

Statement of Senator Richard J. Durbin
Hearing on “Televising the Supreme Court”
United States Senate Judiciary Committee
Subcommittee on Administrative Oversight and the Courts
December 6, 2011

Thank you, Senator Klobuchar, for holding this hearing.

Most Americans Are Prohibited from Observing Supreme Court

“[P]eople in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing.”

These words are as true today as they were in 1986 when Chief Justice Burger wrote them in the Supreme Court’s *Press-Enterprise Company v Superior Court* opinion.

For too long the American public has been prevented from observing open sessions of the Supreme Court.

Except for the privileged few who can travel to Washington, DC, brave long lines, and secure one of a few hundred seats to watch Court sessions, the most powerful court in our country is inaccessible and mysterious.

As the final arbiter of constitutionality, the Supreme Court decides the most pressing and often most controversial issues of our time.

Whether you encountered a “butterfly ballot” in the 2000 presidential election, watch political advertisements during campaign season, or are trying to provide health care for your family, the Supreme Court wields great power over issues that touch all of our lives.

In a democratic society that values transparency and participation, there can be no valid justification for such a powerful element of government to operate largely outside the view of the American people.

Cameras In the Courtroom Act of 2011

Justices should consult with each other, review cases, and deliberate privately. These private deliberations should not be televised.

Open sessions of the Court, however, where members of the public are already invited to observe, should be televised in real time.

Doing so will improve the public’s understanding of the Court’s operations, enhance public confidence, and increase the number of informed and engaged citizens.

This is why I introduced the *Cameras in the Courtroom Act of 2011* with Senator Grassley.

I thank Senators Klobuchar, Cornyn, and Blumenthal for cosponsoring this legislation.

I especially thank one of our distinguished witnesses and former colleagues, Senator Arlen Specter, for his leadership on this issue during his long tenure on this Committee. Senator Specter is the original author of the Cameras in the Courtroom Act. On the floor of the Senate last December, following his farewell address, I promised Senator Specter that I would continue the fight that he began to televise Supreme Court proceedings by reintroducing the Cameras in the Courtroom Act. I am so pleased that he has joined us today to testify in support of his legislation.

The Cameras in the Courtroom Act will:

- Require open sessions of the Supreme Court to be televised. With the benefit of modern technology, Court proceedings can be televised with unobtrusive cameras and the Court's existing audio recording capability.
- Respect the constitutional rights of the parties before the Court and the discretion of the Justices by permitting the Court to not televise proceedings where the Justices determine, by a majority vote, that doing so would violate the due process rights of one or more parties.

Arguments Against Televising Supreme Court Proceedings

Some say we should not allow cameras in our courts because only bits and pieces of proceedings would be televised and taken out of context.

That reminds me of a *Washington Post* editorial from a few years ago. It stated: "Keeping cameras out to prevent people from getting the wrong idea is a little like removing the paintings from an art museum out of fear that visitors might not have the art history background to appreciate them."

Public scrutiny of Supreme Court proceedings will produce greater accountability, transparency, and understanding of our judicial system.

For almost two decades the legislative sessions and committee meetings of the United States Senate and House have been broadcast live on C-SPAN and webcast.

The majority of states permit live video coverage in some or all of their courts.

It's time the Supreme Court did the same.