

USING BEHAVIORAL SCIENCE TO IMPROVE COURT APPEARANCE RATES

Webinar for NACM members

June 11, 2024

TODAY'S PRESENTERS

Jeffrey Tsunekawa

*Immediate Past NACM
President*

Shannon McAuliffe

*Associate Managing Director,
ideas42*

HOUSEKEEPING

- Submit questions and comments in the chat box.
- We strongly encourage joining on your computer or the Zoom app if you can, since we will be using visuals and other Zoom functions.

TODAY'S AGENDA



WHY FOCUS ON
IMPROVING COURT
APPEARANCE RATES



THINKING ABOUT
COURT APPEARANCE
LIKE A BEHAVIORAL
SCIENTIST



BEHAVIORAL BARRIERS
TO COURT APPEARANCE



LEADING STRATEGIES
TO IMPROVE
APPEARANCE



BEFORE WE START, A LITTLE GAME...

*If you say something funny,
it's called a...*





If you jab at someone with a finger, that's a...

POKE

When something is burning, you see...

SMOKE



<https://www.ucdavis.edu/climate/news/older-wildfire-smoke-plumes-can-affect-climate>

*If you don't have
money, you are...*

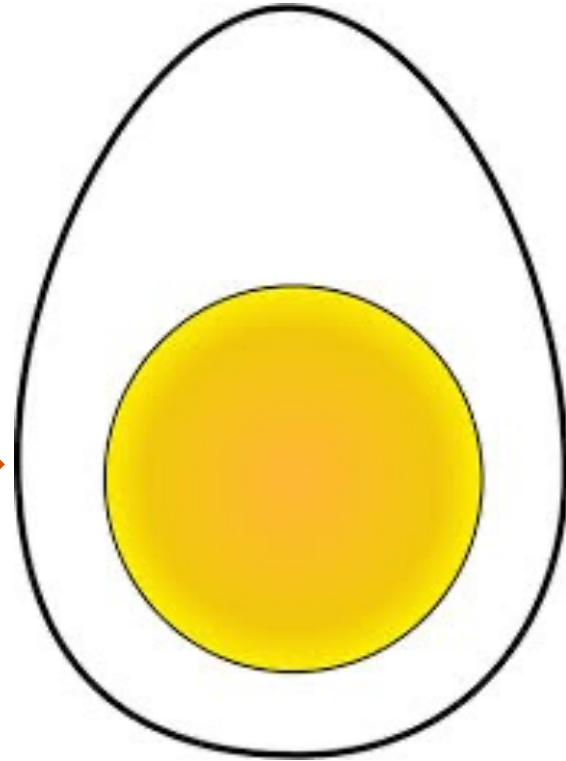
BROKE



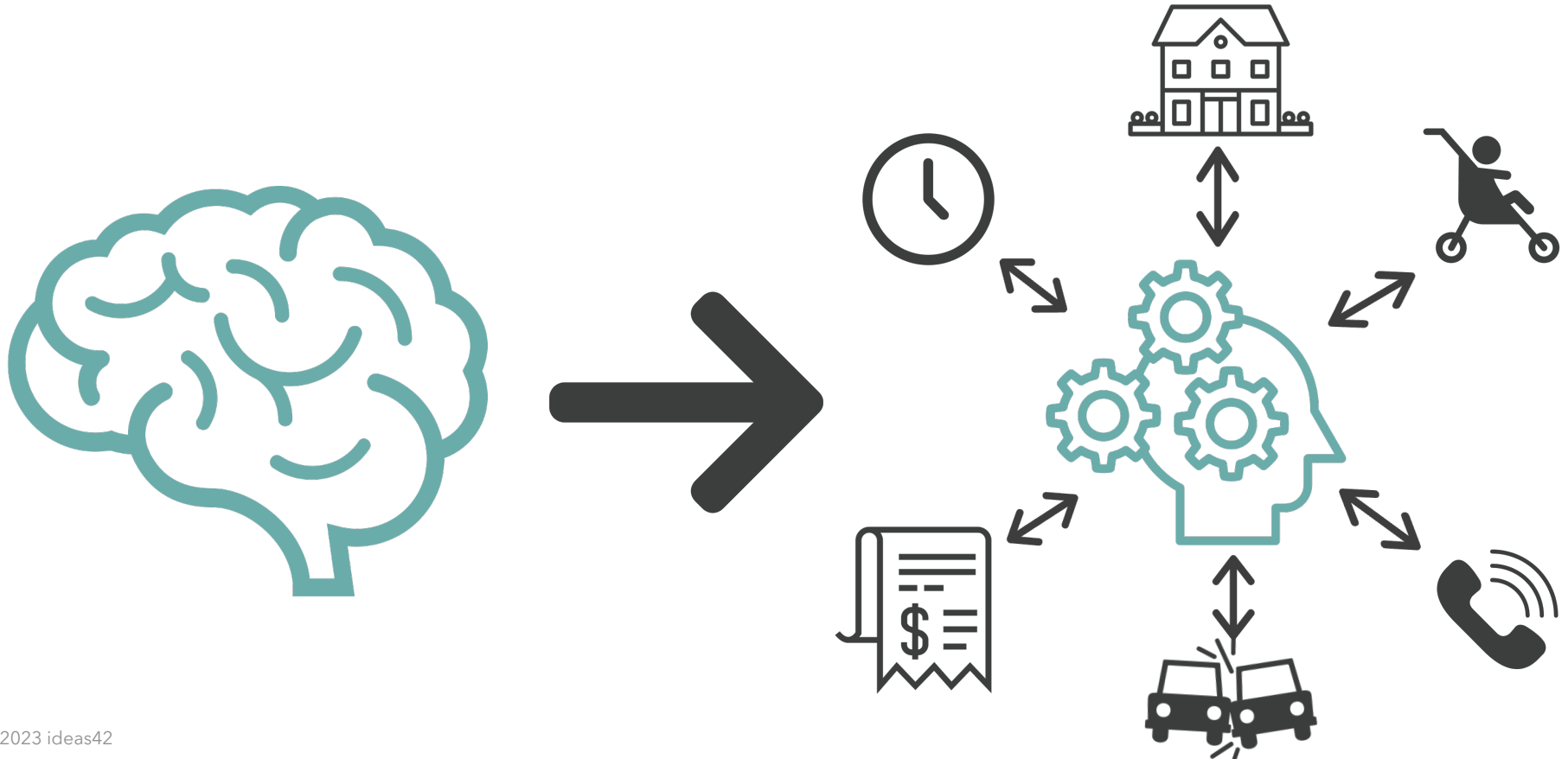
<https://www.istockphoto.com/photo/broken-piggy-bank-by-hammer-on-white-background-gm922754538-253302548>

