

USING BEHAVIORAL SCIENCE TO IMPROVE COURT APPEARANCE RATES

Webinar for NAPCO members

Part 1 - November 21, 2023

TODAY'S AGENDA

- Why focus on improving court appearance rates
- How to think about court appearance like a behavioral scientist
- Behavioral barriers to court appearance
- Preview of leading strategies to improve appearance

TODAY'S PRESENTERS



Alissa Fishbane
Managing Director



Shannon McAuliffe
Associate Managing Director

HOUSEKEEPING

- Submit questions and comments in the chat box. We'll occasionally share links to resources via 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.
- Please keep your camera on if possible – we love to see your faces!

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...*

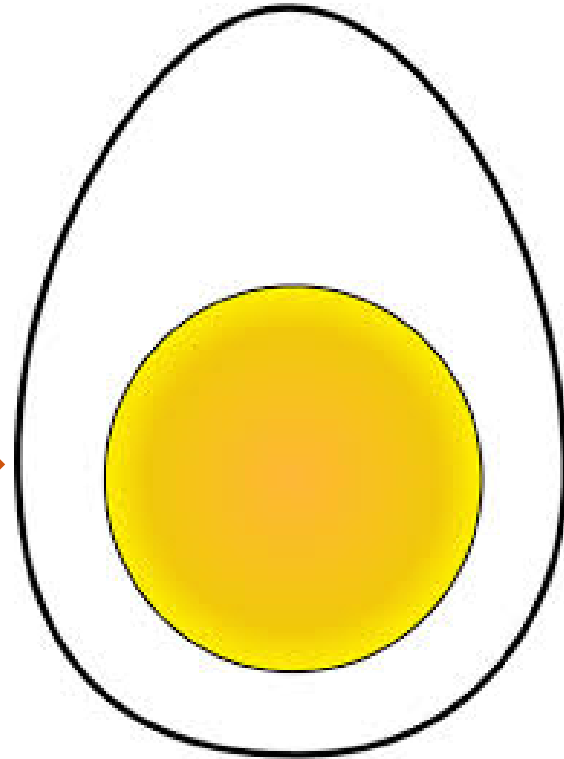
BROKE



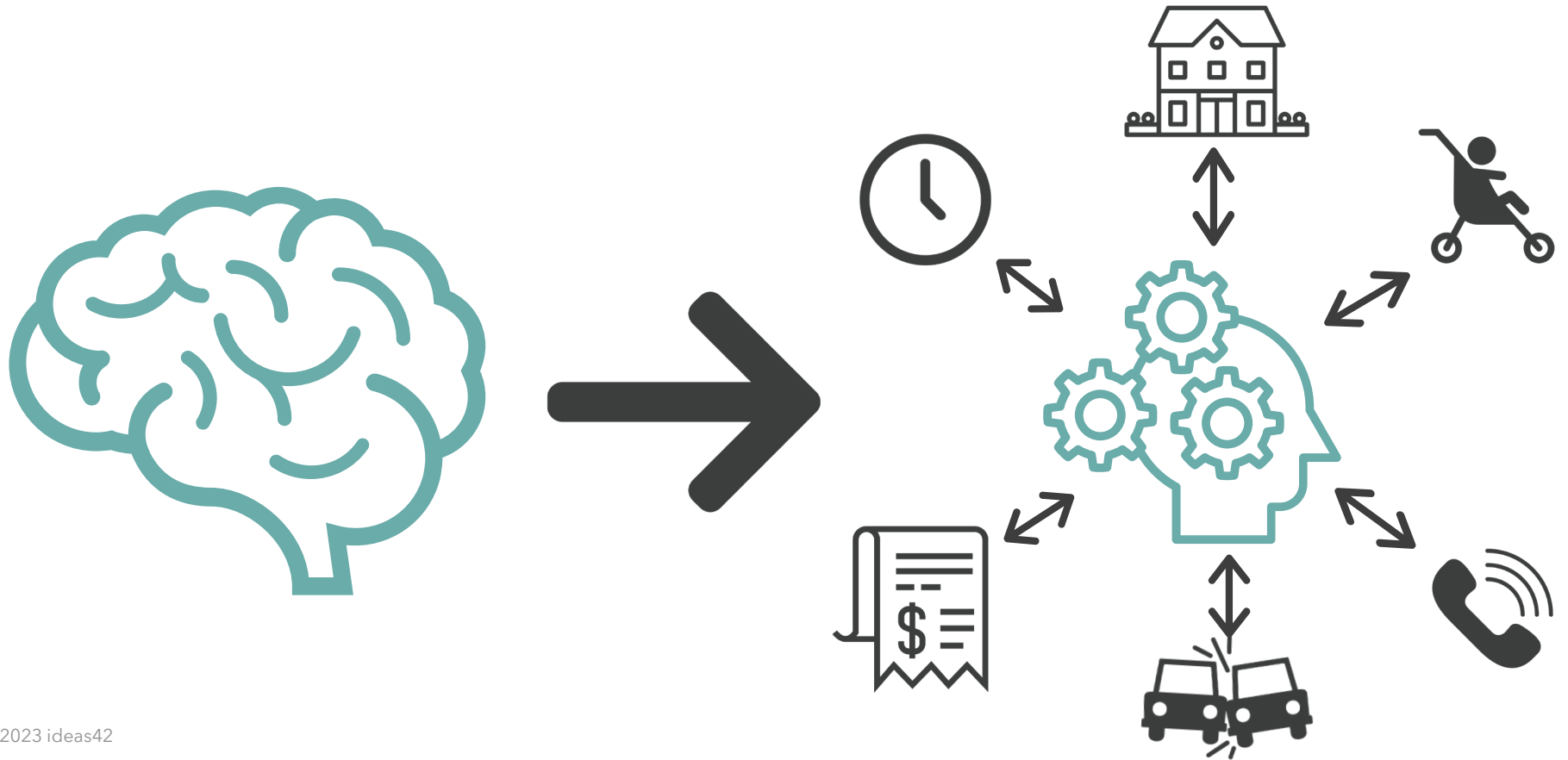
<https://www.istockphoto.com/photo/broken-piggy-bank-by-hammer-on-white-background-gm922754538-253302548>

