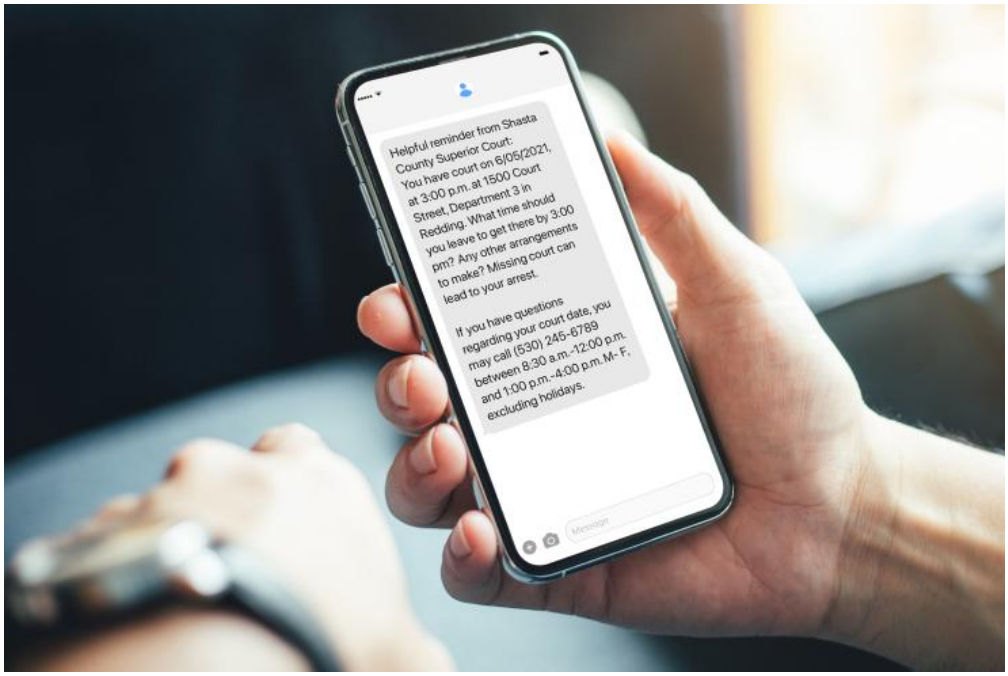
Using simple reminders to reduce failures to appear in court

Last updated: □□□□□ 2023

Failing to appear—when people awaiting arraignment fail to appear in court—is criminalized in 46 US states and can result in jail time. Evidence from randomized evaluations suggests that simple reminders through text messages, mail, or phone calls can be effective in reducing the rate at which individuals fail to appear by addressing informational barriers and facilitating their ability to anticipate and plan for a court appearance.



Summary

Across the United States, failure to appear (FTA) rates can be as high as 30 percent, depending on jurisdiction and offense type.[1], The majority of FTA incidents are due to factors such as a lack of information about the scheduled appearance, logistical barriers to appearing, or simple human error[1], .Regardless of the reasons for failing to appear, FTA is criminalized in 46 states,[2], and can result in additional consequences that are not associated with the original charge. For example, individuals who fail to appear may face suspension of their driver's license or jail time.[3], These penalties disproportionately impact people of color who generally have higher FTA rates [1], . Researchers posit that this disparity stems from lower overall rates of confidence and trust in the criminal legal system, which is associated with a reduced willingness to engage with the courts [2], [3], . FTAs are also costly to the legal system, as defense lawyers must locate their clients, the court must reschedule missed hearings, and personnel must spend additional time issuing new warrants and following up on them [3]. Therefore, implementing programs that reduce FTA rates may both reduce costly effects to individuals awaiting court processing and be cost-effective for the court system itself.

Nine out of twelve randomized evaluations included in this review found that low-cost behavioral nudges can increase scheduled court appearances and reduce arrests associated with FTA in the United States, while three found no effect [10], [11], [12]. Sending individuals reminders about their scheduled court appearances gave them critical information on process, expectations, and penalties that improved their ability to plan for their court hearing. Moreover, multiple studies found that Black and Hispanic defendants experienced greater reductions in FTA rates than white defendants, which indicates that reminders may help address some of the racial disparities observed in FTA rates. However, inaccurate or incomplete contact information for individuals awaiting arraignment limited the overall effectiveness of reminders. In addition to building a reminder system, US policymakers should consider dedicating resources to improving on-file contact information. Future policy and research should also focus on assessing the effectiveness of a combination of reminders and social support systems to mitigate other barriers to appearing in court, such as access to childcare, flexible scheduling or time off from work, or transit subsidies.

Supporting evidence

Providing scheduling reminders and information on the importance of a court appearance have been effective in reducing FTA in multiple jurisdictions across the United States.

