



MINNESOTA JUDICIAL BRANCH

FOURTH JUDICIAL DISTRICT • HENNEPIN COUNTY

Using Reminders to Reduce Failure to Appear in Court

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Introduction

Hennepin County District Court began in July 2017 using text messages and emails to remind litigants to come to court for their scheduled appearances. The electronic reminder (eReminder) does not take the place of the formal court notification, but is in addition to it. This new service to court customers uses the current information in the Minnesota Court Information System (MNCIS)¹ to determine who has an upcoming appearance.

This project was borne from a recognition that courts consistently over-schedule court calendars to account for the fact that a certain percentage of people do not show up for their hearing. This is not an efficient use of the court system. The cost of these non-productive hearings affects all offices in the justice system including prosecution, defense, probation, the clerk's office, and the judges, as well as the defendant.² When the defendant does not show up, all of these justice system actors have spent time waiting when they could have been at a different hearing where everyone was present and possibly resolved an issue.

Our first two questions were how often do people fail to appear for a hearing and what can we do about it? The current practice in most courts across the country is to issue a bench warrant for failure to appear, which activates law enforcement to search for the person and bring them to jail. This is an expensive process for the community, the justice system, and the individual person. Additionally, the Hennepin County Pretrial Scale (and most pretrial scales around the country) count prior failure to appear instances against the person on a bail evaluation as an added risk factor. This can escalate the cost to get out of jail since risk on the pretrial scale is now higher and may necessitate bail or court conditions to release a defendant from jail. It could also keep a defendant in jail longer than someone with a lower number of failures to appear.

Given these issues, we started the eReminder project with the following goals:

- To improve court appearance rates (reduce failure to appear – FTA)
- To have more reliable calendaring systems
- To save significant justice system resources
- To decrease the collateral consequences of bench warrants for defendants.

¹ MNCIS is an Odyssey product of Tyler Technologies designed specifically for Minnesota Courts. All district courts throughout the state use the same information system since July 2007.

² Throughout this paper, 'defendant' is used but Hennepin County employed eReminders in civil areas of the court as well. However, most of the analysis is on the criminal court application since over 90% of the reminders are in this area of the court.

How much failure to appear exists within our criminal cases?

To assess the extent of the failure to appear issue in the court system, an analysis focused on the percentage of criminal cases with at least one missed hearing by the defendant. Table 1 below shows this analysis. At the felony level, about 28% of the cases have at least one hearing where a defendant fails to appear. For some felony cases, like Drug and Property felonies, the percentage is quite a bit higher, 39% and 42%, respectively. On the non-felony level, the overall failure rate is much lower but still, for the most significant non-felonies like domestic assault cases and other criminal cases, the failure rate is high, 21% and 29%, respectively. This initial analysis lent credibility to this project as worthy of moving forward.

Table 1: Percent Failure to Appear (FTA) by Criminal Case Type*

Felony Level		Non-Felony Level	
Homicide	6.8%	Domestics	21.0%
Sex Crimes	5.2%	DWI	13.0%
Other Person Felonies	16.2%	Criminal	29.1%
Drug Sale or Possession	39.0%	Traffic	3.6%
Weapons	19.9%	Parking	0.4%
Property	41.6%		
Other Felonies	14.2%		
Overall Felony FTA Rate	28.0%	Overall Non-Felony FTA Rate	3.6%

* This percentage is the cases with at least one failure to appear during the course of the case. Some cases have multiple missed hearings.

Why did they miss court?

Hennepin County had an opportunity to ask defendants who had missed court appearances to provide the main reasons for their absence. This was during a “warrant forgiveness” day conducted by our community earlier in 2017 for defendants with bench warrants for failure to appear. The most common reasons defendants gave were forgetting to go to court, forgetting the date of the appearance, mixing up the date, or having trouble rescheduling (39%). Another one-third had a work, personal or health conflict that prevented them from making the appearance (34%). Included in this group are those who did not have transportation to get to court as their conflict. The final 27% included a myriad of reasons for missing the court hearing, such as, defendant overslept, they had a phobia of court, they were

afraid of going to jail or they had moved to flee domestic abuse. A reminder program may not resolve this latter 27% but the other nearly three-quarters of the reasons for missing a court hearing might be addressed by an eReminder program.

