IN THE JUVENILE COURT OF MEIGS COUNTY, TENNESSEE
FOR THE NINTH JUDICIAL DISTRICT AT DECATUR

IN RE : UNKNOWN	No. UNKNOWN

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO INTERVENE FOR THE LIMITED PURPOSE OF SEEKING ACCESS TO JUVENILE DELINQUENCY PROCEEDINGS, COURT RECORDS, AND TRANSCRIPTS OF PREVIOUSLY CLOSED PROCEEDINGS

Proposed Intervenor WBIR-TV, the Knoxville NBC affiliate, ("WBIR") respectfully submits this Memorandum of Law in support of its Motion to Intervene for the Limited Purpose of Seeking Access to the Juvenile Delinquency Proceedings, Court Records, and Transcripts of Previously Closed Proceedings in this case. For the reasons set forth herein and in the Motion, WBIR respectfully requests that the Court keep future proceedings in this case open to the public, including the press; that the Court unseal the court file in this case (with the name of the juvenile defendant redacted, if the Court determines such redaction necessary); and that the Court provide WBIR and the public with a copy of the transcripts[1] for any prior

[1] If a transcript or the means to make one are not available, WBIR requests any records showing what did occur in the closed hearings, including but not limited to the minutes required to be kept by the Juvenile Court pursuant to Tenn. Code Ann. § 37-1-124(c).

hearings that were improperly closed to the public, with the name of the juvenile defendant redacted as the Court deems necessary.

INTRODUCTION

On Tuesday, June 10, 2025, Meigs County Sheriff deputies responded to a shooting at a home on Gunstocker Road in the Georgetown area. The victim, Richard High, was found dead from a single gunshot wound and a fifteen-year-old female has been charged with first degree murder via a juvenile delinquency petition. On Thursday, June 12, 2025, the Meigs County Juvenile Court held a detention hearing that was closed to the public, including the press. Based on public reporting by the Chattanooga Times Free Press, Sheridan Randolph has been appointed to represent the accused, that Mr. Randolph waived the June 12 detention hearing, and that the case was reset for August 16, 2025.

When WBIR asked for a copy of the order closing the detention hearing, the Circuit Court Clerk's office informed WBIR that the Court stated it would not need to issue a written order closing the detention hearing because the accused is a juvenile.[2] WBIR was also told by the District Attorney General's office that court records in this case are also being kept confidential and are inaccessible by the

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[2] Tennessee courts have consistently held that failure to enter a written order that explains the court's action and provides adequate notice to affected parties is error. *See, e.g.*, *State v. Rodgers*, 235 S.W.3d 92, 96 (Tenn. 2007) (holding that an oral directive did not constitute a valid court order in juvenile proceedings); *In re Addison M*, No. E2014-02489-COA-R3-JV, 2015 WL 6872891, at *7 (Tenn. Ct. App. Nov. 9, 2015) (finding no statutory authority for the substitution of an oral directive for a valid court order); *State v. Conner*, 919 S.W.2d 48, 49 n. 3 (Tenn. Crim. App. 1995) (finding error in the trial court's failure to enter a written order setting forth the reasons for revoking appellant's probation). In fact, "it is well-settled that a trial court speaks through its written orders—not through oral statements contained in the transcripts." *Williams v. City of Burns*, 465 S.W.3d 96, 119 (Tenn. 2015) (internal quotations omitted).

public. The Clerk told the undersigned that his office could not even provide the case number for this matter.

These actions run directly afoul of the clear rules governing operation of the Tennessee Juvenile Court, which explicitly provide that delinquent and unruly cases are presumptively "open to the public." Tenn. R. Juv. P. 114(b) ("Rule 114"). That presumption can only be overcome by a "particularized prejudice" to a party that "would override the public's compelling interest in open proceedings," and the Court has considered "reasonable alternatives to closure of proceedings." *Id.* In addition, the rules require that the Court "make adequate written findings to support any order of closure." *Id.* It appears that *none* of this occurred here.

