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Reducing Courts' Failure to Appear Rate: A Procedural Justice Approach

Brian H. Bornstein, Alan J. Tomkins, & Elizabeth M. Neeley

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Reducing Courts' Failure-to-Appear Rate: A Procedural Justice Approach

Introduction

For the law to be effective, people must obey it (Caldeira, 1986; Tyler, 2006b). Although the law frequently involves elements of coercion, in practical terms the legal system has, at best, a limited ability to compel people to obey the law (e.g., Rottman, 2007; Tyler, 1997a, 1997b, 1997c, 2006b). Voluntary acceptance minimizes the need of authorities to explain and justify each decision, reduces the need to monitor implementation, and limits the expenditure of scarce resources to ensure compliance (e.g., Robinson & Darley, 1997; Tyler, 2006a).

One area of the criminal justice system where compliance is particularly lacking is in individuals' response to orders to appear in court for relatively minor offenses such as traffic offenses, misdemeanors, and low-level felonies. Non-custodial criminal defendants often fail to appear for court. This occurs for all kinds of mandated appearances: arraignment, pretrial (post-arraignment) hearings, trial, and post-trial. Initial (i.e., arraignment) failure-to-appear (FTA) rates for non-waiverable offenses are particularly problematic, as they involve the greatest volume of defendants. Many, if not most, of these individuals are not detained prior to trial (Goldkamp & White, 2006; VanNostrand & Keebler, 2009). There are a number of alternatives to pretrial detention (VanNostrand & Keebler, 2009), the most common of which, for minor offenses, is simply to release individuals in the community with little if any government oversight, placing the burden to appear in court entirely on defendants themselves (Goldkamp & White, 2006). Not surprisingly, this can result in substantial failure-to-appear (FTA) rates. FTA rates vary depending on jurisdiction and offense type, ranging from less than 10% (e.g., Cuvelier & Potts, 1997; VanNostrand & Keebler, 2009) to as high as 25-30% (e.g., Davis, 2005; Helland & Tabarok, 2004; McGinty, 2000). These failures to appear are costly for both the court system and defendants (Levin, Kennel, Pellegrino, Simmons, & Surett, 2007).

Following the example set by the medical profession (e.g., Larson et al., 1982), several courts have effectively implemented court reminder programs designed to reduce FTA rates (Cozier, 2000; O’Keefe, 2007; White, 2006; see, generally, The Court Brothers, 2010a). For example, the Cook County (IL) Juvenile Court’s postcard reminder program reduced the failure-to-appear rate from 38% to 13% (Rohan, 2006). Similarly, an evaluation of Coconino County (AZ) showed a reduction in the percentage of failures to appear at initial appearance in adult misdemeanor cases from over 25% to less than 13% when the defendant was called in advance and reminded of the hearing date (White, 2006). Reminder programs in Arapahoe County (CO), Jefferson County (CO), and Multnomah County (OR) have also increased appearance rates and realized substantial labor and financial savings (Arapahoe County Justice Center, 2010; Jefferson County Criminal Justice Planning, 2006; O’Keefe, 2007). The potential of reminder programs has even spawned a national reminder call business for courts (The Court Brothers, 2010b).

Although the results of such reminder programs are promising, none has incorporated social scientific theory or research methodology to study the matter systematically—that is, comparing different types of reminders to determine which ones are more/less effective. The present study uses principles of *procedural justice* to test the effectiveness of different kinds of written reminders.

Procedural justice theory has developed from scholars’ desire to understand the process-related factors that influence individuals’ acceptance of outcomes and decisions from authorities, even when those outcomes may not be favorable to the individual. Individuals are more likely to accept adverse outcomes and follow unwanted directives when they perceive the process to be procedurally fair (e.g., Hegtvedt, Johnson, Ganem, Waldron, & Brody, 2009; MacCoun, 2005; Thibaut & Walker, 1975; Tyler, 2006a; Walker et al., 1974). Derived from the social psychology of process fairness, procedural justice is thought to be *the* key construct in determining how people perceive and react to the courts (Burke & Leben, 2007-2008).

Related to procedural justice, the public’s trust and confidence in governmental institutions has received increased attention in recent decades (e.g., Baum, 2006; Gibson et al., 2003, 2005; National Center for State

Courts [NCSC], 1999). Studies indicate that confidence in specific courts' actions is a fairly stable construct (Brewer et al., 2004) and is linked to procedural justice concerns (e.g., Benesh, 2006; Rottman, 2007; Tyler, 2001, 2003, 2006b).

Rates for failing to appear are comparatively high for minority defendants compared to Whites (O'Keefe, 2007; White, 2006). A possible explanation for that difference is that minorities have been found to have lower levels of trust/confidence in the courts (e.g., NCSC, 1999; Rottman & Tomkins, 1999), but little work has been done to examine whether there are racial/ethnic differences in procedural justice perceptions of courts and whether such differences might have an impact on appearance in court.

Perceptions of procedural justice have been examined in a range of contexts, both inside and outside the courtroom (Murphy, Tyler & Curtis, 2009; Murphy, 2008; Tomkins & Applequist, 2008; Tyler, 2006a, 2007), and they have been studied in both experimental and more naturalistic settings (MacCoun, 2005). Relatively little research, however, has examined the link between procedural justice and behavior, although there is a clear relationship between perceived procedural fairness and compliance (Murphy & Tyler, 2008; Lind et al., 1993; Tyler, 2006b). The next step to bolster procedural justice theory is to use experimental or quasi-experimental design strategies in field research (MacCoun, 2005), an approach we take in the present study.

Studies looking at procedural justice and compliance typically vary (or assess) the level of procedural justice in some proceeding, and then measure its relationship to subsequent compliance (e.g., Barry & Tyler, 2009; De Cremer & Van Hiel, 2008; Hartner, Rechberger, Kirchler, & Schabmann, 2008; Murphy & Tyler, 2008; Murphy, Tyler & Curtis, 2009; Murphy, 2008). Other research focuses on individuals' expectancies of procedural justice, and measures its relationship to behavioral intentions or attitudes (e.g., Lind & Tyler, 1988). In some circumstances, such as court hearings, it is important to address individuals' expectancies early in the process, simply because an expectation of low procedural fairness might lead them to avoid the court proceeding altogether (e.g., fail to appear). Thus, the present study seeks to manipulate criminal defendants' expectancies of procedural justice prior to attending their first court hearing. This extends previous work on

procedural justice and compliance, while also having practical implications for reducing defendants' failure-to-appear rate.

Study Overview and Hypotheses

The process fairness and justice literatures suggest that reminders would reduce defendants' FTA rate, and that reminders incorporating a substantive message—such as one emphasizing procedural justice concerns—would be more effective than a simple reminder. The present study tests this hypothesis via a two-stage experiment. In Phase 1, defendants are randomly assigned to one of four reminder conditions: 1) a no-reminder (*control*) condition; 2) a *reminder-only* condition; 3) a condition in which the reminder also makes them aware of possible sanctions should they fail to appear (*reminder-sanctions*); and 4) a condition in which the reminder mentions sanctions but also highlights aspects of procedural justice, such as voice, neutrality, respect, and public interest (*reminder-combined*). The primary dependent variable is whether defendants appear for their scheduled court date.

In Phase 2, we assessed a subset of participants' public trust and confidence in the courts and perceptions of procedural justice via a survey administered after their scheduled appearance (or non-appearance). This allowed for an examination of the possible interaction between the reminder manipulation and participants' degree of trust/confidence.

For Phase 1, we predicted a linear effect of the reminder manipulation, such that individuals who received the reminder-combined reminder would be most likely to comply, followed by individuals who received the reminder-sanctions reminder, followed by participants in the reminder-only condition, who would be more likely to comply with court orders than those who receive no reminder. We expected that the reminder-sanctions condition would be less effective than the reminder-combined condition, because some research shows that sanctions alone are not a very powerful means to get people to obey the law (Robinson & Darley, 1997). Thus, sanctions—or the threat thereof—should be a less efficient means of influencing behavior than other tactics, especially those based on a normative rationale (McAdams, 2000).

