

# **Jury Proceeding Addendum to COVID-19 Operating Plan for the District and County Courts of McLennan County**

*Effective on and after October 1, 2020*

Recognizing the need to ensure the health and safety of jurors, litigants, attorneys, visitors, court staff, judges, and other individuals entering the buildings housing the courts, the district and county courts of McLennan County will implement, in addition to the procedures and protocols in the previously submitted COVID-19 Operating Plan, the following protective measures for jury proceedings:

## **General**

1. All judges will comply with the Emergency Orders issued by the Supreme Court of Texas and Court of Criminal Appeals, including conducting in-person jury proceedings according to the guidance issued by the Office of Court Administration.
2. The justice courts will not conduct an in-person jury proceeding until the Supreme Court permits such proceedings.
3. Judges of the district courts, constitutional and statutory county courts, and statutory probate courts will conduct in-person jury proceedings in accordance with the previously approved Operating Plan and this addendum only after this jury proceeding addendum is submitted and accepted by the Regional Presiding Judge.
4. Not more than five days before an approved in-person jury proceeding is scheduled to occur, the local administrative district judge or designee will consult with the local public health authority to verify that local health conditions and plan precautions are appropriate for the jury proceeding to proceed.
5. Except for criminal cases where confinement in jail or prison is a potential punishment, judges may conduct remote jury proceedings if the court follows the requirements of the hearings on objections or motions section below and ensures that all potential and selected petit jurors have access to technology to participate remotely. Judges may conduct remote jury proceedings in a criminal case where confinement in jail or prison is a potential punishment only with appropriate waivers and consent obtained on the record from the defendant and the prosecutor.

## **Jury Proceeding Approval Process**

1. Judges wishing to conduct a jury proceeding will follow the procedure detailed below to obtain approval to proceed with the jury proceeding from the local administrative district judge and Regional Presiding Judge:

In an attempt to return to a safe and operational system for conducting jury trials the following procedures are implemented by the Court in order to avoid risk of COVID-19 exposure to the public, jurors, court staff, parties, and attorneys. All attorneys, parties, witnesses, bailiffs, sheriff's deputies, court administrators and court reporters are ORDERED to comply with the procedures set forth herein. Furthermore, all attorneys, parties, witnesses, bailiffs, sheriff's deputies, court administrators and court reporters are ORDERED to comply with the COVID-19 Operating Plan for the McLennan County Judiciary enacted by Local Administrative Judge Ralph Strother and approved by Regional Administrative Judge Billy Ray Stubblefield.

2. A judge seeking permission for a trial will inform the Local Administrative District Judge via email the expected length of the trial and any circumstances requiring additional resources, e.g. security, medical resources, or additional personnel.

3. The local administrative district judge will, not more than five days before the jury proceeding, consult with the local public health authority to verify that the local health conditions and plan precautions are appropriate for the jury proceeding to proceed with the following procedure:

4. This jury addendum will be provided to the Waco-McLennan Health District. Ms. April Snyder, senior administrative assistant is the point of contact with the local administrative district judge

#### **Hearings on Objections or Motions Related to Proceeding**

1. Parties who are scheduled for a jury proceeding are encouraged to make any objections or motions related to proceedings at least 10 days prior to the trial setting.
2. Any objections or motions related to proceeding with a jury proceeding will be heard by the judge presiding over the case at least seven days prior to the jury proceeding or as soon as practicable if the objection or motion is made or filed within seven days of the jury proceeding.

#### **Communication Protocols**

1. Each judge with an approved in-person jury proceeding will require the parties to communicate with the court if any participant in the jury proceeding, including attorneys, parties, attorney support staff, or witnesses, has tested positive for COVID-19 within the previous 30 days prior to any portion of the jury proceeding, currently has symptoms of COVID-19, or has had recent known exposure to COVID-19.
2. If the approved in-person jury proceeding involves an incarcerated participant, the judge will require the sheriff to report any positive COVID-19 test of the incarcerated participant within the previous 30 days prior to any portion of the jury proceeding, any current symptoms of COVID-19, or any recent known exposure to COVID-19.

#### **Scheduling**

1. A judge who obtains approval for an in-person jury proceeding will schedule no more than ten cases for that jury trial setting, unless pre-approval for larger dockets is obtained from the Regional Presiding Judge.
2. Judges should attempt to alert parties who will not be proceeding prior to the day of trial to reduce attendance at the court facility.

