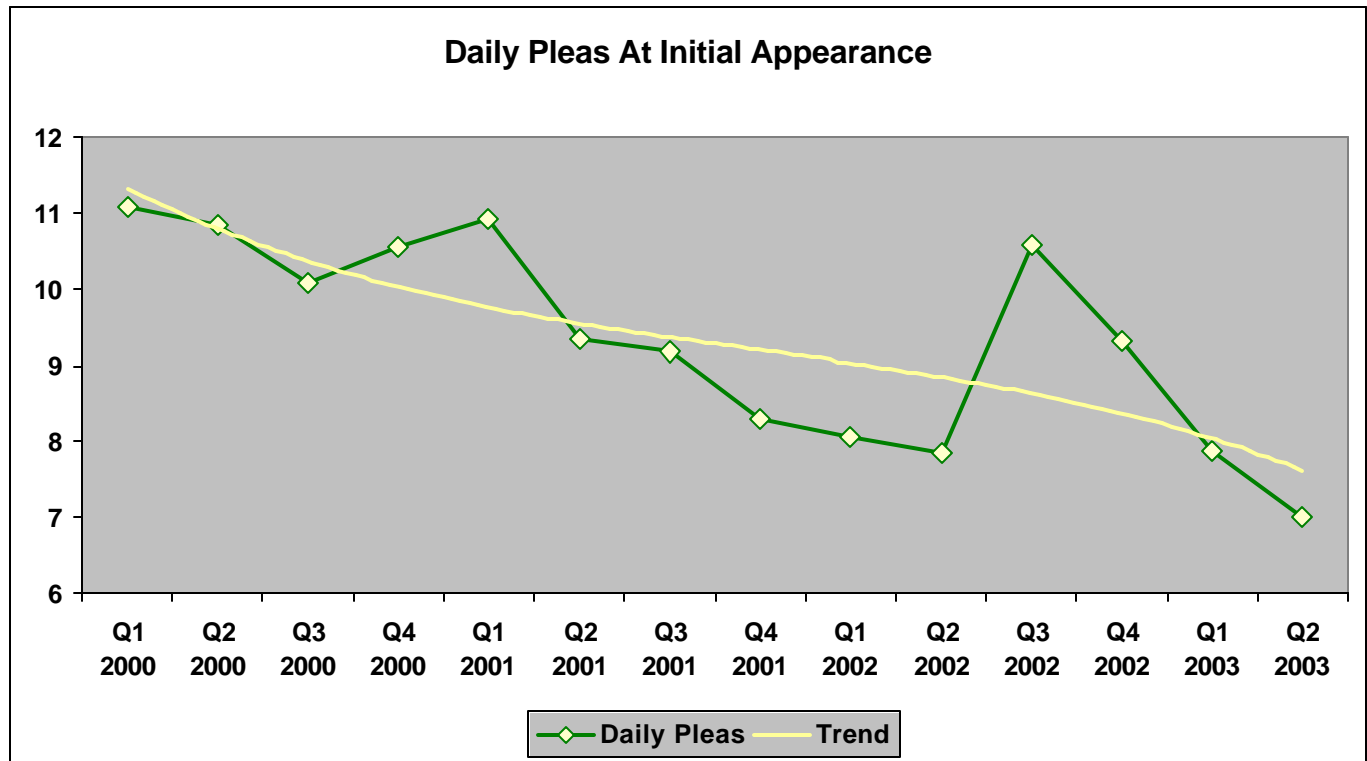


## Measure 5: Initial Appearance Outcomes

### A. Background.

Much of the analysis of the JOC Case Processing subcommittee focused on the initial appearance process. A significant portion of that analysis examined pleas at initial appearance. The chart below indicates that the number of individuals eligible to make a plea at initial appearance is remarkably consistent until the second half of 2002. Meanwhile, the number of individuals who actually make a plea is similarly patterned. Thus far in 2003, the number of daily pleas averages 7.5 per day.



