

**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,

INFORMATIVE MOTION TO FILE THE MONITOR'S QUARTERLY REPORT

TO THE HONORABLE COURT:

Today, the Monitor submits the Monitor's Fourth Quarter Report for 2014. The report covers the months of October through December 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 15th day of March, 2015, 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.

Calle Mayaguez # 212, Esquina Nueva, San Juan, PR 00917

Voice: 212 237-8089

Fax: 914 306-3628

Email: nbenton@jjay.cuny.eu

Monitor's Quarterly Report Fourth Quarter 2014

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

The following is the Monitor's Fourth Quarter Report for 2014. 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:	Consultant Report on Staffing Compliance
Document Attachment B:	Consultant Report on Detention Classification
Document Attachment C:	Report on Incidents and Understaffing
Document Attachment D:	Abuse Referrals Tracking Statistics
Document Attachment E:	Case Assessment Table to Paragraph 78
Document Attachment F:	Chronology of Site Visits

Separate Attachment One: Table of Compliance Ratings

Important Developments During the Quarter

Provision Terminations: Settlement Agreement paragraphs 74 and 78b were terminated. The motion was supported by a Monitor's Office compliance memorandum developed pursuant to the joint "roadmap" process for evaluating compliance.

Reductions in Numbers of Youth in Facilities: There is a continuing pattern of lower numbers of youth in the detention and commitment facilities. The average daily population during the first quarter of 2014 was 422 and for the last quarter it was 372. This is a positive development for the Commonwealth and its youth.

Striking of Part 48.b of C.O. 48: The Commonwealth has the choice to demonstrate compliance with Paragraph 48.b, which concerns levels of direct care staffing, according to method 48.a or 48.b. They have informed the Monitor that they do not intend to select method 48.b and that their legal position is that this language should be struck from the Settlement Agreement as superfluous.

Because the provision states "Compliance can be demonstrated in either of two ways" which means that the Defendants can select either approach, the Monitor believes that it would promote clarity in the Settlement Agreement for the language to be struck. Paragraph 48 would read as follows:

S.A. 48. 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.~~

~~48.a Method one:~~ Defendants ~~may shall~~ 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.

~~48.b Method Two:~~ 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.~~

The 48.b option was inserted in 2007 by stipulation of the parties. (Docket 711) The provision originally read as follows:

48. Defendants shall ensure that the facilities have a sufficient number of staff to implement all terms of this agreement. A sufficient number of direct care staff means not less than one (1) worker to eight (8) juveniles during day and evening shifts and not less than one (1) worker to sixteen (16) juveniles during normal sleeping hours. Direct care staff shall supervise and participate in recreational, leisure and treatment activities with the juveniles.

If the parties agree, then a motion to the Court will be necessary.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "F. Warren Benton". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

F. Warren Benton, Ph.D.
Monitor

Document Attachment A: Consultant Robert Dugan Report on Staffing

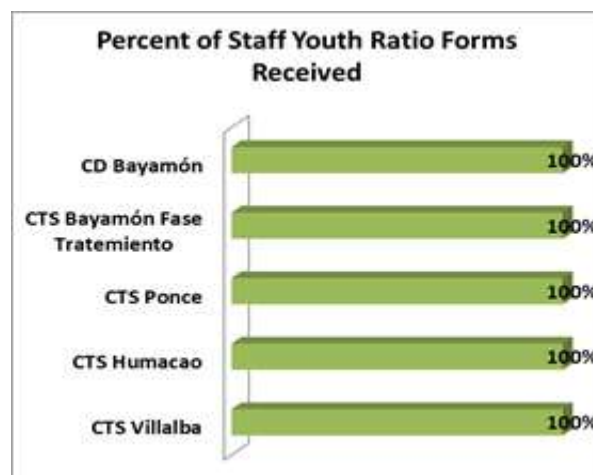
NIJ Staffing Quarterly Report: October 1 through December 31, 2014

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 September 28 through December 27, 2014. As of the Friday, January 9, 2015 the following forms have been submitted:

Facilities	Volume of Weeks of Staff Youth Ratio Forms Requested	Volume of Staff Youth Ratio Forms Received
CD Bayamón	13	13
CTS Bayamón Fase Tratamiento		
CTS Ponce	13	13
CTS Humacao	13	13
CTS Villalba	13	13
Totals	65	65



NIJ submitted a total of 65 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 dates that staff youth ratio forms were received is on page 13 of this report.

CREANDO was not operational for the 2014 Fourth Quarter reporting period.

NIJ Staff Youth Ratio Averages:

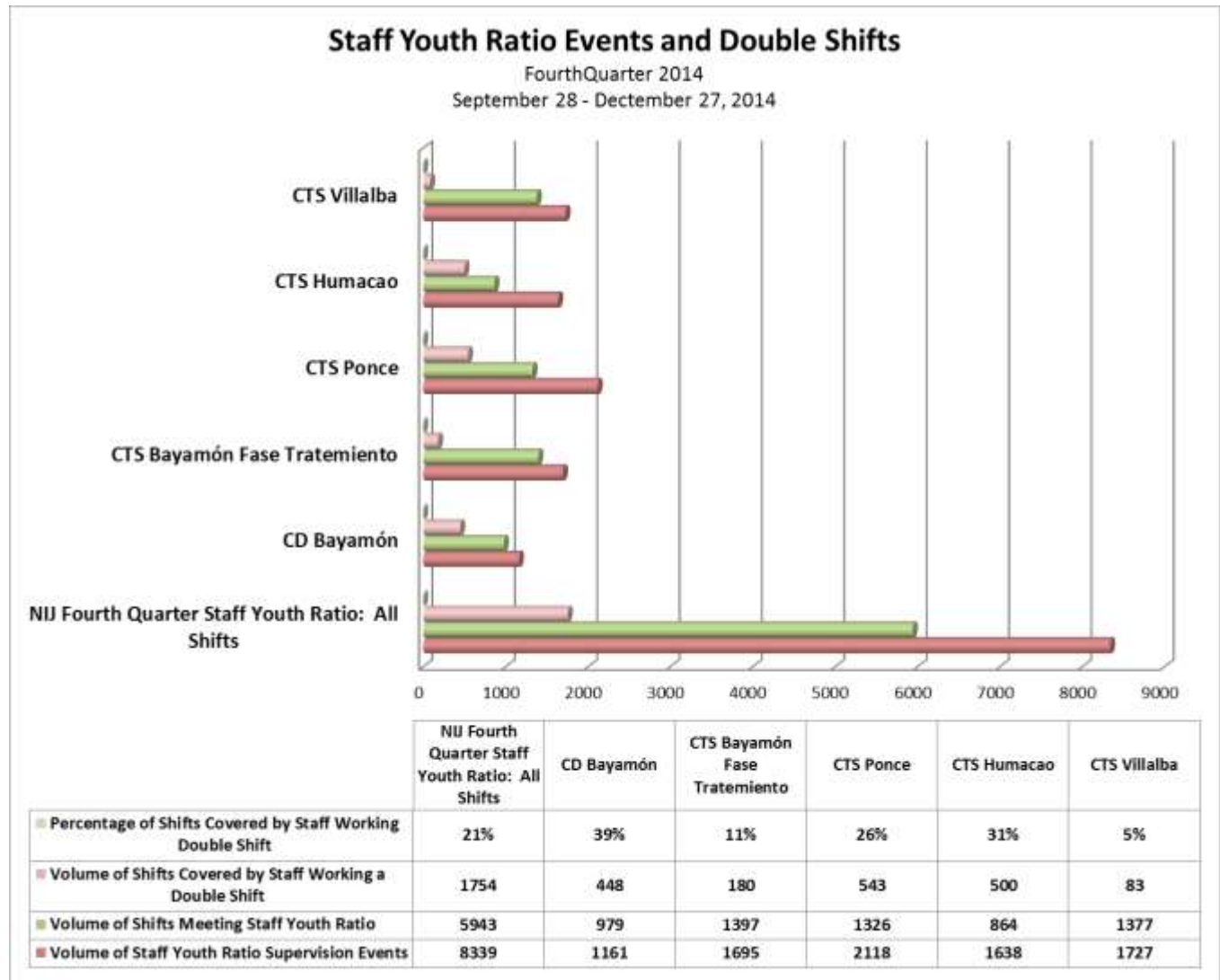
During the Fourth Quarter 2014 reporting period (September 28, 2014 through December 27, 2014), NIJ documented a total of 8339 shift / unit events that required staff to youth supervision. This is a decrease of 286 staff youth supervision events from the Third Quarter of 2014 (8625 events). Of the 8339 shift / unit events, 5943 of the events (71%) were supervised with the required staff youth ratios, a 6% decrease from the 77% of events supervised with the required staff youth ratios from the Third Quarter of 2014.



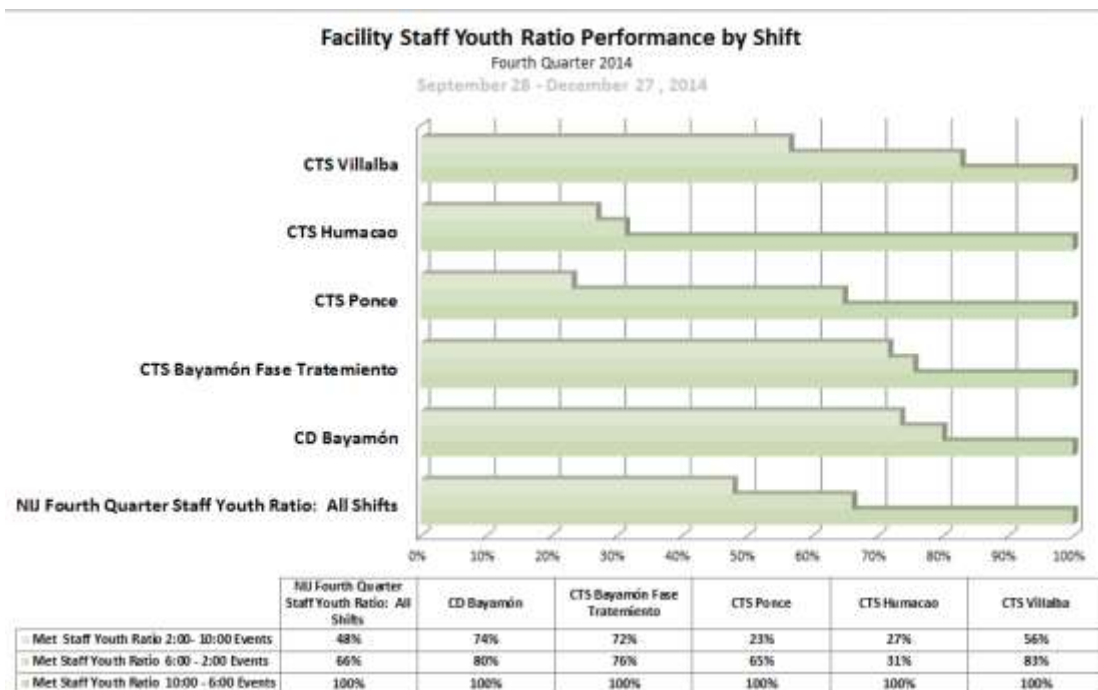
Of the 5943 staffing events meeting the required staff youth ratio, 2776 (47%) of the staffing events occurred on the 10:00 PM –

6:00 AM shift.

The Fourth Quarter Report provides additional data on the volume of staff that worked double shifts in order to meet the reported staff youth ratios. For the 2014 Fourth Quarter, 1754 of the 8339 (21%) staff youth ratio events were covered by staff working a double shift. This is a 1% decrease of volume of shifts requiring staff to work a double shift since the Third Quarter 2014 reporting period.

