

# SHOWING UP:

## Strategies to Increase Court Attendance and Limit Pretrial Detention

September 14, 2023

# TODAY'S PRESENTERS



**Alissa Fishbane**  
*Managing Director*



**Samantha Hammer**  
*Principal Behavioral Designer*

# WHY COURT APPEARANCE MATTERS

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- Missed court dates **drive arrests and jail**
- Missed court dates **are costly**
- Missed court dates **widen racial inequity**

# COURT APPEARANCE: MYTH VS REALITY

The evidence shows that **willful flight is rare**

- Very few (~3%) of those who miss court on felony charges remain fugitive<sup>1</sup>
- Our research and others' show that people often go to great lengths to show up

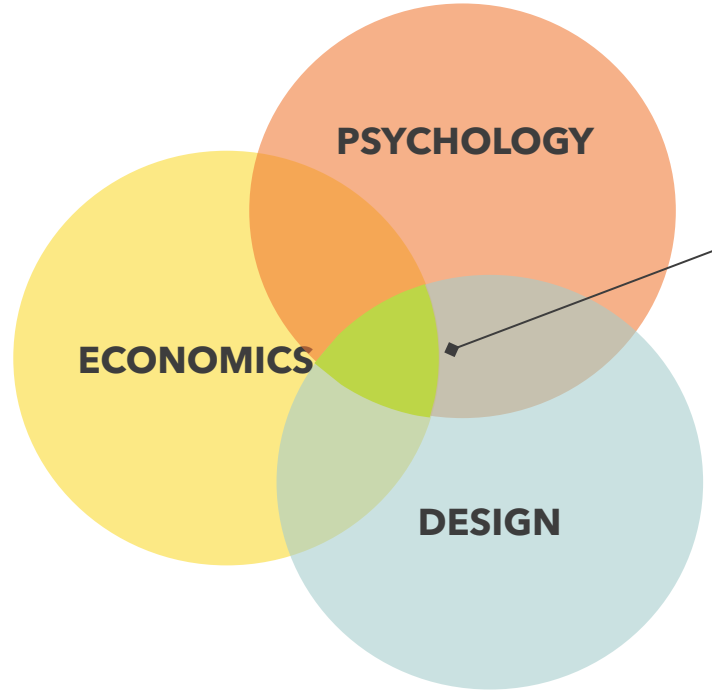
*So why do we often think of court users as this guy, running from justice?*



1. Kennedy, S., Blair, T.B., & Wosje, R. (2023.) Court Nonappearance and New Case Filings: Redefining Pretrial Misconduct. National Institute of Corrections.

# THINKING BEHAVIORALLY ABOUT COURT APPEARANCE

# IDEAS42: USING BEHAVIORAL SCIENCE TO INCREASE APPEARANCE AND DECREASE WARRANTS



ideas<sup>42</sup>

We use insights from **human behavior** - why people do what they do - to help **improve lives, build better systems,** and **drive social change.**

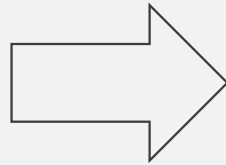
# ASSUMPTION: PEOPLE MISS COURT INTENTIONALLY