Previous studies have found that minorities have higher FTA rates, and that reminder programs show some evidence of a disproportionate benefit for minorities (O’Keefe, 2007; White, 2006). We therefore made two hypotheses related to race/ethnicity: first, a higher FTA rate for minorities than for Whites; and second, an interaction between the reminder manipulation and defendants’ race/ethnicity, such that the reminders would have a relatively greater impact for minority defendants than for White defendants.

For Phase 2, we hypothesized that trust/confidence in the judicial system and defendants’ procedural justice assessments would be greater for defendants who appeared in court than for defendants who failed to appear. We also predicted lower trust/confidence for minorities than for Whites. Finally, we predicted an interaction between the reminder treatment and individuals’ trust and confidence. Specifically, individuals with high levels of trust and confidence would have a high probability of complying with court orders, regardless of the treatment level that is administered (see, e.g., Scholz & Lubell, 1998; Tyler, 2006b; Tyler & Rasinski, 1991). The reminder manipulation would exert a stronger effect in individuals with relatively low trust and confidence in the courts.

Method

Participants

The sample for Phase 1 consisted of 7865 misdemeanor defendants from 14 counties in Nebraska. Data collection began in March 2009 and continued through May 2010. The selected counties include both urban (e.g., Lincoln and Omaha) and rural portions of the state. All misdemeanants meeting certain eligibility criteria (e.g., age 19 or over [the age of majority in Nebraska], type of offense, scheduling of court hearing) were included in the sample. For example, we excluded offenses for which defendants could waive their court appearance (appearance in court is not mandatory for waivable offenses, which can be handled by the defendant via mail). This includes the majority of minor traffic offenses (e.g. suspended license, no proof of insurance, etc.) and offenses such as disturbing the peace, disorderly conduct, open container, etc. We also excluded cases that were entered into the state court’s computer system too close to the assigned court date, as it

limited our ability to send a reminder in the appropriate amount of time.¹ The sample is racially diverse: 69.8% White, 10.7% Hispanic; 10.1% Black, 6.6% Unknown; 1.6% Native American; 1% Asian; and .2% Other.

All of the misdemeanor categories provided for by state statute were represented in the sample, with most coming from the relatively severe categories. For example, nearly one-third (30.5%) of defendants were charged with a Class W offense (alcohol-related misdemeanors, e.g., first offense DUI); and an additional 31.0% were charged with violations of city ordinances (e.g., injuring or destroying property). Just over 17% (17.6%) were charged with a Class 1 misdemeanor (e.g., carrying a concealed weapon-first offense; failing to stop and render aid), with the remainder charged with a Class 2 (9.3%; e.g., shoplifting \$0-200) or Class 3 misdemeanor (11.2%; e.g., minor in possession of alcohol). Four individuals were charged with a Class 3A misdemeanor (.1%; e.g., possession of marijuana-3rd offense); 21 were charged with a Class 4 misdemeanor (.3%; e.g., possession of marijuana-2nd offense); and five were charged with a Class 5 misdemeanor (.1%; e.g., unlawful entry of state park without park permit). For analytical purposes, we combined the latter three categories with Class 3 misdemeanors.

A subset of the Phase 1 misdemeanants comprised the Phase 2 sample. Specifically, all of the misdemeanants who did not appear for their hearing and 20% (randomly selected) of those who did appear were sent a survey prenotification one week after their scheduled court hearing alerting them to a forthcoming survey mailing. Two weeks after the scheduled hearing date participants were mailed the actual survey with a \$2 bill as an incentive. Replacement surveys were mailed two weeks later if they had not already been returned. Surveys were sent to 2,360 individuals: 1,551 to those who appeared for their court date and 809 who did not appear. We received surveys from 335 defendants who appeared in court, and 117 who failed to appear (452 total). The response rate was 21.6% for participants who appeared in court and 14.5% for those who failed to appear, making the overall response rate 19.2%.

¹ The exclusionary criteria meant that our sample size was smaller than originally projected. We addressed this by adding counties and extending the data collection phase of the project. Our final sample was still smaller than projected, but these measures preserved the integrity of the sample while ensuring that it was large enough to confer adequate statistical power to test our major hypotheses.

The demographics of the Phase 2 sample were fairly comparable to the Phase 1 sample, although Whites comprised a slightly larger proportion of Phase 2 respondents (77.6%), and Blacks and Hispanics comprised slightly smaller proportions than in the Phase 1 sample (7.8% and 5.7%, respectively). We also examined differences between those who responded to the survey invitation and those who did not. First, older individuals were more likely to respond, $X^2(3) = 36.04, p < .001$ (age was broken down into four categories of roughly equal size), as were individuals who appeared for their court date, $X^2(1) = 17.49, p < .001$. Additional tests also showed that there were significant differences in response rates across the three major racial categories, with Whites (21.7%) more likely to respond than Blacks (13.0%) and Hispanics (9.4%), $X^2(2) = 28.15, p < .001$. Significant differences were also seen across offense type; individuals charged with Misdemeanor W (alcohol-related) were most likely to respond (22.7% response rate), while those charged with Misdemeanor 3, 3A, 4, or 5 were least likely to respond (13.5%), $X^2(4) = 12.98, p = .011$. There were no significant differences in response rates across urban/rural respondents, $X^2(1) = 3.09, p = .08$; gender, $X^2(1) = 2.58, p = .11$; reminder condition, $X^2(3) = .31, p = .96$; or number of offenses, $X^2(1) = 1.36, p = .24$.

Materials, Design and Procedure²

Phase 1. Each misdemeanor defendant in the participating counties was randomly assigned to one of four conditions: (1) no-reminder (*control*), (2) *reminder-only*, (3) reminder with explanation of consequences for failing to appear (*reminder-sanctions*), and (4) reminder explaining the negative consequences while also highlighting issues of procedural justice (*reminder-combined*). We did not include a procedural justice-only condition, with no mention of sanctions, because feedback from court personnel suggested that it would be unrealistic for courts to include the “positive” information without also mentioning the “negative” (it would also be potentially unethical, as a procedural justice-only condition might imply an absence of penalties for failure to appear). The reminders were in a bilingual format (English and Spanish) and sent by postal mail several days

² The study design and procedures were informed by discussions with stakeholders throughout the state of Nebraska. We benefited especially from the efforts of court administrators and Clerk Magistrates in the 14 counties where we collected data, as well as from the support of the Nebraska Minority Justice Committee.

before defendants' scheduled court appearance (usually 4 working days prior to the court date). This resulted in the postcard arriving at the defendants' residences 2-3 days prior to their scheduled court appearance.³

In the *control* condition, the defendant received no reminder notice. The *reminder-only* condition consisted of a message printed on a postcard reminding the defendant that he or she was scheduled to appear in court on a specified date and time (Appendix A, Panel 1). The *reminder-sanctions* condition contained this information as well as an additional message informing participants of what would happen if they failed to appear (Appendix A, Panel 2). The message in the *reminder-combined* condition contained the same information as the *reminder-sanctions* condition; in addition, it emphasized the various conceptual components of procedural justice (voice, dignity, respect, and public interest) that are attendant to the defendant's appearance in court (Appendix A, Panel 3).

The messages in the respective conditions were pretested on a separate sample, to ensure that the manipulations captured the constructs of interest. Pretest participants ($n = 55$) were recruited from the University of Nebraska- Lincoln psychology department online study website, Experimentix.com, and were offered extra credit for completing the survey. Participants were asked to imagine that they had been cited for a misdemeanor and had a court date scheduled, followed by a questionnaire asking several questions about their expectations regarding the fairness of the procedure (e.g., How likely do you believe it is that the court (i.e., the judge) would listen to your opinions? How likely do you believe it is that you would be treated in court with dignity and respect?). They were then told to imagine that they had received a reminder prior to their court date (using the language from the reminder-only condition), and answered the same questions. Then they saw either the reminder-sanctions postcard or a reminder describing the benefits of appearing, followed by the reminder-combined condition (with either the negative or the positive information presented first, counterbalanced across

³ We used regular mail for the Phase 1 reminders, as well as for the Phase 2 surveys, rather than telephone contact because we expected that home addresses would be a more reliable means of contacting participants, in light of the frequency with which many individuals change phone providers. Written materials also meant we did not have to invest the time and money into training, and then paying for, telephone interviewers. If the postcard was returned at any time because of an incorrect address, etc., the individual was immediately removed from the sample. Likewise, if any survey mailing was returned because of an incorrect address, we took a conservative approach by assuming that that individual may not have received the original postcard mailing and subsequently removed them from the sample.

participants).⁴ Thus, they answered the same questions for each of four different conditions. The reminder-combined condition (with the negative sanctions presented first) was perceived as significantly fairer than both the control condition, $t(28) = 3.35; p = .002$, and the reminder-only condition, $t(28) = 2.65; p = .013$. In contrast, the reminder-sanctions condition was rated as no fairer than either the control or reminder-only condition, $t(26)s < 1, ps > .5$. These results were used to justify our use of the postcard language in the main study.