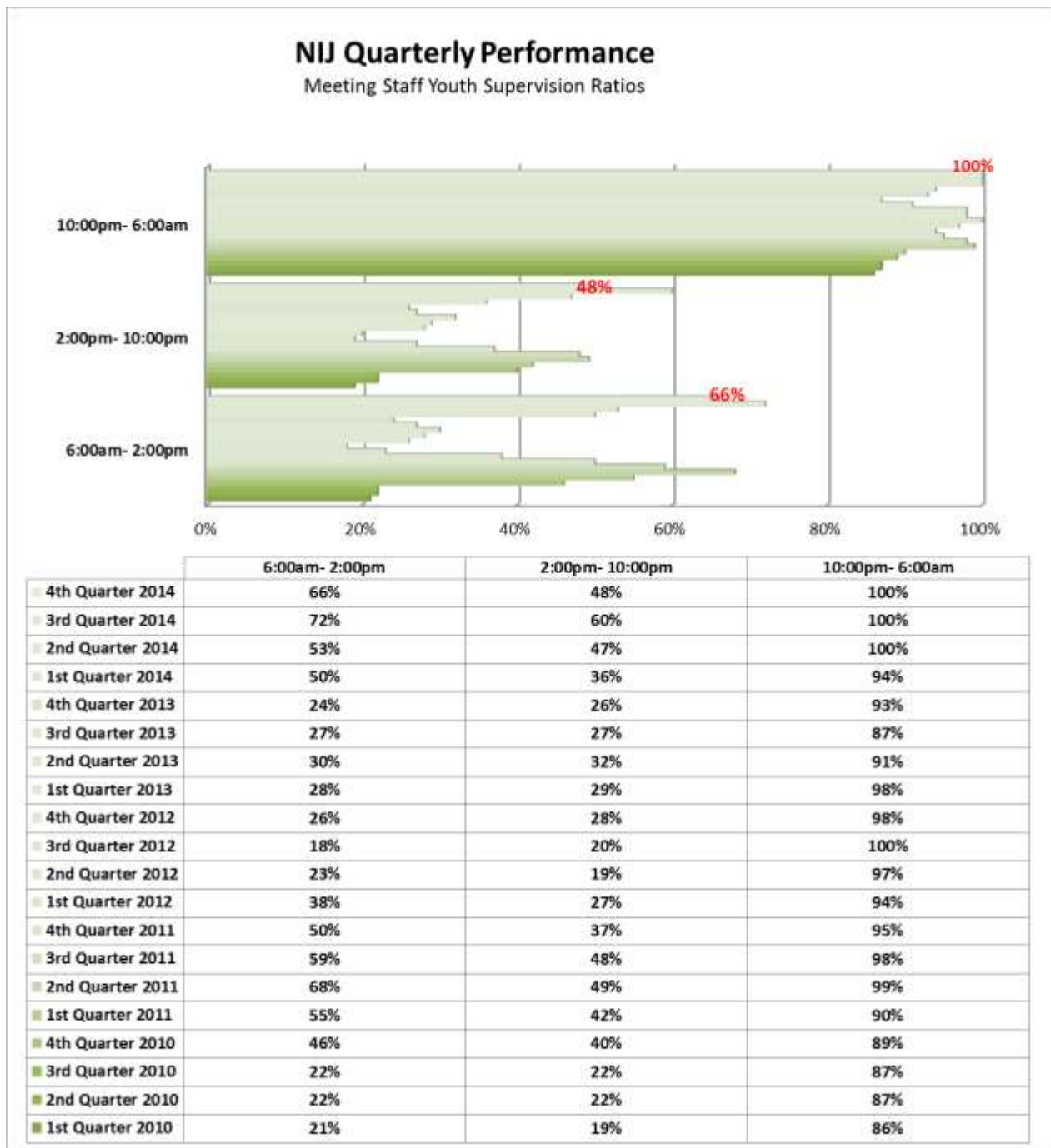


The staff youth ratio performance by shift chart and table analysis below represents the staffing information received for the period of September 28 through December 27, 2014; (13 weeks).



During the Fourth Quarter reporting period CTS Humacao, CTS Ponce, and CTS Villalba had the fewest volume of events meeting the staff youth ratio requirements. These three facilities represent 62% of the NIJ youth population.

The following chart represents the NIJ agency Staff Youth Ratio averages by shift for the last twenty quarters through December 27, 2014:



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

- 6:00 am – 2:00 pm shift: 66% of events, a 6% decrease
- 2:00 pm – 10:00 pm shift: 48%, a 12% decrease
- 10:00 pm – 6:00 am shift: 100%, a 0% increase

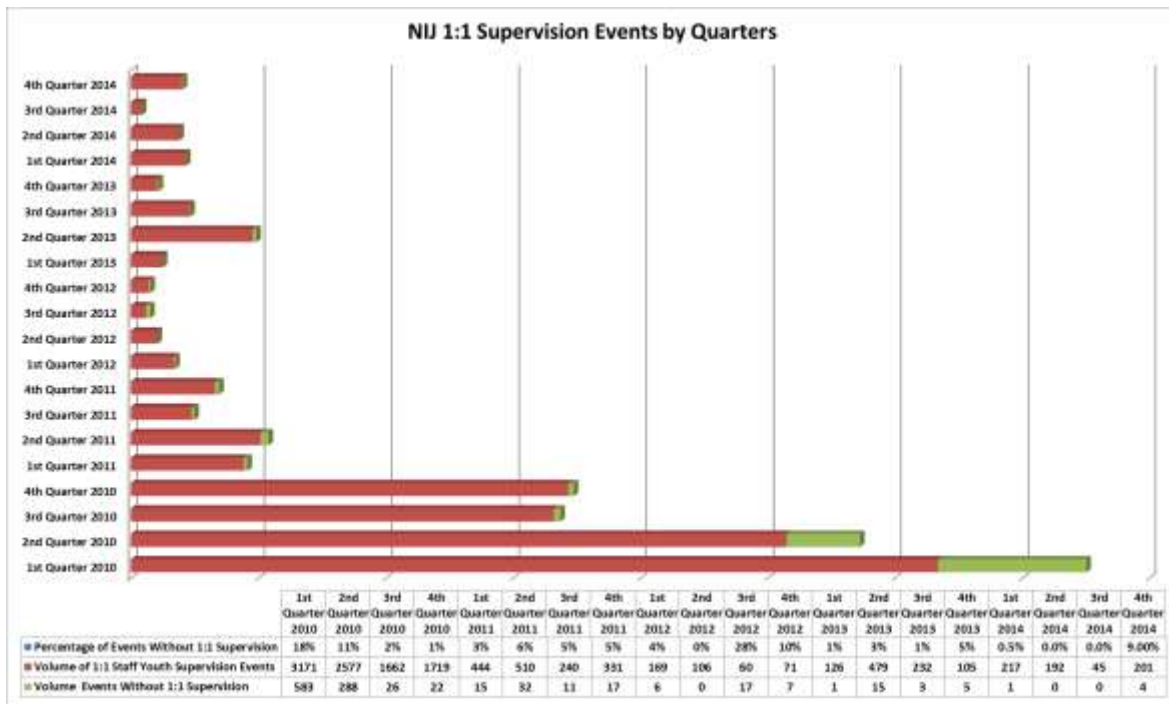
NIJ Agency 1:1 Supervision Events:

The Fourth Quarter of 2014 reporting period reflects the volume of 1:1 supervision events reported, 201 events:

- 3171 events 1st Quarter 2010
- 2577 events 2nd Quarter 2010
- 1662 events 3rd Quarter 2010
- 1719 events 4th Quarter 2010
- 444 events 1st Quarter 2011
- 510 events 2nd Quarter 2011
- 240 events 3rd Quarter 2011
- 331 events 4th Quarter 2011
- 169 events 1st Quarter 2012
- 106 events 2nd Quarter 2012
- 60 events 3rd Quarter 2012
- 71 events 4th Quarter 2012
- 126 events 1st Quarter 2013
- 479 events 2nd Quarter 2013
- 232 events 3rd Quarter 2013
- 105 events 4th Quarter 2013
- 217 events 1st Quarter 2014
- 192 events 2nd Quarter 2014
- 45 events 3rd Quarter 2014
- 201 events 4th Quarter 2014

Correspondingly, the Fourth Quarter of volume of these events without required 1:1 supervision, 4 events:

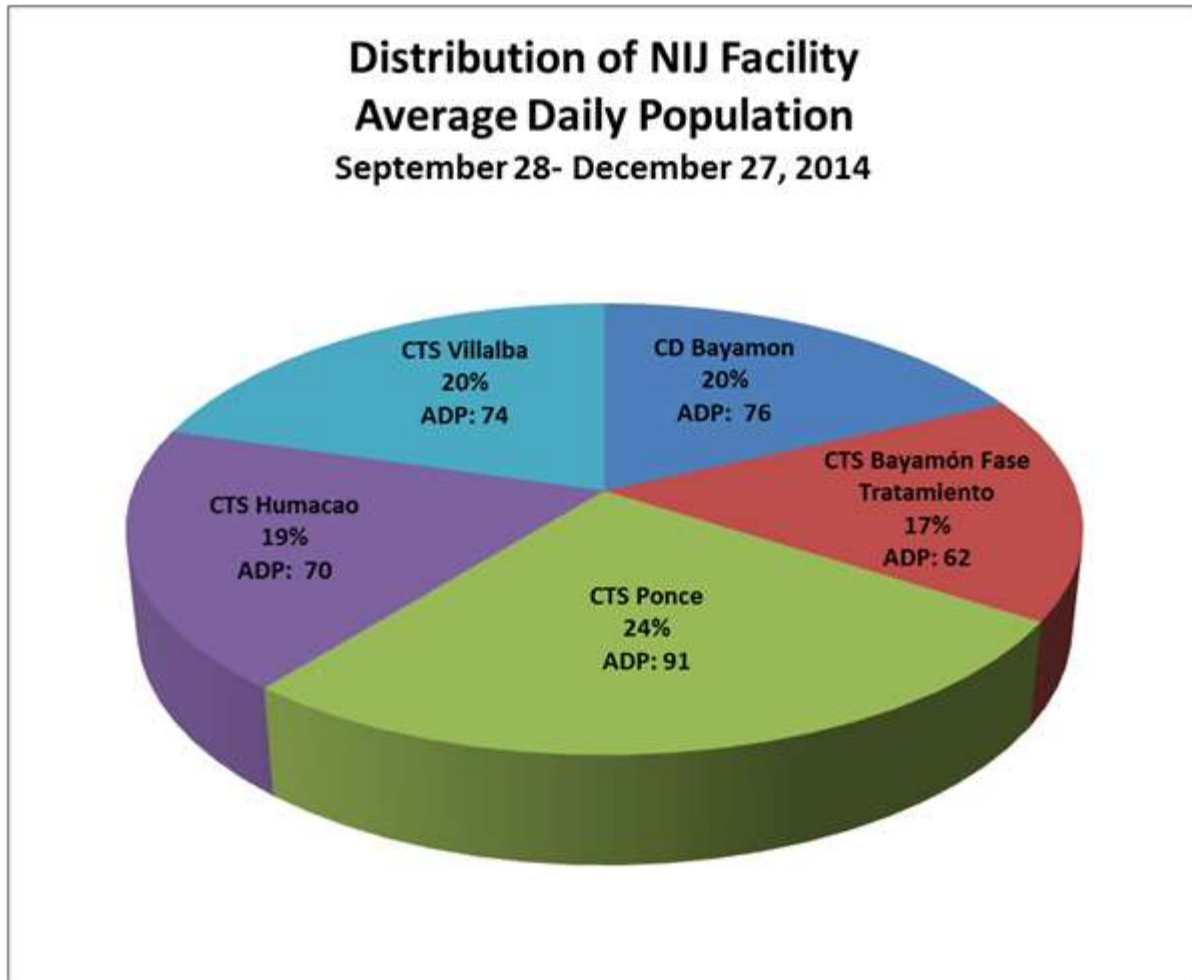
- 583 events 1st Quarter 2010
- 288 events 2nd Quarter 2010
- 26 events 3rd Quarter 2010
- 22 events 4th Quarter 2010
- 15 events 1st Quarter 2011
- 32 events 2nd Quarter 2011
- 11 events 3rd Quarter 2011
- 17 events 4th Quarter 2011
- 6 events 1st Quarter 2012
- 0 events 2nd Quarter 2012
- 17 events 3rd Quarter 2012
- 7 events 4th Quarter 2012
- 1 events 1st Quarter 2013
- 15 events 2nd Quarter 2013
- 3 events 3rd Quarter 2013
- 5 events 4th Quarter 2013
- 1 events 1st Quarter 2014
- 0 events 2nd Quarter 2014
- 0 events 3rd Quarter 2014
- 4 events 4th 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 (September 28 – December 27, 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 14 of this report.