Traditional model of behavior: How we **BELIEVE** people act



INTENTION

*"I want to go to court."*



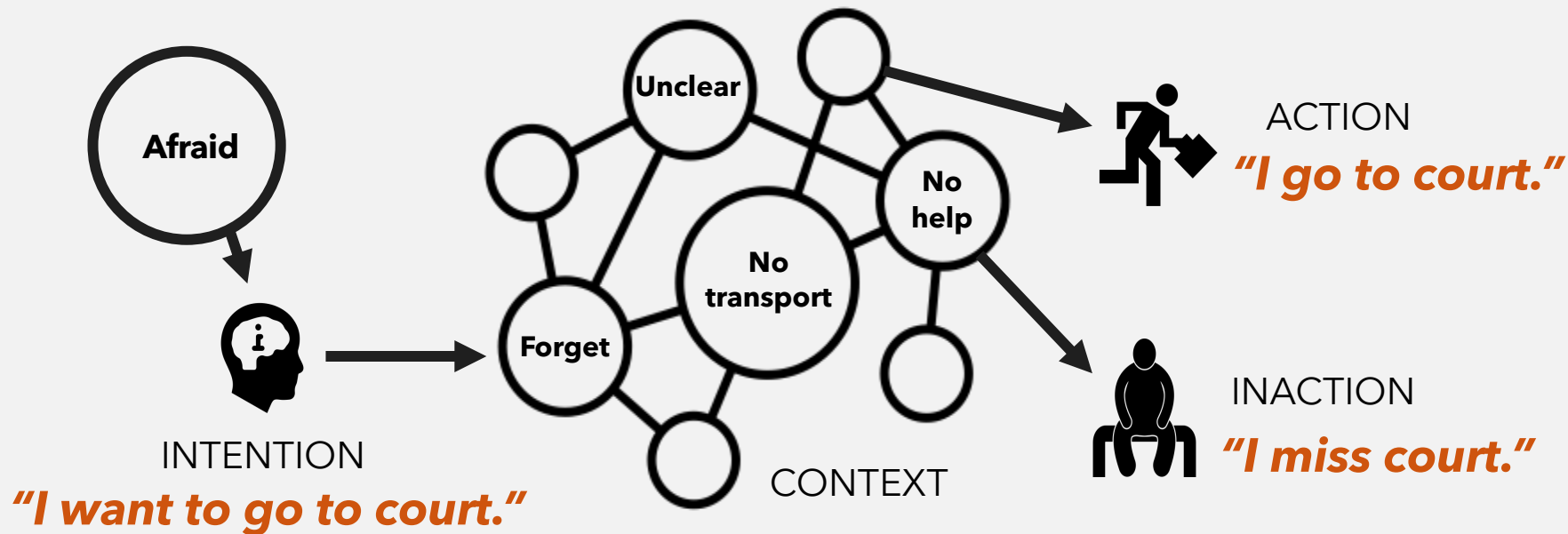
ACTION

*"I go to court."*



# REALITY: PEOPLE MISS COURT EVEN WHEN THEY WANT TO GO

Behavioral science: How people **REALLY** act

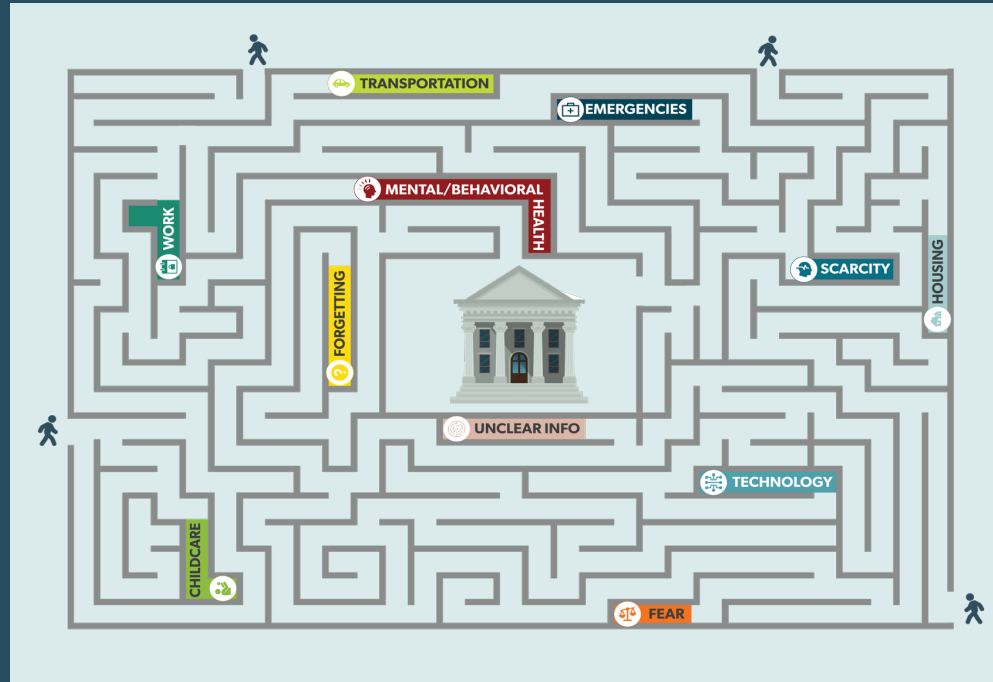




# COURT IS OFTEN DESIGNED FOR TWO TYPES



# THINKING BEHAVIORALLY, WE