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Timothy R. Schnacke  
timschnacke@earthlink.net

Michael R. Jones  
*Pretrial Justice Institute*, mike@pretrial.org

Dorian M. Wilderman  
*Jefferson County, Colorado*, dwilderm@jeffco.us

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# Increasing Court-Appearance Rates and Other Benefits of Live-Caller Telephone Court-Date Reminders: The Jefferson County, Colorado, FTA Pilot Project and Resulting Court Date Notification Program

Timothy R. Schnacke, Michael R. Jones & Dorian M. Wilderman

It is likely during our first jobs in the justice system when we realize the adjective “important” is a somewhat relative term as it relates to the issues that we face. Far from what we learned in college or law school—and further still from the topics typically reported in the media—often the most important issues we face will be found in the most common of cases. There is a saying in city government that the public’s idea of how well you are doing your job is only as good as how well you administer the water bills. That is because every household gets one, and, for many citizens, it represents the only contact that they may ever have with their local government. The same is true in criminal justice. Most people will never face a felony trial, but a relatively large number of them will be summonsed into court on lesser charges such as misdemeanor and traffic offenses. For any particular defendant, a court appearance required by summons may be his or her singular personal experience with the justice system; how we guide that defendant through the system is perhaps one of the most important issues we may ever face and says a lot about how we administer justice. Doing this well promotes judicial-branch legitimacy by increasing the defendant’s overall sense of procedural fairness, lessens system costs associated with any particular case, and avoids the compounding array of negative consequences associated with a single yet preventable incident such as the defendant’s failure to appear for court.

In 2004, one of the most important issues facing Jefferson County, Colorado, criminal justice leaders was the rising numbers of these failures to appear (FTAs). That year, consultants working on behalf of the National Institute of Correction’s Jails Division completed a local system assessment showing that 33% of the county jail’s inmates were compliance violators (*i.e.*, failure to comply with court orders by failing to appear, pay, or perform some task), up from only 8% in 1995.<sup>1</sup> Subsequent jail-population analyses found that three-fourths

of these compliance violators had been booked on failure-to-appear warrants for misdemeanor, traffic, or municipal offenses, and in 90% of the studied cases these FTA warrants were issued to defendants missing the very first court event in their case. In 2004, the jail was rapidly nearing its operational capacity, and county leaders felt compelled to address the increasing demand for jail beds. As a matter of jail-population management alone, a facility with roughly 25% of its inmates incarcerated for failing to appear for mostly lower-level offenses did not seem like the best use of the limited jail resources. Moreover, because these leaders also felt the FTA issue to be largely avoidable, an overall sense of procedural fairness to at least avoid worst-case-scenarios—such as someone’s grandmother being jailed for failing to appear in a dog-at-large case—was foremost in their minds.

Criminal justice systems expend substantial resources to deal with FTAs and FTA warrants. In Jefferson County, researchers found that there were roughly 600 traffic and misdemeanor FTA warrants issued in a single month in 2004.<sup>2</sup> Further study of those warrants revealed that after one year, 25% had been cleared by defendants coming in on their own, 50% had been cleared by police arresting the defendant, and 22% of the warrants remained outstanding—all outcomes that trigger significant financial and social costs. Indeed, from the time a particular defendant fails to appear for court, the burden from that FTA begins to drain public resources at multiple points in the system. Any people associated with the case during the life of an FTA warrant, including judges, clerks, law-enforcement officers, attorneys, and jail staff, find that their workloads increase significantly because of that warrant. Moreover, the tangible and intangible costs of FTAs extend to victims, witnesses, and even to the defendants themselves. Finally, and perhaps most importantly, FTAs undermine the integrity of the justice system, as each FTA tends to erode the

## Footnotes

The authors thank Mona Malensek, Paula Hancock, and Nan Vorhies of the Jefferson County Sheriff’s Office for their assistance with this article through their valuable input and their work with the Jefferson County FTA Pilot Project and the Court Date Notification Program.

1. The National Institute of Corrections provides free technical assistance to state and local correctional agencies. For more information, go to <http://nicic.gov/TA>.

2. These data were collected in August of 2005 by examining half of the court files of all defendants who were issued FTA warrants during June of 2004. The overall number of misdemeanor and traffic FTA warrants for that month (590) is somewhat higher than the number of warrants issued in July of 2005 (524). The June 2004 data were examined to collect arrest and walk-in rates after one year, and the number was rounded to 600 for ease of computation.

respect that an independent judiciary deserves.

With these data in hand, Jefferson County leaders, through the county's criminal justice coordinating committee (CJCC),<sup>3</sup> initiated a multifaceted approach to increase court appearance rates<sup>4</sup> and to lessen the impact of FTAs and FTA warrants on the jail. In this article, we describe the results of a randomized experiment designed to study the effectiveness of one part of that approach—telephone reminder and notification calls to defendants. The “FTA Pilot Project,” as it was called, was borne mostly of logic and knowledge of doctor-office practice, but it was patterned after successful programs found in King County, Washington, and the Seattle Municipal Courts. It ultimately spawned a fully funded program, the “Court Date Notification Program” nested within the Jefferson County Sheriff's Office. The program has served as the model for numerous similar efforts across Colorado as well as several in other states. In addition to describing the details of the experimental pilot project, we will also discuss the ongoing strategy and results of the Court Date Notification Program and offer several observations concerning the implications of these findings and results for policy making.