CD Bayamón Staff Youth Ratio Analysis:**CD Bayamón Staff Youth Ratio Analysis:**

September 28 through December 27, 2014

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

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

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

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

- **Volume of Staff Youth Ratio Events:** 1161
- **Volume of Staffing Events with Staff Working a Double Shift:** 448 (39%)

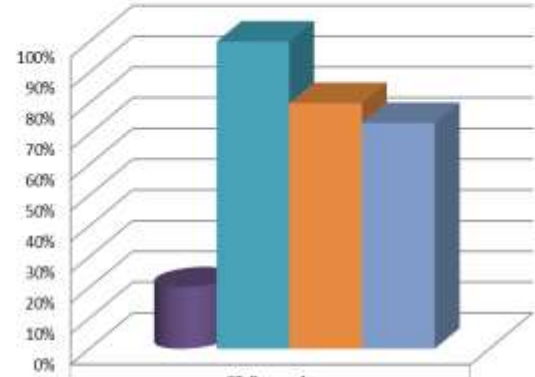
The Fourth Quarter of 2014 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm -6:00am: maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: 80%, a 1% increase since 2014 Third Quarter reporting
- 2:00 pm – 10:00 pm: 74%, a 9% increase since 2014 Third Quarter reporting
- CD Bayamón represents 20% of the NIJ institutional population.

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 90

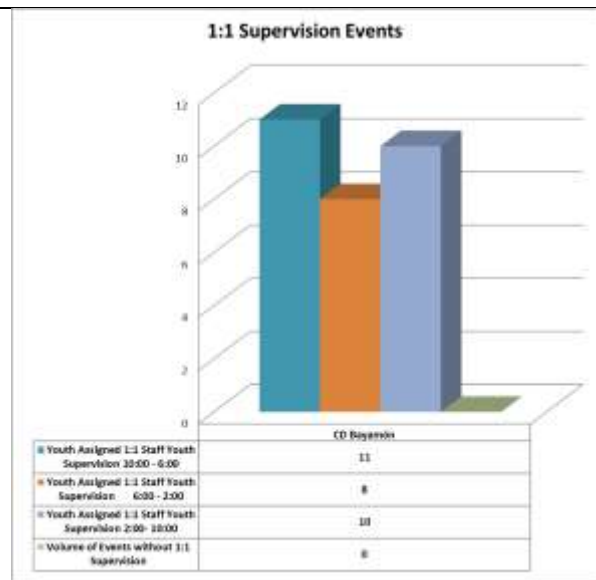
Percentage of Staffing Events Meeting Staff Youth Ratio



CD Bayamón	
■ Percentage of NIJ Agency Population	20%
■ Met Staff Youth Ratio 10:00 - 6:00 Events	100%
■ Met Staff Youth Ratio 6:00 - 2:00 Events	80%
■ Met Staff Youth Ratio 2:00 - 10:00 Events	74%

29 youth supervision 1:1 events for the Fourth Quarter of 2014

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



CTS Bayamón Fase Tratamiento Staff Youth Ratio Analysis:

September 28 through December 27, 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. All 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

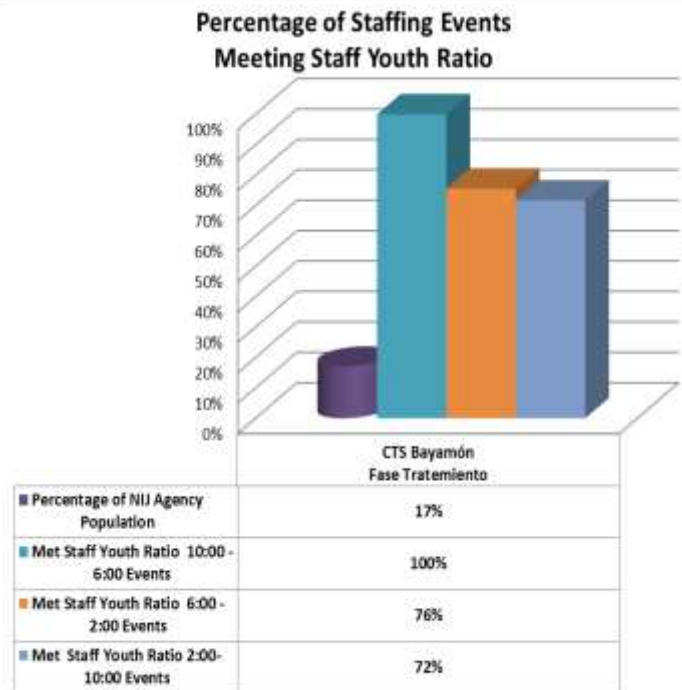
- **Volume of Staff Youth Ratio Events:** 1695
- **Volume of Staffing Events with Staff Working a Double Shift:** 180 (11%)

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

- 10:00pm- 6:00 am: maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: 76%, a 11% increase in meeting staff youth ratio requirements since 2014 Third Quarter reporting
- 2:00 pm – 10:00 pm: 72%, a 3% increase in meeting staff youth ratio requirements since 2014 Third Quarter reporting
- CTS Bayamón represents 17% of the NIJ

Volume of Weeks Analyzed: 13

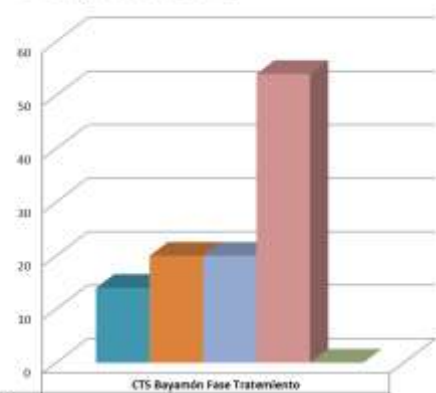
Volume of Days Analyzed: 90



institutional population.

54 youth 1:1 supervision events for the Fourth Quarter of 2014

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

1:1 Supervision Events

Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	14
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	20
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	20
Total Youth Assigned 1:1 Staff Youth Supervision Events: Fourth Quarter 2014	54
Volume of Events without 1:1 Supervision	0

CTS Humacao Staff Youth Ratio Analysis:

September 28 through December 27, 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 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

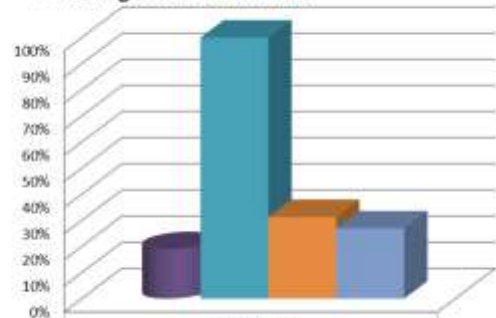
- Volume of Staff Youth Ratio Events: 1638
- Volume of Staffing Events with Staff Working a Double Shift: 500 (31%)

The Fourth 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: 31%, a 8% decrease since 2014 Third Quarter reporting
- 2:00 pm – 10:00 pm: 27%, 4% decrease since 2014 Third Quarter reporting
- CTS Humacao represents 19% of the NIJ institutional population.

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 90

Percentage of Staffing Events Meeting Staff Youth Ratio

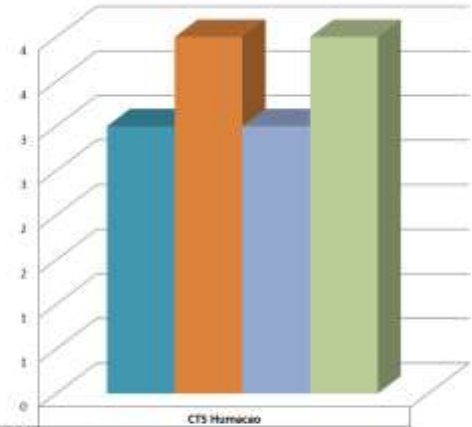
Percentage of NIJ Agency Population	19%
Met Staff Youth Ratio 10:00 - 6:00 Events	100%
Met Staff Youth Ratio 6:00 - 2:00 Events	33%
Met Staff Youth Ratio 2:00 - 10:00 Events	27%

10 youth supervision events for the Fourth Quarter of 2014

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

4

1:1 Supervision Events



CTS Humacao	
Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	3
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	4
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	3
Volume of Events without 1:1 Supervision	4

CTS Ponce Staff Youth Ratio Analysis:

September 28 through December 27, 2014

Both a Level 2 and 3 Facility:

CTS 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: 2118
- Volume of Staffing Events with Staff Working a Double Shift: 543 (26%)

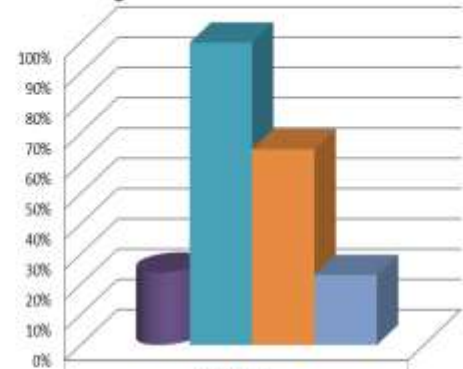
The Fourth Quarter of 2014 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: 100%, maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: 65%, an 14% decrease since 2014 Third Quarter reporting
- 2:00 pm – 10:00 pm: 23%, an 30% decrease since 2014 Third Quarter reporting
- CTS Ponce represents 24% of the NIJ institutional population.