The white part of an egg is called a...

Albumen



THE BRAIN IS FUNNY AND COMPLEX

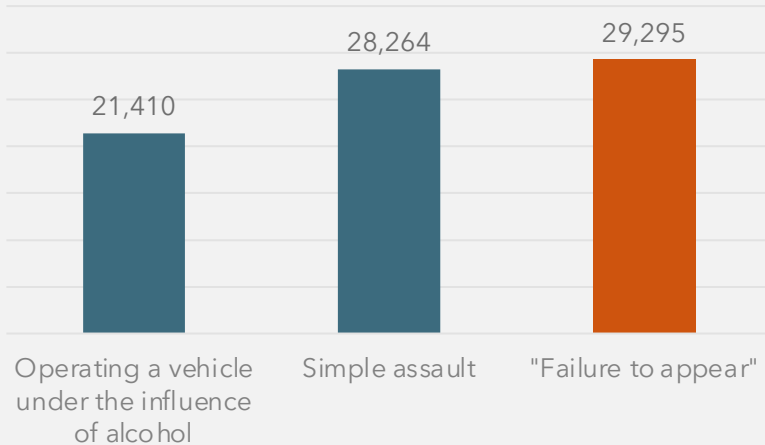


WHY COURT APPEARANCE MATTERS

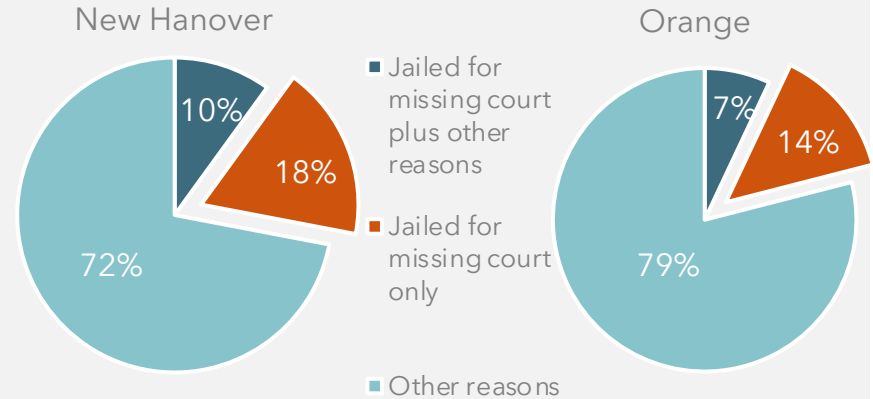
MISSED COURT DATES DRIVES ARREST AND JAIL

Leading Cause of Arrest in Michigan

More People Arrested in Michigan for Missing Court than for Assault, DUI
Most arrests by offense type, 2018



Most Common Reason for Jail in North Carolina



Data and research funded by Pew Charitable Trusts. Michigan: <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2021/09/michigan-enacts-landmark-jail-reforms> North Carolina: <https://cjl.sog.unc.edu/wp-content/uploads/sites/19452/2022/04/NC-Court-Appearance-Project-Report-4-22-22.pdf>

MISSED COURT DATES ARE COSTLY

ADMINISTRATIVE COSTS

Each missed appearance: ~\$1100+

10,000 missed
court dates

\$11M

1,000 missed
court dates

\$1.1M



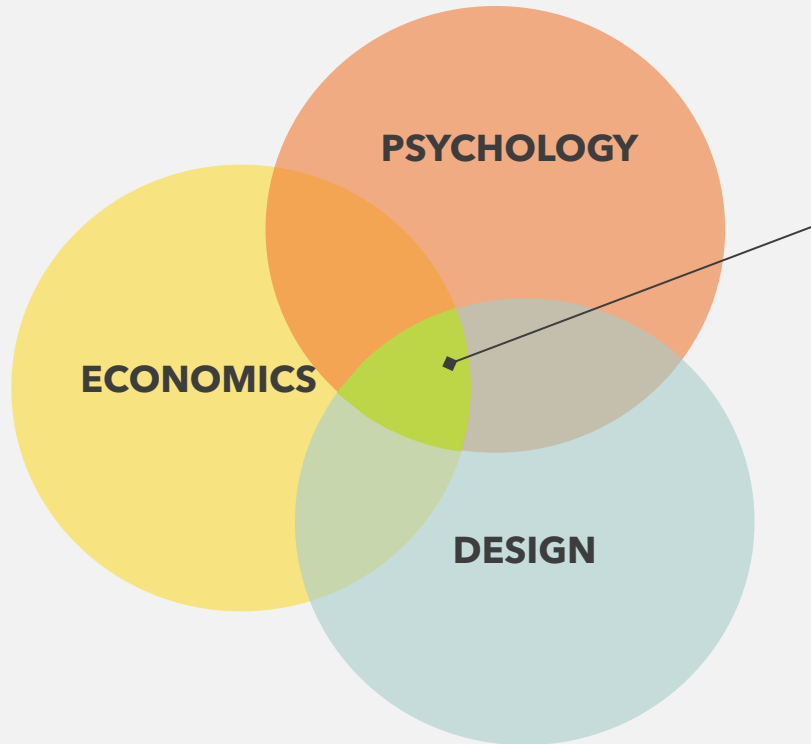
Jailing 10,005 people for nonappearance
cost Pima County, AZ

