



Navigating the real-life challenges of appearing in court

Recommendations for addressing
wealth-based barriers to court
appearance in Harris County

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| About ideas42



We are a non-profit looking for deep insights into human behavior—why people do what they do—and using that knowledge in ways that help improve lives, build better systems, and drive social change. Working globally, we reinvent the practices of institutions and create better products and policies that can be scaled for maximum impact.

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Foreword

The authors would like to thank all Harris County stakeholders who contributed their time and expertise to inform us of efforts to reduce barriers to appearance in misdemeanor court. We have had productive conversations with key stakeholders, including Presiding Judges Darrell Jordan, Sedrick Walker, and Toria J. Finch at the County Criminal Courts at Law; Court Manager Ed Wells and Court Services Director Sylvia Cherry at the Office of Court Management; Directors Jim Bethke and Dr. Yáñez Correa and Consent Decree Project Manager Bryonne Cummings at the Harris County Justice Administration Department; Pretrial Services Director Natalie Michailides and Deputy Director Dennis Potts, as well as key staff Janey Smith, Elba Colon, Wanisha Harris, and Edward Jones; and staff overseeing specialty court and diversion programming.

The Consent Decree Monitors have provided invaluable insight and guidance: Brandon L. Garrett, Court Monitor; Sandra Guerra Thompson, Deputy Court Monitor; Dottie Carmichael, Research Scientist; and Professor Songman Kang.

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Other ideas42 colleagues who made important contributions to this work include: Jazondré Gibbs, Doyoung Jeong, Anthony Hernandez, and Elise Grinstead and Kate Reynolds, who provided graphic design.

Finally, we are grateful to the court users without whom this study could not have occurred and who generously took the time out of their day, often after long waits in court, to inform this work, courageously sharing both personal details about their lives and their feelings about court dates

that elevated the more nuanced barriers to court appearance. Many court users expressed appreciation for this research, for asking the important questions and for providing this platform for them to express their perspectives about the court process.

Throughout, we have made our best attempt to accurately represent the research findings and the details of the policies and practices that are discussed in the report. Errors are our own.

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Introduction

While misdemeanors are by definition less serious offenses than felonies, the consequences for missing misdemeanor court dates are equally as severe for both court users and the criminal legal system, resulting in court delays, warrants, arrests, jail time, and loss of future bond while awaiting trial. Moreover, the misdemeanor system is huge, with 13.2 million misdemeanor cases filed per year nationally; in Harris County, 49,828 misdemeanors were filed in 2021.¹ This high volume of case filings produces an even higher volume of court appearances, and often requires people with fewer resources to navigate multiple, and often far-away, court hearings. Of course, the criminal court system cannot work if people do not appear for their court dates and, as a consequence, courts place great weight on appearances and have devised a set of harsh penalties for nonappearances. Legal policies that punish nonappearances (warrants, arrests, jail) assume intentionality on the part of the court user—that those charged in the pretrial system consider these penalties and then decide not to appear.

In this study, we start with a more realistic and reasoned premise: that for many, the drivers of nonappearance are wealth-based, with economic, geographic, and structural factors contributing.² Harris County has recognized that mitigating nonappearance must start with understanding the nuanced and, at times, complex causes of nonappearance, which may include an array of factors such as lack of resources, forgetting, misinformation, mental health or substance use disorder challenges, and others. Instead of doubling down on the status-quo penalties to increase appearances, Harris County aims to understand the real-life challenges that may create barriers to appearances and seeks recommendations that will address those challenges as a more sustainable and humane method to effectuate behavior change. In addition, preventing warrants and subsequent arrests and jail stays improves public safety, as recent studies have linked even brief pretrial detention with increased recidivism and future nonappearances.³

Background on nonappearance in Harris County

ODonnell v. Harris County is a federal class action lawsuit claiming that the bail practices for misdemeanor arrestees in Harris County were unconstitutional. Data cited as factual findings in the suit found that between 2015 and early 2017, Harris County’s bail system detained 40% (or about 50,000 people per year) of those arrested only on misdemeanor charges, many of whom were indigent and unable to pay the amount needed for release.⁴ Those detained were more likely to plead guilty quickly and resolve the case as their only option to be released from jail. About 85% pled guilty at their first appearance in the County Criminal Courts at Law (CCCL) before a judge; 3.2 days was the median time between arrest and case disposition; and 72% of arrestees resolved their case within seven days.⁵ “Reliable and ample record evidence show[ed] that many abandon[ed] valid defenses and plead guilty in order to be released from detention by accepting a sentence of time served before trial.”⁶ Disparities also existed, including substantial gaps in pretrial release rates between females and males, Blacks and whites, and Latinxs and non-Latinxs.⁷

In 2019, the parties reached a settlement memorialized in the ODonnell Consent Decree (Consent Decree), agreeing that Harris County had “a consistent and systematic policy and practice of imposing secured money bail as de facto orders of pretrial detention in misdemeanor cases” that operated against those who were indigent.⁸ (Note that throughout this report, when we refer to Harris County as an entity, we are referring collectively to the parties bound under the Consent Decree.) The Consent Decree required compliance with, and enforcement of, amended Local Rule 9 allowing the release of most people charged with misdemeanors on a General Order Bond (GOB), which required neither a hearing before a magistrate, nor payment of any money as a condition of release.⁹ Release rates increased and these gender- and race/ethnicity-based gaps have rapidly narrowed since then.¹⁰ The Consent Decree also included an order requiring the County to meaningfully address barriers to nonappearance, while also recognizing that individuals experiencing financial hardship may face an array of barriers to appearing in court and participating fully in their cases. Drawing on research and opinion from experts in the field, the Consent Decree named 11 types of barriers to court appearance that may particularly impact individuals facing financial hardship:

- ▶ Lack of childcare
- ▶ Lack of transportation
- ▶ Lack of permanent housing
- ▶ Lack of access to a telephone and/or a computer
- ▶ Confusion and misinformation about court dates
- ▶ Inflexible work schedules
- ▶ Detention by other jurisdictions
- ▶ Substance use disorders
- ▶ Mental health problems
- ▶ Lack of sufficient notice or understanding of procedures
- ▶ Medical emergencies

These named barriers provided a preliminary focus for this research in identifying important circumstances that Harris County must consider when putting in place policies and resources to support the government’s compelling interest in appearance and ensuring equitable access to justice.

Goals and scope of research

Improving court appearance rates relies on understanding how people make decisions and how specific contexts—economic, geographic, personal, and structural—affect those decisions and behaviors. The goals of this research are to:

- 1. identify the primary causes of nonappearance in Harris County;**
- 2. identify national best practices implemented to increase court appearances (included in the previously submitted National Best Practices Report); and**
- 3. based on the results of this research, recommend cost-effective policy solutions and programmatic interventions—tailored to the Harris County context—to mitigate the causes of nonappearances.**

As directed by the Consent Decree, we have employed both quantitative and qualitative methods for this research in order to both identify caseload-level trends and find common themes in the nuances of individual court user experiences. In scoping and executing the research, we have leveraged ideas42's behavioral science expertise and prior experience conducting research and developing findings into actionable, practical, and effective recommendations and interventions for pretrial systems.

In identifying recommendations, we attempted to address the identified drivers of nonappearance with best practices, and if none existed, promising practices we identified in the National Best Practices Report as well as practices grounded in procedural justice (how fairness in the process can shape people's perceptions of the legal system and also their behavior). We also worked with local stakeholders and experts to specifically seek feedback on feasibility and appetite for an initial set of recommendations and used that information to build out recommendations from relevant programmatic, policy and operational perspectives. In this process, we also considered current Harris County logistics as well as existing programs and services offered to avoid any duplication of efforts. All recommendations requiring additional staffing, processes, or materials assumes the need for additional funding.

A Behavioral Perspective on Court Nonappearance

Court appearance is a complex puzzle—many different pieces must come together for someone to successfully appear in court. When it comes to putting the puzzle pieces together, various intersecting structural, geographic, economic, and behavioral barriers that court users experience can cause them to struggle to appear or miss their appearance. This report explores the structural (misinformation), geographic (travel challenges), and economic (childcare, work obligations, limited funds to mitigate other barriers) barriers that are already generally acknowledged, and also expands the analysis by exploring behavioral barriers to appearance.

Breaking down the behavioral approach

Taking a behavioral approach starts with the proposition that people are not machines. Classical economic thinking largely suggests that people act based on methodical calculations, cost-benefit analyses, and rational decision-making. This model suggests that people's preferences remain more or less the same across time and space, that awareness and information alone will lead to action, and that with the right financial, material, or punishment incentives, people will do what it takes to act in accordance with their intentions. Under this view, if court users cared about showing up to court, had the information they needed, and understood the consequences of not showing up, they would just show up. The evidence from behavioral and social sciences, however, directly contradicts this conventional thinking.

Research shows that people's preferences and decisions are highly sensitive to their context, meaning the timing, presentation, and physical space in which options are presented. Studies have demonstrated how the power of one's situation can impact behavior, often outside of one's conscious awareness. For example, one study analyzing juvenile court decisions in Louisiana between 1996 and 2012 found that judges issued harsher sentences in the days following an unexpected loss of their local college football team.¹¹ Furthermore, the study found that the impact of these "upset losses" on sentence lengths was larger for people whose cases were handled by a judge who had received their bachelor's degree from that football team's university. Another study reviewing 200,000 immigration court decisions across the US found that people were less likely to be granted asylum on days with hot weather.¹² These kinds of inconsistencies in human judgments have been found in many other arenas, including insurance decisions, medical contexts and more. More broadly, research has shown that many different elements of context matter, including small changes in the way a message is worded, the priming of certain aspects of our identity, the order in which options are presented, or the number of steps required to complete a task.¹³

Behavioral science research has also clearly demonstrated that information and awareness alone do not guarantee action. This hits on the common misconception that if people just knew better,

they would do better. Just as knowing about the benefits of getting a flu shot does not guarantee that people will do so, simply having information about a court date or knowing the consequences of not showing up to court does not guarantee an appearance. Even when we form an intention to act, we don't always close that gap between intention and action.



The intention-action gap

The intention-action gap—the disconnect between what people intend to do and what they actually end up doing—is one of the most studied topics in behavioral science today. This concept can be seen with individuals deciding to save more money (but falling short), intending to exercise daily (but sitting at home instead), or in the context of court, intending to show up to court (but not making it on the day of the appearance). Many factors are behind this gap, including aspects of our physical environment, psychological biases, and the greater context of what is happening in our lives.¹⁴ With this understanding in mind, we can better design policies and interventions to help bridge this gap.

Moreover, contrary to classical economic thinking, financial considerations are far from the sole drivers of behavior, meaning that **non-monetary costs (like time or effort) also influence people's decision-making.** The “cost” of showing up to court extends beyond the monetary (such as the money for gas that it takes to get to court) and also includes costs like the mental and emotional drain involved in arranging transportation or quelling fear and anxiety triggered by going to court where one may lose their liberty. Taken together, this means that when someone does not appear for their court date, there are many contextual factors at play, and it is very unlikely to be intentional.

The role of scarcity

With the understanding that people are not machines, we can see that piecing together the puzzle of showing up to court is anything but straightforward. Unsurprisingly, people who experience poverty, like many court users charged in Harris County, generally have a harder time navigating this puzzle.¹⁵ This is not just because they have less money to get to court, but because chronic poverty can affect cognitive functioning, as suggested by the research on scarcity.

Living in scarcity means living with vital resources in short supply. Just like a smartphone has a finite amount of “bandwidth” (it can only load so many apps at once before it starts struggling to add more), the human brain also has limited bandwidth. We can only perceive, process, and act on a fixed amount of information at any given moment. When a key resource is scarce, our mind's bandwidth fills up with, or tunnels on, solving that problem, while other things get pushed to the periphery.¹⁶ For example, when working under a tight deadline when time is scarce, one tunnels on getting that project done while the laundry and mail pile up. When the pandemic hit and toilet paper was scarce, we all tunneled on ways to get more while forgetting about other tasks. These reactions to scarcity are beneficial in the short term because they let us solve urgent problems quickly, but when scarcity is experienced over the long term, the cognitive consequences become harmful. The brain of a person experiencing chronic scarcity is akin to a smartphone loading a

few dozen apps and streaming heavy files all at once: their mental bandwidth is perpetually taken up by trying to address the lack of resources (housing, food, security, safety, etc.).¹⁷ This means that the mind constantly tunnels on those pressing needs to the exclusion of other things, like remembering court dates or navigating the justice system. In addition, bearing this “cognitive tax” of scarcity means that all the other costs involved with appearing in court become amplified and more challenging. Arranging transportation, finding childcare, or planning out the logistics of getting to court becomes more complicated without sufficient mental bandwidth to dedicate to those tasks.

This understanding of scarcity illuminates how the behaviors and decisions we may observe among people living with low incomes tell us much more about the condition of poverty itself than about the motives, skills, or character of the people experiencing it. Thus, when scarcity is at play, **court users failing to appear in court has much less to do with their characteristics or intentions and much more to do with the resources and scaffolding to which they have access.** Since we know many people coming to court in Harris County experience poverty, we should expect their decisions and actions to reflect the effects of chronic scarcity and design interventions accordingly.

Designing for scarcity

Behavioral science points us to design principles¹⁸ that can be applied when designing with an understanding of scarcity that will be referenced in these recommendations:

- ▶ **Cutting Costs:** People bear the costs of poverty in a variety of ways (including burdens on their time, attention, and cognition), and sometimes, well-meaning programs increase those costs unintentionally by adding hassles and creating complexity. To support court users in a behaviorally informed way, we must identify the drivers of those costs and find creative ways to reduce or eliminate them. For example, this could include cutting monetary costs by offering free diversion programs, subsidizing transportation to court, covering phone bills, cutting time costs by speeding up case processing times, or cutting both monetary and time costs by requiring fewer court appearances for the court user.
- ▶ **Creating Slack:** Living in poverty is unforgiving and leaves little room for error or risk. Many of the negative effects of poverty stem from those unforgiving conditions and the havoc that often follows unanticipated “shocks” or adverse events, including arrest, charges, and detainment. Building in adequate “cushions” of time, attention, and other critical resources is key to supporting court users through their court case. Creating slack could take many forms, such as providing grace periods before issuing a warrant for nonappearance, reducing monitoring like drug testing and electronic home monitoring (minor violations of which can drive nonappearance), and/or building in additional opportunities for court users to meet with their lawyer or others who can guide them.

► **Reframing & Empowering:** People living in poverty can lack a sense of power to control or change their circumstances, and many systems and programs reinforce or create stigmas that systematically disempower people. One court user interviewed for this research described it as “it feels like the world is against me.” Something as simple as the court atmosphere can reinforce state control over court users’ lives, such as extremely long wait times during which talking, reading, drinking, eating, and even looking at one’s phone is forbidden. Behaviorally informed solutions affirm autonomy, dignity, and basic freedom. Empowering court users through their court cases involves infusing procedural justice into every step of the process. For example, this includes treating court users with dignity, making sure that court users adequately understand the process and their case, and that they have the opportunity to be heard.

The behavioral approach, with a focus on the impact of scarcity, guided the design and execution of this research. Our findings below are presented, in part, under this behavioral approach and the recommendations that follow represent various applications of these three design principles.

Methodology

Research approach

We designed and executed a mixed methods research approach to identify and develop insights into the specific drivers of nonappearance in Harris County, thereby enabling us to build sound and evidence-based recommendations. The study was conducted under the oversight of an Institutional Review Board, with methods, procedures, and materials aligning to accepted standards for research involving human subjects.

Following from the overarching research goals named above, our research approach aimed to:

- ▶ identify barriers to court appearance for those facing misdemeanor charges in Harris County, focusing on barriers that most impact court users experiencing financial hardship;
- ▶ illustrate why and how these barriers contribute to nonappearance, in order to develop recommendations for policy and practice changes that can effectively address these barriers; and
- ▶ identify additional person-level factors that play a role in court appearance, so that Harris County can provide additional services and supports to those most likely to struggle to appear.

Hypotheses

To structure our research approach, we developed a set of hypotheses regarding possible barriers to court appearance in Harris County. Hypotheses were developed using these sources:

- ▶ The 11 possible causes of nonappearance detailed in §52.c of the Consent Decree
- ▶ Literature review and our own prior research into drivers of court nonappearance
- ▶ Interviews with Harris County stakeholders
- ▶ Aggregate data on the Harris County caseload and nonappearances available at the start of research

Hypotheses were framed to name both behavioral and structural elements that could contribute to court nonappearance. For example, hypotheses relating to the barrier named in the Consent Decree of “Confusion and misinformation about court dates” included: a) “People may be confused about information they receive related to their court appearance because the information is ambiguous, complex, incomplete, or overwhelming” (naming behavioral factors that could make it difficult for court users to understand and internalize information about their court date) and b) “People may not be given correct or updated information about their court dates” (naming a potential structural barrier related to the Judicial Processing Center and court processes). (For a full list of hypotheses explored, see [Appendix F at page 165.](#))

We then drew on the sources listed above to posit specific economic, geographic, personal, and structural elements of the Harris County context (for example, policy and practices regarding the communication of information regarding appearances; a person's access to helpful resources; geographical features of Harris County; physical features of the court environment; and more) that could explain why and how each hypothesized barrier might lead to court nonappearance. We then used these detailed hypotheses as a robust framework to guide us in conducting each of the research methods described below.

Research methods

Journey mapping of the experience from arrest to disposition process

We developed a journey map of the key steps that a person with a misdemeanor case experiences from arrest through the disposition of their case. We drew on documentation from court agencies to draft the map from the perspective of the person with the court case and refined it through conversations with stakeholders. The map included interactions with relevant actors (such as magistrates, pretrial service officers, defense attorneys, etc.) and when and how people with court cases are supposed to receive information about their appearances. This step identified key moments in the process where challenges related to learning about, preparing for, and showing up to the court date at the correct day and time could occur. This helped us to hypothesize potential challenges and focus on exploring them in interviews with court users and stakeholders.

In-depth qualitative interviews with Harris County court users

We conducted interviews with 43 individuals who had one or more misdemeanors in Harris County, either at the time of the interview or in the past. (Originally, we had planned to interview 20-30 court users, but substantially increased the interview sample size after deciding against conducting a large-scale survey. In consultation with Harris County project stakeholders, including the Consent Decree Monitor Team, we increased the interview sample.) Interviews were conducted in two phases: a first phase from July to August 2021, which represented the bulk of the interviews, and a second phase from December 2021 to January 2022, to increase representation among key subgroups in our interview sample.

Interviews were intended to provide insight into a) which barriers were most prevalent and for whom, b) how and why barriers impeded court appearance, and c) which kinds of practice changes and supports would be most helpful for court users facing the barriers. Interview guides were developed based on the hypotheses we developed around barriers to court appearance (described above) and focused on understanding barriers to appearance and circumstances around missed appearances or struggles to appear in court in detail. Interviews followed a semi-structured format, with open-ended questions allowing researchers to focus on themes most relevant to individual interviewees and explore new themes that emerged during interviews. Interview questions were

framed to elicit interviewees' experiences of the hypothesized barriers to court appearance, and therefore largely focused on understanding interviewees' experiences learning about their court dates, planning to appear, and attempting to show up to court, as well as surfacing relevant life circumstances. Apart from describing experiences related to their court appearances, interviewees were not asked to describe details of past or current cases or potentially incriminating activities, such as substance use. Interviewers emphasized during the informed consent process and the interviews themselves that interviewees did not need to share information that they felt could be incriminating or that they did not wish to for any reason. Interviewees were able to skip any questions they did not wish to answer and were free to end the interview early if desired.

Interview notes were analyzed using a thematic coding approach adapted from Braun and Clarke, in which interview passages are coded based on the extent to which they contain content relevant to each hypothesis.¹⁹ This process lets us evaluate both the frequency at which particular barriers are named (quantitative result), and also the extent to which interviewees indicated that that barrier presented a real challenge in getting to court (qualitative result). After coding interviews, we review the results of the coding to surface and address any discrepancies in the coding between team members and debate until we have consensus on how the interviews are coded and our conclusions about what the coded passages tell us about the validity of each hypothesis.

In accordance with IRB review, interviewees were recruited via direct outreach at the courthouse and Pretrial Services (PTS) office; connection via PDO and community organizations; and flyers posted in the courthouse and on online platforms, such as JAD's Facebook page. Interviewees were additionally recruited via community service providers and advocacy organizations consulted for this project. Ideas42 staff trained in ethical research practices and those conducting interviews are certified by the Collaborative Institutional Training Initiative in human subjects research. Interviews were conducted in private spaces within the courthouse or by phone or Zoom, with only the interviewee and the researcher present. Interview notes were anonymized and not shared in raw form with anyone outside the research team. The interview process, informed consent process and materials, recruitment materials, and interview guides were reviewed and approved by the IRB overseeing the study prior to use.

► **Limitations**

We encountered significant challenges in recruiting a diverse sample of individuals who could speak about their experience missing court appearances. Originally, the accepted proposal contemplated Harris County supplying the researchers with names and contact information for court users who had missed one or more appearances. When all Harris County project stakeholders did not approve that option, we pivoted to the recruitment methods named above. This made it difficult to reliably recruit only those who had missed court appearances, and to verify relevant details regarding interviewees' appearance history. Conducting research during the COVID-19 pandemic limited the number of people at the court who could be recruited in person and limited the kinds of recruitment activities possible. Despite asking potential court

user interviewees to affirm whether or not they had missed a court appearance during the screening process, during interviews 36% of interviewees reported that they had not missed a court appearance. Half of these interviewees reported having been late to an appearance, leaving 18% who reported not having been late or missed an appearance. In response to the fact that not all interviewees reported having missed a court appearance, during the coding and analysis of the interview data we specifically analyzed differences in the prevalence of barriers or challenges to court appearance named by interviewees who reported having missed court versus those who reported not having missed court, and we specifically looked for evidence in interviewees' statements describing the extent to which each barrier had contributed to their missing court. In analyzing responses of interviewees who had not missed court, we analyzed the extent to which the interviewees' personal circumstances (such as available family to look after children on the court date, or ability to drive oneself to court) or the circumstances related to their appearance (for instance, receiving reminders from a lawyer or bondsperson) differed from those who had missed court. This allows us to specifically describe the extent to which we observed each barrier contributing to court appearance in the findings below.

We were further limited in our ability to recruit non-English speakers, young adults (18-24 years old), and individuals who may have missed court in part due to mental health or substance use related challenges. We conducted a second focused phase of recruitment after finishing our first phase of interviews in an attempt to increase representation of these groups in our interview sample. (As with the first round of recruitment and interviewing, all recruitment, informed consent, and interview materials and procedures were reviewed and approved by the IRB overseeing the study prior to beginning this second phase of interviews.) However, we had limited success in doing so, in large part because we were not able to return to Harris County to conduct in-person interviews due to the increase in COVID-19 cases during that period. Insight into barriers to appearance specifically impacting these groups therefore came primarily from interviews with relevant stakeholders.

Analysis of PDO bail revocation hearing interview responses

We analyzed anonymized text recorded by PDO attorneys in 3,893 interviews conducted with clients who had missed court and were awaiting a bail revocation hearing. The data represented interviews done between May 7, 2021, and January 7, 2022 for those who missed court dates related to misdemeanor charges. Researchers received this data set near the end of the research period, in February 2022, and used it to triangulate with other data sources and validate findings. Analysis was done using a combination of machine learning methods and manual coding and analysis. We performed topic modeling using a Natural Language Processing (NLP) technique and used a Python script to derive prominent topics and associated keywords and categorize responses accordingly. Researchers reviewed the categorization to improve the model, going through four rounds of analysis using the script. Researchers then reviewed the output using a spot-check approach and manually re-categorized responses categorized incorrectly. Due to

the conceptual complexity of the responses, we present high-level analysis of topics present in this interview data in this report. We encourage researchers to consider further analysis of this data source in the future, as we believe it has the potential to reveal many more helpful insights about the drivers of nonappearance and how they impact court users with different needs and experiences.

Survey of people with cases in Harris County

We surveyed 60 individuals with active cases in Harris County, recruited via outreach from Pretrial Services (PTS) and the Reentry Office of the Harris County Sheriff's Office (HCSO). The goal of the survey was to measure the prevalence of hypothesized barriers to nonappearance, helping us to determine which barriers to focus on in qualitative interviews. (After exploring the possibility of conducting large-scale phone-based surveys, we and Harris County project stakeholders determined that such a survey process would likely not yield valuable information proportional to cost and would face feasibility challenges. Instead, we blended a smaller-scale survey and increased the number of in-depth qualitative interviews, as described above.)

To minimize attrition, the survey was brief (eight questions) and primarily multiple choice. Demographic information was not collected to protect anonymity and keep the survey brief for participants. However, the survey was made available in English and Spanish, with 53 (88%) of respondents using the English and seven (12%) of respondents using the Spanish version. The survey instrument, recruitment process, and consent process were approved by the IRB overseeing the research prior to the start of surveying. Members of the ideas42 team trained PTS and HCSO staff in how to recruit survey respondents and collect, store, and transmit the survey data according to the IRB-approved process and followed up with supervising staff to monitor the process while data was collected.

Interviews with court stakeholders and related community organizations

We interviewed 83 individuals representing 29 court agencies and programs, community service providers, and advocacy organizations. We initially anticipated interviewing a much smaller set of stakeholders but expanded our interview efforts to more fully reflect the network of agencies and organizations that currently play a role in supporting court users in showing up to court or could play a role in the future. These interviews were critical for triangulating insights drawn from the interviews and surveys done with court users: they provided a sense of overall trends in nonappearance, contextualized individual stories of struggles with appearance, and pointed to influential elements of policy and practice. Some stakeholders were interviewed or consulted multiple times to gather additional information in response to insights and questions developed during the research process, and to learn about updates to relevant programs and policies. In addition to interviews, we also convened eight sessions with stakeholder groups following the development of the qualitative research findings to gather stakeholder input on potential recommendations resulting from the research.

Participant observation in the form of mystery shopping activities

Our research team conducted several mystery shopping activities to experience processes that people with court cases might use to prepare for their court appearances. Mystery shopping activities included navigating the court website to find court contact information and appearance details; conducting phone calls and/or sending emails to courts, the District Clerk's Office, and the Justice Navigators to inquire about topics like arrival times, the possibility of bringing children to court, and transportation options; and using information available online to find out how to reach the court by public transportation from areas around the County. Observations from mystery shopping activities were included with qualitative interview data and coded and analyzed using the same process as was done for interview notes.

Review of supporting documentation on court agency policies and programs

In addition to reviewing relevant academic and gray literature, we reviewed over 40 policy and program documents provided by court stakeholders. Documents reviewed ranged from, for example, release requirements described in the Consent Decree, to detailed practice reviews such as the draft report by the National Association of Public Defenders on Harris County's managed assigned counsel program, to preliminary reports of outcomes of new initiatives, such as the Community Assistance Referral Program. This document review continued throughout the research process as new documents were shared with the researchers. Document review informed research questions, hypotheses, and research instruments. Relevant insights were included in the qualitative interview data and coded and analyzed accordingly.

Administrative data analysis

We attempted to analyze 2021 Harris County data on misdemeanor cases with the goal of identifying observable factors (race, age, gender, violation type, day of violation, etc.) that are most associated with court nonappearance in Harris County. However, due to concerns about the reliability of appearance data provided, we have chosen not to include analysis of appearance rates in this report. The decision to omit appearance data analysis came after extensive exploration of the data and sharing of concerns with the Monitor Team, Harris County Justice Administration Department (JAD), the attorneys for the Plaintiffs, Harris County, CCCL, and the Harris County Sheriff's Office (HCSO). All parties agreed with this course of action.

As a result, we are presenting descriptive statistics on aspects of the 2021 caseload in this report, and are omitting the majority of the analysis related to appearances. In addition, we understand that some data that we are presenting in this report, such as court users' race and ethnicity, is not always recorded consistently. While it was not possible to calculate a probable error rate for specific variables of concern, we believe that the reliability of the data presented is sufficient to allow us to draw useful insight from its analysis. In the discussion of findings from the administrative data analysis (beginning [at page 27](#)), we note variables that should be interpreted with caution because of their potential unreliability.

Initially, we had hoped to analyze data on appearances over multiple years to identify trends over time and establish a baseline prior to the COVID-19 pandemic, which radically altered court processes. However, the CCCL did not begin attempting to systematically record court appearance outcomes until the end of 2020, and after extensive conversations with Harris County stakeholders regarding the state of the data prior to the end of 2020, we, along with the Monitor Team and Plaintiffs' counsel, concluded that analysis of data prior to December 2020 would not be efficacious. We instead received data on misdemeanor case initiated on or after January 1, 2021, and before December 31, 2021, a total of 49,780 cases representing 41,613 individual court users. JAD compiled and shared this 2021 data with the research team. The data shared included 169 variables, covering court user demographics, details of the case, and details regarding appearances, including day and time, courtroom, reason for the appearance, and more. (For a complete list of variables included in the dataset analyzed, see [Appendix D at page 159](#).) Our research team worked extensively with staff of the Office of Court Management (OCM) and JAD's data analysis team to clarify and appropriately exclude records when needed (for instance, determining which appearance types to exclude as not relevant).

We received the administrative data in October 2021, well after the point envisioned in the project proposal and plan. We had intended to use the quantitative data analysis to inform the design of the qualitative research component (for example, to inform interviewee sampling plans and to prioritize barriers and topics to explore through interviews). Instead, due to the timetable for producing findings set by the Consent Decree, we had to begin conducting surveys and interviews (described below) without the aid of insights from the administrative data and had to analyze the quantitative and qualitative data concurrently. In addition, we did not receive data on mental health and substance use incidence in the caseload until March 2022, after the qualitative research was completed and the development of recommendations was well underway.

In our initial analysis of the administrative data, we developed descriptive statistics of court user, case, and appearance characteristics. We then employed a mixed effects model to identify observable factors related to nonappearance, in line with our goal to identify causal links between identifiable factors (such as court user characteristics, circumstances of the appearance, aspects of the case, etc.) and nonappearance rates. However, initial analysis of the appearance data raised significant concerns about its reliability. For example, we do not have confidence that the setting types and appearance outcomes reported in the data are accurate, and without a more complete auditing of CCCL's data entry processes and verification that appearance data is reliable, it is neither valuable nor responsible to report on appearance rates or analysis of factors that may be influencing appearance rates. As it is outside the scope of our work to audit data entry processes or conduct more in-depth examination of data quality, we have chosen to omit analysis of appearance data from this report.

Key indications that we observed during analysis that raised concerns regarding the reliability of the appearance data included:

- ▶ **Wide variation in average nonappearance rates across courts for non-waived setting types.** A 42 percentage-point difference existed between the nonappearance rates for the courts with the lowest and those with the highest nonappearance rates. The standard deviation for the nonappearance rate by court was close to 15 percentage points—a level of variation that seems unlikely to reflect actual differences in nonappearance across courts, given that court users are randomly assigned to each court and therefore, should produce similar appearance rates across different courts, even when factoring in some differences in individual courts’ requirements and communication practices regarding appearances.
- ▶ **Wide variation in rates of court users being marked as “not present” (an unexcused absence) versus “waived” (an excused absence).** In general, the standard deviations in the number of court users marked as waived and not present for each setting type is between 20 and 30 percentage points. The variation is particularly pronounced for the waived setting types (required-waived and regular-waived). The size of this variation suggests to us that courts do not have common definitions of “not present” and “waived,” common protocols about when to indicate that a court user’s absence has been excused, and/or that such protocols are not being uniformly followed. As the nonappearance rate, by definition, is a measure of unexcused absences from court appearances, we cannot be confident that the data currently provides a true count of court users with unexcused absences from appearances.
- ▶ **The rates of setting types by court vary widely.** We observed very different rates at which individual courts order each setting type (regular-waived, regular-not waived, required-waived, required-not waived). For instance, there was a more than 61 percentage-point difference between the highest and lowest rates of regular-waived settings by court, and a 64 percentage-point difference between the rates of required-not waived settings by court. While we understand that some courts do have distinct practices in ordering specific setting types, it is difficult to assess the extent to which the data reflects actual differences in practices across all courts versus issues with data entry.

Upon sharing these observations with stakeholders, we heard anecdotal evidence, including deposition testimony and observations by individuals who have conducted spot-checks of the data and directly observed questionable data entry, that supported the conclusion that, at this point, we cannot have confidence that the appearance data is sufficiently accurate to publish.

We understand that, in general, court staff have not received robust or standardized training on how to enter appearance data, and that there may be a lack of understanding among court staff of its mandatory nature. We have heard that individual court coordinators may be more or less careful in ensuring that they enter appearance data, and that appearance data entry has not been closely supervised or checked for quality.

We additionally understand that there may be different practices regarding when a court user is marked as not present (at the beginning of the docket versus at the end) and that there is significant additional possibility for error with virtual hearings, as we observed in PDO's bail revocation interview data (beginning [at page 35](#)) that some court users said that they had appeared at a virtual hearing but were marked as not present. The data does not include whether or not an appearance was held virtually, making it impossible to explore differences in appearance rates between virtual and in-person appearances. As noted above, we suspect that coordinators may have different understandings about when to mark court users as not present versus waived.

Changes in court practices in response to the COVID-19 pandemic have likely introduced additional unreliability in the data. For instance, we understand that for at least part of 2021, the timeframe under study, court users were directed to call the court prior to their required appearance date to confirm whether and how they were to appear (if they were to appear in person or virtually, or if the appearance would be reset to a later date). The data does not include whether or not the court user called, what they were advised in regard to their appearance, and whether or not this updated information (for example a required hearing changed to a regular hearing or a continued hearing) matched the original information recorded at the time the appearance was scheduled. We also heard that when an appearance is reset, the setting type may not be accurately recorded in the database; this may be most common when a court user calls the court and requests that their appearance date be reset. These complications make it difficult to have confidence that we are measuring nonappearance rates for non-waived appearances, at which the court user was directed to appear.

Having reliable and nuanced data that will allow Harris County to understand how appearance varies across courts and court users is critical for continuing to improve the Court's practices and ensuring that policies and processes related to appearances are achieving fair and equitable results. We urge the CCCL to prioritize improving appearance data quality so that the CCCL can measure the appearance rate reliably across courts, identify changes in the appearance rate resulting from interventions to reduce barriers, and the data can be used by external researchers to verify and conduct further analysis.

Moving forward, steps that Harris County can take to improve its ability to reliably track appearance rates and related factors include:

- Update the way that appearance information is recorded in the database to reduce room for confusion and error. For instance, create standardized definitions for appearance variables to ensure "not present" and "waived" are not used interchangeably by coordinators and update the appearance outcome options to make it clearer when a court user's absence is unexcused. The database could be updated to more clearly show if and how the setting type changed due to resets prior to the actual appearance date.

- ▶ Adapt the database and data entry practices as needed to explore variations in appearance and related factors. For instance, include fields to indicate whether or not an appearance occurs virtually versus in-person.
- ▶ Create clear protocols for when and how appearance information is entered into the system, and conduct ongoing trainings for court staff (including coordinators, clerks, and judges) to ensure that there is a common understanding across courts about how appearances must be tracked.
- ▶ Conduct regular audits of data quality and hold coordinators accountable for producing accurate data.

What It Takes to Appear in Harris County

Appearing in the County Criminal Courts at Law (CCCL) is easier said than done for most people required to appear for a criminal court case (court users). If a court user owns their own car, has a valid license, has enough money for gas, owns a credit card to pay for parking, enjoys the benefit of taking off work with no serious consequences, can access childcare, possesses the needed electronic devices and skills to navigate somewhat confusing websites and online maps, and has the cognitive bandwidth free to process the anxiety and fear most court users feel after arrest and during the pendency of the case, making one's court appearance can be manageable. If, however, a court user has a deficit in resources and stability, every step above becomes a possible barrier to appearing in court. And the reality is that many people charged in Harris County struggle with having less crucial assets: less money, stability, education, employment, stable housing, reliable vehicles, consistent medical care, etc. Fewer resources translate into less ability to navigate challenges such as court appearances.

Arrest and booking

Most misdemeanor charges²⁰ follow an arrest by police within Harris County and then a trip in a police vehicle from the arrest location to the Joint Processing Center (JPC) downtown. As Harris County comprises 1,777 square miles, someone arrested can find themselves far from home when arriving at (and being released from) the JPC. Managed by the Harris County Sheriff's Department, the JPC consolidates all Houston Police Department and Harris County Sheriff's intake processing operations. It houses processing facilities, space for bond processing, two courtrooms for bond hearings when needed, a jail for those held, release processing facilities, as well as a Re-Entry Office where court users can stop on their way out for various services. As a first step at the JPC, everyone arrested for misdemeanors must be booked into the jail before bond can be assessed. At the time of booking, all personal possessions (phone, purse, wallet, etc.) are taken away and placed in a secured property area; the arrested person will not get them back until they are released from the JPC. During this process, a financial affidavit is completed detailing the court user's income, assets, expenses, and debts. This affidavit follows the court user throughout the process, being later used to determine their indigency status for counsel and their ability to pay fines and fees.

Release: General Order Bond v. magistrate hearing

After booking there are two avenues to bond: via expedited General Order Bond (GOB) or via a magistrate hearing. For many arrested for misdemeanors, PTS will determine eligibility for a GOB, for which release is guaranteed without a magistrate hearing and without any cash bail requirement. Those receiving a GOB are released once the JPC processes them out. According to the Harris County Bail Dashboard, in 2021, 41% (23,463) of those arrested for misdemeanor charges were released on GOB.²¹

For those charged with enumerated violent crimes, those with active warrants, and/or those currently serving probation, a magistrate hearing will occur at the JPC within 48 hours to determine conditions of release which may include cash bail, unsecured cash bail, and/or other nonfinancial conditions.²² In 2021, 36% (20,212) of those arrested for misdemeanors received unsecured personal bonds, meaning they did not have to pay anything up front but could be liable to pay the amount for the bond if they did not appear in court, and 23% (12,978) received cash or surety bonds which require a cash payment in full of the bond amount (returned at the end of the case if appearances made) or a cash bond secured by a bond company that usually requires a 10% nonrefundable payment of the bond as the fee.²³ For those whose situation or charge triggers a magistrate hearing, they are held until they can make the bail set by the magistrate (or later adjusted by the CCCL judge in their case). Impressively, post-Consent Decree, Harris County has drastically reduced its pre-trial jail population, with often fewer than 300 people detained on misdemeanor charges, accounting for less than 3% of the Harris County jail population.²⁴

The bond process, even for those released on GOBs, can take substantial time, ranging from people being held at the JPC up to a day and sometimes more before release.²⁵ After bond is set (either via GOB or a magistrate order), the court user charged receives the bond paperwork that specifies the next court date, the arraignment, as well as any bond instructions and conditions which could include reporting to the PTS office upon release for alcohol or GPS monitoring and/or general reporting.

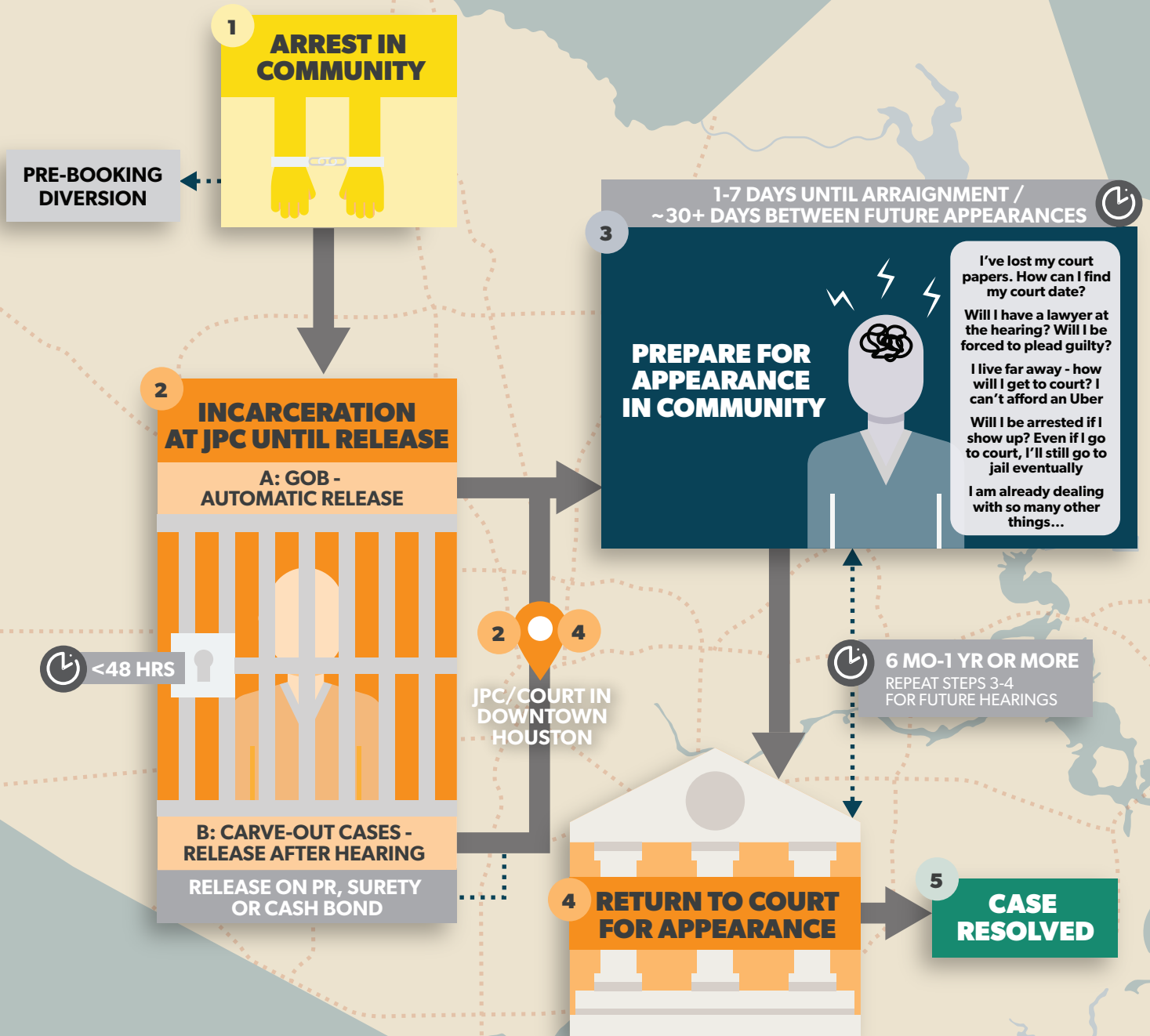
All bond paperwork has now been behaviorally designed to ensure the court date, consequences for not appearing, and where to call for questions are clear and salient to the reader. However, at this stage, the court user has no lawyer assigned to them by the court, but rather must wait until the arraignment date for that assignment, should they qualify as indigent and unable to pay for representation. This is a crucial gap where court users have no lawyer to answer questions, discuss the case and what will occur at arraignment, or even identify evidence that may need to be preserved like tape from public or business video cameras. Lastly, release from the JPC can occur at all hours of the day and night, at times so late that public transportation is no longer an option, creating even more difficulty for those who cannot afford a cab or rideshare home.