### WHY WAS THE STUDY DONE?

Across America, police issue citations in a staggering number of cases. In Jefferson County, a county with roughly 14 law-enforcement agencies feeding into its court system, the local Sheriff's Office Patrol Division alone wrote 15,693 traffic tickets in 2009.<sup>5</sup> As an issue connected to the topic of pretrial release or detention, the practice of issuing a citation in lieu of making an arrest is one of delegated release authority, and it is generally favored by national pretrial standards that recommend release prior to trial under the least restrictive conditions.<sup>6</sup> Nevertheless, there are pros and cons to citation release. As noted in one report, while cost savings are greatest

when field citations are used, “[c]itation release . . . has been criticized for resulting in unacceptably high rates of failure to appear (FTA) and a consequent loss of justice system credibility in the eyes of defendants and the general public.”<sup>7</sup>

The reason people fail to show up for court on relatively minor offenses is the subject of debate. Some argue that the typically long period of time between the citation and the court date naturally leads to FTAs due to the relative instability of many defendants. Others argue that defendants are largely unaware that failing to show up for court can lead to an arrest warrant for seemingly minor violations of the law. Some say defendants fail to appear for court on purpose. Others say they just forget. The Jefferson County Criminal Justice Planning Unit (CJP), staff to the Jefferson County CJCC, interviewed numerous defendants jailed for failing to appear for court and found that their reasons for not appearing varied widely and included each of the hypothesized reasons listed above.

A better understanding of why defendants fail to appear for court might help formulate a testable hypothesis based on some established theory of crime or delinquency, such as “rational-choice theory,” its offspring “routine-activities theory,” or theories explaining a defendant's sense of anonymity, such as those proposed by noted psychologist Philip Zimbardo in the 1960s.<sup>8</sup> However, the Jefferson County CJCC had little time for that type of research. Like many entities struggling to find answers to pressing problems, the CJCC was addressing the somewhat urgent issues of unsustainable jail-population growth, increas-

**FTAs undermine the integrity of the justice system [and tend] to erode the respect that an independent judiciary deserves.**

3. See ROBERT CUSHMAN, GUIDELINES FOR DEVELOPING A CRIMINAL JUSTICE COORDINATING COMMITTEE, U.S. Dept of Justice, Nat'l Inst. of Corr., NIC Accession No. 017232 (Jan. 2002), available at <http://static.nicic.gov/Library/017232.pdf>.

4. The current trend in the field of pretrial justice is to use the phrase “court-appearance rates,” which focuses on the positive and typically larger number of defendants who actually appear for court, rather than the phrase “failure-to-appear-rates,” which focuses on the negative and less-frequent cases. The two phrases represent different ways of describing the same phenomenon: a jurisdiction with a 97% court appearance rate has a 3% failure-to-appear rate.

5. See Linda Detroy Alexander, *Backing Law with a Lecture*, GOLDEN TR., Dec. 2, 2010, at 4, available from the Jefferson County Criminal Justice Planning Unit.

6. See AMERICAN BAR ASSOCIATION STANDARDS FOR CRIMINAL JUSTICE PRETRIAL RELEASE (3rd ed., 2007), Std. 10-1.3, at 41 (“The principle of release under least restrictive conditions favors use of citations by police or summons by judicial officers in lieu of arrest at stages prior to the first judicial appearance in cases involving minor offenses.”), available at [http://www.americanbar.org/publications/criminal\\_justice\\_section\\_archive/crimjust\\_standards\\_pretrialrelease\\_toc.html](http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_pretrialrelease_toc.html). The term “minor offenses” is used rather than “misdemeanors” because the latter term is often defined differently among jurisdictions across the United States.

Generally, according to the commentary to Standard 10-1.3, “‘minor offenses’ are the equivalent of lower-level misdemeanors. However, when the alleged offense involves danger or weapons—as, for example, is often the case in domestic violence misdemeanors—the Standard allows jurisdictions to determine that the offense is not ‘minor,’ regardless of its statutory designation.” *Id.*

7. BARRY MAHONEY, BRUCE D. BEAUDIN, JOHN A. CARVER III, DANIEL B. RYAN, AND RICHARD B. HOFFMAN, PRETRIAL SERVICES PROGRAMS: RESPONSIBILITIES AND POTENTIAL, Nat'l Inst. of Justice (2001), at 62 (further citation omitted), available at <http://www.ncjrs.gov/pdffiles1/nij/181939.pdf>.

8. In hindsight, Zimbardo's early theories may be the best to describe the Jefferson County experience. In the 1960s, Zimbardo wrote how a sense of anonymity versus a sense of community can cause social deviance. See *Anonymity of Place Stimulates Destructive Vandalism*, available at [http://www.lucifereffect.com/about\\_content\\_anon.htm](http://www.lucifereffect.com/about_content_anon.htm). During Jefferson County's discussions over court-date-reminder call script language, county leaders considered the relative worth of messages focusing on letting defendants know that: (1) they were not anonymous; (2) they were part of a social community; (3) the court system recognized their individuality and humanity; and (4) the court also knew how to reach them if they failed to appear.

**The script was framed in terms of defendant choice[, and a] strong sanctions message for “choosing” not to show up for court was included intentionally . . . .**

ing case filings, high FTA rates, and an unacceptable number of people jailed pursuant to FTA warrants. Accordingly, the Committee was content with knowing that simple logic, coupled with the experience of at least one other jurisdiction (King County, Washington, known for its advancement of innovative criminal justice practices) provided a basis for testing the hypothesis that court-date-reminder calls would improve court-appear-

ance rates in summonsed cases. This approach also appeared to follow the writings of at least some experts in the field of pre-trial justice, who had documented the complicated nature of FTAs and focused on practical system solutions involving pre-FTA court-date reminders and swift action on warrants.<sup>9</sup>

#### **WHY DID WE USE A LIVE CALLER?**

Jurisdictions seeking to increase their court-appearance rates through reminder calls inevitably face the question of whether to use live versus automated callers. When the Jefferson County FTA Pilot Project was undertaken, there was very little written on the efficacy of either approach. Through telephone conversations, King County, Washington, officials reported to CJP staff an overall decrease in failure-to-appear rates of approximately 60% using live reminder calls for misdemeanor defendants. At the time, those officials advised against using an automated system and stressed the need for the caller to have multiple databases to find defendants' contact information, as well as extensive knowledge of the criminal justice system to answer defendants' questions.

