

Court No-Shows: A Systemic Issue

New Evidence From Philadelphia¹

It's not just defendants who fail to appear at required court dates. A police officer, civilian witness, or private attorney fails to appear in court in more than half of Philadelphia's cases: twice as often as defendants. Each time an essential party fails to appear, the hearing must be rescheduled, wasting time and money for all involved. Moreover, when witnesses fail to appear, cases are more likely to be dismissed or withdrawn. Our results show that failure-to-appear (FTA) is a systemic phenomenon, one that is playing a central role in criminal case processing in Philadelphia.

Key Results

An essential police officer, civilian witness or lawyer misses court in **53%** of cases

Police officers miss required hearings **twice** as often as defendants

Victims fail to appear in **70%** of domestic violence cases

Court cases are **twice** as likely to be dismissed if a witness misses court

Implications for policy and criminal justice reform

1. Systemic FTAs highlight the importance of addressing institutional dysfunction.

Going to criminal court in Philadelphia is an ordeal. Court dates are often set without regard for serious conflicts. If a witness or defendant does have a serious conflict, there is no clear mechanism for seeking an alternate date ahead of time. Some people never receive notice of a court date at all because our notice mechanisms are archaic. Those who try to figure it out on their own struggle with websites that are difficult to navigate. Attending court often requires waiting hours for your case to be called. After all that, chances are high that the case will have to be continued because someone else has failed to show up. The whole process begins again.

These are problems we should be able to fix. Coming to court doesn't have to be so hard. Dentists' offices manage to schedule appointments at specific times and provide effective notice through email and text messaging. Our criminal court system should be able to do the same.

2. The police department should take greater accountability for the cases it originates.

Police officers fail to appear in nearly 1/3 of cases where they are subpoenaed. When they fail to appear, the hearing needs to be rescheduled, wasting time and creating hassle for everyone involved. Police officers are representatives of the criminal legal system, and when they fail to appear in violation of a court order, it undermines the legitimacy of the entire system.

3. We should rethink our approach to domestic violence.

Victim FTA is astronomical, particularly for domestic violence. Some victims skip court because they fear retaliation, some because they do not want the alleged perpetrator convicted or imprisoned, and some for a complex mix of reasons. Regardless of the reason, the fact that so many victims opt out of the proceeding suggests that, for them, the criminal legal system is not providing an effective solution. Part of this could stem from bureaucratic dysfunction; if court appearance becomes less onerous, more victims may choose to participate. But it also suggests a need for greater resources to deal with domestic violence outside of the criminal legal system. This could involve increased funding for preventive measures as well as support for alternative methods of dispute resolution.

¹ This white paper summarizes research presented in [Systemic Failures to Appear in Court](#), forthcoming in the *University of Pennsylvania Law Review*, by Lindsay Graef, Sandra Mayson, Aurelie Ouss and Megan Stevenson. For further information, contact Lindsay Graef lgraef@sas.upenn.edu or Megan Stevenson mstevenson@law.virginia.edu. This work is supported by Arnold Ventures, a philanthropy dedicated to tackling some of the most pressing problems in the United States.

Methods

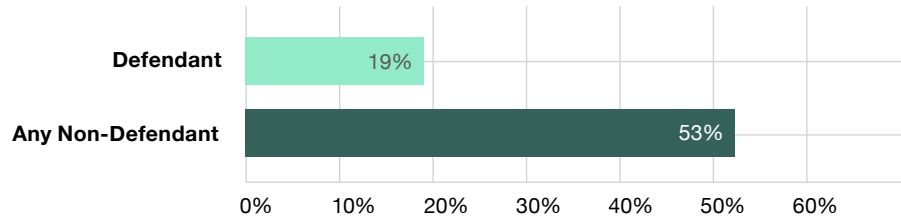
This study analyzes 341,417 cases from January 2010 to March 2020. We combine information from public court dockets with internal information maintained by the Philadelphia District Attorney's Office and the Philadelphia Police Department. We identify failures to appear using comments made on dockets by clerks of the court. We compute the frequency of FTAs overall and by court actor and correlate the FTAs with court outcomes. We also conducted a variety of interviews to help understand the reasons why people fail to appear.