CAN UNCOVER THE REAL DRIVERS BEHIND NONAPPEARANCE



# EVERYDAY LIFE AND HARDSHIPS CREATE MANY BARRIERS

## Resource gaps

- Limited access to technology
- Transportation challenges
- Lack of childcare

## Health

- Mental and behavioral health challenges
- Medical emergencies
- Disability

## Personal situation

- Inflexible work schedules
- Housing instability

# BEHAVIORAL BARRIERS ARE SUBTLE, BUT IMPORTANT



**Limited mental bandwidth  
due to scarcity**



**Unclear and hassle-filled  
processes**



**Fear and distrust**



**Forgetting**

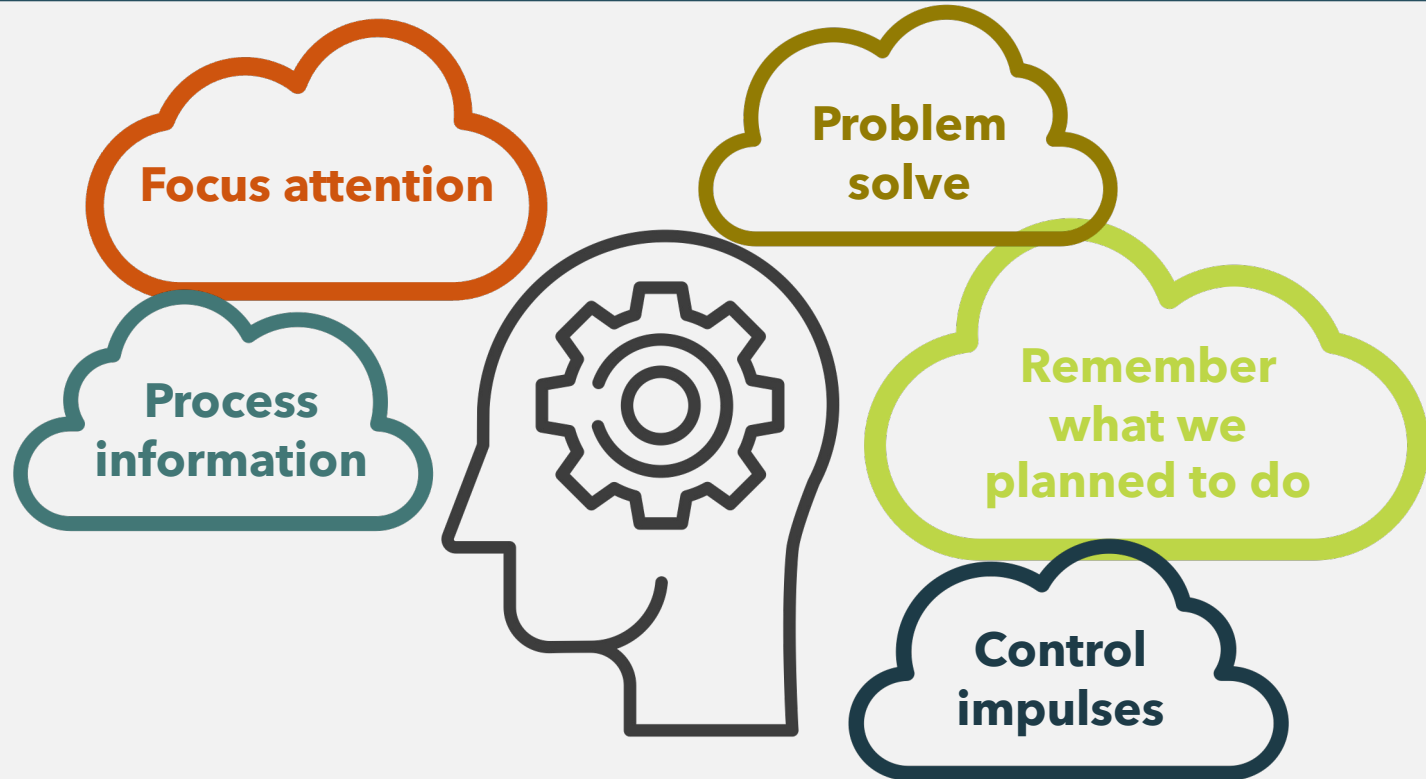
# Scarcity

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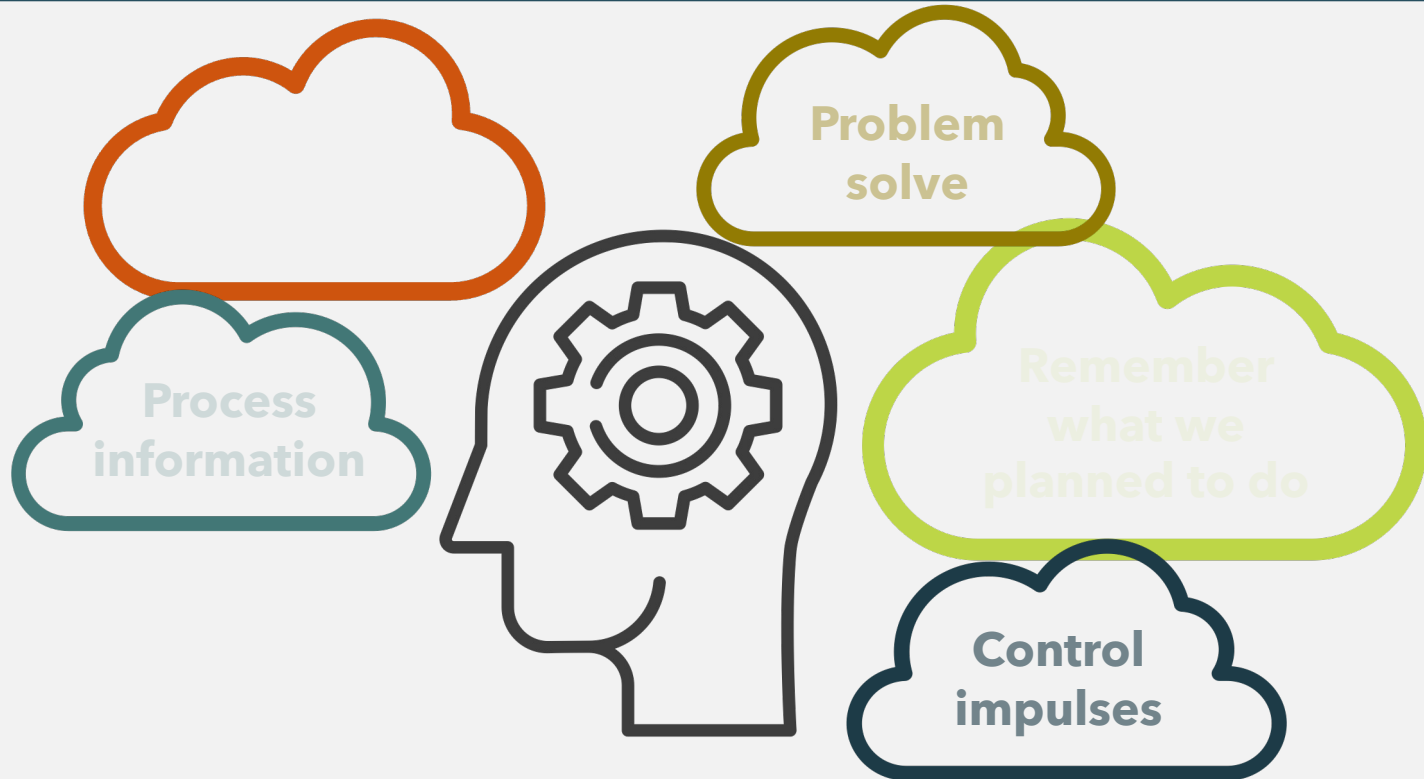
When key resources are scarce, we focus on what is most urgent



