

**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 First Quarter Report for 2014. The report covers the months of January through March 2014. 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 \_\_th day of May, 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 First Quarter 2014

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. 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:	Compliance Finding: S.A. Paragraph 74
Document Attachment B:	Compliance Finding: S.A. Paragraph 78b.
Document Attachment C:	Consultant Report on Staffing Compliance
Document Attachment D:	Consultant Report on Detention Classification
Document Attachment E:	Report on Incidents and Understaffing
Document Attachment F:	Abuse Referrals Tracking Statistics
Document Attachment G:	Case Assessment Table to Paragraph 78
Document Attachment H:	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.

Attachment A is the first Compliance Finding resulting from the roadmap process, for Settlement Agreement Paragraph 74. Consistent with this finding, there is also a rating of compliance in the Table of Compliance Ratings.

Attachment B is the second Compliance Finding resulting from the roadmap process, for Settlement Agreement Paragraph 78b. Consistent with this finding, there is also a rating of compliance in the Table of Compliance Ratings.

### **Move of Girls from CTS Ponce to CD Bayamon**

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

- All girls have been moved from Ponce to one half of CD Bayamon
- Guayama has been closed and the boys moved to the former girls facility in Ponce.

- Detention boys are housed in the other half of CD Bayamon and in several modules at CTS Bayamon

The Monitor and the consultants believe that this set of decisions 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.

Respectfully Submitted,



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F. Warren Benton, Ph.D.  
Monitor

## Document Attachment A: Compliance Finding – Settlement Agreement Paragraph 74

**United States of America v. Commonwealth of Puerto Rico**  
**Civil Action No. 94-2080 CC**  
**Office of the Monitor**  
**Compliance Finding – Settlement Agreement Paragraph 74**  
**May 9, 2014**

### **I. Provision**

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.

### **II. Recent Monitor’s Report Ratings and Assessments**

This provision has been regularly and intensely monitored for several years. There has been substantial improvement in all areas of compliance during the past four quarters and particularly over the past three, as policies were enhanced and staffing has improved, particularly at Humacao where there were some documented periods of delayed hearings in 2013 due to staff turnover and transfers. Another area of enhanced compliance relates to the notice provided to youth of rules and potential sanctions, which is now afforded using several different tools including handbooks and posted signs in all housing modules. The most recent Quarterly Report reported compliance in all aspects except training; in retrospect that apparent deficiency was exclusively due to the Monitor’s Consultant not having specifically requested, or been provided by NIJ, evidence of the actual training that has been provided in this respect.

### **III. The Compliance Roadmap for P74**

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 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 work with the parties individually to generate the roadmaps and ultimately both parties need to assent to their content for the roadmaps to be useful and effective, and for the initiation of the process of evidence of compliance to be collected and submitted to the Monitor’s Office.

Key milestones in the process of completing the P74 Roadmap included:

- February 3, 2014- Monitor’s Consultant conferred with USDOJ attorney Michelle Jones and their expert Kelly Dedel to review the terms of the provision, to discuss the history of monitoring this

provision and its current status, and to discuss key concerns that the U.S would have relative to the creation of a Roadmap.

- February 12, 2014- Monitor's Consultant met with the NIJ Functional Team to discuss and develop the draft parameters of a Roadmap, including the input received from the USDOJ.
- February 14, 2014- Monitor's Consultant circulated drafts of the Roadmap to the parties.
- February 15-February 23- The Monitor's Consultant conferred with the parties multiple times regarding requested edits to the Roadmaps.
- February 25, 2014- A Final Roadmap was distributed by the Monitor's Consultant.
- February 28, 2014- USDOJ and Functional team agreed to the Final Roadmap.
- March, 2014- NIJ submitted multiple files and documents as evidence of compliance to satisfy the various Roadmap Activities. Monitor's Consultant reviewed compliance evidence and Deputy Monitor conducted field validation of evidence submitted by NIJ as per the Roadmap Activity 6.
- May 2, 2014- Monitor's Consultant submitted to USDOJ attorney Michelle Jones and their expert Kelly Dedel all documents that were relied on by the Monitor's Office as evidence in accordance with the Roadmap.
- May 9, 2014- Monitor's Consultant conferred with USDOJ attorney Michelle Jones and their expert Kelly Dedel to discuss and review the documentation relied on by the Monitor's Office.

#### **IV.P 74 Roadmap and Findings and comments**

*Activity 1. Identify name of disciplinary hearings officer at each facility and provide evidence of disciplinary training of all current disciplinary officers. Provide copies of the training curriculum or lesson plans.*

**Findings and Comments:** NIJ provided documents identifying all disciplinary officers, dates they have been trained 2012-2014, and curriculum and presentation materials. All current disciplinary officers have attended at least one, two-hour training and most attended multiple training sessions during the past three years. Monitor's Consultant reviewed these training materials and found them to be appropriate, consistent with applicable policies/procedures and directly responsive to all elements of the provision.

*Activity 2. Provide evidence of disciplinary training of selected disciplinary committee members. Provide copies of the training curriculum or lesson plans.*

**Findings and Comments:** NIJ provided sign-in sheets for 8 training sessions conducted between November 2012 and 2014 that have been attended by staff likely to serve on disciplinary hearing committees. Lesson materials are the same as those provided in Activity 1 above.

*Activity 3. Provide current disciplinary policy 15.5 to Monitor's Consultant.*

**Findings and Comments:** NIJ provided the current (2014) version of disciplinary policies and procedures 15.5, 15.6 and 15.7. Monitor's Consultant reviewed these materials and found them to be appropriate and responsive to all elements of the provision.

*Activity 4. Provide evidence that signs with current rules and sanctions are posted in each module on the glass of the social worker's office. Also provide detail, including policy and description of other measures taken to orient youths to rules, including provision of discipline pamphlets upon admission and availability of youth handbooks in each module.*

**Findings and Comments:** NIJ provided photographic evidence of signage containing rules and potential sanctions posted in dayrooms of all facilities. Deputy Monitor and Monitor's Consultant observed the same signage during facility tours. NIJ also provided policies/procedures that contained this information and requirements that youth be oriented in rules and potential sanctions. NIJ provided examples of orientation materials evincing social workers orientation of same. Youth handbooks also contain this information and they are provide to youth and a copy is available in module dayrooms.

*Activity 5. Provide an excel worksheet for each facility for November 2013-February 2014 listing every disciplinary hearing and the following information: (1) name of youth, (2) date of incident, (3) date that the youth received written notice of a disciplinary violation, (4) date that disciplinary information was provided to the disciplinary hearing officer, (5) date of the hearing, (6) number of business days that passed between date the information was provided to the disciplinary officer and when the hearing occurred, (7) statement as to whether any member of the committee was involved in the investigation of the incident that led to the disciplinary infraction (Yes/No), (8) whether the youth appealed the decision of the disciplinary board (Yes/No), and (10) if youth appealed, what date was the appeal answered. Compliance measures include: (1) 90% of all hearings were conducted within 7 business days of receipt of paperwork by the disciplinary officer, and no facility fell below 80%. (2) 95% of all hearings did not have a committee member having been involved in the incident or investigation of it. (3) In 90% of all hearings, youth received written notice of the disciplinary violation before a hearing was held and no facility fell below 80%.(4) In 90% of cases where youth appealed the findings of a disciplinary board, a response was provided to the appeal and no facility fell below 80%.*

**Findings and Comments:** Spreadsheets were designed by Monitor's Consultants and data provided for 537 Disciplinary events across all facilities over the agreed upon four month period. All thresholds were satisfied:

- 98% of all hearings<sup>1</sup> were conducted within 7 business days of receipt of incident paperwork by the disciplinary officer. No facility fell below the 90% threshold, with the lowest being at 92%.
- 100% of all hearings did not have a committee member having been involved in the incident or investigation of it.
- In 100% of all hearings, youth received written notice of the disciplinary violation before a hearing was held.
- In 100% (12) of cases where youth appealed the findings of a disciplinary board, a response was provided by the facility director to the appeal and imposition of the sanction was suspended until the appeal was resolved.

*Activity 6. Validation-Review randomized sample of 10% of cases documented in the discipline log book at each facility to validate NIJ spreadsheet. Sample findings should approximate percentages reported by NIJ in step 5.*

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<sup>1</sup> There were 537 disciplinary cases systemwide during the quarter. Of these, 51 did not result in hearings because of a legitimate reason such as the youth was released from custody before the hearing, or mental health staff determined that a hearing was not advised. In another 48 cases, the hearing was delayed because of legitimate reasons such as the youth was transferred to another facility which delayed the hearing or mental health staff intervened initially and then cleared the youth to participate in the hearing later, or because the incident involved a significant number of youth which required more time for investigations and scheduling of hearings, although those cases were typically delayed by only one or two days. 436 cases were therefore left to be used as the number against which delayed cases with no apparent reason was measured, which was only 8 and yielded a 98.1% compliance rate.

**Findings and Comments:** Deputy Monitor Javier Burgos conducted validation site visits at all facilities. Samples served to confirm cases reported by NIJ and validated data reported in Activity 5.

## **V. Summary of Findings**

V.1 NIJ has furnished the Monitor's Consultant with all evidence of compliance as set forth in the Roadmap. Policies and procedures address in appropriate detail all components of the provision and there is clear evidence of training having been provided to both disciplinary officers as well as to other staff who typically sit as members of disciplinary committees.

V.2 Policy and training also dictate that no staff person involved in the investigation of incidents sit as a member of the disciplinary board, and practice supports this.

V.3 All youth are provided with written notice of violations and, for those violations considered to be more serious and which potentially subject the youth to more serious sanctions, hearings are generally conducted within seven business days of disciplinary paperwork being prepared by the disciplinary officers.

V.4 Youth are informed of the rules and potential sanctions in several different manners, including in handbooks they receive, via posted signage in all housing modules and during orientations to the facility provided by social workers.

V.5 Policy, training and practice provide for youth to be advised of their right to appeal a disciplinary board's decision to the facility director; when this path is chosen by the youth, the sanction is suspended until the director renders a decision. Appeals occur very infrequently, but there is evidence of the process working as stipulated.

V.6 NIJ does not employ administrative segregation of youth prior to a hearing under any circumstances, despite the fact that the provision allows for this measure. This fact is supported by on-site observations, review of files, NIJ policy, and multiple discussions with NIJ staff for several years.

V.7 It is the finding of the Monitor that the Commonwealth has achieved compliance with Settlement Agreement Paragraph No. 74 for a period of more than one year.

**Respectfully Submitted,**

**F. Warren Benton, Monitor**  
**David M. Bogard, Chief Deputy Monitor**

## **VI. Exhibits**

**Note- Both parties have the documentation relied upon to generate this Memorandum, including:**

Final roadmap

NIJ Policies

NIJ Training curriculum and lesson presentations

Evidence of disciplinary officers and committee members attending training

Spreadsheet displaying dates of disciplinary offenses, written notice, hearings, appeal dates and response dates



## Document Attachment B: Compliance Finding – Settlement Agreement Paragraph 78b

**United States of America v. Commonwealth of Puerto Rico**  
**Civil Action No. 94-2080 CC**  
**Office of the Monitor**  
**Compliance Finding – Settlement Agreement Paragraph 78(b)**  
**May 30, 2014**

### **VII. Provision**

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.

### **VIII. Recent Monitor's Report Ratings and Assessments**

During the four quarters of 2013 the Monitor rated this provision as compliant with respect to policy, staffing and resources; training compliance was rated as unknown and documentation was rated as non-compliant as was overall compliance. These non-compliance ratings and unknown were a reflection solely of NIJ not yet having provided necessary compliance documentation to the Monitor's Consultant and the Monitor's Office not clearly defining the types of compliance documentation necessary. Once the Road-mapping process ensued in the first quarter of 2014, ratings showed compliance (or inapplicable) in all aspects except the 'General' category; the General Category was delayed as the Monitor's Consultant was in the process of reviewing all Roadmap compliance documentation and not yet prepared to reach the ultimate conclusion concerning compliance at that time.

NIJ has had a standardized incident report format that satisfies/exceeds all requirements of this provision since 2010.<sup>2</sup> Hundreds of such completed incident reports have been reviewed by the Monitor's Consultants over the past several years and they were found to be in compliance with the provision's requirements and consistent with accepted expectations with respect to clarity and level of detail of narratives. To the extent that narratives are not always thorough, the incident characteristics checkmarks and fill-ins allow for additional detail about incidents.

Routine spot checking of reports over several years has found reports to be consistently submitted before the reporter departs the facility at the end of the shift.

Monitor's Consultants have, in 2012 and 2013 personally delivered training to facility directors and supervisors concerning the critical nature of completing such incident reports accurately.

Incident reports prepared by staff involved in or witnessing incidents have triggered 282 abuse allegations (284A's) in the past four quarters (2012 Q4-2013 Q3), which strongly suggests that there is

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<sup>2</sup> This form is included in the Policy 9.10 and in training documents. It has been revised incrementally over the past several years.

not a pattern of failure to report incidents, particularly those that could suggest or point out potential abuse.

