Amended

TEMPLATE TO BE MODIFIED AS APPROPRIATE

Jury Proceeding Addendum to COVID-19 Operating Plan for the

ROBERTSON AND FALLS County Judiciary

Effective on and after ~~October 1, 2020~~ JANUARY 1, 2021

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 courts of **82nd Judicial District** 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:
   PROTOCOLS AS SET FORTH IN THE PREVIOUSLY APPROVED JURY TRIAL PLAN

B.R

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2. 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:
   PROCEDURES AS SET FORTH IN THE APPROVED JURY PLAN

   _____

   _____

   _____

   _____

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)[1] and COVID questionnaires (see Attachment B)[2] 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

1. The following locations have sufficient space to permit adequate social distancing and will be used for in-person jury proceedings:[3]
   a. Jury Qualification: FIRST BAPTIST CHURCH (ROBERTSON); HIGH SCHOOL AUDITORIUM(FALLS)
   b. Voir Dire: SAME AS ABOVE
   c. Trial: DISTRICT COURTROOM FOR BOTH ROBERTSON & FALLS COUNTIES
   d. Jury Deliberation: BASEMENT OR COUNTY COURTROOM
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

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[1] Include as Attachment A the information that the court will include with summonses.

[2] Include as Attachment B the COVID questionnaire that the court will include with summonses. A sample COVID questionnaire is available at

[3] 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.

B.A.

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

1. The following description (or attached drawing) details how each of the courtrooms or facilities will be arranged during the jury proceeding:[4]

PLEASE SEE ATTACHED PHOTOS OF BOTH COURTROOMS. COUNSEL TABLES WILL BE TURNED TO FACE EACH OTHER AND JURORS WILL BE SEATED IN THE FRONT TWO ROWS OF THE GALLERY AREA.

[4] 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.

B.R

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.

B.A.

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: ~~9/25/2020~~ 12/22/2020

Local Administrative District Judge

82ND JUDICIAL DISTRICT COURT
Falls and Robertson Counties

P.O. Box 75
Marlin, Texas 76661
(254) 883-1421
FAX (254) 883-1423

BRYAN RUSS, JR., DISTRICT JUDGE

MARSHA REKIETA
Court Coordinator

JUDITH G. WERLINGER
CSR RMR CRR CMRS
Official Court Reporter

To Prospective Jurors:

As the District Judge for the 82nd Judicial District Court your health and safety, as a potential juror, is of paramount importance. Please know the District Court is taking precautions to protect your health and safety as you report for jury duty.

In an effort to protect your health and battle the virus, upon entry into the Courthouse, your temperature will be checked. You will be provided with a face mask and a clear plastic shield for your face. Social spacing will be maintained. Hand sanitizer units will be available at various locations throughout the courthouse. There will be limitations on the number of individuals allowed onto the elevator at one time and there will be limits on the number of individuals allowed into the restroom facilities at one time.

Every effort will be used during the trial process to make you as comfortable as possible, protect your health and make sure the administration of justice is done fairly for all concerned.

The District Court appreciates your cooperation and understanding during these unusual times and should you have any questions or concerns regarding jury duty feel free to contact the District Clerk or the District Judge.

Thank you.

Sincerely;

District Judge

EXHIBIT A

JURY SERVICE COVID-19 PRE-SCREENING QUESTIONNAIRE

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 on September 15, 2020. Bring this completed questionnaire with you or email it to Bryan.russ@co.robertson.tx.us BEFORE September 15, 2020:

1. SYMPTOMS NOW OR BETWEEN August 25, 2020 and September 15, 2020 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 between August 25, 2020 and September 15, 2020

IF YOU ARE EXPERIENCING ANY OF THE ABOVE SYMPTOMS, CALL THE DISTRICT CLERK'S OFFICE at (979) 828-3636 BEFORE REPORTING ON SEPTEMBER 15, 2020.

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, CALL THE DISTRICT CLERK'S OFFICE at (979) 828-3636 BEFORE REPORTING ON SEPTEMBER 15, 2020.

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 or desire to have my service date rescheduled because of those conditions.***

IF YOU ARE REQUESTING TO BE EXCUSED OR YOUR SERVICE DATE BE RESCHEDUELD DUE TO A COVID-19 RELATED REASON, CALL THE DISTRICT CLERK'S OFFICE at (979) 828-3636 BEFORE REPORTING ON SEPTEMBER 15, 2020.

4. FACE COVERINGS: Insert one of the statements from the two below that accurately describes the procedure in place in your jurisdiction:

Prospective grand jurors are required to wear a face covering while they are in the courthouse. 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.

I certify the above is true and correct: _____ _____

Signature Printed Name

EXHIBIT B

GRAND JURY SERVICE COVID-19 PRE-SCREENING QUESTIONAIRE

Dear Prospective Grand Juror:

As part of you measures to protect against the COVID-19 disease, we ask that you complete the following before reporting for Grand Jury Service on July 6, 2020. Bring this completed questionnaire with you or email it to terri.shepherd@co.gregg.tx.us BEFORE July 6, 2020:

1. **SYMPTOMS NOW OR BETWEEN JUNE 15 AND JULY 6, 2020:** 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 between June 15 and July 6, 2020

2. **IF YOU ARE EXPERIENCING ANY OF THE ABOVE SYMPTOMS, CALL THE DISTRICT CLERK'S OFFICE BEFORE REPORTING ON JULY 6, 2020 at (903) 234-3138.**

3. **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.