Costs of Failure to Appear

Another way to assess the value of this project is to look at the costs associated with failing to appear. There are a number of different ways to conduct this analysis. The first is to assess the cost to the public of jailing people for failing to appear at a court hearing, which in Hennepin County, is \$5.1 million per year. This estimate comes from the number of people jailed for missing court in one year and multiplying this number by the average length of stay at the jail and the costs per day at the Hennepin County Adult Detention Center (ADC).

A second cost indicator is the assessment of the time lost by the court members as well as the other justice system partners when a defendant does not appear, annually. Although we did not have data on the other justice partners, we were able to establish that it costs the court over \$1.4 million to schedule and hold a court hearing where defendants do not appear. To assess this amount, we use the average minutes it takes to process different case types³ and divide by the number of hearings it takes, on average, to resolve these cases. To match this to cost, we average in the salary for judges, clerks, and administrative staff to the average number of missed appearances. This is a steep cost for nonproductive hearings.

Finally, when jailing a defendant because of the failure to appear in court, the defendants themselves incur expenses as well. Besides the cost to get out of jail (if bail is assigned), they have lost time at their job and thus lost income. It is even possible they could lose their job. If arrested by law enforcement while driving their car, the police will impound the car prior to bringing the person to jail, which brings additional costs. There could also be day-care costs, housing costs, etc. Analysis of some of these collateral costs is outside the scope of this paper. However, even if the defendant makes minimum wage, the estimate is \$2.2 million in earnings lost based on the average stay in jail multiplied by the number of bench warrants issued and jailed.

These costs indicate reducing failure to appear would help all parties involved in the court process and provide a more efficient and reliable court calendaring system. In addition, the community is stronger when people are at home or at work taking care of their family and their life, not in jail for forgetting an appearance. If the eReminder project can reduce the number of missed hearings, it might be

³ To assess minutes per case type we used the MN Judicial Weighted Caseload data.

able to reduce these costs to the taxpayers, the justice system, the individual and the community.

Literature Review

The early reminder programs had court employees calling litigants to remind them to come to court. This was a new and innovative idea in the late 1990s. As technology developed, some jurisdictions began using automated phone messaging systems and in the last decade, thoughts of using text messaging developed as well. Under federal laws, courts must only send electronic reminders to those litigants who have agreed to receive them. There was a plethora of anecdotal evidence that reminding people would help reduce failures to appear in court. Table 2 below shows the results of the studies available and their mode of contact. Only studies that reported prior FTA and FTA after implementation of the program are included here. The reader will notice that in most of these studies, phone calls to litigants were live calls from employees or volunteers. This is a very labor-intensive way to remind people. Nebraska sent postcards, but for a transient urban population, this might not be the most efficient method. There are differences in the number and frequency of reminders as well, with some sending a onetime reminder and others sending three reminders. Some of these differences relate to the method of contact since sending postcards and having a person call litigants require so much work. Evidence from academic research from other fields suggest that reminder messages for appointments led to better appointment attendance (McLean et al., 2016). In many of the court studies listed below, there was very little information about how the reminders were determined, for what case types, or how FTA was calculated. Still, there is a consistent pattern of improvement when the court reminds litigants of court appearances.

Table 2: Results of Earlier Court Reminder Programs

Jurisdiction	Year Started	Mode of Contact	Timing of Reminder	Effect of Initiative
Shoreline District Court (WA)	1998	Live Phone	2-3 days before	Reduced FTA rate from 17% to 16%
Multnomah County (OR)	2005	Automatic Phone	At least 3 days before	Reduced FTA rate from 29% to 16%
Jefferson County (CO)	2006	Live Phone	7 days before	Reduced FTA rate from 21% to 12%
Coconino County (AZ)	2006	Live Phone	5-7 days before	Reduced FTA rate from 25% to 6%
Hennepin County (MN) Juvenile	2008	Live Phone	1 day before	Reduced FTA rate from 49% to 30%
Nebraska	2009	Postcards	5 days before	Reduced FTA rate from 13% to 8%
Ramsey County (MN)	2012	Live Phone	1-3 days before	Reduced FTA rate from 24% to 22%
Pima County (AZ)	2014	Automatic Phone	Unknown	Reduced FTA rate from 14% to 11%
New York City	2016	Text	7 days, 3 days, and 1 day before	Reduced FTA rate from 38% to 28%