In January 2013 NIJ implemented a health services registry of restrictions and injuries to be completed by nursing staff any time a youth is brought to the infirmary (by policy and practice this occurs after every use of force incident). The policy (12.1.51) requires the nurse to assess the source of any injuries sustained by the youth and to document on this log whether any injury was caused by another youth or by staff or whether it is not apparent; this policy (along with others) and training requires that medical personnel report when there is suspicion of abuse in the process of completing the health exam and documenting in the registry.

### **IX. The Compliance Roadmap for P78(b)**

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 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 work with the parties individually to generate the roadmaps and ultimately both parties need to assent to their content for the roadmaps to be useful and effective, and for the initiation of the process of evidence of compliance to be collected and submitted to the Monitor’s Office.

Key milestones in the process of completing the P78(b) Roadmap included:

- February 3, 2014- Monitor’s Consultant conferred with USDOJ attorney Michelle Jones and their expert Kelly Dedel to review the terms of the provision, to discuss the history of monitoring this provision and its current status, and to discuss key concerns that the U.S would have relative to the creation of a Roadmap.
- February 12, 2014- Monitor’s Consultant met with the NIJ Functional Team to discuss and develop the draft parameters of a Roadmap, including the input received from the USDOJ.
- February 17-25, 2014- The Monitor’s Consultant circulated multiple drafts of the Roadmap to the parties and conferred with the parties multiple times regarding requested edits to the Roadmaps.
- March 10, 2014- A Final Roadmap was distributed by the Monitor’s Consultant.
- March, 2014- NIJ submitted multiple files and documents as evidence of compliance to satisfy the various Roadmap Activities. Monitor’s Consultant reviewed compliance evidence and Deputy Monitor conducted field validation of evidence submitted by NIJ as per the Roadmap Activity 6.
- May 15, 2014- Monitor’s Consultant submitted to USDOJ attorney Michelle Jones and their expert Kelly Dedel all documents that were relied on by the Monitor’s Office as evidence in accordance with the Roadmap.
- May 19, 2014- Monitor’s Consultant conferred with USDOJ attorney Michelle Jones and their expert Kelly Dedel to discuss and review the documentation relied on by the Monitor’s Office.

### **X. P 78(b) Roadmap and Findings and comments**

*Activity 1. Provide Monitor’s consultant with all policy references requiring preparation of incident reports by all staff and contractors.*

**Findings and Comments:** NIJ provided two current (2014 versions)<sup>3</sup> of policies and associated procedures that are pertinent to this provision. Policy 9.10 governs Incident Reporting while Policy 13.1.1 addresses Abuse Reporting. In addition, Policy 12.5.1 sets forth the requirements for nursing staff to document the probable cause of injuries sustained by youth in a log established for that purpose and to document any suspected abuse via the established abuse referral protocols as set forth in Policy 13.1.1. Monitor's Consultant reviewed these policies and found them to be appropriate and directly responsive to all elements of the provision, including establishing who must complete incident reports, for what types of incidents, what information must be provided and by when.

*Activity 2. Provide Monitor's consultant with documentation of training dates and content (lesson plans and curriculum) provided to all current employees and contractors regarding requirements to prepare incident reports.*

**Findings and Comments:** NIJ provided two spreadsheets listing all current employees (one for officers and one for all others, including teachers, nurses and social workers) and the dates that each employee received training in incident report requirements. 755 officers, including many who are on various inactive statuses, were included on that spreadsheet with all but 17 having received applicable training; 140 of 150 staff in the categories of teachers, nurses and social workers had received the necessary training. NIJ also furnished schedules of training in this area for 2013 and 2014, which showed that training occurs at each facility at least once, but in most cases twice at each facility annually.

NIJ also provided several iterations of lesson plans and training PowerPoints/participants' manuals that include appropriate and targeted references (see Activity 3 description below) to the requirements of this provision, either via training on the abuse/maltreatment coverage or within training on incident reporting, or both. 2010-2013 versions were provided and reviewed by the Monitor's Consultant as was a 2014 version that is currently being used.

*Activity 3. Monitor's Consultant will review training materials and policy references to insure they accurately reflect the requirements of the provision.*

**Findings and Comments:** With respect to training materials, I found that each of the submitted training PowerPoints/participants' manuals addressed several or all aspects of the requirements of this provision. Each of the presentations included a copy of the Incident Report form (AIJ-392), which reflects and requires documentation for each of the precise requirements of P 78(b) which was designed to track the language of P 78(b), including the description of the events leading to the incident and following it, the location and precise time of the incident, names of participants and witnesses, etc. The lesson plans identify the controlling NIJ policies, i.e., 9.10 and typically refer to and review P 78(b) itself, with a description of what the provision requires. The requirement for reports to be submitted before the end of the staff person's shift is clearly stated in each of these lessons and guidance is provided to employees relative to what types of incidents must be documented, who must submit reports and how to write the narrative section of the report.

As stated under Activity 1, the three relevant policies are 9.10 (Incident Reporting), 13.1.1 (Abuse Reporting), and 12.5.1 (nursing documentation of the likely cause of injuries sustained by youth). Each of these policies clearly states the types of incidents that must be reported, the details that are required (tracking what is set forth in the provision) and that reports must be submitted before the person leaves at the end of their shift.

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<sup>3</sup> Monitor's Consultant has previously received and reviewed versions of these policies that were promulgated in 2011 and 2012, which also addressed the pertinent issues set forth in this provision.

**Activity 4.** *Provide Monitor's consultant with documentation describing actions taken, including referral to OISC and on-site training updates or other administrative actions, for any allegations of staff not submitting incident reports as required by this provision during the past two years. This should be provided for the August 2013 incident that occurred at Humacao and any other similar incidents.*

**Findings and Comments:** Ideally, all staff would comply with policy concerning responsibility for preparing and submitting incident reports. Realistically, with hundreds of incidents occurring each year, there will be some instances in which employees do not comply with these clear requirements, whether it is because an employee negligently failed to submit the report before leaving the institution, or because they intentionally seek to avoid documentation of an incident that they or a colleague may have been involved in, or because there were exigent circumstances such as the employee was injured during an incident and left the facility to receive medical care.

NIJ provided spreadsheets of 2012 and 2013 cases in which employees were disciplined for not having submitted incident reports pursuant to NIJ policy. There were 34 such cases in 2012 and 24 in 2013, which is evidence that when staff do fail to comply with policy and training concerning incident reporting per P78(b), NIJ does hold staff accountable.

Also, as required by the Roadmap Activity 4, NIJ provided a summary of an investigation of a use of force incident that occurred at Humacao on August 7, 2013 about which the Monitor's Consultant had expressed concerns about reports not having been submitted. The investigation (which was completed by OISC on November 3, 2013) focused on the issue of which employees failed to fully and properly document their observations and knowledge of the incident as required by policy 9.10 and 13.1.1 and 12.5.1 (nursing health registry).<sup>4</sup> The investigation summary revealed that three employees were recommended for discipline: (1) an officer who apparently used but did not document unnecessary force, (2) a social worker who witnesses the officer abusing the youth and did write an incident report but did not complete a 284 abuse referral, and (3) a nurse who did file an abuse allegation and submitted a report detailing the officer having used excessive pepper spray but failed to also note the signs of hands-on physical abuse. The response to staff's shortcomings in this instance are further evidence of NIJ's commitment to hold employees accountable for inadequate incident reporting.

**Activity 5.** *Provide an excel spreadsheet listing each incident and each report that was required to be documented that has occurred at each facility in the past quarter with a statement as to whether all reports were submitted before the reporter left the facility at the end of his/her shift. 90% of reports overall should satisfy that requirement and no facility should be below 85%. 95% overall should have been submitted within 24 hours of the incident unless there is an explanation provided to document extenuating circumstances.*

**Findings and Comments:** Spreadsheets were designed by Monitor's Consultants and NIJ provided data for 76 incidents<sup>5</sup> that occurred across all facilities during the Fourth quarter of 2013 (the agreed upon three month period). All thresholds were satisfied: 93% of all required incident reports (199 in total) were prepared and submitted on-time, and the facility with the lowest compliance percentage, CTS Bayamon, was at 88% (3% above the minimum threshold).

**Activity 6.** *Validation- Sample 10% of incidents at each facility over the past quarter to determine whether all reports were submitted before the reporter left the facility at the end of his/her shift. 90% overall should satisfy that requirement and no facility should be below 85%. 98% overall should have been submitted within 24 hours of the incident unless there is an explanation provided to document*

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<sup>4</sup> The issue of the excessive force and any investigation into the officer's actions is not discussed here as the focus here is on incident and abuse reporting.

<sup>5</sup> This figure includes all incidents, not only those involving use of force. 51 of 76 were use of force incidents.

*extenuating circumstances, in which case Monitor's Consultants will review such documentation for reasonableness.*

**Findings and Comments:** Over a two week period, Deputy Monitor Javier Burgos conducted validation site visits at all facilities. Samples and spot checks served to confirm cases and percentages reported by NIJ as reported in Activity 5. The process used was to randomly select 10% of the reported incident cases at each facility from the spreadsheet developed in Activity 5 above. He then went to the actual incident case files to verify that the information provided on the spreadsheets was accurate. There were some apparent discrepancies about the number of reports required versus completed, but further investigation revealed that this was a function of different facilities numbering reports using different systems relative to the first report being labeled with an 'A' or not. This limited validation review did not reveal any apparent discrepancies or reasons to question the validity of the data provided on the spreadsheet used in Activity 5.<sup>6</sup>

*Activity 7. Verify that youth involved in use of force incidents are assessed to determine whether any injuries sustained were caused as a result of the underlying incident with other youth, or by staff, or whether the source of the injury could not be determined. Monitor's Office will audit this by comparing the 2013 fourth quarter use of force log with the Health Services Registry of Restrictions and Injuries. The threshold applied will be that 90% of a 10% sample of all use of force cases during the quarter will satisfy this requirement.*

**Findings and Comments:** In lieu of the 10% sample called for in Roadmap activity 7, the Monitor's Consultant conducted a 100% sample of the 51 use of force incidents that occurred in the fourth quarter of 2013 and compared them against the documentation contained in the Health Registry. 128 youth were listed as having been directly or indirectly involved in 51 use of force incidents<sup>7</sup> and each youth was examined by the nurse as required by NIJ policy 12.5.1. The Health Registry revealed that nurses documented one case of injury due to use of OC, two youths injured due to mechanical restraints, and four youths injured due to physical restraints.

## **XI. Summary of Findings**

V.1 NIJ has furnished the Monitor's Consultant with all evidence of compliance as set forth in the Roadmap.

V.2 Policies and procedures address in appropriate detail all components of the provision.

V.3 There is clear evidence of training having been provided to almost all officers as well as teachers, social workers and nurses.

V.4 Ongoing review of practice supports that incident reports and abuse allegations are routinely prepared and submitted pursuant to NIJ policy and training according to the requirements of P 78(b).

V.5 The Health Registry and the guiding NIJ policy 12.5.1 provide additional mechanisms to document incidents, particularly those involving use of force and potential injuries incurred by youth.

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<sup>6</sup> While this limited review did identify a couple of cases in which the reports *were* prepared before the end of the officer's shift but apparently not reviewed by the supervisor until the next work day, that was not part of the listed criteria for compliance (or specifically required by P78 (b)) and does not appear to be a prevalent issue (although it does deserve attention by NIJ).

<sup>7</sup> Many incidents involve multiple youth and when OC is used it is not uncommon for there to be some exposure by youth in the proximate area such that staff take those youth to the infirmary as well.

V.6 NIJ regularly takes disciplinary measures against employees who fail to comply with policy and training designed to implement this provision.

V.7 It is the finding of the Monitor that the Commonwealth has achieved compliance with Settlement Agreement Paragraph No. 78(b) for a period of more than one year.

**Respectfully Submitted,**  
**F. Warren Benton, Monitor**  
**David M. Bogard, Chief Deputy Monitor**

## **XII. Exhibits**

**Note- Both parties have the documentation relied upon to generate this Memorandum, including:**

Final roadmap

NIJ Policies

NIJ Training curriculum and lesson presentations

Evidence of custody officers, social workers, teachers and nurses attending training

Spreadsheet displaying 76 incidents that occurred in the fourth quarter of 2013 and the documentation concerning timely incident reports submitted by staff.

Logs for 2012 and 2013 of disciplinary measures taken against employees for failure to submit incident reports.

Fourth quarter health care registry.

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

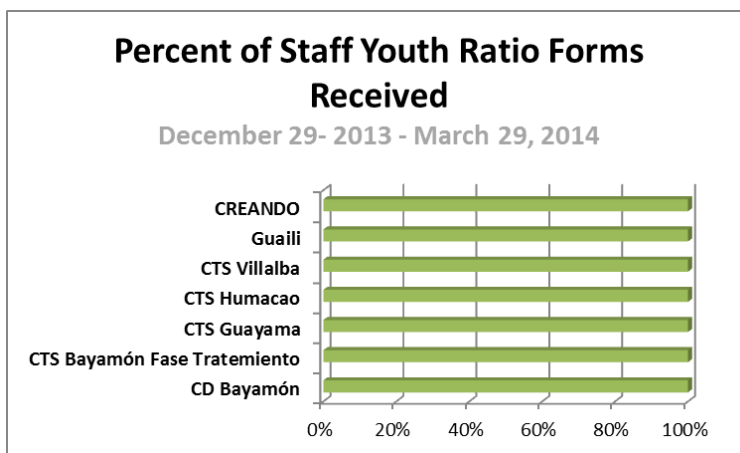
### NIJ Staffing Quarterly Report: December 29, 2013 – March 29, 2014

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 December 29, 2013 through March 29, 2014. As of the Friday, April 11, 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</a> <a href="#">Fase Tratamiento</a>	13	13
<a href="#">CTS Guayama/Ponce</a>	13	13
<a href="#">CTS Humacao</a>	13	13
<a href="#">CTS Villalba</a>	13	13
<a href="#">Guaili</a>	11	11
<a href="#">CREANDO</a>	6	6
<b>Totals</b>	<b>78</b>	<b>78</b>



NIJ submitted a total of 79 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 operational for six of the weeks of the First Quarter reporting period, opening on February 26, 2014.

