

Jefferson County, Colorado Court Date Notification Program

FTA Pilot Project Summary

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Introduction

Courts across the country have experienced increases in case filings, as well as increases in the numbers of defendants who fail to appear (“FTA”) for their court dates. In Jefferson County, Colorado, court filings increased between 2000 and 2003 at an annual rate of 2.9% in the district courts and 6.8% in the county courts. The higher number of defendants who fail to appear for court is evidenced both by the courts’ individual FTA rates and by the number of these defendants who are arrested on FTA warrants and brought to the Jefferson County Detention Facility. In March 2004 a National Institute of Corrections local system assessment for Jefferson County found that 33% of the detention facility inmates were compliance violators, up from only 8% in 1995. Independent analysis of the jail population found that three-fourths of these compliance violators had been jailed for having FTA warrants for misdemeanor, traffic, or municipal offenses.

In June 2004 there were approximately 600 misdemeanor and traffic FTA warrants issued in the Jefferson County Combined Court. While many of these defendants had multiple FTA warrants for missing several proceedings in their cases, a closer examination of the data revealed that 90% of the defendants who were issued warrants in June 2004 failed to show up for their first court appearance.

The criminal justice system expends substantial resources to deal with these warrants. After one year, 22% of the 600 FTA warrants remained outstanding, 25% had been cleared by defendants coming in on their own, and 50% had been cleared by arresting the defendant, outcomes that each result in significant costs to society. In fact, from the time a particular defendant fails to appear for court, the burden from the FTA begins to drain the public resources at multiple points in the system. Any persons associated with the case during the life of an FTA warrant, including judges, clerks, police officers, attorneys, and jail staff, find that their workload increases significantly. Moreover, the tangible and intangible costs of FTA warrants extend to victims, witnesses, and even to the defendants themselves. Finally, FTA warrants undermine the integrity of the justice system; each warrant erodes the respect that is deserved of a separate and independent judiciary.

Based on these data, the Jefferson County Criminal Justice Strategic Planning Committee (“CJSPC”) agreed to design a strategy to reduce the number of FTA warrants issued in the Jefferson County Combined Court. Over the course of several months, the CJSPC discussed alternatives to achieve that goal. Ultimately, the Committee decided on a multifaceted approach to reducing FTA warrants, with defendant telephone notification as one aspect of that approach. An expedited literature review revealed very little published objective data on the issue of defendant telephone notification. Nevertheless, King County Washington had published results of pilot studies using both automated systems and live callers that were helpful in reducing that jurisdiction’s FTA warrants. For a number of reasons, including purely practical ones, the CJSPC chose to fund a pilot project using a live caller to telephone defendants both before their court dates and after they failed to appear.

Method

For ten weeks, the caller collected data on approximately 30 variables from a total of 2,100 defendants summonsed to appear on misdemeanor and traffic offenses in the Duty Division of the Jefferson County Court. Although the Duty Division handles felony cases, 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 advise 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 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 demographic data, offense information, statutory penalties, etc., were gathered from the court file and recorded on a spreadsheet. The parameters for calling the 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 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 voice mail; or (c) a responsible adult living with the defendant. Because the caller had three opportunities to reach the defendant, the caller had some discretion in how to use those opportunities. In order to collect the maximum amount of data, however, the caller’s protocol was to read the script on voice-mail anytime the caller reached a voice mail 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 identify trends or clarify data issues, and to qualitatively document defendant reaction. All of the telephone calls were made between 8:00 a.m. and 7 p.m., Monday through Friday. Throughout the project, a second individual collected and separately input complete control data, which were taken from randomly selected defendants who were not contacted by telephone. The outcome measured was whether or not the defendants failed to appear on the scheduled dates.

Call-After Phase

The day after the Duty Division arraignments, the caller collected all of the files for those defendants who had failed to appear (on average, 15 per day). The caller randomly selected one-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, and which included check-boxes designed to help the court clerks to 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 and to explain the consequences of the warrant. Again, a carefully worded script (in English and Spanish) was created to convey the 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. The files were returned that day to the court clerks, along with the outcome sheet, with explicit instructions to hold the files for five business days. The outcomes that were measured were whether the defendant came to court within five business days, and whether the defendant pleaded, rescheduled, or did any other thing when he or she showed up to court.

Results

Phase 1

Normally, the FTA rate in the Jefferson County, Colorado, Duty Division for the types of cases studied is 21%. When defendants were successfully contacted¹ and reminded of their court dates one week in advance of their arraignments, however, that FTA rate was reduced to 12%. This overall reduction in the FTA rate can be further broken down by how the successful contact was made. If a message was left with either voice mail or a responsible adult, the FTA rate was reduced to 13%. If the message was left with the actual defendant, however, the FTA rate dropped to approximately 8.0%.

Phase 2

Normally, 10% of those persons who FTA return to court on their own initiative within five business days. When defendants were notified of their warrant after they FTA, however, 50% or more came to court within five business days.

Conclusion

Jefferson County’s FTA Pilot Project shows that a court can reduce its overall FTA rate for the types of cases studied by using a live caller to remind defendants of their upcoming court dates. Moreover, the project shows that post-FTA telephone notification is also successful in bringing defendants with warrants back into court within a five-day window. Jefferson County’s Criminal Justice Planning Unit’s analysis of the data indicates that pre-FTA and post-FTA telephone notification are equally effective in reducing a court’s overall FTA rate for these cases. The data from this project also shows that delivering a message to the actual defendant in a particular case, rather than with another individual or with voice mail, can dramatically improve the results (from a 21% FTA rate to 8% in the instant study).

Any jurisdiction looking to reduce FTA warrants through a telephone notification program may need to decide between an automated system and a live caller. At least one study has shown that an automated system, at best, can reduce FTAs by 40% when the automatically dialed message is left with a person. This decrease is only as good as the instant study’s decrease associated with a message left on voice mail. This and other considerations (such as customer service, etc.) may weigh toward using live callers. Other factors, such as caseload or cost, may weigh toward the use of an automated system. Finally, logical variations in the procedure used for this project should increase the effectiveness of the telephone notifications. For example, a procedure that focuses on reaching the actual defendant by allowing the caller to telephone that defendant multiple times over several days (including weekends), and that uses various databases to help the caller to ascertain the correct phone number, will likely improve the overall results.

¹ 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.”