Phase 2. The survey (see Appendix B) asked participants to respond to items regarding their reasons for appearing (or not appearing) in court, their general attitudes toward the courts, as well as items assessing confidence in the courts, cynicism, dispositional trust, general trust in governmental institutions, and obligation to obey the courts. We also asked three questions to all participants relevant to procedural justice (referred to henceforth as *general procedural justice*), inquiring about their assessments of the judicial system in general regarding fairness, bias, and the respect with which they were treated from the time of their ticket to the time they completed the survey, regardless of whether they appeared in court (and excluding their experience with law enforcement who issued the ticket). For those who appeared for their hearing, we also asked more extensively about the defendants' procedural justice perceptions regarding their court appearance using, an eight question scale targeting the subconstructs of fairness, voice, dignity, and respect (referred to henceforth as *specific procedural justice*). Finally, we collected demographic data from each participant.

Results

Phase 1

FTA across conditions. Overall, the mean FTA rate was 10.4%, but it varied significantly across conditions (see Table 1), $X^2(3) = 20.90, p < .001$. It was 12.6% in the control (baseline) condition, compared to 8.3-10.9% in the various reminder conditions. Post hoc contrasts showed a difference between receiving any reminder (9.7% FTA rate) vs. the no-reminder control condition, $X^2(1) = 14.29, p < .001$. There was also a significant difference between the simple reminder and the two conditions with more substantive information

⁴ As described above, we ultimately dropped the “positive-only” condition because it would be impractical for courts to adopt it.

(i.e., reminder-sanctions and reminder-combined), $X^2(1) = 4.63, p < .05$. The FTA rate was slightly higher in the reminder-combined condition than in the reminder-sanction condition, but this difference was not statistically significant, $X^2(1) = 2.60, p = .11$.

Table 1. Failure to Appear Rate by Experimental Condition

Reminder Postcard Treatment	Appeared For Court		Total
	No	Yes	
Control	12.6%	87.4%	2095
Reminder Only	10.9%	89.1%	1889
Reminder Sanctions	8.3%	91.7%	1901
Reminder Combined	9.8%	90.2%	1980
Total	10.4%	89.6%	7865

Case disposition. For defendants who appeared in court, there were a number of possible case dispositions (see Table 2; we could not obtain disposition data for some cases). Over three quarters (78.8%) pleaded guilty in court, while the charge was dismissed in 11.6% of cases. An additional 6.2% pleaded guilty by waiver.⁵ Only 3.4% of cases went to trial; of these, nearly all were bench trials.

Table 2. Dispositions for Those Who Appeared*

		n	%
Disposition	Guilty Plea/Admission in Court	5189	78.8%
	Dismissed by Prosecutor/Party	729	11.1%
	Guilty Plea by Waiver	406	6.2%
	Tried/Adjudicated by Court	219	3.3%
	Dismissed by Court	32	.5%
	Jury-Verdict Issued	7	.1%
Total		6582	100%

*Disposition of primary offense.

⁵ As noted above, all waiverable offenses and traffic cases were removed from our sample before reminder postcards were mailed to defendants, which raises the questions of how cases in the sample could be disposed of by waiver. Most of the cases disposed through a waiver were originally non-waiverable cases that were amended by the courts. For example, one case that began as a child neglect case in Hall County—a Class 1 misdemeanor—was originally scheduled to go to trial. Eventually, the case was reduced to an attempted Class 1 misdemeanor, with the defendant ordered to pay a fine. Further examination of waived cases shows that a majority of such dispositions took place in a small number of counties: Hall County accounted for 41.4% of all guilty waivers; Lancaster, 16.3%; Dakota 13.8%; and Sarpy 11.1%. These numbers suggest that courts in those counties use their discretion in offering defendants to waive their rights and issue a guilty plea. Finally, a number of waiverable cases at the city level appear to have been inadvertently included in the sample because our screening criteria were based on state statutes rather than city ordinances.

Factors Associated with FTA. Secondary analyses focused on differences in FTA rate as a function of several factors, specifically 1) defendants’ race/ethnicity, 2) defendant sex, 3) geographic location (specifically, rural vs. urban counties), 4) offense type, and 5) number of charges. To explore these relationships, we estimated a logistic regression model with all of these factors as predictors of FTA, as well as reminder condition. The model also included the predicted interaction between reminder and race/ethnicity. The tables in this section show both baseline (control) and overall (all conditions combined) FTA rates, but the regression used overall rate as the criterion variable.

Controlling for these other factors, the effect of the reminder manipulation was reduced but was still marginally significant, $B = .14$, $S.E. = .08$, $Wald = 2.96$, $p = .085$. This suggests that the reminders were still effective, but that FTA was also associated with some of the other factors included in the regression model, as discussed next.

We predicted that non-Whites would have higher baseline FTA rates than Whites. In the control condition—which serves as a baseline measure of FTA—FTA rates were 11.7% for Whites, 18.7% for Blacks, and 10.5% for Hispanics (see Table 3). The overall FTA (all conditions combined) rate also varied as a function of defendant race/ethnicity: White (9.5%) vs. Black (16.4%) vs. Hispanic (9.4%). However, when controlling for these other factors, the effect of race/ethnicity was not significant, $B = -.09$, $S.E. = .09$, $Wald = 1.00$, $p = .32$.

Table 3. Failure to Appear Rate by Race / Ethnicity

	FTA Rates			
	Whites	Blacks	Hispanics	Total
Baseline	11.7%	18.7%	10.5%	12.4%
Overall	9.6%	18.8%	11.8%	10.3%

The FTA rate did not differ significantly as a function of defendant sex: Male (10.8%) vs. Female (9.4%), $B = -.10$, $S.E. = .09$, $Wald = 1.13$, $p = .29$. The FTA rate varied across geographic locations (see Table 4) and was higher in urban (12.4%) than rural counties (6.8%), $B = .40$, $S.E. = .11$, $Wald = 13.44$, $p < .001$.

Table 4. Failure to Appear Rate by County and Urban/Rural Areas

County	Baseline Appearance Rate			Overall Appearance Rate		
	Appeared For Court			Appeared For Court		
	No	Yes	n	No	Yes	n
Adams	33.3%	66.7%	3	33.3%	66.7%	6
Buffalo	3.4%	96.6%	59	1.8%	98.2%	225
Colfax	50.0%	50.0%	4	19.0%	81.0%	21
Dakota	8.8%	91.2%	57	10.0%	90.0%	211
Dawson	9.5%	90.5%	84	6.1%	93.9%	314
Dodge	2.7%	97.3%	37	5.4%	94.6%	149
Douglas	10.6%	89.4%	264	8.2%	91.8%	1027
Hall	10.8%	89.2%	222	7.8%	92.2%	781
Lancaster	17.8%	82.2%	828	14.8%	85.2%	3185
Madison	6.8%	93.2%	73	4.8%	95.2%	289
Platte	8.3%	91.7%	157	7.1%	92.9%	506
Saline	9.3%	90.7%	43	12.3%	87.7%	154
Sarpy	10.2%	89.8%	236	8.6%	91.4%	864
Scotts Bluff	.0%	100.0%	28	2.3%	97.7%	133
Urban (Douglas, Lancaster, Sarpy)	15.0%	85.0%	1328	12.4%	87.6%	5076
Rural	8.5%	91.5%	767	6.8%	93.2%	2789
Total	12.6%	87.4%	2095	10.4%	89.6%	7865

We also examined whether FTA rates differed by the type of offense and by the number of charges issued for each court hearing. FTA rates differed significantly as a function of the type of offense (see Table 5), $B = -.18$, $S.E. = .03$, $Wald = 42.71$, $p < .001$. Individuals charged with Misdemeanor 2 offenses and violations of city ordinances were the most likely to FTA.