### B. Pleas Before, During, and After the JOC

The daily number of pleas at Initial Appearance between November 2000 and March 31, 2003 was retrieved from existing Initial Appearance data and divided into three periods of time. The first time group started on November 10, 2000 (9 months before the first JOC meeting) and ended August 9, 2001 (the day before the first meeting of the JOC). The second time group spans the life of the Jail Oversight Commission (the 9 months between August 10, 2001 and May 7, 2002, the date on which the JOC report was presented to the Board of County Commissioners). The third time period represents the post-JOC period between May 8, 2002 and May 31, 2003.

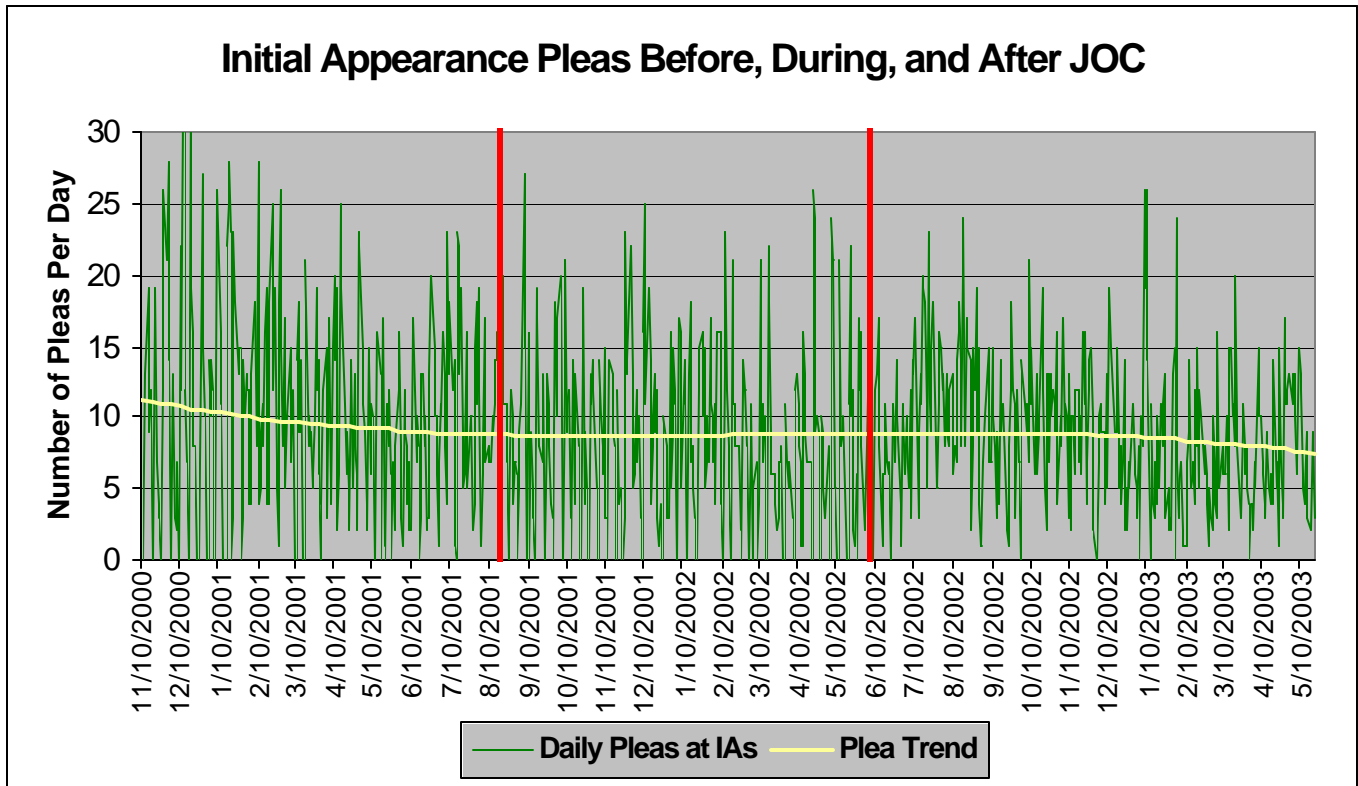
### C. Statistical Tests

The number of pleas was calculated and split into three periods of time. An ARIMA model (2,0,0) was utilized to remove the effects of first and second order autoregression. ANOVA was then used to examine the modeled groups. A significant main effect was detected ( $p < .001$ ). Post hoc Scheffe analysis indicate that Time Period 1 (9.6 pleas per day) had significantly more pleas than in Time Period 2 (8.8 pleas,  $p < .001$ ) and Time Period 3 (8.5 pleas,  $p < .001$ ). No other significant difference was detected.

## Initial Appearance, (Cont.)

### D. JOC Statistical Comparison Conclusions

There were significantly greater instances of pleas at initial appearance before the JOC than after the JOC. This is especially troubling in light of post-JOC efforts to streamline the criminal justice process after booking. The daily average of pleas at initial appearance tends to decrease as time passes. The trend line on the chart below demonstrates this point.



