

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**THE UNITED STATES OF AMERICA**

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

**COMMONWEALTH OF PUERTO RICO**

Defendants,

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**INFORMATIVE MOTION TO FILE THE MONITOR'S QUARTERLY REPORT**

TO THE HONORABLE COURT:

Today, the Monitor submits the Monitor's Fourth Quarter Report for 2013. The report covers the months of October through December 2013. This report consists of an introductory statement by the Monitor, along with the compliance ratings tables and special reports by the Monitor's consultants.

**WHEREFORE**, the Monitor respectfully requests that this Honorable Court grant this motion and accept the attached report.

**Respectfully Submitted,**

s/ F. Warren Benton

**F. Warren Benton**

Monitor, United States v. Commonwealth of Puerto Rico  
Calle Mayaguez # 212,  
Esquina Nueva,  
San Juan, PR 00917

**Certificate of Service**

I HEREBY CERTIFY that this 28th day of February, 2014, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system, which will simultaneously serve notice of such filing to counsel of record to their registered electronic mail addresses.

Respectfully Submitted,

s/ F. Warren Benton

F. Warren Benton

Monitor

Office of the Monitor, U.S. v. Commonwealth of Puerto Rico

USACPR Monitoring Inc.

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## Monitor's Quarterly Report Fourth Quarter 2013

United States v. Commonwealth of Puerto Rico, Civil No. 94-2080 (CCC)

The following is the Monitor's Fourth Quarter Report for 2013. The report is in two parts – a narrative overview, along with a set of tables classifying the status of compliance with each provision.<sup>12</sup> The narrative supplements the tables, describing recent events and accomplishments, reviews the results of some of the on-site monitoring tours, and examining particular compliance problems and pending issues. The narrative section does not comment on every category of provisions in every quarterly report.

Document Attachment A:	Consultant Report on Staffing Compliance
Document Attachment B:	Consultant Report on Classification
Document Attachment C:	Report on Incidents and Understaffing
Document Attachment D:	Consultant Report on Facilities
Document Attachment E:	Consultant Report on Operations
Document Attachment F:	Chronology of Site Visits

Separate Attachment One: Table of Compliance Ratings

### Compliance Initiatives

In order to advance efforts to achieve compliance with the remaining provisions, the parties have agreed to pursue a strategy that we are referring to as “road-mapping.” These roadmaps are written plans that set forth anticipated compliance steps, along with the expected compliance documentations that would demonstrate a provision's readiness for consideration for termination. By documenting expectations of performance and compliance documentation, the roadmaps are intended to ensure that all parties understand precisely the status of provisions. They will also identify who needs to do what to generate or review documentation of compliance and will also include timeframes for the various steps involved. The Monitor's consultants will work with the parties individually to generate the roadmaps and ultimately both parties will need to assent to their content for the roadmaps to be useful and effective.

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<sup>1</sup> With respect to the compliance rating tables, in their review of the draft report, the Commonwealth raised a concern about policy sub-ratings which are already explained in the report. When “P” is identified as a compliance sub-rating for a provision, a Y rating means that “*means that there are sufficient written policies and procedures in place so that, if they were implemented, compliance would be achieved.*” (P. 2) Thus, the “N” rating means that deficiencies in policies and procedures relating to the provision are contributing to the overall compliance problem. The Commonwealth is correct that a set of policies and procedures have been developed and periodically updated pursuant to S.A. 45, and the Commonwealth's position is that this is sufficient for compliance with S.A. 45. The Monitor does not agree with that legal position, because the provision also requires implementation of the policies – strict operation of the facilities consistent with the policies – and this is not yet the case. Furthermore, assuming the Commonwealth's position – that development of the policies is sufficient – then a policy could be developed which does not require what is necessary for compliance with the provision involved. In such a case the P rating of “N” would signify that there is a policy deficiency contributing to the non-compliance.

<sup>2</sup> With respect to the compliance rating tables, in their review of the draft report, the Commonwealth raised a concern about comments about the Prison Rape Elimination Act (PREA) in the comments. The comments speak for themselves and address the concern raised. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.

Initially, roadmaps will be prepared for those provisions thought to be closer to compliance. Roadmaps will then be prepared for the remaining provisions that may require more time before they can be considered for compliance. Some 14 provisions have been identified as candidates for roadmaps in the Ratings notes and the interactive process for developing these will begin in February 2014.

To further support this initiative, the parties have agreed to attend a "Monitor's Conference" on April 1 and 2, 2014 at the Monitor's Office in San Juan. The 2-day meeting will consist of a review of compliance in all areas of the case, with special attention to the "road-mapped" provisions.

### **Discussions Concerning the Proposed Move of Girls from CTS Ponce to CD Bayamon**

The previous Quarterly Report discussed a plan, proposed by the Commonwealth, to move the girls from CTS Ponce to CD Bayamon, with the detention boys relocated to Ponce. Our concerns about this plan were identified in previous compliance reports.

Subsequently, consultants and staff of the Monitor's Office met with DCR staff at CTS Bayamon to review the alternative plan, including the physical and operational consequences for the facility being modified for co-located boys and girls housing. In the course of that discussion, DCR staff suggested that there might be merit to considering CD Bayamon, as the facility to separately house the girls and some of the boys, rather than CTS Bayamon, with the Guayama closure and movement of the Guayama boys to Ponce as additional elements of the realignment. Monitor's staff and consultants, at the invitation of DCR, then toured CD Bayamon to review the operational and physical aspects of creating a co-ed facility at that location. The discussion centered around housing girls on one side of the facility, with full access to the six classrooms and other service and program areas in the facility's core; boys would be those recent admissions who require some screening and limited services and whom would be moved to CTS Bayamon after their first few days in detention.

The DCR administration has now informed the Monitor's Office of the following plan for improved facility use:

- All girls will be moved to one half of CD Bayamon
- Guayama will close and the boys will be moved to Ponce.
- Detention boys will be housed in the other half of CD Bayamon and in several modules at CTS Bayamon
- Some renovations will be done at CD Bayamon to adapt the facility to its new use.
- The Guaili boys unit will be reassigned to house the boys being moved from Guayama as all Ponce beds will be needed; the provision that required separate housing for youth under 13 was terminated some time ago and DEC will assign any such youth according to their needs

The Monitor and the consultants believe that this is a plan which achieves opportunities for improved efficiency and operational quality. Shutting down CTS Guayama and moving the Level 2 and 3 boys to Ponce should not only allow for considerable staff efficiencies in furtherance of P48, but it will also offer the opportunity to significantly enhance youth and staff safety by removing these boys from a facility that has had numerous large scale and dangerous incidents over the past year and relocating them in a far more manageable and safer physical plant. Moreover, it enhances opportunities for overall compliance as it reduces by one the number of individual facilities that need to achieve compliance with all provisions. And while the physical plant at CD Bayamon is perhaps less attractive and desirable than the existing Ponce or even CTS Bayamon, we understand that the Commonwealth is currently making some physical plant improvements to CD Bayamon to mitigate those concerns.

### **Updating Compliance Reporting Formats**

The Monitor and consultants have met with the key administrators concerning the format of the Abuse Referrals Tracking Report and the Abuse Referral Case Assessment Report. Because of improvements in the operational procedures, the formats of the reports are being revised. The updated format will be used for the first quarter report for 2014.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "F. Warren Benton". The signature is fluid and cursive, with the first name "F. Warren" and last name "Benton" clearly distinguishable.

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F. Warren Benton, Ph.D.  
Monitor

## Document Attachment A: Consultant Robert Dugan Report on Staffing

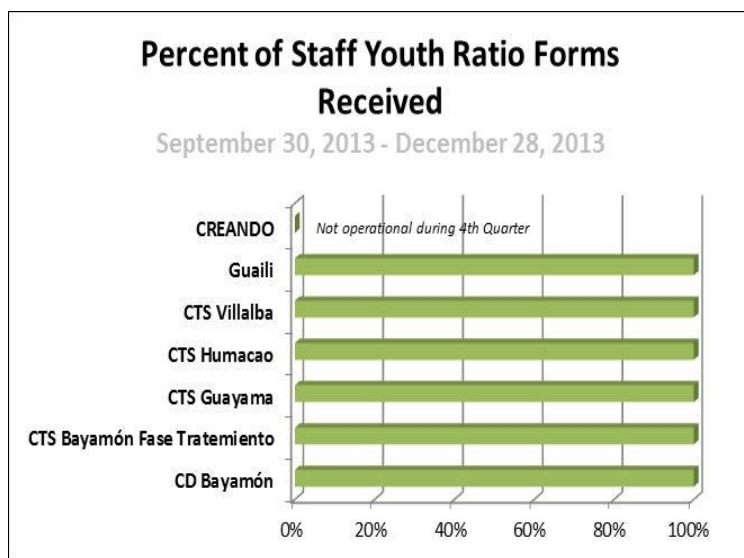
### NIJ Staffing Quarterly Report: September 30, 2013 – December 28, 2013

Prepared by Bob Dugan: Office of the Monitor

#### Background:

The following report provides information from Staff Youth Ratio forms that were provided to the consultant for the period of September 30, 2013 through December 28, 2013. As of the Sunday, January 12, 2014 the following forms have been submitted:

Facilities	Volume of Weeks of Staff Youth Ratio Forms Requested	Volume of Staff Youth Ratio Forms Received
<a href="#">CD Bayamón</a>	13	13
<a href="#">CTS Bayamón Fase Tratamiento</a>	13	13
<a href="#">CTS Guayama</a>	13	13
<a href="#">CTS Humacao</a>	13	13
<a href="#">CTS Villalba</a>	13	13
<a href="#">Guaili</a>	13	13
CREANDO	NA	NA
<b>Totals</b>	<b>78</b>	<b>78</b>



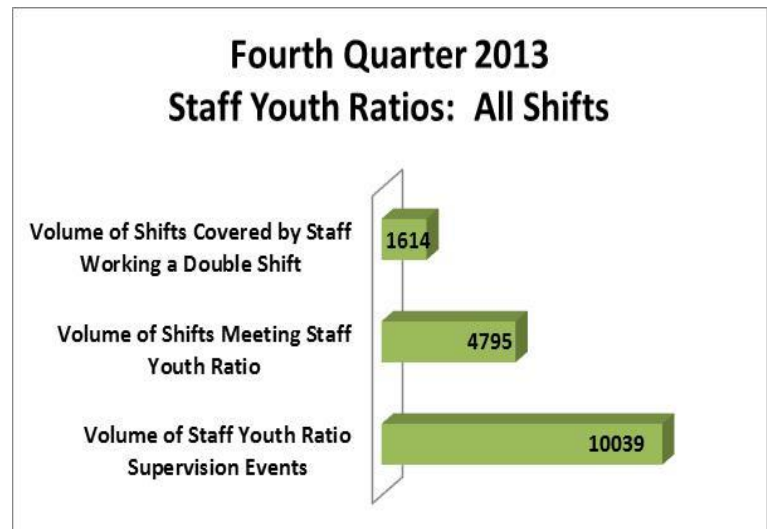
NIJ submitted a total of 78 facility staff youth ratio forms for the six operational facilities requiring staff youth ratios, allowing for 100% of the staff youth ratio forms being available for analysis. NIJ has consistently been providing all requested Staff Youth Ratio forms used for monitoring and reporting. The table displaying the date that staff youth ratio forms were received is on page 14 of this report.

CREANDO was not operational for any of the weeks of the Fourth Quarter reporting period.

#### NIJ Staff Youth Ratio Averages:

During the Fourth Quarter 2013 reporting period (September 30, 2013 through December 28, 2013), NIJ documented a total of 10,039 shift / unit events that required staff to youth supervision. This is an increase of 569 staff youth supervision events from the Third Quarter of 2013 (9470 events). Of the 10,039 shift / unit events, 4795 of the events (48%) were supervised with the required staff youth ratios, a 0.9% increase from the 47.1% of events supervised with the required staff youth ratios from the Third Quarter of 2013.

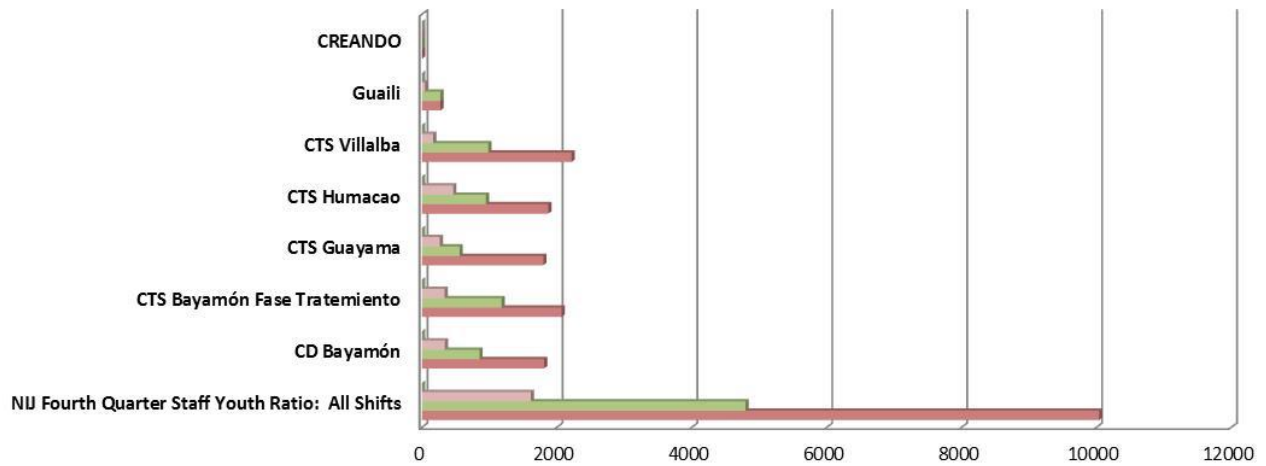
Of the 4795 staffing events meeting the required staff youth ratio, 3123 (65%) of the staffing events occurred on the 10:00 PM – 6:00 AM shift.



The Fourth Quarter Report provides additional data on the volume of staff that are working double shifts in order to meet the reported staff youth ratios. For the 2013 Fourth Quarter, 1614 of the 10,039 (16%) staff youth ratio events were covered by staff working a double shift. This is a 2% increase of volume of shifts requiring staff to work a double shift since the Third Quarter 2013 reporting period.

## Staff Youth Ratio Events and Double Shifts Fourth Quarter 2013

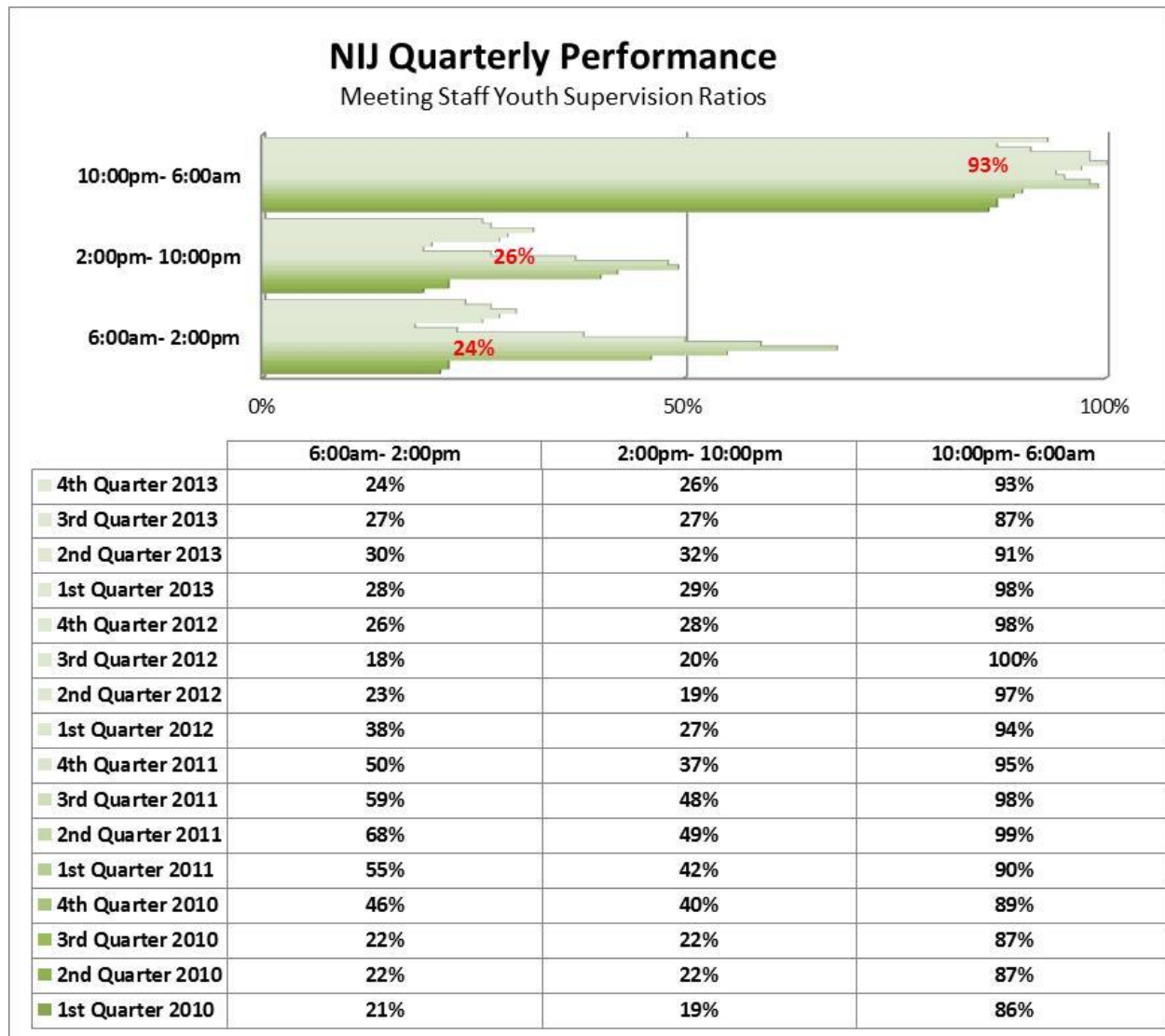
September 30, 2013 - December 28, 2013



	NU Fourth Quarter Staff Youth Ratio: All Shifts	CD Bayamón	CTS Bayamón Fase Tratamiento	CTS Guayama	CTS Humacao	CTS Villalba	Guaili	CREANDO
■ Percentage of Shifts Covered by Staff Working Double Shift	16%	19%	16%	15%	25%	7%	16%	0
■ Volume of Shifts Covered by Staff Working a Double Shift	1614	341	334	265	463	166	45	0
■ Volume of Shifts Meeting Staff Youth Ratio	4795	852	1181	556	949	984	273	0
■ Volume of Staff Youth Ratio Supervision Events	10039	1809	2069	1799	1872	2217	273	0



