



**Bexar County Commissioner's Court**  
December 10, 2024

RE: The Failure to Appear/Pay Program in Bexar County.

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**Introduction**

Thank you to the Commissioner's Court for convening today and taking time to discuss the Failure to Appear/Pay (FTAP) Program in Bexar County. My name is Cole Meyer, and I am the Policy Analyst on Texas Appleseed's Criminal Justice Project. Our organization is dedicated to changing unjust laws and supporting policies that are data-driven, safe, and efficient.

Today, I am providing written testimony urging the Bexar County Commissioner's Court to terminate its involvement in the state's FTAP Program. Texas Appleseed researched this Program in depth, so I have attached our San Antonio-area issue brief for your reference.

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**Background**

The state's Failure to Appear/Pay Program (FTAP) allows participating municipal and justice of the peace courts to place a hold on a person's ability to renew their driver's license if they are unable to pay the fines and fees associated with low-level, fine-only offenses (e.g., traffic tickets). Among Texas counties, Bexar County is one of the heaviest users of the FTAP Program (aka the "OmniBase Program," so named after the private vendor that operates it – OmniBase Services of Texas (OST)).<sup>1</sup> **The Bexar County JP Courts have nearly 90,000 holds on people's licenses.**<sup>2</sup> Combined with the nearly 88,000 holds from the San Antonio Municipal Court,<sup>3</sup> thousands of Bexar County residents shoulder a massive burden from the court's use of the state's FTAP Program.

The residents impacted by this Program are overwhelmingly poor and people of color. **The ten zip codes with the highest concentration of holds have an average median household income of \$37,599, while the median household income for Bexar County is \$62,169.** (please see Figure 1 and Table 1 of the issue brief for data).<sup>4</sup> Furthermore, these ten zip codes have residents who are overwhelmingly people of color, with white people only representing somewhere between 4% and 16% of each zip code's total population. Black residents disproportionately receive FTAP holds, representing 14% of total current holds and only 9% of the Bexar County population.<sup>5</sup> FTAP holds examined in the Dallas and Houston areas were also

found to be more heavily concentrated in lower-income neighborhoods and disproportionately impacting people of color.<sup>6</sup>

When a person's license with an FTAP hold (or holds – as they can accumulate across failed appearances) expires, they cannot renew it until all holds are lifted. Usually, courts require that all court debt is completely paid off before lifting said holds. Courts can exercise discretion to lift these holds once an individual has made other arrangements (e.g., payment plan, community service) with the court.<sup>7</sup> Again, however, it is rare for a court to do so before all court debt is completely paid off. In Bexar County, this statement holds true as payment alternatives are rarely used to close out cases. **Of the 27,486 cases disposed of in 2023 in Bexar County's JP Courts, only 1.3% were closed out through community service, 2.6% through jail credit, and 4.6% through indigency waivers.**<sup>8</sup>

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### Concerns

Across the many conversations I have had with judicial stakeholders, concerns have remained consistent. Below are some examples of concerns I have heard, along with my answers to alleviate them.

*There are concerns that ending this Program would restrict the City's ability to hold people accountable for their citations if they fail to pay.* The initial fine someone receives through a traffic ticket *is* the accountability measure. The *added* punishment that this Program enacts - i.e, placing a hold on someone's license if they do not have the money to pay their fines off - is excessive and nonsensical. Bexar County should not enact *added* punishments that restrict its residents from driving and maintaining a job, which is the main avenue to paying off one's fines and fees. If we want somebody to be able to resolve their ticket, we should ensure they have the ability to do so. Further, there are already alternative ways that Bexar County JP Courts can hold people accountable under the law. They can continue to offer time served credit to court clients. They can also allow for community service and even waivers if someone is indigent, and both of these practices are underutilized in Bexar County JP Courts. As previously stated, only 1.3% of cases were closed out with community service, and 4.6% of cases were closed out with indigency waivers in 2023. **Bexar County's poverty rate in 2022 was 15.7%.**<sup>9</sup>

*There are concerns that ending this Program would increase the burden on JP courts and decrease revenue.* Eliminating the FTAP program would actually *free up* JP courts' time from not having to process so many license holds. A study by the University of Texas at San Antonio (UTSA) found that the median time until disposition for a non-Omnibase case is 128 days, while the median time to dispose of an OmniBase case is over 2 years.<sup>10</sup> As stated directly in the UTSA study, *"this suggests a degree of doubt in the effectiveness of the program as a negative incentive..."* **Further, Texas Appleseed's statewide analyses find that courts *not* using the FTAP Program collect \$45 more per criminal case than courts that *do* use the program.**<sup>11</sup> If this program was eliminated, thousands of individuals could get back to work and make the money needed to pay off their tickets quicker, shortening the court's time dealing with these cases.<sup>12</sup>

Lastly, there are concerns that ending this Program would diminish public trust in JP Courts.

There are a myriad of research-based operators that work with jurisdictions to promote behavioral change amongst court clients. These initiatives can increase compliance *and* strengthen relationships between community members and the court system. For instance, New York City took a twofold approach to reduce FTA rates for low-level offenses in 2020, redesigning its court summons forms by moving court information from the bottom to the top of the forms.<sup>13</sup> Within the top section of the form, the consequences for missing the court date are stated in bold. The New York courts also sent text messages to fine holders to reiterate court information in the days leading up to court hearings. Both measures were deemed successful, as the redesigned summons form and text messages reduced FTA rates on average by 13% and 21%, respectively. Researchers in Nebraska also studied the effect of text messages on FTA rates, finding that iteration of sanctions for failure to appear produces the lowest FTA rate in comparison to no reminder, simple reminders, and reminders that include procedural justice sentiments.<sup>14</sup> **This Nebraska study also found that misdemeanor defendants who appear in court have more confidence in the courts than those who do not appear.** Bexar County JP Courts should consider opting into Texas' newly established text message reminder system for court clients.<sup>15</sup> This reminder system is free of charge for county courts to use. I would also be happy to share the contacts of these research-based organizations if that would be of benefit to your team.