~\$20 million

COST OF PUNISHMENT

Warrants, arrests, jail days

IDEAS42: USING BEHAVIORAL SCIENCE TO INCREASE APPEARANCE AND DECREASE WARRANTS



ideas⁴²

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

(UN)WARRANTED: OUR WORK

INCREASING COURT APPEARANCE RATES ACROSS THE COUNTRY

Court date communications proven to:

- Reduce nonappearance, and move cases forward
- Improve efficiency, save time & money
- Increase equitable access to justice

Partner with state and local courts to create effective communications:

- Court date forms
(citations, release forms, notices...)
- Court date reminders
(text, email, phone, mail...)



Target: Prevent 500K missed court dates over 5 years

THINKING BEHAVIORALLY: WHY DO PEOPLE MISS COURT?

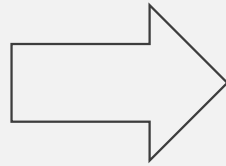
ASSUMPTION: PEOPLE MISS COURT INTENTIONALLY

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



INTENTION

"I want to go to court."

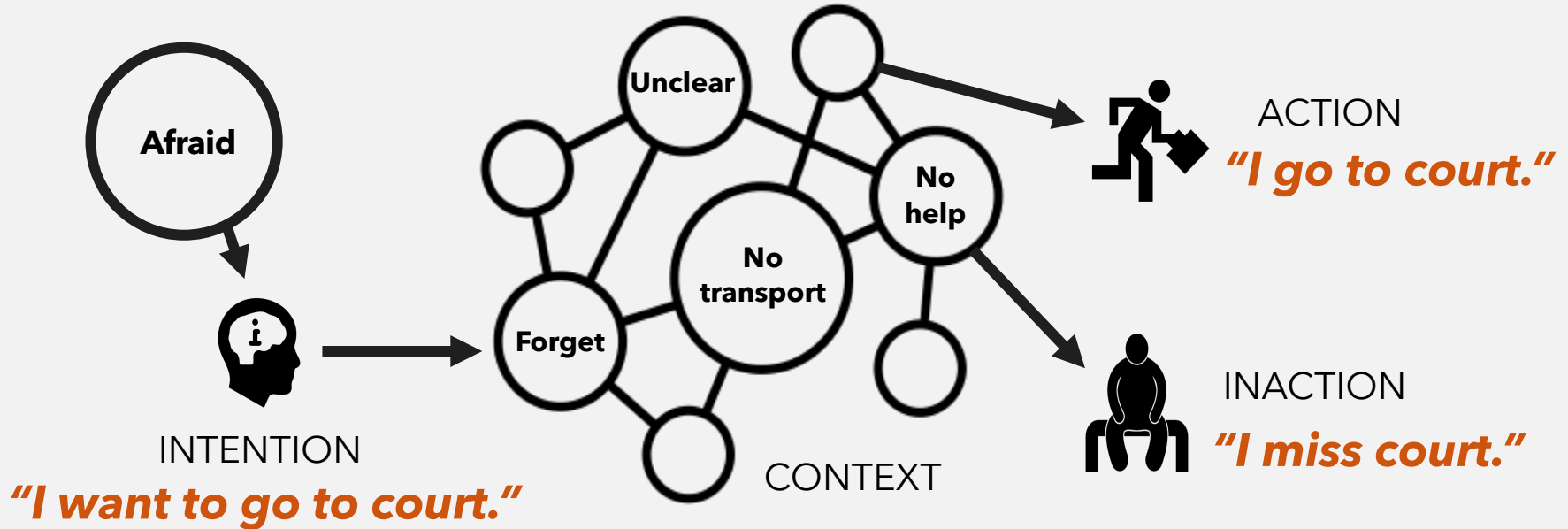


ACTION

"I go to court."