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

Albumen



THE BRAIN IS FUNNY AND COMPLEX

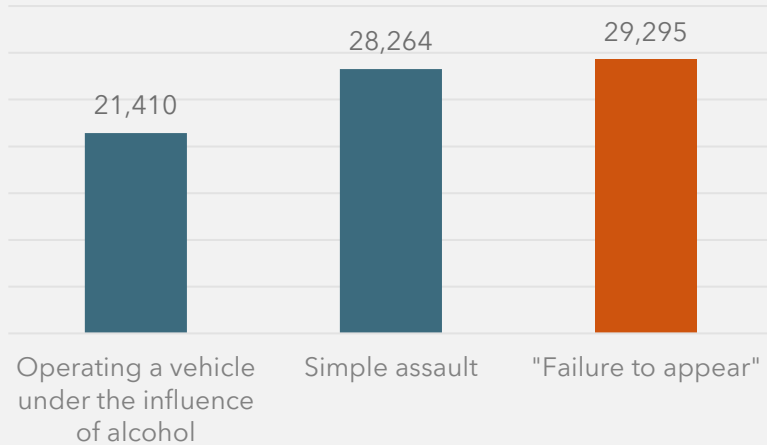


WHY COURT APPEARANCE MATTERS

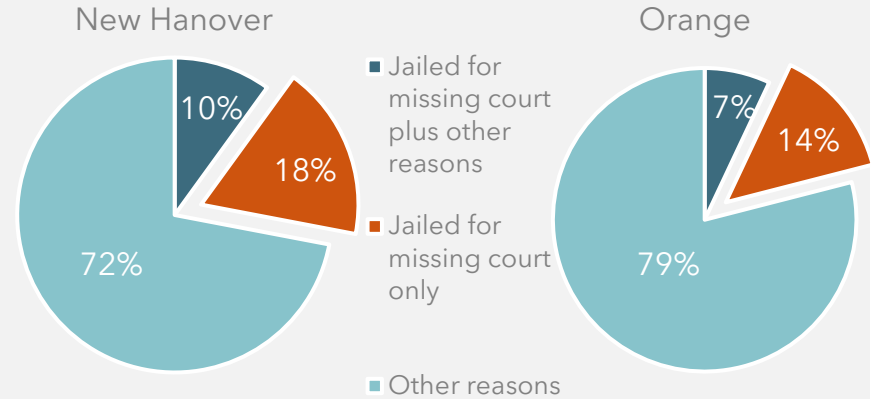
MISSED COURT DATES WIDEN RACIAL INEQUITY

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: ~\$1000+

10,000 missed court dates

\$10M

1,000 missed court dates

\$1M



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

~\$20 million

COST OF PUNISHMENT

Warrants, arrests, jail days

MISSED COURT DATES WIDEN RACIAL INEQUITY

93%

Percent of people charged with nonappearance who were Black

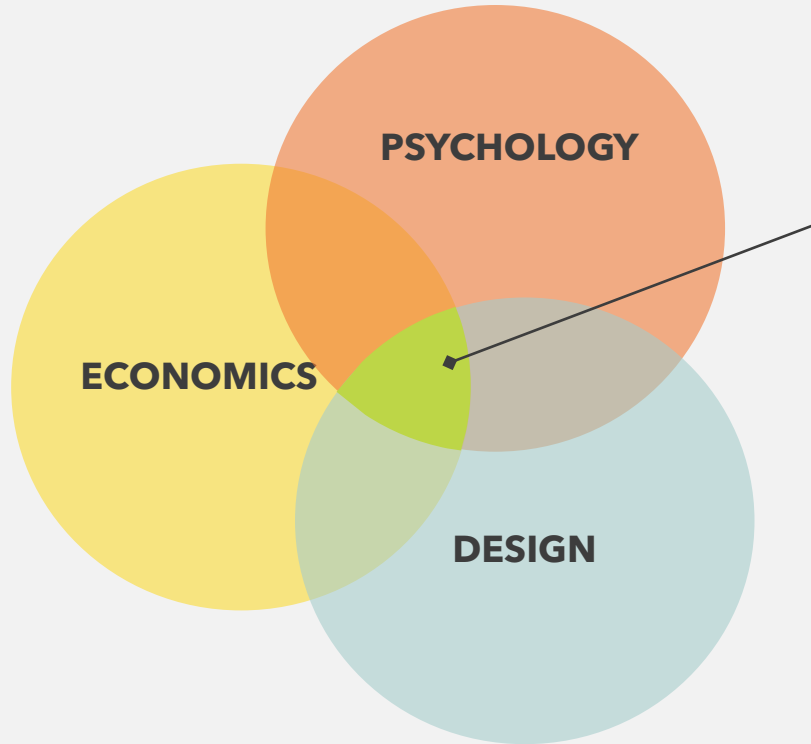
(Ferguson, MO 2012-2014)

4:1

Ratio of Black people to white people arrested solely on bench warrants

(St. Louis, MO 2019)

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...)



