

# Agenda Item #12.



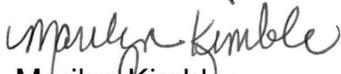
BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

**Board of Vocational Nursing and Psychiatric Technicians**  
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DATE: November 7, 2013

TO: Board Members

FROM:   
Marilyn Kimble  
Enforcement Division Chief

SUBJECT: Enforcement Division Report

## A. Consumer Protection Enforcement Initiative (CPEI)

**Department of Finance (DOF)** – At the direction of the Governor, the DOF is conducting a review of the impact of the CPEI as it relates to the enforcement process. Meetings with the various healing arts boards were conducted so that DOF can gain an understanding of operations and practices.

On July 17, 2013, Teresa Bello-Jones, Executive Officer; Angelina Martin, Assistant Executive Officer; along with the Enforcement Division managers, met with Nathan Johnson, Budget Analyst, DOF; and staff from the Department of Consumer Affairs. The discussion centered on a general review of the Board's workload, backlogs, procedures and operations.

Based on these meetings, the DOF developed a response survey for use by all of the healing arts boards. The purpose of the survey is to determine potential policy changes, identify where needed resources may be, examine workloads and the management of expenditures, and assess possible needs to further the goal of enhancing consumer protection. The survey was distributed on September 3, 2013, and the Board's responses were submitted to DOF on September 25, 2013.

In addition, the California Department of Human Resources (CalHR) is looking at CPEI from a classification and duties perspective; specifically, the use of the Special Investigator (SI) classification by the healing arts boards. CalHR conducted desk audits to compare the SI duty statements with the actual duties being performed by staff members. During this review, recruitment to fill vacant SI positions was put on hold. On October 8, 2013, DCA notified the Board that the review was complete and that it was authorized to fill its existing vacant SI positions. However, recruitment efforts for the Supervising SI position are delayed once again because the Department does not have an existing list for that classification.

**Enforcement Performance Measures (PM)** – The following eight performance measures were developed by the Department of Consumer Affairs (DCA) to determine the effectiveness of efforts to streamline enforcement processes, reduce backlogs, and achieve the overall goal to process complaints within 12-18 months.

- PM 1:** Volume – Number of complaints received.
- PM 2:** Intake Cycle Time – Average number of days to complete complaint intake.
- PM 3:** Intake & Investigation Cycle Time – Average number of days to complete closed cases not resulting in formal discipline.
- PM 4:** Formal Discipline Cycle Time – Average number of days to complete cases resulting in formal discipline.
- PM 5:** Efficiency (Cost) – Average cost of intake and investigation for complaints not resulting in formal discipline.
- PM 6:** Customer Satisfaction – Consumer satisfaction with the service received during the enforcement process.
- PM 7:** Probation Intake Cycle Time – Average number of days from the date a probation monitor is assigned to a probationer to the date the monitor makes first contact.
- PM 8:** Probation Violation Response Cycle Time – Average number of days from the time a violation is reported to a program to the time the assigned probation monitor responds.

DCA has delayed data collection for PM 5 Efficiency (Cost) until BreZze, the new integrated licensing and enforcement system, is implemented.

The Fiscal Year 2012/13 Fourth Quarter (Attachment A) and Annual Reports (Attachment B) are attached. The Annual Report shows that the Board received 5,010 complaints during the fiscal year and met its PM targets with the exception of PM 4 – Formal Discipline Cycle Time. The Board does not anticipate meeting the PM 4 Formal Discipline target without improvement to other portions of the enforcement process handled by other agencies (i.e. Attorney General's Office and Office of Administrative Hearings).

**B. DCA Policy: Field Investigation Credentials**

On September 3, 2013, the DCA issued a new policy to clarify that DCA's field enforcement employees must comply with existing law and to limit those circumstances which may place the public and DCA employees in an unlawful and/or unsafe situation. Employees who have inspection, compliance, investigation or other field enforcement responsibilities are required to carry a State identification credential which accurately represents their enforcement authority to the public. Credentials that are in compliance with this new policy were received on October 4, 2013

**C. 2013 Director Forums**

**Enforcement Division Presentation** – The annual Director Forums were held in Los Angeles on September 12, 2013, and in Sacramento on September 26, 2013. Jay Prouty, Enforcement Program Analyst, presented information regarding disclosure requirements on the *Record of Conviction* form. Feedback indicated the information presented was helpful, and provided clarification on the subject.