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 90

Percentage of Staffing Events Meeting Staff Youth Ratio

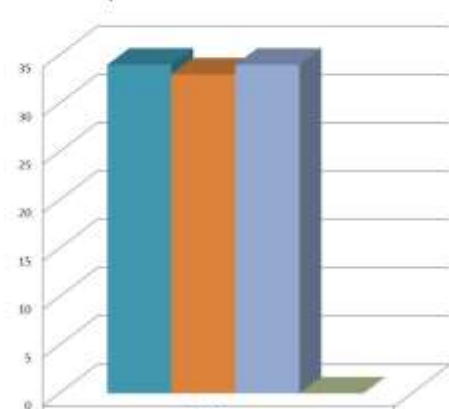


Percentage of NIJ Agency Population	24%
Met Staff Youth Ratio 10:00 - 6:00 Events	100%
Met Staff Youth Ratio 6:00 - 2:00 Events	65%
Met Staff Youth Ratio 2:00 - 10:00 Events	23%

101 youth 1:1 supervision events for the Fourth Quarter of 2014

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

1:1 Supervision Events



Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	34
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	33
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	34
Volume of Events without 1:1 Supervision	0

CTS Villalba Staff Youth Ratio Analysis:

September 28 through December 27, 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
- 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: 1727
- Volume of Staffing Events with Staff Working a Double Shift: 83 (5%)

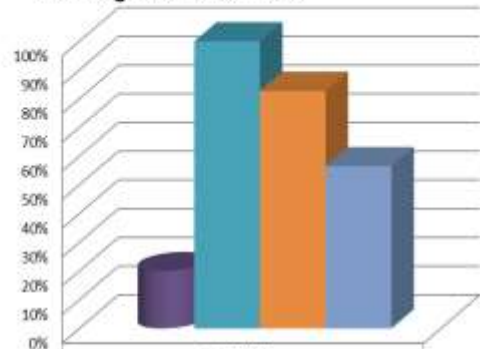
The Fourth Quarter of 2014 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: 83%, a 12% decrease since 2014 Third Quarter reporting
- 2:00 pm – 10:00 pm: 56%, a 29% decrease since 2014 Third Quarter reporting
- CTS Villalba represents 20% of the NJ institutional population.

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 90

Percentage of Staffing Events Meeting Staff Youth Ratio

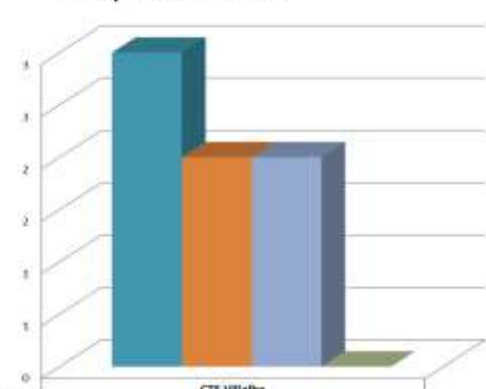


Percentage of NJ Agency Population	20%
Met Staff Youth Ratio 10:00 - 6:00 Events	100%
Met Staff Youth Ratio 6:00 - 2:00 Events	83%
Met Staff Youth Ratio 2:00 - 10:00 Events	56%

7 youth 1:1 supervision events for the Fourth Quarter of 2014

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

1:1 Supervision Events



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	2
Volume of Events without 1:1 Supervision	0

Facility Table of Shift Compliance with Staff Youth Ratio:

Fourth Quarter 2014 Staff Youth Ratio Performance by Shift:	Volume of Staff Youth Ratio Forms Received	Percent of Staff Youth Ratio Forms Received	Percentage of AIJ Agency Population	Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	Percentage of Time Met Staff Youth Ratio 2:00- 10:00
CD Bayamón	13	100%	21%	100%	80%	74%
CTS Bayamón Fase Tratemie	13	100%	17%	100%	76%	72%
CTS Ponce	13	100%	25%	100%	65%	23%
CTS Humacao	13	100%	17%	100%	31%	27%
CTS Villalba	13	100%	20%	100%	83%	56%

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

Fourth Quarter 2014 Youth Assigned 1:1 Supervision	Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	Youth Assigned 1:1 Staff Youth Supervision 2:00- 10:00	Assigned 1:1 Staff Youth Supervision Events: Fourth Quarter 2014	Volume of Events without 1:1 Supervision	Volume of Days Analyzed
CD Bayamón	11	8	10	29	0	90
CTS Bayamón Fase Tratamiento	14	20	20	54	0	90
CTS Ponce	34	33	34	101	0	90
CTS Humacao	3	4	3	10	4	90
CTS Villalba	3	2	2	7	0	90
Totals	65	67	69	201	4	521

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

Date	CD Bayamon	CTS Bayamón Fase Tratamiento	CTS Ponce	CTS Humacao	CTS Villalba
September 28 - October 4, 2014	10/27/2014	10/27/2014	10/23/2014	10/27/2014	10/27/2014
October 5 - October 11, 2014	10/27/2014	10/23/2014	10/27/2014	10/23/2014	10/23/2014
October 12 - October 18, 2014	10/23/2014	10/23/2014	12/4/2014	10/27/2014	10/23/2014
October 19 - October 25, 2014	11/13/2014	11/13/2014	11/13/2014	11/13/2014	11/13/2014
October 26 - November 1, 2014	11/13/2014	11/13/2014	11/13/2014	11/21/2014	11/13/2014
November 2 - November 8, 2014	11/21/2014	11/13/2014	11/21/2014	12/4/2014	11/21/2014
November 9 - November 15, 2014	12/4/2014	11/21/2014	12/4/2014	12/4/2014	11/21/2014
November 16 - November 22, 2014	12/4/2014	12/4/2014	12/18/2014	12/4/2014	12/4/2014
November 23 - November 29, 2014	12/4/2014	12/4/2014	12/18/2014	12/18/2014	12/18/2014
November 30 - December 6, 2014	12/18/2014	12/18/2014	12/18/2014	12/18/2014	12/18/2014
December 7 - December 13, 2014	12/18/2014	12/18/2014	12/30/2014	12/18/2014	12/30/2014
December 14 - December 20, 2014	12/30/2014	12/30/2014	12/30/2014	12/30/2014	12/30/2014
December 21 - December 27, 2014	12/30/2014	12/30/2014	1/8/2015	1/8/2015	12/30/2014
	13	13	13	13	13
Volume of Forms Submitted	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	CTS Bayamón	CTS Ponce	CTS Humacao	CTS Villalba	Totals
	Bayamon	Fase Tratamiento				
September 28 - October 4, 2014	67	60	99	70	76	372
October 5 - October 11, 2014	65	60	99	71	76	371
October 12 - October 18, 2014	83	68	98	72	74	395
October 19 - October 25, 2014	66	68	97	71	75	377
October 26 - November 1, 2014	78	63	97	71	71	380
November 2 - November 8, 2014	72	64	96	72	69	373
November 9 - November 15, 2014	76	62	95	74	69	376
November 16 - November 22, 2014	78	62	95	72	72	379
November 23 - November 29, 2014	87	55	86	71	71	370
November 30 - December 6, 2014	80	60	85	70	71	366
December 7 - December 13, 2014	85	59	84	69	79	376
December 14 - December 20, 2014	82	58	80	66	79	365
December 21 - December 27, 2014	70	67	76	60	76	349
Totals	989	806	1187	909	958	4849
Percentage of AIJ Agency Population	20%	17%	24%	19%	20%	100%
Average Daily Population	76	62	91	70	74	373

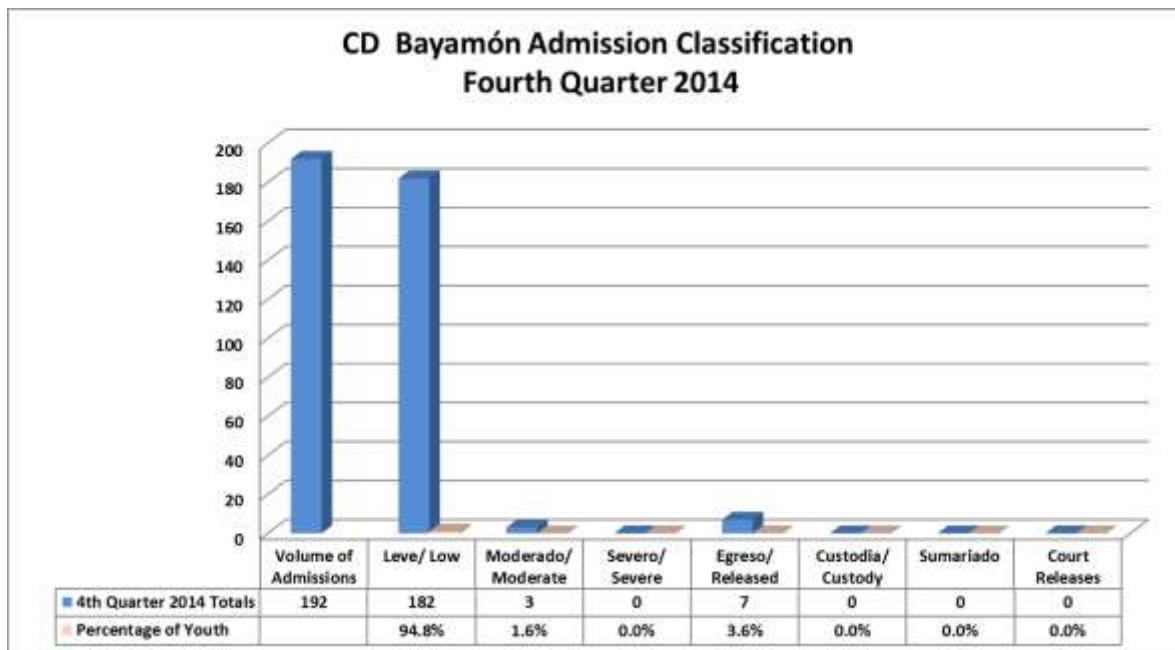
NIJ Classification Quarterly Report: October 1 – December 31, 2014

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

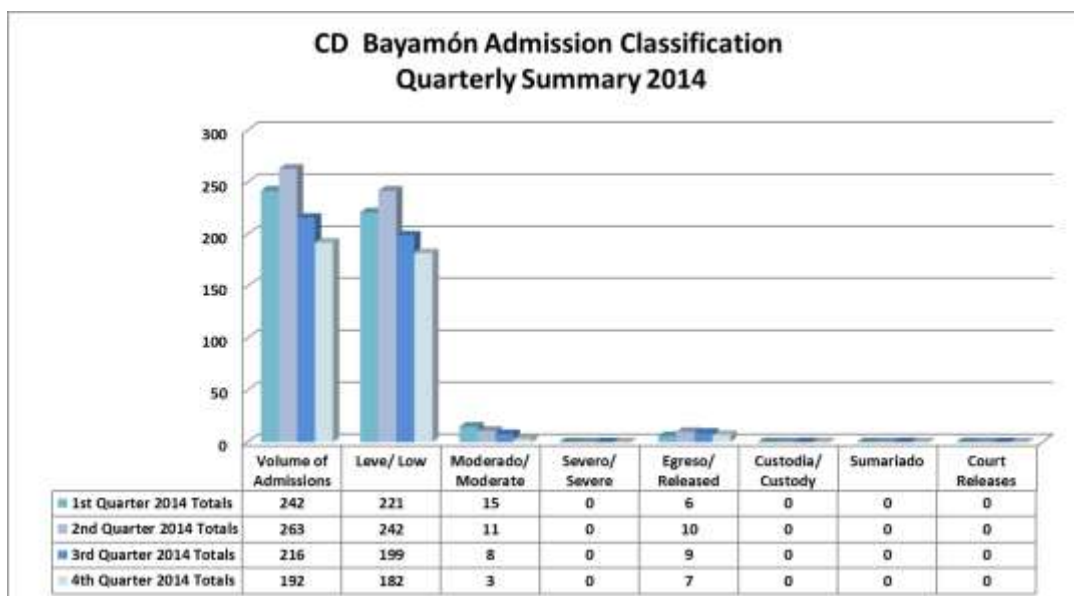
.A. 52. states the following: At both the detention phase and following commitment, Defendants shall establish objective methods to ensure that juveniles are classified and placed in the least restrictive placement possible, consistent with public safety. Defendants shall validate objective methods within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

Fourth Quarter October 1, 2014 – December 31, 2014 CD Bayamón Admission Classification:

The Fourth Quarter of 2014 is the tenth quarter that NIJ has produced CD Bayamón Admission Classification data to be included in the Quarterly Report.