### E. Best Practices

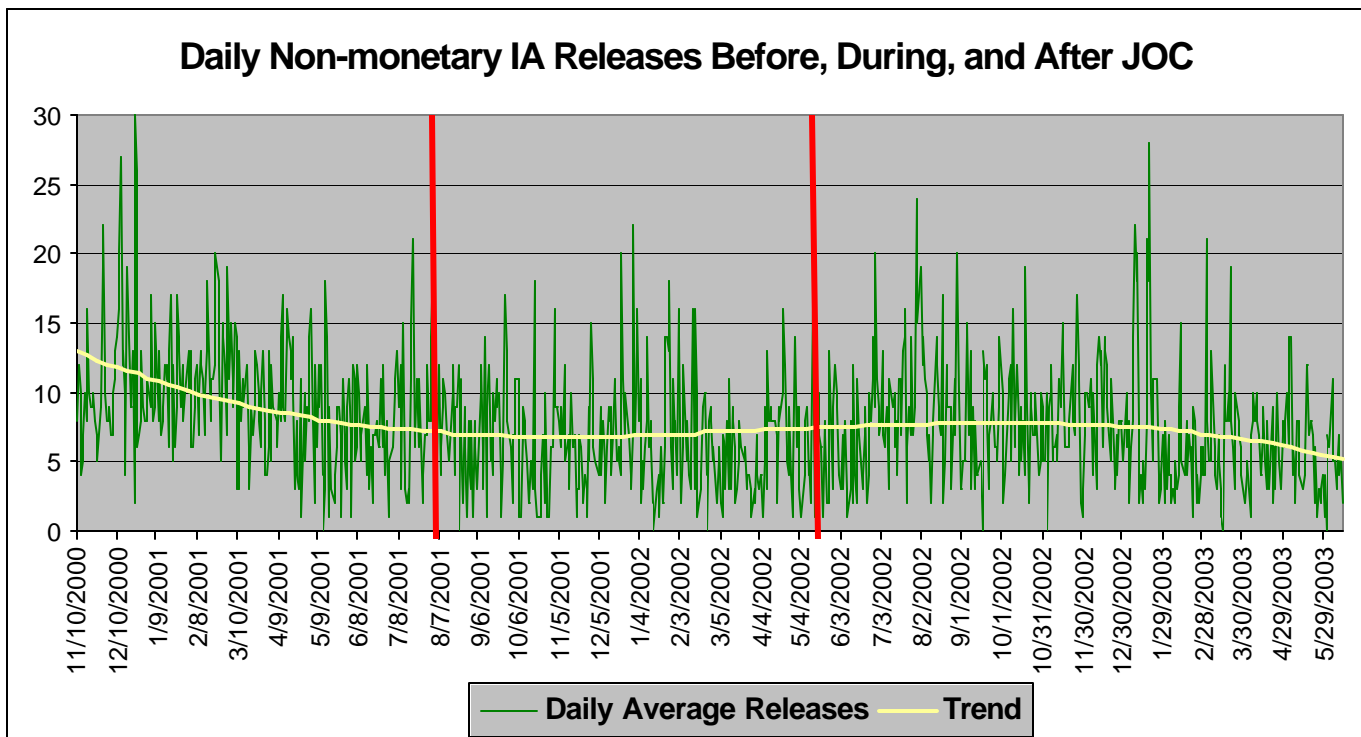
#### 1. Palm Beach County

Palm Beach County was used by the Jail Oversight Commission as a model for the meaningful initial appearance program (JOC Final Report, p. 46). The measure that has been commonly used for a benchmark is the number of pleas at initial appearance. However, statistics acquired from Palm Beach County indicate that there are only 9 pleas at initial appearance per day. This number is similar to the current level of pleas at initial appearance in Orange County. Apparently, the other outcomes of the Palm Beach initial appearances are more important in terms of jail population control. It is suggested that, instead of focusing on one particular outcome of the IA process, attention be paid to all possible outcomes which affect releases.

Palm Beach County reports a daily average of 15 non-monetary pretrial releases each day. In contrast, between January 1, 2001 and June 13, 2003, Orange County has averaged 8 non-monetary pretrial releases per day. Given this difference, perhaps it is best to examine the entire range of options open to the IA judge instead of only emphasizing pleas at IA.

## Initial Appearance, (Cont.)

In order to assess the impact of the JOC on all types of non-monetary releases at or because of initial appearance, Corrections staff conducted a statistical comparison similar to the analysis of pleas at initial appearance. The daily number of non-monetary pretrial releases stemming from initial appearances were split into the before, during, and after JOC time periods. The ARIMA modeled data were then compared using ANOVA. Post hoc results indicated that there were significantly more non-monetary pretrial releases during the time period before the JOC (9.0 per day) than both during (7.5 per day,  $p < .00$ ) and after (7.1 per day,  $p < .00$ ) the JOC.



The calculation below assumes that Orange County could somehow approach the non-monetary pretrial release levels of Palm Beach County. The calculation also assumes that the proportions of misdemeanants and felons released via non-monetary pretrial release (80% misdemeanor and 20% felon) remains similar. The expected length of stay is simply the presentenced felony and misdemeanor average lengths of stay minus 2 days already served.