Through those same conversations, Jefferson County became aware of one other unpublished Washington study reporting FTA-rate decreases of approximately 38% using automated calls. Since then, Multnomah County, Oregon, began its own study of an automated Court Appearance Notification System (CANS) in 2006. In the final report to that study, Multnomah County reported an overall decrease in FTAs of 37% using an automated calling system on the targeted population.<sup>10</sup>

In Jefferson County, the live-caller option was ultimately chosen for primarily practical purposes: At a meeting in March 2005, the head of the Probation Department announced that

he had money in his budget to hire a person part-time for three months to call defendants. Given the lack of hard data for either option as well as the perceived complexity over the logistics of setting up an automated system, there was no real debate over this opportunity, and, accordingly, the Pilot Project proceeded with a live caller.

#### **WHAT DID THE RESEARCHERS DO?**

##### **The FTA Pilot Project**

The Subcommittee assembled a small Implementation Team, made up of a County Court Judge, the Court Clerk, the hired caller, and CJP Staff to work out the logistics of the live-caller study. The Team believed that it was important for the caller to see the actual court files when calling, but those files were not allowed out of the courthouse. Accordingly, the court made space for the caller in a vacant room on the floor where most of those files were kept. Due to time constraints, the caller was given access to only a telephone book to aid in searching for defendants' phone numbers. The effectiveness of the Pilot Project was thus somewhat at the mercy of police officers legibly writing down phone numbers on their citations. Typically, tickets having no numbers, or with illegible numbers, meant that no telephone call could be made.

The court provided the caller with a desk, a computer with a spreadsheet for data collection, and a telephone. Throughout the study, CJP Staff would also work in the room entering control-group information into the spreadsheet.

The Implementation Team created a script in English and Spanish to be used as a primary tool for conveying information to the defendant when he or she was reached directly, and to be read verbatim when leaving a message on voicemail. The script was framed in terms of defendant choice, reflecting the experience of one Team member from the field of psychology. A strong sanctions message for “choosing” not to show up for court was included intentionally, although that language has been softened since. The fact that such a script was created quickly (and the fact that it was apparently successful) should not diminish the crucial role of script content. As seen with recent important studies by the Nebraska Public Policy Center, variations in content can affect overall appearance rates.<sup>11</sup> Pilot Project logistics also required the Team to develop a fairly detailed procedure for gathering files, separating cases, making calls, inputting data, and monitoring outcomes.

For 10 weeks, the caller collected data on approximately 30 variables on a total of 2,100 randomly selected defendants summonsed to appear on misdemeanor and traffic offenses in the Duty Division of the Jefferson County Court.<sup>12</sup> Although

9. MAHONEY et al., *supra* note 7, at 39, 62.

10. See MATT NICE, COURT APPEARANCE NOTIFICATION SYSTEM: PROCESS AND OUTCOME EVALUATION, A REPORT FOR THE LOCAL PUBLIC SAFETY COORDINATING COUNCIL AND THE CANS OVERSIGHT COMMITTEE (Mar. 2006).

11. See Mitchel N. Herian and Brian H. Bornstein, *Reducing Failure to Appear in Nebraska: A Field Study*, THE NEB. LAWYER, Vol. 13, No. 8, at 11 (Sept. 2010); Brian H. Bornstein, Alan J. Tomkins, Elizabeth M. Neeley, Mitchel N. Herian, and Joseph A. Hamm, *Reducing Courts' Failure-to-Appear Rate by Written Reminders*, 18

PSYCHOL. PUB. POL'Y & L. (in press), available at doi: 10.1037/a0026293.

12. In Colorado's First Judicial District (made up of Jefferson and Gilpin counties), the county-court judges take turns staffing a “Duty Division,” which handles, among other things, defendants on felony, misdemeanor, and more serious traffic citations and summonses. Less serious traffic and misdemeanor cases are handled in “Division T” by a magistrate. The Pilot Project focused solely on cases heard in the Duty Division.

the Duty Division handles felony matters, those cases, along with cases in which defendants had legal representation, were excluded. The Pilot Project proceeded in two phases. In the first phase, defendants were called one week ahead of their court dates to remind them to appear. In the second phase, defendants who had failed to appear were called the next day to notify them of their FTA warrants.

### Call-Ahead Phase

On average, there were 70 unrepresented misdemeanor and traffic cases per day in the Duty Division. Each day during the Pilot Project, the caller would take a random sample of all cases with arraignments scheduled exactly one week in the future to use for data input. All of the data, such as the case number, defendant demographics, offense information, statutory penalties, etc., were gathered from the court file and recorded on a spreadsheet.

The parameters for calling defendants were strict. The caller was given only three opportunities to telephone defendants—exactly seven days prior to the initial court date—to remind them of the upcoming Duty Division proceeding. If the caller “successfully contacted” a defendant, the caller read a script (in either English or Spanish) reminding the defendant of the court date, giving directions to the court, and warning the defendant of the consequences of failing to appear. The script was carefully worded with guidance from the judges assigned to Duty Division and included a list of anticipated defendant questions with appropriate answers to those questions. A “successful contact” was defined as any call in which the script was read to either: (a) the defendant; (b) the defendant’s voicemail; or (c) an apparently responsible adult living with the defendant. Because the caller had three opportunities to reach the defendant, that caller had some discretion in how to use those opportunities. To collect the maximum amount of data, however, the caller’s protocol was to read the script on voicemail anytime the caller reached a recording that was clearly the defendant’s. “Successful” and “unsuccessful” (wrong number, no number on ticket, disconnected number, etc.) contacts were documented in fields for each of the three allowable attempts. A “comments” section on the spreadsheet allowed the caller to clarify miscellaneous data issues and to qualitatively document defendant and other household member reaction. All of the telephone calls were made between 8:00 a.m. and 7:00 p.m., Monday through Friday. Throughout the project, an individual from the CJP Unit collected and separately inputted data for the control group, which consisted of randomly selected defendants from the court’s files. The outcome measured was whether or not the defendants failed to appear on their scheduled dates.