For the fourth quarter, there were 192 admissions of which 94.8% (182) were classified as low; 1.6% (3) were classified as moderate; and 0% classified as severe. Four percent (7) of the population was released prior to classification.



NIJ is has solicited for a classification validation study conducted on committed and detention youth. At the time of this report, NIJ is attempting to obtain an executed contract in order to proceed with a classification validation process.

Document Attachment C:
Report on Incidents and Understaffing
April-June 2014

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

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

Oct. 5	CD Bayamón	14-196	Afternoon	Allegedly, a juvenile admitted was beat in his head and ribs. In addition alleged that was cut in his left leg by other youth. The incident occurred in module D-2. Infirmary notes reflect a superficial cut in his left leg. Facility's internal investigation concluded the allegations were ambiguous.	1 officer, 14 juveniles
Oct. 7	CTS Humacao	14-194	Morning	Allegedly a juvenile was hit by other youth in his ribs, left side. The incident occurred in living unit I, module B. Medical record diagram shows redness in the alleged area.	1 officer, 14 juvenile
Oct. 14	CTS Ponce	14-229	Afternoon	Allegedly, a juvenile was punched in nape of his neck by other youths. The incident occurred in living unit IV. Infirmary diagram does not reflect signs of the alleged incident.	1 officer, 11 juveniles
Oct. 17	CTS Bayamón	14-206	Unknown	Allegedly, a juvenile was punched in his chest by other youths. The incident occurred in living unit Yellow, module I. Medical record shows no marks or red areas. Facility's internal investigation concluded the alleged victim gave different versions of the incident.	1 officer, 13 juveniles
Oct. 23	CTS Humacao	14-213	Afternoon	Allegedly, a juvenile was compressing other youth's neck. The incident occurred in living unit I, module B. Infirmary notes show no marks in victim's neck.	1 officer, 14 juveniles
Oct. 26	CTS Bayamón	14-215	Afternoon	Allegedly, a juvenile was beat by two youths when they getting back to the living unit from recreation. The incident occurred in living unit Orange	1 officer, 13 juveniles

				entrance. The victim was cut in his back during the incident and referred to an emergency room.	
Oct. 29	CTS Ponce	14-217	Afternoon	Allegedly, a juvenile was forced to introduce a deodorant bottle through his anus by other youths. Apparently, the plan was to introduce contraband into the module. Facility's physician notes say the victim had rectal pain and mild bleeding. The youth was sent to an emergency room.	1 officer, 13 juveniles
Nov. 3	CTS Ponce	14-220	Afternoon	Allegedly, during the recreation process in the basketball court a juvenile was hit in his head. Infirmary note reflect contusion in victim's forehead.	3 officers, 69 juveniles
Nov. 8	CD Bayamón	14-224	Afternoon	Allegedly, two juveniles beat a group of 8 youths from the same module. The incident occurred in living unit Delta I. The victims and the alleged perpetrators were taken to the infirmary where red areas and contusions were observed in some of them.	1 officer, 15 juveniles
Nov. 11	CTS Ponce	14-227	Afternoon	A juvenile was cut in his left eye-brow with a piece of metal by other youth. The incident occurred in module 8 and the victim was taken to an emergency room for stitches.	1 officer, 15 juveniles
Nov. 26	CD Bayamón	14-236	Morning	Allegedly, a juvenile was hit in his head by a youth officer. Apparently, the youth was angry and refusing to follow instructions and also bite the officer. The infirmary note shows a red area in youth's head.	1 officers, 15 juveniles
Dec. 1	CTS Vilalba	14-243	Afternoon	Allegedly, a juvenile was hit in his face and ribs by a group of four youths. The incident occurred in living unit B, module I. The infirmary note says, "red areas compatible with an aggression were observed".	1 officer, 15 juveniles
Dec. 8	CTS Ponce	14-244	Morning	Allegedly, a juvenile was punched in his face (left side) by other youths in the dining room area. Immediately after started a fight between the juveniles and others having lunch.	5 officer, 43 juvenile

Dec. 15	CTS Humacao	14-248	Afternoon	Allegedly, a juvenile in preventive observation was punched in his back by a youth officer. Apparently, the youth was refusing to follow instructions. Infirmary note reflects that no redness was observed in victim's back however was sensible.	1 officer, 12 juveniles
Dec. 24	CTS Bayamón	14-254	Afternoon	Allegedly, a juvenile was beaten and bite by other youth in living unit Yellow, module II. Infirmary note shows a contusion and a bite in victim's chest.	1 officer, 11 juveniles

Document Attachment D: Abuse Referrals Tracking Report

The following tables summarize statistics about case management for the last quarter of 2013 and the first three quarters 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.

General Measures	14-1st	14-2nd	14-3rd	14-4th
Average Monday 1st Shift count of youth				373
Number of incident events	173	114	92	108
Number of youth-to-youth incident events	51	66	44	55
Incident events involving use of force by staff	67	45	15	34
Incident events with suicide act, ideation, or gesture	25	11	4	13
Incident events w/ self-mutilation act, ideation, or gesture	23	14	6	13

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

Mental Health Record Information	14-1st	14-2nd	14-3rd	14-4th
Suicidal incidents, ideation or gestures	25	11	4	13
Number of individual youth referenced	25	11	4	13
Cases involving ideation only	15	9	2	10
Cases involving suicide gesture	8	2	2	3
Cases involving suicide intention	2	0	0	0
Cases w/ ambulatory treatment	18	11	4	13
Cases with hospitalization	1	0	0	0
Cases leading to death	0	0	0	0
Suicide Cases with 284 report filed	1	0	0	0
Self-mutilations incidents, ideation or gestures	23	14	6	13
Number of individual youth referenced	23	14	6	13
Cases requiring sutures	1	0	0	0
Cases requiring hospitalization	0	0	0	0
Cases leading to death	0	0	0	0
Self-Mutilation Cases with a 284 report filed	12	6	3	4

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 108 incident events in most recent quarter, 26 involved suicide and self-mutilation incidents. This is a significant increase from the previous quarter when there were 10 such events.

Four (4) 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.

284 Incidents	14-1st	14-2nd	14-3rd	14-4th
284 Incident Events	85	51	52	71
Level One Incident Events	24	23	19	16
Level Two Incident Events	61	28	33	55
Referrals to OISC	61	28	32	55
Youth-to-Youth Incidents	34	28	23	35
Youth-to-Youth Injuries	26	16	3	16
Youth-to-Youth with External Care	12	3	3	5
Youth-to-Youth Sexual	1	3	0	6
Youth-to-Youth Sexual w/ Injury	0	0	0	0
Staff-to-Youth Incidents	51	23	29	36
Staff-to-Youth Injuries	25	13	5	13
Staff-to-Youth with External Care	3	0	1	1
Staff-to-Youth Sexual	2	1	1	4
Staff-to-Youth Sexual with Injury	0	0	0	0
284 Incident Events with administrative actions	84	51	52	70
284 Incident Events with report by end of shift	82	47	49	67
Level 1 Investigations complete within 20 days	24	22	18	16
SOU (Special Operations) interventions	5	2	0	0
SOU events with 284 reports	4	0	0	0
284 with Item 5 completed	64	58	54	69
284 with Staffing Compliance	49	36	37	39
Percent 284 cases with staffing compliance	58%	71%	71%	55%

Of the 71 events, 55% took place when there was compliance with staffing provisions. This is a reduced level of compliance compared to the previous quarter.

Initial Case Management Measures	14-1st	14-2nd	14-3rd	14-4th
284 percent with admin actions	99%	100%	100%	99%
284 per cent completed by end of shift	96%	92%	94%	94%
284 Level 1 Investigation Completed Within 20 days	100%	96%	95%	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.”

OISC	14-1st	14-2nd	14-3rd	14-4th
Cases Referred from this quarter	61	28	32	56
Received by OISC Within 24 hours	56	23	28	49
Completed by OISC Within 30 workdays	33	12	12	45
Completed during the next quarter, but within 30 days	12	6	1	0
Cases Not Completed by OISC Within 30 days.	11	16	20	11
Percent of OISC cases completed within 30 days	74%	64%	41%	80%
Completed Cases Returned for Further investigation	0	2	0	0
Percent of cases returned for further investigation	0%	11%	0%	0%
Further Investigation Completed	0	1	0	1
Cases this quarter incomplete, including further investigation	11	17	2	11
Percent of cases from this quarter not yet completed	18%	61%	6%	20%

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. This requirement was met in 49 of the 56 cases.

Paragraph 78.e requires that OISC complete investigations within 30 days. For the most recent quarter, there were 56 cases referred to OISC, and 11 cases (20%) were not completed within the 30-day limit specified in Paragraph 78.e.

None of the 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.

Administrative Determinations for 284 Cases	14-1st	14-2nd	14-3rd	14-4th
Cases with youth discipline referrals	34	34	24	47
Cases with youth discipline actions	21	16	15	22
Cases with youth no discipline actions	13	18	9	25
Cases Staff/youth with determinations	32	22	15	19
Cases recommending personnel actions	13	13	4	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.

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

Document Attachment E: 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.

Case Assessment Instrument – Section A – Initial Reporting		
Assessment Criterion	Status Y/N/NA	Comment
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-3	The percentage for this report is 92%. The percentage in the last report was 100%.
A.2 Were appropriate administrative actions taken to protect the victim(s)?	Y-36	The percentage for this report is 100%. The percentage in the last report was 100%.
A.3 If injury was suspected, was the victim promptly evaluated for injury by health care personnel?	Y-36	The percentage for this report is 100%. The percentage in the last report was 100%.
A.4 If there was physical evidence, was the evidence documented and preserved?	Y-6, N-1, N/A-29	The percentage for this report is 86%. The percentage in the last report was 100%. In this reporting period 24 Level II cases were received.
A.5: Was the incident correctly classified?	Y-34, N-2	The percentage for this report is 94%. The percentage in the last report was 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-32, N-4	The percentage for this report is 89%. The percentage in the last report was 97%.
A.7 If it was classified as a level 2 incident, was OISC notified within 24 hours?	Y-22, N-2, N/A-12	The percentage for this report is 92%. The percentage in the last report was 75%. In this reporting period 24 Level II cases were received. Cases 14-180 and 14-183 were not notified within 24 hours.
A.8 Were youths suspected as perpetrators separated from the victim(s)?	Y-26, N-1, N/A-9	The percentage for this report is 96%. The percentage in the last report was 100%.
A.9 Did the 284 accurately list all youth and staff witnesses?	Y-28, N/A-8	The percentage for this report is 100%. The percentage in the last report was 93%.
A.10 Did all staff witnesses complete an incident report before the end of shift?	Y-27, N-5, N/A-4	The percentage for this report is 84%. The percentage in the last report was 97%.
A.11 If there was timeliness non-compliance, was related to shortage of investigative or supervisory staffing?	N-5, N/A-31	There are five cases in item # 10 with a delayed incident report. It is not known whether the delay was caused by factors listed in this item # 11.
A.12 At the location of the incident at the time of the incident, was staffing compliant with Settlement Agreement requirements?	Y-22, N-10, N/A-4	The percentage in this report is 69%. The percentage in the last report was 71%.