#### **Summoning Jurors**

1. The jury clerk must include with in-person juror summonses information regarding precautions that have been taken to protect the health and safety of prospective jurors (see Attachment A)<sup>1</sup> and COVID questionnaires (see Attachment B)<sup>2</sup> that elicit from prospective jurors information about their exposure or vulnerability to COVID-19.
2. Judges will consider using juror questionnaires for voir dire to assist in shortening the length of voir dire or the number of venirepersons.
3. Excuses or requests to reschedule from in-person prospective jurors who have been potentially exposed, who are symptomatic, and who are vulnerable or live with someone vulnerable to COVID-19 will be liberally granted.

#### **Location for Jury Selection, Trial, and Deliberation**

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<sup>1</sup> Include as Attachment A the information that the court will include with summonses.

<sup>2</sup> Include as Attachment B the COVID questionnaire that the court will include with summonses. A sample COVID questionnaire is available at <https://txcourts.gov/media/1449739/petit-juror-questionnaire-addendum-covid-19-pre-screening.pdf>.

1. The following locations have sufficient space to permit adequate social distancing and will be used for in-person jury proceedings:<sup>3</sup>
  - a. Jury Qualification: McLennan Room of the Waco Convention Center
  - b. Voir Dire: McLennan Room of the Waco Convention Center
  - c. Trial: Annex Courtroom located in the courthouse annex
  - d. Jury Deliberation: Annex courtroom in the courthouse annex
2. Security protocols at the locations for jury proceedings have been reviewed with the appropriate courthouse security personnel and are adequate for the proceeding.

### **Screening**

1. In addition to the requirements of the previously submitted in-person Operating Plan, all court participants and observers attending an in-person jury proceeding will be screened for elevated temperatures and will be questioned to determine if the individual has recently had symptoms of COVID-19 or been exposed to COVID-19.
2. All participants in a trial who are incarcerated will be screened by the jail/prison prior to transport to the courtroom and any known exposure, symptoms, or COVID-19 positive test results within the past 30 days will be reported to the judge presiding over the jury trial prior to the transport of the participant to the courtroom.

### **Face Coverings**

1. In addition to the requirements of the previously submitted in-person Operating Plan, all persons entering the common areas of a courthouse, including a courtroom or any other location being used to conduct a jury trial, will be required to wear a face covering at all times unless the person is an individual that is not recommended to wear a mask by the Centers for Disease Control or the Texas Department of State Health Services.
2. All court participants will be required to wear face coverings from jury qualification through the end of trial.
3. Court participants who may need to lower their face mask to speak or for a short period of time will be required to wear a face shield. When speaking, judges will permit a court participant to lower his or her mask so long as a face shield is worn, and the person speaking is immobile.

### **Social Distancing**

1. Social distancing of all court participants and observers will be maintained at all times during the jury proceeding, including during the trial and deliberation.
2. Special attention will be paid by courts to ensure adequate social distancing and managed exits of individuals during breaks, especially when dismissing large groups of people for a break.

### **Alternate Jurors**

1. Each judge with an approved in-person jury proceeding will be encouraged to consider selecting alternate jurors to permit the trial to continue in the event of a juror becoming ineligible to serve for a reason unrelated to that person's exposure to or contraction of COVID-19.

### **Arrangement of Courtroom**

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<sup>3</sup> Court who may need to hold a proceeding outside of the courthouse should review Chapter 292 of the Local Government Code (related to having an auxiliary facility designated as a courthouse) and Government Code Sections 24.033(b) (district courts), 25.0019(b) (statutory county courts), 25.0032(b) (statutory probate courts), 26.009(b) (constitutional county courts), 27.0515 (justice courts), 29.015 (municipal courts), and 30.000123 (municipal courts of record)—relating to designating alternative locations for proceedings.

1. The following attached (drawing C and D) details how each of the courtrooms or facilities will be arranged during the jury proceeding:<sup>4</sup>

Jury empaneling and voir dire examination will occur in the McLennan Room of the Waco Convention Center.

The attached drawing (Attachment C) is a schematic of the facility showing how prospective jurors will be appropriately socially distanced and seated. The small rectangles in the lower right portion of the drawing represent the arrangement of counsel table and judge's bench.