**D. Enforcement Division Updates**

**Enforcement Division Vacancies** – The following vacancies exist:

- 1 Staff Services Manager I
- 1 Supervising Special Investigator
- 2 Special Investigators

**Overtime** – Enforcement staff continue to volunteer to work overtime in an effort to reduce backlogs. Total hours worked for the previous two and current fiscal year are as follows:

- 2,720 – FY 11/12 (July 1, 2011 – June 30, 2012)
- 3,595 – FY 12/13 (July 1, 2013 – June 30, 2013)
- 1,003 – FY 13/14 (July 1, 2013 – September 30, 2013)

**Record of Conviction (ROC) Form** – In addition to the presentation at the Director's Forums, enforcement staff have been working on revisions to the ROC form. The revisions are intended to clarify the criminal history disclosure requirements for our applicants and ensure that they understand their responsibilities in providing true and complete information to the Board. Staff anticipates that the form will be in use on or before December 31, 2013.

## D. Enforcement Division General Statistics

Table #1 summarizes the Enforcement Division's volume over the past six fiscal years.

<b>Table #1: Enforcement Volume</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>	<b>2013/14 Thru 9/30/13</b>
Complaints Received (Licensees)	2,013	3,110	2,599	2,610	2,187	473
Complaints Received (Applicants)	1,573	2,041	2,461	3,035	2,826	783
<b>Total Complaints Received</b>	<b>3,586</b>	<b>5,151</b>	<b>5,060</b>	<b>5,645</b>	<b>5,010</b>	<b>1,256</b>
Complaints Pending – Desk	1,641	4,123	3,742	3,189	2,548	2,233
Complaints Pending – Field	0	0	0	656	977	936
<i>Field Complaints Pending with DOI<sup>1</sup></i>	365	242	164	141	60	28
<b>Total Complaints Pending</b>	<b>3,006</b>	<b>4,365</b>	<b>3,906</b>	<b>3,845</b>	<b>3,585</b>	<b>3197</b>
Complaints Referred to DOI	140	113	111	92	0	0
<b>Total Complaints Referred to DOI</b>	<b>140</b>	<b>113</b>	<b>111</b>	<b>92</b>	<b>0</b>	<b>0</b>
Complaints Closed - Desk	3,020	3,616	5,407	5,464	5,227	1,560
<i>Licensees – Unsubstantiated/NOW*</i>	-	-	2,495	2,065	1,616	449
<i>Substantiated*</i>	-	-	643	485	369	101
<i>Applicants - Approved</i>	1,474	1,150	1,757	1,739	2,035	432
<i>Denied</i>	24	20	55	78	36	20
<i>Other*<sup>2</sup></i>	-	-	457	1,097	1,171	558
Complaints Closed - Field	0	0	0	5	259	145
<i>Licensees – Unsubstantiated/NOW*</i>	-	-	-	4	172	83
<i>Substantiated*</i>	-	-	-	1	87	62
Complaints Closed - DOI	137	240	204	114	86	33
<i>Licensees – Unsubstantiated/NOW*</i>	-	-	111	31	45	23
<i>Substantiated*</i>	-	-	93	83	41	10
<b>Total Complaints Closed</b>	<b>3,157</b>	<b>3,856</b>	<b>5,611</b>	<b>5,583</b>	<b>5,572</b>	<b>1,738</b>
Cases Referred to AG's Office	226	221	339	412	288	90
Accusations Filed	183	166	168	251	217	60
Disciplinary Actions Completed	199	213	175	170	271	65
Statement of Issues Filed	32	18	57	82	68	12
Licenses Denied (Adjudicated)	9	10	7	17	16	8
*Started reporting data FY 2010/11						
1. DOI = DCA Division of Investigation.						
2. Other = pending exam, abandoned, referred to Attorney General's (AG) Office.						