### Call-After Phase

The day after the Duty Division arraignments, the caller col-

13. In the call-ahead phase, the caller attempted to contact 1,176 defendants and “successfully contacted” 695, for a successful-contact rate of approximately 60%. By contrast, only 44% of the defendants in the call-after phase were successfully contacted.

14. The decrease in the FTA rate for leaving a message with either

lected all of the files for those defendants who had failed to appear—on average, 15 per day. The caller randomly selected half of the files and collected the same demographic and case-specific data as described in the call-ahead phase. The caller also filled out an “outcome sheet,” which included the defendants’ names and case numbers, as well as check boxes designed to help the court clerks document the

outcome measures for this phase. Given the same strict calling parameters, the caller telephoned defendants to advise them of their failure to appear for court and to explain the consequences of the arrest warrant. Again, a carefully worded script (in English and Spanish) was created to convey that message. Each of the judges assigned to the Duty Division agreed, in advance, to stay these warrants for five business days after the FTA; accordingly, the caller also advised the defendant that if he or she came into court within five business days, the warrant would not be issued. As in the call-ahead phase, the caller documented the results of successful and unsuccessful contacts across the three allowable calling attempts. And again, a second individual collected complete control data for later comparison. Files (along with the outcome sheet) were returned that day to the court clerks with instructions to hold them for five business days. The outcomes that were measured were whether defendants came to court within five business days, and what the defendants did when they appeared for court (e.g., pleaded guilty, rescheduled, etc.).

### WHAT DID THE RESEARCHERS FIND?

#### The Call-Ahead Phase

Normally, the court-appearance rate in the Jefferson County, Colorado, Duty Division for the types of cases studied was 79%. When defendants were successfully contacted<sup>13</sup> and reminded of their court dates one week in advance of their arraignments, however, the court-appearance rate was increased to 88% (a 43% reduction in the FTA rate). This overall increase in the appearance rate can be further broken down by how the successful contact was made. If a message was left with either voicemail or a responsible adult, the appearance rate was increased to 87%.<sup>14</sup> If the message was delivered to the actual defendant, however, the court appearance rate rose to approximately 92%.

#### The Call-After Phase

Normally, 10% of people who fail to appear for court do return to court on their own initiative within five business

voicemail or with a responsible adult (38%) was approximately the same as the automated-reminder-call decreases reported verbally by King County, Washington, officials and reported in Multnomah County Oregon. See NICE, *supra* note 10.

**When defendants were . . . reminded of their court dates . . . , the court-appearance rate was increased to 88% (a 43% reduction in the FTA rate). . . .**

**[T]he pre-calls primarily focused on customer service, a priority of the Jefferson County Board of County Commissioners . . . .**

days. When defendants were notified of their warrant after they failed to appear, however, 50% returned to court within five business days.

**THE JEFFERSON COUNTY COURT DATE NOTIFICATION PROGRAM**

Based on the success of the Pilot Project, the Jefferson County CJCC cre-

ated a Task Force to make recommendations for creating a permanent call-reminder program designed to increase court-appearance rates. Those recommendations, along with a detailed cost/benefit analysis of FTA reduction,<sup>15</sup> were subsequently presented to the CJCC, which unanimously supported the concept of developing a program using a live caller to telephone defendants to remind them in advance of their upcoming court dates.

Because pre-FTA call reminders and post-FTA call notifications were ultimately shown to be equally effective during the pilot project, the Task Force and the Committee discussed the advantages of starting with one component over the other. While there was some consensus that the ideal program would likely consist of both pre- and post-FTA calls, the Task Force and Committee ultimately recommended that the caller begin by making reminder calls to defendants one week in advance of their arraignments.

This recommendation was made for several reasons. First, the Committee and Task Force recognized that substantial effort goes into preparing for the first court appearance. Decreasing failures to appear altogether, rather than simply using the warrant as an incentive to get defendants back into court, would maximize the initial work of court staff and would reduce the amount of redundant efforts expended when a defendant arrives sometime after the planned appearance date. Second, the Committee and Task Force believed that calling defendants in advance of their court dates would provide opportunities to tell those defendants important information about their particular case that would reduce the chances of a continuance. For example, the court experienced many unnecessary continuances in car-insurance and license cases when defendants arrived without proof of insurance or proof of license reinstatement. A pre-call script, it was believed, could be drafted to tell these defendants what they needed to bring with them so that their case could be resolved. Third, the Committee was already working on other projects designed to reduce FTA bookings after the warrant

was issued, and the Committee and Task Force believed that pre-calls would provide balance to these other post-FTA initiatives. Finally, and perhaps most importantly, the pre-calls primarily focused on customer service, a priority of the Jefferson County Board of County Commissioners at the time. In addition to reminding defendants about their court dates, the Committee and Task Force believed that pre-calls would provide a human voice to guide defendants through a daunting criminal justice system and would ultimately reduce the number of frantic, last-minute phone calls placed by defendants to court clerks.

The Program, named the Jefferson County, Colorado, Court Date Notification Program, is funded and staffed by the Sheriff's Office and is located inside the Jefferson County Combined Court. The staff person who served as the caller during the Pilot Project was hired full-time as a civilian Program Specialist to implement the Program. As originally planned, this Program Specialist was hired to spend roughly equal amounts of time on Program implementation and expansion, with 50% of her time spent actually calling defendants and 50% spent evaluating the effectiveness of those calls and on investigating and addressing the FTA issue associated with other courtrooms and court events. The Program Specialist (hereinafter the caller) began making calls for the Program during the last week of March 2006.