The following chart represents the NIJ agency Staff Youth Ratio averages by shift for the last sixteen quarters through December 28, 2013:



The Fourth Quarter of 2013 has resulted in following performance in meeting required Staff Youth Ratios during waking hours:

- 6:00 am – 2:00 pm shift: 24% of events, a 3% decrease
- 2:00 pm – 10:00 pm shift: 26%, a 1% decrease
- 10:00 pm – 6:00 am shift: 93%, a 6% increase

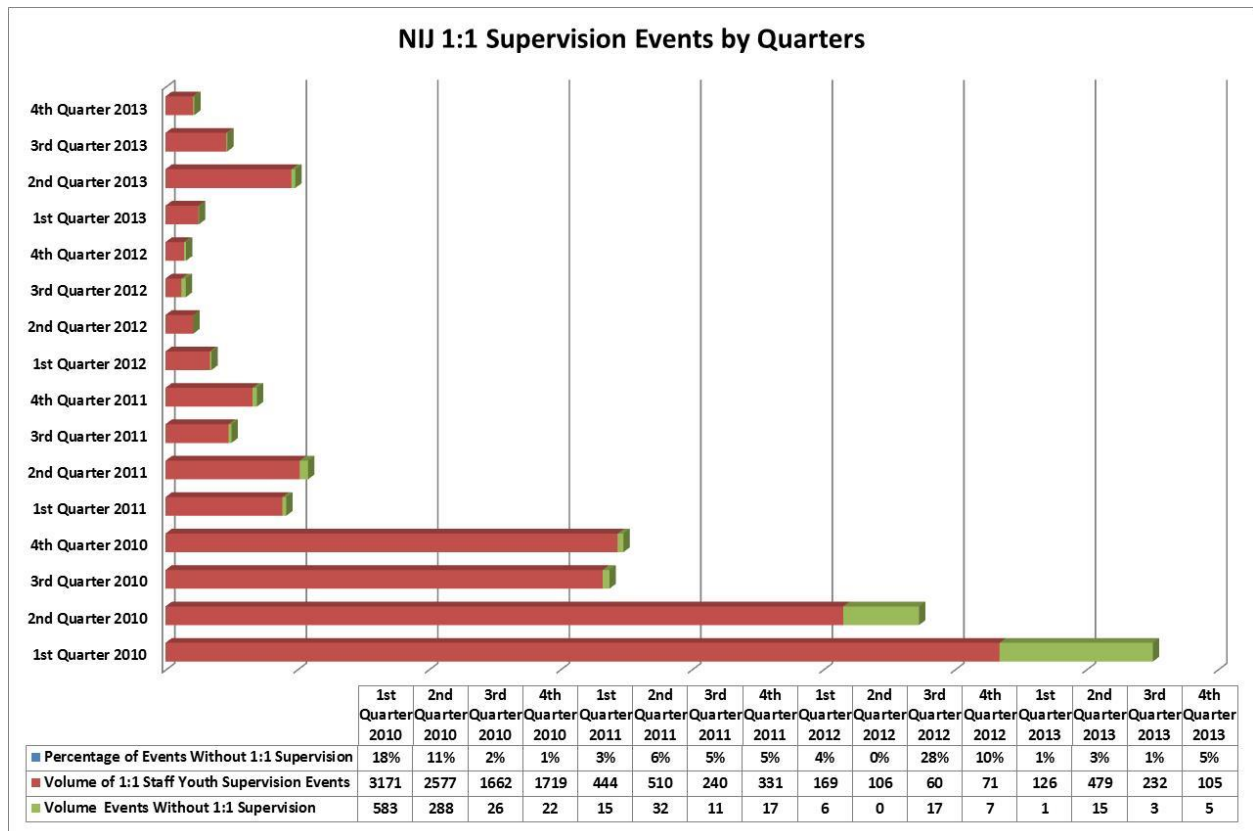
• **NIJ Agency 1:1 Supervision Events:**

The Fourth Quarter of 2013 reporting period reflects a significant decrease in the volume of 1:1 supervision events reported, 105 events:

- 3171 events 1<sup>st</sup> Quarter 2010
- 2577 events 2nd Quarter 2010
- 1662 events 3<sup>rd</sup> Quarter 2010
- 1719 events 4<sup>th</sup> Quarter 2010
- 444 events 1st Quarter 2011
- 510 events 2nd Quarter 2011
- 240 events 3rd Quarter 2011
- 331 events 4<sup>th</sup> Quarter 2011
- 169 events 1st Quarter 2012
- 106 events 2nd Quarter 2012
- 60 events 3rd Quarter 2012
- 71 events 4th Quarter 2012
- 126 events 1st Quarter 2013
- 479 events 2nd Quarter 2013
- 232 events 3rd Quarter 2013
- 105 events 4th Quarter 2013

Correspondingly, the Fourth Quarter of 2013 has an increase in the volume of these events without required 1:1 supervision, 5 events:

- 583 events 1<sup>st</sup> Quarter 2010
- 288 events 2nd Quarter 2010
- 26 events 3<sup>rd</sup> Quarter 2010
- 22 events 4<sup>th</sup> Quarter 2010
- 15 events 1st Quarter 2011
- 32 events 2nd Quarter 2011
- 11 events 3rd Quarter 2011
- 17 events 4<sup>th</sup> Quarter 2011
- 6 events 1st Quarter 2012
- 0 events 2nd Quarter 2012
- 17 events 3<sup>rd</sup> Quarter 2012
- 7 events 4th Quarter 2012
- 1 events 1st Quarter 2013
- 15 events 2nd Quarter 2013
- 3 events 3rd Quarter 2013
- 5 events 4th Quarter 2013

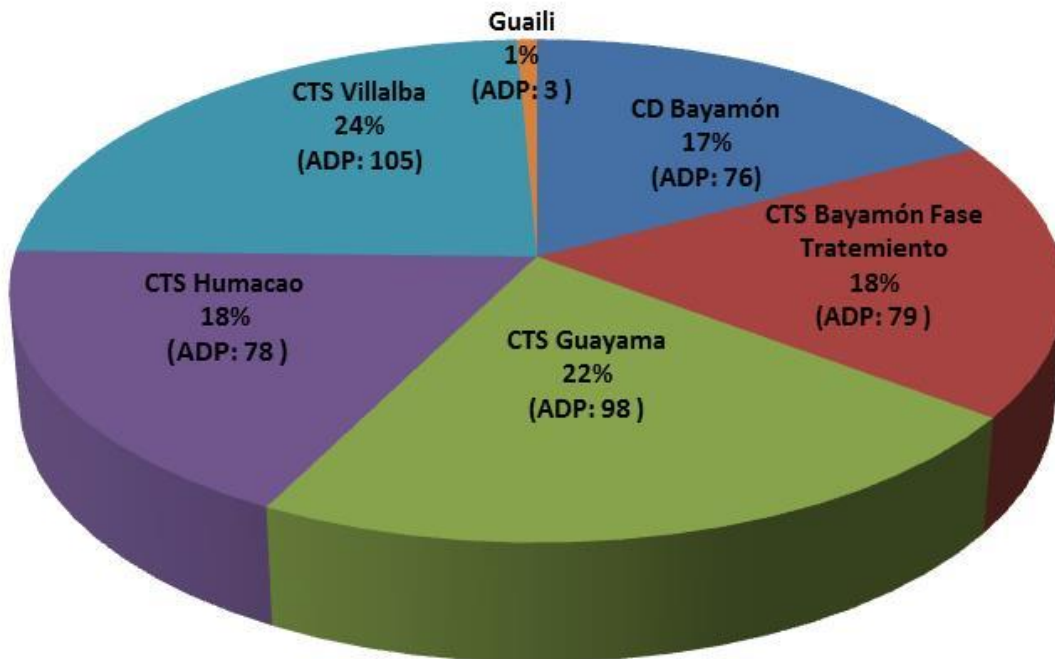


**NIJ Average Daily Population:**

Analysis of Staff Youth Ratio forms displays staffing information compared to facility average daily population (ADP). Facility average daily population was computed from the weekly Staff Youth Ratio forms by averaging the 6:00-2:00 shift facility population on the first Monday of each of the thirteen reporting weeks.

The table below displays each facility's average daily population for the reporting period (September 30, 2013 - December 28, 2013) as well as the proportionate facility youth population that each facility contributes to the agency average daily population.

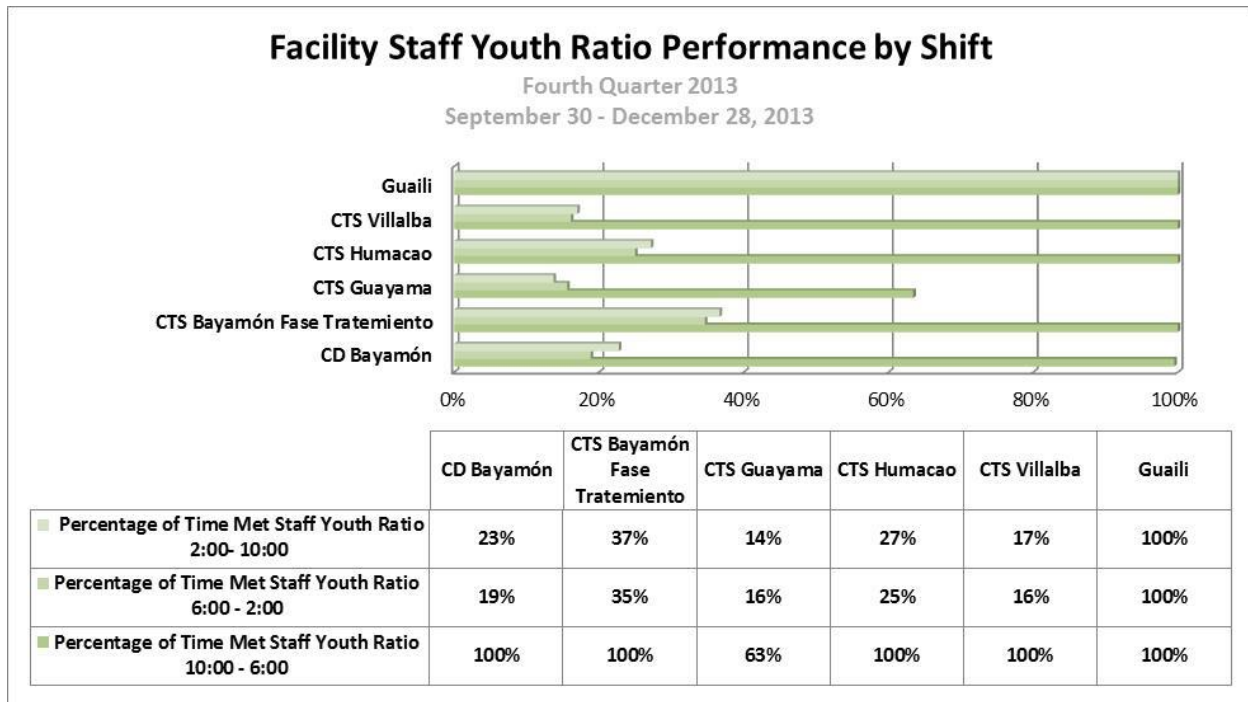
**Distribution of NIJ Facility  
Average Daily Population and Percentage of Agency Population**  
September 29 - December 28, 2013



**Facility Staff Youth Ratio Performance by Shift:**

The staff youth ratio analysis below represents the staffing information received for the period of September 30, 2013 - December 28, 2013; (13 weeks). The proportionate average daily population that each facility contributes to the NIJ average daily population is represented by a dark green bar. The table of average daily populations can be found on page 14 of this report.

During the Fourth Quarter reporting period CD Bayamón, CTS Guayama, and CTS Villalba have the fewest volume of events meeting the staffing youth ratio. These three facilities represent 63% of the NIJ youth population.



**CD Bayamón Staff Youth Ratio Analysis:**

September 30, 2013 - December 28, 2013

**Level 5 Facility:** NIJ has CD Bayamon as a detention center, classified as a Level 5 facility.

At this time all of the detention youth population is expected to meet the following Staff Youth ratios:

- A Staff Youth Ratio of 1:8 during 6:00 AM - 2:00 PM and 2:00 PM -10:00 PM
- A Staff Youth Ratio of 1:16 during 10:00 PM-6:00 AM

**Percent of Forms Available:** 100%

**Volume of Weeks Analyzed:** 13 of 13 requested

- **Volume of Staff Youth Ratio Events:** 1809
- **Volume of Staffing Events with Staff Working a Double Shift:** 341 (19%)

The Fourth Quarter of 2013 Staff Youth Ratio requirements display the following characteristics:

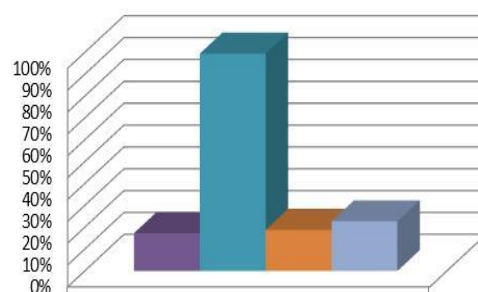
- 10:00pm - 6:00am: 100% required staff youth ratio, maintained
- 6:00 am – 2:00 pm: 19%, a 5% decrease since 2013 Third Quarter reporting
- 2:00 pm – 10:00 pm: 23%, a 2% decrease since 2013 Third Quarter reporting
- CD Bayamón represents 17% of the NIJ institutional population.

**Volume of Weeks Analyzed:** 13

**Volume of Days Analyzed:** 92

**CD Bayamón**

Percent of Unit Events Meeting Staf Youth Ratio



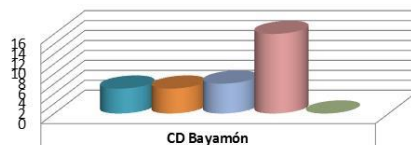
Percentage of NIJ Agency Population	17%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	19%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	23%

**16 youth supervision 1:1 events for the Fourth Quarter of 2013**

**Volume of 1:1 Events Without Required staffing during reporting period: 0**

**CD Bayamón**

**1:1 Supervision Events**



Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	5
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	5
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	6
Total Youth Assigned 1:1 Staff Youth Supervision Events: Fourth Quarter 2013	16
Volume of Events without 1:1 Supervision	0

**CTS Bayamón Fase Tratamiento Staff Youth Ratio Analysis:**

September 30, 2013 - December 28, 2013

**Level 4 and 5 Facility:** The youth placed at CTS Bayamón Fase Tratamiento, are in one of two Puertas units; one of two MER units; or one of Nivel IV units; or one of three Program Arbitraje units. At this time all for these youth populations are expected to meet the following Staff Youth ratios:

- A Staff Youth Ratio of 1:8 during 6:00 AM - 2:00 PM and 2:00 PM -10:00 PM
- A Staff Youth Ratio of 1:16 during 10:00 PM- 6:00 AM

**Percent of Forms Available:** 100%

**Volume of Weeks Analyzed:** 13 of 13 requested

- **Volume of Staff Youth Ratio Events:** 2069
- **Volume of Staffing Events with Staff Working a Double Shift:** 334 (16%)

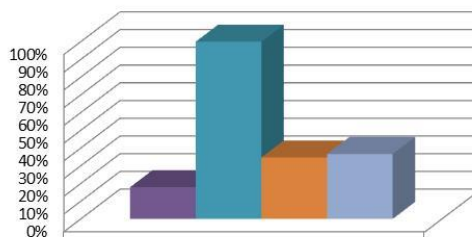
The Fourth Quarter of 2013 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: 35%, a 16% decrease in meeting staff youth ratio requirements since the Third Quarter reporting
- 2:00 pm – 10:00 pm: 37%, a 23% decrease in meeting staff youth ratio requirements since the Third Quarter reporting
- CTS Bayamón represents 18% of the NIJ institutional population.

