

To: Public Protection and Judiciary Committee

From: Carlo Esqueda

Date: March 6, 2018

Re: Court Efforts to Reduce Failures To Appear

It has been a shared prerogative of ours to reduce the incidence of parties' failures to appear for court proceedings where party attendance is required. When parties fail to appear at these proceedings, the court may issue a bench warrant which can result in arrest and a jail booking. Therefore, anything we can do to help assure attendance is going to help these parties, as well as keep the jail population lower.

First, a bit of baseline data. for our criminal case types. Our overall FTA rate, across all case types, in 2017 was 10.8%. For just the criminal case types, it was 10.6%.

For the criminal case types, this is how staff have recorded specific non-appearances and bench warrants issued over the past five years:

| Year | Non-Appearances (NONA) | Bench Warrants Issued (BWI) |
|------|------------------------|-----------------------------|
| 2017 | 1,650 | 1,643 |
| 2016 | 1,509 | 1,400 |
| 2015 | 1,507 | 1,328 |
| 2014 | 1,730 | 1,164 |
| 2013 | 1,870 | 1,176 |

At first blush, it appears that non-appearances have mostly been trending downward over the past five years (although 2017 did see a spike). It also appears that bench warrants have been on the rise over the past five years. Some caveats to this data:

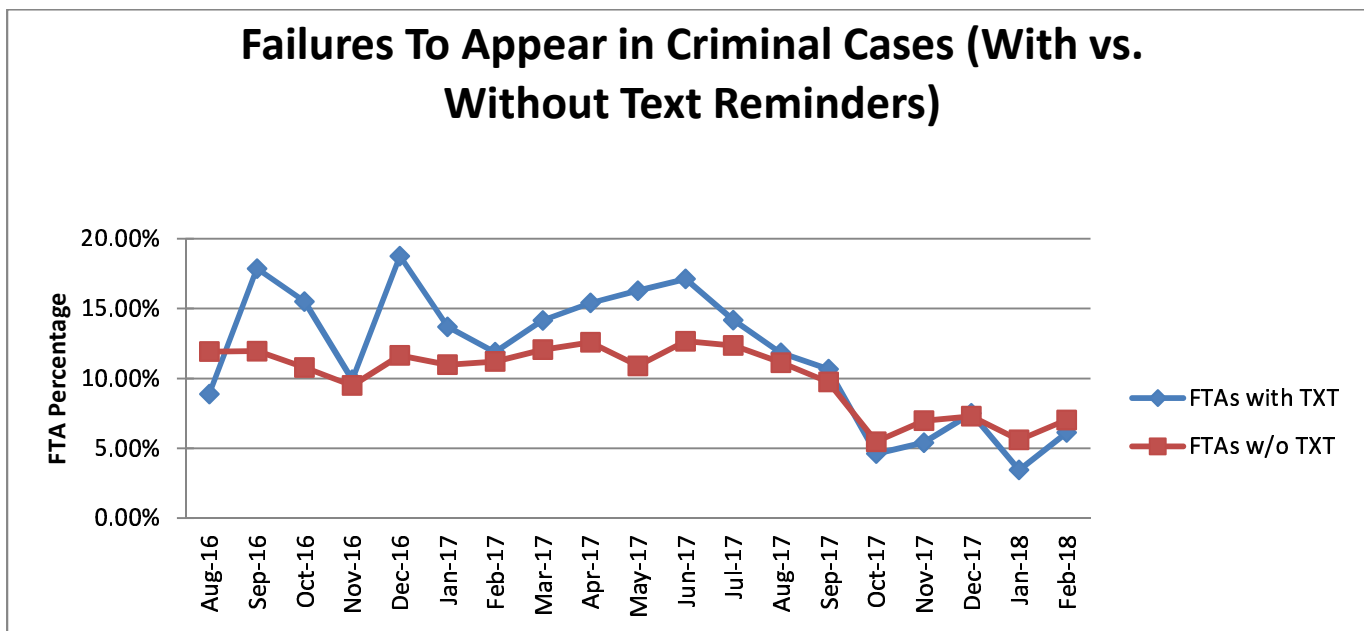
- It is difficult to know the disposition of all bench warrants. While I can count how many BWI events took place in a given year, I would have to look at all of those cases individually to know whether the warrants were served (e.g. arrests were made) or if they were canceled (i.e. the defendant or their attorney alerted the court to extenuating circumstances and so the court withdrew the warrant and merely rescheduled the proceeding).