**Program Process**

Like the FTA Pilot Project, the Court Date Notification Program began by focusing on the court-appearance rate for the Duty Division of the Jefferson County Court, which was staffed on a rotating basis by seven county-court judges in Jefferson County. At Program inception, the Duty Division heard an average of 77 unrepresented traffic and misdemeanor cases summonsed daily into court by municipal, county, and state ticketing agencies. Because the initial intent of the Program was for the caller to spend only half of her time making calls, an implementation group consisting of a county-court judge, the Court Clerk, and others decided to initially limit those calls to defendants who had no proof of insurance (NPOI) as one of their charges. This emphasis on NPOI cases was made for several reasons. First, files containing this charge accounted for over half of the cases seen in Duty Division each day. Second, defendants facing an NPOI charge often had other charges associated with the same traffic stop. Third, fines for these charges were typically high, so increasing court-appearance rates for these cases might ultimately lead to significant increased revenue to the State. Fourth, as noted previously, defendants facing NPOI charges frequently asked for continuances to bring in the required documentation, causing addi-

15. There appear to be relatively few cost/benefit analyses on this issue. The Jefferson County analysis concluded that by using the FTA Pilot Project's result of a reduction in misdemeanor and traffic warrants of 43% in Duty Division, an FTA-reduction program aimed at all misdemeanor and traffic offenses in the County would: (1) reduce the overall number of FTA warrants issued for those cases from 7,200 to 4,100 per year; (2) reduce the overall time spent by court clerks processing the warrants from 3,800 to

2,200 hours per year; (3) reduce law-enforcement-officer hours spent serving the warrants from 5,400 to 3,100 hours per year; (4) reduce the hours spent by jail booking staff to process the arrestee from 7,200 to 4,104 hours per year; and (5) assuming an arrest rate at 50% and a two-day length of stay for persons with FTA warrants (both estimates documented), save approximately \$200,000 per year in jail-bed costs.

tional strain on the court's workload. After the implementation group made this decision, it created a customized script specifically for NPOI cases.<sup>16</sup>

File security issues and the need to create non-obtrusive working relationships with court-division clerks led to a logistical decision to locate the Program in the court building on the same floor as the county-court judges and clerks. Because the Program's caller would be working primarily from documents in the official court file, this location allowed the caller and the clerks to share files with little disruption to their normal work flow. The caller worked Monday through Friday during business hours. Her office was private, with a computer with access to multiple databases for data collection and defendant tracking, and a telephone with call-back capability.<sup>17</sup> The primary spreadsheet for data collection had twenty fields, which included defendant contact information, call outcomes, and court-appearance outcomes. To adequately measure the court-appearance outcomes of the Program, the caller created (with input from the judges and Court Clerk) a colored sheet of paper that she filled out and placed in each file targeted for calling. The paper had three possible outcomes for the case that the court clerks were to check and that were ultimately measured in the data set: (1) FTA; (2) Disposition (pled, settled, or dismissed); and (3) Pretrial Conference, which is also used to indicate a continuance for any reason. This colored outcome check sheet was an additional duty given to court clerks, but it provided (and continues to provide) crucial data needed for the ongoing evaluation of the Program.

Due to the rotation in Duty Division, the caller had to adapt her own procedures to accommodate differing policies and practices among the judges. Nevertheless, her daily routine (as observed by CJP Staff) was fairly consistent between divisions. Each day, the caller would ask Duty Division clerks about the FTAs from the day before.<sup>18</sup> She then collected the colored outcome check sheets, and typed the outcomes into the spreadsheet.<sup>19</sup> The caller next retrieved the files for all misdemeanor and traffic cases that were set to be heard in Duty Division in seven days. The caller then read through the files, looking for her target group of NPOI defendants. The information found in those files, primarily from the summonses themselves, was then transferred onto a printed docket sheet and into the Program's spreadsheet. If there was no contact information for a particular defendant, the caller used one of two online directories to try to locate a useable phone number.<sup>20</sup> Once she input the required data into the spreadsheet, the caller was prepared to telephone the defendants. In the initial stages of the

Program, the caller became accustomed to alternately entering a page or two of data and then making her initial calls.

In the Pilot Project, the caller was limited to only three attempts at calling any particular defendant. The resulting Program was designed with no such restrictions; however, on her own, the caller apparently placed the same limits on her calls to keep from clogging her workflow. Calls were documented using the following codes: (1) talked to defendant personally; (2) left message on defendant's home/personal voicemail; (3) talked with relative/roommate of defendant and left message; (4) wrong number; (5) phone disconnected; (6) no answer, no device on phone for messages, busy signal, "subscriber not available" message on cell phones; and (7) no phone number listed on summons or found with online directory. The caller also used a variety of sub-codes to record other information she deemed to be relevant. Successful contacts were those in the first three categories. If the caller successfully contacted a defendant, she read a script (in either English or Spanish) reminding the defendant of the court date, giving directions to the court, and warning the defendant of the consequences of failing to appear for court. The caller had (and still has) considerable discretion as to whether she would leave a message or call back later. In many cases, the caller simply left a generic message for the defendant to return her call, and she then fielded return calls from the defendants throughout the day.

**[T]he normal court-appearance rate for [this category of] defendants was 77%.**

### Six-Month Outcomes

During the first six months of the Court Date Notification Program, the total number of docketed cases with unrepresented defendants facing traffic or misdemeanor charges in County Court Duty Division reached approximately 10,000, for an average of 385 per week. Of those 10,000 cases, approximately 5,600 were targeted for telephone calls. Of those targeted, approximately 3,500 defendants were "successfully contacted" (defined as either talking to the defendant in person, or by leaving a message on the defendant's voicemail or with a third party) and 2,100 were unsuccessful, for a successful-contact rate of 63%. As documented in the FTA Pilot Project, the normal court-appearance rate for NPOI defendants was 77%. When these defendants were successfully contacted and reminded of their court dates one week in advance of their

16. For example, because defendants with NPOI charges typically face steep fines, the script made a specific reference to "payment options," which was designed to allay defendants' fears concerning any inability to pay.