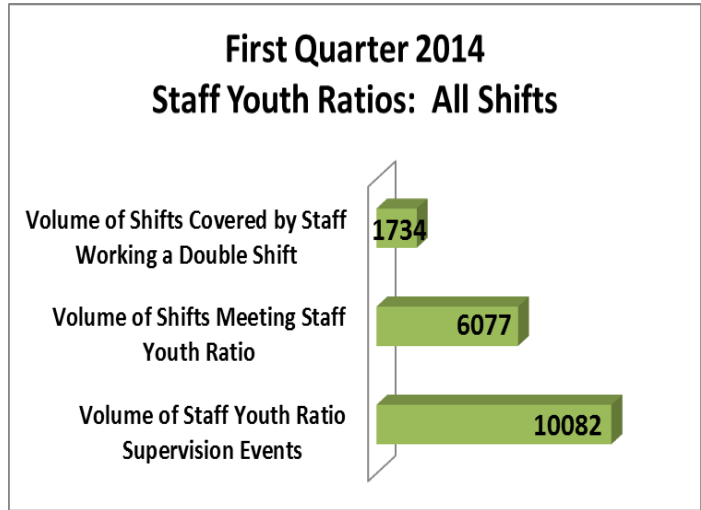
CTS Guayama population was moved to CTS Ponce on March 16, 2014. For this report CTS Guayama and CTS Ponce staff youth ratio information will be reported in the same data set.

Guaili functioned as an individual unit until the transfer of the CTS Guayama population to CTS Ponce and is reported as individual facility data through March 15, 2014.

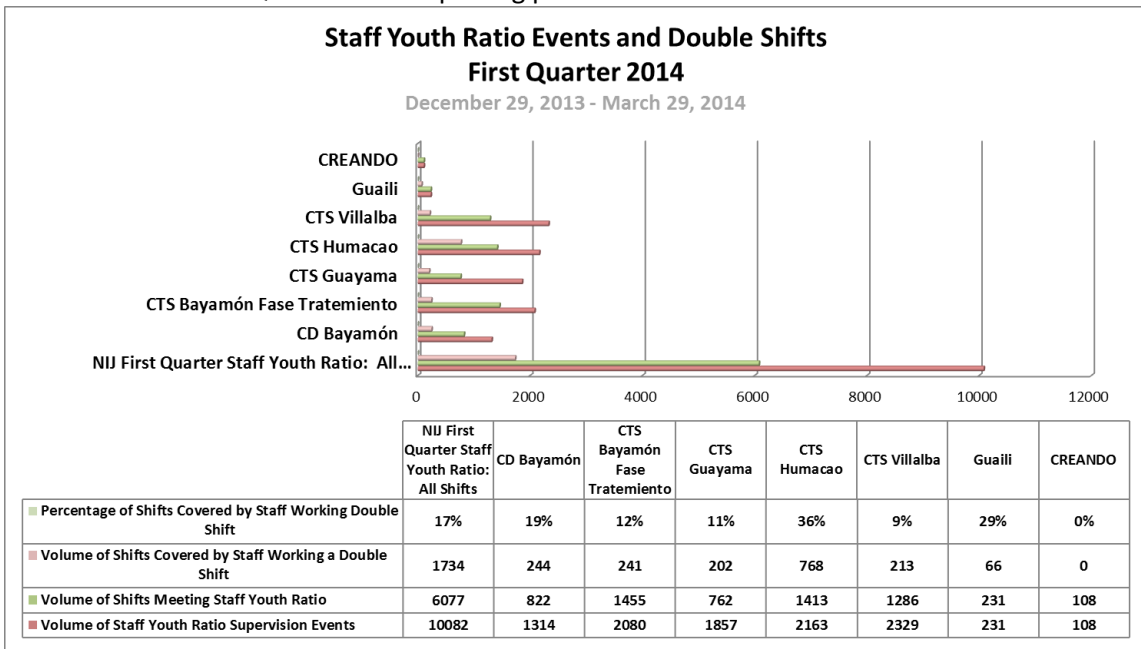
**NIJ Staff Youth Ratio Averages:**

During the First Quarter 2014 reporting period (December 29, 2013 through March 29, 2014), NIJ documented a total of 10,082 shift / unit events that required staff to youth supervision. This is an increase of 43 staff youth supervision events from the Fourth Quarter of 2013 (10,039 events). Of the 10,082 shift / unit events, 6077 of the events (52%) were supervised with the required staff youth ratios, a 4% increase from the 48% of events supervised with the required staff youth ratios from the Fourth Quarter of 2013.

Of the 6077 staffing events meeting the required staff youth ratio, 3166 (52%) of the staffing events occurred on the 10:00 PM – 6:00 AM shift.

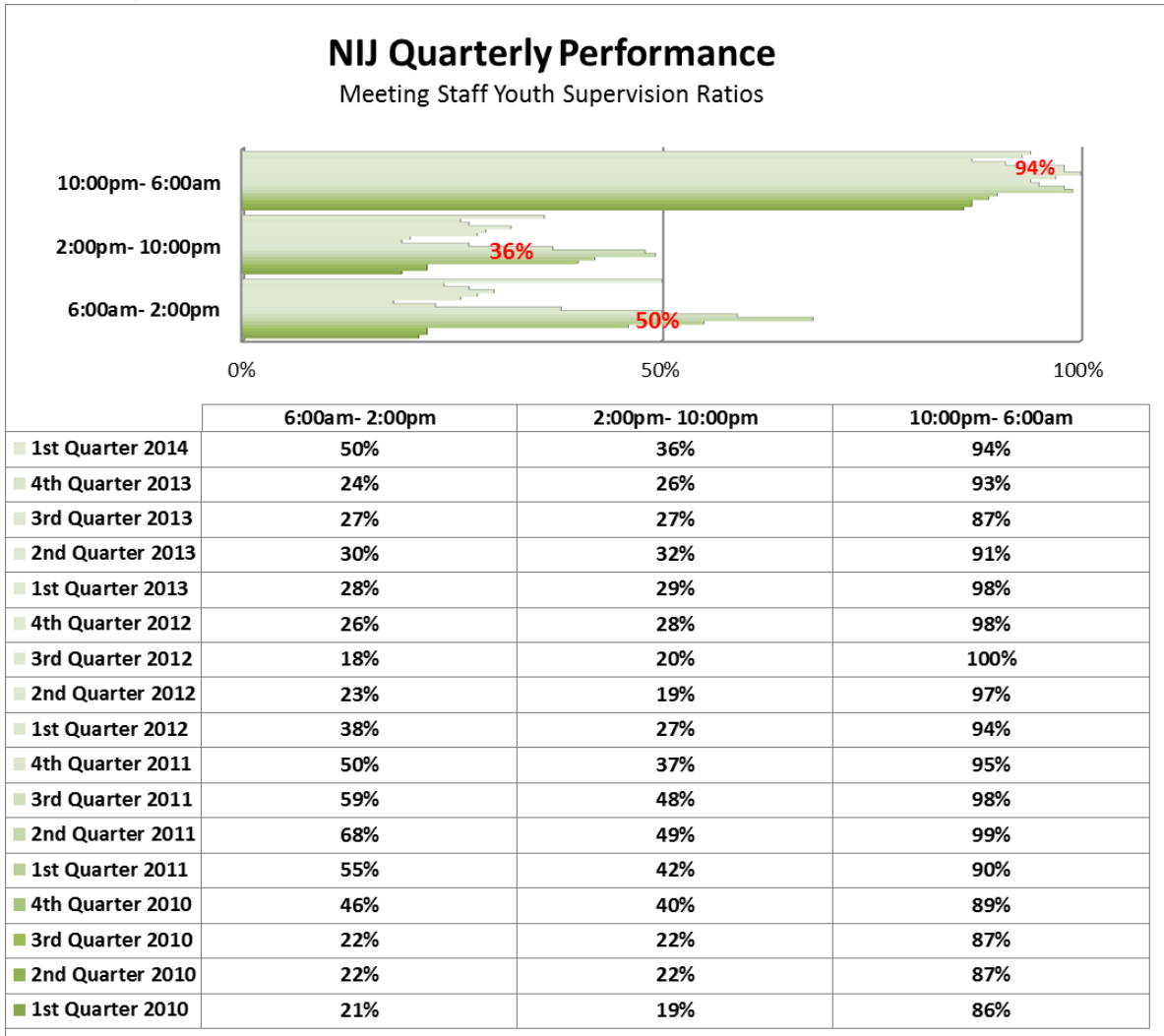


The First Quarter Report provides additional data on the volume of staff that are working double shifts in order to meet the reported staff youth ratios. For the 2013 First Quarter, 1734 of the 10,082 (17%) staff youth ratio events were covered by staff working a double shift. This is a 1% increase of volume of shifts requiring staff to work a double shift since the Fourth Quarter 2013 reporting period.





The following chart represents the NIJ agency Staff Youth Ratio averages by shift for the last seventeen quarters through March 29, 2014:



The First Quarter of 2014 has resulted in following performance in meeting required Staff Youth Ratios during waking hours:

- 6:00 am – 2:00 pm shift: 50% of events, a 26% increase
- 2:00 pm – 10:00 pm shift: 36%, a 10% increase
- 10:00 pm – 6:00 am shift: 94%, a 1% increase

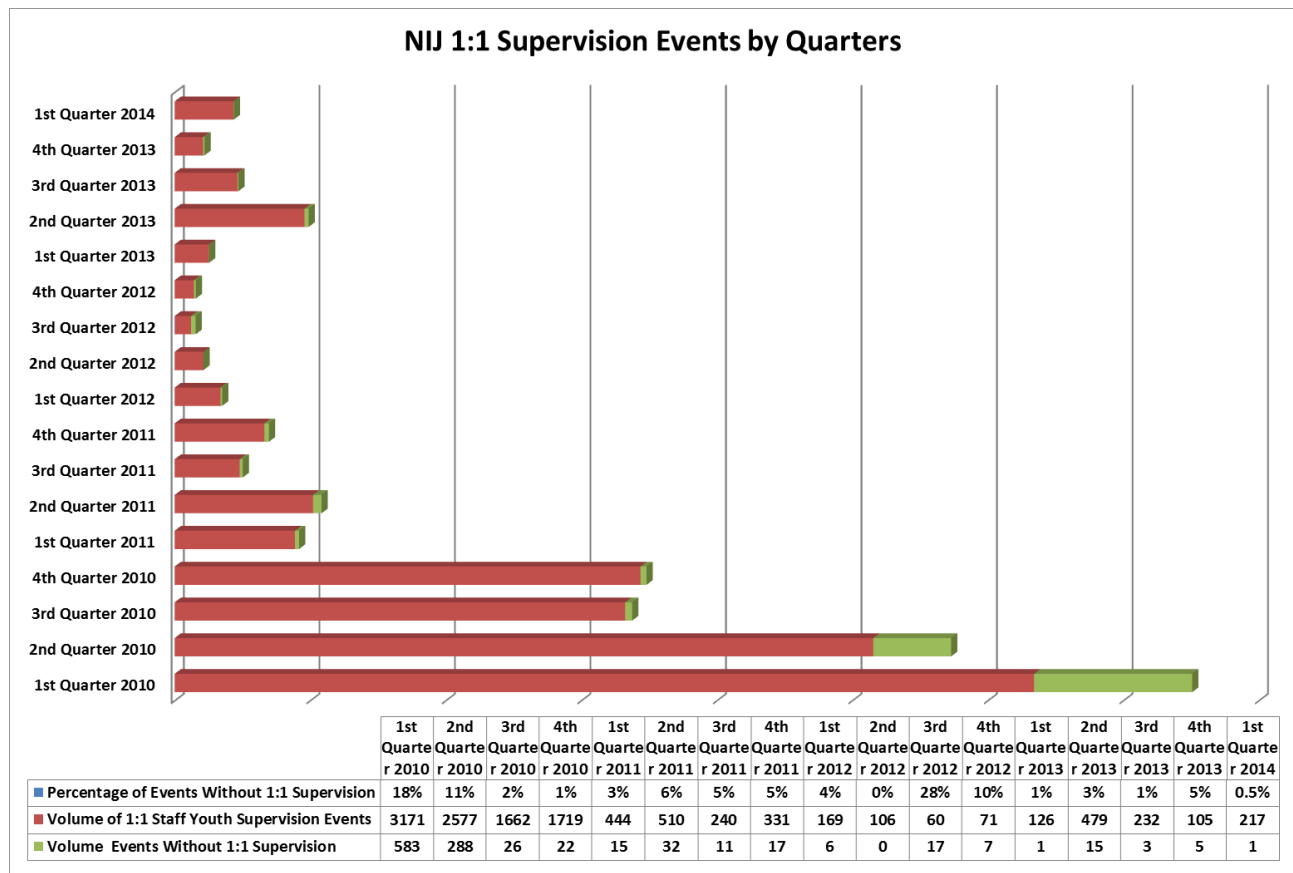
**NIJ Agency 1:1 Supervision Events:**

The First Quarter of 2014 reporting period reflects a significant decrease in the volume of 1:1 supervision events reported, 217 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 4<sup>th</sup> Quarter 2013
- 217 events 1<sup>st</sup> Quarter 2014