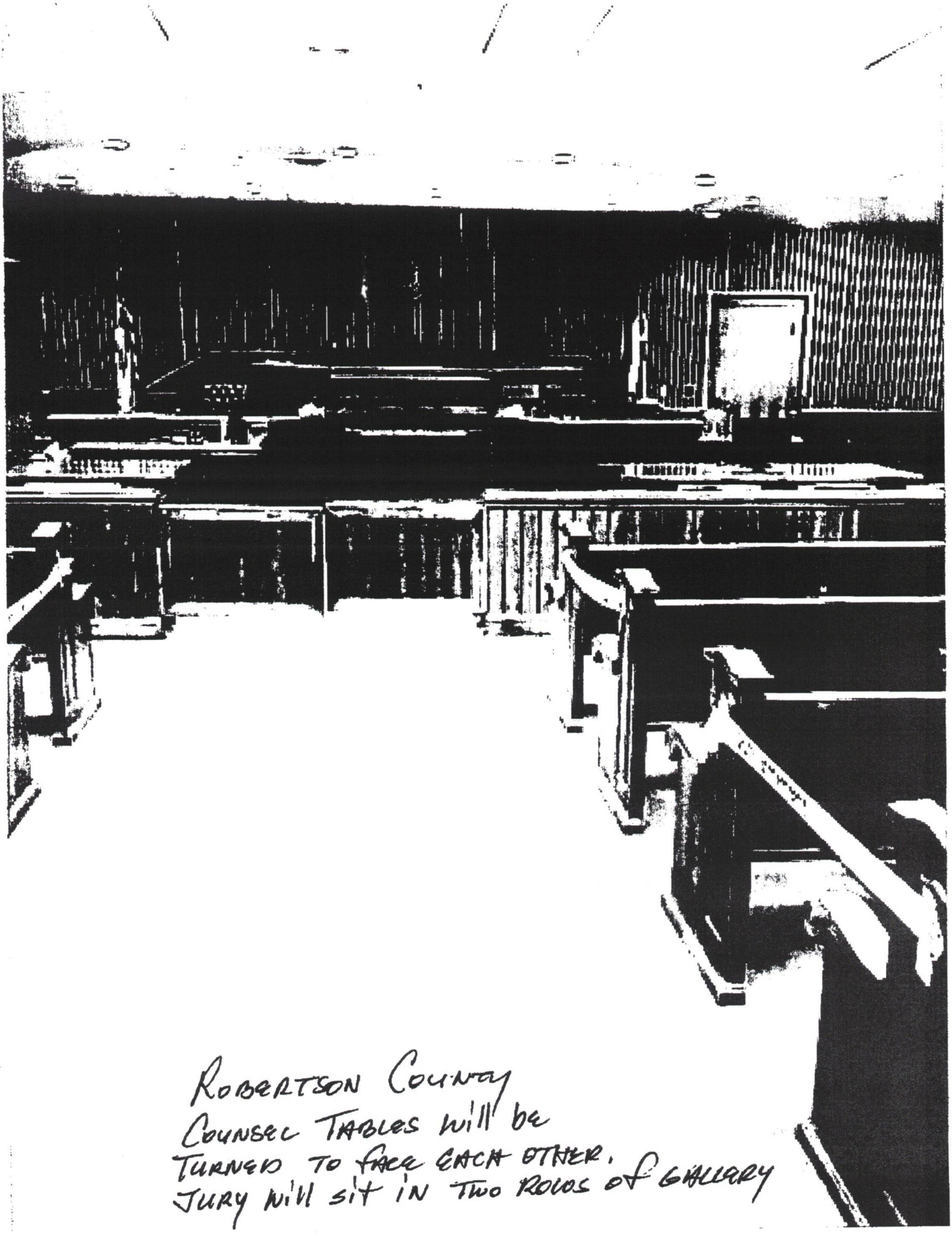
4. **IF ANY OF THE ABOVE APPLY, CALL THE DISTRICT CLERK'S OFFICE BEFORE REPORTING ON JULY 6, 2020 at (903) 234-3138.**

5. **FACE COVERINGS:** Prospective grand jurors are strongly encouraged to wear a face covering while they are in the courthouse. Individuals are encouraged to bring a cloth face covering with them, but if the individual does not have a cloth face covering, a disposable face mask will be provided.