- Most BWI events are associated with NONA events. But it is possible that a BWI code may have been used in conjunction with another kind of precipitating event, such as a Bail Monitoring Program failure. Still, my cursory review of many of these cases indicates that this is rare.
- There is another warrant code, Arrest Warrant Issued (AWI) that is generally recorded in association with the aforementioned Bail Monitoring failures, as well as non-appearances at misdemeanor initial appearances. For the purposes of this overview, I am not including failures to appear at misdemeanor initial appearances, as there are no actions the court can take to address that circumstance.

Court Initiatives to reduce FTAs

Text Message Reminders

Many other jurisdictions have reported significant improvements in FTA rates through the implementation of text message reminders. The courts records management system, provided by the Director of State Courts' Office, incorporates this capability. We began using it for defendants in criminal cases in August, 2016. The reports regarding the effectiveness of the program are attached. The following graph provides the overview:



It should be noted that the program, as it was voluntary, started slow. During the first month, only 56 texts were sent. We had a high of 894 texts sent in June, 2017. Last month had 661 texts sent.

For most of the months of the program, we noted (with dismay) that the FTA rate for defendants who were getting text message reminders was actually higher than that for those who did not receive text messages. In recent months, however, the results seem to

be normalizing to comport with the experience other jurisdictions have noted. At the same time, we've seen the FTA rate drop rather significantly overall over the last quarter of 2017, and into this first quarter of 2018. At this time, we are unsure what has precipitated this.

It is possible that our results may have been more dramatic from the start of the project if we collected the cell numbers of all defendants and sent texts to everyone. We opted to make it a voluntary program, in recognition of the circumstance that not everyone with a mobile phone has a plan that includes unlimited free incoming texts. Still, I am aware that a few other Wisconsin courts using this system do make it mandatory (Ashland, Waukesha, and Ozaukee Counties are a few). Perhaps we want to rethink our approach.

Transportation Assistance

In light of an appropriation to my office from the County Board in the 2017 budget to assist with FTA reduction, we started a pilot project in our Bail Monitoring Program with transportation assistance. For the most part, it involved providing bus passes to participants in the bail monitoring program. In a few cases, cab rides were also offered to defendants by BMP staff. The assistance was used by the participants to both attend BMP office appointments and to attend court hearings. It should be noted that repeated failures to appear at BMP office visits could result in termination from the program, so this is a good use of the resource.

All told, 70 BMP participants took advantage of transportation assistance in 2017. Of these, 10 had at least one non-appearance at a required court proceeding, prompting the issuance of a bench warrant. It is too soon to tell if providing transportation assistance has a beneficial effect on FTAs. Given that there were a total of 431 unique participants in BMP in 2017, I would have to examine the individual cases for the other 361 clients to determine their FTA rate and compare the two. As of this writing, I have not had the opportunity to perform that analysis.

Conclusion

The Courts' commitment to reducing Failures to Appear began several years ago with the practice of ensuring that criminal defendants attending court received notice-in-hand of their next required appearance (as opposed to waiting for a mailed notice). It is generally accepted that telephone/text reminders are an effective tool to reduce failures to appear, and our experience is just beginning to bear this out. More data over time will be required. Likewise, we will need to gather more data to determine how the effectiveness of offering transportation assistance. I've also reached out to the Sheriff's Office to determine if they can provide data on bookings related specifically to served failure-to-appear warrants. While I can get at the data in a roundabout fashion via CCAP, looking at the actual bookings may ultimately be an easier way to monitor the problem.