The trial proper will be held in the McLennan County Annex Courtroom. The attached drawing (Attachment D) illustrates how jurors, counsel, judge and court reporter will be arranged. The jury will deliberate in the courtroom. All other personnel will exit the courtroom during jury deliberations. This will allow jurors to be appropriately social distanced during deliberations.

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<sup>4</sup> Include where the judge, parties/counsel, jurors, witnesses, court reporter, and bailiff will be arranged in each courtroom or facility during each phase of the trial.

### Microphone Protection Protocols

1. Judges will limit, to the degree possible, the shared use of microphones during the jury proceeding.
2. If a microphone must be shared, judges will limit the passing of the microphone unless the microphone is cleaned between each user.
3. Disposable microphone covers will be placed on shared microphones and changed between each user.

### Exhibit/Evidence Management

1. Judges will limit, to the degree possible, the use of physical or paper exhibits/evidence where feasible or appropriate by converting the exhibit/evidence to a digital form.
2. When physical or paper exhibits/evidence is required, judges will reduce the exchange of that exhibit/evidence to the number of persons necessary and will limit passing the exhibit/evidence to the individual members of the jury.
3. If an exhibit/evidence is required to be transferred from person-to-person, single use gloves will be provided, worn, and discarded immediately after handling the exhibit/evidence.
4. During jury deliberations, judges will make efforts to provide the jury with access to digital exhibits/evidence that would normally be shared with the jury during deliberation. Where digital exhibits/evidence is not feasible, judges will consider limiting the transfer of the exhibits/evidence from juror-to-juror by spreading the exhibits/evidence on a table for inspection from the table in the jury deliberation room.

### Witnesses

1. Judges will inquire whether witnesses to the proceedings have COVID-related issues.
2. To the degree constitutionally permissible or with the consent of the parties, judges will permit witnesses to testify remotely via videoconference, especially if that witness has symptoms of or a recent positive test for COVID-19, has been recently exposed, or is vulnerable to contracting COVID-19.

### Food Precautions

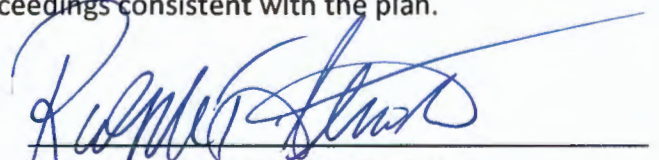
1. Courts that provide food to jurors or other participants during a jury proceeding will ensure individual food portions, such as individually boxed meals, are provided.

### Cleaning

1. In addition to the requirements of the previously submitted in-person Operating Plan, frequent cleaning protocols in the courtrooms and facilities will be maintained throughout the jury proceeding as appropriate.
2. Shared spaces such as witness stands, seating in the gallery, and seating during qualification/voir dire will be cleaned during transitions of those spaces.
3. Seats for members of the jury panel and selected jurors will be assigned to reduce potential transmission and the need for more frequent cleaning.

I have attempted to confer with all judges of courts with courtrooms in the court building regarding the Jury Proceeding Addendum to the Operating Plan. In developing the plan, I consulted with the local health authority and county judge, documentation of which is attached to this plan. I will ensure that the judges of courts with courtrooms in the court building covered by this Operating Plan conduct proceedings consistent with the plan.

Date: October 2, 2020

  
Local Administrative District Judge



JON R. GIMBLE

McLennan County District Clerk

501 Washington Ave, Suite 300
Waco, TX 76701

Attachment A

Dear Prospective Juror #

You are hereby summoned for jury service on at

Please report to the McLENNAN ROOM located at the WACO CONVENTION CENTER

THE FOLLOWING JUROR QUESTIONNAIRE IS MANDATED BY TEXAS GOVERNMENT CODE, SECTION 62.0132, and is confidential. Your answers are CONFIDENTIAL and may be disclosed only to the judge, court personnel, litigants, and their attorneys. PLEASE TYPE OR PRINT WITH INK ONLY.

Juror Questionnaire form with fields for personal information, education, employment, and marital status.

If you have a special need or disability, please call 254-757-5054 or email jury@co.mclennan.tx.us

McLennan County Jury Summons

Right to Reemployment: A private employer may not terminate the employment of a permanent employee because the employee serves as a juror.

Failure to Answer Summons and Provision of False Information: A person who fails to comply with this summons, or who knowingly provides false information in a request for an exemption or to be excused from jury service, is subject to a contempt action punishable by a fine of not less than \$100 nor more than \$1,000.

