



March 24, 2014

The Honorable James Fleetwood, Chief Judge
Sedgwick County District Court, Criminal Dept.
525 North Main
Wichita, KS 67203

Re: Closing Courtrooms to the Public
Our File No.:14-0006482

Dear Chief Judge Fleetwood:

The ACLU Foundation of Kansas recently received several reports indicating that a courtroom on the fifth floor of the Sedgwick County Courthouse is closed to the public. After investigating these reports, I believe they are credible. Here are the facts as I understand them:

- A sign posted on the door of the traffic courtroom on the fifth floor of the Sedgwick County Courthouse reads in pertinent part “Family and friends here for moral support- Please wait in the hallway.” (copy of photo enclosed)
- The door to that courtroom has large windows, but those windows have been covered over with paper so that people in the hallway cannot see into the courtroom.
- When members of the public – including family and friends of defendants – try to enter the courtroom, courthouse security officers advise them that they cannot enter the courtroom and must remain in the hallway.
- Last week, one witness observed security directing members of the public to remain in the hallway even when there were plenty of seats available inside the courtroom. We have reports that this is a common practice.

As you know, criminal defendants have a Sixth Amendment right to a public trial. *Waller v. Georgia*, 467 U.S. 39, 45 (1984) (in order to close a courtroom to the public court must expressly find that overriding interest compels closing the courtroom). *See also State v. Cox*, 304 P. 3d 327, 332-35 (Kan. 2013). In addition, the First Amendment guarantees the public – including the press – a right of access to criminal trials and court records in criminal cases. *See, e.g., Richmond Newspapers v. Virginia*, 448 U.S. 555 (1980) (criminal trials); *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596 (1982) (criminal trials); *Press Enterprise v. Superior Court* (“*Press Enterprise I*”), 464 U.S. 501 (1984) (criminal jury selection); *Press Enterprise II*, 478 U.S. 1 (1986) (criminal preliminary hearing). As the Court explained in *Press Enterprise I*:

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The open trial . . . plays as important a role in the administration of justice today as it did for centuries before our separation from England. The value of openness lies in the fact that people not actually attending trials can have confidence that standards of fairness are being observed; the sure knowledge that *anyone* is free to attend gives assurance that established procedures are being followed and that deviations will become known. Openness thus enhances both the basic fairness of the criminal trial and the appearance of fairness so essential to public confidence in the system.

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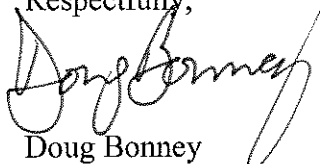
The presumption of openness may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest. The interest is to be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered.

464 U.S. at 508.

On behalf of the members of the public who wish to attend court proceedings in the Sedgwick County Courthouse, I ask that you investigate this situation and, if you find that the information I have conveyed to you in this letter is correct, that you take steps to insure that the Courthouse is open to the public as required by the First and Sixth Amendments to the United States Constitution.

If you have any questions about our investigation or this letter, please let me know.

Respectfully,

A handwritten signature in black ink, appearing to read "Doug Bonney", written over a horizontal line.

Doug Bonney
Chief Counsel & Legal Director
Direct Dial: (816) 994-3311

Enclosure

**Family and friends here
for moral support-
Please wait in the hallway.**

**If you have an attorney,
please wait in the hallway-
your attorney will be looking
for you in the hallway.**

**Please come in and have a seat
if you are here yourself on a case,
not represented by an attorney.**

**Please DO NOT stand in the doorway.
Rather, if there are any empty seats,
please sit down.**