Piloting This Idea in Hennepin County District Court

As an individual District Court using a statewide court information system, Hennepin first received approval from State Court Administration (SCA) to start this project. The acceptance of this upcoming project by SCA was necessary since the hope was to have the vendor⁴ integrate with MNCIS, so all the information currently added to MNCIS would allow the reminders. The Hennepin team worked closely with SCA to hire a vendor to help us design a program that would pull the needed information from MNCIS. Hennepin offered to pay for the project from our vacancy savings⁵ and to work closely with SCA on decisions about the project. The idea was that if successful, this project could roll out statewide since we are all using the same information system.

Court employees enter detailed information on location, building, courtroom, judge, case type, case number, litigant name, day, time, and court calendar name as part of their daily court updating work. The eReminder system uses this information to send out automatic electronic text messages and emails to court customers based on a specific configuration the court controls, using templates and scripts designed for each court (Criminal, Civil, Family, and Juvenile).

How the System Works: Templates and Scripts

The design of the eReminder program includes court-determined templates for sending reminders to litigants. The template determines when reminders go to litigants. For example, in Criminal Court and most reminders in Juvenile Court, administration decided to send out two reminders, one three days prior to a hearing and the second one day prior to an appearance. Housing Court sends one reminder, one day prior to the hearing. Juvenile Court also only sends one reminder for Adoption cases, three days prior to the hearing. Family Court decided to use two reminders but chose to send them out seven days prior to a hearing and two days prior to a hearing for all case types except the domestic abuse calendar where they chose two reminders at three days and one day⁶.

The templates also specify the calendar types administrators determined should receive reminders.

⁴ Hennepin County District Court used Integration Architects who have changed their name to AgileGov: An Integration Architects Company.

⁵ This is our cost savings as employees move out of positions; we post the open position and finally fill the position – all of which takes time and creates saving since we aren't paying that position while unfilled. In a large urban court like Hennepin County with over 600 employees, this is an unfortunate ongoing issue. However, this "problem" can provide funds for innovative projects.

⁶ Hennepin District Court did not send reminders to litigants involved in civil domestic abuse cases at the beginning of this project. When summoned to court, these litigants report to "monitored waiting rooms," not a specific courtroom. There is a room for respondents and a separate room for petitioners. When the case is ready to be called, the courtroom clerk calls down to the petitioner room and asks them to come up to the courtroom. Once safely in the courtroom, the respondent is called to join the hearing. The reminder system was not able to use the monitored waiting room as a courtroom in the beginning of the project but later this was remedied.

For example, they did not want to send reminders to litigants who are in jail or detention centers, so no reminders go to defendants on in-custody calendars. Additionally, no reminders go to litigants who had not yet received service of their case/appearance. Use of “case security” within MNCIS determines this, since cases not yet served are confidential and the court sends reminders to public cases only. This calendar-based configuration is an important part of the success of the eReminders program. It allows for the flexibility a court system needs to use the eReminder system to its fullest potential.

The templates also allow the Court to specify the party types in order to fine-tune the reminder message. As an example, although criminal case types only need to send a reminder to the defendant, in Juvenile Court, reminders go to the child, parent, legal guardian or relative if they are parties to the case. Additionally, reminders on Adoption cases go to adoption agencies, Guardian ad Litem, attorney, petitioner, and social work agency.