It bears noting that the number one tool suggested for courts to reduce FTAs is the phone/text reminder. I was not able to find any instance of another jurisdiction using

transportation assistance to address the issue, so if we can collect more data and prove out that it is effective, we may have a report we can share with other entities, such as the National Center for State Courts.

As always, I welcome input from the Board and the public.

Failure to appear rates for August 2016 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 41 | 73.21% | 2771 | 61.31% | 2812 | 61.45% |
| Non-appearance | 4 | 7.14% | 375 | 8.30% | 379 | 8.28% |
| Cancelled | 1 | 1.79% | 657 | 14.54% | 658 | 14.38% |
| Rescheduled | 10 | 17.86% | 717 | 15.86% | 727 | 15.89% |
| TOTAL | 56 | 100.00% | 4520 | 100.00% | 4576 | 100.00% |
| FTA rate* | | 8.89% | | 11.92% | | 11.88% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for September 2016 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 138 | 66.03% | 2510 | 64.31% | 2648 | 64.40% |
| Non-appearance | 30 | 14.35% | 341 | 8.74% | 371 | 9.02% |
| Cancelled | 4 | 1.91% | 476 | 12.20% | 480 | 11.67% |
| Rescheduled | 37 | 17.70% | 576 | 14.76% | 613 | 14.91% |
| TOTAL | 209 | 100.00% | 3903 | 100.00% | 4112 | 100.00% |
| FTA rate* | | 17.86% | | 11.96% | | 12.29% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for October 2016 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 229 | 71.79% | 2469 | 59.96% | 2698 | 60.81% |
| Non-appearance | 42 | 13.17% | 298 | 7.24% | 340 | 7.66% |
| Cancelled | 2 | 0.63% | 647 | 15.71% | 649 | 14.63% |
| Rescheduled | 46 | 14.42% | 704 | 17.10% | 750 | 16.90% |
| TOTAL | 319 | 100.00% | 4118 | 100.00% | 4437 | 100.00% |
| FTA rate* | | 15.50% | | 10.77% | | 11.19% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for November 2016 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 364 | 80.35% | 2450 | 62.09% | 2814 | 63.97% |
| Non-appearance | 40 | 8.83% | 257 | 6.51% | 297 | 6.75% |
| Cancelled | 12 | 2.65% | 623 | 15.79% | 635 | 14.44% |
| Rescheduled | 37 | 8.17% | 616 | 15.61% | 653 | 14.84% |
| TOTAL | 453 | 100.00% | 3946 | 100.00% | 4399 | 100.00% |
| FTA rate* | | 9.90% | | 9.49% | | 9.55% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for December 2016 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 286 | 68.92% | 2141 | 59.79% | 2427 | 60.74% |
| Non-appearance | 66 | 15.90% | 282 | 7.87% | 348 | 8.71% |
| Cancelled | 10 | 2.41% | 538 | 15.02% | 548 | 13.71% |
| Rescheduled | 53 | 12.77% | 620 | 17.31% | 673 | 16.84% |
| TOTAL | 415 | 100.00% | 3581 | 100.00% | 3996 | 100.00% |
| FTA rate* | | 18.75% | | 11.64% | | 12.54% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for January 2017 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 460 | 75.78% | 2562 | 64.58% | 3022 | 66.07% |
| Non-appearance | 73 | 12.03% | 316 | 7.97% | 389 | 8.50% |
| Cancelled | 18 | 2.97% | 550 | 13.86% | 568 | 12.42% |
| Rescheduled | 56 | 9.23% | 539 | 13.59% | 595 | 13.01% |
| TOTAL | 607 | 100.00% | 3967 | 100.00% | 4574 | 100.00% |