Please report to the McLENNAN ROOM located at the WACO CONVENTION CENTER

**When you show up for jury duty, be sure to have completed the form on the frontside of this page and the COVID questionnaire attached.**

**Please report to the McLENNAN ROOM located at the WACO CONVENTION CENTER**

**EXEMPTIONS FROM JURY SERVICE** (Texas Government Code, Section 62.106)

1. You are over 70 years of age.
2. You have legal custody of a child or children younger than 12 years of age and service on the jury would require leaving the child or children without adequate supervision.
3. You are a student at a public or private high school.
4. You are enrolled and in actual attendance at an institution of higher education.
5. You are an officer or an employee of the senate, the House of Representatives, or any department, commission, board, office, or other agency in the legislative branch of state government.
6. You are the primary caretaker of a person who is unable to care for himself or herself. (This exemption does not apply to you if you are a primary caretaker only in your capacity as a health care worker.)
7. You are a member of the United States military forces serving on active duty and deployed to a location away from your home station and out of your county of residence;
8. You have been summoned for jury service in this county and you have served as a petit juror in this county during the three-year period prior to the date you are required to appear by this summons.

**QUALIFICATIONS FOR JURY SERVICE** (Texas Government Code, Section 62.102)

**To be qualified to serve as a juror you *must*:**

1. be at least 18 years of age;
2. be a citizen of the United States;
3. be a resident of this state and a resident of the county in which you are to serve as a juror;
4. be qualified under the Constitution and laws to vote in the county in which you are to serve as a juror (*Note: You do not have to be registered to vote to be qualified to vote*);
5. be of sound mind and good moral character;
6. be able to read and write;
7. not have served as a juror for six days during the preceding three months in the county court or during the preceding six months in the district court; and
8. not have been convicted of, or be under indictment or other legal accusation for, misdemeanor theft or a felony.

**You may claim an exemption ahead of time by emailing [jury@co.mclennan.tx.us](mailto:jury@co.mclennan.tx.us) or signing below and certifying that you are exempt or disqualified for the reason circled above.**

**To mail back to our office, the Post office requires that you put this summons in an envelope.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**JURY SERVICE COVID-19 PRE-SCREENING QUESTIONNAIRE Attachment B**

Dear Prospective Juror:

As part of the court's ongoing measures to protect against the spread of the COVID-19 disease, we ask that you complete the following before reporting for Jury Service. Bring this completed questionnaire with you or email it to [jury@co.mclennan.tx.us](mailto:jury@co.mclennan.tx.us) BEFORE your date of appearance

**1. SYMPTOMS WITHIN THE LAST 14 DAYS:** check any that apply to YOU or A MEMBER OF YOUR HOUSEHOLD

- Fever (above 100.0)  Change in taste, smell or appetite  Cough  
 Headache  Shortness of Breath  Diarrhea  Chills or repeated shaking with chills  
 Muscle pain or body aches  Sore throat  
 I certify that NONE of the symptoms above have been experienced by me or a member of my household in the past 14 days.

**IF YOU ARE EXPERIENCING ANY OF THE ABOVE SYMPTOMS, CONTACT THE DISTRICT CLERK'S OFFICE at (254) 757-5054 OR [jury@co.mclennan.tx.us](mailto:jury@co.mclennan.tx.us) BEFORE REPORTING**

**2. CONTACT HISTORY -** check any that apply to YOU or A MEMBER OF YOUR HOUSEHOLD:

- I or a member of my household has been diagnosed with COVID-19 within the past 4 months;  
 I or a member of my household has been in close contact with someone exposed to or infected with COVID- 19 in the last 14 days;  
 I or a member of my household are currently on a watch list or self-quarantining because of possible COVID- 19 exposure;  
 NONE of the above apply.

**IF ANY OF THE ABOVE APPLY, CONTACT THE DISTRICT CLERK'S OFFICE at (254) 757-5054 OR [jury@co.mclennan.tx.us](mailto:jury@co.mclennan.tx.us) BEFORE REPORTING.**

**3. COVID-19 RELATED EXCUSE OR EXTENSION:** Individuals who are over age 65 and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune systems are compromised, such as by chemotherapy for cancer or other conditions requiring such therapy, are considered to be vulnerable populations and may request to reschedule or be excused from grand jury service at this time. If you wish to be excused or request that your grand jury service date be rescheduled, check the box below.