17. Giving defendants the ability to telephone the caller back is an important improvement over the Pilot Project, which had no call-back capability.

18. The caller compared the clerk's verbal report of FTAs to the outcome sheets as an error check.

19. While the Program was not designed to track and contact defendants after they failed to appear, the caller nonetheless informally

kept track of FTAs for defendants with whom she had directly spoken. After six months, the caller reported that a follow-up call appeared to cause more defendants to come back to court at a higher rate than those who were not called; however, more formalized study is required to make any definitive conclusions on the effectiveness of this practice.

20. In the Pilot Project, the percentage of tickets that had no defendant phone numbers or were unreadable was approximately 10%. In 2011, the percentage of tickets that had no phone numbers and for which the phone numbers were not found in either of the two online directories was 4.4%.

**[D]irect contact with a defendant led to the highest appearance rate—as high as 93% . . . .**

arraignments, however, the appearance rate increased to 89%. This result represented a 52% decrease in the FTA rate for the targeted population. In more concrete terms, it meant that 425 FTA warrants were

avoided during the first six months of the Program.

Additional analyses of data from June and September 2006 again showed that the overall court-appearance rate varied based on how the successful contact was made. As in the Pilot Project, direct contact with a defendant led to the highest appearance rate—as high as 93% in the September data set. Contact by leaving a message was second best (86% in June, 90% in September), and contact by leaving a message with a third party was the least effective method. These analyses also suggested a need to convince law enforcement to collect verifiable defendant contact information at the scene, and to perhaps revise program elements (e.g., adding additional databases for finding defendants with bad contact information; calling defendants at night or on weekends) to better locate the defendants themselves to further increase the overall court-appearance rate.

Finally, the six-month data showed that of those defendants successfully contacted, most (approximately 54%) came to court and reached a disposition on their case on the day the case was set for arraignment, but approximately 35% of the defendants had their cases continued. This latter percentage suggested the need to inquire into the reasons for these continuances and to assess whether they were unnecessary or otherwise burdensome to the criminal justice system.

**Program Expansion**

During 2006, the Program's caller was able to increase the number of cases called by using volunteers (when available) obtained through the Sheriff's Office volunteer pool. On certain days, this meant providing full-time coverage, which allowed the caller to target 100% of the traffic-and-misdemeanor docket in the Duty Division. Nevertheless, that docket represented only a portion of the overall number of cases having FTA issues in the Combined Court. In response to queries by the Sheriff and Chief Judge of the District, CJP Staff analyzed the extent of the FTA issue in all courts of the District and made a number of recommendations, including: (1) expanding the procedure to the remaining cases in Duty Division (primarily felony summonses) while using techniques to improve the "successful-contact rate"; (2) based on the analyses in the report, working with the judges to identify and target other court events (such as "pro se sentencing hear-

ings," etc.) requiring telephone reminder or notification calls; (3) beginning to make calls for cases in Division T, the division devoted to less-serious misdemeanor and traffic matters; (4) allowing Program staff time to conduct continuing research into best practices; and (5) implementing a "court-closure-notification system" to cover emergency court closures due to weather, etc.

Based in part on those recommendations, the Sheriff's Office hired a second full-time Program Specialist, who now assists with the daily calls. With her addition, the program has significantly expanded to include calls to 100% of unrepresented traffic and misdemeanor cases in Duty Division and 100% of the unrepresented misdemeanor and non-infraction<sup>21</sup> traffic cases in Division T. At the time this article was drafted, the Program had also expanded to begin calling pro se defendants with felony summonses in one division of the district court,<sup>22</sup> with plans to expand to three other district court divisions in the near future.

**Court-Appearance Benefits**

Overall, the results of the Program to date are exceptional. The successful-contact rate has risen from an initial rate of 60% in the Pilot Project to 74% in 2010 for the Duty Division, and from 78% in 2009 to 80% in 2010 for Division T. In 2007, the court-appearance rate for defendants who were successfully contacted was 91%, compared to an appearance rate of 71% for those who were not. In 2010, combining all statistics from both Duty Division and Division T, the court-appearance rate for defendants who were successfully contacted was 92%, compared to an appearance rate of 73% for those who were not. These increases have significantly reduced the costs of FTAs, including the somewhat intangible costs to victims and society in general. Moreover, although not empirically tested, these numbers indicate that the use of a live caller appears to have permitted experimentation and "tweaking" of the process, which has, in turn, fostered steady improvement.

**Other Benefits**

In addition to increasing court-appearance rates, Jefferson County has experienced both a number of intended and unintended benefits from the Court Date Notification Program. Perhaps most important is enhanced customer service provided to defendants through personal reminder calls. While their primary responsibility is to convey the information from the script, the Sheriff's Office's civilian callers also field defendant questions that would normally be directed to court clerks,<sup>23</sup> give driving and busing directions and instruction, look up other court information, forward calls to appropriate agencies, and generally allay the fears of defendants who may be intimidated by the criminal justice system. Several of the court's divi-

21. When a defendant fails to appear for court in low-level traffic infractions in Colorado, it results in a civil judgment rather than an arrest warrant.  
22. In Colorado, district courts generally handle more serious criminal and civil cases, as well as probate, domestic relations, and juvenile cases. While most defendants appearing on the district court's criminal docket have representation, FTAs still occur.

23. Anecdotally, court clerks have told the authors that prior to the Court Date Notification Program many defendants would call the day before their court date with numerous questions about their cases. The Program has, to some extent, removed that burden from the clerks. Not surprisingly, by proactively calling defendants the callers have also learned that many defendants have forgotten about their court dates, do not have directions, have lost



sion clerks have heard from numerous defendants who have praised these mostly immeasurable aspects of the Program. In comments compiled throughout 2007 and 2008, defendants themselves routinely articulated their appreciation for the reminders. The callers have been named by some in the county as the “goodwill ambassadors” of the Sheriff’s Office, offering a helpful and friendly component to the case that many people do not normally perceive from their experiences with law enforcement. Although customer service was one of four key values articulated by the Jefferson County Board of county Commissioners at the time of Program creation, opportunities for providing quality customer service in the criminal justice system can seem elusive. Nevertheless, the Jefferson County Court Date Notification Program has shown that local leaders can provide quality and sometimes unexpected customer service in a delicate government function that is too often seen as cold and unfriendly to its participants.