**Volume of Weeks Analyzed:** 13

**Volume of Days Analyzed:** 92

**CTS Bayamón Fase Tratamiento**  
Percent of Unit Events Meeting Staf Youth Ratio

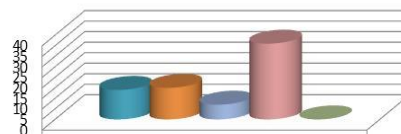


Percentage of NIJ Agency Population	18%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	35%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	37%

**36 youth 1:1 supervision events for the Third Quarter of 2013**

**Volume of 1:1 Events Without Required staffing during reporting period: 0**

**CTS Bayamón Fase Tratamiento**  
1:1 Supervision Events



Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	14
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	15
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	7
Total Youth Assigned 1:1 Staff Youth Supervision Events: Fourth Quarter 2013	36
Volume of Events without 1:1 Supervision	0



**CTS Guayama Staff Youth Ratio Analysis:**

September 30, 2013 - December 28, 2013

**Both a Level 2 and 3 Facility:**

Guayama staff youth ratio is being analyzed as follows:

- A Staff Youth Ratio of 1:8 during 6:00 AM -2:00 PM and 2:00 PM -10:00 PM
- A Staff Youth Ratio of 1:16 during 10:00 PM - 6:00 AM

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

- Volume of Staff Youth Ratio Events: 1799
- Volume of Staffing Events with Staff Working a Double Shift: 265 (15%)

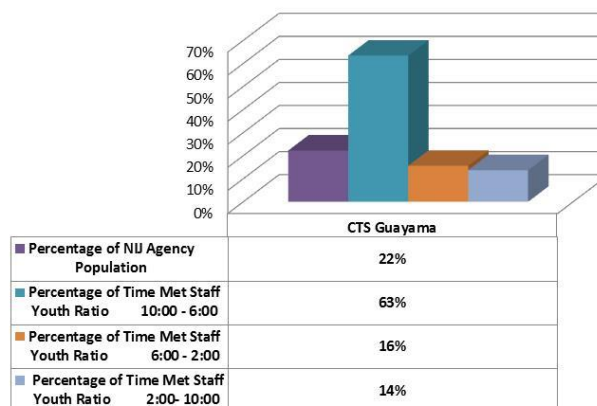
The Fourth Quarter of 2013 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: 63%, a 37% increase since Third Quarter reporting period
- 6:00 am – 2:00 pm: 16%, an 8% increase since Third Quarter reporting period
- 2:00 pm – 10:00 pm: 14%, an 8% increase since Third Quarter reporting period
- CTS Guayama represents 22% of the NIJ institutional population, a 4% decrease since the Third Quarter reporting period.

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 92

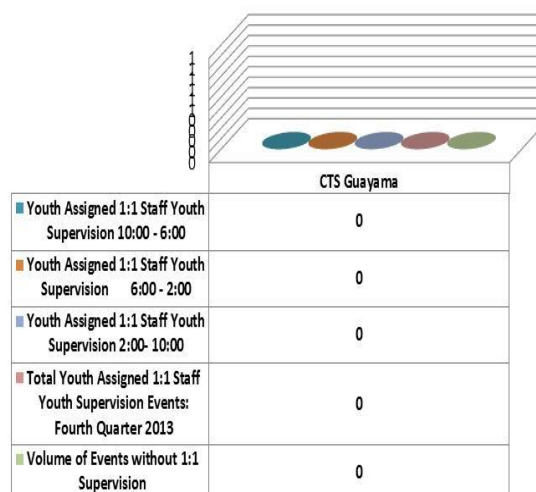
**CTS Guayama**  
Percent of Unit Events Meeting Staf Youth Ratio



0 youth 1:1 supervision events for the Fourth Quarter of 2013

Volume of 1:1 Events Without Required staffing during reporting period: 0

**CTS Guayama**  
1:1 Supervision Events



**CTS Humacao Staff Youth Ratio Analysis:**

September 30, 2013 - December 28, 2013

**Level 4 Facility:**

- A Staff Youth Ratio of 1:8 during 6:00 AM-2:00 PM and 2:00 PM -10:00 PM and
- A Staff Youth Ratio of 1:16 during 10:00 PM -6:00 AM

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

- Volume of Staff Youth Ratio Events: 1872
- Volume of Staffing Events with Staff Working a Double Shift: 463 (25%)

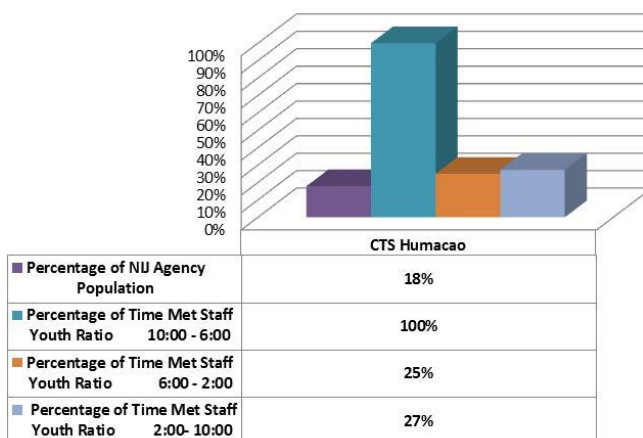
The Fourth Quarter of 2013 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: maintained at 100%
- 6:00 am – 2:00 pm: 25%, a 17% increase since Third Quarter reporting
- 2:00 pm – 10:00 pm: 27%, 19% increase since Third Quarter reporting
- CTS Humacao represents 18% of the NIJ institutional population.

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 92

**CTS Humacao**  
Percent of Unit Events Meeting Staf Youth Ratio

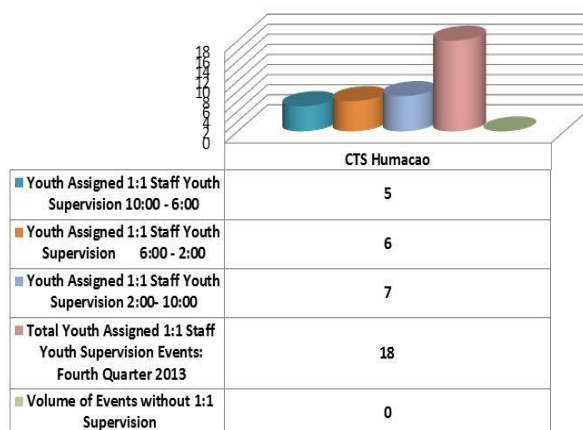


**18 youth supervision events for the Fourth Quarter of 2013**

Volume of 1:1 Events Without Required staffing during reporting period:

**0**

**CTS Humacao**  
1:1 Supervision Events





**CTS Villalba Staff Youth Ratio Analysis:**

September 30, 2013 - December 28, 2013

**Level 5 Facility:**

- A Staff Youth Ratio of 1:8 during 6:00 AM - 2:00 PM and 2:00 PM -10:00 PM
- A Staff Youth Ratio of 1:16 during 10:00 PM -6:00 AM

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

- Volume of Staff Youth Ratio Events: 2217
- Volume of Staffing Events with Staff Working a Double Shift: 166 (7%)

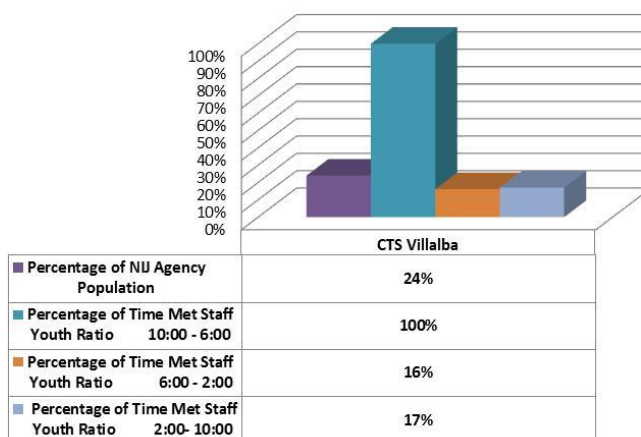
The Fourth Quarter of 2013 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: maintained at 100%
- 6:00 am – 2:00 pm: 16%, a 7% decrease since Third Quarter reporting
- 2:00 pm – 10:00 pm: 17%, a 3% decrease since Third Quarter reporting
- CTS Villalba represents 24% of the NJ institutional population.

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 92

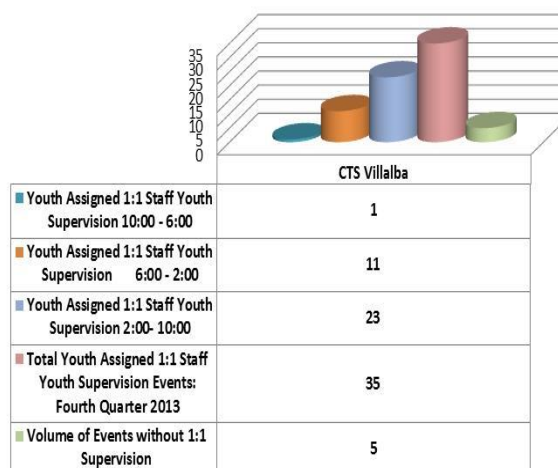
**CTS Villalba**  
Percent of Unit Events Meeting Staf Youth Ratio



35 youth 1:1 supervision events for the Fourth Quarter of 2013

Volume of 1:1 Events Without Required staffing during reporting period: 5

**CTS Villalba**  
1:1 Supervision Events



**Guaili Staff Youth Ratio Analysis:**

September 30, 2013 - December 28, 2013

**Level 2 Facility:**

- A Staff Youth Ratio of 1:8 during 6:00 AM - 2:00 PM and 2:00 PM -10:00 PM
- A Staff Youth Ratio of 1:16 during 10:00 PM -6:00 AM

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

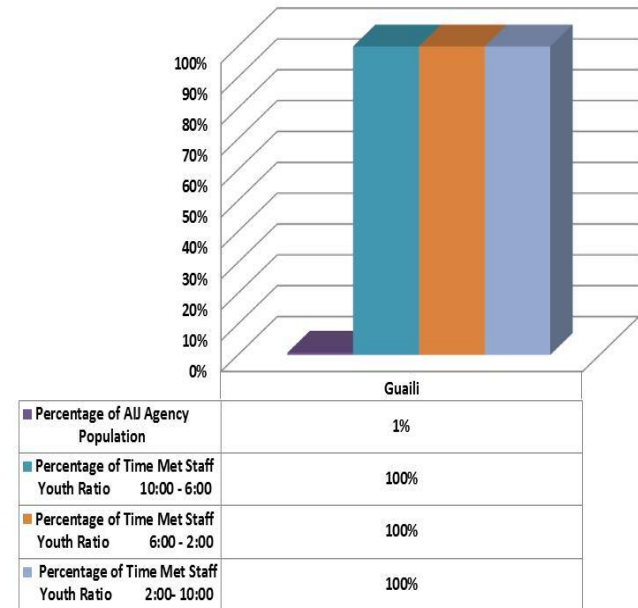
- Volume of Staff Youth Ratio Events: 273
- Volume of Staffing Events with Staff Working a Double Shift: 45 (16%)

Guaili has maintained Staff Youth Ratio expectations for sixteen consecutive quarters: all of 2010, 2011, 2012 and four quarters of the 2013 reporting periods.

- Guaili represents 1% of the NIJ institutional population.

**Volume of Weeks Analyzed: 13****Volume of Days Analyzed: 92**

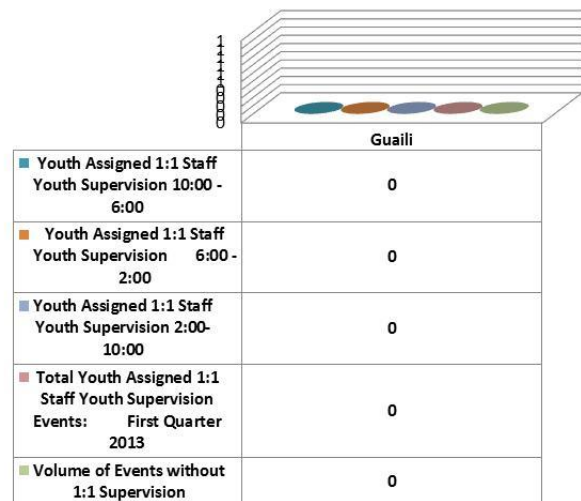
**Guaili**  
Percent of Units Events Meeting Staff Youth Ratio



Guaili reported no youth on 1:1 supervision for the Fourth Quarter.

Volume of 1:1 Events Without Required staffing during reporting period: **0**

**Guaili**  
**1:1 Supervision Events**



**Facility Table of Shift Compliance with Staff Youth Ratio:**

<b>Fourth Quarter 2013 Staff Youth Ratio Performance by Shift</b>	<b>Percentage of All Agency Population</b>	<b>Percentage of Time Met Staff Youth Ratio 10:00 - 6:00</b>	<b>Percentage of Time Met Staff Youth Ratio 6:00 - 2:00</b>	<b>Percentage of Time Met Staff Youth Ratio 2:00- 10:00</b>
<b>CD Bayamón</b>	<b>17%</b>	<b>100%</b>	<b>19%</b>	<b>23%</b>
<b>CTS Bayamón Fase Tratamiento</b>	<b>18%</b>	<b>100%</b>	<b>35%</b>	<b>37%</b>
<b>CTS Guayama</b>	<b>22%</b>	<b>63%</b>	<b>16%</b>	<b>14%</b>
<b>CTS Humacao</b>	<b>18%</b>	<b>100%</b>	<b>25%</b>	<b>27%</b>
<b>CTS Villalba</b>	<b>24%</b>	<b>100%</b>	<b>16%</b>	<b>17%</b>
<b>Guaili</b>	<b>1%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**Facility Table of Assignment of 1:1 Supervision by Day:**

<b>Foruth Quarter 2013 Youth Assigned 1:1 Supervision</b>	<b>Percentage of DRC Agency Population</b>	<b>Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00</b>	<b>Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00</b>	<b>Youth Assigned 1:1 Staff Youth Supervision 2:00- 10:00</b>	<b>Total Youth Assigned 1:1 Staff Youth Supervision Events: Fourth Quarter 2013</b>	<b>Volume of Events without 1:1 Supervision</b>	<b>Volume of Days Analyzed</b>
<b>CD Bayamón</b>	<b>17%</b>	<b>5</b>	<b>5</b>	<b>6</b>	<b>16</b>	<b>0</b>	<b>90</b>
<b>CTS Bayamón Fase Tratamiento</b>	<b>18%</b>	<b>14</b>	<b>15</b>	<b>7</b>	<b>36</b>	<b>0</b>	<b>90</b>
<b>CTS Guayama</b>	<b>22%</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>90</b>
<b>CTS Humacao</b>	<b>18%</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>18</b>	<b>0</b>	<b>90</b>
<b>CTS Villalba</b>	<b>24%</b>	<b>1</b>	<b>11</b>	<b>23</b>	<b>35</b>	<b>5</b>	<b>90</b>
<b>Guaili</b>	<b>1%</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>90</b>

**Table of Date of Receipt of Facility Staff Youth Ratio Form:**

<u>Date</u>	<u>CD Bayamon</u>	<u>CTS Bayamón Fase Tratamiento</u>	<u>CTS Guayama</u>	<u>CTS Humacao</u>	<u>CTS Villalba</u>	<u>Guaili</u>	<u>Program CREANDO</u>	<u>Ponce Ninas</u>
September 30 - October 5, 2013	10/12/2013	10/12/2013	10/22/2013	10/12/2013	10/12/2013	10/12/2013	NA	10/12/2013
October 6 - October 12, 2013	10/25/2013	10/22/2013	11/15/2013	10/22/2013	10/22/2013	10/25/2013	NA	10/22/2013
October 13 - October 19, 2013	10/25/2013	10/31/2013	10/25/2013	10/25/2013	10/25/2013	10/25/2013	NA	10/25/2013
October 20 - October 26, 2013	10/31/2013	10/31/2013	10/31/2013	11/1/2013	10/31/2013	10/31/2013	NA	11/1/2013
October 27 - November 2, 2013	11/15/2013	11/15/2013	11/18/2013	11/15/2013	11/18/2013	11/15/2013	NA	11/15/2013
November 3 - November 9, 2013	11/15/2013	11/15/2013	11/26/2013	11/26/2013	11/15/2013	11/15/2013	NA	11/15/2013
November 10 - November 16, 2013	11/26/2013	11/26/2013	11/26/2013	11/26/2013	11/26/2013	11/27/2013	NA	11/26/2013
November 17 - November 23, 2013	12/7/2013	12/7/2013	12/7/2013	11/27/2013	11/27/2013	12/10/2013	NA	12/7/2013
November 24 - November 30, 2013	12/7/2013	12/7/2013	12/7/2013	12/7/2013	12/7/2013	12/10/2013	NA	12/7/2013
December 1 - December 7, 2013	12/13/2013	12/13/2013	12/20/2013	12/13/2013	12/13/2013	12/13/2013	NA	12/13/2013
December 8 - December 14, 2013	12/20/2013	12/23/2013	12/27/2013	12/20/2013	12/20/2013	12/20/2013	NA	12/20/2013
December 15 - December 21, 2013	12/27/2013	12/27/2013	1/7/2014	12/27/2013	1/3/2014	12/27/2013	NA	12/27/2013
December 22 - December 28, 2013	1/3/2014	1/3/2014	1/7/2014	1/3/2014	1/3/2014	1/9/2014	NA	1/7/2014
	13	13	13	13	13	13	0	13
<b>Volume of Forms Submitted</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>0.00%</b>	<b>100.00%</b>