Correspondingly, the First Quarter of 2014 has an increase in the volume of these events without required 1:1 supervision, 1 events:

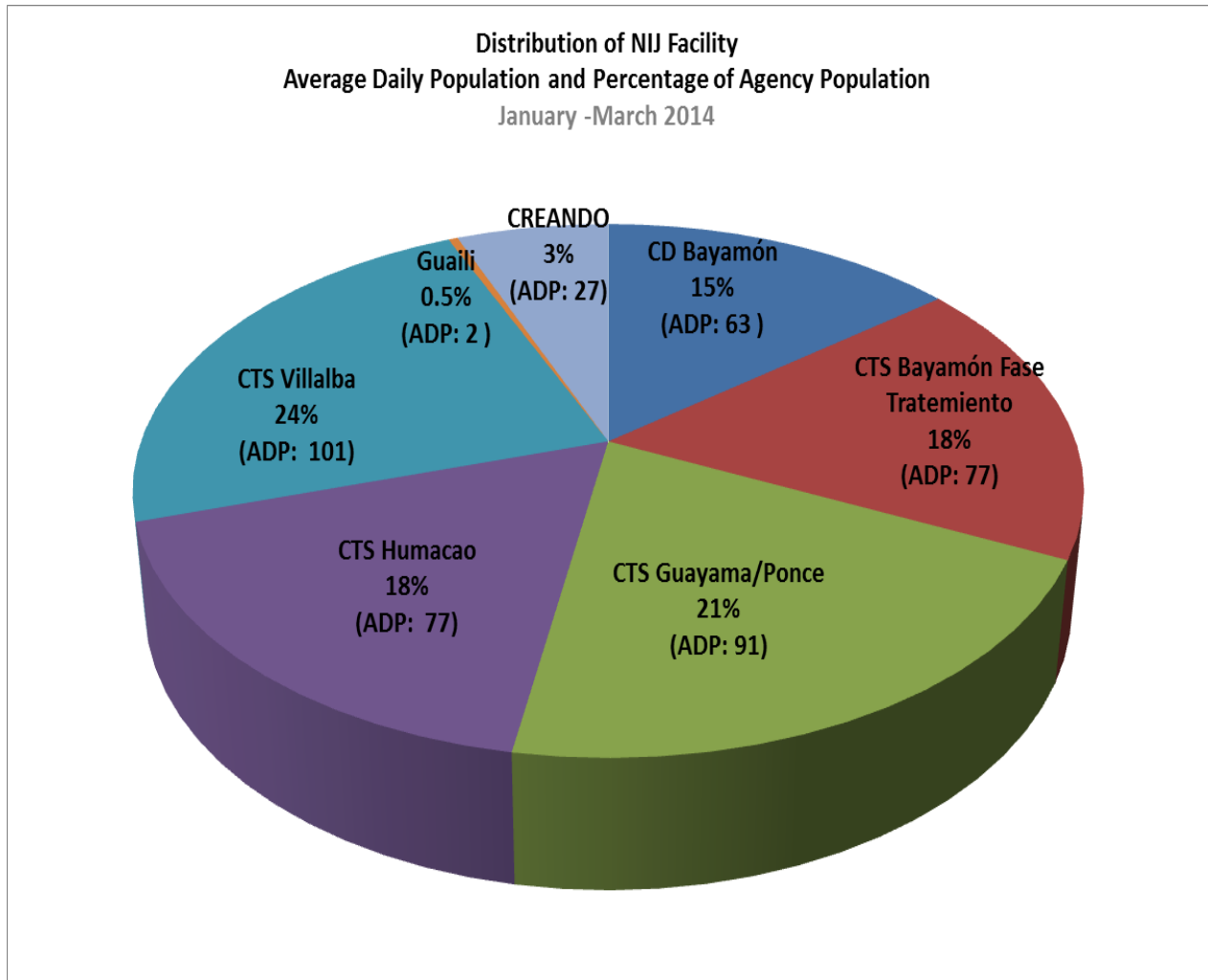
- 583 events 1<sup>st</sup> Quarter 2010
- 288 events 2nd Quarter 2010
- 26 events 3<sup>rd</sup> Quarter 2010
- 22 events 4<sup>th</sup> Quarter 2010
- 15 events 1st Quarter 2011
- 32 events 2nd Quarter 2011
- 11 events 3rd Quarter 2011
- 17 events 4<sup>th</sup> Quarter 2011
- 6 events 1st Quarter 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 4<sup>th</sup> Quarter 2013
- 1 events 1<sup>st</sup> Quarter 2014



**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 (December 29, 2013 through March 29, 2014) as well as the proportionate facility youth population that each facility contributes to the agency average daily population.

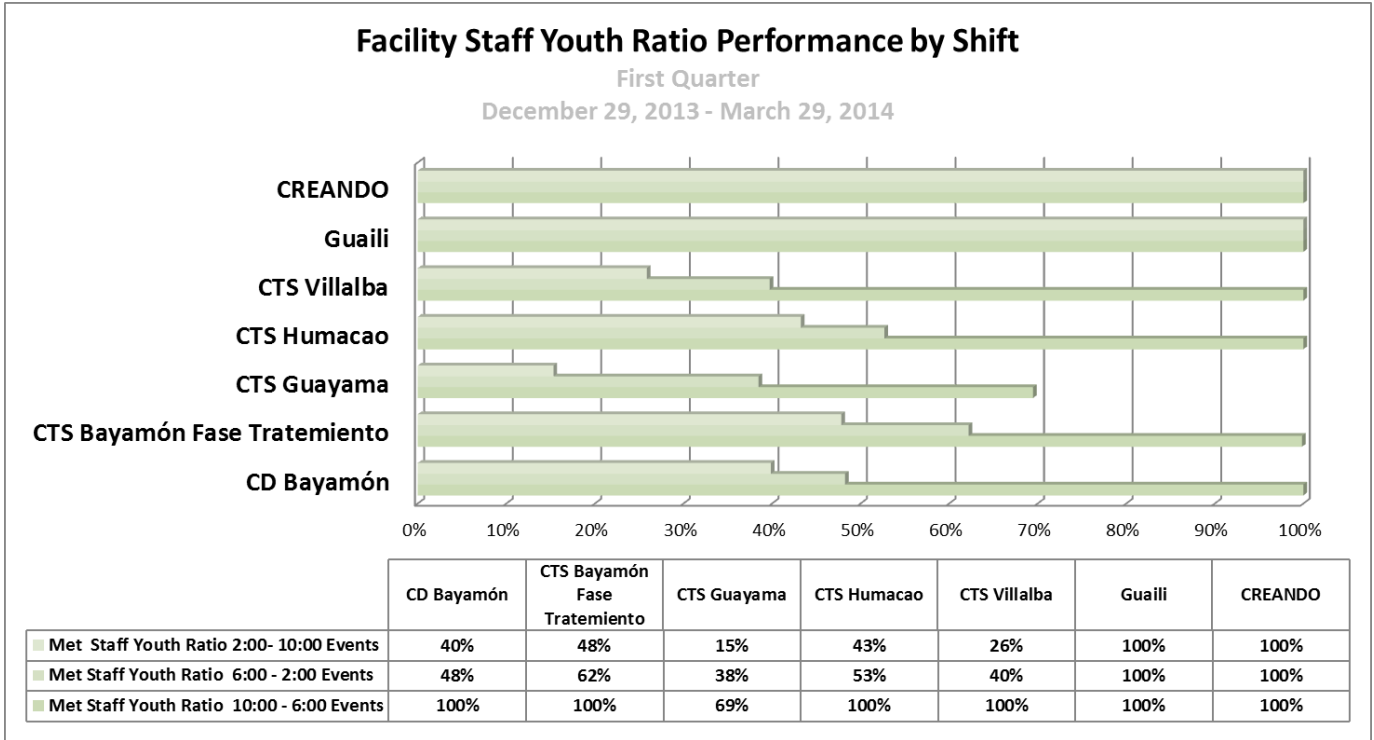


The table of average daily populations can be found on page 15 of this report.

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

The staff youth ratio performance by shift chart and table analysis below represents the staffing information received for the period of December 29, 2013 through March 29, 2014; (13 weeks).

During the First Quarter reporting period CD Bayamón, CTS Guayama, and CTS Villalba had the fewest volume of events meeting the staff youth ratio requirements. These three facilities represent 60% of the NIJ youth population.



### CD Bayamón Staff Youth Ratio Analysis:

December 29, 2013 through March 29, 2014

**Level 5 Facility:** NIJ has CD Bayamón 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: 1314
- Volume of Staffing Events with Staff Working a Double Shift: 244 (19%)

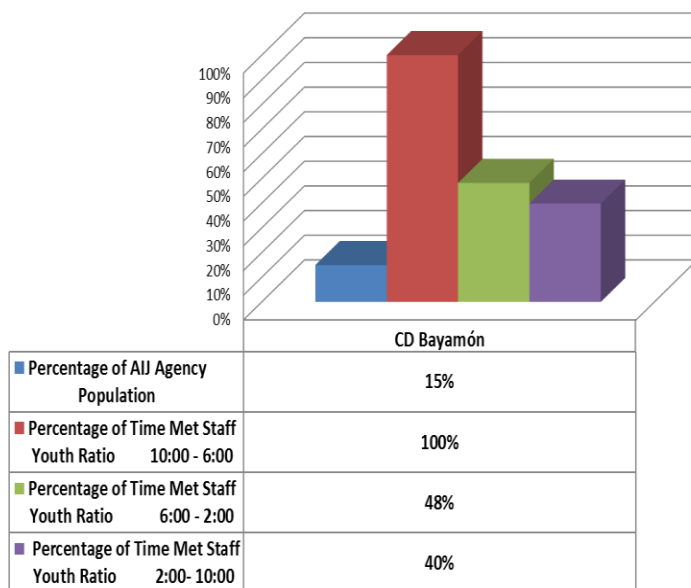
The First Quarter of 2014 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm - 6:00am: 100% required staff youth ratio, maintained
- 6:00 am – 2:00 pm: 48%, a 29% increase since 2013 Fourth Quarter reporting
- 2:00 pm – 10:00 pm: 40%, a 17% increase since 2013 Fourth Quarter reporting
- CD Bayamón represents 15% of the NIJ institutional population.

**Volume of Weeks Analyzed: 13**

**Volume of Days Analyzed: 92**

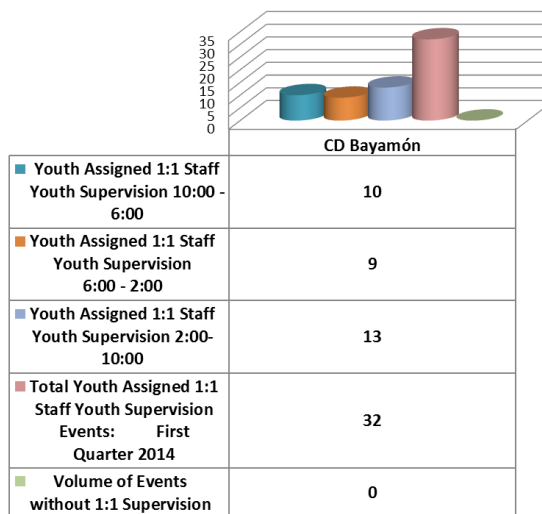
**Percent of Unit Events Meeting Staff Youth Ratio**



**32 youth supervision 1:1 events for the First Quarter of 2014**

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

**1:1 Supervision Events**



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

December 29, 2013 through March 29, 2014

**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: 2080
- Volume of Staffing Events with Staff Working a Double Shift: 241 (12%)

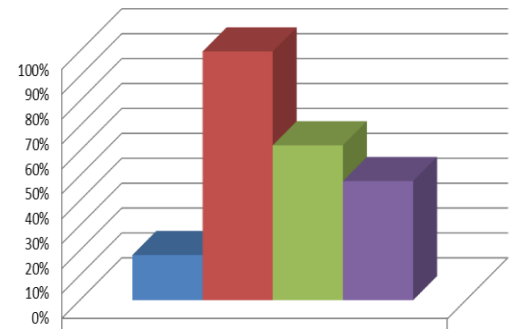
The First Quarter of 2014 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: 62%, a 27% increase in meeting staff youth ratio requirements since the Fourth Quarter reporting
- 2:00 pm – 10:00 pm: 48%, a 11% increase in meeting staff youth ratio requirements since the Fourth Quarter reporting
- CTS Bayamón represents 18% of the NIJ institutional population.