Case Assessment Instrument – Section B – Police and Prosecutorial Investigation		
Assessment Criterion	Status Y/N/NA	Comment
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-19	The percentage for this report is 100%. The percentage in the last report was 96%. In this reporting period the PRPD sent information of 19 cases from a total of 36 requested.
B.2 Did PRPD investigators determine that physical evidence, if any was appropriately preserved?	Y-7*, N/A-12	The percentage for this report is 100*%. The percentage in the last report was 100%. NIJ facilities' staff is trained to preserve evidence if necessary but not all cases require preserve evidence. * In case 14-169 the physical evidence (broomstick) was not preserved however there is no information related in the document sent by the PRPD.
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-19	No cases were found in this reporting period.
B.4 Were PRPD expectations met for timeliness in completing the investigation?	Y-19*	The percentage for this report is 100*%. The percentage in the last report was 93%. *In case 14-188 the PRPD did not complete the investigation because the juvenile was not interviewed, apparently was released from the facility.
B.5 Was completion of the PRPD investigation documented?	Y-19	The percentage for this report is 100%. The percentage in the last report was 100%.

Case Assessment Instrument – Section C – Facility Level I Investigation		
Assessment Criterion	Status Y/N/NA	Comment
C.1 If there were potential injuries, did the investigation include photographs of visible injuries?	Y-12	The percentage for this report is 100%. The percentage in the last report was 100%. Only 12 cases were classified as Level I and require a facility investigation.
C.2 Was there a personal interview of the victim(s) with a record of the questions and answers?	Y-12	The percentage for this report is 100%. The percentage in the last report was 100%.
C.3 Was there a personal interview of the alleged perpetrator(s) with a record of the questions and answers?	Y-12	The percentage for this report is 100%. The percentage in the last report was 100%.
C.4 Was physical evidence, if any, preserved and documented?	Y-1, N-1, N/A-10	The percentage for this report is 50%. The percentage in the last report was 50%.
C.5. If the incident was classified as Level I, was the investigation completed within 20 calendar days?	Y-11, N-1	The percentage for this report is 92%. The percentage in the last report was 100%.
C.6 Was the completion of the investigation documented in the tracking database?	Y-12	The percentage for this report is 100%. The percentage in the last report was 100%. NIJ already has an electronic database.
C.7 If there was timeliness non-compliance, was related to shortage of staffing?	N-12	Because there were no such non-compliances there is no appropriate rating percentage.

Case Assessment Instrument – Section D – OISC Investigation		
NOTE: Completed only for Level II cases.		
Assessment Criterion	Status Y/N/NA	Comment
D.1 If the case was a Level II case, was the referral received by OISC within 24 hours?	Y-22, N-2	The percentage for this report is 92%. The percentage in the last report was 75%. Cases not received on time were 14-178 and 14-188, in both cases facility staff became aware of the incident after the 24 hours required by this provision. In this reporting period 24 Level II cases were evaluated. Improved Compliance
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-11, N-13	The percentage for this report is 46%. The percentage in the last report was 25%. Improved Compliance
D.3 Did the investigation meet OISC's standards for investigation quality?	Y-24	The percentage for this report is 100%. The percentage in the last report was 100%.
D.4 Did the investigation provide a description of the alleged incident, including all involved persons and witnesses and their role?	Y-24	The percentage for this report is 100%. The percentage in the last report was 100%.
D.5 Did the investigation provide a description and assessment of all relevant evidence?	Y-24	The percentage for this report is 100%. The percentage in the last report was 100%.
D.6 Did the investigation provide proposed findings of fact?	Y-24	The percentage for this report is 100%. The percentage in the last report was 100%.
D.7 If there was timeliness non-compliance, was it related to shortage of OISC staffing?	Y-11, N-13, N/A-12 (level I cases)	The percentage for this report is 100%. However, in this case the high percentage means that all 11 delayed cases from D.2 were due to a shortage of staff. Thirteen cases were not delayed, which is why they are listed as N here.

Case Assessment Instrument – Section E – Case Tracking and Outcomes		
Note: 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.		
Assessment Criterion	Status Y/N/NA	Comment
E.1 At the time of the assessment of this case with this instrument, was the tracking database complete for this case?	Y-36	The percentage for this report is 100%. The percentage in the last report was 100%. NIJ already has an electronic data base.
E.2 Was the initial investigation (284) received at NIJ within 24 hours?	Y-32, N-4	The percentage for this report is 89%. The percentage in the last report was 97%. Cases 14-179, 14-183, 14-180 and 14-170 were not sent in the period of time required.
E.3 Was the Level 1 facility investigation completed within 20 days?	Y-11, N-1	The percentage for this report is 92%. The percentage in the last report was 100%. Only 12 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-22, N-2, N/A-12	The percentage for this report is 92%. The percentage in the last report was 75%. Only 12 cases evaluated were classified as Level I. Cases 14-178 and 14-188 were not notified and referred within the 24 hours requested. Improved Compliance
E.5 DELETED		
E.6 Did NIJ reached an administrative determination concerning the case which is documented in the tracking records?	Y-36	The percentage for this report is 100%. The percentage in the last report was 100%. Administrative determinations are taken through the process at facility level and at DCR central offices.
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-24, N/A-12	Prosecutors use to base their determination on the investigations conducted by the PRPD not on OISC investigations. However, DCR investigations are always available and in some cases also considered by the prosecutors. The N/A – 12 refers to the Level I investigations.
E.8 If there was timeliness non-compliance, was it related to shortage of staffing?	Y-11, N-13, N/A-12 (level I cases)	The percentage for this report is 100%. However, in this case the high percentage means that all 11 delayed cases from D.2 were due to a shortage of staff. Thirteen cases were not delayed, which is why they are listed as N here

Case Assessment Instrument – Section F – Monitor’s Office Assessment		
Assessment Criterion	Status Y/N/NA	Comment
F.1 Does the Monitor’s Office confirms the timeliness facts as asserted in Page A?	Y-36	The percentage in this report is 100%. The percentage in the last report was 100%. In this reporting period 36 cases in section A were evaluated.
F.2 Does the Monitor’s Office confirms the timeliness facts as asserted in Page B?	Y-19	The percentage in this report is 100%. The percentage in the last report was 100%. In this reporting period 36 cases were selected however information of only 19 were received from the PRPD.
F.3 Does the Monitor’s Office confirms the timeliness facts as asserted in Page C?	Y-12	The percentage in this report is 100%. The percentage in the last report was 100%. Every incident is investigated at facility level, Level I cases are investigated by an internal investigator. In this reporting period 12 Level I cases were evaluated.
F.4 Does the Monitor’s Office confirms the timeliness facts as asserted in Page D?	Y-24	The percentage in this reporting period is 100%. The percentage in the last report was 100%. In this reporting period 24 Level II cases were evaluated.
F.5 Does the Monitor’s Office confirms the timeliness facts as asserted in Page E?	Y-36	The percentage in this report is 100% and confirms timeless facts in section E. The percentage in the last report was 100%.
F.6 Does the Monitor's Office confirms the investigation quality as asserted in page B?	–	The Monitor Office cannot evaluate the quality of PRPD investigations without additional information. In this reporting period only 19 of 36 cases were evaluated, 17 were not provided.
F.7 Does the Monitor's Office confirms the investigation quality as asserted in page C?	–	The Monitor Office cannot evaluate the quality of PRPD investigations without additional information. In this reporting period 12 of 12 cases required were evaluated.
F.8 Does the Monitor's Office confirmed the investigation quality as asserted in page D?	–	The Monitor Office cannot evaluate the quality of PRPD investigations without additional information. In this reporting period 24 of 24 cases required were evaluated. A preliminary evaluation of OISC investigation standards has been made.

Document Attachment F: Site Visit Chronology

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

Oct. 1, 2014:	Deputy Monitor Javier Burgos visited CTS Humacao.
Oct. 16, 2014:	Deputy Monitor Javier Burgos visited CD Bayamón.
Oct. 30, 2014:	Deputy Monitor Javier Burgos visited CTS Ponce.
Nov. 3, 2014:	Consultants David Bogard, Bob Dugan and Deputy Monitor Javier Burgos visited CD Bayamón.
Nov. 3, 2014:	Consultant Víctor Herbert visited CTS Humacao.
Nov. 4, 2014:	Consultants David Bogard, Bob Dugan and Deputy Monitor Javier Burgos visited CTS Humacao.
Nov. 4, 2014:	Consultant Víctor Herbert visited CD Bayamón.
Nov. 4, 2014:	Consultant Víctor Herbert visited CTS Bayamón.
Nov. 24, 2014:	Deputy Monitor Javier Burgos visited CTS Bayamón.
Dec. 2, 2014:	Deputy Monitor Javier Burgos visited CTS Villalba.
Dec. 8, 2014:	Consultant Marelli Colón and Deputy Monitor Javier Burgos visited CTS Bayamón.
Dec. 10, 2014:	Consultants David Bogard, Bob Dugan and Deputy Monitor Javier Burgos visited CTS Ponce.
Dec. 10, 2014:	Consultants David Bogard, Bob Dugan and Deputy Monitor Javier Burgos visited CTS Villalba.
Dec. 11, 2014:	Consultants David Bogard, Bob Dugan and Deputy Monitor Javier Burgos visited CTS Bayamón.
Dec. 15, 2014:	Court Monitor Ned Benton, Consultants Marelli Colón, Víctor Herbert and Deputy Monitor Javier Burgos visited CTS Bayamón.
Dec. 15, 2014:	Consultant Víctor Herbert visited CTS Bayamón.
Dec. 15, 2014:	Consultant Víctor Herbert visited CD Bayamón.

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

Monitor's Compliance Ratings
Fourth Quarter 2014

Provision	P	S	R	T	D	G	Comment
Compliance Category and Rating Definitions							
Compliance Category P	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.						
Compliance Category S	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.						
Compliance Category R	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.						
Compliance Category T	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.						
Compliance Category D	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.						
Compliance Category G	This category concerns <u>General Compliance</u> - the overall achievement of compliance with the provision involved.						
Compliance Rating Definitions	"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
Facility Provisions							
C.O. 41: 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.	#	Y	Y	I	Y	Y	A final approved Roadmap has been developed for this provision. 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 reviewed the supporting data and done on-site inspections and will be submitting and discussing the documentation with DOJ in the first quarter of 2015 to support the development of a Final Compliance Memorandum . At this juncture, the monitor's office feels that NIJ is in compliance with this provision.
S.A. 29. Each new facility shall be built in accordance with: (1) the American Correctional Association's (hereinafter "ACA") standards in effect at the time of the construction; (2) the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 and 47 U.S.C. §§ 225 and 611, and the regulations thereunder; and (3) all Commonwealth fire codes and regulations.	Y	I	#	I	#	N	A final approved Roadmap has been developed for this provision. NIJ should be close to compliance with this provision. Certificate of Occupancy certifications for all the operating facilities have now been received. The monitor's office will be receiving the final version of the checklists and supporting documentation to prove full compliance with ACA and ADA provision requirements in conformance with the Roadmap during the first quarter of 2015..
S.A.31. Existing facilities expected to be occupied by juveniles beyond Fiscal Year 1996-1997 shall conform to applicable federal, state and/or local building codes.	N	I	N	N	N	N	There are still life and fire safety violations that have not been remedied to date. NIJ has not allocated sufficient resources to support compliance with this provision nor is there documentation at this juncture to support a pathway to compliance. The monitor's office and the functional team have, however, discussed a potential roadmap for compliance with this provision.