**Table of Date of Facility Average Daily Population Based on Monday AM Weekly Count:**

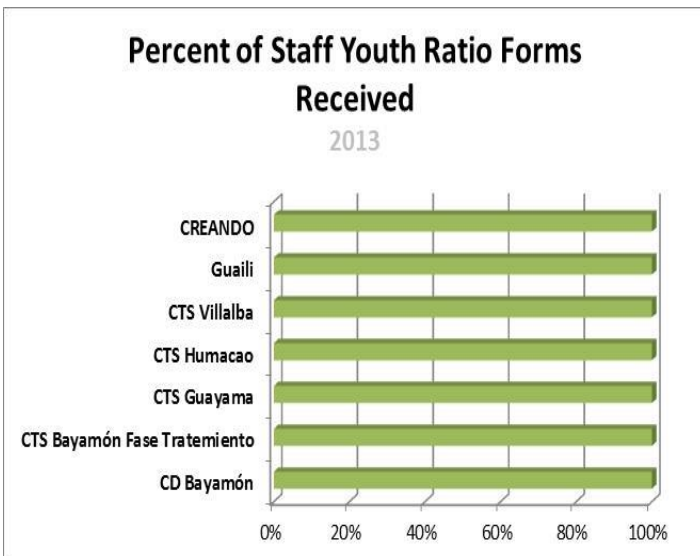
Dates of Reporting Period	<u>CD</u> <u>Bayamon</u>	<u>CTS</u> <u>Bayamón</u> <u>Fase</u> <u>Tratamiento</u>	<u>CTS</u> <u>Guayama</u>	<u>CTS</u> <u>Humacao</u>	<u>CTS</u> <u>Villalba</u>	<u>Guaili</u>	<u>Program</u> <u>CREANDO</u>	<u>Totals</u>
June 30 -July 6, 2013	79	61	<u>112</u>	87	97	<u>3</u>	<u>22</u>	461
July 7 -July 13, 2013	76	62	<u>110</u>	86	98	<u>4</u>	<u>21</u>	457
July 14 -July 20, 2013	60	58	<u>116</u>	84	99	<u>5</u>	<u>22</u>	444
July 21 -July 27, 2013	63	56	<u>116</u>	84	97	<u>4</u>	<u>22</u>	442
July 28 -August 3, 2013	75	57	<u>115</u>	84	96	<u>4</u>	<u>22</u>	453
August 4 -August 10, 2013	70	64	<u>114</u>	81	98	<u>3</u>	<u>22</u>	452
August 11 -August 17, 2013	64	65	<u>114</u>	<u>77</u>	96	<u>3</u>	<u>22</u>	441
August 18 -August 24, 2013	63	63	<u>115</u>	<u>75</u>	96	<u>3</u>	<u>22</u>	437
August 25- August 31, 2013	75	<u>60</u>	<u>113</u>	<u>74</u>	96	<u>3</u>	<u>22</u>	443
September 1- September 7, 2013	78	<u>64</u>	<u>116</u>	<u>71</u>	91	<u>6</u>	<u>NA</u>	426
September 8 - September 14, 2013	69	<u>62</u>	<u>118</u>	<u>69</u>	94	<u>6</u>	<u>NA</u>	418
September 15 - September 21, 2013	71	<u>67</u>	<u>103</u>	<u>75</u>	95	<u>6</u>	<u>NA</u>	417
September 22 -September 29, 2013	87	<u>64</u>	<u>106</u>	<u>79</u>	94	<u>3</u>	<u>NA</u>	433
Totals	930	803	1468	1026	1247	53	197	5724
Percentage of All Agency Population	16%	14%	26%	18%	22%	0.9%	3%	100%
Average Daily Population	72	62	113	79	96	4	22	440

## NIJ Staff Youth Ratio 2013 Executive Summary

### Background:

The following report provides information from Staff Youth Ratio forms that were provided to the consultant for the four quarters of 2013.

Facilities	Volume of Weeks of Staff Youth Ratio Forms Requested	Volume of Staff Youth Ratio Forms Received
<a href="#">CD Bayamón</a>	52	52
<a href="#">CTS Bayamón Fase Tratamiento</a>		
<a href="#">CTS Guayama</a>	52	52
<a href="#">CTS Humacao</a>	52	52
<a href="#">CTS Villalba</a>	52	52
<a href="#">Guaili</a>	52	52
<b>CREANDO</b>	26	26
<b>Totals</b>	<b>338</b>	<b>338</b>



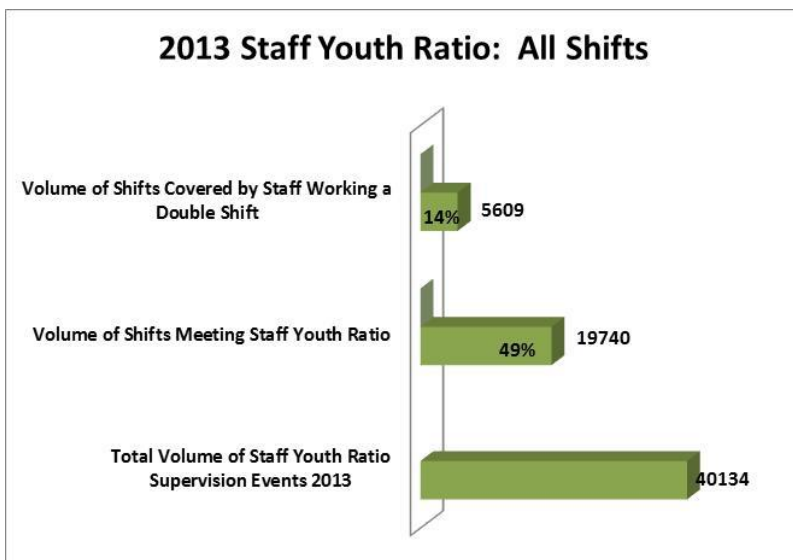
NIJ submitted a total of 337 facility staff youth ratio forms for the seven operational facilities requiring staff youth ratios, allowing for 100% of the staff youth ratio forms being available for analysis. NIJ has consistently been providing all requested Staff Youth Ratio forms used for monitoring and reporting.

CREANDO was operational for 26 weeks of the 2013 reporting period.

### NIJ Staff Youth Ratio Averages:

During the 2013 reporting period, NIJ documented a total of 40,134 shift / unit events that required staff to youth supervision. Of the 40,134 shift / unit events, 19,740 of the events (49.2%) were supervised with the required staff youth ratios.

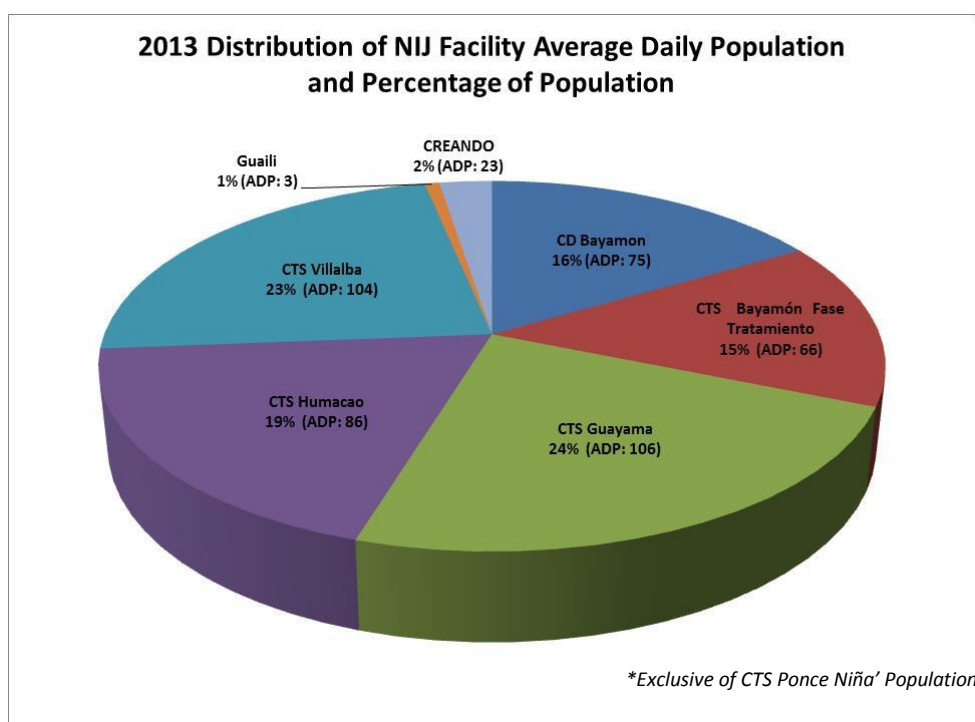
Of the 19,740 staffing events meeting the required staff youth ratio 12,275 (62%) of the staffing events occurred on the 10:00 PM – 6:00 AM shift.



**NIJ Average Daily Population:**

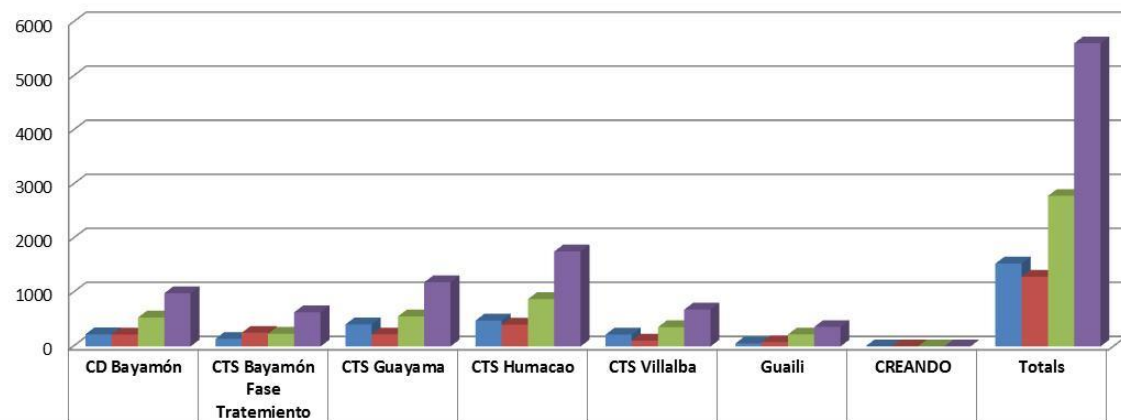
Analysis of Staff Youth Ratio forms displays staffing information compared to facility average daily population (ADP). Facility average daily population was computed from the weekly Staff Youth Ratio forms by averaging the 6:00-2:00 shift facility population on the first Monday of each of the thirteen reporting weeks.

The table below displays each facility's average daily population 2013 as well as the proportionate facility youth population that each facility contributes to the agency average daily population.

**Staff Working Double Shifts:**

The table below displays the volume of staff that worked double shifts to provide the staff ratio events that have been reported. For 2013, 5609 of all of the 40,134 (14%) staff youth ratio events were covered by staff working a double shift.

**Volume of Module Staffing Events  
with Staff Working Double Shifts: 2013**

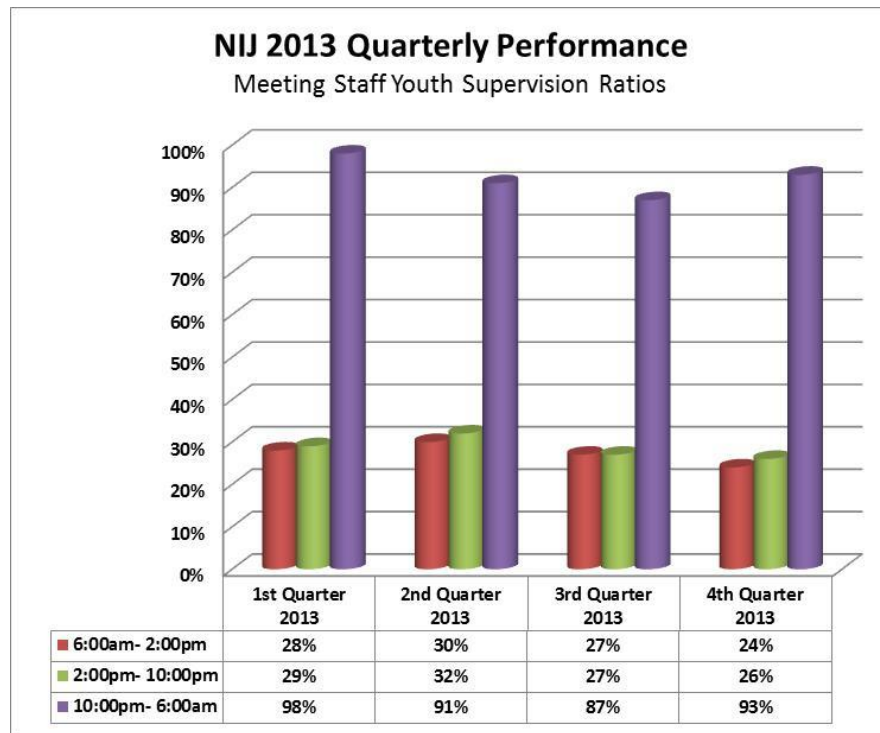


10:00 - 6:00 Events	227	142	408	479	219	58	1	1534
6:00 - 2:00 Events	222	254	223	403	107	80	0	1289
2:00- 10:00 Events	536	237	557	876	357	223	0	2786
Volume from All Shifts	985	633	1188	1758	683	361	1	5609



**Staff Youth Supervision Ratios:**

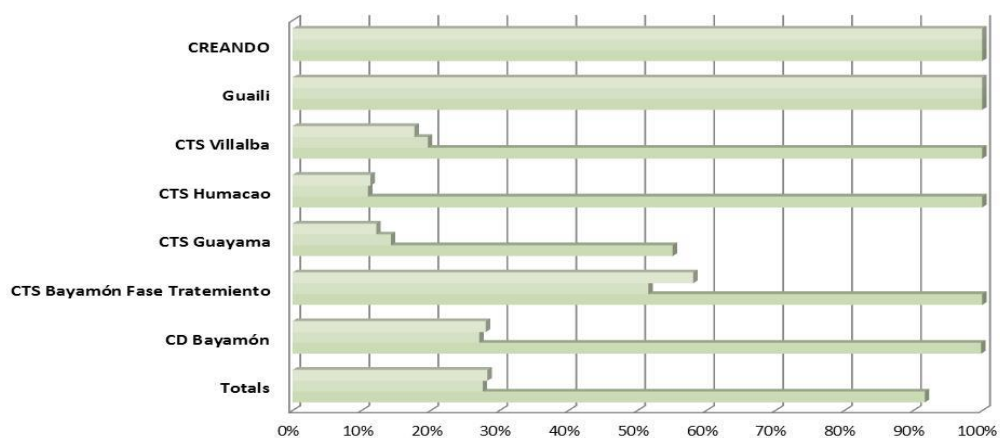
The following chart represents the NIJ agency Staff Youth Ratio averages by shift for the four quarters of 2013 through December 28, 2013:

**Facility Staff Youth Ratio Performance by Shift:**

The staff youth ratio analysis below represents the staffing information 2013, through December 28. The proportionate average daily population that each facility contributes to the NIJ average daily population is represented by a dark green bar. The table of average daily populations can be found on page 14 of this report.

For 2013, CTS Guayama, CTS Humacao and CTS Villalba have the fewest volume of events meeting the staffing youth ratio. These three facilities represent 66% of the NIJ youth population.