**Volume of Weeks Analyzed: 13**

**Volume of Days Analyzed: 92**

**Percent of Unit Events Meeting Staff Youth Ratio**

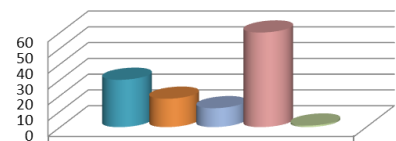


CTS Bayamón Fase Tratamiento	
Percentage of All Agency Population	18%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	62%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	48%

**60 youth 1:1 supervision events for the Fourth Quarter of 2014**

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

**1:1 Supervision Events**



CTS Bayamón Fase Tratamiento	
Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	30
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	18
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	12
Total Youth Assigned 1:1 Staff Youth Supervision Events: First Quarter 2014	60
Volume of Events without 1:1 Supervision	1

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### CTS Guayama / CTS Ponce Staff Youth Ratio Analysis:

December 29, 2013 through March 29, 2014

**Both a Level 2 and 3 Facility:**  
 Guayama/Ponce 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: 1857
- Volume of Staffing Events with Staff Working a Double Shift: 202 (11%)

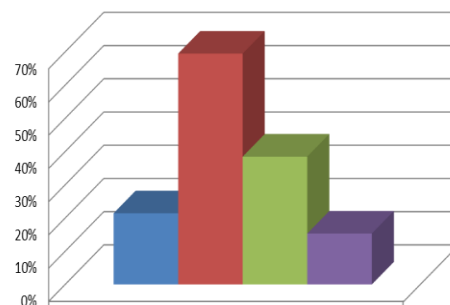
The First Quarter of 2014 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: 69%, a 6% increase since Fourth Quarter reporting period
- 6:00 am – 2:00 pm: 38%, an 22% increase since Fourth Quarter reporting period
- 2:00 pm – 10:00 pm: 15%, an 1% increase since Fourth Quarter reporting period
- CTS Guayama represents 21% of the NIJ institutional population.

**Volume of Weeks Analyzed: 13**

**Volume of Days Analyzed: 92**

**Percent of Unit Events Meeting Staff Youth Ratio**

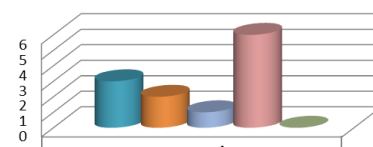


CTS Guayama/Ponce	
■ Percentage of All Agency Population	21%
■ Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	69%
■ Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	38%
■ Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	15%

**2 youth 1:1 supervision events for the First Quarter of 2014**

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

**1:1 Supervision Events**



CTS Guayama/ Ponce	
■ Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	3
■ Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	2
■ Youth Assigned 1:1 Staff Youth Supervision 2:00-10:00	1
■ Total Youth Assigned 1:1 Staff Youth Supervision Events: First Quarter 2014	6
■ Volume of Events without 1:1 Supervision	0



### CTS Humacao Staff Youth Ratio Analysis:

December 29, 2013 through March 29, 2014

**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: 1857
- Volume of Staffing Events with Staff Working a Double Shift: 768 (36%)

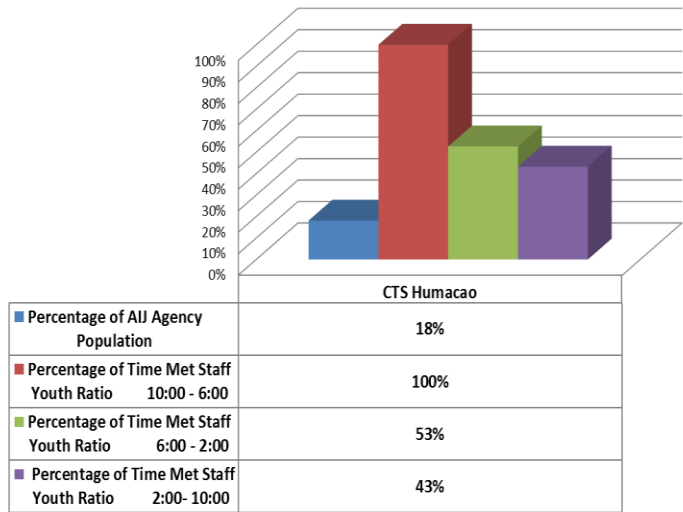
The First Quarter of 2014 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: maintained at 100%
- 6:00 am – 2:00 pm: 53%, a 28% increase since Fourth Quarter reporting
- 2:00 pm – 10:00 pm: 43%, 16% increase since Fourth Quarter reporting
- CTS Humacao represents 18% of the NIJ institutional population.

**Volume of Weeks Analyzed: 13**

**Volume of Days Analyzed: 92**

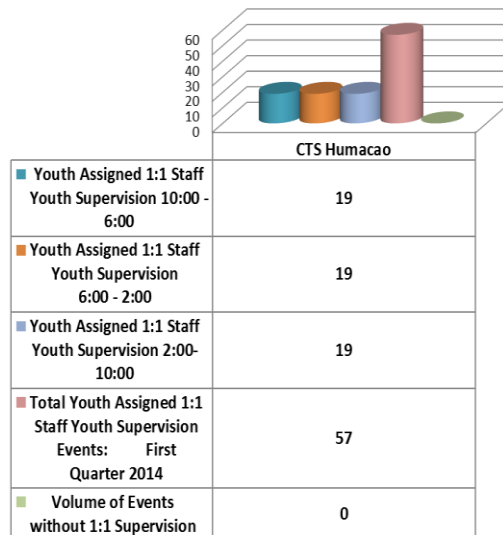
**Percent of Unit Events Meeting Staff Youth Ratio**



57 youth supervision events for the First Quarter of 2014

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

**1:1 Supervision Events**



### CTS Villalba Staff Youth Ratio Analysis:

December 29, 2013 through March 29, 2014

**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: 2329
- Volume of Staffing Events with Staff Working a Double Shift: 213 (9%)

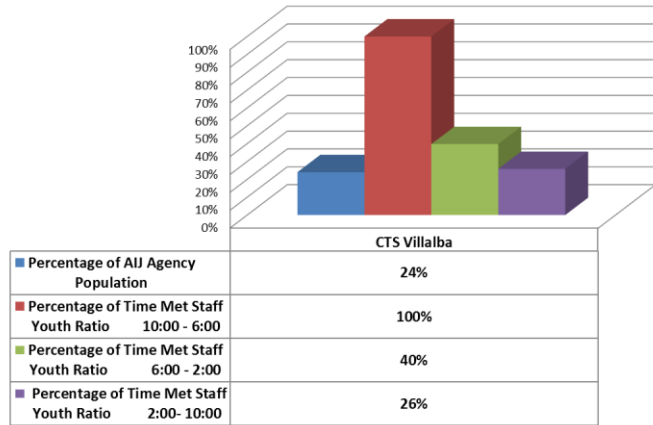
The First Quarter of 2014 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: maintained at 100%
- 6:00 am – 2:00 pm: 40%, a 24% increase since Fourth Quarter reporting
- 2:00 pm – 10:00 pm: 26%, a 9% increase since Fourth Quarter reporting
- CTS Villalba represents 24% of the NIJ institutional population.

**Volume of Weeks Analyzed: 13**

**Volume of Days Analyzed: 92**

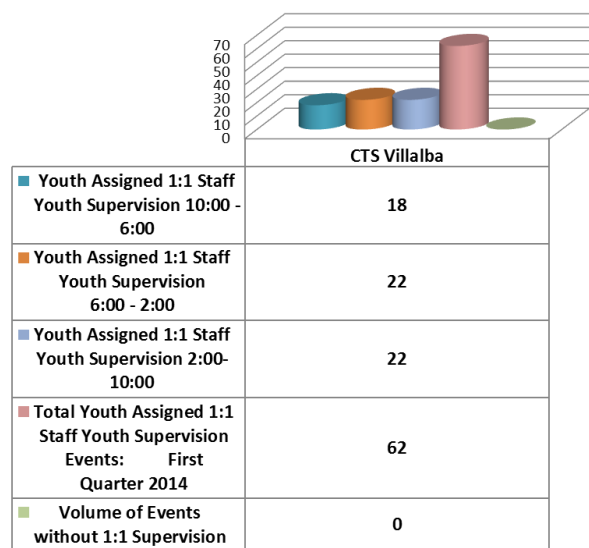
**Percent of Unit Events Meeting Staff Youth Ratio**



**62 youth 1:1 supervision events for the First Quarter of 2014**

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

**1:1 Supervision Events**



**Guaili Staff Youth Ratio Analysis:**  
December 29, 2013 through March 15, 2014

**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: 11 of 11 requested

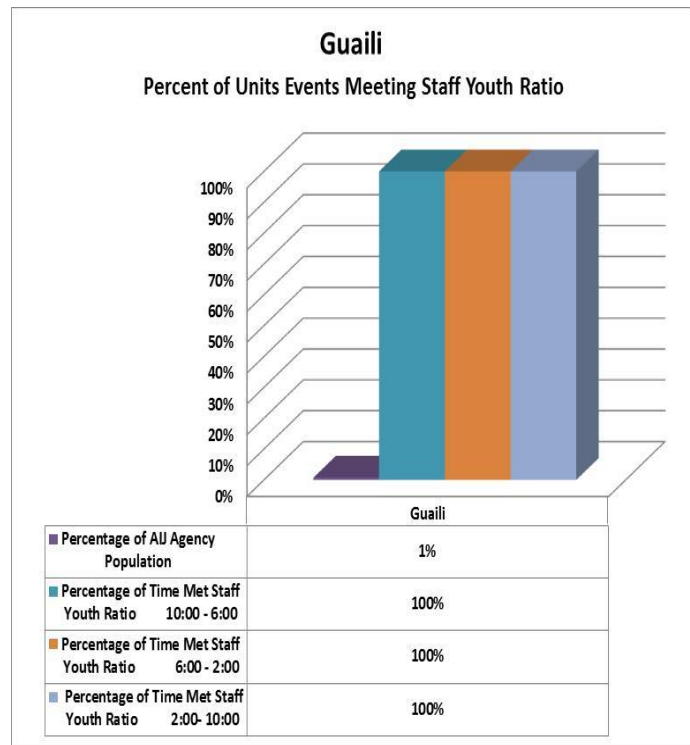
- Volume of Staff Youth Ratio Events: 231
- Volume of Staffing Events with Staff Working a Double Shift: 66 (29%)

Guaili had maintained Staff Youth Ratio expectations for seventeen consecutive quarters: all of 2010, 2011, 2012, 2013 and first eleven weeks of the 2014 reporting period.

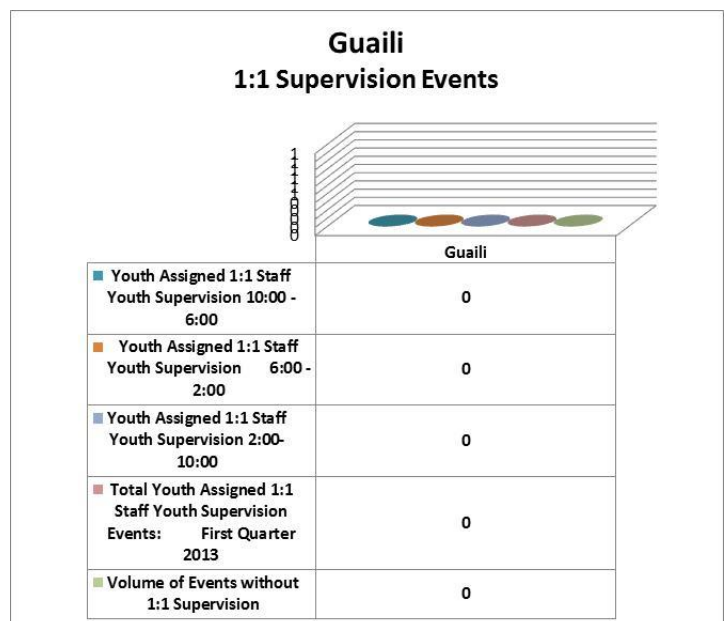
- Guaili represents 1% of the NIJ institutional population.
- Guaili population was redistributed within other NIJ facilities as of March 15.

**Volume of Weeks Analyzed: 11**

**Volume of Days Analyzed: 88**



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



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

### CREANDO Staff Youth Ratio Analysis:

February 26, 2014 through March 29, 2014

**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:** 6 of 6 requested

- **Volume of Staff Youth Ratio Events:** 108
- **Volume of Staffing Events with Staff Working a Double Shift:** 0 (0%)

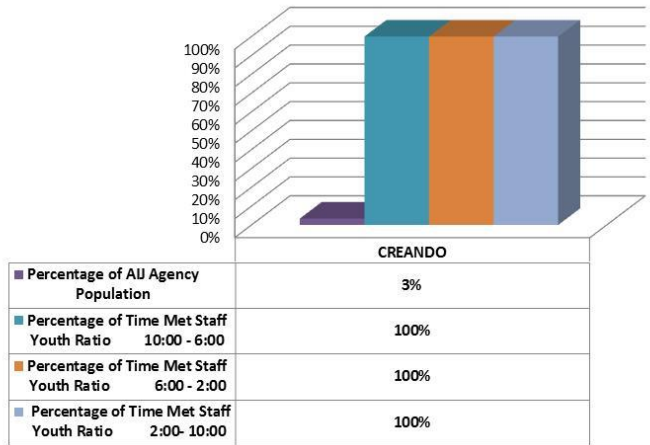
For the First Quarter reporting period, CREANDO was in operation from February 26, 2014 through the end of the reporting period.