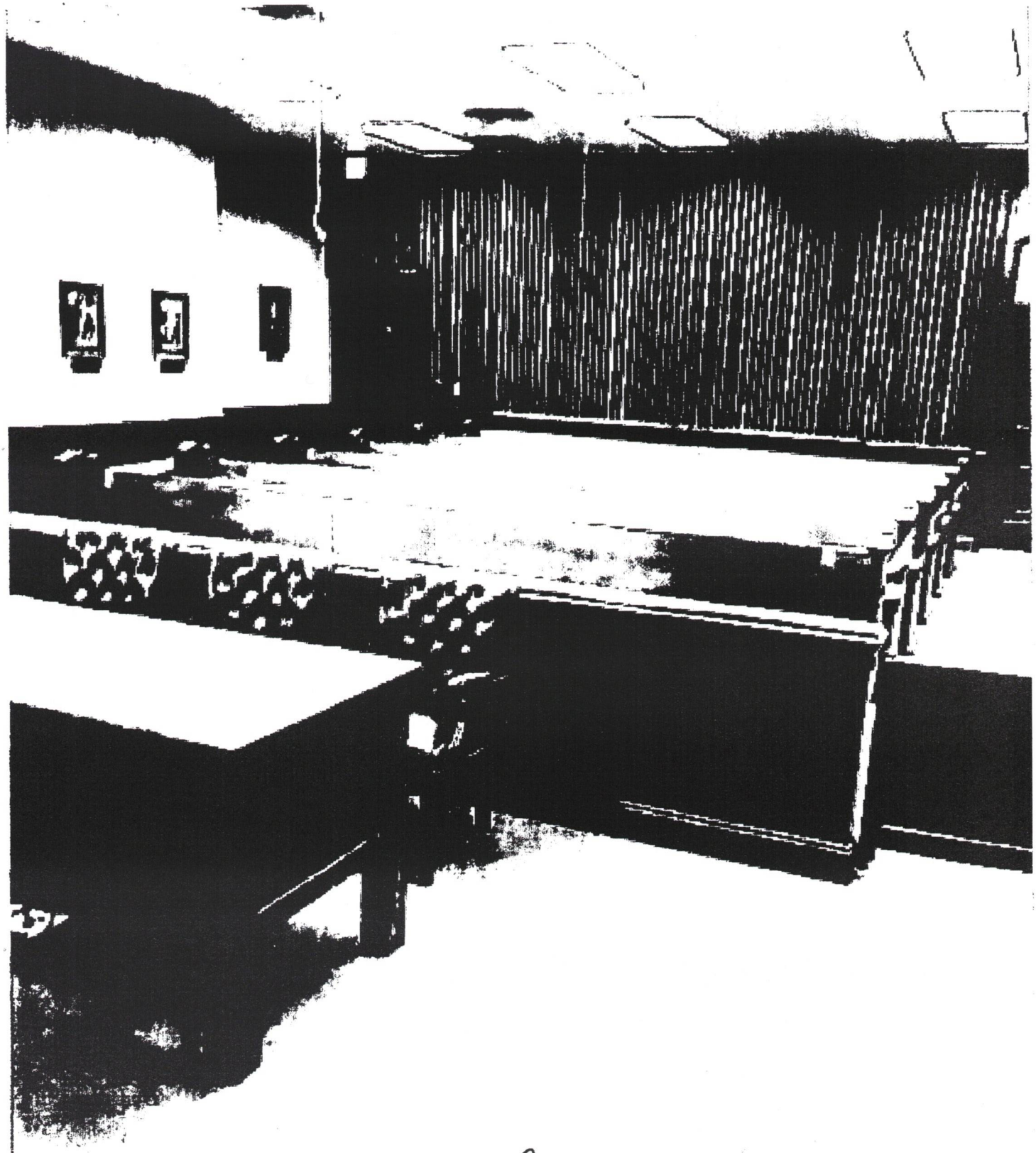
6. Individuals who are over age 65 and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune systems are compromised such as by chemotherapy for cancer or other conditions requiring such therapy are considered to be vulnerable populations and may request to reschedule or be excused from grand jury service at this time. □ ***I certify that I meet the above described conditions and I am requesting to be excused from jury service because of those conditions.***

