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ORIGINAL PAPER

Televised Oral Arguments and Judicial Legitimacy: An Initial Assessment

Ryan C. Black[1] · **Timothy R. Johnson**[2] · **Ryan J. Owens**[3] · **Justin Wedeking**[4]

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Abstract

What happens to the perceived legitimacy of appellate courts when they allow cameras into their courtrooms? We implemented two experiments that exposed people to real video clips from two courts. In the first experiment we varied the modality (video or audio), contentiousness (neutral or contentious), and camera angle (static or dynamic) of exchanges between an attorney and judge and then measured people's views toward judicial legitimacy. We found that static angles do not appear to influence legitimacy but using dynamic angles might have a limited effect. Watching a neutral exchange might increase judicial legitimacy—compared to listening to that exchange—but watching a contentious exchange might decrease it. In a second experiment we examined whether the presence of judicial symbols interacts with these effects. Evidence here is suggestive that these symbols could mitigate the negative effect of exposure to contentious content. Our results, though initial and limited in a number of ways, underscore both the complicated nature of cameras in

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Extended author information available on the last page of the article

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the courtroom as well as the strong need for additional studies on a topic of great importance.

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The judiciary's strength comes from its perceived legitimacy. Its perceived legitimacy, in turn, comes from public support. This means a strong and legitimate court is one that engenders favorable public attitudes towards it. It also means a court that loses public support might soon find itself to be illegitimate and weak. Judges know this. And so they tend to be cautious, refusing to undertake significant institutional changes without knowing the likely consequences.

One decision on which many judges have exercised caution is whether to allow cameras in their courtrooms. Despite widespread attempts by legislators, the media, and pressure groups to force courts to indulge cameras, most federal appellate courts and a number of state supreme courts have demurred. While some courts have permitted cameras, many have chosen, instead, to continue disseminating audio of their oral arguments rather than opening them up to cameras. Reticent judges have asked for more data on the consequences of cameras before they lift that particular veil. As then-Justice Stephen Breyer put it: "[A] decision of this issue [cameras in the Courtroom]...which carries with it threats to [the judiciary] as well as benefits, should be decided after really pretty serious research and study..." (Kennedy et al., 2006, pp. 85–86).

Using video clips from actual oral arguments in two state supreme courts, we executed two experiments to examine the conditions under which cameras increase or decrease perceived court legitimacy. Our findings offer some support for cameras but they also counsel caution. Respondents' views of courts changed significantly when they observed exchanges from a dynamic camera perspective—one in which cameras switched back and forth to focus, up close, on the speaker. People who watched a *neutral* exchange between a judge and attorney found the court and judge to be *more legitimate* than respondents who only listened to that exchange. Conversely, respondents who watched a *contentious* exchange found the court and judge to be *less legitimate* than respondents who only listened to that exchange. Interestingly, these results did not emerge under a static camera perspective—one that used a single, wide-angle camera shot that showed the full bench and attorney throughout the oral argument. Finally, the results provide some indication that the presence of judicial symbols can mitigate the negative effects that occur when people watch dynamic, contentious exchanges.

These findings have important policy and normative implications. Many state supreme courts and three federal circuit courts currently allow cameras in their courtrooms at least some of the time (Kromphardt & Bolton, 2022). So, too, do courts of last resort in Australia, Brazil, Canada, and the United Kingdom. Our results may be of interest to them. Similarly, as the U.S. Supreme Court continues to face calls for cameras, it should evaluate our results and perhaps encourage further analyses. Simply put, it is too early to render a clear verdict on the effects of

cameras. Under some conditions, they might very well enhance legitimacy. Under other conditions, the camera could become a self-defeating tool. What is abundantly clear, however, is that further research is needed on this topic.

Judicial Legitimacy and Cameras in Courtrooms

Because most courts lack an electoral connection to voters, they must mind their institutional support and undertake actions that meet the public's expectations of proper judging. Courts cannot implement their own decisions. They cannot raise their own funds. They do not have public relations experts to make them shine. More than other governing institutions, courts require public support. Without it, they may not be able to persuade recalcitrant political actors, private actors, or multinational corporations (among others) to comply with their decisions. To survive as effective institutions, courts must meet the public's expectations of what they should do. The closer judges come to meeting these expectations, the more legitimacy courts acquire.

Determining what the public expects of judges is a complicated endeavor (Gibson & Caldeira, 2009a, 2012). Some research argues that the public's support for courts is tied to substantive support for its decisions (Zilis, 2021; Christenson & Glick, 2015). Under this theory, people support courts that render case outcomes they like. And they will rein in courts, either narrowly or broadly, that render case outcomes they dislike (Bartels & Johnston, 2020).[1] While this line of scholarship is making serious headway in the literature, a longstanding line of scholarship advocates a process-based theory of legitimacy. The process-based theory claims that courts build and maintain support by making decisions that are based on law, logic, and history and by doing so in a fair and objective manner. "Procedural theories predict that people will focus on *how decisions are made*, not [just] on the decisions themselves, when making evaluations of fairness" (Tyler, 2021, p. 736) (emphasis added). If a "judge treats [people] fairly by listening to their arguments and considering them, by being neutral, and by stating good reasons for his or her decision, [litigants] will react positively to their experience, whether or not they receive a favorable outcome" (Tyler, 2021, p. 6). Research shows that citizens are more likely to support court rulings (or at least recognize the theoretical importance of those rulings) when they internalize the judiciary's institutional legitimacy (Nelson & Tucker, 2021; Nelson & Gibson, 2020; Gibson & Nelson, 2015; Caldeira & Gibson, 1992). Accordingly, courts can generate a strong base of institutional loyalty when they employ fair procedures and are perceived to treat people fairly (Gibson et al., 1998; Gibson & Caldeira, 2011).