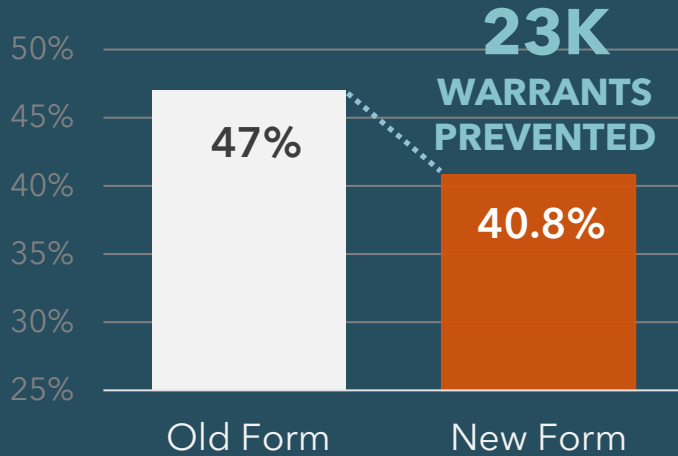
Target: Prevent 500K missed court dates over 5 years

A QUICK REFLECTION

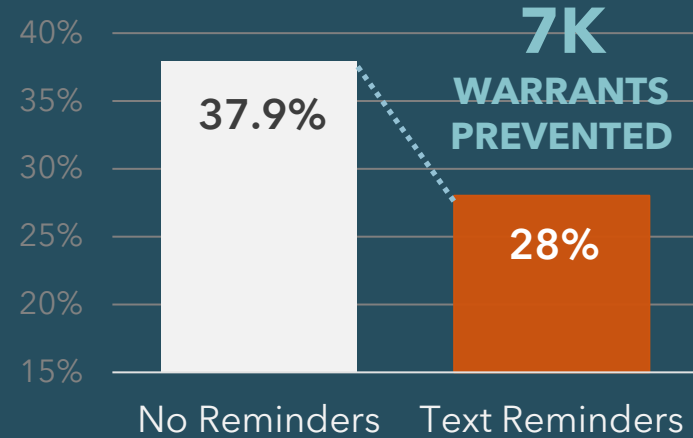
- What would the impact be for your court of increasing appearance by 5%? 10% or more?
- Does your court see improving appearance as a priority? Why or why not?

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

THINKING BEHAVIORALLY: WHY DO PEOPLE MISS COURT?

COURT APPEARANCE: MYTH VS REALITY

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

- Very few (~3%) of those who miss court on felony charges remain fugitive¹
- Our research and others' show that people often go to great lengths to show up

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



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

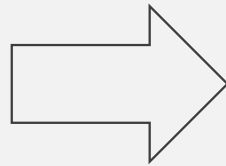
ASSUMPTION: PEOPLE MISS COURT INTENTIONALLY

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



INTENTION

"I want to go to court."

