

Understanding & Improving Court Appearance Rates

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Summary

This brief presents findings from a mixed methods study conducted by Resource Development Associates in partnership with the San Francisco Pretrial Diversion Project (SF Pretrial) to understand failures to appear in court. The study's sample included 3,699 unique cases that were referred to Assertive Case Management (ACM) supervision between May 2016 and April 2020 and had at least one scheduled court hearing. ACM is reserved for higher needs clients in San Francisco who may be at greater risk of failure to appear or rearrest.

This brief focuses on two key findings:

Individuals with high needs, especially housing needs, were most likely to miss court hearings. SF Pretrial staff and representatives from San Francisco justice agencies observed that typically, people do not intentionally abscond. Instead, other challenges make it difficult for them to attend court. Housing status at time of the release was the most significant predictor of missing a court appearance. Individuals with unstable housing (i.e., unsheltered or staying in a shelter) were nearly 1.5 times as likely to miss court hearings than individuals with transitional or stable housing. Medical needs and substance use, employment, childcare, and transportation issues were also identified by SF Pretrial clients, staff, and justice partners as impacting court appearance.

Warrants due to missed court appearances were usually issued within the first three months of pretrial supervision. Eighty percent of warrants due to missed court appearances were issued within the first and fifth court hearings, and 50% of warrants were issued when clients missed their first or second court hearing.

These findings reinforce the importance of shifting pretrial supervision practices from a compliance-driven model toward a more rehabilitative, human service-oriented model where voluntary services are frontloaded immediately upon clients' release from custody. In order to effectively meet clients' needs, dedicated resources must be available to connect clients with needed supports.



Introduction

As jurisdictions across the country recognize the harms and costs of pretrial detention, practitioners, researchers, and advocates are increasingly emphasizing the benefits of pretrial release on defendants' liberty, employment,¹ family relationships, case outcomes, and future arrests,² in addition to cost savings. Pretrial release options, which vary across counties, often include supervised release for individuals with a moderate or high risk of rearrest or missing future court appearances. Across the country, supervised pretrial release programs may require defendants to comply with court-ordered conditions such as check-ins, participation in treatment or programs, drug testing, and/or electronic monitoring.

This brief presents information on findings from a study conducted by Resource Development Associates in partnership with the San Francisco Pretrial Diversion Project to understand failures to appear in court among individuals on supervised release in San Francisco.

San Francisco Pretrial Diversion Project

The San Francisco Pretrial Diversion Project (SF Pretrial) is a nonprofit organization that has been providing supervised pretrial release services for over 45 years to 1) support clients charged with a crime to appear for court, 2) connect them with appropriate treatment programs, and 3) contribute to the safety of its community. For those released to pretrial supervision in San Francisco, SF Pretrial provides three levels of supervision: Own Recognizance-No Active Supervision (OR-NAS), Own Recognizance-Minimum Supervision (OR-MS), and Assertive Case Management (ACM). ACM is reserved for higher needs clients who may be at greater risk of failure to appear or rearrest. ACM clients meet regularly with case managers who remind clients about court hearings and

oversee structured case management services, which includes the development of treatment plans and referrals for issues related to education, employment, substance use, mental health, and housing. SF Pretrial clients receive automated text message reminders of court hearings and ACM staff visit clients in the community when they do not have contact information.³ SF Pretrial does not administer drug testing or electronic monitoring for individuals released to their supervision.

Study Sample and Methods

This study utilized a mixed-methods approach to explore trends and factors associated with failure to appear outcomes among clients released to ACM. Inferential analyses were used to identify the factors associated with failures to appear and qualitative data helped provide context and nuance regarding why these factors serve as barriers to appearing in court.

Quantitative data for this brief included individual-level variables related to client demographic characteristics, stability and needs, crime characteristics, and criminal history. Programmatic variables included dates of arrest, referral, termination, program termination status, and a record of court hearings and their outcomes. The factors associated with failing to appear in court were identified through logistic regression with a sample of 3,699 unique cases referred to ACM supervision between May 2016 and April 2020 and had at least one scheduled court hearing.