[1] A number of other studies find a connection between legitimacy and things like partisan or ideological agreement with decisions (Bartels & Johnston, 2013, 2020; Zilis, 2018; Christenson & Glick, 2015; Nicholson & Hansford, 2014).

How might cameras influence judicial legitimacy?[2] Other than Bartels and Johnston's (2020, p. 100) finding that people who disagree with the Supreme Court's decisions are slightly more likely to support cameras in the U.S. Supreme Court than people who agree with them, we are unaware of any published quantitative research that examines the link between cameras and judicial legitimacy. That has not, however, stopped people from hypothesizing their effects.

Some argue that putting cameras in courtrooms, particularly in the U.S. Supreme Court, will enhance judicial legitimacy. After all, research suggests that to know the Court is to love the Court (Gibson & Caldeira, 2009b). As such, increased transparency through televising oral argument could educate the citizenry about the Supreme Court, presumably show that it is different from the "political branches," and thereby enhance its legitimacy. The public might see justices engaged in legal and constitutional discussions that show they are not simply politicians in robes. Similarly, it is possible that televising oral arguments would model proper civic behavior. Justices and attorneys, discussing serious constitutional issues with civility and intelligence, could act as role models. In this vein, Justice Elena Kagan once stated: "[Cameras] would allow the public to see an institution working thoughtfully and deliberately and very much trying to get the right answers, all of us together" (Wolf, 2019). The public may reward their good behavior with increased support. In short, courts might be able not only to survive the scrutiny brought on by televised proceedings but use cameras to gain support.

Still, others argue that cameras will harm judicial legitimacy. They worry that the media will reduce a complex and largely collegial oral argument to a short, unrepresentative video clip that focuses on conflict. Justice Antonin Scalia argued these clips would "miseducate and misinform" the public (C-SPAN, 2011). Justice David Souter formed similar beliefs when he served on the camera-allowing New Hampshire Supreme Court. "[M]y fifteen second question would be there...[but used such that] it would create a misimpression either about what was going on in the Courtroom, or about me, or about my impartiality..." (Souter, 1996).[3]

Modality, Contentiousness, and Presence

To theorize about the possible effects of cameras on appellate courts' legitimacy, we consider how viewing an oral argument differs from listening to an oral argument. We do so because, in general, the courts that prohibit cameras at oral argument allow audio recordings of them (as opposed to blanket prohibition on any recordings at all). This includes the U.S. Supreme Court (which now also livestreams its audio),

[2] To be sure, cameras involve more issues than legitimacy alone. Some have argued that cameras could enhance transparency or accountability. Here, we focus on legitimacy because it has received the most scholarly attention.

[3] Some worry that cameras would lead attorneys to grandstand (Kennedy, 1996). While that outcome is possible, Jansen et al. (2018) finds that people actually engage in "good behavior" in the presence of cameras.

the federal circuit court of appeals, and many state courts (GAO, 2016). As a policy matter, then, the change would be one that shifts from audio to video.[4]

Research suggests that video may have stronger effects on legitimacy than audio does. Studies find that "video is processed more superficially, and therefore users believe in it more readily [than audio] and share it with others" (Sundar et al., 2021, p. 301). Watching a video news clip decreases depth of processing as compared to things like reading and listening (Powell et al., 2018). As Slotnick and Segal (1998, p. 7) write, "telenews has the ability to portray events with a sense of realism and emotional drama that other forms of news do not." Video "can transport you to the scene and can tell you quickly what is at issue in a rather simple way" that audio cannot (Slotnick & Segal, 1998, p. 47).

Laying these arguments bare, Druckman (2003) re-examined the conventional wisdom of the 1960 presidential debate, which held that radio listeners thought Richard Nixon won the debate while television viewers thought John F. Kennedy won it. Using an experiment that had participants evaluate the candidates after either listening to the debate or watching a televised version (with sound), Druckman found that television increased people's reliance on personality perceptions while audio led them to focus on issues (p. 567). This comports with earlier findings that show audio-only exposure to the news enhances understanding while audiovisual is more emotionally arousing (Crigler et al., 1994).

Video likely has a greater influence than audio because of its "presence." Presence is a subjective sense of immersion within a mediated environment. It reflects how much people feel they are involved with what they are observing. (We will address presence—and the camera angles that enhance it—more fully below.) Video delivers more presence than audio. It is more imaginable, which makes the message more believable and potent (Sundara et al., 2021, p. 303; Yadav et al., 2011). That is why media focus on visuals when possible, and why audio does not hold out the same hopes or fears as video. Indeed, media have access today to audio clips of oral argument. And the media could, if it wished, disseminate audio clips of oral argument that might educate or mislead. But audio does not capture the public the same way as video. It does not have the same presence. "Television and film, more than newspapers or radio, provide an approximation of human experience in terms of visual and aural sensory input" (Mutz & Reeves, 2005, p. 4). Video is important, then, because *it can enhance a message's impact*.

Accordingly, cameras could enhance the benefits of observing positive behavior. Video, and its enhanced presence, has a unique ability to highlight what Tyler (1989) has called "standing." Standing (or "status recognition") examines how politely, respectfully, and fairly authorities treat people. A friendly exchange between judge and attorney could showcase good standing. Research shows that politeness towards

[4] An alternative approach would be to focus on the practical change that could take place in a world of televised arguments. Under this view, the format shift would create media coverage in cases that currently does not take place due to the unengaging nature of audio. We account for this possibility in our experimental design by including a control group who did not see or hear any oral argument content at all.

those in a legal conflict can enhance perceptions of fair treatment. Tyler and Rasinski (1991) note that people's views about the fairness of legal institutions' decision-making procedures influence their legitimacy and willingness to accept their decisions. Krewson (2019) similarly finds that justices who "remind" people about the Supreme Court's constitutional role can enhance its legitimacy. When people believe procedures are fair, they accord institutions more legitimacy. And so viewing a positive exchange could improve people's support for courts.