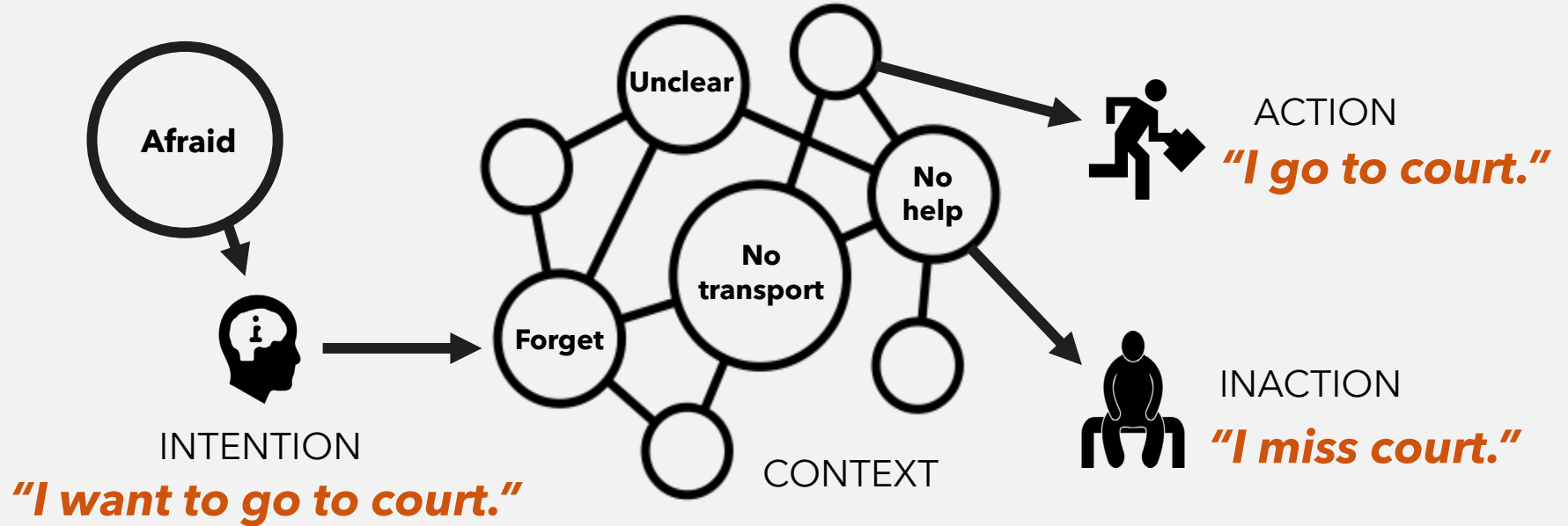


ACTION

"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

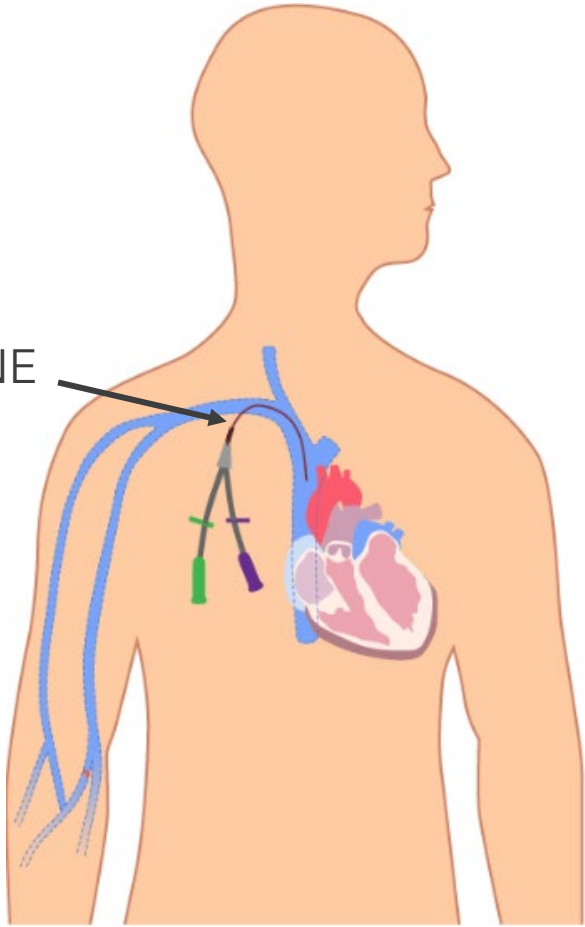
POINT LO
HANDICAP
TO UPPER
LOCATED
24 HOUR

A QUICK STORY FROM THE MEDICAL WORLD



More infections than
75% of American
hospitals

CENTRAL LINE



“Yours is medication, and mine is coffee. They’re both vital to our well-being.”



CHECKLIST

- Wash hands prior to placing central line
- Wear sterile mask, hat, gown, and gloves
- Cover the entire patient in sterile drapes
- Clean the patient's skin at the insertion site
- Cover central line with sterile dressing

66%

Decrease in infections
in first 3 months

1,500

Lives saved
in first 18 months

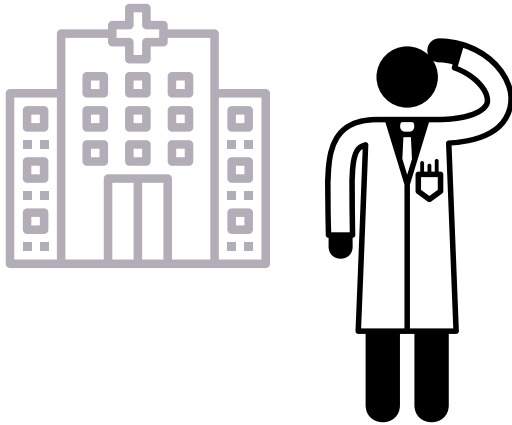
A blue-tinted illustration of a hospital room. A patient is lying in a bed, partially covered by a blanket. The room is filled with medical equipment, including monitors, IV stands, and various tubes and wires. A doctor in a white coat is standing on the right side of the frame, holding a clipboard. The overall scene is complex and detailed, representing a clinical environment.

CONTEXT MATTERS.

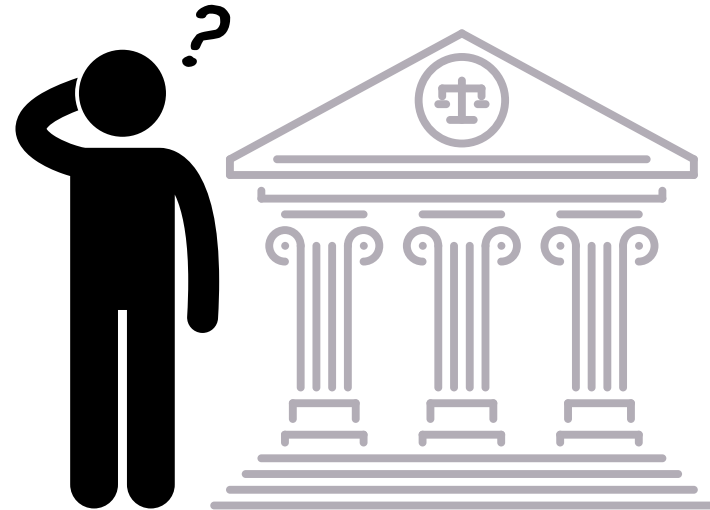
FIX THE CONTEXT, NOT THE PERSON.

WHAT DOES THIS SAY ABOUT COURT APPEARANCE?

If doctors can make mistakes with their routine hospital procedures...



Court users can make mistakes trying to appear in court!