### 2013 Facility Staff Youth Ratio Performance by Shift



	Totals	CD Bayamón	CTS Bayamón Fase Tratamiento	CTS Guayama	CTS Humacao	CTS Villalba	Guaili	CREANDO
Met Staff Youth Ratio 2:00- 10:00 Events	28%	28%	58%	12%	11%	18%	100%	100%
Met Staff Youth Ratio 6:00 - 2:00 Events	28%	27%	52%	14%	11%	20%	100%	100%
Met Staff Youth Ratio 10:00 - 6:00 Events	92%	100%	100%	55%	100%	100%	100%	100%

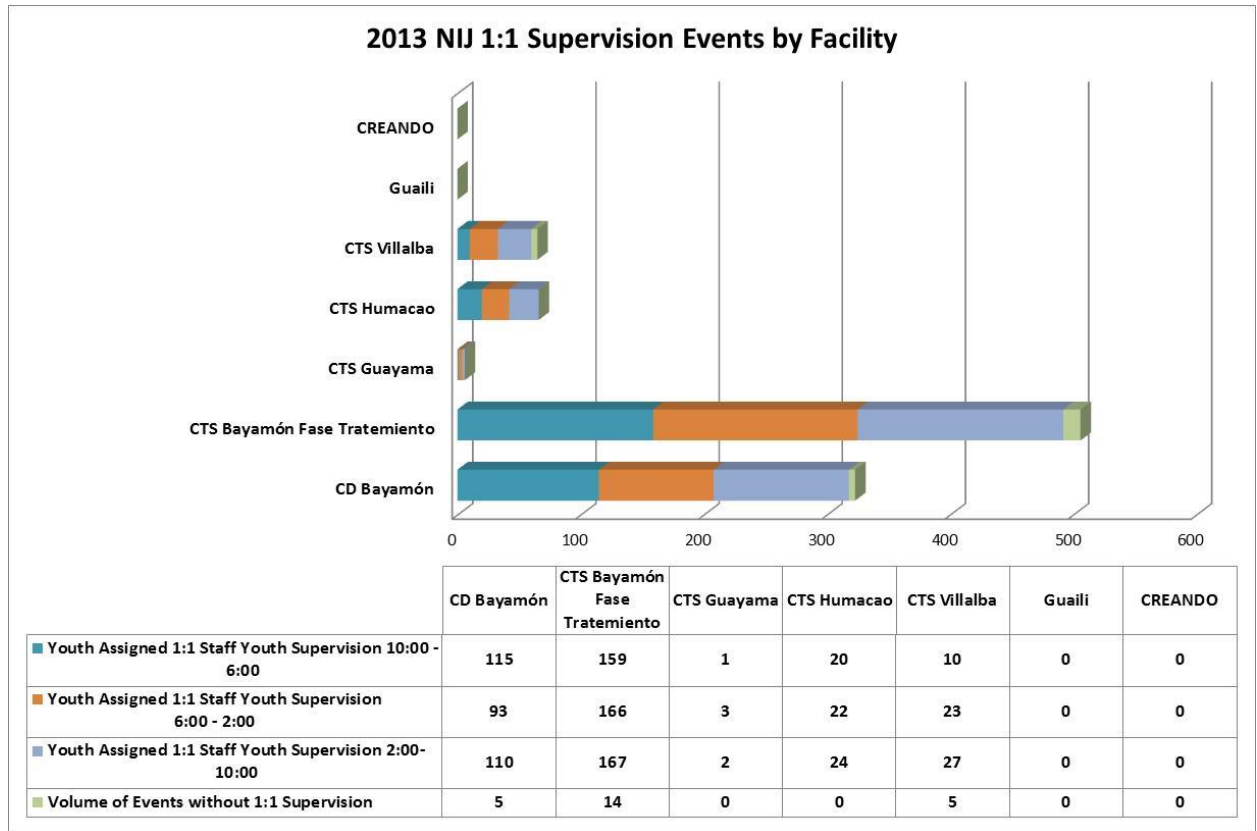
**NIJ Agency 1:1 Supervision Events:**

For the 2013 reporting period there was the following volume of 1:1 supervision events for each quarter:

- 126 events 1st Quarter 2013
- 479 events 2nd Quarter 2013
- 232 events 3rd Quarter 2013
- 105 events 4th Quarter 2013

Correspondingly for 2013 there was the following volume of events without required 1:1 supervision:

- 1 events 1st Quarter 2013
- 15 events 2nd Quarter 2013
- 3 events 3rd Quarter 2013
- 5 events 4th Quarter 2013



## Document Attachment B: Consultant Robert Dugan Report on Classification

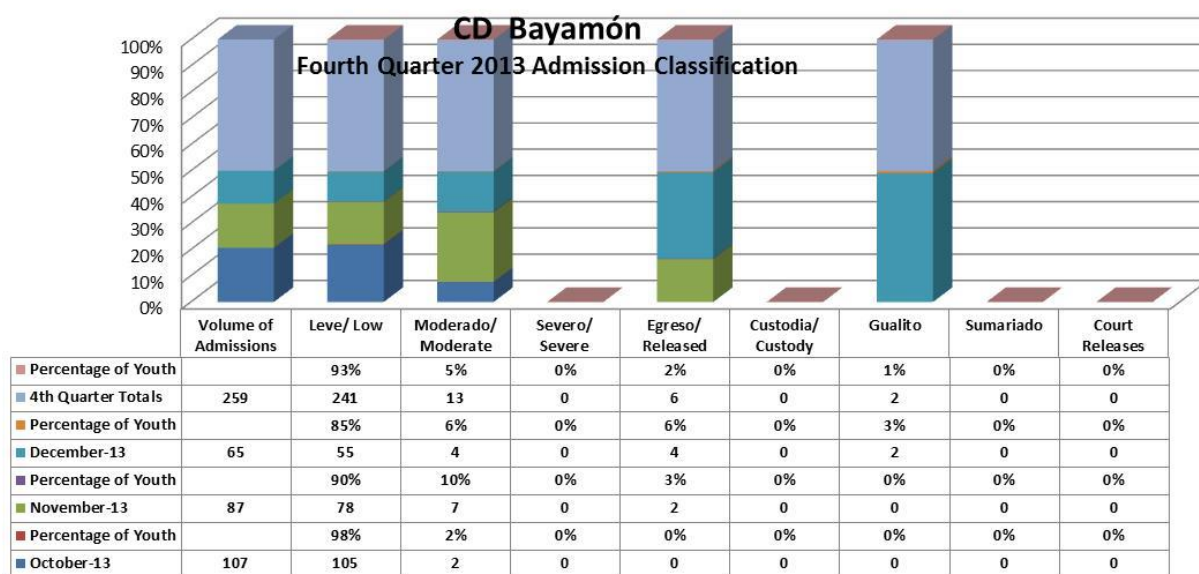
### **NIJ Classification Quarterly Report: October 1 – December 31, 2013**

Prepared by Bob Dugan: Office of the Monitor: January 2014

**S.A. 52.** states the following: At both the detention phase and following commitment, Defendants shall establish objective methods to ensure that juveniles are classified and placed in the least restrictive placement possible, consistent with public safety. Defendants shall validate objective methods within one year of their initial use and once a year thereafter and revise, if necessary, according to the findings of the validation process.

### **Fourth Quarter October 1, 2013 – December 31, 2013 CD Bayamón Admission Classification:**

The Fourth Quarter of 2013 is the seventh time that NIJ has produced CD Bayamón Admission Classification data to be included in the Quarterly Report.



For the fourth quarter, there were 259 admissions of which 93% were classified as low; 5% were classified as moderate; and 0% classified as severe. Two percent of the population was released prior to classification.

For 2013, there were 2070 admissions, of which 90% were classified as low; 8% were classified as moderate; and 0% were classified as severe. Two percent of the population was released prior to classification.

NIJ is solicited for a classification validation study conducted on committed and detention youth and is proceeding with a classification validation process.

Document Attachment C:  
Report on Incidents and Understaffing  
October-December 2014

The following is a table of incidents that took place at times and in locations where the required levels of staffing coverage, as specified by Paragraph 48, were not in place.

For each of these cases, the number of youth service officers present in the housing unit did not meeting the ratio requirement of Paragraph 48, which is the same requirement as standard 115.313 of the Prison Rape Elimination Act.

Oct. 4	CTS Bayamón	13-219	Afternoon	Allegedly, a juvenile was sodomized by two youths in one of the living unit's room. According to documentation the victim agreed to avoid further situations with the alleged perpetrators. The victim notified the staff of the incident a week after and was referred to the hospital.	1 officer, 15 juveniles
Oct. 5	CTS Villalba	13-213	Afternoon	Allegedly, a juvenile was hit by other youths. According to the referral the incident occurred in the biggest room in the module while the youth officer was out of it.	1 officer, 15 juveniles
Oct. 5	CD Bayamón	13-207	Morning	Allegedly, a juvenile was hit in his head multiple times while he was in the module's bathroom area. The juvenile was taken to the infirmary where no hematomas were found.	1 officer, 15 juveniles
Oct. 6	CTS Bayamón	13-215	Afternoon	Allegedly, three juveniles were hit in the module by different youths. The incident occurred in the module's common area. The affected youths were taken to the infirmary.	1 officer, 13 juveniles
Oct. 9	CTS Humacao	13-217	Afternoon	Allegedly, a juvenile was hit in his head by youth officers during a contraband search in the module. The victim had hematomas in his face and right ear however, refused medical services.	1 officer, 15 juveniles
Oct. 10	CTS Guayama	13-218	Afternoon	Allegedly, a juvenile was hit by other juvenile while they were in Living Unit III.	1 officer, 19 juveniles
Oct. 14	CTS Humacao	13-224	Afternoon	The juvenile JMG was hit by a group of 13 youths in the module. The victim was cut in his face (left side) with an unknown object. After a preliminary evaluation in the facility's infirmary the juvenile was referred to the hospital for stitches.	1 officer, 15 juveniles

Oct. 14	CD Bayamón	13-227	Afternoon	Allegedly, a juvenile was hit in different parts of his body by a group of four youths. The incident occurred in the module's bathroom. The victim notified staff of the incident a week after. No evidence was found in the medical file.	1 officer, 13 juveniles
Oct. ?	CD Bayamón	13-232	?	Allegedly, a juvenile was hit in his waist area by other youth. The incident occurred in the module's bathroom.	1 officer, 15 juveniles
Nov. 6	CD Bayamón	13-235	Morning	Allegedly, a juvenile was hit in different parts of his body by other juveniles not identified. The incident occurred in the module's bathroom.	1 officer, 15 juveniles
Nov. 8	CTS Bayamón	13-237	Afternoon	Allegedly, two juveniles were assaulted by a group of eleven youths while they were in the module. The juvenile CGR, one of the victims, was referred to the hospital as a result of multiple injuries.	1 officer, 13 juveniles
Nov. 6	CD Bayamón	13-239	Afternoon	Allegedly, a juvenile was hit in living unit Charlie, Module II by other juveniles. No evidence supporting the allegations was found.	1 officer, 15 juveniles
Nov. 16	CD Bayamón	13-242	Morning	Allegedly, a juvenile was assaulted by a group of six youths during the recreation period. The victim was on transitional measure and the incident occurred between the module and the module's basketball court. Medical file reflects multiple hematomas and abrasions. According to the document reviewed a youth officer was also hit by the aggressors.	1 officer 15 juveniles
Nov. 20	CTS Humacao	13-244	Afternoon	Allegedly, a juvenile on transitional measure cut himself with a plastic object. The medical documents confirm the injuries.	1 officer, 13 juveniles
Nov. 24	CD Bayamón	13-246	Afternoon	Allegedly, a juvenile was hit by other youth in the module's bathroom. This juvenile was on protective custody status. The medical file does not shows hematomas or other type of lesions.	1 officer, 13 juveniles
Nov. 27	CTS Humacao	13-249	Night	Allegedly, a juvenile on transitional measure was hit with a piece of an electric wire in different parts of his body. The incident occurred in Living Unit III, Module A while the victim was walking from the bathroom to his room after taking a shower. The aggressor was locked in his room but was able to open his room's door and get access to the common	1 officer, 15 juveniles

				area. The medical file reflects abrasions.	
Nov. 28	CTS Guayama	13-248	Morning	Allegedly, a juvenile was hit by fourteen youths in the module's living room. The victim was referred to the hospital with minor scratches and abrasions.	1 officer, 19 juveniles
Dec. 2	CTS Villalba	13-250	Morning	Allegedly, a juvenile was hit in his face by other youth. As a result of this incident a fight between other juveniles started in the module's common area.	1 officer, 12 juveniles
Dec. ?	CTS Villalba	13-273	?	A juvenile notified a facility's social worker, about sexual conduct (oral sex) observed by him in Module III between at least three juveniles in different days.	?
Dec. ?	CTS Bayamón	13-270	?	The juvenile NRM allegedly, was forced to have sex by some youths from his module. According to the victim, he was threatened by the alleged perpetrators. The incident occurred in Living Unit Orange. The victim was referred to the hospital.	?
Dec. 8	CTS Guayama	13-255	Afternoon	Allegedly, two juveniles tried to sodomize other youth in the module's bathroom. The victim was naked after taking a shower and was held by the perpetrators but escaped and ran to his room. The day after he notified staff of the incident and was referred to the hospital.	1 officer, 15 juveniles
Dec. 18	CTS Humacao	13-268	Afternoon	The juvenile BF was hit in front of his room after an interview with USMIC staff. The victim was on transitional measures.	1 officer, 14 juveniles
Dec. 29	CTS Bayamón	13-278	Afternoon	Allegedly, a juvenile was punched in his back by a group of youths. The incident occurred in Living Unit Orange, Module III. The juvenile was taken to infirmary.	1 officer, 14 juveniles
Dec. 29	CTS Humacao	13-275	Afternoon	The juvenile LFD cut himself in his leg more than 15 times with a piece of plastic. The juvenile was on therapeutic supervision when the incident occurred and was moved from the intake area to living unit 2-A.	1 officer, 12 juveniles

## Document Attachment D: Consultant Report on Facilities

### **SITE VISIT REPORT** **Prepared by Monitor's Consultant Curtiss Pulitzer** **November 3, 2013**

#### ***CTS Bayamon***

I was accompanied on my tour by Javier Burgos and Ricardo Blanco from the Monitor's Office, the Fire Safety Coordinators, Ricardo Betancourt and Jose Cancel, the physical plant manager Henrick Harbor as well as Pedro Santiago, Luis Ortiz and Taraneh Ferdman. **There had been some considerable improvements at CTS Bayamon from my prior visit with many of the air conditioning units having been repaired.** The facility was also in a very good state of repair. There were new Unit capacity signs above the entry doors leading into the housing buildings. The following observations were made during my tour:

1. Blue Building (population 4 youth – Mental Health; module 2 only)
  - The Blue Building repairs have been completed and overall the housing unit was in very good physical condition.
  - The exterior of the building was being pressure cleaned
  - All the air conditioning units were working well.
  - The minor mold problems that had been on the ceiling of the education module have not resurfaced.
  - The showers that have received the new special epoxy paint treatment that I had recommended is holding up very well and there was still no mold developing in the showers as has historically happened when inferior epoxy products had been applied.
  - The scratched Lexan in the windows and doors of the lower dorm rooms of Module 3 were still there but new Lexan was on order. The module was empty.
  - There is still shower water that is escaping from the showers on to the mezzanine. I have recommended several times that AIJ look at a Velcro shower curtain product made by the Imperial Fastener Company (just one example) that provides a shower curtain system with no hooks, pins, or cords but it is attached with Velcro tabs. There has been no movement yet on this recommendation. This product and others similar to it are designed for the correctional market.
2. Orange Building (population 20 youth – Module 2 had 14 level IV youth and 6 youth were in CER in Module 1)
  - The A/C appeared to be working well in all the units.
  - New day light bulbs were placed in all the units.



- The dayroom floors, group showers and the cells with showers in them all need the new painting treatment. Hopefully, the new product being used by AIJ in the Blue Building and at Guayama can be applied in these locations.
- In general, the building was in good condition.
- The condensation that had surfaces in the program module had been repaired.

### 3. Green Unit (population 0 youth)

- This Unit remains closed. However, the wiring damaged from the broken water pipes adjacent to mini-control is fixed.
- The agency is waiting for parts for several of the doors and the consoles to be able to reopen this unit. The electronic panel boards are still being worked on.

### 4. Yellow Building (population 32 youth – 12 in Module 1; 11 in Module 3; 9 in Module 2 (adjudicated youth waiting to enter CER))

- The unit was in very good condition.
- All the showers were in need of treatment with the new product DCR is now using. One of the floor drains in the shower was still broken and the youth could hurt easily hurt themselves. DCR said they were working on fixing this.
- In Module 3, the A/C was still working well.
- In the program module, the ceiling had been repaired and the air conditioning was working well.
- In Module 2 only one A/C fan motor was working. The day room and the cells were not very cool.

### 5. Medical/Social Services Area

- The ceilings in the common area of the clinic **had been fixed** again after having gone through extensive repairs that had lasted for several months.
- The air conditioning in the clinic was working well as a new A/C unit had been installed.
- The registers that lead from the extended the ducts that were put in place to provide some cooling and humidity control and avoid mold problems in the large volume adjacent to the clinic and infirmary volume were in place, although the A/C from the infirmary side was not working. There is still a dispute as to whether plastic sheeting to keep the cooled air from escaping from the screened window openings should be installed. The A/C company that does repairs in this area stated that the openings need to be left uncovered. DCR was to investigate this further but have heard no further news.
- While the elevator in this building had been repaired earlier in the year after being broken for several years it was still not working due to a circuit problem.
- The air conditioning in the infirmary was still **not working**. The agency told me they are waiting for a new 3 ton air conditioning unit which was due to arrive in a few weeks.