# COGNITIVE BANDWIDTH IS OUR ABILITY FOR “EXECUTIVE” THINKING...



# WHEN OUR COGNITIVE BANDWIDTH IS DEPLETED, IT AFFECTS OUR BEHAVIOR





# SCARCITY DEPLETES OUR COGNITIVE BANDWIDTH

**Scarcity:** *When vital resources (money, food, time) are in short supply*



- We focus on the scarcity to exclusion of all else
- Depletes our cognitive bandwidth
- Like a tight deadline
- Adaptive in the short term

**Chronic scarcity:** *Living in a continual state of scarcity (like experiencing poverty)*

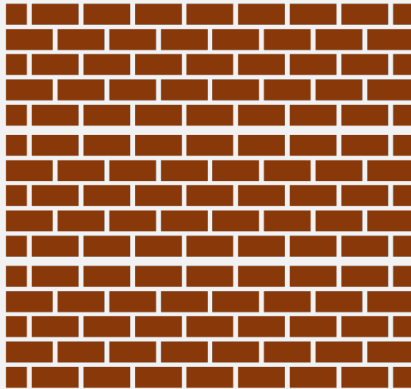


- Bandwidth depleted all the time!
- Like being under a tight work deadline all day, every day

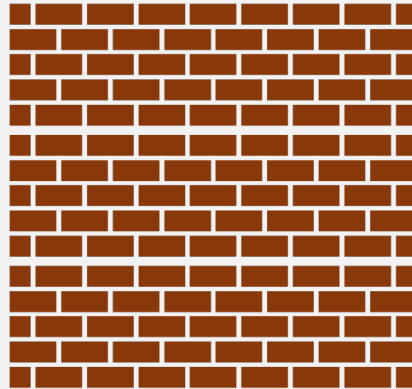
# CHRONIC SCARCITY REDUCES COURT USERS' ABILITY TO NAVIGATE COURT PROCESSES



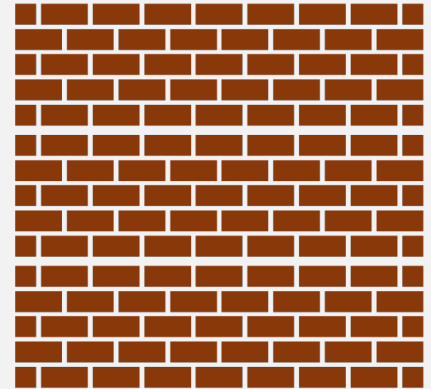
1. Remember court date



2. Arrange transportation



3. Find way to pay fines



# HOW COURTS ARE SUCCEEDING WITH NEW APPROACHES

# 4 TARGET GOALS FOR COURTS

#1 Make information clear, timely, accessible

#2 Reduce logistical hassles

#3 Add flexibility

#4 Provide useful resources for those who need them



**MAKE INFORMATION  
CLEAR, TIMELY,  
ACCESSIBLE**

MAKE INFORMATION CLEAR, TIMELY, ACCESSIBLE:

# BETTER INFORMATION IS A FIRST, POWERFUL STEP



**jorts**

@ftmensch



mail is cool because 99% of the time it's like a J.c. penney catalogue for a previous tenant and 1% of the time it's something you'll go to jail for if you don't look at

<https://twitter.com/ftmensch/status/1691223779551174656>

MAKE INFORMATION CLEAR, TIMELY, ACCESSIBLE:

# A PROVEN AND ACCESSIBLE STRATEGY

- **Strongly backed by research**

Communications interventions have **improved appearance rates up to 36%**

- **Often highly cost effective**

Redesigning forms can **cost little or nothing**; text reminders **cheap to run** after initial investment

- **Something all courts can do**

Even **small improvements** can go a long way; many opportunities



## MAKE INFORMATION CLEAR, TIMELY, ACCESSIBLE: ROUNDUP OF LEADING PRACTICES



**Redesigned court forms:** Citations, summonses, bond paperwork, agreements to appear, notice of next court date, and more.



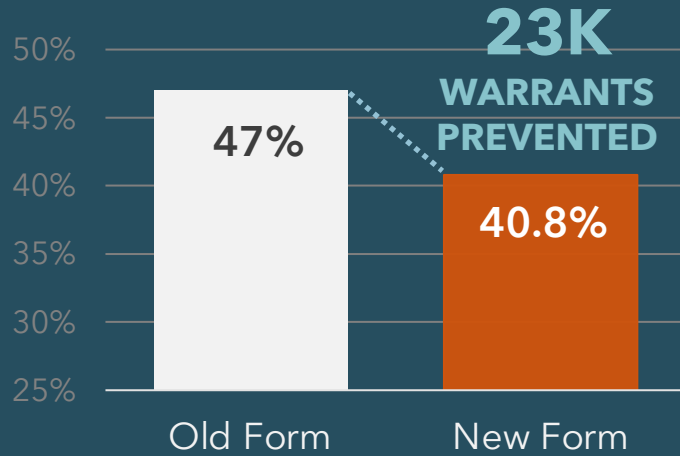
**Reminders:** Text, call, email, or mail (or best - a combination). Sent prior to court date and after missed hearing.



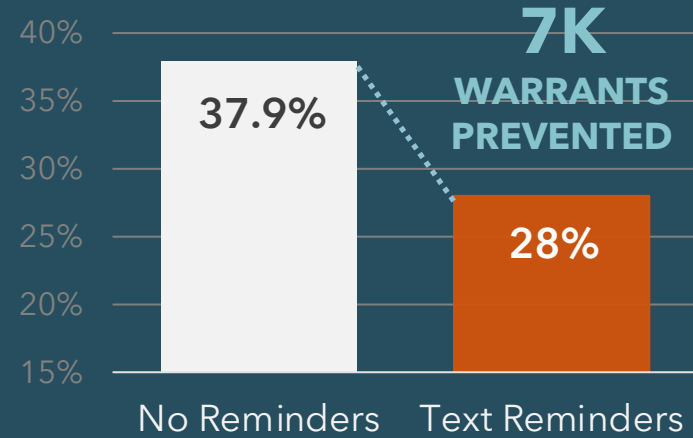
**Post-arraignment meetings:** Voluntary meeting with court staff, paired with reminders prior to next court date.