The scripts allow each court to tailor their message to litigants. This is the actual message litigants receive when they get their reminders. Hennepin County District Court decided to use a similar script for all courts to help control the messaging going to customers and to identify possible fraud reminders more easily. The two exceptions to this consistent reminder message are from Juvenile Court. One message identified the appearance as a Child Protection hearing to emphasize the need for the parents to be the hearing. The other exception to the Court’s general message is also in Juvenile Court and goes to those litigants who are involved in an Adoption case with more of a congratulatory message compared to the regular court hearing script.

Once these decisions on both templates and scripts are complete, they do not have to be touched again. It can be a one-and-done unless the court decides to change a script or the litigant population.

Since MNCIS is a party-based system, the design of the eReminder system handles a person consistently across their different cases and case types. Another advantage of MNCIS being party-based and not a case-based system is when a hearing handles a litigant with multiple active cases, the eReminder system was designed to only send one reminder for that particular hearing. Therefore, a defendant with three open cases, set to be resolved at the hearing would receive only one reminder for that hearing, not three.

Two Types of Reminders: Email and Text

The email from eReminders is longer and more detailed than the text message reminder since there is no character restriction on emails. The Court decided text message reminders should only take up one message since some people pay data rates for messaging. This limits the text message reminders to 160 characters, including spaces. One of the goals was to allow recipients to identify the reminders as coming from District Court easily, so the messaging had to be succinct and include an easily identifiable subject

line.

The reminder identifies the building (courthouse) and the address but we do not identify the actual courtroom, case number, litigant name or case type. As discussion of the actual message ensued, the Court decided to maintain the individual's privacy in the reminders. Additionally, since the Court has spent significant resources to provide all seven of the Hennepin County District courthouses with electronic monitors, directing litigants to the correct building is the only information necessary within the reminder, since the electronic signage in each courthouse points the person to the specific courtroom.

Finally, each message provides a phone number and a website for additional information. The phone number goes directly to the Centralized Contact Center (CCC), which can look up the exact case and location for defendants, if there are questions. Training the employees of the CCC allowed them to review data in the eReminder program and to update MNCIS by editing or deleting email addresses and phone numbers if the caller identified himself or herself as not being involved with the Court system. The anticipation was eReminders would increase the work of the CCC but that was not the case. It seems any additional work necessary for the reminders offset the reduction in calls questioning the date and time of a litigant's appearance the CCC would have handled in the past. In addition to the CCC, each division of the Court has a designated employee to review reminder issues. This work takes up to an hour per week of additional court clerk time in the largest court (criminal/traffic) but significantly less in the other divisions. Finally, Hennepin Court has a Business Practices Division whose members would assist when complex issues arose and work directly with the vendor or State Court Administration when needed.

Since this is a voluntary program offering an additional court service, we added a method for defendants to remove themselves in the court eReminder email as well. This allows a litigant to stop receiving email reminders at their own convenience. The opt-out request goes directly to the eReminder system and that database keeps track of which litigants have opted in or out of the reminders. If a person opts out and then has a new case in court, they will again get an opportunity to sign up for eReminders.

The text message reminder works very similarly to the email reminder. However, since there is a limitation of 160 characters, the text message is more succinct than the email reminder.

Capturing Current Contact Information and Opt-In

In order to keep the information in MNCIS current, clerks ask litigants at each hearing about their contact information, ensuring the court stays informed on current or changed cell phone numbers or email addresses, as well as mail addresses. This updating occurs regardless of whether or not the person has opted-in to the eReminders program. Minnesota state statute does not require the court to collect cell phone numbers and email addresses so litigants can refuse to provide these, if they choose.

When the eReminder program began, collection of contact information was via a form printed

from within MNCIS using “tokens” in the system. This allowed current contact information to print on the form, along with the litigant’s name, case number, and case type so they would see what MNCIS had as their current contact information, making it easier to determine what needed updating.

Although the eReminder system tracks the Opt-In/Opt-Out by person, State Court Administration’s Legal Counsel Division determined there is a need to keep these forms to track the litigant’s answer. Therefore, clerks scan the contact form into a secure court environment separated by court, calendar, and date in case the need arises to retrieve it. This added a significant amount of extra work for the clerks since beyond printing out a form from MNCIS, handing it to and retrieving it from the litigant, inputting the new information into MNCIS, they also had to collect the forms after court concludes and scan each form into the court’s designated directory.