Conversely, cameras could exacerbate the harm that might come from observing negative behavior. A contentious exchange between an authority and a subject can increase tensions or, at minimum, lead to feelings of unease. "[C]ausing viewers to experience uncivil exchanges" between authorities and the public from the "highly intimate perspective" of television could violate norms of how citizens expect to be treated (Mutz & Reeves, 2005, p. 4).[5] Mutz and Reeves (2005) examined how civil or contentious two politicians were during a televised political discussion. When the politicians acted politely and civilly, the respondents maintained trust in institutions. But when the politicians raised their voices, interrupted, or displayed negative nonverbal cues (e.g., shaking their head), respondents trusted them less. Television simply operates in an environment where people can see themselves existing. And the discomfort associated with observing contentious exchanges between or among people are easier to observe—and more likely to be felt and personalized—from watching television than from audio. In short, the wrong message seen on video could redound to a court's detriment.

This discussion brings us back to "presence" and, importantly, camera angle. As anyone who has ever watched amateur video can attest, things like camera angles and scene changes affect how a viewer takes in and processes the video. Some presentations can enhance presence and cause viewers to feel as though they are part of the scene, such as when one sees through the eyes of a character. For example, Lombard and Ditton (1997) find that rapid movement of the point-of-view improves viewers' presence. Similarly, when examining feelings of fan presence watching a college football game, Cummins (2009) compared the images from a largely static sideline shot to a skycam that portrayed a subjective perspective with changing angles. He found that the subjective angle elicited a greater sense of presence. This research shows that videos presented more dynamically are more likely to enhance subjects' presence in the scene (Cummins et al., 2012) and are associated with increases in emotional arousal, memory, and sustained attention (Lang et al., 2000; Simons et al., 2003). In contrast, videos with fewer scene changes (i.e., they are more static) are associated with systematic decreases in emotional arousal, memory, and sustained attention (Lang et al., 2000; Simons et al., 2003).

Taken together, these findings lead us to three expectations. First, we expect that *respondents who watch a neutral exchange will find courts and judges to be more legitimate than respondents who listen to it*. The exchange will represent all the virtues camera supporters suggest: modeling good behavior, watching civil and

[5] Crigler et al. (1994) found that subjects were most emotionally aroused in the audiovisual condition. And emotion has been associated with decreases in court legitimacy (Armaly, 2018a).

intelligent dialogue, and educating the public. Second, we expect that *respondents who watch a contentious exchange will find courts and judges to be less legitimate than respondents who listen to it*. The increased personalization that comes from the visuals, coupled with the discomfort of the exchange, may lead people to be less supportive of courts. Third, we expect that *dynamic clips—but not static clips—will exacerbate the effects of neutral or contentious exchanges on judicial legitimacy*. The presence that comes from the dynamic clip will magnify the effects of the good behavior (neutral exchanges) and the effects of the bad behavior (contentious exchanges).

That is not the end of the matter, however. Research shows that judicial symbols can help mollify people who otherwise dislike the decisions courts make. Judicial symbols can make people more willing to acquiesce to "bad" decisions (Gibson et al., 2014) and dampen the corresponding decrease in institutional legitimacy (Gibson & Nelson, 2016).[6] These symbols "bring latent Supreme Court attitudes into working memory, thereby affecting the response variables" (Gibson, 2015, p. 107). In other words, seeing a judicial symbol triggers previous positive memories in which people were educated to believe that courts are different and deserving of respect.

Oral argument provides a particularly fertile ground to expose viewers to judicial symbols. It is the one time the public can observe appellate judges in action. Courts have the ability to enhance the experience through various symbols. In fact, "when citizens pay attention to judicial proceedings, they are bombarded with a host of specialized judicial symbols..." These include "special dress for judges (robes), honorific forms of address and deference (your honor)," directed at a judge who sits on a raised dais and is surrounded by a panoply of symbols (Gibson et al., 2014, p. 840). These symbols could positively influence how people interpret and process what they observe. We expect, therefore, that *the presence of judicial symbols will mitigate the negative effects and amplify the positive effects that arise from viewing an exchange*.

Initial Survey Experiment

We test our initial expectations with a survey experiment. To execute this experiment, we utilized Lucid Theorem. Though a convenience sample, Lucid improves upon earlier platforms like Amazon's Mechanical Turk by using respondent quotas to achieve a census-balanced sample. Lucid samples provide demographic and experimental results that track well with U.S. national benchmarks (Coppock & McClellan, 2019) and are increasingly common in experimental studies like ours

[6] Two subsequent studies build on these findings. Nielsen et al. (2020) show that symbols increase acquiescence for the Australian High Court's rulings. Armaly (2018b) shows that symbols, when paired with a legal argument about the importance of filling the vacancy created by the unexpected death of Justice Antonin Scalia, resulted in an increase in institutional support for the Supreme Court.

(see, e.g., Fang & Huber, 2019). Conducted in late April, 2020, the survey experiment employed a total of 1475 respondents.[7]

The experiment is a between-subjects design with post-treatment measurement of our outcome variables. We opted for this approach because the experiment was a single wave and short in length (fewer than 10 minutes), which counsels against using a repeated measures (i.e., pre/post) type of approach (Mutz, 2011). Within this framework, we used a 2×2 plus control design that exposed individuals to a single 50–60 second clip of one of two state supreme court oral argument exchanges between an attorney and a justice (a link to the experimental stimuli is located in the Supplementary Materials).