Arraignment and subsequent court dates

The next event is arraignment, a hearing at the CCCL during which a judge determines the court user's indigency status and, if they are found to be indigent, assigns public counsel (either a lawyer from the Public Defender's Office (PDO) or a lawyer from the Managed Assigned Counsel list) or, if they are not found indigent, requires the court user to hire a private lawyer. The judge then informs the court user of the charges and schedules or "resets" the case to another date. Post-Consent Decree, court dates are divided into two categories: "required" court dates for which the court user must be present either in person or virtually, or "regular" court dates for which only the attorneys, not the court users, need appear. Given that post-Consent Decree fewer people plead guilty early

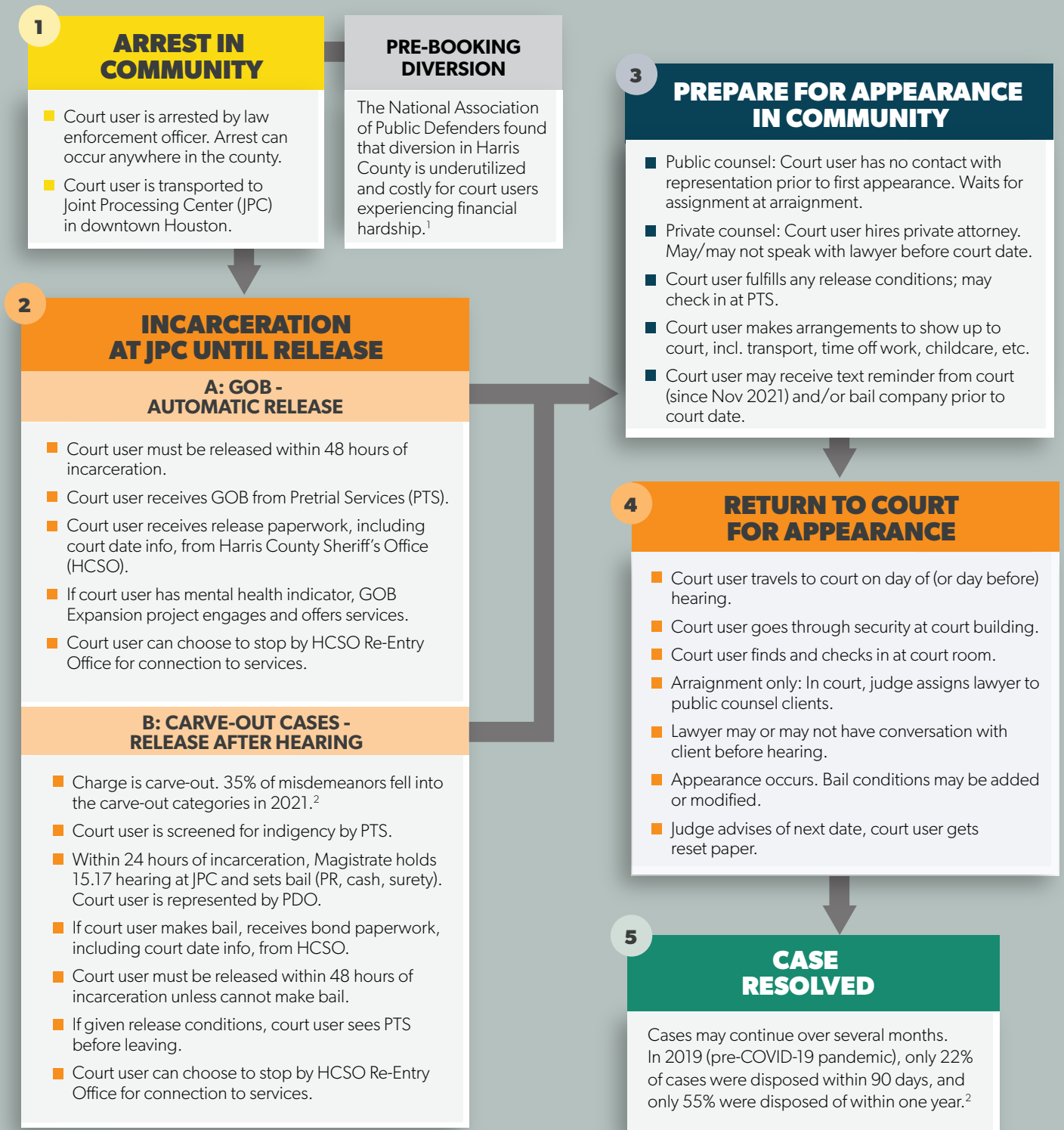
on and more cases will require a discovery process where the prosecutor must identify, obtain and provide defense counsel with evidence, “regular” hearing dates recognize that the court user need not be present for that process. Complicating matters, judges can also waive “required” court dates and require presence at “regular” dates but these further designations are most often used when circumstances change after the original court date setting, allowing the judge to later alter the need for the court user’s presence. Additionally, the COVID-19 pandemic triggered alternative, virtual court appearances via Zoom, and some judges still allow virtual appearances, but there is no relevant standing Harris County local rule regarding virtual appearances.

COURT APPEARANCE JOURNEY FOR HARRIS COUNTY COURT USERS ON PRETRIAL RELEASE



■ Harris County

THE COURT APPEARANCE JOURNEY, IN DETAIL



¹ See: National Association for Public Defense (2021).

² See: Independent Monitor for the O'Donnell v. Harris County Consent Decree (2022).

Meet the People Coming to Court

Real people are at the center of this study. Their daily lives and the struggles they shared inform its recommendations. Here are three profiles of court users whose circumstances make appearing in court challenging.ⁱ

» New Mom Living on the Brink

Camila is a new mom who needed to appear in both CCCL (misdemeanor) and the District Court (felony) for charges related to the same incident. As a result of the case, Camila had to move out of her home quickly, which meant she had to store all of her belongings in a storage facility and move back in with her mother who lives about 25 minutes away from court by car. She had lost her job due to the pandemic and had no car, no childcare, and no affordable way to get back and forth to court. Camila had also been ordered to wear an electronic monitoring device (an ankle bracelet tracking all her movements) as a condition of her bond which she found deeply humiliating. Camila had been to the courthouse three times within about two months for both court cases and to report to Pretrial Services on a non-court date.

The day we met Camila, she was waiting outside PTS visibly and audibly worried about her 9-month-old waiting in an unairconditioned car outside with her friend driving around on a humid 90-degree day. “My friend and baby are waiting for me in a car and my baby looks hot in the picture she just sent me—I hope I get called soon!” Camila had been in the courthouse since 9:30 a.m. and at 1 p.m. was still waiting to see her PTS officer. Camila didn’t think she could bring her baby into the courthouse so left her in the car outside with her friend despite the hot weather because she “had no choice but to get to court.” Her friend was driving to avoid parking fees but was so hot that she asked if they could come inside to wait in the air conditioning. Camila did not think that was allowed and told them they had to wait in the car.



Camila didn’t think she could bring her baby into the courthouse so left her in the car outside with her friend despite the hot weather because she ‘had no choice but to get to court.’”

Though travel to court was always challenging, Camila got creative to attend court dates and PTS appointments. For one trip, she rode early with her mom to her mom’s workplace and took a \$17 Uber ride from there to court. But she also had to pay a friend to watch her baby, and the total cost was more than she could afford. She told us, “I didn’t have money to pay her to babysit so I gave her my watch.” For another court date, a friend who lived far away agreed to give her a ride but was late. Camila did not feel she could rush her friend because “she’s doing me the favor.” That day, Camila was an hour late to court and by the time she got there, the case had been reset. While Camila’s appearance was effectively waived, the stress of asking for the favor, relying on her friend, knowing she was late, and worrying about the possible consequences took its toll.

During our interview, Camila looked exhausted with her arms self-consciously crossed tightly around her chest as she explained she had had a long, bad day prior. A friend had agreed to drive her out to the storage facility to find something presentable to wear to court, but the car had broken down, it had gotten late, and all Camila could find was a beach dress. “I feel so uncomfortable; I don’t have much right now, not even a bra, and I was so worried about coming to court looking like *this*.”

Camila couldn’t understand why she had to come to court if the case would just be reset, didn’t understand why she couldn’t appear via Zoom, and didn’t understand why she had to keep checking in with PTS if there had been no issues with her bond conditions. Contact with her lawyer had been challenging and after she kept texting him with no response for days, he finally responded, “Sorry, I have been away with my kids.” Though Camila had made all her court dates, she did so at great expense to her, and with much effort from her mother, friends, and even her baby. And at the time of the interview, nothing substantive had happened with the case yet.

» No One to Trust

Gary received a confusing phone call from his bond company two weeks before his upcoming court date: the bond company told him that his appearance had been rescheduled for the following day. Gary was surprised because his lawyer hadn't contacted him about the change, and he didn't understand why the appearance was moved up. He asked the bond company representative if he had a warrant, and their response was, "As of right now, you don't." After the call, Gary couldn't get that response out of his mind. "As of *right now*?" He tried calling his lawyer, but the lawyer didn't pick up. Gary suspected he was being set up.

Gary is a husband and father to a young child, focused on juggling his family's needs. When we met him, he spoke openly about the heavy responsibilities he held as head of his household. His wife was going through treatments for a serious medical condition, with a hefty price tag attached to each doctor visit. The family had recently bought a house and was in the midst of finishing the sale and settling into their new home. His child would be re-starting school soon and would need new clothes and supplies. Gary was between jobs and going to interviews to find someone who would hire him despite his conviction history. It was a lot to handle, and Gary was "praying, going through it."

In parallel, Gary had been working to manage his ongoing court matters. Gary had had multiple prior cases and felt he knew the system pretty well. He took his court obligations seriously and prided himself on his ability to keep track of court appointments and navigate the process. The case he was out on bond for had dragged on for over a year, with delays due to the COVID-19 pandemic. And Gary had recently caught a new case, on charges he didn't understand. After receiving the call from the bond company, he was sure that his original bond would be revoked, which made no sense since he had been released from the JPC on the new case.

It didn't help that Gary did not trust his court-appointed lawyer. In general, Gary did not expect much from a court-appointed lawyer, telling us, "You have a very low percentage of court-appointed lawyers who will help you." Gary's impression of his current lawyer was that the lawyer was too busy to care about coming up with a winning strategy for his case. The first time that Gary and his lawyer went in front of the judge, Gary did not feel that his lawyer advocated for him. Gary wanted to share more of his personal situation, and why the bond was so burdensome given his wife's illness and their financial situation, but instead he listened as his lawyer, in his view, sped through the proceeding without sharing all the important information. Despite being a confident, outgoing person, Gary had not felt that he could speak up for himself in that moment. Instead, he was left with the impression that his lawyer was not interested in fighting for him.

**“
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for his case.”**

As the case proceeded, Gary's lawyer did not earn back his trust. "We do not communicate up until court time," Gary said. "That lets me know, you're not trying to do nothing. You're looking for a conviction, you go with the DA. This is my life, this is not a set of dice. You're supposed to have a plan. You're supposed to be able to counterpunch."

With all this in mind, Gary apprehensively arrived at court the morning of the rescheduled hearing. He drove himself and had made sure to get to court early, and knew what he needed to do to check in. But he still felt misgivings about this unexplained change in his appearance date. Reflecting on it later, he said, "You're sitting here thinking, 'What's the worst-case scenario?' ... Before you know it, you've made a bad decision."

He was waiting downstairs when he got a call from his lawyer, who asked to see him before the appearance. The lawyer had never asked to do this before, and it set off alarm bells for Gary. He froze and didn't ask the lawyer any questions, now even more afraid it was a trap.

Gary imagined what would happen if he went up to the courtroom: "They're going to come here, ask for my name, do the log in, going to tell the bailiffs, 'He's here,' and they are going to arrest me."

All of his personal responsibilities came to mind—the need to earn money to pay his mortgage and keep his family afloat through his wife's illness—and he came to a conclusion: "Everything is against me. I'm going to get out of here, do what I have to do, make money. Hopefully the judge will understand [when I] turn myself in."

Gary walked out of the court building, missing his appearance. He turned himself in several days later after being pulled over. Later on, his lawyer revealed that he had called that morning because he planned to get Gary seen at the top of the docket, so that Gary could get out of court quickly. Gary reflected that if the lawyer had called him earlier and explained what he was planning, the situation could have been different. But in the moment, without an explanation about what was happening and why, leaving court and staying out of jail a little longer seemed like the best decision for him and his family.

» The Warrant Effect

We met Darius while he was staying at a shelter for emerging adults in Houston. He was trying to do the right thing but kept losing his footing. He could not stay with his parents, as they had been long divorced and had their own problems. He had two young children and his girlfriend was expecting again. At the shelter, he was starting to work and go to some therapy sessions.

A couple of years prior, he was arrested for a misdemeanor. He had never been convicted before and had never been in jail. After spending a couple days at the JPC, he got a personal bond and was released. At the time, his mom let him stay with her on a temporary basis. He diligently went to his court dates—even though getting downtown required him to leave at 7:30 a.m. to give him enough time to ride a bus, a train, and then another bus to court. When he did not have bus fare, he would ask the bus driver if he could ride for free to get to court.

Things went south when he got arrested again on a felony charge. This time, instead of two days in the JPC, he stayed six months because he could not make bond on the new case. In those six months, he saw the judge for the misdemeanor case once on Zoom. He finally got to speak to her directly and "she was actually asking me questions about my situation and how we could move forward," which Darius much appreciated.

For the felony case, he never saw a judge, though he was brought in for court dates almost monthly. Darius never saw his court appointed lawyer in person either, for the entire six months.

Darius would speak to his lawyer on a phone line in the holding tank, recalling, "So you are there talking to your lawyer, to the only lifeline you have left, and you can barely hear him, and he tells you that this is the best that he can do and he doesn't tell you anything, he just tells you the same thing you already know and then says 'we are going to reset you.'" And in the holding tank, "the guy, the bailiff, they are just, they are very rude, and there is nothing you can do." The only thing he and the others could do was pray, which they did, just hoping to be called into court.

Darius continued, “This was the first time I ever went to jail in my life. And when you are incarcerated [and] going to court—it’s very different than being free and then going to court, because you don’t talk to anyone. It’s basically like you already did it. Some people hold onto hope. After getting reset so many times, to be honest with you, I lost hope.” Darius was so used to being reset that, “I was more so looking forward to the sandwich that I was getting after you leave from court and get your reset papers.”

Darius finally got himself out of jail by signing up for a program at the kiosk that was inside the holding cell. He did the program for a month and then left because it “still felt like jail.” On his next court date, he appeared by Zoom after sitting in the waiting room for hours. Darius tried to explain himself but the judge was not having it and told him to come to the court in person. Darius did not go to court, and is sure that there is now a warrant out for his arrest. Darius is confident that “If I go up there to the court, all they are going to do is incarcerate me, and I’m pretty sure I wouldn’t see a judge for a long period of time,” just like last time.

It’s been about two years since Darius was charged, and he hasn’t been in any more trouble since then. Darius wants to save money for a cash bond and hire a private lawyer because “I don’t want to miss out on any more of my kids’ lives than I have already missed. I missed their first birthdays and their first Christmas” when held pretrial.

We asked Darius what he would change about court if he had a magic wand. He said he wanted “to have lawyers show up physically” like private lawyers. Darius thinks those with private lawyers “get to talk to the lawyer before their court date and get to talk to the judge” and even if they get a reset “at least they are somewhere, and not like my situation where they just toss you to the side.” Darius’ greatest wish is to have a lawyer now who will help him navigate his warrant and assure him he won’t be in jail without seeing a judge or a lawyer for another six months. And after that comment, Darius put his head down on the desk and wept.



Darius wants to save money for a cash bond and to hire a private lawyer because 'I don't want to miss out on any more of my kids' lives than I have already missed.'

Portrait of Harris County Court Users by the Numbers

Insights into the 2021 Harris County caseload

The administrative data provides a sketch of those charged with misdemeanors in Harris County in 2021. The dataset we received included records of 49,780 misdemeanor cases filed in 2021, representing 41,613 individual court users.

As discussed in the [Methodology section \(page 13\)](#), we have chosen to present overall statistics on the 2021 caseload, and to omit further analysis of how appearance rates vary across segments of the caseload. As a way to understand Harris County court users, this data can provide a snapshot of the caseload at this particular point in time, but due to the timeframe covered (during the COVID-19 pandemic), some variation in data quality across variables, and lack of data on factors that could point to the prevalence of barriers to appearance named in the Consent Decree, the utility of this data is limited. (For additional discussion of the administrative dataset, limitations, and analysis process, see [Appendix C at page 153](#).)

We encourage Harris County to assess their data use practices and make updates so that court user needs and barriers to appearance can be better understood, appearance can be reliably tracked and measured, and inequities can be identified and addressed.

Overview of 2021 misdemeanor cases

The misdemeanor cases filed in 2021 were distributed roughly evenly between the 16 CCCL courts, which each had between 2,900 and 3,100 cases. The one outlier was court 5, with over 4,000 cases.

Table 1: 2021 CASES BY COURT

Courtroom #	Number of 2021 cases	Percent of 2021 cases	Courtroom #	Number of 2021 cases	Percent of 2021 cases
1	2,952	5.9%	9	3,032	6.1%
2	2,933	5.9%	10	3,052	6.1%
3	2,949	5.9%	11	3,018	6.1%
4	2,966	6.0%	12	3,021	6.1%
5	4,333	8.7%	13	3,056	6.1%
6	3,006	6.0%	14	3,095	6.2%
7	3,024	6.1%	15	3,084	6.2%
8	3,027	6.1%	16	3,078	6.2%
			Missing court #	154	.3%

Overview of people with misdemeanor cases filed in 2021

» Personal characteristics of court users

Gender: The vast majority of court users in the 2021 caseload are male (77%), with females comprising 23%.

Race and ethnicity: Data on race and ethnicity should be used with caution. We understand that court users are not typically asked what race(s) and ethnicity(ies) they identify with, and so categorization likely reflects the assumption of the JPC staff member entering the data. We also heard anecdotally from stakeholders familiar with the data that race and ethnicity data may not be reliable. While it is difficult to assess the extent

to which race and ethnicity data reflects the way that court users in the caseload would self-identify, this assertion about data quality is supported by the fact that data on ethnicity (whether someone is Hispanic/Latinx or not) is missing for just over 71% of the caseload. With that in mind, we present the breakdown of data on the racial make-up of the caseload below to give a general sense of likely proportions in the caseload, and to highlight the need to assess the accuracy of this data and potentially improve its quality going forward. However, we are not presenting data on ethnicity because we did not receive data on ethnicity for the majority of court users in our dataset.

It seems that people of color comprise about half of the caseload, although it is difficult to say precisely because of the lack of data regarding court user ethnicity. According to the data on race, however, we see that **Black people are over-represented in the caseload by approximately 2x based on their share of the Harris County population.** (According to the 2021 Census estimates, 20% of Harris County residents are Black or African American alone.)²⁶ Due to missingness in the ethnicity variable, it is not possible to use this data to understand how the proportion of individuals in the caseload who identify as Hispanic or Latinx relates to their overall share of the Harris County population.

Table 2: RACE AND ETHNICITY OF HARRIS COUNTY COURT USERS

Race	Percentage of court users
White	57%
Black or African American	39%
Asian/Pacific Islander	2%
Native American	<1%
Missing race data	<1%

Note: Here and in tables below, the “white” category includes people who were identified as Hispanic or Latinx.

Age: Over one-third of court users in our sample were between the ages of 25-34 (36%).

Table 3: HARRIS COUNTY COURT USERS BY AGE

Age group	Percentage of court users
18-24	24%
25-34	36%
35-44	23%
45-54	10%
55-64	5%
65+	1%
Unknown	<1%
Missing age data	1%

Note: CCCL only handles adult cases with a minimum age of 18.

Mental health and substance use: 7,745 court users (about 19% of the total caseload) had a mental health or substance use flag (MH/S flag). The proportion of court users with an MH/S flag varies considerably by race, with court users identified as Black being far more likely than those of other races to have an MH/S flag.

Table 4: PROPORTION OF COURT USERS WITH A MENTAL HEALTH OR SUBSTANCE USE FLAG, BY RACE

Race	Percentage of court users of that race with an MH/S flag
Black or African American	25%
White	15%
Native American	9%
Asian/Pacific Islander	7%
Unknown or missing MH/S and/or race data	1%

» Current case

Most serious charge on the case:

Charges related to drug and alcohol use and assault (as defined according to the National Incident-Based Reporting System (NIBRS) categories) were the most common serious charges on the cases, followed by property crimes. Regarding cases in which the court user charged has an MH/S flag, charges related to assault and drug and alcohol use were still the most common, with roughly the same frequency. However, property charges were far more prevalent among those with an MH/S flag than among those without.

Table 5: RATES OF MOST SERIOUS CHARGE ON THE CASE

Charge	Percentage of cases
Drug/alcohol use	36%
Assault	23%
Property crimes	9%
Weapons	<1%
Fraud	<1%
Other	14%
Missing charge data	18%

Table 6: MOST SERIOUS CHARGE ON CASE AMONG THOSE WITH MENTAL HEALTH AND SUBSTANCE USE FLAGS

Charge	Percentage of cases
Assault	26%
Drug/alcohol use	24%
Property crimes	19%
Weapons	2%
Fraud	<1%
Other	17%
Missing charge data	12%

Release on bond: The most common type of bond is the general order bond (GOB): court users were released on GOB in roughly 43% of the cases in our dataset. In about 5% of cases, court users were released with money bail.

Court users with an MH/S flag are less likely than those without a flag to be released on GOB (in 29% vs 43% of cases), and more likely to be released on a personal bond (in 37% vs 26% of cases).

Table 7: BOND TYPES IN CCCL

Bond Type	Percentage of cases	Percentage of cases in which court user has MH/S flag
GOB	43%	29%
PR bond	26%	37%
Surety bond	10%	10%
Cash bond	5%	2%
Missing bond data	16%	23%

Note that the dataset analyzed included court users who did not bond out and were not released. The “missing bond data” category therefore includes those cases as well as cases for which no bond data was entered. Based on additional analysis, we estimate that the proportion of cases in which a court user was released but no bond data was entered to be very small, likely close to 1%.

Also note that percentages for the MH/S column sum to 101% due to rounding.

» Experience with Harris County Criminal Courts at Law

Concurrent cases: In the majority of cases, 71%, the court user had only one active misdemeanor case during the period. In about 9% of cases, the court user had three or more cases.

Prior cases: The majority of court users, 68%, had had no prior cases in CCCL between 2015-2020. Only about 9% of court users in the database had had three or more prior cases during five years prior to the research period.

Harris County Court user interviewees

Court user interviewees

We conducted in-depth interviews with 43 individual court users for this research. Recruitment for these interviews was challenging given the inability of Harris County to share contact information of past litigants who incurred warrants for nonappearance. The parties decided to pivot to a process where ideas42 would identify interviewees in court and through PTS, defense counsel, community service providers, and advocacy organizations.

» Demographics

Race and ethnicity: Race and ethnicity of our interviewees roughly approached that of the Harris County caseload, though it is challenging to know specifically because of differences in ways that race and ethnicity are defined and recorded. In particular, as noted above, it is difficult to say how the proportion of interviewees identifying as Hispanic/Latinx compares to their proportion in the Harris County caseload because of how infrequently ethnicity data was recorded in the dataset we had access to.

Table 8: RACE OF INTERVIEWEES COMPARED TO HARRIS COUNTY COURT USERS

Race	Interviewees	CCCL caseload (2021)
Black	35%	39%
Hispanic/Latinx	26%	--
White	23%	57%
Asian/Pacific Islander	5%	2%
Native American	0%	<1%
Multiple/Other	7%	---
Unknown	5%	2%
Missing race data	0%	<1%

Notes on race and ethnicity data:

To collect data on interviewees' race and ethnicity, we asked interviewees how they self-identified. As noted above, our understanding is that in Harris County's data, race and ethnicity is generally specified by jail staff and may or may not reflect how court users self-identify.

In the Harris County data, the White category includes Hispanic/Latinx-identified individuals, whereas in our interviewee sample, the White category only includes those who self-identified as white or Caucasian.

We offered a "multiple" category for those who identified with more than one race or ethnicity. Harris County data does not include another category for individuals who identify with multiple racial or ethnic groups.

Gender: We intentionally interviewed a disproportionate number of female court users to search for gender-based differences in appearance barriers.

Table 9: GENDER OF INTERVIEWEES

	Interviewees	CCCL caseload (2021)
Male	63%	77%
Female	33%	23%
Non-binary	2%	---
Unknown	2%	---
Missing gender data	0%	<1%

Age: Our interviewees skewed somewhat older than the Harris County caseload, not including the interviewees whose ages were unknown.

Table 10: AGE OF INTERVIEWEES

	Interviewees	CCCL caseload (2021)
18-24	14%	24%
25-34	28%	36%
35-44	28%	23%
45-54	9%	10%
55-64	12%	5%
65+	2%	1%
Unknown	7%	<1%
Missing age data	0%	1%

History of nonappearance:

The majority of interviewees had missed at least one court appearance, while the others had experienced challenges that informed our insights.

Table 11: INCIDENCE OF NONAPPEARANCE AMONG INTERVIEWEES

Type of nonappearance	Interviewees
Missed at least one court appearance	65%
<i>Missed first appearance</i>	45%
<i>Missed a later appearance</i>	32%
<i>Missed multiple appearances</i>	14%
Late to at least one court appearance	16%
Did not miss / was not late	19%

Note that some interviewees said that they had missed at least one appearance and had been late to at least one appearance, so percentages of those who missed and were late do not sum to 100%.

Court user survey respondents

To recruit individuals with misdemeanor cases for surveys, we partnered with PTS, HCSO's Re-entry Program, and PDO to conduct a short one-page survey with people who had either struggled to appear in court or not appeared. With this initial survey, we aimed to identify the more common drivers of nonappearance to both create effective interview guides and identify the cohorts of people most relevant to interview.

- ▶ Of the 60 respondents, 30 were from HCSO, 29 from PTS, and 1 from PDO.
- ▶ Demographic information was not collected to limit the survey's length and preserve anonymity.
- ▶ Fifty-three respondents (88%) completed the survey in English; seven (12%) completed the survey in Spanish.
- ▶ Forty percent of respondents reported they had missed one or more court appearances; 35% reported that they had been late.

Appearance Trends in Harris County Data

Overall appearance figures in Harris County's 2021 caseload

Initially, to explore factors related to nonappearance, we looked at the total number of appearances scheduled in 2021 that met two key criteria: 1) relevant appearance type and 2) the court user was released from jail prior to the appearance. (See [Appendix C at page 153](#) for detail on relevant appearance types.) As described in the [Methodology section \(page 13\)](#), we are not presenting detailed analysis of appearance types or statistics on appearance outcomes due to concerns regarding the reliability and therefore the utility of this data. We have instead chosen to present:

- ▶ Total number of relevant appearances in 2021
- ▶ Total number of appearances by court
- ▶ Average number of days between a court user's release from jail and their next appearance date

Because we did not find evidence that leads us to believe the recording of appearance dates, jail release dates, or court assignments are highly unreliable, we believe that these statistics are reliable enough that they may serve as a reference point for future analyses.

Total appearances in 2021

In 2021, there were 128,066 relevant appearances scheduled to occur after a court user's release from jail, with an average of 8,004 appearances per court. These appearances were distributed relatively evenly across courts, with some outliers.

Table 12: APPEARANCES BY COURT

Courtroom #	Number of 2021 appearances	Percentage of all appearances	Courtroom #	Number of 2021 appearances	Percentage of all appearances
1	7,477	5.8%	9	7,388	5.8%
2	7,449	5.8%	10	8,746	6.8%
3	8,461	6.6%	11	8,156	6.4%
4	7,550	5.9%	12	8,809	6.9%
5	7,558	5.9%	13	6,945	5.42%
6	7,358	5.8%	14	9,356	7.3%
7	7,935	6.2%	15	7,365	5.8%
8	8,070	6.3%	16	9,443	7.4%

Looking just at the non-waived setting types, we see that the first appearance following release from jail is most often set for 7-8 days following release. (There were 44,076 appearances of non-waived setting types that were either scheduled one or more days following the court user's release from the JPC.)

Table 13: DAYS TO FIRST APPEARANCE

Number of days between release and first appearance	Percentage of first appearances occurring in this timeframe
1-5 days	28%
5-6 days	29%
7-8 days	40%
9+ days	2%

Reasons for nonappearance given in bail revocation hearing interviews

We analyzed data from 3,893 interviews that PDO conducted with Harris County court users prior to their bail revocation hearings. These interviews were conducted between May 7, 2021, and January 7, 2022. Because PDO interviews all clients prior to bail revocation hearings, the dataset is rich and comprehensive. To maintain court user anonymity, no data was shared other than the interview responses, making further analysis by court user demographics or case or appearance details unavailable.

However, given that this data was received well after the research phase of his project concluded, this information could not be used when creating hypothesis or interview guides for court users. Interview responses were analyzed using machine learning techniques due to the size of the dataset. Although the machine learning technique used to analyze the data is not as precise as manual coding, the results give a meaningful picture of how prevalent different types of barriers to court appearance existed within a large and unbiased sample of individuals who missed court. During the analysis, roughly 16 topics emerged based on the interview responses. We identified common themes and experiences from the responses within each topic. Below we provide a description of the common barriers to court appearance found within each topic. We reference observations from this data in the relevant findings sections later in this report.

Transportation

Many responses cited difficulties court users had in getting rides from family members and friends, with a frequent challenge being that a person who had promised to give the court user a ride not being available the day of the court date. Others simply spoke to not being able to afford

transportation. Though it seems the majority of responses referred to court users intending to take private transportation, many also cite issues with public transportation—not being able to afford bus fare, not being able to get bus passes (presumably from PTS or another agency) or having trouble navigating the public transportation system. A substantial portion of those mentioning transportation challenges reported they were homeless as well, highlighting the particular barrier faced by unhoused court users.

Illness/COVID-19

Court users generally cited serious medical conditions as reasons why they missed court, with many saying they had been hospitalized at the time. Many described that they or a member of their family had been sick with COVID or had been quarantining when they were supposed to go to court, and they had missed court as a result.

Confusion over the court's COVID policies and seeming miscommunication with lawyers over whether or not it was necessary to show up in their situation played a role in nonappearances. Some responses described believing the court was closed or that they did not need to (or should not) show up in person due to the pandemic. Others had received incorrect information from their lawyer about whether or not it was required to show up if they had had COVID exposure.

Work conflicts

In general, responses simply said that court users were working the day of their appearance or specified that they could not miss work. A substantial subset of the responses mentioned that the court user had been working in another county—or, more frequently, another state—and either could not get back to Harris County for the court date or had forgotten about the court date. A small number of responses said that the court user had been afraid they would lose their job if they took off time to go to court.

Deportation/immigration concerns

Most responses within this topic stated that a court user had been detained by ICE or had been deported, and therefore had missed court. A smaller portion noted that court users were afraid to come to court out of fear of ICE and possible deportation.

Family emergency

Family emergencies generally entailed caring for a severely ill loved one (often due to a significant medical event, like a surgery) or handling the death of a close loved one. Responses in this category often noted that due to a loved one's illness, the court user had no one to look after their children on their court date, and that that lack of childcare contributed to their missing court.

Confusion regarding the court appearance

In general, responses frequently reported that the court user was misinformed about whether or not an appearance had been waived; mixed up the court dates for different cases; believed that the case had been disposed; or were simply unaware that they had a court date because they had not received (or did not remember receiving) notice.

Poor communication with defense attorney

Responses that specifically connected nonappearance to poor communication between court users and their lawyers generally fell into three themes: court users reporting that they had been told by their lawyer that an appearance was waived when it was not, that a lawyer had not provided information for a reset court date, or a lawyer had not responded to attempts by the court user to clarify court date information.

Phone/notification issues

A common theme within this topic was court users losing their phones and being temporarily unable to contact the court, remember their court dates (likely because they had saved the information to a calendar app), or show up by Zoom. Less frequently, responses mention court users not being able to pay their phone bills or not having a phone at all.

Several of the responses mentioned that the court user had been homeless or was dealing with mental health issues or other instability at the time of the court date, but phone issues were not only experienced by court users with these challenges.

Inability to pay fees related to the case

Though many responses related to ways financial hardship interfered with getting to court, some respondents spoke about needing or trying to save up money to allow them to fulfill their court obligations or obtain representation, and deciding to not come to court until they could pay for these things. Common themes included court users needing to pay for things related to their conditions of release, like breathalyzers or classes; a court fee, such as a fee related to a plea; or that they were trying to save money to pay for an attorney or a bondsman's fee. Responses frequently included that the court user believed they would be arrested if they showed up to court under the circumstances.

Date reset

Generally, court users expressed that their appearances had been reset several times, and they either lost track of the new date or did not receive the notification. Responses in this topic overlapped substantially with the topic related to poor communication between the court user and their lawyer.

Forgetting

Many interviews noted that the court user forgot the court date and do not provide more detail about the circumstances. However, a large portion of those who did provide detail mentioned that the court user had lost their court paperwork, and often additionally did not know what to do to confirm their court date.

The interview responses also illustrate ways that scarcity makes it difficult for court users to remember their court dates. Interview responses that relate to forgetting frequently cited numerous additional challenges that the court user was dealing with at the time—job losses, evictions or homelessness, juggling work and childcare, personal or family medical crises, and mental health challenges were all common themes.

Issues related to homelessness

Homelessness intersected with many other challenges named in the PDO bail revocation hearing interviews, with common themes including lack of transportation; lack of a working phone; losing paperwork; and severe mental and emotional distress.

Issues with Zoom appearance

Court users whose nonappearances were related to Zoom issues frequently missed court over confusion about whether or not they were to appear in person or over Zoom. Other themes included court users not being called on while in the Zoom appearance or being kicked off due to a technical glitch; or having trouble connecting because of network or device issues.

Detention in other jurisdictions

A relatively small portion of responses state that the court user had been incarcerated in another county at the time of their appearance—often noting that they had been incarcerated for a month or more—and so were unable to contact the court or their lawyer on their Harris County case.

Mental health

Responses citing mental health issues often included that the court user had been in crisis and either hospitalized or in another institution during the period of their missed court appearance. Other responses described suicide attempts or severe depression; others cited general mental instability or mental health challenges. A portion of these responses note questions related to the court user's mental competency and ability to participate in a hearing.

Substance use

Responses in this topic generally spoke to the court user having been in a rehab facility prior to their court appearance. A small minority of responses report that the court user had been actively using drugs or alcohol prior to their appearance and had missed court as a result.

Overview of Findings

While we found supporting evidence that all barriers named in the Consent Decree impede court users in showing up for court to some extent, we uncovered some surprising insights (discussed throughout our findings) not specifically called out in prior research:

- 1 Court users believe **appearing in court is an important obligation** they strive to meet
- 2 **Fear of going to jail** is a leading—but often overlooked—driver of nonappearance
- 3 **Scarcity is a top driver of challenges in appearances**, even for court users we interviewed who made it to court. Challenges specifically related to homelessness present additional barriers to appearance, and are a significant driver of nonappearance for those who are unhoused
- 4 **Court users spend much time planning how to get to court** (asking friends and family for rides, planning public transportation routes, taking Ubers/Lyfts, arranging for alternative childcare, taking time off work, etc.) but lack of financial resources stymie these efforts
- 5 **Most court users are not just amenable to Zoom but prefer it**, likely because it requires less hassle, and it alleviates the fear that they may go to jail when coming to court in-person
- 6 Court users overwhelmingly understand **a warrant is a consequence for nonappearance**
- 7 Those on bond often use their **bondsman as their main resource** for court reminders
- 8 Two barriers named in the Consent Decree—**detention in other jurisdictions and medical emergencies**—were less prevalent than expected*

** Because we did not find robust evidence related to detention in other jurisdictions or medical emergencies, we do not describe detailed findings for these barriers below. These barriers were present to some extent in the bail revocation hearing interviews but were rare in our interviews and survey responses.*

The table on the following page identifies the findings and how they coincide with the phases of the court process: general atmosphere, learning of the court date, remembering the court date, and traveling to the court date.

Findings by phase of court process

Phase	Finding	Page
 Overall experience (dignity and procedural justice throughout court journey)	#1: Fear, especially of arrest, drives nonappearance.	43
	#2: The expectation of unfairness can dissuade people from both showing up to scheduled court dates and resolving warrants for nonappearance.	54
	#3: The experience of scarcity both limits the mental bandwidth that individuals have available to coordinate getting themselves to court and requires people to work harder and through more challenges to get to court.	69
 Learning about the court date	#4: Key information about when, why, and how court users need to appear is often not communicated effectively.	91
 Planning to show up	#5: There is a lack of reminders close to the court appearance date.	106
	#6: Difficulty communicating with attorneys and court staff can prevent court users from clarifying appearance details and navigating barriers to appearance.	111
	#7: Most people welcome virtual appearances, but process changes can make virtual appearances more accessible and safer.	121
	#8: Lack of consistent smartphone access inhibits critical communication between court users and their attorneys and court staff.	126
	#9: People may face an unaffordable loss of income or other penalties for missing work to appear in court.	131
	#10: People with caregiving responsibilities frequently do not have reliable, affordable alternative care arrangements for court appearances.	135
 Getting to the hearing	#11: Court users struggle with unavailable and/or unreliable public and private transportation to court, made more difficult by rush hour traffic to arrive for earlier dockets.	140



» FINDINGS AND RECOMMENDATIONS

OVERALL EXPERIENCE: DIGNITY AND PROCEDURAL JUSTICE THROUGHOUT COURT JOURNEY

While the nuts and bolts of learning of court dates, planning for, and getting to court are important to appearance rates, we must also look to how courts and the court process make court users feel and the role that may play in discouraging or encouraging appearances. Procedural justice, or the lack thereof, shapes the entire court process and court users' experience of it. The tenets of procedural justice include i) understanding one's rights and legal processes, ii) neutrality in that the process is transparent and treats all equally, iii) voice to explain one's own side and be heard in the process, and iv) respect and feeling that one is treated with dignity.²⁷ Aligning the court experience with the tenets of procedural justice has demonstrated benefits. Research has shown that people are more likely to comply with the law when they feel that the law and its actors are legitimate and act in inherently "fair" and "just" ways; they may also be more likely to follow mandated directives when they have trust and confidence in the court.²⁸ And while outcomes are important, even "people who receive outcomes that they regard as unfavorable or unfair are more willing to accept those outcomes if they are arrived at through procedures they regard as being fair."²⁹

Based on this research, we reason that ***strengthening the perceptions of procedural justice within Harris County can lead to higher compliance with the law generally and, it should follow, with court obligations and appearances.***

In our interviews, court users frequently expressed distrust of the system and the court actors within it. Court users said they felt mistreated from the start of the experience at the JPC throughout the process of the court case. Interviewees expressed little hope, great frustration, marked powerlessness, and a lack of understanding as to the processes and most commonly, why they needed to appear in court physically for cases routinely reset to another date. Fear and the expectation of unfairness were the most-cited feelings court users had about court, experienced by both first timers in the court system as well as those with longer histories of criminal charges. In sum, court users expected unfairness, disrespect, and to have no voice throughout the process.