Table #2 summarizes the Enforcement Division's processing times over the past six fiscal years.

<b>Table #2: Enforcement Average Processing Times (In days)</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>	<b>2013/14 Thru 9/30/13</b>
<b>Complaint Processing<sup>1</sup></b>						
Desk Investigations	176	212	295	283	238	219
Field Investigations	0	0	0	197	510	606
DOI Investigations <sup>2</sup>	705	775	703	666	783	871
<b>Average Days to Close Complaints<sup>3</sup></b>	<b>199</b>	<b>247</b>	<b>310</b>	<b>291</b>	<b>259</b>	<b>264</b>
<b>Formal Discipline Processing</b>						
Pre-Accusations <sup>4</sup>	150	138	145	175	236	221
Post Accusations <sup>5</sup>	423	434	275	191	220	224
<b>Average Days to Complete Disciplinary Actions</b>	<b>573</b>	<b>572</b>	<b>420</b>	<b>366</b>	<b>456</b>	<b>445</b>
<b>Total Average Processing Time (Days)<sup>6</sup></b>	<b>772</b>	<b>819</b>	<b>730</b>	<b>657</b>	<b>715</b>	<b>709</b>
<b>Total Average Processing Time (Years)</b>	<b>2.1</b>	<b>2.2</b>	<b>2.0</b>	<b>1.8</b>	<b>2.0</b>	<b>1.9</b>
<ol style="list-style-type: none"> <li>1. Desk, Field, and DOI: includes intake, investigation, determination of Board action, and preparation of informal action if applicable.</li> <li>2. DOI = DCA Division of Investigation.</li> <li>3. Prior to the 9/6/12 Board Meeting, Average Days to Close Complaints was calculated using an average of the three Complaint Processing categories. Beginning with the 9/6/12 Board Meeting, Average Days to Close Complaints was presented as weighted averages. (Weighted average is an average that takes into account the proportional relevance of each component, instead of treating each component equally.)</li> <li>4. From date transmitted to the Attorney General's (AG) Office to date formal action filed.</li> <li>5. From date formal action filed to conclusion of the disciplinary case.</li> <li>6. Total = Average Days to Close Complaints + Average Days to Complete Disciplinary Actions.</li> </ol>						

Attachment A      Fiscal Year 2012/13 Fourth Quarter Performance Report  
Attachment B      Fiscal Year 2012/13 Annual Performance Report

Department of Consumer Affairs

Board of Vocational Nursing &  
Psychiatric Technicians

**Performance Measures**

**Q4 Report (April - June 2013)**

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

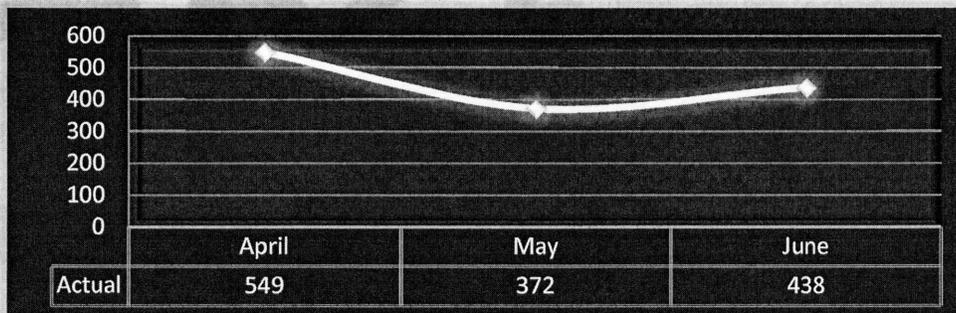
**Volume**

Number of complaints and convictions received.

