

KING COUNTY PROSECUTING ATTORNEY'S OFFICE



DANIEL T. SATTERBERG
PROSECUTING ATTORNEY

JUSTICE
COMPASSION
PROFESSIONALISM
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September 30, 2021

Clerk of the Supreme Court
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

Re: Proposed Amendments to CrR 3.4

Dear Justices of the Supreme Court,

Thank you for seeking comments to the Superior Court Judges' Association's (SCJA) proposed amendments to the Superior Court Criminal Rule (CrR) 3.4. In my capacity as the Data Analytics Manager for the King County Prosecuting Attorney's Office, I partnered with Seattle University Economics Professor Claus Pörtner to study all failure to appear (FTA) warrants issued by King County Superior Court in felony prosecutions from 2014-19. Attach. A (Pörtner Memorandum).

To evaluate the impact of the proposed changes to CrR 3.4, I reviewed the data that our office collects on felony cases filed into King County Superior Court to determine how many defendants have failed to appear in King County Superior Court since the most recent amendments to CrR 3.4 took effect. Additionally, I evaluated the length of time that it takes for a case to reach disposition in King County, and the monthly number of pleas in King County. Attach. B (Charts).

Based on Dr. Pörtner's study and my review of the data, I strongly urge you to reject the proposed changes to CrR 3.4 for all of the reasons stated in the Comment provided by Daniel T. Satterberg, King County Prosecuting Attorney.

Sincerely,

David Baker

DAVID BAKER
Data Analytics Manager
Senior Deputy Prosecuting Attorney

Attachment A

MEMORANDUM

FROM: Claus Portner, Seattle University
TO: David Baker, King County Prosecuting Attorney's Office
SUBJECT: Return after Failure to Appear
DATE: 09 June, 2021

Purpose

Covid-19 led the court system to postpone many cases and issue few warrants for failures to appear. To understand how many warrants can safely be issued without overwhelming the court system, I examine the duration from failure to appear (FTA) until return and whether the return is voluntary and not.

The analysis is conditional on the failure to appear and, hence, I do not discuss what led to the original failure to appear. Furthermore, this analysis is only relevant for those defendants who failed to show for a prior court date, possibly before Covid.

Data

The original data cover the universe of felony prosecutions filed by the King County Prosecuting Attorney's Office for the period 2 January 2014 to 30 December 2019. There was a total of 37,876 cases filed over the six years against 25,851 different individuals.

To ensure that Covid-19 does not affect the analysis, I use 31 December 2019 as the cut-off date. Hence, I do not include events, such as hearings, trials, or returns from FTA, after this date.

I drop any FTA where the defendant returned the same day as the event. After cleaning and removing cases with conflicting information, the data consists of 11,541 individuals with at least one FTA, covering 15,412 cases and a total of 21,068 FTA events (where each event may cover more than one case).

Arrest vs. Voluntary Return

Defendants who show up voluntarily may be fundamentally different from those arrested, and, presumably, those who voluntarily returns are less likely to be jailed. The types of defendants who have to be arrested before they return from their FTA may also be those defendants that the court system is most interested in having back in court. I, therefore, present results by return type.

Figure 1 shows the estimated total return rate, which is the sum of the voluntary return rate and the arrest return rate. The figure shows the predicted return for the first 18 weeks after FTA. Furthermore, to ease interpretation, I base these predictions on the entire sample without incorporating any of the defendants' characteristics.

I indicate with dashed lines the predicted return of 25%, 50%, and 75% of the FTAs. If we have 1,000 defendants who fail to appear, the prediction is that 250 of them will have returned after a