FINDING #1

Fear, especially of arrest, drives nonappearance.

Summary

By far, the prevalence of fear court users experience before and during court dates constituted our strongest finding. 77% of interviewees reported that they feared being jailed during the arraignment or the case unexpectedly resolving in a way that could harm them (conviction, jail, nonpayment of fines leading to jail). 20% of survey respondents named fear of lockup as a challenge to showing up to court, and 20% named fear of having to pay fines.

Interviewees with different levels of experience in the system—first-timers as well as people with longer criminal records—seem to hold the same mental models: that courts are places where people can routinely go to jail at any point in the process.³⁰ Both groups reported feeling fear before the court date, when traveling to the court date, and while in court. While fear did not commonly directly cause nonappearance, of those ***interviewees who reported feeling fear, 45% suffered warrants and cited fear as the number one reason they chose not to voluntarily surrender.***

Background

While court users fearing court dates is not surprising, the intensity, depth and commonality of this emotion across all populations is striking. The Harris County process of arrest, which includes in-custody (and possibly long distance) transport to the JPC downtown for booking, and a custodial bond process for everyone that can take anywhere up to 48 hours in custody before a release by jail staff, may contribute to this finding. Court actors may underappreciate the level of court users' fear, as most people who work within the system routinely build up an expected tolerance to such a charged environment. What may be business as usual to court actors can be terrifying for court users. As "the main function of fear ... is to act as a signal of danger, threat, or motivational conflict, and to trigger appropriate adaptive responses,"³¹ court users must constantly work through that natural defensive response to appear. An emotion such as fear also carries with it psychological, physiological and behavioral elements.³² While measuring the consequences and responses to fear is outside the scope of this study, addressing fear should help with appearance, and at the very least, can certainly help court users feel safer when meeting their court obligations.

What we found

» **No experience in system**

Those who have never had a prior case have no frame of reference regarding what to expect or the possible outcomes of each court date. Court users are released from the JPC with a next court date but with no other information explaining the process. Court users reported not understanding the purpose of an arraignment, whether or not they would qualify for a lawyer, whether or not they needed to hire a lawyer, and what would happen if they appeared without their own lawyer. Additionally, many court users assumed that on the date of arraignment, guilt or innocence would be decided, that they could be sentenced to jail on that date, and/or that they would be required to pay fines or fees on that date and if unable, would be jailed. Below are excerpts from interviews:

COURT USER STORY

*An interviewee explained that for a first offense court case, **his “whole world” changed**. The days leading up to the court date he was very emotional and could not sleep—it was **“something that haunts you.”** He was so scared about his first arraignment that he and his mom practiced the route to court the night before. On the day of court, they arrived early at 8:30 a.m. and when sitting outside the courtroom, he heard people talk about what could happen. He did not have a lawyer at the time, did not know one would be assigned to him, and fully expected to go to jail that day. The only information he had was his bond paper and since **“no one explains the process literally,”** he expected the worst. Despite being early, he left court before being called and went straight to Mexico. When he returned and was picked up on the warrant and jailed for two weeks, the judge asked why he went to so much trouble to miss a court date and he explained he had no idea what to expect and his fear just got the better of him.*

IN THEIR WORDS

“ Last night I could not sleep, and knowing I have to go to court made the **days before longer and more stressful** because I am missing work hours today too. Just waiting for them to call my name **makes me want to throw up**. The day before I cannot eat or sleep, my mind rushes, and I cannot wait until it is over with so I can have at least two weeks of regular feeling in my tummy when I am not thinking about court ... **I am terrified of what they say or how rude they will be or what they decide** ... I am more scared of the judge and others in the courtroom than making payments.”

» Experience in the system

While the fear first-timers feel likely stems from not knowing what to expect, those with prior cases seem to draw from their prior experiences.

IN THEIR WORDS

“ The day before I am nervous because I don’t know if I will go to jail ... just because you are released on bond, you still do not know if decisions can change. **There is a high probability you may be free one minute and the next minute in jail.**”

This interviewee’s fear was well founded. Previously, when he showed up on his scheduled court date, he was arrested and held for 12 hours because a warrant was incorrect (issued on the court date recorded, not the date that was given to him). In fact, this interviewee is so skeptical that moving forward, he vowed to never drive to court for fear of going to jail and having his car towed.

“ When I walk into court, I feel emotional ... I feel like crying when I get to court. All I think about is my family ... I could be gone from them and not know what will happen while I am gone. **I’m 19 and I have a family that I am trying to maintain as best I can.**”

“ My biggest fear is that I will come and get locked right back up ... Before court, I pray, and other than that—because I do not know outcome—I try to **make sure family is secure because I am not sure if I am coming back.**”

“ The day before court ... it gets real serious ... **I feel like the world is against me.**”

COURT USER STORY

When asked what an interviewee does to prepare for court, he answered, “PRAY!”

» Warrants

Court users who have warrants from either nonappearance or a bond violation hold especially strong fears and expectations around being jailed upon surrender. While many interviewees expressed feeling fear, they all appeared in court on the days of the interviews. However, the fear around appearances answering to warrants often serves as a distinct and concrete barrier to appearance. In the PDO bail revocation interviews, common themes included attempts to save money to pay for a private attorney or a bondsman’s fee before returning to court.

COURT USER STORIES

An interviewee missed court when he lost his job and had a bad breakup in the same week and had no ride to court because his partner was his ride. **“To go down there [court], you’ll probably get locked up. The judge isn’t trying to hear [that it was hard to make it to court]. I expected to get locked up for 30 days, to lose my job if went to jail, and I would not be able to pay rent.”** The interviewee is waiting for a “warrant forgiveness” day to turn himself in.

A lawyer explained that when a client has a bond violation and he tells them their bond could be revoked, many times the client will stop answering the phone because **“most of the time, people are just scared—even if I tell them that I am their attorney, working for them.”**

A young Black adult was couch-surfing and staying with friends when one day the power went out, leaving his electronic monitor and phone uncharged. He had been out of touch for a month and then got back in touch with his lawyer and his PTS officer, trying to explain what happened, hoping to come to an agreement that if he turned himself in, he would not go to jail. They told him to come in and see what happened. On his way to court, **he spoke to his father who told him not to go to court because he would just get locked up, so he did not go that day.** When he appeared on his actual court date, he was jailed for one week until he pled guilty to probation to assure his release.



A Note on “Open Hours” Court:

CCCL offers an *Open Hours Court* intended for court users who have missed a court date to appear shortly after the missed date in order to clear the nonappearance.³³ Open Hours Court is offered every Thursday from 8 a.m. to 3 p.m. in rotating courtrooms, and a public defender or assigned counsel will be available. The Open Hours link on the CCCL website reads, “The purpose of Open Hours Court is to provide an opportunity for people to move forward with the business in their cases more efficiently and, to the extent permitted by other provisions of the Consent Decree, to do so without fear of going into custody for a prior nonappearance.”³⁴

Our research revealed a few important points regarding Open Hours Court. First, neither the people charged nor the lawyers with whom we spoke knew of Open Hours Court. Second, while the schedule is listed on the court website, the stated purpose is harder to find within a seemingly unrelated link to a pdf entitled “*Court setting guidelines and procedures*.” Third, when we described Open Hours Court to interviewees new to the system, they generally expressed that they would use this tool to correct a nonappearance. However, those with prior cases expressed that they would not trust this tool, even if a guarantee of no arrest existed. The general sentiment was that they would not trust that they would not be arrested and jailed. Relatedly, while other jurisdictions, like *Jefferson County Criminal and Circuit District Courts*, have successfully offered “amnesty” days or weeks where people can appear for traffic and all misdemeanor warrants with the express promise of not being arrested and jailed, CCCL will not expressly state such a guarantee. This confluence of factors seems to have rendered Open Hours Court a tool not often utilized.

» Young Adults

Three young adult men we interviewed all reported safety concerns while traveling to court, with one specifically concerned “every time I step outside, I am worried about [getting shot].” The mother of a young man in court reported that she fears her son could be hurt by others while waiting in and leaving court because she has seen other young men act aggressively toward her son inside the courthouse.

IN THEIR WORDS

“ Every time I step outside, I am worried about [getting shot].”

» Non-citizens

Court users who face possible deportation feel fear on two fronts: that associated with court and that associated with ICE. While both fears relate to a loss of freedom, the latter is of course more severe. In fact, one study showed that fear of anti-immigration policies that can lead to deportation takes a measurable toll on immigrants’ physical and mental health.³⁵ An interviewee explained, “I was scared that if I showed up to court [in person as opposed to Zoom], they were going to hand me over to immigration.” We also asked service providers to identify the biggest challenge for Spanish speakers/ Latinx people appearing in court, and one answered, referring to those with immigration concerns specifically, “100% fear.” Another explained that “clients hear stories all the time of people being charged with a crime and being undocumented and deported. Fear is reinforced because of direct knowledge of people with this experience.” In the PDO bail revocation data, most responses within this topic stated that a court user had been detained by ICE or had been deported, and therefore had missed court. A smaller portion noted that court users were afraid to come to court out of fear of ICE and possible deportation.

IN THEIR WORDS

“ I was scared that if I showed up to court [in person as opposed to Zoom], they were going to hand me over to immigration.”

Recommendations for reducing fear

A Assign public counsel to eligible court users before they leave the JPC

Connect court users with lawyers pre-arraignment to explain the process and reduce fear of arrest.

Connecting court users to a lawyer before their first court date outside the JPC will 1) assure them a lawyer will be present at the hearing and serve as their advocate; 2) connect them with a lawyer who can explain the arraignment process and specifically that arraignment is often the start of a longer process; and 3) importantly, address some of the more common fears that

surfaced during the research, such as court users believing they will be forced to resolve the case at arraignment and may face jail and fines.

The [Early Representation Program](#) (“ERP”) in Contra Costa County, CA is a good example of how early representation can reduce gaps in communication and decision-making processes while addressing the acute needs of misdemeanor clients to increase appearances. (National Best Practices Report at 19, hereinafter referred to as ‘NBP’). ERP provides support by connecting with clients immediately after police contact, explaining court processes for low level misdemeanors, connecting clients to social services including housing support, mental health services, substance use support as well as with social services to help them with transportation, childcare issues, etc., assisting clients with warrant recall and of course, representing clients at arraignment.³⁶ **The baseline rate of bench warrants issued before the ERP program was approximately 37% and afterward, about 22%,** representing a 40% decrease in warrants from the baseline. In the second year, the bench warrant issuance rate dropped to 19%, or about 50% lower than the baseline. Those who were successfully contacted by ERP appeared in court and did not have bench warrants issued about nine out of ten times—almost a 75% drop from the baseline.

Currently, court users are assigned counsel at arraignment, after a CCCL Judge finds them indigent. To assign counsel at the JPC well in advance of the arraignment, a newly-funded indigent defense coordinator role would be needed, with funding which could be allowed per the Consent Decree.³⁷ This coordinator could review the indigency form to confirm indigency, obtain the person’s best contact information (especially for those on GOB who are not represented), secure the court user’s opt-in for notifications and reminders and then enter the court user’s name, contact information, cause number and court date into the Fair Defense Act Management System (FDAMS). The FDAMS then submits a request to the MAC for assignment to one of the lawyers present in that courtroom (or on that floor) on that future date and who has confirmed availability the week prior for the initial meeting with the court user. The FDAMS currently includes a notes section in which the coordinator could add the court user’s best contact information, custody status, and details of the magistration hearing, if any. The coordinator would be alerted of the assignment to know who to expect at the hearing and the lawyers would be notified via email and text. Special circumstances such as a client who does not speak English and therefore needs interpretation, a co-defendant case, or a court user with an open case would require the MAC to take a deeper look to make the best assignment. Once the assignment is made, the coordinator will provide the court user and lawyer with the other’s correct contact information and encourage a meeting within three business days. PDO assignments may require a separate process. The indigent defense coordinator could be staffed from the MAC (given the bulk of assignments to the MAC) or PTS (staff already executing bail assessments) and would require availability in three eight-hour shifts to accommodate all arrests. Given that the judiciary holds sole authority to deem someone indigent and in need of counsel, the arraignment judge would need to confirm indigency on the record and if not,

give the court user time to hire a private lawyer, while also allowing counsel to bill for the time already spent on the case and in conducting the initial meeting with the court user. Alternatively, the court rules could be amended to grant such authority to the indigent court coordinator which could be overruled by the judge if needed.

We understand PDO and the MAC are in the process of assessing their support services in line with the Consent Decree and will check in with them during the next phase to determine how to round out their services for the robustness of the ERP. Currently, PDO offers holistic defense with services similar to ERP, including connecting clients to peer mentors with lived experience and social workers earlier on in the process, and using investigators routinely. The MAC is off to a good start in changing the culture to one in which lawyers use such services. The MAC is growing its social work staff and will offer trainings on the value of social workers and how make referrals through a form on the MAC website. The MAC's resource attorneys (those assigned to guide the work of MAC lawyers) in courtrooms can also prompt lawyers to use a social worker. Early results show that in just two months, MAC use of social workers led to two dismissals. The MAC is also teaching lawyers how to request other services such as investigators, interpreters and immigration law advice.

B **Develop a video to educate court users about what to expect at court**

An informative video can educate court users awaiting release about the court process and reduce fear and uncertainty about returning to court.

An informative and engaging video (shown for example, during the hours court users await release at the JPC) about what to expect during a court case could help to reduce fear about what happens after release and give court users information that will allow them to advocate for themselves and participate more fully in their case.

The video could educate court users about 1) the general process that cases take, 2) what happens at an arraignment, 3) their rights and obligations as defendants, 4) what it means to be out on bond, 5) public counsel assignment details and what to expect from your lawyer in terms of communication and reviewing discovery, 6) the important steps court users must take to appear, helping them begin to plan out what they will need to do even before they are released, 7) what to do if late, and 8) when and how to appear via Zoom. The video could help reduce fear about court appearances even more by emphasizing that court users will not have to pay fines or fees when they show up to court.

The video can also introduce helpful resources that court users can access—such as the Harris County app (if developed), the Court User Program (if developed), Justice Navigators, and the Harris Center for Mental Health, etc.—and encourage court users to ask questions and raise any concerns they have regarding their appearance with JPC staff conducting their release

process. Similar videos, such as a template created by the National Center for State Courts³⁸ can provide example content that Harris County can adapt and build on.

The video could be shown in waiting areas of the JPC so that anyone held in the JPC would have an opportunity to view it before their release. English and Spanish versions could be produced, and the video could be played with subtitles to be more accessible. It could also be posted on the court website and be available through the Harris County app (if developed), so that court users could reference it after release. A link to the video could also be sent out with text message reminders prior to appearances as an additional prompt for court users to familiarize themselves with the process and available resources to help them.

The video should integrate with all other informational materials court users encounter to make the information more salient and digestible: the visual design and explanations provided in the video should be replicated in other types of information that court users may encounter (posters displayed in the JPC, at PTS and in the court building, any external advertising done by the court, etc.).

c Provide peer mentors for court users with high needs

Leverage peer mentors to help court users with high needs successfully navigate barriers to appearance.

While peer mentor support has not been rigorously evaluated for its impact on court appearance rates, **peer support is seen as a critical component of court-based programs that engage court users with mental health or substance use needs** in particular. (NBP at 56). Several Harris County agencies and organizations serving court users employ peer mentors to support clients: PDO currently employs three full-time peer mentors for their caseload, and Harris County has employed peer mentors in specialty courts and dockets (e.g., Veteran's Court and the RIC docket). Stakeholders interviewed for this research have said that peer mentors play a valuable role in participants' success. (NBP at 53-54.)

A broader misdemeanor Harris County peer mentor program would provide consistent, trusted support for a larger segment of court users who have very high barriers to court appearance (related to homelessness, mental health, substance use) and whose cases are not diverted. This would provide a layer of support that would supplement but not replace assistance provided through PDO or MAC social workers or other agencies.

Peer mentors draw on their first-hand experience to help coach people through a system or process. Peer mentorship centers on exchanging knowledge and skills with the mentee and includes an emotional component of providing empathy, support and guidance.³⁹ In this way, not only can peer mentors provide practical guidance about navigating a situation, but they can also serve as a source of companionship and trust to support people through challenging

experiences. The practice of peer mentorship has been found to be effective across a variety of domains, including healthcare,⁴⁰ education,⁴¹ and the criminal legal system.⁴²

Logically it makes sense for defense counsel to manage peer mentors so that mentors can support the legal strategy and most effectively help court users navigate their specific court experience. Therefore, we recommend that PDO's peer mentor program be expanded and a parallel program be established within the MAC to serve those court users. This recommendation assumes that Harris County will implement the recommendation to appoint public counsel prior to court users leaving the JPC (at page 47), making it possible to assign peer mentors prior to release as well. For these high-needs court users, it is important to minimize any delay in their receiving support and getting connected to services that will help them appear in court.

The design of an expanded peer mentor program should build on what is working well in Harris County's specialty courts and within PDO currently. Two key differences would include:

1. As noted above, court users could opt into the program and be **assigned a peer mentor prior to release**. The peer mentor could then be involved in release planning, quickly building rapport to identify barriers to appearance that may not have been surfaced otherwise. Mentors would then help minimize any delay in getting court users connected to services and maintain contact with the court user to reduce the likelihood that court users fall out of touch before arraignment.
2. **Peer mentors could be activated when a court user has a warrant**. As we have seen through this research, court users are likely to avoid coming to court if they think they have a warrant. The peer mentor can get in contact with the court user in this situation, encouraging the court user to stay in touch with their lawyer and helping the court user to take any steps (like signing up for a program or getting a phone so that they can check in with PTS) that could help the court user demonstrate compliance and avoid arrest. In these instances, a defense attorney could request that a peer mentor reach out to their client even if they had not had a peer mentor assigned previously, as a strategy to engage court users during a period when they are at high risk of nonappearance.

One anticipated challenge with an expanded peer mentor program relates to employment restrictions on people with past criminal history. By definition, peer mentors would have lived experience with the criminal legal system, allowing court users to relate to and trust their mentor, and helping mentors explain aspects of the court process in digestible ways and anticipate and address mentees' challenges. We understand that state legislation places limits on the roles that individuals with a criminal history can perform for the court, and so this would need to be taken into account when structuring the role.

D

Create a Court User Program (the CUP) to assist with appearance challenges

A one-stop shop for court users centralizing all new support provided to assist with appearances.

Given the sheer size of the Harris County system, the various stakeholders that touch court users throughout the process, and the many recommendations included in the Consent Decree as well as this report, we recommend creating a **centralized Court User Program (CUP) designed to assist court users with appearance challenges**. Currently, the resources are scattered from a court user's perspective, with HCSO's Re-Entry Program; the Community Assistance Referral Program connecting court users to funds needed after release to support appearance (gas cards, bus passes, child care vouchers, clothing, and soon, ride share programs); PTS Justice Navigators answering calls with questions about court and helping court users navigate when they arrive at court; PTS staff at the JPC asking and recording opt-in reminders; PTS trying to field hundreds of calls daily often about next court date and assignment of counsel questions; and court coordinators receiving calls about court dates, Zoom, lawyer assignments, and day-of emergencies that prevent court users from showing up to court.



Hassle factors

Hassle factors are inconveniences or obstacles that impede a desired behavior. The effort it takes us to complete an action can prevent us from following through on our intentions (see "[The intention-action gap](#)" at page 5). For the court user, having to gather and compile information from many sources may be a substantial hassle factor. Public policy researchers have found success with reducing these hassles by translating complex information into easy-to-digest pieces and simplifying processes as much as possible.⁴³

The CUP could serve as:

1. The repository for court user basics such as contact information, case information, counsel assignment, reminder opt-in sheets (if implemented) and opt-ins obtained later in the process at PTS or during resets, and court user needs
2. The distributor of all appearance assistance (gas cards, bus passes, ride share, childcare and clothing vouchers, etc.)
3. The hotline service where court users call a central number (given to them on all court forms highlighted) and in the packets received when exiting the JPC should they need supportive appearance services or have questions about their case or issues with their appearance
4. The liaison between the court user and court coordinator when issues arise regarding appearance and warrants for nonappearance, assuming counsel and/or Client Advocates are also involved if assigned

5. Should the Justice Navigator role expand per the recommendation [at page 78](#), their operations and services could be placed within the CUP

While this recommendation is not a studied evidenced-based practice, the CUP would alleviate the burdens on the stakeholders engaged in fulfilling imperative roles within the system. Additionally, the CUP would address some of the findings in this report by offering aid to increase procedural justice; ensuring access to quick, clear, and credible information and support; ensuring that more court users receive the material aid necessary for them to return to court; and providing a friendly, customer service-oriented arm of the court to reduce fear and mistrust. In the next phase of this project, we will seek feedback Harris County stakeholders as to the feasibility, funding, as well as the proper agency within which to place the CUP.

FINDING #2

The expectation of unfairness can dissuade court users from both showing up to scheduled court dates and resolving warrants for nonappearance.

Summary

A sizable portion of people with court cases expect that they will end up going to jail, regardless of whether or not they attend a given court appearance. Based on our interviews, we found that this expectation is more prevalent among people who have had prior court cases. 49% (21) of interviewees expressed a lack of trust or disappointment in their lawyer, and others spoke about a lack of trust in the court system in general. For nine court users, their expectation that they would not be treated fairly directly contributed to their not attending an appearance. Among our interviewees, those identifying as Black were most likely to express this view. (About half of Black interviewees spoke of expecting unfair treatment, while about a third of white interviewees did.) In the PDO bail revocation hearing interviews, respondents spoke about postponing court until they could save enough money to allow them to obtain private representation and/or for a bond, intimating they expected poor representation and a high bond once they returned to court.

A person's expectation of unfairness can be based on a combination of past experiences of arrest and incarceration, experiences that have conveyed a lack of respect or care from court staff, and a lack of faith that their defense lawyer will represent their best interests. Thinking back on their past experiences with the court and the experiences of their friends and family, court users may make a determination that it is not in their self-interest to go to court.

Background

Prior to the lawsuit that resulted in the Consent Decree, Harris County employed a practice of detaining tens of thousands of people per year charged with misdemeanors who pled guilty quickly to gain their freedom. (See "[Background on nonappearance in Harris County](#)" at page 1). While Harris County has made great strides in addressing past unfairness, prior practices along with well-documented inequities embedded in national criminal legal systems lead to well-founded expectations of unfairness.⁴⁴ Elements of the court's current practices that strongly shape the court user experience—such as the delayed appointment of public counsel, challenges court users face in getting information from the court clerks and PTS, and the extended time it takes the average case to be disposed—can all convey to court users that the court is not invested in delivering justice to them. Regarding the decision to show up for a given appearance, court users may be given little information as to what to expect, and there are few guarantees that the court offers (or in some cases can offer) about the outcome of an appearance. As described in the

preceding section, court users may arrive at court unsure about whether or not they will be jailed, made to pay an unaffordable fine, or even detained by ICE and deported.

What we found

The vast majority of court users intend to appear at court because they take their cases seriously and want to resolve them.

Almost no interviewees said that they thought that showing up to court did not matter. However, when court users do not believe that they will be treated fairly, some may decide not to show up. This research found that those who have had previous court involvement are more likely to expect that appearance will not benefit them. In the stories that interviewees told, a consistent theme was uncertainty about the rules of the system, or a lack of trust that court actors would follow the rules or act in good faith. This expectation of unfairness may also amplify the fear that people feel regarding their court appearances, which in combination can create a strong barrier to showing up to court.



The availability heuristic

The availability heuristic is an over-reliance on our own memory when making judgments. Specifically, it is the tendency for us to rely on how easily examples of a given occurrence come to mind, (i.e., how “available” they are) when judging the probability of that occurrence happening.⁴⁵ For example, we might incorrectly guess that plane crashes are more common than car crashes if we can vividly recall more instances of plane crashes we saw on the news, versus reports of car crashes. A court user who has experienced or heard of others experiencing unfair treatment at court therefore has many “available” examples and may predict a high likelihood of this happening to them as well.

» **Prior experience fuels belief that arrest is inevitable**

Prior experience of being arrested without warning, especially if the arrest occurred at court, forms powerful and salient evidence that the court will not treat them fairly. As a result, court users may reason that showing up to court is likely to, at worst result in their incarceration, and at best cost them time and money without providing any benefit, only prolonging their inevitable arrest. 30% (13) of interviewees described being arrested and/or incarcerated unexpectedly. Those experiences contributed to doubt among some that they would be treated fairly when they went to court. An interviewee who had been wrongly accused and taken the case to trial summed up the sentiments of several others by saying, “The way the system is, you gonna get hung, especially if you don’t know your rights.”

For some interviewees, the expectation of unfairness was deeply rooted in their experiences with the criminal legal system as young people. A staff member working with unhoused young people said that the young people they work with have a “very low level of trust in the legal system. Especially African Americans. They have no level of confidence, and they are scared to death in the legal system ... If the youth have had previous criminal records ... they automatically assume that they will be treated based on their past charges, not present circumstances.”

A young person interviewed shared, “I don’t trust anybody ... [With] how I have been dealt with as far as the justice system, as a juvenile in the system, I don’t trust nothing about the court, at all ... Sometimes they call you in just to lock you up ... that was the first thing they tried, before I had the warrant, they said ‘just come visit the office.’” This young person had recently spent an extended period in jail without seeing a judge or having meaningful contact with a lawyer, an experience which made it understandably difficult to trust the court. Another interviewee recalled a similar experience, saying, “As far as what to expect [at court], you never know the outcome. First time I went [to jail was] when I was 21. I had a warrant, something I’d paid [off] a week prior. They’d handcuffed me there [at court]. I’d paid it but it hadn’t gotten recorded yet. The deputy was screaming at me, [yelling], ‘Shut the fuck up.’”

COURT USER STORY

A young person interviewed shared, “I don’t trust anybody ... [With] how I have been dealt with as far as the justice system, as a juvenile in the system, I don’t trust nothing about the court, at all ... Sometimes they call you in just to lock you up ... that was the first thing they tried, before I had the warrant, they said ‘just come visit the office.’” This young person had recently spent an extended period in jail without seeing a judge or having meaningful contact with a lawyer, an experience which made it understandably difficult to trust the court.

» Concerns about unknown warrants and technical violations

Some of the mistrust that court users feel is based at least partly in gaps in communication between them and the court. An important source of uncertainty relates to warrants. Interviewees with significant experience with the criminal legal system said that it was difficult to be sure that they did not have a warrant, and so were wary of any contact with law enforcement or the courts. A few interviewees said that they were concerned that if they showed up to court, they might be arrested on a warrant they were not aware of previously. These interviewees essentially felt that they faced a catch-22, as if they appeared in court for one case, they would be arrested on another. If they did not go to court, they would have a warrant issued and be arrested on both. For instance, an interviewee who had struggled with homelessness recalled showing up to court for a misdemeanor and being arrested on a warrant related to a felony charge. This interviewee concluded that it was likely wiser to avoid going to court for a misdemeanor appearance because the chances were “75-25 to go to jail. You can pay your way out, but can’t [avoid jail].”

This can also be the case if court users have (or are concerned that they have) a technical violation of their release conditions. This can prevent court users from contacting the court or taking other proactive steps to resolve a missed appearance. The interviewee who shared the experience of being arrested at 21 said that **he expected that if he went to court when he had a technical violation, he would be jailed for a full month or two.** Another interviewee

in their early twenties described an experience with a technical violation—not being able to charge their ankle monitor—that coincided with a court date. While the interviewee was on their way to court, his father warned them not to go, saying, “they are just gonna lock you up.” The interviewee went to their subsequent court date, where they learned that there was a warrant out for his arrest. He ended up being held in jail for one week before pleading in order to be released.

» **Distrust of defense attorneys**

The sketch at [page 24](#) illustrates how distrust and poor communication with defense attorneys can lead to missed appearances. We found that **distrust of defense attorneys, particularly court-appointed attorneys, is widespread.**

While six (14%) of interviewees expressed trust in their attorney and felt that their attorneys were working hard for them, 21 court users interviewed (49%) viewed their lawyers as working against them or, at least, not really fighting for them. Interviewees were very clear that court-appointed attorneys in general were not to be trusted because they are part of the court system, saying, “You have a very low percentage of court-appointed lawyers who will help you ...” or, “People who work for the courts, work for them. I’ll automatically shut down ... Some of them are really good, but most of them ... They eat with the DA.” A young interviewee described how their outlook on their appearances was heavily shaped by the fact that they had a court-appointed lawyer: “At first I thought [that showing up] doesn’t matter: it’s not going to be in my favor; I’m not going to talk to anybody; no one is going to hear me out, they are just going to try to get me to plead guilty so that I can be taken off their case load so that they can move onto the big stuff like murderers or rapists ... I was stuck with the court appointed attorney—they all go to the bar together and talk about different cases. You can just never speak to no one.” In the PDO bail revocation interview data, court users cited postponing court until they could save money for a private lawyer.

COURT USER STORY

A young interviewee described how their outlook on their appearances was heavily shaped by the fact that they had a court-appointed lawyer: “At first I thought [that showing up] doesn’t matter: it’s not going to be in my favor; I’m not going to talk to anybody; no one is going to hear me out, they are just going to try to get me to plead guilty so that I can be taken off their case load so that they can move onto the big stuff like murderers or rapists ... I was stuck with the court appointed attorney—they all go to the bar together and talk about different cases. You can just never speak to no one.”

Some interviewees said that they believed that only a “free world” (hired) lawyer would truly work for justice on their behalf, but others were skeptical of hired lawyers as well, and seemed to think that good representation was simply out of reach. As one interviewee put it, “You get a lawyer, and a court-appointed lawyer, and, even a free world lawyer, the results are always the same. I feel like you’ll go to jail for a month, or two months ... the outcome is still the same.”

Interviewees described many different ways that they felt their defense attorneys had signaled a lack of investment in their cases. A lack of proactive communication is one leading example. Other such signals are feeling that their lawyer is pressuring them to take a deal, and feeling that their lawyer does not appreciate the court user's situation or challenges: another interview spoke about losing trust in their lawyer after the lawyer urged them to take actions that the interviewee felt could put them in danger in their community.

» **Perceived lack of respect and care from jail and court staff**

In addition to their relationships with their defense attorneys, court users' interactions with jail and court staff also have an influence on expectations of fairness. Those who have experienced rough and undignified treatment from court and jail staff may interpret that as a signal that the court will not care about difficult circumstances in their lives and consider those when making decisions about their case. This can support their conclusion that they will not benefit by showing up to court. An interviewee described their expectations as, "You are not going to be treated like a regular civilian ... they treat you [as] what you did. If [I] came to court and [I] have a charge, any kind of charge, I'm not going to be looked at as the person behind the desk that's typing or [as] the bailiff. I'm going to be looked at as the person that committed a crime. I know that, I accept that, I don't expect to go to the courthouse and be treated like a civilian." Another interviewee, who had struggled with homelessness, said that they wished that Harris County's jail would be more like the state penitentiary, saying the "County should step up ... [they] don't give nobody no help. Penitentiary treats you better than County. They talk to you nice, treat you nice, give you more respect in the penitentiary. They care about you; they help you."

IN THEIR WORDS

“ You are not going to be treated like a regular civilian ... they treat you [as] what you did. If [I] came to court and [I] have a charge, any kind of charge, I'm not going to be looked at as the person behind the desk that's typing or [as] the bailiff. I'm going to be looked at as the person that committed a crime. I know that, I accept that, I don't expect to go to the courthouse and be treated like a civilian.”

Though we heard these perceptions most strongly from those with extensive experience with the criminal legal system, negative interactions during an arrest or the early days of a case can make court users who have no prior arrests doubt that they will be treated fairly. An interviewee described how the experience of their first arrest and incarceration contributed to their decision that it would be best to flee before their court date because it was clear that the County would not treat them fairly. The interviewee said that in the JPC, court users are treated “like criminals ... the staff screams at you ...” This formed the interviewee's expectation for how they would be treated in court. ***Even though later on they were treated more respectfully by court staff, that experience in the JPC engendered enough fear that they could not bring themselves to go through with their first appearance.***

Finally, while issues like the confusing court environment, hassles like long lines and sometimes court staff were not cited as major drivers of nonappearance, interviewees did frequently mention these elements can make appearances even more stressful and unpleasant, and may convey the system's lack of respect for court-involved people.

In addition to leading court users to not show up for their court date, we found that **expectations of unfair treatment also stands in the way of court users taking steps to resolve a nonappearance.** This may continue to limit the positive impact that Open Hours Court has on failure-to-appear rates, even once the program becomes better known. 13 interviewees (30%) said that they would not take action following a nonappearance because they assume they would be jailed. Of those, four specifically said they would not go to Open Hours Court because it would likely be a setup.

Recommendations for addressing expectation of unfairness

A Increased non-prosecution and deferred adjudication

Reduce the number of cases prosecuted for greater social impact and less required appearances.

Shrink misdemeanor prosecution by creating a list of offenses that will not be prosecuted or in the alternative, be eligible for deferred adjudication where the charge is dismissed after a probation period. Emerging evidence shows that not prosecuting certain nonviolent crimes improves public safety by reducing recidivism and benefits those diverted.⁴⁶ While the Harris County District Attorney's Office operates multiple diversion programs⁴⁷ with demonstrated success, expanding the list of eligible offenses, cutting all costs associated with diversion, and increasing non-prosecution and deferred adjudications are recommended.

1 Non-Prosecution of cases likely to result in dismissals

Many misdemeanor cases nationally “arise from the criminalization of relatively common behaviors,” often including disturbing the peace, disorderly conduct, simple possession of small amounts of prohibited substances, trespassing, and driving without a valid license.⁴⁸ And although misdemeanors make up the bulk of charges in any court system nationally, ultimately many misdemeanor cases typically result in dismissals. For example in Suffolk County, MA, 74% of nonviolent misdemeanors resulted in eventual dismissal,⁴⁹ in Charleston, SC, 20.5% of all misdemeanor and felony cases result in dismissal,⁵⁰ in NYC, only 12% of misdemeanors charged ended in a misdemeanor conviction,⁵¹ and in Tampa, FL, the DA dismissed 43% of misdemeanors after filing pre-pandemic.⁵² Given these national trends, we would expect Harris County to experience the same number of high misdemeanor dismissals but for the pre-Consent Decree context where most court users pled guilty early on to gain release from jail.⁵³ The Fourth Report of the Court-Appointed Monitor reported

that Harris County misdemeanor cases resulting in dismissal or acquittal increased from 31% in 2015 to 68% in 2020.⁵⁴ Now that most court users can freely choose to fight their case out of custody, Harris County should further analyze the trends of those cases that will result in eventual dismissal and determine its own dismissal rate. This will give prosecutors a clearer picture of what should be placed on the table for non-prosecution and/or pre-arraignment diversion.

Instead of prosecuting those nonviolent cases that will likely result in dismissal, the **DA's office should consider not prosecuting such cases or diverting pre-filing** as a national best practice to both reduce recidivism and obviate the need for multiple court dates, thereby avoiding nonappearance issues. Emerging research has shown the strong benefit of not prosecuting nonviolent misdemeanors. In Suffolk County, MA, a study showed that not prosecuting nonviolent misdemeanors reduced re-offending by 58% when looking out over a 2-year period.⁵⁵ This study makes clear that non-prosecution or pre-arraignment diversion is key as opposed to eventual dismissal after many court dates which still imposes the process as the punishment. Though cases ultimately dismissed avoid harmful convictions, the process to dismissal appears harmful because “lengthy prosecutions of misdemeanor[s] both disrupt defendants’ work and family lives, and increase the probability that the arrest goes onto the defendant’s criminal record, again potentially increasing the likelihood of subsequent offending behavior.”⁵⁶ Additionally, the Center for Court Innovation suggests diversion eligibility based on charge (victimless and nonviolent property charges), not on court users’ priors to advance racial equity and avoid further entrenching racial disparities based on disproportionate accumulation of criminal histories.⁵⁷ Lastly, if diversion is preferred over non-prosecution, we recommend pre-filing diversion to services that can meet the socio-economic or behavioral health needs likely at the root of certain victimless crimes.⁵⁸

The [Justice Innovation Lab](#) is working on a pilot screening project designed to focus on speedy review of the most frequently dismissed charges in connection with its work in Charleston, South Carolina.⁵⁹ The Solicitor’s Office chose to screen around 86 low-level gun, drug, and property charges with very high dismissal rates from a single police department by an experienced prosecutor. The pilot did not include any change in standards for dismissal, thus the main benefit sought is quicker dismissal of cases that were likely to be dismissed under normal business practices (though preliminary results suggest higher dismissal rates for Black arrestees). Compared with prior unscreened cases of the same kind from the same arresting agency, recommended dismissal of cases involving Black arrestees increased 17% and dismissal of white arrestees remained constant. While this project is in its early stages, it can provide a process for how Harris County may consider dismissing cases faster that will likely ultimately be dismissed in the normal course, within which time court users can miss court appearances.

Deferred adjudication, community supervision and dismissal

For cases not likely to result in dismissal, **CCCL Judges should implement deferred adjudication community supervision**⁶⁰ to divert those charged with misdemeanors into up to one-year terms of supervision with minimal conditions and no cost to the court-user. Strong evidence exists showing such diversion for felonies in Harris County produced tremendous social impact. A study examined two discrete and immediate changes in Harris County felony practice in 1994 and 2007 that created before and after groups that were either convicted or diverted to probation and ultimate dismissal. The study found that diversion halved reoffending rates and grew quarterly employment rates by almost 50% over 10 years.⁶¹ The study also found evidence that these trends persisted twenty years onward, and that the effect was particularly strong for young Black men.⁶² For court users facing felonies for the first time, the findings indicated that diversion substantially improved behavioral outcomes over a 10-year follow-up period and **“the probability of any future conviction decline[d] by approximately 45% and the total number of future convictions f[ell] by 75% for both the 1994 and 2007 samples.”**⁶³ Moreover, for those in the 1994 sample, quarterly employment rates improved by 49% and “total earnings over the ten-year follow up period grew by \$85,365 (93%).”⁶⁴ The positive effects persisted and increased even 20 years out, suggesting that “diversion permanently changed one’s lifetime trajectory.”⁶⁵ These dramatic results appear driven by the protective effect of escaping a felony conviction and that the increases in employment rates appear largely due to those diverted finding work in industries less accessible to those with criminal records.⁶⁶

Both non-prosecution and/or diversion will **assist the current backlog of misdemeanor cases** (18,901 cases were 180+ days old as November 2021),⁶⁷ reduce the harsh effects on those people facing charges that criminalize poverty, and based on recent studies, reduce recidivism, increase employment and change the trajectory of lives. As a positive first step, the [Harris County Adopted Budget for SFY22 and FY23 Planning Budget](#) funds “an overtime program for the District Attorney to support the diversion and dismissal of lower level, non-violent cases that allow the system to focus on more serious offenses.” If this program takes a case-by-case approach, we suggest dismissing cases based on dismissal trends and charges. In concert with this new DA program, Harris County should create a working group of CCCL Judges, prosecutors, defenders, PTS, and probation to identify which strategy, or whether both, would best suit its context, draft a budget, and start taking the steps needed to implement these policies. The Justice Management Institute’s report from June 2020 similarly recommended that the Harris County DA dismiss all non-violent felony cases older than 9 months (with exceptions like DWI) in order to reduce the backlog of violent cases and newer cases.⁶⁸ Part of the reasoning behind this recommendation was that individuals convicted on non-violent felony charges already had a high likelihood of being released back into the community on probation. This approach could be applied to misdemeanor cases as well, with the DA dismissing cases older than 9 months and with a high likelihood of dismissal after a conviction.

B**Remove unnecessary conditions of release**

Removing unnecessary conditions of release could improve appearance rates by both reducing fear of arrest due to technical violations and the burden of pretrial monitoring, while cutting costs for Harris County.

With the advent of GOB and the great increase of releases pretrial, conditions of release have understandably increased with the expectation that the conditions will promote both court appearance and public safety. By statute, Harris County requires pretrial conditions for a limited set of specific charges and cases that meet certain criteria: an interlock device is required for a DWI 2nd and thereafter; provider-recommended mental health treatment or intellectual disability services may be required in certain instances; and no contact orders for certain trafficking and prostitution charges and when the alleged victim is a child.⁶⁹ Generally, though, CCCL Judges have latitude as to which conditions, if any, they impose.

According to data from PTS' Annual Report for 2020, the two most common conditions imposed on court users facing misdemeanor cases were to abstain from alcohol (3,240 people) and drug screening (3,084 people).⁷⁰ Interestingly, vehicle and portable breathalyzers were imposed 1,818 times, indicating that judges impose alcohol abstinence more widely than statutorily required. Electronic monitoring (EM) is the fourth most commonly imposed condition (677 people).⁷¹ According to the accepted Harris County budget for FY2023, there is a large increase in funding for EM and for alcohol monitoring planned in the coming year, which could allow for even greater use of these conditions.⁷²

However, research calls into question whether or not these often-ordered conditions actually have an impact on appearances. With regard to pretrial drug testing or drug treatment, to date, no conclusive evidence exists that either improves court appearance and no studies were found that specifically look at the impact of alcohol testing or treatment on appearance rates. (NBP at 44). In a co-design workshop with PTS, we learned that although warrants rarely issue in response to testing and treatment failures, the perception of this consequence likely drives nonappearance. These tools can often be costly with rental fees for alcohol monitoring devices at \$100 a month and “secure continuous remote alcohol monitors,” known as SCRAM, costing upwards of \$300 a month.

