.” *California Courts: The Judicial Branch of California*. Web. 11 October 2011. <<http://www.courts.ca.gov/supremecourt.htm>>.

“Colorado Supreme Court.” *Colorado State Judicial Branch*. Web. 11 October 2011. <http://www.courts.state.co.us/Courts/Supreme_Court/Index.cfm>.

“Connecticut Supreme Court.” *State of Connecticut Judicial Branch*. Web. 11 October 2011. <<http://www.jud.ct.gov/external/supapp/default.htm>>.

“Delaware Supreme Court.” *Delaware State Courts*. Web. 11 October 2011. <<http://courts.delaware.gov/Supreme/index.stm>>.

“Florida Supreme Court.” *Florida Supreme Court*. Web. 11 October 2011. <<http://www.floridasupremecourt.org/>>.

“Supreme Court of Georgia.” *Supreme Court of Georgia*. Web. 11 October 2011. <<http://www.gasupreme.us/>>.

“Supreme Court of Hawaii.” *Hawaii State Judiciary*. Web. 11 October 2011. <http://www.courts.state.hi.us/courts/supreme/hawaii_supreme_court.html>.

“Idaho Supreme Court.” *Idaho State Judiciary*. Web. 11 October 2011. <<http://www.isc.idaho.gov/>>.

“Illinois Supreme Court.” *Illinois Courts*. Web. 11 October 2011. <http://www.state.il.us/court/Media/On_Demand.asp>.

“Indiana Supreme Court.” *Indiana Courts*. Web. 11 October 2011. <<https://mycourts.in.gov/arguments/default.aspx?court=sup>>.

“Iowa Supreme Court.” *Iowa Judicial Branch*. Web. 11 October 2011. <http://www.iowacourts.gov/Supreme_Court/Oral_Argument_Video/>.

“Kansas Supreme Court.” *Kansas Judicial Branch*. Web. 11 October 2011. <<http://www.kscourts.org/kansas%2Dcourts/supreme%2Dcourt/>>.

“Supreme Court of Kentucky.” *Kentucky Court of Justice*. Web. 11 October 2011. <<http://courts.ky.gov/supremecourt/>>.

“Louisiana Supreme Court.” *Louisiana Supreme Court*. Web. 11 October 2011. <<http://www.lasc.org/>>.

“Maine Superior Court.” *State of Maine Courts*. Web. 11 October 2011. <http://www.courts.state.me.us/maine_courts/superior/index.shtml>.

“Maryland Court of Appeals.” *Maryland Courts*. Web. 11 October 2011. <<http://www.courts.state.md.us/coappeals/webcast.html>>.

“Massachusetts Supreme Judicial Court.” *The Massachusetts Judicial Branch*. Web. 11 October 2011. <<http://www.mass.gov/courts/sjc/index.html>>.

“Michigan Supreme Court.” *Michigan Courts*. Web. 11 October 2011. <<http://courts.michigan.gov/supremecourt/#>>.

“Minnesota Supreme Court.” *Minnesota Judicial Branch*. Web. 11 October 2011. <<http://www.tpt.org/courts/>>.

“Mississippi Supreme Court.” *State of Mississippi Judiciary*. Web. 11 October 2011. <http://courts.ms.gov/appellate_courts/sc/scoralarguments.html>.

"Missouri Supreme Court." *Your Missouri Courts*. Web. 11 October 2011.
<<http://www.courts.mo.gov/page.jsp?id=27>>.

"Montana Supreme Court." Montana's Official State Website. Montana Courts. Web. 11 Oct. 2011.
<<http://courts.mt.gov/supreme/default.mcp>>.

"Nebraska Supreme Court." Nebraska Judicial Branch. Nebraska Judicial Branch. Web. 11 Oct. 2011.
<<http://www.supremecourt.ne.gov/supreme-court/index.shtml>>.

"Supreme Court of Nevada." The Nevada Judiciary. Nevada Judicial Branch. Web. 11 Oct. 2011.
<<http://www.nevadajudiciary.us/index.php/supremecourt>>.

"New Hampshire Supreme Court." New Hampshire Judicial Branch. New Hampshire Judicial Branch. Web. 11 Oct. 2011. <<http://www.courts.state.nh.us/supreme/index.htm>>.