Individuals who fail to appear may be unaware of the consequences of missing their court date, unaware of the details (time and date) pertaining to their court date, or have pre-existing obligations at the time of the scheduled court appearance. Providing information about court appearances through phone calls, mail, text messages, and/or in-person reminders led to a reduction in FTA across nine randomized evaluations [1], [2], [3], [4], [5], [6], [7], [8], [9], . For example, a program implemented across fourteen counties in Nebraska sent postcard reminders to individuals who had a scheduled court date for committing a misdemeanor. All postcards contained language including the time, date, and arraignment location. Some participants received postcards that also described the consequences for missing a scheduled court date, on top of timing and location. Receiving a standard postcard decreased FTA rates from 12.6 percent to 9.7 percent, a 23 percent reduction from baseline. Participants who were sent standard postcards plus additional information about the legal consequences for missing a court appearance had FTA rates that decreased from 12.6 percent to 8.3 percent, a 34 percent reduction [1].

Similarly, an evaluation in New York City tested two changes to how the court communicated with individuals awaiting arraignment about scheduled appearances: a new court summons form that moved critical information about the court date to the top of the page, and sending text message reminders the week prior to the scheduled appearance. Receiving a redesigned summons form alone reduced FTA rates by 6.2 percentage points, or by 13.2 percent from the 47 percent baseline FTA rate, and receiving both the redesigned summons form as well as text message reminders reduced rates by 21 percent, or 8 percentage points from the baseline 37.9 percent FTA rate. Taken together, these results suggest that a meaningful proportion of those awaiting a court hearing who failed to appear may have done so unintentionally due to forgetfulness or lack of critical information [3].

Frequently, there are long wait times between receiving a summons and a scheduled court date which increases the likelihood that a defendant may forget or misplace important details about their hearing. In an evaluation from New York state, program staff called participants on the phone to remind them of their court date and the location of the courthouse either three days in advance of the appearance, the same day of the appearance, or both three days in advance and the day of the appearance. Comparison group participants received no call. While the timing of the reminder call did not affect FTA rates, receiving a call at any time led to a decrease in the FTA rate from approximately 19 percent to 12 percent, a 37 percent reduction relative in the comparison group [2].

Reminders can be a cost-effective approach to reducing high rates of FTA.

Research demonstrates that sending reminders can be a low-cost way to reduce individuals' failure to appear for assigned court dates [2], [3], [5], . In the aforementioned evaluation in New York state, providing phone calls cost the implementing jurisdiction

US$34 per avoided warrant for staff time used to make the calls, totaling US$17,000 per year. Researchers suggest that the reminders were cost effective because the reduction in FTA rates led to a reduction in staff time associated with issuing 600 fewer warrants over the course of a year [2], . While call-reminder systems can be more expensive, postcard reminders can be an effective alternative. In the Nebraska study, providing postcard reminders at an average cost of US$1.61 per postcard could save counties between an estimate of US$49 and US$80 per individual awaiting arraignment. Specifically, Nebraska counties could save an estimate of 57 to 108 minutes in staff time associated with rescheduling a hearing or issuing new warrants for individuals who failed to appear for a court hearing. This yields an estimated yearly net savings up to US$22,628 by automating reminders through postcards [1].

Accurate and complete contact information is a prerequisite to successfully implementing reminder interventions. In evaluations from New York, Louisiana, and California [2], [6], [11], , the inability to contact individuals awaiting arraignment directly, or via a voicemail or text message, hindered the effectiveness of reminders. In Shasta County, California, adding text-message reminders to an existing program highlighted this challenge for participants experiencing homelessness. While survey evidence had indicated that both housed and unhoused participants had cell phones, there seemed to be less consistent usage among those who were identified as being unhoused. Among those who were identified as housed, 55 percent of attempted texts were sent successfully, in comparison to only 35 percent of texts sent to unhoused defendants, either because no number had been provided or because the number was incorrect. While participating housed defendants were 10 percent less likely to miss their first scheduled court date (compared to the baseline FTA rate of 49.5 percent), there was no evidence of any change in FTA rates for individuals without permanent addresses [11]. These findings suggest that individuals facing housing insecurity can be especially at risk of missing their court date, and more research is required to identify an appropriate combination of supports to enable them to meet court obligations.

Information may not be the only barrier individuals face when served with a court summons. More research is needed to understand these barriers and what additional services—alone or combined with reminders—can further reduce FTA. While missing reminders due to unreliable contact information is one explanation for why unhoused individuals in the Shasta County evaluation did not experience a similar reduction in FTA rates as housed individuals, it is likely that there were other challenges associated with experiencing homelessness that could have presented barriers to appearing in court, like the ability to plan an appropriate travel route to court [11].

