

*Is Trial Fairness Affected in Live Broadcast? Preliminary Evidence from a Court in China**

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Abstract

This article examines the impact of live broadcast of trials on the behavior of trial participants and court decisions, which is a fundamental question raised by the United States Supreme Court in *Estes v. Texas* in 1965, but has largely been ignored by the advocates of China's recent initiative to promote and support live broadcast of trials. Using data collected from a court in China, we compare trials with and without live broadcasting. We find that trial participants' rate of speech (average speaking speed measured in words per minute) is slower in the presence of live broadcast, suggesting that they are more cautious. We

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do not find evidence that live broadcasting influences court decisions or judgments in civil or criminal cases. Our results provide preliminary evidence that live broadcasting makes trial participants more accountable and that it does not influence the fairness of trials.

In 2016, China began to promote live broadcast of court trials. These broadcasts are carried out on the website China Court Trial Online and are stored on its centralized database, operated by the Supreme People's Court of China. In only four years, over ten million court trials have been live broadcast to the public. As a comparison, the United States Supreme Court, in its 1981 decision in *Chandler v. Florida*, removed the ban on live broadcasting of court trials.¹ Nearly forty years later, 34,579 trials have been broadcast by state courts, and a negligible number have been broadcast in federal courts.² The difference is stark: over forty years in the United States, fewer trials have been broadcast than trials broadcast in China each day. The difference between the two countries reflects perspectives on live broadcast that are fundamentally at odds, in particular, on whether live broadcast will affect the behavior of trial participants and the fairness of the trials.

In the 1965 majority opinion in *Estes v. Texas*, Earl Warren, Chief Justice of the U.S. Supreme Court, wrote that “we must take notice of the inherent unfairness of television in the courtroom, and rule that its presence is inconsistent with the ‘fundamental conception’ of what a trial should be.”³ *Estes v. Texas* is a milestone case for U.S. jurisprudence. It imposed an official ban on live broadcast of trials. However, fifteen years later, in *Chandler v. Florida*, the U.S. Supreme Court reversed this and legalized the live broadcast of trials. Not all justices, however, embraced the idea. Justice Potter Stewart, joined by Justice Hugo Black, William Brennan, and Byron White, emphasized that “inherent in electronic coverage of a trial is the risk that the very awareness by the accused of the coverage and the contemplated broadcast may adversely affect the conduct of the participants and the fairness of the trial, yet leave no evidence of how the conduct or the trial’s fairness was affected.”⁴ Justice David Souter also expressed deep distrust in live broadcast and once told Congress in 1996 that, “the day you see a camera coming into our courtroom it is going to roll over my dead body.”⁵

In China, the justices of the Supreme People’s Court seem not to share this view. In July 2016, the trial in a maritime salvage case was