REALITY: PEOPLE MISS COURT EVEN WHEN THEY WANT TO GO

Behavioral science: How people **REALLY** act



COURT IS OFTEN DESIGNED FOR TWO TYPES



24
HOUR

FITNESS

WE DON'T FIT
EITHER MOLD

POINT LO
HANDICAP
TO UPPER
LOCATED
24 HOUR

THINKING BEHAVIORALLY, WE CAN UNCOVER THE REAL DRIVERS BEHIND NONAPPEARANCE

Many barriers keep people from getting to court despite their best efforts



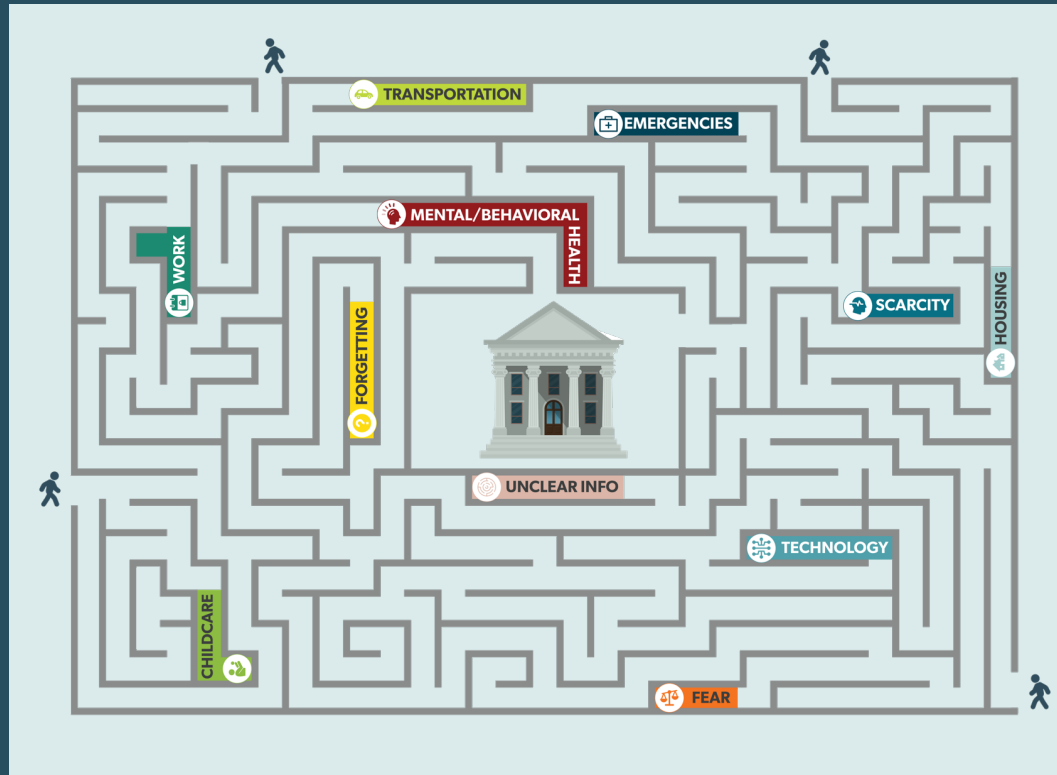
When people are afraid or disempowered, they may decide it's best not to show up



Information people receive may be unclear, incomplete, or confusing



WHAT KEEPS PEOPLE FROM GETTING TO COURT?



MAJOR BARRIERS THAT KEEP PEOPLE FROM SHOWING UP

Behavioral barriers

Limited mental bandwidth
due to scarcity

Unclear and hassle-filled
processes

Fear

Forgetting

Everyday challenges & hardships

Resource
gaps

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

Health

- Mental and behavioral health challenges
- Medical emergencies
- Disability

Personal
situation

- Inflexible work schedules
- Housing instability

Scarcity

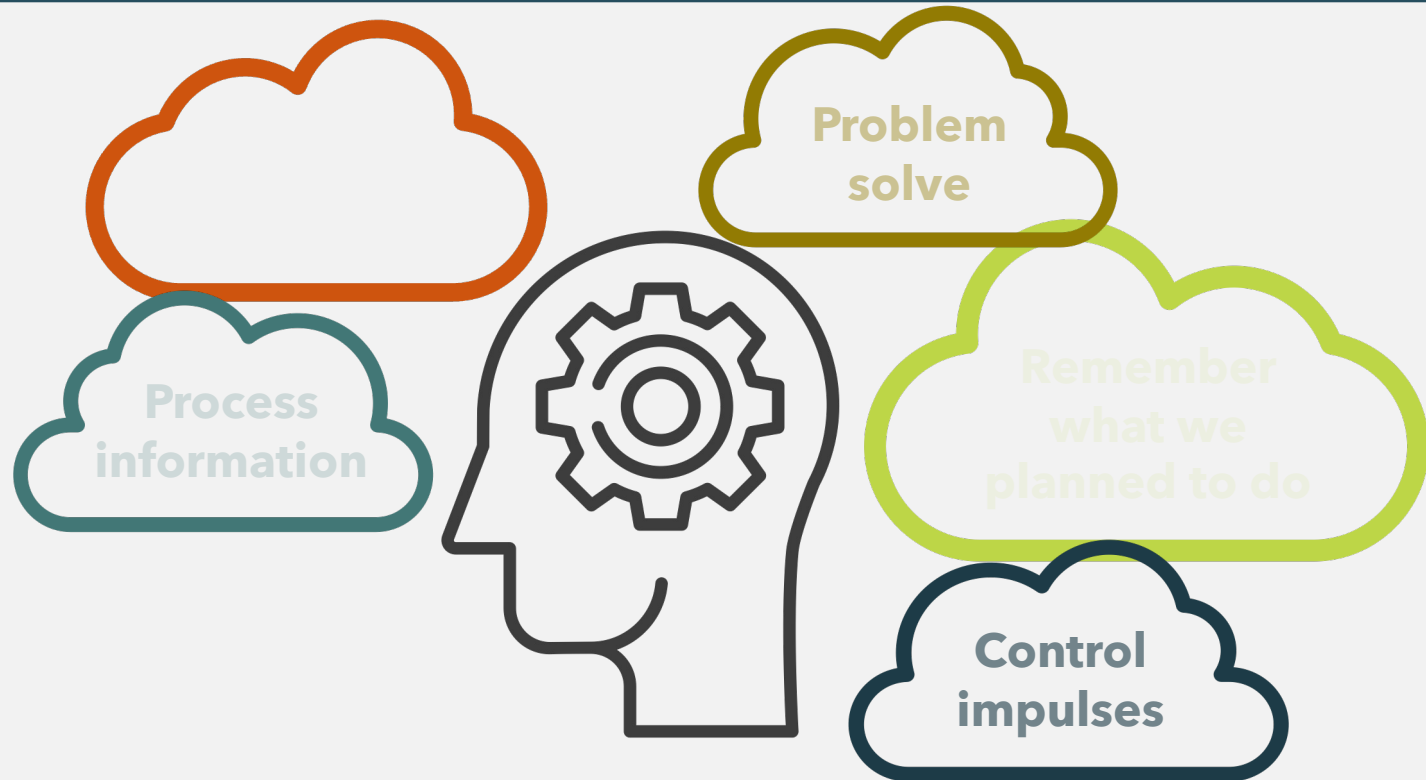
When key resources are scarce, we focus on what is most urgent