- CREANDO represents 3 % of the DCR institutional population.

**Volume of Weeks Analyzed: 6**

**Volume of Days Analyzed: 31**

**CREANDO**  
Percent of Unit Events Meeting Staff Youth Ratio

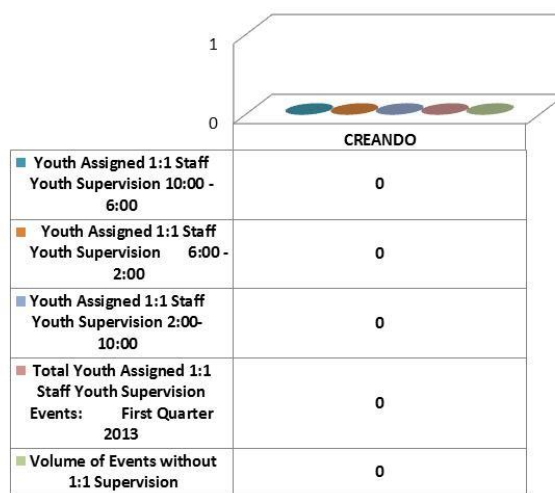


**CREANDO reported no youth on 1:1 supervision for the Third Quarter.**

Average volume of youth assigned 1:1 staff youth supervision per reported day: **0**

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

**CREANDO**  
1:1 Supervision Events



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

<b>First Quarter 2014 Staff Youth Ratio Performance by Shift:</b>	<b>Volume of Staff Youth Ratio Forms Received</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>13</b>	<b>100%</b>	<b>48%</b>	<b>40%</b>
<b>CTS Bayamón Fase Tratamiento</b>	<b>13</b>	<b>100%</b>	<b>62%</b>	<b>48%</b>
<b>CTS Guayama</b>	<b>13</b>	<b>69%</b>	<b>38%</b>	<b>15%</b>
<b>CTS Humacao</b>	<b>13</b>	<b>100%</b>	<b>53%</b>	<b>43%</b>
<b>CTS Villalba</b>	<b>13</b>	<b>100%</b>	<b>40%</b>	<b>26%</b>
<b>Guaili</b>	<b>11</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
<b>CREANDO</b>	<b>6</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

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

<b>First Quarter 2014 Youth Assigned 1:1 Supervision</b>	<b>Volume of Staff Youth Ratio Forms Received</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: First Quarter 2014</b>	<b>Volume of Events without 1:1 Supervision</b>	<b>Volume of Days Analyzed</b>
<b>CD Bayamón</b>	<b>13</b>	<b>10</b>	<b>9</b>	<b>13</b>	<b>32</b>	<b>0</b>	<b>92</b>
<b>CTS Bayamón Fase Tratamiento</b>	<b>13</b>	<b>30</b>	<b>18</b>	<b>12</b>	<b>60</b>	<b>1</b>	<b>92</b>
<b>CTS Guayama</b>	<b>13</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>6</b>	<b>0</b>	<b>92</b>
<b>CTS Humacao</b>	<b>13</b>	<b>19</b>	<b>19</b>	<b>19</b>	<b>57</b>	<b>0</b>	<b>92</b>
<b>CTS Villalba</b>	<b>13</b>	<b>18</b>	<b>22</b>	<b>22</b>	<b>62</b>	<b>0</b>	<b>92</b>
<b>Guaili</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>88</b>
<b>CREANDO</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>31</b>

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

Date	CD Bayamon	CTS Bayamón	CTS Guayama/ Ponce	CTS Humacao	CTS Villalba	Guaili	Program CREANDO	Ponce Ninas
		Fase Tratamiento						
December 29, 2013 - January 4, 2014	1/24/2014	1/23/2014	1/31/2014	1/31/2014	1/23/2014	1/23/2014	NA	1/23/2014
January 5 - 11, 2014	1/24/2014	1/23/2014	1/31/2014	1/31/2014	1/24/2014	1/23/2014	NA	1/23/2014
January 12 - 18, 2014	2/20/2014	1/31/2014	1/31/2014	1/31/2014	1/31/2014	1/24/2014	NA	1/24/2014
January 19- 25, 2014	2/20/2014	1/31/2014	1/31/2014	1/31/2014	1/31/2014	1/31/2014	NA	1/31/2014
January 26 - February 1, 2014	3/10/2014	3/21/2014	2/20/2014	2/20/2014	2/20/2014	2/20/2014	NA	2/20/2014
February 2 -8, 2014	2/20/2014	2/20/2014	3/10/2014	3/10/2014	3/10/2014	2/20/2014	NA	2/20/2014
February 9-15, 2014	2/20/2014	3/21/2014	3/10/2014	3/10/2014	3/10/2014	2/20/2014	NA	2/20/2014
February 16 -22, 2014	3/10/2014	3/21/2014	3/10/2014	3/10/2014	3/10/2014	3/10/2014	3/10/2014	3/10/2014
February 23 - March 1, 2014	3/21/2014	3/21/2014	3/28/2014	3/21/2014	3/10/2014	3/10/2014	3/10/2014	3/10/2014
March 2- 8, 2014	3/21/2014	3/21/2014	3/21/2014	3/21/2014	3/21/2014	3/21/2014	4/4/2014	3/21/2014
March 9 - 15, 2014	3/21/2014	3/21/2014	4/3/2014	4/3/2014	3/21/2014	3/21/2014	3/21/2014	3/21/2014
March 16- 22, 2014	4/3/2014	4/3/2014	3/28/2014	4/3/2014	4/3/2014	NA	4/3/2014	NA
March 23- March 29, 2014	4/10/2014	4/3/2014	4/3/2014	4/10/2014	4/3/2014	NA	4/3/2014	NA
	13	13	13	13	13	11	6	11
<b>Volume of Forms Submitted</b>	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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

Dates of Reporting Period	CD Bayamon	CTS Bayamón	CTS Guayama /Ponce	CTS Humacao	CTS Villalba	Guaili	Program CREANDO	Totals
		Fase Tratamiento						
December 29, 2013 - January 4, 2014	63	69	99	77	101	1	NA	410
January 5 - 11, 2014	75	73	96	77	99	1	NA	421
January 12 - 18, 2014	81	76	94	76	100	1	NA	428
January 19- 25, 2014	57	92	93	76	99	1	NA	418
January 26 - February 1, 2014	54	90	97	72	99	1	NA	413
February 2 -8, 2014	54	80	96	73	103	1	NA	407
February 9-15, 2014	52	76	97	76	108	1	NA	410
February 16 -22, 2014	54	74	95	76	105	2	26	432
February 23 - March 1, 2014	61	70	82	75	100	3	26	417
March 2- 8, 2014	46	68	81	77	104	3	28	407
March 9 - 15, 2014	57	68	83	77	105	3	28	421
March 16- 22, 2014	78	85	81	82	98	NA	28	452
March 23- March 29, 2014	88	76	83	82	98	NA	28	455
Totals	820	997	1177	996	1319	18	164	5491
Percentage of AIJ Agency Population	15%	18%	21%	18%	24%	0%	3%	1
<b>Average Daily Population</b>	63	77	91	77	101	2	27	422

**Please note the following:**

- **CTS Guayama column reflects the population at both CTS Guayama and the population when it was relocated to CTS Ponce.**
- **Guaili population was distributed to the other NIJ facilities as of March 15.**
- **CREANDO started a new class on February 26.**

## Document Attachment D: Consultant Robert Dugan Report on Detention Classification

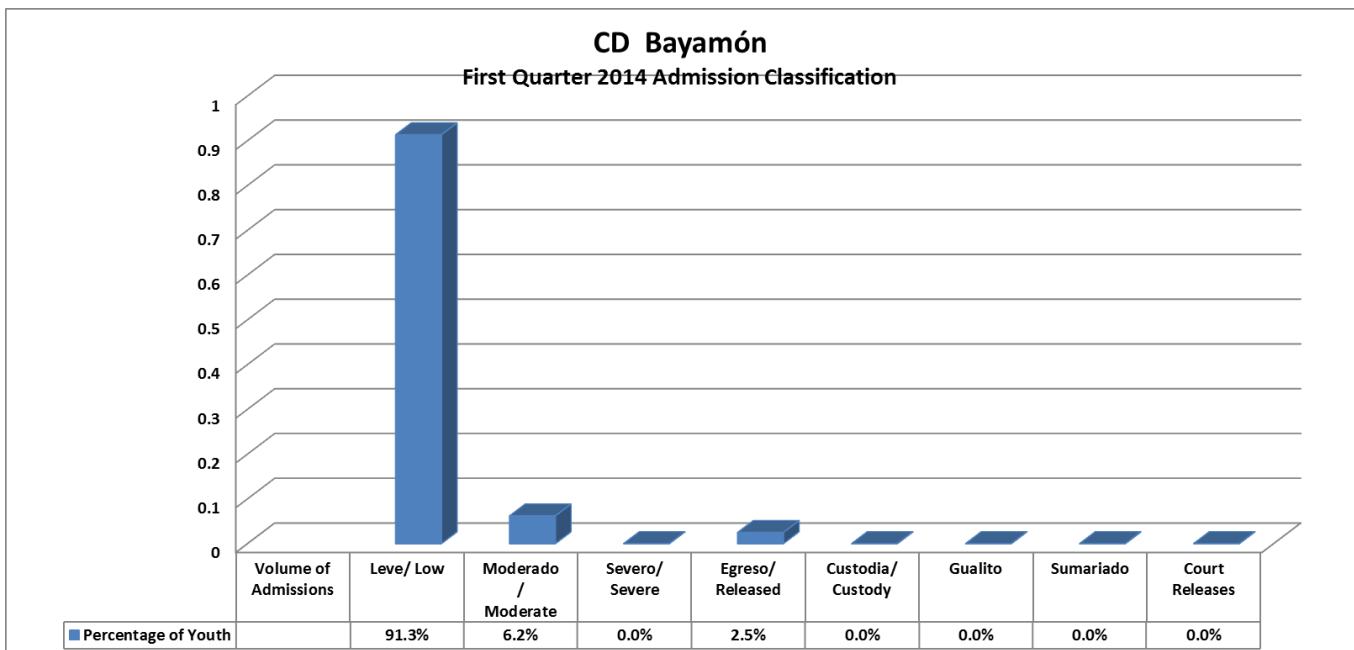
### NIJ Classification Quarterly Report: January 1 – March 31, 2014

Prepared by Bob Dugan: Office of the Monitor: April 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.

### First Quarter January 1, 2014 – March 31, 2014 CD Bayamón Admission Classification:

The First Quarter of 2014 is the eighth time that NIJ has produced CD Bayamón Admission Classification data to be included in the Quarterly Report.



For the first quarter, there were 242 admissions of which 85% (221) were classified as low; 6% (15) were classified as moderate; and 0% classified as severe. Two percent (6) of the population was released prior to classification.

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



## Document Attachment E: Report on Incidents and Understaffing January-March 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.

Jan. 21	CTS Guayama	14- 010	Afternoon	Allegedly, a juvenile was called to a room and was hit in different parts of his body by other youths. The aggression was confirmed by infirmary reports.	1 officer, 17 juveniles
Feb. 2	CTS Villalba	14- 020	Afternoon	Allegedly, a juvenile was punched in different parts of his body by a group of six youths. The incident occurred in Module B-2. Photos and the infirmary reports confirmed the incident.	1 officer, 14 juveniles
Feb. 3	CTS Bayamón	14- 022	Morning	Allegedly, a juvenile on protective custody was cut in his arm while he was playing cards with other youth. The incident occurred through the cell door when the youth playing card with the victim hold his arm out of the door and a third youth cut his arm multiple times causing deep wounds. The victim was taken to the infirmary and eventually to an emergency room for stitches.	1 officer, 9 juveniles
Feb. 11	CD Bayamón	14- 037	Afternoon	Allegedly, a juvenile on protective custody was punched in his face by other youth. The incident occurred in Living Unit D-I.	1 officer, 12 juveniles
Mar. 2	CTS Humacao	14- 056	Afternoon	The juvenile LFD cut himself while he was on transitional measure. Most of the youth officers working in the living units at that shift were double shifting.	1 officer, 16 juveniles (1 on TM and 1 on PC)
Mar. 3	CTS Bayamón	14- 058	Afternoon	Allegedly, a juvenile was punched by a youth officer when he was replacing, for a break, another officer that was taking care of four juveniles, three on transitional measures and other on protective custody	2 officer, 15 juveniles (3 on TM and 1 on PC)
Mar. 4	CTS Guayama	14- 060	Afternoon	Allegedly, a juvenile was hit in his head (open wound confirmed by infirmary reports) by other youths while he was on recreation. Apparently, the incident occurred in the weight lifting room.	1 officer 18 juveniles

Mar. 18	CTS Humacao	14- 073	Afternoon	The juvenile LFD cut himself in his room while he was on transitional measure. The juvenile was taken to the infirmary and later to an emergency room for stitches.	1 officer, 14 juveniles (1 on TM)
Mar. 28	CTS Bayamón	14- 084	Afternoon	Allegedly, a juvenile was hit by other youth while he was in his room. After the incident the juvenile requested protective custody.	1 officer, 14 juveniles
Mar. 30	CTS Humacao	14- 085	Morning	Allegedly, a juvenile was hit by three youths. The incident occurred in the module's bathroom. The victim was taken to the infirmary area. According to the infirmary report the incident was confirmed.	1 officer, 11 juvenile

## Document Attachment F: Abuse Referrals Tracking Report

The following tables summarize statistics about case management for the last three quarters of 2013 and the first quarter of 2014. The underlying source of the information is the case tracking records maintained by NIJ along with other records.

