

**Applying the *Riverside Press-Enterprise* Tests**  
to determine whether or not a court may deny access to pretrial hearings.

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| <p>First, determine whether the hearing is presumed to be open or not.</p> <p>Ask: has this type of hearing traditionally been an open hearing?</p> <p>And, will opening this hearing play a positive role in the functioning of judicial process?</p> <p>If BOTH answers are “no,” the hearing is not presumed to open. The judge can close it.</p> | <p>BUT, if either answer is “yes,” then the hearing is presumed to be open. To close a presumptively open hearing:</p> <ul style="list-style-type: none"><li>- There must be some overriding interest that will be harmed if the hearing is open; and</li><li>- There must be a substantial probability that we interest will be harmed if the hearing is open.</li></ul> <p>If both those conditions exist, the court must still consider reasonable alternatives to closure. (Such alternatives could include <i>voir dire</i> of potential jurors or change of venue to reduce the chance of prejudice to a defendant.)</p> <p>If there are no alternatives, then the hearing must be closed in a narrowly tailored way. This means closing only that portion of the hearing that could cause harm, not the entire hearing.</p> <p>Finally, the court must prepare a thorough written record explaining the reasons for the closure.</p> |
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