COGNITIVE BANDWIDTH IS OUR ABILITY TO DO “EXECUTIVE”
THINKING...

*We all have limited cognitive
bandwidth*

WHEN OUR COGNITIVE BANDWIDTH IS DEPLETED, IT AFFECTS OUR BEHAVIOR



SCARCITY DEPLETES OUR COGNITIVE BANDWIDTH

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



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

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



- Bandwidth used all the time
- Like being under a tight work deadline all day, every day
Like losing a night's sleep!



CHRONIC SCARCITY REDUCES COURT USERS' ABILITY TO NAVIGATE COURT PROCESSES



1. Remember
court date

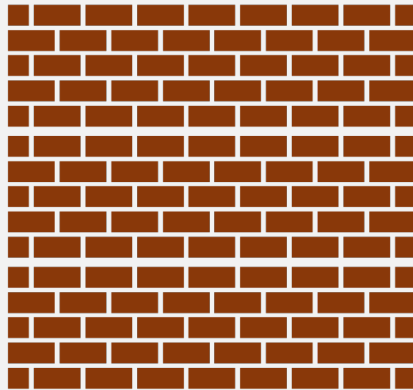
2. Arrange
transportation

3. Find way to pay
fines

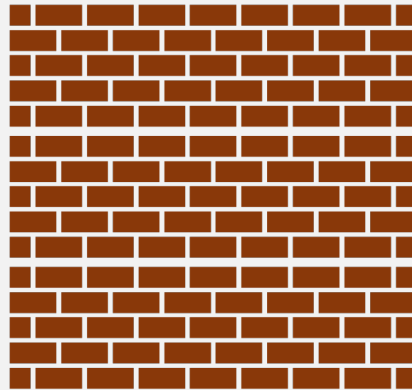
CHRONIC SCARCITY REDUCES COURT USERS' ABILITY TO NAVIGATE COURT PROCESSES



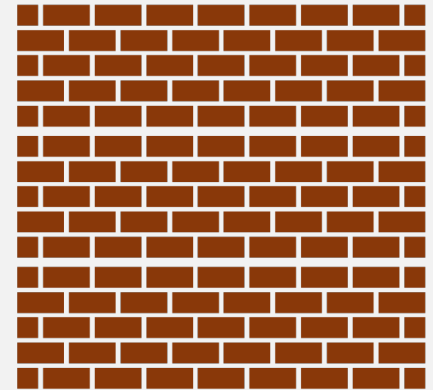
1. Remember
court date



2. Arrange
transportation



3. Find way to pay
fines





POVERTY ≠ PERSONAL FAILING

POVERTY ≠ CULTURAL PATHOLOGY

**POVERTY = CONTEXT OF
CHRONIC SCARCITY**

SCARCITY CHANGES HOW EVERYONE'S BRAINS WORK



Skip important safety measures



Focus on food to **exclusion of all else**

THERE'S HOPE!

Recognizing that these barriers exist, courts can take steps to lower them.

4 TARGET GOALS FOR COURTS

#1 Make information clear, timely, accessible

#2 Reduce logistical hassles

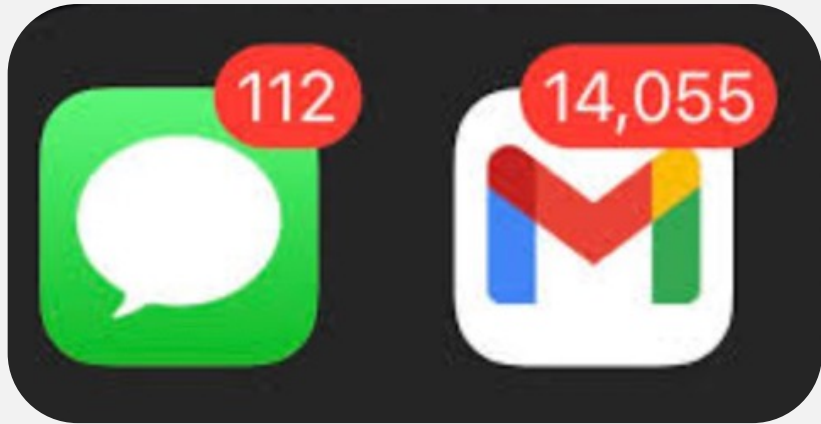
#3 Add flexibility

#4 Provide useful resources for those who need them



**MAKE INFORMATION
CLEAR, TIMELY,
ACCESSIBLE**

THE GREATEST MYTH ABOUT COMMUNICATION...