The first dimension of the design manipulated the *contentiousness* of the exchange between the judge and attorney.[8] We define "contentious" as it is commonly used: quarrelsome or disputatious.[9] In the contentious clip, a justice aggressively questioned the attorney, interrupted him, and appeared impatient. The neutral clip featured the same attorney, the same justice, in the same case, and on the same general topic but showed them engaged in a different set of neutral exchanges that lacked those justice behaviors. Given the potentially subjective nature of this distinction, we validated our clips before using them by measuring differences in vocal pitch. We also implemented a short battery of questions in the experiment itself to confirm that this content difference was perceived by the respondents—it was (see the Supplementary Materials for these results).[10]

The second dimension of the design manipulated the clip's *modality*. Respondents either watched the video clip (with sound) or listened to the audio without video. The final condition was a *control* where respondents neither viewed nor listened to an oral argument clip.[11]

Generating the video clips for our experiment posed a number of challenges. Most federal appellate courts and many state courts do not allow cameras in their courtrooms, which limits the jurisdictions where we could find video. Just as important, we wanted courts whose video or audio lacked anything that allowed a respondent to discern the specific court we used. Although we did not attempt to

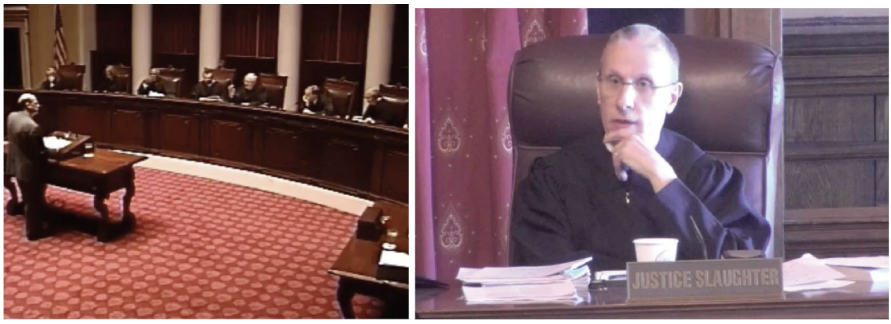
[7] We fielded the survey after the Supreme Court announced it would hold teleconferenced oral arguments (April 13) but before it provided the specific details of how it would operate such proceedings (April 30).

[8] In all of our stimuli, both the attorneys and judges are white males, which holds constant race and gender. Varying both of these in future studies would be useful given existing work on, for example, legitimacy and race (Gibson & Nelson, 2018) as well as on gender and oral argument (Patton & Smith, 2017).

[9] See https://www.merriam-webster.com/dictionary/contentious and https://www.dictionary.com/browse/contentious.

[10] Because we used real world materials, we could not manipulate only the tone or manner in which the exchanges took place while holding constant the actual words being spoken. Thus, there are differences in the stimuli aside from the tone and behavior of the justice. See the Supplementary Materials for additional discussion and details of these differences.

[11] As we note above, most appellate courts already record (and often livestream) audio of their proceedings, which means, as a policy matter, audio is a natural baseline (Morton & Williams, 2008). We still include a control group that lacks any stimuli at all (Gaines et al., 2007) as it allows us to evaluate how a change to video might impact individuals who would be newly exposed to oral argument content (presumably due to increased media coverage of the proceedings).



Minnesota Supreme Court *Indiana Supreme Court*

Fig. 1 Screen captures from video clips

deceive our respondents into thinking they were seeing or hearing a particular court, we sought to protect our results from being influenced by respondents' state-specific or court-specific attitudes. We chose to use actual clips rather than to embed clips within mock news reports to make sure the responses were a result of the courtroom footage itself and not attributable to media coverage, which some respondents might find biased (either favorably or unfavorably). Ultimately, we selected oral arguments from two state supreme courts—Minnesota and Indiana.[12]

As we show below, Minnesota's camera perspective was static whereas Indiana's was dynamic. These two perspectives represent the two general ways courts record oral arguments. Figure 1 depicts screen captures from each court. The left panel shows the Minnesota Supreme Court, which employed a static wide-angle shot of the full bench from a distance. It also captured a side view of the attorney. Given the camera's distance from the attorney and the justices, the viewer could not easily see their facial expressions. Instead, the viewer observed the full complement of justices and the attorney.

The Indiana Supreme Court, in contrast, used multiple camera angles and scene changes. Cameras located behind the bench and behind the attorney shifted to whomever spoke at a particular moment (much like the "speaker view" in a Zoom meeting). This dynamic approach made it possible to see the faces of the attorney and the justice during an exchange but came at the cost of not being able to see the court as a full body.

We assigned respondents to one of eight clip conditions (contentiousness × modality for each of the two states) and provided them with a few sentences of background material about the case stimuli they would see or hear. Then, after we exposed them to the stimuli, we asked them a number of questions to assess whether

[12] As both of these states are Midwestern, this means we also held constant possible differences in the accent of the speakers—justices and attorneys alike. This is noteworthy since accents from some regions—particularly the north (e.g., New York) and the south—are perceived less favorably than others (Alford & Strother, 1990; Amira et al., 2018). Note, additionally, that none of the Minnesota speakers sounded like someone from the movie *Fargo*. Not that there's anything wrong with that, ya know.

they paid attention to the argument and whether they recognized the manipulations (i.e., contentious versus neutral). Individuals assigned to the control group did not hear or see an argument clip. Therefore, we did not ask them the manipulation check questions.[13]

We then asked all respondent to rate their agreement on a five-point Likert scale (strongly agree, somewhat agree, neither agree nor disagree, somewhat disagree, strongly disagree) with the following five statements[14]:

(1) Courts ought to be made less independent so they listen a lot more to what the people want.
(2) The right of courts to decide certain controversial issues should be reduced.
(3) Judges who consistently make decisions at odds with what a majority of people want should be removed from their position as a judge.
(4) Judges are little more than politicians in robes.
(5) It is inevitable that the courts get too mixed up in politics; therefore, we need to have stronger means of controlling the actions of courts.