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

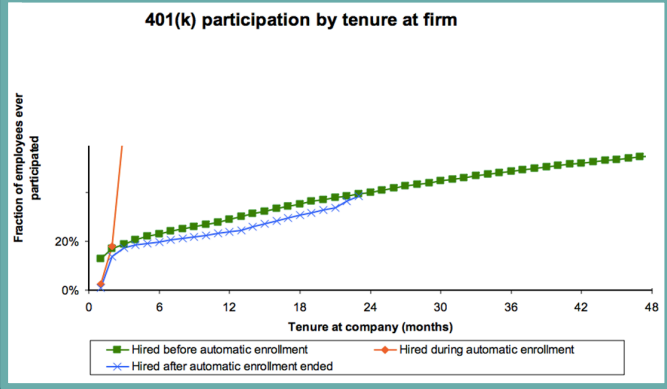


Information people receive may be unclear, incomplete, or confusing



...AND WE CAN FIND EFFECTIVE SOLUTIONS

Increase 401(k) participation by 30 percentage points

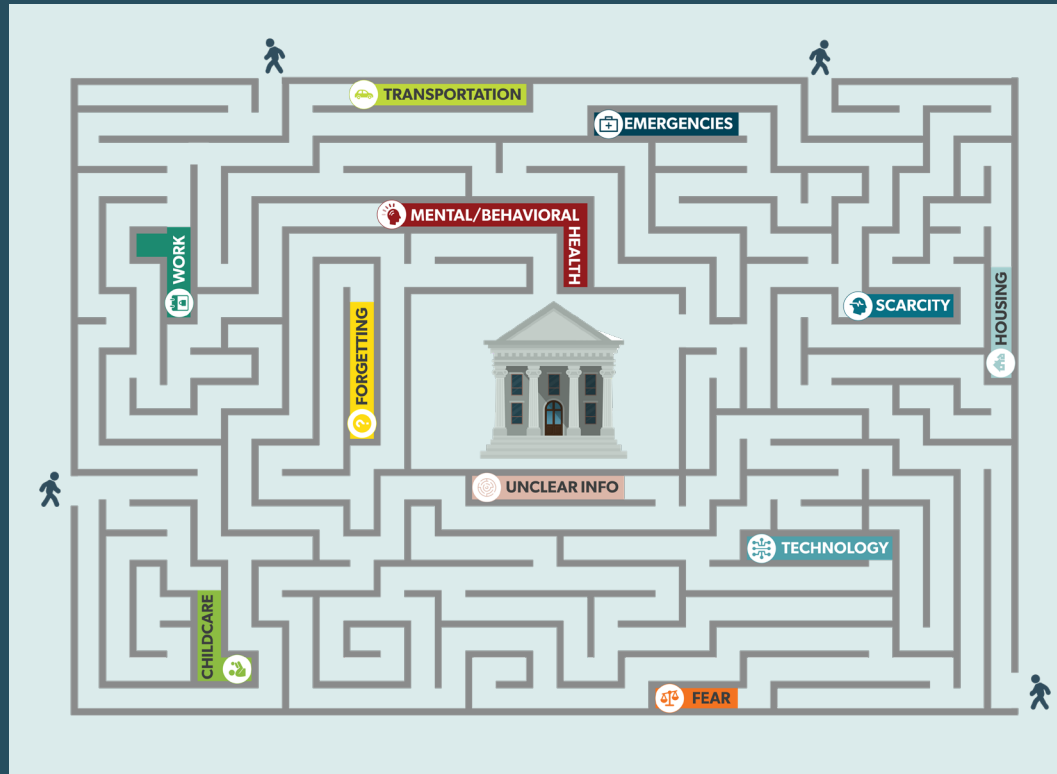


Increase firefighter exam applications from underrepresented groups by 36%



Reduce amount of opioids prescribed by ~10%

WHAT KEEPS PEOPLE FROM GETTING TO COURT?



EVERYDAY LIFE AND HARDSHIPS CREATE OTHER BARRIERS

Resource gaps

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

Health

- Mental and behavioral health challenges
- Medical emergencies
- Disability

Personal situation

- Inflexible work schedules
- Housing instability

BEHAVIORAL BARRIERS ARE SUBTLE, BUT IMPORTANT



**Limited mental bandwidth
due to scarcity**



**Unclear and hassle-filled
processes**



Fear and distrust



Forgetting

Scarcity

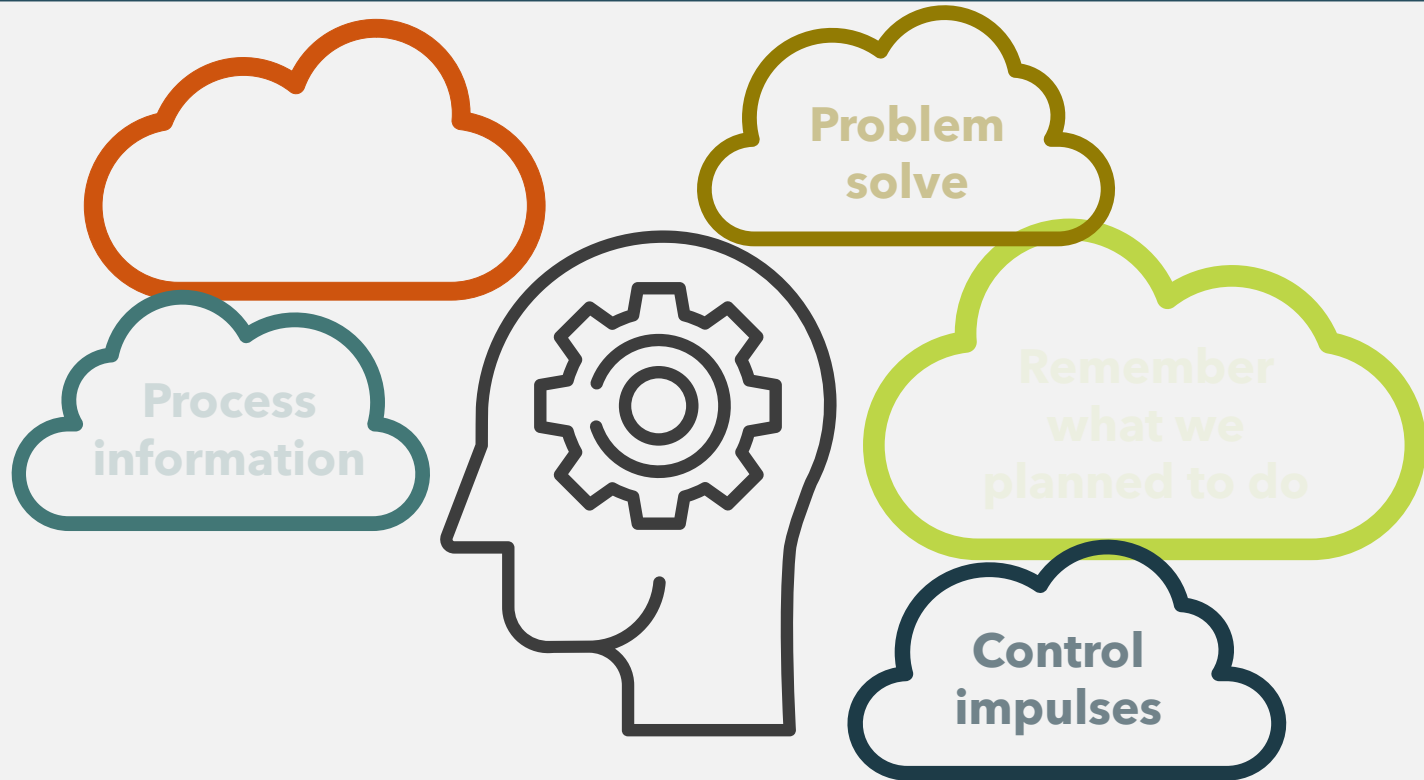
When key resources are scarce, we focus on what is most urgent