In an attempt to alleviate this additional work for courtroom clerks, Hennepin County began a new project called eCheck-In November 2018. When litigants arrive, they “check-in” to a computer module outside their courtroom. The courtroom calendar automatically downloads for each day onto the computer module and the litigant checks in by giving their name and date of birth. Once identified, the litigant will provide updated address, home and cell phone numbers, and email address. They will also opt-in/opt-out to receiving text message or email reminders. The eCheck-In project will eliminate the need for court clerks to print, verify, and type the updated information into MNCIS, as well as eliminate the need to keep the paper form.

Since the original design of the eCheck-In project was to reduce the courtroom clerk’s job of handling paper forms, we looked for other areas where we are updating litigant information by collecting information during a court appearance or by paper. There were two other types of information captured at first appearances included in the eCheck-In process: race/ethnicity data and military service history. Collection of a defendant’s military service history helps identify potential defendants who might be eligible for Veterans Court, one of the four Treatment Courts available in Hennepin County. In addition, Minnesota Courts collect self-reported race and ethnicity data at first appearances in criminal and juvenile court as mandated by the Minnesota Judicial Council. This new eCheck-In project streamlines the collection of critical litigant information and thereby reduces the courtroom clerk’s handling of paper and time-consuming updating.

An additional advantage to using the eCheck-In process relates to quality of the data collected within a court hearing. In the traditional courtroom, collecting information such as litigant’s addresses requires litigants to speak clearly and concisely as they recite their address. It also requires the clerks to accurately type into MNCIS the exact information the litigant is giving. The courtroom clerk may mishear the litigant; the litigant may not give a complete address (for example, they may neglect to list an apartment number); the clerk may abbreviate parts of the address (St. instead of Street). All of these

possibilities leads to inconsistent entry of litigant addresses. The same inconsistency is possible for other data elements as well. Court information systems do not have mandated edits in most cases for these types of personal information fields leading to less than accurate data.

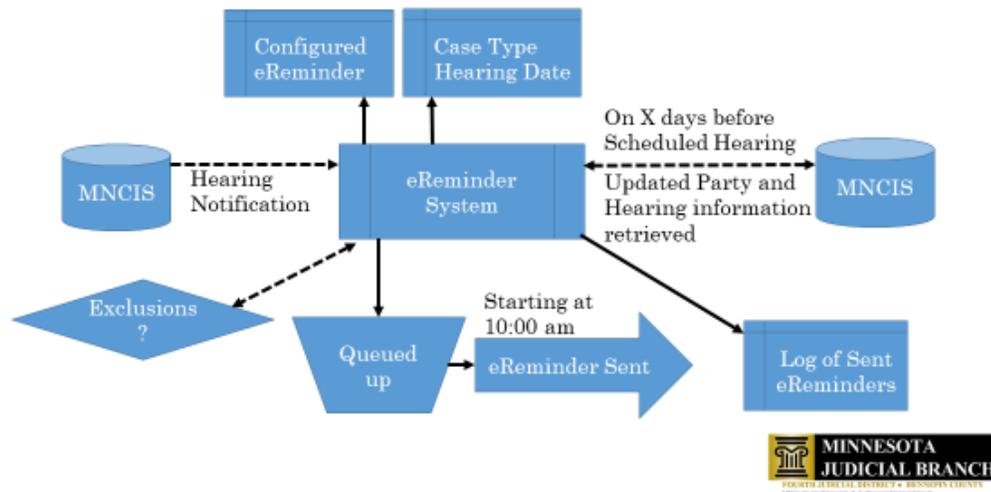
Besides the wish for consistent court information, which is paramount, there is an even larger reason for consistent and complete address information. MNCIS, like many court information systems across the United States, is a party-based system. Regardless of the number of cases a person has, there should be only one set of “person-based information” for a particular person. In other words, once we have a person identified, besides updating current or changed information, we do not add a new person when they get a new case.

