

Home / Law Scribbler / Text-message reminders are a cheap and effective...

LAW SCRIBBLER

Text-message reminders are a cheap and effective way to reduce pretrial detention

BY JASON TASHEA ([HTTP://WWW.ABAJOURNAL.COM/AUTHORS/64729/](http://www.abajournal.com/authors/64729/))

POSTED JULY 17, 2018, 7:10 AM CDT

Like 685 Share Tweet Share



Jason Tashea. Photo by Saverio Truglia.

Justice Institute reports each year about 12 million Americans are booked into local jails pretrial for offenses, bench warrants and technical violations of their release; the latter two can include FTAs. Being jailed for an FTA can create serious collateral

With just a couple of dollars, courts and public defenders can keep people from being arrested.

Court date reminders sent to defendants via text message are an inexpensive, simple intervention being tested across the country.

Not only is the solution working, it's avoiding the expensive, labor-intensive and destructive practice of issuing bench warrants that can land people in jail.

While national "failure to appear" statistics are not kept, the Pretrial

consequences for the defendant, which could impact their employment, housing and even guardianship of their children. Defendants can also have their bail revoked or forfeited as a result of failing to appear for court dates.

Jailing people pretrial is also expensive. PJI says pretrial detention in total costs taxpayers about \$14 billion a year (<http://www.pretrial.org/get-involved/learn-more/why-we-need-pretrial-reform/>).

By contrast, software made by the company Uptrust (<http://www.uptrust.co/>), which helps public defenders send text-message reminders for their clients, costs about \$20,000 to install and only \$2 per defendant per year after that, explains Jacob Sills, the company's CEO.

Uptrust's software is currently operating in five counties or cities in California, Maryland, Pennsylvania and Virginia, with expansions planned in counties in Florida and Washington.

"There is this perception that flight risk is a real thing that people need to worry about," Sills says. However, he says that the vast majority of criminal defendants are not flight risks—they're attendance risks.

Contra Costa County, California, adjacent to Berkeley and Oakland, is using Uptrust to send four reminders per defendant before a court hearing, explains Blanca Hernandez, deputy public defender at the Contra Costa County Office of the Public Defender

(<http://co.contra-costa.ca.us/1555/Public-Defender>).

The reminders are used officewide and have been integrated into the Early Representation Program, which is tasked with lowering the county's FTA rate for misdemeanor cases, which was as high as 57 percent

(<http://www.contracosta.ca.gov/DocumentCenter/View/42813/CABJuneHandouts?bidId>).

Confirming Sills' theory about attendance risk, Hernandez says that "approximately one third of individuals who appeared at their first court date self-reported that they knew about the court date only because they were contacted in advance through the program." She adds that the program is a time-saver for her attorneys, who no longer have to spend time calling clients the night before a hearing.

Her office and the county collect limited FTA data, so measuring impact is imprecise. Between 2015 and 2016, however, Hernandez says the misdemeanor FTA rate ranged between 52 and 57 percent in the county, and for felonies it was between 20 and 30 percent. While Uptrust only collects data on recipients of its reminders—making the data both incomplete and potentially biased—Sills says that three Contra Costa offices that use Uptrust see an average FTA rate for misdemeanors and felonies combined of only 2.5 percent. In the next year, the company expects to undertake more research to better assess their impact.

While the anecdotal experience in California is promising, New York City recently completed a rigorous study

(http://urbanlabs.uchicago.edu/attachments/store/9c86b123e3b00a5da58318f438a6e787dd01d66d0efad54d66aa232a6473/l42-954_NYCSummonsPaper_Final_Mar2018.pdf) finding that text-message reminders led to a significant drop in FTAs.

“Before we started our work, the FTA rate was close to 40 percent,” says Aurelie Ouss, an assistant professor at the University of Pennsylvania and a co-author of the study.



cTermit / Shutterstock.com

This research tracked two approaches attempting to decrease FTAs. First, researchers redesigned the court summons to be easier to read. Randomly deployed in the city, those who received the redesigned summons had an FTA rate 13 percent lower than those who received the older version.

Second, the study deployed text-message reminders. The reminders were sent three times to a defendant during the week before a scheduled court date. The study also sent a message after the hearing date if the person failed to appear. The most effective text messages—those that “combined information on the consequences of not showing up to court, what to expect at court, and plan-making elements”—led to a 26 percent reduction in FTAs.

Receiving both the text messages and the redesigned summonses decreased the FTA rate by 36 percent. Based on 2014 numbers, deploying both interventions could have meant 20,000 to 31,000 fewer warrants issued in New York City.

“Our results are very encouraging—text messaging is very cheap (less than 1 cent per message),” says Ouss, “and so even modest improvements in court attendance could be highly cost-effective.”

While this study shows significant promise, there are variables to consider when building a project like this, Sills says.

Specifically, he says that some administering agencies, like police and court clerks, struggle to collect phone numbers and consent from potential participants because of a lack of trust.

For this reason, his company intentionally works with public defender offices because of their relationships with defendants themselves. Illustrating this point, the New York City study was done in partnership with the New York City Police Department and the New York State Unified Court System Office of Court Administration. It had cellphone numbers for 13 percent of potential recipients. By contrast, the Contra Costa Public Defenders Office had phone numbers for 90 percent of potential recipients, according to Hernandez.

Howard Henderson, professor and director of the Center for Justice Research at Texas Southern University in Houston, likes text-message reminders because it meets people where they are at—their cellphone. He believes that this mentality can be used to expand access to courts for all people.

For example, text-message reminders do little good for those with inflexible employment or childcare obligations. Henderson says that offering court dates after 5 p.m. and on Saturdays and providing online dispute resolution would continue to evolve the justice system to meet people where they are at and when their schedules allow.

Getting judges to work weekends may be a tough ask, but text-message reminders are cost-effective and show a potential to keep tens of thousands of Americans out of jail.

With so much promise, let's hope the justice system gets the message.

Corrects the number of text messages sent and Blanca Hernandez's first name in the ninth paragraph.



Copyright 2018 American Bar Association. All rights reserved.