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

SCARCITY CHANGES HOW OUR BRAINS WORK



Skip important safety measures



Same impact as **losing a night's sleep**



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

POVERTY ≠ PERSONAL FAILING

POVERTY ≠ CULTURAL PATHOLOGY

POVERTY = CONTEXT OF
CHRONIC SCARCITY

CHRONIC SCARCITY REDUCES COURT USERS' ABILITY TO NAVIGATE COURT PROCESSES



1. Remember
court date

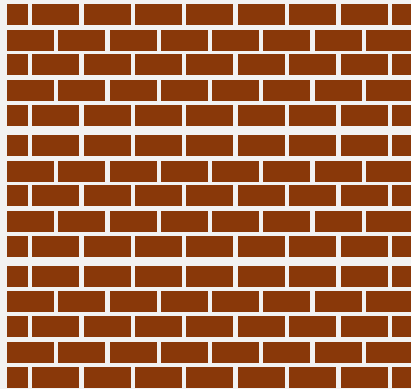
2. Arrange
transportation

3. Find way to pay
fines

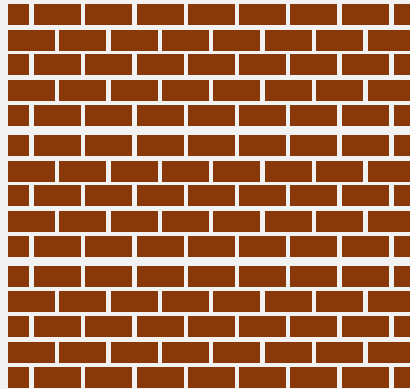
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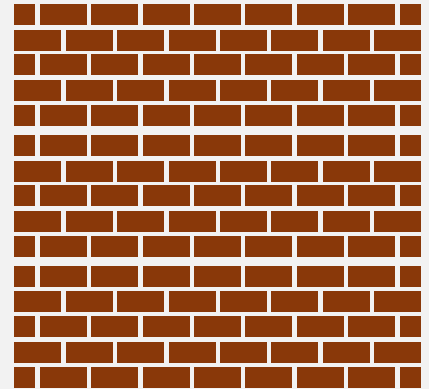
1. Remember court date