With regard to electronic monitoring (EM), few studies have examined the effect of monitoring on nonappearance, and those that have done so produced mixed results.⁷³ While a 2016 meta-analytic review concluded that “there is no conclusive evidence of [EM’s] effectiveness in reducing failure to appear or new criminal arrest pending case disposition,” a more recent 2018 study from Santa Clara County, CA, found those with EM were less likely to not appear than those without (8.17% v. 22.59%).⁷⁴ While this study showed a strong effect, caveats include 1) appearance rates for this jurisdiction were otherwise very high at 95% compliance, 2) the jurisdiction used monitoring sparingly in 3.5% and 7% of pretrial release cases in 2014 and 2015

respectively; 3) technical violations for the monitored group resulted in a three-fold increase in the likelihood of getting revoked back to jail, and 4) costs were not passed on to court users.⁷⁵ Additionally, emerging research also identifies the many harms of electronic monitoring, including lack of privacy protections regarding the sharing of data, onerous daily and hours-long charging requirements, the undermining of personal and family autonomy and dignity, and wealth extraction from fees and landline requirements while private surveillance companies profit.⁷⁶

In line with the Santa Clara study, research has also shown that technical violations of monitoring conditions, such as testing/treatment and EM, contribute to additional court dates where court users are required to return to court to address violations. (NBP at 44). This may increase nonappearance rates due to the increase in appearances required overall, and by giving court users reason—real or perceived—to fear that they may be arrested at court after a violation.

Recommended actions that Harris County can take to reduce burdensome conditions include:

- ▶ **Cease drug testing** as a condition of release unless statutorily required or court users voluntarily opt into a diversion program with such requirements.
- ▶ **Review data** to determine under what circumstances judges are imposing EM when not directly linked to the alleged offense. Based on the results, update guidance for judges regarding choosing conditions. For example, EM could be imposed only when crimes or risk of future crimes relate to physical proximity to a complainant and they so request.
- ▶ For technical violation hearings, **allow court users to appear via Zoom** to determine if such violations can be solved without travel to court and/or revocation.
- ▶ Harris County bears **all costs of such conditions**.
- ▶ Once an effort is being made to reduce the rate that these conditions are imposed, **release decisions should be monitored** to ensure that the rate of pretrial release is not decreasing.

C Improve the court experience by treating court users with dignity and respect throughout their interactions with Harris County

Elevate procedural justice at all points in the court process, including staff interaction with court users and court atmosphere.

Treating court users in ways that elevate respect and dignity is essential. First, studies have shown that compliance with court orders increase when court users experience procedural justice.⁷⁷ Second, it follows logically that if procedural justice makes courts more inviting, it can also lessen the barrier fear can create to appearance. Fostering a comforting environment where people, who are seen as customers, feel like they matter is what many providers of services (doctors, hair stylists, even the DMV) do well but has been almost nonexistent in many court systems.

Across our interviews with both court users and stakeholders, we heard about the importance of improving the court experience. Harris County should focus on improving staff interactions with court users and the court atmosphere:

1 **Customer service orientation**

Court agencies, and the HCSO, should hold staff and departments accountable for treating court users with a customer-service orientation, conveying respect and using appropriate engagement techniques. New customer service guidelines should reflect the needs and experiences of court users. Guidelines should take into account the possibility that court users have experienced diverse forms of trauma, may be experiencing scarcity and other significant hardships, may have limited knowledge of how the court functions, and may have had negative experiences with the court in the past. Key skills may include, for instance, building rapport through a friendly and respectful tone, the ability to communicate clearly and adjust language as needed, motivational interviewing in order to surface and respond to challenges, and on-the-fly problem-solving. Specific guidelines can help court staff put the customer service orientation into practice throughout the court experience. For instance, staff of each court can greet people at the courtroom door when they arrive; and when court users arrive late and often harried, inquire as to their challenged journey as opposed to shaming them in open court about their tardiness. **We encourage court staff to brainstorm the ways they like to be treated when going to appointments and include those details into the fabric of each courtroom.**⁷⁸

These guidelines should be framed as required skills, adapted for specific roles (jail staff, judges, bailiffs, court coordinators, etc.) and be included in descriptions and performance evaluation metrics for each role. These customer service metrics should be given equal weight alongside other expectations for each role. All staff should receive training on court user engagement that is appropriate to their role. Training should include principles of trauma-informed care, cultural competency, and de-escalation.

To create accountability, there should be **meaningful channels for feedback from court users about their experience** with the court and opportunities for improvement. Gathering feedback from court users in order to iterate on the design of court processes is a key component of user-centered, participatory design. Court systems are increasingly turning to participatory design practices and greater collaboration with court users in order to design systems that work better for them.⁷⁹ The core principles of participatory design are participation, inclusion, equity and sharing.⁸⁰ These principles play out through a variety of practices, including: ongoing user testing that enable court users to provide input at multiple stages and have visibility into the process; ensuring that power dynamics are balanced so that people can feel comfortable expressing their views; and gathering input from a range of stakeholders to ensure feedback is representative of users' diverse experiences.

In Harris County, improving feedback and accountability could be achieved in multiple ways—for instance, through anonymous feedback surveys that can be administered while a person’s case is ongoing or right after it has been resolved. Feedback from court users should be considered during staff members’ performance reviews, and should also be tracked as a department-level metric.

When these guidelines are launched, they should be communicated widely to all court users, for example in written handouts, posters in the JPC and court buildings, a notification on the court website, etc. This can be a moment to rebrand the court as being focused on service and signal a fresh start to those who have had negative experiences in the past.

2 Court atmosphere

The CCCL atmosphere, not unlike most of other courts nationally, is somewhat custodial in nature with the focus more on the court’s procedures and processes and less on the user’s experience. For example, during a surge in COVID-19 in August 2021, many court users were still mandated to come to court in person but once there, never saw the inside of the courtroom but rather, were told to wait, sometimes for hours, outside the courtroom for the bailiff to bring out the court reset paper notifying them of their next court date. With no place to sit directly outside courtrooms, people either stood or sat on the floor. For those allowed into courtrooms, the typical court rules were in place: no phone use even to quietly read, email or text, no eating, no drinking, and no speaking even though many court users sat in the courtroom for appreciable periods of time awaiting their lawyer and/or their case to be called. Some were exasperated, commenting on why they had to come all the way to court just for the case to be continued after long wait times.

The Red Hook Community Justice Center provides a great example where staff treat court users like they want to be treated and where caring for the community and its clients is hardwired into the court’s DNA.⁸¹ There are multiple ways of fostering such an environment, many of which we heard from service providers and other stakeholders such as: 1) allow court users to use their phone silently and if a ringer goes off, politely remind everyone to silent their phones; 2) allow eating and drinking with the caveat that everyone must clean up after themselves; 3) offer a water station and phone charging station in the courtroom to accommodate long wait times; 4) before noting a nonappearance, offer a grace-period until the end of the session for people who are late, and 5) offer seating outside courtrooms.

D**Hold more warrant-clearing events with a no-arrest guarantee**

Offer special events that specifically address people's fear of arrest when clearing a warrant.

As the research revealed court users experience strong barriers to clearing up warrants because they fear arrest and often have no lawyer to prepare them and help advocate for them at the time of surrender, the CCCL and DA's Office should hold **warrant clearing events to allow people to resolve their CCCL warrants for nonappearance with the express promise not to arrest.**

The Harris County District Attorney sponsors similar events with its the [Make It Right program](#) which offers people with Justice of the Peace Class C non-traffic warrants and tickets to resolve those warrants without risk of arrest. Events are held in the community, with legal staff on hand to give free legal advice. CCCL's Open Hours Court is similarly aimed to attract people with recent nonappearances but this avenue is underutilized likely because court users and counsel do not know about this avenue and also, Open Hours Court will not assure that court users will not be arrested if they appear.

Harris County and the DA's Office should expand its Make It Right program. For example, Pima County's Extended Court Hours program offered warrant resolution after-hours and Saturdays and conducted outreach to those with active warrants (49% of attendees received) using the county's interactive voice recognition system one week before. (NBP at 39-40). In addition, Alabama's Jefferson County Criminal Circuit and District Courts ["Back on Track Amnesty Week"](#) offered anyone with an active warrant for nonappearance for a traffic, misdemeanor or nonviolent felony to appear to clear the warrants without the threat of arrest or detention. To determine eligibility, the notice encouraged people to call a hotline answered by the public defender office three weeks before, on M-F from 1 p.m. to 4 p.m., to ask questions. This required cooperation and partnership between the Jefferson County District Attorney's Office, public defender office, the private defense bar and the judiciary. The event was [publicized in the local paper](#), on the website [Patch](#), and in [local news channels](#). Judge Wallace of the same court reported in a webinar that those appearing grew as the days went on (with 200-300 people appearing on the last day), pontificating that keeping the promise not to arrest people drove attendance as word spread in the nearby communities. Cleveland, Ohio's [In the Neighborhood Program](#) (NBP at 25) similarly assists people with clearing warrants without the threat of arrest but did so in community spaces, like churches, community centers, and even open corner lots to improve access to justice by lessening the distance that individuals have to travel and the time they may need to take off work, as well as reducing the stress and fear that may impede court attendance. A study on the program conducted in 2014 found that having a public defender at these events increased the rate of compliance with court appearances (50% in 2012, 86% in 2013), but it is unclear based on the study's methodology the extent to which the increase in appearances was solely due to the program.⁸² It is also important to note that this type of neighborhood-based court program is designed more for events like warrant clearance than for regular court appearances.

In addition, as Harris County court users with a mental health/substance use flag are about 8 percentage points more likely to miss an appearance than when the court user did not have a flag, a **mental-health focused warrant review process** is a promising practice. (NBP at 50). In the Douglas County, Kansas Sheriff's Office, a behavioral health provider scans warrants issued for people who have received mental health services. That provider then contacts the individual or their case manager to encourage them to contact the court about possible diversion options. If the charges remain, the behavioral health provider helps to coordinate treatment and supervision as the individual's court process proceeds.⁸³ As Harris County already uses a system to flag court users with mental health histories, that list could be cross referenced with warrants as well as the HMIS database listing all those currently receiving services from 300+ providers. The DA's office (or the CUP, if implemented) would contact the case workers to explain diversion options and/or Homeless Court if that recommendation is followed.

All warrant clearing events would require cooperation and partnership between the DA's office, PDO, the MAC, and CCCL Judges to agree on eligible warrants and an express agreement not to arrest anyone who appears to continue to build trust and retain transparency in the courts.

E Provide recourse options for court users who are not being well-represented

Offer court users a hotline to call to voice and resolve complaints about representation.

Court-appointed lawyers have too little oversight and mechanisms to ensure accountability, especially when representing people with traditionally less power and resources. While PDO and MAC lawyers strive to represent their clients zealously, high caseloads, lower pay, and intense work can understandably create burnout. Additionally, many court-assigned lawyers have little support staff to help with day-to-day organization and scheduling. In interviews, most court users expressed dissatisfaction with their lawyers overall and little communication with their counsel throughout the case which consisted mostly of rushed courtroom conversations.

Court users should be offered a clear avenue to lodge complaints with the aim to resolve their issues quickly or assign new counsel. While the creation of the MAC should improve training, feedback loops, and accountability, court users should nonetheless be given a specific number to call to discuss any dissatisfaction with their representation by lawyers with the MAC or PDO. The MAC has specifically assigned each lawyer a resource attorney to assist its lawyers who could also field any complaints and work with the lawyer to remedy the situation and if not, assign a new lawyer. When court users are assigned counsel (now at arraignment or should the process change to earlier), they should also receive a document providing the lawyer's name, contact information, as well as what the court user should expect from the lawyer (substantive meetings about the case, ongoing communication, return calls within 24 hours, etc.), and a number to call if the court user feels their lawyer is not fulfilling his or her duties as their agent.

A process by which complaints can be lodged and memorialized can also help with lawyers continuing to learn and improve their practice while also ensuring only those with the skills, talent and drive necessary to represent those deemed indigent serve in appointed-counsel roles.

F **Incorporate direct input from court staff and court users when adapting court operations going forward**

Give people with direct court experience voice as to how to improve court processes.

Building on the tenets of procedural justice, Harris County should consider **obtaining and using feedback from court staff and court users to systematically consider how changes to court policies and procedures impact people with multiple and varying needs and challenges.**

In a similar effort, 12 pilot courts have engaged in the [Court Voices Project](#) that captures lessons from court staff and court users about how courts have responded to the COVID-19 pandemic with new processes such as virtual appearances. Feedback gives voice to court stakeholders closest to the experience, while simultaneously informing and improving future court policies and practices. The goals of such an endeavor could include assessing the value of any new practices and policies from the perspectives of court users and court staff and to improve trust and confidence in the courts.

FINDING #3

The experience of scarcity both limits the mental bandwidth that court users have available to coordinate getting themselves to court and requires court users to work harder and through more challenges to get to court.

Summary

Over half (55%) of interviewees reported dealing with multiple, serious challenges rising to the level of living in conditions of scarcity during the pendency of their court case. As described in "The role of scarcity" at page 5, these challenges take up so much cognitive bandwidth as to possibly crowd out court or make it much harder to navigate. Of those who experienced scarcity issues, 63% (15) missed court, 17% (4) were late and only 20% (5) were able to appear. In total, just over half (51%) of all interviewees who missed court or were late cited scarcity-related issues as the cause. One additional interviewee cited confusion between felony and misdemeanor court dates (a mistake that can be explained by scarcity).

In the PDO bail revocation interviews, court users cited serious medical conditions as reasons why they missed court, with many saying they had been hospitalized at the time, and also, that they or a member of their family had been sick with COVID. The revocation data also cited caring for a severely ill loved one (often due to a significant medical event, like a surgery) or handling the death of a close loved one. Responses in this category often noted that due to a loved one's illness, the court user had no one to look after their children on their court date, and that that lack of childcare contributed to their missing court. Additionally, the bail revocation interviews illustrated ways that conditions of scarcity can contribute to forgetting, as individuals linked events like the ones named above as well as challenges related to homelessness, job losses, and evictions as reasons why it was difficult to keep track of their court dates.

Background

In Harris County, 15.7% of the population lives below the poverty line which rates higher than the national average of 12.3%.⁸⁴ Furthermore, in 2020, appointed counsel defended 49% of misdemeanor charges and 88% of felony charges for court-users, demonstrating the large share of indigent court users in Harris County.⁸⁵ Harris County residents have also suffered through recent catastrophic events such as Hurricane Harvey in 2017 which caused massive flooding, \$125 billion in damage and deaths and, of course, the COVID-19 pandemic. Moreover, Harris County has a higher percentage of adults who experience frequent mental distress compared to other counties in Texas, with 12.3% of adults in Harris County reporting 14 or more days of poor mental

health in the past month, compared to 9% in Fort Bend County and 10% in Montgomery County.⁸⁶ In the greater Houston-Sugar Land-Baytown area, which includes Harris County, 369,000 persons aged 12 or older (8.9%) were classified as having a substance use disorder within the year.⁸⁷ As cited above, approximately 20% of Harris County court users charged in 2021 were flagged as having probable or diagnosed mental illness or substance use disorder.

Since we know many people coming to court experience poverty and often co-existing challenges with housing, substance use disorder, trauma and mental health issues, we should expect their decisions and actions to reflect the effects of chronic scarcity and expected limited bandwidth, and we should design solutions for that context.⁸⁸

What we found

Surprisingly, interviewees shared incredibly personal challenges with us even though they had just met us and learned we were doing research on appearances. We learned that those living in poverty and chronic scarcity often encounter additional conditions that worsen limited bandwidth: substandard healthcare, trauma, safety concerns, homelessness, and substance use disorder. The details below are specific because we assume most court actors do not fully understand both the prevalence and severity of the challenges people in court experience seemingly routinely.⁸⁹ The challenges ran the gamut and included the following:

» **Medical**

Interviewees often described life-threatening health challenges including losing a leg, teeth and partial eyesight after being dragged by a train (making public transportation impossible because it requires too much walking); having large precancerous cysts that needed removal but “I never get to the doctor because something always comes up;” dealing with diabetes along with a toe amputation, a stroke, recent COVID-19 illness, and deep depression; a wife with cervical cancer and no one to care for their young child because the interviewee needed to work; and a woman in transitional housing with breast cancer and a former condition that rendered her walking with a rolling chair, along with severe mental health challenges. One interview reported being late to court the day of the interview because she was caring for her sister who had had a stroke days earlier but had no health insurance, so full-time care fell to the interviewee. The PDO bail revocation interviews similarly cited caring for a severely ill loved one (often due to a significant medical event, like a surgery) and often noted that due to a loved one’s illness, the court user had no one to look after their children on their court date, further frustrating their court appearance.

» Trauma

Interviewees reported severe past and ongoing trauma. For example, an interviewee's case was proceeding at the same time his wife died from COVID after a month-long stay alone in a hospital outside the U.S., and after her death, he spoke to his two young children daily via Facetime trying to console them. Another person reported, "I have seen people killed, saw my mom get beaten to a pulp; I have been physically, sexually and mentally abused by an ex-boyfriend and now I need to move because my daughter got me kicked out of my apartment by throwing a brick through my window." One person in transitional housing described three assaults at the residence and another reported severe depression after his mother was murdered and while he did seek treatment while in jail, had no insurance to continue treatment once released. Two emerging adults described safety concerns with one having seen much violence and the other reporting he needs to look over his shoulder constantly and lives in a neighborhood with shootings, even around Christmas, which scared him because his young child plays outside. One interviewee thought he might have a warrant but "couldn't deal with it now" because his son was just released from prison after a 20-year stay (from 16 to 36 years old) which was "very stressful" and he "only wanted to support him" right now. The PDO bail revocation data also cited handling the death of a loved one as a reason for nonappearance.

COURT USER STORY

An interviewee's case was proceeding at the same time his wife died from COVID after a month-long stay alone in a hospital outside the U.S., and after her death, he spoke to his two young children daily via Facetime trying to console them.

» Housing insecurity

In the PDO bail revocation interviews, homelessness intersected with many other challenges, with common themes including lack of transportation; lack of a working phone; losing paperwork; and severe mental and emotional distress. Court users we interviewed in shelters or transitional housing reported previously dealing with substance use disorder and/or mental health challenges while not housed.

- **Substance use disorder:** We spoke to people who had previously struggled with substance use disorder coupled with homelessness who explained it was "hard to function if 24 hours a day is about drugs and alcohol—courts do not understand addiction and most people cannot quit because they have no idea about resources." This interviewee further explained that "clothes were a barrier because everything was dirty and I had nothing good to wear," not to mention lack of proper hygiene and no access to a cell phone compounded the issues. She ended with explaining. "When I was active in my addiction,

IN THEIR WORDS

“ When I was active in my addiction, there was no way I was going to court because I could not put the pipe down long enough and no clothes and didn't know if I had other warrants.”

there was no way I was going to court because I could not put the pipe down long enough and no clothes and didn't know if I had other warrants." In the PDO bail revocation hearing interviews, in contrast, very few court users described missing court because they were actively using; more commonly, court users said that they had been in a treatment facility during the period around their court date and had missed their appearance as a result.

- **Mental health:** In speaking to staff at a shelter servicing young adults, one reported that "for young people who are unhoused, their court case is usually not a priority for them because they are just trying to survive." Another service provider explained that those who are unmedicated or not seeking treatment have serious difficulty navigating many aspects of their lives, including court matters, and specifically that many homeless youth have not had their mental health addressed at all. PDO bail revocation hearing interviews included court users reporting a range of mental health challenges that interfered with their coming to court, with interviews describing general mental instability to court users having been in crisis and institutionalized on their court dates.

In addition to the incredibly tough personal circumstances people living in chronic scarcity experience, they also must **work harder and through more challenges** to get to court. Those with more resources could solve these challenges with money but interviewees living in poverty did not have that option. And, with more of their mental bandwidth taken up by these challenges, it is more difficult for court users navigating such challenges to keep their court date top of mind. In the PDO bail revocation interview data, interviewees named these challenges as reasons why they forgot their court dates as well.

» Phones

Interviewees described not having enough money for consistent phone service or interruptions in phone service and changing phone numbers, making reminders and consistent contact with lawyers challenging. In the PDO bail revocation interview data, responses did mention court users not being able to pay their phone bills or not having a phone at all, but this was much less common than court users citing lost phones as reasons for forgetting and nonappearance.

» Charges exacerbate poverty

One interviewee was separated from her husband so had to move out of the family home and all her things were placed in storage far away from where she was temporarily living with her mother and her newborn baby. She was also unemployed due to COVID and had no savings. On the day of arraignment, she paid her friend to care for her baby by giving the friend her watch and the day we met, her friend had driven her to court to meet with her PTS officer but could not park because of the expense so the friend and the interviewee's baby were driving around waiting for the interviewee in 90-degree August Houston heat. Another interviewee had a newborn and no car and simply missed court because she could not navigate public transportation (all she could afford) with a newborn.

» Transportation

Interviewees reported having their car impounded after being jailed with no money to retrieve it. Those charged with driving offenses often reported living far away from court with no ability to drive given the limitations on their licenses. An interviewee took an Uber to court, which she could not afford. Her case was reset without her ever going into the courtroom. Meanwhile, she waited sitting on the floor in the hallway for hours until the bailiff brought out the reset form.

Recommendations for scarcity

A Reduce appearance dates where court users' appearance is required

As most court dates currently result in a reset, only require court user appearances for 1) arraignments; 2) evidentiary hearings; 3) final date of trial or plea; and 4) bail or violation hearings.

While the status quo in US courts has always been to require court users in criminal courts to appear for all hearings, the COVID-19 pandemic gave rise to temporary efficiencies, like less required court appearances, that once implemented, appear well suited for permanent adoption. In addition, emerging evidence of the harmful effects of prolonged misdemeanor court processes on recidivism even when cases are ultimately dismissed,⁹⁰ provide solid ground to reduce required appearances. Notably, in interviews with court users, many expressed frustrations that they had come all the way to court and waited at times for hours “only for a reset,” while many were not even allowed in the courtroom during the reset, and if allowed in, saw the judge and at times their lawyers via Zoom.

We recommend **limiting in-person or virtual appearance to specific court events** stakeholders identified to ensure court users receive counsel, understand the charges, and can exercise their constitutional rights: arraignments, evidentiary hearings where vital suppression or other evidentiary matters will be decided, trials or when pleading guilty, and any hearing related to conditions of release (if presence needed). At most other court dates, the lawyers may or may not use the date to carry out their legal obligations to the other, but usually nothing occurs requiring the court user's presence. The Consent Decree recognizes that court users need not appear at every court date⁹¹ and CCCL judges have latitude to decide which appearances court users must be present for. Unfortunately, the appearance data provided for analysis is not reliable enough to ascertain the precise rates of waived and non-waived appearances at this time, but based on anecdotal observation it seems that there may be wide variability in how often individual courts choose to waive appearances, and that some courts may require court users to be present at a significant majority of hearings. Given that currently each CCCL judge decides which appearances require court user appearances, the promulgation and following of a **new local court rule by all judges identifying which dates require appearances** is the better choice to ensure consistent implementation across the courts.

Defense counsel we interviewed identified a subset of clients with whom they simply lose contact either earlier on or as the case proceeds, especially when the client need not appear for a court date. For example, in cases where discovery can take six months, lawyers need to connect with the client to advise of a required court date only to realize the contact information they once had for clients is no longer correct. If the court will reduce court appearances required, in return the court could **require each court user to either confirm original contact information or update their contact information prior to the court date as a pre-condition for not appearing.** This culture change must start with initial contact with the person at JPC emphasizing the importance of the court and lawyer always having updated contact information. At arraignment, the judge can explain the process in that the case will continue and the lawyers will do their jobs but the court users need not come back until hearings are scheduled requiring their presence. However, instead of coming to court, court users will be required to update or confirm contact information before the court date. The check-in before court could take the form of a required phone call, update via a link to a website or in the County App (see Finding #6 Recommendation "Develop a Harris County app for all court users" at page 117), a call to the hotline (see Finding #6 Recommendation "Establish a Harris County hotline for court users" at page 119), or to the CUP (see Finding #1 Recommendation "Create a Court User Program (the CUP) to assist with appearance challenges" at page 52). For those who neither confirm nor update contact information, they could be required to appear virtually, at which time the court and lawyer can remind them of their contact information obligation to allow for a non-appearance. Lastly, if a case is set for dismissal, we recommend not requiring the court user to appear.

B Improve diversion options for unhoused court users

Create special diversion options to accommodate the specific challenges of housing insecurity.

1 Pre-arrest

In addition to the non-prosecution and early diversion recommendations in Finding #2, **divert people suspected of charges related to conditions of poverty, behavioral or mental health, or drug use into a case management program instead of arrest and booking.** Diversions that occur before arrest or booking are likely most impactful on nonappearance rates simply because they eliminate the need for any further appearances. Recently, Harris County created the [Holistic Assistance Response Teams \(HART\)](#) to redirect 911 and other calls to interdisciplinary first responder teams, trained in behavioral health and on-scene medical assistance. HART responders will use their behavioral and mental health training to resolve calls on site and to connect residents to follow-up resources to promote ongoing health and safety. HART may consider how police officers can specifically refer people they encounter to HART to avoid arrest. HART aims to ultimately serve as a fourth branch of the Harris County's first responder system, beginning in a concentrated geographic

area and eventually expanding countywide. We recommend obtaining progress reports, and any data collected thus far to understand how this effort is proceeding and its impact on lifting these populations into more stable circumstances. (See Finding #3 Recommendation "Evaluate existing programs" at page 85).

Similar efforts show promising results. For example, the [Law Enforcement Assisted Diversion \(LEAD\)](#) program is a pre-booking diversion program specifically designed to serve those chronically exposed to the criminal legal system.⁹² In general, LEAD officers hand off people they deem eligible to a LEAD case manager who will conduct an individual assessment and then provide services to address their needs and help them work toward stability.⁹³ A quasi-experimental evaluation of the initial LEAD pilot in Seattle, Washington, found that the program lowered the likelihood of re-arrest by 58%,⁹⁴ suggesting that in addition to avoiding the potential for court nonappearance through the initial diversion, LEAD can reduce future court involvement as well. One caveat is that LEAD programs limit the number of possible charges eligible (for example, New Mexico focused on opioid use and Seattle focused on a broader range of substance use disorders).⁹⁵

2

Post-arraignment

Expand the Houston Municipal Court Homeless Court to Harris County to increase appearance rates and resolve warrants without arrest for those engaging in 300+ specified programs within Houston. The current Municipal Court Homeless Court connects with case managers who serve people within agencies within the Homeless Management Information System (HMIS). If a case manager has a client with an outstanding citation or warrant for nonappearance, the case manager reaches out to the Coalition of the Homeless (Coalition), the Coalition verifies the status of the open case or warrant, and then works with the Homeless Court to place the client on the docket.

Promising, yet anecdotal, evidence exists from San Diego's Homeless Court. (NBP at 35-36). The reported average appearance rate is 50%, however, nearly all of the participants interviewed for the evaluation said that they would not have appeared in court without this intervention; 96% of cases heard were resolved at the hearing; those who met with a public defender the week before their hearing were much more likely to show up, paving the way for possible improvement in appearance rates; and 75% of participants interviewed expressed more trust in the system. The current Homeless Court in Houston Municipal Court shows even better appearance rates: in 2019, case managers arranged for 703 people to be docketed, 547 people appeared or 78%, and the court resolved 2,987 cases.⁹⁶

Expanding Homeless Court into County Court will require all court actor coordination and agreement on many levels. Most importantly, to encourage appearance and reduce fear, the Homeless Court must assure that no one will be arrested upon any outstanding warrant upon appearance.⁹⁷ Given the continued challenges that those in such programs

will face in continued appearances, we also suggest a “pure dismissal” model with the goal of resolving the case within that one appearance which will require cooperation between the prosecutor, defense, judge, and even the case manager who can verify program participation toward resolving the case. The process may need to vary for those cases with complainants, requiring their express permission to proceed in Homeless Court with a resolution grounded in court actor growth without incarceration. In the alternative, eligibility could exclude particularly sensitive cases such as domestic violence and driving under the influence. This expansion would require the involvement of PDO and/or MAC lawyers to advise the court user of the process and any risks to them. With regard to timing, the Homeless Court could occur on a specific day every week or month to reduce confusion and assist in date recall and routine planning to prepare for the docket. In addition, this docket could also take place in a neutral location such as a homeless shelter to lower the physical and psychological barriers unhoused people may face in showing up to court. Judges could wear street clothes to reduce the fear people may feel and create more trust and familiarity with judicial authority. Lastly, if the Coalition is similarly used as the conduit between case workers and the court, the Coalition would need access to the County Court database to verify open cases and place people on the specialized docket and employ a dedicated Homeless Court Coordinator to liaise with local agencies would be required.

C Prioritize court users for housing services

Continue and expand ways to connect court users to assistance that can get and keep them housed while their case is ongoing.

As described in the National Best Practices report, evidence supports **adopting a Housing First approach for court-involved people who are unhoused**. This approach aims to connect unhoused individuals to immediate housing while facilitating connection to permanent housing.

There is research showing that Housing First approaches (which generally aim to quickly get people into permanent supportive housing without prerequisites related to sobriety or treatment) help stabilize unhoused people who become involved in the criminal legal system. The logic of this approach is that stability and a safe environment will allow people to get critical needs met and focus on their court case. While Housing First approaches prioritize placement into permanent housing, there is some evidence that even providing temporary housing and services could improve appearance rates. (NBP at 33).

Spurred by the COVID-19 pandemic, over the past two years Harris County has expanded its efforts to end chronic homelessness, provide rapid rehousing (short-term rental assistance and light case management) and divert individuals at risk of becoming homeless. This Community COVID Housing Program (CCHP) will be continued through 2024.⁹⁸ A new respite center for unhoused individuals is currently in development, though precise details about the new facility and services offered were unavailable to the research team at time of writing.

For those facing misdemeanor charges in Harris County, PTS, the HCSO Re-entry Office, the Community Assistance Referral Program, and the Public Defender Office can refer unhoused individuals to shelters and further housing services. There is little available data on rates of housing referrals made by these agencies overall, but the Community Assistance Referral Program reports that between January and March 2022 the program referred 76 individuals (about 4% of clients) to shelters and helped 88 individuals (about 5% of clients) apply for housing vouchers.⁹⁹

Data on the true rate of homelessness or housing insecurity among Harris County court users and the number of court users who are connected to housing while their cases are ongoing is unavailable. However, conversations with stakeholders suggest that available housing assistance should be improved to help unhoused court users stabilize and be able to participate fully in their cases. Stakeholders with experience facilitating housing placements report that it can take three to four months for an eligible court user to be placed through rapid rehousing, largely due to administrative requirements. Another mentioned that there is a particularly acute shortage of short-term shelter placements for men who have court cases.

To help reduce instability related to homelessness as a barrier to court appearance, the County can take these steps:

- ▶ **Partner with local housing services to make housing people with court cases a specific priority:** This may involve adjusting referral and intake processes, for instance, to ensure that court users are prioritized and have an immediate safe housing option when they are released from the JPC and while their case is ongoing. This could also include developing specific housing options for court users on pretrial release, along the lines of the San Francisco Pretrial Diversion Project Housing Initiative, which showed an increase in appearance rates for participants during its pilot period. (NBP at 34-35).
- ▶ **Look for ways to shorten the time it takes to provide rapid rehousing assistance that can keep court users housed for up to 24 months:** Assess and address bottlenecks in staff capacity, assistance process, and/or available housing placements that may slow or prevent court-involved people from being connected to rapid rehousing assistance while their case is ongoing. Consider gaps in the current ways that Harris County actors (including HCSO, PDO, the MAC, and PTS) coordinate with Coalition for the Homeless, the Harris Center for Mental Health and IDD, and other direct service partners serving unhoused people.
- ▶ **Expand housing support available to those at risk of losing their housing due to incarceration or their case:** The County can gather data to understand how common it is for court users to struggle to maintain their housing due in part to their court case. If a need exists, provide short-term assistance with housing costs to prevent individuals and their families from becoming homeless while their case is ongoing. This could be provided directly by court stakeholder agencies, like PDO and the MAC, as well as PTS.

- **Track housing needs of those with cases in County Court:** To more clearly understand the needs of housing court users upon release and to better track progress, the County should collect data on the rate of homelessness and the rate of housing placement among those with misdemeanor cases. This data should be tracked at an individual level and shared among agencies with a hand in monitoring and support (PDO, the MAC, PTS, the Harris Center for Mental Health and IDD, etc.) so that agencies can coordinate action for individual court users.

D Expand the Justice Navigator program to address scarcity-related barriers to appearance, beginning at the JPC

Justice Navigators can have a stronger impact on court appearance by a) holding pre-release conversations with all court users, b) having an expanded, more active presence in court, c) implementing post-arraignment meetings with court users likely to miss subsequent appearances; and d) focusing the role and qualifications on building trust and serving court users.

Harris County launched the Justice Navigator program in 2018, with the goal of providing a go-to source of non-legal guidance on court procedures and appearance obligations for any individual released from jail. Initially, the program employed two Navigators who court users could reach by phone, email, or social media; it expanded to a pre-COVID peak of two full-time Navigators stationed in the Criminal Justice Center and two in the Civil Court, and one part-time Navigator in both the Juvenile Justice Center and Family Law Center. The program has since faced a staffing shortfall, and currently staffs one Navigator in the Criminal Justice Center from 7 a.m. – 3 p.m. on working days, and another in the Civil Court during morning hours. The program is managed by PTS but serves all court users, regardless of whether or not they are ordered to pretrial supervision. In addition to providing information to court users and acting as a liaison between court users and court system personnel, Navigators currently perform clerical duties and may also play a role in reporting noncompliance and collecting fees from court users.

PTS staff shared that from the beginning the Justice Navigators received a high volume of diverse questions and requests for assistance, and that many of these requests had to do with appearances: most inquiries were from court users trying to find out a court date for themselves or others. Other common requests were regarding seeking a reset, reporting that they would be late for court, or finding locations within the court building. Even with their reduced presence, in March 2022 the Justice Navigator staffed in the Criminal Justice Center interacted with 2,722 people, an average of 143 per day.

Though our research team had limited opportunity to directly observe the Justice Navigators at court, based on interactions with Justice Navigators through our mystery shopping activities (described [at page 13](#)) and information shared by PTS and other staff, we suggest three key ways to strengthen the Justice Navigator program to improve appearance rates:

1 **Justice Navigators conduct pre-release conversations with each court user.**

The purpose of these pre-release conversations would be to ensure that court users understand and internalize their appearance obligations and that any barriers to appearance that the court user would likely face could be surfaced and either addressed immediately or communicated to the appropriate person (Community Assistance Referral Program staff, defense attorney, etc.). Key aspects would include:

- ▶ **Timing:** Navigators could conduct this conversation while court users are in the JPC prior to release on GOB or following the 15.17 hearing for carve-out cases, so as not to delay release further.
- ▶ **Recognizable as non-law enforcement:** Offering court users a friendly face, helpful hand, and recognizable uniform in the JPC at the start of their journey can serve as a base for court users to seek out the same people for help along the way, if needed. Justice Navigators should look distinct from law enforcement (for example, with a neon green shirt) to lessen barriers to trust and to help court users easily identify Justice Navigators when they return to court.
- ▶ **Use checklist to answer questions, collect information and coordinate hand-off if needed:** Navigators could follow a structured checklist to ensure they pass on all necessary information and that the court user understands and has their questions answered. They could begin by identifying any translation or interpretation needs a court user has and bringing in language access resources as appropriate. Navigators could spend time building rapport and then explain appearance details fully, ideally using visuals like a diagram of a case journey to show the court user where they are in the process, and stressing key points related to appearance (for instance, that it is critical that they give their contact information to their lawyer and the court right away if it changes; that they will not be required to pay fines at their appearance, etc.). They could also explain basic information on bail and/or paying bonds if applicable as well as ask the court user how they plan to get to court on their court date, and if they expect to have any challenges with getting to court. If the court user needs immediate assistance before leaving the JPC, Navigators can do a hand-off to other release personnel as appropriate (such as a Harris Center for Mental Health and IDD liaison, for instance), who can coordinate referrals and provide any material support needed (like gas cards, clothing, etc.) as the court user is on their way out of the JPC. Additionally, Navigators can collect contact information and ask for court users to opt in to text message reminders of their court date. This can be a helpful backup point to ensure that the court has the correct contact information for the court user.
- ▶ **Calm environment:** Ideally, a pre-release conversation with a Navigator would take place in a calm and private environment (like a small booth or cubicle) so that the court user can focus on the information being shared and feel comfortable sharing challenges and asking questions.

2 **Make Justice Navigators more prominent at court.**

Navigators could serve more court users more effectively by making these adjustments:

- ▶ **Easily identified:** There are various types of staff who provide support to court users at different points in the process. This may appear fragmented to court users, with little continuity. Justice Navigators in the court should be easily recognizable to court users through clear visual signals (for example, a neon green shirt and/or hat, name tags with the Justice Navigator logo, etc.).
- ▶ **Placement in key touchpoints:** At court, Justice Navigators could have a more prominent place near the building entrance and on the courtroom floors with attention-grabbing signage (in addition to their neon green shirts) that clarifies that they are not law enforcement and encourages people to approach them with questions.
- ▶ **Access to resources to support appearance:** In addition to providing information about appearances and referring court users to other Harris County departments or services, Justice Navigators stationed in the court should be able to give out resources to help people return to court—phones/phone cards, gas cards, bus passes, Uber/Lyft vouchers, hygiene kits, etc.

3 **Conduct post-arraignment meetings with court users who are likely to struggle with subsequent appearances.**

While Harris County data on appearance outcomes was not found to be sufficiently reliable to establish how appearance rates typically fluctuate over the life of a case, it is reasonable to surmise from the qualitative information collected that court users may struggle to continue to appear as cases continue for months and require several trips to court. New York City’s Court Appearance Pilot Project (CAPP) provides an evidence-based model for reducing post-arraignment drop-off which could be adopted in Harris County.¹⁰⁰ (Note: CAPP was referred to as the CASPR program in the National Best Practices report.) The New York City Criminal Justice Agency (CJA) developed CAPP as a voluntary intervention that focused on serving court users at elevated risk of failing to appear. Though simple in its design, CAPP included multiple elements to help people return to court, including personalized, interactive one-on-one engagement; clarifying appearance details and obligations; engaging court users in planning; providing guidance and resources to address barriers to appearance; and sending timely reminders as the next appearance approaches to prevent forgetting.¹⁰¹



Planning prompts

Research has shown that prompting people to create a plan for how they will execute a behavior can help close the gap between intention and action.¹⁰² Prompting people at the right time, when their attention is focused, is also critical. Having a touchpoint with people right after they leave court is a timely moment to give them information and help them plan for their court appearance, as the experience is salient and top of mind.

Since the writing of the best practices report, the CAPP has released new data on its effectiveness coming out of a randomized controlled trial conducted during the pilot implementation. The evaluation found that individuals who received the CAPP intervention were 32% less likely to fail to appear prior to their case disposition than were individuals in the control group, who did not receive the intervention.¹⁰³

- ▶ **Meetings provide information and resources, followed by reminders:** Through CAPP, eligible individuals engaged in a post-arraignment meeting with CJA to talk through their potential obstacles of coming to court. CJA would also invite people to write down their court date. When people identified obstacles for getting to court, CJA would point individuals to resources to address their challenges (like referring them to free childcare at Brooklyn courts or providing free metro cards). Individuals were also given water and a snack bar during this initial meeting. If the individual agreed, CJA would also call them a week or two prior to their court date to make sure that they had a personalized plan for getting to court. These calls were in addition to the regular text reminders received from the court.
- ▶ **Justice Navigators can facilitate:** In Harris County, a program similar to CAPP could help mitigate confusion over appearances and provide a needed layer of support to people who might otherwise miss post-arraignment appearances. Importantly, this program could help all court users at risk for nonappearance, regardless of whether they have public or private counsel. It could be facilitated by Justice Navigators stationed in courtrooms who could approach eligible court users after arraignment. Court users could also be informed about the program prior to arraignment (for instance, through mention in the jail release packet and/or by JPC staff and their attorney) to reduce fear of first appearance and provide reassurance that the court is invested in their access to justice. Harris County could potentially improve on the CAPP model by ensuring that the planning meeting includes confirming that the court user has their lawyer's contact information and understands what to do if they are unable to make their next scheduled court date.
- ▶ **Consider feasibility of reminder call:** One implementation consideration to note is that in New York, CAPP leveraged the City's existing infrastructure for contacting court users through text message, live calling, and automated calling to implement the reminder phone call portion of the intervention. To implement this component, Harris County would need to build the capacity to make live calls at scale.

E**Improve coordination between community service providers and defense attorneys**

Case managers supporting court users in the community could coordinate more systematically with defense attorneys to help court users show up to court.