Provision	P	S	R	T	D	G	Comment
S.A. 34. In order to properly equip and swiftly evacuate the facilities in the event of a fire or other emergency, in each facility, Defendants shall provide sufficient staff with appropriate keys to unlock exit doors in all buildings occupied by juveniles. The keys shall be color coded and notched or otherwise readily identifiable. Defendants shall also store a backup set of emergency keys at a place accessible at all times to staff on duty on all shifts.	Y	#	#	#	#	N	<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. Humacao is not providing sufficient staff to unlock exit doors 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>
S.A. 35. Defendants agree that designated exit doors in all facilities will be maintained in operable condition and shall be readily unlocked in case of an emergency.	Y	#	#	#	#	N	<p>NIJ has improved its ability to maintain operable exit doors from living units that can be readily unlocked in emergency situations. The Monitor's consultants are prepared to work with the 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 is now documenting on a weekly basis its monitoring and 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. The process for documentation has been agreed to with the Monitor and Functional team and documentation began in August. The Monitor's office saw this documentation being utilized at several facilities and in practice and was satisfied with the progress of compliance at that facility. That was not the case at Humacao where the documentation process was not being followed and the speed with which exit doors were unlocked were unsatisfactory. The monitor is also waiting for the new training curriculum before proceeding with development of the Roadmap.</p>

Provision	P	S	R	T	D	G	Comment
<p>S.A. 37. 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 <u>verbally</u> 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. NIJ has submitted some of the necessary documentation indicating that ongoing training for all staff was performed in 2011 and 2012 as well as the lesson plans and training compliance for 2014. NIJ has supplied documentation that emergency procedures are reviewed and updated annually. Documentation has also been provided showing that copies of the emergency plans are available to staff at all facilities.</p> <p>A Final Roadmap for this provision has been approved by NIJ and DOJ. The Monitor's consultants have worked with the parties to assemble the necessary compliance documentation expectations for the roadmap.</p>

Provision	P	S	R	T	D	G	Comment
Policies and Procedures							
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.	Y	I	I	#	#	N	The Monitor agrees that the agency maintains a policy and procedure manual as required by this provision, although whether it governs all aspects of running the facilities as required has not yet been confirmed. Moreover, in the rest of this table, policies and procedures are rated as a compliance problem for many of the provisions in this case. See the compliance rating in Column T which identifies when a training deficiency is a factor in compliance. While having developed and routinely updated a manual is a factor in compliance, the provision also clearly requires that the facilities are strictly operated within these policies and this implementation requirement's scope and accuracy have not yet been established.

Staffing						
<p>S.A. 48. 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>The Commonwealth has the choice to demonstrate compliance according to method 48.a or 48.b. They have informed the Monitor that they do not intend to select method 48.b and that their legal position is that this language should be struck from the Settlement Agreement as superfluous. The Monitor agrees.</p> <p>For the 4th 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: 66% of events, 6% decrease since Third Quarter reporting period 2:00 pm- 10:00 pm shift: 48% of events, 12% decrease since Third Quarter reporting period 10:00 pm- 2:00 am shift: 100% of events, 0% increase since Third Quarter reporting period</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>While compliance with the terms of this provision is not likely for some time, Monitor’s consultants are working with the parties to identify necessary compliance documentation expectations for a roadmap.</p>						
<p>January 2009 Stipulation Paragraph 1: 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>						

January 2009 Stipulation Paragraph 2: All necessary steps shall be taken to provide sufficient direct care staff to implement the Consent Decree and adequately supervise youth, pursuant to Paragraph 48.	N	N	N	N	N	N	<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 Third Quarter of 2014.</p>
January 2009 Stipulation Paragraph 3: 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>The Commonwealth has decided not to employ this provision to enhance coverage. However, the provision remains as a future option. Unless and until the Commonwealth determines that they want to apply this provision, the Monitor's Office will not Monitor the provision. The choice to not implement this provision is not non-compliance. The struck part of the provision references a provision that has been terminated.</p>
January 2009 Stipulation Paragraph 4: 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>This phrases in this provision that refer to Paragraph 49 are struck because that provision has been terminated.</p>
January 2009 Stipulation Paragraph 5: On the fifth day of every thirty-day period commensurate with the Order approving this Stipulation, Defendants shall submit a report to the Monitor and the United States providing the following: a. the number of current direct care staff, by position classification, at each facility; b. the number of qualified direct care staff hired during the previous period; c. the number of hired direct care staff in the previous period who were hired and have received pre-service training, pursuant to Paragraph 49 ; and d. the juvenile facilities where the direct care staff who were hired in the previous quarter and have received pre-service training, pursuant to Paragraph 49 , have been deployed or assigned.	N	N	N	N	N	N	<p>The struck part of the provision references a provision that has been terminated.</p> <p>The report was not provided during the Fourth Quarter of 2014.</p>

Provision	P	S	R	T	D	G	Comment
Training							
S.A. 50. Defendants shall ensure that current and new facility direct care staff are sufficiently well-trained to implement the terms of this agreement. Each direct care staff, whether current or new, shall receive at least forty (40) hours of training per year by qualified personnel to include, but not be limited to, the following areas: CPR (cardiopulmonary resuscitation); recognition of and interaction with suicidal and/or self-mutilating juveniles; recognition of the symptoms of drug withdrawal; administering medicine; recognizing the side-effects of medications commonly administered at the facility; HIV related issues; use-of-force regulations; strategies to manage juveniles' inappropriate conduct; counseling techniques and communication skills; use of positive reinforcement and praise; and fire prevention and emergency procedures, including the fire evacuation plan, the use of keys, and the use of fire extinguishers.	Y	N	N	I	N	N	<p>Compliance tables documenting training within the agency as required in this stipulation have not been submitted to the Monitor since 2011. The Monitor's Consultant was advised by NIJ recently that current compliance documentation would not be available until after July 2014. To date none has been received. A schedule of training for September was provided but no further detail as to compliance.</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>
Classification							
S.A. 52. At both the detention phase and following commitment, Defendants shall establish objective methods to ensure that juveniles are classified and placed in the least restrictive placement possible, consistent with public safety. Defendants shall validate objective methods within one year of their initial use and once a year thereafter and revise, if necessary, according to the findings of the validation process.	N	#	#	#	N	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 has executed a contract for validation study of the classification instruments. The validation study started in the Fourth Quarter of 2014.</p> <p>Staff are trained on the youth detention and committed classification instruments.</p> <p>Documentation has been provided for the classification of youth for detention, , as well as for committed youth, for the months of the 4th quarter</p> <p>The fourth quarter of 2014 CD Bayamón admission classification resulted in 192 admissions, of which 182 (94.8%) are classified as low; 3 (1.6%) are classified as moderate; 0 (0%) are classified as severe; and 7 (3.6%) 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 working with the parties to identify necessary compliance documentation expectations for a roadmap.</p>

Provision	P	S	R	T	D	G	Comment
Mental Health and Substance Abuse Treatment							
S.A. 59. 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	<p>The Monitor's Office rating is based on lack of documentation that youth consistently have individualized treatment plans. In prior reviews, many youth have the same recommendations in terms of frequency and treatment modality without taking into account the presence and severity of symptoms.</p> <p>The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p>
C.O. 29: 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	<p>NIJ does not provide a <i>program</i> with the number of beds established in this stipulation.</p> <p>The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p> <p>Other parts of this provision are being 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.</p>
C.O. 34. 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.	Y	Y	Y	#	#	#	<p>The road map for this provision is being finalized. The suicide prevention curriculum is being reviewed by the monitor's consultant for mental health. Site visits to the training sessions have been conducted. Discussions are underway that should lead to the completion of a compliance memorandum.</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
C.O. 36. 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	<p>In previous case reviews, psychiatrists were not found to be clearly documenting in their notes, the clinical indication for the use of psychotropic medications. Notes were extremely difficult to find, as each psychiatrist was documenting in different sections.</p> <p>Based on what NIJ clinicians documented on the electronic records, it appeared that youth that required residential treatment services were not receiving them.</p> <p>The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p>
S.A. 63. 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.	#	#	#	#	N	N	<p>In previous case reviews, there were inconsistencies in documentation. Psychologists are not consistent on where to document the 24-hour evaluation and subsequent follow-up notes. Also the initial 24-hour progress notes may lack a description of the event that led to the youth being placed under clinical supervision. This can impair adequate follow-up.</p> <p>The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p>
S.A. 72. All juveniles receiving emergency psychotropic medication shall be seen at least once during each of the next three shifts by a nurse and within twenty-four (24) hours by a physician to reassess their mental status and medication side effects. Nurses and doctors shall document their findings regarding adverse side effects in the juvenile's medical record. If the juvenile's condition is deteriorating, a psychiatrist shall be immediately notified.	#	#	#	#	N	N	<p>The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p>

Provision	P	S	R	T	D	G	Comment
S.A. 73. Defendants, specifically AIJ, shall design a program that promotes behavior modification by emphasizing positive reinforcement techniques. Defendants, specifically AIJ, shall provide all juveniles with an individualized treatment plan identifying each juvenile's problems, including medical needs, and establishing individual therapeutic goals for the juvenile and providing for group and/or individual counseling addressing the problems identified. Defendants, specifically AIJ, shall implement all individualized treatment plans.	#	#	#	#	N	N	NIJ has developed a behavioral modification plan that is to be implemented in all the institutions. The level of implementation varies among institutions.

Provision	P	S	R	T	D	G	Comment
Discipline							
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	This provision was terminated by the Court on December 10, 2014 after the parties filed a joint motion to terminate this provision on July 11, 2014.

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	Y	N	I	#	N	N	<p>In the previous quarter I reported that the use of OC was decreasing, particularly at Humacao. This positive trend changed dramatically this quarter when OC was used in 13 of 14 use of force incidents despite the NIJ policy that it be used only when less severe alternatives are insufficient; by comparison, OC was used in only one of 22 use of force incidents that occurred at the other four facilities. The increase in use of OC is particularly worrisome in light of the otherwise very positive two-quarter trend toward Humacao incidents being isolated to 1-3 youth rather than large-scale fights. There were no reported injuries sustained by youth as a result to OC exposure.</p> <p>There has been a precipitous increase in large scale fights among youth at Ponce, with a corresponding increase in use of force to quell such incidents. Last quarter there were two incidents involving 27 youth; this quarter has 13 such incidents, involving a total of 90 youth, with five of the incidents involving ten or more youth. Five youths were hospitalized as a result of the incidents, although (according to medical documentation) none reportedly due to the use of force.</p> <p>The large scale incidents, now a particular concern at Ponce, can be directly attributed to the well-documented shortage of staff in the housing units, combined with the pernicious effect of youth leaders ordering large numbers of youths to attack others; this results in more instances of use of force. Despite there being 36 incidents of force used systemwide involving 152 youth, post-incident documentations by nursing staff and Level-4 supervisors revealed no injuries caused by the use of force this quarter.</p> <p>Ponce's video recording system was in disrepair from October 6 through the end of the quarter, with no apparent date for reinstatement of service. This means that this crucial form of documentation was unavailable for almost the entire quarter at the facility currently having the most volatile incidents.</p> <p>The Monitor's Consultant has begun discussing a roadmap for this provision with the parties.</p>

Provision	P	S	R	T	D	G	Comment
Abuse and Maltreatment Investigation and Management							
S.A. 78.a Defendants shall take prompt administrative action in response to allegations of abuse and mistreatment, including steps to protect and treat the victim, steps to preserve evidence and initiate investigation, steps to isolate, separate, and sanction youth and/or staff involved in misconduct or criminal conduct. Defendants' policies, procedures, and practices shall clearly define all incidents that must be reported, to include, at a minimum, allegations of: abuse, mistreatment, neglect, excessive use of force, inappropriate use of restraints, sexual misconduct, and assaults. Defendants shall provide for confidential means of reporting suspected abuse and mistreatment, without fear of retaliation for making such report.	Y	N	N	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. Policies have been updated to comply with this provision.</p> <p>Evidence was preserved – in 67% of cases. Suspected youth were separated from their victim(s) in all of the cases assessed.</p>
S.A. 78.b All Defendants' staff or contractors who are involved in, witness, or discover an incident (or evidence of abuse or mistreatment, in the case of a health care worker) shall document the incident or evidence in writing in a standardized incident report. The report shall be submitted to the reporter's supervisor or other designated staff person before the reporter leaves the facility following shift change. The report shall include all relevant details regarding the incident, including a description of the events leading to and immediately following the incident; date, time, and place; all persons involved, including alleged victim(s) and all witnesses; how the incident was detected; reporter's name and signature; and date and time the report form was completed.	Y	Y	Y	Y	Y	Y	<p>This provision was terminated by the Court on December 10, 2014 after the parties filed a joint motion to terminate this provision on July 11, 2014.</p>