I certify the above is true and correct: _____ _____

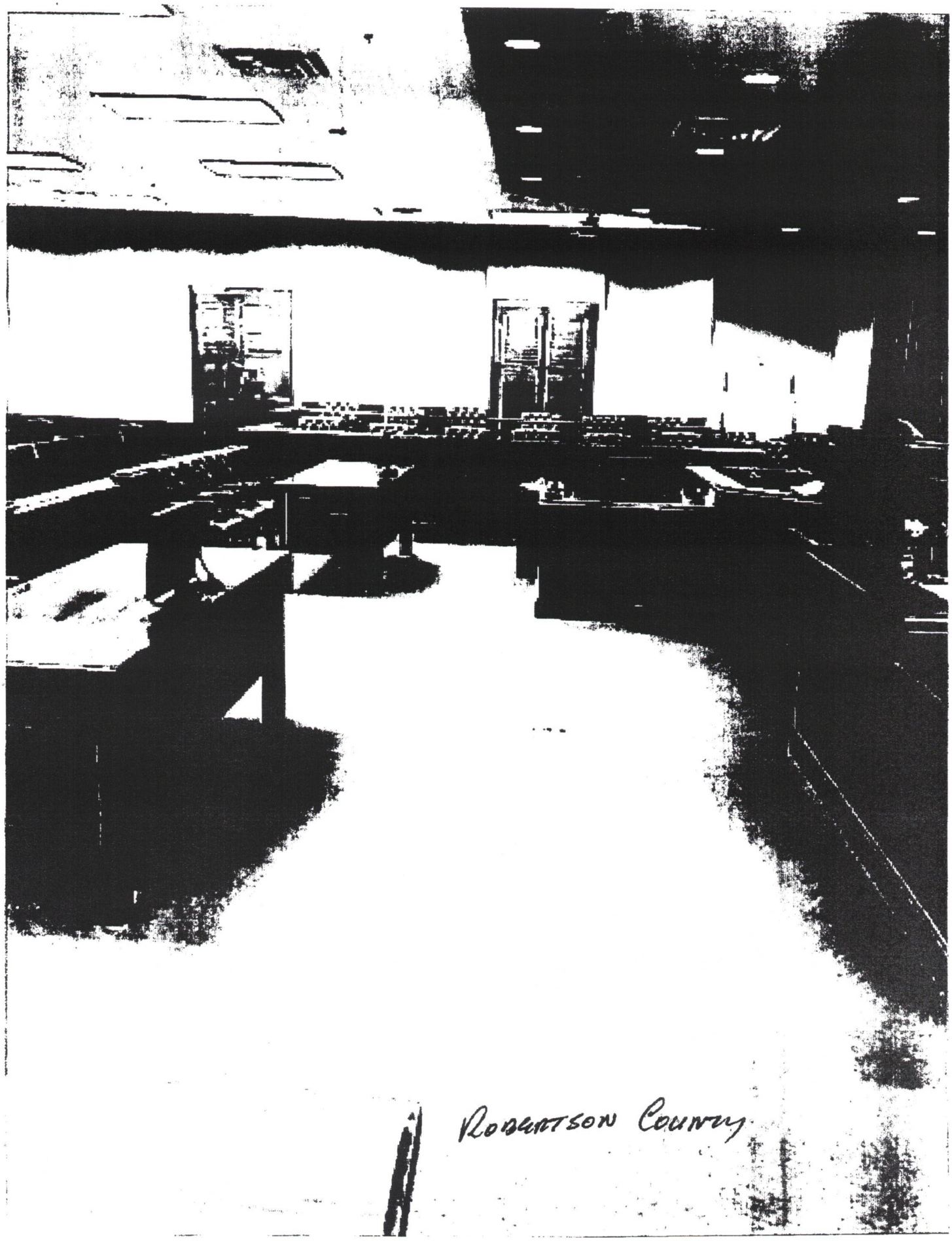
Signature Printed Name



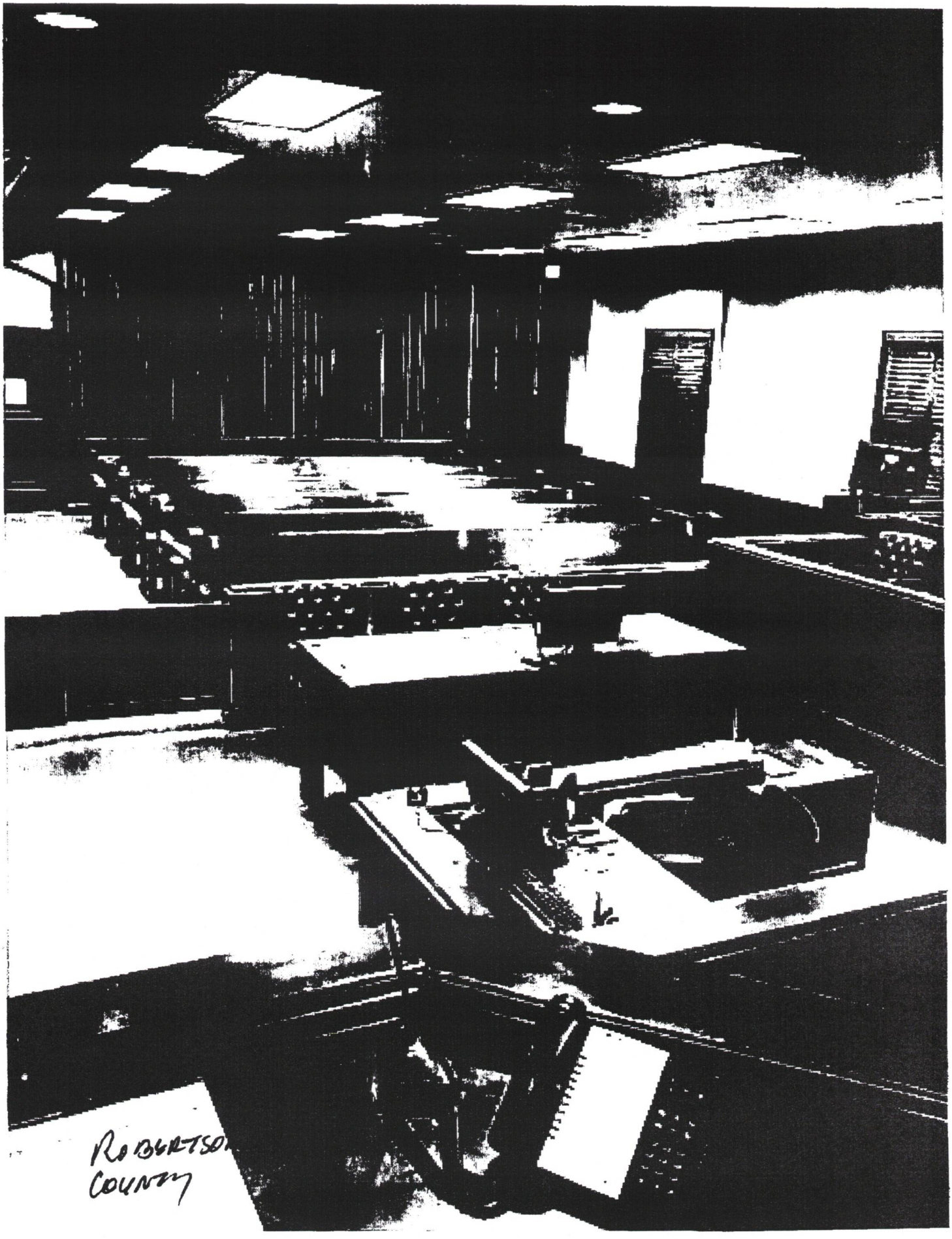
ROBERTSON COUNTY
COUNSEL TABLES WILL BE
TURNED TO FACE EACH OTHER.
JURY WILL SIT IN TWO ROWS OF GALLERY