Case managers working at shelters and treatment centers often have strong relationships with court users struggling with homelessness, substance use, and/or mental illness. Case managers (and other staff) have frequent contact with their clients and help them accomplish key tasks to achieve stability and progress toward life goals. Yet, there is no systematic or easy way for community service providers who are helping court users with issues impacting their ability to appear to help these court users remember and prepare for their appearances. Harris County can **explore ways that individuals who are already supporting court users can play a greater role helping their clients show up to court.**

To do this without inadvertently enlisting case managers in court-ordered supervision, the County can consider ways that case managers can coordinate directly with defense attorneys.

Defense attorneys (and/or social workers supporting PDO and MAC clients) can ask court users who become their clients for permission to connect with any case managers working with the court user as part of the routine client intake process. If the court user consents, the defense attorney or social worker can then share court date information directly with the case manager going forward and provide the case manager with all information needed for the case manager to help the court user navigate appearances (e.g., how to find Zoom links for appearances, how to check appearance dates online, etc.). This can allow the case manager to help the court user remember the court date, take steps to prepare for appearance (coordinating transportation and time off work, for instance), and ensure that the client has raised any questions or concerns with their attorney prior to the appearance. If needed, and with the court user's consent, case managers could coordinate directly with the defense attorney prior to the appearance date. In all instances, this coordination would be focused on helping the court user get to court and would not involve sharing information about the substance or strategy of the case with the case manager. This is similar in concept but a lighter lift than the approach piloted by the HIP program (an extension of the Early Rep program described above) in Contra Costa County, CA. HIP is a partnership between the Contra Costa Office of the Public Defender and several county agencies and community-based organizations, with the goal of providing a central point of coordination to address clients' interrelated legal and nonlegal needs. (NBP at 45.)

Contact with case managers could be especially helpful in instances when the court user and defense attorney lose contact. For court users who are enrolled in the Homeless Management Information System (HMIS), the County and homeless services providers could partner on creating a way for defense attorneys to send a message to case managers through the HMIS to inquire about their client's whereabouts and ask the case managers to help reestablish contact.

This could be particularly impactful in instances in which the court user has missed a court date or has had a warrant issued and the court user needs to make contact with the attorney right away to avoid further consequences.

F Improve lawyer-client communication to respond to scarcity

Lawyers should change their approach to client engagement and communication to better meet the needs of those experiencing scarcity.

1 Lawyers should greatly improve client communication to respond to scarcity and increase trust.

These recommendations encourage a culture change with regard to assigned counsel's approach to communication with clients. While some exceptions exist, most court users reported never having met with their lawyer in person outside the courthouse nor speaking substantively on a day other than a court date. Furthermore, none reported reviewing discovery with their lawyer, and most did not receive any reminders from their lawyers about upcoming court dates, which also likely means lawyers are not communicating with clients before court dates. This lack of communication and care works to erode confidence in the system and increase court users' feelings of fear around attending court (see Finding #4 Recommendation "[Implement new pre-arraignment and on-going communication standards for lawyers](#)" at page 100 for more detailed information on improved lawyer/client communication).

2 Train lawyers on scarcity.

While defense attorneys generally understand their clients lead lives affected by poverty, many may not be familiar with the concept of scarcity and its deleterious effect on their ability to navigate complex and stressful systems such as court. Researchers can offer a two- or three-hour, interactive scarcity workshop that provides an in-depth look at how living under chronic scarcity impacts decision-making and cognition, the behavioral barriers clients may face and how lawyers can help their clients overcome such barriers.

G Implement flexible scheduling of appearances

Allow court users to choose the time they must appear in court.

Increased flexibility in scheduling should assist in reducing nonappearance, and can also increase procedural justice. While not evaluated for impact, judges at the [Red Hook Community Justice Center](#) in Brooklyn, New York, ask those appearing in court what day and time would work for future appearances, and the Center tries to accommodate individual scheduling constraints. Center staff note that in addition to making it easier for one to appear in court, showing flexibility, care, and respect for one's obligations and needs builds trust.

H Reduce the need for appearances through further decriminalization

Support the decriminalization and/or non-enforcement of behaviors related to homelessness and drug use that do not impinge on public safety.

Decriminalizing behaviors that are linked to homelessness or substance use disorder and which do not significantly impinge on public safety has the potential to alleviate multiple challenges facing criminal court systems. Decriminalization and non-enforcement measures can have a particular impact on people of color, who face higher rates of homelessness than are white people, and who are disproportionately arrested for drug possession. (NBP at 42.)

In Oregon, which decriminalized the possession of small amounts of drugs in 2020, the change has thus far not appeared to be linked to a rise in drug-related arrests; property crimes, for instance, fell in 2021.¹⁰⁴

In Harris County, decriminalization or reduced enforcement of drug-related offenses could have an important impact: of court users in the administrative data analyzed for this research, the most serious charge for almost 1,400 was related to drug possession or use. Harris County has taken a positive step by introducing the Misdemeanor Marijuana Diversion Program (MMDP) and can go further to limit the prosecution of cases stemming from drug use.

With regard to homelessness, jurisdictions can eliminate or simply not charge people with local ordinances that prohibit actions of everyday life that unhoused people must do in public spaces, such as ordinances related to sitting, standing, or sleeping in public spaces. The American Bar Association lists several such measures that can help stop the cycling of unhoused people through the court system. (NBP at 31.)

While a full review of opportunities for upstream diversion through changes to local ordinances is outside the scope of this report, research found ordinances criminalizing urban camping, sitting or lying on public sidewalks, and aggressive panhandling in Houston that could be reviewed and selected for non-enforcement. (NBP at 36).

In all cases, decriminalization measures must ensure that health and housing services are increased accordingly, so that individuals who may have only been able to access treatment and housing placements through court involvement are able to receive these services.

I Improve screening and follow-up for scarcity-related needs

Currently, court users are assessed for needs by different court actors and at different points in the process. For example, arresting officers execute a questionnaire that can flag mental health issues observed during the event that leads to arrest, staff from the Harris Center for Mental Health and IDD search names of those being booked for prior mental health services within the

county, staff from the Community Assistance Referral Program hold intentional conversations regarding needs with those held before receiving bonds with caseworker follow up, and people may self-report to HCSO, PTS, or their attorneys issues such as homelessness, substance use disorder or other hardships.

While no data exists confirming that court users are falling through the cracks, the process now appears disjointed and unnecessarily siloed. Harris County should **assess the efficacy of the various screenings and assessments regarding court users' basic, scarcity-related, needs** (housing, food, transportation, childcare, mental health treatment, substance use disorder). A close examination would determine if further streamlining would improve information-sharing and coordination among the court parties and reduce the number of times that the court user must provide information.

J Evaluate existing programs to find targeted improvement opportunities

Evaluate the impact of existing programs to find opportunities to better address mental health and substance use needs that may contribute to nonappearance.

Harris County has an array of initiatives designed to reduce court involvement for those arrested for lower-level offenses and/or who have challenges related to mental health, substance use, and homelessness, as well as those with little or no prior court involvement. Several of these initiatives are or contain elements of national best practices.

Examples of programs and initiatives that may have an impact on misdemeanor nonappearance include:

- ▶ **Law enforcement outreach and response teams:** Between HCSO and HPD, there are several initiatives that may divert individuals from being arrested and cases being initiated. HCSO runs a mobile crisis team, a co-responder unit, a homeless outreach team (HOT), and a remote evaluation program, which allows officers to contact clinicians to conduct evaluations remotely. In addition, HPD operates several corresponding initiatives, including its own Crisis Intervention Team (CIT) and co-responder units, and a Chronic Consumer Stabilization Initiative, which engages people who are frequently in contact with HPD, and offers intensive case management services from the Harris Center for Mental Health and IDD. In addition, all HPD officers receive CIT training.
- ▶ **Holistic Assistance Response Teams (HART):** a new branch of Harris County's first responder system, dispatching interdisciplinary teams to respond to calls related to mental and behavioral health, substance use, homelessness, and non-emergency health or social welfare incidents. Sending HART responders rather than law enforcement on these calls may prevent individuals from being arrested while in crisis, thus avoiding cases and appearances.

- ▶ **Misdemeanor Marijuana Diversion Program (MMDP):** a voluntary pre-charge program open to individuals who would otherwise be charged with misdemeanor marijuana possession. At the time of detention, if the person voluntarily opts to participate, they will be released with instructions to complete a four-hour class within 90 days, taught by the Harris County Probation Department, for which there is a \$150 fee (we suggest waiving this fee upon showing of indigency). If completed within the timeframe, no charges are filed, and the arrest will not go on one's record. The MMPD program offers an opportunity to avoid appearances on the eligible charges.
- ▶ **The Responsive Interventions for Change (RIC):** a specialized docket for those with low-level felony drug possession and certain prostitution charges. While the person does initially get arrested, the RIC team focuses on assessment and expedited release to the community for treatment and appropriate supervision level, allowing court users to have their cases dismissed or placed on deferred adjudication by submitting to drug testing and treatment. The program uses a peer navigator, a case manager and specially-assigned probation officers to connect individuals to treatment services and monitor progress. While the RIC docket's primary goals are to reduce the over-reliance on jails, recidivism, and racial and ethnic disparities due to drug and related charges, it may have a positive impact on nonappearance due to the hands-on supervision and support and tailored appearance schedule.
- ▶ **DWI Pretrial Intervention:** a diversion option for individuals on first-time misdemeanor DWI charges. The program involves one year of probation supervision, during which participants meet with a probation officer monthly, have an alcohol monitoring device installed in their vehicle, and must complete 16 hours of community service and nine hours of a drug and alcohol course, in addition to any other supervision conditions ordered. This eliminates formal court appearances related to the DWI charge, but results in a conviction for the court user.
- ▶ **Community Assistance Referral Program:** a jail-based program staffed by Harris Center for Mental Health and IDD staff that aims to identify and provide services to people being released on GOB who have a need for mental health and other community resources. The program aims to reduce nonappearance and recidivism among those with mental health challenges. Staff identify individuals who have a mental health flag of some kind, interview and engage those individuals as part of the release process, and provide referrals, direct hand-offs to services, and/or tangible resources (such as cash gift cards, bus passes, clothing, etc.). Staff also attempt to contact clients post release to check on needs and work to address barriers to appearance. Between January and March 2022, the program engaged 1,843 court users as clients, including 1,534 charged with misdemeanors. The most common services provided were referrals to community services (provided to 936 clients); referrals include links to housing service referrals, physical and behavioral health services, employment help, food, and clothing. Almost 70 were provided with gift cards to

pay for services (like childcare or parking) to help them appear in court. Fifty-two clients were referred for further mental health services at the Harris Center for Mental Health and IDD's Respite, Rehab and Reentry Center, and 33 accepted. Additionally, program staff were able to contact 689 clients post-release to remind them of their upcoming appearance and offer further assistance if needed.¹⁰⁵

► **Harris County Mental Health Jail Diversion Program (MHJDP):** a voluntary pre-booking program that engages people with serious mental illness who have been booked into the Harris County Jail three or more times in the past two years. The program is not charge-specific but excludes certain charges, such as homicide, and charges related to sex offenses. Currently, the program has 36 beds, and allows stays of 10-14 days, with aftercare for up to 90 days.¹⁰⁶ Participants are able to receive an array of supportive services, including treatment through the Harris Center for Mental Health and IDD staff, case management, supportive permanent housing for those who are chronically homeless and temporary housing for those with other housing needs, and support from peer specialists. The MHJDP includes an alumni group and is developing an advisory council of past program participants. According to the Harris Center for Mental Health and IDD's 2020 Local Plan Report, to date the program has served approximately 3,100 individuals, and their evaluation has shown strong impact on jail bookings: Diverted individuals were 1.3 times less likely to be booked on a new charge, and diverted individuals with 5+ bookings were 3.1 times less likely to be booked on a new charge than those not diverted.¹⁰⁷ The Harris Center for Mental Health and IDD also reports that the program saves \$5.54 in criminal justice costs for every \$1 spent on diversion.¹⁰⁸ While impact on court appearances has not been studied, it stands to reason that the program may reduce appearances in the short-term by avoiding bookings, and in the longer term by reducing re-arrest.

► **Harris Center for Mental Health and IDD Jail Reentry:** The Harris Center for Mental Health and IDD provides 20 beds for temporary stays of 3-5 days for court users leaving jail. The program is voluntary and open to all regardless of charge. The purpose of this reentry respite program is to help stabilize court users leaving the JPC and connect them to services and care, including food, clothing, housing referrals, and more intensive psychiatric or medical care, if needed. The program specifically liaises with the local Veteran's Administration to connect eligible court users to veterans' services. The program leverages peer navigators for frontline engagement. Despite the offerings and attempts at different engagement strategies, staff report that filling these beds has been challenging, likely in large part because court users leaving jail are eager to return to their lives. However, it seems that the Community Assistance Referral Program has been increasing usage of this program in recent months.¹⁰⁹ At the time of writing this report there was no data available to researchers on overall program usage or outcome metrics.

► **Mental Health Supportive Housing:** The Harris Center for Mental Health and IDD also manages a 24-unit single resident occupancy transitional housing site for individuals with mental illness. The site offers housing for up to one year and provides supportive services to residents. The site follows a harm-reduction model and does not require residents to be sober. Staff report that the program is typically full. This site is not solely for those with criminal legal system involvement, but court users can be referred. However, this program appears to offer many elements of supportive housing acknowledged as best practices for mitigating barriers to appearance for individuals with interrelated challenges of homelessness, mental illness and/or substance use disorder, though the single site likely does not have the capacity to serve the extent of court users in need of such a model.

These programs have the potential to reduce nonappearance, but according to information available to us, the direct or indirect impact that they have on appearance has not yet been systematically evaluated. The Community Assistance Referral Program has not yet produced data on appearance rates for court users who are engaged in the program, but they are looking to track that metric. In general, some uptake information on most programs is available, but it is difficult to use those figures to make inferences about effectiveness.

Without further information, it is difficult to propose concrete changes to these initiatives or suggest additional incentives that might more effectively target nonappearance. At this stage, it would be helpful for the County to assess the effectiveness of these existing initiatives to determine what kinds of changes are needed.

Some considerations for such assessments could include:

- Referring to national best practices to consider the extent to which each initiative incorporates elements that have been found to be effective elsewhere.
- Not looking only at impacts on appearance and other outcomes, but also looking at the level of resources available to each program to identify resources that may need to be increased (e.g., for treatment facility beds, case managers, and slots for supportive housing and supported employment) to successfully engage all those who could benefit from a given initiative.
- Assessing the eligibility criteria for any initiatives that show promising results, looking for ways to increase access or capacity.

K**End late-night and early-morning releases for those who may have mental illness**

Prioritize releasing court users with mental illness before the late evening hours, and when late-night releases are unavoidable, provide a respite option so that those court users are not destabilized by the release process.

The HCSO should avoid releasing court users with signs of mental illness from the JPC during late night and early morning hours, when they may be more likely to be disoriented or fatigued and may not be able to get a ride or catch public transportation home. To do this systematically, the HCSO should prioritize processing the release of people with signs of mental illness before a determined cut-off time in the evening whenever possible. To avoid extending anyone's detention, if it is not possible to release the person prior to this cut-off time, they should automatically be offered a bed in the Respite, Rehabilitation, and Reentry Center for a reasonable period of time, at least eight hours, so that they are more likely to be rested and able to get to where they are staying safely.



>> FINDINGS AND RECOMMENDATIONS

LEARNING ABOUT THE COURT DATE

FINDING #4

Key information about when, why, and how court users need to appear is often not communicated effectively.

Summary

Court users may be confused by the information they receive about their court dates, leading some to misunderstand that their appearance is required. 40% of survey respondents named confusing information as a challenge to getting to court. Court users interviewed for this research spoke of receiving conflicting information from different sources and confusion about whether or not they needed to show up as key drivers of nonappearance. This lack of clarity can contribute to nonappearance because court users may not realize they have incorrect or incomplete information until after they have missed their appearance.

In the PDO bail revocation interview data, court users frequently reported being misinformed about whether or not an appearance had been waived; mixing up the court dates for different cases; believing that the case had been disposed; or simply being unaware that they had a court date because they had not received (or did not remember receiving) notice. Responses that specifically connected nonappearance to poor communication between court users and their lawyers generally fell into three themes: court users reporting that they had been told by their lawyer that an appearance was waived when it was not; that a lawyer had not provided information for a reset court date; or that a lawyer had not responded to attempts by the court user to clarify court date information.

Background

Court users typically learn about their first appearance date upon release from the JPC. Their court date and time is included in the release paperwork. This paperwork provides details about their upcoming appearance in both English and Spanish. (Court date information may either be populated automatically in the notifications given to court users, or it may be written in by hand, creating some potential for error at this step). Depending on whether or not a court user is released on GOB or not, they receive their release paperwork either from a PTS officer or coordinator. In either case, the crucial information about their upcoming first appearance should also be explained to them orally before they are released.

Individuals who are assigned public counsel are appointed an attorney on the arraignment date with no opportunity to meet with their lawyer or discuss details of their appearance beforehand.

At each appearance, court users should receive a court reset form with their next court date from the coordinator. They may also receive text message reminders from the court, and/or reminders from their lawyer and their bond agency, if they are out on bond. If their appearance

is reset between appearances, they should receive confirmation from their lawyer or, as of November 2021, the court.

What we found

Court users receive information that is confusing, incomplete, or incorrect. The most common reason for confusion is that appearance information given by different sources conflicts or is simply incorrect, due largely to mistakes that jail, court staff, or lawyers make when providing information. Fourteen interviewees (33%) who said that they received confusing or wrong information ended up missing court, and PDO bail revocation hearing interview responses frequently cited some form of confusing or incomplete information as a reason for a nonappearance. Interviews suggested that incorrect or conflicting information likely has a more severe impact on people who face higher barriers to noticing and clarifying confusing details—for instance, people who are dealing with multiple competing challenges and have limited attention, those with less education or low literacy, and those who do not feel comfortable questioning court staff or their lawyer.

» **Court users may fail to receive clear and complete information about their court date at the time of their release from the JPC. This prevents them from successfully preparing for their court date.**

- **Complete and accurate information:** Court users may not receive complete and accurate information about their court appearance before they leave the JPC. Almost all interviewees received paperwork with the date of their first appearance before leaving the JPC. However, interviewees shared experiences of court paperwork missing crucial information like the setting time, court number or floor, and whether or not they were required to be at the appearance. Court users may not notice this at the time of release for several reasons: if they are unfamiliar with the system, they may not know what details are supposed to be on the release paperwork, and so cannot tell if information is missing. They may not think to question or check the information they have received, because they expect it to be correct. Additionally, court users are typically receiving information about their appearances, especially about their first appearance, at a stressful time when they have limited cognitive bandwidth and attention, and are likely focused on getting out of jail as soon as possible. Instead, they realize later that they do not understand when and how they need to appear. As one defense attorney shared, “There is conflicting information about

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“ There is conflicting information about court dates. Some of the bond information says to report after three days, but then the court setting [paperwork] says seven days. So then people show up [after three days] and then they go home but then they don’t have a ride to get to court [on the correct date].”

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► **Court date not set at time of release:** In interviews, we heard of at least three cases in which the court user did not receive a court date at the time of release, and instead was told that they would receive their court date by mail at a later time. When a court user does not have a court date scheduled at time of release, there are multiple reasons that the court user may miss the later notification about their first appearance. The court user may change phone numbers and/or address, missing communications from the court, and they will not yet have an attorney appointed who would follow up with them. The onus is on the court user to call the court or go online to learn about their date, which may be difficult for them to do, and difficult to remember to do consistently, especially because it is unclear when the date will be scheduled. In the three instances in which interviewees had not had court dates set at the time of release, all three missed their first appearance. In one case, the notification was mailed to the wrong address, and in another, the court user did not see any mailed notification. In the third case, the court user was released from the hospital without any indication of when a court date would be scheduled; confused, he went to bond companies seeking court information and then asked a police officer for guidance and was told to wait. In each of these cases, the court users were not given a clear timeframe within which to expect to hear from the court, nor information about how to check in with the court if they had not received information about their court date by a certain date.

» **While on release, court users may receive incorrect or conflicting information from their defense attorneys or court staff.**

► **Miscommunication by attorneys:** In the PDO bail revocation data, responses that specifically connected nonappearance to poor communication between court users and their lawyers generally fell into three themes: court users reporting that they had been told by their lawyer that an appearance was waived when it was not, that a lawyer had not provided information for a reset court date, or a lawyer had not responded to attempts by the court user to clarify court date information. In our interviews, two court users spoke of similar experiences in which they received incorrect information from their lawyer, which caused them to miss court. For instance, one interviewee shared that their lawyer had told them they would not have to show up at their first appearance after being released from jail. Accordingly, the court user did not go to the appearance, but afterward received notice that they had missed court. The court user had texted their lawyer for an explanation, but received no response after a week had gone by. At the time of the interview, the court user was trying to navigate the process of proving to the court that their lawyer had advised them not to appear. This incident led to the court user wanting to represent themselves. Many responses in the bail revocation interview data cite similar experiences, in which the court user had incorrectly understood from their lawyer that they did not need to go to court.

Court dates that are reset off docket present a particular challenge because the court user is expected to receive the new date directly from their defense attorney. There is both the chance that the defense attorney will miscommunicate the court date information or that the attorney and court user will lose touch, and the court user will miss an appearance that they did not know they had. For instance, a bail revocation interview entry said that the court user's date was reset multiple times, and eventually the court user stopped getting updated dates from their attorney. The court user called the court to find out what was happening, and was told that a warrant had issued for their arrest.

► **Miscommunication by court staff:** Interviewed court users and stakeholders also pointed to incorrect information from court staff as being an important problem. Stakeholders reported observing court users receiving incorrect appearance information when they called the court to confirm their court date, and also seeing discrepancies between court dates listed on different forms. One court user interviewee spoke of showing up to court on the date given to them by the judge at the prior hearing, only to find that the appearance had actually been set earlier. A warrant had already been issued for the failure to appear, and the person was arrested. This same interviewee almost had the experience repeated: they were told in court to come back on a certain date, but they noticed that their paperwork had a different date listed for their next appearance. Luckily, the person noticed this before leaving the courthouse, and spoke directly to the coordinator to confirm on which date to return. In addition to mixed-up dates, we also saw one interviewee's reset paperwork that indicated their next court date was both required and regular, suggesting that the miscommunication from defense attorneys about waived appearances may in part reflect conflicting data entry on the court side.

COURT USER STORY

One court user interviewee spoke of showing up to court on the date given to them by the judge at the prior hearing, only to find that the appearance had actually been set earlier. A warrant had already been issued for the failure to appear, and the person was arrested. This same interviewee almost had the experience repeated: they were told in court to come back on a certain date, but they noticed that their paperwork had a different date listed for their next appearance. Luckily, the person noticed this before leaving the courthouse, and spoke directly to the coordinator to confirm on which date to return.

» **Court users, particularly those who do not have a lot of experience with the system, may not understand what they need to do for an appearance or how the appearance relates to their case, and may therefore not take the necessary steps to show up.**

- **Clear and salient explanation:** While a majority of interviewees felt that the information they received at the JPC about when and how to appear was clear, an important minority of court users and stakeholders interviewed called for better explanations about appearance obligations. This is understandable given the context: in general, people have a hard time understanding and internalizing complex information, especially after a highly charged event such as an arrest.



Cognitive impact of trauma

Traumatic events can affect cognitive processes including memory, attention, planning and problem solving.¹¹⁰ Studies have shown that people suffering from PTSD performed poorly on a variety of neuropsychology tasks involving attention and memory.¹¹¹ Specifically, several studies have demonstrated that traumatic events make our memory biased, because we subconsciously over-focus on information that is related to the threat we have experienced. This means that after or during a distressing event, we may be hyper sensitive to some pieces of information over others, and our memory may create an incomplete picture with left out details.¹¹²

Additionally, there is no easily accessible and digestible guide to how a misdemeanor case proceeds and appearance obligations, which can make it difficult for them to fit information about their court appearance into a clear schema that would help them understand and internalize those details. The standard release process itself does not include a step in which court users engage in a complete discussion of what is ahead for their case or their appearance obligations.



Schemas

Schemas, or mental models, are cognitive structures formed through our own prior knowledge and experience.¹¹³ Our schemas inform our beliefs about the world and guide our actions, though since they are based on our own limited perspectives, they can be incomplete or biased. For example, people's prior experiences with the court system may lead them to form a schema about what happens at court and what is typical. As such, a court user with a schema of court being a place where they have no voice may refrain from asking questions, or taking the necessary next steps for their case.

We were not able to observe the release process directly, but court users and court stakeholders we spoke with described the typical release conversation as very brief, emphasizing the consequences of not appearing, but not inviting questions or prompting court users to think about help they might need to return to court. As one interviewee put it, “They [the JPC staff] don’t tell you nothing ... [just] that you need to report to the bail bondsman.”

Additionally, as counsel assignment occurs on the arraignment date, court users have no opportunity to immediately clarify information about their court dates with their lawyer. This prevents lawyers from explaining the appearance process or beginning to build the rapport needed to allay fears their client may have about showing up to court. (In contrast, those held longer in jail on charges ineligible for GOB may be contacted by an appointed lawyer while held, and have an opportunity to discuss the upcoming appearance. However, we did not hear from interviewees whose lawyers had done this.)

From the court user perspective, this lack of clarity can feel chaotic and confusing, as they spend the days leading up to arraignment in an information vacuum, without advice or reassurance from a person who is invested in their case.

- **Confusing appearances for multiple cases:** In both our interviews and the bail revocation interviews, confusion related to appearances for multiple cases appeared to be the most common “process” misunderstanding that contributed to nonappearance. Court users spoke of getting court dates for different cases mixed up or going to an appearance for one case and thinking it had satisfied appearance requirements for both cases.

A common issue is court users mistakenly believing that one appearance counts for multiple cases. For example, a court appointed lawyer shared that they had seen some clients plead on traffic tickets but not realize that the related misdemeanor was not resolved. In bail revocation interviews, court users with multiple cases mentioned missing court because they mistakenly thought that when one of their cases was resolved, it meant that the other was resolved, too. This kind of conflation is understandable because court users are likely to think about all of their cases in one mental bucket, rather than as completely separate and distinct issues, which may make them prone to thinking that appearing once satisfies all their obligations to the court. It seems that court users may not be receiving clear guidance that one case does not affect the other(s). Conflating appearances may be especially likely when appearances for multiple cases are scheduled on the same day. Though scheduling all appearances on the same day can make it easier for the person to show up, without good communication it can also make it easier for the person to mistakenly think that all their matters will be addressed in a single hearing. PTS staff interviewed said that when people have a felony and misdemeanor charge and are given the same court date for both, they may only go to one appearance thinking it addresses both cases. As a result, they receive a nonappearance for one case.

Even when people do know that they have multiple appearances for different cases, it can be difficult to keep the appearance dates for each case straight. This may be especially true when people have both misdemeanor and felony cases because, as we heard, misdemeanor and felony courts do not give information about cases in the other. In interviews, when people contact the court regarding one case—either by calling to confirm the date of an appearance or by showing up for an appearance for one case—they are not reminded about

upcoming court dates for other active cases. Interviewees with misdemeanor and felony cases spoke about getting dates for the different cases mixed up and as a result missing at least one. One interviewee shared how they had lost track of appearances for their multiple active cases, and thought that all appearances had been scheduled for the same day. Crucially, when they called the court to confirm the appearance date for their felony case, they were not told the date for their misdemeanor appearance—which happened to be that very day. “I wasn’t sure why I was thinking they were all on the same day. I called [the court] on my [misdemeanor] court date, but they didn’t say anything. I asked if I have court today [and was told no]. I showed up a few days later for another charge. They said, ‘You had court a few days ago.’”

We saw that confusion related to appearances for multiple cases can be exacerbated by the way that information is communicated to court users. Court actors, including court staff, lawyers, PTS, and HSCO address each case separately, and may not have direct visibility over all of a court user’s business with the court. When people are booked and released on a new case, the JPC only gives them information for the next appearance on the new case. One interviewee illustrated how this can contribute to nonappearance, saying, “I was released from JPC and got info on one court date, but I had another court date I did not know about, so I showed up to one that next week and not the other because I didn’t know. When I missed court, I did not know I even had court.” When people have multiple cases and are receiving information about court dates at different times from different sources and in different formats, it can be difficult to keep track of all dates and which appearance corresponds to each case. In the interview example above, the interviewee changed their own behavior from this experience and started making sure that their court dates were clearly scheduled in their calendar on their phone, but that behavior change does not address the problem of miscommunication coming from the court.

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“ I was released from JPC and got info on one court date, but I had another court date I did not know about, so I showed up to one that next week and not the other because I didn't know. When I missed court, I did not know I even had court.”

- **Mistaken belief that the case is resolved:** Court users may leave the JPC believing that they do not need to appear or that their case is resolved. We did not hear about this directly from people with court cases, but lawyers speaking about their clients said that they see this most frequently among people who have spent some time in jail after their arrest and are then released on a PR bond. This makes logical sense, as from the person’s perspective they have already spent time in jail after being charged, and they did not need to put up money for a bond. Lawyers interviewed struggle to ensure that these clients understand that being released on a PR bond does not mean that their case is resolved. One attorney relayed their experience, saying, “Frequently a client will tell me after his bond was forfeited

and he had been re-arrested, ‘I already did my time on this case and they let me go.’ It doesn’t seem to sink in that being released on a personal bond does not mean they got time served.”

People who are not very familiar with how cases can be disposed may also mistakenly believe that new developments in the case, such as a complaining witness recanting their statement, mean that the charges against them have been dropped and they do not need to appear further. One lawyer gave the example of a client facing a domestic violence charge who was confused about why he needed to continue to go to court when their partner had told the prosecutor they wanted the charges dropped.

► **Mental health challenges:** Court users are typically receiving information about their appearances, especially about their first appearance, at a stressful time when they have limited cognitive bandwidth and are likely focused on getting out of jail as soon as possible. Some court users spoke about feeling disoriented or stressed out and not able to absorb the information given to them when they were released. This may be especially true for court users who have mental health challenges. An interviewee who disclosed that they have bipolar disorder and dyslexia described their experience: “She [the officer] was telling me stuff, but you get arrested at 5 p.m., it takes eight or nine hours to get processed, you have someone telling you all kinds of legal stuff, and people can’t relate ... I just wish they remembered dyslexia [sic] and mentally ill people. [I couldn’t understand] the lawyer language and personal bond. If we needed to be at court the next day, don’t have someone stay up all night in a cell, not on a bed, then you go to video court, and sign papers, and the lady releases you at 3 a.m. and expects you to be back the next day.” *(Note: Since conducting this research, the Community Assistance Referral Program has begun engaging individuals flagged as having mental health challenges, spending time speaking with consenting court users about their upcoming court dates and working to problem-solve around barriers to appearance. It will be important to see how this tailored process impacts appearance rates for this group.)*

► **Non-English speakers:** Our research also suggests that more attention needs to be paid to ensuring that court users with limited English proficiency understand their appearance obligations at the time of release. A combination of process and lack of interpretation capacity may be leading some non-English speakers to not receive complete information and an explanation in their own language. We understand that the release paperwork is in both English and Spanish, and that there are Spanish-speaking staff in the JPC during each shift. However, one Spanish-speaking interviewee said that they had received court paperwork in English only, and it was unclear how often court users with limited English proficiency are provided with interpretation to explain the release paperwork. A defense attorney with experience representing Spanish speakers said, “[Spanish-speaking court users] don’t get clear information at all while in jail. It’s probably chattering amongst themselves—jailhouse lawyers give advice and maybe some speak Spanish ... I am not confident that the jailors

share meaningful information: from my experience firsthand, jailors don't give a damn about the clients being held.”

It appears that no clear process exists for establishing whether a court user needs interpretation at this stage, which can lead to gaps. One stakeholder spoke about a case in which a Garifuna person was not provided with interpretation during the release process, ostensibly because the officer perceived them as African American and did not check that they could understand English. An interpreter who spoke with our research team shared that interpreters are not brought in to explain the paperwork to non-English-speaking court users who are released following a hearing, and advocates shared that they had seen interpreters not being used consistently at magistration, leading to court users misunderstanding the court's orders or obligations to which they agreed.

Non-English speakers may also be at higher risk for misunderstanding the purpose of the appearance. It is unclear how frequently court users are able to access interpretation to help them communicate with their attorneys. Though PDO and the MAC staff Spanish-speaking attorneys, the impression of stakeholders interviewed is that there are not enough fully-bilingual attorneys to serve all Spanish-speaking clients, and that attorneys who are not fully bilingual can cause confusion. As a possible example of this, an advocate recalled a miscommunication between a defense attorney, a Spanish-speaking court user, and the court user's mother that resulted in the court user missing their appearance. The attorney, speaking to the mother, explained that the appearance would include some kind of assessment or evaluation. The court user understood that this meant the appearance was actually a kind of psychological evaluation, which they did not want to participate in, and so decided to go to work instead of the court date. The attorney was upset and threatened to drop the case as a result, and the advocate needed to step in to help resolve the situation.

Recommendations for clarifying court date information and increasing understanding

A Implement new pre-arraignment and on-going communication standards for lawyers

Ensure lawyers conduct substantive meetings with client before arraignments, keep clients informed as the case proceeds, and reinforce court dates multiple times.

1 First contact with client should occur within one day of assignment and a substantive first meeting with client must occur within three days of assignment and before arraignment.

Should attorney assignments occur before people leave the JPC (see Finding #1 Recommendation "Assign public counsel to eligible court users before they leave the JPC" at page 47), initial introductory contact with assigned clients should occur no later than the end of the first working day after the date on which counsel is appointed in compliance with Code of Criminal Procedure 26.04(j).¹¹⁴ Also, **lawyers should hold a substantive meeting with the client within three business days of assignment**, whether the client is in custody or out on bond.¹¹⁵ While the [State of Texas Performance Guidelines for Non-Capital Criminal Defense Representation](#) (Guidelines) allow for meetings "as soon as practicable for clients out of custody," we recommend meetings within that same three-day period given the level of fear revealed in interviews, the short period of time from release on GOB to arraignment, and the relative ease with which lawyers can connect with clients not in jail. It is imperative the lawyer connect with the client before arraignment to explain the process and upcoming hearing to increase confidence in the system, address the fear reported that jail is a common result of arraignment and reinforce the court date during the meeting and with a follow up text, if possible.

We also recommend creating a form each lawyer must use at first meetings with clients that can serve as a kind of checklist for all the information a lawyer should gather on their client.



Checklists

Checklists are an effective tool or "decision aid" for guiding people through multi-step processes. Checklists reduce the ambiguity of tasks and reduce the possibility of errors or omissions, which could greatly help lawyers in gathering all the necessary information they need from their client.¹¹⁶ Checklists have successfully aided in behavior change efforts across domains including occupational safety, education, health and more.¹¹⁷

This would include gathering all contact information, including email, as well as two to three numbers and/or emails of the client's family, friends, or service providers to ensure the lawyer can always connect with someone in contact with the client. The lawyer will

also obtain the client's social media accounts with messaging capabilities to use as a last resort. The form will also include a prompt for the lawyer to explain the court process and the arraignment in detail, assuring all clients out on bond that if they do not violate any conditions or get charged with a new crime, they will not be taken into custody at the arraignment. Lawyers should also ask clients about their plan to get to court and suggest they start making arrangements that day. The lawyer will also inform the client that at the arraignment, the client will not be forced to plead guilty, agree to any sentence, or pay any fine, and emphasize that this case will be a process with steps they will be advised of before every court event. Additionally, the lawyer will inform the client the case will likely consist of multiple court dates which the client may or may not be required to attend but above all else, the client must ensure the lawyer has their current contact information and be advised of any changes. This meeting should also comply with the Guidelines with regard to the legal substance of the meeting.¹¹⁸

2 Require regular communication throughout the case.

Lawyers should initiate contact and connect with their clients at least every month by phone or in person. The Guidelines require lawyers “to maintain regular contact with the client and keep the client informed of the progress of the case” and “promptly comply with a client’s reasonable requests for information.”¹¹⁹ Lawyers should certainly advise their clients of any progress in the case but should also connect with clients to check in on their status, ask if any questions have arisen since the last communication, and confirm all contact information remains the same. This will require education on the new expectations as well as trainings on calendaring as a skill which lawyers may need. Lawyers should also be reminding clients of court dates and inquiring as to any barriers they may experience in travel. For MAC lawyers, we recommend adding administrative support services to assist lawyers without any such services within their own law firm.

3 Hold lawyers accountable to new communication requirements.

PDO and MAC should hold lawyers accountable to these requirements with substantive checks and meaningful consequences when not followed. Cultures do not change simply by implementing new guidelines, but with the creation of the MAC, opportunity exists to not only create and educate on the new guidelines but to ensure lawyers are following the communication requirements. As a strong start, MAC has redefined attorney expectations specifically with regard to communication in a document MAC lawyers must sign before receiving assignment, plans to offer CLE courses around client-centered communication, and has offered two conference rooms in their offices downtown lawyers can utilize for in-person client meetings (though none have used them as of April 2022).¹²⁰ Moving forward:

- ▶ MAC will (and PDO should) require lawyers to submit a certification confirming the date of the first meeting and general details as to time, length, place, mode of communication and follow up such as investigation and/or social worker requests.

If meetings do not occur within the three-day period, lawyers should be placed on a performance improvement plan with routine checks of first meetings habits for the next 60 days.

- ▶ MAC can require and cross check billing statements/vouchers to ensure the first meeting and subsequent communication takes place and should require dates, locations, and modes of communication.
- ▶ MAC and PDO should build client communication checks into every meeting with supervisors and for MAC, ensure resource attorneys have the data necessary to discuss communication at quarterly and annual reviews.
- ▶ If lawyers are found out of compliance with communication requirements, consequences may include at the least a performance improvement plan and at most, removal from the MAC list.

Lastly, high-performing justice agencies value the perspectives of participants and other members of the public. This means asking for input and then using it to inform necessary changes. No one said it will be easy or comfortable, but there has never been a more critical time to ask.¹²¹ We recommend ***instituting a court user survey post representation that can serve as a check on communication practices*** (for example, asking if they met with their lawyer before the arraignment and inquiring about general communication practices as well as other aspects of the representation). In addition to a survey, offering clients a help line to PDO and MAC for complaints will also help to ensure court users are receiving the representation they deserve.

B Expand access to information for Limited English Proficient (LEP) court users

Ensure LEP court users have full access to information and can fully participate in their cases by providing adequate translation and interpretation services.

1 Identifying language access needs

Harris County courts have a legal obligation to provide translation and interpretation services. While making sure that people know how and where to request these services is critical, the system must also be proactive about identifying language needs as early as possible and ensuring that all actors are notified of a person's interpretation and translation needs.

The new Language Access Plan from 2021¹²² tasks Harris County with identifying people's language needs as early as possible at key points of contact with law enforcement, the JPC and court (including telephone calls to court staff, security screenings at courthouse entrances, etc.). Our research revealed that people's language needs were neither

identified when at the JPC nor later to ensure they received proactive language assistance from the courts. Therefore, we recommend creating a clear channel for jail staff to flag language access needs as soon as identified that follows the court user throughout the case to ensure all communications occur in the relevant language.

2 **Translated forms**

Pursuant to Harris County's Language Access Plan, we recommend the translation of all vital court documents and make those documents easily available and identifiable both in the JPC, in court and on the website. While all court user-facing court forms have already been behaviorally redesigned to use simple, easily understood language, the court must ensure translations are similarly designed.

Logistically, the Monitor Team should conduct periodic checks within the JPC, courtrooms and pretrial to determine if translated forms are in fact being distributed and utilized at all relevant points, and whether court users are understanding the information on those forms. The court could also consider doing user testing to get specific feedback on how to improve the translated forms. While the Language Access Plan allows for bilingual staff to provide translation of simple documents when translated forms are unavailable, we recommend that only trained interpreters translate documents as interviewees reported bilingual staff can often provide inaccurate translations even of relatively "simple" documents.

3 **Interpretation**

While interpreters are often used inside courtrooms, no mechanism has existed to provide interpreters inside the JPC at booking and during the bond process, or for court-appointed lawyers to secure interpreter services for their clients outside the court. As interpreter services are vital to people understanding their basic rights, bond conditions, subsequent court obligations and to participate in their defense, **qualified interpreters must be offered at the JPC during booking and bonding, to speak with lawyers outside the courtroom** as well as inside the courtroom at any hearing conducted whether in-person or virtually. Currently the Language Access Plan contemplates that bilingual staff may be asked to assist with interpretation outside of court proceedings, but as we noted with regards to translation, "bilingual staff" are sometimes not truly proficient, or not able to provide nuanced and accurate information, which generates additional confusion. We recommend that the court do frequent "spot checks" of interpretation services to make sure that court users are receiving clear information and feel informed after speaking with an interpreter.

Additionally, Harris County plans to consider hiring permanent staff interpreters (rather than contractors) based on demand for services. We suggest evaluating demand sooner to identify if permanently staffed interpreters are needed and to avoid a gap in coverage.

The District Court is planning an expansion of Limited English Proficiency (LEP) services,¹²³ which includes the implementation of an on-demand “language line” where lawyers can call for interpreter needs outside of court. While a similar program could certainly help fill the current interpretation gap in Harris County, more information is needed on how this would work and plans for implementation.