...is that it's even happened!

IMPROVING COMMUNICATIONS PROVEN STRATEGY

- **Strongly backed by research**

Communications interventions have been found to **increase appearance rates by as much as 20-40%**

- **Often highly cost effective**

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

- **Something all courts can do**

Even **small improvements** can go a long way

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



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



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



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

MAKE INFORMATION CLEAR, TIMELY, ACCESSIBLE: BEHAVIORALLY DESIGNED COURT FORMS



Redesigned summons form (NYC)

Simple updates like bringing most important info to the top and encouraging appearance while reminding of consequences increased attendance

CRC-3206 (7/15)

Criminal Court Appearance Ticket

Name (Last, First, MI) _____ Date of Birth (mm/dd/yy) _____

Cell Phone Number (where court may contact you) () _____ Home Phone Number (where court may contact you) () _____

Show up to court on:
Court Appearance Date (mm/dd/yy): _____ at: **9:30 a.m.**

Your court appearance location: Other (specify) _____

Bronx Criminal Court Kings & New York Criminal Court Midtown Community Court Redhook Community Justice Center Queens Criminal Court Richmond Criminal Court

****To avoid a warrant for your arrest, you must show up to court.****
At court, you may plead guilty or not guilty.
Please see back for exceptions for Public Consumption of Alcohol and Public Urination offenses.

Court Locations: You must appear at the court location identified above.



Redesigned notice of next court date (Harris County, TX)

New form emphasizes court date, reduces legalese, explains what to expect at court, and encourages sign up for reminders

THE STATE OF TEXAS vs. _____ CASE #: _____
HARRIS COUNTY CRIMINAL COURT # _____
CURRENT DATE: _____
For the charge: _____ NEXT COURT DATE: _____

NOTICE OF NEXT COURT DATE

Your next court date is on _____ at _____:_____.M. at the **Criminal Justice Center, 1201 Franklin St., Houston. FLOOR #: _____ COURT #: _____.**

On the court date above, you: **MUST APPEAR** to avoid arrest warrant **DO NOT NEED TO APPEAR.** For next steps, check in with your lawyer after the court date above.

★ For more helpful information, see handout: *Important Information about your Next Court Date* ★

★ REMINDERS help many people remember to go to court and avoid re-arrest. Sign up here:

DEFENDANT'S SIGNATURE _____
 On Bond. In Jail Appearance Waived

ADDRESS _____ CELL PHONE or HOME PHONE (circle) _____ **Yes, send reminders!**

CITY _____ STATE _____ ZIP CODE _____ EMAIL ADDRESS _____ **Yes, send reminders!**

The State has offered: _____ The State and Defense agree as follows: _____

MAKE INFORMATION CLEAR, TIMELY, ACCESSIBLE: COURT DATE REMINDERS



Text reminders (NYC)

- One-way text messages emphasizing consequences, what to expect, and plan-making reduced nonappearance by 26%
- Combined with missed court date reminder, open warrants fell 32%
- Higher impact for court users with less wealth



Live calling (NYC)

- Reminder phone calls reduced nonappearance by 37%
- Evaluation found higher impact for people of color



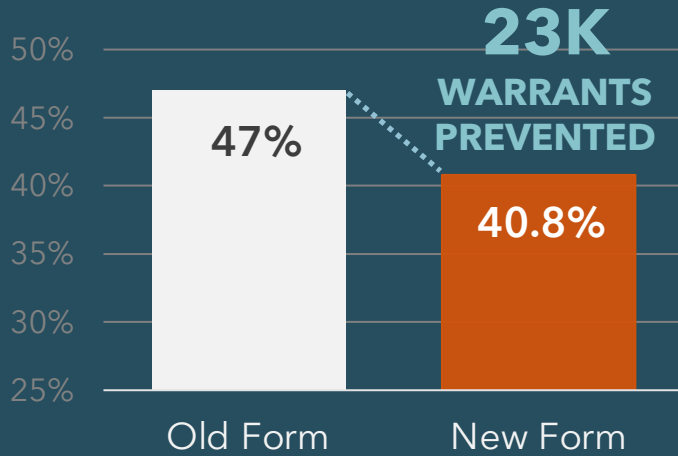
Postcards (Nebraska)

- Postcards emphasized consequences of nonappearance
- Nonappearance rates fell from 13% to 8%