Table 5. Failure to Appear Rate by Offense Type

Offense Type	Baseline Appearance Rate			Overall Appearance Rate		
	Appeared For Court			Appeared For Court		
	Yes	No	n	Yes	No	n
Class 1	7.3%	92.7%	358	7.6%	92.4%	1377
Class W (alcohol)	9.7%	90.3%	628	9.4%	90.6%	2389
Class 2	18.9%	81.1%	212	13.8%	86.2%	732
Class 3/3A/4/5	10.2%	89.8%	254	8.4%	91.6%	908
City Ordinance	17.5%	82.5%	636	12.9%	87.1%	2424
Total	12.6%	87.4%	2088	10.4%	89.6%	7830

FTA rates also differed significantly depending on the number of charges issued on each ticket (coded as 1 vs. 2 or more; see Table 6), with the likelihood of FTA increasing with the number of citations on the ticket, $B = -1.28$, $S.E. = .10$, $Wald = 172.86$, $p < .001$. Only 5.4% of individuals with one offense failed to appear, whereas 15.4% of individuals with two or more offenses did not appear. Based on the results of this analysis, and in relation to the other analyses conducted above, it appears that number of offenses is one of the strongest predictors of FTA.

Table 6. Failure to Appear Rate by Number of Offenses

Offense Type	Baseline Appearance Rate			Overall Appearance Rate		
	Appeared For Court			Appeared For Court		
	Yes	No	n	Yes	No	n
1 Offense	6.7%	93.3%	1012	5.4%	94.6%	3868
2 or more Offenses	18.2%	81.8%	1067	15.4%	84.6%	3962
Total	12.6%	87.4%	2088	10.4%	89.6%	7830

Differential effectiveness of reminders. We predicted that the postcard reminders would be more effective for minorities than for Whites (i.e., a race x reminder interaction). The interaction between race and reminder was non-significant, $B = -.013$, $S.E. = .05$, $Wald = .06$, $p = .80$. Thus, the effectiveness of the reminders was essentially comparable for the three major racial groups (see Figure 1). For exploratory purposes, however, we examined treatment effects for each racial/ethnic group separately.

Table 7 (see also Figure 1) shows that for Whites, the FTA rate ranged from 11.7% to 8% depending on the treatment, a finding that was significant, $X^2(3) = 12.26$, $p < .01$. Follow up tests comparing each reminder condition to the control condition showed that the *reminder-sanctions* condition was effective, $X^2(1) = 10.78$, $p = .001$, as was the *reminder-combined* condition, $X^2(1) = 6.21$, $p < .05$; however, the *reminder-only* condition did not greatly reduce FTA among Whites, $X^2(1) = 2.94$, $p = .086$.

For Blacks, the various treatments did not appear to have the same effect. As Table 7 shows, the FTA rate for Blacks ranged from 18.7% in the control condition to 13.5% in the *reminder-sanctions* condition, but

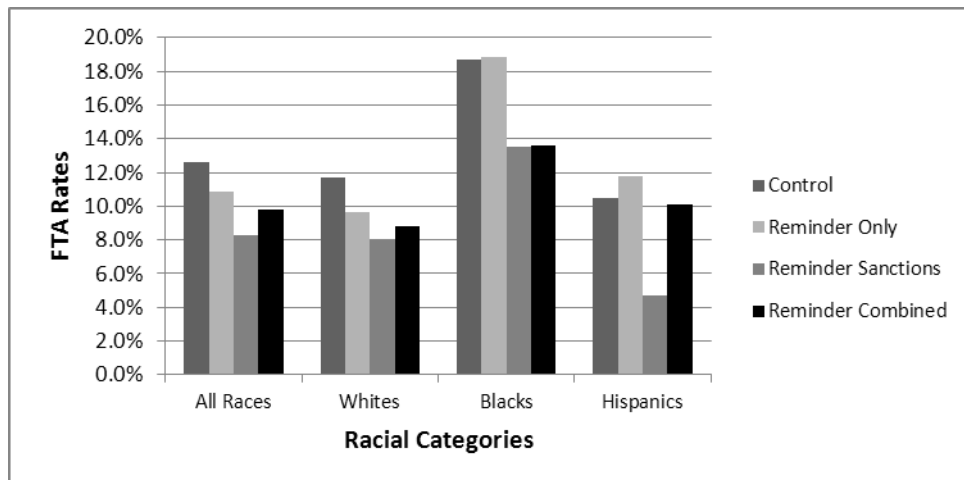
the omnibus test was not significant, $X^2(3) = 3.85, p = .28$. Tests comparing each type of reminder to the control condition were also not significant: the FTA rate for the simple reminder was virtually the same as the control condition, $X^2(1) = .002, p = .96$; the *reminder-sanctions* treatment reduced FTA from 18.7% to 13.5%, although the difference was not significant $X^2(1) = 1.86, p = .17$; and the *reminder-combined* treatment reduced FTA to 13.6%, but again the difference was not significant, $X^2(1) = 1.93, p = .17$.

For Hispanics, there was a marginally significant difference in FTA rate across the conditions, $X^2(3) = 6.90, p = .078$. As with the other two racial groups analyzed, the reminder with sanctions had the greatest absolute impact upon reducing FTA rates, as the FTA rate was reduced to 4.7% from 10.5% in the control condition, $X^2(1) = 4.934, p < .05$. The other reminders did not significantly reduce FTA below the baseline level among Hispanics, $X^2(1)s < 2, ps > .5$.

Table 7. Failure to Appear Rate by Race / Ethnicity

Reminder	FTA Rates			
	Whites	Blacks	Hispanics	Total
Control	11.7%	18.7%	10.5%	12.4%
Simple Reminder	9.6%	18.8%	11.8%	11.0%
Reminder Sanctions	8.0%	13.5%	4.7%	8.1%
Reminder Combined	8.8%	13.6%	10.1%	9.5%
Total	9.5%	16.4%	9.4%	10.3%

Figure 1. Failure to Appear Rates by Race / Ethnicity



Phase 2

Scale construction. In a previous, related study, we found that our trust/confidence items could be statistically and conceptually organized into scales (Hamm, PytlikZillig, Tomkins, Herian, Bornstein, & Neeley, 2011). We used this same approach for the data we obtained from the Phase 2 survey (see Table 8). We used four trust/confidence sub-scales (Confidence in the Courts, Cynicism, General Trust in Institutions, and Obligation to Obey) that we combined into a single trust/confidence scale (Total Institutional Confidence). Alpha scores for each of the subscales were high except for Obligation to Obey (.57), and when combined into one scale measuring Total Institutional Confidence, the alpha level continued to be acceptable (.77). We also asked about Dispositional Trust, but because this construct is conceptually different from a person’s perceptions about institutions (i.e., it looks at people’s general trust of others), we examined it separately. It also had an acceptable alpha level (.78).

Table 8. Trust / Confidence and Procedural Justice Scales

Scale	Example item	Mean	SD	α
Trust in the Courts	Judges in my county do their jobs well.	3.24	.85	.85
Cynicism	People in power use the law to control people like me	2.72	1.05	.79
General Trust in Institutions	Do you trust the government in DC to do what is right?	3.16	.79	.80
Obligation to Obey	I feel I should accept the decisions of legal authorities;	3.62	.99	.57
Total Institutional Confidence	Average of the four scales above	3.18	.71	.77
Dispositional Trust	Generally speaking, do you think most people can be trusted?	2.84	.87	.78
General Procedural Justice	How unbiased or biased do you feel that the judicial system was towards you?	3.45	1.05	.92
Specific Procedural Justice	The procedures followed in my case were fair.	3.34	1.04	.82

Note: Items measured using a 1-5 scale, recoded so that larger numbers indicate more trust/confidence.