| FTA rate* | | 13.70% | | 10.98% | | 11.40% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for February 2017 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 423 | 79.07% | 2266 | 64.10% | 2689 | 66.07% |
| Non-appearance | 57 | 10.65% | 286 | 8.09% | 343 | 8.43% |
| Cancelled | 16 | 2.99% | 455 | 12.87% | 471 | 11.57% |
| Rescheduled | 39 | 7.29% | 528 | 14.94% | 567 | 13.93% |
| TOTAL | 535 | 100.00% | 3535 | 100.00% | 4070 | 100.00% |
| FTA rate* | | 11.88% | | 11.21% | | 11.31% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for March 2017 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 461 | 74.72% | 2493 | 61.49% | 2954 | 63.24% |
| Non-appearance | 76 | 12.32% | 342 | 8.44% | 418 | 8.95% |
| Cancelled | 18 | 2.92% | 621 | 15.32% | 639 | 13.68% |
| Rescheduled | 62 | 10.05% | 598 | 14.75% | 660 | 14.13% |
| TOTAL | 617 | 100.00% | 4054 | 100.00% | 4671 | 100.00% |
| FTA rate* | | 14.15% | | 12.06% | | 12.40% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for April 2017 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 456 | 74.27% | 2002 | 62.84% | 2458 | 64.68% |
| Non-appearance | 83 | 13.52% | 288 | 9.04% | 371 | 9.76% |
| Cancelled | 12 | 1.95% | 416 | 13.06% | 428 | 11.26% |
| Rescheduled | 63 | 10.26% | 480 | 15.07% | 543 | 14.29% |
| TOTAL | 614 | 100.00% | 3186 | 100.00% | 3800 | 100.00% |
| FTA rate* | | 15.40% | | 12.58% | | 13.11% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for May 2017 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 545 | 74.97% | 2404 | 62.44% | 2949 | 64.43% |
| Non-appearance | 106 | 14.58% | 294 | 7.64% | 400 | 8.74% |
| Cancelled | 18 | 2.48% | 525 | 13.64% | 543 | 11.86% |
| Rescheduled | 58 | 7.98% | 627 | 16.29% | 685 | 14.97% |
| TOTAL | 727 | 100.00% | 3850 | 100.00% | 4577 | 100.00% |
| FTA rate* | | 16.28% | | 10.90% | | 11.94% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for June 2017 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 644 | 72.04% | 2676 | 60.15% | 3320 | 62.14% |
| Non-appearance | 133 | 14.88% | 388 | 8.72% | 521 | 9.75% |
| Cancelled | 30 | 3.36% | 721 | 16.21% | 751 | 14.06% |
| Rescheduled | 87 | 9.73% | 664 | 14.92% | 751 | 14.06% |
| TOTAL | 894 | 100.00% | 4449 | 100.00% | 5343 | 100.00% |
| FTA rate* | | 17.12% | | 12.66% | | 13.56% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for July 2017 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 636 | 73.61% | 2293 | 55.21% | 2929 | 58.38% |
| Non-appearance | 105 | 12.15% | 323 | 7.78% | 428 | 8.53% |
| Cancelled | 32 | 3.70% | 823 | 19.82% | 855 | 17.04% |
| Rescheduled | 91 | 10.53% | 714 | 17.19% | 805 | 16.05% |
| TOTAL | 864 | 100.00% | 4153 | 100.00% | 5017 | 100.00% |
| FTA rate* | | 14.17% | | 12.35% | | 12.75% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for August 2017 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 626 | 77.38% | 2539 | 59.10% | 3165 | 62.00% |
| Non-appearance | 84 | 10.38% | 318 | 7.40% | 402 | 7.87% |
| Cancelled | 27 | 3.34% | 778 | 18.11% | 805 | 15.77% |
| Rescheduled | 72 | 8.90% | 661 | 15.39% | 733 | 14.36% |