Qualitative data was collected through focus groups and in-depth interviews with SF Pretrial staff, supervised release clients, and representatives from San Francisco justice agencies. More detailed information about the study's methods can be found in the accompanying technical report.

Prior Research

Research examining which individuals are most likely to miss court—and reasons for failing to appear—is inconclusive. Studies, however, do suggest that criminal history and offense characteristics, including prior arrests, failures to appear, convictions, and the type of charge, are predictive of missing court.⁴ Specifically, some studies have found that individuals with misdemeanor charges⁵ and individuals charged with property^{6,7} or drug^{8,9} offenses were most likely to miss court after controlling for other factors.

The extent to which demographics are associated with missed court appearances are less clear. Some studies find significant associations between failure to appear and demographic characteristics, but the direction of the effects are not consistent. For instance, while one study indicated that men are more likely to fail to appear than women,⁴ another found women more likely to miss court.⁶ A number of studies find no correlation between failure to appear and gender, age, or race after controlling for other factors.^{7,10}

Financial resources do appear to be associated with missing court, with one study finding indigent defendants significantly more likely to miss court hearings, likely due to transportation barriers.⁴ In addition to transportation barriers, other reasons individuals may not attend court include not receiving or remembering information about one's court date, employment and scheduling conflicts, childcare needs, low trust in the courts, beliefs that attending court is unfair, and assumptions that most people do not attend court.^{11,12,13}

The time for cases to resolve is often long and can vary significantly, with national averages at 256 days for felony cases and 193 days for misdemeanor cases.¹⁴ There is little research available regarding the timing of failures to appear.

ⁱ These findings refer to all ACM clients in the sample who missed court, regardless of whether a bench warrant was issued or stayed.

Findings Overview

Among individuals referred to SF Pretrial's ACM program between May 2016 and April 2020 with at least one scheduled court hearing, 42% were terminated from pretrial supervision for missing a court hearing.¹⁵ When ACM clients miss court, the judge may either issue or stay a bench warrant. If a bench warrant is issued, clients may go to the court to reschedule their court hearing in order to recall the warrant.

Based on logistic regression analysis, this study found the following groups were **more** likely to miss court hearings:ⁱ

- **women** compared to men
- **younger** individuals (18-39 years old) compared to older individuals (50+ years)
- individuals charged with **property offenses** compared to individuals charged with violent offenses
- individuals with **prior convictions** compared to those without prior convictions
- individuals who **failed to appear in court in the past two years** compared to those who did not
- individuals with **unstable housing** compared to those with stable or transitional housing
- individuals with **high medical needs** compared to individuals with low medical needs

In contrast, **Black** individuals were **less likely** to miss court compared to White individuals.

This brief expands on two key findings:

1. **Individuals with high needs, especially housing needs, were most likely to miss court hearings.**
2. **Warrants due to missed court appearances were usually issued within the first three months of pretrial supervision.**

It is important to note that missed court appearances alone do not indicate a public safety risk. Based on an analysis completed by the California Policy Lab, 84% of cases between 2018 and 2020 did not have a new charge filed in San Francisco while under SF Pretrial supervision.¹⁶ This study did not assess the proportion of SF Pretrial clients who committed new offenses while on supervised pretrial release.

Individuals with high needs, especially housing needs, were most likely to miss court hearings.

For individuals struggling to meet their basic needs, all other responsibilities can become secondary. SF Pretrial staff and representatives from San Francisco justice agencies observed that typically, people do not intentionally abscond. Instead, other challenges make it difficult for them to attend court.