Rule 114 is grounded in fundamental principles that have been consistently embraced by appellate courts at both the state and federal levels. As the Tennessee Supreme Court summarized, "[t]he public's right to access provides public scrutiny over the court system which serves to (1) promote community respect for the rule of law, (2) provide a check on the activities of judges and litigants, and (3) foster more accurate fact finding." *Ballard v. Herzke*, 924 S.W.2d 652, 661 (Tenn. 1996) (citation omitted). "The crucial prophylactic aspects of the administration of justice cannot function in the dark; no community catharsis can occur if justice is 'done in a corner [or] in any covert manner.'" *Brown & Williamson Tobacco Corp. v. Fed. Trade Comm'n*, 710 F.2d 1165, 1178 (6th Cir. 1983) (alteration in original) (quoting *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 571 (1980)); *see also Sheppard v. Maxwell*, 384 U.S. 333, 350 (1966) ("The press does not simply publish

information about trials but guards against the miscarriage of justice by subjecting the police, prosecutors, and judicial processes to extensive public scrutiny and criticism.").

Pursuant to these fundamental principles regarding our system of public access to courts and the clear requirements of Rule 114, WBIR now (1) seeks access to a transcript of the detention hearing held on June 12, 2025 in this case (with the name of the accused redacted, if the court deems that necessary), (2) seeks access to transcripts of any other closed hearings in this case (with the name of the accused redacted, if necessary), (3) seeks to ensure that future hearings in this case are open to the public, and (4) seeks to have the case file unsealed (with the name of the accused redacted, if necessary).

ARGUMENT

I. WBIR has standing to intervene to oppose closure of future proceedings, to seek access to court records and to seek access to transcripts of prior closed proceedings.

Pursuant to Tenn. R. Juv. P. 304 ("Rule 304"), intervention in juvenile proceedings is handled in the same manner as intervention under Tenn. R. Civ. P. 24. Tenn. R. Juv. P. 304 advisory commission comments (explaining that Rule 304 "is taken nearly verbatim from" Tenn. R. Civ. P. 24). Tennessee courts "have 'firmly establishe[d] the right of the public, including the media, to intervene in court proceedings for the purpose of attending the proceedings, or for the purpose of petitioning the Court to unseal documents and allow public inspection of them.'" *Kocher v. Bearden* (*Kocher I*), 546 S.W.3d 78, 84 (Tenn. Ct. App. 2017) (quoting

Knoxville News-Sentinel v. Huskey, 982 S.W.2d 359, 362 (Tenn. Crim. App. 1998)). In *Ballard*, the Tennessee Supreme Court allowed media intervention to challenge a blanket protective order, holding that "we agree with those federal and state courts in other jurisdictions which have routinely found that third parties, including media entities, should be allowed to intervene to seek modification of protective orders to obtain access to judicial proceedings or records." 924 S.W.2d at 657 (string cite omitted). Likewise, in *State v. Drake*, the Tennessee Supreme Court allowed media intervention to challenge a closure motion that sealed all motions, orders, and transcripts from a proceeding. 701 S.W.2d 604, 608 (Tenn. 1985) ("Interested members of the public and the media may intervene and be heard in opposition to [a closure] motion."). The press was also permitted to intervene to oppose closure of juvenile delinquency proceedings in *State v. James*, 902 S.W.2d 911, 911–12 (Tenn. 1995). Accordingly, under well-established Tennessee law, WBIR's motion to intervene for the limited purpose of seeking access to future hearings, to transcripts of previously closed hearings, and to the court records in this case is proper and should be granted.

II. Pursuant to the qualified rights of access to juvenile proceedings, future proceedings in this case should be open to the public and transcripts of prior, closed proceedings should be made public.

A. There is a qualified rule-based and constitutional right of access to juvenile delinquency proceedings.

Tennessee Rule of Juvenile Procedure and Practice 114 ("Rule 114"), the First Amendment to the U.S. Constitution, and Article I, Sections 17 and 19 all provide a qualified right of access to juvenile delinquency proceedings.