When a clerk enters a new court case, the expectation is that they will “party match,” which means they look to see if the person is already in MNCIS before they create a new party record. This analysis can take some time since there must be a minimum of three matching sets of information. This can include name, date of birth, driver license number, address, etc. Often clerks are not able to use address as one of the identifiers since a single address can be in the system so many various ways. The eCheck-In project will regulate addresses based on US Postal Service address standards so when a litigant checks in and enters “Lane” as part of their address, for instance, the USPS electronic system automatically changes it to LN. Over time, and when the eCheck-In process rolls out statewide, this will improve the consistency of litigant’s addresses immeasurably. Therefore, a significant improvement to the overall accuracy of court information system could be the result of the eCheck-In process of the eReminders project by allowing succinct party matching and having fewer duplicate party records for an individual person. This allows more accurate recidivism information and allows judges to see all possible cases active or sentenced for a particular defendant.

Graph 1 below shows the eReminder process; please start on the left hand side and move clockwise through the diagram. Of course, it all starts with the detailed information added by court clerks: date of hearing, time of hearing, type of hearing, type of case, case status, name of litigant, judge handling the hearing, courtroom, courthouse, and attorneys affiliated with the case, etc. The eReminder system receives notification of hearings from MNCIS and applies the templates configured for the type of hearing based on case type and hearing date. Before sending the first eReminder, the system receives any updated information for changes to hearings and then prepares the reminders, including reviewing the exclusions. Once all this completes, the reminder queues for delivery. Since our reminders go out each day of the week, we made a decision to send the first one of the morning at 10:00 am. Therefore, for a hearing on Monday morning at 8:30 am, the one-day hearing reminder would go out at 10:00 am on Sunday. The eReminder system then keeps a log of all sent email/text message reminders that includes whether or not the reminder was successful in reaching the litigant.