“When people are focused on how to meet basic needs, everything else can understandably fade away.”
– San Francisco Public Defender representative

“People absconding, intentionally trying to miss court, are the smallest category. No one puts themselves in position to get in more trouble.”
– SF Pretrial Leadership

Housing is a particular challenge in San Francisco, which suffers from a shortage of affordable housing and a high rate of homelessness. San Francisco currently has the fourth-highest rate of homelessness across the country¹⁷ and full-time workers in San Francisco must earn \$68 per hour to afford a two-bedroom apartment,¹⁸ making San Francisco one of the most expensive housing markets in the country.

ⁱⁱ Transitional housing includes single room occupancy (SRO), residential treatment, or other transitional housing. These percentages reflect the proportion of clients who missed any court hearing, not the proportion who were terminated from pretrial supervision due to a missed court appearance.

A high proportion (41%) of ACM clients were unstably housed (i.e., unsheltered or staying in a shelter). Among unstably housed ACM clients, 62% missed at least one court hearing, compared to 43% of ACM clients with stable or transitional housing.ⁱⁱ

Housing was the most significant predictor of missing a court hearing. **Individuals with unstable housing were nearly 1.5 times as likely to miss a court hearing compared to individuals with transitional or stable housing.** This effect was consistent across race/ethnicity, age, and gender.



WITHOUT STABLE HOUSING, clients were nearly **1.5 times** as likely to miss a court hearing.

Unstable housing may decrease an individual's likelihood of appearing in court in a number of ways. Unstably housed clients oftentimes do not have reliable contact information, which makes it difficult for them receive court reminders and for SF Pretrial staff to engage with them. Unhoused individuals also may not attend court because they have no safe place to keep their belongings or pets.

One client who was previously unhoused shared that attaining housing allowed him to feel more comfortable attending court because of the positive impacts housing had on how he looked and felt about himself.

“Once I had housing, I looked better. I was clean, ate better. My hands were not black. Housing made a big difference when appearing in court.”
– ACM Client

Individuals with high medical needs, who comprised nearly 70% of individuals enrolled in ACM, were also 13% more likely to miss court than individuals with low medical needs.ⁱⁱⁱ In addition, individuals with mental health needs, which unaddressed can lead to instability and homelessness, made up a slightly larger proportion of individuals who missed court hearings (34%) than those who did not (29%).

Substance use, employment, childcare, and transportation issues were additional factors identified by SF Pretrial clients, staff, and justice partners that impact court appearance. While data was not available to include these factors in the quantitative analysis, ACM stakeholders and clients spoke about challenges with attending court, highlighting transportation barriers and the extent to which court appearances interfere with day-to-day life and other responsibilities such as work.

"In my opinion, failure to appear is related to lack of resources in the community. I think an FTA [failure to appear] is choosing between childcare and a job and coming to court."

– San Francisco Judge

"Being a drug addict and homeless leads to getting in trouble . . . It is hard [to attend court]. Especially if you are not in the right mindset, it is easy to forget [a court appearance]. If you have a good support system, you'll be fine."

– ACM Client

"Court is definitely huge barrier. My driver's license was suspended, and the bus and BART can be late. I'm not working now and that helps me attend court. A full-time job wouldn't allow me to get to court. . . . Court definitely interferes with life and employment."

– ACM Client

ⁱⁱⁱ Medical needs are scored based on a questionnaire regarding clients' access to healthcare and medical conditions.

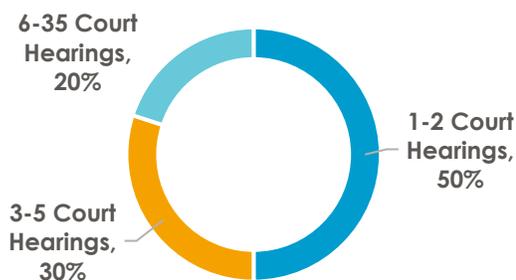
Warrants due to missed court appearances were usually issued within the first three months of pretrial supervision.

If ACM clients miss court, the judge may either issue or stay a bench warrant. When bench warrants are issued, clients can go to the court to reschedule their court hearing in order to recall the warrant. If a warrant is issued, SF Pretrial notifies clients and provides instructions to reschedule their court hearing.