As a starting point, Rule 114(b) expressly provides that "[d]elinquent and unruly cases are open to the public." Rule 114(b) also specifies that to close a delinquent or unruly juvenile proceeding, the Court must balance "the interests of the parties and the public's interests in open proceedings" while applying the following rules:

> (1) When closure is sought by a party:
>
> (A) The party seeking to close the hearing shall have the burden of proof;
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> (B) The court shall not close proceedings to any extent unless it determines that failure to do so would result in particularized prejudice to the party seeking closure that would override the public's compelling interest in open proceedings;
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> (C) Any order of closure must not be broader than necessary to protect the determined interests of the party seeking closure;
>
> (2) The juvenile court must consider reasonable alternatives to closure of proceedings; and
>
> (3) The juvenile court must make adequate written findings to support any order of closure.

Id.

As the Advisory Commission Comments to Rule 114 make clear, the rule is grounded in constitutional law as applied by the Tennessee Supreme Court: "*State v. James*, 902 S.W.2d 911 (Tenn. 1995) authorizes the closure process specified in subdivision (b) for delinquent and unruly cases. Such proceedings 'may' be closed only through the process as outlined above."

In *James*, the Tennessee Supreme Court began with a discussion of the First Amendment right of access to criminal proceedings as explicated in *Drake*. *James*, 902 S.W.2d at 912–13 (citing *Drake*, 701 S.W.2d at 608). In line with *Drake*, the Court held that "an approach that balances the public's interest in open judicial proceedings and the litigants' right to a fair trial should be applied in deciding whether to close juvenile proceedings." *Id.* at 913–14. Explaining how to assess this balancing of interests, the *James* Court set forth the principles that were then codified in Rule 114(b).[3] *Id.* at 914. *Drake* provides for a number of further procedural protections that would be applicable here, including, among other things, that a motion for closure "cannot be heard until [it] has been on file in the clerk's office for a period of at least three days" and transcripts of closed hearings "shall be made available to the public at the earliest time consistent with the preservation of the interests that require the closure and also available for the limited purpose of appeal." 701 S.W.2d at 608.

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[3] 1. The party seeking to close the hearing shall have the burden of proof;

2. The juvenile court shall not close proceedings to any extent unless it determines that failure to do so would result in particularized prejudice to the party seeking closure that would override the public's compelling interest in open proceedings;

3. Any order of closure must be no broader than necessary to protect the determined interests of the party seeking closure;

4. The juvenile court must consider reasonable alternatives to closure of proceedings; and

5. The juvenile court must make adequate written findings to support any order of closure.

James, 902 S.W.2d at 914.

Finally, the Tennessee Attorney General has confirmed that, in addition to the First Amendment to the U.S. Constitution, Article I, Section 17 of the Tennessee Constitution[4] confers "an independent right on the part of the public, press included, to attend court proceedings," and that because that provision does "not except juveniles courts it must be presumed that the public right to attend court proceedings extends to juvenile courts as much as any other court." Op. Tenn. Atty. Gen. 81-158 at 4 (May 5, 1981). In that same opinion, the Tennessee Attorney General held that "a blanket order excluding the public and press from all juvenile proceedings does not take into account the rights conferred on the public by Article I, section 17, Constitution of Tennessee [because] [n]o case by case determination is made, under a blanket closing, as to whether the state can demonstrate an interest sufficient to override the Article I, section 17 guarantees of the Tennessee Constitution." *Id.* at 6. The same should be true regarding the right of access provided for in Article I, Section 19 of the Tennessee Constitution.[5]

B. Future hearings in this case should be open to the public, including the press.

Under Rule 114(b) and these constitutional principles, the proceedings in this case are – and should always have been – presumptively open to the public. Any

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[4] Article I, Section 17 of the Tennessee Constitution provides "That all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the State in such manner and in such courts as the Legislature may by law direct."

[5] Article I, Section 19 of the Tennessee Constitution provides in applicable part "That the printing presses shall be free to every person to examine the proceedings of the Legislature; or of any branch or officer of the government, and no law shall ever be made to restrain the right thereof."

closure must be based on written findings that particularized prejudice to a party from openness outweighs the compelling public interest in access, and that closure is the least restrictive option all while considering reasonable alternatives to closure.