Attachment A

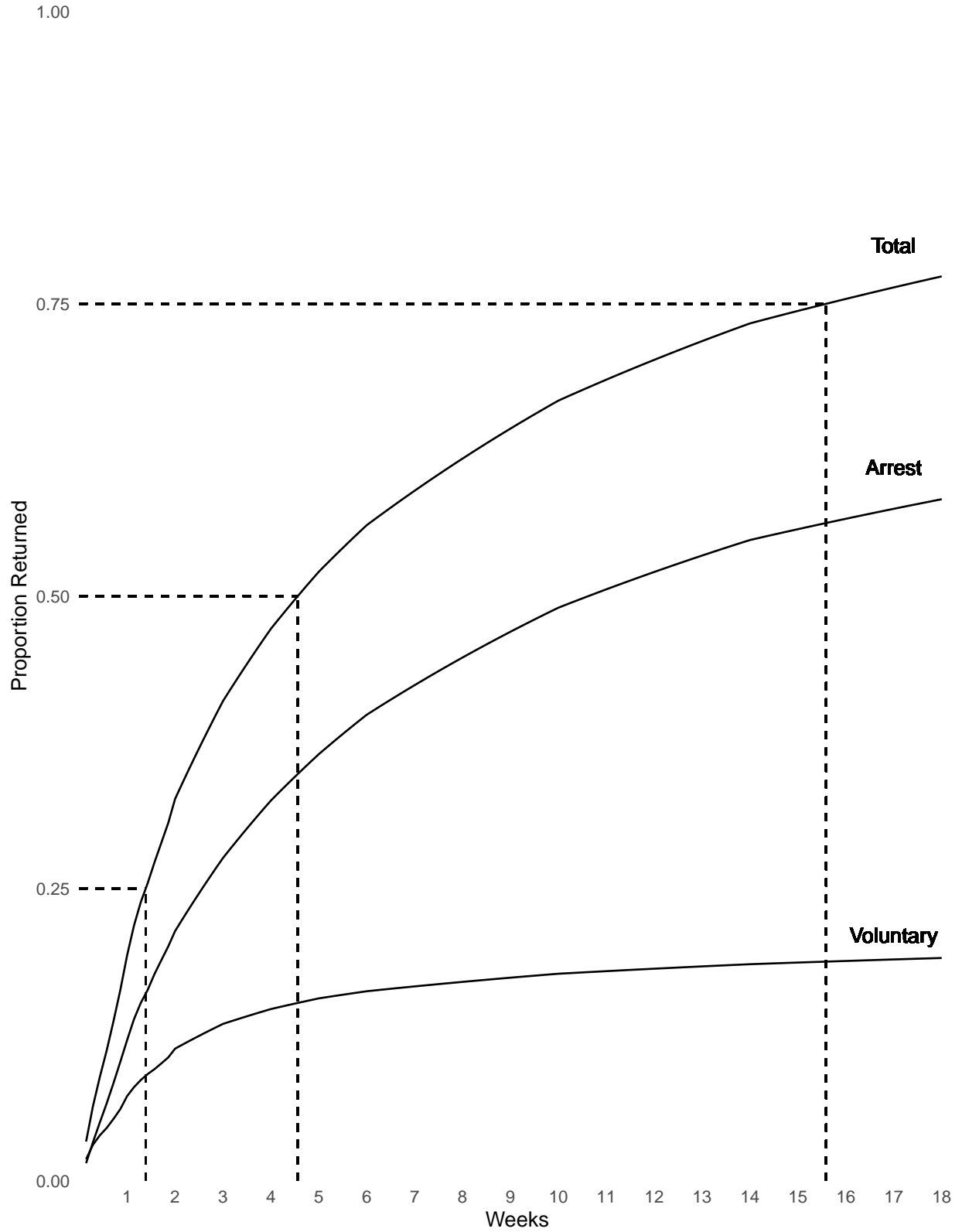


Figure 1: Proportion Returned after FTA by Return Route and Time

Attachment A

little more than a week (approximately 10 days). To reach 500 returned defendants take about 4 to 5 weeks (or approximately 32 days). Finally, it will take between 15 and 16 weeks before we reach 750 of the 1,000 returned (or about 109 days).

Most who have to be arrested before they return from their FTA are jailed, while most of those who return voluntarily are not. Hence, running the predictions using jailed or not upon return from FTA will lead to results very close to those presented above. I do not have any information on how long defendants end up spending in jail, although presumably most will remain there until the next event in their case.

Stage of Case

Figure 2 shows cumulative return (arrest and voluntary combined) by stage of the case to provide an example of the possibilities. I define three different stages (arraignment, case setting, and trial stage) and two special situations (drug case and multiple cases at various stages).

Defendants missing for arraignment take the longest to reappear, while those missing from the trial stage return the fastest. For example, 25% are predicted to return in one week for the trial stage, while it takes almost two weeks for the arraignment stage. These differences become even more pronounced for higher proportions. The predicted time for 50% to return is just shy of three weeks for those FTA at the trial stage, while it is almost seven weeks for the arraignment stage. By 18 weeks, only about 70% of arraignment stage FTAs have returned, while close to 90% of trial stage FTAs have returned.