- While the infirmary remains empty, it was cleaned and was in very good shape. The leaks that had started again on my prior visit **had been repaired**.
- As I have said many times before, a tremendous amount of money was spent here to create crisis and suicide watch beds to serve not only Bayamon but also other facilities. In addition, this is the only juvenile facility with the ability to appropriately provide in-patient skilled nursing care to serve not only CTS and CD Bayamon but other facilities as well. I have been requesting that the agency provide the Monitor's Office with a medical and mental health operations plan. This request has been on-going for more than **five years** on how DCR plans to utilize this amazing yet unused resource.

#### 6. Dining Room/Visitation and Kitchen

- The air conditioning in the dining room **was repaired**.
- The roof in the kitchen and warehouse have been repaired and the roof sealed and there are no more water leaks. I observed no new leaks.
- The tray washing machine equipment was being used adjacent to the dining room again.
- A new stove, ice machine and new kitchen faucets were installed in the kitchen.

#### 7. Laundry

- The laundry looked in very good condition and all the washers and dryers continued to be working.
- The storage areas remain cleared of all flammable material which is critical in maintaining life safety in this area.

#### 8. Education

- School was closed.
- There still are a number of A/C problems. The air conditioning was not working in the counseling area. On the 2<sup>nd</sup> floor the office next to the classroom has a hose leak and is causing much condensation. The A/C in the small classroom/office is actually too strong. The same condition exists in the English classroom.
- Air conditioning is still lacking in the Chapel.
- The Hair Care Vocational Classroom is now being used for storage.
- The air conditioning was not working in two of the classrooms.

#### 9. Gymnasium

- As reported in my earlier site visits the Gymnasium is in excellent condition

#### 10. Overall Security and Site Issues

- The air conditioning was working well in Central Control and the condensation drain issue has not recurred. The door into Central Control was **not** secured as it should be.
- The electronic overhead door into the vehicle sallyport was not working.
- The security monitoring lights on the consoles were **fixed**.

- The fire and smoke alarms **are working**
- The air conditioning in security operations was working well.
- The air conditioning in the Intake area was working well.
- The remaining security gate has been replaced.
- The air conditioning in Intake which had been repaired was still working well.
- The intercom from the exterior overhead door outside the vehicle sallyport to central control still **does not work**.
- The air conditioning in the security office was still working well.
- There was continuing improvement in removal of vines from the perimeter fences but more clean-up is required. Much of the vegetation inside and in front of the perimeter fences has been cleared, **and egress paths from fire exits appeared to be cleared of vegetation**.
- Hasps on the inner perimeter fence need to be repaired and all gates leading out from the inner perimeter need to be secured
- Perimeter security lights were repaired and I presumed were still working.
- The CCTV system for the facility has never been completed
- The service yard is still in a fair state of repair and should be repaved but most of the debris that had been stored there previously has been removed greatly improving its functionality.

#### Systemwide Plumbing Report

The full summary by facility appears below. The data was assembled in January of this year.

Plumbing Conditions Summary																					
Oct. - Dec. 2013																					
Modules in use	Toilets			Urinals			Showers			Sinks					Drink Water		Available	%	Summary of Broken Fixtures	Hot water available (yes/no)	Comments
	# toilets	# broken	# available	# urinals	# broken	# available	# showers	# broken	# available	# sinks	# broken	# available		Total Fixtures							
6 of 9	12	1	11	6	0	6	17	0	17	17	0	17	ok	52	51	98%	1	yes	Two modules used for administrative purposes, unit 5 closed A/C out of service, roof leaks		
7 of 8	28	1	27	28	2	26	28	2	26	28	2	26	ok	112	105	94%	7	partial	Roof leaks in dormitories area, 4 A/C out of service Living Unit IV-B closed for repairs		
8 of 8	32	1	31	28	0	28	28	0	28	28	0	28	ok	116	115	99%	1	yes	Severe roof leaks in modules, 6 doors out of service or working partially, 2 A/C units out of service		
8 of 8	24	0	24	0	0	0	24	0	24	24	0	24	ok	72	72	100%	0	yes	1 A/C unit out of service in B-1, urinals removed, roof leaks corrected in living units Charlie and Delta		
8 of 11	133	0	133	0	0	0	15	0	15	135	0	135	ok	283	283	100%	0	yes	Green Unit closed for repairs, Living Unit 1 A/C in Yellow Unit out of service		
1	4	0	4	0	0	0	4	0	4	4	0	4	ok	12	12	100%	0	yes	Youths were moved from unit 2 to unit 3		
4	12	0	12	0	0	0	12	0	12	18	0	18	ok	42	42	100%	0	yes	Last group finished on August 2013		
37 of 49	245	3	242	62	2	60	128	2	126	254	2	252	/	689	680	99%	9	/	/		



## Appendix E: Report of Monitor's Consultant David Bogard

### January 20, 2014 Report of Monitor's Consultant David Bogard Fourth Quarter 2013

#### A. Site Visits and Functional Team Meetings

I conducted site visits at the following facilities and dates: CTS Villalba (11/5/13); CTS Humacao (10/2/13 and 12/10/13); CD Bayamon (12/11/13); CTS Bayamon (11/4/13 and 12/11/13); CTS Guayama (11/5/13).

On November 6, Monitor's Consultant Bob Dugan and I provided a training session to NIJ staff. This half-day session addressed monitoring expectations regarding incident report preparation in use of force cases (P77) as well as documentation of safety checks for youth in protective custody and transitional measures statuses (P80).

I continue to be most concerned about the level of violence at CTS Guayama. On November 5 there was yet another dangerous incident involving four youth assaulting housing unit staff at night in furtherance of an attempt to escape. In this case the officer was tied up, the youths took his keys and departed the unit. They were promptly stopped on the facility's grounds and the employee was fortunately not injured.

#### B. Comments on Provisions

S.A. 77

- Section C of this report includes the use of force data tables for the previous quarter as well as the current one. The numbers of use of force incidents increased substantially from the second quarter to the third quarter. The raw number of use of force incidents increased marginally from 46 to 51 although the number of youth against whom force was used *decreased* from 162 to 124 (-24%).<sup>3</sup> Significant increases in use of force events occurred at CD Bayamon for the second consecutive quarter (from 2 to 7 to 11).
- I have previously focused my concerns about the use of OC at Humacao. OC continues to be used in all incidents at Humacao involving multiple youths, a clear violation of DCR policy 9.18, which requires that OC be "used only in extreme situations and as a last resort." The excessive and routine use of OC appears to be a function of the ongoing problem of youth at Humacao possessing razor blades and the large number of incident involving multiple youths.
- Humacao had an incident involving 20 youth with use of force, while CTS Bayamon had one with 13 and one with 11 youth—this is a continuation of the disturbing pattern of large scale incidents, frequently with large numbers of youth attacking one victim as a result of leadership struggles or resistance to leaders. These large scale incidents typically require staff to use force.
- There were 10 use of force events at Guaili this quarter, an extremely high number given the very small number of boys detained in that unit. This, however, is entirely a function of the continued detention of one youth, who was involved in all 10 incidents and has

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<sup>3</sup> Some youth may have been involved in more than one incident.

been a continually disruptive presence in this unit for multiple quarters. I continue to question whether there are overarching mental health concerns with this youth that would suggest a need for an alternative environment.

- My monitoring of P 77 is now including review of OISC investigations. Monitor's Office staff are receiving such investigations, summarizing the facts and findings, and translating them for my review.
- The absence of security cameras and recording capability at all facilities except Ponce continues to severely hamper the ability of staff to accurately document incidents that occur when large numbers of youth are involved. It makes it nearly impossible to properly identify which youth precipitated incidents, against whom force was actually used, and what manner of force was used by which officers.
- I have worked closely with DRC staff to review and recommend edits to a new use of force policy (9.18) as well as a new policy governing the documentation responsibilities of nurses when youth are brought to the infirmary after being subjected to use of force (Policy 12.1.51). Although the new policy will not be effective until February 1, 2014 nursing staff are already beginning to better document when they believe youth are injured because of a use of force incident or when it is not apparent what the source of the youth's injuries are (i.e., sustained due to the use of force or during the course of the underlying incident with another youth).
- I am finding that the quality of incident reports of use of force incidents at Humacao has improved significantly. Documentation of P77 incidents in most facilities is still lacking in some respects including the narratives not addressing or explaining uses of force that were checked off in Section 12 of the incident report.

S.A. 74

- I previously noted problems concerning the disciplinary hearing system breaking down due to disciplinary officers being transferred. This appears to have now been resolved at the facilities I have visited recently, where documentation shows that hearings are being conducted in a generally very timely manner.

S.A. 80

- Education services continue to be the most significant obstacle to compliance with this provision as it relates to protective custody and transitional measures. Youth are consistently not receiving services comparable to those in other statuses. Victor Herbert has recently met with the new head of education for DCR and is attempting to work with education staff to find ways to address this clear deficiency. NIJ has agreed to implement a new form to be used for documenting the receipt of services, including the daily amount of daily time that teachers spend with youth. The form is being piloted at Humacao this month. I was informed that staff will be trained on proper use of this form and the corresponding policy in mid-January 2014, with implementation to begin February 1.
- A sample review of youth in transitional services status did not suggest any pattern or indication that this status is being used as a form of disciplinary segregation.

- Treatment committees appear to be aggressively trying to move youth out of Transitional Measures status within five days, as per NIJ policy. While the majority of youth do come off that status within a few days, there are a number of youth who have been in and out of this status, or remained in it for extended periods of time. My review of these youth, and the incidents in which they have been involved, suggests that they could potentially be candidates for, or benefit from placement in Puertas. One youth at CD Bayamon was involved and injured in four use of force incidents between September 23 and November 16, but was deemed to not be eligible for Puertas despite being on psychiatric medications.
- Documentation of 15 minute observations to insure the safety of youth has improved at Humacao but continues to be inconsistent at the other facilities. New forms have been developed, along with revisions to policies 17.19 and 17.20, to require that observations be performed on an irregular basis, to increase the detail provided on the forms about the status of youth (through codes, so as to require less writing by officers), and to require that actual times are noted on the forms rather than officers merely initialing next to pre-printed times or automatically indicating that observations were made at 15, 30 and 45 minutes after each hour. I was informed that staff will be trained on proper use of this form and the corresponding policy in mid-January 2014, with implementation to begin February 1.

### **C. Review of Use of Force Incidents**

The following table addresses use of force data from this quarter as reported on a weekly basis by the institutions. Bob Dugan and I continue to perform quality assurance checks on the weekly data being reported by the institutions when we visit each site and review primary and secondary forms of documentation.

Note that more than one form of force may sometimes be used on a youth in a single event (e.g., separate the minors, take to the floor, apply mechanical restraints).

The summary tables for this quarter and the two previous ones are shown below. I discussed aspects of these data in my discussion of S.A. 77 above.

### **Q4 2013**



<b>Institution</b>	<b>Physical Restraints</b>	<b>Mechanical Restraints</b>	<b>OC</b>	<b>Events</b>	<b># Youth*</b>	<b>Notes</b>
Ponce Ninas	16	1	0	8	10	1-2 youth per incident, census has dropped
Villalba	13	0	1	3	6	No large scale incidents
Humacao	17	0	28	5	31	one incident with 20 youth; OC still used on every youth in large scale incidents but not in incidents involving only one youth
CD Bayamon	49	2	1	11	18	Significant increases in all categories
CTS Bayamon	38	0	14	8	32	High number of OC use arose from one large scale incident; substantial decrease in physical restraints; one incident involving 13 youth and another with 11.
Guayama	19	0	0	6	15	Includes 4 physical restraints after November 5 assault on officer and escape attempt.
Guaili	17	1	0	10	12	1 youth involved in all 10 incidents
<b>Totals</b>	<b>169</b>	<b>4</b>	<b>44</b>	<b>51</b>	<b>124</b>	

\*One youth may be involved in multiple events.

### **Q3-2013**

<b>Institution</b>	<b>Physical Restraints</b>	<b>Mechanical Restraints</b>	<b>OC</b>	<b>Events</b>	<b># Youth</b>	<b>Notes</b>
Ponce Ninas	28	1	0	8	15	
Villalba	69	0	0	4	29	Incl. one incident with 14 youth and one with 12
Humacao	24	0	47	6	47	Incl. one incident with 17 youth; OC used on every youth
CD Bayamon	15	0	0	7	11	
CTS Bayamon	70	0	0	9	30	
Guayama	18	0	1	4	18	Incl. one incident with 11 youth
Guaili	17	1	0	8	12	1 youth involved in 6 incidents
<b>Totals</b>	<b>241</b>	<b>2</b>	<b>48</b>	<b>46</b>	<b>162</b>	

### **Q2-2013**

<b>Institution</b>	<b>Physical Restraints</b>	<b>Mechanical Restraints</b>	<b>OC</b>	<b>Events</b>	<b># Youth</b>	<b>Notes</b>
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Ponce Ninas	19	1	0	10	17	
Villalba	16	0	0	3	7	
Humacao	39	0	40	6	46	Includes June 29 incident with 38 youth
CD Bayamon	14	0	2	2	14	Includes April 7 incident with 12 youth
CTS Bayamon	0	0	0	0	0	
Guayama	9	0	2	2	5	April 17 incident with 90+ youth <u>not reported by the institution.</u>
Guaili	0	0	0	0	0	
Totals	97	1	44	23	89	

## Document Attachment F: Site Visit Chronology

The Monitor's Office has conducted site visits to several facilities in order to assess conditions and operations, and to inform the process of developing monitoring protocols and in developing recommendations for improvements where needed. In addition, Deputy Monitor Javier Burgos continues to make site visits to follow up the joint monitoring process and to assess conditions that may formally or informally come to their attention. The following is a list of the site visits conducted with participation by officials of the Monitor's Office.

Oct. 2, 2013	Consultants David Bogard, Robert Dugan and Deputy Monitor Javier Burgos visited CTS Humacao.
Oct 2, 2013:	Consultant Víctor Herbert visited CTS Ponce Girls/Gualí, CTS Villalba and CTS Guayama.
Oct. 3, 2013:	Consultants David Bogard, Robert Dugan and Deputy Monitor Javier Burgos visited CD and CTS Bayamón.
Oct. 3 2013:	Consultant Víctor Herbert visited CTS Humacao.
Oct. 3, 2013:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CTS Villalba and CTS Bayamón.
Oct. 4, 2013:	Consultant Víctor Herbert visited CD and CTS Bayamón.
Oct. 4, 2013:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CD Bayamón.
Nov. 4, 2013:	Consultants David Bogard, Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CD and CTS Bayamón.
Nov. 5, 2013:	Consultants David Bogard and Bob Dugan and Deputy Monitor Javier Burgos visited CTS Villalba and CTS Guayama.
Nov. 5, 2013:	Consultant Curtiss Pulitzer visited CTS Guayama.
Nov. 6, 2013:	Consultant Curtiss Pulitzer visited CTS Guayama.
Nov. 20 2013:	Deputy Monitor Javier Burgos visited CTS Bayamón.
Nov. 25, 2013:	Deputy Monitor Javier Burgos visited CTS Humacao.
Nov. 27, 2013:	Deputy Monitor Javier Burgos visited CTS Guayama.
Dec. 10, 2013:	Consultants Robert Dugan, David Bogard and Deputy Monitor Javier Burgos visited CTS Humacao.
Dec. 11, 2013:	Consultants David Bogard, Robert Dugan and Deputy Monitor Javier Burgos visited CTS Bayamón.

Dec. 18, 2013 Deputy Monitor Javier Burgos visited CTS Ponce Girls-Guali.

**THE UNITED STATES OF AMERICA**

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

**COMMONWEALTH OF PUERTO RICO**

Defendants,

Monitor's Compliance Ratings  
Fourth Quarter 2013

Provision	P	S	R	T	D	G	Comment
<b>Compliance Category and Rating Definitions</b>							
<b>Compliance Category P</b>	This category concerns <u>Policy Compliance</u> as required by Settlement Agreement paragraph 45. "Y" means that there are sufficient written policies and procedures in place so that, if they were implemented, compliance would be achieved. A "Y" also means that there are no policies and procedures in place that are inconsistent with the provision.						
<b>Compliance Category S</b>	This category concerns <u>Staffing Compliance</u> as required by Settlement Agreement paragraph 48. "Y" means that there are sufficient authorized and filled positions so that compliance could be achieved. Temporary vacancies are acceptable, provided that functional coverage is provided while the position is vacant, and the process of replacing the employee proceeds promptly.						
<b>Compliance Category R</b>	This category concerns <u>Resource Compliance</u> as required by Consent Order paragraph 44. "Y" means that there are sufficient funds, equipment and supplies and space that compliance can be achieved.						
<b>Compliance Category T</b>	This category concerns <u>Training Compliance</u> as required by Settlement Agreement paragraph 45. "Y" means that the necessary training has been provided, and that the training informs the employees as to how to implement the provision involved.						
<b>Compliance Category D</b>	This category concerns <u>Documentation Compliance</u> as required by Settlement Agreement paragraph 101. "Y" means that there is procedures and forms in place and in use to document whether compliance is being achieved or not. A "Y" can be assigned when the documentation accurately shows non-compliance.						
<b>Compliance Category G</b>	This category concerns <u>General Compliance</u> - the overall achievement of compliance with the provision involved.						
<b>Compliance Rating Definitions</b>	"Y" means that compliance is achieved. "N" means that compliance is not yet achieved. "#" means that the Monitor has not determined whether compliance has been achieved or not. "I" means that the category is inapplicable to the provision involved.						

