

IV. DEFINITIONS & ABBREVIATIONS

17. For purposes of this Consent Decree, the following terms shall have the stipulated meanings as follows:

- f. “Failure to appear” refers to any instance when a misdemeanor arrestee was scheduled to appear in court, the arrestee’s appearance was not waived, the arrestee did not physically appear in court, an arrest warrant issued because of the misdemeanor arrestee’s nonappearance, and the warrant either (1) was executed by placing the misdemeanor arrestee in custody, or (2) remained outstanding 30 days after issuance and no indication appears in the court record that the misdemeanor arrestee was prevented from appearing in court due to circumstances not in the misdemeanor arrestee’s control, as determined by a CCCL Judge.
- g. “First appearance” or “first setting” refers to the first scheduled court appearance for a misdemeanor arrestee in a particular case. (The term “misdemeanor arrestee” is defined in Section 17(k).)
- m. “Nonappearance” refers to when a misdemeanor arrestee does not appear for a scheduled court appearance and the misdemeanor arrestee’s appearance is not waived. An instance of late arrival may not be deemed a “nonappearance” unless the misdemeanor arrestee did not appear in court within one hour of the time set for the misdemeanor arrestee’s appearance or by the time the docket (if applicable) has concluded, whichever is later, and the misdemeanor arrestee’s appearance was not waived. For purposes of data collection, “nonappearance” is distinct from “failure to appear,” which is intended to capture a willful failure to attend court when required.
- q. “Regular setting” or “regular appearance” refers to any setting that is not a required appearance for a misdemeanor arrestee. (“Required appearance” is defined in Section 17(r).)
- r. “Required setting” or “required appearance” refers to trial settings, bond violation hearings, suppression hearings, or plea settings for any misdemeanor arrestee; or any pretrial hearing before a Harris County Criminal Court at Law Judge in a case where a misdemeanor arrestee has had prior sufficient notice, as required by Section 65(b) of the Consent Decree, that the appearance is required.

IX. COURT POLICIES AND PROCEDURES CONCERNING NONAPPEARANCE FOR SCHEDULED COURT HEARINGS

58. Options for rescheduling a court date: The County will provide technology that defense counsel and misdemeanor arrestees can use to facilitate requesting a new court date or to be informed of a court date that the court has set. With the goal of identifying mechanisms for rescheduling court dates that do not require the misdemeanor arrestee or the arrestee's counsel to appear in person to obtain a new court date, the County and the CCCL Judges will work with the Monitor to identify and implement the most effective technology to facilitate rescheduling court dates. If a misdemeanor arrestee receives a new court date, notice of the new court date must be provided via the telephone and text-message reminders required by Section 49–50. If defense counsel has been appointed or retained, notice must also be provided to counsel. A record of the notice provided must be preserved in the misdemeanor arrestee's case file. The County will also ensure that there is an in-person option for rescheduling a court date during regular business hours.

59. To comply with the requirement that there be an in-person option for rescheduling court dates during regular business hours, the CCCL Judges will designate one CCCL Judge each week, for at least one day each week, to preside over an "Open Hours Court" to be located in that CCCL Judge's own courtroom. The Open Hours Court will occur on a predictable weekly schedule, and the schedule will be posted in the courthouse, at the jail, on the written notification(s) described in Sections 47–48, and on the website described in Section 57. This Consent Decree does not require the Open Hours Court to operate beyond normal business hours.

62. To ensure that people released from custody after arrest have an adequate opportunity to address the disruption to their lives caused by the arrest, absent a request made by an arrestee or the arrestee's counsel, no misdemeanor arrestee may be required to appear in court less than 72

hours of being released from jail for proceedings in the same misdemeanor case in which they were arrested and released.

64. Open Hours Court: County and CCCL Judges must provide at least one weekly "Open Hours Court" to be held at the same time and on the same day each week, which may be rescheduled from time to time, to account for holidays or other court business. Any change to the Open Hours Court schedule must be advertised on the website as described in Section 57 at least 30 days in advance of the change becoming operative. The location of the Open Hours Court must be advertised as described in Sections 48(a) and 57. Any misdemeanor arrestee who has missed a court appearance can appear at Open Hours Court to reschedule the missed court appearance, subject to the other provisions in this Consent Decree. The County will ensure that assistant public defenders and/or private appointed counsel will be available at this docket to

assist unrepresented individuals who appear. The purpose of Open Hours Court is to provide an opportunity for people to move forward with the business in their cases more efficiently and, to the extent permitted by other provisions of the Consent Decree, to do so without fear of going into custody for a prior nonappearance. This program must be advertised as described in Sections 48(a) and 57.