We also measured defendants’ perceptions of procedural justice. We asked *all* defendants three general questions about courts’ fairness, bias, and respect related to the judicial system in general (*general-procedural*

justice). We also asked the defendants who appeared for their hearing eight questions about their case-specific procedural justice perceptions (*specific-procedural justice*). Alpha levels for both Procedural Justice scales were fairly high (.92 and .82, respectively). There was a strong relationship between the two sets of questions, each treated as a scale ($r(324) = .661, p < .01$; see Table 9).

Trust/Confidence, Procedural Justice, and FTA. We hypothesized that those defendants who appeared for their hearing would indicate greater levels of institutional confidence and have greater levels of procedural justice than those who did not appear. We found that defendants who appeared in court for their hearing had significantly greater Total Institutional Confidence scores ($M = 3.23$) than those who did not appear ($M = 3.02$), $F(1,445) = 7.816, p < .01$). Among the subconstructs, appearers' general trust in government ($M = 3.22$) was greater than nonappearers' ($M = 2.98$), $F(1,445) = 8.06, p < .01$, as was their trust in the courts ($M = 3.30$ for appearers; $M = 3.04$ for non-appearers), $F(1,441) = 7.784, p < .01$). Conversely, participants who did not appear were more cynical ($M = 3.48$) than those who appeared ($M = 3.20$), $F(1,444) = 5.984, p < .05$). Additionally, there was a relationship between perceptions of (general) procedural justice and appearance, $F(1,438) = 6.61, p = .01$, such that those who appeared for their hearing perceived greater levels of procedural justice in their overall experience with the criminal justice system ($M = 3.53$ vs. $M = 3.23$).

As expected, we also discovered strong relationships among the various constructs of interest (see Table 9). For example, the correlation between Total Institutional Confidence and general-procedural justice was significant $r(440) = .59, p < .001$, as was the correlation between Trust in the Courts and general-procedural justice, $r(438) = .65, p < .001$. Furthermore, among those who appeared for court, there were strong relationships between Total Institutional Confidence and specific-procedural justice, $r(324) = .57, p < .001$, and between Trust in the Courts and specific-procedural justice, $r(323) = .64, p < .001$.

Table 9. Trust / Confidence and Procedural Justice Scale Correlations

		V1	V2	V3	V4	V5	V6	V7	V8
V1	Trust in the Courts	1	--	--	--	--	--	--	--
V2	Cynicism ^a	-.545**	1	--	--	--	--	--	--
V3	General Trust in Institutions	.601**	-.455**	1	--	--	--	--	--
V4	Obligation to Obey	.455**	-.325**	.443**	1	--	--	--	--
V5	Total Institutional Confidence	.826**	-.772**	.779**	.727**	1	--	--	--
V6	Dispositional Trust	.324**	-.340**	.361**	.252**	.411**	1	--	--
V7	General Procedural Justice	.649**	-.421**	.446**	.356**	.591**	.279**	1	--
V8	Specific Procedural Justice	.641**	-.341**	.465**	.341**	.571**	.335**	.661**	1

**p<.01 (2-tailed test of significance)

^a For purposes of constructing the Total Institutional Confidence Scale, the Cynicism items were reverse coded.

We hypothesized that there would be a race/ethnicity effect, with Whites having greater trust/confidence than minorities. The data did not show an institutional confidence (either total scale or the subscales) difference when we examined racial differences between Whites and non-whites. For the Total Confidence Scale Whites ($M = 3.20$) were more trusting than non-Whites ($M = 3.07$) but not significantly so $F(1,414) = 1.93, p = .16$. Likewise, trust in the courts was higher for Whites ($M = 3.26$) than for non-White ($M = 3.08$) but not at a significant level $F(1,410) = 2.61, p = .26$. However, there was a difference for the dispositional trust scale, indicating Whites were more trusting in general, $F(1,414) = 13.17, p < .001$. There was no difference in procedural justice assessments as a function of race/ethnicity for either the general (Whites, $M = 3.47$; non-Whites, $M = 3.48, F(1,408) = .011, p = .92$) or the specific measure (Whites, $M = 3.35$, non-Whites, $M = 3.25, F(1,300) = .38, p = .54$).

However, when we examined the data using a more refined classification of race/ethnicity – Whites, Blacks, and Hispanics – we did see significant differences on a number of constructs related to trust (see Table

10). We again saw a significant difference on Dispositional Trust, $F(2,401)=9.20, p < .001$, with post-hoc tests showing that Whites ($M = 2.90$) had greater dispositional trust than both Blacks ($M = 2.34$) and Hispanics ($M = 2.44$). Notably, we also found that there was a significant difference across the three racial/ethnic categories on Total Institutional Confidence $F(2,402) = 3.71, p < .05$, and Trust in the Courts $F(2,398) = 4.34, p < .05$. Post-hoc tests showed that on both variables, the significant difference was largely driven by the gap between Whites and Blacks rather than any differences between Whites and Hispanics, or Blacks and Hispanics. Together, the findings suggest that although Blacks and Hispanics were similar in Dispositional Trust, Blacks tended to have lower levels of confidence in legal institutions than Hispanics, who were, in turn, comparable to Whites.

Table 10. Trust / Confidence and Procedural Justice Scale Means by Race / Ethnicity

Scale	Whites		Blacks		Hispanic		F	Sig.	Post-Hoc
	Mean	SD	Mean	SD	Mean	SD			
Trust in the Courts	3.26	0.84	2.79	0.91	3.24	0.87	4.343	.014	a
Cynicism	2.75	1.04	2.37	1.18	2.65	1.07	1.919	.148	--
General Trust in Institutions	3.17	0.76	2.83	0.91	3.18	0.96	2.712	.068	--
Obligation to Obey	3.62	1.00	3.37	0.98	3.52	0.91	.994	.371	--
Total Institutional Confidence	3.20	0.70	2.84	0.81	3.15	0.66	3.707	.025	a
Dispositional Trust	2.90	0.80	2.34	1.02	2.44	0.89	9.199	.000	b
General Procedural Justice	3.35	1.04	3.13	1.31	2.99	0.98	.229	.795	--
Specific Procedural Justice	3.47	1.04	3.38	1.13	3.35	1.03	1.338	.264	--

a – Significant differences between Whites and Blacks

b – Significant differences between Whites and Blacks, and Whites and Hispanics

Finally, we hypothesized that the level of trust/confidence would interact with the reminder manipulation, such that the reminder would be most effective for defendants relatively low in trust/confidence. We conducted a binary logistic regression (see Table 11) to examine this hypothesis (with appearance as the

DV). Because the Phase 1 analyses showed that the largest effect was for receiving any reminder versus the control condition, we dichotomized the reminder variable (i.e., any reminder vs. none); trust in the courts was categorized as low, medium, or high; and we controlled for participants' race using dummy variables. Low trust ranged from 0-2.83 ($n = 142$); med trust ranged from 3.00-3.50 ($n = 161$); high trust ranged from 3.60-5 ($n = 140$).

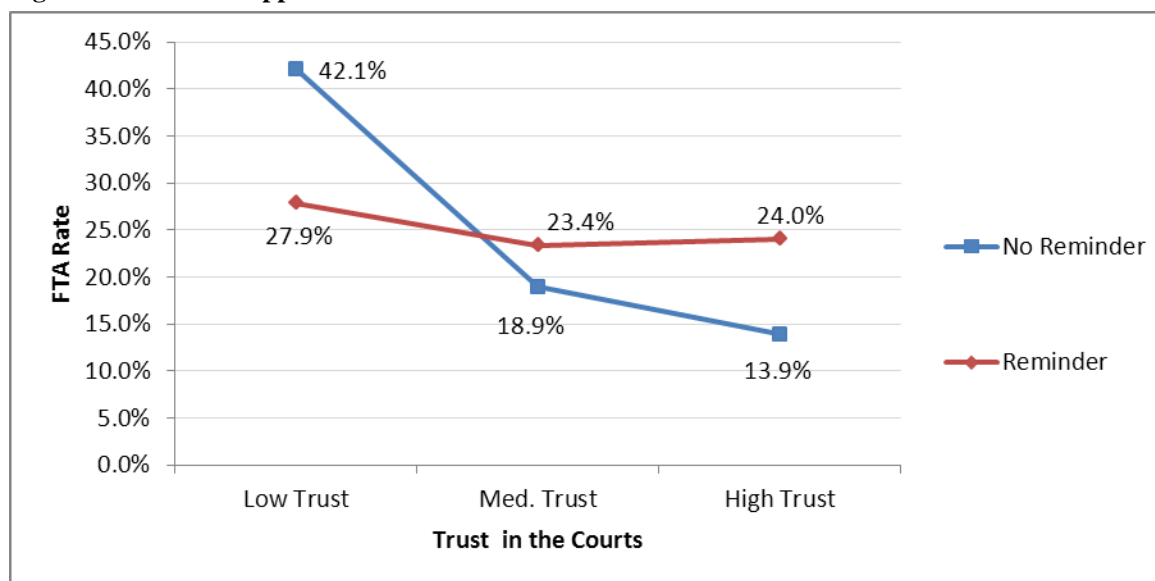
Table 11. Logistic Regression: Failure to Appear as a Function of Trust in Courts and Reminder Condition