Provision	P	S	R	T	D	G	Comment
<b>Facility Provisions</b>							
<b>C.O. 41:</b> Within ninety (90) days of the filing of this Consent Order, Defendants shall repair all defective plumbing in the facilities in this case. The defective plumbing shall be repaired first at Mayaguez, Ponce Industrial, Ponce Detention and Humacao.	N	N	Y	#	N	N	Based on observations over the course of the past year, NIJ appears to be making substantial progress in addressing plumbing repairs in a timelier manner. The monitor's office spot checking for this past quarter showed that 99% of all plumbing fixtures were operational and only Humacao was having hot water problems. A key obstacle to compliance is a lack of any documentation by NIJ identifying when and where problems occur and the timeframe for the repair process through final repair. Also lacking is evidence of policies, procedures and training to effectuate compliance with this provision. Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.
<b>S.A. 29.</b> Each new facility shall be built in accordance with: (1) the American Correctional Association's (hereinafter "ACA") standards in effect at the time of the construction; (2) the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 and 47 U.S.C. §§ 225 and 611, and the regulations thereunder; and (3) all Commonwealth fire codes and regulations.	Y	I	N	Y	N	N	NIJ is close to compliance with this provision pending the availability of appropriate documentation to prove full compliance with all three provision requirements. Resources to fully comply with ADA regulations have not been made available nor has documentation been presented to describe a plan for complying with ADA regulations. Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.
<b>S.A.31.</b> Existing facilities expected to be occupied by juveniles beyond Fiscal Year 1996-1997 shall conform to applicable federal, state and/or local building codes.	N	I	N	N	N	N	There are still life and fire safety violations that have not been remedied to date. NIJ has not allocated sufficient resources to allow compliance with this provision nor is there a documentation process to support a pathway to compliance.

Provision	P	S	R	T	D	G	Comment
<b>S.A. 34.</b> In order to properly equip and swiftly evacuate the facilities in the event of a fire or other emergency, in each facility, Defendants shall provide sufficient staff with appropriate keys to unlock exit doors in all buildings occupied by juveniles. The keys shall be color coded and notched or otherwise readily identifiable. Defendants shall also store a backup set of emergency keys at a place accessible at all times to staff on duty on all shifts.	Y	#	#	#	#	N	The NIJ Fire Safety Officer has developed policies and procedures for emergency key control which is still under review by the monitor's office. Providing sufficient staff to unlock exit doors is not in compliance at Humacao as the electrification of the cell doors has not happened as NIJ has proposed. In addition, NIJ needs to document that sufficient staff with proper communication capabilities are always working in the Mini Housing Control stations on all shifts to operate the control panels to remotely unlock all doors in Villalba, and CTS and CD Bayamon. Furthermore, sufficient staff must be documented to ensure swift evacuation from all occupied spaces within each facility. NIJ has commenced the process to properly color code and notch emergency keys and also to store them in accessible secure locations for staff access on all shifts. Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.
<b>S.A. 35.</b> Defendants agree that designated exit doors in all facilities will be maintained in operable condition and shall be readily unlocked in case of an emergency.	Y	#	#	#	N	N	NIJ has improved its ability to maintain operable exit doors from living units that can be readily unlocked in emergency situations. Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap to support compliance that exit doors are operable and being maintained not just in living units but in all locations with designated exit doors. NIJ has stated its intent to rigorously document and monitor the inspections made by the fire safety officers at each facility documenting that all exit doors are maintained in operable condition and can be readily unlocked. This documentation is supposed to be available to the monitor's office in NIJ's new automated data and tracking system.
<b>S.A. 37.</b> AIJ policy shall ensure safety for juveniles and staff by requiring compliance with fire safety code requirements. Specific emergency plans shall be developed and copies made available to staff members. There shall be ongoing training programs and emergency procedures shall be reviewed and updated annually.	Y	Y	Y	#	#	N	NIJ's Fire Safety Officer has verbally reported that he has been providing ongoing training in all emergency procedures to the fire safety coordinators. However, there is no documentation to substantiate this. There is also no documentation indicating that ongoing training for all other staff is occurring or documentation that emergency procedures are reviewed and updated annually. Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.



Provision	P	S	R	T	D	G	Comment
<b>Policies and Procedures</b>							
<b>S.A. 45.</b> Within one year of the approval of this agreement by the Court, Defendants agree to provide an agency policy and procedure manual governing all operational aspects of the institutions. Within eighteen months of the approval of this agreement by the Court, Defendants shall further insure that the facilities are strictly operated within these policies and procedures and that all staff have been trained accordingly.	Y	I	I	#	#	N	The Monitor agrees that the agency maintains a policy and procedure manual as required by this provision, although whether it governs all aspects of running the facilities as required has not yet been confirmed. Moreover, in the rest of this table, policies and procedures are rated as a compliance problem for many of the provisions in this case. See the compliance rating in Column T which identifies when a training deficiency is a factor in compliance. While having developed and routinely updated a manual is a factor in compliance, the provision also clearly requires that the facilities are strictly operated within these policies and this implementation requirement's scope and accuracy have not yet been established.

Staffing						
<p><b>S.A. 48.</b> Defendants shall ensure that the facilities have sufficient direct care staff to implement all terms of this agreement. Direct care staff supervise and participate in recreational, leisure and treatment activities with the juveniles. Compliance can be demonstrated in either of two ways.</p> <p><u>48.a Method one:</u> Defendants may provide documentation of consistent supervision by not less than one (1) direct care worker to eight (8) juveniles during day and evening shifts and not less than one (1) direct care worker to sixteen(16) juveniles during normal sleeping hours.</p> <p><u>48.b Method Two:</u> Defendants may develop, and submit to the court for approval, an alternate staffing roster for any facility in this case. The roster shall be based on a study that shall specify fixed posts and the assignment necessary to implement the terms of this agreement, taking into consideration the physical configuration and function of spaces, the classification and risk profiles of youths involved, the incident patterns in the settings involved, the routine availability in the settings of other categories of staff, and the overall number of direct care positions necessary to consistently achieve the coverage proposed. Once a plan is approved for a facility, defendants shall document the employment of the necessary overall numbers of direct care staff, and the ongoing deployment of such staff in accordance with the plan.”</p>	N	N	N	N	Y	N
<p><b>January 2009 Stipulation Paragraph 1:</b> All necessary steps shall be taken immediately to ensure the reasonable safety of youth by providing adequate supervision of youth in all facilities operated by, or on behalf of, the Defendants.</p>	Y	N	N	N	N	N

For the 4th quarter of 2013, all of the facilities submitted the staffing youth ratio reports requested.

Agency meeting staffing ratio requirements:  
6:00 am- 2:00 pm shift: 24% of events, 3% decrease since Third Quarter reporting period  
2:00 pm- 10:00 pm shift: 26% of events, 1% decrease since Third Quarter reporting period  
10:00 pm- 2:00 am shift: 93% of events, 6% increase since Third Quarter reporting period

Guaili has met 100% staff youth ratio requirements for sixteen consecutive quarters.

This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.

This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.

<b>January 2009 Stipulation Paragraph 2:</b> All necessary steps shall be taken to provide sufficient direct care staff to implement the Consent Decree and adequately supervise youth, pursuant to Paragraph 48,	N	N	N	N	N	N	The requirement that 50 YSOs be hired each month was terminated by the Court on September 13, 2011 (Docket 991)  No new YSOs were hired during the Fourth Quarter of 2013.
<b>January 2009 Stipulation Paragraph 3:</b> Defendants will include as direct care staff all social workers assigned to its institutions, once such staff receive forty (40) hours of pre-service training, pursuant to Paragraph 49 of the Consent Decree. The same shall also receive annual training as direct care staff, pursuant to Paragraph 50 of the Consent Decree.	#	#	#	#	#	#	The Commonwealth has decided not to employ this provision to enhance coverage.
<b>January 2009 Stipulation Paragraph 4:</b> All persons hired to comply with Paragraph 48 shall be sufficiently trained, pursuant to Paragraph 49 of the Consent Decree, before being deployed. Defendants shall deploy all duly trained direct care staff, pursuant to Paragraph 49, to juvenile facilities in a timely manner.	#	#	#	#	#	#	This provision is no longer applicable because it applies to a provision – Paragraph 49 - that has been terminated.
<b>January 2009 Stipulation Paragraph 5:</b> On the fifth day of every thirty-day period commensurate with the Order approving this Stipulation, Defendants shall submit a report to the Monitor and the United States providing the following: a. the number of current direct care staff, by position classification, at each facility; b. the number of qualified direct care staff hired during the previous period; c. the number of hired direct care staff in the previous period who were hired and have received pre-service training, pursuant to Paragraph 49; and d. the juvenile facilities where the direct care staff who were hired in the previous quarter and have received pre-service training, pursuant to Paragraph 49, have been deployed or assigned.	N	N	N	N	N	N	The report was not provided during the Fourth Quarter of 2013.

Provision	P	S	R	T	D	G	Comment
<b>Training</b>							
<b>S.A. 50.</b> Defendants shall ensure that current and new facility direct care staff are sufficiently well-trained to implement the terms of this agreement. Each direct care staff, whether current or new, shall receive at least forty (40) hours of training per year by qualified personnel to include, but not be limited to, the following areas: CPR (cardiopulmonary resuscitation); recognition of and interaction with suicidal and/or self-mutilating juveniles; recognition of the symptoms of drug withdrawal; administering medicine; recognizing the side-effects of medications commonly administered at the facility; HIV related issues; use-of-force regulations; strategies to manage juveniles' inappropriate conduct; counseling techniques and communication skills; use of positive reinforcement and praise; and fire prevention and emergency procedures, including the fire evacuation plan, the use of keys, and the use of fire extinguishers.	Y	N	N	I	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>Compliance tables documenting training within the agency as required in this stipulation have not been submitted to the Monitor since 2011. A summary narrative was provided in an e-mail attachment indicating a 50% rate of compliance for direct contact staff during 2012. The Monitor's Consultant was advised by NIJ recently that current compliance documentation would not be available until after July 2014. This is a potentially dangerous situation.</p>
<b>Classification</b>							
<b>S.A. 52.</b> At both the detention phase and following commitment, Defendants shall establish objective methods to ensure that juveniles are classified and placed in the least restrictive placement possible, consistent with public safety. Defendants shall validate objective methods within one year of their initial use and once a year thereafter and revise, if necessary, according to the findings of the validation process.	N	#	#	#	Y	N	<p>NIJ has solicited for a validation study of committed and detention youth, made a selection of who will do the validation study and is in the process of initiating a validation study of the classification instruments.</p> <p>Staff have been trained on the youth detention classification instrument. Documentation has been provided for the classification of youth for detention for the months of the 4th quarter.</p> <p>The fourth quarter CD Bayamón admission classification resulted in 259 admissions, of which 241 (93%) are classified as low; 13 (5%) are classified as moderate; 0 (0%) are classified as severe; and 6 (2%) were released prior to classification.</p> <p>While compliance with the terms of this provision is not likely for some times, Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.</p>

Provision	P	S	R	T	D	G	Comment
<b>Mental Health and Substance Abuse Treatment</b>							
<b>S.A. 59.</b> Defendants, specifically the Department of Health (ASSMCA), shall provide an individualized treatment and rehabilitation plan, including services provided by AIJ psychiatrists, psychologists, and social workers, for each juvenile with a substance abuse problem.	#	#	#	#	N	N	All records reviewed had an individualized treatment plan “document.” However, despite being labeled as such, the treatment plan is <u>not individualized</u> . All youth have the same recommendations in terms of frequency and treatment modality without taking into account the presence and severity of symptoms.
<b>C.O. 29:</b> Defendants shall maintain an adequate 48 bed residential mental health treatment program which provides services in accordance with accepted professional standards, for juveniles confined in the facilities in this case in need of such services as determined by a qualified child and adolescent psychiatrist as part of a qualified interdisciplinary mental health team.	#	#	#	#	N	N	NIJ does not provide a <i>program</i> with the number of beds established in this stipulation. Other parts of this provision also need to be determined and evaluated, for example, what professional standards form the basis for the program, what the placement criteria are, what the removal or discharge criteria are, etc.
<b>C.O. 34.</b> Within 160 days of the filing of this Consent Decree, Defendants shall train all staff whose responsibilities include supervision of the juveniles regarding the effective recognition of suicidal and/or self-mutilating behaviors.							This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. Compliance tables for this provision and other required training have not been received by the monitor’s office since 2011. Monitor’s consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.
<b>C.O. 36.</b> Within 120 days of the filing of this consent Order, Defendant Juvenile Institutions Administration shall provide continuous psychiatric and psychology service to juveniles in need of such services in the facilities in this case either by employing or contracting with sufficient numbers of adequately trained psychologists or psychiatrists, or by contracting with private entities for provision of such services. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum, a thorough psychiatric evaluation. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum diagnostic tests before prescription of behavior-modifying medications.	N	N	#	N	N	N	Psychiatrists are not clearly documenting in their notes, the clinical indication for the use of psychotropic medications. Notes were extremely difficult to find, as each psychiatrist documents in different sections. Based on what NIJ clinicians documented on the electronic records, youth that required residential treatment services were not receiving them.  Refer to report for further information

Provision	P	S	R	T	D	G	Comment
<b>S.A. 63.</b> For each juvenile who expresses suicidal or self-mutilating ideation or intent while incarcerated, staff shall immediately inform a member of the health care staff. Health care staff shall immediately complete a mental health screening to include suicide or self-mutilation ideation for the juvenile. For each juvenile for whom the screening indicates active suicidal or self-mutilating intent, a psychiatrist shall immediately examine the juvenile. The juvenile, if ever isolated, shall be under constant watch. Defendants shall develop written policies and procedures to reduce the risk of suicidal behavior by providing screening for all juveniles at all points of entry or re-entry to AIJ's facilities and/or programs and by providing mechanisms for the assessment, monitoring, intervention and referral of juveniles who have been identified as representing a potential risk of severe harm to themselves. Treatment will be provided consistent with accepted professional standards.	#	#	#	#	Y	N	The youth is usually evaluated by the psychologist on-call. Psychologists are not consistent on where to document the 24-hour evaluation and subsequent follow-up notes. Also the initial 24-hour progress note usually lacks a description of the event that led to the youth being placed under clinical supervision. This impairs adequate follow-up, any clinician would have serious difficulty understanding the youth's progress in order to change the level of observation. I was told they communicate via telephone, but it should still be documented in the record.
<b>S.A. 72.</b> All juveniles receiving emergency psychotropic medication shall be seen at least once during each of the next three shifts by a nurse and within twenty-four (24) hours by a physician to reassess their mental status and medication side effects. Nurses and doctors shall document their findings regarding adverse side effects in the juvenile's medical record. If the juvenile's condition is deteriorating, a psychiatrist shall be immediately notified.	#	#	#	#	N	N	The nurse did not evaluate youth receiving emergency psychotropic medication during each of the shifts. There was no evidence that a physician had evaluated the youth within 24 hour.
<b>S.A. 73.</b> Defendants, specifically AIJ, shall design a program that promotes behavior modification by emphasizing positive reinforcement techniques. Defendants, specifically AIJ, shall provide all juveniles with an individualized treatment plan identifying each juvenile's problems, including medical needs, and establishing individual therapeutic goals for the juvenile and providing for group and/or individual counseling addressing the problems identified. Defendants, specifically AIJ, shall implement all individualized treatment plans.	#	#	#	#	N	N	NIJ has a behavioral modification plan that is implemented in all the institutions. The implementation varies among institutions. Puertis is a mental health residential treatment program, they should have a behavioral modification plan different from the other institutions, taking into account their mental health needs.