65. Waiver of appearance:

- a. Upon request by counsel, before or during a regular setting, a misdemeanor arrestee's appearance at any regular setting shall be waived.
- b. Notwithstanding Section 65(a), a CCCL Judge will be authorized to convert any regular setting into a required appearance with 7 days' written notice to the misdemeanor arrestee and/or her lawyer that the arrestee's personal appearance in court is required and will not be waived.
- c. Notwithstanding any other provision in this Consent Decree, a CCCL Judge may, on his or her own motion, waive a misdemeanor arrestee's appearance at any court appearance at which that CCCL Judge is presiding.

66. Rescheduling in advance of the court date:

- a. A misdemeanor arrestee who is not in custody may reschedule any regular appearance in advance of the court date by using the rescheduling procedures described in this Consent Decree.
- b. A misdemeanor arrestee who has not sought a waiver of appearance and is not in custody may reschedule through counsel any regular appearance in advance of the court date two times per case for any reason with no adverse consequences. If multiple open cases are consolidated onto a single schedule of court appearances, any rescheduling of any one of the open, consolidated cases will count toward the two permitted reschedulings for all of the open, consolidated cases.
- c. After a misdemeanor arrestee reschedules twice, any subsequent nonappearance at a regular setting may result in a warrant being issued if the CCCL Judge finds that notice of that setting was provided in accordance with this Consent Decree, and does not make a finding of good cause.

67. Process for issuing a warrant after nonappearance at a regular setting:

- a. If a misdemeanor arrestee does not appear at a regular setting, and the appearance was not waived in advance, the case will be rescheduled for the following week's Open Hours Court. The County and the CCCL Judges will inform the misdemeanor arrestee of the new date and time for the court setting at which the misdemeanor arrestee's presence is required using the notification procedures set forth in this Consent Decree. The misdemeanor arrestee may appear at the following week's Open Hours Court or in the assigned court at any time between the date of the missed regular setting and close of business on the day of Open Hours Court of the week following the missed setting to reschedule the missed regular setting without arrest or other adverse consequences for a missed regular setting.
- b. If a misdemeanor arrestee does not appear at a regular setting, and does not appear in Open Hours Court or the assigned court before close of business on the day of Open Hours Court of the week following the missed appearance, a warrant for nonappearance may issue to the extent consistent with state law.

68. Process for issuing a warrant after nonappearance at a first setting or required appearance:

- a. If a misdemeanor arrestee does not appear at a first setting or a required setting, meaning that the arrestee has not appeared in court within one hour of the time set for the misdemeanor arrestee's appearance or by the time the docket (if applicable) has concluded, whichever is later:
 - i. The CCCL Judge must determine whether the misdemeanor arrestee had actual notice of the court setting and whether there exists good cause for nonappearance.
 - ii. If the CCCL Judge finds that good cause exists for the misdemeanor arrestee's nonappearance, or that the arrestee did not have actual notice of the setting, then a warrant may not issue and the setting must be rescheduled for a minimum of seven days in the future.

69. Process for rescheduling a court date after a warrant has been issued:

- a. If a warrant is issued following nonappearance at a regular setting or first setting, the arrestee may appear in the assigned court or the Open Hours Court and request a new court date. In the absence of other bases for the misdemeanor arrestee's arrest, the warrant for nonappearance will be recalled when the misdemeanor arrestee seeks to reschedule the missed regular setting or first setting. A misdemeanor arrestee may reschedule a first setting or a regular setting after a warrant for nonappearance has issued twice without risking arrest. In such circumstances, the warrant for nonappearance shall be recalled.

- b. If a warrant is issued following nonappearance at a required appearance, the arrestee must appear in person in the assigned court or at Open Hours Court to request a new court date. If practicable, and to avoid the need to arrest, book, and jail the misdemeanor arrestee, the missed setting should be rescheduled for that day. If the setting cannot occur that day and must be rescheduled for another date, the judge will have discretion to recall the warrant, modify conditions of pretrial release, or order that the misdemeanor arrestee be taken into custody on the warrant if such custody is otherwise consistent with state law and if the court finds after a hearing with counsel, that (i) there was actual notice of the required setting that was missed and (ii) no good cause exists for the nonappearance.
70. All misdemeanor arrestees with outstanding arrest warrants for nonappearance issued for any type of misdemeanor court appearance prior to January 1, 2019, will be permitted to appear at Open Hours Court or in the assigned court, or to use any of the rescheduling procedures described in this Consent Decree, to have the warrant for nonappearance recalled and to receive a new court date in the assigned court. No such misdemeanor arrestee may be arrested for nonappearance pursuant to a warrant for nonappearance issued on or before December 31, 2018, upon voluntary appearance in Open Hours Court or in the assigned court. This option must be advertised on the website described in Section 57, in the joint processing center, and by any other method determined by the County. The County may also choose, in its discretion, to advertise this option on local radio and television.