Based on statements from the Circuit Court Clerk's office and the District Attorney General's office, none of that occurred here for the prior hearings. By all accounts, the Court has issued no closure order and WBIR's attempts to obtain a closure order from the Clerk's office have been unsuccessful. Based on information provided to WBIR, it appears the Court has closed the proceedings in this case based solely on the fact that the accused is a juvenile. That is not the law.

Rule 114(b) expressly states that the default presumption in juvenile delinquency proceedings is for the proceeding to be "open to the public." Plainly, much more is required to overcome that presumption than the mere fact that the accused is a juvenile; otherwise Rule 114 would be entirely meaningless.[6] Under that rule, the Court must determine that failure to close the particular hearing at issue (not all proceedings in a particular case) "would result in a particularized prejudice to the party" the Court is seeking to protect and that particularized

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[6] In fact, the U.S. Supreme Court has struck down a statute as unconstitutional that mandated closure of a courtroom when a minor sexual assault victim was testifying. *Globe Newspaper Co. v. Super. Court for Norfolk Cnty.*, 457 U.S. 596, 607–08 (1982). The Court held that "as compelling as [the] interest [in safeguarding the physical and psychological well-being of a minor] is, it does not justify a *mandatory* closure rule, for it is clear that the circumstances of the particular case may affect the significance of the interest." *Id.* Instead, it held that a trial court must "determine on a case-by-case basis whether closure is necessary to protect the welfare of a minor victim." *Id.* at 608. This case-by-case "approach ensures that the constitutional right of the press and public to gain access to criminal trials will not be restricted except where necessary to protect the State's interest," and, then, only to the extent necessary. *Id.* at 609.

prejudice must be sufficiently important to "override the public's compelling interest in open proceedings." WBIR is aware of no such particularized prejudice, let alone such specific prejudice sufficient to overcome the public's compelling interest in open proceedings. Certainly, the Court has not issued any public, written order setting forth findings of such prejudice.

"Prejudice" is defined as "[d]amage or detriment to one's legal rights or claims." *Prejudice*, Black's Law Dictionary (12th ed. 2024). And "particularize" is defined as "to state in detail: specify." https://www.merriam-webster.com/dictionary/particularize. Given these definitions, it would be patently insufficient to allege speculative or conclusory prejudice with mere platitudes. *See Ballard*, 924 S.W.2d at 658 (explaining in context of good cause analysis under Tenn. R. Civ. P. 26(c) that a showing of clearly defined injury cannot rest on "[b]road allegations of harm, unsubstantiated by specific examples or articulated reasoning" and that "[m]ere conclusory allegations are insufficient" (citation omitted)); *see also Shane Grp., Inc. v. Blue Cross Blue Shield of Mich.*, 825 F.3d 299, 307 (6th Cir. 2016) (noting that "specificity is essential" when a party seeks sealing and that platitudes are insufficient to justify sealing (citation omitted)); *Doe v. Public Citizen*, 749 F.3d 246, 270 (4th Cir. 2014) ("This Court has never permitted wholesale sealing of documents based upon unsubstantiated or speculative claims of harm . . . ."); *Evans v. Mallory*, No. 08-12725, 2009 WL 2900718 (E.D. Mich. Sept. 2, 2009) (rejecting conclusory allegations of harm in sealing context). To WBIR's knowledge, there has been no such showing of particularized prejudice here at all;

all WBIR has been told is that the proceedings were closed simply because the defendant is a juvenile, which is plainly not sufficient under Rule 114.

Even if there were a particularized showing of prejudice that could override the public's compelling interest in open proceedings, the Court would still be required to ensure that the closure is no "broader than necessary to protect the determined interests" supporting closure and the Court "must consider reasonable alternatives to closure of proceedings." Rule 114(b)(1)(C)–(b)(2). Again, there has been no indication that the Court considered that requirement. When it does so, the Court "must make adequate written findings to support any order of closure." Rule 114(b)(3).