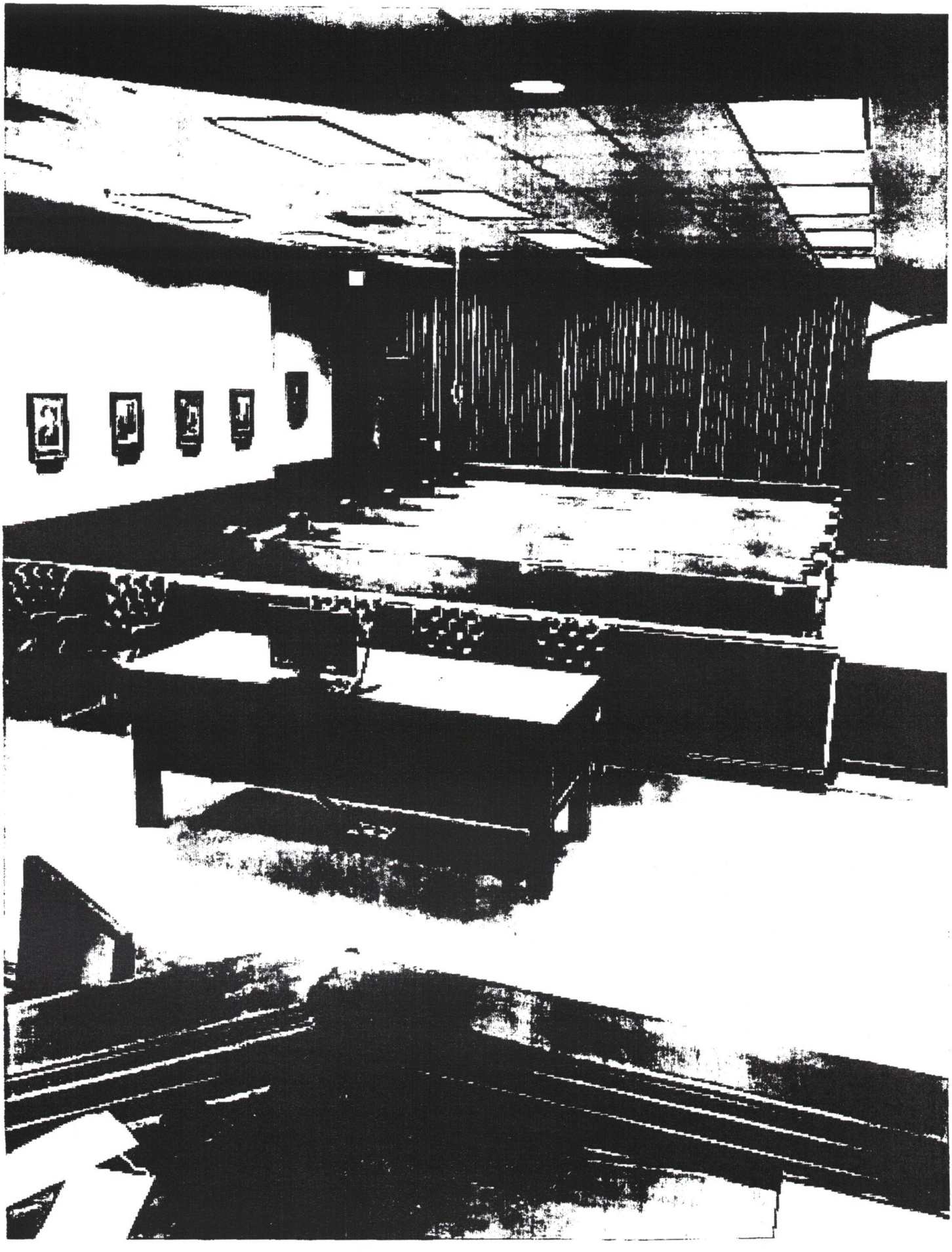


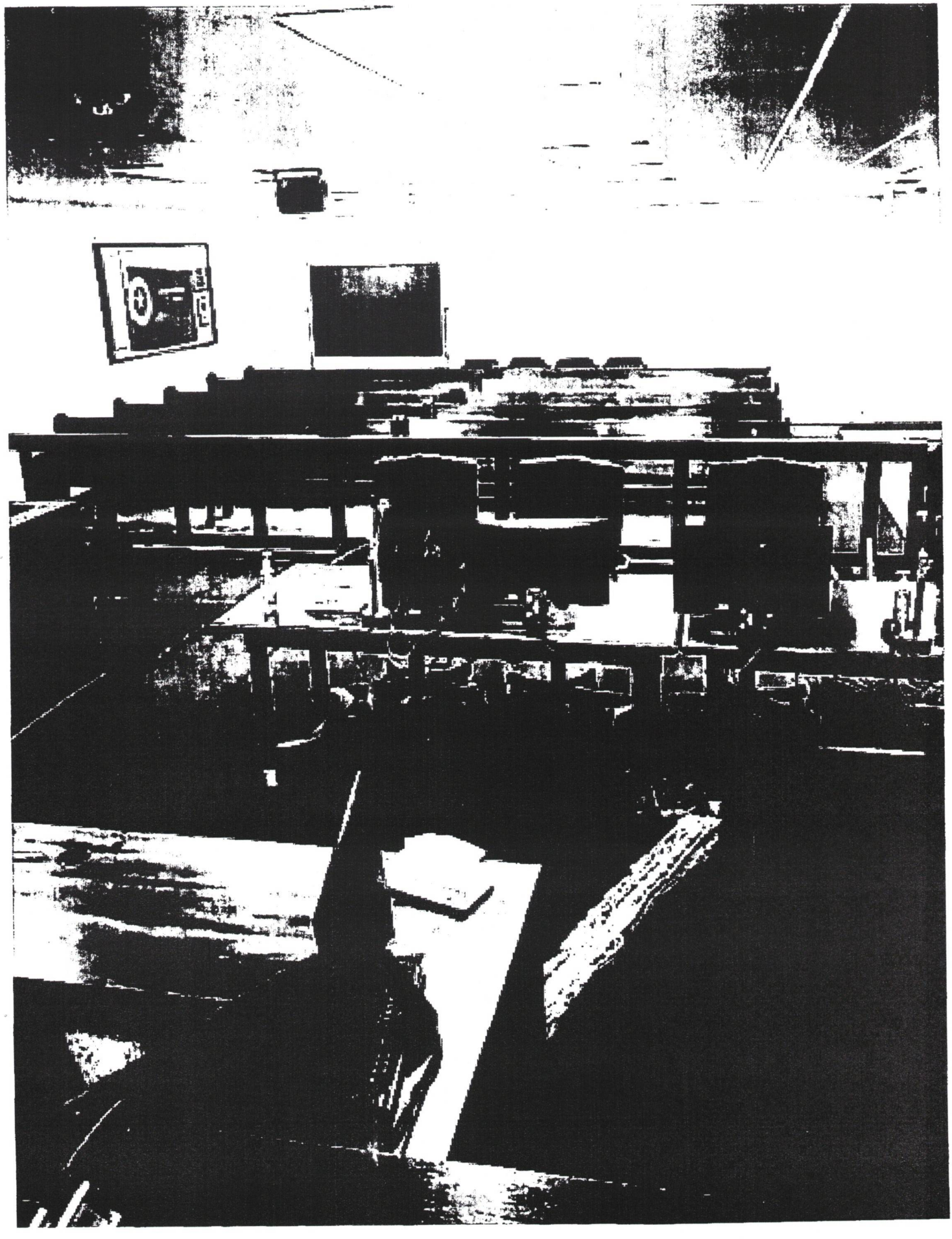
ROBERTSON COUNTY

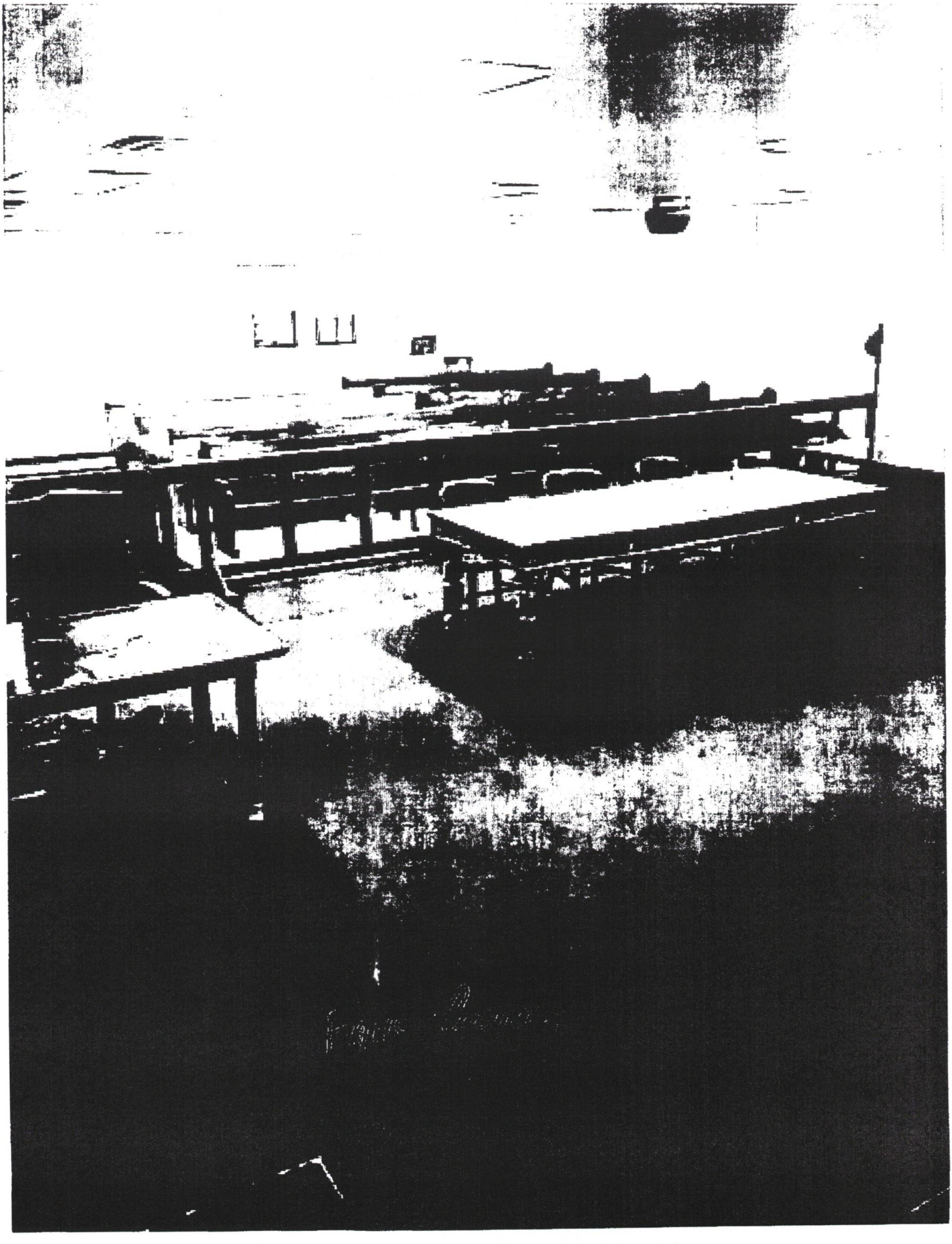


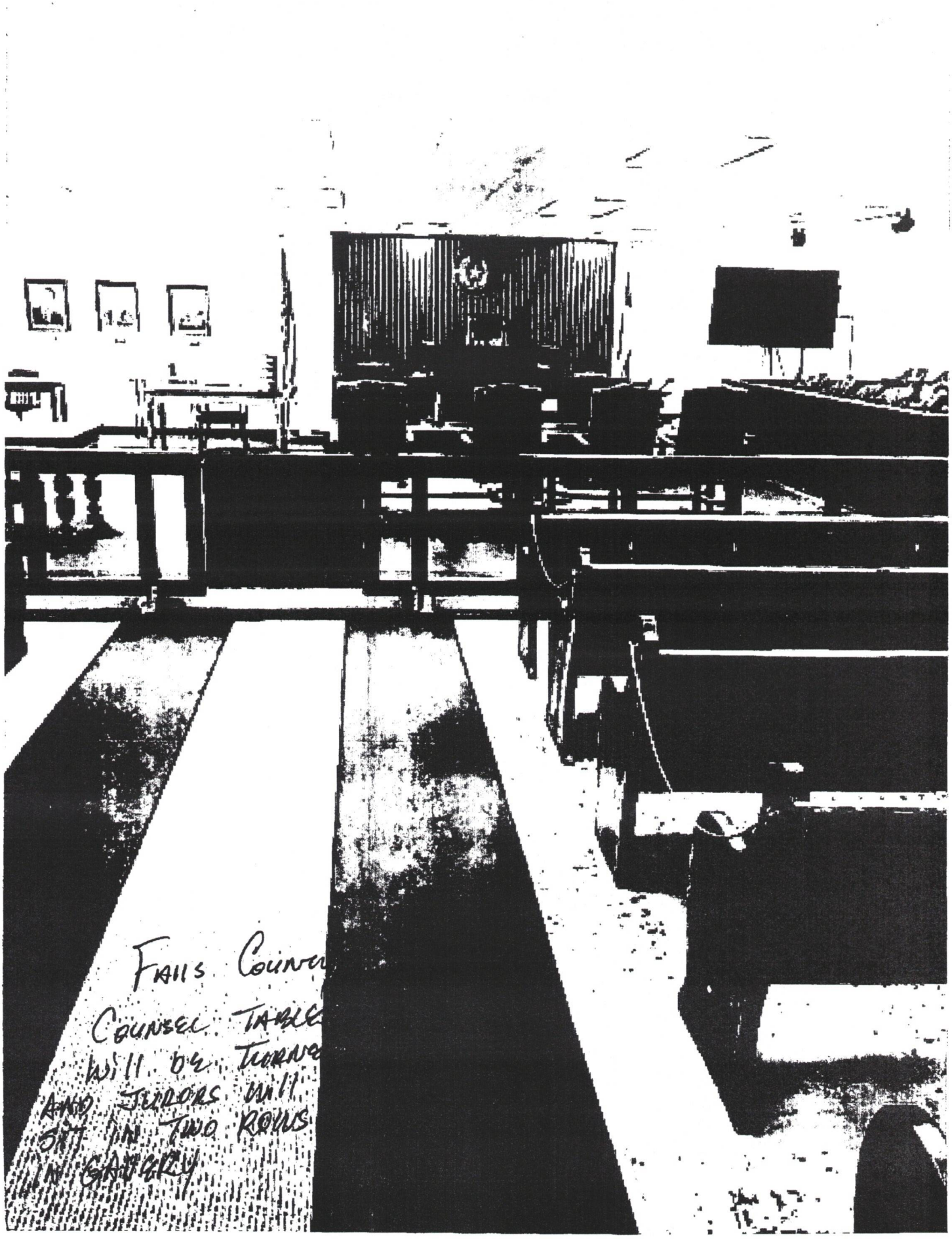
Robertson County