Variable	B (S.E.)	Exp(B)
Constant	-.40 (.56)	.67
Trust in Courts (TC)	.79* (.30)	2.21
Reminder	1.32* (.66)	3.73
TC x Reminder	-.70* (.34)	.50
Black	-.44 (.40)	.65
Hispanic	.87 (.63)	2.38

* $p < .01$

The results (see Table 11 and Figure 3) revealed that both independent variables (reminder manipulation and trust in the courts) were statistically significant, but these effects were qualified by an interaction. Consistent with our hypothesis, we found that the reminder was most effective for those low in trust in the courts. Put another way, the hypothesized relationship between trust and FTA occurred in the absence of a reminder, but it disappeared when there was a reminder.

Figure 2. Failure to Appear Rates as a Function of Trust in Courts and Reminder Condition



Survey respondents rated the importance of various factors (on a 5-pt scale) in their decision either to appear or not to appear. Table 12 shows the rated importance of reasons for appearing (among participants who did appear), and the rated importance of reasons for non-appearance (among participants who did not appear). Although these data are merely descriptive, there are several features worth noting: First, the ratings are considerably higher for appearance than for non-appearance, suggesting that there might have been factors for non-appearance that we did not capture; alternatively, non-appearers might simply fail to consider the reasons underlying their behavior altogether. Second, the high ratings for all appearance factors show the importance of both instrumental (e.g., “wanted to avoid additional penalties”) and normative concerns (e.g., “felt I should obey the law”) in the decision to appear. Third, the highest-rated reasons for non-appearance reflect very practical, instrumental factors (e.g., “had scheduling [or work] conflicts”). Fourth, simply forgetting the court date was not much of a factor in participants’ failure to appear ($M = 1.89$).

Table 12. Reasons for Appearing / Not Appearing in Court

Reasons for Appearing	M	SD
Wanted to avoid additional offense for FTA.	4.60	1.02
Wanted to avoid additional penalties.	4.59	0.98
Felt I should obey the law.	4.38	1.05
System depends on compliance from people like me.	3.73	1.37
Wanted to tell my side of the story.	3.16	1.62
Reasons for Not Appearing	M	SD
Had scheduling conflicts.	2.77	1.81
Had work conflicts.	2.39	1.66
Had transportation difficulty.	2.07	1.59
Forgot about the hearing date.	1.89	1.50
Had family conflicts (e.g. childcare)	1.84	1.44
Afraid of what the outcome would be if I went.	1.72	1.20

Benefits and costs of FTA. Even if postcard reminders reduce FTA, courts will adopt such a system only if the benefits outweigh the costs. We therefore conducted an exploratory analysis to address this issue.⁶ In order to understand and quantify the benefits and costs, we conducted phone interviews with county judges and personnel from clerk magistrate offices, county jails, and law enforcement. Costs of FTA include labor costs associated with issuing a warrant, arresting defendants for FTA, investigating unresolved warrants, incarcerating defendants, etc. The benefits from reducing FTA come mainly from cost savings associated with these activities, which can be estimated from the salaries of various personnel (judges, clerks, and parole officers). Conversely, the costs of a reminder program come primarily from the materials (i.e., paper, postage) and labor costs involved in tracking cases through the system, addressing and mailing reminders.

Based on labor estimates provided by court personnel and state data on employee wages (which vary by county), the labor benefits from eliminating even a single FTA are substantial (see Table 13).

⁶ These findings are exploratory because of the difficulty in estimating labor costs for many activities (e.g., clearing warrants, processing bookings) that may be normal business functions performed by salaried staff.

Table 13. Summary of Potential Time and Labor Benefits from One FTA Reduction

Event	Minutes	Labor Cost
Type of Warrant Issued:	–	–
Bench Warrant	32.5	\$15.49
Arrest Warrant	37.5	\$14.78
FTA Charge Added	4	\$1.32
Arrest for outstanding warrant	42.5	\$25.57
Clearing Warrant from System	15	\$4.94
Booking processing	30	\$13.54
Bond processing	20	\$8.94
Jail (Cost/Inmate for 24 hours)	–	\$50-\$83

The costs of reminder postcards also vary somewhat, primarily due to the size of the postcard (the reminder-sanctions and reminder-combined postcards were larger and therefore cost more to mail). Overall, the greatest costs were from labor to process the postcards and postage to mail them (see Table 14).

Table 14. Total Per Unit Postcard Cost

Type of Cost	Reminder-only	Reminder-sanctions & Reminder-combined	Weighted Average
Labor	\$1.15	\$1.15	\$1.15
Materials	\$0.04	\$0.04	\$0.04
Postage	\$0.27	\$0.49	\$0.42
Total	\$1.46	\$1.68	\$1.61

The benefit from increased efficacy at FTA reduction of the larger postcards with more substantive messages (reminder-sanctions and reminder-combined) outweighs the cost of their additional postage. However, the benefit-cost analysis also reveals that at the current cost of sending postcards, implementation of a postcard notification program using either of these reminders would only be cost effective in counties with relatively high rates of arrest of defendants with FTA warrants (i.e., urban counties). It might be possible to

lower the labor cost of sending postcards, perhaps through automated case look-up; in this scenario, the postcards become even more cost-effective.

Discussion

Summary of Findings

The Phase 1 findings replicate previous research in showing that a reminder effectively reduces the FTA rate. There was evidence that a more substantial reminder, containing information about possible sanctions for FTA, is more beneficial than a simple reminder; however, inclusion of a more positive message, derived from procedural justice principles, did not yield additional benefit. Indeed, although the interaction from the omnibus test was not statistically significant, there was some indication that the reminder with only negative, threatening information (i.e., the reminder-sanctions condition) was the most effective method of reducing FTA rates for all three racial groups we examined: The sanctions condition reduced the FTA rate by 3.7% for Whites, 5.2% for Blacks, and 5.8% for Hispanics; these reductions were statistically significant for Whites and Hispanics, but not for Blacks. This was a surprising finding, inasmuch as research shows that sanctions alone are not a very powerful means to get people to obey the law (Robinson & Darley, 1997). It is possible that the decision-making calculus is different in an offending population, and that the threat of sanctions is particularly effective for this group.

FTA differed as a function of demographic and offense characteristics, especially geographic location (urban vs. rural), offense type, and number of charges. The difference between urban and rural communities likely reflects the greater sense of anomie and disconnectedness in urban centers, compared to more closely knit rural settings (Curry, 2000). The FTA rate did not differ across race/ethnicity when controlling for these other factors. This supports arguments that racial/ethnic minorities are quite diverse and that it may prove problematic to focus on race without consideration of variables that might covary along with race (e.g., Covington, 1995; Hitlin, Brown, & Elder, 2007). Furthermore, the fact that 54.9% of the Hispanic sample actually came from rural areas might suggest that Hispanics in rural areas are particularly aware of the potential sanctions associated with FTA. The data regarding offense type and number of charges support previous findings showing

that FTA is more likely for more serious cases (i.e., more severe offenses and multiple charges; VanNostrand & Keebler, 2009).

