

Federal Court in Texas Orders Caldwell County to Open Bail Hearings to the Public
Ruling protects the First Amendment rights of the press and public to observe critically important
hearings

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AUSTIN, TX—A federal district court in Texas yesterday granted a preliminary injunction in a lawsuit challenging Caldwell County’s policy of holding all bail proceedings behind closed doors. The Texas Tribune, the Caldwell/Hays Examiner, and Mano Amiga filed the case in August 2023. The Knight First Amendment Institute at Columbia University represents all three plaintiffs; the Texas Fair Defense Project represents the Caldwell/Hays Examiner and Mano Amiga. The judge ordered the state to open bail proceedings to the press and the public beginning on or before March 4, 2024.

“We’re pleased the court recognized that the public’s First Amendment right of access to judicial proceedings extends to bail hearings in Caldwell County,” said Scott Wilkens, senior counsel at the Knight First Amendment Institute, who argued before Judge Pitman in December of last year. “Public access to court proceedings is fundamental to our democracy, ensuring that they’re conducted fairly and fostering respect for the judicial system.”

Caldwell County’s five magistrates adopted a policy of closing all bail-setting hearings to the press and the public, and the county sheriff enforced this policy by denying access to all observers. The magistrates also did not provide the public with notice or an opportunity to object prior to closing proceedings. The plaintiffs argued that the First Amendment prohibits the blanket closure of bail hearings, and requires that before a court can close a bail hearing in a specific case, the court must provide the press and the public with notice and an opportunity to object. The judge agreed with the plaintiffs’ arguments. “Recognizing the significance of bail hearings and the positive community effects of open pretrial proceedings,” the judge held that the press and the public have a First Amendment right of access to bail hearings in Caldwell County.

“Texans have a fundamental right to know what goes on inside courtrooms. Bail hearings are an important step in the criminal justice process, and there is no reason the public and the press should be routinely barred from these proceedings,” said Sewell Chan, the Texas Tribune’s editor-in-chief. “The Texas Tribune is proud to be part of this effort to protect the public’s right to know.”

To ensure that Texans are empowered with the civic information they need to fully participate in democracy, the Texas Tribune reports on a broad range of legal issues relating to the criminal justice system, including county bail setting practices and statewide bail reform efforts. For similar reasons, the Caldwell/Hays Examiner reports on local criminal legal issues, including excessive bail amounts, which keep defendants behind bars while awaiting trial. Mano Amiga’s advocacy work requires access to bail

hearings to educate the public on the importance of local courts and to effectively administer its bail fund to help get people out of jail.

“Access to bail hearings ensures people who are arrested are treated fairly and their ability to pay is taken into account in setting bail,” said Eric Martinez, executive director of Mano Amiga. “Even a few days in jail can lead to loss of jobs, vehicles, and housing—consequences that devastate families and communities of the accused and underscore the importance of their right to attend bail hearings.”

“We are grateful to our clients for their fight to bring daylight to bail hearings in Caldwell County,” said Camilla Hsu, Managing Attorney for Litigation at Texas Fair Defense Project. “We look forward to gaining access to these proceedings.”

Read the court’s decision here: <https://knightcolumbia.org/documents/wyfmhe4ber>

Read more about the case here: <https://knightcolumbia.org/cases/the-texas-tribune-v-caldwell-county>

Attorneys on the case include Wilkens and Nicole Mo of the Knight Institute and Hsu of Texas Fair Defense Project.

About the Knight First Amendment Institute at Columbia University

The Knight First Amendment Institute defends the freedoms of speech and the press in the digital age through strategic litigation, research, and public education. It promotes a system of free expression that is open and inclusive, that broadens and elevates public discourse, and that fosters creativity, accountability, and effective self-government. <https://knightcolumbia.org/>

About the Texas Fair Defense Project

The Texas Fair Defense Project's mission is to fight to end the criminalization of poverty in Texas. We envision a system of justice that upholds the dignity and civil rights of all people, regardless of income, race, or gender. <https://www.fairdefense.org>

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