Caveats

These predictions come with substantial uncertainty. First, the predictions suggest what is likely to happen for a large group of FTA defendants and not for any individual defendant. At the moment the I have not included confidence intervals. That is the next step in the analysis. Furthermore, because I do not currently include any defendant characteristics, the predictions will differ from what will happen if the composition of current defendants is different from the composition of defendants in the available data.

Second, because I base the analysis on data from before Covid-19, actual returns may be faster or slower. However, to the extent that police enforcement and voluntary returns are lower now than during these five years, the results should be conservative in the sense that returns will likely be slower.

Attachment A

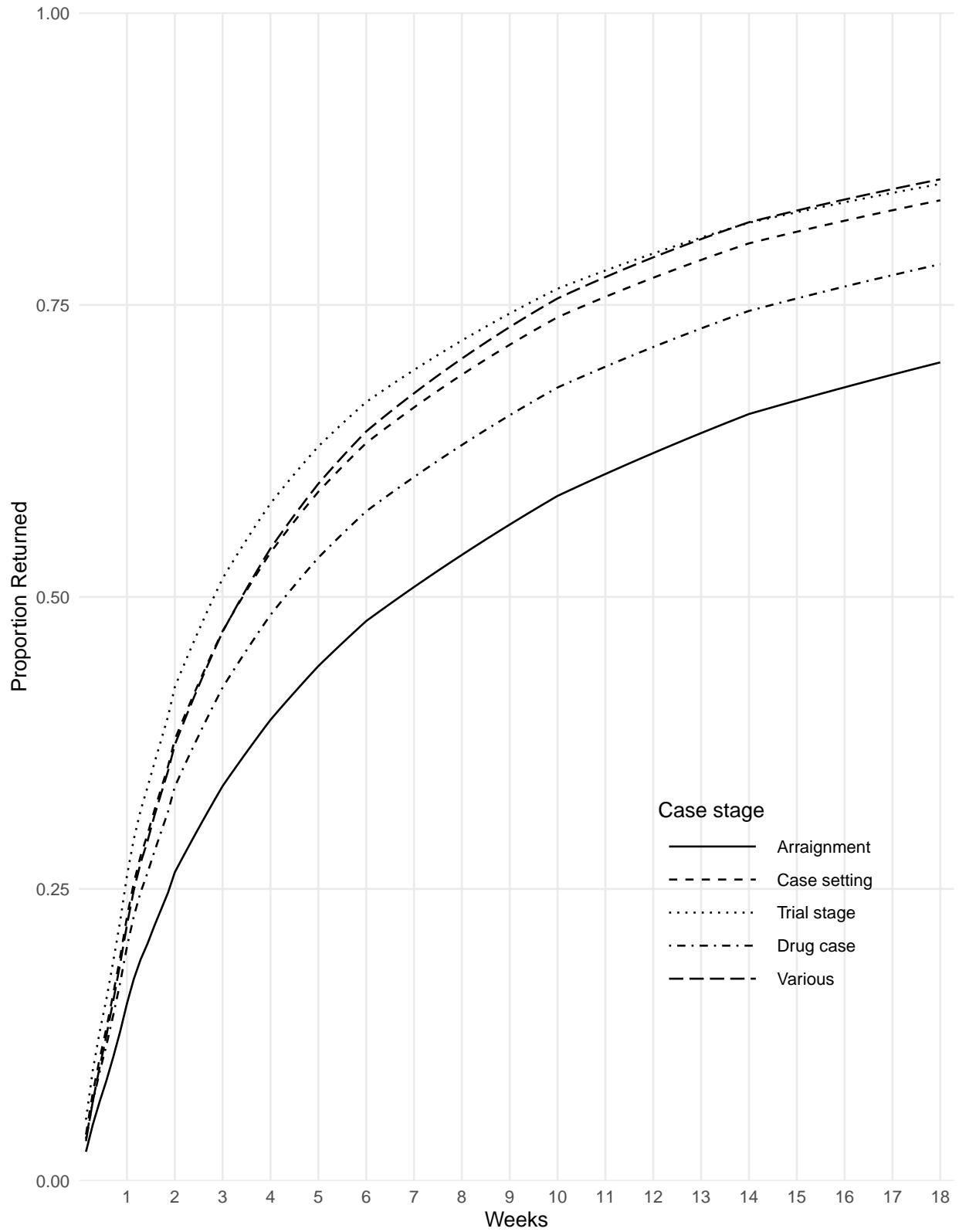


Figure 2: Predicted Time to Return by Case Stage

Figure 1 - Median of Age of King County Superior Court Caseload:

Attachment B

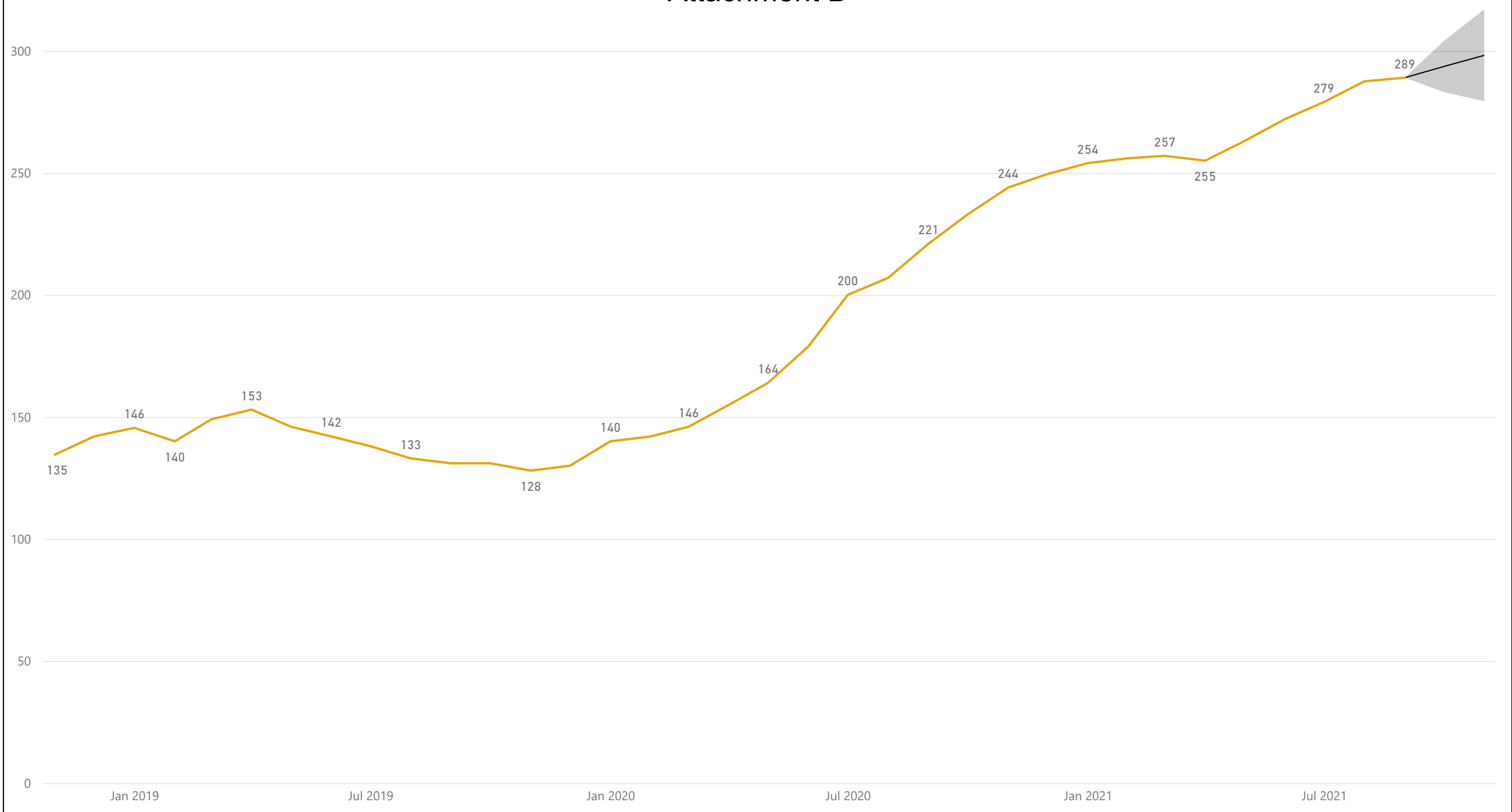


Figure 2 - Median of Age of Class A Cases in King County Superior Court:

Attachment B

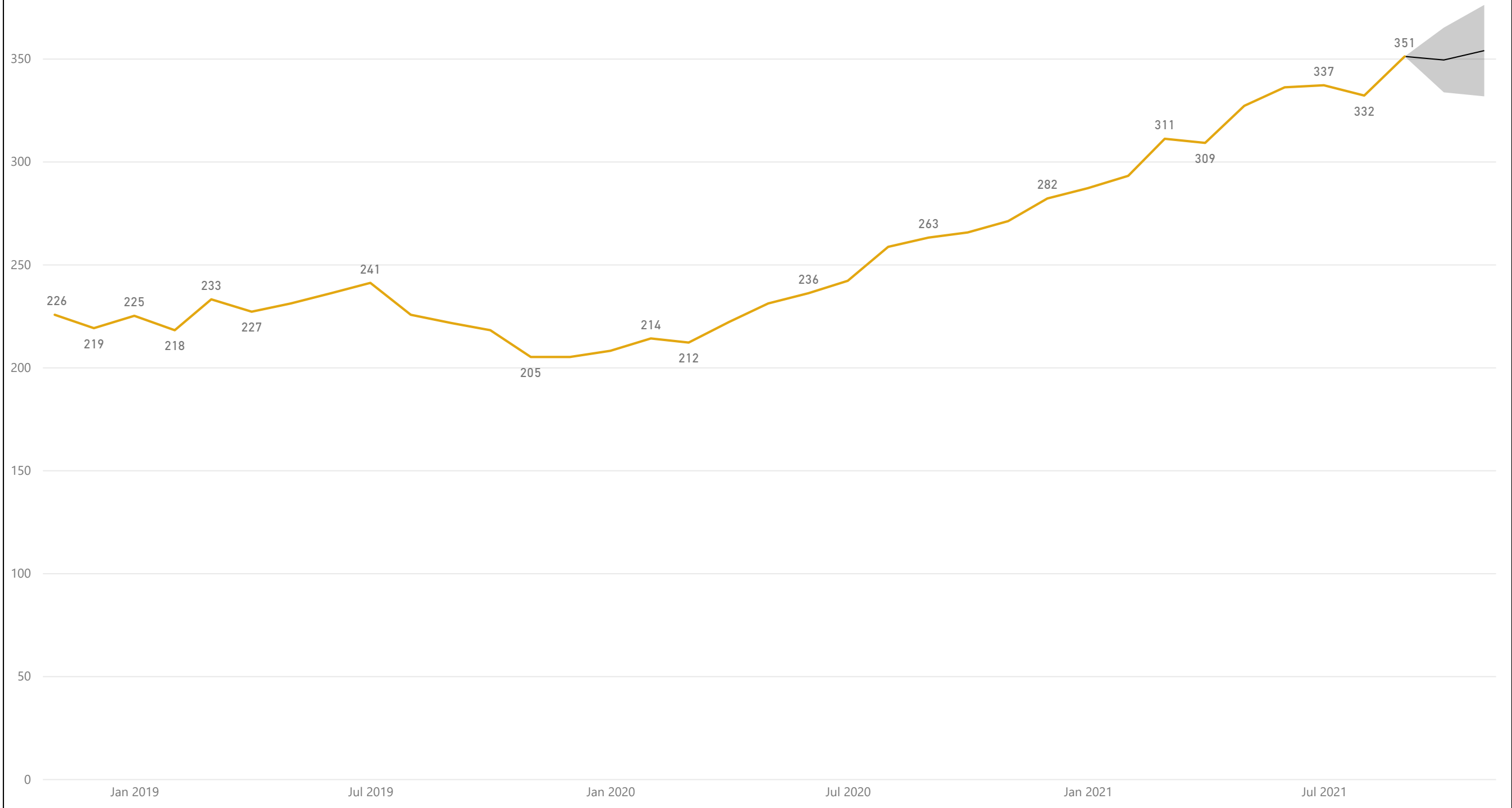
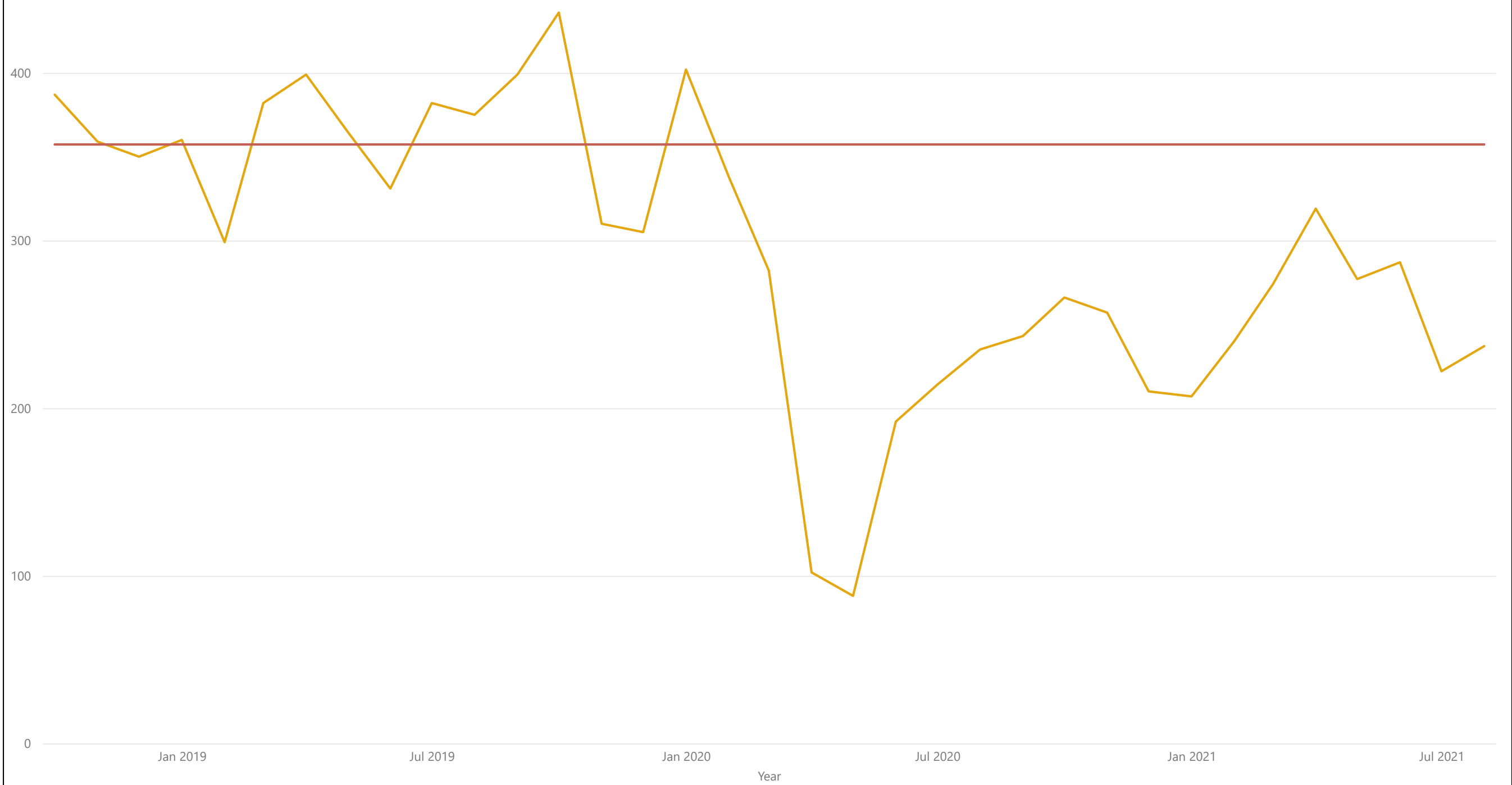


Figure 3 - Plea Dispositions per Month

Attachment B

● Cases ● Pre-COVID Average Dispositions



From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Subject: FW: Comment re: CrR 3.4 Proposed Changes
Date: Thursday, September 30, 2021 11:15:11 AM
Attachments: [Baker letter on propsoed 3-4 changes.pdf](#)
[image002.png](#)

From: Baker, David-PAO [mailto:David-PAO.Baker@kingcounty.gov]
Sent: Thursday, September 30, 2021 11:05 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment re: CrR 3.4 Proposed Changes

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To Whom It May Concern,

Attached please find my comment regarding the proposed changes to CrR 3.4.



David Baker
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