Offense Level	2002 Judge Intervention Releases At IA	Projected Number of Extra Releases	Expected Remaining Length of Stay	Marginal Per Diem	Projected Savings
Misdemeanants	2,281	2,099	10 days	\$8.75	\$183,662
Felons	570	525	56 days	\$8.75	\$257,250
<b>Total</b>	<b>2,851</b>	<b>2,624</b>	—	—	<b>\$440,912</b>

## Initial Appearance, (Cont.)

### 2. Bail Hearings in Baltimore, MD

An article in the May, 2002 Cardozo Law Review describes an experiment in Baltimore, Maryland measuring the effect of having counsel present at bail hearings. Bail hearings in Baltimore take place within 48 hours of booking via television from the jail. The public defender never provided counsel at the bail hearing, and other defense representation was extremely rare. The original controlled experiment began in the Summer of 1998. Legal representation was randomly assigned to 300 non-violent cases from criminal court. Thus, the cases in the group with legal representation was fairly equivalent to the cases in the group without legal representation. In short, the legal representatives were law students who were instructed to advocate, when appropriate, their client’s lack of ability to make bail. The legal representatives focused almost exclusively on bond reductions and releases on personal recognizance.

Results of the experiment indicated that having legal representation at the bail hearing made a significant impact on the outcome of the hearings and, in addition, the jail’s population. “Judges released 70% of students’ clients, either on personal recognizance or by reducing the bail to an affordable amount” (Colbert, Paternoster, & Bushway, 2002, p. 1737). Represented defendants’ lengths of stay were typically 2 to 5 days shorter than in the non-represented group. In addition, the average bail for the represented group was \$2,441 while the non-represented group averaged \$3,012. Individuals with representation were twice as likely to be released the same day they were arrested. Nearly 66% of those with representation were released within 9 days of their arrest, while only half of the other group was released.