- I certify that I meet the above-described conditions and I am requesting to be excused from jury service desire to have my service date rescheduled because of those conditions.*

**IF YOU ARE REQUESTING TO BE EXCUSED OR YOUR SERVICE DATE BE RESCHEDULED DUE TO A COVID-19 RELATED REASON, CONTACT THE DISTRICT CLERK'S OFFICE at (254) 757-5054 OR [jury@co.mclennan.tx.us](mailto:jury@co.mclennan.tx.us) BEFORE REPORTING.**

**4. FACE COVERINGS:** Prospective jurors are strongly required to wear a face covering while they are serving. Individuals are encouraged to bring a cloth face covering with them. If an individual does not have a cloth face covering, a disposable face mask will be provided upon request.

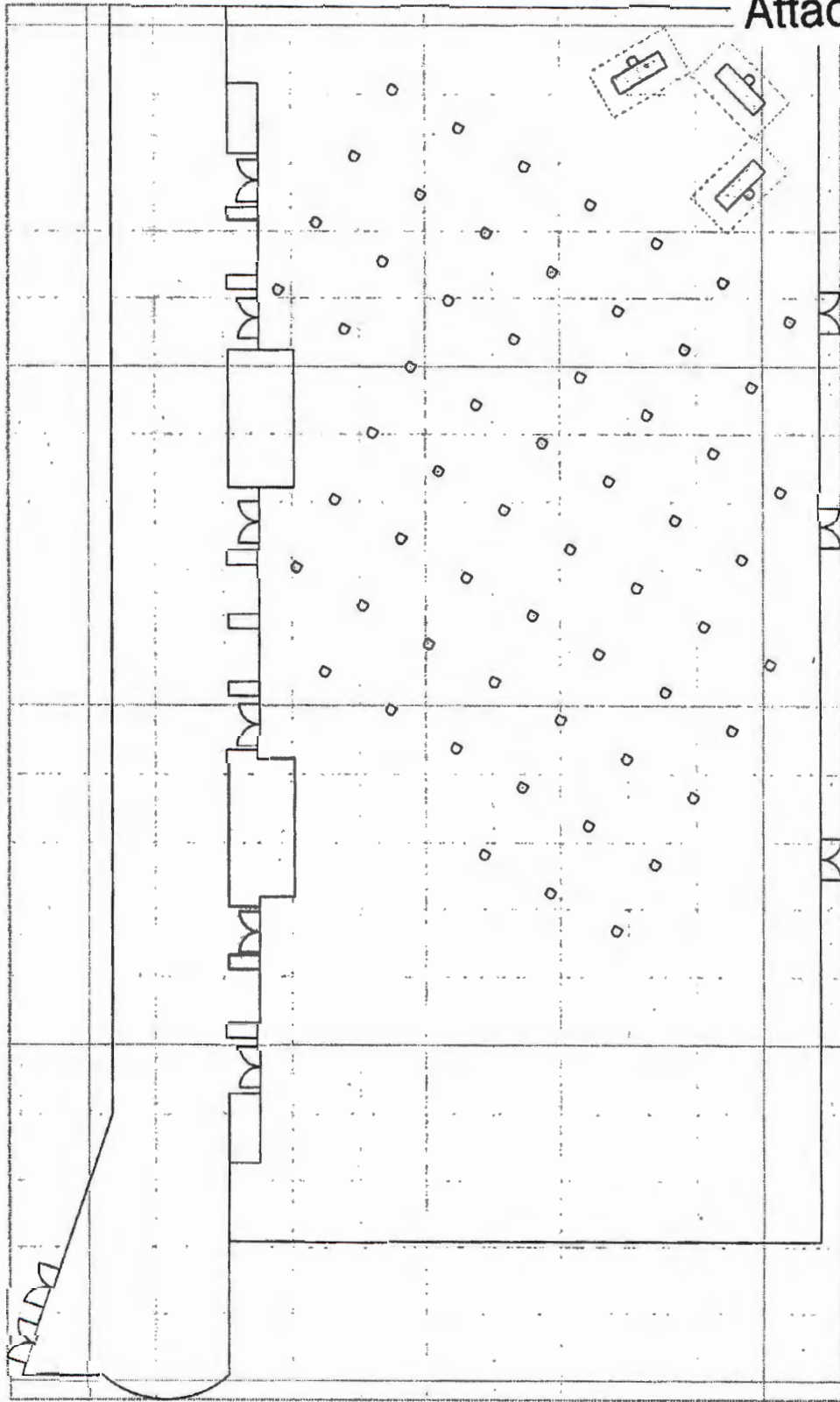
I certify the above is true and correct:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