"Supreme Court of New Jersey." New Jersey Courts. New Jersey Judiciary. Web. 11 Oct. 2011.
<<http://www.judiciary.state.nj.us/supreme/index.htm>>.

"New Mexico Supreme Court." New Mexico Supreme Court. The State of New Mexico. Web. 11 Oct. 2011.
<<http://nmsupremecourt.nmcourts.gov/>>.

"New York State Supreme Court." New York State Unified Court System. New York State Supreme Court. Web. 11 Oct. 2011. <<http://www.nycourts.gov/suptctmanh/>>.

"Supreme Court of North Carolina." The North Carolina Court System Home Page. The North Carolina Court System. Web. 11 Oct. 2011. <<http://www.nccourts.org/Courts/Appellate/Supreme/>>.

"North Dakota Supreme Court." North Dakota Supreme Court. Web. 11 Oct. 2011. <<http://www.ndcourts.gov/>>.

"Supreme Court of Ohio." Supreme Court of Ohio and the Ohio Judicial System. The Ohio Judicial System. Web. 11 Oct. 2011. <<http://www.sconet.state.oh.us/>>.

"The Supreme Court of Oklahoma." OSCN: The Oklahoma Supreme Court Network. The Supreme Court of the State of Oklahoma. Web. 11 Oct. 2011. <<http://www.oscn.net/oscn/schome/generalinfo.htm>>.

"Oregon Supreme Court." Oregon Supreme Court. Oregon Judicial Department. Web.
<<http://courts.oregon.gov/Supreme/>>.

"Pennsylvania Unified Judicial System." The Unified Judicial System of Pennsylvania. Pennsylvania Judicial System. Web. 11 Oct. 2011. <<http://www.pacourts.us/T/SupremeCourt/>>.

"Rhode Island Supreme Court." Rhode Island Judiciary. Rhode Island Judiciary. Web. 11 Oct. 2011.
<<http://www.courts.ri.gov/courts/supremecourt/default.aspx>>.

"SC Judicial Department Supreme Court." SC Judicial Department. South Carolina Judicial Department. Web. 11 Oct. 2011. <<http://www.sccourts.org/supreme/>>.

"South Dakota Supreme Court." South Dakota Unified Judicial System. South Dakota Unified Judicial System. Web. 11 Oct. 2011. <<http://www.sdjudicial.com/sc/Default.aspx>>.

"Tennessee Supreme Court." Tennessee Supreme Court. Tennessee Administrative Office of the Courts. Web. 11 Oct. 2011. <<http://www.tncourts.gov/courts/supreme-court>>.

The Supreme Court of Texas. The Supreme Court of Texas. Web. 11 Oct. 2011.
<<http://www.supreme.courts.state.tx.us/>>.

"Utah Supreme Court." Utah State Courts. State of Utah Judicial Council. Web. 11 Oct. 2011.
<<http://www.utcourts.gov/courts/sup/>>.

"Vermont Supreme Court." Vermont Supreme Court. State of Vermont Supreme Court. Web. 11 Oct. 2011.
<<http://www.vermontjudiciary.org/gtc/supreme/default.aspx>>.

"Supreme Court of Virginia." The Official Website for the Supreme Court of Virginia. Virginia's Judicial System. Web. 11 Oct. 2011. <<http://www.courts.state.va.us/courts/scv/home.html>>.

"Washington Supreme Court." Washington State Courts. Washington Supreme Court. Web. 11 Oct. 2011.
<http://www.courts.wa.gov/appellate_trial_courts/supremecourt/index.cfm>.

"Supreme Court of Appeals of West Virginia." West Virginia Court System. Supreme Court of Appeals West Virginia. Web. 11 Oct. 2011. <<http://www.state.wv.us/wvsca/>>.

"Wisconsin Supreme Court." Wisconsin Court System. Wisconsin Court System. Web. 11 Oct. 2011.
<<http://www.wicourts.gov/>>.

"Wyoming Supreme Court." Wyoming Judicial Branch. Wyoming Judicial Branch. Web. 11 Oct. 2011.
<<http://www.courts.state.wy.us/>>.