4 Access to bilingual lawyers

Accessing bilingual lawyers has been a struggle for some court users who reported being reassigned to a Spanish speaking lawyer during the case, creating gaps in effective representation. Harris County should **identify language needs in the JPC and then assign bilingual lawyers** based on those needs at the onset. When a bilingual lawyer is not available, the court must ensure that a fully certified interpreter is present for all lawyer-client interactions inside and outside the court. We recommend that PDO and MAC continue to evaluate the need for Spanish-speaking lawyers and hire accordingly. We also recommend that PDO and MAC leadership routinely ask lawyers if they have clients with language needs that are not being met and report this back to the Language Access Office.



» FINDINGS AND RECOMMENDATIONS

PLANNING TO SHOW UP

FINDING #5

There is a lack of reminders close to the court appearance date.

Summary

People coming to court receive few reminders except for those whose bond is secured through a bond company.¹²⁴ When asked, all those interviewed for this research reported they would opt in to a court reminder system.

Background

Prior to the Consent Decree, a small subset of court users received court reminders via text message and calls from PTS. Court users were sent a text message three days before their court date and then again the morning of their court date. The texts contained the court's address, as well as the court number and date and time of their hearing. The Consent Decree, however, required Harris County "to adopt text-message-based and telephone-based reminder services to provide eligible misdemeanor arrestees with information about scheduled court appearances and related logistics."¹²⁵ ideas42 was engaged to design behaviorally informed reminders in the forms of texts, emails, and voicemails for upcoming court dates, new court dates, courtroom and date changes, missed appearances, etc. The reminders to all court users who opt in launched in November 2021, but due to technical difficulties, became more consistent in 2022.

What we found

Interviewees on the whole had not received any reminders prior to the court date from either Harris County (as the reminder system had not yet launched), PTS specifically, their lawyers, or caseworkers (for those who had them). For those reporting to PTS for release conditions such as electronic or alcohol monitoring, interviewees reported that PTS did not reinforce or remind people of their court date during or after the meeting. One interviewee reported calling PTS for their court date and was told to call her lawyer instead. In the PDO bail revocation hearing interview data, very few court users mentioned having received reminders from the court, with some saying that they had received reminders in the past that had then stopped. (The majority of the bail revocation hearing interview data was collected before Harris County launched its reminder system.) However, PDO's interviewees generally expressed interest in receiving reminders via text, or, more rarely, emails or calls from PTS.

With regard to lawyers, some feel strongly about reminding their clients of court dates and have a robust system by which their assistants regularly remind clients right before their court dates,¹²⁶ while others do not believe it is their job to remind their clients. Caseworkers providing services

outside the court do not have access to clients' upcoming court dates so may only remind clients if they have been told of the court date in advance.

While most people at the time of interviews did not receive court date reminders, most with bails secured by bond companies reported steady and effective reminders from those companies. Some interviewees described apps from the bond company that not only reminded them of court, but also facilitated required weekly check-ins. It appears that bond companies do a tremendous job at reminding people of their court dates and, in one instance, they even took someone to court who called with a transportation issue. We also found that court users trusted bond companies as sources of information in part because their calls were answered and information was provided quickly. One interviewee called a bond company for court information even though she was not on a secured bond at the time.

Data from the Office of Court Management shows reminders sent in a 30-day period in early 2022, based on court users' preference when opting in: 15,451 texts (seven and one day before, missed/rescheduled/new dates, courtroom transfers); 1,173 emails; 27 voice messages.¹²⁷ However, these counts include invalid contact information, and no data yet exists identifying message success rates.

Recommendations for improving reminders



Improve court reminder process

Streamlining the opt-in process, assessing success rates, and adding confirmation prompts can make the reminder system more robust.

The evidence is clear that reminders are effective in reducing nonappearances.¹²⁸ (NBP at 12-13). In a randomized controlled trial in New York City, receipt of behaviorally informed text message court reminders reduced failure to appear by 21%, and messages identifying the consequences of nonappearance and prompting plan-making were most effective, reducing failure to appear by 26% (from 38% to 28%).¹²⁹ Additionally, a study on postcard reminders in Nebraska found that court appearance rates increased from 87.4% in the control group to 91.7% for those receiving reminders;¹³⁰ a study on live calling reminders in New York found that appearance rates increased from 80.7% in the control group to 88.7% for those receiving a live call;¹³¹ and a study on automated calling reminders in Oregon found the failure to appear rate went from a 29% baseline to 18% for the treatment group.¹³²

In Harris County, ideas42 designed behaviorally informed reminders (text, email, voice message) that the Office of Court Management, via Universal Services, sends seven and one day prior to the court date, as well as reminders for new court dates, missed court dates, and changes in court dates or courtrooms. The messages prompt plan-making (“Make plans now: work, transport, childcare? Mark calendar, set alarm”) as taking one step toward a goal has

been shown to motivate continued action.¹³³ The communications also include a reminder that nonappearance may result in a warrant to bring a seemingly distant future consequence into the present, to combat present bias.¹³⁴

1 **Opt-in process**

The forms were designed to allow court users signing the forms to input their contact information for reminders at the same time, should they wish to opt in to receive reminders. However, given court logistics, court users may not have an opportunity to provide the relevant contact information directly. For example, during the bond process, the person preparing the bond (PTS for GOB and court staff for other bonds) must ask the court user if they want to opt in for reminders and then must input the phone numbers and email on the bond form. Human error in forgetting to ask the court user about opting in or inputting incorrect phone numbers and emails can occur. The bond paperwork is then sent to the probable cause clerk, who inputs the opt-in information. Any glitch in this process will hinder successful opt-ins. Reminder opt-in can also occur during a court reset, but it is unclear if the court user can input their own contact information on the reset form and return the form to the court coordinator for input into the system, or if the court user only receives the reset form at the conclusion of the hearing. Court users who must report to PTS can also opt in when given the supervision requirements form, after which PTS would need to forward that information to a court clerk to input the opt-in information into the system. As we do not know the uptake of opt-ins at each point in the process, it is difficult to assess the success of opt-ins at each stage. **We recommend that OCM analyze the success of opt-ins at each stage in the process.**

Should opt-in issues come to light, streamlining the process by **adding one form given at the JPC** that court users can complete to receive reminders can supplement the other avenues. This form could be sent to the CUP, if implemented, or sent to the probable cause clerk along with the bond forms to cross-check or supplement contact information. Additionally, currently all court users receive both an English and Spanish text message reminder for every reminder, whereas **adding a field to indicate English or Spanish and sending accordingly** would be the better practice. Irrelevant and too much information can cause people to ignore the communication, and receiving so much text in a language not your own creates unneeded hassles in processing the information.¹³⁵

2 **Error rate**

While initial data appears promising, the inability to determine the success rate of the communications makes their impact difficult to assess. **We recommend OCM analyze the error rate** to determine how many texts, emails and voice messages are not received. Additionally, OCM should **remove those recipients with undeliverable contact information** from all future communications, and notify court coordinators who can then

prompt court users and lawyers to update their contact information at the next court dates (or notify the CUP, if implemented, that can notify counsel).

3 **Automate responses**

Harris County has considered two-way messaging, but no statistically significant evidence exists showing that two-way messaging outperforms one-way reminders, and the court's current technology cannot accommodate two-way messaging. Nonetheless, **simple additions allowing for automated responses** may be helpful. First, including a request to respond confirming attendance with a "Yes" can trigger the endowed progress effect, whereby those who are shown they have made progress (even if artificial) toward a goal can exhibit greater persistence in reaching that goal.¹³⁶ Second, after the court user sends "Yes," send a confirmation message such as, "Thank you for making court a priority. The court will do all it can to get you in and out quickly, and we appreciate your commitment to appearing." Such a statement positively reinforces the court user's commitment to appear and also elevates procedural justice by communicating respect for the court user's time and effort.

B **Defense attorneys and PTS officers should consistently communicate appearance information to clients to supplement court reminder program**

Defense attorneys and pretrial service officers should play a consistent role in reminding court users of upcoming court dates.

As court users will continue to have differing abilities to receive and understand text-message reminders sent by the court, defense attorneys and PTS officers can supplement these reminders in order to ward off confusion and forgetting as well as directly address specific barriers to appearance that particular court users face.

1 **Expectations for defense attorneys**

Attorneys should be **expected to communicate directly with each client prior to each court date and should be held accountable** for doing this outreach. Success should be measured by the number of times that the attorney is able to receive an affirmative response that their client has received and understood the court date details—not just the number of times that the attorney attempted outreach. Attorneys should be given clear guidance about expectations for outreach. For instance, attorneys could be directed to make at least three direct outreach attempts via a combination of text, email, and phone call beginning two weeks prior to an upcoming court date. If they are not successful in reaching the client directly they should make attempts to connect with the client's other contacts (family members, friends, etc.).

Attorneys should be given templates for how to share court date information and inquire about any challenges that their client may have in getting to court, so that all can use effective communication strategies, regardless of their experience level. Attorneys should also receive specific guidance for communicating with high-needs clients (those with mental health challenges, substance use, homelessness, etc.) to help them use effective language and engagement techniques and to be appropriately persistent in their outreach.

Both PDO and the MAC should assess the extent to which more administrative support may be needed to provide this kind of consistent and hands-on reminder approach to all clients.

2 **Expectation for PTS officers**

PTS officers should be required to **check all upcoming court dates for all clients prior to each supervision appointment.** Ideally, the PTS information management system should automatically flag officers of clients who have court dates within two weeks, to help prevent officers from accidentally failing to mention these dates to their clients.

PTS officers should talk through the list of upcoming court dates with each client at the end of the appointment, encourage the client to put the dates in their phone or calendar, and for any appearances coming up in the near-term (for instance, the subsequent 2-3 weeks), ask the client how they plan to get to that appearance, and if they have any questions or concerns about being able to make it to the appearance.

Clients should leave each appointment with a printout showing the details for each upcoming court date. This printout should be in a format that makes it salient and easy to find (for instance, on a brightly-colored piece of cardstock) and should include contact information for the PTS officer's direct line, the court, and ideally the client's attorney(s).

FINDING #6

Difficulty communicating with attorneys and court staff can prevent court users from clarifying appearance details and navigating barriers to appearance.

Summary

Many court users do not have reliable ways to clarify information about their appearances and communicate about challenges to appearing. The expectation is that once court users have a lawyer, the lawyer will be their main point of contact for questions and updates; however, we found that the quality of communication between court users and their lawyers varies widely. 65% (28) of interviewees reported dissatisfaction in their communications with their lawyers.

Court users also face hurdles in communicating directly with the court between appearances: they may not know how to contact the court; often face long wait times to speak with anyone; and in the end may not receive accurate information or the assistance they need. There are relatively few tasks court users can accomplish by calling the court, and court agencies, especially PTS, lack capacity to handle a high volume of calls and emails from court users. The court website is not designed to help court users find helpful information or take care of common tasks. Communication barriers are likely heightened for court users who do not speak English, who have mental health challenges, are young and/or are inexperienced with the court system, or who are experiencing scarcity and therefore have limited resources and time to follow up. These communication challenges not only contribute to nonappearance, they also increase the costs of appearances and erode court users' trust in the court system.

Background

The current modes of communication with court users appears designed around two main assumptions: 1) that court users will receive all the information they need to show up from paperwork they receive when upon JPC release or at the end of each hearing, and 2) that court users can easily access answers to any follow up questions or guidance on handling barriers to appearance from their lawyer.

However, the research found that these assumptions are not borne out in reality, and as a result many court users are left without timely answers or help navigating their appearances. As described in the section on challenges court users face in learning about their court dates, the current release process and court paperwork are not sufficient to clarify appearance obligations, and because many court users do not have a lawyer appointed until arraignment, court users do not have a clear way to get help before their first appearance. In addition, 37% of survey

respondents named losing court papers as a challenge to appearance, suggesting that many court users may not have the information or instructions needed to access help by contacting the court directly. As one defense attorney interviewed put it, “[Court users] just get a piece of paper, but no one explains what’s on that piece of paper. And after leaving jail they lose that piece of paper, and they don’t know who to call, where to call, etc.”

The current system requires court users to spend time and energy trying to communicate through multiple channels to obtain answers to relatively simple questions. Court users whose questions cannot be easily answered or whose challenges cannot be resolved with a bus pass or simple referral may not get the more hands-on assistance they need.

What we found

» **Challenges communicating with lawyers**

We observed that court users are frequently dissatisfied with the quality of communication they have with their lawyer. (While court users frequently characterized court-appointed attorneys as being less responsive and less invested than private attorneys, we also heard interviewees express frustration over communication with private attorneys.) Frustration over the quality, frequency, and ease of communication feed into a lack of trust between court users and attorneys that makes it even more difficult for court users to get needed assistance with appearances.

► **Communication often lacking:** Court users frequently reported cursory, rushed, and/or disrespectful communication with their lawyer. As described above, there are special challenges related to court user-lawyer communication before first appearance, as appointment occurs at arraignment and there is no opportunity for the lawyer to make sure that their client understands when, how, and why to show up to court. One interviewee described their experience meeting with their lawyer in the JPC before the magistrate hearing as “[lasting] about three minutes. He did all the talking, I didn’t get to say anything. He wasn’t trying to hear me. He told me about the court date. He raced through it ... He ain’t asked for no contact info. I didn’t even know his name.” Another interviewee described feeling deeply demoralized when they finally connected with their lawyer: “So you are there talking to your lawyer, to the only lifeline you have left ... and you can barely hear him, and he tells you that this is the best that he can do and he hangs up ...

IN THEIR WORDS

“ So you are there talking to your lawyer, to the only lifeline you have left ... and you can barely hear him, and he tells you that this is the best that he can do and he hangs up ... or he doesn’t tell you anything, he just tells you the same thing you already know and they say ‘we are going to reset you’ and they don’t even tell you the date.”

or he doesn't tell you anything, he just tells you the same thing you already know and they say 'we are going to reset you' and they don't even tell you the date."

Overall, while some interviewees described their interactions with their lawyer as being helpful and supportive, 65% (28) described interactions as too brief, disrespectful, or otherwise unhelpful. The majority of interviewees said that their only conversations with their lawyers happened very briefly at court ("[the lawyer] may give you five minutes of their time and want you to sign [paperwork] and not even give you time to read the paper") and that they communicated with their lawyer via text message or email between court dates. In general interviewees conveyed that they only hear from their lawyer when their court date is reset. These types of communications do not create space for court users to absorb information from their lawyer and reflect back questions or concerns, nor do they allow lawyers to learn about their clients and pick up on points of confusion or challenges that the client may be facing. While some court users may trust their lawyer despite a lack of communication (as one interviewee said, they never met their lawyer, never heard from their lawyer, but knew that the lawyer was "in there fighting for me"), more often court users feel that their lawyer is not working for them, or worse—that they are actively working against them.

Though it is challenging to discern clear patterns among subgroups of interviewees, it is reasonable to expect that it may be especially difficult for non-English speakers, those with mental health challenges, and young people to navigate communication with their lawyers. Regarding non-English speakers, as described above, we heard that there are not enough Spanish-speaking attorneys to meet the need, and it is unclear the extent to which non-English speakers are provided with free interpretation in order to communicate with their attorneys. Advocates for court users with immigration concerns highlighted communication barriers between non-English speaking court users and their attorneys as an important challenge. One gave an example of helping a Spanish-speaking court user navigate their case without a Spanish-speaking attorney: the court user had missed two court dates due to miscommunication with the attorney when the advocate stepped in to help coordinate and worked to get a Spanish-speaking lawyer assigned. The advocate said that it had been a difficult and time-consuming process, requiring much follow-up with the attorney and a supervisor at PDO, because it was hard to keep everyone's focus on the individual's case. Even if this example is an outlier, it illustrates how challenging it may be for a non-English speaking court user who does not have special help to coordinate with their attorney when there is a language barrier.

- ▶ **Response times:** A second common frustration court users expressed is difficulty in getting a timely response from their lawyer, especially when unexpected issues arise in the 24 hours prior to an appearance. Interviewees indicated that when court users try to contact their lawyer for an update or with a question, many may wait three to five days and follow

up multiple times to get a response. Interviewees also gave numerous examples of trying to contact their lawyer either the day before or the day of their appearance unsuccessfully. Three interviewees (7%) shared that they tried to alert their lawyer that they could not appear because of something that came up shortly before the appearance, but were not able to connect with the lawyer before actually missing their appearance.

While it is understandable given lawyers' caseloads that lawyers may not be able to respond to all inquiries from clients within 24 hours, from the court user's perspective, this communicates that the lawyer is not invested in their case and is not putting in effort on their behalf. Some interviewees also mentioned having difficulty coordinating with their lawyer's administrative staff, suggesting that even when lawyers have help handling the volume of calls and emails coming from clients, the approach to communication may need to be adjusted to ensure that court users get timely information and feel respected.

► **Difficulty keeping in touch with clients:** Lawyers named communication with clients as an important challenge. They named the problems created by the current appointment process, and struggles to convey the purpose of appearances, mirroring the experiences shared by court user interviewees. By far the most common and frustrating aspect of communication lawyers named is losing touch with clients, often because of a lost phone or changed phone number. Six lawyers interviewed said this was an issue. Lawyers employ many different strategies to try to maintain contact with their clients: some simply emphasize that keeping in touch is the most important thing they can do to stay out of jail; some give their clients various items with their name and contact information (for instance, a sturdy folder for their court paperwork, a laminated card with the lawyer's contact information and a picture of their face on it, etc.); others ask clients for contact information for family and friends so that there are backup communication channels if the client loses their phone. Attorneys may ask their assistants to try to track clients who have lost touch on social media. Some attorneys have also built flexible, proactive communications into their practice to limit the number of times a client fails to show up because of a communication gap: beginning to contact each client two weeks before the next court date, continuing to reach out if no contact is made, and doing outreach through multiple channels (phone, text, and email) to increase the likelihood of reaching the client.

» **Challenges communicating with the court**

Court users also have varying experiences when they try to contact the court directly. Two interviewees said that they would avoid reaching out to the court directly, and relatively few PDO bail revocation interviews mention that the court user had tried to contact the court before missing their appearance. This may be for a variety of reasons: because the default action would be to call their lawyer; or the court user does not have access to a phone; or may avoid reaching out because contacting the court feels scary, confusing, or unpleasant.

► **Confusion about how to contact the court:** From our interviews and the bail revocation interviews, court users appear unsure about how and when to contact the court. One interviewee told us, “[I] had a question about [my] court appearance, but who was I supposed to call? They do not give you any of that information!” A bail revocation interview note said that the court user “never called the court—said he’s bad with the internet and didn’t know what to do.”

IN THEIR WORDS

“ [I] had a question about [my] court appearance, but who was I supposed to call? They do not give you any of that information!”

Even fewer court users seem to have an expectation that they could get help by going to the court’s website. Only two interviewees (5%) mentioned using the court website, and of those, only one person successfully used the website to learn about their court date (another interviewee described trying to find court date information on the website but could not find it anywhere). This kind of knowledge seemed to be rare among our interviewees (one interviewee shared that they had tried going to the website and could not figure out how to get useful information about their court date, and another said that they wouldn’t try because they “prefer to do things that are within my capabilities”) and PDO bail revocation interviewees as well. This is unsurprising, as the court website is not intuitively designed to help people look up their court dates and can be intimidating because of the legal language and lack of clear guideposts about how users can accomplish common tasks.

► **Long wait times or no connection at all:** A handful of our interviewees said that they had been able to speak to someone when they tried calling the court. However, when court users do try to call or email the court, the bulk of data reviewed for this research suggests that people may have to spend a lot of time or make multiple attempts to reach someone who can help them. One interviewee, for instance, described spending four hours trying to contact the court, and that they needed to provide their social security number and SPN in order to have their court date confirmed. Overall, five interviewees (12%) said that they tried calling the court but could not get through, and this was generally the case for PDO bail revocation interview responses that mentioned calling the court.

Unfortunately, we did not have access to court data on call rates to triangulate with our qualitative data sources, but call data from PTS corroborates what we heard from court user and stakeholder interviewees about the difficulty in getting information from PTS specifically. Reviewing PTS call data from one week (March 28-April 3, 2022), we found that the average time it took for a call to be picked up was over 38 minutes, and that 82% of calls were abandoned before they were picked up. The lack of capacity at PTS is important, because court users who are on pretrial supervision may see PTS as their natural point of contact, and may reach out with questions related to their appearances as well as their conditions of release. Case managers and advocates supporting court users with high needs named the challenge of getting through to someone at PTS to be able to clarify the court user’s

conditions or find out about their obligations as an important barrier to helping their clients stay on track with their court cases. An interpreter shared that they had been asked to help a court user contact PTS, and that it had been “very difficult—no one ever answers the phone, no one speaks Spanish.” At one point, the interpreter waited on hold for more than thirty minutes before giving up.

This barrier to communication is especially important for court users who have realized that they cannot show up on the day of their appearance and are trying to get guidance on what to do from the court. In these cases, court users may try calling the court before business hours and then give up, or simply not manage to connect with someone at the court before their appearance time. The PDO bail revocation interview data seems to bear this out: most people who tried to call the court tried once could not get through and did not try again, likely because they were calling just prior to their appearance.

► **Limited assistance when contact is made:** When court users do connect with someone at the court or PTS, the assistance they receive may be limited. For those who are seeking relatively simple information, like confirming the date and time of one upcoming appearance or asking about their warrant status, interviews suggest that court staff are helpful in providing that information. (As mentioned above, other stakeholders who have observed court communication practices have seen that court users are sometimes given incorrect court dates over the phone, and we have also seen that court users may only get information about a single case or appearance, rather than complete information about all their court matters.) However, we found that court staff are unlikely to provide helpful guidance about navigating barriers to showing up for their appearances. For instance, an interviewee said that they were told to call their lawyer to request a reset (rather than use the process available through the court website), and another, who called the court one week before an appearance to say that they could not make it, was told that the clerk would give the judge the message but there were “no guarantees,” and asked why they were calling the court to share this information. Finally, as mentioned in other sections of this report, we found that court staff provide very limited guidance for those seeking help with specific barriers to showing up to court, like lack of childcare or transportation.

We heard of similar experiences with calling PTS: one interviewee said that they knew they had court but did not know the time or court or floor. They called PTS and were told that PTS could not give them their court date information, and to call their lawyer. The court user tried calling their lawyer but could not get a hold of them. When we spoke with them, the interviewee had been at court for over four hours, and was waiting in the PTS office to try to get assistance.

► **Justice Navigators:** We understand that the Justice Navigator program is intended in part to help bridge this communication gap. No interviewees proactively spoke about contact with Justice Navigators, but it is unclear how to interpret that, as interviewees were often

speaking about their court experience during the COVID-19 pandemic, when the Justice Navigators were scaled back and did not reach many court users; it is also possible that interviewees interacted with Justice Navigators and were not aware of it. Researchers found Justice Navigators to be caring and helpful, but they ultimately provided a quality of information similar to that provided by the court clerks.

- ▶ **Easier communication with bond companies:** In interviewees' experiences, bond agencies were generally the most reliable and helpful source of information about court dates. Some court users interviewed were using bond agency apps to manage their court dates and receive updates and reminders on their phones. Bond agencies also seemed to be the most likely actor to proactively call court users when their court dates were changed, to ensure that the person received the correct information. As a result, court users with bonds frequently looked to bond agencies to confirm information. Those who are out on GOB or PR bonds and are not working with a bond agency do not have this additional information source, and so may be less likely to catch mistakes or changes regarding their court dates until after they have inadvertently missed an appearance.

Recommendations for clarifying information

A Develop a Harris County app for all court users

An intuitive smartphone app could help court users take more agency over managing their appearances.

During the research, we observed that interviewees with surety bonds often used smartphone apps provided by their bail bond company to keep track of court appearances. These apps seemed to be a simple and helpful supplement to the combination of paperwork and reminders that most court users need to learn about and track their court dates. **An app for all County court users, regardless of bond type or whether or not they are under pretrial supervision, could help people better manage their cases and avoid missing court** due to miscommunications and confusion.

There are numerous examples of apps that have been deployed over the past several years to support coordination between court users and court agencies. An important distinction between an app for Harris County court users and some other apps now in use in the criminal legal system is that Harris County's app should not serve as a supervision tool. Rather, it should be a tool for court users to understand and track their pretrial obligations, to see and verify the information that the court holds about them, and to find resources that can help them navigate their case.

Key features of the app should reflect the following:

- ▶ **User-centered resource for all appearances:** Court users could open the app and see all of their past and upcoming pretrial obligations and appointments for all cases (court appearances, court-ordered testing and treatment, even scheduled check-ins with lawyers). The app could initiate calendar invites and reminders for each appointment and create a history of activity that court users could reference in the case of any future discrepancy about their appearance record. The app could also send a confirmation after each appointment, demonstrating to the court user that the court successfully recorded their appearance—or letting them know that they were marked as not present and need to contact the court. Information about past appearances should come from relevant court system databases—court users should not be required to check in via the app.
- ▶ **Information hub:** Beyond helping keep track of pretrial appointments, the app could serve as an information hub for court users. The app could be personalized to include contact information for the court user’s lawyer and pretrial services officer, for instance. It could even include links to copies of key documents related to the user’s case for easy reference. The app could include an intuitive FAQ where users could find answers to common questions and be directed to relevant resources, like the court webpage, contact information for PDO and the MAC, and other relevant agencies. Other resources that we recommend Harris County develop, such as a video about the court process, could be accessed through the app as well. A more robust app could also link users to a wide list of relevant resources and local services providers able to assist with a range of challenges that could impinge on the person’s ability to participate in their case—for instance, mental and behavioral health services, immigration advocacy, transportation services, childcare options, and more.
- ▶ **Facilitate direct communication:** Finally, the app could facilitate direct communication between court users and the court to the extent possible while maintaining court user privacy and confidentiality. The app should at minimum make it easy for court users to initiate a phone call with a staff member who can address questions about court dates and appearance challenges as well as allow court users to update current contact information. Direct messaging functions within the app would need to be considered based on potential implications regarding privacy and the court user’s ongoing case.
- ▶ **Design considerations:** An app intended to provide timely and accurate information for all court users would need to be carefully designed with court system capacity and court user needs and rights in mind. The design would need to prioritize accessibility along several dimensions and made available, at minimum, in English and Spanish. The app would need to be compatible with newer and older operating systems and work under low-bandwidth conditions, with offline access. User privacy would need to be highly prioritized, with privacy policies easy for court users to find and understand, and with user control over which personal data are collected and shared by the app. Any data collected for the purposes of understanding the app’s utility should be collected anonymously and should not be able to be used by the court to help establish compliance. Usage of the app would need to be optional, not required.

Finally, the app should have a matching interface that court users could access via the Harris County website, making the website a more useful and navigable tool for court users without requiring a full redesign. The app would also need to have court user- and court stakeholder-facing versions, so that court staff would be able to manage their communication with their subset of the caseload. Relevant staff would need to be trained in using the app and helping court users navigate it.

B Establish a Harris County hotline for court users

An easy-to-remember hotline would offer a single point of entry for court users needing information or help with key tasks related to their case.

Court users may receive an array of contact information upon the initiation of a court case—phone numbers, email addresses, and websites for PTS, their attorney, their bail bond company, the court itself, etc. Still, as described above, court users often struggle to get answers to basic questions about their case and help finding resources that could help them navigate barriers to appearance. For people who are either unfamiliar with the court system and/or who are managing multiple challenges alongside their cases, it can be extremely difficult to know who to contact about what issue, and to keep track of the array of contact information. And as noted in the findings above, court users frequently struggle to connect with court staff, PTS staff, and/or their defense team who can confirm important appearance details, which contributes to misunderstandings and the sense that the court system will not treat them fairly.

To cut through the confusion, **Harris County could establish a court hotline that could be one easy to remember, easy to access hub for information relevant to their appearances.** A hotline could be a single point of entry to contact anybody related to the management of a court user's case—PTS, the defense bar, the court clerk's office, etc. It could be managed within the CUP (if implemented) and staffed by Justice Navigators or similar individuals who could serve as a knowledgeable and friendly resource able to confirm details about upcoming appearances and connecting callers directly to other contacts when needed.

Hotline staff could be trained in responding to issues and questions shown to be related to nonappearance. To help with coordination and immediate appearance issues, they could provide dates and details for all upcoming appearances; provide contact information for the court user's defense attorney (and transfer the call directly to the appropriate defense contact); initiate a reset of an upcoming court date at the court user's request (if allowed), notifying the defense attorney for follow-up; and serve as a triage point for people who have an emergency the day of the court date, informing the clerk and the defense attorney that the court user will not be appearing and that appropriate follow-up is needed.

The hotline could serve as a particularly important resource for court users who need supportive services but who do not have access to case managers or social workers. Hotline staff could

maintain contact information for an array of local services (shelters, affordable childcare, immigration advocacy services, etc.) with the goal that anyone who calls will get referred directly to a service provider who can address their issue. Staff would need enough information about key services to inform callers about basic eligibility or intake needs, for instance, to avoid callers being referred to resources that are actually unavailable to them. Eventually, community service providers could establish a point of contact for hotline staff to connect callers to directly, to avoid any lapse in communication.

Beyond simply providing referrals or basic information, **hotline staff could be trained and equipped to actively help court users problem solve while on the call.** Hotline staff could maintain a comprehensive FAQ related to issues that research has found dissuade people from appearing (for example, “What should I do if I have a technical violation?” “I can’t get childcare” “My attorney is not contacting me” etc.) encouraging callers to take the action needed to move toward case resolution and to avoid further consequences.

To be effective, the hotline must be well-known and easy to commit to memory. The hotline number should be a simple three digits, and could be featured prominently in the jail release paperwork and on a physical memento (like a laminated card, refrigerator magnet, etc.) included with the jail release packet and available at the court and PTS offices. Posters with the hotline could be featured around the JPC and court buildings.

Hotline staff should be trained in customer service approaches specific to this particular clientele, following similar court customer service guidelines as described in Finding #2 Recommendation “[Improve the court experience by treating court users with dignity and respect](#)” at page 63. The hotline would need to have menus in Spanish and employ some Spanish-speaking staff, and ideally have an option to access live interpretation services if needed. Finally, the hotline would need to be staffed during early morning and evening hours, when people are likely to need assistance with their appearances and able to call.

c Implement computer-generated court dates instead of relying on court coordinators to fill in court dates by hand

For all forms court users receive (especially court reset forms), ensure court dates should be embedded electronically into the form as opposed to having court staff write in court dates. Human error exists, and when court staff write down dates or check boxes (for example, identifying next court dates as either required or regular), there is risk that the wrong date or box is recorded, causing confusion and possible missed court appearances.

FINDING #7

Most court users welcome virtual appearances, but process changes can make virtual appearances more accessible and safer.

Summary

Court users engaged through this project support making virtual appearances a permanent option. A clear majority of interviewees said that they prefer being able to appear by Zoom, and Zoom court was the second-highest recommendation made by survey respondents.

Interviewees' biggest frustrations about Zoom centered on unclear communication from the court and lawyers about if and how they could appear by Zoom: many were not told about the option to appear by Zoom or were told too late to avoid making the trip to court. Interviewees were also frustrated by logistical hassles with Zoom appearance, such as lengthy wait times, difficulty speaking with the judge or lawyers, and general confusion about how to participate in their hearings. PDO bail revocation interviews that mentioned Zoom issues in relation to a nonappearance (including some in which the court user mentioned showing up by Zoom but being marked as not present), suggest a clearer and more streamlined process is necessary for court users to join and participate in virtual appearances.

Finally, while few interviewees said they were not comfortable with Zoom, some stakeholders interviewed cautioned that holding appearances by Zoom poses privacy concerns and may add barriers to inclusive access to justice via Zoom, for instance by limiting the ability for defense attorneys and clients to communicate during the hearing. It is also important to note that we also did not speak to anyone with a vision or hearing impairment that could make appearing virtually additionally challenging, and therefore did not learn about specific barriers to virtual appearance for these court users.

Background

While the status quo in US courts has always been to require court users in criminal courts to appear for all hearings, the COVID-19 pandemic gave rise to temporary efficiencies, like fewer required court appearances, that once implemented have appeared well suited for permanent adoption. In June of 2020, the National Association of Pretrial Services Agencies (NAPSA) conducted a survey with 41 states and found that over 90% increased their use of video conferencing for court hearings. (NPB at 38.) Though no rigorous analyses of the nonappearance rates exist for virtual hearings, anecdotal evidence from several states indicate that appearance rates are higher for remote hearings than for in-person, pre-pandemic hearings. For example, the National Center for

State Courts (NCSC) reported that in parts of North Dakota, appearance rates for criminal warrant hearings went up from 80% to nearly 100% since transitioning to remote hearings. (NPB at 39.) In New Jersey, the nonappearance rate dropped from 20% to 0.3% starting the week that courts began conducting virtual hearings. In Michigan, appearance rates went up for all cases from 89.3% in April 2019 to 99.5% in April 2020. (NPB at 40.)

Existing research has explored pros and cons of virtual appearances but has not yet answered important questions about whether holding court virtually can increase appearances and preserve (or improve) access to justice overall. Virtual appearances can lower many barriers to appearance (transportation, time needed to appear, fear of arrest, etc.) but heighten others due to the national “digital divide”—unequal access to and ability to use needed technology. Similarly, virtual hearings can provide greater transparency and improve access to justice in some respects, while raising concerns about privacy, safety, and the impact on court user experience and hearing outcomes.¹³⁷ Past research points to the potential for virtual hearings to undermine access to counsel, reduce court user participation in proceedings, and to particularly disadvantage non-English speakers.¹³⁸

To support courts in transitioning to remote hearings, bodies including the National Center for State Courts, the Brennan Center, and others have published guidance for courts on ensuring transparency and procedural fairness (e.g., using tech-friendly options and plain language on court websites, finding ways that attorneys can participate fully with their clients during remote hearings) and focusing on the user experience (e.g., ensuring online services can be accessed on mobile devices, integrating translation services for non-English speakers).¹³⁹

What we found

We formed hypotheses related to Zoom’s inconvenience and predicted that hassle factors, like not understanding how to use it and not receiving instructions, would outweigh the benefits. These hypotheses were notably disconfirmed by our interviewees. People overwhelmingly preferred virtual appearances despite some hassles, while some improvements can be made in conveying the option and instructions in advance.

The pandemic has offered court systems temporary efficiencies that should become permanent, like Zoom. The benefits of a virtual appearance are many: convenience, reduced cost, time, hassles and stress related to travel, parking, and childcare, reduced stress on court security, increased productivity during wait times, and even environmental gains associated with less mass travel. We found that while Zoom requires some navigation, on the whole it’s relatively easy when compared to the challenges associated with in-person appearances.

Many interviewees who had used Zoom to appear in court did so successfully, although with one citing a long wait time (2-3 hours) and another citing bad reception. Survey-takers cited Zoom as a top recommendation for improving courts and of interviewees, twelve court users who not been offered a virtual appearance affirmatively stated they would have preferred attending via

Zoom, and only three court users preferred in-person attendance. While court users identified needs such as requiring an internet connection at home, using a smartphone, or going to a library, overall they still preferred a virtual appearance. However, lawyers interviewed described clients who struggled with downloading the Zoom app on their phones and navigating to the court appearance, exacerbated by the lack of clear instructions in English as well as other languages. The PDO bail revocation hearing interview data also pointed to challenges court users faced when trying to appear by Zoom. Often, the issue was one of communication, not technology access, as court users thought they could appear by Zoom when they were actually required to appear in person. PDO interviewees also said that they had logged on but had not been called on or had been disconnected from the virtual hearing, or that they had had trouble connecting because of problems with their device or Internet connection.

Virtual appearances help people appear when weather and childcare issues can create hassles. A young adult explained, “I appreciated [being able to show up to court virtually] a lot better—I was at my mom’s house and it was flooding but I was able to go to Zoom court. I was already really tired, I couldn’t even stay with my mother at the time, but she let me come the night before because she knew that I had to go to court the next day.” Another explained she would not need her mother to care for her child because she could care for her child and attend court on Zoom. A court coordinator also explained that Zoom has been excellent for those with childcare issues and she has noticed more people showing up via Zoom, stating “We know they care about their case to show up in some form, and if they can’t show up in person [it’s] because of childcare or transport. [Zoom] alleviates all of it.”

While Zoom obviously saves people time, money and hassles of travel, we suspect people strongly prefer virtual appearances because it eliminates the possibility of being arrested, jailed, forced to plead and/or forced to pay any fine. As people cited fear of arrest so universally, it makes good sense that a virtual appearance would reduce such fear and allow for a court appearance with less stress and anxiety. An interviewee aptly opined that Zoom “gets the same thing done with less stress on everybody, literally: the lawyer, judges, and people fighting their cases,” while another called it a “safe zone.”

IN THEIR WORDS

“ I appreciated [being able to show up to court virtually] a lot better—I was at my mom’s house and it was flooding but I was able to go to Zoom court. I was already really tired, I couldn’t even stay with my mother at the time, but she let me come the night before because she knew that I had to go to court the next day.”

Recommendations for virtual appearances

A Use virtual appearances for required court user appearances when appropriate

Recommendations include only requiring court user presence for arraignments, evidentiary hearings, trials or pleas and hearings that will change conditions of release, if necessary. Given court user's overall enthusiasm to appear virtually, **the CCCL judges should allow virtual appearances whenever appropriate.** While arraignments must be in person given lawyer assignments currently occur on that date, evidentiary hearings/trials require court user communication with counsel as well as the right to confront witnesses, and pleas require in-person appearance, any other dates should be allowed via Zoom.

With the expansion of virtual attendance, in addition to taking the recommended steps below, CCCL judges should immediately **adopt consistent guidelines to ensure court users know when they can appear virtually well in advance of the court date.** Harris County should also provide court users with easy-to-follow instructions at arraignments and within reminder communications including embedding the link to the virtual hearing in the actual reminder the day of the event. Needed improvements include allowing more people to attend by Zoom, offering the option well in advance, and sending easy instructions that include what to do if one encounters connectivity issues. A court coordinator suggested that when people are coming out of the JPC, "give them a little synopsis of how you do things, it would help so much—they're just bewildered getting out."

B Assess differences in appearance rates and outcomes for virtual vs. in-person appearances

While the state of national research makes it unclear how virtual appearances may impact access to justice for misdemeanor pretrial court users, it is important to use data to inform Harris County's policies related to virtual appearances going forward. Harris County should begin **collecting data on whether court users and attorneys appeared virtually or in person, and periodically analyze differences in appearance rates and important outcomes (for instance, case dispositions, warrants issued for nonappearance, etc.) based on mode of appearance.** This will necessarily require clarifying under what conditions court users are able to appear virtually and updating Harris County's data collection infrastructure and practice. Harris County should also collect direct feedback on virtual appearances from court users, attorneys, and judges to monitor the extent to which stakeholders are satisfied with the way that virtual appearances are being used and to determine if the actual experience of virtual appearances does in fact improve access to justice.

C Align virtual appearance procedures with emerging best practices

A comprehensive analysis of Harris County’s virtual appearance procedures was outside the scope of this research, and not practically feasible given the lack of concrete data on mode of appearance. What is apparent from our research is that the lack of clear and uniform policies across courts regarding virtual appearances creates the potential for unfairness, and limits the ability of attorneys to advise their clients regarding appearing virtually.

To determine a path forward, OCM and the CCCL judges should ***assess the county’s current Zoom court procedures against research-based guidance from the NCSC and the Brennan Center to look for concrete ways to achieve procedural fairness and improve court user experience.*** In doing so, OCM should look critically at the ways that Zoom can and cannot facilitate fair and accessible pretrial appearances.

Many critiques have focused on drawbacks to using Zoom (and other general-use virtual meeting platforms) for court processes. Zoom was not developed to facilitate court hearings, and as a result there are important problems in relying on it for this purpose. Specialized video conferencing platforms developed specifically for courts may make virtual court more accessible for low-income individuals in particular. This is a nascent field, but a leading example, the Matterhorn platform developed by University of Michigan scholars, has “facilitated the resolution of more than 100,000 cases in more than 100 courts across 16 states.” (NBP at 24.) Matterhorn includes functions that allow for online dispute resolution for warrants and pleas, in addition to online ability to pay and family, civil, and traffic court functions. (NBP at 24.) If the County is not able to adequately address privacy concerns (for instance, around the potential for recording without consent and attorney-client confidentiality) using Zoom, the County can consider adopting or developing a virtual hearing platform specifically designed for court proceedings.

FINDING #8

Lack of consistent smartphone access inhibits critical communication between court users and their attorneys and court staff.

Summary

Court users, lawyers, and court staff all named lack of access to phones and consistent working phone numbers as a major barrier to appearance. Overall, 40% of interviewees reported having interruptions in their phone service due to a variety of causes: phones lost, broken, sold, or stolen; service interruptions or loss from lack of funds or jail stints; when service resumes, new service or phones often require new numbers and loss of contacts previously recorded. 11% (2) of those interviewees said that resulting challenges in communicating with their lawyer, PTS, or court staff contributed to their missing court. In the PDO bail revocation interviews, common themes included court users losing their phones and therefore being temporarily unable to contact the court, remember their court dates (likely recorded on their phone calendar), or show up by Zoom. Less frequently, responses mentioned court users not being able to pay their phone bills or not having a phone at all. Phone-related issues were also common among those experiencing homelessness.