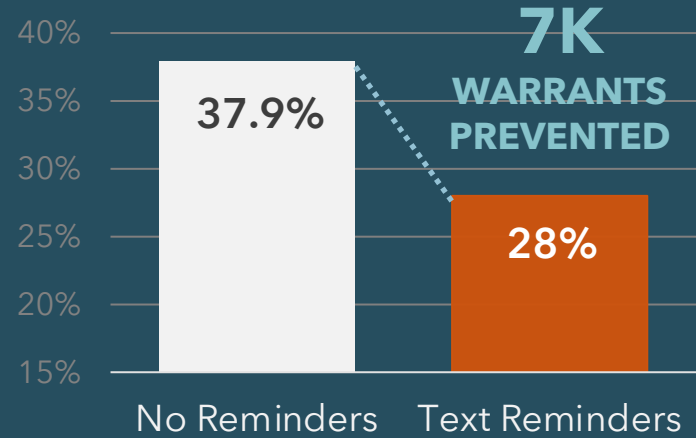


EXAMPLE: NYC DECREASED NONAPPEARANCE BY 36% WITH NEW FORMS AND TEXT REMINDERS

Missed Court Date Rates: New Summons Form



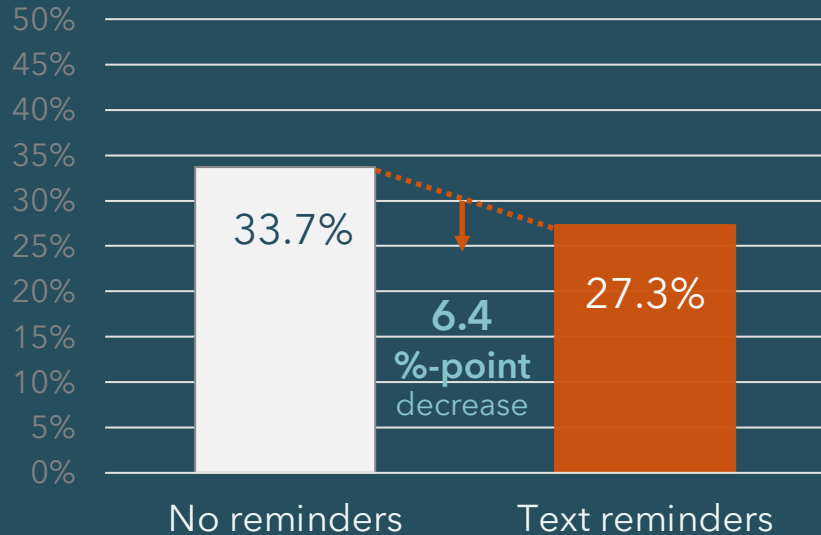
Missed Court Date Rates: Text Message Reminders



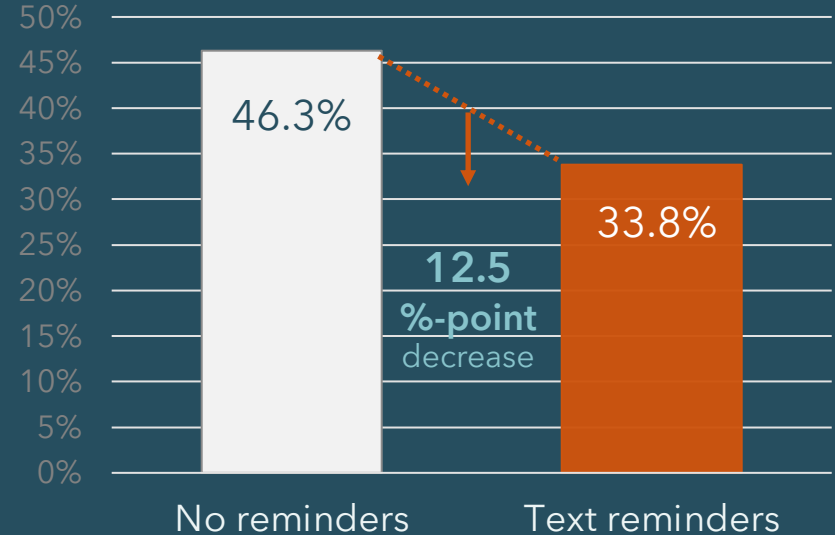
Data for reminders reflects percentage impact of most effective reminders

DOUBLY IMPACTFUL AMONG COMMUNITIES WITH LEAST WEALTH

Missed Court Date Rates Effect of text reminders in wealthiest neighborhoods



Missed Court Date Rates Effect of text reminders in least wealthy neighborhoods



MAKE INFORMATION CLEAR, TIMELY, ACCESSIBLE: POST-ARRAIGNMENT MEETINGS

WHAT IT IS AND HOW IT WORKS

- A brief, voluntary post-arraignment **meeting with trained pretrial staff**
- Helps court users **clarify appearance obligations** and **make a plan** to return to court.
- Court users also receive a **personalized reminder call** before their next court date

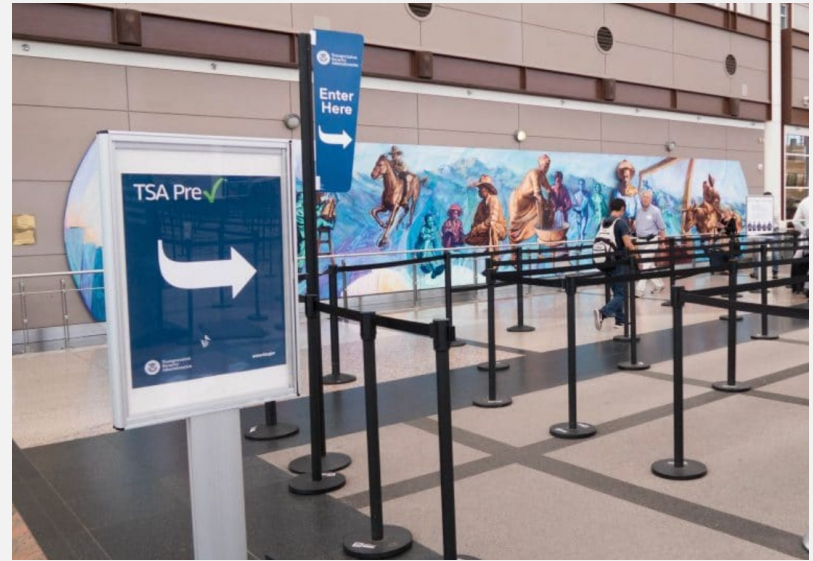
THE EVIDENCE

- In a pilot, the program **reduced nonappearance by 32%** over the remainder of a person's case