Answering questions, though, represents only one aspect of the Program’s ability to enhance customer service. Additionally, the callers have provided significant benefits as quality control agents for “internal” customers. In particular, the callers have caught and corrected many advisement, ticket, and ticket-agency-record errors, have helped clerks to combine cases, and have even uncovered instances of identity theft.<sup>24</sup> When the callers learn that a defendant is already incarcerated, they are able to advise the court so that an FTA warrant will not be issued. With access to the Sheriff’s Office’s records-management system, the callers are also able to gather additional contact information that is unavailable through traditional online directories and to update the court files accordingly.

Quality control is also reflected in at least two more global endeavors. First, primarily due to the callers’ frustration with the existing half-page Colorado Uniform Summons and Complaint (the ticket issued for most traffic and misdemeanor offenses), Jefferson County created a “Ticket Task Force,” made up of municipal, county, and state agencies, to create a model full-page summons for use across Colorado.<sup>25</sup> Since then, members of that Task Force have independently worked

their tickets, or have questions about the consequences of certain actions, such as failing to appear. In a limited number of cases, the callers have helped defendants reschedule cases, helped family members who have incarcerated or deceased defendants, and helped defendants with multiple cases navigate the system.

24. This has occurred when the callers have contacted a defendant, only to learn that a third party had used the defendant’s identification during a traffic stop.

25. In the full-page ticket, the Task Force made room for two separate phone numbers to enhance the callers’ ability to successfully contact defendants.

26. See WENDY F. WHITE, COURT HEARING CALL NOTIFICATION PROJECT (May 17, 2006), available at <http://www.coconino.az.gov/cjcc.aspx?id=4692>. Like the Jefferson County Pilot Project, the rates varied based on how contact was made—the highest court-appearance rate was for defendants who were personally contacted (94.1%), followed by the rate for defendants for whom a message was left with another person (85%) and for whom the message was left on an answering machine (79%).

27. The ongoing list of those interested in the Program includes visi-

to begin developing electronic citations using the data fields from the full-page ticket. Second, recognizing that having officers collect good defendant contact information is foundational to the calling program, the callers have kept detailed records of both agencies and individual officers who are

deficient in doing so. The callers have contacted officers to discuss the need for legible phone numbers on the tickets, and the callers continue to discuss the efficacy of alternative methods, such as emails or text messaging, for contacting defendants.

Finally, the Court Date Notification Program has benefited numerous other jurisdictions as the live callers of the Program continue to educate—free of charge—others seeking to implement the same or similar programs. For example, after visiting with Jefferson County staff members, Coconino County, Arizona, essentially replicated the Jefferson County FTA Pilot Project in 2006, independently finding that calling defendants prior to their court appearance resulted in a court-appearance rate of 87.1%, compared to 74.6% for the control group.<sup>26</sup> Other jurisdictions, too, have visited the Program, and many of those jurisdictions have since begun similar projects.<sup>27</sup> As one notable example, Douglas County, Colorado, recently implemented a “Court Call Ahead Program” that is similar to the Court Date Notification Program, and that county has reported an increase in its court-appearance rate to slightly above 98% for the targeted population.<sup>28</sup>

## IMPLICATIONS FOR COURT POLICY AND PRACTICES

What causes defendants to fail to appear for court? Is it the length of time between the citations or summonses and the court dates? Is it their fear of the system? Is it their sense of anonymity? Do they do it on purpose, or do they just forget? Until we know the answers to these questions, we can nonethe-

tors from three Colorado municipalities, three other Colorado counties, and jurisdictions in seven other states. Many of those jurisdictions have adapted a version of the Jefferson County script.

28. Douglas County, Colorado, performed its own pilot project from April to September of 2009, using a live caller to remind defendants of their upcoming court dates, and has since funded its own “Call Ahead Program,” which calls defendants in advance but also includes an “FTA-recovery” component that involves calling defendants again if they fail to appear. In a short description of the pilot and resulting program, one county official stated as follows: “The general consensus is that the public appreciates the courtesy call and the opportunity to ask questions as to what they can expect when they report to the Justice Center. With specific instructions as to where to appear along with defined expectations regarding resolving court matters the docket management experienced a noticeable improvement in efficiency and a decrease in FTA warrants.” For more information on that particular program, contact Scott Mattson at [SMatson@douglas.co.us](mailto:SMatson@douglas.co.us).

**[C]allers have caught and corrected many . . . errors . . . and have even uncovered instances of identity theft.**

**[T]elephone reminders using live callers work. They increase court-appearance rates, . . . reducing the significant costs associated with FTAs . . . .**

less recognize that, for whatever reason, telephone reminders using live callers work. They increase court-appearance rates, dramatically reducing the significant costs associated with FTAs and FTA warrants. These costs include fiscal impacts, such as money to process, serve, and house defendants on FTA warrants, but they also include the varied social costs triggered by needlessly arresting and incarcerating individuals for a behavior that might be prevented by a simple phone call. In Jefferson County, the benefits of reducing FTAs clearly outweigh any costs associated with the Notification Program borne by the Sheriff's Office,<sup>29</sup> and other agencies (*i.e.*, municipal police agencies, prosecutors, court clerks, and judges) have realized the benefits of a decreased workload at virtually no cost to them.