Provision	P	S	R	T	D	G	Comment
<p>S.A. 78.c 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 OISC in 28 of 32 cases 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
S.A.78.d Within 24 hours, AIJ shall prepare and forward a copy of each incident report together with the AIJ preliminary investigation to the Police Department, the Department of Family Services, the Department of Corrections, and the AIJ Administration. Every 30 calendar days, AIJ, SAISC and the Commonwealth Police shall report to the Defendant Department of Justice and AIJ the status of each investigation including final determinations and associated administrative and criminal actions. Defendants shall implement appropriate policies, procedures, and practices to ensure that incidents are promptly, thoroughly, and objectively investigated. AIJ, SAISC, and Defendant Department of Justice shall consult throughout an investigation. If Defendant Department of Justice indicates an intent to proceed criminally, any compelled interview of the subject staff shall be delayed until Defendant Department of Justice concludes the criminal investigation, but all other aspects of the investigation shall proceed. Defendant Department of Justice shall review and investigate allegations of serious incidents following a preliminary investigation by the Puerto Rico Police Department.	N	#	#	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>A roadmap will be developed for this provision. There is insufficient documentation of compliance and the roadmap will address that.</p>
S.A. 78.e Administrative investigations of serious incidents shall be conducted by SAISC and completed within 30 days of SAISC’s receipt of the referral. Administrative investigation of incidents classified as less serious may be conducted internally by appropriate facility staff and shall be completed within 20 days of witnessing or discovering an incident.	Y	#	#	#	N	N	<p>For the most recent quarter, 41% of OISC case investigations were completed within 30 days, and 18of 19 of the Level One case investigations were completed within 20 days at the facilities.</p>
S.A. 78.f Defendants shall implement investigation standards in conformance with applicable law, including, at a minimum: photographing visible injuries; preserving and analyzing evidence; conducting separate, face-to-face, private interviews of the alleged victim, perpetrator, and all possible witnesses, with a record of the questions and answers. Whenever there is reason to believe that a juvenile may have been subjected to physical sexual abuse, the juvenile shall be examined promptly by outside health care personnel with special training and experience in conducting such assessments.	N	N	Y	N	N	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 been documented to the Monitor’s Office as to whether compliance is achieved with respect to investigation quality. No formally-adopted standards have been submitted to the Monitor’s Office. No training can have been completed if the policies are not in place which would be the topic of the training.</p>

Provision	P	S	R	T	D	G	Comment
S.A. 78.g Every administrative investigation shall result in a written report explicitly providing: a description of the alleged incident, including all involved persons and witnesses and their role; a description and assessment of all relevant evidence; and proposed findings. Defendants shall ensure that there are sufficient numbers of demonstrably competent staff to timely complete competent and thorough administrative investigations. Responsibilities of investigators shall be clearly designated.	N	N	Y	#	N	N	<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, 41% 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>
S.A. 78.h AIJ shall conduct case management, for tracking which includes identification of findings and outcomes and dates of stages of case processing, and for oversight of further administrative actions including analysis to identify and implement corrective actions designed to avoid recurrence of incidents. At the conclusion of an administrative investigation, SAISC shall provide copies of the investigation report to AIJ and Defendant Department of Justice. AIJ’s quality assurance personnel shall analyze the report and, as appropriate, identify corrective action to address operational, systemic, or other problems identified in the report and ensure that such action is taken.	N	N	Y	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>A new tracking table has been designed and is included in this quarter’s QR</p>

Provision	P	S	R	T	D	G	Comment
S.A. 78.i Any employee, staff member or contractor who is criminally charged for offenses involving the abuse or mistreatment of juveniles, excessive force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending. Defendants may take additional administrative actions as they deem appropriate.	Y	Y	Y	Y	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>NIJ policies comply with this provision.</p> <p>Policies and procedures require separation based on substantiated allegations, which is a higher standard of performance than required in this provision.</p> <p>Monitor’s consultants are prepared to work with parties to identify necessary compliance documentation expectations for a roadmap.</p>
Separation Order, of December 4, 2006: Any employee, staff member, or contractor who is criminally charged in the future for offenses involving the abuse or mistreatment of juveniles, excessive use of force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including the removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending.	N	Y	Y	N	N	N	<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
Protection and Isolation							
<p>S.A. 79. 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) pending the development of a roadmap that operationalizes how compliance is to be documented and assessed.</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
S.A. 80. 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.	#	N	I	N	#	N	<p>The number of protective custody / transitional measures placements continues to be stable, with 40 such events this quarter versus 43 last quarter. The volume of such placements, combined with the troublesome duration of many placements far in excess of a few days, compounds the difficulty associated with insuring the level of services and activity required by this provision.</p> <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. Insufficient numbers of teachers is an impediment to meeting the education component of this provision. The parties have not reached agreement as to how to measure relative limitations on education services to youth in this category.</p> <p>Improvement has been shown concerning documentation of services being provided to youth in these statuses. Current documentation practices of conducting observations of youth in their rooms is improved, but remains inadequate and inconsistent, invoking the “safety” component of this provision. NIJ has not yet provided documentation of training relative to the new safety observations and services documentation procedures.</p>

Provision	P	S	R	T	D	G	Comment
Education and Vocational Services							
S.A. 81. 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.	N	N	N	I	N	N	<p>The opening of classes for this quarter was delayed by three weeks and school began with several vacancies. To date, a plan to make up for missed days has not been submitted to the monitor or his consultants.</p> <p>Adequate vocational materials are not provided at all facilities. Teachers in the industrial arts and the recently added cosmetology program at Bayamon CD complained of inadequate materials for their shops.</p> <p>Most general population youth receive education for “5 (five) days per week, 6 (six) hours per day, 10 (ten) months per year,” although this is not the case for those who have completed the fourth year of adult education.</p> <p>Whether adult education is suitable for NIJ youth continues to be a concern of the monitor’s consultant. Documents submitted by NIJ to justify the use of adult education, in lieu of the standard secondary school course of study mandated in the Commonwealth, is under review by DOJ.</p>
S.A. 86a. Defendants, specifically the Department of Education, shall abide by all mandatory requirements and time frames set forth under the Individuals with Disabilities Education Act, 20 USC §§ 1401 <u>et seq.</u> Defendants shall screen juveniles for physical and learning disabilities.	Y	Y	Y	I	N	N	<p>The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p> <p>Compliance with 86a requires compliance with 86b.</p>

Provision	P	S	R	T	D	G	Comment
S.A. 86b. The screening shall include questions about whether the juvenile has been previously identified by the public school system as having an educational disability, previous educational history, and a sufficient medical review to determine whether certain educational disabilities are present, such as hearing impairments, including deafness, speech or language impairments, visual impairments, including blindness, mental retardation, or serious emotional disturbances adversely affecting educational performance.	Y	Y	Y	I	N	N	<p>The Monitor's assessment of special education and mental health services for the 2013 3rd 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>The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p> <p>Compliance with 86b requires compliance with 86a.</p>
S.A. 87. If a juvenile has been previously identified as having an educational disability, Defendants shall immediately request that the appropriate school district provide a copy of the juvenile's individualized education plan ("IEP"). Defendants shall assess the adequacy of the juvenile's IEP and either implement it as written if it is an adequate plan or, if the IEP is inadequate, rewrite the plan to make it adequate, and then implement the revised IEP.	Y	Y	Y	I	N	N	<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>The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p> <p>The process of preparing a Roadmap for this provision was initiated, but subsequently postponed in favor of a focus on CO 34 and SA 91. In spite of NIJ efforts to address the issue of delineating related services other than academic in the IEP, staff at Humacao CTS omitted mental health and substance abuse response from their IEPs.</p>
S.A. 90. Defendants shall provide appropriate services for juveniles eligible for special education and related services. Defendants shall provide each such juvenile with educational instruction specially designed to meet the unique needs of the juvenile, supported by such services as are necessary to permit the juvenile to benefit from the instruction. Defendants shall coordinate such individualized educational services with regular education programs and activities.	Y	Y	Y	I	Y	N	<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> <p>The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p>

Provision	P	S	R	T	D	G	Comment
S.A. 91. Qualified professionals shall develop and implement an IEP reasonably calculated to provide educational benefits for every juvenile identified as having a disability. When appropriate, the IEP shall include a vocational component.	Y	Y	Y	I	N	N	<p>Certified special education teachers provide education services to youth. NIJ revised the vocational programs for the new school year removing “paternidad” and adding cosmetology to CD Bayamon for the young women. As a consequence fewer special education students have a vocational component than previously.</p> <p>As demonstrated in the Monitor’s 2013 3rd 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 3rd quarter, staff stated that consultation increased significantly.</p> <p>The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p> <p>Road map development activity will continue into the next quarter. See note in reference to related services such as mental health and substance abuse in SA 87.</p>
S.A. 93. Services provided pursuant to IEPs shall be provided year round. Defendants shall ensure that juveniles with educational disabilities receive a full day of instruction five (5) days a week.	#	N	N	I	N	N	<p>Students eligible for special education services did not receive services from the end of May to the beginning of August. While the Commonwealth has not identified any students that need summer services, the Monitor’s Office disagrees that there are no such students. Also, some students eligible for special education services based on their Individual Education Plans were not receiving all of the specified services.</p> <p>The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p>
S.A. 94. Juveniles shall not be excluded from services to be provided pursuant to IEPs based on a propensity for violence or self-inflicted harm or based on vulnerability. Juveniles in isolation or other disciplinary settings have a right to special education. If required for institutional security, services provided pursuant to IEPs may be provided in settings other than a classroom.	N	N	N	I	N	N	<p>A recent review of services provided for youth in transition or protective custody, showed that youth are not receiving services comparable to youth who are not in isolation. (See also comments for S.A. 90 and SA 80).</p> <p>Youth in Protective Custody and Transitional measures status receive some services, some days but often materials are delivered to the housing units with minimal instruction from teachers.</p>

Provision	P	S	R	T	D	G	Comment
S.A. 95. When an IEP is ineffective, Defendants shall timely modify the IEP.	Y	Y	Y	I	N	N	<p>All special education positions are filled. The delayed start of the school years negatively affected all students, including those in special education.</p> <p>The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p> <p>The process of preparing a Roadmap for this provision was initiated during the quarter and will continue into the next quarter and beyond as necessary. RM activity for this stipulation was tabled until CO 34 and SA 91 are complete. All parties agreed to this.</p>
Funding and Implementation							
C.O. 43 Until this order is fully implemented, Defendants shall submit to the Legislature of the Commonwealth each fiscal year a report wherein the required sums of money will be established so as to implement this Consent order.	Y	Y	N		N	N	<p>The Commonwealth legal position is that the required report is the agency budget request. The budget request is not routinely provided to the Monitor or the United States.</p> <p>It is also not established that the budget identifies the “required sums of money” to “implement the order.”</p> <p>The budget has been, in fact, insufficient to implement the requirements of the decree. 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>