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## Conclusion

To conclude, I am not advocating for Bexar County to get rid of accountability measures for its residents. Rather, I am advocating to get rid of a program that enacts an excessive punishment *and does not* do anything to help the court collect a fine. It is not a person's lack of desire to pay off a ticket, it is a person's lack of ability. With data showing that people impacted by this program are significantly poorer than the community at large, this Program is actually hindering the court's ability to hold people accountable. For Bexar County to collect fines, it should not be placing holds on the very tool needed to fulfill that accountability.

I implore Bexar County to terminate its contract with the FTAP Program to stimulate the economy, promote financial stability for the county's residents, *and* free up the court's backlog. Let's get Bexar County residents back to work and on the road and back to work!

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## Resources & Endnotes

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<sup>1</sup> Established pursuant to Chapter 706 of the Texas Transportation Code, the program is officially called the “Failure to Appear/Pay Program.” The Texas Department of Public Safety has contracted with a private vendor, OmniBase Services of Texas, to work with courts to administer the holds, leading to the program commonly referred to as the “OmniBase Program.”

<sup>2</sup> Data obtained from the Texas Department of Public Safety, on file with the author. At the end of 2021, Bexar County JP courts had a total of 138,213 holds on record, in 2022 that # dropped to 41,414. Because the placement of holds can vary greatly throughout the year, it’s not uncommon to see a change in the number of holds from one year to the next, though this drop is indeed quite noticeable. The average between these two years is 89,813, thus the “nearly 90,000 holds” statistic.

<sup>3</sup> Data obtained from the San Antonio Municipal Court and the Texas Department of Public Safety, on file with the author.

<sup>4</sup> Texas Appleseed (Apr. 2024). Driving Texans to debt: The use of Texas’ Failure to Appear/Pay Program in Bexar County. Retrieved from [https://www.texasappleseed.org/sites/default/files/2024-06/sanantonio\\_ftap\\_brief\\_april2024\\_final.pdf](https://www.texasappleseed.org/sites/default/files/2024-06/sanantonio_ftap_brief_april2024_final.pdf).

<sup>5</sup> US Census Bureau (Jul. 2023). Bexar County, Texas, Quick Facts. Retrieved from <https://www.census.gov/quickfacts/fact/table/bexarcountytexas/PST045223>.

<sup>6</sup> Texas Appleseed & Texas Fair Defense Project, Driven by Debt Dallas. (2019). Retrieved from <https://www.texasappleseed.org/sites/default/files/Driven%20By%20Debt%20Dallas.pdf>; see also Texas Appleseed & Texas Fair Defense Project, Driven by Debt Houston. (2020). Retrieved from <https://www.texasappleseed.org/sites/default/files/DrivenByDebt-Houston-July2020.pdf>.

<sup>7</sup> Texas Transportation Code. § 706.005

<sup>8</sup> Data obtained from the Office of Court Administration, Bexar County Justice Courts Activity Detail, January 1, 2023 to December 31, 2023. Report on file with the author.

<sup>9</sup> Dimmick, I. (Sept. 2023). Census data: Nearly 270,000 people live beneath the federal poverty line in San Antonio. San Antonio Report. Retrieved from <https://sanantonioreport.org/census-data-nearly-270000-people-live-beneath-the-federal-poverty-line-in-san-antonio/>.

<sup>10</sup> Ponomariov, B., & Hartley, R. (Jan. 2023). Task 3 report: Analysis of internal case management system data: selected trends. University of Texas at San Antonio. Retrieved from <https://rpubs.com/brancolp/996103>

<sup>11</sup> Texas Appleseed & Texas Fair Defense Project (Aug. 2021). Driven by debt: The failure of the OmniBase Program. Retrieved from <https://www.texasappleseed.org/sites/default/files/2023-05/omnibaserevenuereport-aug11-final.pdf>.

<sup>12</sup> For example, restoration of 7,000 suspended driver’s licenses in the City of Phoenix resulted in \$87 million in labor income and a \$149.6 million increase in the city’s GDP. Fines & Fees Justice Center, Driving on Empty: Florida’s Counterproductive and Costly Driver’s License Suspension Practices (Oct. 2019), available at <https://finesandfeesjusticecenter.org/content/uploads/2019/11/florida-fines-fees-drivers-license-suspension-driving-on-empty.pdf>.

<sup>13</sup> Fishbane, A., Ouss, A., & Shah, A. K. (2020). Behavioral nudges reduce failure to appear for court. *Science*, 370(6517), eabb6591.

<sup>14</sup> Bornstein, B. H., Tomkins, A. J., Neeley, E. M., Herian, M. N., & Hamm, J. A. (2013). Reducing courts’ failure-to-appear rate by written reminders. *Psychology, Public Policy, and Law*, 19(1), 70. (hereinafter “Bornstein et al.”).

<sup>15</sup> Court Reminder Program (n.d.). Office of Court Administration. Retrieved from <https://www.txcourts.gov/programs-services/court-reminder-program/>.