FTAs also tend to adversely affect defendants and the larger society long after the initial case is resolved, and reminder calls can help minimize those effects. For example, a person's bail is frequently determined largely on the number of FTAs on his or her criminal record, and removing false or unfair indicators of FTAs from defendants' records has become an important but complex issue for discussion among those who rely upon criminal histories to guide them in the bail-setting process. To the extent that the justice system can prevent the FTA altogether, no indication of any failure can exist on the criminal history, and the issue of a needless FTA affecting a later case is avoided.

Court-date-reminder programs can also be important additions to any pretrial-justice initiative that seeks to increase the use of citations and summonses, as is recommended by national standards on pretrial release.<sup>30</sup> Because the criminal justice system is often reluctant to purposefully increase the use of citations and summonses, implementation of a workable notification system may mitigate system fears and thus reduce system resistance to pretrial justice reform in this area.

A significant (albeit empirically unmeasured) benefit to using live reminder calls appears to be in the area of customer service, an area often overlooked in the criminal justice system. The Jefferson County Court Date Notification Program strives to make most people's first—and often only—trip to the courthouse something other than an entirely negative experience.

Finally, as demonstrated by the FTA Pilot Project, calling people *after* they fail to appear for court can be equally effective at increasing court-appearance rates, and although such

calls lack the full customer-service benefits of reminder calls, they can be done for significantly less money. The future of the Jefferson County Court Date Notification Program, and perhaps the model program for the future, includes strategic use of a combination of court-date reminders along with a call-after notification component for all court events, based on empirical data indicating the need for intervention. The hope is that this strategic planning, coupled with ongoing research and practice to increase the number of successful contacts (especially contacts with defendants themselves) might lead to court appearance rates of 95% and higher. Additional research needed to move toward this goal should focus on script content, message timing (*e.g.*, one week versus three days prior to the court date), message delivery (*e.g.*, using a male versus a female voice, and the nuances between leaving a message with a human being versus a machine), program placement and operation (*e.g.*, operated by the law enforcement versus operated by the courts), and new ways of communicating with defendants, such as via email or text message.

## CONCLUSION

For many jurisdictions, the singular response to defendants failing to appear for court is to issue warrants, typically with high monetary bonds attached, and then to wait for law enforcement to serve those warrants through arrests.<sup>31</sup> Unfortunately, this way of doing business is costly, and it has resulted in some jurisdictions having court-appearance rates as low as 70%. Innovative ways of dealing with the issue of court-appearance rates should be of primary concern to all people in the criminal justice system, including judges. The Jefferson County FTA Pilot Project demonstrated that live telephone callers either reminding defendants to come to court or notifying them of their impending warrant status after they fail to appear for court can have a dramatic effect on appearance rates. The resulting Court Date Notification Program has shown that these results can be improved and that customer service is significantly enhanced through the use of a live caller intervening in advance of the court event.

The administration of justice does not normally play out in the types of cases that dominate newspaper headlines or law-school and criminal-justice-program curricula. More often, justice is done in the routine, if not mundane cases at the lower end of the system, such as misdemeanor and traffic cases—the figurative water bills of the criminal justice system. The aggregate commonality of these cases should not erode our sense of urgency in dealing with them fairly; instead, we should see them as opportunities to demonstrate a glimpse of justice on a grand scale. Doing so, quite simply, is good public policy.

29. CJP Staff has estimated that in 2006 alone, the Sheriff's Office spent roughly \$900,000 processing and housing persons arrested on FTA warrants. CJP staff further estimated that if the program became fully implemented throughout the First Judicial District and reached its full potential of reducing FTA warrants by 52% (its six-month benchmark), the Sheriff's Office could realize a net savings of approximately \$400,000 per year.

30. See, *e.g.*, AMERICAN BAR ASSOCIATION STANDARDS, *supra* note 6, at 41, 63-70.

31. As reported by The Denver Post, the spokesperson for the Jefferson County Sheriff's Office stated that its deputies' "most common arrest is for those who don't appear in court, a needless use of time." *Phone Roundup Helping Courts Stay Filled*, THE DENVER POST (Nov. 23, 2007), at [http://www.denverpost.com/ci\\_7536476?source=bb](http://www.denverpost.com/ci_7536476?source=bb).



*Timothy R. Schnacke is a Criminal Justice Planner/Analyst with 25 years of legal experience, including 7 years with Jefferson County, Colorado. Prior to his work with the county, Tim worked as Assistant Professor at the Washburn University College of Law, as Staff Counsel to both the Tenth Circuit Court of Appeals and the Colorado Court of Appeals,*

*and in private practice in Washington, D.C. Tim received his Juris Doctor degree from the University of Tulsa, his Master of Laws Degree from the George Washington University's National Law Center, and his Master of Criminal Justice Degree from the University of Colorado at Denver.*

*Email: timschnacke@earthlink.net.*



*Michael R. Jones serves as a Senior Project Associate for the Pretrial Justice Institute (PJI), staffing PJI's Colorado office. Mike assists states and local jurisdictions in understanding and implementing more legal and empirically based pretrial policies and practices by providing technical assistance, writing publications, and*

*designing strategic initiatives. He has extensive criminal justice experience both within Colorado and nationally through his work as a private consultant and technical-resource provider for the National Institute of Corrections. Prior to joining PJI, Mike worked as Criminal Justice Planning Manager for Jefferson County, Colorado, where he and his team of criminal justice planners worked for the local criminal justice coordinating committee. Mike has a Ph.D. in Clinical Psychology.*

*Email: mike@pretrial.org.*

*Dorian M. Wilderman is a Criminal Justice Planner/Analyst for Jefferson County, Colorado. Her major responsibilities include facilitating the systemic, strategic planning, and coordination initiatives of the county's policy-level criminal justice coordinating committee. Her current work is in the area of prevention by helping to develop recommendations for policy on effective crime-and-disorder-prevention strategies for youth, families, and adults throughout the justice system in Jefferson County.*

*Email: dwilderm@jeffco.us.*