Although 33% of survey respondents named not having a computer as a challenge for court appearance, few interviewees cited lack of a computer as a barrier, as most people seemed able to complete most tasks related to their case on a smartphone.

As described in the preceding section, interviewees were in general very enthusiastic about the possibility of attending appearances virtually, and nearly all interviewees who had tried to appear by Zoom had been able to access a device and strong enough Internet connection to do so. However, it is likely that some portion of court users will not be able to appear virtually using their own devices, and the court should not assume that everyone can participate in a virtual hearing without some assistance or accommodation. The more common complaints about virtual hearings focused on unstable connections, long wait times and lack of clarity as to process after the hearing.

Background

While court users may receive the details about their upcoming court date on the physical paperwork they receive when leaving the JPC, any further coordination with the court user's lawyer, court staff, PTS, the bond company, and any community services generally depends in large part on the person having access to a phone with a stable number, as phones serve as the default mode of communication. In general, the court and defense attorneys have constructed their communication practices around the assumption that following release from jail court users will be able to receive important information about their case via text messages, calls, and voicemail.

Court reminders in particular are dependent on people with court cases having a working cell phone that can receive text messages. Harris County began sending reminders about upcoming court dates to people via text message in November 2021 but technical difficulties prevented a full launch until 2022.

What we found

Court users, defense attorneys, and court staff alike agreed that interruptions to court users' phone service contributed to nonappearance. In general, court users who have low incomes or who are struggling financially may simply have their phone service cut off because they can't pay the bill, or may not be able to replace a lost or broken phone. Lack of consistent phone access may be very common among court users who are unhoused. Of the eleven interviewees who spoke about experiences with homelessness, six shared that they had been without a working phone for some period. Court users without stable housing or moving between temporary housing are more likely to have their possessions, including phones, stolen or lost. They may similarly have a hard time holding on to paperwork with essential contact information on it, making it unlikely that they will be able to update their lawyer if their phone number changes. These challenges were echoed in the PDO bail revocation hearing interview data by court users who had been experiencing homelessness around the time of their court appearances.

Court users with substance use problems or mental illness may be additionally prone to losing access to phones. One interviewee spoke about having their phone taken away by family members in an attempt to curb their substance use, and another of repeatedly breaking their phone as a result of symptoms of mental illness. Those who cycle through multiple jail stays are also especially likely to have their service cut off as a result of not being able to pay the bill. Some interviewees reported they needed a different phone number after every jail stay, causing a continual turnover in their contact information. A lawyer serving primarily Spanish-speaking clients said that phones broken during physical labor jobs was a frequent reason why their clients working day-laborer jobs would lose touch, for instance.

» **Lack of phone access contributes to nonappearance in several ways**

Court users will not receive updated court dates or reminders from the court or their lawyer, leaving them unaware of upcoming court dates or more likely to forget them. Losing phone access also often mean losing all contacts, including one's lawyer, memorialized in one's phone. Finding a lawyer's name and contact information may require navigation of the court website or contacting the correct agency (PDO, the MAC, or their lawyer's firm). Contacting PTS entails long wait times, and often lost connections. While these may not seem like insurmountable hurdles, for court users who are navigating multiple challenges, are not sure where or how to look, and who may not even be fully trusting of their lawyer, these hassles can be significant. Interviewees who had simultaneously struggled with homelessness and addiction, for instance,

had lost phones and court paperwork along with other belongings while living on the street, and so had no source of contact information to reference even with a new phone.

Lack of phone access also means compromised communication with lawyers, the court, and PTS, impeding required check-ins or confirmation as to whether or not they are in compliance with pretrial conditions, leaving the person wondering if they have a warrant. Phone service may also be interrupted multiple times, making it difficult to plan around these communication gaps. The longer that a case goes on, the more likely it is that a court user will have their phone service interrupted and cause communication challenges between the court user and their lawyer.

Though some court users may use email as a backup mode of communication, lawyers described email as a secondary form of communication, and not an option that would work for all clients. They described calls and text messages being the essential forms of communication for most clients.

Interestingly, survey responses suggest that lack of access to computers is as important a barrier to court appearance as a lack of phones, but interviewees overwhelmingly pointed to lack of phones being the more important barrier. While the reason for this discrepancy between survey and interview responses is unclear, it seems reasonable that lack of phone access is indeed the more significant barrier to appearance. Especially as court users shift away from landlines and public phones have disappeared, individuals' cell phones have become essential to people being able to conduct their daily lives, and not having a working cellphone for some time can be very disruptive. In addition, it may be more comfortable and convenient to use a computer for some tasks related to court appearances (such as appearing via Zoom or looking up appearance information on the court website), but it is possible to accomplish such tasks with a smartphone.

» **Efforts to mitigate**

Defense attorneys we spoke with mentioned using various techniques to try to work around gaps in clients' access to phones, with no method being 100% successful. Attorneys try to impress the importance of staying in touch upon their clients in the hope that clients will update them if their phone number changes. Attorneys may also ask for contact information for clients' family members or friends, to use as backup if their client's phone service is interrupted. Attorneys who have administrative staff to help them may also work to use social media to find updated contact information for clients who have lost touch. One defense attorney interviewed said that they send communications by email as well as by text message. Some attorneys try other methods to make their contact information more "sticky" for clients: one lawyer gives clients plastic cards with their phone number and an image of their face on it; another lawyer gives clients a binder for all court documents that also includes their contact information.

Programs helping ensure people have access to a phone and internet service for the duration of their cases are limited and inconsistently available. There are federal programs for expanding access to broadband (such as the [Lifeline program](#), modernized by the Obama administration to include mobile phone access) that people often use to obtain free phones. (NBP at 41.) However, these programs have specific eligibility requirements (e.g., people must participate in government assistance programs like Medicaid, SNAP, etc.) and limit users to one Lifeline service per household. While some court actors were aware of the Lifeline program, PTS staff we spoke with were not.

Some specialty court and diversion programs may have the flexibility to help participants pay their phone bill while their case is ongoing so that they can stay in touch with the court, but except for the misdemeanor division of the Veteran's Court, programs providing this kind of holistic support seem to be focused on people with felony charges, not misdemeanors.

» **Zoom**

Despite challenges with phone access, we heard widespread enthusiasm among people with court cases for appearing in court virtually, via Zoom (see Finding #7 "[Most court users welcome virtual appearances](#)" at page 121). Appearing virtually offers strong advantages—reducing the costs of time and money associated with appearing in-person, and also alleviating people's fears of being arrested at the courthouse if they show up in person. Though we found that most people who appeared virtually were able to access a device and navigate Zoom, given the number of interviewees who spoke about not having a phone for weeks or months, it seems likely that technology inaccessibility will affect some portion of the Harris County misdemeanor caseload in appearing virtually. It is important to note that we also did not speak to anyone with a vision or hearing impairment that could make appearing virtually additionally challenging.

Currently, there is no established program anyone with a court case can use to access a device to appear in court remotely. Instead, court users may get ad hoc help, depending on which programs and services they take part in. For instance, PTS may allow clients to use their technology to join a Zoom hearing; shelters and treatment programs may help people using their services with remote hearings as well. In addition to lacking a device, not having a strong enough internet connection to participate in a virtual appearance may also be a barrier for some individuals, though we were surprised to hear that this is not as significant a barrier as we expected.

Recommendation for improving access to phones

A **Enable court actors to provide phones and assist with paying for phone service**

As mentioned in our findings, many interviewees mentioned struggling with keeping up consistent phone service, affecting not just their ability to appear for their court date but also their ability to communicate with their lawyers and stay engaged in their case. While there is a lack of evidence suggesting that solely providing phones will increase court appearance, some successful interventions rely on access to working phones (especially court-date reminder programs). Providers and stakeholders strongly emphasize the importance of phones as the primary method of keeping in touch with individuals about their court cases.

Harris County could consider **providing assistance to court users eligible for existing government phone assistance programs but who may be unaware of the program or unsure how to access it.** As the Lifeline program, discussed above, has many providers in Texas including Assurance Wireless, Access Wireless, and Safe Link Wireless, Harris County could guide court users through the process of enrolling. However, these programs have specific eligibility requirements (people must participate in government assistance programs like Medicaid, SNAP, etc.) and people are limited to one Lifeline service per household. For homeless individuals who often access these phones, the lack of a secure home base results in such phones being stolen or lost on a regular basis.

Given the limitations of the Lifeline program, we recommend that Harris County provide alternative ways for court users to obtain and sustain phone service. This can be done in a variety of ways, involving PTS, PDO, MAC, jail staff at the JPC, or the CUP (if implemented). Vouchers or gift cards to cover phone bills could be given to individuals flagged with financial need upon release from the JPC. Additionally, PTS can give out free replacement phones with pre-paid minutes for clients in need, a practice that is done by New York City's Supervised Release Program.¹⁴⁰

As part of the intake process at the JPC and PTS, staff can ask court users if they need help covering their phone bills. Furthermore, if support is not centralized into one program, lawyers through MAC and PDO could distribute gift cards or phone credit vouchers to clients in need. Lastly, phone credit assistance could be added to the Community Assistance Referral Program, run by the Harris Center for Mental Health and IDD, which currently provides gift cards for court users to cover parking, childcare, and gas costs associated with appearing in court. As obtaining gift cards can be challenging, **Harris County could streamline this process by purchasing gift cards and distributing them to all relevant partners (PTS, PDO, MAC, JPC, HCSO, or the CUP, if implemented) and provide these gift cards for phone credit** in addition to other gift cards HCSO provides for other expenses.

FINDING #9

Court users may face an unaffordable loss of income or other penalties for missing work to appear in court.

Summary

Though work conflicts did not emerge as a leading cause of nonappearance in the interviews, we did hear that conflicts between the time required for court appearances and court users' work schedules can force court users to choose between the consequences of not going to work and not appearing at court. While all interviewees we spoke with chose to appear in court despite the loss of income and potential loss of a job, in the PDO bail revocation interview, responses simply said that court users were working the day of their appearance or specified that they could not miss work. A substantial subset of the responses mentioned that the court user had been working in another county—or, more frequently, another state—and either could not get back to Harris County for the court date or had forgotten about the court date. A small number of responses said that the court user had been afraid they would lose their job if they took off time to go to court. Defense attorneys and social service providers spoke about work conflicts being a driver of nonappearance for a relatively small subset of court users. Hardship and nonappearance related to work conflicts is likely most prevalent among people who work hourly or short-term jobs and do not have flexible working hours or paid time off.

Background

In Harris County, hearings take place Monday through Friday, beginning at 8:30am. Because hearings happen during these regular business hours, it is likely that an employed court user's appearance will overlap with their work schedule. An appearance may take the better part of a day, when travel time, wait time, the appearance itself, and any required check-ins at PTS are added up, meaning that a court user working for hourly wages may forego an entire day's pay when they need to appear in court.

While individual judges may make exceptions for special circumstances, in general the court does not accept work-related conflicts as a valid reason for missing an appearance.

What we found

Though the court does not keep data on employment status of people with cases, based on the number of interviewees (nine interviewees or 21%), survey respondents (37% of all respondents, including 13% of those who said they missed court) and bail revocation interview data citing work the day of their appearance or to a lesser degree, fear of losing one's job if they took off time to go

to court, it is reasonable to assume that a sizable portion of the misdemeanor caseload struggles with managing court appearances around their work schedules.

» **Unaffordable loss of income**

Some court users who cannot afford to lose a day's pay may choose to miss court instead of missing work. As one interviewee put it, "My freedom comes before the money; I would gladly miss the money [in order to show up]." But for those without a financial cushion, especially breadwinners supporting others, the potential consequences of losing pay can be difficult to accept. A defense attorney described how it could be difficult to persuade clients who worked as day laborers to miss work for court because of the financial pressure they were under. The lawyer explained that these clients began work at 7 a.m., and if they missed work they wouldn't be paid. If they left work for court (and missed out on a new job) they might not be able to bring money home to their family for the rest of the week. This attorney shared that, "It was a huge hurdle to explain to my clients that if you don't get to court you will get a warrant," because the clients were focused on the need to keep working. The attorney added that clients would ask if it were possible to move their appearance time to non-work hours, but because court hours are inflexible that was impossible.

» **Fear of job loss**

A minority of working court users may also choose to forego a court appearance if they fear they will be fired or face similar penalties for taking time off of work. The majority of interviewees who were employed said that court appearances did not cause a conflict with work, either because they had flexible enough schedules, or their supervisors allowed them to take time off for court appearances without penalizing them, even if they would not receive pay for those hours. Others described a lose-lose situation, in which they would either lose a job or go to jail for missing an appearance. One interviewee said, "I work in the plants, and we work seven days a week ... I can't take off willy nilly, and if I took off for my court date then I'd lose out on money and be out of a job." This interviewee ultimately did not need to take off work for court appearances because conditions of their pretrial release made it impossible to keep their job, and they were laid off. While no interviewees said that they had missed a court date for fear of being fired, a defense attorney shared that this had happened in a small percentage of their cases.

The responses of our interviewees and PDO bail revocation interviews that spoke to work conflicts suggested two key perceptions that may be influencing court users who decide to miss court in favor of work:

IN THEIR WORDS

“ I work in the plants, and we work seven days a week ... I can't take off willy nilly, and if I took off for my court date then I'd lose out on money and be out of a job.”

- ▶ **Court inflexibility:** Court users may assume that the court will not accept work conflicts as a legitimate reason to miss an appearance. They also either may not be aware of the possibility to request a reset because of a scheduling conflict (though the Consent Decree only allows rescheduling of “regular” setting where appearance is not required),¹⁴¹ or they do not believe that asking for an alternative court date would benefit them because any appearance time within the court’s business hours will conflict with their work schedule.
- ▶ **Salient financial need:** Court users may make a calculation that the certain loss of a job or needed income is more painful than the possible losses that would result from a warrant and a jail stay. Consequences of missing work loom as certain and immediate, whereas the possibility of getting a warrant and the follow-on consequences may seem more abstract by comparison.

Those who do forego work to appear at court may deeply feel the lost income or opportunities mounting as their cases continue on and the impact of multiple appearances as well as check-ins related to the conditions of release mount. Over time, this strain may lead them to act against their intention to satisfy their appearance or check-in obligations and miss court. PTS staff reflected on what they have heard from clients who believe that if they continue to miss work they will be fired, and so eventually decide to go to work instead of court and end up with a warrant for their arrest. An interviewee with multiple ongoing cases who lived far from downtown Houston and had to rely on public transportation described how the combination of ongoing appearances and check-ins with their pretrial officer were a barrier to regaining employment and stability: “How am I supposed to look for work, when it takes me three hours [each way to get to court]? ... I’m literally pawning my stuff just to keep my bond. I need to find some kind of work. It’s so hard getting to court.”

Recommendations for navigating work hours

A **Implement recommendations that will substantially lessen need for court user appearances**

As discussed previously, implementing recommendations including fewer prosecutions, more dismissals and diversion, fewer appearances requiring court user attendance, and, when needed, more virtual appearances, will all assist in lessening the barrier work obligations may pose to court appearance.

While some courts have offered court after-hours or on weekends, the breadth of cases (all at different stages with varied needs) and the number of judges, prosecutors and defense attorneys needed to move those cases make such an option infeasible from a logistics and cost perspective. However, warrant clearing events on weekends or after hours are still viable

given that each event will focus on one task of resolving warrants and requires just one judge and prosecutor and a handful of defense attorneys.

B **Direct court users to the court hotline to request rescheduling if work conflict exists**

A recommendation in Finding #6 "[Establish a Harris County hotline for court users](#)" at page 119, includes establishing a Harris County hotline for court users which could include allowing court users with urgent work conflicts to call to explain their situation and arrange for a virtual appearance (if possible) or another court date close in time. The hotline staff (within the CUP, if implemented) could then contact the court coordinator immediately to notify the court of the issue and arrange for another date when their lawyer will also be available.

FINDING #10

Court users with caregiving responsibilities frequently do not have reliable, affordable alternative care arrangements for court appearances.

Summary

Managing childcare and court appearances can be extremely difficult and burdensome for court users. People caring for young children generally do not see bringing children to court as a viable option and therefore need to make arrangements for someone else to watch their children while in court. Those who can do so, frequently rely on family members or friends to fill this role but those who cannot are faced with a lack of affordable and satisfactory options.

Although this may not frequently lead directly to nonappearance, it greatly contributes to the stress of court appearances for caregivers. We assume that the burden of managing caregiving and court appearances falls disproportionately on women—all of the court users we spoke with who had this concern were women with young children—but this challenge may affect anyone caring for children or other loved ones.

Background

Affordable childcare is in short supply in Harris County. An analysis using 2019 data found that in Harris County, 76% of low-income children with working parents live in a “subsidized childcare desert” where the “supply of subsidized childcare meets less than a third of the demand.”¹⁴² This situation is estimated to have worsened during the pandemic.

Even if space in affordable local daycares is available, it is unclear how much this would aid parents who only need childcare on the ad hoc days while they have business in court. And, for those for whom any additional cost is beyond their means, subsidized childcare may be out of reach even if arrangements could be made. Neither the court nor (to our knowledge) any community organizations make free or low-cost childcare available for people who have business at the court.

What we found

Making alternate childcare arrangements for court appearances is difficult and not always possible, as court users may not have affordable and readily available options. 43% of interviewees who spoke about having young children expressed that arranging childcare on court appearance days was challenging or stressful.¹⁴³ All interviewees who spoke about challenges with childcare were women who had at least one child under 10 years of age, illustrating that the burden

and consequences of the lack of good alternative childcare options for court dates likely falls disproportionately on women with young children.

All interviewees with young children said they rely on family members or friends (who they may need to pay) to care for children while at court, and none mentioned professional daycare as an option for them. For some, family or friends are able to act as a helpful safety net, with a spouse, parent, or sibling able to step in when needed. Interviewees who felt confident about relying on family or friends tended to have at least one or two people who could serve as backup if their go-to caregiver was not available on the court date. Others felt the precarity of their arrangements, noting how lucky they were that someone was able to serve as caregiver for a day because they had no backup option if that person were not available.

Court users who do not have family or friends nearby to provide fill-in childcare are at a loss. Three interviewees (7%) said that they either have missed court or would choose to miss court because of a lack of available childcare. An interviewee who missed court was unable to find anyone who would watch her four children for less than an unaffordable amount of \$200. She said that finding childcare had been her first thought when she was released from jail and told that she would need to return for an appearance the next day. Unable to make child care arrangements, the reality hit her that, “Oh I’m going to have another warrant ... [and will have to] do everything all over again. Go to jail, get out, do another court date, go to court. [It] felt like a weight ...” and she became depressed. Another interviewee who had just had a baby did not have family or friends to babysit, and with the bus system too challenging to navigate with an infant, she also missed court. In another vivid example, an interviewee traded her watch for babysitting hours one day and on another, had to settle for her child sitting in a hot car with a friend outside the courthouse as illustrated in the interviewee sketch [at page 23](#).

COURT USER STORY

An interviewee who missed court was unable to find anyone who would watch her four children for less than an unaffordable amount of \$200. She said that finding childcare had been her first thought when she was released from jail and told that she would need to return for an appearance the next day. Unable to make child care arrangements, the reality hit her that, “Oh I’m going to have another warrant ... [and will have to] do everything all over again. Go to jail, get out, do another court date, go to court. [It] felt like a weight ...” and she became depressed.

For caregivers who cannot make alternate childcare arrangements, bringing children to court is generally not viewed as a viable option. No interviewees with children wanted to bring them to court for an appearance or PTS appointment. There is no clear rule against bringing children to court, but it is not encouraged. When researchers called the court to inquire about whether or not it would be possible to bring children to court, all staff spoken with (three court coordinators and one staff member from the Justice Navigators) said that bringing kids to court was not a good idea, and one said, “Generally, family members aren’t allowed inside, so if they have to be there it’s okay, but someone probably has to be there to wait with the child.” However, none were able to offer any alternatives or had guidance about how a court user could handle this challenge. One

staff member said plainly, “I wouldn’t [bring kids to court], but if you have to you have to.” There may also be an assumption among court staff that because court users generally have some advance notice about their court dates, there should be no reason that they cannot find childcare. One staff member said that, “because they know ahead of time, they should be planning for that.” However, as illustrated by the examples above, if court users lack the money or the network of family and friends who can form a safety net, they may simply not have any viable options for which they can plan.

Court users also do not want their children to witness the court proceeding against them or be exposed to the court environment. One parent interviewed emotionally explained that she would never bring her children to court because she would “not want them to see mommy get treated in some type of [bad] way and not understand why people were being rude to mommy. I am [the] protector and my job is to ensure no one talks mean or down to us.” Another interviewee said concretely that she would miss court before bringing her children to court and “have them [be] around other criminals.” Additionally, people fear that bringing children to court may negatively affect the judge’s perception of them. For instance, one interviewee said that they knew the court “doesn’t like noise or kids,” and so would avoid needing to bring her baby into the courtroom. Parents also noted concern about taking their kids away from schoolwork during the hours it would take to complete their appearance. Regardless of court users’ feelings and perceptions about bringing children into the court environment, meeting children’s needs while also navigating public transport or parking, security, wait times in court and the requirement to stand before the judge is an incredibly challenging task amidst an already stressful time.

Recommendation for childcare

A **Provide funding for day care on the day of the appearance**

To ease the financial burden of making caregiving arrangements on hearing dates, the court should provide funds that court users can use to pay for daycare for children (or adults) on the day of court.

Affordability is a key part of the challenge of finding childcare for court dates. The Community Assistance Referral Program has recently begun addressing this by offering funds for childcare to individuals with mental health needs as they leave the JPC. The program provides clients for whom childcare is a barrier to appearance with gift cards that can be used to pay for drop-in day care or another form of childcare (babysitter, a relative who can watch a court user’s child, etc.). This flexible funding is advantageous because a caregiver can use it for multiple options, rather than just for a specific childcare provider, and it can be used to pay for daycare for adults as well.

To build on this initiative, this **funding should be available to any court user with caregiving responsibilities for whom the cost of daycare is unaffordable.** Community Assistance

Referral Program staff, PTS staff and/or Justice Navigators should ask courts users they engage if they need help with childcare on their court dates, and if so, provide the court user with a gift card. PDO and the MAC could also make this a standard resource that attorneys and social workers could provide.

The amount of the gift card should be sufficient for the going rate for daycare for a young child, so that court users experiencing financial hardship do not have to pay out of pocket.

Court agency staff should create and maintain a list of childcare providers in the county that offer drop-in service for the day so that court users can be pointed to them if they are in need of childcare. If the court discovers that there is a shortage of drop-in spaces, the County can partner with select providers (such as the United Way) to increase capacity.

B **If court users must bring their children, accommodate them with dignity and respect**

To ensure procedural justice exists in every circumstance, if a court user must bring children to a court date, court staff should do what they can to accommodate the court user with dignity and respect. This includes allowing the court user to wait outside the courtroom until their case is called, and once called, allowing the court user to have their children in court if needed (sitting if old enough or in the court user's arms if not) and understanding that children will act like children. In these moments, the court user is likely feeling fear just by being before a judge which is then exacerbated by the need to bring children into this space. Expressing thanks that the court user came to court with the challenge of also caring for children would likely be appreciated.



» FINDINGS AND RECOMMENDATIONS

GETTING TO THE HEARING

FINDING #11

Court users struggle with unavailable and/or unreliable public and private transportation to court, made more difficult by rush hour traffic to arrive for earlier dockets.

Summary

Both public and private transportation are rife with challenges—from inaccessible and unreliable public transportation, unaffordable rideshare services, and unreliable rides from family and friends. Of the court users interviewed, 63% (27) mentioned struggling with transportation as an issue. Of those who cited transportation challenges, 70% missed court and 19% were late. Of those who missed or were late, 55% cited a transportation issue as the direct cause. Parking additionally raised a challenge for 14% of the interviewees. Of survey-takers, 45% said they use public transportation, 30% reported getting a ride from someone, and only 25% said they used their own car. When asked for recommendation to improve court appearance, court users we interviewed named transportation most often, and some suggested more and/or free parking.

In the PDO bail revocation interviews, many responses cited difficulties court users had in getting rides from family members and friends, with a frequent challenge being that a person who had promised to give the court user a ride not being available the day of the court date while others simply spoke to not being able to afford transportation. Though it seems the majority of responses referred to court users intending to take private transportation, many also cite issues with public transportation—not being able to afford bus fare, not being able to get bus passes (presumably from PTS or another agency) or having trouble navigating the public transportation system. A substantial portion of those mentioning transportation challenges reported they were homeless as well, highlighting the particular barrier faced by unhoused court users.

Importantly, despite the logistical challenges of transportation in such a large county with limited public options, most court users reported putting in much effort to find a method of transport to get to court. For example, a court user interviewed for this research reported traveling from another city the night before their court date and sleeping outside near the court; others reported leaving hours early to take multiple buses and trains to appear in court. Only one court user interviewed reported not even trying when they did not have bus fare, while all others made efforts to get to court, even if they were unsuccessful.

Background

Harris County comprises a total area of 1,777 square miles, and regardless of location of arrest within the county, one must appear downtown in CCCL for appearances related to misdemeanor

cases. As many communities within the county are located outside metro and bus service areas, court users must either drive (most do not own their own cars), ask for a ride from family or friends, or pay for a ride, which can be very expensive given the sheer size of the county. Earlier court docket start times also frustrate efforts to get to court given common traffic and construction congestion when traveling to a central downtown location.

What we found

» **Inaccessible and unreliable public transportation**

Five interviewees reported that they lived outside any public transportation access, while more (seven) explained that public transportation took a long time (1-3 hours) and/or required many transfers. Despite the time and complexity, many people reported still using public transportation if they could, but that it added a significant amount of time to their day at court. Interviewees reported leaving an hour or more early to add a needed buffer and/or taking multiple buses and trains, with one person reporting that the trip required three separate buses, another reporting needing to take buses and two trains, and one reporting that the trip required a bike and a bus.

We heard from multiple people that even when they attempt to use public transportation, they encounter issues like the metro getting stuck, fights or other issues on buses that require the bus to stop and wait for a police response, as well as buses that simply do not come or drive by with a sign flashing “out of service.” One interviewee abandoned the one-hour trip to court when one bus did not show and the next was out of service, which would have placed him at court two hours late; he assumed he would already have a warrant. Another arrived late because of faulty public transportation service, and the bailiff told the person to leave because a warrant had already issued.

Four interviewees described not having enough money for bus or train fare: one interviewee in this situation did not go to court, another jumped the turnstile, and two pled with the bus driver to let them ride for free to go to court. Five described needing to take expensive taxis or rideshares during rush hour for fees they could not easily afford (from \$10 to \$71 each way). They took these rides anyway because they had no other choice.

» **Unreliability of rides from others**

Relying on rides from others is fraught with challenges. One interviewee explained that he often arranged for a ride with family far in advance, called the night before to confirm and even then, sometimes his ride did not come through, leaving him with no option to get to court at the last minute. Another interviewee explained, “I was late to court because I could not rush my friend. She lives far away, so by the time she got to me we were running 45 minutes late.” Another reported having to choose between asking a friend for a place to sleep when she

lost her housing or asking for a ride to court, with the former winning out. With no bus nearby, the interviewee explained, “I didn’t even want to bond out, because it would be too hard [to get to court].” In the PDO bail revocation interview data, many responses cited difficulties court users had in getting rides from others, with a frequent challenge being that a person who had promised the ride to court ultimately was not available. Even rideshare rides can fall through: as one interviewee explained, “It is stressful trying to make it [to court on time with] trying to get up, make sure the Uber driver is on time ... A couple of times they canceled the driver so I was late, and it only takes one time to get locked up for being late.”

COURT USER STORY

Another reported having to choose between asking a friend for a place to sleep when she lost her housing or asking for a ride to court, with the former winning out. With no bus nearby, the interviewee explained, “I didn’t even want to bond out, because it would be too hard [to get to court].”

» **Special challenges for those with driving-related charges**

Those charged with driving under the influence have their cars impounded, requiring high, and often unmeetable, fees to release the vehicle. In addition, those charged with offenses that limit driver’s license validity simply cannot drive even if they still have their car. Lawyers reported having clients with such charges unable to get to court. One interviewee reported not appearing when she could no longer drive and was unable to safely take her newborn on a long bus ride to the court, resulting in a warrant that remained outstanding for years. Given that in 2021, Harris County filed approximately 16,000 driving-related cases and that those could potentially carry pretrial limits on driving privileges, a large swath of people will automatically face real barriers to driving to court.¹⁴⁴

» **Parking near the courthouse adds another difficulty**

Six people cited parking as a challenge, with two people securing rides but the driver either left because they could not afford to park or drove around waiting for the person to get out of court. Parking downtown is expensive, with costs that can skyrocket to \$60 on Astro game days and can require a Hopper Pass or app to park at a meter on the street. Even if one has the app, parking meters carry a 3-hour limit which cannot be extended and if the car remains, will trigger a ticket. Some private parking areas require credit cards. An interviewee reported she was late to court that day because the payment slot for her parking space was defunct. She paid the fee in the adjacent slot and wrote a note begging them not to tow her car. When she arrived to court late, her lawyer was not present, and she waited outside the courtroom for over an hour before the bailiff came out with a reset paper—after putting in the effort to get to court, paying for parking and risking having her car towed, the court user did not see either her lawyer or the judge. We further heard from one Harris County stakeholder that nothing has been done to increase parking availability for employees or people charged who must attend court. Even if one arrives by 8 a.m., many struggle to find a parking spot, and typically those available are further away from the courthouse and can be many blocks away.

» **Harris County transportation options specifically aimed at low-income individuals include red tape, making them hard to use successfully.**

The PDO bail revocation interview data revealed that a substantial portion of those mentioning transportation challenges reported they were homeless as well, highlighting the particular barrier faced by unhoused court users. The current offerings geared toward unhoused or low-income residents appear to have limited-service areas and payment requirements which make them inaccessible to many who will struggle with transportation.

► **Project Access:** Project Access is a regularly scheduled, no-charge bus service for unhoused individuals, designed to help people travel to and from organizations that provide essential services. The route only covers major service agencies inside the downtown area, and the closest bus stop to CCCL is .6 miles away. Additionally, riders need a ticket that they can secure at various non-profits around town. The service runs from 7:30 a.m. to 4:30 p.m. with no service for an hour and a half at lunchtime. At time of writing, it was not possible to confirm whether or not this service is still in operation: related community service providers were not able to confirm this, attempts to reach Project Access staff were unsuccessful, and the schedule online appears to reflect 2018.

► **RIDES:** This is a curb-to-curb subsidized program that allows eligible customers and participating agencies to purchase transportation services at a significant discount. The customer or agency pays 50% of the total trip cost. Shared rides must be booked a day in advance, and taxi service can be booked the day of the trip. Unfortunately, even paying 50% of the fare, especially for longer trips, typically cost more than many court users can pay, and customers must determine eligibility, join the program, receive a physical card, and load money onto the card, all before they can use the card for a ride.

One other program affords 10 bus passes or 20 trips, however, the pass is only valid three hours from the start of the trip and usually expires before one is done with court for the day. When their pass expires while in court or before the last transfer on the way home, one interviewee reported that he has to ask bus drivers to allow him to ride for free, and sometimes he needs to ask a few until one will allow him to board.

Recommendations for transportation

A Require fewer in-person court dates generally and specifically for those whose charges restrict their driving privileges

Should Harris County not adopt the recommendation for fewer in-person court dates for all court users (see Finding #3 Recommendation "[Reduce appearance dates where court users' appearance is required](#)" at page 73), given the high number of DWI charges filed each year

(in 2021, 13,717 cases filed in Harris County)¹⁴⁵ and the related restrictions on driving privileges, the court should require fewer in-person court dates for those with such cases. Limiting in-person court dates to arraignments, evidentiary hearings and trial/plea dates will assist those court users who simply cannot drive to court. In addition, PTS in-person reporting should be restricted to virtual or telephonic meetings if meetings are needed.

B Give court users free rides to court via rideshare programs

Currently several pilots and programs in other jurisdictions provide transportation to court, ranging from providing vouchers for public transportation, to coordinating on-demand rides with rideshare services, to program staff taking participants to and from court. To date, limited experimental data suggests that simply offering vouchers or subsidies for public transportation does not lead to increased court appearance. More robust transportation programs, such as rideshare coordination, seem more promising. (NBP at 26.) Giving people free rides to court would substantially reduce hassles and cut costs for court users experiencing financial hardship and suffering the consequences of scarcity. As described above, Harris County's current ride assistance programs appear hard to use successfully and involve many hassles. For instance, PTS staff interviewed knew of the RIDES program but said they did not refer clients to it, because it was likely still too expensive and the steps needed to enroll and make use of the service were too complicated. We know from behavioral science that relatively small hassles, like having to complete multiple steps to enroll in a program, can significantly impede a desired behavior, and that eliminating or reducing such hassles can improve uptake.¹⁴⁶

Harris County could invest in creating a rideshare program similar to Court Ride in Hennepin County, MN, which offers free Lyft rides for people with no reliable access to transportation who are also eligible for public counsel. (NBP at 26.) Court users receive a text message asking if they opt-in and if so, the client receives text message reminders leading up to the appearance date and simply has to confirm their pick-up address.¹⁴⁷ The service provides round-trip rides as long as the initial pick-up and final drop-off locations are the same. While data was not collected to show statistical impact, public defenders reported that it helped their clients get to court. Drawbacks included the increased work for public defenders, a significant number of rides canceled (46%), that only those with smartphones could be served, and that better technology systems were needed to provide such services. While PDO and the MAC could serve as the implementing agencies if given additional funding, the creation of a new entity dedicated to meeting court users' transportation (and other) needs—such as the CUP, described earlier in this report—should be explored.

If Harris County alternatively decides to modify existing programs, those programs should reduce requirements and ease restrictions for court users. For instance, we recommend that the court collaborate with the RIDES program to allow individuals leaving jail

preliminarily deemed indigent to be instantly registered in the program, with preloaded funds on the card to return home and to court specifically on their next court date. This expansion of the RIDES program could potentially be done in partnership with the Community Assistance Referral Program, which provides gift cards to cover transportation costs.

In addition, we recommend ***making it possible for defense attorneys or others to book rides to court for hearings, at no cost to the individual.*** Currently, the Bail Project's Houston chapter books court users' rides via Uber or Lyft on behalf of the court user. This requires someone to coordinate with the court user and confirm a date, time and pick-up address, and then schedule a ride in advance via the Uber or Lyft app.¹⁴⁸ Rides can also be booked in advance through a local cab company, such as [24 Hour Cab Service](#). Alternatively, both Uber and Lyft have gift cards that are delivered via email and redeemable via the app (both can be purchased through Amazon or via the app). Using gift cards has limitations however, since the recipient of the gift card must have an account with Lyft or Uber, a working cell phone to book the ride, and an email address to receive the gift card. Therefore, it may be more feasible for a court actor to book the rides on behalf of the rider.

A Enable court actors to provide funds for gas and parking expenses

In addition to supporting court users with transportation through rideshare programs, we also recommend ***providing funds for transportation expenses to court users with financial need.*** Currently, the Community Assistance Referral Program provides clients with gift cards to cover gas and parking. As of March 2022, the project had distributed 35 gift cards for parking (each \$15) and 25 gift cards for gas (each \$20). Harris County could expand on this effort by having PDO and MAC also provide gift cards.

As mentioned in the phone payment assistance section, Harris County could streamline this process by purchasing gift cards in bulk for covering gas and parking and distributing them to all relevant partners (PTS, PDO, MAC, JPC and HCSO) or transfer this task to an agency like the CUP created to meet court users' appearance needs which will be further explored in the implementation phase.

Conclusion

The goal of this report is to provide an understanding of the challenges to court appearance and to recommend a **broad variety of potential interventions** to address these findings in accordance with the Consent Decree. It is designed to be a practical reference over time, as Harris County prioritizes which interventions are most reasonable to adopt more immediately based on the current landscape and context, and to provide additional options should they be useful at a later date. We also offered interventions that may build upon other recommendations or upon current Harris County practices to accommodate a wide range of possible directions, depending on Harris County preferences and other interventions occurring in tandem. We are also hopeful that jurisdictions that similarly seek to address nonappearances will use this report to find recommendations that may fit their context also.

Moving forward, we will advise Harris County on its development of a written plan to adopt feasible, cost-effective recommendations. Guidance will be grounded in study findings and recommendations, as well as the national best practices report (submitted earlier), and include advising on high-level budgeting for three years of implementation. This will include assisting in prioritizing recommendations Harris County wishes to pursue and developing guidance for as many recommendations as possible within the allotted project time frame and yearly budget requirements (\$850,000 per year).

While Harris County will identify the recommendations they seek to pursue, **any intervention implemented should also include a mechanism by which to measure its impact on court appearance rates.** With the current inconsistent practices in tracking and collecting appearance data across all the courts within the CCCL, measuring the effect interventions may have on appearances rates will be unattainable. We therefore suggest that improving the data collection process and then mandating and verifying that the new improved process occurs in all CCCL courts as a required and sound starting point for implementation.

We want to again thank all the Harris County stakeholders and court users and organizations spearheading innovative practices across the country who generously and graciously gave their time, expertise and advice to make this study a success.

| Appendix A

Acronyms and Key Terms

“Appointed counsel” refers to counsel assigned to represent a person deemed indigent. See “MAC” below.

“Arraignment” is the first scheduled court appearance in the Harris County Criminal Courts at Law where the court user is notified of the charges and if needed, appointed counsel. Also referred to as the “first appearance” or “first setting.”

“Bail hearing” refers to any legal proceeding at which conditions of release, bail requirements or pretrial detention are determined.

Bonds:

- ▶ **“General Order Bond” or “GOB”** refers to the bond granted to most people charged with misdemeanors in Harris County. It facilitates release from the JPC without the payment of any fee or bail, pursuant to Local Rule 9 (described below).
- ▶ **“Personal Bond” or “PR”** refers to a bond under which the person charged is released from the JPC without the payment of any fees or bail unless the person does not appear in court when required to do so.
- ▶ **“Cash Bond”** refers to a bond under which the person charged is released from the JPC only after paying a specific amount of money in full. The cash bail will be returned at the end of the case if person appeared for all required court appearances.
- ▶ **“Surety Bond”** refers to a bond under which the person charged is released from the JPC only after a bond company contracts to pay a specific amount of money to the court if the person charged does not appear at all required court appearances. Typically, the person charged pays a fee to the bond company in the amount of 10% of the total.

“Community Assistance Referral Program” a JPC-based program staffed by Harris Center for Mental Health and IDD that aims to identify and provide services and material resources to people being released on GOB who have need for mental health and other community resources.

“County Criminal Courts at Law” or “CCCL” refers to the Harris County Court that adjudicates misdemeanors.

“County Criminal Courts at Law Judge” or “CCCL Judge” refers to judges sitting in the Harris County Criminal Courts at Law.

“Court user” refers to people arrested and charged in any criminal court, typically referred to as defendants.

“Criminal legal system” refers to the criminal court system, typically referred to as the criminal justice system.

“Harris County” (when not used to describe the geographic location) refers collectively to the parties bound by the ODonnell Consent Decree: the Harris County Sheriff’s Office, the Harris County entity itself, and the County Criminal Courts at Law.

“Harris County Sheriff’s Office” or “HCSO” refers to the Harris County Sheriff, his officers, agents, and personnel, and anyone otherwise employed by the Harris County Sheriff.

“Indigent” refers to a court user deemed unable to afford the cost of secured bail or private defense counsel.

“The Joint Processing Center” or “JPC” is a partnership between Harris County and the City of Houston that consolidated all Houston Police Department (HPD) and Harris County Jail operations into one facility. After arrest in Harris County, people are brought to the JPC for booking and the setting of release conditions or detention.

“Managed Assigned Counsel” or “MAC” refers to the organization overseeing eligible private attorneys who contract to represent court users deemed indigent.

“Nonappearance” refers to when a person charged with a crime does not appear for a scheduled court appearance and their appearance is not waived.

“Public Defender’s Office” or “PDO” refers to the Harris County Public Defender’s Office. The PDO employs public defenders or lawyers who represent people deemed indigent.

“Regular setting” or “regular appearance” refers to any setting or court date at which the court user need not appear.

“Required setting” or “required appearance” refers to court dates at which the court user must appear in person or, in some cases, via Zoom, if given prior permission from the court.

“Waived appearance” refers to court appearances which the court user is not required to attend.

“Warrant” for nonappearance refers to a judicial order to arrest a court user who was required to appear in court but did not appear.