# EXAMPLE: NYC DECREASED NONAPPEARANCE BY 36% WITH NEW FORMS AND TEXT REMINDERS

Missed Court Date Rates:  
New Summons Form



Missed Court Date Rates:  
Text Message Reminders

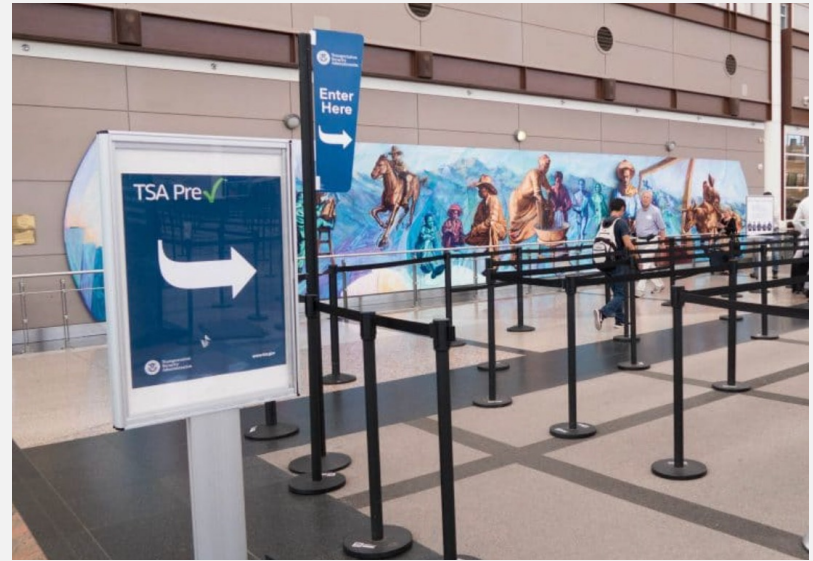


*Data for reminders reflects percentage impact of most effective reminders*



# REDUCE LOGISTICAL CHALLENGES

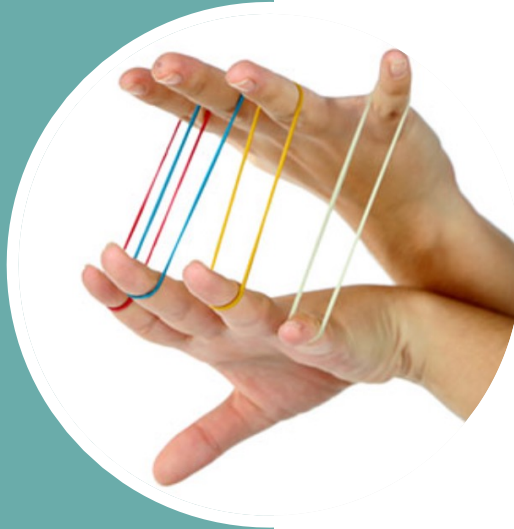
# REDUCE LOGISTICAL CHALLENGES: REMOVE HASSLES AND SIMPLIFY THE PROCESS



## REDUCE LOGISTICAL CHALLENGES:

## LEADING STRATEGIES TARGET COMMON PAIN POINTS

STRATEGY	BARRIERS ADDRESSED
<b>Virtual appearances</b> Offer virtual appearances with accessibility and procedural fairness	✓ <i>Transportation, childcare, and other barriers to going to court in person</i>
<b>Warrant clearing</b> Provide streamlined warrant-clearing processes with a no-arrest guarantee	✓ <i>Fear</i>
<b>Reduce required appearances</b> Limit required appearances for court users to substantive hearings	✓ <i>All barriers!</i>



# ADD FLEXIBILITY

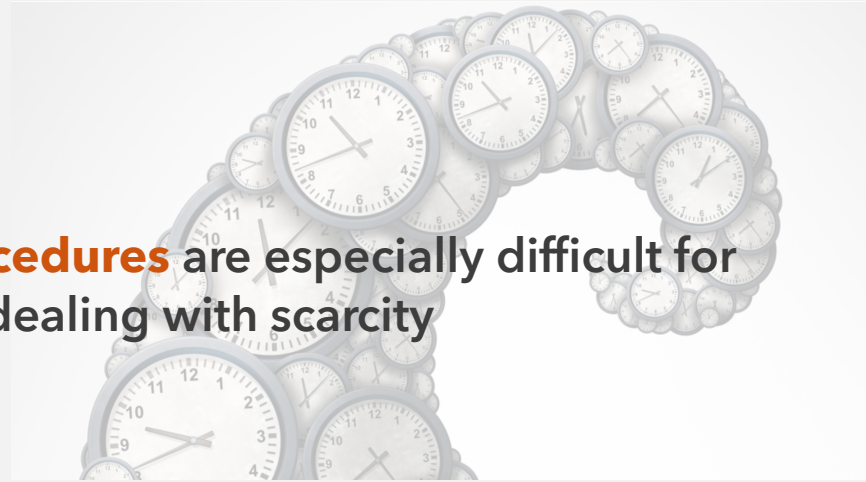
ADD FLEXIBILITY:

# FLEXIBILITY HELPS COURT USERS MEET THEIR OBLIGATIONS

Sometimes, missing court is **unavoidable**



**Rigid schedules and procedures** are especially difficult for court users dealing with scarcity



<https://tinyurl.com/3c5wn8rw>, <https://extinguishburnout.com/2020/06/04/burned-out-or-overwhelmed/>



## ADD FLEXIBILITY:

## COURTS ARE FINDING WAYS TO CREATE SLACK

**Flexible (re)scheduling**

- Allowing court users to (re)schedule certain hearings
- May work best for high volume charge types (citable, etc.)
- Example: Salt Lake City Justice Court arraignment scheduling

**Grace periods**

- Reduce warrants for missed appearances
- Length and requirements vary
- Example: 48-hour grace period in NY State



**PROVIDE USEFUL  
RESOURCES TO THOSE  
WHO NEED THEM**

PROVIDE USEFUL RESOURCES TO THOSE WHO NEED THEM:

# ADDRESS RESOURCE GAPS DRIVING NONAPPEARANCE

TYPE 1:

**Basic needs** to participate  
in the pretrial process



TYPE 2:

**More intensive support** for  
those with complex  
challenges

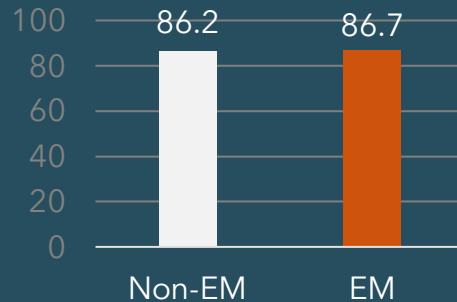


# COMMON STRATEGIES WITHOUT CLEAR IMPACT ON APPEARANCE

## Electronic monitoring

No significant increase in appearance rates<sup>1</sup>

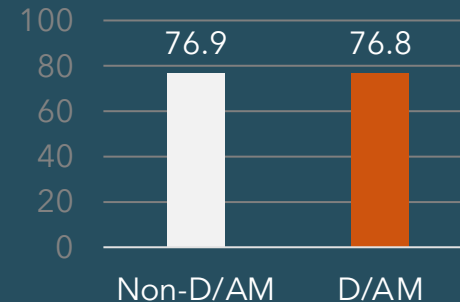
Percentage who made all court appearances



## Drug and alcohol monitoring

No significant increase in appearance rates<sup>1</sup>

Percentage who made all court appearances



1. Anderson, et al. (2023). "Assessing the Effectiveness of Pretrial Special Conditions: Full Findings from the Pretrial Justice Collaborative. mdrc. [https://www.mdrc.org/sites/default/files/PJC\\_Special\\_Conditions.pdf](https://www.mdrc.org/sites/default/files/PJC_Special_Conditions.pdf)

# NEW RESOURCE: NATIONAL GUIDE TO IMPROVING COURT APPEARANCES



**25+ proven and promising practices**  
courts around the country are using to  
lower barriers and increase  
appearance rates

# HOW TO STAY IN TOUCH WITH US

*Through our (Un)warranted initiative, ideas42 helps courts design, implement, and test effective court communications.*

Read the National Guide to Improving Court Appearances: <https://tinyurl.com/fy65xk7y>

Reach out: [unwarranted@ideas42.org](mailto:unwarranted@ideas42.org)

Learn more: [ideas42.org/unwarranted](https://ideas42.org/unwarranted)