A study conducted in a large, municipal county court system indicates that where possible, people awaiting arraignment will leverage resources to meet both court and external obligations [5]. In this study, participants were randomized into a comparison group or one of two program arms: in the SMS group, they were sent information about the court date, time, and location, accommodations offered by the court, and consequences of failure to appear; and, in the SMS plus assistance group, those awaiting arraignment were sent the same reminder texts, but with an additional invitation to text back with questions to court staff. Both interventions reduced FTA rates by over 8 percentage points from 21.3 percent to approximately 13 percent, a 39 percent decrease, but did so in different ways. Individuals who only received a reminder were more likely to show up for their original court date, while individuals who received a reminder and offer of personalized assistance were more likely to reschedule their court date. This finding suggests that access to assistance enabled defendants to overcome barriers to engaging with the court, such as the administrative burden of attendance (which could result from errors in filling out forms or not knowing who to call to change the court date) in the context of other obligations. Researchers and policymakers should consider whether bundling transportation, messaging platforms, housing, childcare, or other public services with informational reminders could further reduce FTA rates among groups that face multiple barriers to appearing in court.

Sector chair(s) or Academic lead(s)

Emily Owens

Insight author(s)

Maria Arzumanov

Abdul Latif Jameel Poverty Action Lab (J-PAL). 2023. "Using simple reminders to reduce failures to appear in court." J-PAL Policy Insights. Last modified July 2023.

---

1. Bornstein, Brian, Alan Tomkins, and Elizabeth Neely. 2011. “Reducing Courts’ Failure to Appear Rate: A Procedural Justice Approach, Executive Summary.” U.S. Department of Justice. https://www.ojp.gov/pdffiles1/nij/grants/234371.pdf

2. Lo, Puck and Ethan Corey. 2019. “The 'Failure to Appear' Fallacy.” The Appeal. https://theappeal.org/the-failure-to-appear-fallacy/

3. Gerstenzang, Erin. "FTA (Failure to Appear) Penalties.” EHG Law Firm. https://www.ehglawfirm.com/fta-failure-to-appear-penalties/

---

1. Rosenbaum, David, Nicole Hutsell, Alan J. Tomkins, and Brian H. Bornstein. 2012. "Court Date Reminder Postcards: A Benefit-Cost Analysis of Using Reminder Cards to Reduce Failure to Appear Rates," Judicature 95, no. 4: 177-187

Research Paper

2. Ferri, Russell. 2020. "The Benefits of Live Court Date Reminder Phone Calls During Pretrial Case Processing." Journal of Experimental Criminology 18: 149-169.

Research Paper

3. Fishbane, Alissa, Aurelie Ouss, and Anuj K. Shah. 2020. "Behavioral Nudges Reduce Failure to Appear for Court." Science 370, no. 651. doi: doi/10.1126/science.abb6591

Research Paper, | Evaluation Summary

4. Bent-Koerick, Katie and Tiffany Bergin. 2021. “The Court Appearance Pilot Project: A Randomized Evaluation of an Interactive Intervention to Encourage Court Date Attendance.” New York City Criminal Justice Agency.

Research Paper

5. Emanuel, Natalia and Helen Ho. "Behavioral Biases and Legal Compliance: A Field Experiment." Working Paper, 2020.

Research Paper, , | Evaluation Summary

6. Howat, Holly, Craig J. Forsyth, Raymond Biggar, and Samantha Howat. 2016. “Improving Court-Appearance Rates Through Court-Date Reminder Phone Calls.” Criminal Justice Studies 19, no. 1: 77-87.

Research Paper

7. Nice, Matt. 2006. “Court appearance notification system: Process and outcome evaluation.” Multnomah County: Multnomah County Budget Office.

Research Paper

8. Tomkins, Alan, Brian H. Bornstein, Mitchel Norman Herian, David I. Rosenbaum, and Elizabeth Neeley. 2012. "An Experiment in the Law: Studying a Technique to Reduce Failure to Appear in Court." Court Review: The Journal of the American Judges Association 48, no. 3: 96-106.

Research Paper

9. Schnake, Timothy R, Michael R. Jones, and Dorian M. Wilderman. 2012."Increasing Court-Appearance Rates and Other Benefits of Live-Caller Telephone Court-Date Reminders: The Jefferson County, Colorado, FTA Pilot Project and Resulting Court Date Notification Program." Court Review: The Journal of the American Judges Association. 393.

Research Paper

10. Chivers, Ben, and Geoffrey Barnes. 2018. "Sorry, Wrong Number: Tracking Court Attendance Targeting Through Testing a "Nudge" Text." Cambridge Journal of Evidence-Based Policing 2: 4-34.

Research Paper

11. Lowenkamp, Christopher, Alexander Holsinger, and Tim Dierks. 2018. “Assessing the Effects of Court Date Notifications within Pretrial Case Processing.” American Journal of Criminal Justice 43: 167–180.

Research Paper

12. Owens, Emily and CarlyWill Sloan. "Can Text Messages Reduce Incarceration in Rural and Vulnerable Populations?" Working Paper, 2022.

Research paper