**Q4 Total: 1,359**

*Complaints: 172 Convictions: 1,187*

**Q4 Monthly Average: 453**

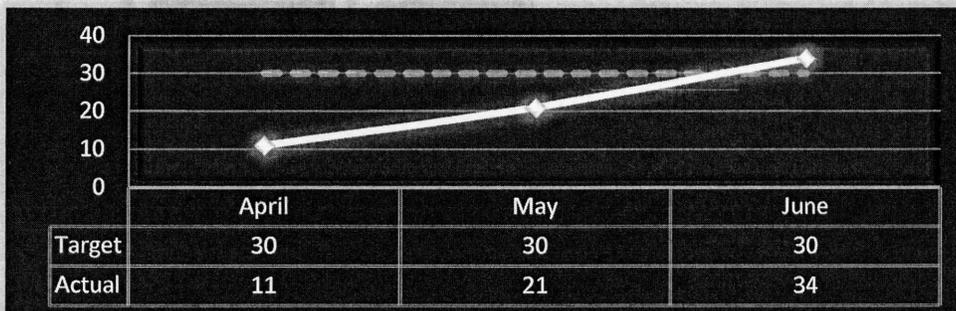


**Intake**

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

**Target: 30 Days**

**Q4 Average: 23 Days**

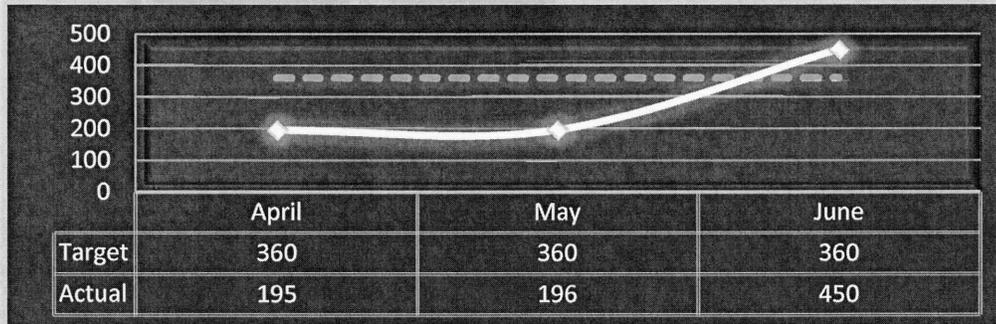


## Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

**Target: 360 Days**

**Q4 Average: 278 Days**

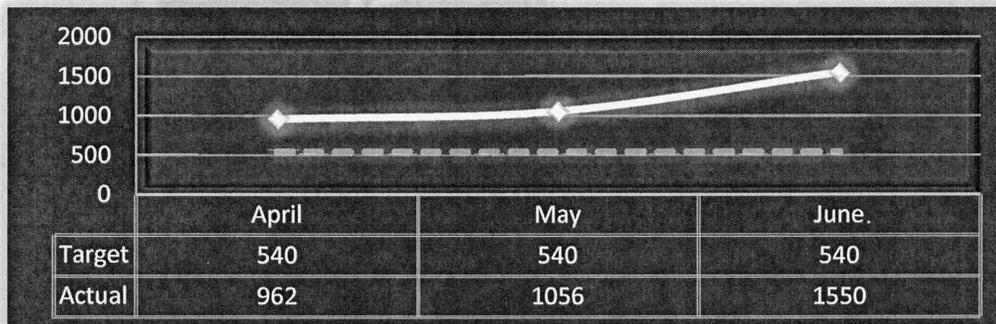


## Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

**Target: 540 Days**

**Q4 Average: 1,284 Days**

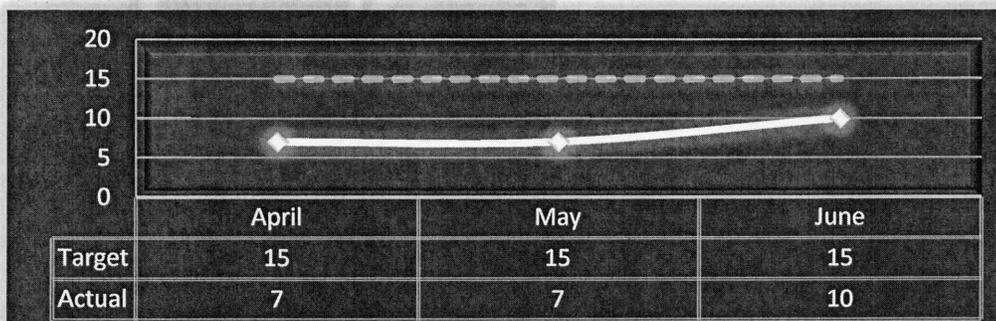


## Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