Graph 1: The Reminder Process

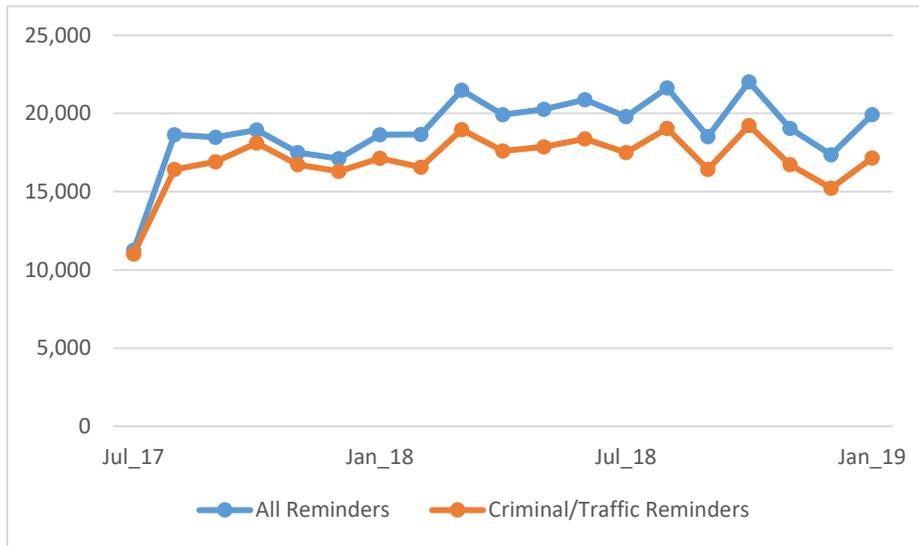
Overview – How eReminders Works



Results

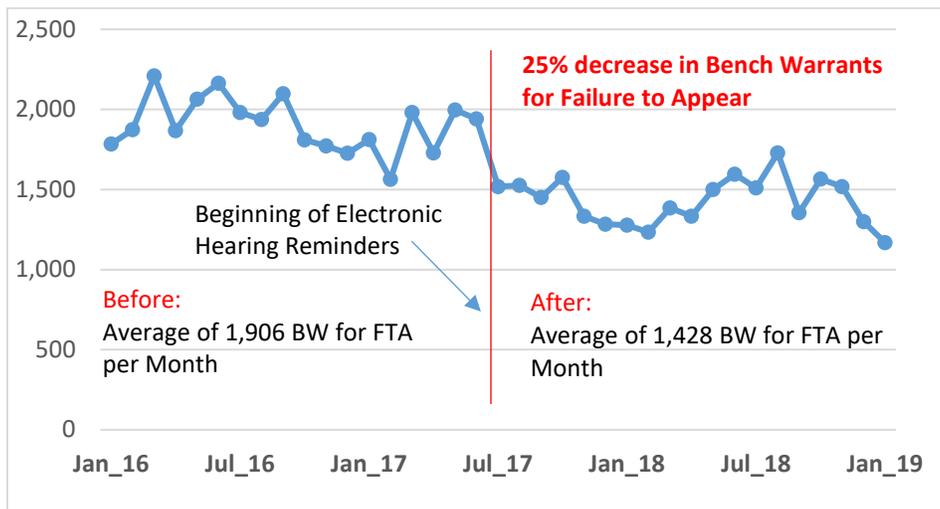
Hennepin County sends nearly 20,000 reminders on unique hearings each month. This counts a reminder only once per hearing. It does not include the multiple day reminders or sending both an email and a text message. The vast majority (90%) of the reminders are in Criminal Court – an average of over 18,000 per month (see Graph 2 below).

Graph 2: Number of Reminders sent per month



After 19 months, the eReminder project has reduced bench warrants for failure to appear by 25% (Graph 3). This is especially impressive since during this same time, the filings in Criminal Court were at historic highs, particularly for the more serious offenses like felonies. In 2017 and 2018, Hennepin County experienced the highest felony filings ever in the history of the county (about 14% higher than any previous year). In both of these years, the county had more than 7,100 new felony filings. Additionally, gross misdemeanors increased by over 6% as well. In these circumstances, with significant increases in the most serious criminal cases, one would expect to see bench warrants increase – not decrease, particularly not by 25%.

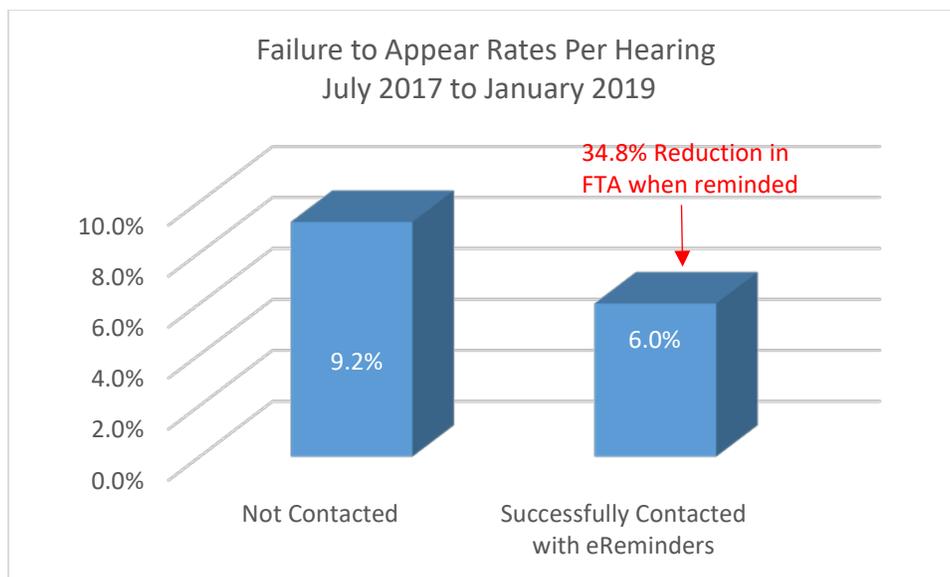
Graph 3: Number of Bench Warrants Issued for Failure to Appear by Month/Year



The above analysis does not take into account whether or not the person opted-in to the reminder system but gives an overall view of whether bench warrants have reduced. To truly assess the impact of this new initiative, the actual appearance at a hearing needs to be connected to whether or not a reminder was sent (the defendant opted-in) and whether or not the reminder was successful in reaching the defendant (the defendant gave viable contact information).