To the extent the Court's concern is the potential fair trial rights of the accused, wholesale closure would not be justified here. For bench trials and similar decisions made by the presiding judge, fair trial rights are not of the same concern as when an impartial jury must be seated. But even with jury trials, should this case eventually result in one, "[j]urors are not that fragile." *In re Murphy-Brown, LLC*, 907 F.3d 788, 798 (4th Cir. 2018). Public access to factual information has generally been found not to threaten a defendant's fair trial rights. *See Patton v. Yount*, 467 U.S. 1025, 1032–33 (1984) (discussing fact that "purely factual articles" were part of pretrial publicity during voir dire for criminal trial that was found to be constitutional); *Murphy v. Florida*, 421 U.S. 794, 802 (1975) (noting that the pretrial publicity was "largely factual in nature" when rejecting the criminal defendant's claim that the publicity was inflammatory). And even extensive,

negative pre-trial publicity "does not necessarily produce prejudice" and jurors are not required to be ignorant regarding the case to be considered impartial. *Skilling v. United States*, 561 U.S. 358, 381 (2010) (citing *Irvin v. Dowd*, 366 U.S. 717, 722 (1961)). "[P]retrial publicity even pervasive, adverse publicity does not inevitably lead to an unfair trial." *Neb. Press Ass'n v. Stuart*, 427 U.S. 539, 554 (1976). In any event, WBIR is not aware of any order from the Court substantiating this concern.

Finally, a party attempting to overcome the public's rights of access to judicial records and proceedings—even in the most high-profile of matters—on the ground that "there is a substantial probability that the defendant's right to a fair trial will be prejudiced by [pre-trial] publicity" bears a heavy burden to so demonstrate. *ABC, Inc. v. Stewart*, 360 F.3d 90, 98–99 (2d Cir. 2004) (quoting *Press-Enter. Co. v. Super. Ct. of Cal.* (*Press-Enterprise II*), 478 U.S. 1, 14 (1968)); *United States v. Shkreli*, 260 F. Supp. 3d 257, 259–60 (E.D.N.Y. 2017); *see also In re Charlotte Observer*, 882 F.2d 850, 855 (4th Cir. 1989) (explaining that voir dire is the "preferred safeguard against" any effects of pretrial publicity). "It is significant that voir dire in some of the most widely covered criminal prosecutions has revealed the fact that many prospective jurors do not follow such news closely and that juries can be empanelled [sic] without inordinate difficulty." *Appl. of Nat'l Broad. Co.*, 828 F.2d 340, 346 (6th Cir. 1987) (citations omitted). Put simply: "[t]he judicial process does not run and hide at those moments when public appraisal of its workings is most intense." *In re Murphy-Brown*, 907 F.3d at 798. Even in the more sensitive aspects of criminal trials, like suppression hearings, "risk of prejudice does not

automatically justify refusing public access to hearings on every motion to suppress. Through voir dire, cumbersome as it is in some circumstances, a court can identify those jurors whose prior knowledge of the case would disable them from rendering an impartial verdict." *Press-Enterprise II*, 478 U.S. at 15.

In sum, the Court is required by Rule 114 to undertake the stringent process outlined in the rule anytime it seeks to close one of its proceedings. Given the lack of particularized prejudice shown here, there is no basis to depart from the presumption that the proceedings in this case should be kept open to the public, including the press. If a closure order is issued, it should comply with all of the requirements in Rule 114 and be made available to the public for possible appeal.