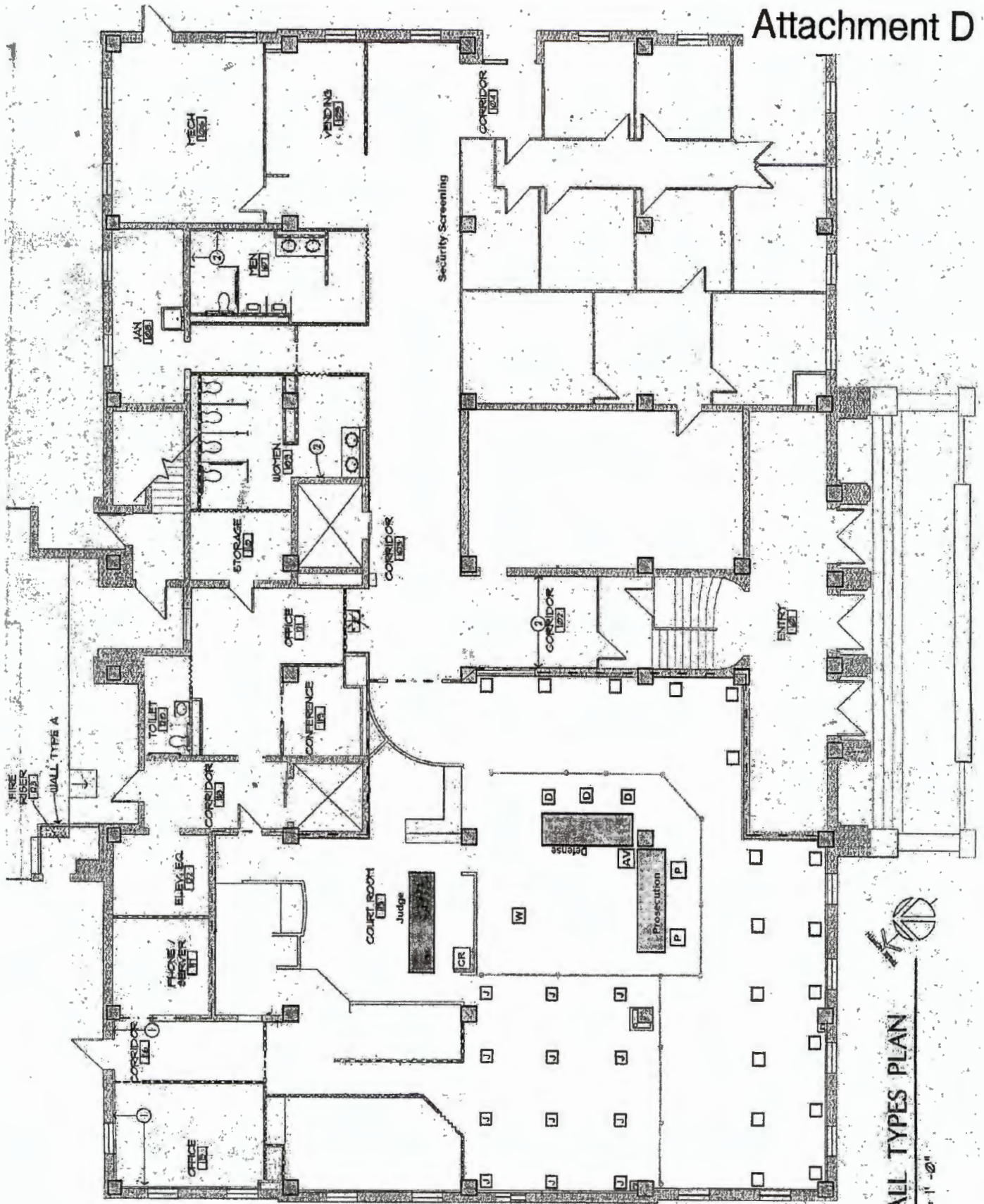


# Attachment C



10 Feet

# Attachment D



1 WALL TYPES PLAN

1/8" = 1'-0"