| TOTAL | 809 | 100.00% | 4296 | 100.00% | 5105 | 100.00% |
| FTA rate* | | 11.83% | | 11.13% | | 11.27% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for September 2017 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 645 | 81.54% | 2609 | 62.37% | 3254 | 65.42% |
| Non-appearance | 77 | 9.73% | 282 | 6.74% | 359 | 7.22% |
| Cancelled | 21 | 2.65% | 768 | 18.36% | 789 | 15.86% |
| Rescheduled | 48 | 6.07% | 524 | 12.53% | 572 | 11.50% |
| TOTAL | 791 | 100.00% | 4183 | 100.00% | 4974 | 100.00% |
| FTA rate* | | 10.66% | | 9.75% | | 9.94% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for October 2017 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 681 | 82.95% | 2679 | 61.94% | 3360 | 65.29% |
| Non-appearance | 33 | 4.02% | 155 | 3.58% | 188 | 3.65% |
| Cancelled | 28 | 3.41% | 883 | 20.42% | 911 | 17.70% |
| Rescheduled | 79 | 9.62% | 608 | 14.06% | 687 | 13.35% |
| TOTAL | 821 | 100.00% | 4325 | 100.00% | 5146 | 100.00% |
| FTA rate* | | 4.62% | | 5.47% | | 5.30% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for November 2017 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 595 | 84.40% | 2294 | 60.12% | 2889 | 63.90% |
| Non-appearance | 34 | 4.82% | 172 | 4.51% | 206 | 4.56% |
| Cancelled | 30 | 4.26% | 747 | 19.58% | 777 | 17.19% |
| Rescheduled | 46 | 6.52% | 603 | 15.80% | 649 | 14.36% |
| TOTAL | 705 | 100.00% | 3816 | 100.00% | 4521 | 100.00% |
| FTA rate* | | 5.41% | | 6.97% | | 6.66% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for December 2017 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 506 | 80.70% | 2049 | 59.00% | 2555 | 62.32% |
| Non-appearance | 41 | 6.54% | 161 | 4.64% | 202 | 4.93% |
| Cancelled | 26 | 4.15% | 741 | 21.34% | 767 | 18.71% |
| Rescheduled | 54 | 8.61% | 522 | 15.03% | 576 | 14.05% |
| TOTAL | 627 | 100.00% | 3473 | 100.00% | 4100 | 100.00% |
| FTA rate* | | 7.50% | | 7.29% | | 7.33% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for January 2018 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 615 | 83.67% | 2444 | 58.22% | 3059 | 62.01% |
| Non-appearance | 22 | 2.99% | 145 | 3.45% | 167 | 3.39% |
| Cancelled | 30 | 4.08% | 995 | 23.70% | 1025 | 20.78% |
| Rescheduled | 68 | 9.25% | 614 | 14.63% | 682 | 13.83% |
| TOTAL | 735 | 100.00% | 4198 | 100.00% | 4933 | 100.00% |
| FTA rate* | | 3.45% | | 5.60% | | 5.18% |

*FTA rate = Non-appearance/(Held + Non-Appearance)

Failure to appear rates for February 2018 for CF, CM, CT case types

| Disposition | Text Messages Sent | | Text Messages NOT Sent | | TOTAL | |
|----------------|--------------------|----------------|------------------------|----------------|-------------|----------------|
| | Count | Percent | Count | Percent | Count | Percent |
| Held | 521 | 78.82% | 2168 | 56.44% | 2689 | 59.73% |
| Non-appearance | 34 | 5.14% | 164 | 4.27% | 198 | 4.40% |
| Cancelled | 31 | 4.69% | 984 | 25.62% | 1015 | 22.55% |
| Rescheduled | 75 | 11.35% | 525 | 13.67% | 600 | 13.33% |
| TOTAL | 661 | 100.00% | 3841 | 100.00% | 4502 | 100.00% |
| FTA rate* | | 6.13% | | 7.03% | | 6.86% |

*FTA rate = Non-appearance/(Held + Non-Appearance)