The most striking finding from Phase 2 was that trust/confidence, procedural justice perceptions, and levels of cynicism were significantly correlated with court appearances. This finding is consistent with other demonstrations that trust/confidence is an important construct for understanding compliance with the law (Murphy, 2004; Scholz & Lubell, 1998). The data provide insights into the aspects of trust/confidence that are related to appearance rates. The difference in total institutional confidence scores appears to be driven mainly by the differences in defendants' general trust in institutions, their general trust in the courts, and their cynicism about the courts. We also found a race effect for dispositional trust and trust in the courts: Whites had more dispositional trust than non-whites, and Blacks had less trust in the courts than Whites and Hispanics. Others have also found race effects related to trust/confidence (e.g., Brooks & Jeon-Slaughter, 2001; Tyler, 2001). Perhaps dispositional trust, a factor we believe is not as sensitive to specific interactions with institutions but more of a trait-like construct (see also Brewer, Gross, Aday, & Willnat, 2004), might provide insight into why non-whites have higher FTA rates than Whites.

We found support for the expected interaction between the reminder manipulation and participants' trust in the courts, such that a reminder was more effective for defendants relatively low in trust. The relationship between trust in the courts and FTA that was apparent without a reminder—namely, that less trusting defendants were less likely to appear—disappeared when participants received a reminder.

Limitations and Future Directions

One question about this study is whether the message in the reminder-combined condition was sufficiently potent. Pretesting of the postcard manipulation indicated it was significantly different from the other postcard reminders. However, the pretesting was done with a college student sample. Actual defendants might have been more skeptical about the positive aspects of the message (i.e., voice, respect, etc.), particularly if they have had experiences with the criminal justice system in the past. In such instances, it is possible any message

would be unable to persuade a repeat offender – who may have previously had bad experiences with courts– that the positive message is an accurate reflection of the way courts actually work. Indeed, there was evidence of substantial cynicism in the Phase 2 sample, with those failing to appear significantly more cynical than those who did appear.

It is unclear how to overcome this limitation, as an even stronger message would likely be met with the same cynicism. It is possible that a telephone reminder from court personnel emphasizing aspects of procedural justice would accomplish this goal, but it would be offset by the substantial additional investment of labor and time. Prerecorded telephone reminders are potentially more efficient, but it is also unclear whether any added benefit of a phone reminder would accrue from a prerecorded voice message, or would only occur with a reminder from a “live” individual who could provide a more personal touch and also answer questions. Email reminders are another efficient, relatively low cost option that warrant investigation. One of the reasons we chose to use postcard reminders was our expectation that home addresses would be a more reliable means of contacting participants, in light of the frequency with which many individuals change phone and internet plans/providers. As cell phones (many with internet access) and online access become even more ubiquitous and affordable than they are presently, it is possible that their reliability as a method of contacting those charged with misdemeanors will increase. Future research should directly compare different types of reminders across all available media (print mail, telephone, email), taking into account the program costs as well as the benefits of reduced FTA.

One alternative solution is simply to accept that negative messages might be more effective at inducing desirable behavior in this context than positive messages. For example, recent work in social psychology has shown that shame can work as a potentially powerful “commitment device” that motivates people to act prosocially and work toward long-term strategies (deHooge, Breugelmans, & Zeelenberg, 2008). Furthermore, recent work in the field of voting behavior has shown that shaming, in the form of reminding individuals of their past abstention to vote, can increase adherence to civic activities (Green, Gerber, & Larimer, 2010).

Perhaps lessons from such field experiments can inform future efforts to understand compliance with both civic duties and legal obligations.

Another limitation is possible response bias in Phase 2. The overall response rate was 19.3%, and although a relatively low response rate is not uncommon among specialized populations such as this, it nonetheless raises questions about the sample's representativeness. The Phase 1 and Phase 2 samples were reasonably similar, as were Phase 2 misdemeanants invited to participate who did and did not complete the survey. However, there were some differences: Individuals who participated in Phase 2 were older, more likely to appear for their court date in Phase 1, and more likely to be White. Importantly, there were no differences in response rate as a function of the experimental treatment, the reminder manipulation. We have no reason to suspect that these few differences would skew the overall pattern of results, but researchers and policy makers could be more confident about the study's generalizability if future studies increased the response rate, perhaps by offering a greater incentive.

Future research should also extend the racial/ethnic findings of the present study. Our sample was a reasonable representation of the Nebraska population--which contains more Native Americans than the national average--but the sample still contained too few Native Americans, as well as too few Asian-Americans, to address FTA in these groups. Larger-scale research could target areas in states with large populations of Native Americans and Asian-Americans. On the other hand, defendants from the rural counties in our sample contained a substantial number of Hispanics (16.6%, and a large proportion of those classified as "unknown" may also have been of Hispanic origin). This diversity provides valuable information about rural Hispanics in the U.S., as there is a general lack of research on this population (Kandel & Cromartie, 2004), and future research would also do well to continue to investigate this population that makes up an increasing proportion of rural populations across the U.S. (Kandel & Cromartie, 2004).

Finally, future research should address the effectiveness of reminders at reducing FTA among felony defendants. Felony defendants are less likely than misdemeanor defendants to have the opportunity to fail to

appear, as they are often in custody prior to their hearing or trial; nonetheless, many felony defendants awaiting trial are released on bond, making FTA an issue for them as well (VanNostrand & Keebler, 2009). On the one hand, they might be more likely to appear, because they are more likely to have attorneys who will remind them of their court date, or are released to a pre-trial program that will remind them of their court date; and the penalty for FTA (e.g., forfeited bail) is potentially greater. On the other hand, they might be less likely to appear, because the nature of their more serious offense means that, on average, they are probably more likely to have a previous criminal record and to have low trust in the criminal justice system; in addition, the prospect of a stiffer sentence if they are tried and convicted might give them a greater incentive to flee. Our finding that defendants with more charges were less likely to appear suggests that this latter expectation is more likely; indeed, VanNostrand and Keebler (2009) found that federal defendants charged with a felony were substantially (61%) more likely to fail than defendants charged with a misdemeanor or infraction. It is therefore arguably even more important to explore ways of reducing FTA for more serious crimes.

Implications for Criminal Justice Policy and Practice

Despite these limitations, the study has important implications for criminal justice policy and practice, such as improving system efficiencies and cost savings through better compliance, increasing criminal defendants' perceptions of procedural justice, and reducing racial/ethnic disparities in the criminal justice system. Reducing FTA rates can have significant financial and labor savings (O'Keefe, 2007; VanNostrand & Keelber, 2009). Our exploratory cost-benefit analysis shows, however, that a postcard reminder system is not invariably effective; it is most likely to be effective in counties with relatively high rates of arrest of defendants with FTA warrants. A reduction of even a few percentage points, as in the present study, can improve the efficiency of court dockets and lower the number of misdemeanor defendants who are jailed on an additional FTA warrant. This, in turn, saves costs for the jail system and the defendants themselves. Thus, there are some very real practical implications from the present findings.

Knowing which types of misdemeanants are most likely to FTA--such as those in urban locales, with multiple charges, or cited for certain offenses--has implications for how to allocate pretrial services most efficiently (Goldkamp & White, 2006; VanNostrand & Keebler, 2009). The findings from the present study suggest that targeting defendants with multiple charges or in urban centers using a reminder program would yield the biggest “bang for the buck.”

The observation that the threat of sanctions is especially effective in reducing FTA in the context of misdemeanor level offenses has implications for the larger justice system as well. The threat of sanctions could be utilized to reduce failures to appear in other contexts, such as reducing the number of citizens who do not respond to their jury summonses (Seltzer, 1998-1999), or to decrease failure to pay court fines or child support payments. A more positive, procedural justice-focused message effectively fosters compliance in many settings, including the courts (Burke & Leben, 2007-2008; Tyler, 2006b); however, threats might be more effective in certain circumstances and for certain classes of individuals.

The findings of this study are also useful on a practical level for pretrial service programs. The findings can be used to develop programs that can better estimate the impact that a court reminder intervention will have on reducing FTA and may improve existing programs through utilization of the knowledge that reminder messages that describe sanctions are more effective in improving appearance rates. The literature on pretrial services programs’ ability to reduce FTA and ensure community safety is relatively small (Goldkamp & White, 2006). In addition to the utility for practitioners in the implementation of programs, being able to quantify the impact of pretrial services program interventions also improves the predictive power of pretrial risk assessment instruments, such as those that calculate latent risk (Bhati, 2010; Goldkamp & White, 2006; VanNostrand & Keebler, 2009). This is extremely important, given that “the pretrial release decision represents the highest volume decision stage in the judicial process” (Goldkamp & White, 2006, p. 143).