We used these five items to estimate a *Legitimacy Score* variable. To generate these scores, we follow Badas (2019) and estimate a graded response model. This approach improves upon previous summative indexes because it allows each of the items to vary in terms of their contribution to the underlying latent quantity of interest (legitimacy). Our (rescaled) scores range between 0 and 1 and have a mean of 0.45 and a standard deviation of 0.20.

Empirical Results

Because our dependent variable, *Legitimacy Score*, is a proportion, we estimated a fractional probit regression model with binary variables for each of our experimental conditions.[15] Given the non-linear nature of the model and the categorical nature of our covariates, we assess empirical support for our hypotheses using predicted values. (See the Supplementary Materials for a table of results.) Recall that our first two expectations involved the interplay between the modality by which respondents

[13] As with any survey experiment, there was variation in the seriousness with which respondents completed the assigned tasks (Berinsky et al., 2014). The results we describe below include all respondents in the analysis. In the Supplementary Materials we present an alternative approach where we allow the effects to vary by level of engagement with our experiment. As one would expect, the effects are present among those who were engaged.

[14] Because we did not specifically identify either our courts or our judges, we needed to modify our question wording from those used in typical studies of the U.S. Supreme Court. We also crafted these statements to align with recent work arguing for a more "applied" approach to measuring legitimacy (Badas, 2019).

[15] This approach is substantively equivalent to simply conducting a series of t-tests to evaluate differences in our dependent variable. Additional results in the Supplementary Materials show that these results are unchanged if we add controls for respondent demographics. We also show that these results are substantively identical if we instead estimate an ordinal least squares linear regression model.

experienced oral argument—video versus audio—and the nature of the content—neutral or contentious.

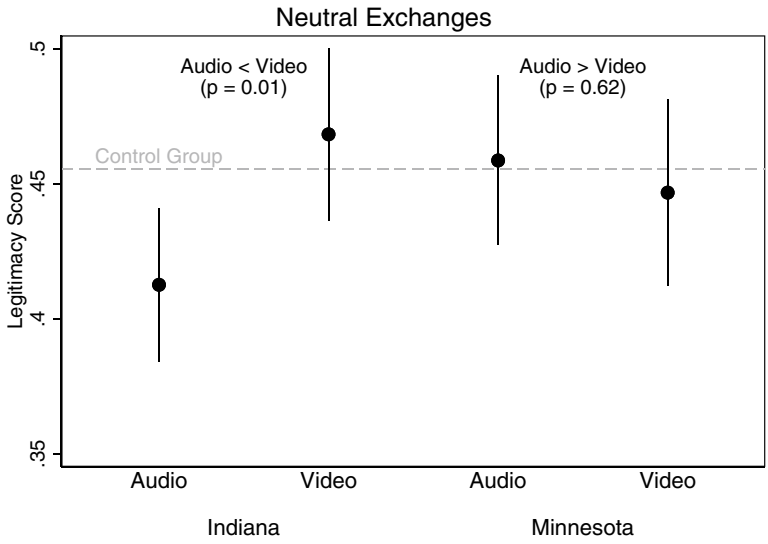
Neutral Exchanges. We first examine how exposure to neutral audio or video influences views of legitimacy. We expected that video exposure would lead to higher legitimacy scores relative to audio-only exposure and that the effects would be greater in the dynamic condition. Figure 2 provides the relevant quantities of interest to assess this question. The y-axis shows our *Legitimacy Score* measure. Along the x-axis, we identify audio and video treatment conditions for Indiana (dynamic) and Minnesota (static). A dashed horizontal line across the plot shows the legitimacy score for our control group, which experienced no oral argument content.

Respondents assigned to the Indiana materials revealed higher legitimacy scores when they *watched* video of the neutral oral argument exchange (0.47 [0.44, 0.50]) versus those who only *listened* to it (0.41 [0.38, 0.44]). The difference is the equivalent of moving from the 40th percentile to the 51st percentile in our *Legitimacy Score* measure. Respondents in the Minnesota context who watched the clip perceived the court to be just as legitimate as those who listened to it. Under the static condition, viewing the neutral exchange did not heighten the court's legitimacy. Only one of the two Indiana conditions—audio—is significantly different from our control group. We are unable to conclude that watching a dynamic video of neutral content increases legitimacy scores when compared to the baseline of no content exposure at all ($p = 0.54$). Similarly, we find no control-treatment differences in either of the Minnesota conditions.

Taken together, this first set of results provide support for (some of) our hypotheses. Video alone was not sufficient to uniformly increase legitimacy attitudes for neutral content. This runs contrary to our first hypothesis. However, our third hypothesis predicted that video's effect could be conditional on the presentation style, with dynamic video better positioned to capture a viewer's attention than its static counterpart. Our pattern of results align with this, since we find a video versus audio modality effect for Indiana's dynamic approach but not Minnesota's static approach.