2. Arrange transportation

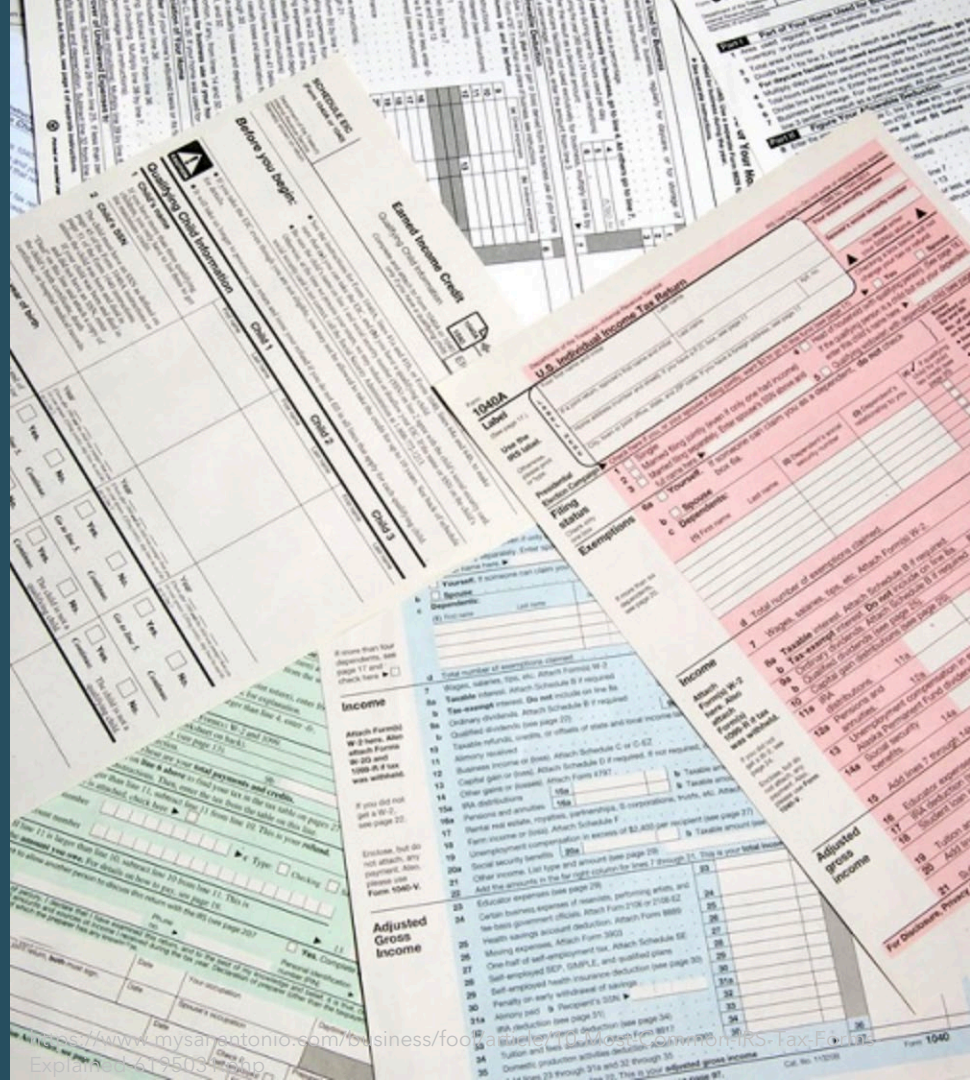


3. Find way to pay fines



Unclear, hassle-filled processes

Small obstacles and confusion can derail progress



HASSLES ARE EVERYWHERE

This account is locked

Oh dear. You tried too many passwords and now your account has been locked for 30 minutes. You can get around this by resetting your password using the link below

RESET MY PASSWORD

IN COURT, CONFUSION AND HASSLES ADD UP

Cause No: C01 C02
 Defendant: N02
 Offense: 001

STATE OF TEXAS § IN THE MUNICIPAL COURT
 vs. §
 N02 § THE CITY OF DALLAS, TEXAS

ORDER GRANTING CONTINUANCE

On this day the Court considered the motion for continuance of the punishment hearing by the Defendant. After considering the motion and the arguments of the parties, the Court is of the opinion that the motion should be GRANTED.

It is therefore ORDERED, ADJUDGED and DECREED that the punishment hearing is continued for 60 days to consider the deferred fee of \$C62,

BIPP Anger management Driving Safety Course ___hrs. community service

Alcohol Awareness Course ___hrs. alcohol related community service

In lieu of payment of the deferred fee, perform ___ hours of community service at any non-profit organization or governmental entity within the City of Dallas, to be completed before date below. C80

the plea entered today, the prosecutor's recommendation and to consider punishment.

In the event payment of the above fee is not received within 60 days of this order, a punishment hearing has been continued until the following date and time:

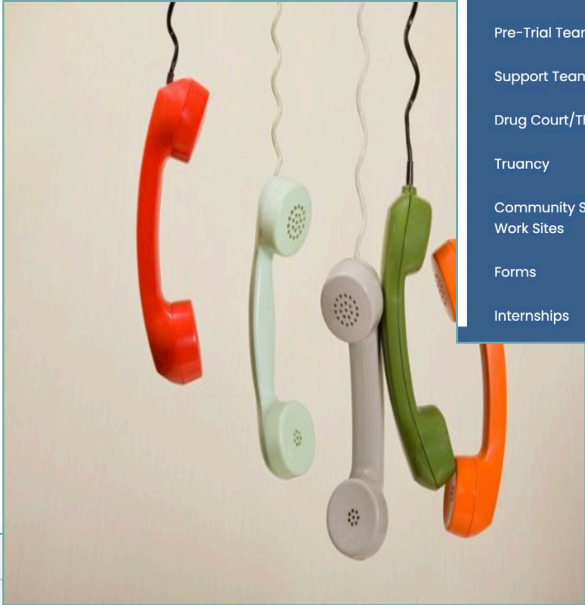
DATE: C80 AT: 1:30 PM ___ IN CT# 01

You are encouraged to attend your hearing virtually by going to the website courts.dallascityhall.com on the date and time of your hearing and selecting the correct court.

The clerk is authorized to accept payment any time before the above date. Payment can be made online, in person or through mail. Payments should be forwarded to Clerk of Court, 2014 Main St., Dallas, TX 75201 or online at courts.dallascityhall.com

Signed U03.

