Can Transportation Subsidies Reduce Failures to Appear in Criminal Court?

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Sector(s): Crime, Violence, and Conflict

Location: King County, Washington, United States

Sample: 468 people arraigned on misdemeanors or civil offenses and represented by a public defender

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Partner organization(s): King County Metro, King County Department of Public Defense, Seattle Municipal Court

Failing to appear for a court hearing (FTA) can have severe ramifications for those scheduled to appear in court, leading to increasing penalties for what otherwise might have been a minor offense. One hypothesized barrier to attending court appointments is a lack of access to transportation. Researchers partnered with local agencies in King County, Washington to evaluate the impact of providing transit subsidies on rates of FTA in court. While the study was disrupted due to Covid-19, the pilot results indicated that transit subsidies had little effect on reducing FTA. However, the transit subsidies were heavily used, demonstrating that they were highly valued by participants and may have other individual or societal benefits beyond reducing FTA.

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In the United States, when individuals fail to appear for a scheduled court hearing, they can face severe repercussions. Failing to appear (FTA) may result in additional fines or arrest, leading to increasing penalties for what otherwise might have been a minor offense, such as jaywalking or littering. This can pose significant burdens for both those who were summoned to court and others who may rely upon them. FTA can also be costly for the judicial system, as defense lawyers must locate their clients and the court must reschedule missed hearings.

Randomized evaluations have found that text message reminders and other nudges can decrease FTA rates by addressing attentional, informational, and behavioral barriers.[1], [2], [3], However, another barrier defendants often cite is difficulty accessing transportation.[4] This study presents pilot results from a randomized evaluation that examines whether transportation assistance in the form of public transit subsidies can reduce failure to appear.

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This study took place in the Seattle Municipal Court (SMC) in downtown Seattle, Washington. At the time of the study, SMC handled all misdemeanor crimes, civil infractions, and civil offenses in the City of Seattle. The court is accessible by bus and light rail. Transit subsidies were distributed through ORCA LIFT, King County's subsidized public transit program, which provides

reduced-fare transit cards to King County residents with income below 200 percent of the poverty line.

Those eligible for the study were defendants who were scheduled to appear at in-custody arraignment hearings, represented by a King County Department of Public Defense public defender, and were to be released on personal recognizance or day reporting. By demonstrating eligibility for public defender representation, participants also met income thresholds for reduced-fare transit cards. Participants tended to be male (78 percent) and white (54 percent). The average age of participants was 37 years old. The most common charges were theft (30 percent), assault (24 percent), and trespass (22 percent). Most of those enrolled in the study were initially released on personal recognizance (71 percent), while some were released with day reporting requirements (16 percent) and some with bail requirements (10 percent). The average bail amount was $645.



Commuter holds ORCA card at a bus stop.

Photo credit: Colleen Michaels, Shutterstock.com

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Beginning in July 2019, researchers worked in partnership with the King County Department of Public Defense, the King County Metro Transit Department, and the Seattle Municipal Court to use a randomized evaluation to examine the effects of transit subsidies on failure to appear (FTA) rates.

From July 2019 through March 2020, the research team randomly assigned each weekday to be either a control or treatment day. The treatment group included eligible defendants who appeared in court for arraignment on treatment days, while the control group included those who appeared on control days. The study was planned for three years, but ended early as the court halted in-person proceedings as a result of the Covid-19 pandemic.

Defendants who appeared in court on treatment days received one of two kinds of subsidized transit cards. The first group received $15 worth of transit credit, which was often used up before the participant's scheduled court appearance (on average, court appearances were scheduled for 27 days after card distribution). As a result, the research team expanded the subsidy to provide monthly passes. Effectively, participants were put into three groups receiving:

1. No transit assistance (control group);
2. Transit cards preloaded with $15 in credit, given between July 1, 2019, and November 22, 2019;
3. Transit cards preloaded with monthly passes providing free public transit for two full calendar months after the card was distributed, given after November 22, 2019.

The research team then looked at aggregate public transit usage and court appearances. Failures to appear were measured across four different court appearance types: the first scheduled pretrial hearing for a case, the first scheduled pretrial hearing that resulted in the issuance of a warrant, any hearing over the course of a case, and any hearing that resulted in the issuance of a warrant.

The research team chose to randomize by arraignment day, rather than individual, in order to make it more feasible to implement the subsidies given the logistical challenges of operating in a high volume courtroom environment. This also alleviated concerns that gathering detailed travel data for participants on an individual level might affect active criminal proceedings.

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The results of this pilot study suggest that transit subsidies alone do not lead to large improvements in FTA rates.

Individuals in the study heavily used the transit subsidies, indicating that they were highly valued and had benefits for study participants. At the same time, the evaluation showed no evidence that transit subsidies affected court appearance rates for participants in the study.

Transit Use

Defendants who received the reduced-fare transit cards pre-loaded with $15 of credit tended to use up their fare quickly and averaged 0.29 boardings per day. Many defendants no longer had a transit subsidy remaining by the time of their hearings: 50 percent of people in this group used up their subsidy within 22 days, while the average court appearance date was 27 days after card distribution.

Those who received transit cards with unlimited funds for 2–3 months used their cards more evenly over time, including during the time period in which their hearings were likely to occur. They used their cards about three times more often than the group who received the $15 subsidy, averaging 0.91 boardings per day.

Impact of Subsidies on Court Appearance

Overall, the pilot study found that transportation subsidies had no impact on FTA rates. Because of disruptions caused by Covid-19, the study did not have a large enough sample size to make definite statements about the impacts of transit subsidies; however, the results rule out any large impacts on FTA rates.

The 2–3 month unlimited transit subsidy had no significant impact on FTA. At the same time, the pilot's only statistically significant results indicate a 10.1 percentage point increase in any FTA for those given either transit subsidy (a 25.3 percent increase from a baseline of 40 percent) and a 10.1 percentage point increase in FTA rates for those given the $15 transit subsidy (a 14 percent increase from a baseline of 72 percent). These results point to a conclusion that transit subsidies do not lead to large changes in FTA rates.

Individuals in the study who received the 2–3 month unlimited transit cards used them heavily, indicating that the subsidy was highly valued and had other benefits for participants. It could be that providing transit subsidies along with other resources and

support, such as court date reminder notifications, could improve transit subsidies' effectiveness at reducing FTA. A need remains for further research into potential tools that can be used to reduce FTA and thereby reduce the burdens that FTA imposes on individuals and the court system.

Brough, Rebecca, Matthew Freedman, Daniel E. Ho, and David C. Phillips. 2022. "Can transportation subsidies reduce failures to appear in criminal court? Evidence from a pilot randomized controlled trial." Economics Letters, volume 216. https://doi.org/10.1016/j.econlet.2022.110540

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