Still, we believe circumspection is called for when viewing these results. Though statistically significant, the substantive magnitude of the Indiana video–audio difference is not overwhelming. And, perhaps relatedly, when compared to subjects who were not exposed to any oral argument content at all, we find only one condition to be systematically different. Exposure to neutral oral argument content, then, might influence legitimacy attitudes, but its effects seems likely to be subtle and small.

Contentious Exchanges. Figure 3 presents the analogous results for contentious content. We expected that exposure to video of this content would lead to lower legitimacy attitudes relative to audio-only exposure and that the effects would be greater in the dynamic condition. We find some support for those expectations. A respondent assigned to *listen* to Indiana's contentious content had a predicted legitimacy score of 0.48 [0.44, 0.51]. By contrast, a respondent who *watched* a video of that exact same exchange revealed a legitimacy score of 0.43. This decrease is statistically significant and is substantively equivalent to dropping from around the 53rd percentile to the 42nd percentile in our *Legitimacy Score* measure. When comparing these effects to the control group, we find no significant difference between the



Note: Whiskers denote 95% confidence intervals around predicted values. Plot annotations report the p-value (two-tailed) for the difference between the audio/video conditions for a given state's content (Austin and Hux 2002).

Fig. 2 Effects of modality and neutral exchanges on perceived legitimacy

audio condition and the baseline, and a marginally significant difference between the video condition and the baseline ($p = 0.08$, one-tailed). People who saw the contentious exchange were marginally less supportive of the court than people who saw nothing.

Just as in the case of neutral content, we again fail to find any significant differences among respondents exposed to the Minnesota content. Listening to contentious exchanges versus watching them through a static video produced no significant differences in legitimacy attitudes. And, neither of the two conditions were significantly different from the control group.

In terms of support for our hypothesis, the contentious content mirrors what we uncovered for the neutral content. There is initial evidence that video style and content combine to influence legitimacy attitudes. Our dynamic video portrayal harmed legitimacy attitudes relative to the audio-only portrayal. However, as in the case of the neutral content, the substantive effect is slight and we find no significant differences of any kind when comparing any of these respondents to individuals who were not exposed to oral argument content at all.

We now compare dynamic video against static video modes of presentation. Though we discussed this hypothesis in the context of the earlier results, here we provide a targeted assessment of it. We theorized that, when comparing neutral versus contentious content, a dynamic presentation (but not a static one) would enhance the effects. Figure 4 presents these results. The left and right halves show,

respectively, dynamic and static video presentation styles. Within each style type, we show the predicted legitimacy score for both the neutral and contentious content.

In a dynamic setting (left side), we predict legitimacy scores of 0.47 [0.44, 0.50] when the exchanges are neutral; this decreases to a predicted value of 0.43 [0.40, 0.46] when the exchanges are contentious. The p-value for this difference is 0.08. Though that p-value is slightly greater than the 0.05 threshold for assessing statistical significance, it is well below the level where one might plausibly conclude that no difference exists at all (Frick, 1995).[16] When, however, the video is presented in a static manner (right side), we see no similar effect.

Our use of real world materials did not allow us formally to manipulate the video presentation style. That is, the ideal video clips would portray the same exact set of exchanges in both a static and dynamic manner. As this was not possible here (we did not use actors), it means that the difference, which we attribute to the difference in presentation style, could be driven by other variation between the two courts' materials. The available evidence to assess this possibility does suggest that the difference between neutral and contentious is, itself, different when comparing the two states' materials.[17] Thus, this is one particular facet of the topic where future studies are very much required.

So far, we have found (1) that viewing neutral exchanges from a dynamic camera angle can potentially improve a court's legitimacy over listening to the exchange, (2) that viewing contentious exchanges from a dynamic camera angle can potentially decrease the court's legitimacy over listening to the exchange, and (3) that dynamic camera angles could potentially exacerbate these effects in a way that static camera angles do not.

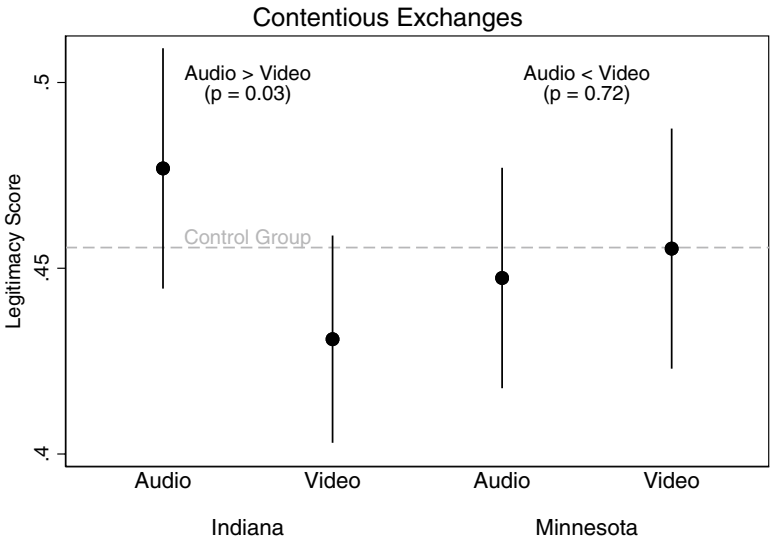
The Second Survey Experiment

Now, we examine the effects of judicial symbols. To do so, we fielded a second survey experiment. Here, we wanted to isolate the effects of symbols while holding the camera angle constant. Because our first experiment suggested that respondents react to the dynamic condition and not to the static condition, we focused only on the dynamic condition. So, we generated an augmented version of the two Indiana clips.