This table has been revised to along the measures that are presented with the updated procedures for the management of these cases. There are empty cells for earlier quarters that are to be updated by NIJ. The table is subject to further revision for the upcoming quarter based on the experience of the parties and the Monitor's Office.

The first table summarizes general information about incidents events. An incident event may generate many incident reports, but this table counts a multiple-report incident as a single event.

<b>General Measures</b>	<b>13-2nd</b>	<b>13-3rd</b>	<b>13-4th</b>	<b>14-1st</b>
Average Monday 1st Shift count of youth				
Number of incident events	167	202	153	173
Number of youth-to-youth incident events				51
Incident events involving use of force by staff				67
Incident events with suicide act, ideation, or gesture	12	0	25	25
Incident events w/ self-mutilation act, ideation, or gesture	18	18	23	23

The next table summarizes suicide and self-mutilation incidents known to mental health staff. Many of these do not warrant abuse allegations.

<b>Mental Health Record Information</b>	<b>13-2nd</b>	<b>13-3rd</b>	<b>13-4th</b>	<b>14-1st</b>
Suicidal incidents, ideation or gestures	12	10	21	25
Number of individual youth referenced	12	10	21	25
Cases involving ideation only	12	5	13	15
Cases involving suicide gesture				8
Cases involving suicide intention	0	5	8	2
Cases w/ ambulatory treatment	12	1	2	18
Cases with hospitalization	0	1	0	1
Cases leading to death	0	0	0	0
Suicide Cases with 284 report filed	0	1	2	1
Self-mutilations incidents, ideation or gestures	18	18	20	23
Number of individual youth referenced	17	18	20	23
Cases requiring sutures	0	1	0	1
Cases requiring hospitalization	0	0	0	0
Cases leading to death	0	0	0	0
Self-Mutilation Cases with a 284 report filed	2	5	12	12

The above cases come from mental health records. AIG has implemented a screening procedure and instrument that diverts the investigation of some incidents from the Paragraph 78 process to a recently developed mental health process. Of the 173 incident events in most recent quarter, 48 involved suicide and self-mutilation incidents, and 13 resulted in a Paragraph 78a abuse referral. The remaining cases were to be referred to the mental health process.

The next table summarizes abuse referrals and the initial responses to such referrals.

<b>284 Incidents</b>	<b>13-2nd</b>	<b>13-3rd</b>	<b>13-4th</b>	<b>14-1st</b>
284 Incident Events	52	83	76	85
Level One Incident Events	19	18	27	24
Level Two Incident Events	33	65	49	61
Referrals to OISC	33	65	49	61
Youth-to-Youth Incidents	28	43	48	34
Youth-to-Youth Injuries	16	21	13	26
Youth-to-Youth with External Care	9	8	13	12
Youth-to-Youth Sexual	1	5	5	1
Youth-to-Youth Sexual w/ Injury	0	0	0	0
Staff-to-Youth Incidents	24	40	28	51
Staff-to-Youth Injuries	3	7	9	25
Staff-to-Youth with External Care	0	2	1	3
Staff-to-Youth Sexual	2	2	1	2
Staff-to-Youth Sexual with Injury	0	0	0	0
284 Incident Events with administrative actions	49	73	74	84
284 Incident Events with report by end of shift	46	69	71	82
Level 1 Investigations complete within 20 days	19	18	26	24
SOU (Special Operations) interventions	2	2	3	5
SOU events with 284 reports	2	3	0	4
284 with Item 5 completed	65	79	67	64
284 with Staffing Compliance	29	38	42	49
Percent 284 cases with staffing compliance	56%	46%	55%	58%

Of the 85 events, 58% took place when there was compliance with staffing provisions.

<b>Initial Case Management Measures</b>	<b>13-2nd</b>	<b>13-3rd</b>	<b>13-4th</b>	<b>14-1st</b>
284 percent with admin actions	94%	88%	97%	99%
284 per cent completed by end of shift	88%	83%	93%	96%
284 Level 1 Investigation Completed Within 20 days	37%	22%	96%	100%

In 100% of the cases, the Level One investigation was completed within 20 days as required by paragraph 78e.

The following table concerns referrals and investigations of cases to and by OISC, which is the new title for the investigation unit previously referred to as “SAISC.”

<b>OISC</b>	<b>13-2nd</b>	<b>13-3rd</b>	<b>13-4th</b>	<b>14-1st</b>
Cases Referred from this quarter	33	65	49	61
Received by OISC Within 24 hours	26	49	47	56
Completed by OISC Within 30 workdays	6	7	13	33
Completed during the next quarter, but within 30 days	10	32	21	12
Cases Not Completed by OISC Within 30 days.	11	36	21	11
Percent of OISC cases completed within 30 days	48%	60%	69%	74%
Completed Cases Returned for Further investigation	9	2	2	0
Percent of cases returned for further investigation	56%	5%	6%	0%
Further Investigation Completed	2	1	1	0
Cases this quarter incomplete, including further investigation	37	22	11	11
Percent of cases from this quarter not yet completed	112%	34%	22%	18%

Paragraph 78.c requires that cases are to be provided to the OISC investigator responsible for the facility involved within 24 hours of knowledge of the incident.

Paragraph 78.e requires that OISC complete investigations within 30 days. For the most recent quarter, there were 61 cases referred to OISC, and 42 cases were completed within the 30-day limit specified in Paragraph 78.e.

In the previous quarter, 2 of the 46 cases initially completed by OISC were returned by the Commonwealth Department of Justice for further investigation.

The following table summarizes the decisions and actions taken in cases that do not involve criminal charges.

<b>Administrative Determinations for 284 Cases</b>	<b>13-2nd</b>	<b>13-3rd</b>	<b>13-4th</b>	<b>14-1st</b>
Cases with youth discipline referrals	20	61	59	34
Cases with youth discipline actions	18	59	32	21
Cases with youth no discipline actions	6	17	21	13
Cases Staff/youth with determinations	11	44	31	3
Cases recommending personnel actions	11	9	3	2

Because the some cases are still in process, administrative determinations and actions may be taken in the future. The table will be updated for each quarter in future Quarterly Reports.

The following table concerns prosecutorial determinations. Because cases are still in process, it can take several quarters for the final determinations to be made.

<b>Prosecutorial Determinations for 284 Cases</b>	<b>13-2nd</b>	<b>13-3rd</b>	<b>13-4th</b>	<b>14-1st</b>
Cases received by PRDOJ			10	2
Cases with decision not to prosecute	2	2	10	2
Cases with referral for prosecution	0	0	0	0
Cases pending determinations	0	0	0	0

## Document Attachment G: Case Assessment Table

The Monitor's Office has developed an instrument to assess how abuse allegation cases are investigated and managed. This instrument is designed to assess whether a sample of cases meet the quality and timeliness criteria in the Settlement Agreement. It consists of six parts which are to be completed by different participating agencies in the investigation process.

The contents of the table were updated based on discussions following the May 2014 Monitor's Conference. The table is subject to further revision based on the experience of the parties and the Monitor's Office. It may also be adapted based on development of the road map for the Paragraph 78 provisions.

The six parts are:

- A. Initial Reporting and Investigation (completed by the facility where the incident is alleged to have taken place.
- B. Police and Prosecutorial Investigation (to be completed by the Puerto Rico Department of Justice in consultation and coordination with the Puerto Rico Police and the prosecutors within the Department of Justice.)
- C. Facility Investigation (to be completed by UEMNI)
- D. SAISC Investigation (to be completed by SAISC)
- E. Case Tracking and Outcomes (to be completed by the Puerto Rico Department of Justice.)
- F. Monitor's Office Assessment

For each item in the instrument, an answer of "Y" or "NA" (not applicable) is intended to mean that there was compliance or an absence of non-compliance with the requirements of the Settlement Agreement. An answer of "N" indicates that a substantive or timeliness criterion was not met.

As the instrument is fully implemented, sampling will be determined by the Monitor's Office and may vary from quarter to quarter as to the types of cases selected. The general approach is that at the end of each quarter, the Monitor's Office will provide a list of 25-50 cases for which the instrument is to be completed and transmitted to the Monitor's Office within one week of receipt of the list of cases. These cases will involve incidents that took place during the quarter previous to the most recent quarter. For example, for March-April-May, the cases will be selected from January-February-March. This will provide sufficient time for investigations to be completed and final determinations to be made.

**Note:** In each table, the numbers refer to number of "Y" cases that were rated as compliant with respect to the topic. Thus "20 of 21" means that 20 of the 21 cases were rated as complying with the provision requirement.

The first table relates to initial incident reporting.



<b>Case Assessment Instrument – Section A – Initial Reporting</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
A.1 Was the incident reported to the appropriate supervisor or designated person by the end of the shift during which the reporter became aware of the incident?	Y-33, N-2	The percentage for this report is 94%. This meets the 90% threshold in the roadmap for reporting by the end of shift. The two cases that were not reported by the send of shift were reported within 24 hours, which is another roadmap compliance criterion..
A.2 Were appropriate administrative actions taken to protect the victim(s)?	Y-34, N-1	The percentage for this report is 97%.
A.3 If injury was suspected, was the victim promptly evaluated for injury by health care personnel?	Y-35	The percentage for this report is 100%.
A.4 If there was physical evidence, was the evidence documented and preserved?	Y-6, N-1, N/A-28	The percentage for this report is 86% - 6 of the 7 cases here evidence existed that needed preservation. In this reporting period 25 Level II cases were received.
A.5: Was the incident correctly classified?	Y-33, Blank-2	The percentage for this report is 94%.
A.6 Was the 284 report forwarded to the Police Department, the Department of Family Services, and the Department of Corrections Administration within 24 hours?	Y-33, N-2	The percentage for this report is 94%.
A.8 If it was classified as a level 2 incident, was OISC notified within 24 hours?	Y-33, N-2	The percentage for this report is 94
A.9 Were youths suspected as perpetrators separated from the victim(s)?	Y-11, N-1, N/A-13	The percentage for this report is 92% - 11 or 12 applicable cases.
A.10 Did the 284 accurately list all youth and staff witnesses?	Y-29, N/A-6	The percentage for this report is 100% of the applicable cases.
A.11 Did all staff witnesses complete an incident report before the end of shift?	Y-33, N-1, Blank-1	The percentage for this report is 94%.
A.12 If there was timeliness non-compliance, was related to shortage of investigative or supervisory staffing?	N-2, N/A-33	The compliance index is 100% because in the 2 instances of non-compliance, staffing insufficiency was not a factor.
A.13 At the location of the incident at the time of the incident, was staffing compliant with Settlement Agreement requirements?	Y-21, N-10, N/A-4	The compliance index is 68% because 21 of the 31 cases had staffing compliance at the time of the incident.

<b>Case Assessment Instrument – Section B – Police and Prosecutorial Investigation</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
B.1 Was the 284 report received by the PRDP within 24 hours of the time recorded as the point of knowledge of the incident?	Y-21	The percentage for this report is 100%. In this reporting period information from 21 cases was sent.
B.2 Did PRPD investigators determine that physical evidence, if any was appropriately preserved?	Y-8, N/A-13	The compliance index is 100%, because in 8 of the 8 applicable cases there was appropriate evidence protection.
B.3 If prosecutors communicated an intent to proceed criminally, and if NIJ was informed to delay any compelled interview of the subject until the criminal investigation was completed, did NIJ comply with the instruction?	N/A-21	No cases were found in this reporting period.
B.4 Were PRPD expectations met for timeliness in completing the investigation?	Y-21	The percentage for this report is 100%.
B.5 Was completion of the PRPD investigation documented?	Y-21	The percentage for this report is 100%.

<b>Case Assessment Instrument – Section C – Facility Level I Investigation</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
C.1 If there were potential injuries, did the investigation include photographs of visible injuries?	Y-10	The percentage for this report is 100%.
C.2 Was there a personal interview of the victim(s) with a record of the questions and answers?	Y-10	The percentage for this report is 100%.
C.3 Was there a personal interview of the alleged perpetrator(s) with a record of the questions and answers?	Y-10	The percentage for this report is 100%.
C.4 Was physical evidence, if any, preserved and documented?	Y4, N-2, N/A-4	The compliance index for this report is 67% because in 4 of the 6 applicable cases there was appropriate evidence preservation..
C.5. If the incident was classified as Level I, was the investigation completed within 20 calendar days?	Y-10	The percentage for this report is 100%.
C.6 Was the completion of the investigation documented in the tracking database?	Y-10	The percentage for this report is 100%.
C.7 If there was timeliness non-compliance, was related to shortage of staffing?	N/A	The percentage for this report is 100%. All cases were completed in the time required.