Provision	P	S	R	T	D	G	Comment
<b>Discipline</b>							
<b>S.A. 74.</b> Defendants shall specify the rules of the facilities with a complete list of possible punishments for violations of such rules in the handbook described in ¶ 47 above. Written notice of any rule violation, a hearing before a facility staff person not involved in the investigation of the violation, and an appeal to the facility director shall be provided to a juvenile prior to any punishment being imposed, except that Defendants may administratively segregate a juvenile in emergency or life-threatening situations. In the event of an emergency, when circumstances make it inappropriate to hold a hearing prior to segregation, a hearing shall take place within forty-eight (48) hours from the time of segregation.	Y	Y	I	N	Y	N	Consistent and documented training of disciplinary board members continues to be primary obstacle to compliance. Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.
<b>S.A. 77.</b> In no event is physical force justifiable as punishment on any juvenile. The use of physical force by staff, including the use of restraints, shall be limited to instances of justifiable self-defense, protection of self and others, to maintain or regain control of an area of the facility, including the justifiable protection of significant property from damage; and prevention of escapes; and then only when other less severe alternatives are insufficient. A written report is prepared following all uses of force and is submitted to administrative staff for review. When force, including restraint, is used to protect a youth from self, this must be immediately referred to the medical area for medical and mental health evaluation and any necessary treatment.	Y	N	I	N	N	N	<p>OC is being used against youth in the vast majority of use of force incident at Humacao, which violates agency policy and does not comply with this provision's requirement that it be used only when less severe alternatives are insufficient.</p> <p>There continue to be many large scale incidents with high levels of force used, in part because of the well-documented shortage of staff in the housing units who could otherwise intervene before force is used or before the incident escalates.</p> <p>Documentation of compliance in use of force incidents is inadequate due to inadequate report preparation (it has improved over time) and the lack of camera documentation (not specifically required by provision).</p> <p>Staff have not yet been trained in the recently approved language of this provision. Also need documentation of training provided to new and existing staff regarding this provision.</p>

Provision	P	S	R	T	D	G	Comment
<b>Abuse and Maltreatment Investigation and Management</b>							
<b>S.A. 78.a</b> Defendants shall take prompt administrative action in response to allegations of abuse and mistreatment, including steps to protect and treat the victim, steps to preserve evidence and initiate investigation, steps to isolate, separate, and sanction youth and/or staff involved in misconduct or criminal conduct. Defendants' policies, procedures, and practices shall clearly define all incidents that must be reported, to include, at a minimum, allegations of: abuse, mistreatment, neglect, excessive use of force, inappropriate use of restraints, sexual misconduct, and assaults. Defendants shall provide for confidential means of reporting suspected abuse and mistreatment, without fear of retaliation for making such report.	Y	N	N	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. Policies have been updated to comply with this provision.</p> <p>The Quarterly Case Assessments in the main part of the report consistently reveal the following problem areas:</p> <ul style="list-style-type: none"> <li>• Evidence is rarely preserved – in only 15% of cases.</li> <li>• Suspected youth are separated from their victim(s) in 27% of the cases assessed.</li> </ul>
<b>S.A. 78.b</b> All Defendants' staff or contractors who are involved in, witness, or discover an incident (or evidence of abuse or mistreatment, in the case of a health care worker) shall document the incident or evidence in writing in a standardized incident report. The report shall be submitted to the reporter's supervisor or other designated staff person before the reporter leaves the facility following shift change. The report shall include all relevant details regarding the incident, including a description of the events leading to and immediately following the incident; date, time, and place; all persons involved, including alleged victim(s) and all witnesses; how the incident was detected; reporter's name and signature; and date and time the report form was completed.	Y	Y	Y	#	N	N	<p>Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.</p>



Provision	P	S	R	T	D	G	Comment
<b>S.A. 78.c</b> Within 24 hours of knowledge of a potential abuse incident, the report shall be transmitted to the Commonwealth Police for investigation, the Department of Family Services for statistical reporting, the Department of Corrections, and the AIJ administration. For serious incidents involving allegations of: abuse; neglect; excessive use of force; death; mistreatment; staff-on-juvenile assaults; injury requiring treatment by a licensed medical practitioner; sexual misconduct; exploitation of a juvenile's property; and commission of a felony by a staff person or juvenile, the AIJ administration shall also notify SAISC within 24 hours of knowledge of the potential incident, and 1 hour for any juvenile death, and SAISC shall conduct an administrative investigation.	Y	Y	Y	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>The timeliness of initial reporting by AIJ, based on AIJ records, has been high.</p> <p>The Commonwealth Police do fully respond to the Monitor's information requests for case analysis information. There are reports provided for about half of the cases, and much information is missing.</p> <p>Cases are promptly referred to SAISC about 88% of the time.</p>
<b>S.A.78.d</b> Within 24 hours, AIJ shall prepare and forward a copy of each incident report together with the AIJ preliminary investigation to the Police Department, the Department of Family Services, the Department of Corrections, and the AIJ Administration. Every 30 calendar days, AIJ, SAISC and the Commonwealth Police shall report to the Defendant Department of Justice and AIJ the status of each investigation including final determinations and associated administrative and criminal actions. Defendants shall implement appropriate policies, procedures, and practices to ensure that incidents are promptly, thoroughly, and objectively investigated. AIJ, SAISC, and Defendant Department of Justice shall consult throughout an investigation. If Defendant Department of Justice indicates an intent to proceed criminally, any compelled interview of the subject staff shall be delayed until Defendant Department of Justice concludes the criminal investigation, but all other aspects of the investigation shall proceed. Defendant Department of Justice shall review and investigate allegations of serious incidents following a preliminary investigation by the Puerto Rico Police Department.	N	#	#	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>Documentation is insufficient concerning the implementation of investigations by the Commonwealth Police. The Monitor's Office and the Commonwealth are working on a revision of the assessment table that should result in better information about compliance.</p>

Provision	P	S	R	T	D	G	Comment
<b>S.A. 78.e</b> Administrative investigations of serious incidents shall be conducted by SAISC and completed within 30 days of SAISC's receipt of the referral. Administrative investigation of incidents classified as less serious may be conducted internally by appropriate facility staff and shall be completed within 20 days of witnessing or discovering an incident.	Y	#	#	#	N	N	For the 3 <sup>rd</sup> quarter of 2013, 9 of the 36 cases referred were completed within 30 days.  It appears from the tracking statistics that the substantial majority of serious cases referred to SAISC are not investigated on a timely basis.
<b>S.A. 78.f</b> Defendants shall implement investigation standards in conformance with applicable law, including, at a minimum: photographing visible injuries; preserving and analyzing evidence; conducting separate, face-to-face, private interviews of the alleged victim, perpetrator, and all possible witnesses, with a record of the questions and answers. Whenever there is reason to believe that a juvenile may have been subjected to physical sexual abuse, the juvenile shall be examined promptly by outside health care personnel with special training and experience in conducting such assessments.	N	N	Y	#	N	N	This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.  No process is in place to assess whether compliance is achieved with respect to investigation quality.  No standards have been formally adopted.
<b>S.A. 78.g</b> Every administrative investigation shall result in a written report explicitly providing: a description of the alleged incident, including all involved persons and witnesses and their role; a description and assessment of all relevant evidence; and proposed findings. Defendants shall ensure that there are sufficient numbers of demonstrably competent staff to timely complete competent and thorough administrative investigations. Responsibilities of investigators shall be clearly designated.	N	N	Y	#	N	N	This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.  No process is in place to assess whether compliance is achieved with respect to these aspects of investigation quality.

Provision	P	S	R	T	D	G	Comment
<b>S.A. 78.h</b> AIJ shall conduct case management, for tracking which includes identification of findings and outcomes and dates of stages of case processing, and for oversight of further administrative actions including analysis to identify and implement corrective actions designed to avoid recurrence of incidents. At the conclusion of an administrative investigation, SAISC shall provide copies of the investigation report to AIJ and Defendant Department of Justice. AIJ's quality assurance personnel shall analyze the report and, as appropriate, identify corrective action to address operational, systemic, or other problems identified in the report and ensure that such action is taken.	N	N	Y	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>Case tracking is inconsistent and incomplete and NIJ lacks staffing and resources to do meaningful analysis of cases</p> <p>Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.</p>
<b>S.A. 78.i</b> Any employee, staff member or contractor who is criminally charged for offenses involving the abuse or mistreatment of juveniles, excessive force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending. Defendants may take additional administrative actions as they deem appropriate.	Y	Y	Y	Y	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>NIJ policies comply with this provision.</p> <p>Policies and procedures require separation based on substantiated allegations, which is a higher standard of performance than required in this provision.</p> <p>Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.</p>

Provision	P	S	R	T	D	G	Comment
<b>Separation Order, of December 4, 2006:</b> Any employee, staff member, or contractor who is criminally charged in the future for offenses involving the abuse or mistreatment of juveniles, excessive use of force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including the removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending.	N	Y	Y	N	N	N	This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.

Provision	P	S	R	T	D	G	Comment
<b>Protection and Isolation</b>							
<p><b>S.A. 79.</b> Juveniles shall be placed in isolation only when the juvenile poses a serious and immediate physical danger to himself or others and only after less restrictive methods of restraint have failed. Isolation cells shall be suicide resistant. Isolation may be imposed only with the approval of the facility director or acting facility director. Any juvenile placed in isolation shall be afforded living conditions approximating those available to the general juvenile population. Except as provided in ¶ 91 of this agreement, juveniles in isolation shall be visually checked by staff at least every fifteen (15) minutes and the exact time of the check must be recorded each time. Juveniles in isolation shall be seen by a masters level social worker within three (3) hours of being placed in isolation. Juveniles in isolation shall be seen by a psychologist within eight (8) hours of being placed in isolation and every twenty-four (24) hours thereafter to assess the further need of isolation. Juveniles in isolation shall be seen by his/her case manager as soon as possible and at least once every twenty-four (24) hours thereafter. A log shall be kept which contains daily entries on each juvenile in isolation, including the date and time of placement in isolation, who authorized the isolation, the name of the person(s) visiting the juvenile, the frequency of the checks by all staff, the juvenile's behavior at the time of the check, the person authorizing the release from isolation, and the time and date of the release. Juveniles shall be released from isolation as soon as the juvenile no longer poses a serious and immediate danger to himself or others.</p>	N	#	#	#	N	N	<p>Staffing, Resources and Training are marked as # (unknown) because the parameters of this provision remain confusing and unclear.</p> <p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p>

Provision	P	S	R	T	D	G	Comment
<b>S.A. 80.</b> The terms of this agreement relating to safety, crowding, health, hygiene, food, education, recreation and access to courts shall not be revoked or limited for any juvenile in protective custody.	Y	N	I	N	Y	N	<p>Education services provided to youth in this category are severely limited and are limited in relation to that afforded youth in the general population.</p> <p>Current documentation and practices of conducting observations of youth in their rooms are inadequate and inconsistent, invoking the “safety” component of this provision. Documented cases of staff reporting observations that were not accurate. Myriad cases of missing documentation.</p> <p>Additional training is required for staff to properly document safety of youth in these statuses.</p> <p>Inadequate numbers of teachers is an impediment to meeting the education component of this provision. Staff may miss required observations because of workload issues related to inadequate staffing.</p>

Provision	P	S	R	T	D	G	Comment
<b>Education and Vocational Services</b>							
<b>S.A. 81.</b> Defendants, specifically the Department of Education, shall provide academic and/or vocational education services to all juveniles confined in any facility for two weeks or more, equivalent to the number of hours the juveniles would have received within the public education system. Specifically, this education shall be provided 5 (five) days per week, 6 (six) hours per day, 10 (ten) months per year. AIJ shall provide adequate instructional materials and space for educational services. Defendants shall employ an adequate number of qualified and experienced teachers to provide these services.	Y	Y	N	I	Y	N	<p>Staffing compliance continues to improve as it had in the prior school year. However staffing is still not sufficient to mee the terms of this provision.</p> <p>Adequate vocational materials are not provided at all facilities.</p> <p>Not all youth receive education for “5 (five) days per week, 6 (six) hours per day, 10 (ten) months per year.”This applies to TM and PC status youths as well as to those who have completed the fourth year of adult education.</p> <p>Whether or not adult education is suitable for NIJ youth is an open question.</p> <p>.</p>
<b>S.A. 86a.</b> Defendants, specifically the Department of Education, shall abide by all mandatory requirements and time frames set forth under the Individuals with Disabilities Education Act, 20 USC §§ 1401 <u>et seq.</u> Defendants shall screen juveniles for physical and learning disabilities.	Y	Y	Y	I	N	N	<p>The Commonwealth does not maintain a systematic audit of this provision. The Monitor’s Office will review such documentation when it is provided. Compliance with 86a requires compliance with 86b.</p>
<b>S.A. 86b.</b> The screening shall include questions about whether the juvenile has been previously identified by the public school system as having an educational disability, previous educational history, and a sufficient medical review to determine whether certain educational disabilities are present, such as hearing impairments, including deafness, speech or language impairments, visual impairments, including blindness, mental retardation, or serious emotional disturbances adversely affecting educational performance.	Y	Y	Y	I	N	N	<p>The Monitor’s assessment of special education and mental health services for the 2013 3<sup>rd</sup> quarter revealed that when a special education student drops out of the community public school before confinement in the agency institutions, he is not always re-evaluated for those services in the institution but is listed as “inactive.”</p> <p>NIJ was unable to complete the special education/mental health assessment for the 4<sup>th</sup> quarter.</p> <p>Compliance with 86b requires compliance with 86a.</p>

Provision	P	S	R	T	D	G	Comment
<b>S.A. 87.</b> If a juvenile has been previously identified as having an educational disability, Defendants shall immediately request that the appropriate school district provide a copy of the juvenile's individualized education plan ("IEP"). Defendants shall assess the adequacy of the juvenile's IEP and either implement it as written if it is an adequate plan or, if the IEP is inadequate, rewrite the plan to make it adequate, and then implement the revised IEP.	Y	Y	Y	I	N	N	Compliance with the first part of the stipulation is high in that the agency institutions request IEPs and special education files from the community public schools. The request is frequently ignored or results in late delivery preventing compliance with the second part requiring assessment of the documents' adequacy. This is particularly the case in the detention institutions. Nevertheless, NIJ staff should be commended for the development of provisional IEPs that result in the delivery of some of the mandated services. The need to re-certify students who dropped out in the community also applies here.
<b>S.A. 90.</b> Defendants shall provide appropriate services for juveniles eligible for special education and related services. Defendants shall provide each such juvenile with educational instruction specially designed to meet the unique needs of the juvenile, supported by such services as are necessary to permit the juvenile to benefit from the instruction. Defendants shall coordinate such individualized educational services with regular education programs and activities.	Y	Y	Y	I	Y	N	Since all special education students are mainstreamed with those not certified, they receive the equivalent adult education as the others except for those in protective custody or in transition. See note to S.A. 81 as to the appropriateness of adult education. See note to S.A. 94 about protective custody and transitional compliance.



Provision	P	S	R	T	D	G	Comment
<b>S.A. 91.</b> Qualified professionals shall develop and implement an IEP reasonably calculated to provide educational benefits for every juvenile identified as having a disability. When appropriate, the IEP shall include a vocational component.	Y	Y	Y	I	N	N	<p>Certified special education teachers, many of them new to the profession, provide education services to youth. All vocational education positions were filled during this reporting period.</p> <p>Special education students were enrolled in vocational courses consistent with their IEP recommendations.</p> <p>As demonstrated in the Monitor's 2013 3<sup>rd</sup> quarter assessment of special education and mental health services, there continues to be a system wide gap in communication between education and mental health staff. Prescriptions written into the IEP fall into a "one size fits all" admittedly written by educators with scant consultation with mental health staff. It should be noted that in the pilot assessment and that for the 3<sup>rd</sup> quarter, staff stated that consultation increased significantly.</p> <p>NIJ was unable to complete the 4<sup>th</sup> quarter special education/mental health assessment.</p> <p>Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.</p>
<b>S.A. 93.</b> Services provided pursuant to IEPs shall be provided year round. Defendants shall ensure that juveniles with educational disabilities receive a full day of instruction five (5) days a week.	#	N	N	I	N	N	<p>Students eligible for special education services did not receive services from the end of May to the beginning of August. While the Commonwealth has not identified any students that need summer services, the Monitor's Office disagrees that there are no such students. Also, some students eligible for special education services based on their Individual Education Plans were not receiving all of the specified services.</p>
<b>S.A. 94.</b> Juveniles shall not be excluded from services to be provided pursuant to IEPs based on a propensity for violence or self-inflicted harm or based on vulnerability. Juveniles in isolation or other disciplinary settings have a right to special education. If required for institutional security, services provided pursuant to IEPs may be provided in settings other than a classroom.	N	N	N	I	N	N	<p>A recent review of services provided for youth in transition or protective custody, showed that youth are not receiving services comparable to youth who are not in isolation. (See also comments for S.A. 90 and SA 80).</p> <p>Youth in Protective Custody and Transitional measures status receive some services, some days but often materials are delivered to the housing units with minimal instruction from teachers.</p>

Provision	P	S	R	T	D	G	Comment
<b>S.A. 95.</b> When an IEP is ineffective, Defendants shall timely modify the IEP.	Y	Y	Y	I	N	N	<p>All special education positions are filled.</p> <p>Visits to Humacao and Bayamon CTS indicated that teachers were periodically reviewing students' IEP.</p> <p>A systematic assessment has not yet been completed by the Commonwealth and provided to the Monitor's Office for review.</p> <p>Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.</p>
<b>Funding and Implementation</b>							
<b>C.O. 43</b> Until this order is fully implemented, Defendants shall submit to the Legislature of the Commonwealth each fiscal year a report wherein the requirement sums of money will be established so as to implement this Consent order.	Y	Y	N		N	N	<p>The Commonwealth legal position is that the required report is the agency budget request. The budget request is not routinely provided to the Monitor or the United States.</p> <p>Since the budget is insufficient to implement the requirements of the decree, the Monitor infers that the request was also insufficient.</p> <p>There are many provisions in non-compliance with category "R" specified as one of the factors. These are provisions where lack of resources is a factor in non-compliance.</p> <p>Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.</p>