The experiment was later expanded to a longer-term program. After 18 months, law students had represented over 4,000 lower income defendants. In that time, represented defendants were 2.5 times more likely to be released on recognizance as were the defendants without lawyers at the bail hearing. In addition, the represented group was also 2.5 times more likely to have a reduced bail amount.

The project appears to have had a positive impact on the population of the Baltimore jail. “During the first nine months of the project, the detention population plummeted from 50% over capacity to 20% below capacity, resulting in substantial cost savings” (Colbert, Paternoster, & Bushway, 2002, pp. 1723-4).

The benchmark provided by Baltimore is that 70% of offenders in the experimental group were released (at or subsequent to the bail hearing) through some form of non-monetary pretrial release or via bond reductions. Currently, Orange County has a daily average of 8 non-monetary pretrial releases via initial appearance each day. Using the daily average of 72 initial appearances per day (the daily average since April 1, 2002) and the daily average of 15 non-monetary pretrial releases from Palm Beach County, one can develop a target for initial appearance outcomes. The table below details how the daily target is developed.

Daily Number of IAs	Projected Number of Release Interventions (70%)	Benchmark Number of Daily Non-Monetary Pretrial Releases	Remainder Isolated for Bond Reductions
72	50	15	35

## Initial Appearance, (Cont.)

Finally, with the benchmark analysis above, it is possible to extrapolate an expected number of daily bond reductions. Corrections staff began measuring daily bond reductions at initial appearance beginning September 1, 2002. The monthly average number of bond reductions is 515. This works out to 17 bond reductions per day. If the Orange County initial appearance system worked like the Baltimore experiment, it is possible to project 35-40 bond reductions per day. An analysis by Corrections staff in April 2003 found that 76% of those receiving bond reductions at IA in 2002 were released on bond with an average length of stay of 12 days after the reduction. Using the expected length of stay for presentenced individuals who are not released in the first 2 days of incarceration (34 days), it is possible to develop an estimate of the fiscal impact of meeting the Baltimore benchmark. The expected length of stay of 34 days is reduced by 2 for the inmate's pre-initial appearance stay plus the 12 day average time to bond release. This means that for each extra bond release, 20 jail days are estimated to be saved.

2002 Daily Bond Reductions at IA	Projected Extra Bond Reductions	Expected Number of Extra Releases (76%)	Expected Remaining Length of Stay	Marginal Per Diem	Projected Savings
17	18	13.7	20 days	\$8.75	\$875,088

### F. Special Note Regarding Changes in the Initial Appearance Process

Beginning in February 2003, Orange County Corrections' pretrial services began preparing packets for initial appearances. The number of pleas at initial appearance three months before and after this change was compared using ANOVA (after ARIMA modeling) to determine if there was a significant change. Results indicate that there were significantly fewer (9.1 vs. 7.2;  $p < .006$ ) pleas after the change than before. While there were more bond reductions each day, the difference was not statistically significant ( $p < .07$ ). In addition, non-monetary pretrial releases have significantly decreased (from 7.3 per day to 6.7;  $p < .001$ ). This is not to say that preparing the packets has had a detrimental effect. For instance, the statistics could be an artifact of the different times of the year being compared (holiday season vs. the Spring).

### G. Conclusions

Although the calculations presented in this section regarding jail savings present a degree of uncertainty stemming from the difficulty in predicting the average length of stay of a class of individuals, what is certain is that other jurisdictions are making greater use of the initial appearance construct to process people through the criminal justice system more quickly. For instance, New York City has a 56% non-monetary pretrial release rate (CJA Semi-Annual Report, 2001). In comparison, what is targeted above, counting bond reduction releases, would be about 41%.

Overall, any reform or improvement effort should focus on the entire spectrum of outcomes to the initial appearance process, not just pleas. At the same time, efforts should be made to increase the daily number of pleas at initial appearance as well.