C. WBIR should be granted access to the transcripts of previously closed proceedings.

Given the absence of any indication that closure of the prior proceedings was justified under Rule 114, the public should be provided access to the transcripts from those proceedings. But even if closure of those proceedings, was proper, the Tennessee Supreme Court has held that transcripts of closed proceedings "shall be made available to the public at the earliest time consistent with the preservation of the interests that require the closure." *Drake*, 701 S.W.2d at 608. In fact, in *Press-Enterprise II*, the press sought access to the transcript of a preliminary hearing in a high-profile case the press argued was wrongly closed. 478 U.S. at 3 ("We granted certiorari to decide whether petitioner has a First Amendment right of access to the transcript of a preliminary hearing growing out of a criminal prosecution."). The U.S. Supreme Court ruled in favor of the press and explained that [d]enying the

transcript of a 41-day preliminary hearing would frustrate what we have characterized as the 'community therapeutic value' of openness." *Id.* at 13, 15. Put simply, access to the transcript is the best method for mitigating a prior improper court closure and is necessary even when closure was proper "at the earliest time consistent with the preservation of the interests that require the closure. *Drake*, 701 S.W.2d at 608.

As such, WBIR requests that the Court release transcripts of all prior closed hearings in this case.

III. There is a statutory and qualified constitutional rights of access to juvenile court records.

In addition to opening the in-court proceedings, the Court should also allow access to the records in this case. Tenn. Code Ann. § 37-1-153(b) specifically provides that "petitions and orders of the [juvenile] court in a delinquency proceeding . . . shall be opened to public inspection and their content subject to disclosure to the public if" the "juvenile is fourteen (14) years of age or older at the time of the alleged act; and . . . the conduct constituting the delinquent act, if committed by an adult, would constitute first degree murder . . . ." Moreover, there are qualified rights of access to court records under both First Amendment and Article I, Sections 17 and 19 of the Tennessee Constitution. *E.g., In re Est. of Thompson*, 636 S.W.3d 1, 11 (Tenn. Ct. App. 2021) ("The Constitutional mandate for open courts [in Art. I, § 17] extends to a court's judicial records" (citing *Kocher I*, 546 S.W.3d at 85)); *Knoxville News-Sentinel*, 982 S.W.2d at 363 ("[T]he Tennessee Supreme Court has recognized a qualified right of the public, founded in common

law and the First Amendment to the United States Constitution, to attend judicial proceedings and to examine the documents generated in those proceedings." (citing *Ballard*, 924 S.W.2d at 661)); *id.* at 363–64 n.3 ("Article I, Sec. 19 of the Constitution of Tennessee presumably extends a similar qualified right to the public.").

As an initial matter, it is plain that, pursuant to Tenn. Code Ann. § 37-1-153(b), the petition and orders in this case "*shall* be opened to public inspection" because the accused is 15 years old and the delinquency petition includes a charge of first-degree murder. § 37-1-153(b) (emphasis added). "When 'shall' is used in a statute or rule, the requirement is mandatory." *Bellamy v. Cracker Barrel Old Country Store, Inc.*, 302 S.W.3d 278, 281 (Tenn. 2009) (citation omitted). Thus, the petition and orders in this case are required to be made available to the public as required by the Tennessee General Assembly.

Even if Tenn. Code Ann. § 37-1-153(b) did not require access to orders generally, which it does, closure orders are required to be made available to public, otherwise, there would be no way to enforce the right of access provided by Rule 114, the First Amendment, and Article I, Sections 17 and 19 for access to juvenile delinquency proceedings.

Access should also be granted to other court records in this case because the rule-based and constitutional rights of access to public proceedings are much less meaningful if the public is unable to access the court records related to the proceeding. *See Brown & Williamson Tobacco Corp.*, 710 F.2d at 1177 (explaining

that the principles underlying access to public court proceedings "apply as well to the determination of whether to permit access to information contained in court documents because court records often provide important, sometimes the only, bases or explanations for a court's decision"). These rights of access would, of course, be qualified in nature. The strong presumption of openness in court records "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." *In re Est. of Thompson*, 636 S.W.3d at 20 (quoting *Kocher I*, 546 S.W.3d at 86).

Based on this authority, WBIR respectfully requests that the petitions and orders in this case be unsealed and that the seal on other court records be reevaluated in light of the standard discussed in *In re Estate of Thompson* and other pertinent case law.

CONCLUSION

For the foregoing reasons, WBIR respectfully requests that the Court grant its Motion to Intervene and the relief sought in it.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on July 10, 2025, a true and correct copy of the foregoing was served by USPS Priority Mail:

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