When the reminder successfully reached the litigant, we have been able to reduce the failure to appear by 35%. The individual hearing rate of failure to appear when no reminder reaches the defendant is 9.2%, whereas when a reminder successfully reaches the defendant, the failure to appear is 6.0%, showing a reduction of 34.8% (see Graph 4). These results are exciting, particularly since only 47% of the defendants have agreed to receive reminders and have produced valid contact information. As we reach more defendants, we expect to see even better results. Less than 2% of defendants have opted out of the reminder service but about 24% have provided information that turned out to not reach the defendant. Possible reasons could be changed phone numbers or email addresses or because the defendant actually gave inaccurate information to the court. Interestingly, those defendants who opted-in but provided inaccurate contact information, had a higher FTA rate than those who did not opt-in.

Graph 4: Comparison of Failure to Appear with and without a Reminder



We had an opportunity to ask defendants who are in jail for failure to appear about the reminder project in two different focus groups. A number of defendants in both groups mentioned they were leery

of providing their phone number to the court because they thought we would share it with police, thereby allowing law enforcement to track or follow the litigant. All of our messages to the defendants specifically say we will not share their contact information but they are suspicious nonetheless. We continue to work on our messaging on this project.

Assuming the 35% reduction in bench warrants for failure to appear, the savings we see in a one-year period would include \$1.8 million in jail days, \$770,000 in nonproductive hearings and a minimum of \$490,000 savings to defendants who make minimum wages for a total of \$3.1 million per year. Additionally, the appearance rate increase has been noticeable to our partners, and we have begun talks about changing the caps on the calendars. More than these data results, litigants have often thanked the judges and clerks in hearings for sending them reminders. The next phase of this project will be to rollout this project to all districts and counties in the state. That should occur in October of 2019.

There is suggestive evidence that court systems should not relegate reminder systems to hearings alone. Other uses for reminders may include reminding people to pay fines on payable offenses like speeding tickets and other traffic issues. The municipal court in Tulsa, Oklahoma, initiated a pilot program to send text message reminders for paying fines and fees as the due date approached (e.g. parking tickets). During the pilot program, 63% of individuals who received a reminder paid their fines on time compared to 48% of individuals who did not receive a reminder.⁷ Expanding the scope of court reminder systems to include reminders for paying court-related fines and fees could increase the percentage of individuals paying their fees/fines while minimizing late fees associated with unpaid fines/fees.

Hennepin County Court is also expanding reminders for appointments with our forensic psychologists. In many cases, judges are ordering litigants to have psychological testing and to meet for interviews with the forensic psychologists. The psychologists receive these test results, interview the litigants, analyze past test results and hospital records and send reports to the court that helps drive further processing of the case.

These examples indicate other uses for reminders that may reduce the negative collateral effects to the litigant and the justice system. The elements for these types of reminders are all in the court information systems: due dates for fines and fees, requests for psychological reports, etc., suggesting other avenues to explore.

Finally, courts may have to find other methods of reminding defendants than using text messages/emails. There are stark differences in Hennepin County court with who is opting-in to our reminder system. This is probably not surprising since there is a necessity to have access to a mobile

⁷ https://www.tulsaworld.com/news/local/city-of-tulsa-study-finds-text-reminders-increase-number-of/article_b855c37b-d12b-585b-8790-a0dbec78c0af.html

phone or the internet. That is not always a possibility for all defendants so this new service may not help alleviate the consequences discussed in this paper for those close to or in poverty. Additionally, this may affect some racial groups more than other groups. In a race equity analysis, we found that Native American defendants provided the least contact information of any of our racial or ethnic groups. It may be that we need to find another reminder avenue for some of court customers to make their court appearances.

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