As Fig. 5a shows, we followed the approach of previous symbols studies and included a picture of the U.S. Supreme Court building, a picture of a judge's gavel,

[16] Again, there are marginal differences between the control group and those who saw the contentious dynamic exchange ($p = 0.08$, one-tailed). People who saw the contentious exchange were marginally less supportive of the court than people who saw nothing.

[17] We examined the effect of changing from neutral to contentious *audio* content since there are no camera angle differences in these materials. If it was video style (alone) causing our results, then the neutral-contentious content difference should be equal between the states. Increased contentiousness has a statistically significant increase in legitimacy for the Indiana audio content ($p = 0.003$) but has a slight yet statistically insignificant decrease for the Minnesota audio content ($p = 0.61$). A Wald test of the difference between those differences (i.e., Indiana's increase versus Minnesota's null) allows us to reject the null that the two are equal ($p = 0.02$). The videos therefore may have differences which lead to the results we observe.



Note: Whiskers denote 95% confidence intervals around predicted values. Plot annotations report the p-value (two-tailed) for the difference between the audio/video conditions for a given state's content (Austin and Hux 2002).

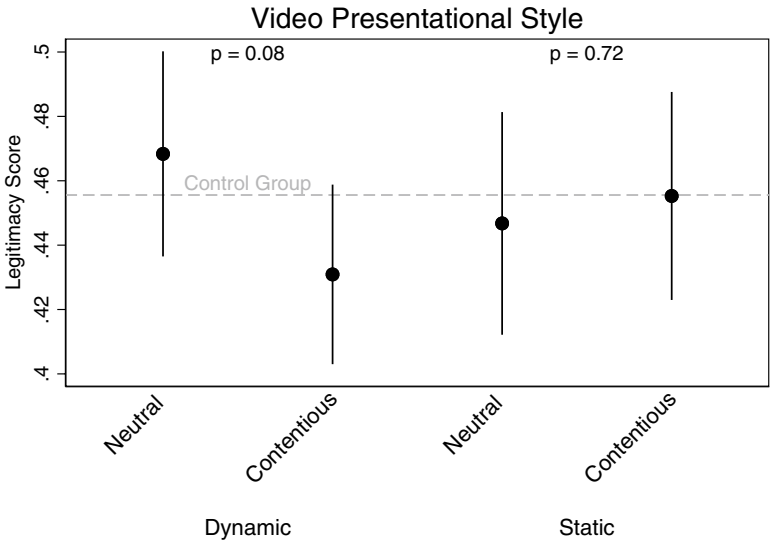
Fig. 3 Effects of modality and contentiousness on perceived legitimacy

and the scales of justices below and above the video. We did this for both the contentious and neutral clip. Our second experiment's design, then, was 2×2 with the manipulated dimensions being the presence or absence of symbols and contentious or neutral content. Importantly, this design extends the test of the contentiousness expectation to a different context—video only—where we might expect it to occur based on our earlier findings. We note, however, that it is not a direct replication of our initial experiment. Thus, this study should yield additional insights that compliment and extend our earlier efforts.

We asked the same battery of post-treatment questions in this second experiment, implemented in late July, 2020, to 600 (new) respondents, again using Lucid Theorem.[18] As in the first analysis, we employ a fractional probit regression model using *Legitimacy Score* as our dependent variable. Our independent variables of interest are four dummy variables for each of the experimental conditions.

Our expectations for the role of symbols were conditional. In particular, we suggested that symbols would attenuate the negative effects and exacerbate the positive effects that arose from viewing an exchange. Thus, when paired with neutral content, we would expect to see higher legitimacy scores among those in the symbols condition relative to those who did not see symbols. Fig. 5b shows that the point

[18] These results include all respondents who completed our experiment. See the Supplementary Materials for an analogous treatment of shirkers that we discuss above for the first experiment.



Note: Whiskers denote 95% confidence intervals around predicted values. Plot annotations report the *p*-value (two-tailed) for the difference between the neutral and contentious content conditions for a given state's video content (Austin and Hux 2002). None of the four conditions are significantly different from the control group.

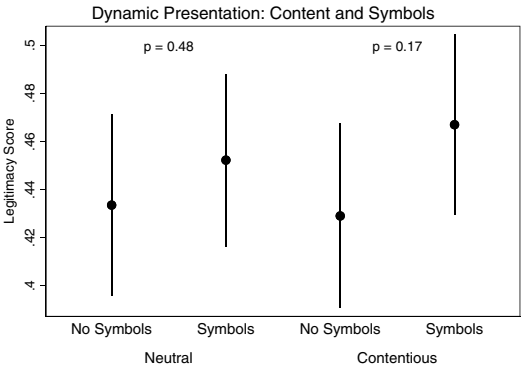
Fig. 4 Effects of camera angle on perceived legitimacy

estimates are in the expected direction but are not significantly different from one another.

As to the contentious content, our expectation was that symbols would mitigate the negative impact that our earlier experiment suggested exposure to contentious content created. Again, the relative ordering of the point estimates is in the expected direction, with the symbols condition having a higher predicted legitimacy score as compared to no symbols. The *p*-value for the difference is outside conventional levels of statistical significance and approaches, but does not cross 0.20, a suggested threshold for when one might accept the null hypothesis (Frick, 1995).[19]

[19] Recall that our original experiment provided some evidence of an effect within the dynamic video condition. Specifically, a neutral exchange led to higher legitimacy scores than a contentious exchange (i.e., the left half of Fig. 4). Though our primary purpose in executing this second experiment was to assess the effect of symbols, we note that, within this independent sample, we failed to recover the same effect when comparing subjects who were in the non-symbols condition (i.e., the first and third points plotted in Fig. 5).