Results

1. FTA is very common across all parties.

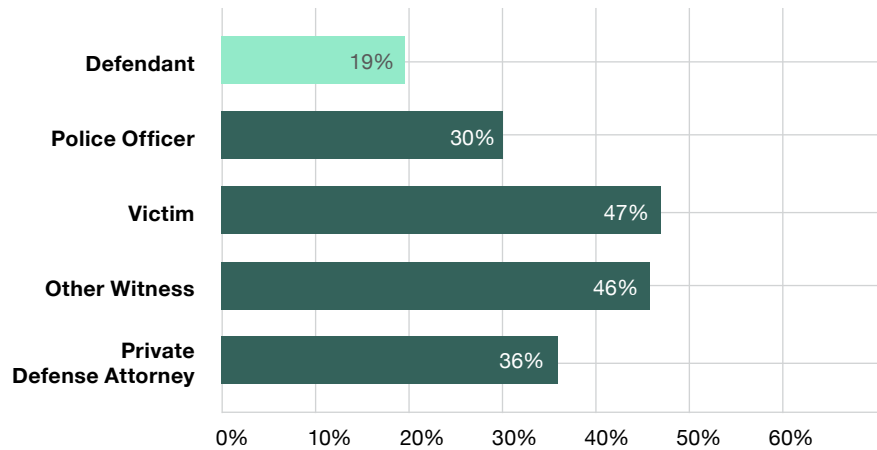
An essential witness or lawyer failed to appear for at least one hearing in 53% of all cases, compared to 19% for defendants. Police officers, victims, other witnesses, and private attorneys all fail to appear at high rates.

Figure 1: Comparing FTA rates for defendants and non-defendants



Note: These figures represent the percent of cases where a defendant or another court actor failed to appear in court for at least one hearing.

Figure 2: FTA rates across various parties

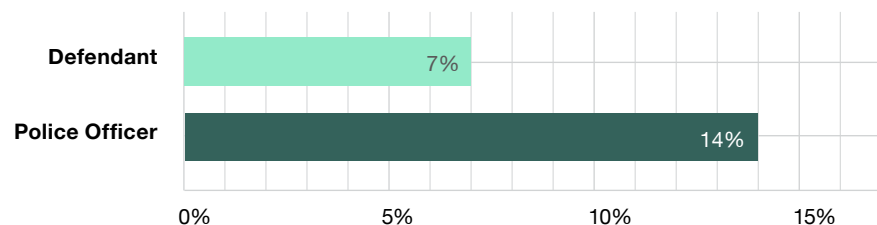


Note: This figure shows FTA rates across all parties. The sample is limited to cases where each type of actor was expected to show up to court, according to subpoena and case management data.

2. Police officers skip court more often than defendants.

Police officers fail to appear for at least one hearing in 31% of their cases, compared to 19% for defendants. At a per-hearing level, police officers fail to appear twice as often as defendants: in 14% versus 7% of cases.

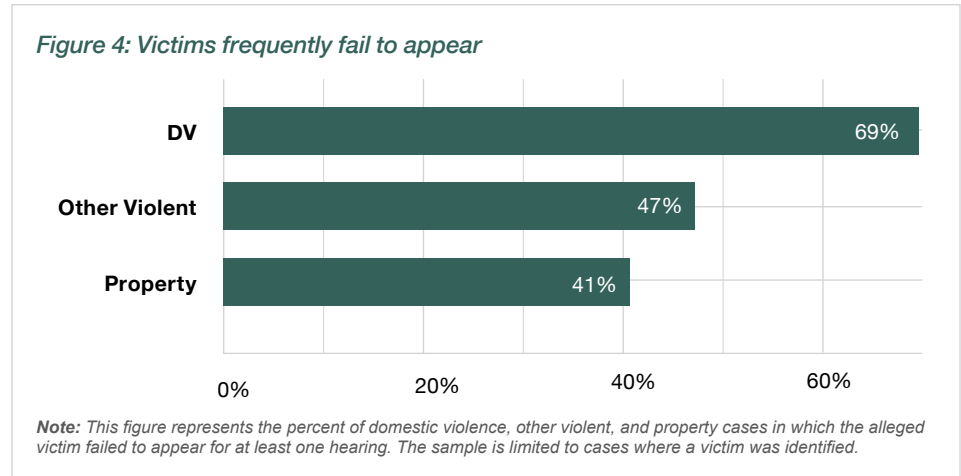
Figure 3: Hearing-level FTA rates for police officers and defendants



Note: This figure represents the percent of hearings where defendants and police officers failed to appear. The sample is limited to hearings in which each respective party was ordered by the court to appear.

3. Victims fail to appear in 70% of domestic violence cases.

Victim FTA rate is high for other crime types as well.



4. Witness FTA shapes case outcomes.

When a police officer or civilian witness fails to appear, the case gets dismissed 58% of the time, compared to 25% when all witnesses show up. Witness FTA is the most significant predictor of a case being dropped: more so than charge, criminal history, and demographics combined. We estimate that between 2010 and 2020, witness FTA accounted for 32,000 dropped cases.