**Target: 15 Days**

**Q4 Average: 9 Days**

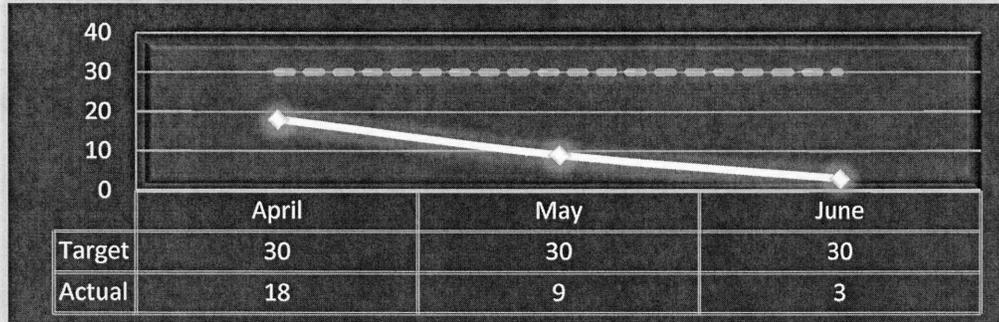


## Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

**Target: 30 Days**

**Q4 Average: 11 Days**



Department of Consumer Affairs

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**Performance Measures**

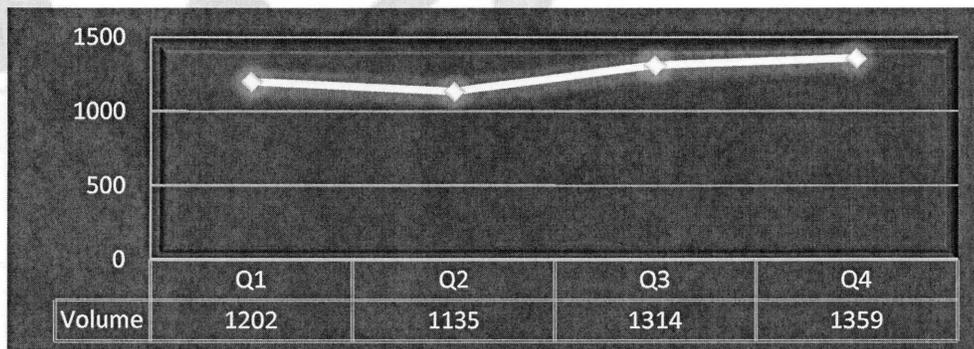
**Annual Report (2012 – 2013 Fiscal Year)**

To ensure stakeholders can review the Board's progress in meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures are posted publicly on a quarterly basis.

**Volume**

Number of complaints and convictions received.

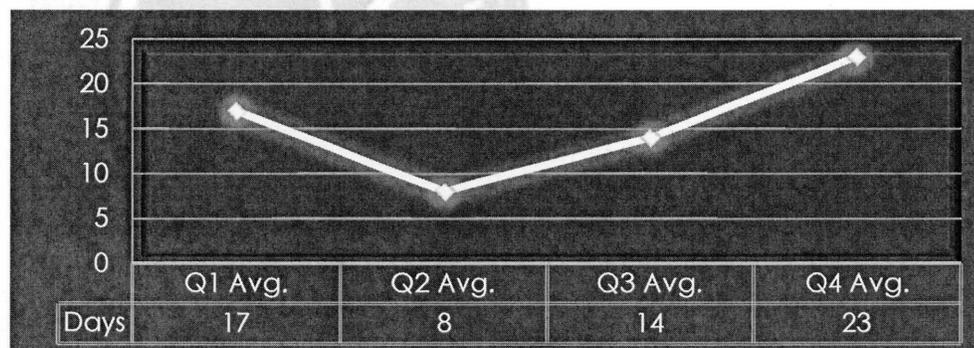
The Board had an annual total of 5,010 this fiscal year.