(a) Screen Capture of Symbols Clip



(b) Effect of Symbols Exposure on Legitimacy

Note: Respondent in the non-symbols condition also saw a clip with (empty) black bars above/below the video footage. Circles in panel (b) show the point estimates and the vertical whiskers identify the 95% confidence intervals. The reported p-values come from a two-tailed test.

Fig. 5 Presence of judicial symbolism

Discussion

We offer what we believe is the first attempt to examine the effects of cameras on judicial legitimacy attitudes in appellate courts. To summarize, our results suggest that while cameras might help a court's legitimacy under certain conditions, they might also harm it under other conditions. Though (many) additional studies are needed on this topic, results from these initial analyses suggest that potential determinants of this variation are the contentiousness of the footage being viewed, the manner in which it is presented (i.e., camera angle), and the interaction of these two attributes.

Though initial, these findings still speak to the current practices of many courts both in the U.S. and beyond. Numerous courts around the U.S. employ the dynamic video perspective reflected in the Indiana clip. They show close-ups of the judges and the attorneys. If our results have anything to say on the matter, it is that these judges might be well advised to exercise caution in how they conduct themselves while on camera.

More prominently, the results also have potential applicability to the U.S. Supreme Court. The Court has received substantial pressure to allow cameras in its Courtroom, which it has consistently resisted. Our analysis suggests the Court is on reasonable empirical grounds in exercising such reluctance. While there is some evidence that exposure to neutral video clips could enhance the Court's legitimacy, existing studies provide good reason to doubt that these are the types of clips the media would present. For example, the media cover feisty dissenting opinions more than "neutral" opinions (Bryan & Ringsmuth, 2016). Similarly, Zilis (2015) finds that the media emphasize divisions and dissents (i.e., the negative aspects). What

is more, this negative coverage influences citizens' reactions to and acceptance of Court decisions.

Given the potential reach of these findings, it is all the more important to keep in mind their limitations. For starters, like the vast majority of existing judicial public opinion research, we focused on examining legitimacy attitudes. Yet, as we note in the beginning of the article, legitimacy is not the only value worthy of study. Video coverage might, for example, increase knowledge of the judiciary or enhance attitudes about the transparency of the judiciary. This is simply to say that any possible decreases in legitimacy could be offset by increases in other values of interest. Future efforts should cast a broad net when considering possible outcome measures.

In a more methodological vein, our approach followed that of nearly all previous studies by asking our legitimacy items within minutes of exposure to an experimental stimuli. It remains unclear how much these effects—positive or negative—might decay over time. Existing literature on this question, which tends to look at the impact of a single decision, yields conflicting results (compare, e.g., Christenson & Glick, 2015, 2020).

Relatedly, we exposed our respondents to a single clip from a single argument. It is possible that exposure to additional content might increase (or decrease) the magnitude of the effects. As we suggest above, we suspect the media would portray contentious clips repeatedly. That is what sells. Thus, instead of a single clip at one point in time, the public would be exposed to periodic clips, most of which—we believe—would highlight tension or conflict. Whether this repeated exposure would work to depress judicial legitimacy is unclear. The public might become acclimated to the clips over time and begin to either tune them out or become numb to their effects.

Along the same lines, we obtained these results from two sets of clips that come from actual court proceedings. These two clips might contain particular characteristics that drive the results we observe. One way to overcome this limitation is for future research to compile multiple clips that vary in their non-focal attributes and average across them. This approach would allow for stronger claims that the effects are not due to idiosyncratic aspects of particular clips. An alternative (yet still ambitious) approach would be to generate bespoke video vignettes using actors, content, and filming style that the researcher could manipulate.

Additionally, our respondents were randomly assigned to oral argument content. Viewers might, instead, self-select into watching clips on which they already have pre-existing attitudes. How might those attitudes affect what they subsequently see? We presented our clips with neutral background material. A different mode of exposure might pair a clip alongside editorial content designed to frame the clip in a particular light. What effect might such content have on how someone reacts to the footage? Would some or all respondents react differently when presented with clips featuring attorneys and judges with different demographic characteristics? How might a respondent's pre-existing beliefs about a judge or justice enter his or her evaluation? Our approach focused largely on the procedure-based theory of legitimacy and did not examine how partisans or ideologues respond to such clips. If recent research has anything to say on the matter (Bartels & Johnston, 2013, 2020; Christenson & Glick, 2015; Nicholson & Hansford, 2014), it is that liberals and

conservatives might react differently to contentious exchanges. They might cheer on justices who hector ideologically distant attorneys.

Any properly functioning republic requires legitimate judicial tribunals. Judges must be cautious lest they reduce support for their court. Decisions of great magnitude should receive serious attention. The decision to allow cameras in appellate courts is precisely the kind of decision that requires, as suggested by Justice Breyer, "pretty serious research and study." Our initial findings are mixed, but show that at least some degree of caution is warranted and that scholars must conduct further studies on the effects of cameras in appellate courtrooms.

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Authors and Affiliations

Ryan C. Black[1] · **Timothy R. Johnson**[2] · **Ryan J. Owens**[3] · **Justin Wedeking**[4]

✉ Ryan C. Black
rcblack@msu.edu

Timothy R. Johnson
trj@umn.edu

Ryan J. Owens
ryan.owens@wisc.edu

Justin Wedeking
justin.wedeking@uky.edu

1 Department of Political Science, Michigan State University, East Lansing, USA

2 Department of Political Science, University of Minnesota, Minneapolis, USA

3 Department of Political Science, University of Wisconsin, Madison, USA

4 Department of Political Science, University of Kentucky, Lexington, USA