Appendix B

Findings and Recommendations by Barrier and Design-for-Scarcity Principle

Barriers not listed in Consent Decree

Barrier	Finding	Recommendations	Design-for-Scarcity Principle
Fear	Fear, especially of arrest, drives nonappearance	Assign public counsel to eligible court users before they leave the JPC	Reframe & Empower
		Develop a video to educate court users about what to expect at court	Reframe & Empower
		Provide peer mentors for court users with high needs	Reframe & Empower
		Create a Court User Program (the CUP) to assist with appearance challenges	Cut Costs; Create Slack; Reframe & Empower
Expectation of Unfairness	The expectation of unfairness can dissuade court users from both showing up to scheduled court dates and resolving warrants for nonappearance	Increase non-prosecution and deferred adjudication	Create Slack
		Remove unnecessary conditions of release	Create Slack
		Improve the court experience by treating court users with dignity and respect throughout their interactions with Harris County	Reframe & Empower
		Hold more warrant-clearing events with a no-arrest guarantee	Create Slack
		Provide recourse options for court users who are not being well-represented	Reframe & Empower
		Incorporate direct input from court staff and court users when adapting court operations going forward	Reframe & Empower

Scarcity	The experience of scarcity both limits the mental bandwidth that court users have available to coordinate getting themselves to court and requires court users to work harder and through more challenges to get to court.	Reduce appearance dates where court users' appearance is required	Create Slack
		Improve diversion options for unhoused court users	Create Slack
		Prioritize court users for housing services	Create Slack
		Expand the Justice Navigator program to address scarcity-related barriers to appearance, beginning at the JPC	Reframe & Empower
		Improve coordination between community service providers and defense attorneys	Create Slack
		Improve lawyer-client communication to respond to scarcity	Reframe & Empower
		Implement flexible scheduling of appearances	Create Slack
		Reduce the need for appearances through further decriminalization	Create Slack
		Improve screening and follow-up for scarcity-related needs	Cut Costs & Create Slack
		Evaluate existing programs to find targeted improvement opportunities	Create Slack
		End late-night and early-morning releases for those who may have mental illness	Create Slack

Barriers listed in Consent Decree

Barrier	Finding	Recommendations	Design-for-Scarcity Principle
Lack of Transportation	Court users struggle with unavailable and/or unreliable public and private transportation to court, made more difficult by rush hour traffic to arrive for earlier dockets.	Require fewer in-person court dates generally and specifically for those whose charges restrict their driving privileges	Create Slack
		Give court users free rides to court via rideshare programs	Cut Costs
		Enable court actors to provide funds for gas and parking expenses	Cut Costs
Lack of Childcare	Court users with caregiving responsibilities frequently do not have reliable, affordable alternative care arrangements for court appearances	Provide funding for day care on the day of the appearance	Cut Costs
		If court users must bring their children, accommodate them with dignity and respect	Reframe & Empower
Lack of Permanent Housing	See <i>findings and recommendations under 'Scarcity' barrier</i>		
Lack of Access to Phone / Computer	Most court users welcome virtual appearances, but process changes can make virtual appearances more accessible and safer	Use virtual appearances for required court user appearances when appropriate	Create Slack
		Assess differences in appearance rates and outcomes for virtual vs. in-person appearances	Reframe & Empower
		Align virtual appearance procedures with emerging best practices	Reframe & Empower
	Lack of consistent smartphone access inhibits critical communication between court users and their attorneys and court staff	Enable court actors to provide phones and assist with paying for phone service	Cut Costs

Confusion and Misinformation about Court Dates / Lack of Understanding of Procedures	Key information about when, why, and how court users need to appear is often not communicated effectively	Implement new pre-arraignment and ongoing communication standards for lawyers	Create Slack
		Expand access to information for Limited English Proficient (LEP) court users	Reframe & Empower
	There is a lack of reminders close to the court appearance date	Improve court reminder process	Create Slack
		Defense attorneys and PTS officers should consistently communicate appearance information to clients to supplement court reminder program	Reframe & Empower
	Difficulty communicating with attorneys and court staff can prevent court users from clarifying appearance details and navigating barriers to appearance	Develop a Harris County app for all court users	Create Slack; Reframe & Empower
		Establish a Harris County hotline for court users	Reframe & Empower; Cut Costs
		Implement computer-generated court dates instead of relying on court coordinators to fill in court dates by hand	Create Slack
Inflexible Work Schedules	Court users may face an unaffordable loss of income or other penalties for missing work to appear in court	Implement recommendations that will substantially lessen need for court user appearances	Create Slack
		Direct court users to the court hotline to request rescheduling if work conflict exists	Reframe & Empower
Mental Health Problems	See <i>findings and recommendations under 'Scarcity' barrier</i>		
Substance Abuse Issues	See <i>findings and recommendations under 'Scarcity' barrier</i>		
Detention by Other Jurisdictions	No findings		
Medical Emergencies	No findings		

Appendix C

Methodology Appendix

Harris County administrative data

► **Description of the dataset**

The dataset comprised misdemeanor cases initiated on or after January 1, 2021, and before December 31, 2021, for a total of 49,780 cases representing 41,613 individual court users. The data shared included 169 variables, covering court user demographics; details of the case including filing date, most serious charge, and time the court user spent in custody at the JPC; and details regarding appearances, including day and time, courtroom, reason for the appearance, and more.

JAD provided the requested data to the ideas42 team. The bulk of the administrative data (all variables except for those related to mental health and substance use flag, which are HIPAA-protected), were shared in October 2021. HIPAA-protected variables were shared in March 2022.

► **Analysis approach**

Analysis was conducted between October 2021 and April 2022, with additional analysis occurring in May and June 2022 in response to questions arising around data quality. Significant time was spent in the early period clarifying the data dictionary and discussing data incompleteness or similar challenges with JAD's data team and other knowledgeable Harris County stakeholders.

Initial analysis was done to derive case- and individual-level statistics for all cases in our dataset with a filing date in 2021. and

We then conducted analysis on appearances that met the following criteria:

- One or more appearances occurred in 2021. To examine appearances, we excluded appearances that occurred in 2022 or did not have a date, even if the case had been filed in 2021, and only included appearances that occurred in 2021 in the analysis.
- Were a relevant appearance type. OCM staff assisted us in identifying the codes for irrelevant appearance types (such as probable cause hearings, appearances related to probation violations, etc.)
- Occurred at least one day following a court user's release from the JPC. We assumed that if the appearance date matched the date of release from the JPC, the court user was transported to court from the JPC, and therefore did not need to make their own way to court. While we understand that it may be possible that some court users may be released early in the early morning hours and told to return to court later that same day,

we understand that this is likely to be very rare, and through conversations with JAD and OCM staff who work with the data, we concluded that there were no variables available to us that would allow us to precisely determine whether or not a person whose release and appearance dates coincided was transported to court or not.

► **Limitations and decision to omit analysis of data on appearances**

We had been made aware of important limitations in the appearance data prior to beginning analysis, and were prepared to address them through the analysis process and in our reporting:

- Because Harris County did not clearly and systematically record court appearance outcomes until the end of 2020, we were aware there would be a limited body of data (data on cases filed in 2021 onward) with which to find trends in appearance or statistically determine drivers of nonappearance.
- The administrative data also contains limited data relevant to the barriers to court appearance named in the Consent Decree—reasons given for a nonappearance are not recorded, and the available data does not contain information related to a person’s wealth or income, caregiver status, housing status, employment status, languages spoken, access to resources like phones and computers, or details on their representation by counsel.
- Additionally, appearance location (in-person or virtual) is not recorded, and therefore it would not be possible to identify differences in appearance rates between virtual and in-person appearances.
- Demographic information is typically recorded by jail staff while the person is in custody and may not always accurately reflect the race or ethnicity or gender with which that person identifies.

However, initial analysis of appearances and appearance outcomes raised additional questions about the reliability of the appearance data, specifically data on setting types and appearance outcomes. Concerns were raised due largely to variation in 1) average nonappearance rates across courts for non-waived setting types; 2) rates of court users being marked as “not present” (an unexcused absence) versus “waived” (an excused absence); 3) rates of setting types by court. Variation in each of these metrics was beyond what was expected or could plausibly be explained by actual differences in judicial practice or court user behavior, and instead seemed to indicate discrepancies in data entry that would restrict our ability to confidently draw conclusions about the sample as a whole or comparisons between courts. Upon sharing these observations with stakeholders, we heard anecdotal evidence, including deposition testimony and observations by individuals who have conducted spot-checks of the data and directly observed questionable data entry, that supported the conclusion that, much of the variation could indeed be due to varying approaches to data entry. As it was outside the scope of this project to audit data entry processes or conduct more in-depth examination of data quality, we decided in consultation with Harris County stakeholders to omit analysis of appearance data from this report.

PDO bail revocation hearing interview analysis approach

PDO provided text recorded by attorneys in 3,893 interviews conducted with clients who had missed a court date related to misdemeanor charges and were awaiting a bail revocation hearing. The data represented interviews done between May 7, 2021, and January 7, 2022. This data was expected to be very useful for the purposes of understanding prevalence of barriers to appearance among Harris County court users because it ostensibly represents a wide and diverse sample of court users who have missed appearances. This makes it a strong complement to the data collected from interviews conducted with court users by the research team, as interviewees comprised a small and not wholly representative sample of court users. Additionally, because the interview responses describe reasons that court users missed court in a free-form manner, the data is additionally helpful for identifying common themes or experiences within topics, which can point to relationships between barriers to appearance, or between individual circumstances and barriers. Therefore, the data can both point to general trends in barriers to appearance and provide additional nuance about how barriers interfere with court appearance.

► **Limitations**

This data set was made available to the researchers near the end of the research period, in February, 2022, and so was used to triangulate with other data sources and validate findings.

Due to the conceptual complexity of the responses, we were not able to achieve a satisfactory accuracy rate for all topics in time to include the complete analysis in this draft of the report. Therefore, statistics on the frequency of topics present in the interviews are not reported.

Although interviews are conducted with all court users who are awaiting bail revocation hearings, there are some limits to the sample to keep in mind while interpreting the outputs: this sample represents those who were brought in for a bail revocation hearing, and therefore excludes court users who did not have a bail revocation hearing set following a nonappearance, as well as those who were not found following a nonappearance. The interview responses themselves are likely limited in some meaningful ways, for instance: interviews are likely brief and conducted at a stressful time for the court user; the court user may also limit what they choose to share with the lawyer conducting the interview, as they likely have not met the lawyer prior and have not established trust. In addition, the lawyer recoding the interview responses may curate what they record to legally prepare the representation strategy for the court user at the subsequent hearing, for instance, to emphasize a particular aspect of the court user's experience and the reason why they missed court.

Finally, to preserve court user anonymity, no data apart from the interview responses was used in the analysis. The research team did not have access to any personal information about interviewees or information regarding their case. Therefore, no subgroup analysis was possible, and with few exceptions in characteristics (for instance, responses that mention homelessness in conjunction with other barriers), it is not possible to look for trends in nonappearance based on subgroup characteristics.

► **Analysis process**

We used a combination of topic modeling and manual coding to complete the analysis. Topic modeling is the process of identifying topics within a document. It is a Natural Language Processing (NLP) technique that aims to extract a relatively small number of topics from a corpus, or collection documents (i.e., interviews), in an unsupervised or semi-unsupervised manner. The intuition behind topic modeling is that an individual document can include multiple topics, and that those topics are present in all documents. The final goal of topic modeling is to make a characterization of the entire corpus.

Latent Dirichlet Allocation (LDA) is the dominant method for doing topic modeling. However, one drawback of this method is that, in its original form it doesn't allow for supervision by human analysts and therefore can result in unsatisfactory or non-useful topics. For example, it may not identify topics that are underrepresented in the corpus, even when they could be important for the end-user to extract them, since they tend to be washed out by others that are more prevalent.

To get around this difficulty, Correlation Explanation (CorEx) is a flexible framework for topic modeling to identify topics that maximize the information available in a corpus of text.¹⁴⁹ This method treats each word as a random variable and seeks to find collections of words, or topics, that best explain the content present in the data, and can thereby provide usable insight into the substance of the data—in this case, the prevalence of barriers to appearing in court, and some of the circumstances around those barriers.

The CorEx model allows the incorporation of word-level domain knowledge through user-specific anchor words which guide the model towards the topics of interest. This enables the model to represent topics that do not naturally emerge, and also allows topic separability and representation with minimal human intervention.

To analyze the PDO bail revocation interviews we first ran an unsupervised analysis to get a sense of the topics included in the data. Below are the keywords representing the topics that were initially found:

Topic #1: phone, cell, cell phone, forget court, text, forget court date, pre, update, pre trial, notification

Topic #2: date, court date, date client, new court date, new court, court date client, aware court date, date say, date know, date court

Topic #3: make, make sure, sure, make court, sure turn, turn future, future, make sure turn, sure turn future, turn

Topic #4: miss, miss court, client miss, client miss court, miss court date, time miss, miss court think, time miss court, court miss, miss court hospital

Topic #5: client say, say, client, bond, say court, personal bond, personal, revoke, bond revoke, client say court

Topic #6: case, reset, serve, time serve, think case, sign, case dismiss, dismiss, case reset, sign reset

Topic #7: county, custody, harris, harris county, bend, montgomery, ago, transfer, montgomery county, month

Topic #8: transportation, ride, bus, car, ride court, transport, way, client ride, homeless, court ride

Topic #9: attorney, covid, court bc, bc, say miss, say miss court, miss court bc, attorney tell, let know, let

Topic #10: know, know court, know court date, court know, say know, zoom, violation, suppose, say know court, client know

Topic #11: tell, think, come court, come, appear, tell court, like, look like, lawyer, look

Topic #12: time, court time, th, ing, release, time client, live, ing court, second time, time court

Topic #13: away, job, family, pass, appoint, pass away, able, lose job, new, court appoint

Topic #14: try, contact court, contact, try court, try contact, say try, try contact court, court try, late, think time serve

Topic #15: appearance, waive, appearance waive, remember, court appearance, remember miss, client remember, remember miss court, remember court, make court appearance

Topic #16: felony, misdemeanor, felony case, warrant, arrest, felony court, court felony, misd, revocation, bond revocation

Topic #17: missed, missed court, missed court bc, attend court, court forget, attend, miss court forget

Topic #18: work, work cell, work cell phone, court work, client work, miss court work, miss work, court want, say work, client want

Topic #19: pr, pr bond, bf client, bf, gob, court client, gob client, court client say, gob court, eak

Topic #20: ice, ice custody, notice hearing, hold, deport, hearing, ice hold, immigration, explanation client, client ice

Afterwards, we added the following sets of keywords to the model based on the topics that we initially found, as well as others that we considered to be important but were underrepresented in the data and therefore were not identified in the unsupervised analysis, such as having substance abuse or psychological problems:

- ▶ transportation, bus, ride, car, drive, money
- ▶ sick, hospital, surgery, sick, ill, death
- ▶ covid, positive, quarantine
- ▶ work, job
- ▶ deport, ice, afraid
- ▶ child, care, watch, kid, family, mother, mom, grandmother, family emergency

- ▶ understand, confused, confusion, unaware, information, know, inform, know court date about court date/appearance obligations
- ▶ attorney, lawyer, attorney tell, appoint attorney, say attorney
- ▶ phone, text, work cell, message, notification, notify, number, new, new number, update, change
- ▶ money, pay, afford, save, payment
- ▶ reset, waive, appearance, docket
- ▶ forget, remember, date, lose, aware
- ▶ homeless, shelter, live, stable, housing
- ▶ zoom, appear', person
- ▶ serve, time serve, arrest, think time, arrest, incarcerate, dismiss
- ▶ mental, mental health, mental health issue, facility

Researchers reviewed the categorization to improve the model, going through four rounds of analysis using the script. Researchers then reviewed the output using a spot-check approach and manually re-categorized responses categorized incorrectly.

Appendix D

Variables in Harris County Administrative Data

Dataset	Variable Name	Dataset	Variable Name
Appearance	CaseKey	Appearance	CalendarNameCode
Appearance	BookingKey	Appearance	CalendarNameDSC
Appearance	SPNKey	Appearance	DispositionReason
Appearance	CaseStatus	Appearance	DispositionReasonDSC
Appearance	CaseRN	Appearance	EstimatedDurationOfAppearance
Appearance	CaseStatusDSC	Appearance	ActualDurationOfAppearance
Appearance	ClassRecordType	Appearance	AttorneyAppearanceIndicator
Appearance	ConnectionCode	Appearance	FutureCalendarNameCode
Appearance	Court	Appearance	FutureCalendarNameDSC
Appearance	CourtAppearance	Appearance	FutureDT
Appearance	CourtAppearanceDSC	Appearance	SettingReason
Appearance	DefendantSdressCode	Appearance	SettingReasonDSC
Appearance	DefendantSdressCodeDSC	Appearance	SettingTM
Appearance	OffenseCodeLocal	Appearance	SettingType
Appearance	OffenseDSC	Appearance	SettingTypeDSC
Appearance	OffenseDT	Appearance	EarliestScopeDT
Appearance	ArrestDT	Appearance	EarliestScopeDTDSC
Appearance	BodyBookingDT	Appearance	Priority
Appearance	CaseFilingDT	Appearance	RecordSeqNumber
Appearance	BodyReleaseDT	Appearance	CommentsFreeFormat
Appearance	CaseBookingDT	Arrest	CaseKey
Appearance	CaseCompletionDT	Arrest	ArrestDT
Appearance	CaseDisposition	Arrest	AgencyDesc
Appearance	CalendarSetDT	Arrest	ArrestOffenseDSC

Dataset	Variable Name	Dataset	Variable Name
Arrest	InstrumentType	Case	Court
Arrest	OffenseDT	Case	CaseMasterCourtNum
Arrest	EarliestScopeDT	Case	ActivePendingFLG
Bond	CaseKey	Case	CaseFilingDT
Bond	BondTypeDSC	Case	CaseFilingTime
Bond	BondAmount	Case	CaseDisposition
Bond	BondAmountMade	Case	CaseBookingDT
Bond	BondApprovedDT	Case	CaseCompletionDT
Bond	BondsmanName	Case	CaseAge
Bond	CourtFiledIn	Case	BookingRelatedCaseOffenseRANK
Bond	DefendantStatus	Case	ClassRecordType
Bond	HowExecutedWarrant	Case	ClassSequenceNumber
Bond	PossibleFTAFlag	Case	ConnectionCodeToCase
Bond	TypeofWarrantIssued	Case	SPNKey
Bond	WarrantActivityReason	Case	CaseRN
BookingRelatedCase	SPNKey	Case	CaseStatus
BookingRelatedCase	BookingKey	Case	CaseStatusDSC
BookingRelatedCase	CaseKey	Case	DefendantStatus
BookingRelatedCase	CaseFilingDT	Case	Gender
BookingRelatedCase	BookingDT	Case	BirthDT_YYYY
BookingRelatedCase	BodyReleaseDT	Case	Race
BookingRelatedCase	CurrentOffenseCode	Case	OffenseDT
BookingRelatedCase	Offense_literal	Case	Offense_literal
BookingRelatedCase	DisposalDT	Case	CurrentOffenseCode
BookingRelatedCase	DisposalType	Case	InstrumentType
Case	CaseKey	Case	Level_Degree
Case	CDI	Case	OffenseRank

Dataset	Variable Name	Dataset	Variable Name
Case	ViolentAndOrSeriousOffenseFLG	Case	EarliestScopeDT
Case	NcaScaleScore	Case	EarliestScopeDTDSC
Case	NewCaseFilingFLG	Case	CaseMasterLastExtractDT
Case	NvcaScaleScore	Case	InitialDisposition
Case	PSA_Date	Case	InitialDispositionCourt
Case	PSA_PriorViolentConviction	Case	InitialDispositionDT
Case	PSA_ReleaseRecommendation	Case	FinalDisposition
Case	PSA_AssessedByID	Case	FinalDispositionCourt
Case	ArrestDT	Case	FinalDispositionDT
Case	ArrestingAgencyORI	Case	DispositionCNT
Case	ArrestingAgencyPoliceDeptCode	CasesByNIBRSGroup	CaseKey
Case	OriginatingAgency	CasesByNIBRSGroup	casefilingyr
Case	PendingHoldFileActionFlag	CasesByNIBRSGroup	NIBRSCode
Case	PrimaryOffenseLevelAtBooking	CasesByNIBRSGroup	NIBROffense
Case	bookingkey	CasesByNIBRSGroup	NIBRSSubCode
Case	BodyBookingDT	CasesByNIBRSGroup	NIBRSSubOffense
Case	BookingTime	Defendant	SPNKey
Case	BodyReleaseDT	Defendant	BirthDT_YYYY
Case	AtBookingRelatedCaseCNT	Defendant	Gender
Case	RelatedPersonSeqNum	Defendant	Race
Case	ReleaseReason	Defendant	Ethnicity
Case	ReleaseTime	Defendant	PlaceOfBirth
Case	BondAmountNUM	Defendant	OriginatingAgency
Case	FTAScaleScore	InJailData	SPNKey
Case	NextSettingDT	InJailData	BookingKey
Case	DisposalDT	InJailData	InJailToday
Case	DisposalType	InJailData	LatestBooking

Dataset	Variable Name
InJailData	BookingDT
InJailData	NextBookingDT
InJailData	ReleaseDT
InJailData	PreviousReleaseDT
InJailData	PrisonerFlagCD
InJailData	PrisonFlagDSC
InJailData	ReleaseReason
InJailData	ReleaseReasonDSC
InJailData	ClassSequenceNumber
InJailData	BookingCount
Mental Health/ Substance Use	Diagnosis
Mental Health/ Substance Use	Diagnosis date
Mental Health/ Substance Use	Masked SPN

Appendix E

List of Research Hypotheses

No.	Research Hypothesis
1	People do not have reliable, affordable transportation available to them to get to court
2	People with caregiving responsibilities do not have reliable, affordable childcare/substitute care available to cover for them while they are in court
3a	People who do not have permanent housing may not show up for court because it is difficult for them to prioritize a particular court case among their other needs
3b	People who do not have permanent housing may not show up for court because it is especially difficult for them to keep track of days /times and obligations
4	People do not have reliable access to a phone or computer with which to coordinate with the court/ their attorney, make plans to show up, or appear by Zoom
5	People who have jobs may not be able to take time off to go to court
6a	People may not be given correct or updated information about their court dates
6b	People may be confused about information they receive related to their court appearance because the information is ambiguous, complex, incomplete, or overwhelming
7	People may be in custody in other jurisdictions and so are not able to appear for their court date in Harris County
8a	People may not learn the details of the court proceedings early enough to be able to plan to show up
8b	People may not understand court procedures because the specific steps and requirements are not communicated clearly
8c	People may be skeptical about information related to their court appearance because it doesn't come from a trusted source
9a	People who have mental health issues may not show up to court because they may be less aware of the specific requirements or consequences related to their court hearing
9b	People who have mental health issues may not show up to court because they are prioritizing (or are required to participate in) treatment or seeking other help
10a	People who have substance use issues may not show up to court because they may be less aware of the specific requirements or consequences related to their court hearing

No.	Research Hypothesis
10b	People who have substance use issues may not show up to court because they are prioritizing (or are required to participate in) treatment or seeking other help
11a	People may have a personal emergency/disaster and miss their court date because they forget their court date in light of the emergency
11b	People may have a personal emergency/disaster and miss their court date because there are many hassles to overcome to either notify the court or to show up as planned
11c	People may have a personal emergency/disaster and miss their court date because they assume the court will forgive the nonappearance when the emergency becomes known
12	There are many hassles involved in navigating the court buildings, and as a result people are late or miss their hearing
13	People forget about their court appearance close to the date
14a	People do not feel that the hearing is important, and so do not intend to show up
14b	People feel that the hearing/court system is unfair, and so do not intend to show up
14c	The person intends to flee/go on the run
15a	People fear what may happen at court, and so ostrich and do not attempt to show up
15b	People feel shamed at having a court case, and so ostrich and do not try to show up
16a	Case goes on so long that it's no longer top of mind/salient
16b	Case goes on so long that people encounter new hassles
17a	The consequences of not showing up are not salient (either not aware of the consequences or forget)
17b	The consequences of not showing up seem less bad than the consequences of showing up (either consequences of participating in the hearing, or of missing work, the time lost, etc.)
18a	People are preoccupied with other things and have limited mental bandwidth, so do not attend to/prioritize their court date
18b	People are pre-occupied with other things and have limited mental bandwidth, so hassles associated with showing up to court are magnified.
19	People are released from JPC and have court that same day

| Appendix F

List of Participating Organizations

- ▶ Angela House*
- ▶ The Bail Project Houston
- ▶ The Beacon*
- ▶ Civil Rights Corps*
- ▶ Coalition for the Homeless*
- ▶ Community Working Group – ODonnell Consent Decree*
- ▶ Court interpreters for CCCL
- ▶ Covenant House Texas
- ▶ The Harris Center for Mental Health and IDD
- ▶ Harris County Sheriff's Office (HCSO)*
- ▶ Harris County Court Coordinators
- ▶ Harris County Justice Administration Department (JAD)
- ▶ Managed Assigned Counsel (MAC)*
- ▶ National Association for Public Defense (NAPD)
- ▶ Next Level Peer Group*
- ▶ Harris County Office of the District Attorney (DA)
- ▶ Harris County Pretrial Services (PTS)
- ▶ Harris County Public Defender's Office (PDO)*
- ▶ Responsive Interventions for Change Docket (RIC)
- ▶ Restoring Justice
- ▶ STAR Drug Court Program
- ▶ Tahirih Justice Center
- ▶ Texas Jail Project
- ▶ Texas Organizing Project*
- ▶ Harris County Veterans' Court

**Participated in project co-design activities facilitated by ideas42*

Appendix G

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- ² *ODonnell v Harris County, Texas* (2019). Consent Decree. Case No. 16-cv-01414. p.30-31, §§51-52.
- ³ The Heaton study cited in the Consent Decree found that, had Harris County given early release on unsecured personal bonds to the lowest-risk misdemeanor arrestees between 2008 and 2013, “40,000 more people would have been released pretrial; nearly 6,000 convictions and 400,000 days in jail at County expense would have been avoided; those released would have committed 1,600 fewer felonies and 2,400 fewer misdemeanors in the eighteen months following pretrial release; and the County would have saved \$20 million in supervision costs alone.” See *ODonnell v Harris County, Texas* (2019). Consent Decree. Case No. 16-cv-01414. p.7, §7(q).
- ⁴ *ODonnell v Harris County, Texas* (2019). Consent Decree. Case No. 16-cv-01414. p.3-4, §7.
- ⁵ *Ibid* p.6-7, §7(o).
- ⁶ *Ibid*. p.7, §7(p).
- ⁷ The 4th monitor report states: “For example, in 2015, females arrested for a misdemeanor offense were more likely to be released than their male counterparts by 10 percentage points, whites were more likely to be released than blacks by 17 percentage points, and Latinx persons were more likely to be released than non-Latinx persons by 17 percentage points.” See *Monitoring Pretrial Reform in Harris County: Fourth Report of the Court-Appointed Monitor (2022)*. p.41. Retrieved from https://jad.harriscountytexas.gov/Portals/70/documents/ODonnell-Monitor-Fourth-Report-Final.pdf?ver=0KyJYoW_QePq2J2VntQ8fg%3d%3d
- ⁸ *ODonnell v Harris County, Texas* (2019). Consent Decree. Case No. 16-cv-01414. p.3, §7(a).
- ⁹ *Ibid*. p.16-17, §30.
- ¹⁰ The 4th monitor report states that percentage point differences in release rates fell by approximately two-thirds between 2015 and 2019. See *Monitoring Pretrial Reform in Harris County: Fourth Report of the Court-Appointed Monitor (2022)*. p.41. Retrieved from https://jad.harriscountytexas.gov/Portals/70/documents/ODonnell-Monitor-Fourth-Report-Final.pdf?ver=0KyJYoW_QePq2J2VntQ8fg%3d%3d
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- ¹⁵ The 4th monitor report states that in both 2017 and 2021, misdemeanor arrestees were more heavily concentrated in low-income ZIP codes. See *Monitoring Pretrial Reform in Harris County: Fourth Report of the Court-Appointed Monitor (2022)*. p.30. Retrieved from https://jad.harriscountytexas.gov/Portals/70/documents/ODonnell-Monitor-Fourth-Report-Final.pdf?ver=0KyJYoW_QePq2J2VntQ8fg%3d%3d
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- ¹⁸ *Ibid*.
- ¹⁹ Braun, V., Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2):77–101.
- ²⁰ Harris County has a “cite and release” program where people are cited in the field and released contemporaneously when charged with certain crimes such as simple possession of certain drugs, theft < \$750, graffiti, driving while license suspended, criminal mischief, etc. Disqualifiers include not being a resident of Harris County, having an outstanding warrant, being on active parole status, or if the police believe the person will not appear for court date, etc. See Cite and Release Policy-515 (2020). <https://hcsopolicy.com/policy/515-cite-and-release/>
- ²¹ In 2018, when the GOB did not exist, 45% of people received cash/surety bails and 55% received unsecured personal bonds. See *Harris County Bail Dashboard*. Harris County Justice Administration. <https://app.powerbigov.us/view?r=eyJrJoiODMzNDJiNmQtZGM5My00MzNmLWl4MzMtOGMzODYyOGZmZGY3liwidCI6IjBkOWJjNzJlTU4MWTNDQ3Ny1hY2Y3LTlkNzBkZDNINTU1YSJ9>
- ²² *Local Rule 9. ODonnell v Harris County, Texas* (2019). Consent Decree. Case No. 16-cv-01414.
- ²³ *Harris County Bail Dashboard*. Harris County Justice Administration. <https://app.powerbigov.us/view?r=eyJrJoiODMzNDJiNmQtZGM5My00MzNmLWl4MzMtOGMzODYyOGZmZGY3liwidCI6IjBkOWJjNzJlTU4MWTNDQ3Ny1hY2Y3LTlkNzBkZDNINTU1YSJ9>
- ²⁴ As jail population vacillates daily, a snapshot on March 22, 2022, showed 280 people in Harris County jails from County Court, while the District Court accounted for 8,880 people in jail. See *Harris County Bail Dashboard*. Harris County Justice Administration. <https://app.powerbigov.us/view?r=eyJrJoiODMzNDJiNmQtZGM5My00MzNmLWl4MzMtOGMzODYyOGZmZGY3liwidCI6IjBkOWJjNzJlTU4MWTNDQ3Ny1hY2Y3LTlkNzBkZDNINTU1YSJ9>

- ²⁵ Harris County administrative data from 2021 shared with ideas42 and analyzed for this research showed overall wait times from booking into the JPC to release (those release via GOB, those with magistrate hearings as: <1 day in jail: 37%, 1 day in jail: 54%, 2-7 days in jail: 8%, 7+ days: <1%.
- ²⁶ Quick Facts: Harris County, Texas. United States Census. <https://www.census.gov/quickfacts/harriscountytexas>
- ²⁷ Tyler, T. R., & Huo, Y. J. (2002). *Trust in the law: Encouraging public cooperation with the police and courts*. Russell Sage Foundation; Tyler, T. R. (2003). Procedural justice, legitimacy, and the effective rule of law. *Crime and Justice*, 30, 283-357. The University of Chicago; Lee, C. G., et al. (2013). *A community court grows in Brooklyn: A comprehensive evaluation of the Red Hook Community Justice Center*. p. 7-8. National Center for State Courts. Retrieved from <https://www.courtinnovation.org/sites/default/files/documents/RH%20Evaluation%20Final%20Report.pdf>
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- ³² As mentioned in Steimer, T. (2002), While emotions are mental states, physiological and behavioral changes that accompany emotions are an integral part of them.
- ³³ *ODonnell v Harris County, Texas* (2019). Consent Decree. Case No. 16-cv-01414. p.34.
- ³⁴ Harris County Criminal Courts at Law Open Hours Court Schedule (n.d.). Retrieved April 29, 2022, from <https://ccl.hctx.net/criminal/2022%20Open%20Hours%20Court%20Schedule.pdf>
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- ³⁷ *ODonnell v Harris County, Texas* (2019). Consent Decree. Case No. 16-cv-01414. p.26.
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- ⁴⁰ Long, J. A., Jahnle, E. C., Richardson, D. M., Loewenstein, G., & Volpp, K. G. (2012). Peer Mentoring and Financial Incentives to Improve Glucose Control in African American Veterans. *Annals of Internal Medicine*
- ⁴¹ Castleman, B., Page, L. (2015). Summer nudging: Can personalized text messages and peer mentor outreach increase college going among low-income high school graduates? *Journal of Economic Behavior & Organization*. Volume 115. p. 144-160.
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- ⁴⁴ See the National Association for Public Defense Harris County Misdemeanor Assessment Report (2021) for recent analysis of the increase in the average length of time to case disposition from 2016 and 2020 and the amount of time the average court user eligible for public counsel waits to speak to an attorney. Challenges to communication with the court is described in subsequent sections of this report; *Harris County Misdemeanor Assessment Report* (2021). National Association for Public Defense. Retrieved from <https://www.publicdefenders.us/files/Harris%20County%20Report%20July%206%202021%20FINAL.pdf> ;
- ⁴⁵ Tversky, A., & Kahneman, D. (1973). Availability: A heuristic for judging frequency and probability. *Cognitive psychology*, 5(2), 207-232.
- ⁴⁶ Agan, A. Y., Doleac, J. L., & Harvey, A. (2021). *Misdemeanor prosecution* (No. w28600). p 21. National Bureau of Economic Research.
- ⁴⁷ The **Misdemeanor Marijuana Diversion Program** (pre-charge program with exclusions if additional charges or current warrant and requires class and \$150 fee); **DWI Pretrial Intervention** (post-charge program for first-time misdemeanor DWI charges, requiring one year of probation with relevant conditions); **Retail Theft Pretrial Intervention** (for first time retail theft up to \$750); and, a **new overtime program** for the District Attorney to review backlogged cases to support the diversion and dismissal of lower level, non-violent cases
- ⁴⁸ Agan, A. Y., Doleac, J. L., & Harvey, A. (2021). *Misdemeanor prosecution* (No. w28600). National Bureau of Economic Research.
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- ⁵⁰ Stemen D, Pulvino R, (2022). *Disparity and Prosecution in Charleston, SC*. Justice Innovation Lab and Loyola University Chicago. Retrieved from <https://charleston-disparity-in-prosecution.org/>
- ⁵¹ *Advancing Racial Equity: Shrinking Misdemeanor Prosecution in New York* (2022). Center for Court Innovation. Retrieved from https://www.courtinnovation.org/sites/default/files/media/document/2022/Summary_NY_Misdemeanor_Justice_0.pdf

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- ⁵³ *ODonnell v Harris County, Texas* (2019). Consent Decree. Case No. 16-cv-01414. p.7, §7(p)(q).
- ⁵⁴ *Monitoring Pretrial Reform in Harris County: Fourth Report of the Court-Appointed Monitor (2022)*. p.42. “Clearly, the share of misdemeanor cases resulting in a criminal conviction has noticeably declined between 2015 (59%) and 2019 (25%), while the share of cases dismissed or acquitted has nearly doubled (30% in 2015 vs. 59% in 2019). A large number of cases filed in 2020 are yet to be disposed (31%), but even here, the share of cases dismissed or acquitted (47%) far exceeds the share of cases that resulted in a conviction (20%). We also note that the use of deferred adjudication, a court-imposed diversion agreement which places the defendant under community supervision, have become less common over time, with the share gradually falling from 8 percent in 2015 to 2 percent in 2020.” Retrieved from https://jad.harriscountytexas.gov/Portals/70/documents/ODonnell-Monitor-Fourth-Report-Final.pdf?ver=0KyJYoW_QePq2J2VntQ8fg%3d%3d
- ⁵⁵ Agan, A. Y., Doleac, J. L., & Harvey, A. (2021). *Misdemeanor prosecution* (No. w28600). p. 21. National Bureau of Economic Research.
- ⁵⁶ *Ibid.*
- ⁵⁷ *Advancing Racial Equity: Shrinking Misdemeanor Prosecution in New York* (2022). Center for Court Innovation. Retrieved from https://www.courtinnovation.org/sites/default/files/media/document/2022/Summary_NY_Misdemeanor_Justice_0.pdf
- ⁵⁸ *Ibid.*
- ⁵⁹ Stemen D, Pulvino R, (2022). *Disparity and Prosecution in Charleston, SC*. Justice Innovation Lab and Loyola University Chicago. Retrieved from <https://charleston-disparity-in-prosecution.org/>
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- ⁶¹ Mueller-Smith, M., & T. Schnepel, K. (2021). Diversion in the criminal justice system. *The Review of Economic Studies*, 88(2), 883-936.
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- ⁶³ *Ibid.* (“Consistent across both experiments, we see significant reductions in property offenses in the range of 0.5 to 0.57 convictions over 10 years, which represent 84% and 89% reductions respectively. In 1994, it appears this is accompanied by lower rates of drug offenses: -0.71 convictions. In 2007, we observe statistically significant declines in violent offenses: -0.28 convictions.” *Id.* While the study could not “statistically distinguish effects for specific types of crimes across the two natural experiments. . . . it appears more felony-level crimes were prevented through diversion in 1994 (91% decline) whereas more misdemeanor-level crimes were prevented through diversion in 2007 (64 % decline).”)
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- ⁶⁵ *Ibid.*
- ⁶⁶ *Ibid.*
- ⁶⁷ Presentation from Harris County Criminal Justice Coordinating Council Meeting. January 27, 2022.
- ⁶⁸ Referenced in letter from Justice Management Institute president, M. Elaine Nugent-Borakove, to Harris County Judge Lina Hidalgo and Commissioners. M.E. Nugent-Borakove, personal correspondence, June 1, 2020.
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- ⁷⁰ Harris County Pre-Trial Services Annual Report (2020). <https://pretrial.harriscountytexas.gov/Library/2020%20Annual%20Report.pdf>
- ⁷¹ *Ibid.*
- ⁷² Harris County Adopted Budget. SFY22 & FY23. Volume 10 Overview. February 8, 2022.
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- ⁸⁴ Data USA: Harris County, TX. <https://datausa.io/profile/geo/harris-county-tx#economy>
- ⁸⁵ *Indigent Defense Data for Texas*. Indigent Defense Commission. <http://tidc.tamu.edu/Public.Net/Reports/DataSheet.aspx?cid=101>
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- ⁸⁸ The latest monitor report states that in both 2017 and 2021, misdemeanor arrestees were more heavily concentrated in low-income ZIP code areas; *Monitoring Pretrial Reform in Harris County: Fourth Report of the Court-Appointed Monitor (2022)*. p.30. Retrieved from https://jad.harriscountytexas.gov/Portals/70/documents/ODonnell-Monitor-Fourth-Report-Final.pdf?ver=0KyJYwW_QePq2J2VntQ8fg%3d%3d
- ⁸⁹ And when you don’t fully understand a person’s context—what it feels like to be them every day, all the small annoyances and major traumas that define their life—it’s easy to impose abstract, rigid expectations on a person’s behavior; Price, D. (2018). *Laziness Does Not Exist*. Retrieved from <https://humanparts.medium.com/laziness-does-not-exist-3af27e312d01>
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- ⁹⁷ Assuming a situation could arise where someone also had incurred a warrant for an unrelated, serious crime requiring arrest, that court user could also be excluded from eligibility as opposed to appearing and being arrested which would undermine the courts credibility and understandably scare others from participating.
- ⁹⁸ *Community COVID Housing Program*. Coalition for the Homeless. <https://www.homelesshouston.org/CCHP>
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- ¹¹² Ibid.
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- ¹¹⁹ Ibid.
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- ¹²¹ LaGratta Consulting, LLC. <https://www.lagratta.com/participant-voices>
- ¹²² Harris County Courts Language Access Plan.
- ¹²³ Memo from the Harris County Commissioners Court's Analyst's Office. October 28, 2021.
- ¹²⁴ This is based on interviews completed in August 2021, before Harris County instituted text messages for all people charged with misdemeanors.
- ¹²⁵ *ODonnell v Harris County, Texas* (2019). Consent Decree. Case No. 16-cv-01414. p.29.
- ¹²⁶ We learned about this system from a private attorney who represents indigent clients, and who appears to have a low nonappearance rate for their clients (around 10% by their rough calculations). This attorney told us they also give clients business cards on plastic for durability and with their picture on it for ease in finding them in court.
- ¹²⁷ Harris County Office of Court Management (2022). 2022-04-19 – Summary eNotifications. Shared with the authors April 20, 2022.
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- ¹⁴⁰ Interview with the NYC Mayor's Office of Criminal Justice Supervised Release program staff, Sep. 7, 2021.
- ¹⁴¹ The Consent Decree states: "A misdemeanor arrestee who has not sought a waiver of appearance and is not in custody may reschedule through counsel any regular appearance in advance of the court date two times per case for any reason with no adverse consequences." See *ODonnell v Harris County, Texas* (2019). Consent Decree. Case No. 16-cv-01414. p. 35, §66(b).
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- ¹⁴³ It is difficult to interpret the bail revocation and survey responses because neither source includes information on how many people were caregivers who would need to manage childcare as part of the process of going to court.
- ¹⁴⁴ Harris County Bail Dashboard. <https://app.powerbigov.us/view?r=eyJrJoiODMzNDJiNmQtZGM5My00MzMmLWI4MzMtOGMzODYyO-GZmZGY3liwidCI6IjBkOWJjNzljLTU4MWItNDQ3NyIhY2Y3LTlkNzBkZDNINTU1YSJ9>
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- ¹⁴⁸ Rides can be scheduled up to 30 days in advance on the [Uber app](#), and up to 7 days in advance on the [Lyft app](#).
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