**Intake**

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

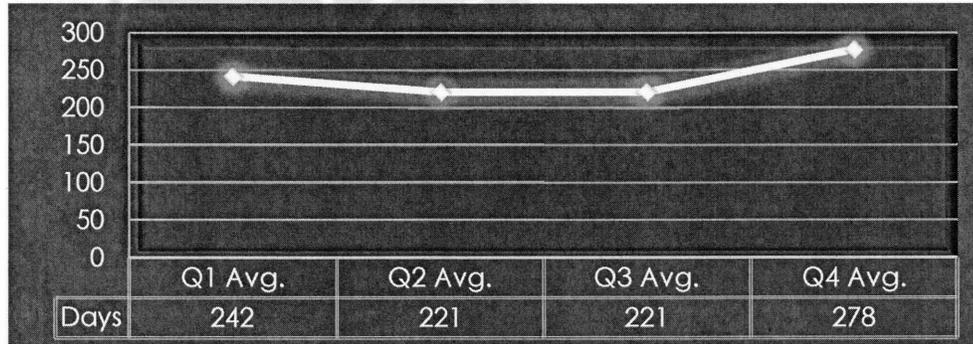
The Board has set a target of 30 days for this measure.



## Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

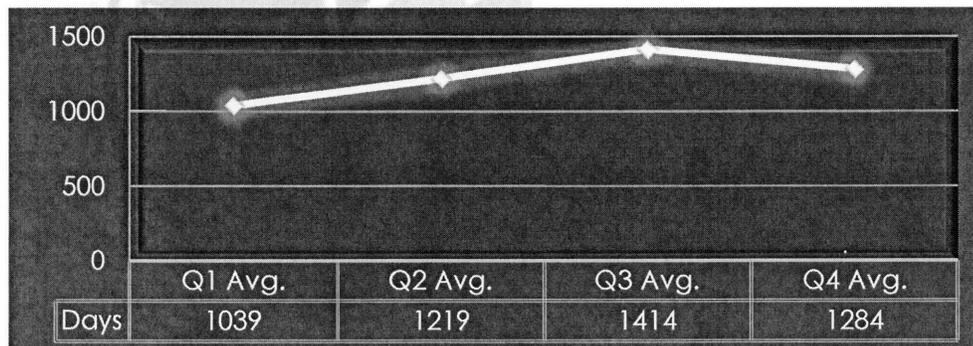
The Board has set a target of 360 days for this measure.



## Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

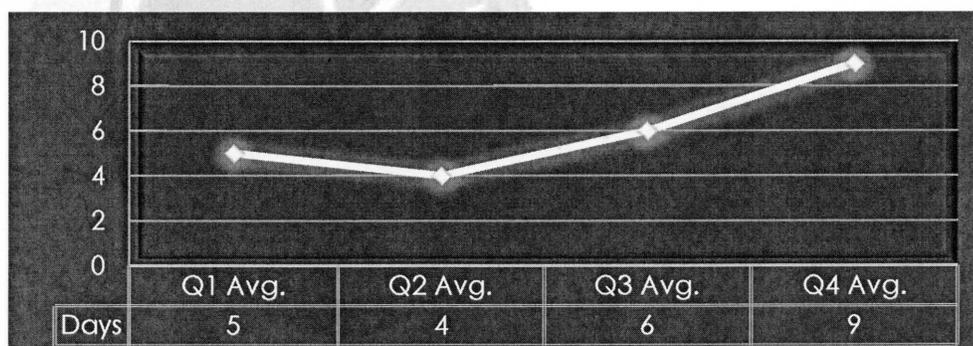
The Board has set a target of 540 days for this measure.



## Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board has set a target of 15 days for this measure.



## Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board has set a target of 30 days for this measure.