REDUCE LOGISTICAL CHALLENGES

REDUCE LOGISTICAL CHALLENGES: REMOVE HASSLES AND SIMPLIFY THE PROCESS



REDUCE LOGISTICAL CHALLENGES: LEADING STRATEGIES TARGET COMMON PAIN POINTS

STRATEGY

BARRIERS ADDRESSED

Virtual appearances

Offer virtual appearances with accessibility and procedural fairness

- ✓ *Transportation, childcare, and other barriers to going to court in person*

Warrant clearing

Provide streamlined warrant-clearing processes with a no-arrest guarantee

- ✓ *Fear*
-

REDUCE LOGISTICAL CHALLENGES: EXAMPLES: ACCESSIBLE VIRTUAL APPEARANCES

Courts have seen impressive participation in virtual appearances

68% decrease in nonappearance;
1100 warrants avoided

(El Paso, TX, April 2020-2022)

Nonappearance in eviction
proceedings **fell from ~40% to ~13%**

(Maricopa County, AZ, 2019-2021)

Courts are working to make virtual appearances accessible and procedurally just

Remote hearing sites

(Washington, DC)

**Loan out hotspots
and laptops**

(Maryland)

**Provide remote
interpretation**

(Many)

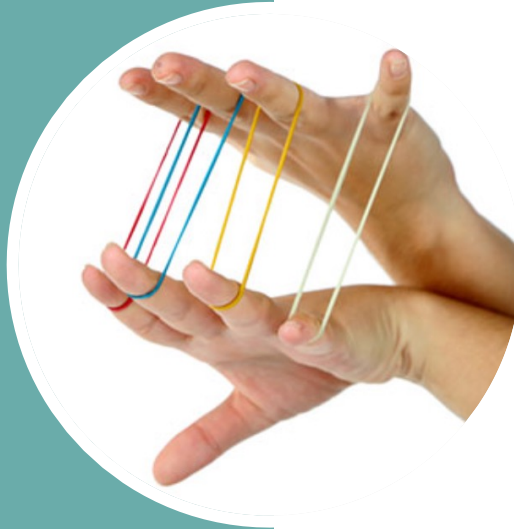
REDUCE LOGISTICAL CHALLENGES: WARRANT CLEARING

WHAT IT IS AND HOW IT WORKS

- **Lowers fear of arrest** that rises after warrant
- **Streamlined processes and/or special events** that remove hassles and address court users' fear of arrest when clearing a warrant for nonappearance, helping cases to get back on track more quickly.
- Models include **regular outreach events by court personnel, community-based services, special dockets, and periodic events**

THE EVIDENCE

- Examples of streamlined warrant clearing haven't been rigorously studied, but **courts have seen impressive numbers of warrants cleared**



ADD FLEXIBILITY

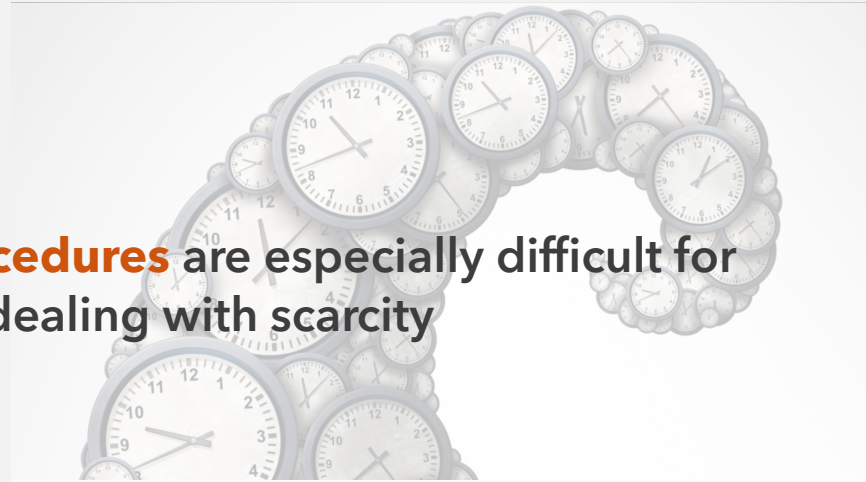
ADD FLEXIBILITY:

FLEXIBILITY HELPS COURT USERS MEET THEIR OBLIGATIONS

Sometimes, missing court is **unavoidable**



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



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

ADD FLEXIBILITY:

COURTS ARE FINDING WAYS TO CREATE SLACK

Flexible (re)scheduling

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

Grace periods

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



GET IN TOUCH!

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

Reach out:

unwarranted@ideas42.org

Learn more:

ideas42.org/unwarranted



Join NACM Today!

<https://nacmnet.org>

click on “Join Us!”

Or contact us:

membership@nacmnet.org





National Association for Court Management
Strengthening Court Professionals

Join NACM!

NACM members have exclusive access to:

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- *Court Manager* quarterly journals which include numerous articles of interest to court managers
- Opportunities for one-on-one mentorships from experienced court professionals
- A community of court professionals from around the world to discuss emerging issues within the courts
- Opportunities to serve on NACM committees with other colleagues in the field and the NACM Board
- Discounted registration rates and scholarships for NACM Conferences
- Do you value NACM? Know someone who would be a good member? Nominate that person for a new member scholarship

[Join Today!](#)

SAVE THE DATES

**2024 NACM Annual Conference
July 21-25, 2024
New Orleans Hilton Riverside**

**AI Guide and Updated Court
Security Guide to be released
July 2024**

**Tyler Technologies Webinar
August 29, 2024, 2pm ET**