<b>Case Assessment Instrument – Section D – OISC Investigation</b>		
<b>NOTE: Completed only for Level II cases.</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
D.1 If the case was a Level II case, was the referral received by OISC within 24 hours?	Y-22, N-3	The percentage for this report is 88%.
D.2 Did OISC complete (and transmit to AIJ and the PRDOJ) an investigation within 30 calendar days of the receipt of the initial referral by OISC?	Y-13, N-12	The percentage for this report is 52%.
D.3 Did the investigation meet OISC's standards for investigation quality?	Y-25	The percentage for this report is 100%.
D.4 Did the investigation provide a description of the alleged incident, including all involved persons and witnesses and their role?	Y-25	The percentage for this report is 100%.
D.5 Did the investigation provide a description and assessment of all relevant evidence?	Y-25	The percentage for this report is 100%.
D.6 Did the investigation provide proposed findings of fact?	Y-25	The percentage for this report is 100%.
D.7 If there was timeliness non-compliance, was it related to shortage of OISC staffing?	Y-11, N-1, N/A-13	The percentage for this report is 92% - there was sufficient staffing for 11 or the 12 applicable cases.
D.8 Did OISC completed the investigation within 30 days of receipt of the referral?	Y-13, N-12	The percentage for this report is 52%.

<b>Case Assessment Instrument – Section E – Case Tracking and Outcomes</b>		
<b>Note:</b> This section is to be completed by the official responsible for the Tracking Records required by Paragraph 78.h. The underlying facts may come from other offices and agencies, and the questions concern what is known and documented in the tracking records.		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
E.1 At the time of the assessment of this case with this instrument, was the tracking database complete for this case?	Y-35	The percentage for this report is 100%.
E.2 Was the initial investigation (284) received at NIJ within 24 hours?	Y-33, N-2	The percentage for this report is 94%.
E.3 Was the Level 1 facility investigation completed within 20 days?	Y-10, N/A-25	The percentage for this report is 100%. Only 10 cases evaluated were classified as Level I.
E.4 If the incident was serious (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) do the tracking records document that OISC was notified and the case referred within 24 hours?	Y-13, N-12, N/A-10	The percentage for this report is 52%. Only 10 cases evaluated were classified as Level I.
E.5 If applicable, do the tracking records document that the OISC investigation was completed and transmitted to PRDOJ within 30 days of receipt by OISC?	Y-13, N-12, N/A-10	The percentage for this report is 52%. Only 10 cases evaluated were classified as Level I.
E.6 Did NIJ reach an administrative determination concerning the case which is documented in the tracking records?	Y-34, N-1	The percentage for this report is 97%.
E.7 If the case was a Level 2 case, do the tracking records document review by PRDOJ prosecutors leading to a prosecutorial determination as to whether to prosecute or not?	N-25, N/A-10	The assessment index need to be better defined.
E.8 If there was timeliness non-compliance, was it related to shortage of staffing?	Y-33, N-2	The percentage for this report is 94%, because in 2 of 35 cases there was a staffing shortage.

<b>Case Assessment Instrument – Section F – Monitor's Office Assessment</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
F.1 Does the Monitor's Office confirms the timeliness facts as asserted in Page A?	Y-35	The percentage in this report is 100%.
F.2 Does the Monitor's Office confirms the timeliness facts as asserted in Page B?	Y-20, N-1	The percentage in this report is 95%.
F.3 Does the Monitor's Office confirms the timeliness facts as asserted in Page C?	Y-9, N-1	The percentage in this report is 90%.
F.4 Does the Monitor's Office confirms the timeliness facts as asserted in Page D?	Y-25	The percentage for this report is 100%.
F.5 Does the Monitor's Office confirms the timeliness facts as asserted in Page E?	Y-34, N-2	The percentage in this report is 94%.
F.6 Does the Monitor's Office confirms the investigation quality as asserted in page B?	Y-21	The percentage in this report is 100%.
F.7 Does the Monitor's Office confirms the investigation quality as asserted in page C?	Y-10	The percentage in this report is 100%.
F.8 Does the Monitor's Office confirmed the investigation quality as asserted in page D?	Y-25	The percentage for this report is 100%.

## Document Attachment H: 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.

Jan. 15, 2014:	Consultants Robert Dugan, David Bogard and Deputy Monitor Javier Burgos visited CTS Ponce and CTS Guayama.
Jan. 22, 2014:	Consultant Víctor Herbert visited CD & CTS Bayamón.
Jan. 23, 2014:	Consultant Víctor Herbert visited CTS Ponce Girls.
Jan. 24, 2014:	Consultant Víctor Herbert visited CTS Humacao.
Jan. 29, 2014:	Consultant Michael Gatling and Deputy Monitor Javier Burgos visited CD & CTS Bayamón.
Feb. 13, 2014:	Consultant Robert Dugan and Deputy Monitor Javier Burgos visited CTS Humacao.
Feb. 13, 2014:	Consultant Robert Dugan and Deputy Monitor Javier Burgos visited CD Bayamón.
Feb. 27, 2014:	Deputy Monitor Javier Burgos visited CTS Guayama.
March 6, 2014:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CTS Bayamón.
March 13, 2014:	Deputy Monitor Javier Burgos visited CTS Ponce Girls.
March 19, 2014:	Deputy Monitor Javier Burgos visited CD Bayamón.
March 20, 2014:	Deputy Monitor Javier Burgos visited CD Bayamón.
March 25, 2014:	Deputy Monitor Javier Burgos visited CTS Bayamón.
March 26, 2014:	Deputy Monitor Javier Burgos visited CTS Villalba.
March 27, 2014:	Deputy Monitor Javier Burgos visited CD & CTS Bayamón, (Boys and Girls).
March 28, 2014:	Deputy Monitor Javier Burgos visited CTS Humacao.
March 31, 2014:	Consultants Robert Dugan, David Bogard and Deputy Monitor Javier Burgos visited CTS Ponce, (Boys).

March 31, 2014: Court Monitor Ned Benton, Consultants David Bogard, Robert Dugan, Víctor Herbert and Deputy Monitor Javier Burgos visited CD & CTS Bayamón, (Boys & Girls).

March 31, 2014: Court Monitor Ned Benton and Consultant Víctor Herbert visited CD & CTS Bayamón, (Boys and Girls).



**THE UNITED STATES OF AMERICA**

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

**COMMONWEALTH OF PUERTO RICO**

Defendants,

Monitor's Compliance Ratings  
First Quarter 2014

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>							
<p><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.</p>	#	Y	Y	I	Y	N	Based on observations over the course of the past year, and recently received documentation from NIJ for 2013 and early 2014, substantial progress has been made in both documenting and addressing plumbing repairs in a timely manner. The monitor's office has developed a Roadmap for this provision and is in the process of reviewing the documentation provided by NIJ.
<p><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.</p>	Y	I	#	I	#	N	NIJ should be close to compliance with this provision pending the receipt of appropriate documentation to prove full compliance with all three provision requirements in conformance with the Roadmap for this provision. The Monitor's office is waiting to receive all the pertinent documentation to conduct its review..
<p><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.</p>	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
<p><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.</p>	Y	#	#	#	#	N	<p>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, Ponce and CTS and CD Bayamon. Furthermore, sufficient staff must be documented to ensure swift evacuation from all occupied spaces within each facility.</p> <p>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.</p>
<p><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.</p>	Y	#	#	#	N	N	<p>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.</p> <p>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.</p>
<p><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.</p>	Y	Y	Y	#	#	N	<p>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. Documentation has been provided showing that copies of the emergency plans are available to staff at all facilities. 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>Policies and Procedures</b>							
<p>S.A. 45. 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.</p>	Y	I	I	#	#	N	<p>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.</p>

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>For the 1st quarter of 2014, all of the facilities submitted the staffing youth ratio reports requested.</p> <p>Agency meeting staffing ratio requirements:  6:00 am- 2:00 pm shift: 50% of events, 26% increase since Fourth Quarter reporting period  2:00 pm- 10:00 pm shift: 36% of events, 10% increase since Fourth Quarter reporting period  10:00 pm- 2:00 am shift: 94% of events, 1% increase since Fourth Quarter reporting period</p> <p>.</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>
<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	<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><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,</p>	N	N	N	N	N	N	<p>The requirement that 50 YSOs be hired each month was terminated by the Court on September 13, 2011 (Docket 991)</p> <p>No new YSOs were hired during the Fourth Quarter of 2013.</p>
<p><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.</p>	#	#	#	#	#	#	<p>The Commonwealth has decided not to employ this provision to enhance coverage.</p>
<p><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.</p>	#	#	#	#	#	#	<p>This provision is no longer applicable because it applies to a provision – Paragraph 49 - that has been terminated.</p>
<p><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.</p>	N	N	N	N	N	N	<p>The report was not provided during the Fourth Quarter of 2013.</p>

Provision	P	S	R	T	D	G	Comment
<b>Training</b>							
<p><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.</p>	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>							
<p><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.</p>	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 executing a contract for 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 first quarter CD Bayamón admission classification resulted in 242 admissions, of which 221 (85%) are classified as low; 15 (6%) 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 time, 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
<p><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.</p>	#	#	#	#	Y	N	<p>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.</p>
<p><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.</p>	#	#	#	#	N	N	<p>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 hours.</p>
<p><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.</p>	#	#	#	#	N	N	<p>NIJ has a behavioral modification plan that is implemented in all the institutions. The implementation varies among institutions. Puertas 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.</p>

Provision	P	S	R	T	D	G	Comment
<b>Discipline</b>							
S.A. 74. 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	Y	Y	Y	The Roadmap process has resulted in clarification of documentation necessary to determine compliance in the training and General aspects and NIJ has provided the necessary evidence of compliance as set forth in the Roadmap. A memorandum of compliance is provided with this report.
S.A. 77. 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>NIJ has not provided the Monitor's Office with documentation concerning lesson plans and which staff have been trained in the recently approved language of this provision.</p>

Provision	P	S	R	T	D	G	Comment
<b>Abuse and Maltreatment Investigation and Management</b>							
<p><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.</p>	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>Evidence was preserved – in 86% of cases. Suspected youth were separated from their victim(s) in 92% of the cases assessed.</p>
<p><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.</p>	Y	Y	Y	Y	Y	Y	<p>The Roadmap process has resulted in clarification of documentation necessary to determine compliance in all aspects and NIJ has provided the necessary evidence of compliance as set forth in the Roadmap. A memorandum of compliance is provided with this report.</p>

Provision	P	S	R	T	D	G	Comment
<p><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.</p>	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 to PRPD 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 were promptly referred to SAISC about 92% of the time based on NIJ records and 88% based on OISC records.</p> <p>A roadmap will be developed for this provision. There is insufficient documentation of compliance and the roadmap will address that.</p>

Provision	P	S	R	T	D	G	Comment
<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.</p>	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>A roadmap will be developed for this provision. There is insufficient documentation of compliance and the roadmap will address that.</p>
<p><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.</p>	Y	#	#	#	N	N	<p>For the most recent quarter, 74% of OISC case investigations were completed within 30 days, and 100% of the Level One case investigations were completed within 20 days at the facilities.</p>
<p><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.</p>	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>No process has ben documented to the Monitor’s Office as to whether compliance is achieved with respect to investigation quality.</p> <p>No formally-adopted standards have been submitted to the Monitor’s Office.</p>

Provision	P	S	R	T	D	G	Comment
<p><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.</p>	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>For the most recent quarter, 74% of OISC case investigations were completed within 30 days.</p> <p>No process is in place to assess whether compliance is achieved with respect to these aspects of investigation quality.</p>
<p><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.</p>	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>A new tracking table has been designed and is included in this quarter’s QR</p>

Provision	P	S	R	T	D	G	Comment
<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.</p>	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>
<p><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.</p>	N	Y	Y	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>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>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
<p><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.</p>	N	N	I	N	N	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. The parties have not reached agreement as to how to measure relative limitations on education services to youth in this category.</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. There have been documented cases of staff reporting observations that were not accurate. New methods of documenting compliance with safety observations as well as the services and activity components of this provision are in the implementation phase and will be evaluated in the coming quarter along with training for staff to reflect the new practices and policies..</p> <p>Insufficient numbers of teachers is an impediment to meeting the education component of this provision. There may have been instances of staff missing required observations because of workload issues related to inadequate staffing, although this has not been verified.</p>

Provision	P	S	R	T	D	G	Comment
<b>Education and Vocational Services</b>							
<p><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.</p>	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><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.</p>	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>
<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.</p>	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
<p><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.</p>	Y	Y	Y	I	N	N	<p>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.</p>
<p><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.</p>	Y	Y	Y	I	Y	N	<p>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.</p>

Provision	P	S	R	T	D	G	Comment
<p><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.</p>	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>
<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.</p>	#	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>
<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.</p>	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
<p><b>S.A. 95.</b> When an IEP is ineffective, Defendants shall timely modify the IEP.</p>	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>							
<p><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.</p>	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>