Within our sample, the average time for an ACM client's case to resolve—when they were not rearrested or issued a warrant—was 120 days for a misdemeanor and 151 days for a felony. Cases were resolved after an average of six court hearings, with approximately 90% resolved within ten hearings. There were approximately 20 days between court hearings for felony and misdemeanor cases.

Clients were most likely to be terminated from pretrial supervision due to warrants issued for missing initial court hearings. Eighty percent of warrants due to missed court appearances were issued within the first and fifth court hearings, and **50% of warrants were issued when clients missed their first or second court hearing.** Therefore, the first three months after release from custody is when individuals were most likely to have warrants issued due to missed court appearances.

Figure 1. Half of warrants were issued when clients missed their first or second court hearing.





Implications for Supervised Pretrial Release Programs

As described, cross-system stakeholders generally agreed that individuals who missed court hearings usually lacked stability in their lives and faced barriers to attending court due to needs spanning housing, behavioral health, physical health, transportation, childcare, and employment.

This finding reinforces the importance of reforms beginning to take hold across the country to shift pretrial supervision practices from a compliance-driven model toward **a more rehabilitative, human service-oriented model** targeted to serve individuals with the highest risk and needs. This shift must also be accompanied by **dedicated resources to address individuals' needs** in order to effectively connect them with needed supports.

Supervised pretrial release services should emphasize housing and other basic needs because individuals cannot prioritize court attendance if they do not have food, clothes, and shelter. To the extent possible, supervised pretrial release programs should also help address additional barriers (e.g., healthcare, childcare, transportation, cell phone access) to missing court and work with clients to reschedule court hearings when necessary.

ACM clients reiterated the importance of SF Pretrial's rehabilitative service model, highlighting the positive impact of caring, supportive case managers and the groups and services offered through SF Pretrial. Some clients did express frustration when limited availability of housing and employment services resulted in long wait periods, despite case managers' attempts to connect clients to these services.

Long wait periods for services may negatively impact appearance rates. Findings from this study indicated that failures to appear most commonly occurred in the first three months of

pretrial release. **This suggests that supervised pretrial release models should frontload services immediately upon clients' release from custody.**

Further Research

This study found that ACM clients with unstable housing were nearly 1.5 times as likely to miss court than individuals with stable or transitional housing. Future research should continue to investigate this relationship and seek to better understand how addressing housing needs through distinct housing interventions (e.g., transitional vs. stable housing) can increase court appearance rates.

Additional areas for research include:

- The effectiveness of different interventions to support individuals pretrial, including case management approaches and the provision of various services and resources
- The impact of decreasing the amount of time to resolve cases and/or the number of hearings defendants must attend
- The process and factors judges consider when determining whether to file or stay bench warrants for missed court appearances

Additional findings emerged regarding differences between who is most likely to miss court and who is most likely to be terminated from pretrial supervision due to a missed court appearance. These warrant further research and are presented in the technical appendix.

Acknowledgements

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Endnotes

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- ² Lowenkamp, C. T., VanNostrand, M., Holsinger, A. (2013). *The hidden costs of pretrial detention*. The Laura & John Arnold Foundation.
- ³ In addition, SF Pretrial's court team interfaces with court personnel and can initiate timely outreach to pretrial clients when they miss court. See <https://sfpretrial.org/our-work/> for more information about ACM and other levels of supervision provided by SF Pretrial.
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- ¹⁵ Past studies have found that ACM clients have higher failure to appear rates than all of SF Pretrial's other supervised release programs.
- ¹⁶ California Policy Lab (2021). SF Pretrial letter of inquiry, CPL addendum. Submitted to Supervisor Stefani March 29, 2021.
- ¹⁷ See the National Alliance to End Homelessness: <https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness-2021/>
- ¹⁸ Aurand, A., Emmanuel, D., Rafi, I., Threet, D., & Yentel, D. (2021). *Out of reach 2021: The high cost of housing*. National Low Income Housing Coalition.