ROBERTSON
COUNTY

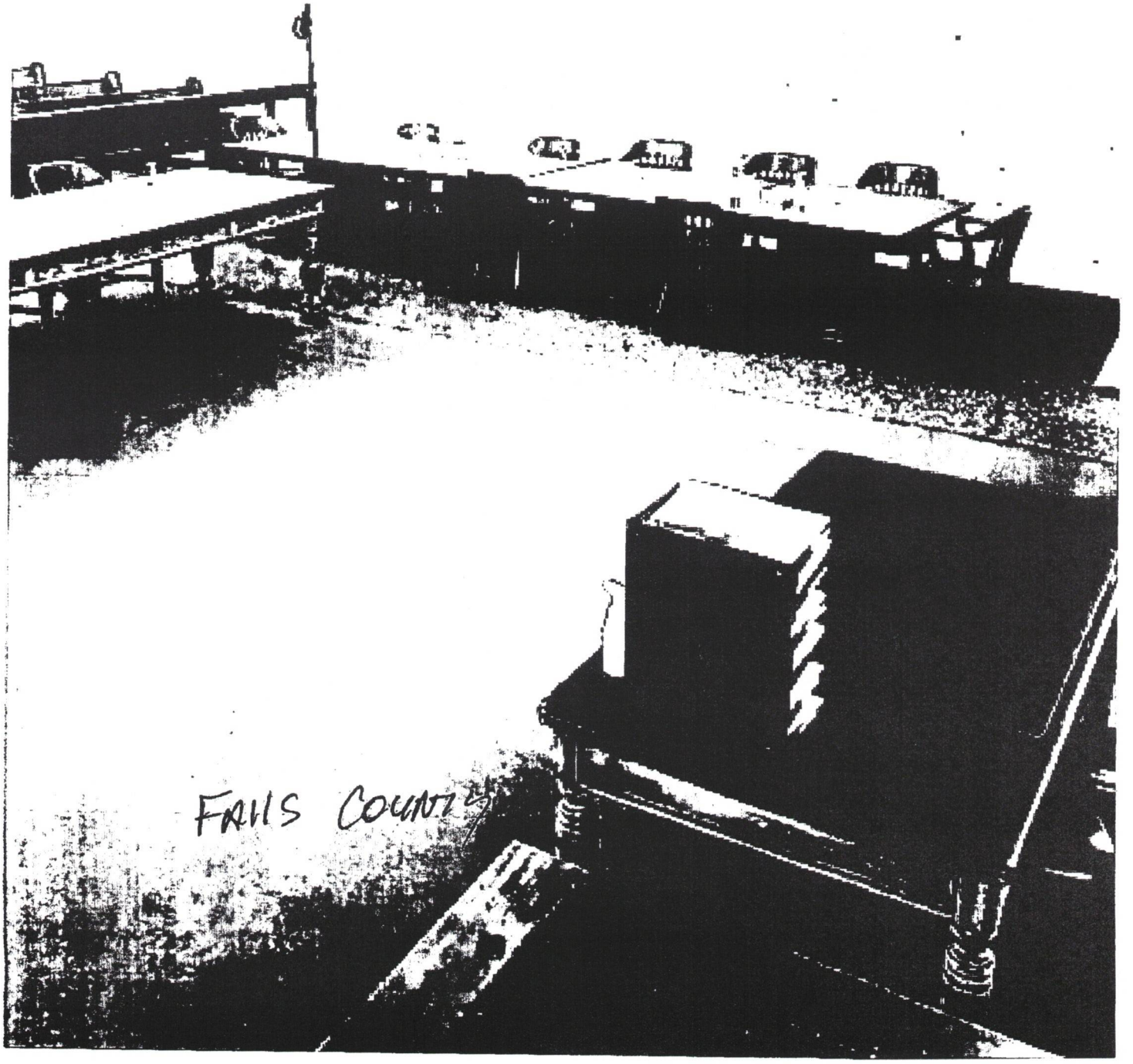







FALLS COUNTY
COUNSEL TABLE
WILL BE TURNED
AND JURORS WILL
SIT IN TWO ROWS
IN GALLERY

FALLS COUNTY


FALLS COUNTY

82ND JUDICIAL DISTRICT COURT
Falls and Robertson Counties

P.O. Box 75
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(254) 883-1421
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BRYAN RUSS, JR., DISTRICT JUDGE