Procedural justice is extremely important in determining how people perceive and react to the courts (Burke & Leben, 2007-2008). In the present study, defendants who appeared for court perceived that they were

treated with greater fairness and respect from the time of their ticket to the time they completed the survey, compared to nonappearers. Public trust and confidence in legal institutions, which is closely related to, yet arguably distinct from, procedural justice (Rottman, 2007; Tyler, 2006a, 2006b), has also been identified by both researchers (e.g., Benesh, 2006; Rottman, Hansen, Mott, & Grimes, 2003; Tyler, 2006b) and members of the judiciary (e.g., O'Connor, 1999) as important. Misdemeanants who appeared for court had higher trust in institutions and confidence in the courts, and less cynicism, than those who did not appear for court. Efforts to increase trust/confidence--especially in populations likely to offend--should yield lower FTA rates (the observed correlation between trust/confidence and appearance does not, of course, necessarily imply a causal relationship, but some element of causation seems likely). Outreach efforts by the courts are one way to accomplish this goal (National Center for State Courts, 2005).

Finally, the implementation of a reminder program can play a small yet important role in reducing the overrepresentation of minorities in the corrections systems for both the current offense and future offenses. For all racial/ethnic groups the greatest reduction in the failure to appear rate was realized with the reminder-sanctions message. For this condition, the reduction in the FTA rate for Hispanic (a 5.8% reduction) and Black (a 5.2% reduction) defendants was greater than for white defendants (3.7%). Although not statistically significant for Blacks, this reduction was statistically significant for Hispanic defendants. Thus, pretrial services such as a reminder program can serve the larger goal of improving racial justice.

Conclusions

In conclusion, this study demonstrates that it is possible to reduce the risk of FTA with a simple postcard reminder system. FTA rates varied across a number of offender and offense characteristics, such as geographic location (rural vs. urban), offense type and number of charges, and race/ethnicity. FTA was highest for Blacks; however, reminders were less effective for Blacks than for Whites and Hispanics. It is important to consider various offense and offender characteristics when devising and implementing pretrial services programs.

Misdemeanor defendants who appeared in court had greater trust in institutions, more confidence in the courts, less cynicism, and a greater sense of procedural justice than defendants who did not appear. Although there was only suggestive evidence that the reminder manipulation's effectiveness varied as a function of defendants' level of trust/confidence, raising trust/confidence could nonetheless be reasonably expected to reduce FTA. Overall, the present study shows promise that there are ways of ameliorating the costly problem of failure-to-appear.

Papers and Presentations Based on Our Findings

The present study has yielded a number of papers/publications and presentations.

Papers/Publications

Bornstein, B.H., Tomkins, A.J., Neeley, E.M., Herian, M.N., & Hamm, J.A. (in revision). Reducing courts' failure-to-appear rate by written reminders. [We submitted this to *Law & Human Behavior*, a top-tier law-psychology journal, in Fall 2010 and were invited to revise and resubmit; we resubmitted it in March 2011]

Hamm, J.A., PtylikZillig, L.M., Tomkins, A.J., Herian, M.N., & Bornstein, B.H. (in preparation). Trust and confidence in governmental institutions. [This paper includes data from the present study as well as data from other trust/confidence studies conducted by members of the research team, as part of efforts to develop a general model of trust/confidence; submission planned for Spring 2011]

Hamm, J.A., PtylikZillig, L.M., Tomkins, A.J., Herian, M.N., Bornstein, B.H., & Neeley, E.M. (2011). Identifying separable components of institutional confidence. *Behavioral Sciences & the Law*, 29, 95-115. [This paper reports development of the trust-and-confidence measure used in the project]

Herian, M.N., & Bornstein, B.H. (2010, Sept.). Reducing failure-to-appear in Nebraska: A field study. *The Nebraska Lawyer*, 13(8), 11-14. [This paper summarizes the study for an audience composed mainly of legal practitioners]

Hutsell, N., Rosenbaum, D., Tomkins, A.J., Bornstein, B.H., & Neeley, E.M. (in press). Using court date reminder postcards to reduce courts' failure to appear rates: A benefit-cost analysis. *Judicature*. [This paper estimates the financial savings of implementing a postcard reminder program similar to the one used in the present study]

Neeley, E., Herian, M.N., Tomkins, A.J., Bornstein, B.H., Hamm, J.A., PytlikZillig, L.M., Rajendran, S., & Klug, L. (in preparation). Race, ethnicity and reducing courts' failure-to-appear rates. [This paper focuses on race/ethnicity and justice, and will be submitted to a specialized race and criminal justice journal, approx. Spring 2011]

Presentations

Bornstein, B.H., Hamm, J., Herian, M.N., & Tomkins, A. (March, 2011). Measuring defendants' perceptions of courts: A field study of trust, confidence, and procedural justice. In A.J. Tomkins (Chair), Public trust and confidence in the courts in the U.S. *4th International Congress on Psychology and Law*. Miami, FL.

Bornstein, B.H., & Tomkins, A. (September, 2010). Reducing misdemeanants' failure to appear rate: A field study. *National Center for State Courts*, Williamsburg, VA.

Bornstein, B.H., Tomkins, A., Neeley, E., Herian, M., Hamm, J.A., Klug, L., Rajendran, S., & Hutsell, N. (March, 2010). Reducing courts' failure-to-appear rate by written reminders. In B.H. Bornstein (Symposium Chair), Procedural justice, trust in the courts, and defendants' failure to appear. *American Psychology-Law Society*, Vancouver, BC.

Hamm, J.A., PytlikZillig, L.M., Tomkins, A.J., Herian, M.N., Bornstein, B.H., & Neeley, E.M. (May, 2010). Identifying separable components of institutional confidence. *Second Annual Water for Food Conference*, Lincoln, NE.

Hamm, J. A., Tomkins, A. J., Bornstein, B. H., Herian, M. N., & PytlikZillig, L. M. (February, 2011). A theoretical model of public trust in institutions: Review of a program of research. *Princeton University Psychology and Policymaking Conference*, Princeton, NJ.

Hamm, J.A., Tomkins, A.T., Pytlik Zillig, L., Herian, M., Bornstein, B.H., & Neeley, E. (March, 2010). Identifying separable components of confidence in the courts: Development of an institutional

confidence measure. In B.H.Bornstein (Symposium Chair), *Procedural justice, trust in the courts, and defendants' failure to appear*. *American Psychology-Law Society*, Vancouver, BC.

Herian, M.N., Bornstein, B.H., Neeley, E., Tomkins, A.J. (September, 2010). Reducing misdemeanants' failure-to-appear rate: A field study. *National Association of Pretrial Services Agencies*, San Diego, CA.

Neeley, E.M. (June, 2010). Participant in panel on "Pretrial Risk Assessment: State of the Science and Practice." *Bureau of Justice Affairs*, Washington, DC.

Neeley, E., Herian, M.N., Tomkins, A.J., Bornstein, B.H., Hamm, J.A., PytlikZillig, L.M., Rajendran, S., & Klug, L. (March, 2010). Race, ethnicity and reducing courts' failure-to-appear rates. In B.H.Bornstein (Symposium Chair), *Procedural justice, trust in the courts, and defendants' failure to appear*. *American Psychology-Law Society*, Vancouver, BC.

Tomkins, A.T., Bornstein, B.H., Hamm, J.A., Pytlik Zillig, L., Herian, M., Neeley, E., Rajendran, S., & Klug, L. (March, 2010). A field study of procedural justice and confidence/trust in the courts: A survey of misdemeanants. In B.H.Bornstein (Symposium Chair), *Procedural justice, trust in the courts, and defendants' failure to appear*. *American Psychology-Law Society*, Vancouver, BC.

Tomkins, A.J. (June, 2010). Report on findings from failure-to-appear study. Nebraska Minority Justice Committee, Omaha, NE.

Tomkins, A.J. (September, 2010). Reducing failure-to-appear using postcard interventions. American Judges Association, Denver.

Tomkins, A.J. (November, 2010). Roundtable discussion on pretrial justice issues. American Society of Criminology, San Francisco.