§SIGNATURE:SELECT:120:50
 Presiding Judge
 C01C0210



Browser tabs: Court Services, Inbox (9) - sam, My Drive - Goo, (13) All Files |, Toby, Weekplanning

Address bar: http://county.state.us/court services

Adult Team

Coaching & Development Team

Juvenile Team

Pre-Trial Team

Support Team

Drug Court/The Turn

Truancy

Community Service Work Sites

Forms

Internships

Home • Departments • Court Services

Court Services

Organizational Structure

The agency is divided into 5 distinct teams providing supervision and programming to offenders on probation. Each team has a supervisor who oversees the staff and reports directly to the Director of Court Services. Each team provides supervision and programming for a distinct group of offenders:

- The Adult Team supervises adult offenders convicted of a gross misdemeanor and misdemeanor level offenses as well as felony-level charges that are reduced to a gross misdemeanor or misdemeanor level.
- The Juvenile Team supervises juveniles from 10 to 21 years old who are convicted of all levels of offenses.
- The Pre-Trial Team supervises low and medium-risk adult offenders and pre-trial conditional release defendants, as well as provides educational and community service programs.
- The Coaching & Development Team oversees internal staff development training, provides dispositional alternatives to the court by offering evidence-based educational opportunities for offenders, and develops additional support initiatives to enhance offenders' success.
- The Support Team provides support services to all teams and the Director

<https://www.business2community.com/small-business/hello-ign>

THESE SEEMINGLY SMALL CHALLENGES HAVE BIG IMPACTS



Procrastination



Stop progress



Mistakes



**Negative feelings
and avoidance**

Fear & distrust

When we fear an outcome and don't trust that we'll be supported, we may avoid engaging



PEOPLE OFTEN FEEL OVERWHELMING FEAR ABOUT COURT

Stakes: **HIGH**



Possible jail time,
unaffordable fines,
spiraling consequences

Uncertainty: **HIGH**



Unclear on what will
and won't happen;
no guarantees

Power differential: **HIGH**



Court will decide
outcome; court actors
hold expertise and power

Fear can be a major barrier regardless of how much court experience a person has had

DISTRUST CAN MAKE AVOIDANCE SEEM SMART

Signals that court isn't committed to fairness

- Hearings where nothing happens
- Long wait times
- Feeling they are treated as a criminal
- It's hard to get help
- Restrictions make courthouse feel similar to jail

Prior experiences influence expectations

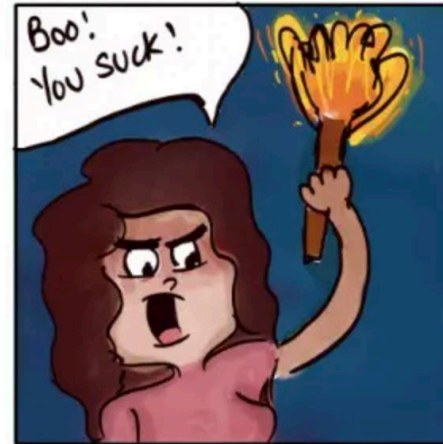
- Prior arrests and court cases
- Experience of racism
- Family and friends' experiences

<https://www.cbc.ca/news/canada/toronto/toronto-police-head-quarters-security-appeal-court-1.5281042>

Fundamental attribution error

We mistakenly believe that people's actions reflects their true selves

When someone messes up



When you mess up



WE ASSUME WITHOUT CONSIDERING CONTEXT

Features of the **person**

- Rude
- Reckless
- Have no patience

Features of the **context**

- They have a passenger with a medical emergency
- Distracted by crying baby, they didn't see the light



HOW MIGHT THIS PLAY OUT IN COURTS?

Features of the person

- Don't care about court obligations
- Disorganized
- Don't respect their pretrial officer

Features of the context

- Unpredictable work schedules
- Often don't have a working phone
- Struggling with addiction
- Pretrial appointments on different days/times



THERE'S HOPE!

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

A QUICK REFLECTION

- What are ways that you have experienced scarcity? How has this affected you in and out of the courtroom?
- How have you seen scarcity, hassles or fear & distrust affect how people navigate the pretrial process?

PREVIEW: LEADING STRATEGIES TO IMPROVE APPEARANCE RATES

4 TARGET GOALS FOR COURTS

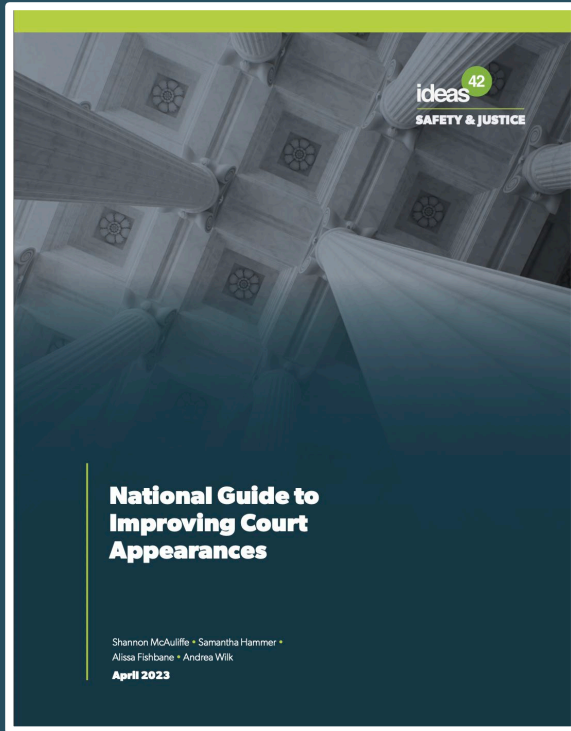
#1 Make information clear, timely, accessible

#2 Reduce logistical hassles

#3 Add flexibility

#4 Provide useful resources for those who need them

NATIONAL GUIDE TO IMPROVING COURT APPEARANCES



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



<https://tinyurl.com/fy65xk7y>



Image by Freepik

Next session:

A deep dive into the top
court appearance strategies

February 22, 2023 at 3:00 pm

IN THE MEANTIME...

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

Reach out:

unwarranted@ideas42.org

Learn more:

ideas42.org/unwarranted





Next NAPCO Webinar:
Thursday, December 13, 2023 – 3 pm EST

<https://napco4courtleaders.org/>



National Association for Presiding Judges and Court Executive Officers