MARSHA REKIETA
Court Coordinator

JUDITH G. WERLINGER
CSR RMR CRR CMRS
Official Court Reporter

PROPOSED PLAN TO CONDUCT JURY TRIALS IN THE 82ND JUDICIAL DISTRICT COURT

The following proposal is submitted to the Office of Court Administration and the Honorable Judge Stubblefield for consideration in allowing the 82nd Judicial District Court to hold jury trials in both Robertson and Falls Counties.

This Plan is formulated to address the health consideration of not only potential jurors, but court and clerk staff, attorneys, witnesses and spectators alike.

The 82nd Judicial District Court has heretofore submitted and obtained approval to conduct some in person hearings as well as empanel a grandjury.

1. GENERAL:

a. OPERATING PLAN:

The Operation Plan for the 82nd Judicial District has already been filed and approved and the Court has been operating under this Plan since approval was granted.

The Court has required its staff and as well as the Clerk's staff, bailiffs and attorneys to wear face masks. Additionally, individuals in the gallery are required to adorn masks and observe the distance requirement. The Court staff has placed proper disinfecting lotion at strategic points in the Courtroom and hallway. Additionally, the bathrooms and elevators are monitored by security to make sure the correct number of individuals are using these facilities at any given time.

b. SCHEDULING:

In Robertson County, the District Courtroom is reserved only for District Court matters. The District Judge has relocated the IV D Master's Court to another location in the Courthouse. All County Court matters are conducted in the County Courtroom. So the scheduling does not overlap.

In Falls County the District Courtroom is utilized by the District Court, County Court and the IV D Master's Court. It should be noted the IV D Master is not currently holding court. Scheduling of matters has not been an issue and there is plenty of time between sessions to clean and disinfect the courtroom.

c. DISTANCING:

The District Court has already implemented social distancing in the Courtroom.

d. HYGIENE:

The District Court has already put in place hand sanitizers in the hallway and individuals are required to use the sanitizer before entry into the Courtroom. Additionally, only one individual is allowed in the bathroo.ns at a time.

e. SCREENING:

Upon entry into the Court building, security is taking the temperature of individuals and if they are running 100 degree fever or more they are denied access. Additionally, face masks are handed out upon entry into the building.

f. CASE TYPE:

While the Court has both criminal and civil cases waiting on trials. The priority would be the pending criminal cases to help avoid potential overcrowding in the jail.

g. CONSENT:

The District Judge is not requiring the consent of counsel.

h. RECORD:

Since the District Court is a court of record, all matters would be on the record unless both counsel and the Court determine it is necessary to go off the record for discussion.

i. PUBLIC ACCESS:

The District Court would be open to the public, but the factors enumerated above would have to be followed. There would not be any streaming of the trial on social media.

j. CLEANING:

The entire courtroom would be cleaned at the end of each day of trial.

2. SUMMONSES:

Jury summonses would issue just like we did for the grandjury summonses. There would be attached to the summons, a covid questionnaire with contact information via phone or email to report symptoms and be excused from service.

For a normal trial the Court would issue (350) jury summonses. Historically, after exemptions and excuses the panel would consist of 70-80 potential jurors.

Remote technology would not be used as it is not practical. Jurors with potential covid issues will be provided a phone number and email address to seek exemptions. 100% of the individuals claiming symptoms are unilaterally excused from service.

3. QUALIFICATIONS:

If a prospective juror claims a statutory exemption via phone or email they are excused without appearance. If a prospective juror claims covid symptoms via phone or email they are excused without appearance.

All other potential jurors would be required to appear in person and would be give a face shield to be used during voir dire and trial.

4. VOIR DIRE:

This Court has two choices when conducting voir dire in an effort to comply with social distancing mandates. The Court estimates the District Courtroom can hold around 20-30 people and still maintain social distancing. While this is not enough to conduct a single voir dire, the Court can either hold voir dire off site or bring in the panel in two or more groups and have multiple voir dires.

Holding voir dire off site would require permission from the Supreme Court as the prospective location is outside the city limits of the county seat (Robertson County Only) and is therefore in violation of the Texas Constitution.

If permission were given to conduct voir dire off site, then once voir dire is completed, the case would reconvene back at the Courthouse. All side bars would be held with face shields for protection.

The Court always sits no less than two alternates for any jury trial in case of sickness or emergency.

5. EXHIBITS AND BREAKS:

The Court would not require counsel to premark exhibits as a trial is a fluid situation and at times counsel does not know in advance which exhibits will be utilized or not. However, face shields or a mask and gloves would be used to mark and introduce exhibits. All exhibits would be handed to the jurors via a bailiff wearing a face mask and gloves.

The Court normally has a midmorning break for 15 to 20 minutes, an hour for lunch and an afternoon break for 15-20 minutes.

6. DELIBERATIONS:

The jury would deliberate either in the jury room with face shields or taken to the county courtroom where they would be provided with space for social distancing. The evidence would be provided by the bailiff wearing a mask and gloves.

Food would be served, if necessary, to the jurors in the County Courtroom to provide for sufficient distancing. It would be a type of food that would be individually wrapped and untouched.

All spaces would be cleaned at the end of each day.

Thank you for your consideration of this plan. This Court believes we can safely call a jury and protect their health and the health of the trial participants and continue to operate our legal system in a safe and prudent manner.

Respectfully Submitted,

Bryan Russ, Jr.
District Judge
82nd Judicial District Court